

BALTIMORE COUNTY

M A R Y L A N D

JAMES T. SMITH, JR.
County Executive

THOMAS H. BOSTWICK
Deputy Zoning Commissioner

June 23, 2009

LAWRENCE E. SCHMIDT, ESQUIRE
GILDEA & SCHMIDT, LLC
600 WASHINGTON AVENUE, SUITE 200
TOWSON, MD 21204

Re: Petition for Administrative Variance
Case No. 2009-0279-A
Property: 2606 Holly Beach Road

Dear Mr. Schmidt:

Enclosed please find the decision rendered in the above-captioned case.

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,

A handwritten signature in cursive script, reading "Thomas H. Bostwick".

THOMAS H. BOSTWICK
Deputy Zoning Commissioner
for Baltimore County

THB:pz

Enclosure

c: David and Lara Jacobs, 2606 Holly Beach Road, Baltimore MD 21221
Danielle Hankins, 2515 Piney Road, Parkville MD 21234
Arnold Jablon, Esquire, Venable LLP, 210 West Pennsylvania Avenue #500, Towson, MD 21204
Karen Treat, 2610 Holly Beach Road, Baltimore MD 21221

7/14/10
IN THE MATTER OF
THE APPLICATION OF
DAVID JACOBS/LEGAL OWNER
FOR ADMINISTRATIVE VARIANCE
ON THE PROPERTY LOCATED ON
THE N/S HOLLY BEACH RD., 220' E/C/LINE
OF HENRIETTA AVENUE
(2606 HOLLY BEACH ROAD)
15TH ELECTION DISTRICT
6TH COUNCILMANIC DISTRICT

* BEFORE THE
* COUNTY BOARD OF APPEALS
* OF
* BALTIMORE COUNTY
* CASE NO. 09-279-A

* * * * *

ORDER OF DISMISSAL

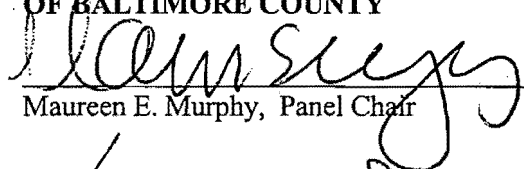
This matter comes to the Board on appeal filed by Karen Treat on the June 23, 2009 decision of the Deputy Zoning Commissioner in which the requested relief was granted with restrictions.

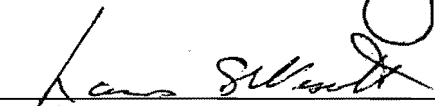
WHEREAS, a hearing was scheduled to be held before this Board on Tuesday, September 14, 2010 at 10:00 a.m. The Board convened at the scheduled hearing time. Lawrence E. Schmidt, Esquire, GILDEA & SCHMIDT, LLC, appeared on behalf of Mr. David Jacobson, Petitioner/Legal Owner. Arnold Jablon, Esquire, (and/or his assigned representative) appeared on behalf of Karen Treat, Appellant. At the onset of the hearing, Counsel for said parties indicated that this matter is now concluded as to all parties pursuant to a settlement/agreement that has been reached between the parties.

WHEREAS, it is requested on behalf of said Appellant that the appeal filed in Case No. 09-279-A be withdrawn and dismissed with prejudice as of September 14, 2010,

IT IS HEREBY ORDERED this 14th day of September, 2010 by the Board of Appeals of Baltimore County that said appeal be and the same is hereby **DISMISSED with prejudice**.

**BOARD OF APPEALS
OF BALTIMORE COUNTY**


Maureen E. Murphy, Panel Chair


Lawrence S. Wescott


Andrew M. Belt



County Board of Appeals of Baltimore County

JEFFERSON BUILDING
SECOND FLOOR, SUITE 203
105 WEST CHESAPEAKE AVENUE
TOWSON, MARYLAND, 21204
410-887-3180
FAX: 410-887-3182

September 14, 2010

Lawrence Schmidt, Esquire
Gildea & Schmidt, LLC
600 Washington Ave, Ste 200
Towson, MD 21204
Via Hand Delivery

Arnold Jablon, Esquire
Venable
210 W. Pennsylvania Ave, Ste 500
Towson, MD 21204
Via Hand Delivery

RE: *In the Matter of: David Jacobs – Legal Owner/Petitioner*
Case No.: 09-279-A

Dear Counsel:

Enclosed please find a copy of the Order of Dismissal issued this date by the Board of Appeals of Baltimore County in the above subject matter.

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the *Maryland Rules*, **with a photocopy provided to this office concurrent with filing in Circuit Court. Please note that all Petitions for Judicial Review filed from this decision should be noted under the same civil action number.** If no such petition is filed within 30 days from the date of the enclosed Order, the subject file will be closed.

Very truly yours,

Theresa Shelton/kc

Theresa R. Shelton
Administrator

TRS/klc
Enclosure

c: David Jacobs
Karen Treat
Office of People's Counsel
William J. Wiseman, III, Zoning Commissioner
Thomas Bostwick, Deputy Zoning Commissioner
Timothy Kotroco, Director/PDM
Arnold F. "Pat" Keller, III, Director/Planning
Nancy West, Assistant County Attorney
John E. Beverungen, County Attorney

7/14/10

In Re: Petition for Variance
N/S of Holly Beach Road, 220'
E of the c/l of Henrietta Ave.
2606 Holly Beach Rd
15th Election District
6th Councilmanic District

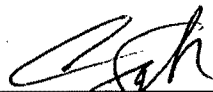
Legal Owner: David Jacobs

* BEFORE
* BOARD OF APPEALS
* OF
* BALTIMORE COUNTY
* CASE NO.2009-279A

* * * * *

NOTICE TO DISMISS APPEAL

Karen Treat, by her attorney, Arnold Jablon, Venable, LLP, hereby dismisses her appeal of the Findings of Fact and Conclusions of Law dated 23 June 2009, by Thomas H. Bostwick, Deputy Zoning Commissioner of Baltimore County, with prejudice.

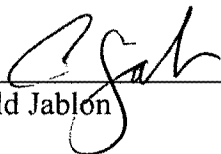


Arnold Jablon
210 West Pennsylvania Ave
Towson, Maryland 21204
410-494-6298

Counsel for Petitioner

Certificate of Service

IT IS HEREBY CERTIFIED that a copy of the foregoing Notice to Dismiss Appeal was hand delivered to Timothy Kotroco, Director, PDM, and to Lawrence E. Schmidt, attorney for Petitioner, on this 14th day of September 2010.



Arnold Jablon

7/21/09

IN RE: PETITION FOR ADMINISTRATIVE
VARIANCE

N SIDE OF Holly Beach Road, 220'
E of the c/l of Henrietta Ave

6th Councilmanic District
15th Election District
2606 Holly Beach Road

Case No. 2009-0279 A

* BEFORE THE
* DEPUTY ZONING COMMISSIONER
* OF BALTIMORE COUNTY

*
*
*

* * * * *

NOTICE OF APPEAL

Karen Treat, immediate neighbor and owner of adjacent property, by and through her attorney Arnold Jablon, Venable, LLP, feeling aggrieved by the final decision and determination of the Deputy Zoning Commissioner of Baltimore County granting the Petitioners' request for variance relief in Case No. 2009-0279 A, dated 23 June 2009 and attached hereto and incorporated herein as Exhibit A.

Appellants herewith takes exception to that final decision of the Deputy Zoning Commissioner as reflected in Exhibit A and appeals to the County Board of Appeals. Appellant submits that the review by the CBA from the final decision of the Deputy Zoning Commissioner shall be a hearing de novo pursuant to the Baltimore County Charter.

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JUL 21 2009
BALTIMORE COUNTY
BOARD OF APPEALS

Filed concurrently with this Notice of Appeal is a check made payable to Baltimore County to cover the costs of the appeal.

Respectfully submitted

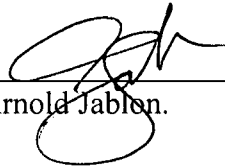


Arnold Jablon
Venable, LLP
210 W. Pennsylvania Ave.
Towson, Maryland 21204
410-494-6298

attorney for appellant

CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT copies of the foregoing Notice of Appeal were hand delivered to the Baltimore County Board of Appeals, Basement, Old Courthouse, 400 Washington Ave., Towson, Maryland 21204; to Timothy Kotroco, Director, Department of Permits and Development Management, Towson, Maryland 21204; and mailed by 1st Class delivery, postage prepaid, to Lawrence E. Schmidt, Esq, 600 Washington Ave., Suite 200, Towson, Maryland 21204, and on this 21st day of July, 2009.



Arnold Jablon.

6/23/09

IN RE: PETITION FOR ADMIN. VARIANCE	*	BEFORE THE
N side of Holly Beach Road, 220 feet		
E of the c/l of Henrietta Avenue	*	DEPUTY ZONING
15 th Election District		
6 th Councilmanic District	*	COMMISSIONER
(2606 Holly Beach Road)		
	*	FOR BALTIMORE COUNTY
David Jacobs		
<i>Petitioner</i>	*	Case No. 2009-0279-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 owner of the subject property, David Jacobs, located at 2606 Holly Beach Road. The Variance requests are from Sections 1A04.3.B.2.b and 1A04.3.B.3 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a proposed two-story bedroom and garage addition on the rear of the dwelling with a side setback of 11 feet and 45 feet to centerline of road in lieu of the required 50 feet and 75 feet, respectively; and to permit a 22% building coverage for the existing dwelling and new additions in lieu of the maximum allowed of 15%. The subject property and requested relief are more particularly described on the site plan that was marked and accepted into evidence as Petitioner's Exhibit 1.

This matter was originally filed as an Administrative Variance and a sign was posted with a closing date of May 11, 2009. On May 6, 2009, Arnold Jablon, Esquire, on behalf of adjacent property owner Karen Treat, filed a Formal Demand for Hearing. The hearing was subsequently scheduled for Monday, June 15, 2009 at 11:00 AM in Room 104 of the Jefferson Building located at 105 West Chesapeake Avenue in Towson, Maryland. In addition, a sign was posted at the property on May 30, 2009, and an advertisement was published in *The Jeffersonian* newspaper the week of June 2, 2009, giving neighbors and interested citizens notice of the hearing.

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Appearing at the public hearing in support of the requested relief was Petitioner David Jacobs and his wife, Lara Jacobs, and their attorney, Lawrence E. Schmidt, Esquire. Also appearing in support of the requested relief was Danielle M. Hankins, Petitioner's land use and design consultant. Appearing in opposition to the requested relief was Protestant Karen Treat of 2610 Holly Beach Road, and her attorney, Arnold Jablon, Esquire. There were no other interested persons in attendance at the hearing.

Following opening remarks by Petitioner's attorney, Mr. Schmidt, regarding the proeprty and the requested relief, Protestant's attorney, Mr. Jablon, made several preliminary objections in the case. In particular, Mr. Jablon indicated the Petition was defective because, although it requested side setback relief of 11 feet in lieu of 50 feet on the east side of the proeprty, there was no such variance request for the 15 foot side setback that would exist on the west side of the property. Moroever, Mr. Jablon objected to Petitioner referring to the roadside of the subject property as the "rear yard" and the waterside of the proeprty as the "front yard," and further objected to the undersigned making any findings or determinations as to what constituted the rear or front yard of the property, absent a specific request by Petitioner in his Petition, and proper posting of notice of the request. Mr. Schmidt countered that with the filing of the request for the side setback of 11 feet in lieu of the required 50 feet, there was no need for Petitioner to specifically request a variance for the 15 foot side setback on the other side of the property, and that the Zoning Reivew Office had accepted the Petition as filed. Mr. Schmidt also indicated that sufficient notice had been provided for the undersigned to make a determination on the rear yard/front yard issue.

After much discussion and debate on these and related issues, Mr. Schmidt requested leave to amend the Petition to include a request for variance for the side setback of 15 feet in lieu of the required 50 feet. In addition, in light of the technical procedural arguments back and forth,

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Mr. Schmidt requested to amend the Petition to also include a variance for the distance from the proposed addition to the roadside property line of 27 feet in lieu of 50 feet with a total distance of 47 feet and not the 45 feet as filed. Mr. Schmidt also indicated that at one point, Petitioner desired to enclose a deck on the waterside of his property which would contribute to the building coverage percentage on the property. Petitioner then decided against this plan and also decided to remove the existing accessory structures on the property, hence the percentage of building coverage would be approximately 16.65% rather than the requested 22%. As a result, Mr. Schmidt requested to amend the Petition for the variance from the building coverage limit to 16.65% in lieu of 15%. After considering the arguments made by counsel, in the interests of justice and judicial economy, the undersigned overruled Mr. Jablon's objections and permitted the requested amendments.¹

Testimony and evidence offered revealed that the subject waterfront property is rectangular in size and contains 10,200 square feet or 0.257 acre, more or less, zoned R.C.5. The property is located on the north side of Holly Beach Road, north of Holly Neck Road and east of Back River Neck Road, in the Essex - Middle River area of Baltimore County. The property has water frontage on Middle River, near the area where the river meets Sue Creek to the west. As shown on the site plan, the property is improved with a two-story framed single-family dwelling, approximately 24 feet wide by 48 feet deep, along with a wood deck on the waterside of the

¹ During my deliberation and consideration of this case, I reviewed the issue regarding the 15 foot side setback on the west side of the property. As indicated above, the Zoning Review Office had received the Petition without requiring Petitioner to request that variance. Moreover, Mr. Schmidt indicated it was not necessary to request that variance and that to his knowledge (as a former Zoning Commissioner), it had been the policy of the Zoning Commissioner's Office not to require this additional variance request where a petitioner had already requested a more substantial variance for the other side yard (in this case, an 11 foot side setback had already been requested). I then reviewed the Zoning Commissioner's Policy Manual (ZCPM). Section 102.1.A.1 entitled "Deficient Setbacks - Residential" states that "[i]f an addition is proposed to a residential building and any setback is deficient, this setback may be extended provided that the deficiency is not increased nor the use of the building is changed." My interpretation of this policy is that for an addition where the setback is not increased, as in this case on the west side of the property, a variance for this deficient setback is not required; hence, the requested amendment was not required and is now moot.

property. The dwelling has a traditional layout with a living room, dining room, and kitchen on the main level, three bedrooms and two full bathrooms on the second floor, and a clubroom, den, and utility room in the lower level basement. The site plan also shows a storage shed situated on the roadside of the property as well as a large concrete driveway. Though not delineated on the site plan, also situated on the waterside near the bulkhead is another storage shed. Finally, a grinder pump that is connected to the public sewer service along Holly Beach Road is shown on the site plan as situated next to the storage shed on the roadside of the property.

