

IN RE: PETITION FOR ADMIN. VARIANCE *
& ADMIN. SPECIAL HEARING *
(352 Upperlanding Road) *
15th Election District *
7th Council District *
Caren E. and Robert E. Wittbecker *
Petitioners *

BEFORE THE
OFFICE OF ADMINISTRATIVE
HEARINGS FOR
BALTIMORE COUNTY
CASE NO. 2015-0123-SPHA

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) as a Petition for Administrative Variance filed by the legal owners of the property, Caren E. and Robert E. Wittbecker. The Petitioners are requesting Administrative Variance relief from § 400.3 of the Baltimore County Zoning Regulations (B.C.Z.R.), to permit a proposed accessory building (detached storage building) with a height of 20 ft. in lieu of the maximum allowed 15 ft. In addition, a Petition for Administrative Special Hearing was filed to approve an accessory building with a footprint larger than the principal dwelling. The subject property and requested relief is more fully depicted on the site plan that was marked and accepted into evidence as Petitioner's Exhibit 1.

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.

The Petitioners having filed a Petition for Administrative Variance and the subject property having been posted on November 7, 2014, and there being no request for a public hearing, a decision shall be rendered based upon the documentation presented.

The Petitioners have filed the supporting affidavits as required by Section 32-3-303 of the Baltimore County Code (B.C.C.). Based upon the information available, there is no evidence in

ORDER RECEIVED FOR FILING

Date 12-23-14

By RDW

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.

Although the Department of Planning did not make any recommendations related to the proposed accessory building (detached storage building), I will impose conditions that the building not be converted into a dwelling unit or apartment, not contain any sleeping quarters, living area, kitchen or bathroom facilities, and not be used for commercial purposes.

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, this 23rd day of December, 2014, by the Administrative Law Judge for Baltimore County, that the Administrative Variance relief from § 400.3 of the Baltimore County Zoning Regulations (B.C.Z.R.), to permit a proposed accessory building (detached storage building) with a height of 20 ft. in lieu of the maximum allowed 15 ft., be and is hereby GRANTED.

IT IS FURTHER ORDERED that the Petition for Administrative Special Hearing to approve an accessory building with a footprint larger than the principal dwelling, be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

1. Petitioners may apply for necessary permits and/or licenses upon receipt of this Order. However, Petitioners are hereby made aware that proceeding at this time is at their own risk until 30 days from the date hereof, during which time an appeal can be filed by any party. If for whatever reason this Order is reversed, Petitioners would be required to return the subject property to its original condition.

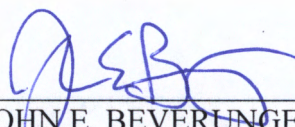
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Date 12-23-14

By ESW

2. The Petitioners or subsequent owners shall not convert the subject garage into a dwelling unit or apartment. The structure shall not contain any sleeping quarters, living area, kitchen or bathroom facilities.
3. The garage shall not be used for commercial purposes.

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:dlw

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Date 12-23-14

By AW



KEVIN KAMENETZ
County Executive

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

December 23, 2014

Robert E. and Caren E. Wittbecker
352 Upperlanding Road
Baltimore, Maryland 21221

RE: Petition for Administrative Variance
Case No. 2015-0123-SPHA
Property: 352 Upperlanding Road

Dear Mr. and Mrs. Wittbecker:

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 Baltimore County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Baltimore County Office of Administrative Hearings at 410-887-3868.

Sincerely,

A handwritten signature in black ink, appearing to read "JEB", with a long horizontal stroke extending to the right.

JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County

JEB:dlw
Enclosure



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 Hearings for Baltimore County for the property located at:

Address 352 Upperlanding Rd Currently zoned DR 5.5
Deed Reference 23367 100081 10 Digit Tax Account # 1800002550
Owner(s) Printed Name(s) Caren E & ROBERT E WITTBCKER

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

For Administrative Variances, the Affidavit on the reverse of this Petition form must be completed and notarized.

The undersigned, who own and occupy the property situate in Baltimore County and which is described in the plan/plat attached hereto and made a part hereof, hereby petition for an:

1. ☒ **ADMINISTRATIVE VARIANCE** from Section(s) 400, 3, BC2R, to permit a proposed accessory building (detached storage building) with a height of 20 feet in lieu of the maximum allowed 15 feet.

