

MEMORANDUM

DATE: June 7 2016
TO: Zoning Review Office
FROM: Office of Administrative Hearings
RE: Case No. 2016-0197-A – Appeal Period Expired

The appeal period for the above-referenced case expired on June 6, 2016. 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 VARIANCE

(846 Oakleigh Beach Road)

15th Election District

7th Council District

Brian Behner

Legal Owner

Petitioner

*

*

*

*

*

BEFORE THE OFFICE

OF ADMINISTRATIVE

HEARINGS FOR

BALTIMORE COUNTY

CASE NO. 2016-0197-A

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for Baltimore County as a Petition for Variance on behalf of Brian Behner, legal owner of the subject property ("Petitioner"). Petitioner is requesting Variance relief from the Baltimore County Zoning Regulations (B.C.Z.R.) §1B02.3.C.1 to permit a proposed dwelling with a street side setback of 14 ft. in lieu of the required 25 ft. and a lot width of 50 ft. in lieu of the required 55 ft., respectively. A site plan was marked as Petitioner's Exhibit 1.

Brian Behner appeared in support of the Petition. There were no protestants or interested citizens in attendance. The Petition was advertised and posted as required by the B.C.Z.R. Substantive Zoning Advisory Committee (ZAC) comments were submitted by the Department of Environmental Protection and Sustainability (DEPS) and the Department of Planning (DOP).

The subject property is approximately 13,356 square feet and is zoned DR 5.5. The property is improved with a small single-family dwelling (SFD) constructed in 1941. Petitioner proposes to raze that structure and in its place construct a new SFD.

A variance request involves a two-step process, summarized as follows:

- (1) It must be shown the property is unique in a manner which makes it unlike surrounding properties, and that uniqueness or peculiarity must necessitate variance relief; and
- (2) If variance relief is denied, Petitioner will experience a practical

ORDER RECEIVED FOR FILING

Date

5-16-16

By

pen

difficulty or hardship.

Cromwell v. Ward, 102 Md. App. 691 (1995).

Petitioner has met this test. The lot (created by the Plat of Oakleigh Beach, recorded in 1939) has irregular dimensions and is narrow and deep. As such it is unique. If the Regulations were strictly interpreted, Petitioner would experience a practical difficulty because he would not be able to construct the proposed dwelling. Finally, I find that the variance can be granted in harmony with the spirit and intent of the B.C.Z.R., and in such manner as to grant relief without injury to the public health, safety, and general welfare.

THEREFORE, IT IS ORDERED, this 6th day of **May, 2016**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance seeking relief from the Baltimore County Zoning Regulations ("B.C.Z.R.") §1B02.3.C.1 to permit a proposed dwelling with a street side setback of 14 ft. in lieu of the required 25 ft. and a lot width of 50 ft. in lieu of the required 55 ft., respectively, be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

1. Petitioner may apply for necessary permits and/or licenses upon receipt of this Order. However, Petitioner is hereby made aware that proceeding at this time is at his 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, Petitioner would be required to return the subject property to its original condition.
2. Prior to issuance of permits Petitioners must comply with the Critical Area Regulations.
3. Prior to issuance of permits Petitioner must submit for approval by the DOP architectural elevations of the proposed dwelling.

ORDER RECEIVED FOR FILING

Date 5-6-16

By Sen

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



JOHN E. BEVERUNGEN
Administrative Law Judge for
Baltimore County

JEB/sln

ORDER RECEIVED FOR FILING

Date 5-6-16

By sln



CBCA

PETITION FOR ZONING HEARING(S)

To be filed with the Department of Permits, Approvals and Inspections

To the Office of Administrative Law of Baltimore County for the property located at:

Address 846 OAKLEIGH BEACH ROAD which is presently zoned DR 5.5
Deed References: 36220/00182 10 Digit Tax Account # 2200028665
Property Owner(s) Printed Name(s) BRIAN BEHNER

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

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

1. ☐ a **Special Hearing** under Section 500.7 of the Zoning Regulations of Baltimore County, to determine whether or not the Zoning Commissioner should approve
2. ☐ a **Special Exception** under the Zoning Regulations of Baltimore County to use the herein described property for
3. ☒ a **Variance** from Section(s)

see attached

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

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

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

Legal Owner(s) Affirmation: I / we do so solemnly declare and affirm, under the penalties of perjury, that I / We are the legal owner(s) of the property which is the subject of this / these Petition(s).

Contract Purchaser/Lessee:

Name- Type or Print

Signature

Mailing Address City State

Zip Code Telephone # Email Address

Attorney for Petitioner:

Name- Type or Print

Signature

Mailing Address City State

Zip Code Telephone # Email Address

Legal Owners (Petitioners):

BRIAN BEHNER /
Name #1 - Type or Print Name #2 - Type or Print

Brian Behner /
Signature #1 Signature #2

808 OAKLEIGH BEACH RD. BALTO. MD.
Mailing Address City State

21222 / 410-330-8246 /
Zip Code Telephone # Email Address

Representative to be contacted:

WILLIAM A. BROCATO
Name - Type or Print

Signature

38 ROSE PETAL CT. BALTO. MD.
Mailing Address City State

21234 / 410-215-6350 / wbrocato1@verizon.net
Zip Code Telephone # Email Address

CASE NUMBER 2016-0197-A Filing Date 3/1/16

Do Not Schedule Dates: Reviewer G.H.

846 OAKLEIGH BEACH ROAD

The owner removed the existing house located at back of property due to its condition and location as shown on pictures and topography. He also cleaned up property of all debris. He would like to build a house comparable to those in the neighborhood. If this request is not approved the owner would not be able to build any house on this property.

March 1, 2016

Case # 2016-0197-A

Variance from section 1B02.3.C.1: To permit a proposed dwelling with a street side setback of 14 feet in lieu of the required 25 feet and a lot width of 50 feet in lieu of the required 55 feet respectively.

**ZONING DESCRIPTION FOR
846 OAKLEIGH BEACH ROAD**

Beginning at a point on the north side of 846 Oakleigh Beach Road which is 30 feet wide at the distance of 45 feet east of the centerline of the nearest improved intersecting street, Meadow Avenue which is 40 feet wide.

Being lot No. 130 in the subdivision of Oakleigh Beach as recorded in Baltimore County Plat Book No. 12, Folio No. 46, containing 13356 square feet or 0.307 acres in lot. Also known as 846 Oakleigh Beach Road and located in the 15th Election District and 7th Council District.

CERTIFICATE OF POSTING

2016-0197-A

RE: Case No.: _____

Petitioner/Developer: _____

Brien Behner

May 5, 2016

Date of Hearing/Closing: _____

Baltimore County Department of
Permits, Approvals and Inspections
County Office Building, Room 111
111 West Chesapeake Avenue
Towson, Maryland 21204

Attn: Kristen Lewis:

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 located at: _____

846 Oakleigh Beach Road

April 15, 2016

The sign(s) were posted on _____
(Month, Day, Year)



Sincerely,


(Signature of Sign Poster)

April 15, 2016

(Date)

SSG Robert Black

(Print Name)

1508 Leslie Road

(Address)

Dundalk, Maryland 21222

(City, State, Zip Code)

(410) 282-7940

(Telephone Number)



501 N. Calvert St., P.O. Box 1377
Baltimore, Maryland 21278-0001
tel: 410/332-6000
800/829-8000

WE HEREBY CERTIFY, that the annexed advertisement of Order No 4102134

Sold To:

Brian Behner - CU00530925
808 Oakleigh Beach Rd
Dundalk, MD 21222-5009

Bill To:

Brian Behner - CU00530925
808 Oakleigh Beach Rd
Dundalk, MD 21222-5009

Was published in "Jeffersonian", "Bi-Weekly", a newspaper printed and published in Baltimore County on the following dates:

Apr 14, 2016

The Baltimore Sun Media Group

By S. Wilkinson
Legal Advertising

NOTICE OF ZONING HEARING

The Administrative Law Judge of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing in Towson, Maryland on the property identified herein as follows:

Case: # 2016-0197-A
846 Oakleigh Beach Road
N/s of Oakleigh Beach Road to the corner of Meadow Road
15th Election District - 7th Councilmanic District
Legal Owner(s) Brian Behner

Variance: to permit a proposed dwelling with a street side setback of 14 ft., in lieu of the required 25 ft. and a lot width of 50 ft. in lieu of the required 55 ft. respectively.