Petitioner has resided at the subject location for the last seven years with his wife and family, which includes a 16 year old daughter and two sons aged 12 and 10. As shown on the record plat marked and accepted into evidence as Petitioner's Exhibit 2, the property was platted as Lot 15 of the Holly Beach subdivision on February 14, 1916. The dwelling has been extensively renovated and remodeled since it was originally constructed in 1927. At this juncture, Petitioner desires to construct a two-story addition on the roadside of the dwelling with a ground level two-car garage and a bedroom on the second floor. Petitioner indicated the bedroom addition would allow him and his family to each have their own bedroom, and the garage would allow Petitioner to store his vehicles inside, away from the elements and out of sight of vandals who have broken into his truck on several occasions.

In support of the variance requests, Petitioner testified that there are only a handful of properties in his subdivision that have such a dramatic slope to the shoreline. He also indicated his lot was distinguishable from others in that his is a single, 50 foot wide lot, whereas a number of other lots in the subdivision have double and triple lots approximately 100 to 150 feet in width and can accommodate the 50 foot setback requirements to a property line that his property cannot by virtue of its 50 foot width. Petitioner also indicated the layout of improvements on the properties in the subdivision is somewhat haphazard and inconsistent. Petitioner submitted a

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booklet he prepared that was marked and accepted into evidence as Petitioner's Exhibit 3. The booklet contains a rendering and elevations of the proposed addition, photographs of Petitioner's property, photographs of Ms. Treat's adjacent property, and aerial and ground level photographs of properties in the Holly Beach subdivision. In particular, the photographs illustrate the location of improvements on the properties throughout the subdivision. Some homes have been razed and replaced with newer, significantly larger homes while others appear to be originally built. There is also great variety in other improvements, with some properties having guesthouses and boathouses and/or other accessory structures on the waterside and roadside. The degree of existing building coverage between the properties is also very different, with most properties (especially those with replacement homes) having substantially more coverage than what would normally be permitted and others (primarily those with the original dwellings) having about the same or less than what Petitioner is proposing.

Petitioner also submitted a letter he presented to his nearby neighbors outlining his plans and requesting their signatures if they did not object to his plans. The letter was signed by residents at 2604, 2602, 2600, 2614, 2616, 2620, and 2622 Holly Beach Road and was marked and accepted into evidence as Petitioner's Exhibit 4. As to the issue of what constitutes the rear yard or front yard, Petitioner testified that he has lived on the water at various times throughout his life and he has always considered the waterside of a home to be the front yard and the roadside to be the rear yard. In the instant matter, Petitioner testified that all the other properties nearby that have garages have them situated on the roadside, and Mr. Schmidt indicated this is consistent with the Zoning Regulations that require garages and accessory structures to be placed in the rear yard. Petitioner also indicated that he considers the waterside of his particular home to be the front yard. Although vehicles are parked on the parking pad on the roadside and there is an entrance to the dwelling on the roadside, Petitioner testified that the primary means of

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access to the dwelling is from the double sliding glass doors and stairways leading from the deck on the waterside of the property.

Testifying in opposition to the requested relief was Protestant Karen Treat. Ms. Treat resides next door to Petitioner to the east and has lived there for the last 10 years. She initially indicated that she is familiar with Petitioner's home, having been inside previously. Based on her description of the layout of the home, she believes the front of the property is at the roadside and not the waterside. She also testified as to why she is opposed to the requested relief, indicating that if Petitioner's proposed two-story addition were permitted, it would be directly in front of her home and would diminish her view from her front entrance that faces the side of her property, and would diminish the value of her home. Ms. Treat also testified that she is not against Petitioner's having a separate garage or a small addition to their home for another bedroom, but objects to the current proposal that would essentially obliterate her view from her front entrance. In support of this position, Ms. Treat submitted photographs taken from her main entrance as well as from her second floor window, looking out to the location of Petitioner's proposed addition. These photographs were marked and accepted into evidence as Protestant's Exhibits 6, 8, and 9. In short, Ms. Treat wants to keep her view of the open space from the entrance to her home (facing the side of the other nearby properties) across the other properties in the neighborhood.

The Zoning Advisory Committee (ZAC) comments were received and are made part of the record of this case. Comments were received from the Department of Environmental Protection and Resource Management dated May 14, 2009 which indicates that development of the property must comply with the Chesapeake Bay Critical Area Regulations. The site must comply with a maximum lot coverage limit of 31.25% with mitigation if any proposed coverage is approved. The site must also comply with Buffer Management Area requirements that outline

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uses and restrictions within the 100 foot tidal buffer off mean high water. In addition, a 15% forest cover requires that a minimum of three trees exist on the property at all times.

Considering all the testimony and evidence presented, I am persuaded in this instance to grant the variance requests. I find special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance requests. I am especially persuaded by the photographs of the properties in the neighborhood contained in Petitioner's Exhibit 3, which demonstrates quite clearly how different and unique each are with respect to the size and shape of the properties and the varying and different improvements. I also find uniqueness in the fact that Petitioner's property is a 50 foot wide lot that was established far earlier than the adoption of the Zoning Regulations, particularly the R.C.5 Zone. As a result, no matter what improvement is planned, there is no possible way for Petitioner to comply with the distance to property line setback. This is the kind of peculiar circumstance that makes the regulations impact this property disproportionately compared to others in the district. Therefore I find the property unique in a zoning sense.

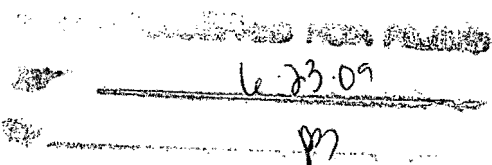
I further find that strict compliance with the Zoning Regulations for Baltimore County would result in practical difficulty or unreasonable hardship. Denying the variance requests would inhibit a beneficial use of the property that is otherwise permitted by the Regulations. I also find these variance requests can be granted in strict harmony with the spirit and intent of said regulations, and in such manner as to grant relief without injury to the public health, safety and general welfare. While it seems that the planned addition will affect Ms. Treat's view from the main entrance of her property looking sideways at other properties along the north side of Holly Beach Road, in my view, this situation exists because Ms. Treat's property appears to be the only one with a front yard facing what is the side yards of other properties in the neighborhood. This certainly makes Ms. Treat's property unique, but it also singularly affects

the degree to which any improvements planned by Petitioner on that side of the property may impact Ms. Treat. Although I am understanding of Ms. Treat's position, I will not deny the variance requests on that basis.

Finally, I find consistent with the relief to be granted herein that the roadside in this case is the rear yard and the waterside is the front yard. As indicated in the relevant case law, factors such as the location of a front door, front walkway, the floor plan of a dwelling, positioning of windows, usages of those who live in and visit the dwelling, and exterior attributes of a dwelling, are as important as the proximity to a roadside in determining a front, side, or rear yard setback. *See, Swoboda v. Wilder*, 173 Md.App. 615, at 639 (2007). In addition, the Zoning Commissioner's Policy Manual (Z.C.P.M.) at Sections 400.1.a and 400.2.a provides a determination of what constitutes the front yard on waterfront lots based on the orientation of the houses and accessory buildings. In most cases, as is the situation here, waterfront lots refer to the front of the structure facing the water.

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 variance requests should be granted.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County, this 23rd day of June, 2009 that a Variance from Sections 1A04.3.B.2.b and 1A04.3.B.3 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a proposed two-story bedroom and garage addition on rear of dwelling with a side setback of 11 feet and 47 feet to centerline of road in lieu of the required 50 feet and 75 feet respectively; and to permit a 16.65% building coverage for the existing dwelling and new addition in lieu of the maximum allowed of 15% be and are hereby GRANTED, subject to the following:

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1. Petitioner may apply for his building permit and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at his 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 Petitioner would be required to return, and be responsible for returning, said property to its original condition.
2. Development of this property must comply with the Chesapeake Bay Critical Area Regulations (Sections 33-2-101 through 33-2-1004 and other Sections of the Baltimore County Code).
3. The site must comply with a maximum lot coverage limit of 31.25% with mitigation if any proposed coverage is approved. The site must also comply with Buffer Management Area requirements that outline uses and restrictions within the 100 foot tidal buffer off mean high water. In addition, a 15% forest cover requires that a minimum of three trees exist on the property at all times.

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


THOMAS H. BOSTWICK
Deputy Zoning Commissioner
for Baltimore County

THB:pz

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TAX ACCOUNT # 1502573800

Petition for Administrative Variance

to the Zoning Commissioner of Baltimore County

for the property located at 2606 HOLLYBEACH ROAD
which is presently zoned RC 5

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) 1A04.3B2.6 & 1A04.3B3

TO PERMIT A PROPOSED 2-STORY BEDROOM & GARAGE ADDITION ON REAR OF DWELLING WITH A SIDE SETBACK OF 11 FEET & 45 FEET TO CENTERLINE OF ROAD IN LIEU OF THE REQUIRED 50 FEET & 75 FEET RESPECTIVELY; AND TO PERMIT A 22% BUILDING COVERAGE FOR THE EXISTING DWELLING & NEW ADDITIONS IN LIEU OF THE MAXIMUM ALLOWED OF 15 %

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

Signature

Company

Address

Telephone No.

City

State

Zip Code

Legal Owner(s):

Name - Type or Print

Signature

Name - Type or Print

Signature

Address

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 16 day of 23 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. 2009-0279-A

REV 10/25/01

Reviewed By A. TSUI

Date 04/17/2009

Estimated Posting Date 04/26/09 - 05/11/09

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 24006 Hollybeach Rd
Address
Essex MD 21221
City State Zip Code

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):

- ① Presently two small Bedrooms for (3) children, need a bedroom so my two boys ages 9 & 12 can be separated. my intent is to put a bedroom above the attached garage.
- ② my Truck has been broken into on numerous occasions.
- ③ my Jet ski has been vandalized while in yard.
- ④ both my Trucks have been vandalized on many occasions.

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.

David A. Jacobs
Signature
David A. Jacobs
Name - Type or Print

Signature

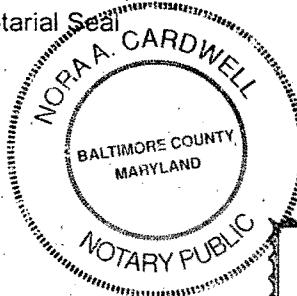
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STATE OF MARYLAND, COUNTY OF BALTIMORE, to wit:

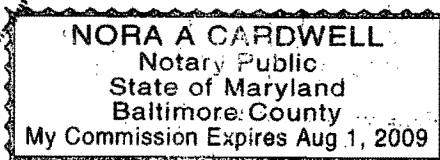
I HEREBY CERTIFY, this 20th day of April, 2009, before me, a Notary Public of the State of Maryland, in and for the County aforesaid, personally appeared

David A. Jacobs
the Affiant(s) herein, personally known or satisfactorily identified to me as such Affiant(s).

AS WITNESS my hand and Notarial Seal



Nora A. Cardwell
Notary Public
My Commission Expires 8/1/09



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 2606 Hollybeach Rd.
Address
Essex MD 21221
City State Zip Code

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):

- ① Presently Two small Bedrooms For (3) children, need a bedroom so my two boys ages 9 & 12 can be separated. Intent is to put Bedroom above garage.
- ② Truck has been broken into numerous occasions.
- ③ Jet Ski vandalized while in yard.
- ④ Both Trucks have been vandalized on to many occasions.

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.

David a. Jacobs
Signature
David a. Jacobs
Name - Type or Print

Signature

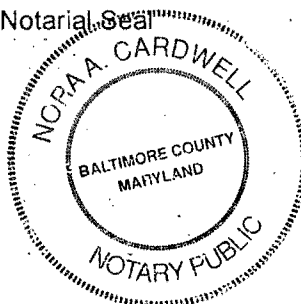
Name - Type or Print

STATE OF MARYLAND, COUNTY OF BALTIMORE, to wit:

I HEREBY CERTIFY, this 20th day of April, 2009, before me, a Notary Public of the State of Maryland, in and for the County aforesaid, personally appeared

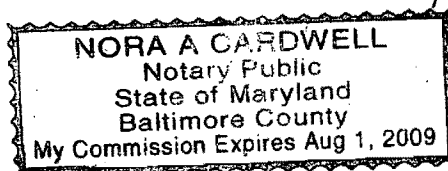
David A. Jacobs
the Affiant(s) herein, personally known or satisfactorily identified to me as such Affiant(s).

AS WITNESS my hand and Notarial Seal



Nora A. Cardwell
Notary Public
My Commission Expires 8/1/09

REV 10/25/01





Petition for Administrative Variance

to the Zoning Commissioner of Baltimore County

for the property located at 2606 HOLLYBEACH ROAD
which is presently zoned RC5

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) 1A04.3B2.6 & 1A04.3B3

TO PERMIT A PROPOSED 2-STORY BEDROOM & GARAGE ADDITION ON REAR OF DWELLING WITH A SIDE SETBACK OF 11 FEET & 45 FEET TO CENTER LINE OF ROAD IN LIEU OF THE REQUIRED 50 FEET & 75 FEET RESPECTIVELY; AND TO PERMIT A 22% BUILDING COVERAGE FOR THE EXISTING DWELLING & NEW ADDITIONS IN LIEU OF THE MAXIMUM ALLOWED OF 15%

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

Signature

Company

Address

Telephone No.

