MEMORANDUM

DATE:

May 4, 2015

TO:

Zoning Review Office

FROM:

Office of Administrative Hearings

RE:

Case No. 2015-0193-A - Appeal Period Expired

The appeal period for the above-referenced case expired on May 1, 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

IN RE: PETITION FOR ADMIN. VARIANCE (6717 South River Drive)

15th Election District 6th Council District Joseph H. and Lorie L. Durkee Petitioners **BEFORE THE**

OFFICE OF ADMINISTRATIVE

HEARINGS FOR

* BALTIMORE COUNTY

CASE NO. 2015-0193-A

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for Baltimore County for consideration of a Petition for Administrative Variance filed by the legal owners of the property, Joseph H. and Lorie L. Durkee ("Petitioners"). The Petitioners are requesting Variance relief pursuant to § 400.3 of the Baltimore County Zoning Regulations ("B.C.Z.R) to permit a rear yard (street side) accessory structure (garage) with a height of 18 ft. in lieu of the maximum height of 15 ft. 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.

The Zoning Advisory Committee (ZAC) comments were received and are made part of the record of this case. A ZAC comment was received from the Bureau of Development Plans Review (DPR) dated March 12, 2015, indicating that prior to building permit application, the Petitioners must contact the Office of the Director of Public Works to determine the flood protection elevation, so that the floor elevation can be set.

The Petitioners having filed a Petition for Administrative Variance and the subject property having been posted on March 12, 2015, and there being no request for a public hearing, a decision shall be rendered based upon the documentation presented.

ORDER	RECEIVED FOR FILING	
Date	4-1-15	
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The Petitioners have filed the supporting affidavits as required by § 32-3-303 of the Baltimore County Code (B.C.C.). 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 § 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 accessory structure height and usage, I will impose conditions that the garage shall not be converted into a dwelling unit or apartment, not contain any sleeping quarters, living area, and kitchen or bathroom facilities.

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 <u>1</u>st day of April, 2015 by the Administrative Law Judge for Baltimore County, that the Petition for Variance seeking relief from § 400.3 of the Baltimore County Zoning Regulations ("B.C.Z.R) to permit a rear yard (street side) accessory structure (garage) with a height of 18 ft. in lieu of the maximum height of 15 ft., be and is hereby GRANTED.

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Date	4-1	15	_
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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.
- 2. The Petitioners or subsequent owners shall not convert the garage into a dwelling unit or apartment. The garage shall not contain any sleeping quarters, living area, and kitchen or bathroom facilities.
- 3. The garage shall not be used for commercial purposes.
- 4. Petitioners must comply with the ZAC comment from DPR, dated March 12, 2015; a copy of which is attached hereto and made a part thereof.
- 5. Petitioners must comply with Critical Area regulations prior to building permit application.

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

ORDER RECEIVED FOR FILING

Date 4-1-16

By (90)



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

April 1, 2015

Joseph H. and Lorie L. Durkee 6717 South River Drive Baltimore, Maryland 21220

RE: Petition for Administrative Variance

Case No. 2015-0193-A

Property: 6717 South River Drive

Dear Petitioners:

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,

JOHN E. BEVER UNGEN Administrative Law Judge for Baltimore County

JEB:dlw Enclosure

CBCA OC





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	of Permits, Approvals and Inspections for Baltimore County for the property located at: Ito ND 21220 Currently zoned 15 - 01.55. 10 Digit Tax Account # 1507001540 Locie L Docket
(SELECT THE HEARING(S) BY MARKING \underline{X} AT THE APPR	OPRIATE 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 attached hereto and made a part hereof, hereby petition for	e in Baltimore County and which is described in the plan/plat
1. X ADMINISTRATIVE VARIANCE from Section(s)	
BCZR: $400.3 \rightarrow$ To permit a rear yard (street side) lieu of the maximum height of 15 feet.	accessory structure (garage) with a height of 18 feet in
of the zoning regulations of Baltimore County, to the zoning	law of Baltimore County.
2 ADMINISTRATIVE SPECIAL HEARING to approach County Code: (indicate type of work in this space: i.e., to rain	ove a waiver pursuant to Section 32-4-107(b) of the Baltimore ze, alter or construct addition to building)
of the Baltimore County Code, to the development law of Baltimore Property is to be posted and advertised as prescribed by the zoning regular I/ we agree to pay expenses of above petition(s), advertising, posting, etc. Baltimore County adopted pursuant to the zoning law for Baltimore County	tions. and further agree to be bound by the zoning regulations and restrictions of
Attorney for Owner(s)/Petitioner(s):	21220, 443 3865764 logic dugles Paris Address Representative to be contacted:
Attorney for Owner(s)/Petitioner(s):	Name - Type or Print
Signature	Signature
Mailing Address City State	Mailing Address City State
Zip Code Telephone # Email Address	Zip Code Telephone # Email Address
	be required, it is ordered by the Office of Administrative Hearings for Baltimore matter of this petition be set for a public hearing, advertised, and re-posted as
CASE NUMBER 2015 - 0193 - A Filing Date 3/3	rative Law Judge for Baltimore County [5] Estimated Posting Date 3 / 15 / 15 Reviewer 15

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 and upon personal knowledge to the Administrative Law Judge for Baltimore County, that the information herein given is true and correct and that the undersigned is/are competent to testify in the event that a public hearing is scheduled in the future with regard thereto. In addition, the undersigned hereby affirms that the property is not the subject of an active Code Enforcement case and that the residential property described below is owned and occupied by the undersigned.

and occupied by the undersigned.
Address: 67/7 South RIVER Rd BALTO. MD 21220 Print or Type Address of property City State Zip Code
Based upon personal knowledge, the following are the facts upon which I/we base the request for an Administrative Variance at the above address. (Clearly state <u>practical difficulty or hardship</u> here)
al file
(If additional space for the petition request or the above statement is needed, label and attach it to this Form)
Signature of Owner (Affiant) Signature of Owner (Affiant)
Name-Print or Type 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 27th day of Feb , 2015 , before me a Notary of Maryland, in and for the County aforesaid, personally appeared:
Print name(s) here: Joseph H Durkee Lorie L Durkee
the Affiant(s) herein, personally known or satisfactorily identified to me as such Affiant(s).
AS WITNESS my hand and Notaries Seal
Notary Public 1-6-16
My Commission Expires

Request for variance to permit accessory structure (garage) to be 18 Foot in Height ilc maximum required 15' it will setback from street 47' and 3 foot from neighboring property. Photographs submitted show that various other homes adjacent have similar type garages showing several garages that are not conforming to the 15 foot requirements of Baltimore County Zoning Regulations. In addition would not be changing the character of the neighborhood; nor would there be an adverse impact on neighbors view or the neighborhood. There will be no injury to public safety and welfare buy granting the variance request. Pictures showing no house right behind me nor blocking any views, I feel we need the Variance to be able to store things higher due to Flood issues with being on the water after the hurricane Isabel in 2003 that we lost a lot of personal items that could have been stored at a higher point.

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DEPARTMENT OF PERMITS, APPROVALS AND INSPECTIONS ZONING REVIEW

ADVERTISING REQUIREMENTS AND PROCEDURES FOR ZONING HEARINGS

The <u>Baltimore County Zoning Regulations</u> (BCZR) require that notice be given to the general public/neighboring property owners relative to property which is the subject of an upcoming zoning hearing. <u>For those petitions which require a public hearing</u>, 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: 2015-0193-4
Petitioner: DURKEE
Address or Location: 6717 SOUTH RIVER
PLEASE FORWARD ADVERTISING BILL TO:
Name: Dorket
Address: 6717 South River RO
BALTO MO 21220
Telephone Number: 443 - 386 - 5764

BALTIMORE COUNTY DEPARTMENT OF PERMITS, APPROVALS AND INSPECTIONS ZONING REVIEW

ADMINISTRATIVE VARIANCE INFORMATION SHEET AND DATES

ADMINISTRATIVE VARIANCE INFORMATION SHEET AND DATES
Case Number 2015- 0193 -A Address 6717 SOUTH RIVER AD.
Contact Person: JASON Stistman Phone Number: 410-887-3391
Filing Date: 3/3/15 Posting Date: 3/15/15 Closing Date: 3/30/15
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.
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- 0193 -A Address 6717 SOUTH RIVER DA.
Petitioner's Name DULKEE Telephone 443-316-5764
Posting Date: 3 15 15 Closing Date: 3 30 15
Wording for Sign: To Permit A REAR YARD (STREET SIDE) ACLESSORY CARROL
STRUCTURE (GARAGE) WITH A HEIGHT OF 18 FEET IN LIEU OF THE
MAXIMUM HEIGHT OF 15 FEET.

CERTIFICATE OF POSTIN

	CASE NO: AUTS -UTS -A	
	PETITIONER/DEVELOPER DURLEE	
	MARCH 30, 2015	
PERMITS AND I COUNTY OFFICE	UNTY DEPARTMENT OF DEVELOPMENT MANAGEMENT E BUILDING,ROOM 111 SAPEAKE AVENUE	
ATTENTION:		
LADIES AND GE	NTLEMEN:	
	TO CERITFY UNDER THE PENALTIES OF PERJURY THAT THE N(S)REQUIRED BY LAW WERE POSTED CONSPICUOUSLY ON T	ГНЕ
	6717 SOUTH RNEE DR	
THIS SIGN(S)W	ERE POSTED ON March 12, 2015	
	SINCERELY, SIGNATURE OF SIGN POSTER AND DATE:	
	MARTIN OGLE	
	(SIGN POSTER)	
	60 CHELMSFORD COURT BALTIMORE,MD 21220	
	(ADDRESS) PHONE NUMBER:443-629-3411	



-market 8 3/12/15

CHECKLIST

Comment Received	<u>Department</u>	Support/Oppose/ Conditions/ Comments/ No Comment	
3-12	DEVELOPMENT PLANS REVIEW (if not received, date e-mail sent)		
	DEPS (if not received, date e-mail sent 4-1-15)	• .	
-	FIRE DEPARTMENT	1	
	PLANNING (if not received, date e-mail sent)		
3-12	3-12 STATE HIGHWAY ADMINISTRATION		
	COMMUNITY ASSOCIATION		
	ADJACENT PROPERTY OWNERS		
ZONING VIOLA	TION (Case No		
PRIOR ZONING	(Case No.		
NEWSPAPER AI	DVERTISEMENT Date:		
SIGN POSTING	Date: 3-12-15	by Ogle	
	NSEL APPEARANCE Yes No		
Comments, if any:			

Debra Wiley

From:

Jason Seidelman

Sent:

Wednesday, April 01, 2015 11:42 AM

To:

Debra Wiley

Subject:

Re: Case No. 2015-0193-A (Admin. Var.)

It's actually in the 6th councilmatic district (per the zoning maps). The Legal Property Description states it's in the 6th also. I did miss it on the site plan (sorry), but I don't know where the "2" listed below came from......?

Jason

>>> Debra Wiley <dwiley@baltimorecountymd.gov> 4/1/2015 11:31 AM >>> Hi Jason,

The site plan indicates that this property is in the 5th Council District; however, the case description (copy provided below) indicates 2nd.

Can you clarify?

Thanks in advance.

CASE NUMBER: 2015-0193-A

6717 SOUTH RIVER DR.

Location: W/S of South River Dr., 225 ft. S of the c/line of intersection with University Dr.

15th Election District, 2nd Council District Legal owners: Joseph H & Lorie L Durkee

ADMINISTRATIVE VARIANCE To permit a rear yard (street side) accessory structure (garage) with a height of 18 ft. in lieu of the maximum height of 15 ft.

Debra Wiley
Baltimore County Office of Administrative Hearings
105 West Chesapeake Avenue, Suite 103
Towson, Maryland 21204
410-887-3868

Debra Wiley

From:

Debra Wiley

Sent:

Wednesday, April 01, 2015 11:01 AM

To:

Jeffery Livingston

Subject:

ZAC Comment Needed for Admin. Var. re: CBCA - 2015-0193-A

Hi Jeff,

The Admin. Var. case file is missing the CBCA ZAC comment from your department. For your convenience, I have provided the case description.

Thanks.

CASE NUMBER: 2015-0193-A

6717 SOUTH RIVER DR.

Location: W/S of South River Dr., 225 ft. S of the c/line of intersection with University Dr.

15th Election District, 2nd Council District Legal owners: Joseph H & Lorie L Durkee

ADMINISTRATIVE VARIANCE To permit a rear yard (street side) accessory structure (garage) with a height of 18 ft. in lieu of the maximum height of 15 ft.

Debra Wiley
Baltimore County Office of Administrative Hearings
105 West Chesapeake Avenue, Suite 103
Towson, Maryland 21204
410-887-3868



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

March 31, 2015

Joseph H & Lorie L Durkee 6717 South River Drive Baltimore MD 21220

RE: Case Number: 2015-0193 A, Address: 6717 South River Drive

Dear Mr. & Ms. Durkee:

The above referenced petition was accepted for processing **ONLY** by the Bureau of Zoning Review, Department of Permits, Approvals, and Inspection (PAI) on March 3, 2015. 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,

1. Cal Richal 2

W. Carl Richards, Jr. Supervisor, Zoning Review

WCR: jaw

Enclosures

c: People's Counsel

State Highway
Administration

Maryland Department of Transportation

Larry Hogan, Governor Boyd Rutherford, Lt. Governor

Pete K. Rahn, Secretary Melinda Peters, Administrator

Date: 3/12/15

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

RE: Baltimore County

Item No 2015-0193-A

Administrative Variance

Joseph H. & Lorie L. Durkee

6717 South River Drive

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 -0193-A.

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

DATE: March 12, 2015

Department of Permits, Approvals

And Inspections

FROM:

Dennis A. Kennedy, Supervisor

Bureau of Development Plans Review

SUBJECT:

Zoning Advisory Committee Meeting

For March 16, 2015 Item No. 2015-0193

The Bureau of Development Plans Review has reviewed the subject zoning item and we have the following comment.

Prior to building permit application, the petitioner must contact the office of the Director of Public Works to determine the flood protection elevation, so that the floor elevation can be set.

DAK:CEN cc:file

ZAC-ITEM NO 15-0193-03162015.doc
ORDER RECEIVED FOR FILING

Date	4-1	1-15	
By	19	\supset	

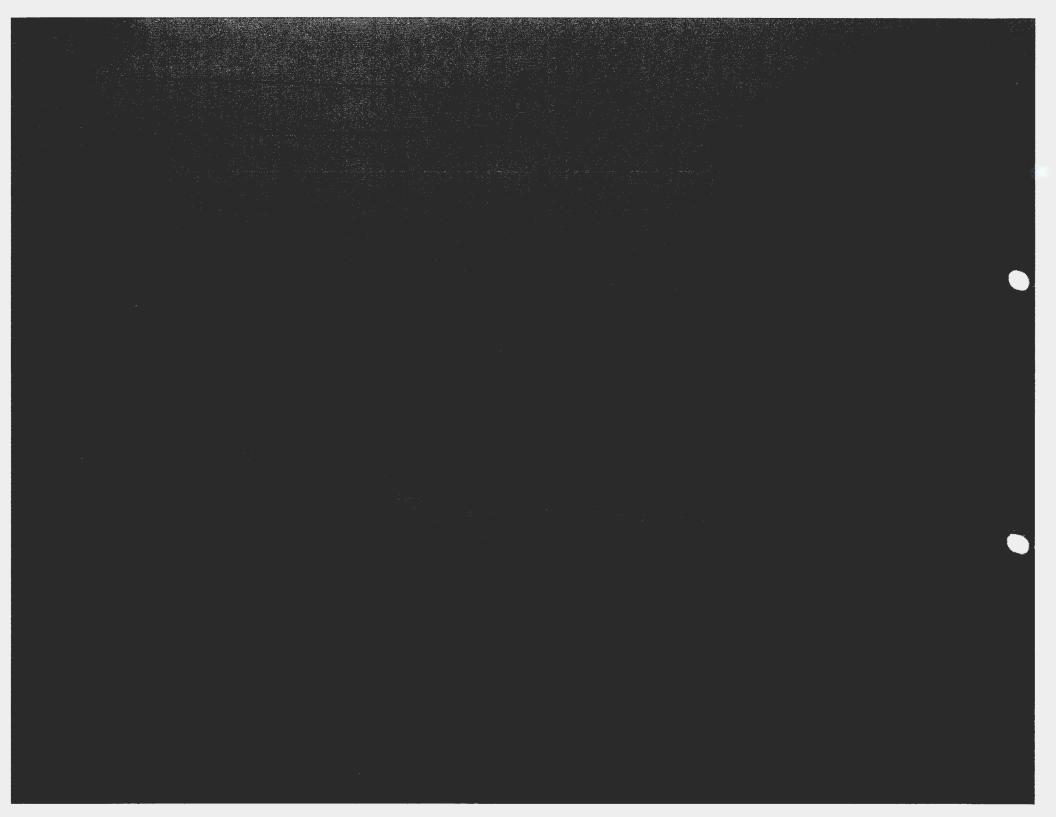




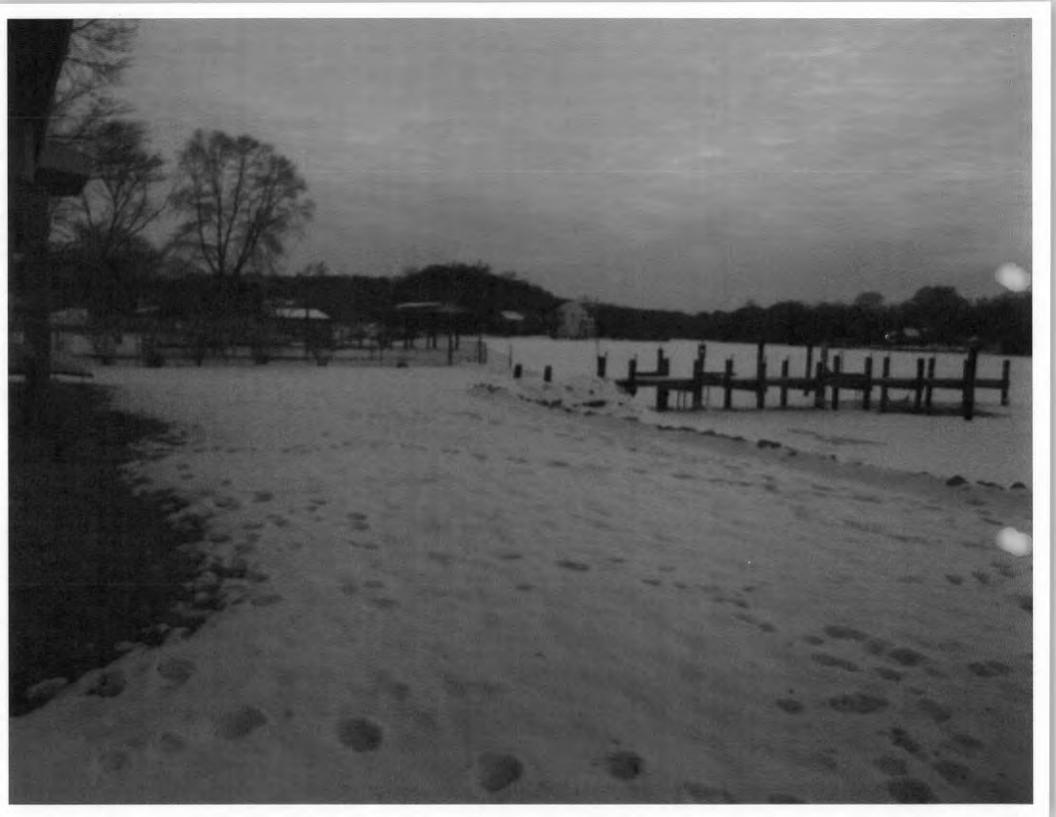






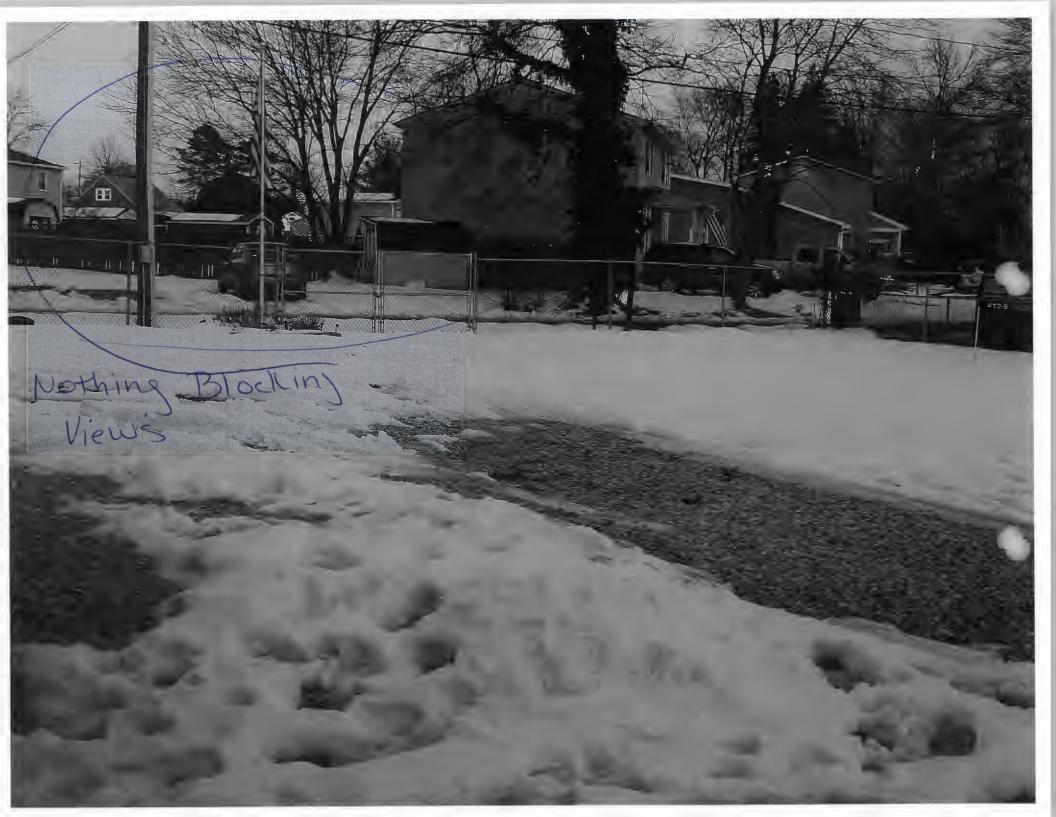




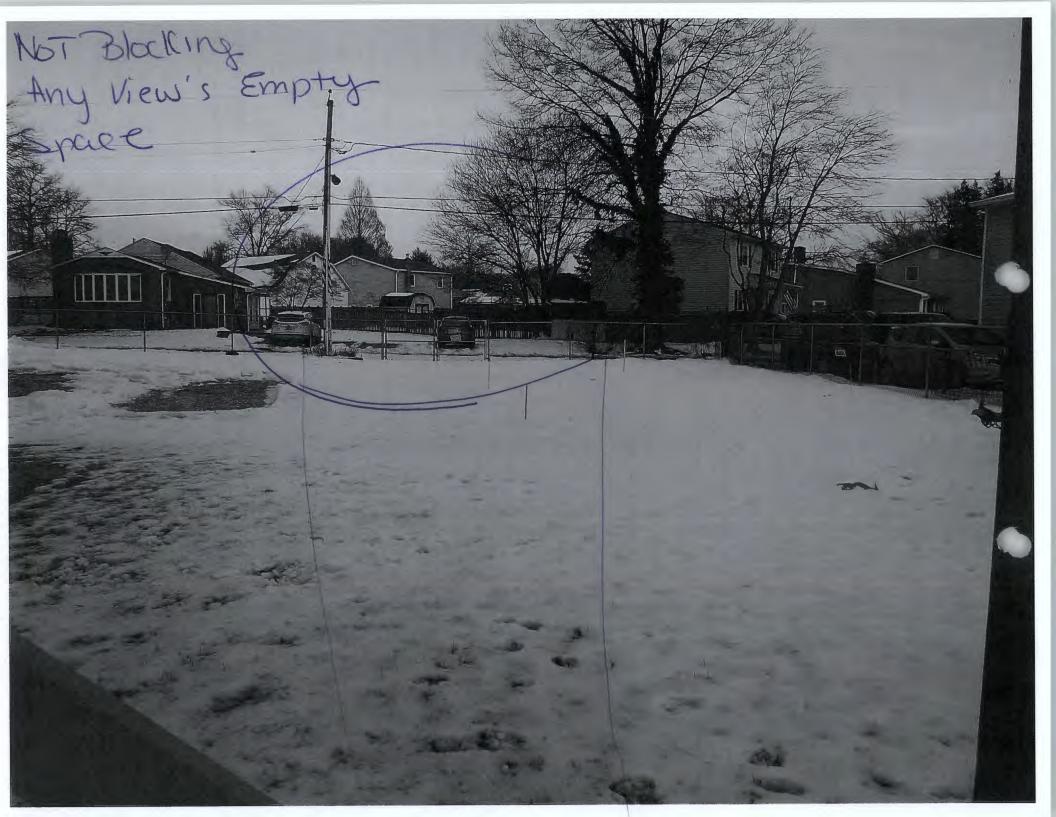


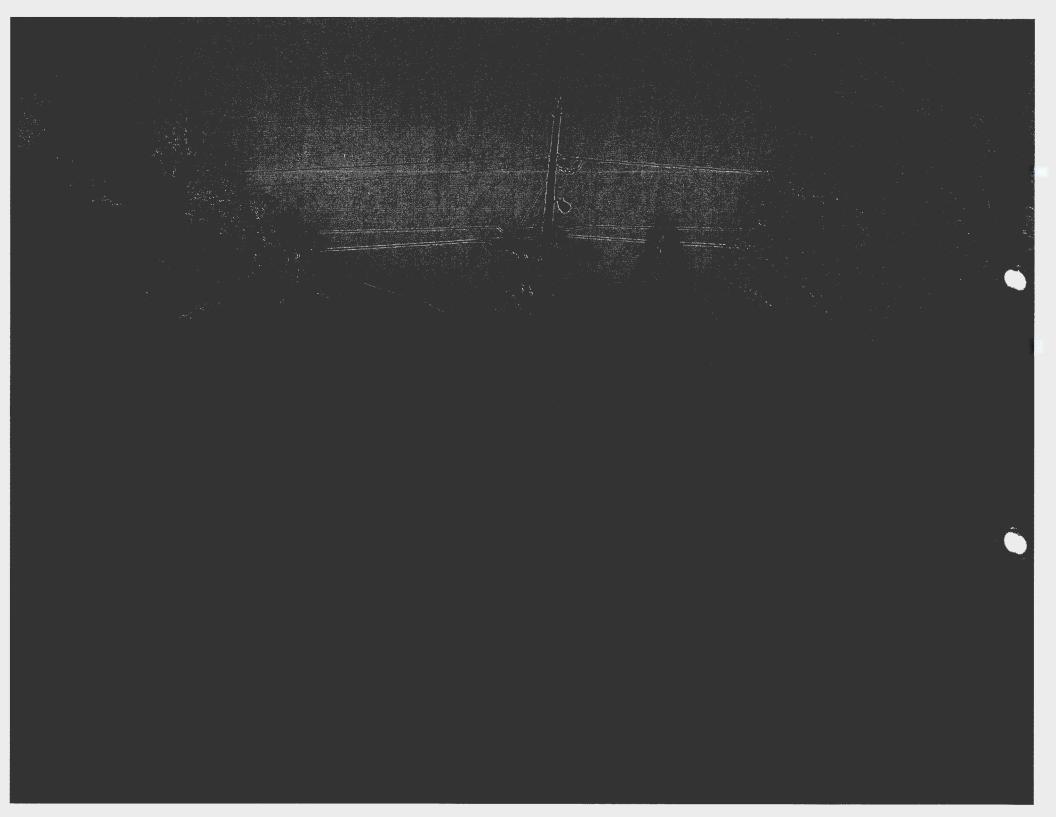


















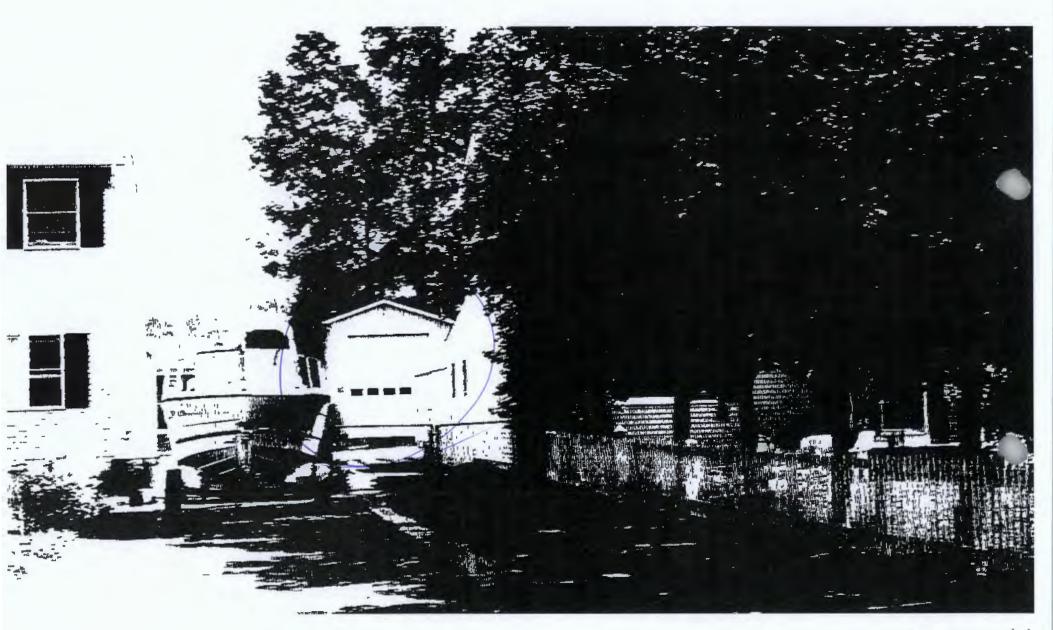








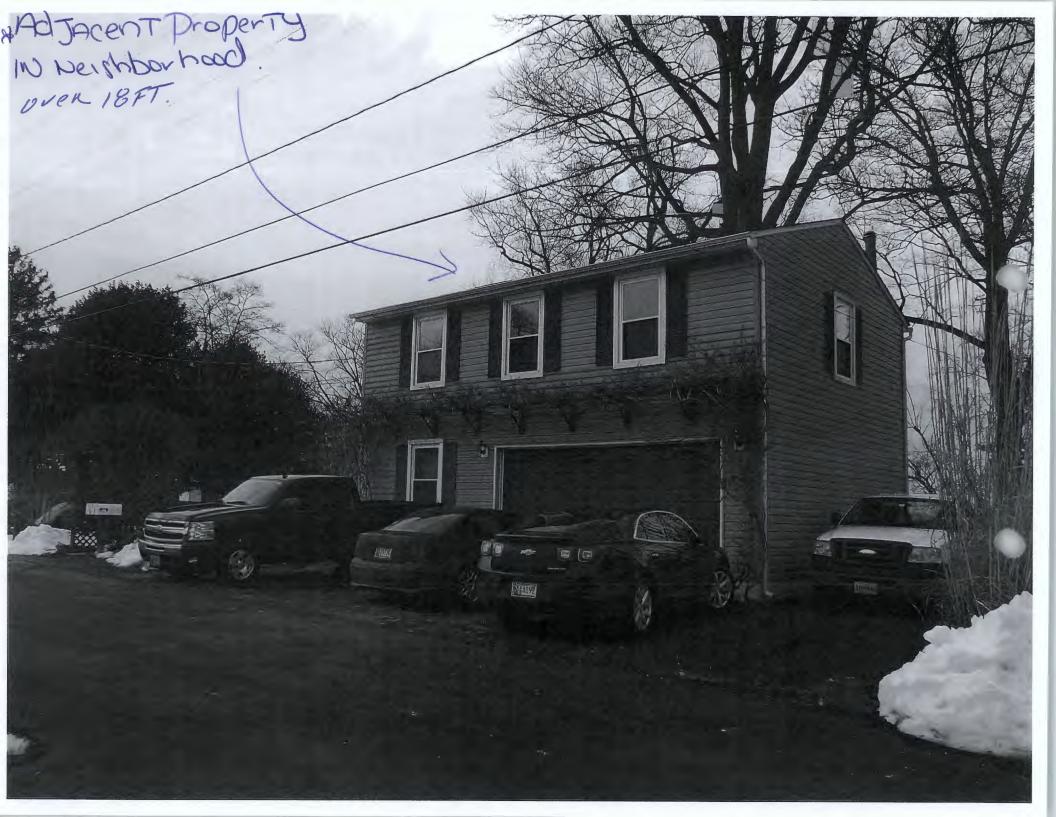




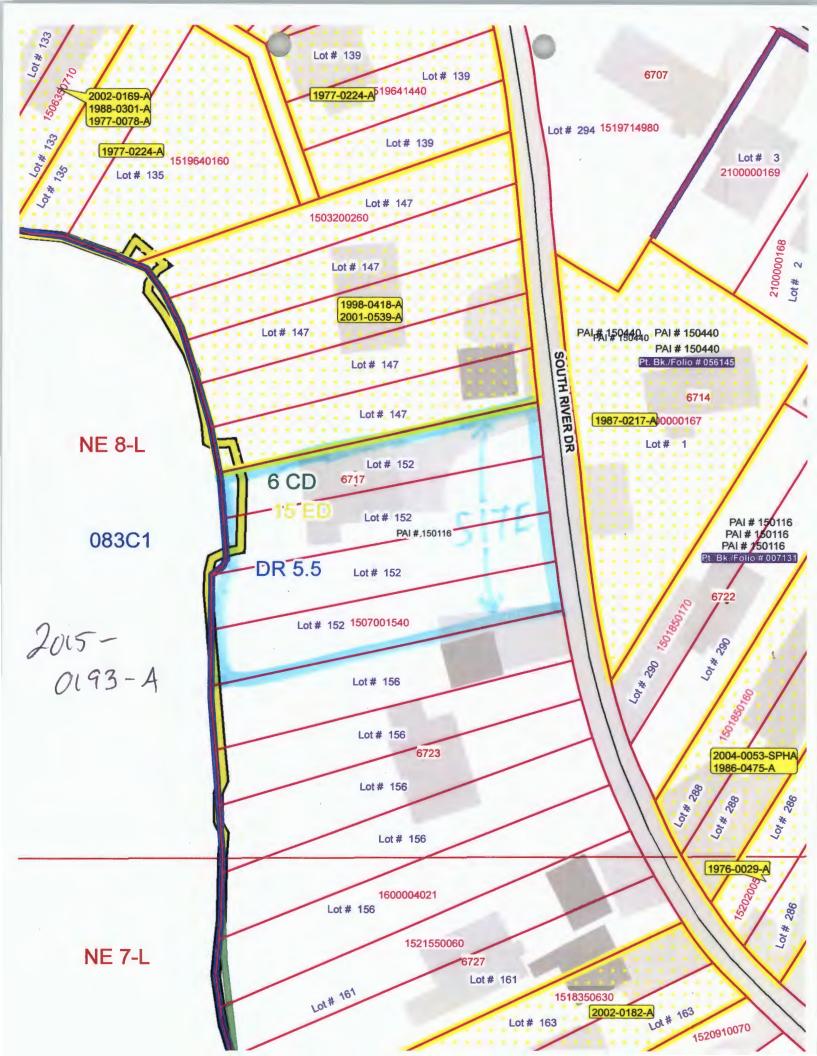