Hearing: Thursday, May 5, 2016 at 11:00 a.m. in Room 205, Jefferson Building, 105 West Chesapeake Avenue, Towson 21204.

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

NOTES: (1) Hearings are Handicapped Accessible; for special accommodations Please Contact the Administrative Hearings Office at (410) 887-3868.
(2) For information concerning the File and/or Hearing, Contact the Zoning Review Office at (410) 887-3391.

4/070 April 14 4102134



KEVIN KAMENETZ
County Executive

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

March 18, 2016

NOTICE OF ZONING HEARING

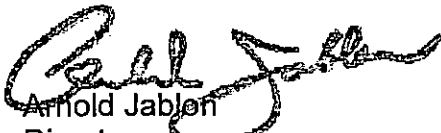
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105 West Chesapeake Avenue, Towson 21204


Arnold Jablon
Director

AJ:kl

C: Brian Behner, 808 Oakleigh Beach Road, Baltimore 21222
William Brocato, 38 Rose Petal Court, Baltimore 21234

- NOTES: (1) THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY FRIDAY, APRIL 15, 2016.**
- (2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL THE ADMINISTRATIVE HEARINGS OFFICE AT 410-887-3868.
- (3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.

TO: PATUXENT PUBLISHING COMPANY
Thursday, April 14, 2016 Issue - Jeffersonian

Please forward billing to:

Brian Behner
808 Oakleigh Beach Road
Baltimore, MD 21222

410-330-8246

NOTICE OF ZONING HEARING

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Variance to permit a proposed dwelling with a street side setback of 14 ft., in lieu of the required 25 ft. and a lot width of 50 ft. in lieu of required 55 ft. respectively.

Hearing: Thursday, May 5, 2016 at 11:00 a.m. in Room 205, Jefferson Building,
105 West Chesapeake Avenue, Towson 21204



Arnold Jablon
Director of Permits, Approvals and Inspections for Baltimore County

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

RE: PETITION FOR VARIANCE
846 Oakleigh Beach Road; N/S Oakleigh
Beach Road, to the corner of Meadow Road
15th Election & 7th Councilmanic Districts
Legal Owner(s): Brian Behner
Petitioner(s)

* BEFORE THE OFFICE
* OF ADMINSTRATIVE
* HEARINGS FOR
* BALTIMORE COUNTY
* 2016-197-A

* * * * *

ENTRY OF APPEARANCE

Pursuant to Baltimore County Charter § 524.1, please enter the appearance of People's Counsel for Baltimore County as an interested party in the above-captioned matter. Notice should be sent of any hearing dates or other proceedings in this matter and the passage of any preliminary or final Order. All parties should copy People's Counsel on all correspondence sent and all documentation filed in the case.

RERECEIVED
MARCH 9 2016

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

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 9th day of March, 2016, a copy of the foregoing Entry of Appearance was mailed to William Brocato, 38 Rose Petal Court, Baltimore, Maryland 21234, Petitioner(s).

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

**DEPARTMENT OF PERMITS, APPROVALS AND INSPECTIONS
ZONING REVIEW OFFICE**

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 legal owner/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 legal owner/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:

Case Number: 2016-0197-A

Property Address: 846 OAKLEIGH BEACH ROAD

Property Description: SOUTH SIDE OAKLEIGH BEACH RD, @ INTERSECTION
OF MEADOW AVE. (NORTH SIDE MEADOW AVE.)

Legal Owners (Petitioners): BRIAN BEHNER

Contract Purchaser/Lessee: N/A

PLEASE FORWARD ADVERTISING BILL TO:

Name: BRIAN BEHNER

Company/Firm (if applicable): _____

Address: 808 OAKLEIGH BEACH RD,

BALTO. MD, 21222

Telephone Number: 410-330-8246

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

No. **135716**

Date: **3/1/16**

PAID RECEIPT

BUSINESS ACTUAL TIME DRG
 3/01/2016 3/01/2016 09:17:51 2

RE USD2 BALKIN JEVA JFE
 13 RECEIPT # 955040 3/01/2016 OFLW

10-4 5 528 ZONING VERIFICATION
 13 131. 135716

Receipt Tot \$75.00
 \$4.00 CR \$80.00 CA
 \$5.00- CG

Baltimore County, Maryland

Fund	Dept	Unit	Sub Unit	Rev Source/ Obj	Sub Rev/ Sub Obj	Dept Obj	BS Acct	Amount
001	806	0000		0150				75.00

Total: **75.00**

Rec From: **Brian Benner**

For: **Variance for:**
846 Oakleigh Beach Rd
2016-0197-A

DISTRIBUTION

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

**CASHIER'S
 VALIDATION**



KEVIN KAMENETZ
County Executive

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

April 27, 2016

Brian Behner
808 Oakleigh Beach Road
Baltimore MD 21222

RE: Case Number: 2016-0197 A, Address: 846 Oakleigh Beach Road

Dear Mr. Behner:

The above referenced petition was accepted for processing **ONLY** by the Bureau of Zoning Review, Department of Permits, Approvals, and Inspection (PAI) on March 1, 2016. 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
William A Brocato, 38 Rose Petal Court, Baltimore MD 21234

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



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

Date: 3/7/16

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

RE: Baltimore County
Item No. 2016-0197-A
Variance
Brian Behner
846 Oakleigh 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. 2016-0197-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 INTER-OFFICE MEMORANDUM

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

DATE: April 11, 2016

FROM: Andrea Van Arsdale
Director, Department of Planning

SUBJECT: ZONING ADVISORY COMMITTEE COMMENTS

Case Number: 16-197

RECEIVED

APR 14 2016

INFORMATION:

Property Address: 846 Oakleigh Beach Road

Petitioner: Brian Behner

Zoning: DR 5.5

Requested Action: Variance

OFFICE OF ADMINISTRATIVE HEARINGS

The Department of Planning has reviewed the petition for a variance to permit a proposed dwelling with a street side setback of 14 feet and a lot width of 50 feet in lieu of the required 25 feet and 55 feet respectively.

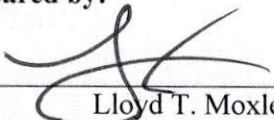
A site visit was conducted on March 10, 2016.

The Department of Planning has no objection to granting the petitioned zoning relief conditioned on the following;

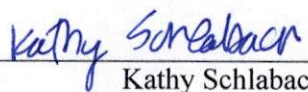
- Provide architectural elevations to the Department of Planning to the attention of the contact listed below for review and approval prior to the issuance of a building permit.

For further information concerning the matters stated herein, please contact Josephine Selvakumar at 410-887-3480.

Prepared by:


Lloyd T. Moxley

Division Chief:


Kathy Schlabach

AVA/KS/LTM/ka

c: William A. Brocato
Josephine Selvakumar
Office of the Administrative Hearings
People's Counsel for Baltimore County

5-5

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence



RECEIVED

MAR 15 2016

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: LEAVE BLANK

SUBJECT: DEPS Comment for Zoning Item # 2016-0197-A
Address 846 Oakleigh Road
(Behner Property)

Zoning Advisory Committee Meeting of March 14, 2016.