City

State

Zip Code

Legal Owner(s):

Name - Type or Print

Signature

Name - Type or Print

Signature

Address

City

State

Zip Code

Representative to be Contacted:

Name

Address

Telephone No.

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 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.

2009-0279-A

Reviewed By

A-TSUI

Date

04/17/2009

REV 10/25/01

Estimated Posting Date

04/26/09 - 05/11/09

6-23-09

BM

Description of Lot 15

Plat No.1 - Holly Beach (2606 HOLLYBEACH ROAD)

Fifteenth Election District, Baltimore County Maryland

Beginning at a point on the northerly right-of-way line of Holly Beach Avenue (40' wide), said point also being the southwest corner of Lot 15 as shown on a plat entitled "Plat No.1, Holly Beach" recordation date February 14, 1916 and recorded among the Land Records of Baltimore County, Maryland in Plat Book W.P.C. Liber 4 Folio 182", thence leaving said right-of-way and binding on the common line of Lot 14 and Lot 15, with all courses contained herein referred to the Plat Datum (WPC 4-182), the four following courses and distances, viz;

- (1) North $01^{\circ}18'00''$ West at a distance of 203 feet more or less to the boundary line of Middle River, as shown on said plat,
- (2) Easterly meandering on said boundary line of Middle River as shown on said plat 50 feet more or less, thence leaving said boundary line and binding on the common lot line of Lot 15 and Lot 16,
- (3) South $01^{\circ}18'00''$ East at a distance of 205 feet more or less, and
- (4) South $88^{\circ}42'00''$ West at a distance of 50.00 feet to the place of beginning.

Containing 0.23 acres of land more or less.

Being known and designated as Lot 15 on a plat entitled "Plat No.1, Holly Beach" recordation date February 14, 1916 and recorded among the Land Records of Baltimore County, Maryland in Plat Book W.P.C. Liber 4 Folio 182".

2009-0279-A

A Licensed Surveyor in the State of Maryland, was in responsible charge over the preparation and the surveying work reflected in the above description, all in compliance with requirements set forth in Title 09.13.06.12 Regulations.

2009-0279-A

No. 39269

Date: _____

04/21/09

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06 SEP 1963

RECEIPT # 126125 1/21/2012

5.0 ZONING VERIFICATION

037269

Recd: 10/1/54 345.00

1.00 CR 0 45.00 C

Baltimore County, Maryland

Total:

11-1-63

Rec:
From:

DAVID JACOBS

For:

2606 HOLLYBEACH RD

5001-0279-A

DISTRIBUTION

WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER

GOLD - ACCOUNTING

PLEASE PRESS HARD!!!!

**CASHIER'S
VALIDATION**

NOTICE OF ZONING HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing in Towson, Maryland on the property identified herein as follows:

Case: # 2009-0279-A

2606 Holly Beach Road

N/side of Holly Beach Road, 220 feet east of the centerline of Henrietta Avenue

15th Election District — 6th Councilmanic District

Legal Owner(s): David Jacobs

Variance: to permit a proposed 2-story bedroom and garage addition on rear of dwelling with a side setback of 11 feet and 45 feet to centerline of road in lieu of the required 50 feet and 75 feet respectively; and to permit a 22% building coverage for the existing dwelling and new additions in lieu of the maximum allowed of 15%.

Hearing: Mondy, June 15, 2009 at 11:00 a.m. in Room 104, Jefferson Building, 105 West Chesapeake Avenue, Towson 21204.

WILLIAM J. WISEMAN, III.

Zoning Commissioner for Baltimore County

NOTES: (1) Hearings are Handicapped Accessible; for special accommodations Please Contact the Zoning Commissioner's Office at (410) 887-4386.

(2) For information concerning the File and/or Hearing, Contact the Zoning Review Office at (410) 887-3391.

JT 6/611-June 2

202555

CERTIFICATE OF PUBLICATION

6/4/2009

THIS IS TO CERTIFY, that the annexed advertisement was published in the following weekly newspaper published in Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on 6/2/2009.

- ☒ The Jeffersonian
- ☐ Arbutus Times
- ☐ Catonsville Times
- ☐ Towson Times
- ☐ Owings Mills Times
- ☐ NE Booster/Reporter
- ☐ North County News

S. Wilkinson

LEGAL ADVERTISING

CERTIFICATE OF POSTING

RE: 2009-0279-A

Petitioner/Developer: _____

Jacobs

Date of Hearing/closing May 11, 2009

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

Attn : Kristin Matthews:

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, _____
2606 Hollybeach Road

The sign(s) were posted on _____ April 26, 2009
(Month, Day, Year)

Sincerely,

Robert Black April 28, 2009
(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)

ZONING NOTICE

ADMINISTRATIVE VARIANCE

CASE # 2009-0279-A

TO PERMIT A PROPOSED 2 STORY BEDROOM + GARAGE ADDITION
ON REAR OF DWELLING WITH A SIDE SETBACK OF 11 FEET, 45 FEET TO CENTER
LINE OF ROAD IN LIEU OF THE REQUIRED 50 FEET + 75 FEET REAR SETBACK
AND TO PERMIT A 22 % SITE COVERAGE IN LIEU OF THE MAXIMUM
ALLOWED OF 15 %.

PUBLIC HEARING ?

PURSUANT TO SECTION 26-127(b)(1), BALTIMORE COUNTY CODE
AN ELIGIBLE INDIVIDUAL OR GROUP MAY
REQUEST A PUBLIC HEARING CONCERNING
THE PROPOSED VARIANCE, PROVIDED IT
IS DONE IN THE ZONING OFFICE BEFORE
4:30 p.m. ON 5-11-09

ADDITIONAL INFORMATION IS AVAILABLE AT
ZONING ADMINISTRATION AND DEVELOPMENT MANAGEMENT
111 W. CHESAPEAKE AVE
JACKSON, MD 21201
TEL. 887-3391

REZONING IS HANDICAP ACCESSIBLE



FORMAL DEMAND FOR HEARING

CASE NUMBER: 09-0279 A

Address: 2606 HOLLY BEACH RD

Petitioner(s): DAVID JACOBS

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

I/We KAREN TREAT, BY ARNOLD JABLON,
Name - Type or Print 'Att 210 ALLEGANY AVE

(☒ Legal Owner OR (☐ Resident of TOWNSHIP 2201

2610 HOLLY BEACH RD
Address

ESSEX MD 21221
City State Zip Code

410 615-9256
Telephone Number

which is located approximately ADJACENT feet from the property, which is the subject of the above petition, **do hereby formally demand that a public hearing be set in this matter.**
ATTACHED IS THE REQUIRED PROCESSING FEE FOR THIS DEMAND.

[Signature] 5/6/09
Signature Date

Signature Date
Revised 9/18/98 - wcr/scj

CERTIFICATE OF POSTING

RE: 2009-0279-A

Petitioner/Developer: _____

David Jacobs

Date of Hearing/Closing June 15, 2009

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

Attn: Kristin Matthews,

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, _____

2606 Holly Beach Road

The sign(s) were posted on _____ May 30, 2009
(Month, Day, Year)

Sincerely,

Robert Black

(Signature of Sign Poster)

June 3 2009

(Date)

SSG Robert Black

(Print Name)

1508 Leslie Road

(Address)

Dundalk, Maryland 21222

(City, State, Zip Code)

(410) 282-7940

(Telephone Number)

ZONING NOTICE

CASE # 2009-0279-A

A PUBLIC HEARING WILL BE HELD BY
THE ZONING COMMISSIONER
IN TOWSON, MD

Room 104, JEFFERSON BUILDING²¹²⁰⁴
105 WEST CHESAPEAKE AVE. TOWSON

PLACE:

DATE AND TIME: MONDAY, JUNE 15, 2009 AT 11:00 AM

REQUEST: VARIANCE TO PERMIT A PROPOSED 2-STORY
BEDROOM AND GARAGE ADDITION ON REAR OF DWELLING WITH A
SIDE SETBACK OF 11 FEET AND 41.5 FEET TO CENTERLINE OF
ROAD IN LIEU OF THE REQUIRED 50 FEET AND 75 FEET
RESPECTIVELY, AND TO PERMIT A 22.5% BUILDING COVERAGE FOR THE
EXISTING DWELLING AND NEW ADDITIONS IN LIEU OF THE MAXIMUM
ALLOWED OF 15%.

RESPONDENTS DUE TO WEATHER OR OTHER CONDITIONS ARE SOMETIMES NECESSARY
TO CONFIRM HEARING CALL 387-3391

DO NOT REMOVE THIS SIGN AND POST UNTIL DAY OF HEARING, UNDER PENALTY OF LAW

HANDICAPPED ACCESSIBLE

Requested: September 1, 2009

APPEAL SIGN POSTING REQUEST

CASE NO.: 09-279-A

2606 Holly Beach Road

6th ELECTION DISTRICT

APPEALED: 7/21/09

ATTACHMENT – (Plan to accompany Petition – Petitioner's Exhibit No. 1)

*****COMPLETE AND RETURN BELOW INFORMATION*****

CERTIFICATE OF POSTING

TO: Baltimore County Board of Appeals
The Jefferson Building, Suite 203
102 W. Chesapeake Avenue
Towson, MD 21204

Attention: Theresa Shelton
Administrator

CASE NO.: 09-279-A

LEGAL OWNER: David Jacobs

This is to certify that the necessary appeal sign was posted conspicuously on the property located at:

2606 HOLLY BEACH ROAD
N/S OF HOLLY BEACH ROAD, 220' E/OF C/LINE OF HENRIETTA AVENUE

The sign was posted on _____, 200____.

By: _____
(Signature of Sign Poster)

(Print Name)

Requested: September 1, 2009

APPEAL SIGN POSTING REQUEST

CASE NO.: 09-279-A

2606 Holly Beach Road

6th ELECTION DISTRICT

APPEALED: 7/21/09

ATTACHMENT – (Plan to accompany Petition – Petitioner's Exhibit No. 1)

*****COMPLETE AND RETURN BELOW INFORMATION*****

CERTIFICATE OF POSTING

TO: Baltimore County Board of Appeals
The Jefferson Building, Suite 203
102 W. Chesapeake Avenue
Towson, MD 21204

Attention: Theresa Shelton
Administrator

RECEIVED

OCT 13 2009

BALTIMORE COUNTY
BOARD OF APPEALS

CASE NO.: 09-279-A

LEGAL OWNER: David Jacobs

This is to certify that the necessary appeal sign was posted conspicuously on the property located at:

2606 HOLLY BEACH ROAD
N/S OF HOLLY BEACH ROAD, 220' E/OF C/LINE OF HENRIETTA AVENUE

The sign was posted on 10-13-09, 2009.

By:

(Signature of Sign Poster)

(Print Name)

M STUART KELLY

PHOTOGRAPHIC RECORDS

CASE # 09-279-A
Record No.:

Facility No.:

Date of Photograph(s):

10-13-09

2606

HOLLY BEACH AD



I HEREBY CERTIFY that I took 3 photographs set out above, and that these photographs fairly and accurately depict the condition of the property that is the subject of the above referenced Facility/Record Number on the date set above.

M. Stuart Kelly
(Enforcement Officer)

PHOTOGRAPHIC RECORDS

Facility No.: _____

CASE #

09-279-A

Date of Photograph(s):

10-13-09

2606

HOLLY BEACH AD



I HEREBY CERTIFY that I took 3 photographs set out above, and that these photographs fairly and accurately depict the condition of the property that is the subject of the above referenced Facility/Record Number on the date set above.

M. Stuart Kelly
(Enforcement Officer)

PHOTOGRAPHIC RECORDS

Facility No.: _____

Record No.: _____

CASE # 09-279-A

Date of Photograph(s): _____

10-13-09 2606 HOLLY BEACH AD



I HEREBY CERTIFY that I took 3 photographs set out above, and that these photographs fairly and accurately depict the condition of the property that is the subject of the above referenced Facility/Record Number on the date set above.

M. Stuart Kelly
(Enforcement Officer)

ADMINISTRATIVE VARIANCE INFORMATION SHEET AND DATES

Case Number 2009- 0279 -A Address 2606 HOLLYBEACH RD

Contact Person: AARON TSUI Phone Number: 410-887-3391
Planner, Please Print Your Name

Filing Date: 04/17/2009 Posting Date: 04/26/09 Closing Date: 05/11/09

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, usually within 10 days of the closing date if all County agencies' comments are received, 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 2009- 0279 -A Address 2606 HOLLYBEACH ROAD
Petitioner's Name JACOBS Telephone 410-918 9793

Posting Date: _____ Closing Date: _____

Wording for Sign: To Permit A PROPOSED 2 STORY BEDROOM & GARAGE ADDITION
ON REAR OF DWELLING WITH A SIDE SETBACK OF 11 FEET, 45 FEET
TO CENTER LINE OF ROAD IN LIEU OF THE REQUIRED 50 FEET &
75 FEET RESPECTIVELY; AND TO PERMIT A 22 % SITE COVERAGE IN
LIEU OF THE MAXIMUM ALLOWED OF 15 %.

WCR - Revised 7/7/08

TO: PATUXENT PUBLISHING COMPANY
Thursday, May 28, 2009 Issue - Jeffersonian

Please forward billing to:

David Jacobs
2606 Holly Beach Road
Essex, MD 21221

410-918-9793

NOTICE OF ZONING HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing in Towson, Maryland on the property identified herein as follows:

CASE NUMBER: 2009-0279-A

2606 Holly Beach Road

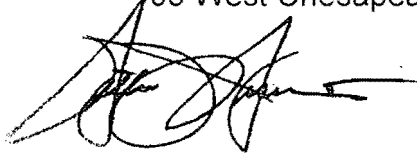
N/side of Holly Beach Road, 220 feet east of the centerline of Henrietta Avenue

15th Election District – 6th Councilmanic District

Legal Owners: David Jacobs

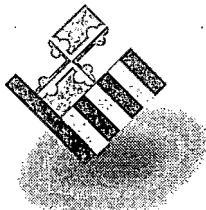
Variance to permit a proposed 2-story bedroom and garage addition on rear of dwelling with a side setback of 11 feet and 45 feet to centerline of road in lieu of the required 50 feet and 75 feet respectively; and to permit a 22% building coverage for the existing dwelling and new additions in lieu of the maximum allowed of 15%.

