

IN RE: PETITION FOR ADMIN. VARIANCE

N side of Garnet Road, 198.67 feet E
of the c/l of Old Harford Road
9th Election District
6th Councilmanic District
(2704 Garnet Road)

James and Kathryn Poletto
Petitioners

* BEFORE THE
* OFFICE OF
* ADMINISTRATIVE HEARINGS
* FOR BALTIMORE COUNTY
* Case No. 2012-0124-A

* * * * *

OPINION AND ORDER

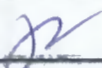
This matter comes before the Office of Administrative Hearings as a Petition for Administrative Variance filed by the legal owners of the subject property, James and Kathryn Poletto for property located at 2704 Garnet Road. The variance request is from Section 400.1 of the Baltimore County Zoning Regulations ("B.C.Z.R.") to permit an accessory structure (garage) in the side yard with a 2 foot side setback in lieu of the required rear yard with a 2.5 foot setback. The subject property and requested relief are more particularly described on Petitioners' Exhibit No. 1. Petitioners' rear yard contains two massive trees, both approximately 60 feet tall. One tree is approximately 8 feet in diameter and the other tree is approximately 13 feet in diameter, as evidenced by the submitted photographs. It would not be practical to remove these trees and their root system to construct a garage.

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 November 20, 2011, and there being no request for a public hearing, a decision shall be rendered based upon the documentation presented.

ORDER RECEIVED FOR FILING

Date 12-13-11

By 

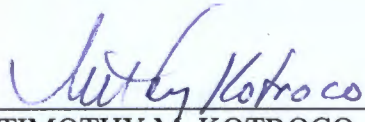
The Petitioners have filed the supporting affidavits as required by Section 32-3-303 of the Baltimore County Code. Based upon the information available, there is no evidence in the file to indicate that the requested variance would adversely affect the health, safety or general welfare of the public 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 13th day of December, 2011 that a Variance from Section 400.1 of the Baltimore County Zoning Regulations ("B.C.Z.R.") to permit an accessory structure (garage) in the side yard with a 2 foot side setback in lieu of the required rear yard with a 2.5 foot setback, 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.

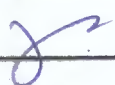
Any appeal of this decision must be made within thirty (30) days of the date of this Order.


TIMOTHY M. KOTROCO
Administrative Law Judge
for Baltimore County

TMK/pz

ORDER RECEIVED FOR FILING

Date 12-13-11

By 



KEVIN KAMENETZ
County Executive

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

December 13, 2011

JAMES AND KATHRYN POLETO
2704 GARNET ROAD
PARKVILLE MD 21234

Re: Petition for Administrative Variance
Case No. 2012-0124-A
Property: 2704 Garnet Road

Dear Mr. and Mrs. Poleto:

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,

A handwritten signature in cursive script, reading "Timothy Kotroco".

TIMOTHY M. KOTROCO
Administrative Law Judge
for Baltimore County

TMK:pz

Enclosure

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET AND FINANCE
MISCELLANEOUS CASH RECEIPT

No. **76039**

Date: **11/7/11**

Fund	Dept	Unit	Sub Unit	Obj	Sub Obj	Dept	Obj	BS Acct	Amount
001	806	0000		6150					75.00

Total: **75.00**

Rec From: **JAMES POLETO**

For: **2012-0124-A**
2704 GARNET RD.

D. THOMPSON

DISTRIBUTION

WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER GOLD - ACCOUNTING
 PRESS HARD!!!!

PAID RECEIPT

BUSINESS: ACTION YOUNG 11/06/2011 11:05:47
 REG NO: 017403 11/07/2011

RECEIPT # 57777 11/07/2011

Dept: 5 534 11/07/2011
 Recpt Tot: 75.00
 100.00 CA
 115.00-10
 Baltimore County, Maryland

**CASHIER'S
 VALIDATION**



ADMINISTRATIVE ZONING PETITION

FOR ADMINISTRATIVE VARIANCE – OR – ADMINISTRATIVE SPECIAL HEARING

To be filed with the Department of Permits, Approvals and Inspections

To the Office of Administrative Law of Baltimore County for the property located at:

Address 2704 Garnet Rd which is presently zoned DR 5.5

Deed Reference _____ 10 Digit Tax Account # 0923154200

Property Owner(s) Printed Name(s) James Kathryn Poleto

(SELECT THE HEARING(S) BY MARKING **X** AT THE APPROPRIATE SELECTION(S) AND ADDING THE PETITION REQUEST)

Administrative Variances require that the Affidavit on the reverse of this Petition Form be completed / notarized.