EPS has reviewed the subject zoning petition for compliance with the goals of the State-mandated Critical Area Law listed in the Baltimore County Zoning Regulations, Section 500.14. Based upon this review, we offer the following comments:

1. Minimize adverse impacts on water quality that result from pollutants that are discharged from structures or conveyances or that have run off from surrounding lands;

The subject property is located within a Limited Development Area (LDA) and is subject to Critical Area requirements. The applicant is requesting to allow a reduced street side setback and reduced lot width for the construction of a replacement dwelling. The lot is grandfathered and not waterfront. Lot coverage information was not provided. Lot coverage is limited to a maximum of 31.25% (4,174 square feet), with mitigation required for lot coverage between 25% (3,339 square feet) and 31.25%. 4 trees are required on site to meet the 15% afforestation requirement. If the proposed development can meet LDA lot coverage requirements and 15% afforestation requirements, water quality impacts will be minimized.

2. Conserve fish, plant, and wildlife habitat;

There are no habitat protection areas on site. If lot coverage and afforestation requirements can be met, then fish, plant, and wildlife habitat in the Chesapeake Bay will be conserved.

3. Be consistent with established land use policies for development in the Chesapeake Bay Critical Area, which accommodate growth and also address the fact that, even if pollution is controlled, the number, movement and activities of persons in that area can create adverse environmental impacts;

If the lot coverage and 15% afforestation requirements can be met, the relief requested will be consistent with established land-use policies.

Reviewer: Regina Esslinger

Date: March 15, 2016

BALTIMORE COUNTY, MARYLAND
INTEROFFICE CORRESPONDENCE

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

DATE: March 14, 2016

FROM: Dennis A. Kennedy, Supervisor
Bureau of Development Plans Review

SUBJECT: Zoning Advisory Committee Meeting
For March 14, 2016
Item No. 2016-0193, 0194, 0195, 0196, 0197 and 0198

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\ZAC03142016.doc

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE MEMORANDUM



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

DATE: April 11, 2016

FROM: Andrea Van Arsdale
Director, Department of Planning

SUBJECT: ZONING ADVISORY COMMITTEE COMMENTS
Case Number: 16-197

INFORMATION:

Property Address: 846 Oakleigh Beach Road
Petitioner: Brian Behner
Zoning: DR 5.5
Requested Action: Variance

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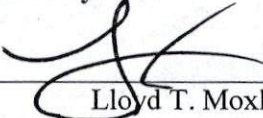
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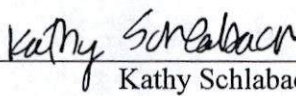
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Prepared by:



Lloyd T. Moxley

Division Chief:



Kathy Schlabach

AVA/KS/LTM/ka

c: William A. Brocato
Josephine Selvakumar
Office of the Administrative Hearings
People's Counsel for Baltimore County

C H E C K L I S T

<u>Comment Received</u>	<u>Department</u>	<u>Support/Oppose/ Conditions/ Comments/ No Comment</u>
<u>3/14/16</u>	DEVELOPMENT PLANS REVIEW (if not received, date e-mail sent _____)	<u>N/C</u>
<u>3/15/16</u>	DEPS (if not received, date e-mail sent _____)	<u>C</u>
	FIRE DEPARTMENT	
<u>4/11/16</u>	PLANNING (if not received, date e-mail sent _____)	<u>no obj w/ comment</u>
<u>3/7/16</u>	STATE HIGHWAY ADMINISTRATION	<u>no obj</u>
	TRAFFIC ENGINEERING	
	COMMUNITY ASSOCIATION	
	ADJACENT PROPERTY OWNERS	
ZONING VIOLATION	(Case No. _____)	
PRIOR ZONING	(Case No. _____)	
NEWSPAPER ADVERTISEMENT	Date: <u>4/14/16</u>	
SIGN POSTING	Date: <u>4/15/16</u> by <u>SSG. Black</u>	
PEOPLE'S COUNSEL APPEARANCE	Yes ☒ No ☐	
PEOPLE'S COUNSEL COMMENT LETTER	Yes ☐ No ☐	

Comments, if any: _____

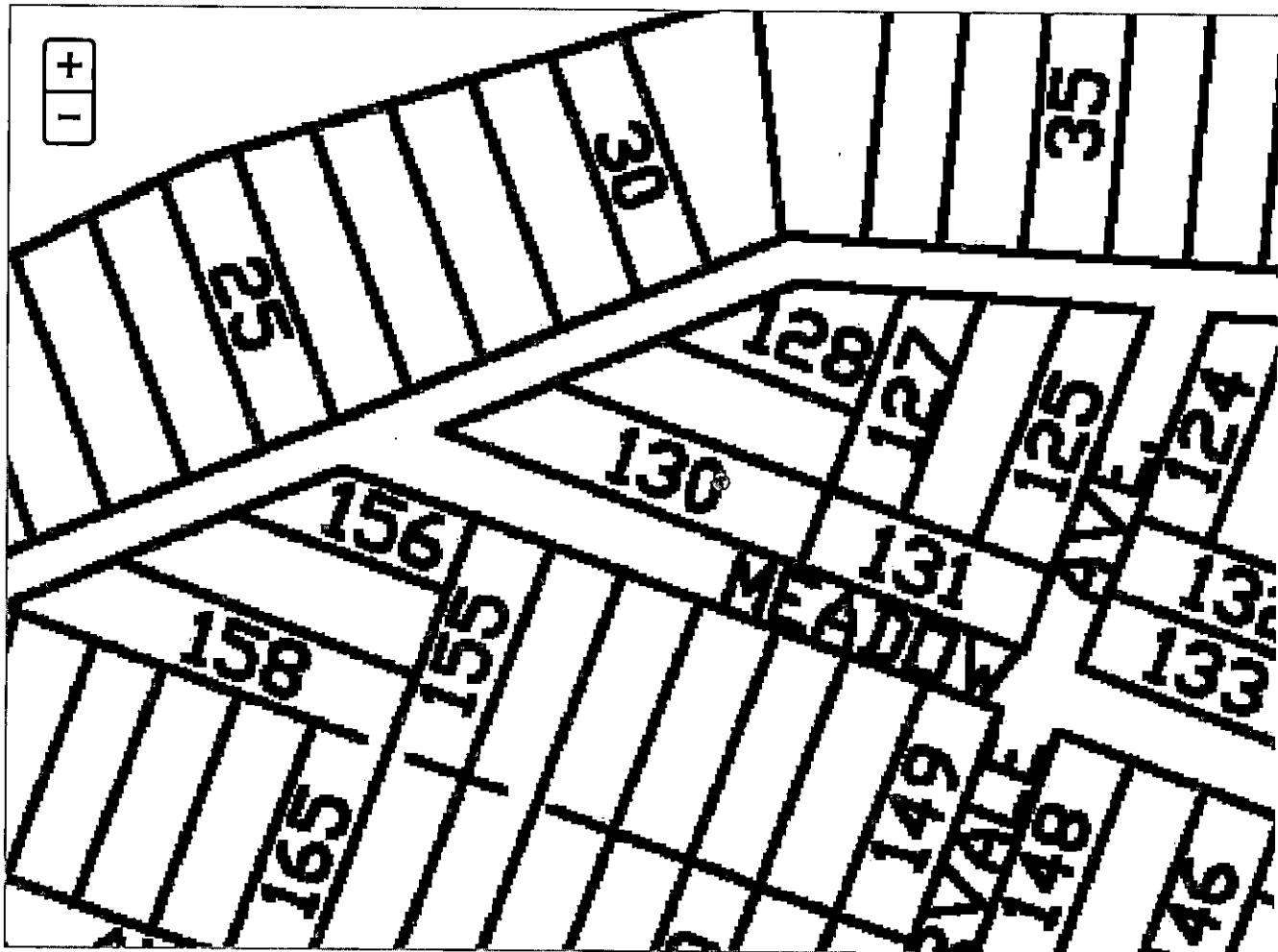
Real Property Data Search (w2)

