

M E M O R A N D U M

DATE: December 29, 2015
TO: Zoning Review Office
FROM: Office of Administrative Hearings
RE: Case No. 2016-0105-A- Appeal Period Expired

The appeal period for the above-referenced case expired on December 28, 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	*	BEFORE THE
(7007 Oliver Beach Road)		
15 th Election District	*	OFFICE OF ADMINISTRATIVE
6 th Council District		
Barry A. and Frances M. Dukes	*	HEARINGS FOR
Petitioners		
	*	BALTIMORE COUNTY
	*	CASE NO. 2016-0105-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, Barry A. and Frances M. Dukes. The Petitioners are requesting Variance relief from § 400.1 of the Baltimore County Zoning Regulations (B.C.Z.R.), to permit an accessory structure (detached open car port) to be located in the side and front yards in lieu of the required rear yard placement. 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 November 8, 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 11-25-15
 By BW

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.

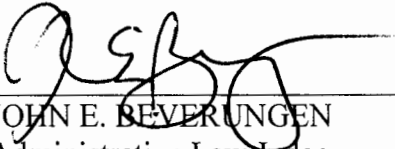
Pursuant to the posting of the property and the provisions of both the Baltimore County Code and the Baltimore County Zoning Regulations, and for the reasons given above, the requested variance should be granted.

THEREFORE, IT IS ORDERED, this 25th day of **November, 2015**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance relief from § 400.1 of the Baltimore County Zoning Regulations (B.C.Z.R.), to permit an accessory structure (detached open car port) to be located in the side and front yards in lieu of the required rear yard placement, be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

- Petitioners may apply for their appropriate permits and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, Petitioners would be required to return, and be responsible for returning, said property to its original condition.
- Building materials for the carport addition shall be consistent with those of the existing principal dwelling.
- The carport shall remain open on the three exposed sides and shall not be enclosed at any time.

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 11-25-15

2

By [Signature]



KEVIN KAMENETZ
County Executive

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

November 25, 2015

Barry A. and Frances M. Dukes
7007 Oliver Beach Road
Baltimore, Maryland 21220

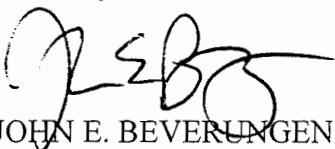
RE: Petition for Administrative Variance
Case No. 2016-0105-A
Property: 7007 Oliver Beach Road

Dear Mr. and Mrs. Dukes:

Enclosed please find a copy of the Order 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. BEVERUNGEN
Administrative Law Judge
for Baltimore County

JEB:dlw
Enclosure

CHECKLIST

<u>Comment Received</u>	<u>Department</u>	<u>Support/Oppose/ Conditions/ Comments/ No Comment</u>
<u>11-4</u>	DEVELOPMENT PLANS REVIEW (if not received, date e-mail sent _____)	<u>NC</u>
<u>11-6</u>	DEPS (if not received, date e-mail sent _____)	<u>NC</u>
_____	FIRE DEPARTMENT	_____
_____	PLANNING (if not received, date e-mail sent _____)	_____
<u>11-2</u>	STATE HIGHWAY ADMINISTRATION	<u>No objection</u>
_____	TRAFFIC ENGINEERING	_____
_____	COMMUNITY ASSOCIATION	_____
_____	ADJACENT PROPERTY OWNERS	_____
ZONING VIOLATION	(Case No. _____)	
PRIOR ZONING	(Case No. <u>93-279-A attached</u>)	
NEWSPAPER ADVERTISEMENT	Date: _____	
SIGN POSTING <u>15 days</u>	Date: <u>11-8-15</u> by <u>Hoffman</u>	
PEOPLE'S COUNSEL APPEARANCE	Yes ☐ No ☐	
PEOPLE'S COUNSEL COMMENT LETTER	Yes ☐ No ☐	

Comments, if any: _____

CERTIFICATE OF POSTING

RE: Case No. 2016-0105-A

Petitioner: Barry Dukes

Hearing / Closing Date: 11/23/15

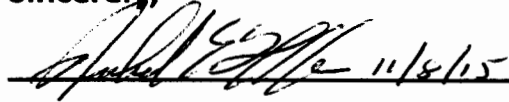
Baltimore County Department of
Permits and Development Management
Room 111, County Office Building
111 W. Chesapeake Ave.
Towson, Md. 21204

This letter is to confirm, under penalties of perjury, that the necessary sign(s)
were posted conspicuously on the property located at _____