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

1. ☒ **ADMINISTRATIVE VARIANCE** from section(s) 400.1 (OCZR)

TO PERMIT AN ACCESSORY STRUCTURE (GARAGE) IN THE SIDE YARD WITH A 2-FOOT SIDE SETBACK IN LIEU OF THE REQUIRED REAR YARD WITH A 2.5-FOOT SETBACK.

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

2. ☐ **ADMINISTRATIVE SPECIAL HEARING** to approve a waiver pursuant to Sections 32-4-107(b), 32-4-223.(8), and Section 32-4-416(a)(2): (indicate type of work in this space to raze, alter or construct addition to building)

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 petition(s), 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.

Legal Owner(s) Affirmation: I / we do so 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 / these Petition(s).

Contract Purchaser/Lessee:

Name- Type or Print

Signature

Mailing Address City State

Zip Code Telephone # Email Address

Attorney for Petitioner:

Name- Type or Print

Signature

Date Mailing Address City State

By Zip Code Telephone # Email Address

Legal Owners:

James Poleto / Kathryn Poleto
Name #1 - Type or Print Name #2 - Type or Print

[Signature] / [Signature]
Signature #1 Signature #2

2704 Garnet Rd Parkville MD
Mailing Address City State

21234 / 910-920-5993 / Poletoiii@gmail.com
Zip Code Telephone # Email Address

Representative to be contacted:

James Poleto
Name - Type or Print

[Signature]
Signature

2704 Garnet Rd Parkville MD
Mailing Address City State

21234 / 910-920-5993 / Poletoiii@gmail.com
Zip Code Telephone # Email Address

A PUBLIC HEARING having formally demanded and/or found to be required, it is ordered by the Office of Administrative Law, 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.

Administrative Law Judge of Baltimore County

CASE NUMBER 2012-0124-A Filing Date 11/7/11 Estimated Posting Date 11/20/11 Reviewer DT

Affidavit in Support of Administrative Variance

(THIS AFFIDAVIT IS NOT REQUIRED FOR AN HISTORIC ADMINISTRATIVE SPECIAL HEARING)

The undersigned hereby affirms under the penalties of perjury to the Administrative Law Judge of Baltimore County, the following: That the information herein given is within the personal knowledge of the Affiant(s) and that the 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 property is not under an active zoning violation citation and Affiant(s) is/are the resident home owner(s) of this residential lot, or is/are the contract purchaser(s) of this residential lot, who will, upon purchase, reside at the existing dwelling on said property located at:

Address: 2704 Garnet Rd Parkville MD 21234
Print or Type Address of property City State Zip Code

Based upon personal knowledge, the following are the facts which I/we base the request for an Administrative Variance at the above address. (Clearly state practical difficulty or hardship here)

I am requesting an exception to the zoning requirement to construct a garage on the side vs. the back of the house. My backyard is not a viable location due to the presence of two very large and deeply rooted trees that cannot be removed in any practical manner. These trees are well over 60 feet tall with a diameter of over 8 feet, and a root structure that I would suspect would require significant excavation. By being able to locate the garage on the side of the house, I can preserve vegetation, avoid potentially disruptive construction and in the process have minimal impact on the environment. The garage will be architecturally assimilated and aesthetically similar to the surrounding neighborhood.

