

IN THE MATTER OF
THE APPLICATION OF
FRANK AND JOYCE HABICHT
LEGAL OWNERS/PETITIONERS

PETITION FOR VARIANCE ON THE PROPERTY*
LOCATED AT 5809 HAZELWOOD AVENUE

14TH ELECTION DISTRICT
6TH COUNCILMANIC DISTRICT

* BEFORE THE
* BOARD OF APPEALS
* OF
* BALTIMORE COUNTY
* CASE NO. 13-217-A

* * * * *

OPINION

This case comes before the Board of Appeals as a result of Petitioners, Frank and Joyce Habicht seeking zoning approval in the form of a Variance for a carport at 5809 N. Hazelwood Avenue which was denied by Administrative Law Judge. The Petition for Variance request is from Section 400.1 of the BCZR to permit an accessory structure (carport) in the side yard with 2 foot setback in lieu of the required rear yard setback of 2.5 feet.

A hearing was held before the Baltimore County Board of Appeals on September 10, 2013. Petitioners were represented by Deborah Engram, Esquire. Protestant, William Baczynsky, appeared pro se.

BACKGROUND AND TESTIMONY

The Petitioners filed a Petition for Variance to allow a carport on their property which had already been built without a permit. The Petitioners applied for a Variance to allow the carport to remain on the property. On June 3, 2013, the Variance was denied by Order of the Administrative Law Judge, John H. Beverungen. The subject property and requested relief was fully depicted on the sketch plan that was submitted by the Petitioners as Exhibit #1.

At the hearing before this Board, Petitioner, Frank Habicht, testified regarding the uniqueness of his property and the hardship which would exist if the carport were removed. There are other structures already on his property, including a garage, a swimming pool and three other carports. One carport is four feet from his house and has a separate driveway. The second carport is attached to his house but can only be used for one car. There is a patio attached to the carport. The third carport protects his mobile home. The sketch plan, (Petitioner's Exhibit #1), shows the locations of the three carports.

Mr. Habicht testified that his property is different from the other properties in the neighborhood. He has two lots, his property is 100 feet wide and 150 feet deep. His house is a rancher and runs the width of his property. The house is 65 feet long. Other houses in the neighborhood run the length of the property. Other properties have their driveways in the front of the house. There is no sidewalk from the front door to his driveway. There is no paved way to get to the first carport. There is a walkway from the house to the garage but it is cement and there is grass between the blocks making it difficult for him to walk due to his medical conditions. He suffers from the "bends" and was paralyzed for 30 days from scuba diving. He has arthritis in his knee, suffers from diabetes, and has back problems. He has trouble walking on unpaved surfaces because he has balance problems. Petitioner presented a doctor's note, (Petitioner's Exhibit #2), regarding his need for the carport. He has trouble walking in the rain and when it is icy. He has fallen before getting into his car and cleaning his car. Mr. Habicht works full time. He leaves for work around 4:30 a.m.

On cross-examination, the Protestant showed Mr. Habicht photographs of him cutting the grass on June 19, 2013 and using a leaf blower on July 31, 2013, (Protestant's Exhibit #1 A-F, and Protestant's Exhibit #2 A-C). He questioned the Petitioner about the carport housing the

mobile home on the side of the house. This carport is 40 feet long. The Petitioners' garage is a three car garage. The measurements the Petitioner used for his sketch came from a tape measure. In addition, the Petitioner acknowledged that the Site Plan he drew (Petitioner's Exhibit 1) did not accurately reflect the location of the buildings and/or carports on the Property. On re-direct, the Petitioner explained the photographs, explaining that it is easier for him to walk on the lawn when he is holding onto something, like the lawnmower. He doesn't cut the grass very often; usually one of his grandchildren does it for him. The existing driveway is behind his house. He could move the carport to two or two and one-half feet. If he moved it two and one half feet, he would not need the variance. He cannot use the existing carport because if more than one car is in the carport, the second car will stick out.

Protestant, William Baczynsky, testified in opposition to Petitioners' request. He grew up in the house next door to Petitioners and is currently living with his parents, having moved back in with them about three years ago. He has a power of attorney for his parents. He wants the carport where it belongs, behind the house, set back two and one-half feet from the house and property line. Where the carport is now, it is an eyesore and will cause him problems should he go to sell his parents' house. He is concerned that these additions will have a negative effect on the value of his parents' property. The property has three carports and a sidewalk, a three car garage and a mobile home. The carport which houses the mobile home is massive. The Petitioners own five vehicles. There are plenty of flat surfaces for Mr. Habicht to walk on. In addition to the photographs he took, Mr. Baczynsky saw the Petitioner in August with a chainsaw cutting down fallen debris. He did not take a photograph.

Petitioner built the carport without a building permit. Mr. Baczynsky argues that if he had obtained the permit, he would have known he could not put the carport where he did. Mr.

Baczynsky introduced a photograph, (Protestant's Exhibit #4), of a tape measure from the hedge to the carport. It showed that the post of the carport is sixteen inches from the hedge.

In response, Mr. Habicht testified that he offered to take down the carport if Mr. Baczynsky's parents ever wanted to sell their house.

DECISION

Maryland jurisprudence is well established regarding the factors to be considered when contemplating variance relief.

Baltimore County Zoning Regulations, Section 307.1, in pertinent part, states as follows:

...(T)he County Board of Appeals, upon appeal, shall have and they are hereby given the power to grant variances from height and area regulations...only in cases where special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request and where strict compliance with the Zoning Regulations for Baltimore County would result in practical difficulty or unreasonable hardship.... Furthermore, any such variance shall be granted only if in strict harmony with the spirit and intent of said height, area...regulations, and only in such manner as to grant relief without injury to public health, safety, and general welfare....

This Board is guided by the holding provided by the Court of Special Appeals in *Cromwell v. Ward*, 102 Md.App. 691 (1995), wherein the Court writes:

...The Baltimore County ordinance requires "conditions ...peculiar to the land...and...practical difficulty...." Both must exist. ...However, as is clear from the language of the Baltimore County ordinance; the initial factor that must be established before the practical difficulties, if any, are addressed, is the abnormal impact the ordinance has on a specific piece of property because of the peculiarity and uniqueness of that piece of property, not the uniqueness or peculiarity of the practical difficulties alleged to exist. It is

only when the uniqueness is first established that we then concern ourselves with the practical difficulties...." *Id.* at 698.

In requiring a pre-requisite finding of "uniqueness", the Court defined the term and stated:

In the zoning context the "unique" aspect of a variance requirement does not refer to the extent of improvements upon the property, or upon neighboring property. "Uniqueness" of a property for zoning purposes requires that the subject property has an inherent characteristic not shared by other properties in the area, i.e., its shape, topography, subsurface condition, environmental factors, historical significance, access or non-access to navigable waters, practical restrictions imposed by abutting properties (such as obstructions) or other similar restrictions.... *Id.* at 710.

Further, in *North v. St. Mary's County*, 99 Md. App. 502 (1994), the Court held that

...the 'unique' aspect of a variance requirement does not refer to the extent of improvements on the property, or upon neighboring property. 'Uniqueness' of a property for zoning purposes requires that the subject property have an inherent characteristic not shared by other properties in the area, i.e., its shape, topography, subsurface condition, environmental factors, historical significance, access or non-access to navigable waters, practical restrictions imposed by abutting properties (such as obstructions) or other similar restrictions. In respect to structures, it would relate to such characteristics as unusual architectural aspects and bearing or party walls. *Id.* at 514.

If the property is determined to be unique, then this issue is whether practical difficulties also exist. In *McLean v. Soley*, 270 Md. 216 (1973) the court established the following criteria for determining practical difficulty or unreasonable hardship:

"1) Whether compliance with the strict letter of the restrictions governing various variances would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome.

"2) Whether a grant of the variance applied for would do substantial justice to the applicant as well as to other property owners in the district, or whether a lesser relaxation than that applied for would give substantial relief to the owner of the property involved and be more consistent with justice to other property owners.

"3) Whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured."

The law is clear, that self-inflicted hardship cannot form the basis for a claim of practical difficulty.

Speaking for the Court in *Cromwell*, *supra*, Judge Cathell noted:

Were we to hold that self-inflicted hardships in and of themselves justified variances, we would, effectively, not only generate a plethora of such hardships but we would also emasculate zoning ordinances. Zoning would become meaningless. We hold that practical difficulty or unnecessary hardship for zoning variance purposes cannot generally be self-inflicted.

Id. at 722.

Petitioner based his request for a variance on two arguments. His first argument is that his property is unique because he has two lots where everyone else in his neighborhood has one. His second argument is that his property is unique because of the way the buildings on his lot are situated. The Petitioner infers that these two conditions provide the uniqueness contemplated in *Cromwell* which makes granting the requested variance justified.

The Board must make a determination as to whether the Petitioner's property is "unique" as spelled out in *Cromwell*. *Cromwell* requires that the property itself be unique. The Board determined that in the instant case, the property itself is not unique as *Cromwell* does not allow uniqueness to be due to the development of the property.

It was also noted by the Petitioner that the additional carport was needed due to his health. A doctor's note was provided. The Board reviewed that the Petitioner already has a three-car garage and two other carports on his property. The Board discussed that any hardship is self-imposed due to the configuration of the buildings on his property. The Board determined that denying the variance does not restrict the use of the property as a residential property.

