IN RE: PETITION FOR ADMIN. VARIANCE (11309 Holter Road)

11th Election District 6th Council District Jon and Katie Fulkerson Petitioners BEFORE THE

OFFICE OF ADMINISTRATIVE

* HEARINGS FOR

BALTIMORE COUNTY

* CASE NO. 2015-0285-A

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, Jon and Katie Fulkerson. The Petitioners are requesting Variance relief from §§ 301.1.A and 259.9.B.4(e)(1) of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit an open deck addition to the rear of the dwelling with a rear yard setback of 24 ft. in lieu of the required 30 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. 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 June 21, 2015, 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 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

ORDER RECEIVED FOR FILING

Date 7-8-15

Judge, the information, photographs, and affidavits submitted provide sufficient facts that comply with the requirements of Section 307.1 of the B.C.Z.R. Furthermore, strict compliance with the B.C.Z.R. would result in practical difficulty and/or unreasonable hardship upon the Petitioners.

Pursuant to the posting of the property and the provisions of both the Baltimore County Code and the Baltimore County Zoning Regulations, and for the reasons given above, the requested variance should be granted.

THEREFORE, IT IS ORDERED, this <u>8th</u> day of **July**, **2015**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance seeking relief from §§ 301.1.A and 259.9.B.4(e)(1) of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit an open deck addition to the rear of the dwelling with a rear yard setback of 24 ft. in lieu of the required 30 ft., be and are hereby GRANTED.

The relief granted herein shall be subject to the following:

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.

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 R	ECEIVED FOR FILING	2
Date	7-8-15	
By	(pi)	

STRATIVE ZONING PL.

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 11309 Halter Road Currently zoned DR2H 10 Digit Tax Account # 25000 Deed Reference Owner(s) Printed Name(s) (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: ADMINISTRATIVE VARIANCE from Section(s) 301.1.A & 259.9.B.4(e)(1) of BCZR to permit an open deck addition to the rear of the dwelling with a rear yard setback of 24 feet in lieu of the required 30 feet. of the zoning regulations of Baltimore County, to the zoning law of Baltimore County, ADMINISTRATIVE SPECIAL HEARING to approve a waiver pursuant to Section 32-4-107(b) of the Baltimore County Code: (indicate type of work in this space: i.e., to raze, alter or construct addition to building) 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): Signature # 2 ignature #1 Zip Code Attorney for Owner(s)/Petitioner(s): Representative to be contacted: RECEIVED FOR FILING Name-Type or Print Name Signature State State Mailing Address Email Address Telephone # Zip Code Telephone # Email Address Zip Code A PUBLIC HEARING beging been formally demanded and/or found to be required, it is ordered by the Office of Administrative Hearings for Baltimore that the subject matter of this petition be set for a public hearing, advertised, and re-posted as County, this day of required by the zoning regulations of Baltimore County. Administrative Law Judge for Baltimore County 2015-0285-A Filing Date 6 8 , 15

Estimated Posting Date

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 occi	ipled by the undersigned.			
Address	Print or Type Address of property	O WHITE MARSA	MD State	21162 Zip Code
Based u Administ	pon personal knowledge, the f rative Variance at the above a	following are the facts upon valdress. (Clearly state <u>prac</u>	which I/we base tical difficulty o	the request for an or hardship here)
5	Re Attachment.			
ha	of Owner (Affiant)	-ka	eeded, label and a	kerson-
JON!	FULKERSON int or Type	KAT	TE FULKE,	
Name- Fi		to be completed by a Notary Pu		f Maryland
STATE	OF MARYLAND, COUNTY O	F BALTIMORE, to wit:		
I HEREI	BY CERTIFY, this 04 one County aforesaid, personally a	day of June, 2015 appeared:	, before me a N	lotary of Maryland, in
Print name(s)	here: Jon Andrew Fulk	erson, Katie Anne	Fulkesor	- WE. G/
the Affiar	nt(s) herein, personally known or	satisfactorily identified to me a	s such Affiant(s).	Z LOTARL
AS WITH	NESS my hand and Notaries Sea	Mary		AUBLIC .
		Notary Public 09, 2018 My Commission Expires		MANAGER COUNTRIBE