_____ 7007 Oliver Beach Road _____

_____ on 11/8/15 _____

Sincerely,

 11/8/15

Richard E. Hoffman

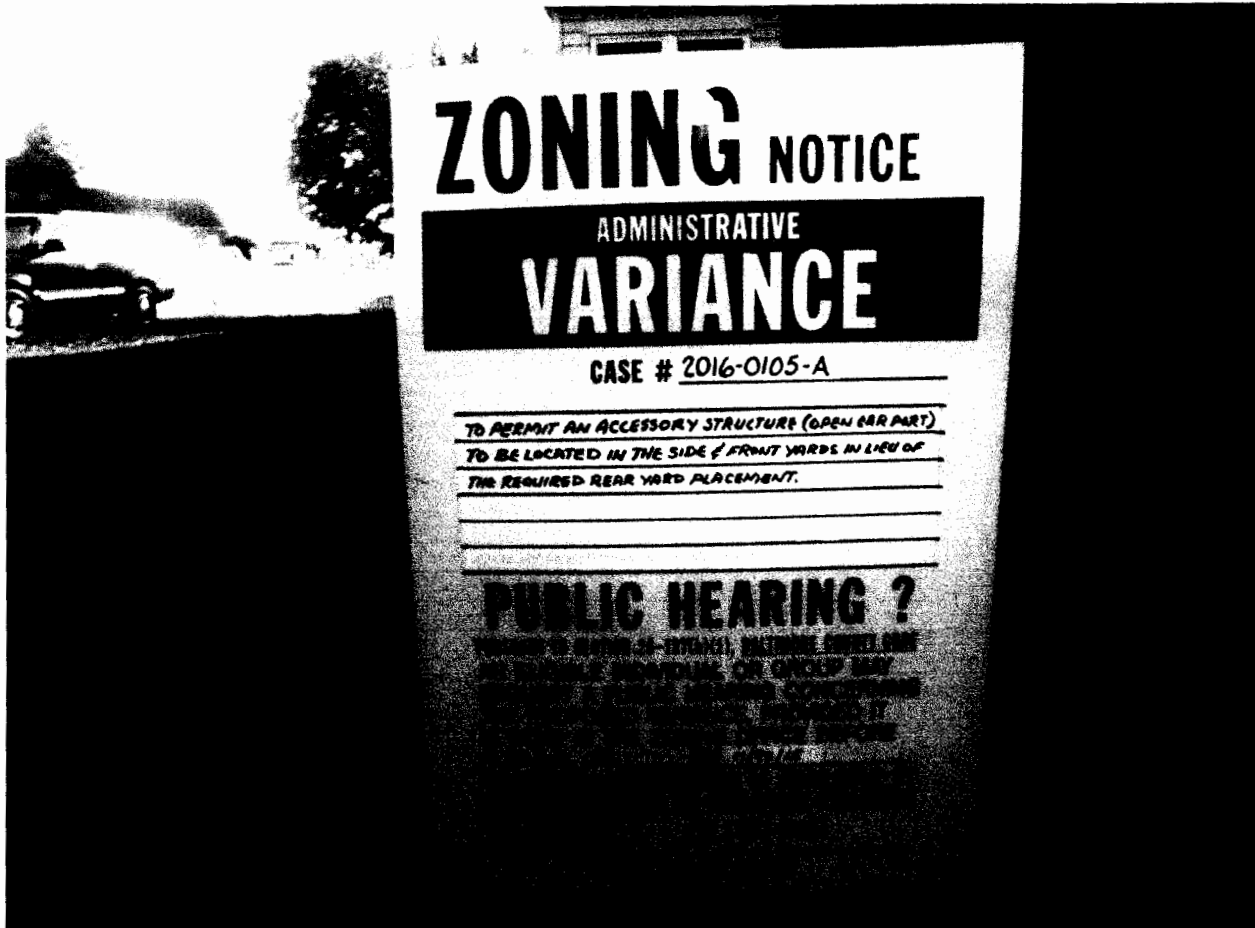
904 Dellwood Drive

Fallston, Md. 21047

443-243-7360

Certificate of Posting

Case No. 2016-0105-A



7007 Oliver Beach Road

(Posted 11/8/15)

 11/8/15

Richard E. Hoffman

904 Dellwood Drive

Fallston, Md. 21047

443-243-7360



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 7007 OLIVER BEACH ROAD Currently zoned DR2
 Deed Reference 10447 / 00735 10 Digit Tax Account # 22 00013991
 Owner(s) Printed Name(s) BARRY A. + FRANCES M. DUKES

(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. **X** **ADMINISTRATIVE VARIANCE** from Section(s)

BCZR: 400.1 → To permit an accessory structure (open car port) to be located in the side and front yards in lieu of the required rear yard placement.

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 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):

BARRY A. DUKES, FRANCES M. DUKES
 Name #1 - Type or Print Name #2 - Type or Print
Barry A. Dukes Frances M. Dukes
 Signature #1 Signature #2
7007 OLIVER BEACH RD. MIDDLE RIVER, MD.
 Mailing Address City State
21220, 4103358829, DUKE454@VERIZON.NET
 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:

BARRY A. DUKES
 Name - Type or Print
Barry A. Dukes
 Signature
SAME AS ABOVE
 Mailing Address City State
 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 day of 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.

BY

Administrative Law Judge for Baltimore County

CASE NUMBER 2016-0105-A Filing Date 10/27/15 Estimated Posting Date 11/8/15 Reviewer JS

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.

Address: 7007 OLIVER BEACH RD MIDDLE RIVER, 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 practical difficulty or hardship here)

IF THE VARIANCE IS GRANTED I CAN JUST INSTALL THE CARPORT IN THE DESCRIBED AREA WITH NO MODIFICATIONS. IF THE VARIANCE IS NOT GRANTED I MUST REMOVE + RE-LOCATE THE FENCE SURROUNDING THE SIDE + BACK YARDS + ALSO DO GRADING TO REACH THE AREA OF CARPORT WHICH WOULD BE AN ADDITIONAL 20' X 65' AREA. ADDITIONALLY IF IT SNOWS I WILL HAVE TO SHOVEL ABOUT 100' OF DRIVEWAY VERSUS 25' IN THE REQUESTED AREA.

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

Barry A. Dukes
Signature of Owner (Affiant)

BARRY A. DUKES
Name- Print or Type

Frances M. Dukes
Signature of Owner (Affiant)

FRANCES M. DUKES
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 23 day of October 2015, before me a Notary of Maryland, in and for the County aforesaid, personally appeared:

Print name(s) here: Barry A Dukes Frances M. Dukes

the Affiant(s) herein, personally known or satisfactorily identified to me as such Affiant(s).

AS WITNESS my hand and Notary Seal



Kimberly Malyszewski
Notary Public
9-22-2017
My Commission Expires



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 7007 OLIVER BEACH ROAD Currently zoned DR2
 Deed Reference 10447 / 00735 10 Digit Tax Account # 22 00013991
 Owner(s) Printed Name(s) BARRY A. + FRANCES M. DUKES

(SELECT THE HEARING(S) BY MARKING ☒ 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)

BCZR: 400.1 → To permit an accessory structure (open car port) to be located in the side and front yards in lieu of the required rear yard placement.

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 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):

BARRY A. DUKES, FRANCES M. DUKES

Name #1 – Type or Print

Name #2 – Type or Print

Barry A. Dukes

Frances M. Dukes

Signature #1

Signature #2

7007 OLIVER BEACH RD. MIDDLE RIVER, MD.

Mailing Address

City

State

21220 / 410 335 8829

DUKE454@VERIZON.NET

Zip Code

Telephone #

Email Address

NET

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

Name- Type or Print

Signature

Mailing Address

City

State

Zip Code

Telephone #

Email Address

Representative to be contacted:

BARRY A. DUKES

Name- Type or Print

Barry A. Dukes

Signature

SAME AS ABOVE

Mailing Address

City

State

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 NOVEMBER, 2015, 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.

BY

Administrative Law Judge for Baltimore County

CASE NUMBER

2016-0105-A

Filing Date

10/27/15

Estimated Posting Date

11/18/15

Reviewer

JS

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.