CONCLUSION

The Board finds that, based upon the evidence presented, the Petitioner has failed to meet his burden to prove that the property is unique by the standards of *Cromwell, supra*. As such, we do not have to address whether any practical difficulty exists. If we were to address that issue, we would have found that any hardship is self-imposed and denying the variance does not hinder the use of the property.

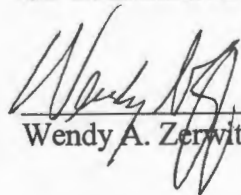
ORDER

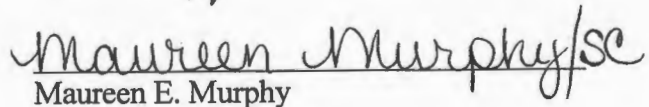
THEREFORE, IT IS THIS 19th day of February, 2014 by the Board of Appeals of Baltimore County

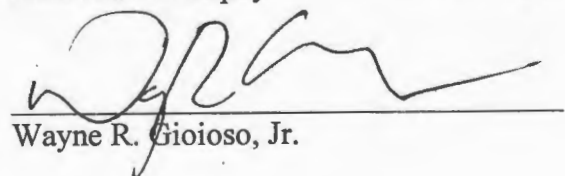
ORDERED that the Petitioner's request for a variance from Section 400.1 of the BCZR to permit an accessory structure (carport) in the side yard with a 2 feet setback in lieu of the required rear yard setback of 2.5 feet, is hereby **DENIED**.

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*.

**BOARD OF APPEALS
OF BALTIMORE COUNTY**


Wendy A. Zerwitz, Panel Chair


Maureen E. Murphy


Wayne R. Gioioso, Jr.



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

February 19, 2014

Frank and Joyce Habicht
5809 Hazelwood Avenue
Baltimore, MD 21206

RE: *In the Matter of: Frank and Joyce Habicht - Legal Owners/Petitioners*
Case No.: 13-217-A

Dear Mr. and Mrs. Habicht:

Enclosed please find a copy of the final Opinion and Order 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,

A handwritten signature in cursive script that reads "Sunny Cannington".

Krysundra "Sunny" Cannington
Administrator

Enclosure

c: Bill Baczynsky
Office of People's Counsel
Lawrence M. Stahl, Managing Administrative Law Judge
Arnold Jablon, Director/PAI
Andrea Van Arsdale, Director/Department of Planning
Nancy West, Assistant County Attorney
Michael Field, County Attorney, Office of Law

BOARD OF APPEALS OF BALTIMORE COUNTY
MINUTES OF DELIBERATION

IN THE MATTER OF: Frank and Joyce Habicht

13-217-A

DATE: November 7, 2013

BOARD/PANEL: Wendy A. Zerwitz, Panel Chairman
Maureen E. Murphy
Wayne R. Gioioso, Jr.

RECORDED BY: Sunny Cannington/Legal Secretary

PURPOSE: To deliberate the following:

1. Petition for Variance to permit an existing accessory structure (detached carport) in the side yard with a 2 feet setback, in lieu of the required rear yard with a minimum of 2 ½ feet setback
2. Is the property unique pursuant to the conditions set forth in Cromwell vs. Ward?
3. If the property is unique pursuant to the conditions set forth in Cromwell vs. Ward; will failure to grant the Variance present a practical difficulty or unusual hardship on the property owner?

PANEL MEMBERS DISCUSSED THE FOLLOWING:

STANDING

- The Board reviewed the history of this matter. The Petitioner built a carport on his property without a permit. The Petitioner applied for a Variance to allow the carport to remain on the property.
- The Board discussed the requirements of Cromwell v. Ward. The Petitioner argued that the property is unique because he had two lots which no one else in the neighborhood has. The Petitioner also argued his property is unique because of the way the buildings on his lot are situated. Cromwell requires that the property itself be unique. The Board determined that the land itself is not unique and Cromwell does not allow uniqueness to be due to the development of the property.
- The Board reviewed that the Petitioner already has a three-car garage and two other carports on his property. The Board discussed that any hardship is self-imposed due to the configuration of the buildings. The Board determined that denying the variance does not restrict the use of the property as a residential property.

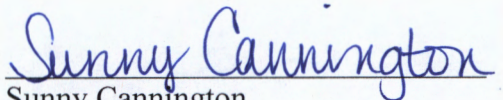
DECISION BY BOARD MEMBERS:

The Board determined that the property is not unique by the standards of Cromwell vs. Ward. The Board determined that any hardship is self-imposed and denying the variance does not hinder the use of the property.

FINAL DECISION: After thorough review of the facts, testimony, and law in the matter, the Board unanimously agreed to DENY the requested relief.

NOTE: These minutes, which will become part of the case file, are intended to indicate for the record that a public deliberation took place on the above date regarding this matter. The Board's final decision and the facts and findings thereto will be set out in the written Opinion and Order to be issued by the Board.

Respectfully Submitted,


Sunny Cannington



KEVIN KAMENETZ
County Executive

LAWRENCE M. STAHL
Managing Administrative Law Judge
JOHN E. BEVERUNGEN
Administrative Law Judge

July 3, 2013

Frank L. and Joyce M. Habicht
5809 Hazelwood Avenue
Baltimore, Maryland 21206



RE: **APPEAL TO BOARD OF APPEALS**
Case No. 2013-0217-A
Location: 5809 Hazelwood Avenue

Dear Mr. and Mrs. Habicht:

Please be advised that an appeal of the above-referenced case was filed in this Office on June 28, 2013. 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 contact the Board at 410-887-3180.

Sincerely,

A handwritten signature in black ink, appearing to read "L. Stahl", written over the typed name.

LAWRENCE M. STAHL
Managing Administrative Law Judge
for Baltimore County

LMS:dlw

c: ✓ Baltimore County Board of Appeals
People's Counsel for Baltimore County
Lewis Mayer, Code Inspections and Enforcement, PAI
Bill Baczynskyj, 5811 Hazelwood Avenue, Baltimore, MD 21206

APPEAL

**Petition for Variance
(5809 Hazelwood Avenue)
14th Election District – 6th Councilmanic District
Legal Owners: Frank L. and Joyce M. Habicht
Case No. 2013-0217-A**

Petition for Variance (March 29, 2013)

Zoning Description of Property

Notice of Zoning Hearing (April 17, 2013)

Certificate of Publication (The Jeffersonian – May 9, 2013)

Certificate of Posting (May 9, 2013) by William D. Gulick, Jr.

Entry of Appearance by People's Counsel (April 10, 2013)

Petitioner(s) Sign-in Sheet – None

Citizen(s) Sign-in Sheet – 1 Sheet

Zoning Advisory Committee Comments

Petitioner(s) Exhibits

1. Site Plan

Miscellaneous (Not Marked as Exhibits) – Photos & Code Enforcement Correction Notice

Administrative Law Judge Order (DENIED – June 3, 2013)

Notice of Appeal – June 28, 2013 from Frank Habicht

APPEAL

Petition for Variance
(5809 Hazelwood Avenue)
14th Election District – 6th Councilmanic District
Legal Owners: Frank L. and Joyce M. Habicht
Case No. 2013-0217-A

- ✓ Petition for Variance (March 29, 2013)
- ✓ Zoning Description of Property
- ✓ Notice of Zoning Hearing (April 17, 2013)
- ✓ Certificate of Publication (The Jeffersonian – May 9, 2013)
- ✓ Certificate of Posting (May 9, 2013) by William D. Gulick, Jr.
- ✓ Entry of Appearance by People's Counsel (April 10, 2013)
- Petitioner(s) Sign-in Sheet – None
- ✓ Citizen(s) Sign-in Sheet – 1 Sheet
- ✓ Zoning Advisory Committee Comments
- ✓ Petitioner(s) Exhibits
 - ✓ 1. Site Plan
- ✓ Miscellaneous (Not Marked as Exhibits) – Photos & Code Enforcement Correction Notice
- ✓ Administrative Law Judge Order (DENIED – June 3, 2013)
- ✓ Notice of Appeal – June 28, 2013 from Frank Habicht

Address List

Petitioner:

Frank and Joyce Habicht
5809 Hazelwood Avenue
Baltimore, MD 21206

Interested Person:

Bill Baczynsky
5811 Hazelwood Avenue
Baltimore, MD 21206

Interoffice:

Office of People's Counsel
Lawrence M. Stahl, Managing Administrative Law Judge
Arnold Jablon, Director/PAI
Andrea Van Arsdale, Director/Department of Planning
Nancy West, Assistant County Attorney
Michael Field, County Attorney, Office of Law

RECEIVED

JUN 28 2013

IN RE: PETITION FOR VARIANCE

BEFORE THE OFFICE

(5809 North Hazelwood Avenue)

OF ADMINISTRATIVE

BALTIMORE COUNTY
BOARD OF APPEALS

14th Election District

HEARINGS FOR

6th Councilman District

Frank L., Jr. & Joyce M. Habicht

BALTIMORE COUNTY

Legal Owners

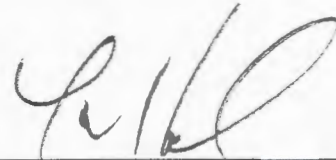
Petitioners

CASE NO.: 2013-0217-A

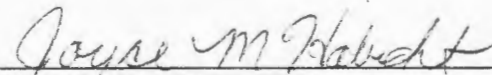
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NOTICE OF APPEAL

Please enter an appeal on behalf of Frank L. Habicht, Jr. and Joyce M. Habicht, Petitioners, to the Baltimore County Board Of Appeals from the Opinion And Order of John E. Beverungen, Administrative Law Judge, entered in the above-captioned matter on June 3, 2013.