Attachment to Affidavit

FACTS UPON WHICH WE BASE THE REQUEST FOR AN ADMINISTRATIVE VARIANCE:

We propose to build a deck with a 24' setback from the rear property line. The proposed deck will not meet the required Baltimore Zoning requirement of a 30' minimum setback to the rear of the property. We contend that observing the strict 30' requirement represents a practical difficulty that unreasonably prevents the use of the property for a permitted purpose. The following facts are relevant:

- 1) The house was originally built such that it just meets the 30' minimum setback. The builder irresponsibly put the home such that any practical deck would violate the minimum setback requirement.
- 2) Several homes on the same street have decks that are less than 30' from the property rear. (The accompanying photographs show one example.) All were built with variances secured by the builder, but our lot did not have a variance given at construction.
- 3) The rear of the property has a privacy fence. The property behind the house is a wooded lot with no homes and, speaking with the current owner, he has no intent to sell or build any time soon because the lot has failed multiple perc tests. These two facts suggest there is no reason to expect the proposed deck would unfairly affect the desirability of any nearby property.
- 4) The total required variance is only 6' and would still leave a 24' setback that is within the spirit of the zoning requirement.

Given the items stated above, we believe the proposed variance be granted under the criteria of practical difficulty and the understanding that strict compliance would unreasonably prevent

the use of the property for a permitted yung

KATIE FULKERSON Katu a. fulkerson

6/4/15

ZONING PROPERTY DESCRIPTION FOR 11309 HOLTER ROAD, WHITE MARSH, MD 21162

Beginning at a point on the <u>south</u> side of <u>Holter Road</u> which is <u>40 feet wide</u> at a distance of <u>254.2 feet south</u> of the centerline of <u>Overlook Circle</u> which is <u>50 feet wide</u>.

Being Lot #(3) in the subdivision of <u>Honeygo Springs</u>, as recorded in Baltimore County Plat Book #0000078, Folio #0395, containing 12,924 square feet (0.297 acres). Located in the 11th Election District and 6th Council District.

ADMINISTRATIVE VARIANCE INFORMATION SHEET AND DATES

ADMINISTRATIVE VANDANCE IN CHIMATICAL CHEET AND BATES
Case Number 2015- 0285 -A Address 11309 HOLTER ROAD
Contact Person: AARON TSUI Planner, Please Print Your Name Phone Number: 410-887-3391
Filing Date: $\frac{6/8/15}{15}$ Posting Date: $\frac{6/21/15}{15}$ Closing Date: $\frac{7/6/15}{15}$
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. <u>POSTING/COST:</u> 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. <u>DEADLINE:</u> 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- 0285 -A Address 1/309 HOLTER ROAD
Petitioner's Name Jon Fulkerson Telephone 1859-200-4039
Posting Date: 6/21/15 Closing Date: 7/6/15
Wording for Sign: To Permit AN OPEN DECK IN THE REAR OF THE
DWELLING WITH A REAR YARD SETBACK OF 24 FEET
IN LIEU OF THE REQUIRED 30 FEET.

CERTIFICATE OF POSTING

Date: 6-21-15 RE: Case Number: 2015-0285-A Date of Hearing/Closing: 7-6-15 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 1(309 Holfer Rd J. LAWRENCE PILSON (Printed Name of Sign Poster) ATTACH PHOTGRAPH 1015 Old Barn Road (Street Address of Sign Poster) Parkton, MD 21120 (City, State, Zip Code of Sign Poster) 410-343-1443 (Telephone Number of Sign Poster)



ZONING NOTICE

VARIANCE

TO PERMIT AN OPEN DECK IN THE
REAR OF THE DWELLING WITH A REAR
YARD SETBACK OF 24 PEET IN LIEU OF
THE REQUIRED 30 FEET

PUBLIC HEARING ?