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

2. ☒ **ADMINISTRATIVE SPECIAL HEARING** to approve ~~a waiver pursuant to Section 824.10 of the Baltimore County Code~~ (indicate type of work in this space, i.e., to ~~construct~~ addition to building) an accessory building with a footprint larger than the principal dwelling.

of the Baltimore County Code, to the development law of Baltimore County.

Property is to be posted and advertised as prescribed by the zoning regulations.

I/ we agree to pay expenses of above petition(s), advertising, posting, etc. and further agree to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the zoning law for Baltimore County.

Owner(s)/Petitioner(s):

Caren E. Wittbcker Robert E. Wittbcker
Name #1 - Type or Print Name #2 - Type or Print

Caren Wittbcker Robert E. Wittbcker
Signature #1 Signature #2

352 Upperlanding Rd Baltimore, MD
Mailing Address City State

21221 410-686-0048 /
Zip Code Telephone # Email Address

Attorney for Owner(s)/Petitioner(s):

Name- Type or Print

Signature

Mailing Address City State

Zip Code Telephone # Email Address

Representative to be contacted:

Robert E. Wittbcker
Name - Type or Print

Robert E. Wittbcker
Signature

352 Upperlanding Rd Baltimore, MD
Mailing Address City State

21221 410-686-0048 /
Zip Code Telephone # Email Address

A PUBLIC HEARING having been formally demanded and/or found to be required, It is ordered by the Office of Administrative Hearings for Baltimore County, this 11 day of December, 2014 that the subject matter of this petition be set for a public hearing, advertised, and re-posted as required by the zoning regulations of Baltimore County.

Administrative Law Judge for Baltimore County

CASE NUMBER 2015-0123-SPHA Filing Date 11, 26, 2014 Estimated Posting Date 12, 7, 14 Reviewer JNP per WC

BALTIMORE COUNTY DEPARTMENT OF PERMITS, APPROVALS AND INSPECTIONS
ZONING REVIEW

ADMINISTRATIVE/SPECIAL HEARING

ADMINISTRATIVE VARIANCE INFORMATION SHEET AND DATES

Case Number 2015- 0123 -SPHA Address 352 Upperlanding Road

Contact Person: Jeffrey Perlow Phone Number: 410-887-3391
Planner, Please Print Your Name

Filing Date: 11/26/2014 Posting Date: 12/7/2014 Closing Date: 12/22/2014

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 2015- 0123 -SPHA Address 352 Upperlanding Road

Petitioner's Name Caren & Robert Wittbecker Telephone 410-686-0048

Posting Date: 12/7/2014 Closing Date: 12/22/2014

Wording for Sign: Administrative Variance to permit a proposed accessory building
(detached storage building) with a height of 20 feet in lieu of the maximum allowed 15 feet.
Administrative Special Hearing to approve an accessory building with a footprint
larger than the principal dwelling.

Revised 7/18/14

CERTIFICATE OF POSTING

CASE NO: 2015-0123-SP4A

PETITIONER/DEVELOPER

GEORGE McCLELLAND

CHESAPEAKE DESIGN CO

DATE OF HEARING/CLOSING:

12/22/14

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

ATTENTION:

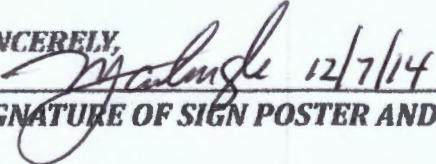
LADIES AND GENTLEMEN:

**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** _____

352 UPPERLANDING ROAD

THIS SIGN(S) WERE POSTED ON December 7, 2014
(MONTH, DAY, YEAR)

SINCERELY,

 12/7/14
SIGNATURE OF SIGN POSTER AND DATE:

**MARTIN OGLE
(SIGN POSTER)
60 CHELMSFORD COURT
BALTIMORE, MD 21220
(ADDRESS)
PHONE NUMBER: 443-629-3411**



ZONING NOTICE

ADMINISTRATIVE

VARIANCE

SPECIAL HEARING

CASE # 2015-0123 SPHA

ADMINISTRATIVE VARIANCE TO PERMIT A PROPOSED
ACCESSORY BUILDING (DETACHED STORAGE BUILDING) WITH A
HEIGHT OF 20 FEET IN LIEU OF THE MAXIMUM ALLOWED 15 FEET.
ADMINISTRATIVE SPECIAL HEARING TO APPROVE AN ACCESSORY
BUILDING WITH A FOOT PRINT LARGER THAN THE PRINCIPAL
DWELLING.

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 IT
IS DONE IN THE ZONING OFFICE BEFORE
4:30 p.m. ON MONDAY DECEMBER 22, 2014
ADDITIONAL INFORMATION IS AVAILABLE AT
ZONING ADMINISTRATION AND DEVELOPMENT MANAGEMENT
111 W. CHESAPEAKE AVE.
TOWSON, MD. 21204
TEL. 887-3391

DO NOT RETURN TO THE ZONING OFFICE UNTIL YOU HAVE BEEN NOTIFIED BY MAIL. RETURN DATE TO EXPIRE, ONE, ONE

MEETING IS HANDICAP ACCESSIBLE

Matthew de 12/7/14



KEVIN KAMENETZ
County Executive

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

December 23, 2014

Caren E & Robert E Wittbecker
352 Upperlanding Road
Baltimore MD 21221

RE: Case Number: 2015-0123 A, Address: 352 Upperlanding Road

Dear Mr. & Ms. Wittbecker:

The above referenced petition was accepted for processing **ONLY** by the Bureau of Zoning Review, Department of Permits, Approvals, and Inspection (PAI) on November 26, 2014. 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 that reads "W. Carl Richards, Jr." The signature is written in a cursive, flowing style.

W. Carl Richards, Jr.
Supervisor, Zoning Review

WCR: jaw

Enclosures

c: People's Counsel

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



James T. Smith, Jr., Secretary
Melinda B. Peters, Administrator

Date: 12/8/14

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

RE: Baltimore County
Item No. 2015-0123-SPHA
*Administrative Special Hearing
Administrative Variance
Caren E. & Robert E. Wittbecker
352 Upperlanding Road*

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. 2015-0123-SPHA.

Should you have any questions regarding this matter, please contact Mr. Richard Zeller at 410-545-5598 or 1-800-876-4742 (in Maryland only) extension 5598, or by email at (rzeller@sha.state.md.us).

Sincerely,

Steven D. Foster, Chief
Development Manager
Access Management Division

SDF/raz

BALTIMORE COUNTY, MARYLAND
INTEROFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Department of Permits, Approvals
And Inspections
DATE: December 15, 2014

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

SUBJECT: Zoning Advisory Committee Meeting
For December 15, 2014
Item No. 2015-0117, 0121, 0123 and 0124

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\ZAC12152014 -.doc

RE: PETITION FOR ADMINISTRATIVE * BEFORE THE OFFICE
SPECIAL HEARING & VARIANCE *
352 Upperlanding Road; NE/S Upperlanding * OF ADMINSTRATIVE
Road, 525' SE of Mace Avenue *
15th Election & 7th Councilmanic Districts * HEARINGS FOR
Legal Owner(s): Caren & Robert Wittbecker *
Petitioner(s) * BALTIMORE COUNTY
* 2015-123-SPHA

* * * * *

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

DEC 12 2014



CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 12th day of December, 2014, a copy of the foregoing Entry of Appearance was mailed to Robert Wittbecker, 352 Upperlanding Road, Baltimore, Maryland 21221, Petitioner(s).

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

M E M O R A N D U M

DATE: January 26, 2015
TO: Zoning Review Office
FROM: Office of Administrative Hearings
RE: Case No. 2015-0123-SPHA - Appeal Period Expired

The appeal period for the above-referenced case expired on January 22, 2015. 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

Real Property Data Search (w2)