FRANK L. HABICHT, JR.



JOYCE M. HABICHT

5809 N. Hazelwood Avenue

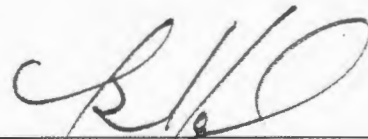
Baltimore, Maryland 21206

(410) 866-6337

Respondents

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 28th day of June, 2013, a copy of the foregoing Notice Of Appeal was mailed, first-class mail, postage prepaid, to: BILL BACZYNSKYJ, 5811 North Hazelwood Avenue, Baltimore, Maryland 21206.



FRANK L. HABICHT, JR.

IN RE: PETITION FOR VARIANCE

*

BEFORE THE OFFICE

(5809 North Hazelwood Avenue)

*

OF ADMINISTRATIVE

14th Election District

*

HEARINGS FOR

6th Councilman District

*

BALTIMORE COUNTY

Frank L., Jr. & Joyce M. Habicht

*

CASE NO.: 2013-0217-A

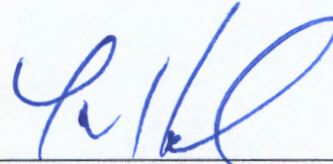
Legal Owners

Petitioners

* * * * *

NOTICE OF APPEAL

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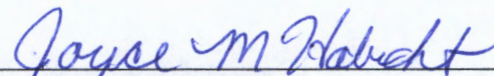


FRANK L. HABICHT, JR.

RECEIVED

JUN 28 2013

OFFICE OF ADMINISTRATIVE HEARINGS



JOYCE M. HABICHT

5809 N. Hazelwood Avenue

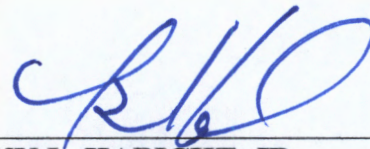
Baltimore, Maryland 21206

(410) 866-6337

Respondents

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 28th day of June, 2013, a copy of the foregoing Notice Of Appeal was mailed, first-class mail, postage prepaid, to: **BILL BACZYNSKYJ**, 5811 North Hazelwood Avenue, Baltimore, Maryland 21206.



FRANK L. HABICHT, JR.

IN RE: PETITION FOR VARIANCE
(5809 Hazelwood Avenue)
14th Election District
6th Councilman District
Frank L. & Joyce M. Habicht
Legal Owners
Petitioners

*

BEFORE THE OFFICE

*

OF ADMINISTRATIVE

*

HEARINGS FOR

*

BALTIMORE COUNTY

*

CASE NO. 2013-0217-A

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for Baltimore County as a Petition for Variance filed by Frank L. and Joyce M. Habicht, the legal owners of the subject property. The Petitioners are requesting Variance relief from Section 400.1 of the Baltimore County Zoning Regulations (B.C.Z.R.), to permit an existing accessory structure (detached carport) in the side yard with a 2 ft. setback in lieu of the required rear yard only with a minimum 2.5 ft. setback.

The subject property and requested relief is more fully depicted on the site plan that was marked and accepted into evidence as Petitioners' Exhibit 1.

Appearing at the public hearing in support of the requests was Frank L. Habicht. The adjoining neighbor, William Baczynskyj, attended the hearing and opposed the petition. The file reveals that the Petition was properly advertised and the site was properly posted as required by the Baltimore County Zoning Regulations.

The only substantive Zoning Advisory Committee (ZAC) comment was received from the Department of Planning (DOP) dated April 16, 2013 indicating that the property is the subject of violation Case # C0123323 for installing a metal carport with no permit. Due to the fact that there are 2 accessory structures on the site, as well as an attached carport, the DOP does not support the request for variance relief.

ORDER RECEIVED FOR FILING

Date 6-3-13

By Aln

Testimony and evidence revealed that the subject property is approximately 15,000 square feet and is zoned DR 5.5. The Petitioner indicated he suffers from a medical condition and noted that he had in the file a doctor's note in support of the petition. The neighbor opposed the petition and testified that in reality the carport is no more than 12-18" from the property line. Mr. Baczynskyj testified that the structure is unattractive, too close to his home, and he feared that it could negatively impact the value or marketability of his home.

Based upon the testimony and evidence presented, I will deny the request for variance relief. Under *Cromwell* and its progeny, to obtain variance relief requires a showing that:

- (1) The property is unique; and
- (2) If variance relief is denied, Petitioner will experience a practical difficulty or hardship.

Trinity Assembly of God v. People's Counsel, 407 Md. 53, 80 (2008).

The Petitioner did not offer any evidence or testimony to prove that the property is unique as that term is used in the law. As such, the Petitioner must be denied.

Pursuant to the advertisement, posting of the property and public hearing on this Petition, and for the reasons set forth above, the variance relief requested shall be denied

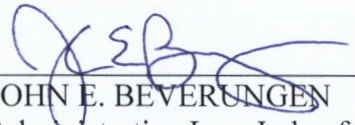
THEREFORE, IT IS ORDERED, this 3rd day of June, 2013, by the Administrative Law Judge for Baltimore County, that the Petition for Variance seeking relief pursuant to Baltimore County Zoning Regulations ("B.C.Z.R") to permit an existing accessory structure (detached carport) in the side yard with a 2 ft. setback in lieu of the required rear yard only with a minimum 2.5 ft. setback, be and is hereby DENIED.

ORDER RECEIVED FOR FILING

Date 6-3-13

By Sen

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



JOHN E. BEVERUNGEN
Administrative Law Judge for
Baltimore County

JEB:slh

ORDER RECEIVED FOR FILING

Date 6-3-13

By Aln



KEVIN KAMENETZ
County Executive

LAWRENCE M. STAHL
Managing Administrative Law Judge
JOHN E. BEVERUNGEN
Administrative Law Judge

June 3, 2013

Frank and Joyce Habicht
5809 Hazelwood Avenue
Baltimore, Maryland 21206

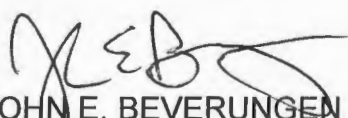
RE: Petitions for Variance
Case No. 2013-0217-A
Property: 5809 Hazelwood Avenue

Dear Mr. and Mrs. Habicht:

Enclosed please find a copy of the decision rendered in the above-captioned matter.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Office of Administrative Hearings at 410-887-3868.

Sincerely,


JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County

JEB:sln
Enclosure

C: Bill Baczynskyj, 5811 Hazelwood Avenue, Baltimore, Maryland 21206



PETITION FOR ZONING HEARING(S)

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 5809 N. HAZELWOOD AVE which is presently zoned DR5.5
Deed References: 05841 / 00292 10 Digit Tax Account # 1418053150
Property Owner(s) Printed Name(s) FRANK L. HABICHT & JOYCE M. HABICHT

(SELECT THE HEARING(S) BY MARKING ☒ AT THE APPROPRIATE SELECTION AND PRINT OR TYPE THE PETITION REQUEST)

The undersigned legal owner(s) of the property situate in Baltimore County and which is described in the description and plan attached hereto and made a part hereof, hereby petition for:

1. ☐ a Special Hearing under Section 500.7 of the Zoning Regulations of Baltimore County, to determine whether or not the Zoning Commissioner should approve

2. ☐ a Special Exception under the Zoning Regulations of Baltimore County to use the herein described property for

3. ☒ a Variance from Section(s) 400.1, BC2R, to permit an existing accessory structure (detached carport) in the side yard with a 2 feet setback, in lieu of the required rear yard only with a minimum $2\frac{1}{2}$ feet setback. ANK

of the zoning regulations of Baltimore County, to the zoning law of Baltimore County, for the following reasons: (Indicate below your hardship or practical difficulty or indicate below "TO BE PRESENTED AT HEARING". If you need additional space, you may add an attachment to this petition)

TO BE PRESENTED AT HEARING

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

Zip Code

Telephone #

Email Address

Attorney for Petitioner:

Name- Type or Print

Signature

Mailing Address

City

State

Zip Code

Telephone #

Email Address

Legal Owners (Petitioners):

FRANK L. HABICHT JR., JOYCE M. HABICHT

Name #1 - Type or Print

Name #2 - Type or Print

Signature #1

Signature #2

Mailing Address

City

State

Zip Code

Telephone #

Email Address

Representative to be contacted:

Name - Type or Print

Signature

Mailing Address

City

State

Zip Code

Telephone #

Email Address

CASE NUMBER 2013-0217-A

Filing Date 3/29/13

Do Not Schedule Dates: _____

Reviewer AT

~~PART A (START DESCRIPTION WITH THE FOLLOWING)~~

Zoning property description for N. Hazelwood Ave.

Beginning at a point on the east side of N. Hazelwood Ave. which is 30' feet wide at the distance of 200' of feet north of the centerline of The nearest improved intersection street Southwood Ave. which is 30' feet wide.

~~PART B (CONTINUE DESCRIPTION WITH ONE OF THE FOLLOWING 3 OPTIONS)~~

~~OPTION 2 (subdivision Lot — lot is part of record plat)~~

Ball Being lot #148-¹⁵¹150 in the subdivision of Countryside as recorded In Baltimore Country Plat Book #7, Folio # 3, containing 15,000 sq. ft. Located in the (14) Election District and (6) Council District.

