#### IN RE: PETITION FOR ADMIN. VARIANCE

SW side of Riverview Road, 490 feet NW of the c/l of Back River Neck Road 11<sup>th</sup> Election District 6<sup>th</sup> Councilmanic District (2130 Riverview Road)

Laurie Ann and James J. Barbour, Jr. *Petitioners* 

- \* BEFORE THE
- \* OFFICE OF
- \* ADMINISTRATIVE HEARINGS
- \* FOR BALTIMORE COUNTY
- \* Case No. 2011-0350-A

#### 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, Laurie Ann and James J. Barbour, Jr. for property located at 2130 Riverview Road. The variance request is from Sections 1A04.3.B.2.b and 301.1.A of the Baltimore County Zoning Regulations ("B.C.Z.R.") to permit a proposed open projection (deck) with side yard setbacks as close as 2 feet in lieu of the minimum required 37.5 feet. The subject property and requested relief are more particularly described on Petitioners' Exhibit No. 1. Petitioners desire to construct a deck on the waterfront side of the home. Wayne Goodman of 2128 Riverside Road, provided a letter indicating that he has no objection to the placement of the deck.

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 Sustainability dated June 30, 2011. The subject property is located within the Chesapeake Bay Critical Area. According to B.C.Z.R. Section 500.14, no decision shall be rendered on any petition for special exception, zoning variance, or zoning special hearing for a property within the Critical Area until the Department of Environmental Protection and Sustainability (DEPS) has provided written recommendations describing how the proposed request would:

Date 7-15-11

By

 Minimize adverse impacts on water quality that result from pollutants that are discharged from structures or conveyances or that have run off from surrounding lands;

The subject property is located within a Limited Development Area and is subject to Critical Area lot coverage requirements. The applicant is proposing to construct a gapped board, pervious deck on the waterfront side of the home. Because of the pervious deck construction and no increase in lot coverage as defined in State of Maryland Natural Resources Article §8-1802(a)(17), water quality impacts have been minimized in this proposal. By meeting the lot coverage requirements, the relief requested by the applicant will result in minimal impacts to water quality.

2. Conserve fish, wildlife, and plant habitat; and

This waterfront property is located within a Buffer Management Area (BMA) of the Critical Area. The applicant's plan accompanying this zoning petition shows that the proposed deck is located within the 100-foot tidal buffer. While the proposed deck is to be pervious, there are impacts to the tidal buffer. The new impacts require mitigation that will improve buffer functions and conserve fish habitat in Back River.

3. Be consistent with established land use policies for development in the Chesapeake Bay Critical Area, which accommodate growth and also address the fact that, even if pollution is controlled, the number, movement and activities of persons in that area can create adverse environmental impacts.

The applicant's proposal to construct a pervious deck on the waterfront side of the home is consistent with this goal. The relief requested will be consistent with established land-use policies provided that the applicants meet the requirements stated above.

The Petitioners having filed a Petition for Administrative Variance and the subject property having been posted on June 19, 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.

# ORDER RECEIVED FOR FILING

By\_\_\_\_

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 <u>15</u>th day of July, 2011 that a variance from Sections 1A04.3.B.2.b and 301.1.A of the Baltimore County Zoning Regulations ("B.C.Z.R.") to permit a proposed open projection (deck) with side yard setbacks as close as 2 feet in lieu of the minimum required 37.5 feet be and is hereby GRANTED, subject to the following:

- The Petitioners may apply for their building permit and be granted same upon receipt of
  this Order; however, Petitioners are hereby made aware that proceeding at this time is at
  their own risk until such time as the 30 day appellate process from this Order has expired.
  If, for whatever reason, this Order is reversed, the Petitioners would be required to return,
  and be responsible for returning, said property to its original condition.
- 2. The subject property is located in a Limited Development Area and Buffer Management Area of the Chesapeake Bay Critical Area and is subject to lot coverage requirements.

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

TIMOTHY M. KOTROCO Administrative Law Judge

buthy lotroes

for Baltimore County

TMK/pz

ORDER RECEIVED FOR FILING

Date.

Ву.