Address: 7007 OLIVER BEACH Rd MIDDLE RIVER, 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 practical difficulty or hardship here)

IF THE VARIANCE IS GRANTED I CAN JUST INSTALL THE CARPORT IN THE DESCRIBED AREA WITH NO MODIFICATIONS. IF THE VARIANCE IS NOT GRANTED I MUST REMOVE + RE-LOCATE THE FENCE SURROUNDING THE SIDE + BACK YARDS + ALSO DO GRADING TO REACH THE AREA OF CARPORT WHICH WOULD BE AN ADDITIONAL 20' X 65' AREA. ADDITIONALLY IF IT SNOWS I WILL HAVE TO SHOVEL ABOUT 100' OF DRIVEWAY VERSUS 25' IN THE REQUESTED AREA.

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

Barry A. Dukes
Signature of Owner (Affiant)

BARRY A. DUKES
Name- Print or Type

Frances M. Dukes
Signature of Owner (Affiant)

FRANCES M. DUKES
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 23 day of October 2015, before me a Notary of Maryland, in and for the County aforesaid, personally appeared:

Print name(s) here: Barry A. Dukes Frances M. Dukes

the Affiant(s) herein, personally known or satisfactorily identified to me as such Affiant(s).

AS WITNESS my hand and Notaries Seal



Kimberly Malyszewski
Notary Public

9-22-2017
My Commission Expires

ZONING PROPERTY DESCRIPTION FOR:

7007 OLIVER BEACH ROAD

Beginning at a point in the southwest side of Oliver Beach Road which is 30 feet wide at the distance of 271.39 feet of the centerline of the southeast side of Eastern Avenue which is 30 feet wide.

Thence the following courses and distances:

(1st POC) South 59 22' 42" East 90.23 feet

(2nd POC) South 33 58' West 195.42 feet

(3RD POC) North 56 02' West 90.08 feet

(4th POC) North 33 58' East 190.16 feet

Back to the point of beginning, as recorded in Deed Liber 10447, Folio 00735, containing .4047 acres. Located in the 15th Election District and 6th Council District. Also known as lot #3 in the minor subdivision of Peter J. Trionfo, minor subdivision #91-153-M, as maintained by the Development Management Division of the Department of Permits, Approvals and Inspections.

2016-0105-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: 2016-0105

Petitioner: DUKES

Address or Location: 7007 OLIVER BEACH ROAD

PLEASE FORWARD ADVERTISING BILL TO:

Name: BARRY DUKES

Address: 7007 OLIVER BEACH ROAD

MIDDLE RIVER MD. 21220-1155

Telephone Number: 410-335-8829

BALTIMORE COUNTY DEPARTMENT OF PERMITS, APPROVALS AND INSPECTIONS
ZONING REVIEW

ADMINISTRATIVE VARIANCE INFORMATION SHEET AND DATES

Case Number 2016- 0105 -A Address 7007 OLIVER BEACH ROAD
Contact Person: JASON SEIDELMAN Phone Number: 410-887-3391
Planner, Please Print Your Name

Filing Date: 10/27/15 Posting Date: 11/8/15 Closing Date: 11/23/15

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.
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 2016- 0105 -A Address 7007 OLIVER BEACH RD
Petitioner's Name DUKES Telephone 410-335-8879
Posting Date: 11/8/15 Closing Date: 11/23/15
Wording for Sign: TO PERMIT AN ACCESSORY STRUCTURE (OPEN CAR PORT) TO BE
LOCATED IN THE SIDE+FRONT YARDS IN LIEU OF THE REQUIRED REAR YARD
PLACEMENT.

Revised 7/21/15

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

No. **127341**

Date: **10/31/15**

PAID RECEIPT

RECEIVED BY: [Signature]
DATE: 10/31/15
TIME: 11:04 AM
BY: [Signature]
FOR: [Signature]
TOTAL: \$75.00
CASHIER'S VALIDATION

				Rev	Sub				
				Source/	Rev/				
Fund	Dept	Unit	Sub Unit	Obj	Sub Obj	Dept	Obj	BS Acct	Amount
001	806	0000		1-50					\$75.00

Total: **\$75.00**

Rec From: **JONES**

For:

DISTRIBUTION

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

SDAT: Real Property Search

Guide to searching the data

Real Property Data Search (w1)

Search Result for BALTIMORE COUNTY

View Map

View GroundRent Redemption

View GroundRent Registration

Account Identifier:

District - 15 Account Number - 2200013991

Owner Name:

DUKES BARRY A
DUKES FRANCES M
7007 OLIVER BEACH RD
BALTIMORE MD 21220-1155

Use:
Principal Residence:
Deed Reference:

RESIDENTIAL
YES
/10447/ 00735

Mailing Address:

7007 OLIVER BEACH RD
0-0000

Location & Structure Information

Premises Address:

Subdivision:

Section: Block: Lot:

4047AC PTLT 107&108
7007 OLIVER BEACH RD
SW
TWIN RIVER BEACH
Assessment Year: 2015
Plat No: MS
Plat Ref: 0008/0020
NONE

Map: Grid: Parcel:
0084 0001 0044

Sub District: 0000

Town:
Ad Valorem:
Tax Class:
Finished Basement Area

Property Land Area
17,628 SF
Garage 1 Attached
Last Major Renovation

Primary Structure
Built 1994
Stories 2
Basement YES

Above Grade Enclosed Area
2,746 SF
Type STANDARD UNIT

Exterior SIDING
Full/Half Bath 3 full
Value Information
Value As of 01/01/2015
88,400
152,700
241,100

Phase-in Assessments
As of 07/01/2015
241,100

Land:
Improvements Total:
Preferential Land:

Seller: DUKES FRANCES M
Type: NON-ARMS LENGTH OTHER
Seller: TRIONFO PETER J,SR
Type: NON-ARMS LENGTH OTHER
Seller:
Type:

Transfer Information
Date: 04/06/1994
Deed1: /10447/ 00735
Date: 02/09/1993
Deed1: /09595/ 000
Date:
Deed1:
Exempt:

Partial Exempt Assessments:
County:
State:
Municipal:
Tax Exempt:
Exempt Class:

Homestead Application Status: App

Property/Pages

4/17

IN RE: PETITION FOR VARIANCE * BEFORE THE
S/S Oliver Beach Road, 285' W *
of the c/l of Eastern Boulevard * DEPUTY ZONING COMMISSIONER
(7007 Oliver Beach Road) *
15th Election District * OF BALTIMORE COUNTY
5th Councilmanic District *
Case No. 93-279-A
Frances M. Dukes *
Petitioner *

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Deputy Zoning Commissioner as a Petition for Variance filed by the owner of the subject property, Frances M. Dukes. The Petitioner requests relief from Section 1B02.3.A.3 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a window to tract boundary setback of 30 feet in lieu of the minimum required 35 feet for two windows on the southeast side of a proposed dwelling in accordance with Petitioner's Exhibit 1.