Frank L. Habicht Jr. and Joyce M Habicht
5809 N Hazelwood Ave.
Baltimore, Md. 21206

2013-0217-A

DEPARTMENT OF PERMITS, APPROVALS AND INSPECTIONS

ZONING REVIEW

ADVERTISING REQUIREMENTS AND PROCEDURES FOR ZONING HEARINGS

The Baltimore County Zoning Regulations (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.

For Newspaper Advertising:

Item Number or Case Number: 2013-0217-A
Petitioner: FRANK HABICHT JR.
Address or Location: 5809 N. HAZELWOOD AVE, MD 21206

PLEASE FORWARD ADVERTISING BILL TO:

Name: FRANK HABICHT JR.
Address: 5809 N. HAZELWOOD AVE
BALTIMORE, MD 21206
Telephone Number: 410-866-6337

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

No. **96211**

Date: **3/29/13**

PAID RECEIPT

BUSINESS ACTUAL TIME
 3/29/2013 3/29/2013 09:22:36 2

RE: 0002 WALTON JOHN JR
 RECEIPT # 019208 3/29/2013 OFLN

Dept 5 520 BUDGET VERIFICATION
 NO. 096211

Receipt for \$75.00
 \$75.00 02 \$5.00 CA
 Baltimore County, Maryland

Fund	Dept	Unit	Sub Unit	Rev Source/Obj	Sub Rev/Obj	Dept Obj	BS Acct	Amount
001	806	0000		6150				\$75-

Total: **\$75**

Rec From: **FRANK HABICHT JR.**

For: **5809 N. HAZELWOOD AVE**

2013-0217-A

4773

DISTRIBUTION

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

**CASHIER'S
 VALIDATION**

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

No. **94609**

Date: **6-28-13**

PAID RECEIPT

BUSINESS ACTUAL TIME OFF
 6/28/2013 6/28/2013 11:00:13 6

REC WORK WALKIN TAY TST
 >>RECEIPT # 684141 6/28/2013 OFLN

Fund	Dept	Unit	Sub Unit	Rev Source/Obj	Sub Rev/Obj	Dept	Obj	BS Acct	Amount
001	806	0000		6150					265.00

Dept: 5 528 ZONING VERIFICATION
 CLERK 094609
 Recpt Tot \$265.00
 \$265.00 CK \$1.00 CA
 Baltimore County, Maryland

Total: **265.00**

Rec From: **Frank Habicht**

For: **Appeal - Case No. 2413-0217-1**

5809 N. Hazelwood Ave.

DISTRIBUTION

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

**CASHIER'S
 VALIDATION**

5809 N. Hazelwood Avenue
Baltimore, Maryland 21206
June 28, 2013

Board of Appeals for Baltimore County
Suite 203, Jefferson Building
105 West Chesapeake Avenue
Towson, Maryland 21204

RECEIVED

JUN 28 2013

Re: Petition For Variance
Case No.: 2013-0217-A
Property: 5809 N. Hazelwood Avenue

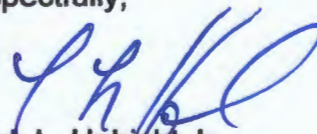
OFFICE OF ADMINISTRATIVE HEARINGS

To whom it may concern:

I had requested, and was denied, a variance for our carport because it was not to code. The code requires that the carport be located ten feet (10') from my property line and ten feet (10') from my house. The carport is currently located twenty inches (20") from my property line and four feet (4') from my house. I requested this variance for several reasons. I have fallen several times cleaning off my car in the rain and from the slippery conditions on my driveway caused by the night dew. I leave for work very early in the morning, and I have trouble keeping my balance while trying to clean off my car due to a physical disability. At the time of the hearing before the Administrative Law Judge at the Office of Administrative Hearings, I presented a note from my physician attesting to the nature of my disability. I currently have a carport attached directly to my house, however, this carport is used by my wife, who leaves for work at 4:45 a.m. I am 72 years old and my wife will be 74 years old shortly. We both are still working full-time. Allowing us to leave the carport in the current location would help me tremendously with my disability, as opposed to requiring us to move it to our backyard. My neighbor's son, who does not have an ownership interest in his home, nor did he represent that he was the attorney-in-fact for either of his parents, has complained about the carport not being pleasing to his eye and potentially decreasing the value of his home upon sale. We have agreed to move the carport in the event his parents ever decided to list the home for sale, or in the event he inherits the home and wants to list it for sale. However, the carport cannot be seen from the side windows of the neighbors' home. They must come outside to actually see the structure.

For these reasons, I am requesting that the decision of the Administrative Law Judge be reversed.

Respectfully,



Frank L. Habicht Jr.

Letter of Transmittal

William D. Gulick, Jr.

Consultant to Land Development and Industry
Commercial and Residential
2944 Edgewood Avenue
Baltimore, MD 21234
Phone - 410-530-6293
E-mail - wdgjr@comcast.net

To: Balto. Co. PAI, Zoning office, Attn.: Ms. Kristen Lewis

We Are Sending You: ☒ Attached ☐ Under separate cover the following items:

☐ Copy of Letter ☒ Prints ☒ Documents ☐ Other

No. of Copies Date Description

1	May 9, 2013	Certificate Of Posting
2	May 9, 2013	Site Photos

Transmittals are as checked below:

☐ For approval ☒ For your use ☐ As requested ☐ For review & content

Project: 2013-0217-A

Remarks: 5809 N. Hazelwood Avenue

Signed: _____

William D. Gulick, Jr.

Project Manager

Certificate of Posting

Department of Permits, Approval, and Inspections
Baltimore County
111 W. Chesapeake Avenue
Room 111
Towson, MD 21204

Date: May 9, 2013

Attention: Ms. Kristen Lewis

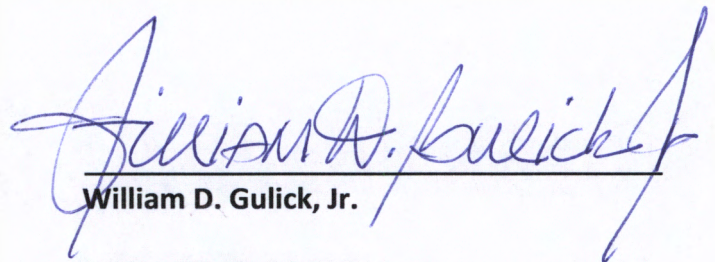
Re: Case Number: 2013-0217-A

Petitioner/Developer: Frank & Joyce Habicht, Jr.

Date of Hearing/Closing: May 30, 2013

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: 5809 N. Hazelwood Avenue

The sign(s) were posted on: May 9, 2013



William D. Gulick, Jr.

2944 Edgewood Avenue
Baltimore, MD 21234
(410) 530-6293

ZONING NOTICE

CASE # 2013-0217-A

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

JEFFERSON BUILDING ROOM 205
105 WEST CHESAPEAKE AVENUE
PLACE: TOWSON MD 21204

THURSDAY
DATE AND TIME: MAY 30, 2013 @ 10:00 AM

REQUEST: VARIANCE TO PERMIT AN
EXISTING ACCESSORY STRUCTURE

(DETACHED GARPORT) IN THE SIDE YARD A 2 FEET

SETBACK, IN LIEU OF THE REQUIRED REAR YARD

ONLY WITH A MINIMUM 2 1/2 FEET SETBACK.

POSTPONEMENTS DUE TO WEATHER OR OTHER CONDITIONS ARE SOMETIMES NECESSARY.
TO CONFIRM HEARING CALL 887-3291 (410)

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

1 N. HAZELWOOD AVE.



THE BALTIMORE SUN MEDIA GROUP

Baltimore, Maryland 21278-0001

May 9, 2013

THIS IS TO CERTIFY, that the annexed advertisement was published in the following newspaper published in Baltimore County, Maryland, ONE TIME, said publication appearing on May 9, 2013

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

THE BALTIMORE SUN MEDIA GROUP

By: Susan Wilkinson

Susan Wilkinson

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: # 2013-0217-A

5809 N. Hazelwood Avenue
E/s Hazelwood Avenue, 200 ft. N/of
centerline of Southwood Avenue
14th Election District - 6th Councilmanic District
Legal Owner(s): Frank & Joyce Habicht, Jr.

Variance: to permit an existing accessory structure (detached carport) in the side yard a 2 feet setback, in lieu of the required rear yard only with a minimum 2 1/2 feet setback.

Hearing: Thursday, May 30, 2013 at 10:00 a.m. in Room 205, Jefferson Building, 105 West Chesapeake Avenue, Towson 21204.

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

NOTES: (1) Hearings are Handicapped Accessible; for special accommodations Please Contact the Administrative Hearings Office at (410) 887-3868.

(2) For information concerning the File and/or Hearing, Contact the Zoning Review Office at (410) 887-3391.
5/140 May 9

920635



KEVIN KAMENETZ
County Executive

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

April 17, 2013

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 NUMBER: 2013-0217-A

5809 N. Hazelwood Avenue

E/s Hazelwood Avenue, 200 ft. N/of centerline of Southwood Avenue

14th Election District – 6th Councilmanic District

Legal Owners: Frank & Joyce Habicht, Jr.

Variance to permit an existing accessory structure (detached carport) in the side yard a 2 feet setback, in lieu of the required rear yard only with a minimum 2 ½ feet setback.

Hearing: Thursday, May 30, 2013 at 10:00 a.m. in Room 205, Jefferson Building,
105 West Chesapeake Avenue, Towson 21204

A handwritten signature in black ink, appearing to read "Arnold Jablon".

Arnold Jablon
Director

AJ:kl

C: Mr. & Mrs. Habicht, 5809 N. Hazelwood Avenue, Baltimore 21206

- NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY FRIDAY, MAY 10, 2013.**
- (2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL THE ADMINISTRATIVE HEARINGS OFFICE AT 410-887-3868.
- (3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.

TO: PATUXENT PUBLISHING COMPANY
Thursday, May 9, 2013 Issue - Jeffersonian

Please forward billing to:

Frank Habicht, Jr.
5809 N. Hazelwood Avenue
Baltimore, MD 21206

410-866-6357

NOTICE OF ZONING HEARING

The Administrative Law Judge 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: 2013-0217-A

5809 N. Hazelwood Avenue

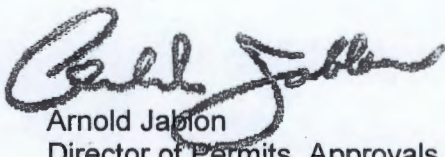
E/s Hazelwood Avenue, 200 ft. N/of centerline of Southwood Avenue

14th Election District – 6th Councilmanic District

Legal Owners: Frank & Joyce Habicht, Jr.

Variance to permit an existing accessory structure (detached carport) in the side yard a 2 feet setback, in lieu of the required rear yard only with a minimum 2 ½ feet setback.

Hearing: Thursday, May 30, 2013 at 10:00 a.m. in Room 205, Jefferson Building,
105 West Chesapeake Avenue, Towson 21204



Arnold Jablon

Director of Permits, Approvals and Inspections for Baltimore County

- NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMODATIONS, PLEASE CONTACT THE ADMINISTRATIVE HEARINGS OFFICE AT 410-887-3868.
- (2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.



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
July 23, 2013

NOTICE OF ASSIGNMENT

CASE #: 13-217-A **IN THE MATTER OF:** Frank and Joyce Habicht – Petitioners
5809 Hazelwood Avenue / 14th Election District; 6th Councilmanic District

Re: Petition for Variance to permit an existing accessory structure (detached carport) in the side yard with a 2 feet setback, in lieu of the required rear yard with a minimum of 2 ½ feet setback.

6/3/13 Opinion and Order of Administrative Law Judge wherein all relief was DENIED.

ASSIGNED FOR: **TUESDAY, SEPTEMBER 10, 2013, AT 10:00 A.M.**

LOCATION: Hearing Room #2, Second Floor, Suite 206
Jefferson Building, 105 W. Chesapeake Avenue, Towson

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.

Krysundra "Sunny" Cannington
Acting Administrator

c: Petitioner/LO

: Frank and Joyce Habicht

Bill Baczynsky

Office of People's Counsel
John E. Beverungen, Administrative Law Judge
Andrea Van Arsdale, Director/Department of Planning
Michael Field, County Attorney, Office of Law

Lawrence M. Stahl, Managing Administrative Law Judge
Arnold Jablon, Director/PAI
Nancy West, Assistant County Attorney



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 12, 2013

NOTICE OF DELIBERATION

CASE #: 13-217-A **IN THE MATTER OF:** Frank and Joyce Habicht – Petitioners
5809 Hazelwood Avenue / 14th Election District; 6th Councilmanic District

Re: Petition for Variance to permit an existing accessory structure (detached carport)
in the side yard with a 2 feet setback, in lieu of the required rear yard with a
minimum of 2 ½ feet setback.

6/3/13 Opinion and Order of Administrative Law Judge wherein all relief was DENIED.

This matter having been heard on September 10, 2013, a public deliberation has been scheduled for the following:

DATE AND TIME: THURSDAY, OCTOBER 17, 2013 at 9:30 a.m.

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

NOTE: ALL PUBLIC DELIBERATIONS ARE OPEN SESSIONS; HOWEVER, ATTENDANCE IS NOT REQUIRED. A WRITTEN OPINION /ORDER WILL BE ISSUED BY THE BOARD AND A COPY SENT TO ALL PARTIES.

Krysundra "Sunny" Cannington
Acting Administrator

c: Petitioner/Legal Owner

: Frank and Joyce Habicht

Bill Baczynsky

Office of People's Counsel
John E. Beverungen, Administrative Law Judge
Andrea Van Arsdale, Director/Department of Planning
Michael Field, County Attorney, Office of Law

Lawrence M. Stahl, Managing Administrative Law Judge
Arnold Jablon, Director/PAI
Nancy West, Assistant County Attorney



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

October 16, 2013

NOTICE OF DELIBERATION

CASE #: 13-217-A **IN THE MATTER OF:** Frank and Joyce Habicht – Petitioners
5809 Hazelwood Avenue / 14th Election District; 6th Councilmanic District

Re: Petition for Variance to permit an existing accessory structure (detached carport)
in the side yard with a 2 feet setback, in lieu of the required rear yard with a
minimum of 2 ½ feet setback.

6/3/13 Opinion and Order of Administrative Law Judge wherein all relief was DENIED.

This matter having been heard on September 10, 2013, a public deliberation was postponed from October 17, 2013 and has been rescheduled for the following:

DATE AND TIME: THURSDAY, NOVEMBER 7, 2013 at 10:30 a.m.

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

NOTE: ALL PUBLIC DELIBERATIONS ARE OPEN SESSIONS; HOWEVER, ATTENDANCE IS NOT REQUIRED. A WRITTEN OPINION /ORDER WILL BE ISSUED BY THE BOARD AND A COPY SENT TO ALL PARTIES.

Krysundra "Sunny" Cannington
Acting Administrator

c: Petitioner/Legal Owner

: Frank and Joyce Habicht

Bill Baczynsky

Office of People's Counsel
John E. Beverungen, Administrative Law Judge
Andrea Van Arsdale, Director/Department of Planning
Michael Field, County Attorney, Office of Law

Lawrence M. Stahl, Managing Administrative Law Judge
Arnold Jablon, Director/PAI
Nancy West, Assistant County Attorney



KEVIN KAMENETZ
County Executive

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

May 22, 2013

Frank L & Joyce M Habicht
5809 N Hazelwood Avenue
Baltimore MD 21206

RE: Case Number: 2013-0217 A, Address: 5809 N Hazelwood Avenue, 21206

Dear Mr. & Ms. Habicht:

The above referenced petition was accepted for processing **ONLY** by the Bureau of Zoning Review, Department of Permits, Approvals, and Inspection (PAI) on March 29, 2013. 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.", is written over a circular embossed seal. The signature is fluid and cursive.

W. Carl Richards, Jr.
Supervisor, Zoning Review

WCR:jaf

Enclosures

c: People's Counsel

4/25/13
JO WCH
file
P

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon
Deputy Administrative Officer and
Director of Permits, Approvals and Inspections

DATE: April 16, 2013

FROM: Andrea Van Arsdale *AVA*
Director, Department of Planning

SUBJECT: 5809 North Hazelwood Avenue

INFORMATION:

Item Number: 13-217

Petitioner: Frank Habicht Jr. & Joyce Habicht

Zoning: DR 5.5

Requested Action: Variance



SUMMARY OF RECOMMENDATIONS:

The Department of Planning has reviewed the petitioner's request and accompanying site plan. The petitioner requests a variance from Section 400.1 of the BCZR to permit an accessory structure (detached carport) in the side yard with a 2-foot setback, in lieu of the required rear yard with a minimum 2-½ feet setback.

This property is the subject of violation Case# C0123323, in which a complaint was filed and the property was cited for installing a metal carport with no permit. After contacting the owner it was noted that an additional carport was needed due to the health of the property owner. A doctor's note was provided. It should also be noted that there are already 2 carports on the site as well as a 2-car garage in the rear yard.

Due to the fact that there are 2 accessory structures on the site, as well as an attached carport, the Department of Planning **does not** support the request for an additional accessory structure on the site.

For further information concerning the matters stated here in, please contact Krystle Patchak at 410-887-3480.

Prepared By:

Division Chief:
AVA/LL:cjm

5/30 10 Am

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence



TO: Hon. Lawrence M. Stahl; Managing Administrative Law Judge
Office of Administrative Hearings

FROM: David Lykens, Department of Environmental Protection and Sustainability
(DEPS) - Development Coordination

DATE: April 12, 2013

SUBJECT: DEPS Comment for Zoning Item # 2013-0217-A
Address 5809 Hazelwood Avenue
(Habicht Property)

Zoning Advisory Committee Meeting of April 8, 2013.

X The Department of Environmental Protection and Sustainability has no
comment on the above-referenced zoning item.

Reviewer: *Jeff Livingston; Development Coordination*

RECEIVED

APR 12 2013

OFFICE OF ADMINISTRATIVE HEARINGS

BALTIMORE COUNTY, MARYLAND
INTEROFFICE CORRESPONDENCE

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

DATE: April 09, 2013

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

SUBJECT: Zoning Advisory Committee Meeting
For April 15, 2013
Item Nos. 2013-0217, 0218, 0219, and 0221.

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

DAK:CEN
Cc: file



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

Darrell B. Mobley, Acting Secretary
Melinda B. Peters, Administrator

MARYLAND DEPARTMENT OF TRANSPORTATION

Date: 4-8-13

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

RE: Baltimore County
Item No 2013-0217-A
Variance
Frank L. & Joyce M. Habicht
5809 Hazelwood Avenue

Dear Ms. Lewis:

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. 2013-0217A.

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).