Hearing: Monday, June 15, 2009 at 11:00 a.m. in Room 104, Jefferson Building,
105 West Chesapeake Avenue, Towson 21204



WILLIAM J. WISEMAN III
ZONING COMMISSIONER FOR BALTIMORE COUNTY

- NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMODATIONS, PLEASE CONTACT THE ZONING COMMISSIONER'S OFFICE AT 410-887-4386.
- (2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.



BALTIMORE COUNTY
MARYLAND

JAMES T. SMITH, JR.
County Executive

May 26, 2009
TIMOTHY M. KOTROCO, *Director*
*Department of Permits and
Development Management*

NOTICE OF ZONING HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing in Towson, Maryland on the property identified herein as follows:

CASE NUMBER: 2009-0279-A

2606 Holly Beach Road

N/side of Holly Beach Road, 220 feet east of the centerline of Henrietta Avenue

15th Election District – 6th Councilmanic District

Legal Owners: David Jacobs

Variance to permit a proposed 2-story bedroom and garage addition on rear of dwelling with a side setback of 11 feet and 45 feet to centerline of road in lieu of the required 50 feet and 75 feet respectively; and to permit a 22% building coverage for the existing dwelling and new additions in lieu of the maximum allowed of 15%.

Hearing: Monday, June 15, 2009 at 11:00 a.m. in Room 104, Jefferson Building,
105 West Chesapeake Avenue, Towson 21204

A handwritten signature in black ink that reads "Timothy Kotroco".

Timothy Kotroco
Director

TK:klm

C: David Jacobs, 2606 Holly Beach Road, Essex 21221
Arnold Jablon, Venable, 210 Allegheny Avenue, Towson 21204
Karen Treat, 2610 Holly Beach Road, Essex 21221

- NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY SATURDAY, MAY 30, 2009.**
- (2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL THE ZONING COMMISSIONER'S OFFICE AT 410-887-4386.
- (3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.



County Board of Appeals of Baltimore County

JEFFERSON BUILDING
SECOND FLOOR, SUITE 203
105 WEST CHESAPEAKE AVENUE
TOWSON, MARYLAND, 21204
410-887-3180
FAX 410-887-3182

Jefferson Building - Second Floor
Hearing Room #2 - Suite 206
105 W. Chesapeake Avenue

November 30, 2009

NOTICE OF ASSIGNMENT

CASE #: 09-279-A IN THE MATTER OF: DAVID JACOBS – Legal Owner /Petitioner
2606 Holly Beach Road 15th E; 6th C

Re: Petition for Administrative Variance to permit a proposed 2-story bedroom & Garage addition on rear of dwelling with a side yard setback of 11 feet and 45 feet to center line of road ilo required 50 ft and 75 ft; and to permit a 22% building coverage for the existing dwelling & New addition in lieu of the max 15%.

6/23/09 – D.Z.C.'s decision in which requested zoning relief was **GRANTED w/restrictions.**

ASSIGNED FOR: WEDNESDAY, JANUARY 13, 2010, at 10:00 a.m.

NOTICE: This appeal is an evidentiary hearing; therefore, parties should consider the advisability of retaining an attorney.

Please refer to the Board's Rules of Practice & Procedure, Appendix B, Baltimore County Code.

IMPORTANT: No postponements will be granted without sufficient reasons; said requests must be in writing and in compliance with Rule 2(b) of the Board's Rules. No postponements will be granted within 15 days of scheduled hearing date unless in full compliance with Rule 2(c).

If you have a disability requiring special accommodations, please contact this office at least one week prior to hearing date.

Theresa R. Shelton
Administrator

c: Counsel for Petitioner / Applicant
Petitioner /Applicant

: Lawrence E. Schmidt, Esquire
: David Jacobs

Counsel for Protestant/Appellant
Protestant/Appellant

: Arnold Jablon, Esquire
: Karen Treat

Office of People's Counsel
William J. Wiseman, III, Zoning Commissioner
Timothy Kotroco, Director/PDM
Arnold F. "Pat" Keller, Director/Planning
Nancy West, Assistant County Attorney
John E. Beverungen, County Attorney

pp
Rashville
Retirement



County Board of Appeals of Baltimore County

JEFFERSON BUILDING
SECOND FLOOR, SUITE 203
105 WEST CHESAPEAKE AVENUE
TOWSON, MARYLAND, 21204
410-887-3180
FAX: 410-887-3182

Jefferson Building - Second Floor
Hearing Room #2 - Suite 206
105 W. Chesapeake Avenue

January 11, 2010

NOTICE OF POSTPONEMENT

CASE #: 09-279-A IN THE MATTER OF: DAVID JACOBS – Legal Owner /Petitioner
2606 Holly Beach Road 15th E; 6th C

Re: Petition for Administrative Variance to permit a proposed 2-story bedroom & Garage addition on rear of dwelling with a side yard setback of 11 feet and 45 feet to center line of road ilo required 50 ft and 75 ft; and to permit a 22% building coverage for the existing dwelling & New addition in lieu of the max 15%.

6/23/09 – D.Z.C.'s decision in which requested zoning relief was **GRANTED w/restrictions.**

*This matter was scheduled to be heard on Wednesday, January 13, 2010
and has been postponed by mutual request of Counsel.
This matter to be Re-assigned.*

NOTICE: This appeal is an evidentiary hearing; therefore, parties should consider the advisability of retaining an attorney.

Please refer to the Board's Rules of Practice & Procedure, Appendix B, Baltimore County Code.

IMPORTANT: No postponements will be granted without sufficient reasons; said requests must be in writing and in compliance with Rule 2(b) of the Board's Rules. No postponements will be granted within 15 days of scheduled hearing date unless in full compliance with Rule 2(c).

If you have a disability requiring special accommodations, please contact this office at least one week prior to hearing date.

Theresa R. Shelton
Administrator

c: Counsel for Petitioner / Applicant	: Lawrence E. Schmidt, Esquire (via facsimile)
Petitioner /Applicant	: David Jacobs
Counsel for Protestant/Appellant	: Arnold Jablon, Esquire (via facsimile)
Protestant/Appellant	: Karen Treat

Office of People's Counsel
William J. Wiseman, III, Zoning Commissioner
Timothy Kotroco, Director/PDM
Arnold F. "Pat" Keller, Director/Planning
Nancy West, Assistant County Attorney
John E. Beverungen, County Attorney



County Board of Appeals of Baltimore County

JEFFERSON BUILDING
SECOND FLOOR, SUITE 203
105 WEST CHESAPEAKE AVENUE
TOWSON, MARYLAND, 21204
410-887-3180
FAX: 410-887-3182

Jefferson Building - Second Floor
Hearing Room #2 - Suite 206
105 W. Chesapeake Avenue

May 18, 2010

NOTICE OF ASSIGNMENT

CASE #: 09-279-A IN THE MATTER OF: DAVID JACOBS – Legal Owner /Petitioner
2606 Holly Beach Road 15th E; 6th C

Re: Petition for Administrative Variance to permit a proposed 2-story bedroom & Garage addition on rear of dwelling with a side yard setback of 11 feet and 45 feet to center line of road ilo required 50 ft and 75 ft; and to permit a 22% building coverage for the existing dwelling & New addition in lieu of the max 15%.

6/23/09 – D.Z.C.'s decision in which requested zoning relief was **GRANTED w/restrictions.**

ASSIGNED FOR: **TUESDAY, SEPTEMBER 14, 2010, at 10:00 a.m. AND**
WEDNESDAY, SEPTEMBER 15, 2010 @ 10, IF NEEDED

NOTICE: This appeal is an evidentiary hearing; therefore, parties should consider the advisability of retaining an attorney.

Please refer to the Board's Rules of Practice & Procedure, Appendix B, Baltimore County Code.

IMPORTANT: No postponements will be granted without sufficient reasons; said requests must be in writing and in compliance with Rule 2(b) of the Board's Rules. No postponements will be granted within 15 days of scheduled hearing date unless in full compliance with Rule 2(c).

If you have a disability requiring special accommodations, please contact this office at least one week prior to hearing date.

Theresa R. Shelton
Administrator

c: Counsel for Petitioner / Applicant	: Lawrence E. Schmidt, Esquire
Petitioner /Applicant	: David Jacobs
Counsel for Protestant/Appellant	: Arnold Jablon, Esquire
Protestant/Appellant	: Karen Treat

Office of People's Counsel
William J. Wiseman, III, Zoning Commissioner
Timothy Kotroco, Director/PDM
Arnold F. "Pat" Keller, Director/Planning
Nancy West, Assistant County Attorney
John E. Beverungen, County Attorney



County Board of Appeals of Baltimore County

JEFFERSON BUILDING
SECOND FLOOR, SUITE 203
105 WEST CHESAPEAKE AVENUE
TOWSON, MARYLAND, 21204

410-887-3180

FAX: 410-887-3182

April 2, 2010

Lawrence E. Schmidt, Esquire
GILDEA & SCHMIDT LLC
600 Washington Avenue
Suite 200
Towson, MD 21204

Arnold Jablon, Esquire
VENABLE, BAETJER & HOWARD, LLP
210 W. Pennsylvania Avenue, S. 500
Towson, MD 21204

RE: *In the Matter of: Karen Treat and Alverta Tughton*
Case No. 10-152-A / 2610 Holly Beach Road

and

RE: *In the Matter of: David Jacobs*
Case No. 09-279-A / 2606 Holly Beach Road

Dear Counsel:

Due to the fact that these cases cross-reference each other with regards to Appellants/Petitioners, this office is requesting that Counsel agree on a date and time for a hearing in order to advance the appeals course of action.

If you have no objection to the Board hearing both of these matters on the same day, the following dates and times are open on the Board's docket. Please contact this office upon clarification of availability, and the above referenced matters will be assigned in accordance with the agreement of Counsel

Tuesday, July 13, 2010 at 10:00 a.m.
Wednesday, July 14, 2010 at 10:00; and
Thursday, July 15, 2010 at 10:00 a.m.

Thanking you in advance for your time and cooperation in this matter. Should you have any questions, please call me at 410-887-3180.

Very truly yours,

Theresa R. Shelton
Administrator

Duplicate Original

c: David Jacobs
Karen Treat and Alverta Tughton



County Board of Appeals of Baltimore County

JEFFERSON BUILDING
SECOND FLOOR, SUITE 203
105 WEST CHESAPEAKE AVENUE
TOWSON, MARYLAND, 21204
410-887-3180
FAX: 410-887-3182

Jefferson Building - Second Floor
Hearing Room #2 - Suite 206
105 W. Chesapeake Avenue

January 11, 2010

NOTICE OF POSTPONEMENT

CASE #: 09-279-A IN THE MATTER OF: DAVID JACOBS – Legal Owner /Petitioner
2606 Holly Beach Road 15th E; 6th C

Re: Petition for Administrative Variance to permit a proposed 2-story bedroom & Garage addition on rear of dwelling with a side yard setback of 11 feet and 45 feet to center line of road ilo required 50 ft and 75 ft; and to permit a 22% building coverage for the existing dwelling & New addition in lieu of the max 15%.

6/23/09 – D.Z.C.'s decision in which requested zoning relief was **GRANTED w/restrictions.**

*This matter was scheduled to be heard on Wednesday, January 13, 2010
and has been postponed by mutual request of Counsel.
This matter to be Re-assigned.*

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Please refer to the Board's Rules of Practice & Procedure, Appendix B, Baltimore County Code.

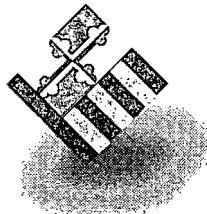
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If you have a disability requiring special accommodations, please contact this office at least one week prior to hearing date.

Theresa R. Shelton
Administrator

c: Counsel for Petitioner / Applicant	: Lawrence E. Schmidt, Esquire (via facsimile)
Petitioner /Applicant	: David Jacobs
Counsel for Protestant/Appellant	: Arnold Jablon, Esquire (via facsimile)
Protestant/Appellant	: Karen Treat

Office of People's Counsel
William J. Wiseman, III, Zoning Commissioner
Timothy Kotroco, Director/PDM
Arnold F. "Pat" Keller, Director/Planning
Nancy West, Assistant County Attorney
John E. Beverungen, County Attorney



BALTIMORE COUNTY
M A R Y L A N D

JAMES T. SMITH, JR.
County Executive

David A. Jacobs
2606 Hollybeach Rd.
Essex, MD 21221

TIMOTHY M. KOTROCO, *Director*
Department of Permits and
Development Management
June 10, 2009

Dear: David A. Jacobs

RE: Case Number 2009-0279-A, 2606 Hollybeach Rd.

The above referenced petition was accepted for processing **ONLY** by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on April 17, 2009. This letter is not an approval, but only a **NOTIFICATION**.

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.".