Guide to searching the database

Search Result for BALTIMORE COUNTY

View Map				View GroundRent Redemption				View GroundRent Registration			
Account Identifier:				District - 15 Account Number - 2200028665							
Owner Information											
Owner Name:		BEHNER BRIAN				Use:		RESIDENTIAL			
Mailing Address:		808 OAKLEIGH BEACH RD BALTIMORE MD 21222-5009				Principal Residence:		NO			
						Deed Reference:		/36220/ 00182			
Location & Structure Information											
Premises Address:		846 OAKLEIGH BEACH RD BALTIMORE 21222-5009				Legal Description:		846 OAKLEIGH BEACH RD OAKLEIGH BEACH			
Map:	Grid:	Parcel:	Sub District:	Subdivision:	Section:	Block:	Lot:	Assessment Year:	Plat No:	Plat Ref:	
0104	0015	0231		0000			130	2015		0012/0046	
Special Tax Areas:						Town:		NONE			
						Ad Valorem:					
						Tax Class:					
Primary Structure Built		Above Grade Enclosed Area		Finished Basement Area		Property Land Area		County Use			
1941		1,125 SF				13,356 SF		04			
Stories	Basement	Type	Exterior	Full/Half Bath	Garage	Last Major Renovation					
1	NO	STANDARD UNIT	BLOCK	1 full							
Value Information											
			Base Value		Value		Phase-in Assessments				
					As of		As of		As of		
					01/01/2015		07/01/2015		07/01/2016		
Land:			63,500		63,500						
Improvements			0		0						
Total:			63,500		63,500		100,700		63,500		
Preferential Land:			0						0		
Transfer Information											
Seller: DEMBECK DOROTHY ANNA				Date: 05/26/2015				Price: \$50,200			
Type: NON-ARMS LENGTH OTHER				Deed1: /36220/ 00182				Deed2:			
Seller: MYERS RUSSELL T				Date: 10/24/2006				Price: \$85,000			
Type: ARMS LENGTH IMPROVED				Deed1: /24663/ 00557				Deed2:			
Seller: MURPHY PEARL				Date: 11/13/2000				Price: \$73,000			
Type: ARMS LENGTH IMPROVED				Deed1: /14805/ 00699				Deed2:			
Exemption Information											
Partial Exempt Assessments:		Class				07/01/2015		07/01/2016			
County:		000				0.00					
State:		000				0.00					
Municipal:		000				0.00 0.00		0.00 0.00			
Tax Exempt:				Special Tax Recapture:							
Exempt Class:				NONE							
Homestead Application Information											
Homestead Application Status: No Application											

Baltimore County

New Search (<http://sdat.dat.maryland.gov/RealProperty>)District: **15** Account Number: **2200028665**

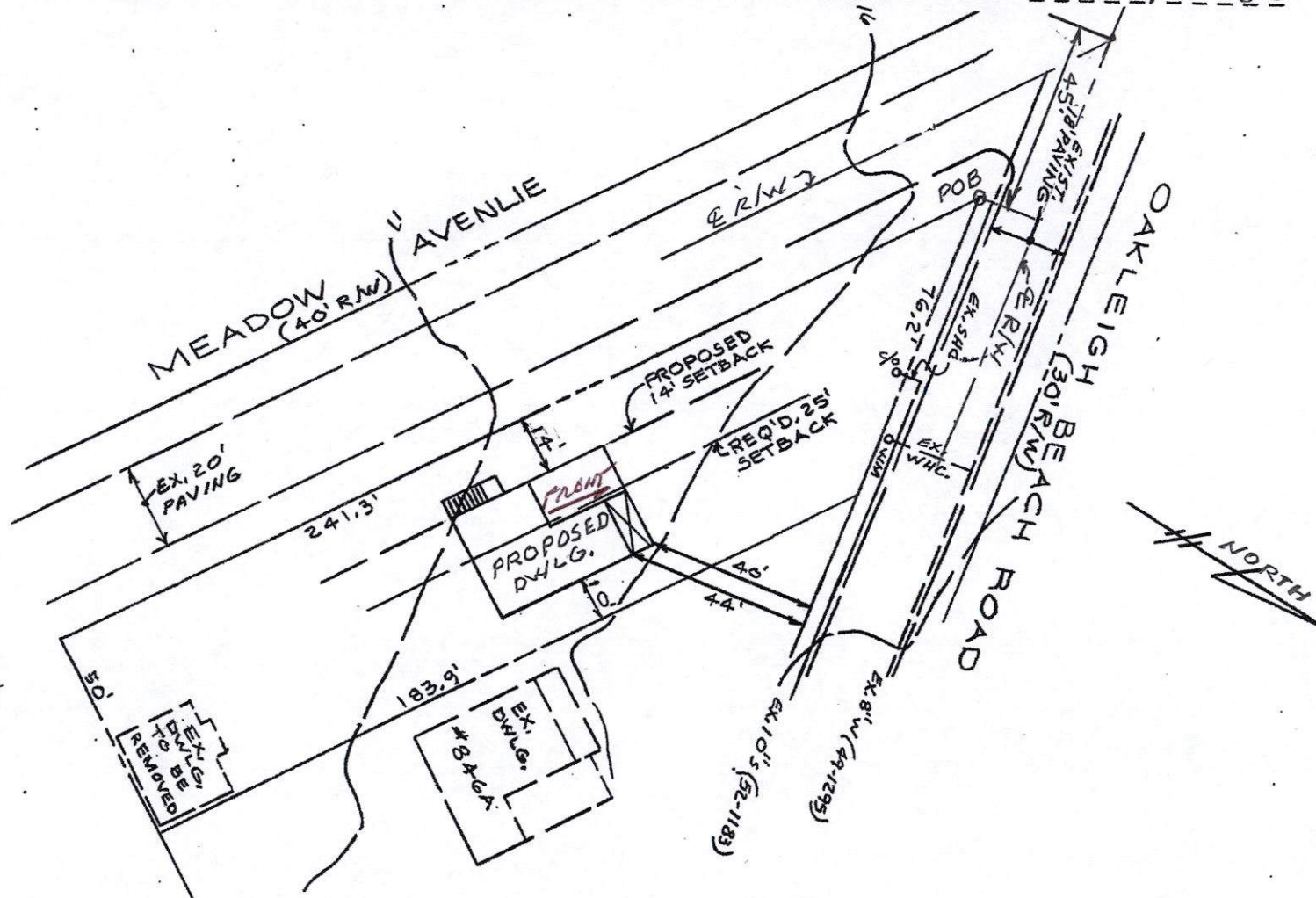
The information shown on this map has been compiled from deed descriptions and plats and is not a property survey. The map should not be used for legal descriptions. Users noting errors are urged to notify the Maryland Department of Planning Mapping, 301 W. Preston Street, Baltimore MD 21201.

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.

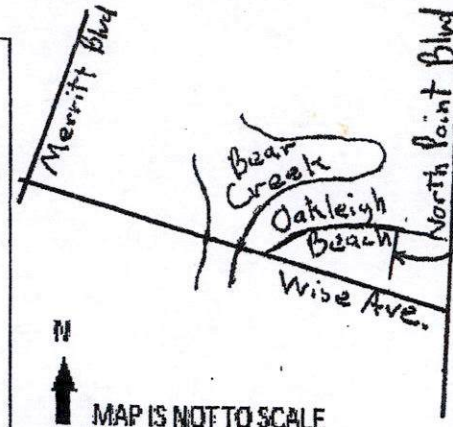
For more information on electronic mapping applications, visit the Maryland Department of Planning web site at www.mdp.state.md.us/OurProducts/OurProducts.shtml (<http://www.mdp.state.md.us/OurProducts/OurProducts.shtml>).