Sincerely,

Steven D. Foster, Chief
Access Management Division

SDF/raz

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

RE: PETITION FOR VARIANCE
5809 Hazelwood Avenue; E/S of Hazelwood
Avenue, 200' N of c/line Southwood Avenue
14th Election & 6th Councilmanic Districts
Legal Owner(s): Frank & Joyce Habicht
Petitioner(s)

* BEFORE THE OFFICE
* OF ADMINSTRATIVE
* HEARINGS FOR
* BALTIMORE COUNTY
* 2013-217-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

APR 10 2013

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 10th day of April, 2013, a copy of the foregoing Entry of Appearance was mailed to Frank & Joyce Habicht, 5809 N. Hazelwood Avenue, Baltimore, Maryland 21206, Petitioner(s).

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County



Baltimore County
Department of Permits and
Development Management

Code Inspections and
County Office Building
111 West Chesapeake
Towson, MD 21204

REV 5/07

☐ BUILDING.....410-887-4638
☐ PLUMBING.....410-887-4638
☐ ELECTRICAL.....410-887-4638

OFFICE HOURS 7:30 am - 3:30 pm

Building Inspection: 410-887-3953

Plumbing Inspection: 410-887-3620

Electrical Inspection: 410-887-3960

BALTIMORE COUNTY UNIFORM CODE ENFORCEMENT CORRECTION NOTICE

Citation Case No. C0123322	Property No. 111 West Chesapeake	Zoning FAO112917
--------------------------------------	--	----------------------------

Name(s): _____

Address: _____

Violation Location: **5809 N. Hazolwood Ave**

DID UNLAWFULLY VIOLATE THE FOLLOWING BALTIMORE COUNTY LAWS:

BALTIMORE COUNTY CODE 2003 Sec 35-2-301, 304

Chapter 35

**FAILURE TO OBTAIN BUILDING PERMIT
FOR CARPORT INSIDE YARD**

**OBTAIN BUILDING PERMIT FOR
CARPORT INSIDE YARD**

GLEN BURNAY

EXT 3-29-13 ZB

YOU ARE HEREBY ORDERED TO CORRECT THESE VIOLATION(S) ON OR BEFORE:

ON OR BEFORE: 2/12/13	DATE ISSUED: 1/29/13
---------------------------------	--------------------------------

FAILURE TO COMPLY WITH THE DEADLINE STATED IS A MISDEMEANOR. A CONVICTION FOR EACH VIOLATION SUBJECTS YOU TO POTENTIAL FINES OF \$200, \$500, OR \$1000 PER DAY, PER VIOLATION, DEPENDING ON VIOLATION, OR 90 DAYS IN JAIL, OR BOTH.

Print Name **Lewis Mayer**

INSPECTOR: **Lewis Mayer**

STOP WORK NOTICE

PURSUANT TO INSPECTION OF THE FOREGOING VIOLATIONS, YOU SHALL CEASE ALL WORK UNTIL THE VIOLATIONS ARE CORRECTED AND/OR PROPER PERMITS OBTAINED. WORK CAN RESUME WITH THE APPROVAL OF THE DIVISION OF CODE INSPECTIONS AND ENFORCEMENT. THESE CONDITIONS MUST BE CORRECTED NO LATER THAN:

ON OR BEFORE:	DATE ISSUED:
---------------	--------------

INSPECTOR: _____

Rev. 7/09

VIOLATION SITE

2013-0217-A

Maryland Department of Assessments and Taxation
Real Property Data Search (vw6.1A)
BALTIMORE COUNTY

[Go Back](#)
[View Map](#)
[New Search](#)
[GroundRent](#)
[Redemption](#)
[GroundRent](#)
[Registration](#)

Account Identifier: District - 14 Account Number - 1418053150

Owner Information

Owner Name:	HABICHT F LEONARD JR HABICHT JOYCE M	Use:	RESIDENTIAL
Mailing Address:	5809 N HAZELWOOD AVE BALTIMORE MD 21206-2133	Principal Residence:	YES
		Deed Reference:	1) /05841/ 00292 2)

Location & Structure Information

Premises Address	Legal Description
5809 N HAZELWOOD AVE 0-0000	LT 148-151 COUNTY SIDE

Map	Grid	Parcel	Sub District	Subdivision	Section	Block	Lot	Assessment Area	Plat No:
0089	0003	0618		0000			148	3	
									Plat Ref: 0007/0003

Special Tax Areas	Town	NONE
	Ad Valorem	
	Tax Class	

Primary Structure Built	Enclosed Area	Property Land Area	County Use
1963	1,305 SF	15,000 SF	04

Stories	Basement	Type	Exterior
1.000000	YES	STANDARD UNIT BRICK	

Value Information

	Base Value	Value	Phase-in Assessments	
		As Of	As Of	As Of
		01/01/2012	07/01/2012	07/01/2013
Land	78,300	78,300		
Improvements:	192,600	133,100		
Total:	270,900	211,400	211,400	211,400
Preferential Land:	0			0

Transfer Information

Seller:	RODE WILLIAM F	Date:	12/28/1977	Price:	\$65,000
Type:	ARMS LENGTH IMPROVED	Deed1:	/05841/ 00292	Deed2:	
Seller:		Date:		Price:	
Type:		Deed1:		Deed2:	
Seller:		Date:		Price:	
Type:		Deed1:		Deed2:	

Exemption Information

Partial Exempt Assessments	Class	07/01/2012	07/01/2013
County	000	0.00	
State	000	0.00	
Municipal	000	0.00	0.00

Tax Exempt:	Special Tax Recapture:
Exempt Class:	NONE

Homestead Application Information

Homestead Application Status:	No Application
--------------------------------------	----------------

CASE NAME Habitat
CASE NUMBER 2013-0217A
DATE 5/30/2013

NAME _____

CITY, STATE, ZIP

E - MAIL

Bill Baczynsky

5811 N. Hazelwood Ave

Baltimore, MD 21206



2013-02-17-A



2013-0217-A

16549E

5

ONE
TWO

12
10



17 feet

#5811

2013-0217-A

Case No.: 2013-217A

Exhibit Sheet

192
7-2-13

SN
6-3-13

Petitioner/Developer

Protestant

No. 1	Site plan	
No. 2		
No. 3		
No. 4		
No. 5		
No. 6		
No. 7		
No. 8		
No. 9		
No. 10		
No. 11		
No. 12		

Case Name: Frank and Joyce Habicht.

Exhibit List

Date: 9/10/13

[illegible]

FRANCIS L. WIEGMANN, JR. M.D.

515 FAIRMOUNT AVE., SUITE 310

TOWSON, MD 21286

(410) 494-1260

(410) 825-4210

Fax: (410) 825-4213

Name

Frank L. Habicht

DOB

07/17/41

Address

Rx

Date

03/26/13

DEA#

Frank Habicht has coronary artery disease, lumbar nerve compression and significant knee arthritis which cause him to have physical disability. His car port is essential to protect him from overexertion after snow storms.

Refill times PRN NR

To ensure that a brand name product be dispensed, the prescriber must handwrite "Brand Medically Necessary" on the prescription.



Case No: 13-217-A Case Name: Frank and Joyce Habicht

Exhibit List

Party: Protestant Date: 9/10/13.

[illegible]

Case No: 13-217-A ~~Per~~ Ex: 1 A
Frank and Joyce Halbicht,
9/10/13



Case No: 13-217-A Prot Ex 1 B
Frank and Joyce Habicht.
9/10/13



Case No: 13-217-A Prot Ex. 1c
Frank and Joyce
Habicht.
9/10/13



Case No: 13-217-A Plot 1D
Frank and Joyce Hubicht
9/10/13



Case No: 13-217-A

Phot Ex. 1E

Frank and Joyce
Habitat.

9/10/13



06/09/2013

Case No: 13-217-A

Prot Ex: 1F

Frank and Joyce

Hubricht

9/10/13



Case No: 13-217-A

Frank and Joyce
Habicht

9/10/13

Prot. 2 A



Case No: 13-217-A

Frank and Joyce
Hubbick

9/10/13

Prot. 2B



Case No: 13-2174

Trach + Joyce Habicht

9/10/13

Prot 2C



07/31/2013

Case 13-217-A. Prot Ex. 3
Habicht.