W. Carl Richards, Jr.
Supervisor, Zoning Review

WCR:lnw

Enclosures

c: People's Counsel

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

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

DATE: May 4, 2009

FROM: Dennis A. Kennedy, ^{DAK}Supervisor
Bureau of Development Plans
Review

SUBJECT: Zoning Advisory Committee Meeting
For May 4, 2009
Item Nos. 2008-189, 2009-273, 274,
276, 277, 278, 279, 280 and 282

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

DAK:CEN:cab
cc: File
ZAC-05042009 -NO COMMENTS

BALTIMORE COUNTY, MARYLAND
INTEROFFICE CORRESPONDENCE

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

FROM: Dennis A. Kennedy, Supervisor
Bureau of Development Plans
Review

SUBJECT: Zoning Advisory Committee Meeting
For May 4, 2009
Item Nos. 2009-273, 274, 276, 277,
278, 279, 280 and 282

DATE: June 10, 2009

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

DAK:CEN:cab
cc: File
ZAC-05042009 -NO COMMENTS



Martin O'Malley, Governor
Anthony G. Brown, Lt. Governor

State Highway
Administration

John D. Porcari, Secretary
Neil J. Pedersen, Administrator

Maryland Department of Transportation

Date: April 30, 2009

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

RE: Baltimore County
Item No 2009-0279A
2606 HOLLYBEACH RD
DAVID JACOBS PROPERTY
ADMINISTRATIVE VARIANCE

Dear Ms. Matthews:

Thank you for the opportunity to review your referral request on the subject of the above captioned. We have determined that the subject property does not access a State roadway and is not affected by any State Highway Administration projects. Therefore, based upon available information this office has no objection to Baltimore County Zoning Advisory Committee approval of Item No. 2009-0279A.

Should you have any questions regarding this matter, please contact Michael Bailey at 410-545-2803 or 1-800-876-4742 extension 5593. Also, you may E-mail him at (mbailey@sha.state.md.us).

Very truly yours,

For ¹ Steven D. Foster, Chief
Engineering Access Permits
Division

SDF/MB

My telephone number/toll-free number is _____

Maryland Relay Service for Impaired Hearing or Speech: 1.800.735.2258 Statewide Toll Free

Street Address: 707 North Calvert Street • Baltimore, Maryland 21202 • Phone: 410.545.0300 • www.marylandroads.com



BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence



TO: Timothy M. Kotroco

FROM: Dave Lykens, DEPRM - Development Coordination *DL*

DATE: May 14, 2009

SUBJECT: Zoning Item # 09-279-A
Address 2606 Hollybeach Road
(Jacobs Property)

Zoning Advisory Committee Meeting of April 27, 2009

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

X Development of this property must comply with the Chesapeake Bay Critical Area Regulations (Sections 33-2-101 through 33-2-1004, and other Sections, of the Baltimore County Code).

Additional Comments: The site must comply with a maximum lot coverage limit of 31.25% with mitigation if any proposed coverage is approved. The site must also comply with Buffer Management Area requirements that outline uses and restrictions within the 100-foot tidal buffer off mean high water. In addition, a 15% forest cover requires that a minimum of three trees exist on the property at all times. Additional trees and/or lot coverage removal may be required for mitigation. The lot coverage indicated on the plan is incorrect because it only takes the home and additions into account. It is recommended that the applicant contact Environmental Impact Review and work toward an accurate site plan to determine if the proposed development can meet Critical Area requirements (410-887-3980).

Reviewer: Paul A. Dennis

Date: April 30, 2009

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

DATE: April 30, 2009

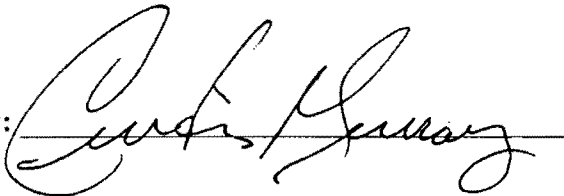
FROM: Arnold F. 'Pat' Keller, III
Director, Office of Planning

SUBJECT: Zoning Advisory Petition(s): Case(s) 09-279- Administrative Variance

The Office of Planning has reviewed the above referenced case(s) and has no comments to offer.

For further questions or additional information concerning the matters stated herein, please contact Laurie Hay in the Office of Planning at 410-887-3480.

Prepared By:
CM/LL

A handwritten signature in black ink, appearing to read "Laurie Hay", is written over a horizontal line.

RE: PETITION FOR ADMINISTRATIVE * BEFORE THE COUNTY
VARIANCE
2606 Holly Beach Road; N/S Holly Beach Rd* BOARD OF APPEALS
220' E of c/line of Henrietta Avenue
15th Election & 6th Councilmanic Districts * FOR
Legal Owner(s): David Jacobs
Petitioner(s) * BALTIMORE COUNTY
* 09-279-A
* * * * *

ENTRY OF APPEARANCE

Pursuant to Baltimore County Charter § 524.1, please enter the appearance of People's Counsel for Baltimore County as an interested party in the above-captioned matter. Notice should be sent of any hearing dates or other proceedings in this matter and the passage of any preliminary or final Order. All parties should copy People's Counsel on all correspondence sent and all documentation filed in the case.

RECEIVED
SEP - 4 2009
BALTIMORE COUNTY
BOARD OF APPEALS

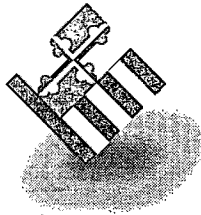
Peter Max Zimmerman
PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

Carole S. Demilio
CAROLE S. DEMILIO
Deputy People's Counsel
Jefferson Building, Room 204
105 West Chesapeake Avenue
Towson, MD 21204
(410) 887-2188

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 4th day of September, 2009, a copy of the foregoing Entry of Appearance was mailed to Arnold Jablon, Esquire, Venable, LLP, 210 Allegheny Avenue, Suite 500, Towson, MD 21204 and Lawrence E. Schmidt, Esquire, Gildea & Schmidt LLC, 600 Washington Avenue, Suite 200, Towson, MD 21204, David Jacobs, 2606 Holly Beach Road, Baltimore, MD 21221, Attorney for Petitioner(s).

Peter Max Zimmerman
PETER MAX ZIMMERMAN
People's Counsel for Baltimore County



BALTIMORE COUNTY

M A R Y L A N D

JAMES T. SMITH, JR.
County Executive

TIMOTHY M. KOTROCO, *Director*
Department of Permits and
Development Management

August 28, 2009

Lawrence Schmidt, Esq.
Gildea & Schmidt, LLC
600 Washington Ave., Ste. 200
Towson, MD 21204

Dear Mr. Schmidt:

RE: Case: 2009-0279-A, 2606 Holly Beach Road

Please be advised that an appeal of the above-referenced case was filed in this office on July 21, 2009 by Arnold Jablon on behalf of Karen Treat. All materials relative to the case have been forwarded to the Baltimore County Board of Appeals (Board).

If you are the person or party taking the appeal, you should notify other similarly interested parties or persons known to you of the appeal. If you are an attorney of record, it is your responsibility to notify your client.

If you have any questions concerning this matter, please do not hesitate to call the Board at 410-887-3180.

Sincerely,

A handwritten signature in black ink that reads "Timothy Kotroco".

Timothy Kotroco
Director

TK:klm

c: William J. Wiseman III, Zoning Commissioner
Timothy Kotroco, Director of PDM
People's Counsel
David & Lara Jacobs, 2606 Holly Beach Road, Baltimore 21221
Danielle Hankins, 2515 Piney Road, Parkville 21234
Arnold Jablon, Venable, 210 W. Pennsylvania Avenue, Ste. 500, Towson 21204
Karen Treat, 2610 Holly Beach Road, Baltimore 21221

APPEAL

Petition for Administrative Variance
2606 Holly Beach Road
N/side of Holly Beach Rd., 220' e/of c/line of Henrietta Ave.
15th Election District – 6th Councilmanic District
Legal Owners: David Jacobs

Case No.: 2009-0279-A

- ✓ Petition for Administrative Variance (April 17, 2009)
- ✓ Zoning Description of Property
- ✓ Formal Demand for Hearing (May 6, 2009 by Arnold Jablon for Karen Treat)
- ✓ Notice of Zoning Hearing (May 26, 2009)
- ✓ Certification of Publication (The Jeffersonian – June 2, 2009)
- ✓ Certificate of Posting (May 30, 2009) by Robert Black

Entry of Appearance by People's Counsel (None)

entered 9/4/09

- ✓ Petitioner(s) Sign-In Sheet – One Sheet

Protestant(s) Sign-In Sheet - (None)

- ✓ Citizen(s) Sign-In Sheet – One Sheet

- ✓ Zoning Advisory Committee Comments

RECEIVED

AUG 31 2009

**BALTIMORE COUNTY
BOARD OF APPEALS**

Petitioners' Exhibit

- ✓ 1. Plat to accompany petition
- ✓ 2. Plat
- ✓ 3. ✓ David Jacobs – Pamphlet
- ✓ 4. Letter from Mr. & Mrs. Jacobs with attached signatures in support of addition
- ✓ 5. Photographs A thru D
- ✓ 6. Photographs A thru G

Protestants' Exhibits:

- ✓ 1. Photo
- ✓ 2. Zoning Map
- ✓ 3-9. Photographs

Miscellaneous (Not Marked as Exhibit)

(None)

- ✓ Zoning Commissioner's Order (GRANTED – June 23, 2009)

Notice of Appeal received on July 21, 2009 from Arnold Jablon for Karen Treat

c: People's Counsel of Baltimore County, MS #2010
Zoning Commissioner/Deputy Zoning Commissioner
Timothy Kotroco, Director of PDM
Lawrence Schmidt
Arnold Jablon
Mr. & Mrs. Jacobs
Danielle Hankins
Karen Treat

date sent August 28, 2009, klm

Address List

Petitioner:

David Jacobs
2606 Holly Beach Road
Baltimore, MD 21221

Lawrence Schmidt, Esquire
Gildea & Schmidt, LLC
600 Washington Ave, Ste 200
Towson, MD 21204

Danielle Hankins
2515 Piney Road
Parkville, MD 21234

Protestants:

Karen Treat
2610 Holly Beach Road
Baltimore, MD 21221

Arnold Jablon, Esquire
Venable
210 W. Pennsylvania Ave, Ste 500
Towson, MD 21204

Interoffice:

Office of People's Counsel
William J. Wiseman, III, Zoning Commissioner
Thomas Bostwick, Deputy Zoning Commissioner
Timothy Kotroco, Director/PDM
Arnold F. "Pat" Keller, III, Director/Planning
John E. Beverungen, County Attorney



Baltimore County, Maryland

OFFICE OF PEOPLE'S COUNSEL

Jefferson Building
105 West Chesapeake Avenue, Room 204
Towson, Maryland 21204

410-887-2188
Fax: 410-823-4236

PETER MAX ZIMMERMAN
People's Counsel

RECEIVED

APR 27 2010

BALTIMORE COUNTY
BOARD OF APPEALS

CAROLE S. DEMILIO
Deputy People's Counsel

April 27, 2010

Lawrence M. Stahl, Chariman
County Board of Appeals of Baltimore County
The Jefferson Building
105 W. Chesapeake Avenue, Suite 203
Towson, MD 21204

Re: In the Matter of David Jacobs
2606 Holly Beach Road
Case No. 9-279-A

In the Matter of Karen Treat & Alverta Tutchton -Petitioner
2610 Holly Beach Road
Case No. 10-125-A

Dear Mr. Stahl,

These cases both involve petitions for variances involving neighbors David Jacobs and Karen Treat have, respectively, appealed the decisions of Deputy Zoning Commissioner to grant the specified variances, subject to conditions. The decision in the Jacobs case (9-279-A) is dated June 23, 2009, and the decision in the Treat case is dated January 31, 2010.

Upon review of the opinions and the files, we offer the following observations.

Each petition must be determined on its merits *de novo*. Petitioner Jacobs has requested consolidation for hearing purposes. This appears unwarranted and a potential source of confusion. This is not comparable to a court situation involving claims and counterclaims. Rather, each petition is different, and each site is different. It would make sense to have the same County Board of Appeals (CBA) panel hear each case, so as to minimize the chance for inconsistent approaches.

The Court of Appeals has recently discussed variance law in Trinity Assembly of God v. People's Counsel for Baltimore County 407 Md. 53 (2008), including the uniqueness and practical difficulty standards, their interrelationship, and the sometimes overlooked requirement that the proposal be consistent with the public health, safety, and welfare. This decision provides a road map, which should be followed in each of the present cases. It should be underlined that DZC Bostwick's view that lots may be unique because created prior to the advent of zoning laws is erroneous. Every zoning law includes new restrictions which limit what property owners could do previously. Here, the fact that the lots are 50-feet wide does not really make them

unique. The problem seems to be that unless variances are allowed in the R.C. 5 Zone mapped in older neighborhoods, there would be a halt to additions and other improvements. Even if this is a concern, it should not be overcome by the fiction that the lots are thereby unique. This fiction could set a dangerous precedent.

There was a question raised in the Jacobs case as to the location of the front yard. Ordinarily, in waterfront property cases, the waterfront boundary of the property is considered to demarcate the front yard. This is subject to review of the situation. The Zoning Commissioner's Policy Manual Section 400.1.a draws from earlier decisions in providing relevant criteria, including the orientation of the existing dwelling and other buildings, the orientation of other houses and accessory buildings on other nearby waterfront lots, and an inspection of the property. Section 400.2.a(1) indicates that when the proposed home fronts on the water, the water is the front property line. The CBA should therefore evaluate each case in light of these criteria. Whether or not a different result can or should occur on each lot is doubtful, but arguable depending on the orientation of the houses and accessory buildings.

Another question raised in the Jacobs case is whether the petition for variance is defective or incomplete because petitioner failed to ask for a variance for the side yard setback of 15 feet instead of 50 feet on the west side of the property. Petitioner claimed that this was unnecessary because of the request for the greater side yard setback of 11 feet instead of 50 feet on the east side of the property. DZC Bostwick did not require correction of the Petition. This is a plain error. The request for any particular variance does not excuse the omission of other relevant variance requests. The relative size of the requests is irrelevant. The location and circumstances of each variance request would present different facts and different issues with respect to some or all of the criteria. The omission is unacceptable and unlawful.