ZONING HEARING PLAN FOR VARIANCE X FOR SPECIAL HEARING _____ (MARK TYPE REQUESTED WITH X)
 ADDRESS 846 OAKLEIGH BEACH ROAD OWNER(S) NAME(S) BRIAN BEHNER
 SUBDIVISION NAME OAKLEIGH BEACH LOT # 130 BLOCK # _____ SECTION # _____
 PLAT BOOK # 12 FOLIO # 46 10 DIGIT TAX # 2200028665 DEED REF. # 36220/00182



PLAN DRAWN BY W. A. BROCATO DATE 2-22-16 SCALE: 1 INCH = 40 FEET

SITE VICINITY MAP



ZONING MAP# 104A2
 SITE ZONED DR 5.5
 ELECTION DISTRICT 15
 COUNCIL DISTRICT 7
 LOT AREA ACREAGE 0.307
 OR SQUARE FEET 13356
 HISTORIC? NO
 IN CBCA? YES
 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

VIOLATION CASE INFO:

Pet. Ex. 1

2016-0197-A

IN RE: PETITIONS FOR SPECIAL HEARING * BEFORE THE
AND VARIANCE - S/S of Oakleigh *
Beach Avenue, 96' NW of the c/l * ZONING COMMISSIONER
Meadow Avenue *
(846 Oakleigh Beach Avenue) * OF BALTIMORE COUNTY
15th Election District *
7th Councilmanic District * Case No. 00-047-SPHA

The Estate of Henry A. Murphy, Owners; *
Dennis C. Macneal, Contract Purchaser *
* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner for consideration of Petitions for Special Hearing and Variance filed by the owners of the subject property, the Estate of Henry A. Murphy, by Kathleen R. Murphy, Trustee, and the Contract Purchaser, Dennis C. Macneal. The Petitioners request a special hearing to approve an accessory structure (garage) to remain on a vacant lot, and variance relief from the Baltimore County Zoning Regulations (B.C.Z.R.) as follows: From Section 1B02.3.C.1 to permit a side yard setback of 5 feet in lieu of the required 10 feet, and a lot width of 50 feet in lieu of the required 55 feet; from Section 303.1 to permit a front yard setback of 25 feet in lieu of the required front yard average of 40 feet; and, approval of the subject property as an undersized lot, pursuant to Section 304 of the B.C.Z.R., and any other variances that are deemed necessary by the Zoning Commissioner. The subject property and relief sought are more particularly described on the site plan submitted which was accepted into evidence and marked as Petitioner's Exhibit 1.

Appearing at the requisite public hearing was Dennis C. Macneal, who recently acquired the property and settled on same subsequent to the filing of these Petitions and prior to the hearing date. There were no Protestants or other interested persons present.

Testimony and evidence presented revealed that the subject property is a rectangular shaped parcel, consisting of a gross area of 7,762 sq.ft., zoned D.R.5.5. At this time, the property is vacant, but for a garage, 22' x 28'8" in dimension. Apparently, this garage is quite old and was constructed in the 1940s. The property is known as Lot 129 of the residential subdivision known

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[Signature]

as Oakleigh Beach, which is located off of Wise Avenue, between Merritt Boulevard and North Point Boulevard in Dundalk.

Apparently, Henry A. Murphy and his family owned the subject property and two adjacent lots, known as Lots 128, 129 and 130 of Oakleigh Beach, which were used in conjunction with one another. As noted above, Lot 129 features a garage that previously served as an accessory structure to the single family dwelling that exists on adjacent Lot 130. Lot 128 is unimproved. Since the death of Mr. Murphy, Lot 130 was sold to Dorothy A. Hulbert, Lot 128 was sold to David Murphy, and Mr. Macneal recently acquired Lot 129.

As noted above, Mr. Macneal proposes to construct a single family dwelling on that lot and retain the garage as an accessory structure. Apparently, the garage is quite old and was constructed in the 1940s. As shown on the site plan, the proposed dwelling will front Oakleigh Beach Road, and will be 28' x 35' in dimension. The dwelling will maintain a 10-foot side yard setback on one side and a 5-foot setback on the other side, and an average front yard setback of 25 feet. Actually, due to the unusual alignment of Oakleigh Beach Road, the front setback will be greater than 25 feet for the majority of the dwelling. Additionally, a 40-foot setback from the street centerline is required, which is determined based upon the average setbacks of adjacent properties. In fact, the Hulbert house is set back a significant distance from the road, and actually abuts the rear property line, which skews the average front setback requirements.

There were no Protestants present, and there were no adverse Zoning Advisory Committee comments. Moreover, this property is served by public water and sewer. In this regard, it appears that the proposal represents an appropriate in-fill use of the subject property. Other lots in the area are built on single lots as is proposed here. Based upon the testimony and evidence presented, I am persuaded to grant the Petitions for Special Hearing and Variance. In my judgment, relief can be granted without detrimental impact on the surrounding locale and in accordance with the requirements of Section 307 of the B.C.Z.R.

It is also to be noted that the subject property is located within the Chesapeake Bay Critical Areas, near Bear Creek. As such, the proposed development is subject to compliance with Critical Areas legislation and any recommendations made by the Department of Environmental

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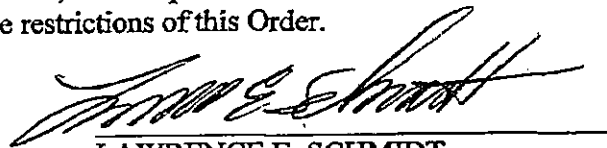
Protection and Resource Management (DEPRM) to mitigate any impact the proposed improvements may have on the Bay and its tributaries. Thus, the relief requested shall be granted, contingent upon the aforementioned restriction.

Pursuant to the advertisement, posting of the property, and public hearing on these Petitions held, and for the reasons set forth above, the relief requested shall be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 30th day of September, 1999 that the Petition for Special Hearing to approve an accessory structure (garage) to remain on a vacant lot, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, and,

IT IS FURTHER ORDERED that the Petition for Variance seeking relief from the Baltimore County Zoning Regulations (B.C.Z.R.) as follows: From Section 1B02.3.C.1 to permit a side yard setback of 5 feet in lieu of the required 10 feet, and a lot width of 50 feet in lieu of the required 55 feet; from Section 303.1 to permit a front yard setback of 25 feet in lieu of the required front yard average of 40 feet; and, approval of the subject property as an undersized lot, pursuant to Section 304 of the B.C.Z.R., and any other variances deemed necessary by the Zoning Commissioner, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following restrictions:

- 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 the 30-day appeal period from the date of this Order has expired. If an appeal is filed and this Order is reversed, the relief granted herein shall be rescinded.
- 2) Compliance with any recommendation made by the Department of Environmental Protection and Resource Management (DEPRM) upon completion of their review of this proposal.
- 3) When applying for a building permit, the site plan filed must reference this case and set forth and address the restrictions of this Order.



LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

ORDER RECEIVED FOR FILING
Date 9/30/99
By [Signature]

LES:bjs

Plat to accompany Petition for Zoning ☒ Variance ☒ Special Hearing

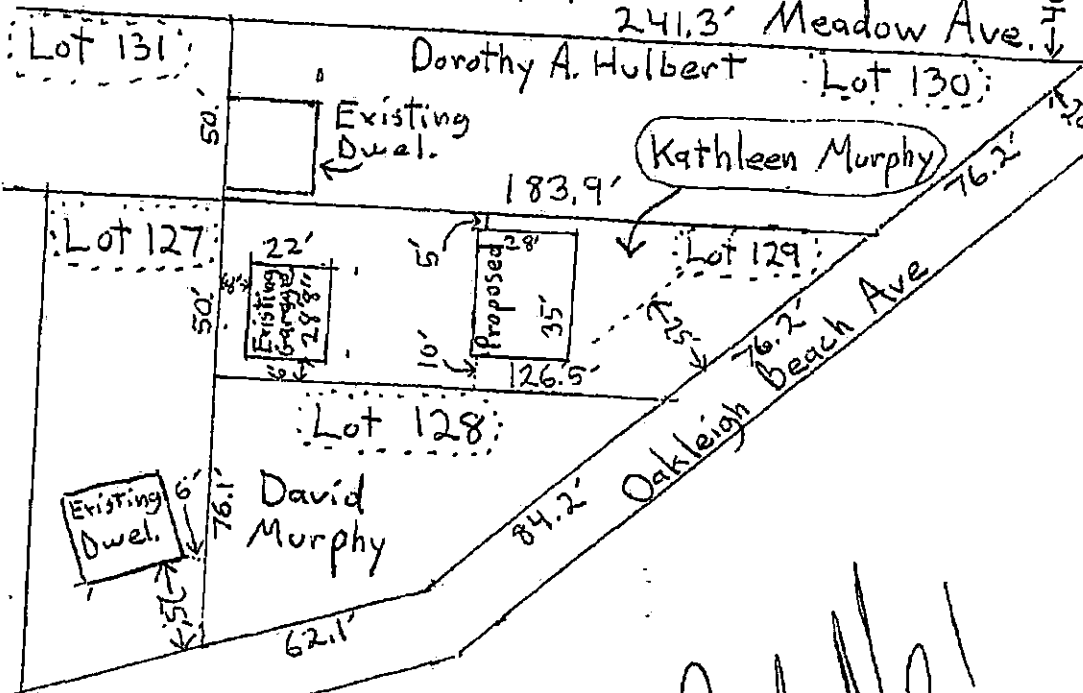
PROPERTY ADDRESS: 846 Oakleigh Beach Ave.

Subdivision name: Oakleigh Beach

Plat book # 12, folio # 46, lot # 129, section #

OWNER: Kathleen R. Murphy

see pages 5 & 6 of the CHECKLIST for additional required information



Plat No 1

LOCATION INFORMATION

Election District: 15

Councilmanic District: 7

1"=200 scale map #: S.E. 4 G

Zoning: DR 5.5

Lot size: 7,762 square feet

acreage

SEWER: ☒ public ☐ private

WATER: ☒ public ☐ private

Chesapeake Bay Critical Area: ☒ yes ☐ no

Prior Zoning Hearings:

Zoning Office USE ONLY!

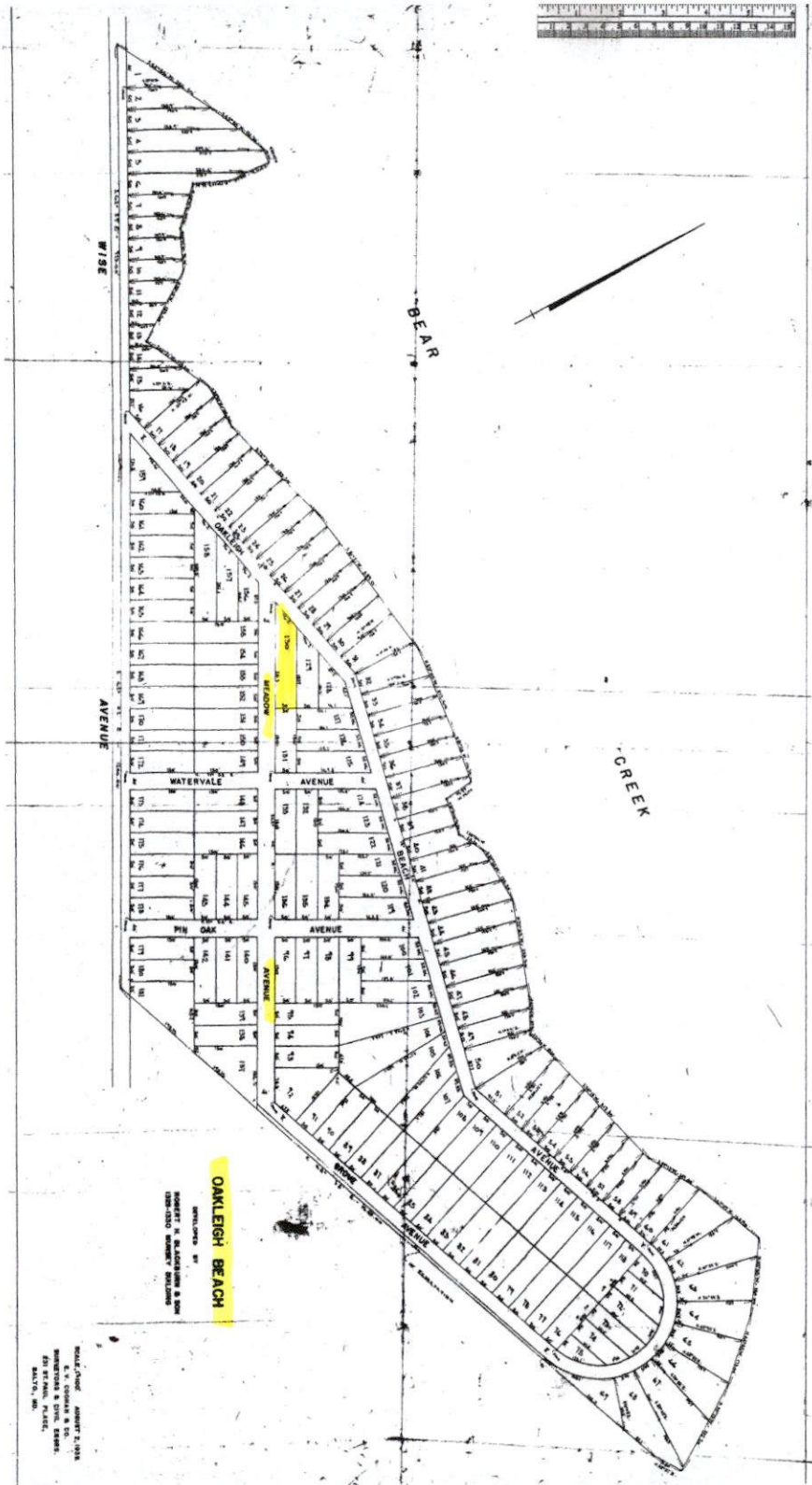
reviewed by: BR ITEM #: 47 CASE #: 80-47-SHA