Guide to searching the database

Search Result for BALTIMORE COUNTY

View Map		View GroundRent Redemption		View GroundRent Registration	
Account Identifier:		District - 15 Account Number - 1800002550			
Owner Information					
Owner Name:		WITTBECKER CAREN E WITTBECKER ROBERT E		Use: RESIDENTIAL Principal Residence: YES	
Mailing Address:		352 UPPERLANDING RD BALTIMORE MD 21221-4815		Deed Reference: /23367/ 00081	
Location & Structure Information					
Premises Address:		352 UPPERLANDING RD 0-0000		Legal Description: 352 UPPERLANDING RD BACK RIVER HIGHLANDS	
Map:	Grid:	Parcel:	Sub District:	Subdivision:	Section:
0097	0001	0364		0000	
					Block: A
					Lot: 15
					Assessment Year: 2015
					Plat No: 0004/ Plat Ref: 0064
Special Tax Areas:			Town: NONE Ad Valorem: Tax Class:		
Primary Structure Built 1977		Above Grade Enclosed Area 1,176 SF		Finished Basement Area	
				Property Land Area 12,800 SF	
				County Use 04	
Stories	Basement	Type	Exterior	Full/Half Bath	Garage
1	YES	STANDARD UNIT	ASBESTOS SHINGLE	2 full/ 1 half	Last Major Renovation
Value Information					
		Base Value	Value As of 01/01/2012	Phase-in Assessments As of 07/01/2014 As of 07/01/2015	
Land:		75,700	75,700		
Improvements		104,400	104,400		
Total:		180,100	180,100	180,100	
Preferential Land:		0			
Transfer Information					
Seller: SCHUCHARDT JOHN L		Date: 02/09/2008		Price: \$245,000	
Type: NON-ARMS LENGTH OTHER		Deed1: /23367/ 00081		Deed2:	
Seller: IACCHETTA ERCOLE		Date: 05/26/1978		Price: \$60,000	
Type: ARMS LENGTH IMPROVED		Deed1: /05889/ 00381		Deed2:	
Seller:		Date:		Price:	
Type:		Deed1:		Deed2:	
Exemption Information					
Partial Exempt Assessments:	Class	07/01/2014		07/01/2015	
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					