Meanwhile, there is a question raised in the Treat case as to whether the proposed gazebo counts as a "building" for the purpose of the impermeable surface standard in the R.C. 5 Zone. The BCZR §101.1 definition refers to "a structure enclosed within exterior walls or fire walls for the shelter, support, or enclosure of persons, animals or property of any kind." See also County Code § 32-4-101(g). While the walls of a gazebo are more open than the usual wall, we believe that the overall purpose of the impermeable surface standard and building definition indicates a legislative purpose to include gazebos. A gazebo has the same impact on impermeable surface runoff as any other building. Many web definitions of gazebos refer to them as buildings. See attached.

North v. St. Mary's County 99 Md. App. 502 (1994), a prominent variance case involving the Chesapeake Bay Critical Area law, addressed a request for a gazebo. While there was no specific question presented as to whether the gazebo was a "building," the opinion did refer to the desire "to construct the gazebo" and that, presumably, "the purpose of the gazebo was to furnish shade and protection from the rain" 99 Md. App. 517, 519. This is consistent with the BCZR §101.1 definition of building here.

DZC Bostwick exempted the gazebo from the impermeable surface calculation. This is another errant omission. It is also a dangerous and novel precedent.

Coincidentally, these variance cases raise significant legal concerns concerning waterfront yard delineation, the completeness (or incompleteness) of variance petitions, and the scope of the

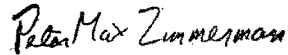
Lawrence M. Stahl, Chairman

April 27, 2010

Page 3

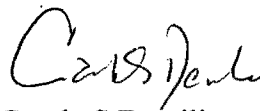
"building definition." We hope this letter is of assistance to the CBA and to the parties in resolving these issues. Thank you in advance for your attention to this matter.

Sincerely,



Peter Max Zimmerman

People's Counsel for Baltimore County



Carole S Demilio

Deputy People's Counsel

PMZ\CSD\rmw

cc: Arnold Jablon, Esquire
Lawrence E. Schmidt, Esquire

Google define:gazebo

Search

Advanced Search
Preferences

Web

Related phrases: [perkins square gazebo](#) [eric and the gazebo](#) [gazebo garden](#) [bowser gazebo](#)
[gazebo roof](#) [haunted fucking gazebo](#) [level 1 gazebo](#)

Definitions of **gazebo** on the Web:

- a small roofed building affording shade and rest
wordnetweb.princeton.edu/perl/webwn
- The Gazebo is a 1959 black comedy film about a married couple who are being blackmailed. It was based on the play of the same name by Alex Coppel.
en.wikipedia.org/wiki/The_Gazebo
- Paul Mazzolini (born February 18, 1960; stage name Gazebo), is an Italian musician. He has a legend status among the fans of the "italo-disco ...
[en.wikipedia.org/wiki/Gazebo_\(musician\)](http://en.wikipedia.org/wiki/Gazebo_(musician))
- A gazebo is a pavilion structure, sometimes octagonal, in parks, gardens, and spacious public areas. Gazebos are freestanding or attached to a ...
en.wikipedia.org/wiki/Gazebo
- belvedere, either a type of summer-house or a roofed, detached porch-like structure, usually in a yard, park or lawn
en.wiktionary.org/wiki/gazebo
- A small summerhouse or pavilion with a view, or a belvedere on the roof of a house.
www.archiseek.com/guides/glossary/g.html
- a small structure, usually roofed and open-sided, located in gardens or parks from which one may gaze out over the surrounding grounds.
www.gardensheds.greenhouses.arbors.learnabout.info/glossary.htm
- a building, pavilion or similar structure, often two stories high. Used as a focal point in a garden or as a shelter from which to view the garden.
www.copper-beech.com/glossary.html
- a small building or structure such as a summerhouse, which is often open on one or more sides to give views.
www.bathnes.gov.uk/BathNES/environmentandplanning/planning/planningadviceguidance/Glossary+of
- Small roofed structure creating an attractive view used for entertaining outside.
www.thompsonslandscape.com/Glossary2pg.html
- freestanding, roofed, usually open-sided structure providing a shady resting place.
www.deckplans.com/terms-definitions
- roofed shelter for outdoor entertaining

www.refined-home.com/knowledge/glossary/glossary-e.htm

- Open structure, supported by columns and covered with a column-supported roof.
www.new-jersey-real-estate-search.com/g/g1.html

Find definitions of **gazebo** in: **English** [French](#) [German](#) [Italian](#) [Portuguese](#) [Russian](#) [Spanish](#) [all languages](#)

define:gazebo

Search

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Patricia Zook - Case 2009-0279--A - hearing on Monday, June 15

From: Patricia Zook
To: Murray, Curtis
Date: 6/12/2009 11:55 AM
Subject: Case 2009-0279--A - hearing on Monday, June 15

Curtis -

The below-described administrative variance case is scheduled for a hearing on Monday and we need Planning comments.

CASE NUMBER: 2009-0279--A

2606 Holly Beach Road

Location: N side of Holly Beach Road, 220 feet E of the c/l of Henrietta Avenue.

15th Election District, 6th Councilmanic District

Legal Owner: David Jacobs

ADMINISTRATIVE VARIANCE 1) To permit a proposed 2 story bedroom and garage addition on rear of dwelling with a side setback of 11 feet and 45 feet to centerline of road in lieu of the required 50 feet and 75 feet respectively; and 2) To permit a 22% building coverage for the existing dwelling and new additions in lieu of the maximum allowed of 15%.

Hearing: Monday, 06/15/09 at 11:00:00 AM Jefferson Building, 105 West Chesapeake Avenue, Room 104, Towson, MD 21204

Patti Zook
Baltimore County
Office of the Zoning Commissioner
105 West Chesapeake Avenue, Suite 103
Towson MD 21204

410-887-3868

pzook@baltimorecountymd.gov

14 April 2010

Arnold Jablon

T 410.494.6298
F 410.821.0147
AEJablon@Venable.com

Sent via E-Mail

Ms. Theresa Shelton
County Board of Appeals for Baltimore County
105 West Chesapeake Ave.
Suite 203
Towson, Maryland 21204

Re: In Re: David Jacobs
Case No. 09-279A

In Re: Karen Treat
Case No. 01-152A

Dear Ms. Shelton:

I am in receipt of a copy of a letter from Mr. Schmidt in which he requests that the 2 matters above be consolidated for hearing purposes.

Please be advised that I am adamantly opposed to his suggestion.

These 2 matters are not related; each stands on its own merits. Indeed, the facts of each are different, and, in my opinion, the burdens of proof are based on entirely different factors and facts.

As I stated to you previously, I am available for the July dates we spoke about but requested that my client's case be heard in September. There is no sense of urgency for my client and due to other considerations, only one of which was addressed by Mr. Schmidt, my opposition to his request still stands.

Thank you.



Arnold Jablon

c: Lawrence Schmidt, Esq.
Karen Treat

GILDEA & SCHMIDT, LLC

600 WASHINGTON AVENUE

SUITE 200

TOWSON, MARYLAND 21204

TELEPHONE 410-881-0070

FACSIMILE 410-881-0071

www.gildea.com

DAVID K. GILDEA

LAWRENCE E. SCHMIDT

D. DUNN HOLMAN

SEBASTIAN A. CROSS

CHARLES B. NAREN, III

JASON T. VETTORI

RECEIVED
JAN 11 2010BALTIMORE COUNTY
BOARD OF APPEALS

January 11, 2010

Sent via Facsimile Only

Ms. Theresa R. Shelton

County Board of Appeals of Baltimore County

105 W. Chesapeake Avenue, Suite 203

Towson, MD 21204

Re: David Jacobs/2606 Holly Beach Road
Case No.: 2009-279-A

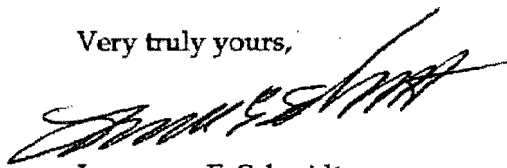
Dear Ms. Shelton:

This is in referenced to the above captioned matter, currently scheduled for hearing before the County Board of Appeals on Wednesday, January 13, 2010.

This case involves a requested Petition for Variance filed by my client David Jacobs. Following a contested hearing before the Zoning Commissioner, the Variance was granted by written opinion and order of Deputy Zoning Commissioner Thomas Bostwick on June 23, 2009. The requested Variance was opposed by Mr. Jacobs' adjacent neighbor, Karen Treat, represented by Arnold Jablon, Esquire. Coincidentally, Ms. Treat has recently filed a Petition for Variance for her property, which was the subject of a public hearing before Deputy Commissioner Bostwick on December 23, 2009. To date, Deputy Commissioner Bostwick has not issued a decision in that case.

Under the circumstances, this is to request a postponement of the hearing for the above matter. Presently, my client and Ms. Treat (through counsel), are discussing settlement which may resolve both cases. Additionally, as of this date, Deputy Commissioner Bostwick has not issued a decision on the matter before him which will impact the settlement negotiations between the parties. I have been advised by Mr. Bostwick's office that a decision is not expected until on or after Monday, January 18, 2010. For all these reasons, postponement is requested in order to give the parties an opportunity to settle the differences between them which may result in an uncontested hearing before the Board. Kindly be advised that I have spoken to Mr. Jablon regarding this request and he does not oppose it. Thank you for your favorable consideration.

Very truly yours,



Lawrence E. Schmidt

LES: jkl

CC: David Jacobs

Arnold E. Jablon, Esquire Venable LLP

GILDEA & SCHMIDT, LLC

600 WASHINGTON AVENUE

SUITE 200

TOWSON, MARYLAND 21204

TELEPHONE 410-821-0070

FACSIMILE 410-821-0071

www.gildeallc.com

DAVID K. GILDEA

LAWRENCE E. SCHMIDT

D. DUSKY HOLMAN

SEBASTIAN A. CROSS

CHARLES B. MAREK, III

JASON T. VETTORI

April 12, 2010

Sent via Hand Delivery

Ms. Theresa R. Shelton

County Board of Appeals of Baltimore County

105 W. Chesapeake Avenue, Suite 203

Towson, MD 21204

RECEIVED
APR 12 2010

**Re: *In the Matter of:* Karen Treat and Alverta Tughton
Case No.: 01-152-A/2610 Holly Beach Road**

**BALTIMORE COUNTY
BOARD OF APPEALS**

***In the Matter of:* David Jacobs
Case No.: 2009-279-A/2606 Holly Beach Road**

Dear Ms. Shelton:

I have received your letter of April 2, 2010, regarding potential hearing dates of July 13, 14, or 15, 2010 for the above matters. Any of these dates are clear on my calendar and are acceptable.

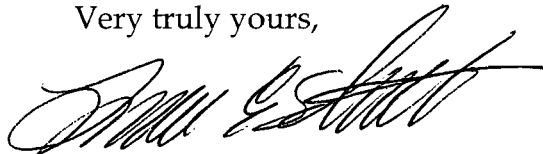
I understand that Mr. Jablon has raised an objection to hearing these cases on those dates. First, I firmly believe that the cases should be consolidated for hearing purposes. They involve abutting properties and identical parties. Ms. Treat opposed my client's (David Jacobs) Petition for Zoning Variance for his property before the Zoning Commissioner. Mr. Jacobs opposed Ms. Treat's Petition for Zoning Variance for her property before the Zoning Commissioner. Both decisions were appealed to the Board. I cannot think of any logical reason why these cases would not be consolidated and considered at a hearing on a single date. From the standpoint of judicial economy, the cases should be considered in this fashion.

Insofar as the hearing date, I appreciate that there is a related matter involving these parties pending in the District Court of Maryland. I understand that Mr. Jablon has requested that this collateral matter be resolved before the Board conducts its' hearing. My client advises that this matter is scheduled for trial on June 17, 2010. Therefore, it will be concluded prior to the July hearing dates.

Theresa R. Shelton
April 12, 2010
Page 2

Please advise how the Board will proceed with these matters. I have copied Mr. Jablon on this letter so that he may offer his input on this issue.

Very truly yours,

A handwritten signature in black ink, appearing to read "Lawrence E. Schmidt", with a stylized, cursive script.