North

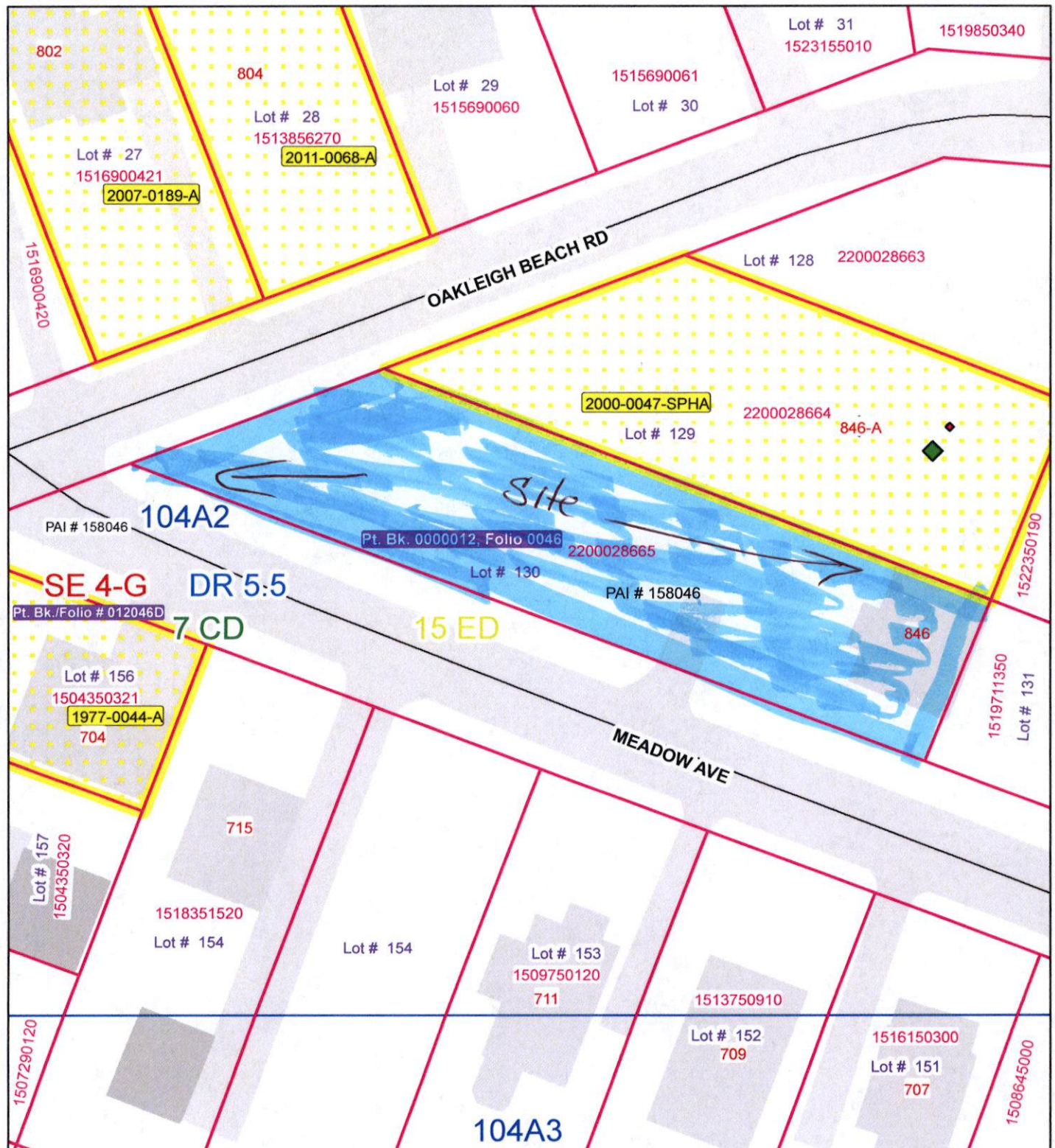
date: 7/24

prepared by: DM

Scale of Drawing: 1"=50'



846 Oakleigh Beach Road



Publication Date: 10/16/2015



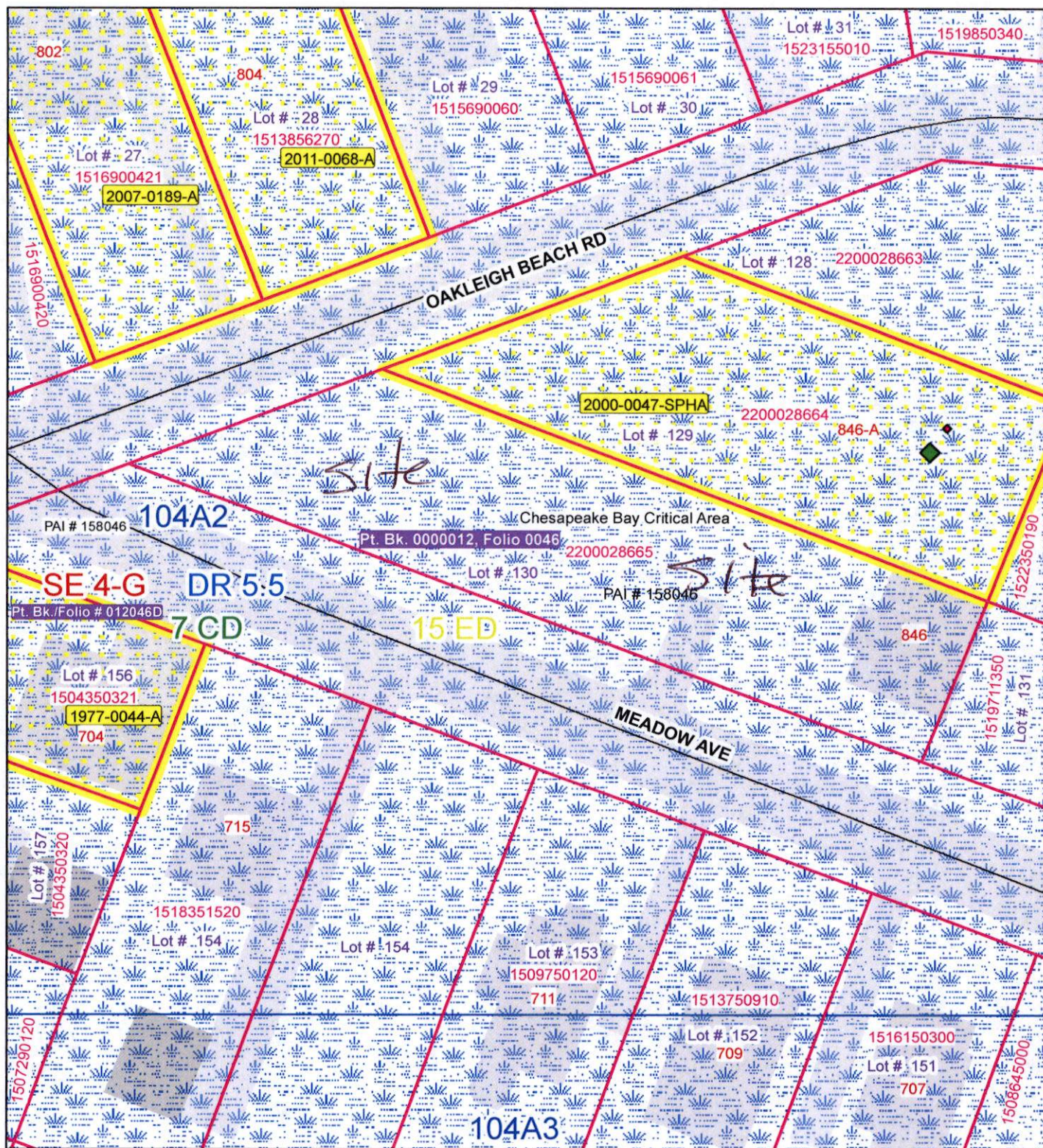
Publication Agency: Permits, Approvals & Inspections
Projection/Datum: Maryland State Plane,
FIPS 1900, NAD 1983/91 HARN, US Foot