Appearing on behalf of the Petitioner were Peter J. Trionfo, Sr., the Petitioner's father, and Harvey Silbermann, Professional Engineer. There were no Protestants.

Testimony indicated that the subject property, known as 7007 Oliver Beach Road, consists of 0.4607 acres, more or less, zoned D.R. 5.5 and is presently unimproved. The Petitioner is desirous of developing the property with a single family dwelling in accordance with Petitioner's Exhibit 1. Testimony indicated that the subject property was created pursuant to a minor subdivision which was approved in Case No. 91-153-M and that the relief requested is necessary in order to bring the property into compliance with the regulations that were in effect at that time. The Petitioner argued that the relief requested is minimal and will not adversely impact the health, safety or general welfare of surrounding

properties. Further testimony indicated that all other building code and setback requirements will be met by the proposed development and that to require strict compliance will result in practical difficulty for the Petitioner.

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the Petitioner and his property. McLean v. Soley, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the Petitioner must meet the following:

- 1) whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;
- 2) whether the grant would do substantial injustice to applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give substantial relief; and
- 3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App. 28 (1974).

It is clear from the testimony that if the variance is granted, such use, as proposed, will not be contrary to the spirit of the B.C.Z.R. and will not result in any injury to the public good.

After due consideration of the testimony and evidence presented, it is clear that practical difficulty or unreasonable hardship will result if the variance is not granted. It has been established that special circumstances or conditions exist that are peculiar to the land or structure which is the subject of this variance request and that the requirements from which the Petitioner seeks relief will unduly restrict the use of the land due to the special conditions unique to this particular parcel.

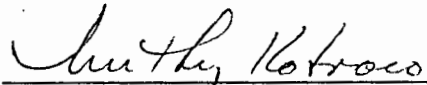
In addition, the variance requested will not cause any injury to the public health, safety or general welfare. Further, the granting of the Petitioner's request is in strict harmony with the spirit and intent of the B.C.Z.R.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the variance requested should be granted.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 8th day of April, 1993 that the Petition for Variance requesting relief from Section 1B02.3.A.3 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a window to tract boundary setback of 30 feet in lieu of the minimum required 35 feet for two windows on the southeast side of a proposed dwelling, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following restriction:

- 1) The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioners would be required to return, and be responsible for returning, said property to its original condition.

TMK:bjs


TIMOTHY M. KOTROCO
Deputy Zoning Commissioner
for Baltimore County

Closing
11/23

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence

RECEIVED

NOV 06 2015



OFFICE OF ADMINISTRATIVE HEARINGS

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

FROM: Jeff Livingston, Department of Environmental Protection and
Sustainability (EPS) - Development Coordination

DATE: November 5, 2015

SUBJECT: DEPS Comment for Zoning Item # 2016-0105-A
Address 7007 Oliver Beach Road
(Dukes Property)

Zoning Advisory Committee Meeting of November 2, 2015.

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

Reviewer: Steve Ford

Date: 11-05-2015



KEVIN KAMENETZ
County Executive

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

November 23, 2015

Barry A & Frances M Dukes
7007 Oliver Beach Road
Middle River MD 21220

RE: Case Number: 2016-0105 A, Address: 7007 Oliver Beach Road

Dear Mr. & Ms. Dukes:

The above referenced petition was accepted for processing **ONLY** by the Bureau of Zoning Review, Department of Permits, Approvals, and Inspection (PAI) on October 27, 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,

A handwritten signature in black ink, reading "W. Carl Richards, Jr.", is written over a horizontal line.

W. Carl Richards, Jr.
Supervisor, Zoning Review

WCR: jaw

Enclosures

c: People's Counsel

Larry Hogan, Governor
Boyd K. Rutherford, Lt. Governor



Pete K. Rahn, Secretary
Gregory C. Johnson, P.E., Administrator

Date: 11/2/15

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

RE: Baltimore County
Item No. 2016-0105-A
Administrative Variance
Barry A. & Frances M. Dukes
7007 Oliver Beach 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. 2016-0105-A.

Should you have any questions regarding this matter, please contact Mr. Richard Zeller at 410-229-2332 or 1-866-998-0367 (in Maryland only) extension 2332, or by email at (rzeller@sha.state.md.us).

Sincerely,

A handwritten signature in black ink, appearing to read "David W. Peake".

David W. Peake
Metropolitan District Engineer – District 4
Baltimore & Harford Counties

DWP/RAZ

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

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

DATE: November 4, 2015

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

SUBJECT: Zoning Advisory Committee Meeting
For November 2, 2015
Item No. 2016-0103, 0104, 0105 and 0108