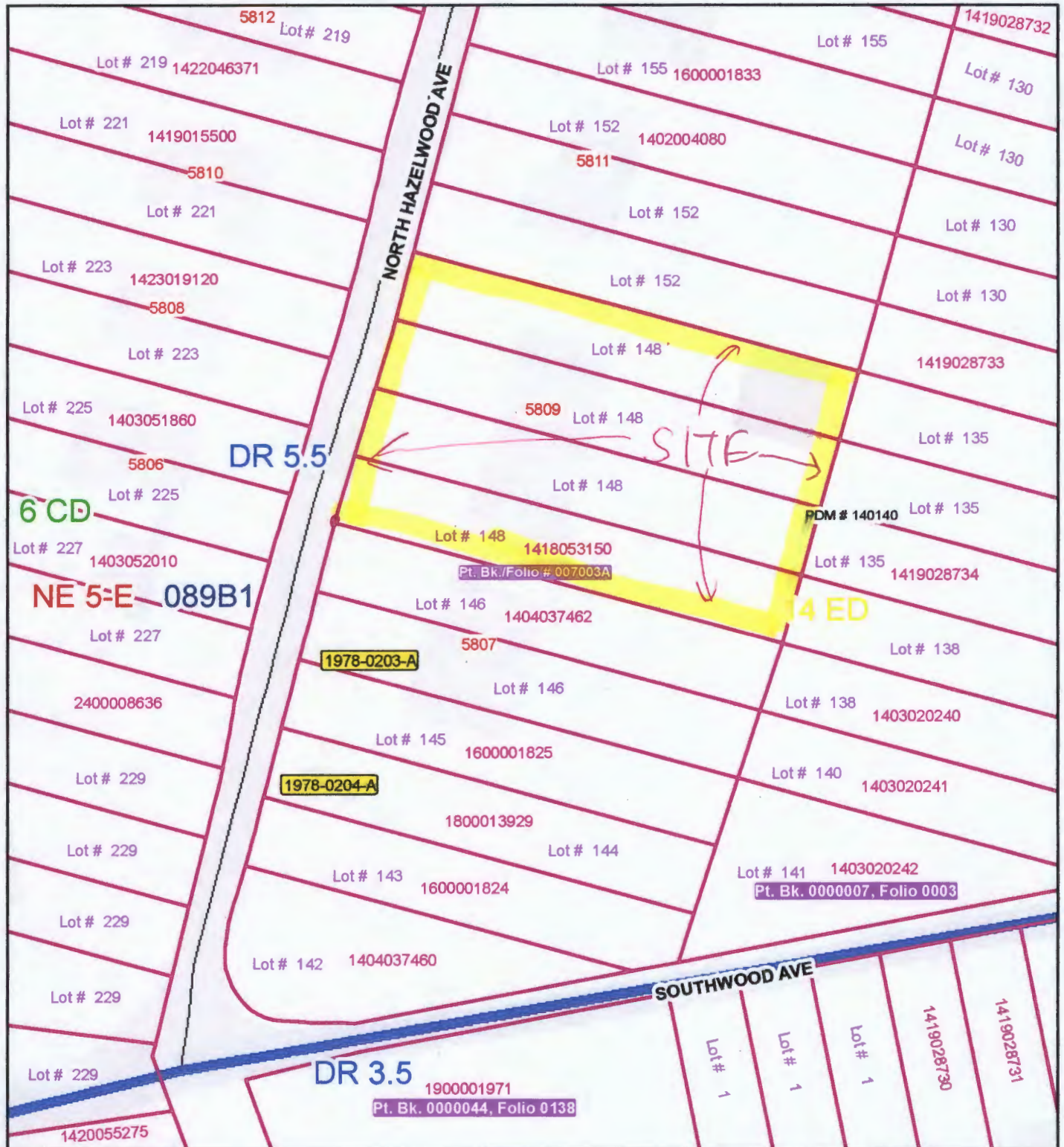
Prot Ex: 4

Case No: 13-217-A

Frank and Joyce
Habicht.

13"

5809 N. HAZELWOOD AVE



Publication Date: 2/1/2013



Publication Agency: Permits, Approvals & Inspections
Projection/Datum: Maryland State Plane,
FIPS 1900, NAD 1983/91 HARN, US Foot



0 12.5 25 50 75 100 Feet

1 inch = 50 feet

2013-0217-A

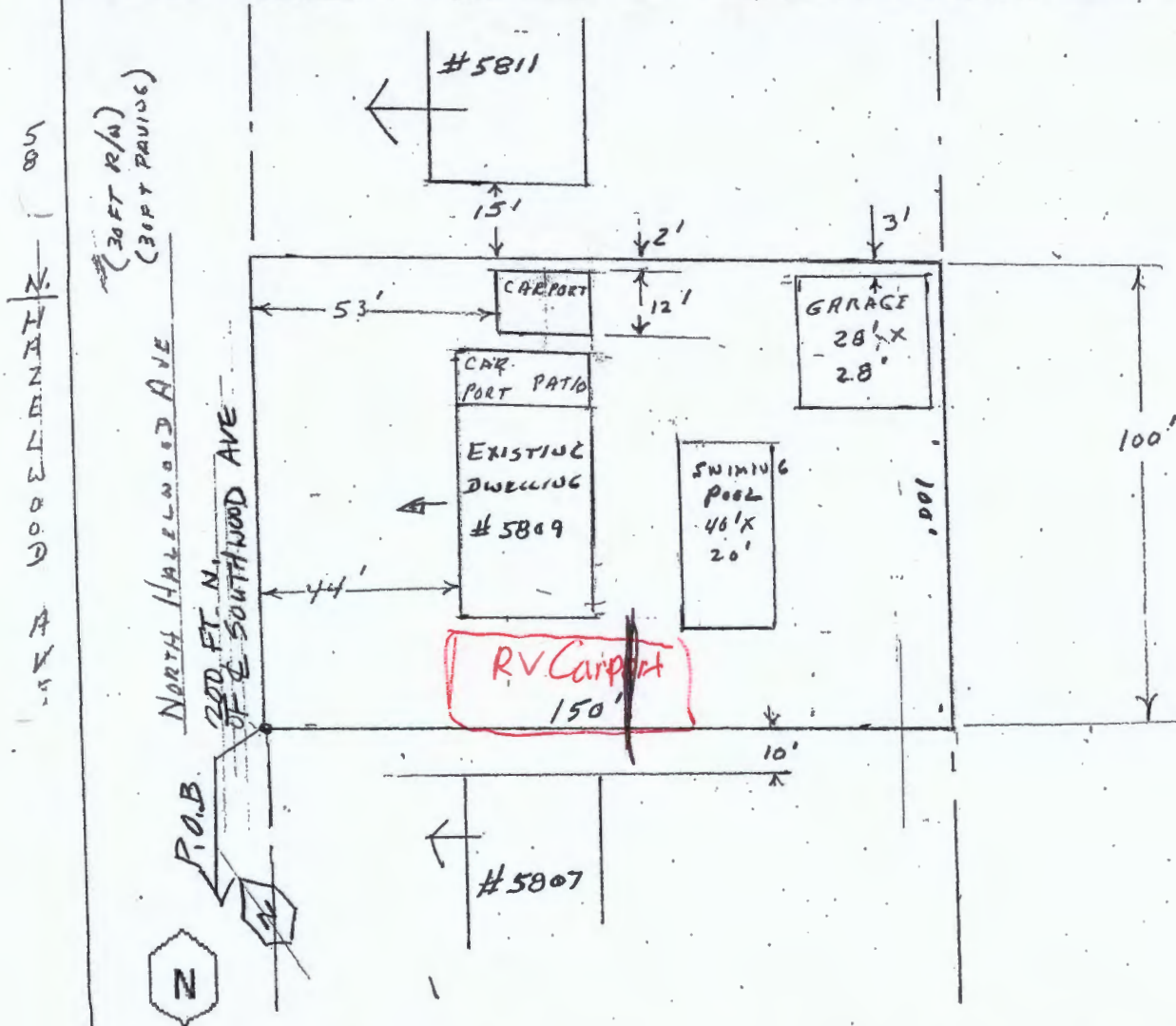
*1

ZONING HEARING PLAN FOR VARIANCE X FOR SPECIAL HEARING _____ (MARK TYPE REQUESTED WITH X)

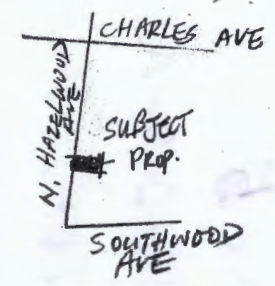
ADDRESS 5809 N. HAZELWOOD AVE OWNER(S) NAME(S) FRANK L. HABICHT JR & JOYCE M. HABICHT

SUBDIVISION NAME COUNTRY SIDE LOT # 148¹⁵¹ BLOCK # _____ SECTION # _____

PLAT BOOK # 5007 FOLIO # 3A 10 DIGIT TAX # 1418053150 DEED REF. # 05841 / 00292



SITE VICINITY MAP



ZONING MAP# 089B
 SITE ZONED DR 5.5
 ELECTION DISTRICT 14 TH
 COUNCIL DISTRICT 6 TH
 LOT AREA ACREAGE .344
 OR SQUARE FEET 15,000
 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? No
 IF SO GIVE CASE NUMBER
 AND ORDER RESULT BELOW