Neighbor Garge well in Excess of 18 FT High. Large engoin TO PART A Semi IN.











ZONING HEARING PLAN FOR VARIANCE X FOR SPECIAL HEARING (MARKTYPE REQUESTED WITH X) ADDRESS 6717 South River OWNER(S) NAME(S) JOSEPH DONLES (OVIE DON'S SUBDIVISION NAME HAVE WOOD PAYK LOT# 152 BLOCK # SECTION # PLAT BOOK # 0007 FOLIO # 131 10 DIGITTAX # 156 7001540 DEED REF. #33114160452 Nef. 0131 452	152-153-154-155 N
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	VIOLATION CASE INFO:

2015-0.193-A

ZONING HEARING PLAN FOR VARIANCE & FOR SPECIAL HEARING (MARK TYPE REQUESTED WITH X) ADDRESS 6717 South River OWNER(S) NAME(S) JOSEPH DONLES (OVIE DUCK SUBDIVISION NAME HAVE WOOD PAYK LOT#152 BLOCK# SECTION# PLAT BOOK # 0007 FOLIO# 131 10 DIGITTAX#1567001540 DEED REF. #33114/60452. Nef. 0131 452	SITE VICINITY MAP CC 152-153-154-1-55 N MAP IS NUTTO SCALE ZONING MAP# 0083
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PLAN DRAWN BY LOVIE 1 DUNKER DATE 3 3 15 SCALE: 1 INCH = 40 FEET	IF SO GIVE CASE NUMBER AND ORDER RESULT BELOW VIOLATION CASE INFO:

2015-0.193-A

ZONING HEARING PLAN FOR VARIANCE & FOR SPECIAL HEARING [MARK TYPE REQUESTED WITH X] ADDRESS COTT South River OWNER(S) NAME(S) JOSEPH DONNES LOVIE DUCK SUBDIVISION NAME Harewood Park LOT#152 BLOCK# SECTION# PLAT BOOK # 0007 FOLIO# 131 10 DIGITTAX#1567001540 DEED REF. #33114/00452 Ref. 10131 452	SITE VICINITY MAP CC 152-153-154-155
SOUTH RELY SOUTH	MAP IS NOT TO SCALE ZONING MAP# 0083 SITE EDWED DR 5.5 ELECTION DISTRICT 15 COUNCIL DISTRICT 5 LOT AREA ACREAGE OR SQUARE FEET HISTORIC? NO IN GROWNOO Y IN FLOOD PLAIN? Y UTILITIES? MARK WITH X WATER IS: PUBLIC PRIVATE SEWER IS: PUBLIC PRIVATE PRIOR HEARING? IF SO GIVE CASE NUMBER AND ORDER RESULT BELOW
PLAN DRAWN BY Lorie / Dur Kee DATE 3 3 15 SCALE: 1 INCH = 40 FEET	VIOLATION CASE INFO:

2015-0.193-A

Pet. Ech. 7