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

DAK
cc:file

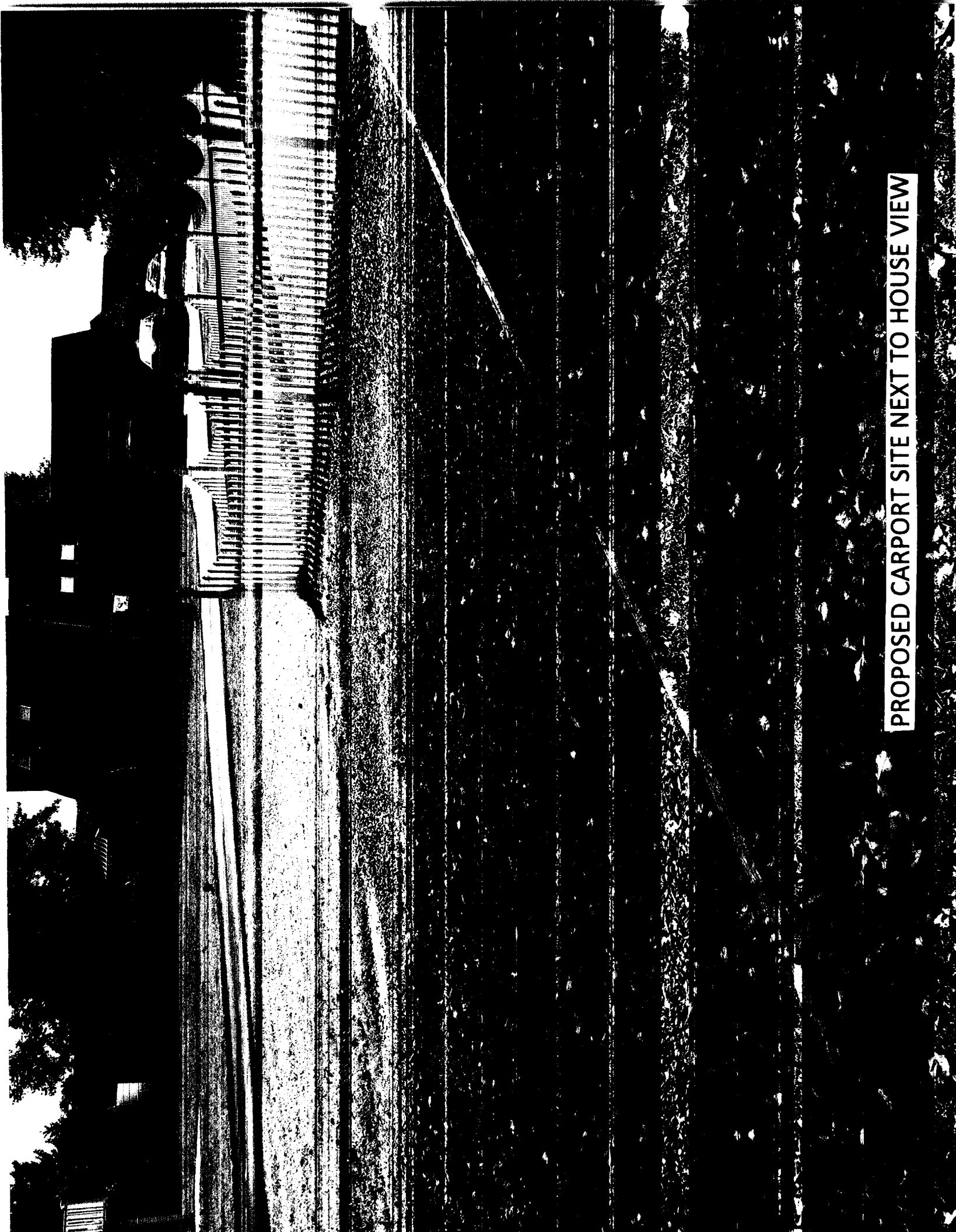
G:\DevPlanRev\ZAC -No Comments\ZAC11022015.doc