352 UPPERLANDING RD.



REAR OF DWELLING LOOKING TOWARD LEFT HAND NEIGHBOR

2015-0123-SPHA

352 UPPERLANDING RD.



FRONT OF LEFT HAND NEIGHBORS DWELLING



REAR OF DWELLING LOOKING TOWARD RIGHT HAND NEIGHBOR

2015-0123-SPHA

352 UPPERLANDING RD.



REAR OF DWELLING LOOKING TOWARD REAR OF PROPERTY



FRONT OF RIGHT HAND NEIGHBORS DWELLING

2015-0123-SPHA

352 UPPERLANDING RD.



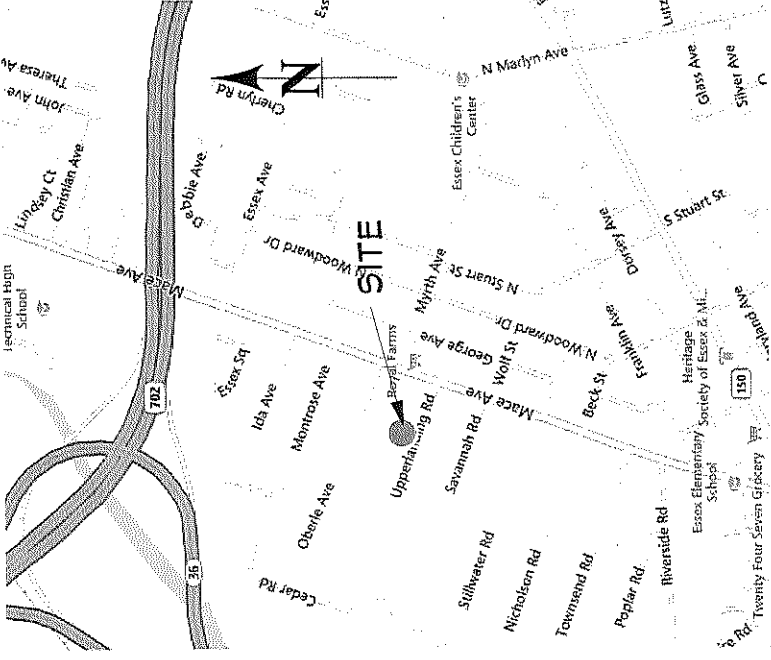
UPPERLANDING RD/ FRONT OF DWELLING



REAR OF PROPRTY LOOKING TOWARD DWELLING

2015-0123-SPHA

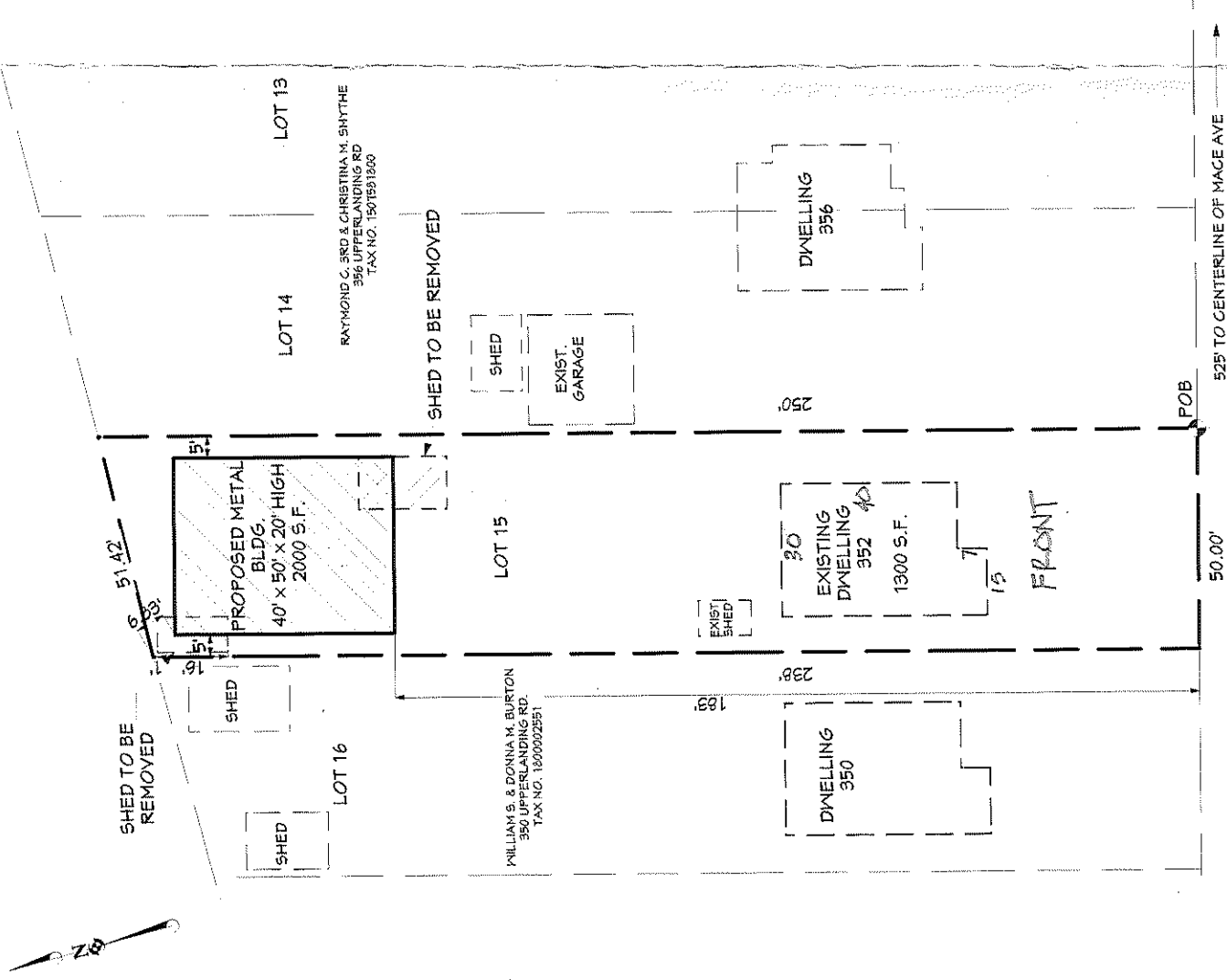
SITE VICINITY MAP



ZONING MAP # 090A3
SITE ZONED: DR-5.5
ELECTION DISTRICT: 15
COUNCIL DISTRICT: 7
LOT AREA: 12,800 S.F.
HISTORIC? NO
IN CBCA? NO
IN FLOOD PLAIN: X
UTILITIES: WATER IS PUBLIC,
SEWER IS PUBLIC
PRIOR HEARING? NO 1977-0080-A
VIOLATION CASE INFO:

Per. Exh. 1

ZONING HEARING PLAN FOR VARIANCE & SPECIAL HEARING
ADDRESS: 352 UPPERLANDING RD OWNER: WITTBECER, CAREN E. & ROBERT E.
SUBDIVISION NAME: BACK RIVER HIGHLANDS. LOT#: 15 BLOCK#: A SECTION #: N/A
PLAT BOOK#: 4 FOLIO #: 64 10 DIGIT TAX #: 1800002550 DEED REF#: 23367/00081



REAR YARD AREA REQUIREMENT MET
REAR YARD AREA = 7,442 S.F.
40% OF REAR YARD = 2,977 S.F.
PROP ACCESSORY BLDG = 2,000 S.F.