PURSUANT TO SECTION 26-127(b)(1), BALTIMORE COUNTY CODE,
AN ELIGIBLE INDIVIDUAL OR GROUP MAY
REQUEST A PUBLIC HEARING CONCERNING
THE PROPOSED VARIANCE, PROVIDED THE REQUEST IS
RECEIVED IN THE ZONING REVIEW BUREAU BEFORE
5:00 P.M. ON 716 15

ADDITIONAL INFORMATION IS AVAILABLE AT THE DEPARTMENT OF 111 WEST CHESAPEAKE AVE., TOWSON, MD 21204, (410) 887-3391

Real Property Data Search (w3)

Guide to searching the database

Search Result for BALTIMORE COUNTY

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- 1. This screen allows you to search the Real Property database and display property records.
- 2. Click here for a glossary of terms.
- 3. Deleted accounts can only be selected by Property Account Identifier.
- 4. The following pages are for information purpose only. The data is not to be used for legal reports or documents. While we have confidence in the accuracy of these records, the Department makes no warranties, expressed or implied, regarding the information.



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

July 7, 2015

Jon & Katie Fulkerson 11309 Holter Road White Marsh MD 21162

RE: Case Number: 2015-0285 A, Address: 11309 Holter Road

Dear Mr. & Ms. Fulkerson:

The above referenced petition was accepted for processing **ONLY** by the Bureau of Zoning Review, Department of Permits, Approvals, and Inspection (PAI) on June 8, 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,

U. Carl Richal &

W. Carl Richards, Jr. Supervisor, Zoning Review

WCR: jaw

Enclosures

c: People's Counsel

Larry Hogan, Governor Boyd Rutherford, Lt. Governor



Pete K. Rahn, Secretary

Date: June 15, 2015

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 -0285-A
ADMINISTRATIVE VARIANCE
JON & KATIE FOLKERSON

11309 HOLTER RDM

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. 2015-0285-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,

David W. Peake

Metropolitan District Engineer Baltimore & Harford Counties

DWP/RAZ

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

TO:

Arnold Jablon, Director

DATE: June 17, 2015

Department of Permits, Approvals

And Inspections

FROM:

Dennis A. Kennedy, Supervisor

Bureau of Development Plans Review

SUBJECT:

Zoning Advisory Committee Meeting

For June 22, 2015

Item No. 2015-0285, 0287 and 0289

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

DAK:CEN cc:file

MEMORANDUM

DATE:

August 10, 2015

TO:

Zoning Review Office

FROM:

Office of Administrative Hearings

RE:

Case No. 2015-0285-A - Appeal Period Expired

The appeal period for the above-referenced case expired on August 7, 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

CASE NO. 2015- 0285-A

CHECKLIST

Comment Received	Department	Conditions/ Comments/ No Comment
6-17	DEVELOPMENT PLANS REVIEW (if not received, date e-mail sent)	No
	DEPS (if not received, date e-mail sent)	
	FIRE DEPARTMENT	
	PLANNING (if not received, date e-mail sent)	
6-15	STATE HIGHWAY ADMINISTRATION	No objection
· · · · · ·	TRAFFIC ENGINEERING	. ————
	COMMUNITY ASSOCIATION	
· .	ADJACENT PROPERTY OWNERS	
ZONING VIOLATI	ON (Case No.	
PRIOR ZONING	(Case No.	
NEWSPAPER ADV	TERTISEMENT Date:	
SIGN POSTING	Date: 6-21-15	by Pilson
PEOPLE'S COUNS	EL APPEARANCE Yes No D	
PEOPLE'S COUNS	EL COMMENT LETTER Yes No	
Comments, if any: _		