PROPOSED CARPORT SITE PROPERTY LINE VIEW

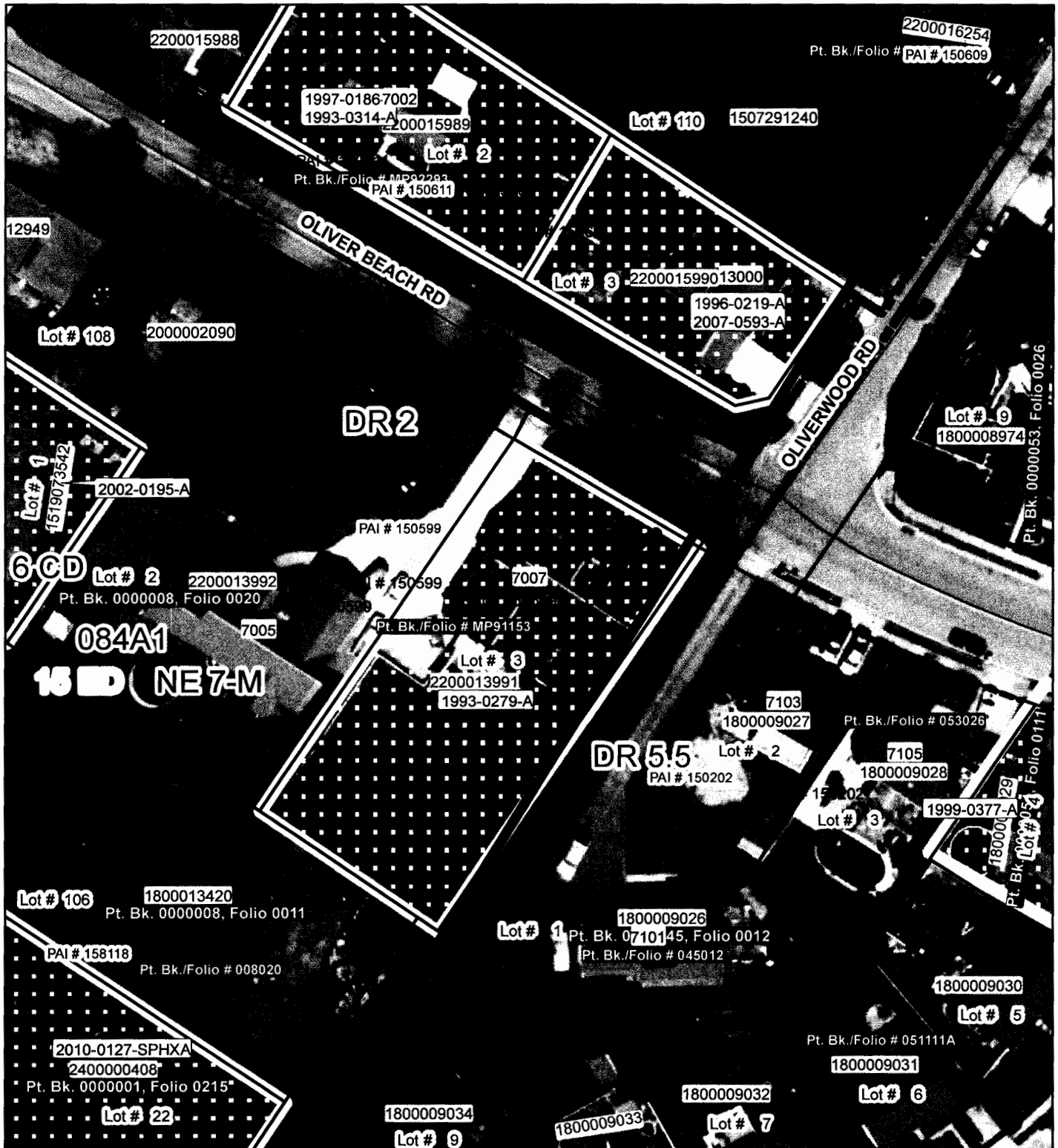
PROPOSED CARPORT SITE FRONT VIEW





PROPOSED CARPORT SITE NEXT TO HOUSE VIEW

7007 Oliver Beach Road



Publication Date: 10/27/2015



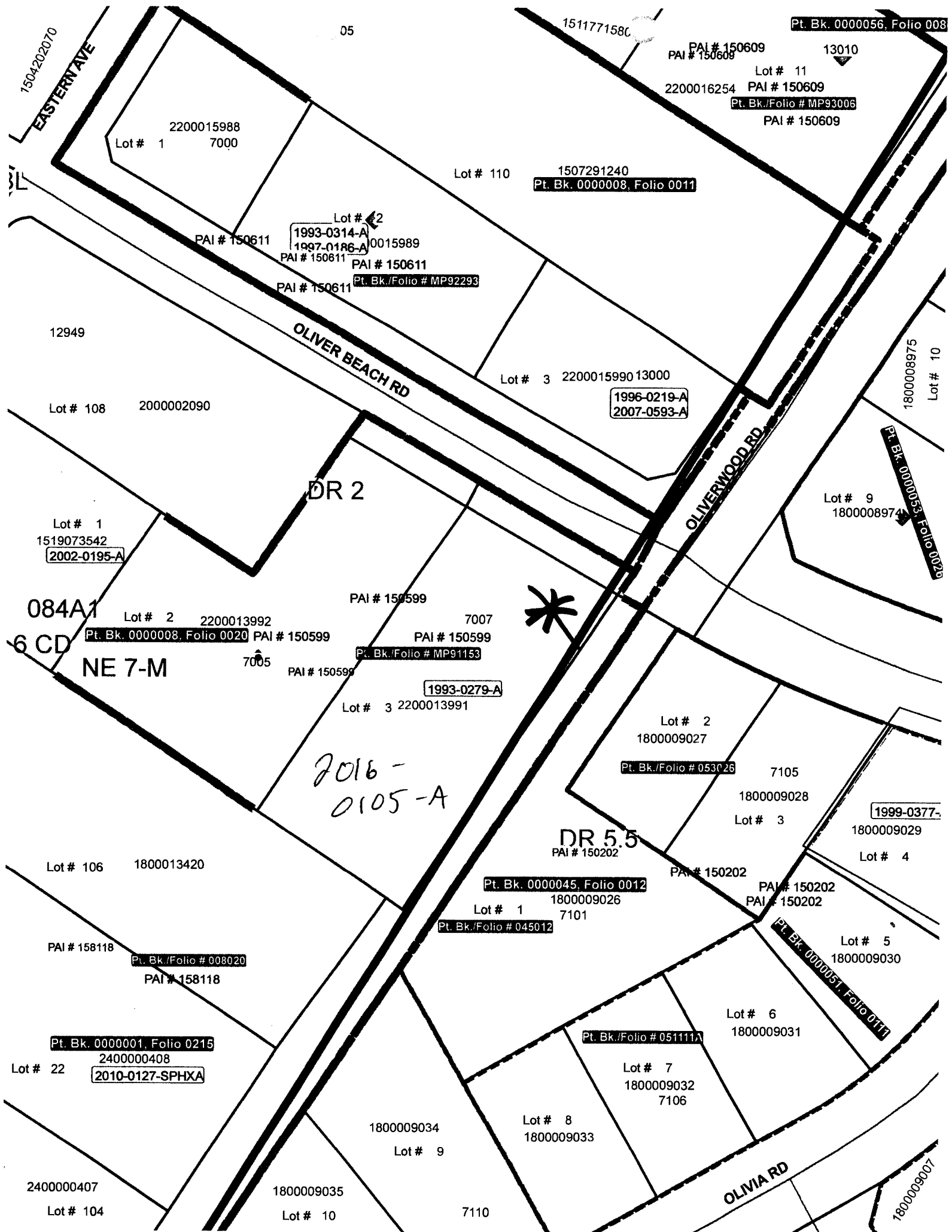
Publication Agency: Permits, Approvals & Inspections
 Projection/Datum: Maryland State Plane,
 FIPS 1900, NAD 1983/91 HARN, US Foot