PLAN DRAWN BY F. L. HABICHT JR DATE 3-13-13 SCALE: 1 INCH = 40 FEET

Petitioners' No. 1

2013-0217-A

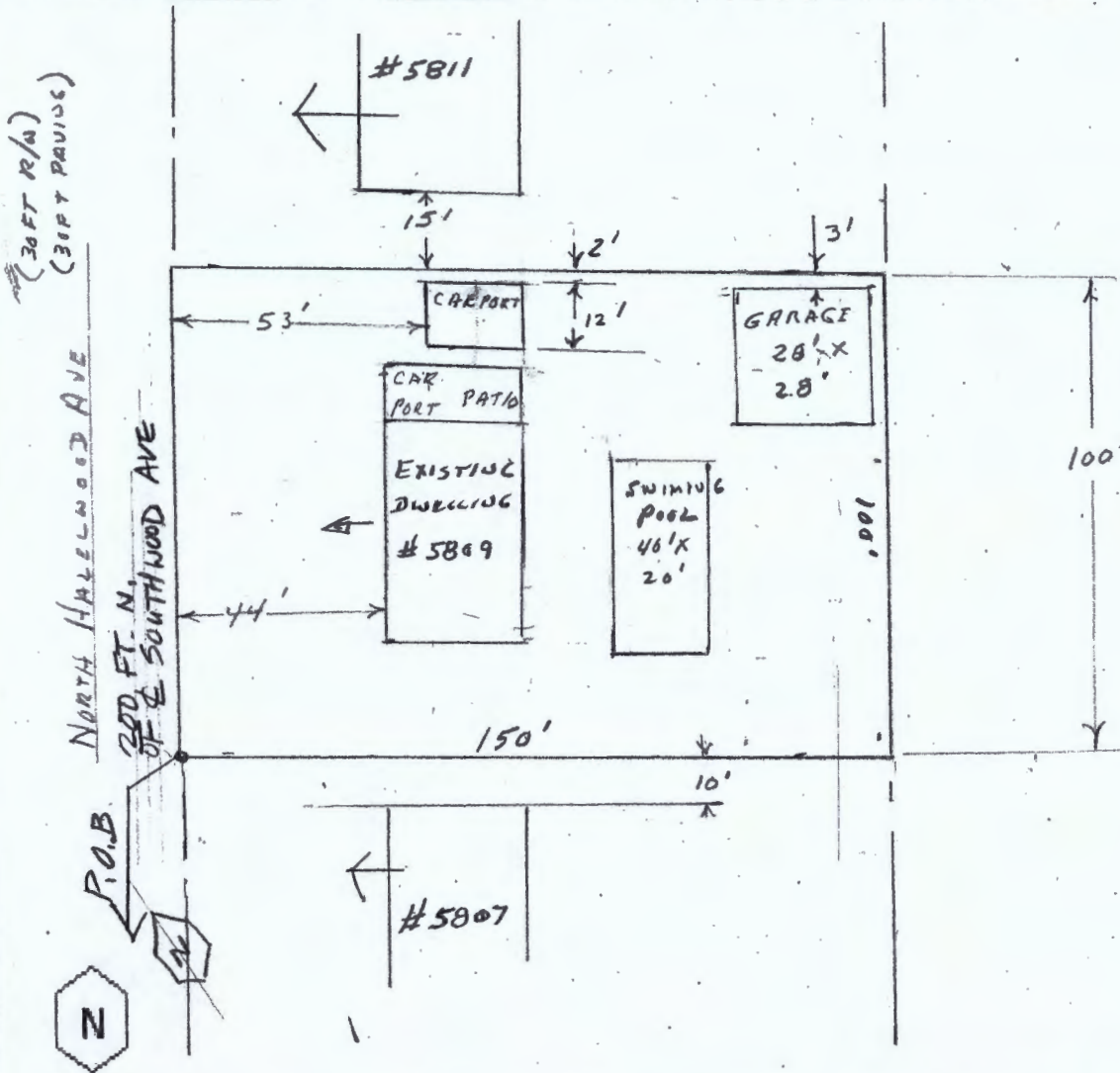
VIOLATION CASE INFO:
CO123323
LEWIS MAYER INSPECTOR

ZONING HEARING PLAN FOR VARIANCE ☒ FOR SPECIAL HEARING _____ (MARK TYPE REQUESTED WITH X)

ADDRESS 5809 N. HAZELWOOD AVE OWNER(S) NAME(S) FRANK L. HABICHT JR & JOYCE M. HABICHT

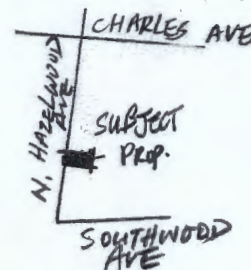
SUBDIVISION NAME COUNTRY SIDE LOT # 148 BLOCK # _____ SECTION # _____

PLAT BOOK # 6007 FOLIO # 3A 10 DIGIT TAX # 1418053150 DEED REF. # 05841 / 00292



PLAN DRAWN BY F.L. HABICHT JR DATE 3-13-13 SCALE: 1 INCH = 40 FEET

SITE VICINITY MAP



ZONING MAP# 089B1

SITE ZONED DR 5.5

ELECTION DISTRICT 14 TH

COUNCIL DISTRICT 6 TH

LOT AREA ACREAGE .344

OR SQUARE FEET 15,000

HISTORIC? No

IN CBCA? No

IN FLOOD PLAIN? No

UTILITIES? MARK WITH X

WATER IS:

PUBLIC ☒ PRIVATE _____

SEWER IS:

PUBLIC ☒ PRIVATE _____

PRIOR HEARING? No

IF SO GIVE CASE NUMBER

AND ORDER RESULT BELOW

VIOLATION CASE INFO:

CO123323
LEWIS MAYER, INSPECTOR

Petitioners' No. 1

2013-0217-A

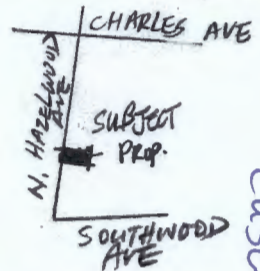
ZONING HEARING PLAN FOR VARIANCE X FOR SPECIAL HEARING _____ (MARK TYPE REQUESTED WITH X)

ADDRESS 5809 N. HAZELWOOD AVE OWNER(S) NAME(S) FRANK L. HABICHT JR & JOYCE M. HABICHT

SUBDIVISION NAME COUNTRY SIDE LOT # 148 BLOCK # _____ SECTION # _____

PLAT BOOK # 8007 FOLIO # 3A 10 DIGIT TAX # 1418053150 DEED REF. # 05841 / 00292

SITE VICINITY MAP



ZONING MAP# 089B1

SITE ZONED DR 5.5

ELECTION DISTRICT 14 TH

COUNCIL DISTRICT 6 TH

LOT AREA ACREAGE .344

OR SQUARE FEET 15,000

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? NO

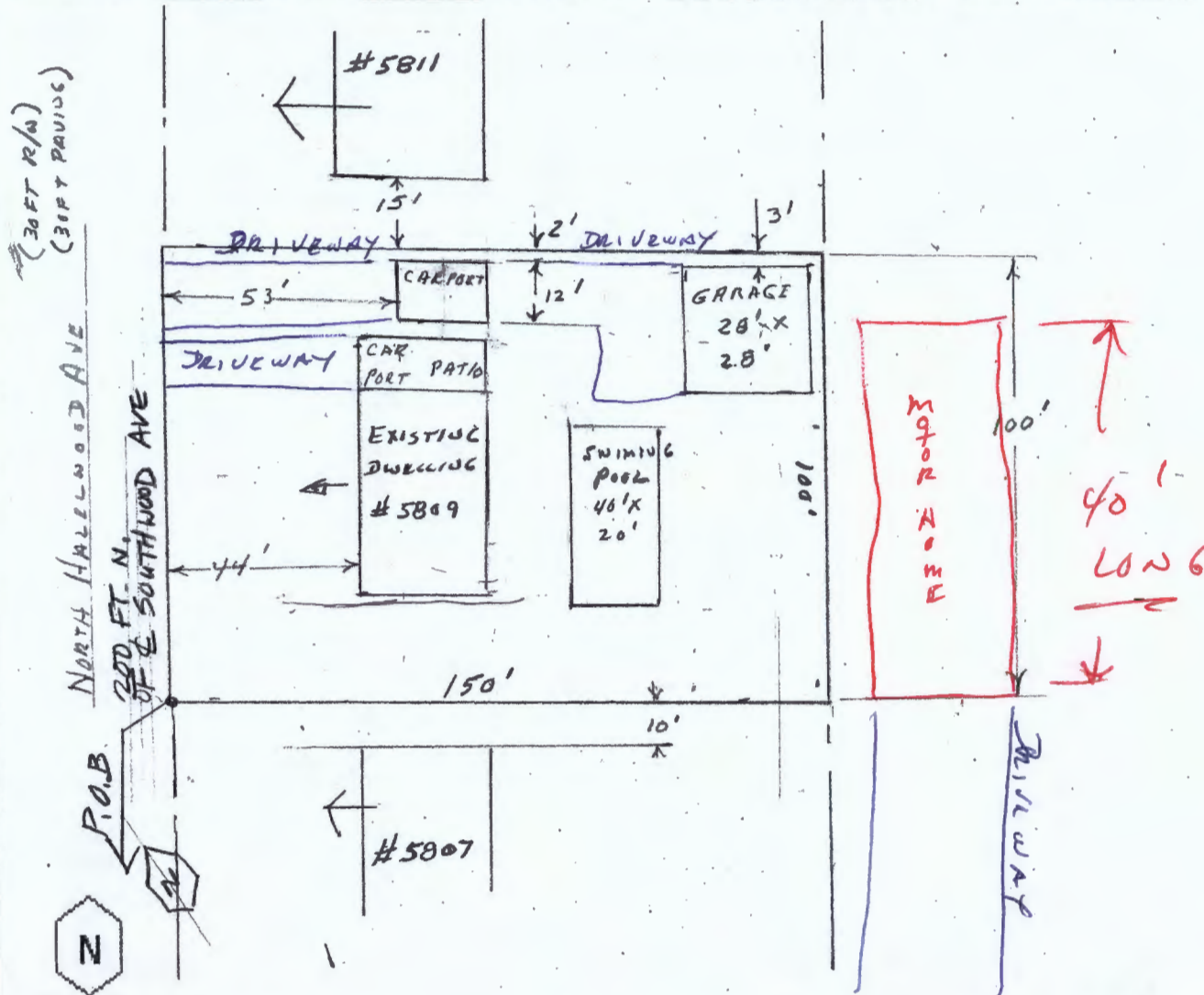
IF SO GIVE CASE NUMBER

AND ORDER RESULT BELOW

VIOLATION CASE INFO:

CO123323

LEWIS MAYER, INSPECTOR



PLAN DRAWN BY F. L. HABICHT JR DATE 3-13-13 SCALE: 1 INCH = 40 FEET

2013-0217-A

Case 13-217-A

Per Ex. 1