Tax Exempt: Exempt Class:

Homestead Application Status: No Application

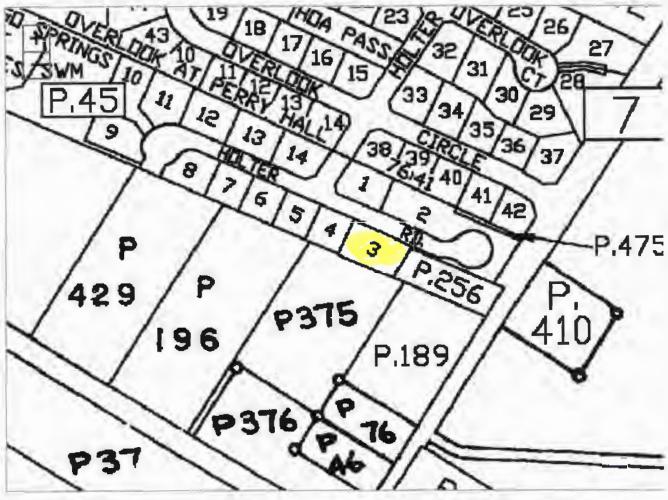
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Special Tax Recapture: NONE Homestead Application Information

Baltimore County

New Search (http://sdat.resiusa.org/RealProperty)

Account Number: 250000093



The information shown on this map has been compiled from deed descriptions and plats and is not a property survey. The map should not be used for legal descriptions. Users noting errors are urged to notify the Maryland Department of Planning Mapping, 301 W. Preston Street, Baltimore MD 21201.

If a plat for a property is needed, contact the local Land Records office where the property is located. Plats are also available online through the Maryland State Archives at www.plats.net (http://www.plats.net).

Property maps provided courtesy of the Maryland Department of Planning ©2011.

For more information on electronic mapping applications, visit the Maryland Department of Planning web site at www.mdp.state.md.us/OurProducts/OurProducts.shtml (http://www.mdp.state.md.us/OurProducts/OurProducts.shtml).



(http://imsweb05.mdp.state.md.us/website/mosp/)

x Loading... Please

Loading... Please Wait.

Existing conditions

Front of house, facing south.



Existing conditions

Front of house, facing south.



Rear of house, facing east. Red lines indicate rough location of deck.



Rear of house, facing northeast. Red lines indicate rough location of deck.



Rear of house, facing east. Red lines indicate rough location of deck.



Rear of house, facing northeast. Red lines indicate rough location of deck.



Existing conditions

Front of house, facing south.



Rear of house, facing east. Red lines indicate rough location of deck.

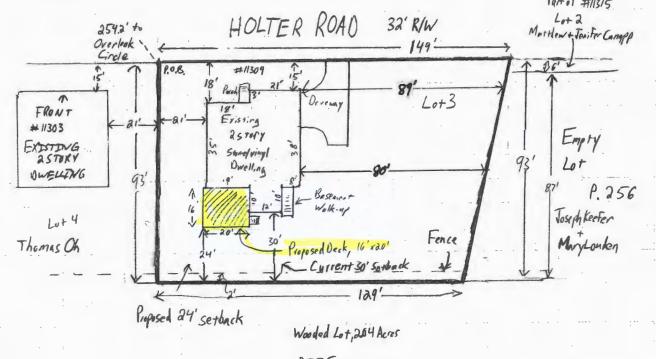


Rear of house, facing northeast. Red lines indicate rough location of deck.