0 15 30 60 90 120
 Feet

1 inch = 60 feet

2016-0105-A



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

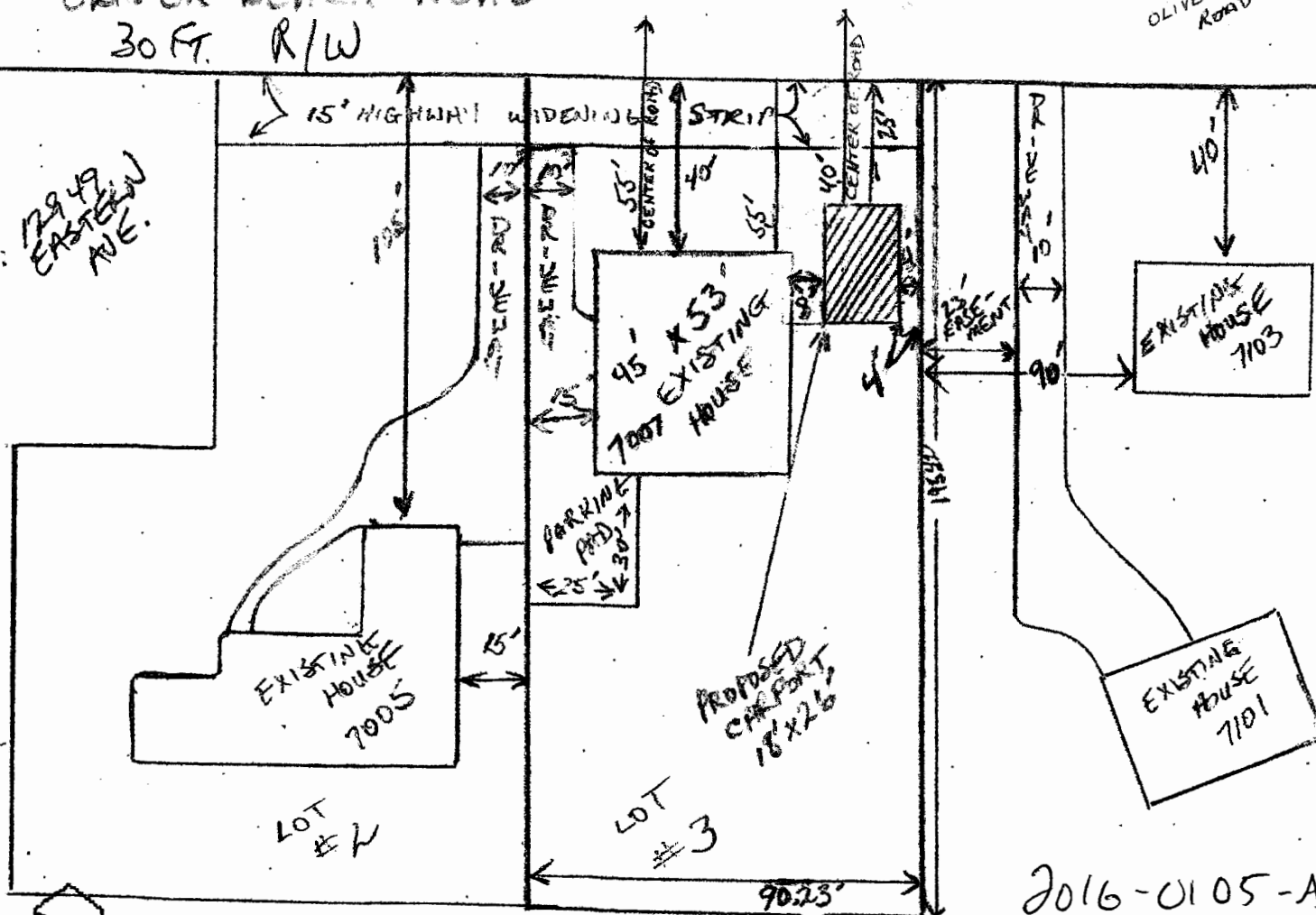
ADDRESS 7007 OLIVER BEACH ROAD OWNER(S) NAME(S) BARRY A. + FRANCES M. DUKES

MINOR SUBDIVISION OF:
SUBDIVISION NAME PETER J. TRIONFO MINORSUB #MP91153 LOT# 3 BLOCK# NA SECTION# NA

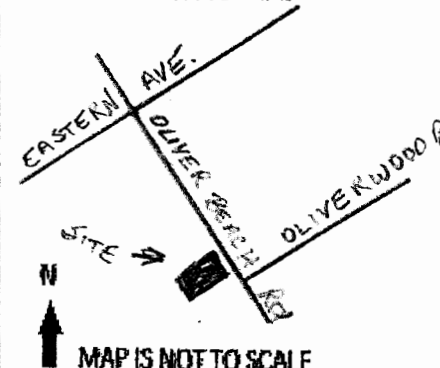
PLAT BOOK# NA FOLIO# NA 10 DIGIT TAX# 220001399 DEED REF.# 10447100735

OLIVER BEACH ROAD
30 FT. R/W

OLIVERWOOD ROAD



SITE VICINITY MAP



MAP IS NOT TO SCALE
ZONING MAP# 084A1
SITE ZONED DR2
ELECTION DISTRICT 15
COUNCIL DISTRICT 6
LOT AREA ACREAGE .4047
OR SQUARE FEET 17632.74
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? YES
IF SO GIVE CASE NUMBER
AND ORDER RESULT BELOW
1993-0279-A

FOR WINDOW TO TRACT
BOUNDARY SETBACKS
(GRANTED)

VIOLATION CASE INFO:

Pet. Exh. A

PLAN DRAWN BY BARRY A. DUKES DATE 10/28/2015 SCALE: 1 INCH = 40 FEET

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

ADDRESS 7007 OLIVER BEACH ROAD OWNER(S) NAME(S) BARRY A. + FRANCES M. DUKES

MINOR SUBDIVISION OF:
SUBDIVISION NAME PETER J. TRIONFO MINOR SUB # MP91153 LOT # 3 BLOCK # NA SECTION # NA

PLAT BOOK # NA FOLIO # NA 10 DIGIT TAX # 220001379 DEED REF. # 10447100135

SITE VICINITY MAP



MAP IS NOT TO SCALE

ZONING MAP # 084A1

SITE ZONED DR2

ELECTION DISTRICT 15

COUNCIL DISTRICT 6

LOT AREA ACREAGE .4047

OR SQUARE FEET 17632.74

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? YES

IF SO GIVE CASE NUMBER
AND ORDER RESULT BELOW
1993-0279-A

FOR WINDOW TO TRACT
BOUNDARY SETBACKS

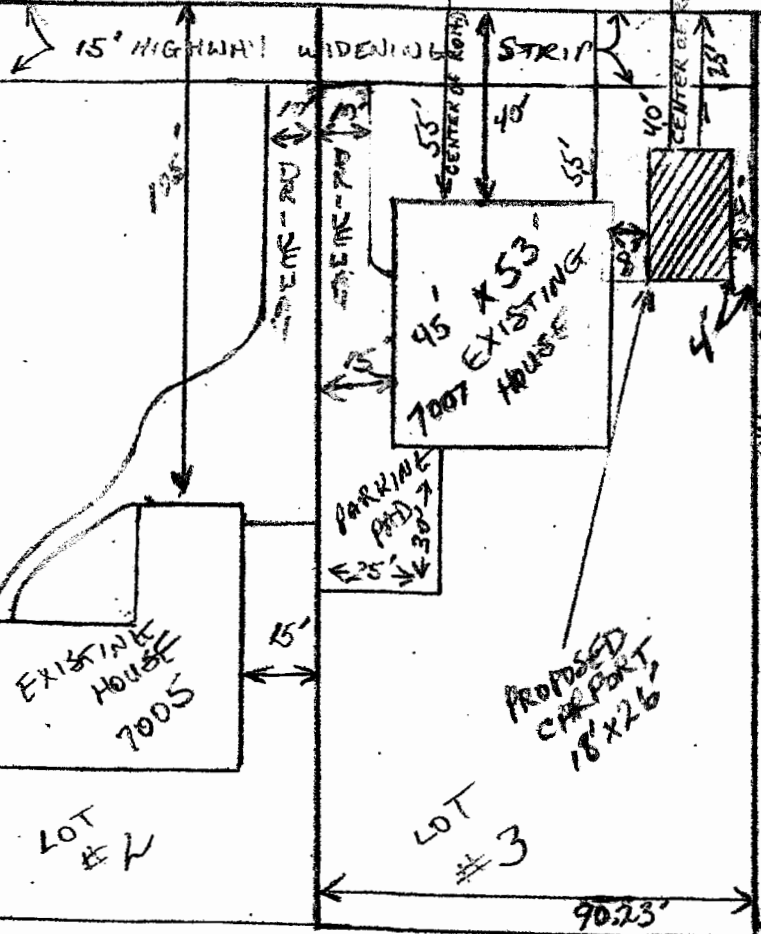
(GRANTED)