(If additional space for the petition request or the above statement is needed, label and attach it to this Form)

[Signature]
Signature of Affiant
James Poleto
Name- Print or Type

[Signature]
Signature of Affiant
Kathryn Poleto
Name- Print or Type

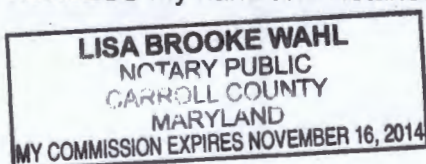
The following information is to be completed by a Notary Public of the State of Maryland

STATE OF MARYLAND, COUNTY OF BALTIMORE, to wit:

I HEREBY CERTIFY, this 07 day of November 2011, before me a Notary of Maryland, in and for the County aforesaid, personally appeared

James J Poleto 3rd
the Affiant(s) herein, personally known or satisfactorily identified to me as such Affiant(s) (Print name(s) here)

AS WITNESS my hand and Notaries Seal



[Signature]
Notary Public
November 16, 2014
My Commission Expires

ZONING PROPERTY DESCRIPTION FOR: 2704 Garnet Road, Parkville, MD 21234

Beginning at a point on the north side of Garnet Rd which is 46' feet wide at the distance of 198.67' feet east of the centerline of the nearest improved intersecting street Old Harford Rd which has a variable right away.

Also known as lot 308 of the subdivision named Canton Company Plat on an unknown record plat. It is also in the 9th election district and the 6th Councilmanic District.

2012-0124-A

MEMORANDUM

DATE: January 17, 2012
TO: Zoning Review Office
FROM: Office of Administrative Hearings
RE: Case No. 2012-0124-A

The appeal period for the above-referenced case expired on January 13, 2012. There being no appeal filed, the subject file is ready for return to the Zoning Review Office and is placed in the 'pick up box.'

c: ✓ Case File
Office of Administrative Hearings

CHECKLISTComment
ReceivedDepartmentSupport/Oppose/
Conditions/
Comments/
No Comment11-18DEVELOPMENT PLANS REVIEW
(if not received, date e-mail sent _____)ncDEPS
(if not received, date e-mail sent _____)

FIRE DEPARTMENT

PLANNING
(if not received, date e-mail sent _____)11-14

STATE HIGHWAY ADMINISTRATION

nc

TRAFFIC ENGINEERING

COMMUNITY ASSOCIATION

ADJACENT PROPERTY OWNERS

ZONING VIOLATION (Case No. _____)

PRIOR ZONING (Case No. _____)

NEWSPAPER ADVERTISEMENT

Date: _____

SIGN POSTING

Date: 11-20by Pelton

PEOPLE'S COUNSEL APPEARANCE

Yes ☐ No ☐

PEOPLE'S COUNSEL COMMENT LETTER

Yes ☐ No ☐

Comments, if any: _____



2012-0124-A



2012-0124-A



2012-0127-A



2012-0124-A



2012-0124-A



2012-0124-A



2012-0124-A



KEVIN KAMENETZ
County Executive

ARNOLD JABLON
*Deputy Administrative Officer
Director, Department of Permits,
Approvals & Inspections*

November 29, 2011

Mr. & Mrs. Poletto
2704 Garnet Road
Parkville, MD 21234

RE: Case Number 2012-0124-A, 2704 Garnet Road

Dear Mr. & Mrs. Poletto,

The above referenced petition was accepted for processing **ONLY** by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on November 7, 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,

A handwritten signature in black ink, reading "W. Carl Richards, Jr." in a cursive style.

W. Carl Richards, Jr.
Supervisor, Zoning Review

WCR:mcn

Enclosures

c: People's Counsel



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

Beverley K. Swaim-Staley, Secretary
Darrell B. Mobley, Acting Administrator

MARYLAND DEPARTMENT OF TRANSPORTATION

Date: 11-14-11

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

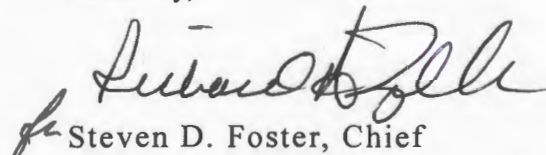
RE: Baltimore County
Item No. 2012-0124-A
Administrative Variance
Jane & Kathryn Poleto
2704 Garnet Road.

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. 2012-0124-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

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.roads.maryland.gov

BALTIMORE COUNTY, MARYLAND
INTEROFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Department of Permits, Approvals
And Inspections

DATE: November 18, 2011

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

SUBJECT: Zoning Advisory Committee Meeting
For November 28, 2011
Item Nos. 2012-120, 122, 123, 124
And 125

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-11282011 -NO COMMENTS.doc

CERTIFICATE OF POSTING

Date: 11/20/11

RE: Case Number: 2012-0124-A

Petitioner/Developer: James Poletto

Date of Hearing/Closing: 12-5-11

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 2704 Garnet Rd

The signs(s) were posted on 11/20/11
(Month, Day, Year)

J. Lawrence Pilson
(Signature of Sign Poster)

J. LAWRENCE PILSON
(Printed Name of Sign Poster)

ATTACH PHOTOGRAPH

1015 Old Barn Road
(Street Address of Sign Poster)

Parkton, MD 21120
(City, State, Zip Code of Sign Poster)

410-343-1443
(Telephone Number of Sign Poster)

ADMINISTRATIVE VARIANCE

CASE # 2012-0124-A

TO PERMIT AN ACCESSORY STRUCTURE
(GARAGE) IN THE SIDEYARD WITH A TWO-FOOT
SIDE SETBACK IN LIEU OF THE REQUIRED
REAR YARD AND WITH A 2.5-FOOT
SETBACK

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 THE REQUEST IS
RECEIVED IN THE ZONING REVIEW BUREAU BEFORE
5:00 P.M. ON 12/5/11

ADDITIONAL INFORMATION IS AVAILABLE AT THE DEPARTMENT OF
PERMITS AND DEVELOPMENT MANAGEMENT, COUNTY OFFICE BUILDING
111 WEST CHESAPEAKE AVE., TOWSON, MD 21204. (410) 31-2200
DO NOT REMOVE THIS SIGN AND POST UNTIL AFTER 12/5/11

ADMINISTRATIVE VARIANCE INFORMATION SHEET AND DATESCase Number 2012- 0124 -A Address 2704 GARNET RD.Contact Person: DONNA THOMPSON Phone Number: 410-887-3391
Planner, Please Print Your NameFiling Date: 11/7/11 Posting Date: 11/20/11 Closing Date: 12/5/11

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. **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.

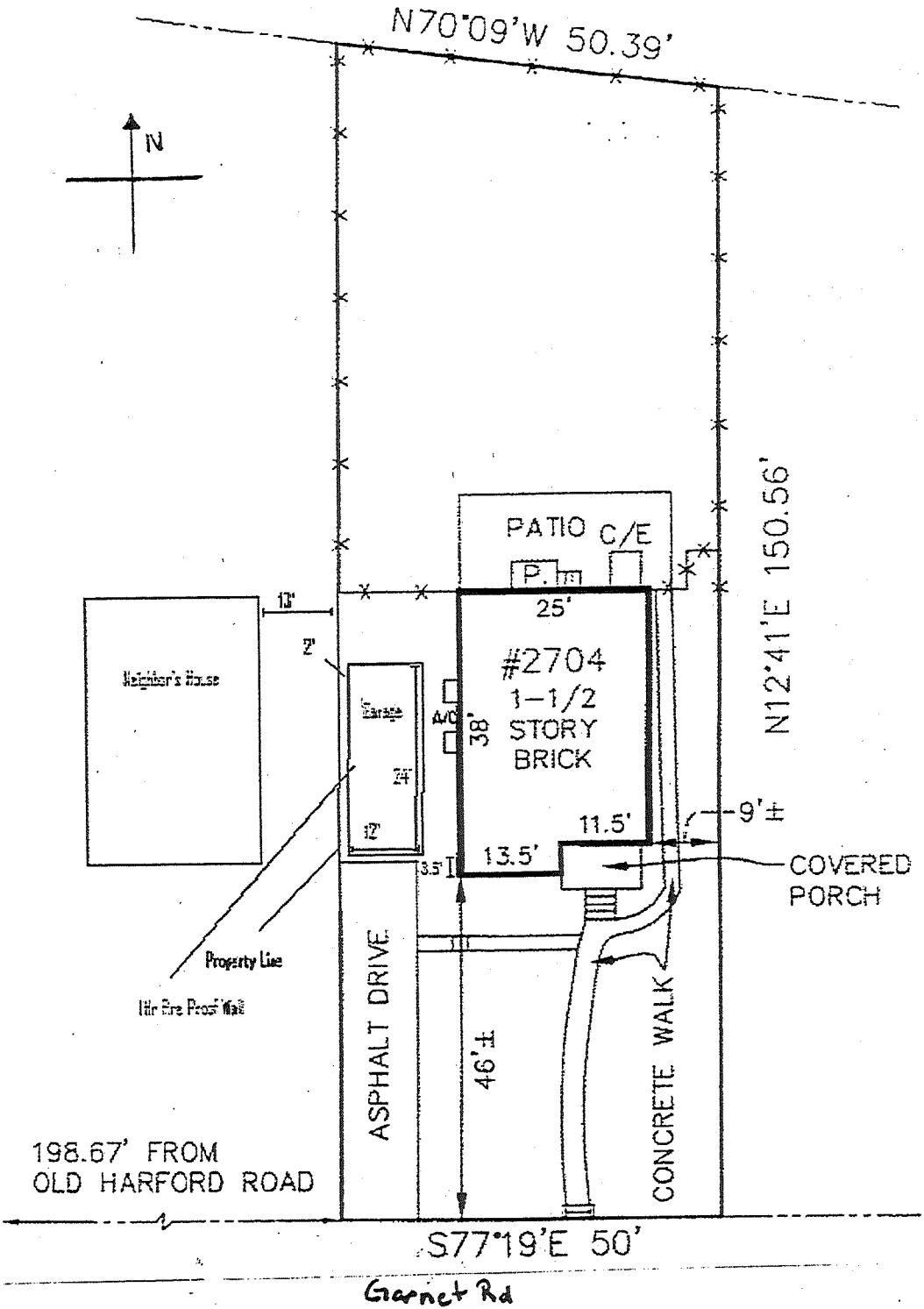
(Detach Along Dotted Line)

Petitioner: This Part of the Form is for the Sign Poster Only**USE THE ADMINISTRATIVE VARIANCE SIGN FORMAT**Case Number 2012- 0124 -A Address 2704 GARNET RD.Petitioner's Name POLETO Telephone 910-920-5993Posting Date: 11/20/11 Closing Date: 12/5/11Wording for Sign: To Permit AN ACCESSORY STRUCTURE (GARAGE) IN THE
SIDE YARD WITH A 2-FOOT SIDE SETBACK IN LIEU OF THE REQUIRED
REAR YARD WITH A 2.5-FOOT SETBACK.

Revised 7/06/11

SITE VICINITY MAP

ZONING HEARING PLAN FOR VARIANCE X FOR SPECIAL HEARING _____ (MARK TYPE REQUESTED WITH X)
 ADDRESS 2704 Garnet Rd Parkville OWNER(S) NAME(S) James & Kathryn Poletto
 SUBDIVISION NAME Canton Company Plat LOT # 308 BLOCK # _____ SECTION # _____
 PLAT BOOK # _____ FOLIO # _____ 10 DIGIT TAX # _____ DEED REF. # 30279/00118