3



KEVIN KAMENETZ County Executive LAWRENCE M. STAHL
Managing Administrative Law Judge
JOHN E. BEVERUNGEN
TIMOTHY M. KOTROCO
Administrative Law Judges

July 15, 2011

LAURIE ANN AND JAMES J. BARBOUR, JR. 2130 RIVERVIEW ROAD BALTIMORE MD 21221

Re: Petition for Administrative Variance Case No. 2011-0350-A Property: 2130 Riverview Road

Dear Mr. and Mrs. Barbour:

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, Approvals 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,

TIMOTHY M. KOTROCO Administrative Law Judge for Baltimore County

buthy Kotroco

TMK:pz

Enclosure

c: William Storm IV, 810 Back River Neck Road, Baltimore MD 21221

# Petition for Administrative Variance

to the Zoning Commissioner of Baltimore County for the property located at 2130 Riveruse Road

Deed Reference: 2 4 3 8 5 1 3 6 9 Tax Account # 1 5 1 1 4 7 0 8 0 0

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) 1AO4.3.B.2.b and 301.1.A to permit a proposed open projection (deck) with side yard setbacks as close as 2 feet in lieu of the minimum required 371/2

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

which is presently zoned

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: Legal Owner(s): Signature Signature 410-382-375 Address Telephone No. Name md 21221 Zip Code 410-382-3754 Attorney For Petitioner: Telephone No. MD Name - Type or Print City Representative to be Contacted: ORDER RECEIVED Signature Company Date Address Address tephone No. elephone No. City Zip Code State A Public Hearing having been formally demanded and/or found to be required, it is ordered by the Zoning Commissioner of Baltimere County, 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

Reviewed By

Estimated Posting Date

Case No. 2011-0350 -

Date



### Affidavit in Support of Administrative Variance

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

That the Affiant(s) does/do presently own and reside at 2130 Kiveruseu Road or Street name

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) This lot is a lot of record with a SFD that was built in 1939 and still stands today. The narrow lot (50'wide) currently has 8'-3" side yard setbacks due to the existing SFD that is 31'-9" wide. The homeowners wish to build a deck that is approximately 10" above the grade since most of that area is flat and prone to holding main water to a degree that the outdoor area is unusable. To the west side of the proposed deck is the only tree that can be used for Shade, therefore the proposed deck will be built around the tree With the deck king approximately 10" above grade, the neighbors wiews will not be impacted in any way.

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.

	may be required to provide additional information.  Signature	
James Barbour Ja Name-print or type	Name- print or type	
	owing section prior to the filing appointment.	
I HEREBY CERTIFY, this 2 day of the State of Maryland, in and for the County afor	June, 2011, before me, a Notary Public of	
(Name Affiant(s) here): Jomes Borlothe Affiant(s) herein, personally known	own or satisfactorily identified to me as such Affiant(s).	
AS WITNESS my hand and Notarial Seal		

Name of Notary Public

Commission expires

PLACE STAL HERE

FRM476 09

#### **ZONING DESCRIPTION FOR 2130 RIVERVIEW ROAD –**

BEGINNING AT A POINT ON THE SOUTWESTERLY SIDE OF A ROAD 20 FEET WIDE AT THE DISTANCE OF 894 FEET 3 INCHES, MORE OR LESS, NORTHWESTERLY FROM A POINT WHERE SAID ROAD INTERSECTS THE NORTH 47 DEGREES 50 MINUTES EAST 114 PERCH LINE OF THE WHOLE TRACT OF LAND. \* BEING LOT # 10, IN THE WATERFRONT HOLLY FARM BEACH AS RECORDED IN BALTIMORE COUNTY BOOK WPC # 563, FOLIO # 25, CONTAINING 8650 SF / .199. ALSO KNOWN AS 2130 RIVERVIEW ROAD AND LOCATED IN THE 15<sup>TH</sup> ELECTION DISTRICT, 6 COUNCILMATIC DISTRICT.

# **CERTIFICATE OF POSTING**

**ATTENTION: KRISTEN LEWIS** 

DATE: 06/21/2011

Case Number: 2011-0350-A

Petitioner / Developer: J. & L. BARBOUR~FREESTATE GENERAL

CONTRACTORS

Date of Hearing (Closing): JULY 4, 2011

This is to certify under the penalties of perjury that the necessary sign(s) required by law were posted conspicuously on the property located at: 2130 RIVERVIEW ROAD

The sign(s) were posted on: JUNE 19, 2011



(Signature of Sign Poster)

Linda O'Keefe
(Printed Name of Sign Poster)

523 Penny Lane (Street Address of Sign Poster)

Hunt Valley, Maryland 21030

(City, State, Zip of Sign Poster)

410 - 666 - 5366

(Telephone Number of Sign Poster)

## ADMINISTRATIVE VARIANCE INFORMATION SHEET AND DATES

Case	Number 2011- 0350 -A Address 2130 Kiverview Ko				
	act Person: David Duva Phone Number: 410-887-3391				
Filin	g Date: 6/6/11 Posting Date: 6/19/" Closing Date: 7/4/11				
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.	<u>DEADLINE:</u> 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)				
Petit	Petitioner: This Part of the Form is for the Sign Poster Only				
USE THE ADMINISTRATIVE VARIANCE SIGN FORMAT					
Case	Number 2011- 0350 -A Address 2130 Riverview Rd				
Petiti	ioner's Name J+ L Barbour Telephone 410 382 3754				
Posting Date: 6/19/11 Closing Date: 7/4/11					
Word	ding for Sign: To Permit a proposed open projection (deck) with side and setbacks as close as 2 feet in lieu of the minimum				
re	quived 37 /2				

# DEPARTMENT OF PERMITS, APPROVALS AND INSPECTIONS ZONING REVIEW

#### ADVERTISING REQUIREMENTS AND PROCEDURES FOR ZONING HEARINGS

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

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

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

Item Number or Case Number: 2011-0350-A	
Petitioner: William Storm	
Address or Location: 810 Back River Neck Road	
,	
PLEASE FORWARD ADVERTISING BILL TO:	
Name: William Storm	
Address: 810 Back River Neck Road	
Telephone Number: 410 - 574 - 9337	



KEVIN KAMENETZ County Executive ARNOLD JABLON
Deputy Administrative Officer
Director, Department of Permits,
Approvals & Inspections

June 20, 2011

Mr. & Mrs. Barbour, Jr. 2130 Riverview Road Baltimore, MD 21221

RE: Case Number 2011-0350-A, 2130 Riverview Road

Dear Mr. & Mrs. Barbour,

The above referenced petition was accepted for processing **ONLY** by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on June 19, 2011. 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,

W. Carl Richards, Jr.
Supervisor, Zoning Review

WCR:mcn

Enclosures

c: People's Counsel

Mr. William H. Storm, IV, 810 Back river Neck Road, Baltimore, MD 21221



KEVIN KAMENETZ County Executive JOHN J. HOHMAN, Chief Fire Department

June 9,2011

County Office Building, Room 111 111 West Chesapeake Avenue Towson, Maryland 21204

ATTENTION: Zoning Review

Distribution Meeting of: June 13, 2011

Item No .:

Administrative Variance: 2011-0348A - 0351A.

Variance: 2011-0347A.

#### Comments:

The Baltimore County Fire Marshal's Office has no comments on the above case numbers at this time.

Don W. Muddiman, Inspector
Baltimore County Fire Marshal's Office
700 E. Joppa Road, 3<sup>RD</sup> Floor
Towson, Maryland 21286
Office: 410-887-4880
dmuddiman@baltimorecountymd.gov
cc: File



Martin O'Malley, Governor Anthony G. Brown, Lt. Governor Beverley K. Swaim-Staley, Secretary Neil J. Pedersen, Administrator

Maryland Department of Transportation

Date: 6-8-11

Ms. Kristen Matthews Baltimore County Department of Permits, Approvals and Inspections County Office Building, Room 109 Towson, Maryland 21204 RE: Baltimore County

Item No. 2011-0350-A Administrative Variance Formes and Lauvie Barour 2130 Riverview Road

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. 2011–0350-A

Should you have any questions regarding this matter, please contact Richard Zeller at 410-545-5598 or 1-800-876-4742 extension 5598. Also, you may E-mail him at (rzeller@sha.state.md.us). Thank you for your cooperation.

Sincerely:

Steven D. Foster, Chief

Access Management Division

SDF/rz

AV 7/4/11

#### **BALTIMORE COUNTY, MARYLAND**

RECEIVED

JUL 0 1 2011

OFFICE OF ADMINISTRATIVE HEARINGS

#### **Inter-Office Correspondence**

RECEIVED

JUL 01 28

OFFICE OF ADMINISTRATIVE HEARINGS



TO:

Lawrence M. Stahl; Managing Administrative Law Judge

Office of Administrative Hearings

FROM:

David Lykens, Department of Environmental Protection and Sustainability

(DEPS) - Development Coordination

DATE:

June 30, 2011

SUBJECT:

DEPS Comment for Zoning Item

# 11-350-A

Address

2130 Riverview Road (Barbour Property)

Zoning Advisory Committee Meeting of June 22, 2011.

The subject property is located within the Chesapeake Bay Critical Area. According to BCZR Section 500.14, no decision shall be rendered on any petition for special exception, zoning variance, or zoning special hearing for a property within the Critical Area until the Department of Environmental Protection and Sustainability (EPS) has provided written recommendations describing how the proposed request would:

1. Minimize adverse impacts on water quality that result from pollutants that are discharged from structures or conveyances or that have run off from surrounding lands:

The subject property is located within a Limited Development Area and is subject to Critical Area lot coverage requirements. The applicant is proposing to construct a gapped board, pervious deck on the waterfront side of the home. Because of the pervious deck construction and no increase in lot coverage as defined in State of Maryland Natural Resources Article §8-1802(a)(17), water quality impacts have been minimized in this proposal. By meeting the lot coverage requirements, the relief requested by the applicant will result in minimal impacts to water quality.

2. Conserve fish, wildlife, and plant habitat; and

This waterfront property is located within a Buffer Management Area (BMA) of the Critical Area. The applicant's plan accompanying this zoning petition shows that the proposed deck is located within the 100-foot tidal buffer. While the proposed deck is to be pervious, there are impacts to the tidal buffer. The new impacts require mitigation that will improve buffer functions and conserve fish habitat in Back River.

3. Be consistent with established land use policies for development in the Chesapeake Bay Critical Area, which accommodate growth and also address the fact that, even if pollution is controlled, the number, movement and activities of persons in that area can create adverse environmental impacts.

The applicant's proposal to construct a pervious deck on the waterfront side of the home is consistent with this goal. The relief requested will be consistent with established land-use policies provided that the applicants meet the requirements stated above.

Reviewer: Paul Dennis; Environmental Impact Review

# BALTIMORE COUNTY, MARYLAND

#### INTEROFFICE CORRESPONDENCE

TO:

Arnold Jablon, Director

**DATE:** June 16, 2011

Department of Permits, Approvals

And Inspections

FROM:

Dennis A. Kennedy, Supervisor Bureau of Development Plans

Review

SUBJECT:

Zoning Advisory Committee Meeting

For June 27, 2011

Item Nos. 2011-347, 348, 349,350,

And 351.

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

DAK:CEN cc: File

G:\DevPlanRev\ZAC -No Comments\ZAC-06272011 -NO COMMENTS.doc

Wayne Goodman 2128 Riverview Rd. Essex, MD 21221 June 5, 2011

Planning and Zoning 401 Bosley Ave. Towson, MD 21204

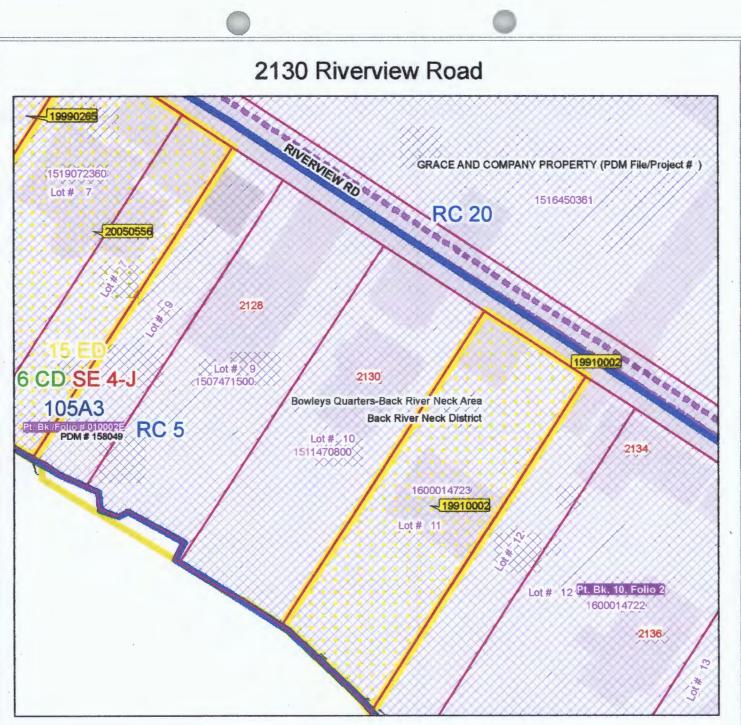
To whom it may concern:

I, Wayne Goodman, have reviewed the plans for a new deck at the Barbour residence, 2130 Riverview Rd, Essex, Md. as prepared by Freestate General Contractors of 810 Back Riverneck Rd, Essex, Md. I have no issues with the deck as proposed on the drawings. I do not have any issue with the fact that the deck extends near to the property line on the side of the Barbour residence facing my house.

Sincerely,

Wayne Goodman

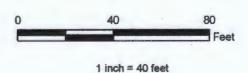
Hayne Goodman



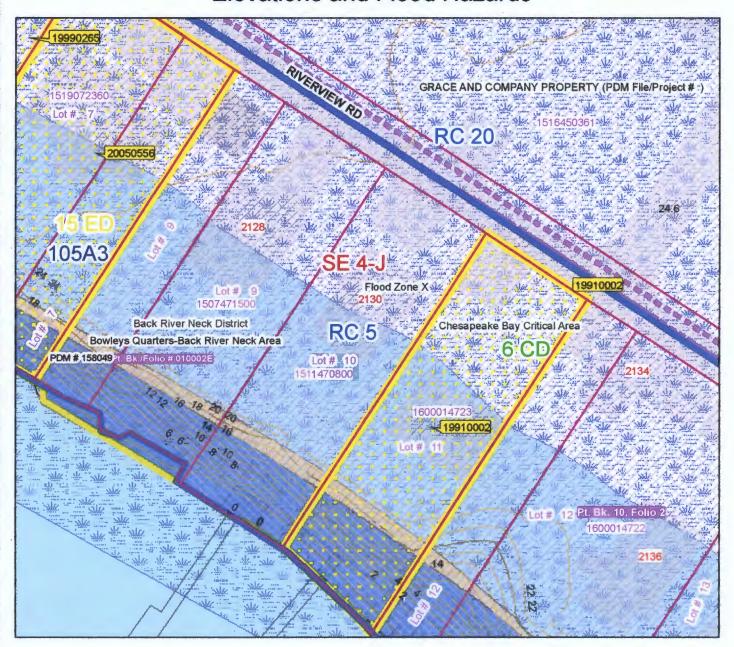


Publication Date: June 03, 2011 Publication Agency: Department of Permits & Development Management
Projection/Datum: Maryland State Plane,
FIPS 1900, NAD 1983/91 HARN, US Foot





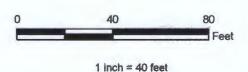
# **Elevations and Flood Hazards**





Publication Date: June 03, 2011
Publication Agency: Department of Permits & Development Management
Projection/Datum: Maryland State Plane,
FIPS 1900, NAD 1983/91 HARN, US Foot







STANDING IN RIVERVIEW ROAD FACING EAST DOWN STREET



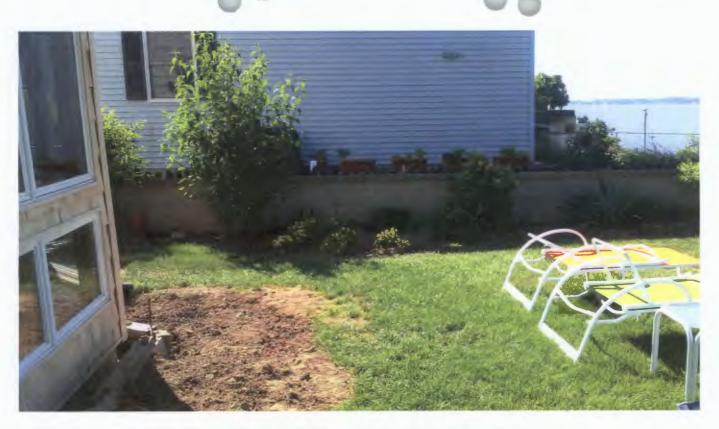
STANDING ACROSS STREET FACING SOUTH TOWARDS PROPERTY



STANDING AT FRONT OF HOUSE FACING SOUTH



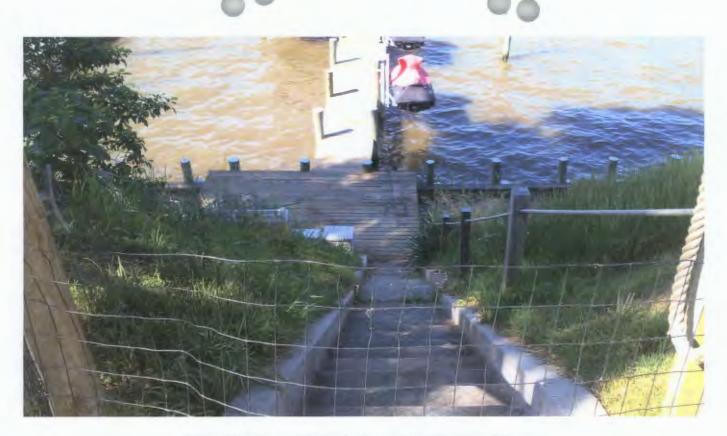
STANDING AT FRONT OF HOUSE FACING WEST



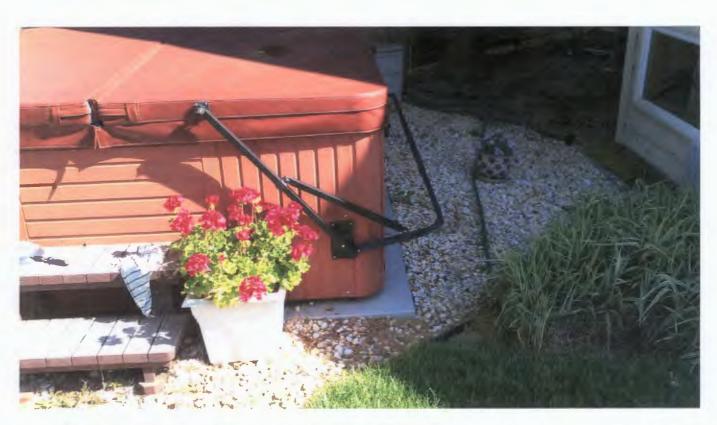
STANDING AT FRONT OF HOUSE FACING EAST



STANDING AT FRONT OF YARD FACING NORTH



STANDING AT FRONT OF YARD FACING SOUTH



STANDING IN FRONT YARD FACING NORTH WEST AT SIDE YARD OF PROPOSED DECK AREA (STONE TO BE REMOVED)



STANDING IN RIVERVIEW ROAD FACING WEST DOWN STREET

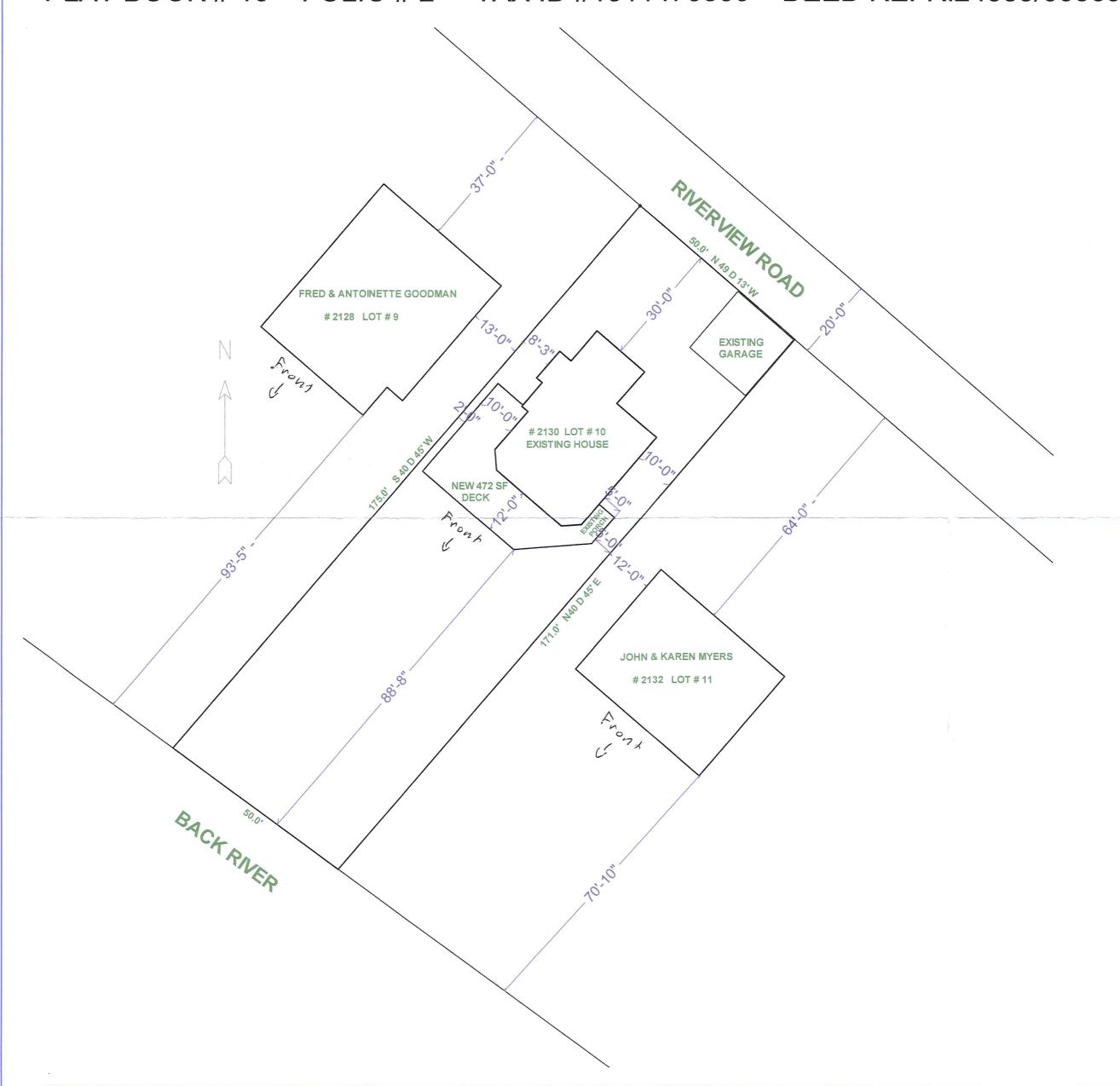


STANDING IN RIVERVIEW ROAD FACING NORTH ACROSS STREET

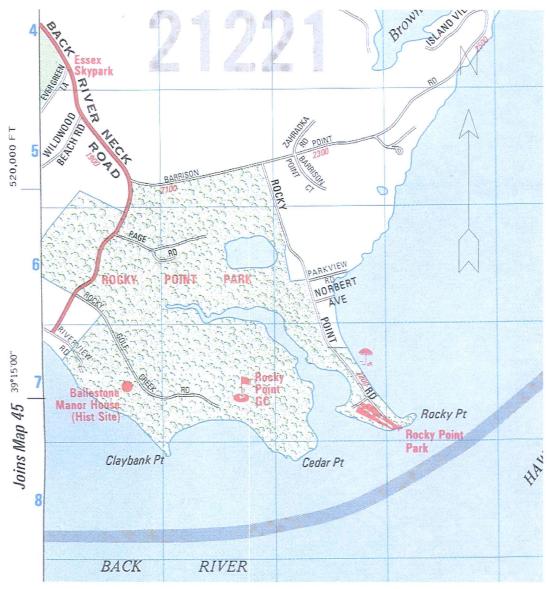


STANDING IN REAR YARD FACING SOUTH SHOWING SIDE YARD SET BACK

ZONING HEARING FOR ADMINISTRATIVE VARIANCE
2130 RIVERVIEW ROAD BALTIMORE MD 21221 JAMES BARBOUR JR. & LAURIE BARBOUR
SUB DIV: WATERFRONT HOLLY FARM BEACH LOT # 10
PLAT BOOK # 10 FOLIO # 2 TAX ID #1511470800 DEED REFR:24385/00369



# SITE VICINITY MAP



ADC MAP 46 A-7

ZONING MAP # 105A3

**ZONING: RC-5** 

**ELECTION DIST: 15** 

COUNCIL DIST: 06

LOT AREA:8,650 SF/.199 ACRES

HISTORIC: NO CBCA: YES

FLOOD PLAIN: YES WATER: PUBLIC SEWER: PUBLIC

PD #20

#2011-0350-A

FREESTATE GENERAL CONTRACTORS
810 BACK RIVER NECK ROAD 410-574-9337

SCALE 1" = 20'	BARBOUR RESIDENCE	DRAWN BY SKIP STORM
DATE 06-03-11	SITE PLAN	PAGE# 1