VIOLATION CASE INFO:

OLIVER BEACH ROAD

30 FT. R/W

OLIVERWOOD ROAD



2016-0105-A

PLAN DRAWN BY BARRY A. DUKES DATE 10/28/2015 SCALE: 1 INCH = 40 FEET

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

ADDRESS 7007 OLIVER BEACH ROAD OWNER(S) NAME(S) BARRY A. + FRANCES M. DUKES

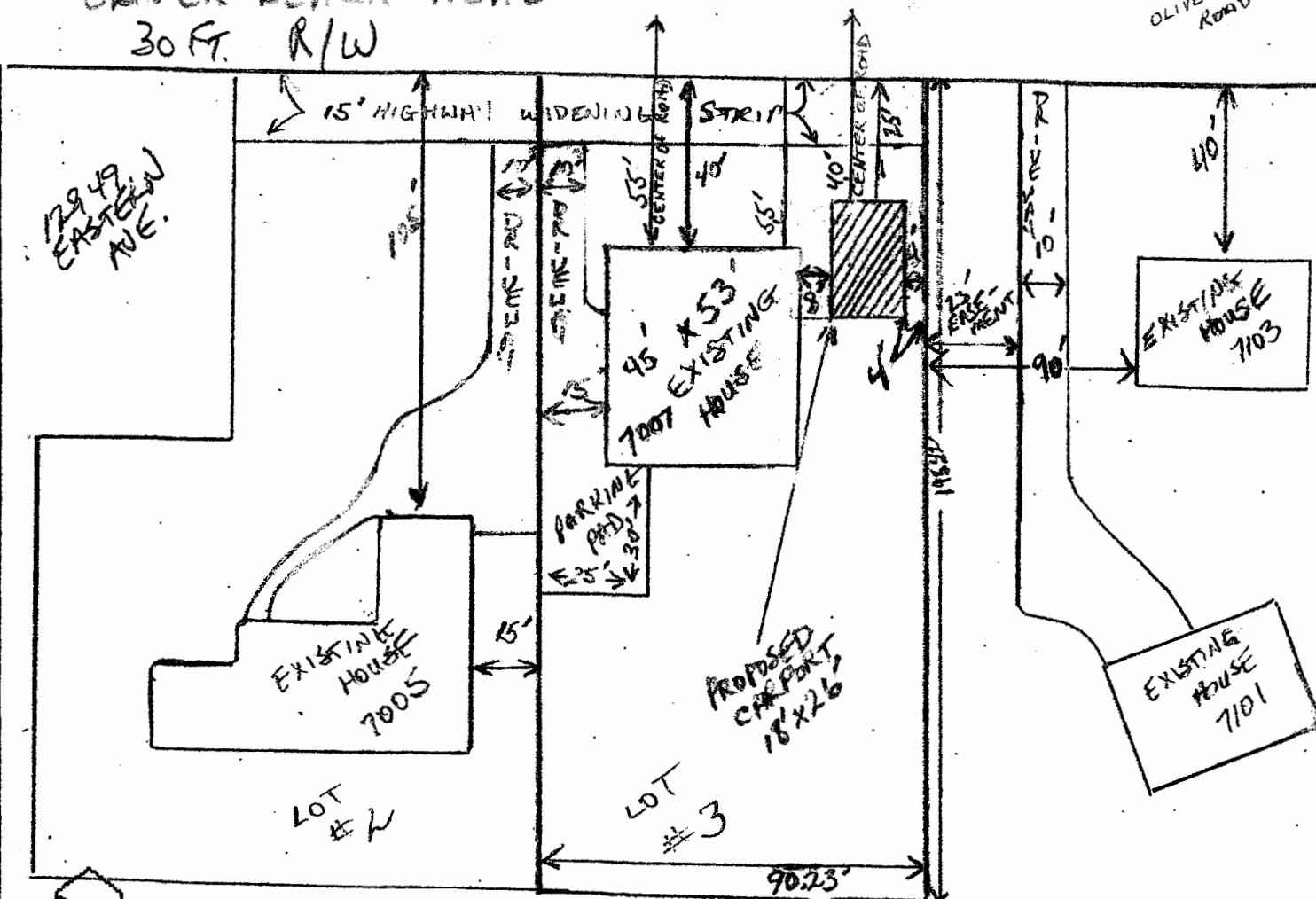
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SUBDIVISION NAME PETER J. TRIONFO MINORS 40 #MP91153 LOT # 3 BLOCK # NA SECTION # NA

PLAT BOOK # NA FOLIO # NA 10 DIGIT TAX # 220001377 DEED REF. # 10447100735

OLIVER BEACH ROAD
30 FT. R/W

OLIVERWOOD ROAD

EASTERN AVE.



SITE VICINITY MAP



MAP IS NOT TO SCALE

ZONING MAP # 084A1

SITE ZONED DR2

ELECTION DISTRICT 15

COUNCIL DISTRICT 6

LOT AREA ACREAGE .4047

OR SQUARE FEET 17632.74

HISTORIC? NO

IN CBCA? NO

IN FLOOD PLAIN? NO

UTILITIES? MARK WITH X

WATER IS:

PUBLIC X PRIVATE _____

SEWER IS:

PUBLIC X PRIVATE _____

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AND ORDER RESULT BELOW

1993-0279-A

FOR WINDOW TO TRACT

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(GRANTED)

VIOLATION CASE INFO:

PLAN DRAWN BY BARRY A. DUKES DATE 10/28/2015 SCALE: 1 INCH = 40 FEET

2016-0105-A