Lawrence E. Schmidt

LES: jkl

CC: Arnold E. Jablon, Esquire Venable LLP
David Jacobs

CASE NAME JACOBS
CASE NUMBER 09-279-A
DATE 6/15/09

CASE NAME JACOBS
CASE NUMBER 09-279-A
DATE 6/15/09

[illegible]

CASE NAME _____
CASE NUMBER _____
DATE _____

[illegible]

CHESAPEAKE BAY

CHESAPEAKE BAY HYDROLOGY AREA

CHESAPEAKE BAY

CHESAPEAKE BAY

CHESAPEAKE BAY

Flood Zone AE

10

1519851070

1502470860

2604

SW 1-K

1506570220

1502573801

2612

1507001360

2614

1507582540

098B3

2602

6 CD

RC 5

15 ED

2606

Pt. Bk. 4 Folio 182

Flood Zone X

20030571

HOLLY BEACH RD

2-K

1512201921

2500004600

Pt. Bk. 78 Folio 394

PDM # 150821

PDM Permits Hold Layer (See Walt Smith)

2500004601

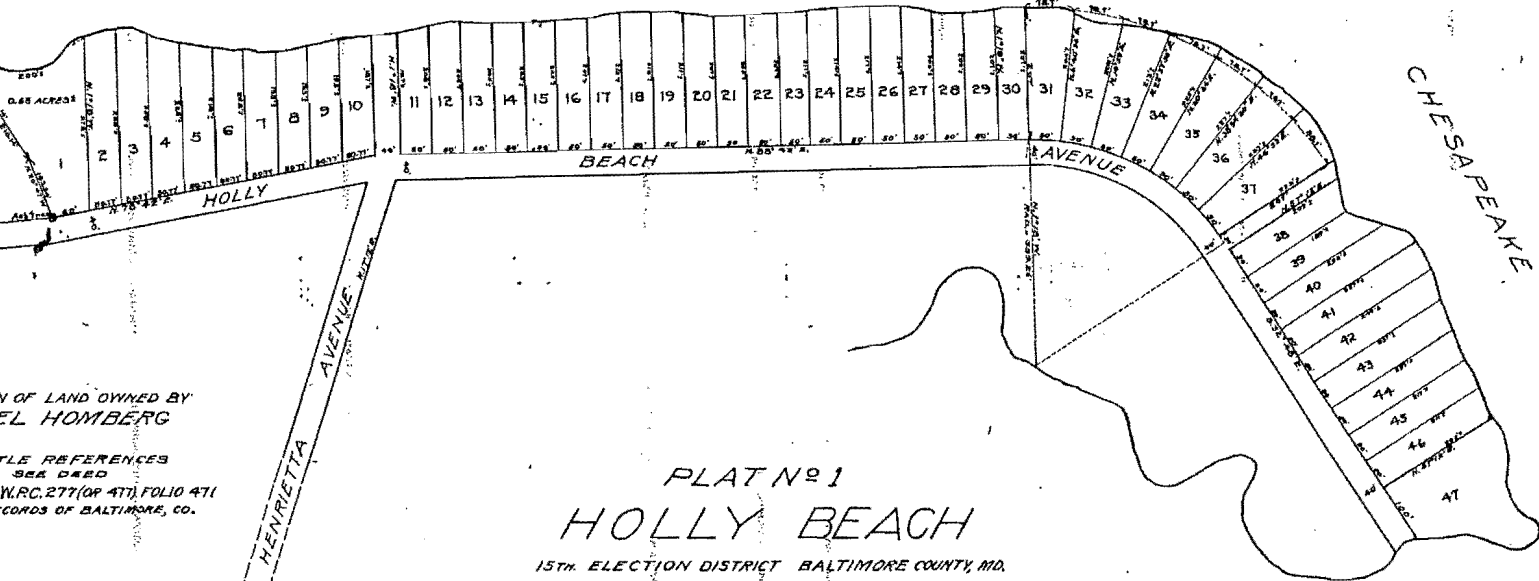
2009-02-22



MIDDLE RIVER

Filed for record
February 14th 1916.
J. F. Allen, P. Cole
clerk

JOHN E. O'CONNOR
1.95 ACRE LOT.



SUBDIVISION OF LAND OWNED BY
DANIEL HOMBERG

FOR TITLE REFERENCES
SEE DEED
LIBER W.R.C. 277 (OF 47), FOLIO 471
LAND RECORDS OF BALTIMORE, CO.

PLAT No 1
HOLLY BEACH
15TH ELECTION DISTRICT BALTIMORE COUNTY, MD.

SURVEYED & PLATTED BY
James Howard
CIVIL & LANDSCAPE ENGINEER
SCALE 1"=100'
BALTIMORE, MD.
DECEMBER, 1913.

TO BACK RIVER NECK ROAD

CREEK

56-48

MSA CSU 2136-4748

PETITIONER'S

EXHIBIT NO. 2

**Zoning Hearing
June 15, 2009**

David & Lara Jacobs of 2606 Hollybeach Road are proposing to build an attached garage that will have (1) bedroom above the garage. The foot print of the garage size will be 24 x 30 and the 2nd floor bedroom will be 20 x 26. The zoning hearing is scheduled for Monday, June 15, 2009 at 11:00 a.m. The hearing is for 16.65% site coverage in lieu of the RC-5 allowable 15% coverage and the side property set backs will be 11 feet in lieu of the maximum allowed 50 feet for RC-5

If you do not have any objections to the proposed garage addition, please sign the attached sheet showing your support for our addition plans.

Thank You,

David & Lara Jacobs

PETITIONER'S

EXHIBIT NO. 4

Zoning Hearing
June 15, 2009

Helen Kafka 2604 Holly Beach Rd. 21221
Maurice & Joy Ann 2602 Holly Beach Rd 21221
Philip J. Sullivan 2600 Holly Beach Rd 21221-2020
Charles C. C. 2614 Holly Beach Rd 21221
George & Gene Cole 2616 Holly Bch 21221
Maurice & Scott Gable 2620 Holly Beach 21221
Ethel L. Webster 2622 Holly Beach Rd 21221



PETITIONER'S

EXHIBIT NO.

5A-D

Feb 5 A



Feb 513



Feb 5c



Feb 5D

#2606
REAR

PETITIONER' S

EXHIBIT NO. 6A-G

101 64



#2610



#2606

Feb 6 G

#2606

#2610





#2604



#2606



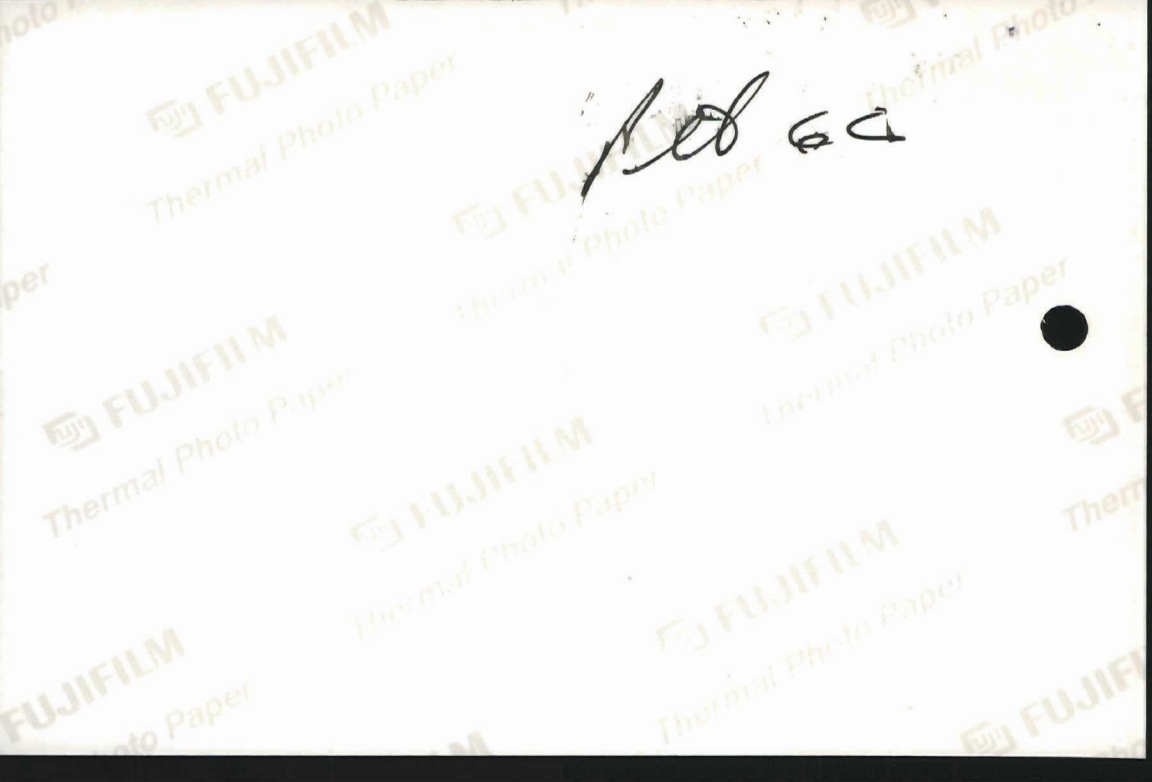
NCB 6E



#2606

#2604





Red 64



#2604
GARAGE



#2606



#2610

FUJIFILM
Thermal Photo Paper

FUJIFILM
Thermal Photo Paper

Red

FUJIFILM
Thermal Photo Paper

FUJIFILM
Thermal Photo Paper

FUJIFILM
Thermal Photo Paper

FUJIFILM
Thermal Photo Paper

FILM
Paper

FUJIFILM
Thermal Photo Paper

FUJIFILM
to Paper

#2604
GARAGE



#2606



SHED & PARKING PAD
TO BE REMOVED ↘



Red GB

1422 Old Eastern Ave.



phot 15/14 1

part FxH 2



prot
~~2nd~~ Floor 3



prot RSH 4



prot EXW 5



post EXM 6



prot EX47



not EXM 8



plot from 9

Plat to accompany Petition for Zoning ☒ Variance ☐ Special Hearing

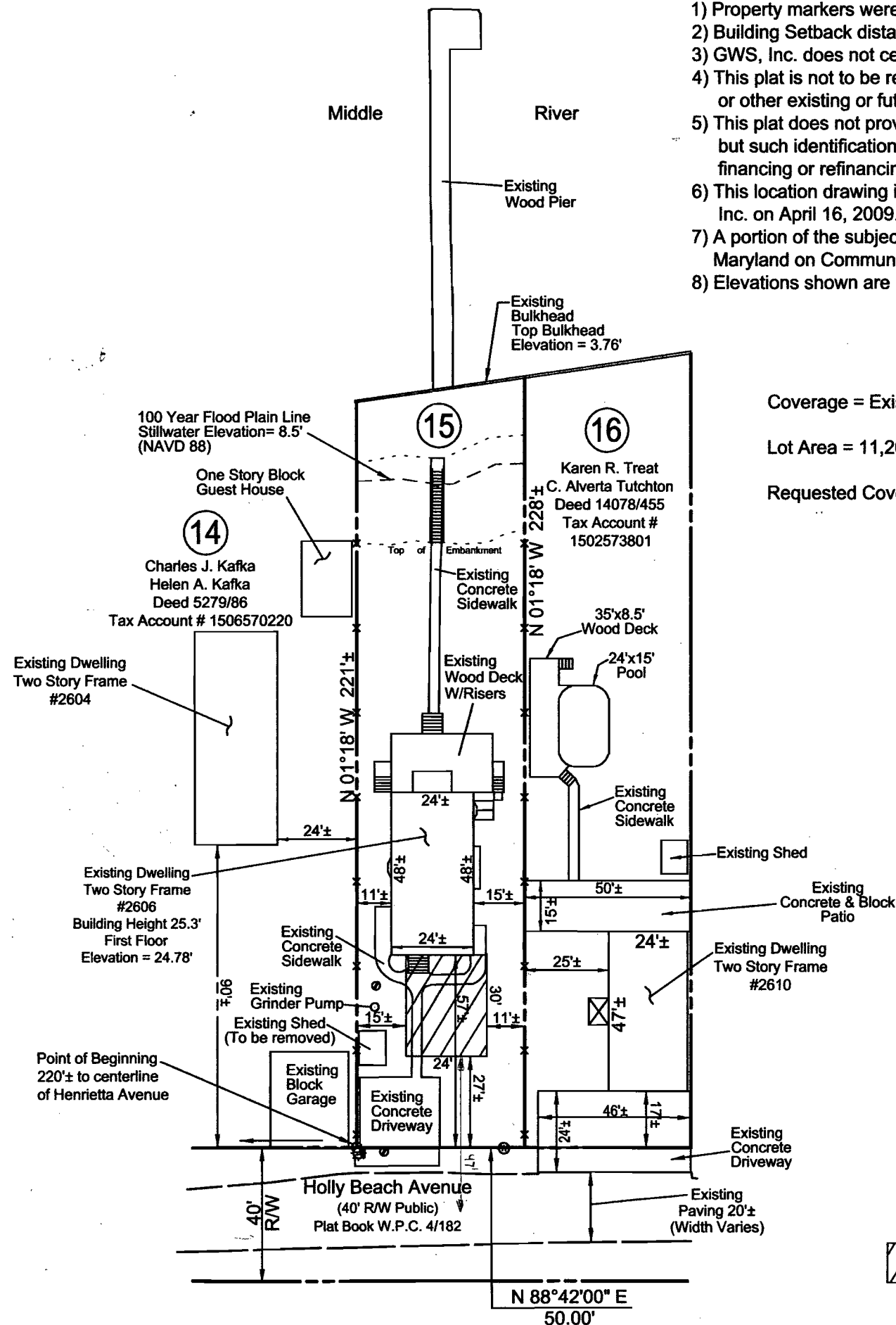
General Notes:

- 1) Property markers were not found, or guaranteed by this location.
- 2) Building Setback distance accuracy: 3'±
- 3) GWS, Inc. does not certify to unshown or unrecorded encroachments or overlaps.
- 4) This plat is not to be relied upon for the establishment of location of fences, buildings, or other existing or future structures.
- 5) This plat does not provide for the accurate identification of property boundary lines, but such identification may not be required for the transfer of title or for securing financing or refinancing.
- 6) This location drawing is based on a field survey performed by George W. Stephens, Jr. Inc. on April 16, 2009.
- 7) A portion of the subject property is shown in Zone AE on the Firm map of Baltimore County Maryland on Community Panel 240010 0445 F, map revised September 26, 2008
- 8) Elevations shown are based on NAVD 88.

Coverage = Existing Dwelling & Proposed Additions 1872 Sq. Ft. ±

Lot Area = 11,205 Sq. Ft. ±

Requested Coverage = 16.65% > 15% Permitted



 Denotes Proposed Garage
Area = (720 Sq.Ft.+/-)



Zoning Office Use Only		
Reviewed By	Item #	Case #
A-TSUI	0279	2009-0279-A

PETITIONER' S

EXHIBIT NO. 1

Date:
6-12-2009

Scale:
1" = 40'

Drawn By:
RRM

Checked By:
JHH

GWS

A map of the Breezy Point Beach area. The map shows several roads: HOLLY RD, HENRIETTA AVE, MARMAS RD, BROWN'S COVE RD, LINZEY RD, BLUE WAY, BAY RD, FRONT RD, PHILLIPS RD, and BREEZY POINT RD. A large black dot is marked on MARMAS RD, labeled 'Site'. Other landmarks include 'HOLLY BEACH' at the top, 'BREEZY POINT BEACH' in the center, 'EAGLE NEST' at the bottom left, and 'Wells Pt' at the bottom right. A compass rose is located on the right side of the map, pointing North. The map is overlaid with a grid of horizontal and vertical lines.

Copyright ADC The Map People
Permitted Use Number 20904129

VICINITY MAP

SCALE: 1" = 1000'
TAX MAP 98, PARCEL 205

Location Information

Tax Account #1502573800
Election District: 15
Councilmanic District: 6TH
1"=200' Scale Map # 098B3
Zoning: RC5
Lot Size 0.257± 11,205 ±
Acreage Square Feet

	Public	Private	Yes	No
Sewer	☒	☐	☒	☐
Water	☒	☐	☒	☐
Chesapeake Bay Critical Area			☒	☐
100 Year Flood Plain			☒	☐
Historic Property / Building			☐	☒
Prior Zoning Hearing			☐	☒

Variance Exhibit

2606 Holly Beach Avenue
Lot 15 - Plat Book W.P.C. 4/182

OWNER
DAVID A. JACOBS
OLLY BEACH AVENUE
TIMORE, MD 21221

Baltimore County, Maryland

George William Stephens Jr., and Associates, Inc.

Consulting Engineers and Land Surveyors

4692 Millennium Drive, Suite 100

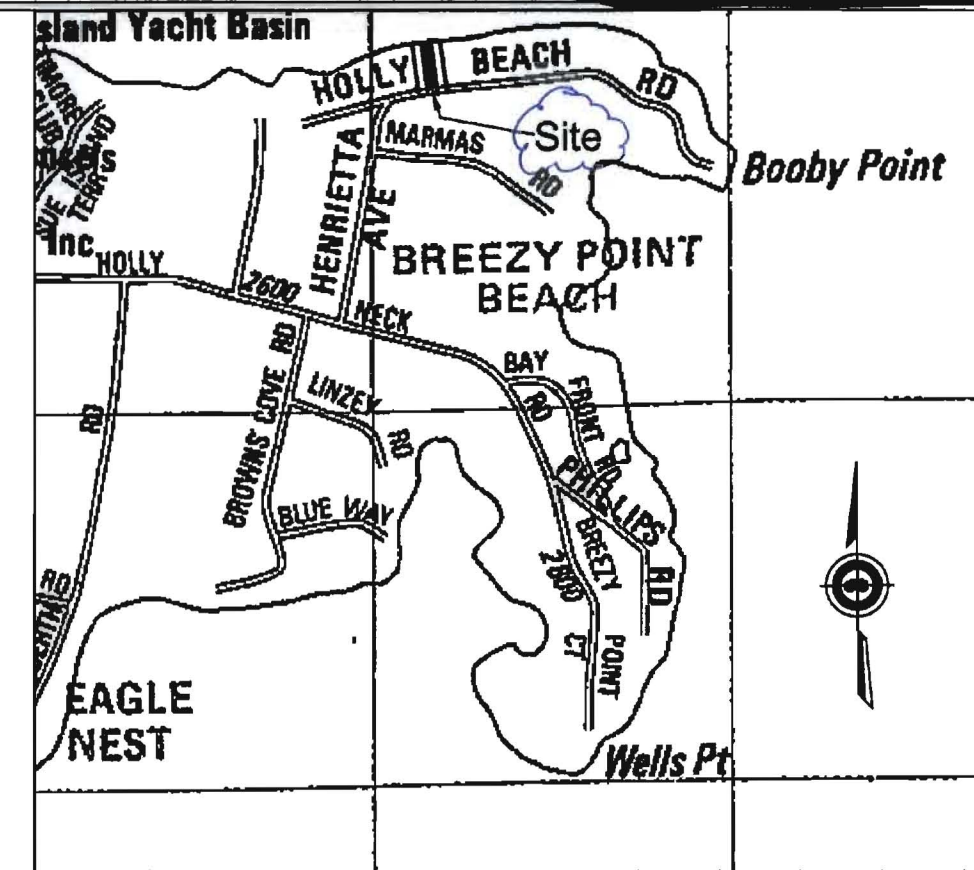
Belcamp, Maryland 21017

(410) 297-2340

Plat to accompany Petition for Zoning ☒ Variance ☐ Special Hearing

General Notes:

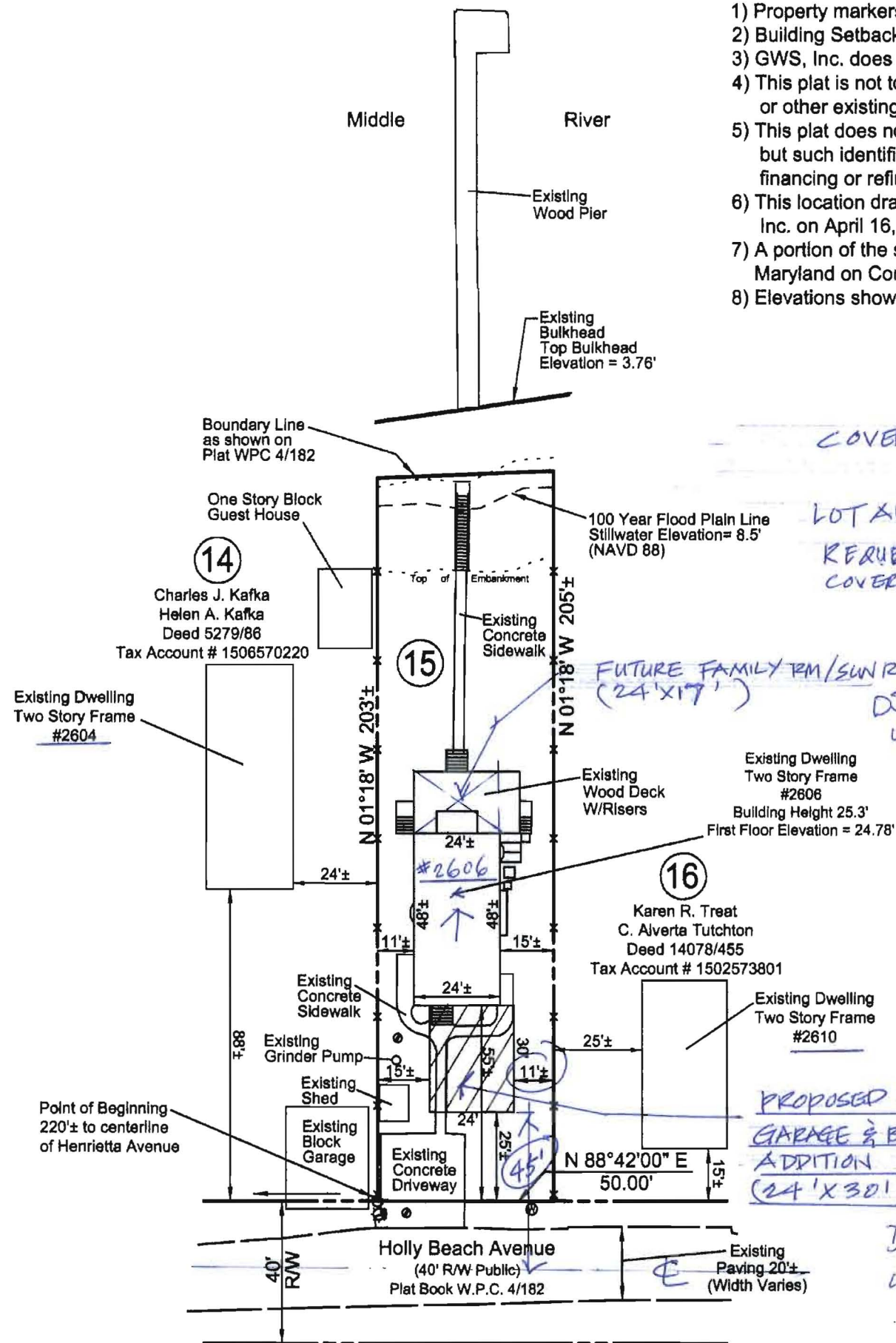
- 1) Property markers were not found, or guaranteed by this location.
- 2) Building Setback distance accuracy: 3'±
- 3) GWS, Inc. does not certify to unshown or unrecorded encroachments or overlaps.
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- 8) Elevations shown are based on NAVD 88.



Copyright ADC The Map People
Permitted Use Number 20904129

VICINITY MAP

SCALE: 1" = 1000'
TAX MAP 98, PARCEL 205



COVERAGE - EXISTING DWELLING &
PROPOSED ADDITIONS 2,240 SQ. FT.
LOT AREA = 10,200 SQ. FT.
REQUESTED = 22% > 15% (PERMITTED)
COVERAGE

DJ
4/21/09



Legend	
	Light pole
	Mailbox
	Sewer Cleanout
	Water Meter

Denotes Proposed Garage
Area = (672 Sq.Ft.+/-)

Zoning Office Use Only		
Reviewed By	Item #	Case #
A. TSUI	0279	2009-0279-A

Location Information			
Tax Account #1502573800			
Election District: 15			
Councilmanic District: 6 TH			
1"=200' Scale Map # 098B3			
Zoning: RC5			
Lot Size 0.234±		10,200 ±	
Acreage		Square Feet	
	Public	Private	
Sewer	☒	☐	
Water	☒	☐	
Chesapeake Bay Critical Area			
100 Year Flood Plain			
Historic Property / Building			
Prior Zoning Hearing			

Variance Exhibit

2606 Holly Beach Avenue
Lot 15 - Plat Book W.P.C. 4/182

OWNER

DAVID A. JACOBS
2606 HOLLY BEACH AVENUE
BALTIMORE, MD 21221

Baltimore County, Maryland

George William Stephens Jr., and Associates, Inc.

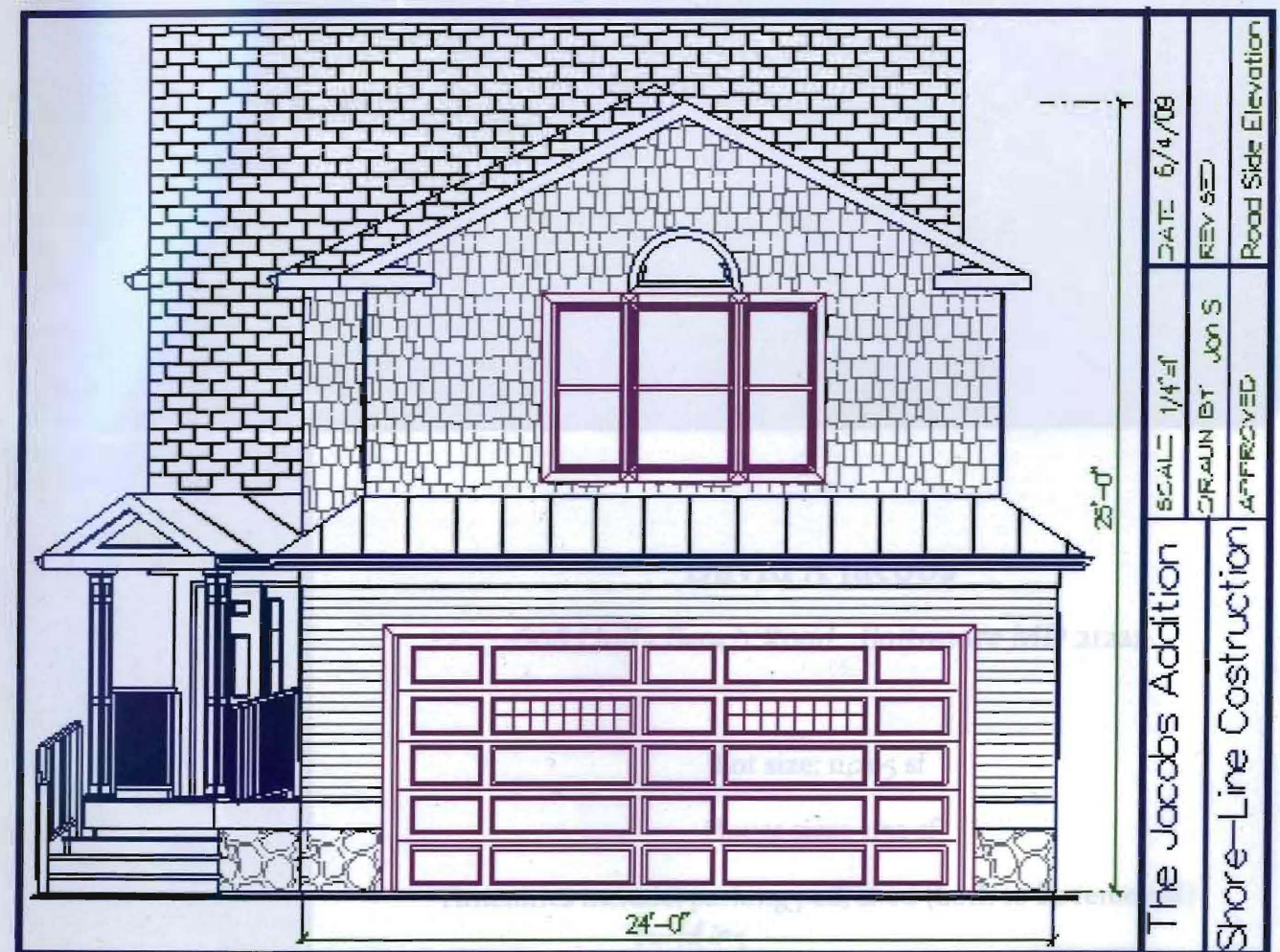
Consulting Engineers and Land Surveyors
4692 Millennium Drive, Suite 100
Belcamp, Maryland 21017 (410) 297-2340



Date:
4-20-2009
Scale:
1" = 40'
Election District No. 15
Drawn By:
RRM
Checked By:
JHH

DAVID JACOBS
Case Number: 2009-0279-A

2606 Holly Beach Road
 Baltimore, MD 21221



Neighborhood Average

June 15, 2009

PETITIONER'S

EXHIBIT NO. 3

2009-0279-A