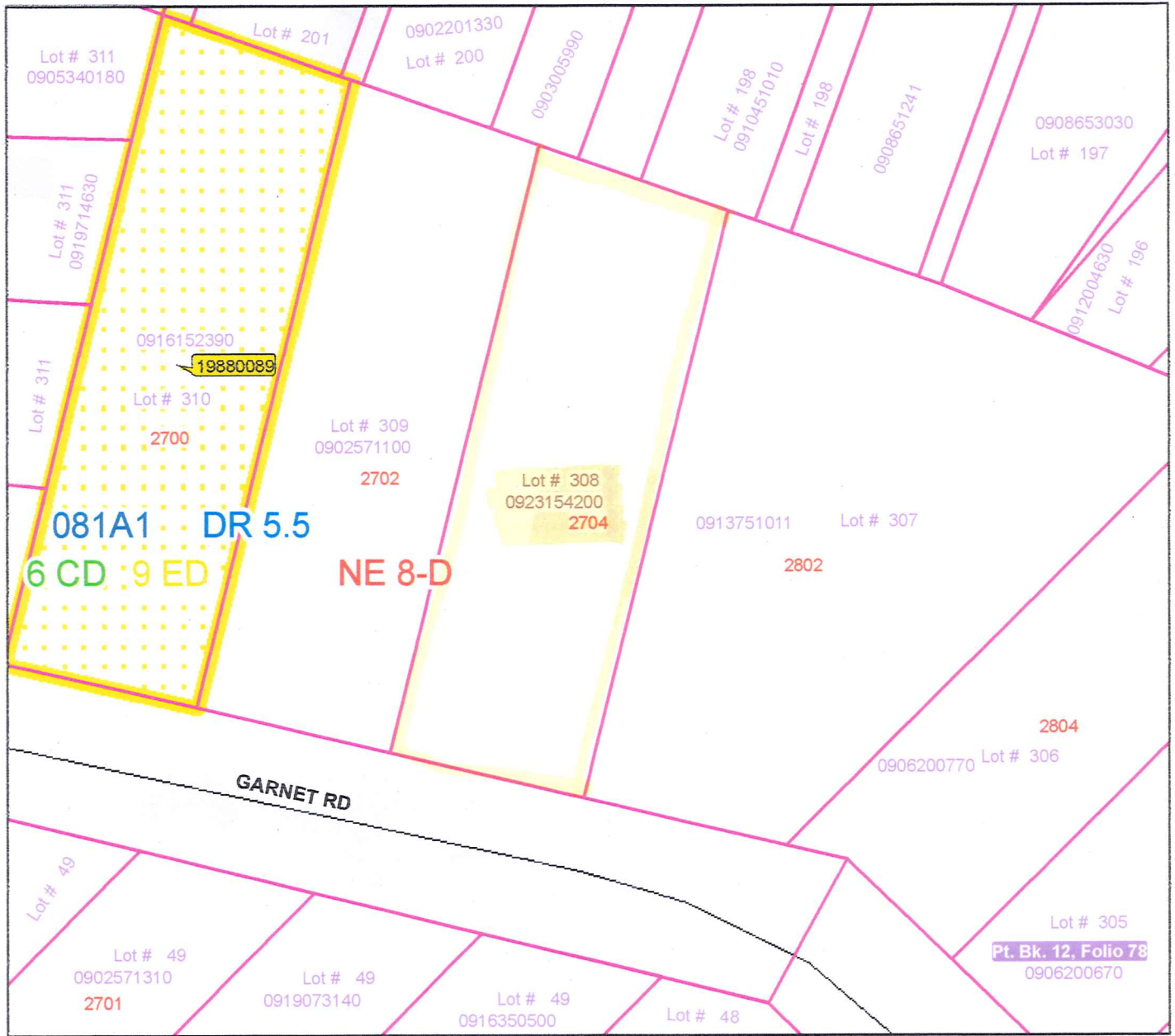
PLAN DRAWN BY James Poletto DATE Nov 1st 2011 SCALE: 1 INCH = 20 FEET

2012-0124-A

MAP IS NOT TO SCALE
 ZONING MAP# 0081
 SITE ZONED DR 5.5
 ELECTION DISTRICT 9
 COUNCIL DISTRICT 6
 LOT AREA ACREAGE _____
 OR SQUARE FEET 7651
 HISTORIC? No
 IN CBCA? No
 IN FLOOD PLAIN? No
 UTILITIES? MARK WITH _____
 WATER IS: _____
 PUBLIC X PRIVATE _____
 SEWER IS: _____
 PUBLIC X PRIVATE _____
 PRIOR HEARING? No
 IF SO GIVE CASE NUMB _____
 AND ORDER RESULT BE _____

VIOLATION CASE INFO:

2704 Garnet Road



Publication Date: October 31, 2011
 Publication Agency: Department of Permits & Development Management
 Projection/Datum: Maryland State Plane,
 FIPS 1900, NAD 1983/91 HARN, US Foot



0 40 80 Feet

1 inch = 40 feet

2012-0124-A