

IN RE: PETITION FOR ADMIN. VARIANCE

N side of Berwick Road, 192 feet W of
the c/l of Berwick Road
9th Election District
2nd Councilmanic District
(1200 Berwick Road)

Joan M. and Thomas J. Richard Jr.
Petitioners

* BEFORE THE
* OFFICE OF
* ADMINISTRATIVE HEARINGS
* FOR BALTIMORE COUNTY
* **Case No. 2011-0254-A**

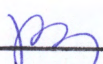
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OPINION AND ORDER

This matter comes before the Office of Administrative Hearings as a Petition for Administrative Variance filed by the legal owners of the subject property, Joan M. and Thomas J. Richard Jr. for property located at 1200 Berwick Road. The variance request is from Section 1B02.3.C of the Baltimore County Zoning Regulations ("B.C.Z.R.") to permit side yard setbacks of 9 feet (west side) and 11 feet (east side) in lieu of 15 feet required (for each) and a sum of the side yards of 20 feet in lieu of the required 40 feet. The subject property and requested relief are more particularly described on Petitioners' Exhibit No. 1. Variance relief is need for the proposed construction on both sides (east and west) of the existing dwelling. The to east side, Petitioners propose an addition to provide additional living space. This side of the dwelling faces an unimproved 30 feet wide paper street, which is part of the Thomas property. The existence of this paper street is a unique factor, in that it limits the allowable setback. The nearest neighbor on that side is a significant distance away and the view is buffered by mature vegetation. The second addition is proposed to the west side of the house. It will connect the existing dwelling to an existing detached garage. No construction is proposed closer to the property line on that side. When the addition is completed, the garage will become attached to the dwelling and part of that principle structure. It will be subject to setback requirements for principle structures rather than

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Date 3-31-11

By 

the two and a half foot minimum required for a detached accessory structure. These variances are required for these improvements due to the grade, paper street, and other site constraints. The file contains 19 photographs of the property and neighborhood.

The Zoning Advisory Committee (ZAC) comments were received and are made part of the record of this case. The comments indicate no opposition or other recommendations concerning the requested relief.

The Petitioners having filed a Petition for Administrative Variance and the subject property having been posted on March 6, 2011, and there being no request for a public hearing, a decision shall be rendered based upon the documentation presented.

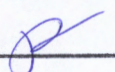
The Petitioners have filed the supporting affidavits as required by Section 32-3-303 of the Baltimore County Code. Based upon the information available, there is no evidence in the file to indicate that the requested variance would adversely affect the health, safety or general welfare of the public and should therefore be granted. In the opinion of the Administrative Law Judge, the information, photographs, and affidavits submitted provide sufficient facts that comply with the requirements of Section 307.1 of the B.C.Z.R. Furthermore, strict compliance with the B.C.Z.R. would result in practical difficulty and/or unreasonable hardship upon the Petitioners.

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

THEREFORE, IT IS ORDERED, by the Administrative Law Judge for Baltimore County, this 31st day of March, 2011 that a variance from Section 1B02.3.C of the Baltimore County Zoning Regulations ("B.C.Z.R.") to permit side yard setbacks of 9 feet (west side) and 11 feet

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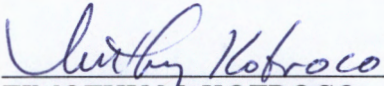
Date 3-31-11

By 

(east side) in lieu of 15 feet required (for each) and a sum of the side yards of 20 feet in lieu of the required 40 feet be and is hereby GRANTED, subject to the following:

1. The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30 day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioners would be required to return, and be responsible for returning, said property to its original condition.

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


TIMOTHY M. KOTROCO
Administrative Law Judge
for Baltimore County

TMK/pz

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Date 3-31-11

By 



KEVIN KAMENETZ
County Executive

LAWRENCE M. STAHL
Managing Administrative Law Judge
JOHN E. BEVERUNGEN
TIMOTHY M. KOTROCO
Administrative Law Judges

March 31, 2011

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

Re: Petition for Administrative Variance
Case No. 2011-0254-A
Property: 1200 Berwick Road

Dear Mr. Schmidt:

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

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

Sincerely,

A handwritten signature in dark ink, appearing to read "Timothy M. Kotroco", is written over a light blue horizontal line.

TIMOTHY M. KOTROCO
Administrative Law Judge
for Baltimore County

TMK:pz

Enclosure

c: Joan M. And Thomas J. Richard Jr., 1200 Berwick Road, Ruxton MD 21204



Petition for Administrative Variance

to the Zoning Commissioner of Baltimore County for the property
located at 1200 Berwick Road
which is presently zoned DR 2

Deed Reference: 30017 / 024 Tax Account # 0906200230

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) 1B02.3.C. to permit side yard setbacks of 9 feet (west side) and 11 feet (east side) in lieu of 15 feet required (for each) and a sum of the side yards or 20 feet in lieu of the required 40 feet.

of the zoning regulations of Baltimore County, to the zoning law of Baltimore County.

Property is to be posted and advertised as prescribed by the zoning regulations. I, or we, agree to pay expenses of above Administrative 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:

Lawrence E. Schmidt
Name - Type or Print _____
Signature _____
Smith, Gildea & Schmidt, LLC
Company
600 Washington Ave, Suite 200 410-821-0070
Address Telephone No.
Towson MD 21204
City State Zip Code

Legal Owner(s):

J. Richard Thomas Jr.
Name - Type or Print _____
Signature _____
Joan Thomas
Name - Type or Print _____
Signature _____
1200 Berwick Road 410-321-1234
Address Telephone No.
Ruxton MD 21204
City State Zip Code

Representative to be Contacted:

Lawrence E. Schmidt
Name
600 Washington Ave, Suite 200 410-821-0070
Address Telephone No.
Towson MD 21204
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. 2011-0254-A Reviewed By ATSHI Date 2/25/11
ORDER RECEIVED FOR FILING
Estimated Posting Date 3/6/11 ~ 3/21/11

FRM476_09 Date 3-31-11

Rev 3/09

By [Signature]

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 own and reside at 1200 Berwick Road
Address number Road or Street name
and that this address is the subject of this variance request as required by law.

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 the hardship or practical difficulty; attach an additional sheet if needed) The applicants are adding modest side additions to the existing dwelling. On the east side, set back relief is required due to the existence of a paper road (unimproved street). On the west side, the addition will connect the existing dwelling to an existing garage (which is currently detached). The internal floor plan of the house, the existing garage, and the paper street are all unique characteristics of the property which necessitate the variance. A denial of the request would cause practical difficulty in that a reasonable addition/use of the property/house would not be permitted. Additions to the front and/or rear of the dwelling are not practical due to the internal floor plan and site constraints.

That the Affiant(s) acknowledge(s) that if a formal demand is filed, and the Affiant(s) desire to proceed with their variance request, they will be responsible for reposting the property and for payment of the advertising fees. They also understand that they may be required to provide additional information.

J. Richard Thomas Jr.
Signature

J. Richard Thomas Jr.

Name- print or type

Joan Thomas
Signature

Joan Thomas

Name- print or type

A Notary Public must complete the following section prior to the filing appointment.

PERIOD Am 8:00
STATE OF ~~MARYLAND~~, BALTIMORE COUNTY, to wit:

I HEREBY CERTIFY, this 14th day of FEB, 2011, before me, a Notary Public of the State of Maryland, in and for the County aforesaid, personally appeared:

James E. Thomas
(Name Affiant(s) here): James E. Thomas
the Affiant(s) herein, personally known or satisfactorily identified to me as such Affiant(s).

AS WITNESS my hand and Notarial Seal

Thomas A. Sheehan
Name of Notary Public

12/2/11
Commission expires

PLACE SEAL HERE:



Thomas A. Sheehan
COMMISSION # DD730793
EXPIRES: DEC. 07, 2011
WWW.AARONOTARY.COM

Zoning Description – 1200 Berwick Road

Beginning at a point on the north side of Berwick Road which is 30-feet wide at the distance of 192.33-feet west of the centerline of the nearest improved intersection street Berwick Avenue which is 30-feet wide.

Being part of Lot #2, of the re-subdivision of Lot #'s 7 & 9 of the Plat of Malvern and as recorded in Baltimore County Plat Book WPC 8, Folio #34, containing 17,859 square feet. Also known as 1200 Berwick Road and is located in the ~~42nd~~^{9th} Election District, 2nd Councilmanic District.

2011-0254-A

CERTIFICATE OF POSTING

2011-0254-A

RE: Case No.: _____

Petitioner/Developer: _____

J Richard Thomas

Mar 21, 2011

Date of Hearing/Closing: _____

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

Attn: Kristen 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: _____

1200 Berwick Road

March 6, 2011

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

Sincerely,


(Signature of Sign Poster)

March 7, 2011

(Date)

SSG Robert Black

(Print Name)

1508 Leslie Road

(Address)

Dundalk, Maryland 21222

(City, State, Zip Code)

(410) 282-7940

(Telephone Number)

SMITH, GILDEA & SCHMIDT LLC

MICHAEL PAUL SMITH
DAVID K. GILDEA
LAWRENCE E. SCHMIDT
D. DUSKY HOLMAN

LAUREN M. DODRILL
MICHAEL J. LIPPENHOLZ
CHARLES B. MAREK, III
ELYANA TARLOW
JASON T. VETTORI
REBECCA G. WYATT

of counsel:

MICHAEL G. DEHAVEN

March 4, 2011

Delivered Via Hand Delivery

The Honorable Lawrence M. Stahl
Zoning Commissioner for Baltimore County
Office of Administrative Hearings
105 W. Chesapeake Avenue, Suite 103
Towson, MD 21204

**Re: Thomas/1200 Berwick Road
Case No. 2011-254-A**

Dear Mr. Stahl,

As you may be aware, I represent Jay Richard Thomas Jr. and Joan Thomas, his wife, owners of Real Property known as 1200 Berwick Road in Ruxton, Maryland. I have recently filed on their behalf a petition for administrative variance which is assigned Case No. 2011-254-A. The variance requests certain setback relief for two proposed additions to the existing Thomas dwelling. The closing date for this administrative variance is March 21, 2011.

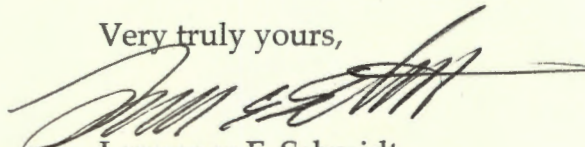
In support of the petition, I enclose herewith nineteen photographs of the subject property and neighborhood. You will note from the photographs that the Thomas' are already constructing improvements to the front side of the dwelling, including a new entrance feature and foyer. Variance relief is not required for this construction. Variances are requested, however, for the proposed construction on both sides (east and west) of the dwelling.

To the east side, the petitioners propose a modest addition to provide required additional living space. This side of the dwelling faces an unimproved 30ft wide paper street, which is part of the Thomas property. The existence of this paper street is a unique factor, in that it limits the allowable setback. As shown in the attached photographs, the nearest neighbor on that side is a significant distance away and the view is buffered by mature vegetation.

The second addition is proposed to the west side of the house. As shown in the photographs and site plans submitted, it will connect the existing dwelling to an existing detached garage. No construction is proposed closer to the property line on that side. However, when the addition is completed, the garage will become attached to the dwelling and part of that principle structure. It will thereafter be subject to setback requirements for principle structures, rather than the two and a half foot minimum required for a detached accessory structure. These variances are required for these improvements due to the grade, paper street, and other site constraints associated with this.

Please do not hesitate to contact me should further information be required in your consideration of this matter.

Very truly yours,



Lawrence E. Schmidt

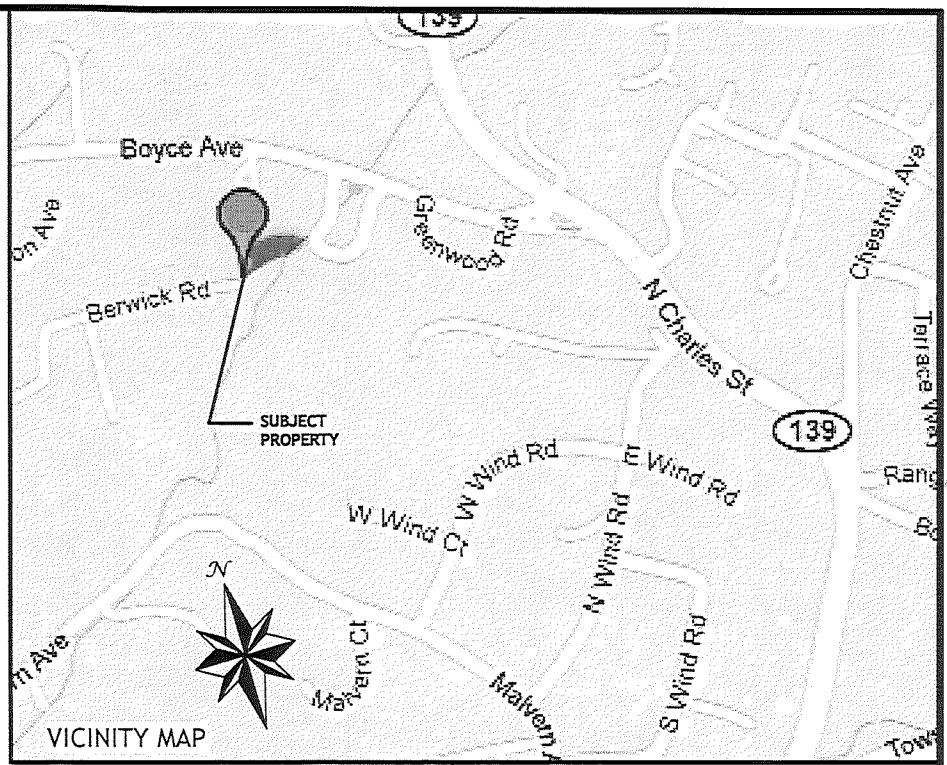
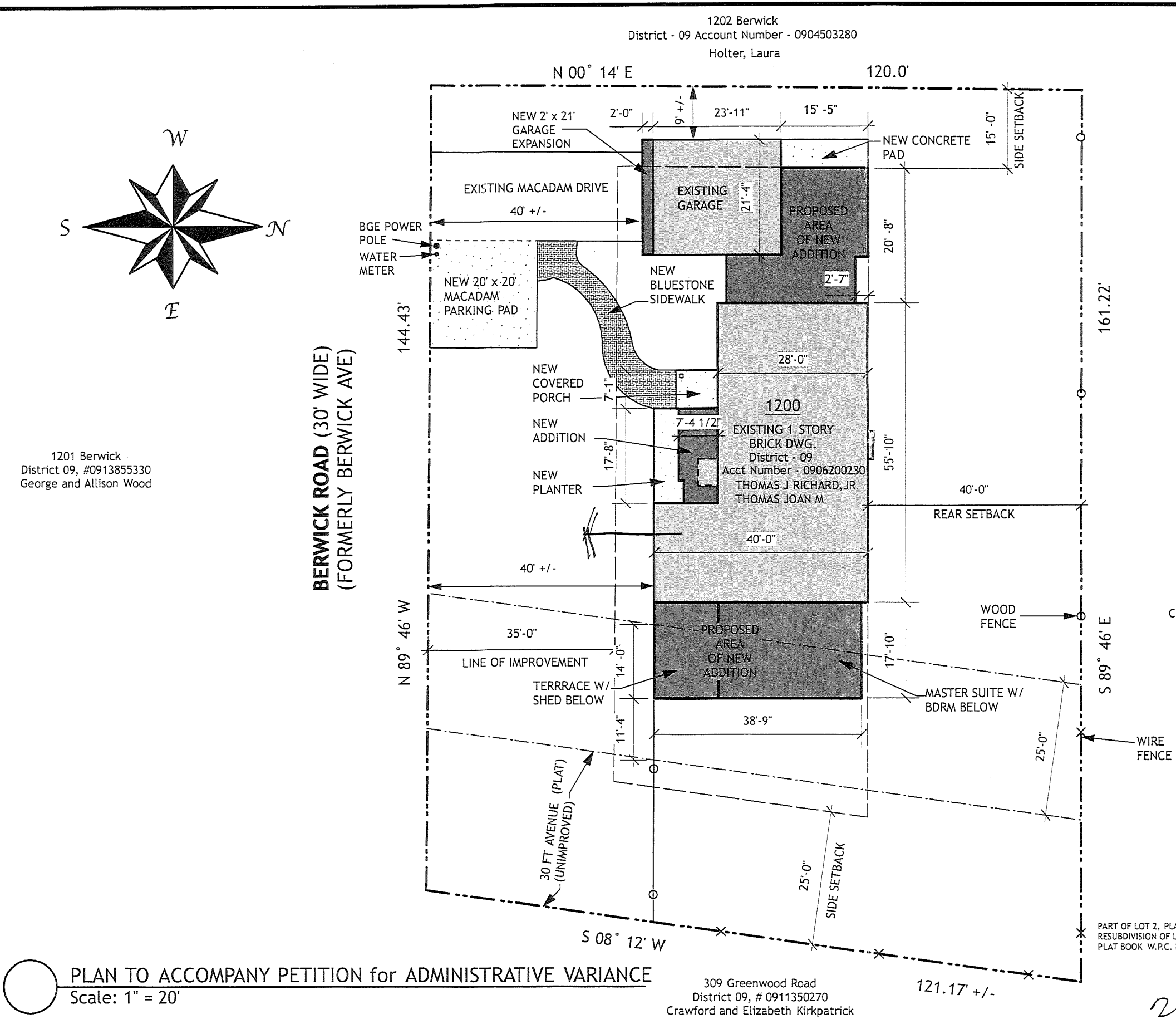
LES: ash

Attachments

CC: Richard and Joan Thomas
Vincent Greene







LOCATION INFORMATION

OWNERS: J. RICHARD THOMAS, Jr. & JOAN THOMAS

ELECTION DISTRICT: ~~4th~~ 9th

COUNCILMANIC DISTRICT: 2nd

ZONING: D.R. 2

LOT SIZE: .41 ACREAGE 17,859 SQ. FT.

CHESAPEAKE BAY CRITICAL AREA: No

100 YR FLOODPLAIN: No

HISTORIC PROPERTY/ BUILDINGS: No

PRIOR ZONING HEARING: No

WATER: Public

SEWER: Public

PLAN TO ACCOMPANY PETITION for ADMINISTRATIVE VARIANCE
Scale: 1" = 20'

2011-0254-A

PROJECT: THOMAS RESIDENCE
1200 BERWICK ROAD RUXTON, MARYLAND 21204

SCALE: 1" = 20'
CREATED: 1/21/11

DRAWING TITLE: PROPOSED SITE PLAN

SP-100