ZONING HEARING PLAN FOR ADDRESS 11309 HOLTER RO			(MARK TYPE REQUESTED WITH X) + KATIE FULKERSON
SUBDIVISION NAME HONEY PLAT BOOK # 78 FOLIO # 3	GOSPRINGS	LOT#_3	BLOCK # M/A SECTION # N/A
2542' to	HOLTER ROAN	32' R/W	Part of #11315



Breadleaf Properties



PLAN DRAWN BY JON FULKERSON DATE 6/3/15 SCALE: 1 INCH = 40 FEET

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OR SQUARE FEET 12924
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IN CBCA ?
IN FLOOD PLAIN ? NO
UTILITIES? MARK WITH X
WATER IS:
PUBLIC X PRIVATE
SEWER IS:
PUBLIC X PRIVATE
PRIOR HEARING?
IF SO GIVE CASE NUMBER
AND ORDER RESULT BELOW
2006-0052-A

VIOLATION CASE INFO:

2015-0285-A

Pat. Exh. I

ZONING HEARING PLAN FOR VARIANCE XFOR SPECIAL HEARING (MARK TYPE REQUESTED WITH X) ADDRESS 11309 HOLTER ROAD OWNER(S) NAME(S) JON+KATIE FULKERSON SUBDIVISION NAME HONFYGO SPRINGS LOT# 3 BLOCK # M/A SECTION # N/A PLAT BOOK # 78 FOLIO # 395 10 DIGIT TAX # 2 5000009 3 DEED REF. # 3 2 7 9 1/00 2 1 7	SITE VICINITY MA
ASYN'S TO CVENTOR CONTROL TO CVENTOR TO CVEN	MAP IS NOT TO SCAL ZONING MAP# CO > SITE ZONED DR2# ELECTION DISTRICT COUNCIL DISTRICT LOT AREA ACREAGE OOR SQUARE FEET 129 HISTORIC? NO IN CBCA? NO IN FLOOD PLAIN? NO UTILITIES? MARK VOWATER IS: PUBLIC X PRIVATE SEWER IS: PUBLIC X PRIVATE PRIOR HEARING? NO GIVE CASE NOW AND ORDER RESULT BE 2006-0052-A

PLAN DRAWN BY JON FULKERSON DATE 6/3/15 SCALE: 1 INCH = 40 FEET

11^{±6} 6 ±1 10.29 7 1924 10 WITH X ELOW VIOLATION CASE INFO:

ZONING HEARING PLAN FOR VARIANCE XFOR SPECIAL HEARING (MARK TYPE REQUESTED WITH X) ADDRESS 11309 HOLTER ROAD) OWNER(S) NAME(S) TON + KATTE FULKERSON SUBDIVISION NAME HONE YGO SPRINGS LOT # 3 BLOCK # M/A SECTION # N/A PLAT BOOK # 78 FOLIO # 395 10 DIGIT TAX # 8 50000099 3 DEED REF. # 3279 1100 217 PROVIDE TO SECTION # 199' FROM 32' RIW THOUTER ROAD 32' RIW THOUTER ROAD 32' RIW SETTING 199' FROM 18' MARK TYPE REQUESTED WITH X) POWNER(S) NAME(S) TON + KATTE FULKERSON FOUND # 1900 10 PLAN SECTION # N/A PLAT BOOK # M/A SECTION # N/A PLAT BOOK # M/A SECTION # N/A PLAT BOOK # 199' FROM 32' RIW THOUSE ROAD ROAD 199' FROM 32' RIW MARK TYPE REQUESTED WITH X) PLAT S BLOCK # M/A SECTION # N/A PLAT BOOK # M/A PLAT BOOK # M/A SECTION # N/A PLAT BOOK # M/A PLAT BOOK # M	MAP IS NOT TO SCALE ZONING MAP# 00 73 SITE ZONED DR2 H ELECTION DISTRICT 11 to council district 6 to council district 6 to council district 7 or square feet 12 9 2 4 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? ATO Y IF SO GIVE CASE NUMBER AND ORDER RESULT BELOW 2006-0052-A
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PLAN DRAWN BY TON FULKERSON DATE 6/3/15 SCALE: 1 INCH = 40 FEET

AND ORDER RESULT BELOW

2006-0052-A

VIOLATION CASE INFO: