

IN RE: PETITION FOR VARIANCE

E/S of Daybreak Terrace, 220' S of
c/line of Hazelwood Avenue
14th Election District
6th Councilmanic District
(5713 Daybreak Terrace)

James M. Sullivan, Jr.
Petitioner

* BEFORE THE
* OFFICE OF
* ADMINISTRATIVE HEARINGS
* FOR BALTIMORE COUNTY
* CASE NO. 2012-0085-A

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings for consideration of a Petition for Variance filed by Petitioner James M. Sullivan, Jr. Petitioner is requesting Variance relief from Sections 1B02.3.A.1 and 211.3 (1955 regulations) of the Baltimore County Zoning Regulations ("B.C.Z.R.") to permit an open projection (carport) with a side yard setback of 8 inches in lieu of the minimum required 6 feet. The subject property and requested relief are more fully described on the site plan that was marked and accepted into evidence as Petitioner's Exhibit 1.

Appearing at the requisite public hearing in support of the variance request was Petitioner James M. Sullivan, Jr. The file reflects that the hearing was properly advertised and the property posted. No Protestants attended the hearing, nor were any letters of protest or objection received by this Office.

The Zoning Advisory Committee (ZAC) comments were received and are made part of the record of this case. There were no adverse ZAC comments received from any of the County reviewing agencies.

It should be noted that this matter came before me as a result of a complaint registered with the Code Enforcement Division of the Department of Permits, Approvals and Inspections¹. A Code

¹ Case No: CO-0098176

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Date 11-28-11

By 

Inspections and Enforcement Correction Notice was issued to Petitioner on July 25, 2011, for failure to secure a building permit for a carport/addition, and to cease all activity as open air garage and remove any untagged vehicles. The Petitioner has filed with this Court only as to his request for a variance to permit construction of the carport. His activities on the property and the presence of any untagged vehicles are not before me at this time. Hence, Petitioner filed the instant Petition.

The Petitioner testified on his behalf and presented a plat prepared by him to accompany his Petition (Petitioner's Exhibit 1). He described the subject site as consisting of approximately .25 acres, zoned DR 5.5. He stated that he works on his own vehicle and built the subject carport in August, 2009. The witness explained that the location of the carport was dictated by the already existing driveway on that side of his residence. He related that he had originally placed a tarp on the outside of the carport to keep out inclement weather; however, it created noise in the wind. At the request of his adjacent neighbor, he removed the tarp and replaced it with a solid board wall. He presented numerous photographs of homes in the neighborhood, all containing carports such as his. Without a variance to place the carport in its present location, he would be forced to create more impervious surface on his lot, which he hoped to avoid.

Considering all of the testimony and evidence presented, I am persuaded to grant the requested relief. I find special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request. Moreover, I find that strict enforcement of the B.C.Z.R. would cause the Petitioners to suffer practical difficulty and undue hardship. Therefore, I also find that the variances requested can be granted in strict harmony with the spirit and intent of the said regulations, and in such a manner as to grant relief without injury to the public, health, safety, and general welfare. In all manner and respect, the variances requested meet the

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requirements of Section 307 of the B.C.Z.R. as well as those requirements established in *Cromwell v. Ward*, 102 Md. App. 691 (1995) and *McLean v Soley*, 270 Md. 208 (1973).

Based upon the testimony and evidence presented, I am persuaded to grant the request for variance relief. I find special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request. I also find that strict compliance with the B.C.Z.R. would result in practical difficulty or unreasonable hardship upon Petitioner.

Finally, I find that the variance can be granted in harmony with the spirit and intent of the B.C.Z.R., and in such manner as to grant relief without injury to the public health, safety, and general welfare.

Pursuant to the advertisement, posting of the property, and public hearing on this petition held, and after considering the testimony and evidence offered, I find that Petitioner's variance request should be granted.

THEREFORE, IT IS ORDERED this 28 day of November, 2011 by this Administrative Law Judge that Petitioner's Variance request from Sections 1B02.3.A.1 and 211.3 (1955 regulations) of the Baltimore County Zoning Regulations ("B.C.Z.R.") to permit an open projection (carport) with a side yard setback of 8 inches in lieu of the minimum required 6 feet, be and is hereby GRANTED, subject to the following:

1. Petitioner may apply for permits 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, Petitioner would be required to return, and be responsible for returning, said property to its original condition.
2. The subject carport is to be used to be used for the parking of motor vehicles only. No storage of any kind may be located therein.

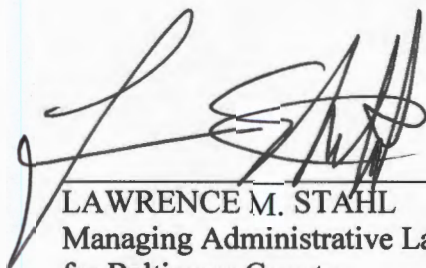
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Date 11-28-11 3

By [Signature]

3. The solid outer wall of the carport is to be removed immediately, and the outside space left open.

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



LAWRENCE M. STAHL
Managing Administrative Law Judge
for Baltimore County

LMS/pz

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Date 11-28-11

4

By [Signature]



TAX ACCT # 1419040710

Petition for Variance

to the Zoning Commissioner of Baltimore County
for the property located at 5713 Daybreak terrace
which is presently zoned DR 5.5 / 21206

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) 1802.3.A.1. (b)(2) + 211.3 - 1955 REGS

To permit an open projection (carport) with a side yard setback of 8-inches in lieu of the minimum required 6-feet.

of the Zoning Regulations of Baltimore County, to the zoning law of Baltimore County, for the following reasons: (indicate hardship or practical difficulty)

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 _____

City _____ State _____ Zip Code _____

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11-28-11

Date _____ By _____ State _____ Zip Code _____

Case No. 2012-0085-A

REV 9/15/98

Legal Owner(s):

James M. Sullivan Jr.
Name - Type or Print _____

James M. Sullivan Jr.
Signature _____

Name - Type or Print _____

Signature _____

5713 Daybreak terrace 443-939 9357
Address _____ Telephone No. _____

Baltimore md. 21206
City _____ State _____ Zip Code _____

Representative to be Contacted:

Name _____

Address _____ Telephone No. _____

City _____ State _____ Zip Code _____

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING _____

UNAVAILABLE FOR HEARING _____

Reviewed By DT Date 9/22/11

ZONING DESCRIPTION

Zoning Description For 5713 Daybreak Terrace

Beginning at a point on the East side of Daybreak Terrace, which is 50 feet wide at the distance of 220 ft. south of the centerline of the nearest improved intersecting street Hazelwood Avenue, which is 45 ft. wide. Being Lot # 6, Block A, Section 1 in the subdivision of Hazelwood Acres as recorded in Baltimore County Plat Book #0022, Folio# 0147, containing 9,570 square feet. Also known as 5713 Daybreak Terrace and located in the 14th Election District, 6th Councilmanic District.

Case No.:

2012-0085 A

Exhibit Sheet

DW 12-29-11
29

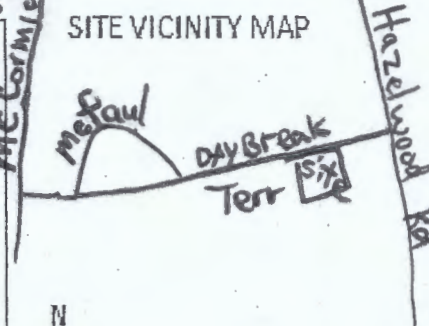
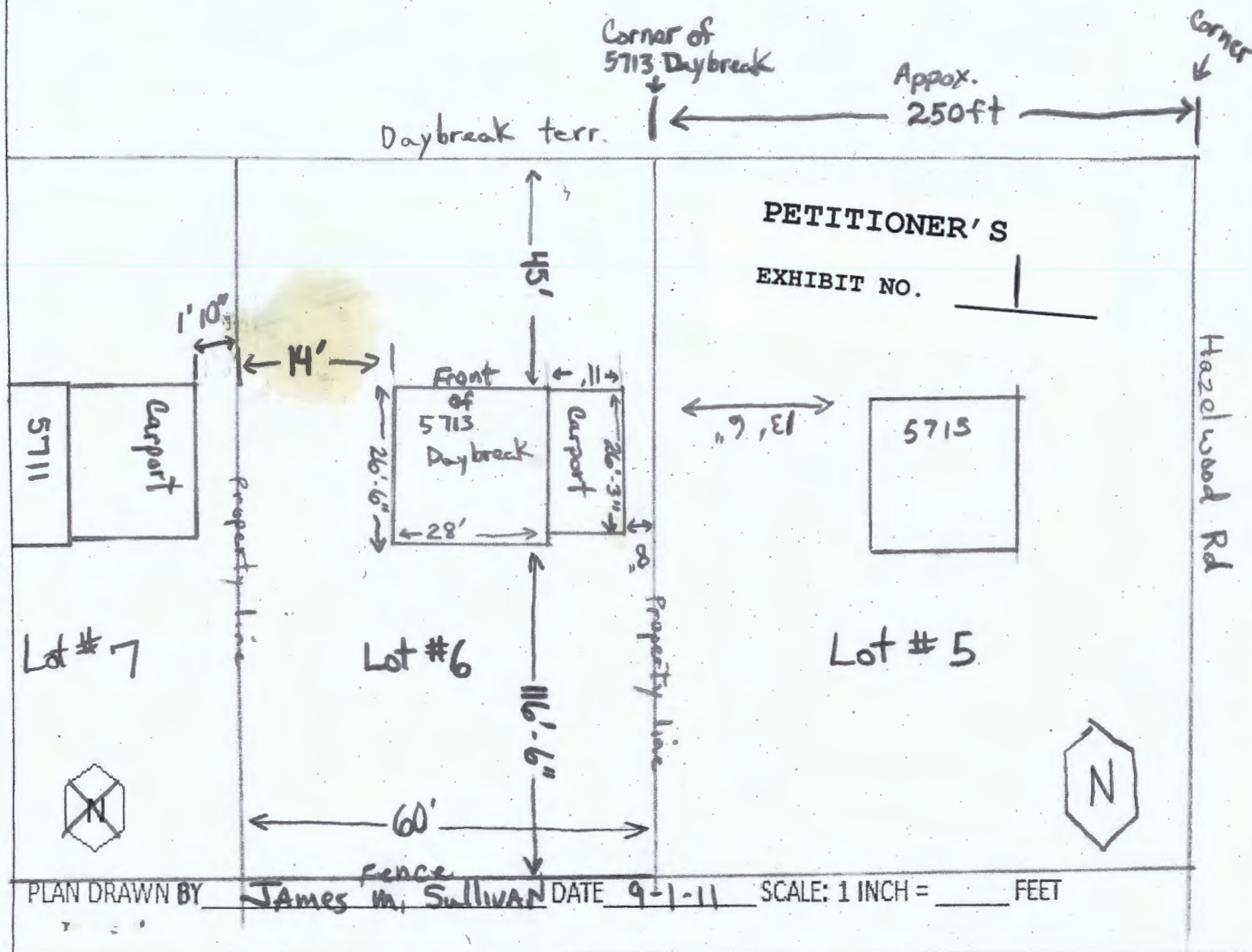
Protestant

SMA 12-29-11

Petitioner/Developer

No. 1	Doc to accompany Petition	
No. 2	Photos A-k	
No. 3		
No. 4		
No. 5		
No. 6		
No. 7		
No. 8		
No. 9		
No. 10		
No. 11		
No. 12		

ZONING HEARING PLAN FOR VARIANCE _____ FOR SPECIAL HEARING _____ (MARK TYPE REQUESTED WITH X)
ADDRESS 5713 DAYBREAK Terrace OWNER(S) NAME(S) James M. Sullivan Jr.
SUBDIVISION NAME Hazelwood Acres LOT # 6 BLOCK # 5713 SECTION # _____
PLAT BOOK # 022 FOLIO # 147A 10 DIGIT TAX # 1419040710 DEED REF. # 7017 / Page 146



N
MAP IS NOT TO SCALE
ZONING MAP# 089B1
SITE ZONED DR 5.5
ELECTION DISTRICT 14ED
COUNCIL DISTRICT 6CD
LOT AREA ACREAGE 1/4 acre
OR SQUARE FEET 9,570
HISTORIC? No
IN CBCA? No
IN FLOOD PLAIN? No
UTILITIES? MARK WITH X
WATER IS:
PUBLIC ☒ PRIVATE _____
SEWER IS:
PUBLIC ☒ PRIVATE _____
PRIOR HEARING? _____
IF SO GIVE CASE NUMBER
AND ORDER RESULT BELOW

VIOLATION CASE INFO

**NOTICE OF ZONING
HEARING**

The Administrative Law Judges 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: # 2012-0085-A
5713 Daybreak Terrace
E/side of Daybreak Terrace,
220 feet south of the center-
line of Hazelwood Avenue
14th Election District
6th Councilmanic District
Legal Owner(s):
James Sullivan, Jr.
Variance: to permit an
open projection (carport)
with a side yard setback of
8 inches in lieu of the mini-
mum required 6 feet.
**Hearing: Monday, Novem-
ber 14, 2011 at 2:30 p.m.**
in Room 205, Jefferson
Building, 105 West Chesa-
peake Avenue, Towson
21204.

ARNOLD JABLON, DIRECTOR
OF PERMITS, APPROVALS
AND INSPECTIONS FOR
BALTIMORE COUNTY

NOTES: (1) Hearings are
Handicapped Accessible;
for special accommoda-
tions Please Contact the
Administrative Hearings Of-
fice at (410) 887-3868.

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

10/230 Oct. 27 289389

CERTIFICATE OF PUBLICATION

10/27/, 2011

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 10/27/, 2011.

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

J. Wilkinson

LEGAL ADVERTISING

RE: PETITION FOR VARIANCE * BEFORE THE OFFICE
5713 Daybreak Terrace; E/S Daybreak Terrace, * OF ADMINISTRATIVE
220' S of c/line Hazelwood Avenue * HEARINGS FOR
14th Election & 6th Councilmanic Districts * BALTIMORE COUNTY
Legal Owner(s): James Sullivan *
Petitioner(s) *
2012-085-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.

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

RECEIVED

OCT 12 2011

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 12th day of October, 2011, a copy of the foregoing Entry of Appearance was mailed to James Sullivan, 5713 Daybreak Terrace, Baltimore, MD 21206, Petitioner(s).

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

CERTIFICATE OF POSTING
CERTIFICATE OF POSTING

RE:CASE NO: 2012-0085-A

PETITIONER/DEVELOPER _____

JAMES SULLIVAN, JR

DATE OF HEARING/CLOSING: _____

11/14/11

BALTIMORE COUNTY DEPARTMENT OF
PERMITS AND DEVELOPMENT MANAGEMENT
COUNTY OFFICE BUILDING, ROOM 111
111 WEST CHESAPEAKE AVENUE

ATTENTION:

LADIES AND GENTLEMEN:

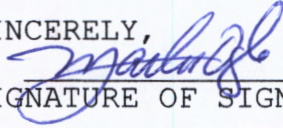
THIS LETTER IS TO CERTIFY UNDER THE PENALTIES OF PERJURY THAT THE
NECESSARY SIGN(S) REQUIRED BY LAW WERE POSTED CONSPICUOUSLY ON THE
PROPERTY AT 5713 DAYBREAK TERRACE

THIS SIGN(S) WERE POSTED ON _____

October 29, 2011

(MONTH, DAY, YEAR)

SINCERELY,

 10/29/11
SIGNATURE OF SIGN POSTER AND DATE:

MARTIN OGLE

(SIGN POSTER)

60 CHELMSFORD COURT

BALTIMORE, MD 21220

(ADDRESS)

PHONE NUMBER: 443-629-3411

ZONING

NOTICE

CASE # 2012-0085-A

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

PLACE: ROOM 205 JEFFERSON BUILDING 105 WEST
CHESTER AVE. TOWSON MD 21204

DATE AND TIME: Monday, November 19, 2011
AT 2:30 P.M.

REQUEST:

VARIOUS TO ACQUIT ALL OPEN PROTECTION (GARAGE)
WITH A SIDE YARD SETBACK OF 8' DUE TO LACK OF
THE MINIMUM REQUIRED 6' FEET

FOR INFORMATION AND TO PREPARE FOR THE HEARING, A PRELIMINARY REVIEW OF THE REQUEST IS REQUIRED.
TO OBTAIN A PRELIMINARY REVIEW, CALL 410-386-1111

DO NOT REMOVE THIS SIGN AND POST UNTIL HEARING DATE UNDER PENALTY OF LAW
MEETING IS HANDICAP ACCESSIBLE

10/29/2011

Michael G. 10/29/11



5711 Daybreak



5713 Daybreak



5716 Daybreak

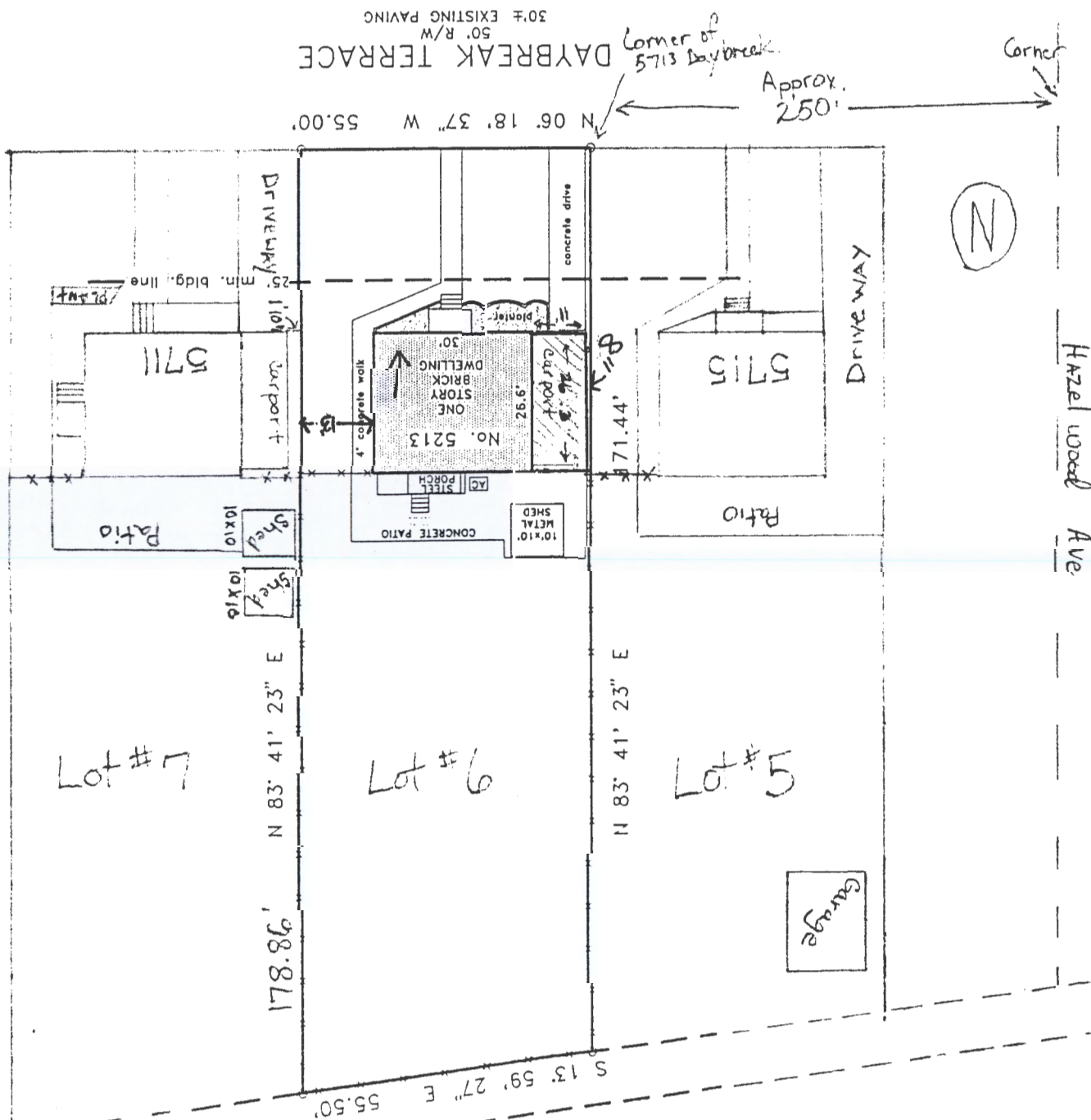


5618 Day break



5641 Daybreak

ZONING HEARING PLAN FOR VARIANCE X FOR SPECIAL HEARING _____ (MARK TYPE REQUESTED WITH X)
 ADDRESS 5713 DAYBREAK Terrace OWNER(S) NAME(S) James R. Sullivan Jr
 SUBDIVISION NAME Hazelwood Acres LOT # 6 BLOCK # 5713 SECTION # _____
 PLAT BOOK # 022 FOLIO # 147A 10 DIGIT TAX # 1419040710 DEED REF. # 7017 / Page 146



MAP IS NOT TO SCALE
 ZONING MAP# 089B1
 SITE ZONED DR 5.5
 ELECTION DISTRICT 14E1
 COUNCIL DISTRICT 6CD
 LOT AREA ACREAGE 1/4 ac
 OR SQUARE FEET 9,570
 HISTORIC? No
 IN CBCA? No
 IN FLOOD PLAIN? No
 UTILITIES? MARK WITH X
 WATER IS:
 PUBLIC X PRIVATE _____
 SEWER IS:
 PUBLIC X PRIVATE _____
 PRIOR HEARING? _____
 IF SO GIVE CASE NUMBER
 AND ORDER RESULT BELOW

VIOLATION CASE INFO:
98176 - Tim Kidd

2012-0085-A

LOT NO. 6, BLOCK 5713, SECTION 14E1, TOWNSHIP 14N, RANGE 5E, DEED BOOK 022, FOLIO 147A, DEED REF. 7017, PAGE 146, DATE 3/2/91, SCALE: 1" = 30.0'