1 inch = 40 feet

2016-0197-A

Chesapeake Bay Critical Area



Publication Date: 10/16/2015



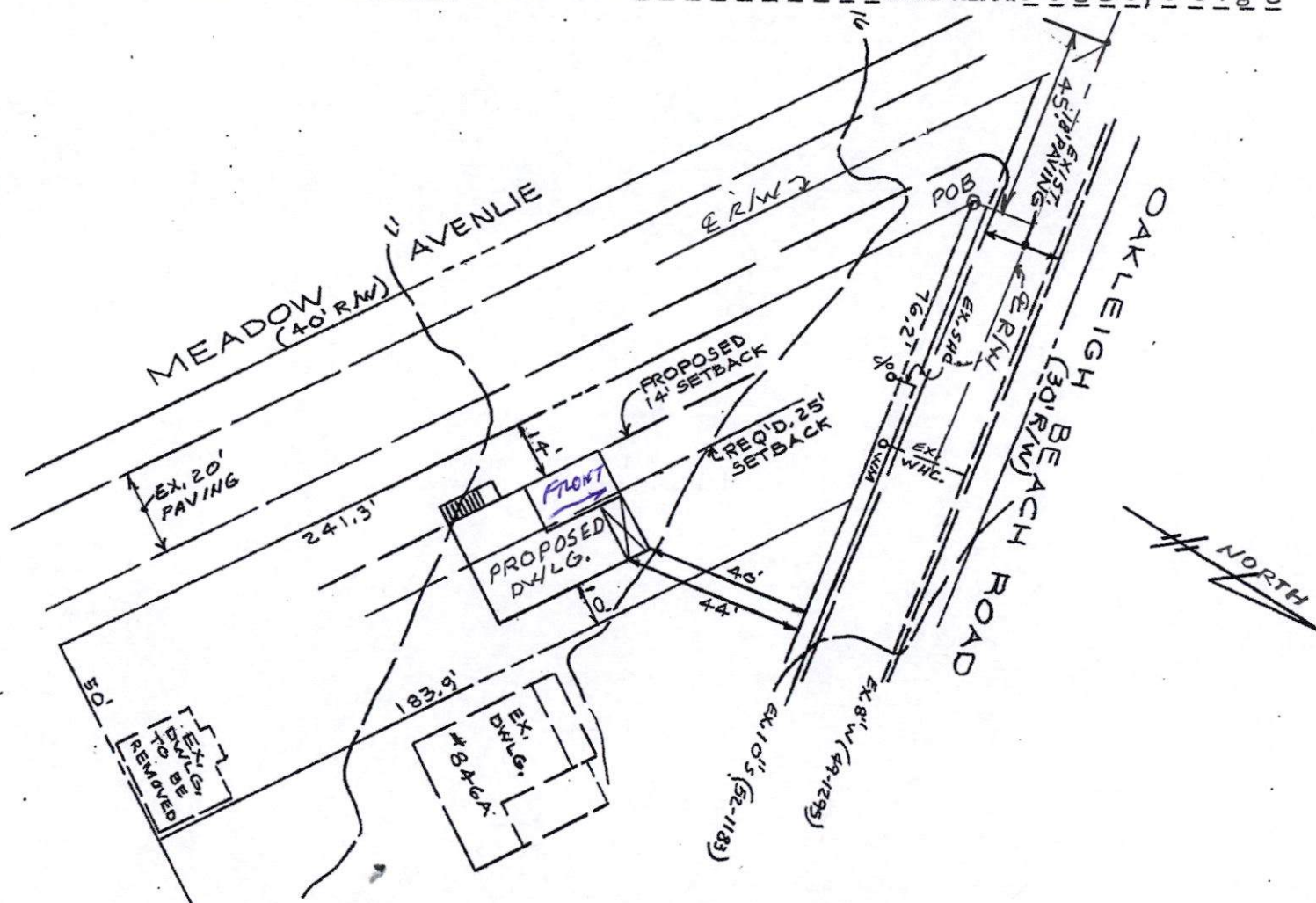
Publication Agency: Permits, Approvals & Inspections
Projection/Datum: Maryland State Plane,
FIPS 1900, NAD 1983/91 HARN, US Foot



1 inch = 40 feet

2016-0197-A

ZONING HEARING PLAN FOR VARIANCE X FOR SPECIAL HEARING _____ (MARK TYPE REQUESTED WITH X)
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PLAN DRAWN BY W. A. BROCATO DATE 2-22-16 SCALE: 1 INCH = 40 FEET

SITE VICINITY MAP



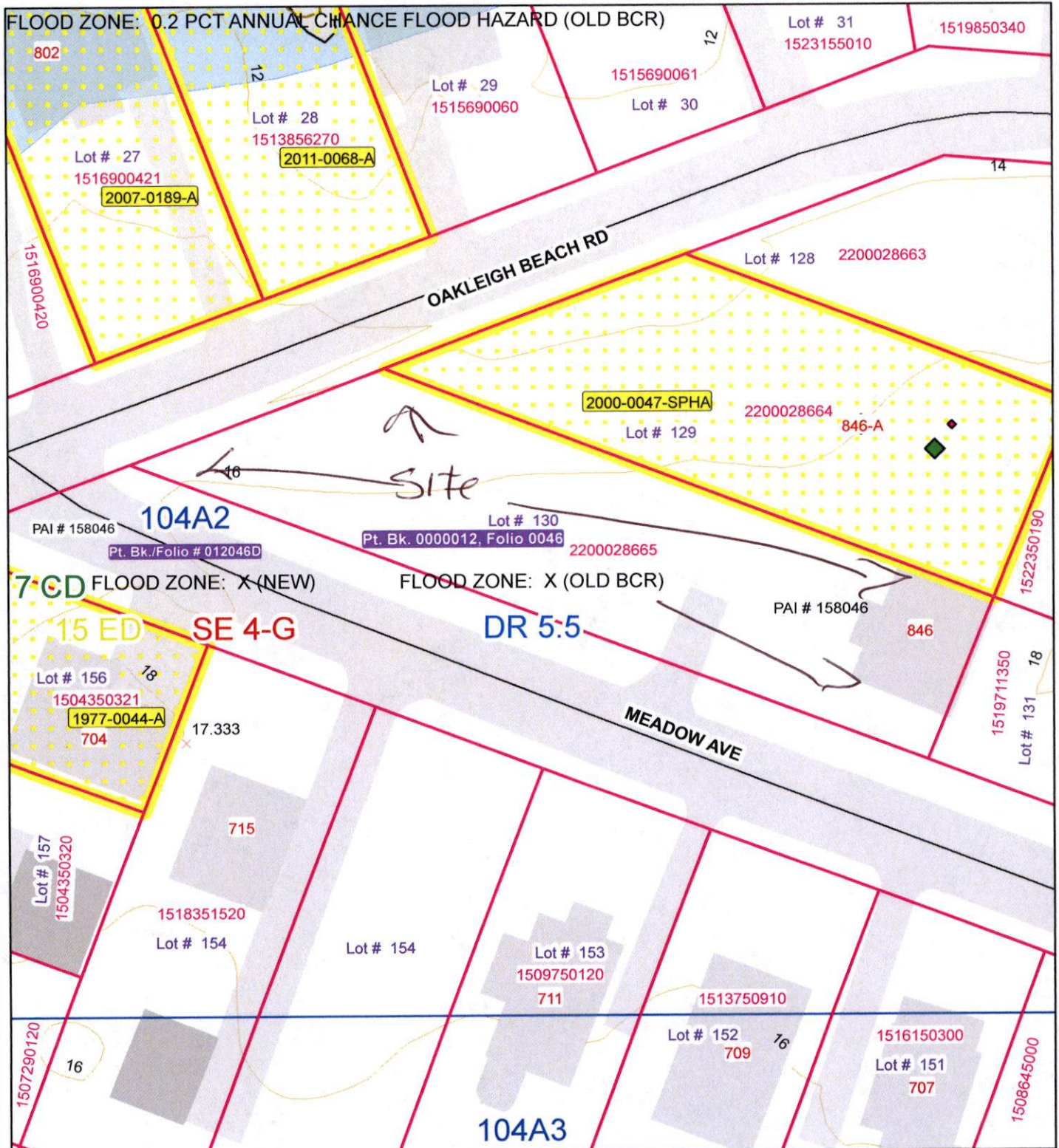
MAP IS NOT TO SCALE

ZONING MAP# 104A2
 SITE ZONED DR 5.5
 ELECTION DISTRICT 15
 COUNCIL DISTRICT 7
 LOT AREA ACREAGE 0.307
 OR SQUARE FEET 13356
 HISTORIC? NO
 IN CBCA? YES
 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

VIOLATION CASE INFO:

2016-0197-A

Elevations and Flood Hazards



Publication Date: 10/16/2015



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

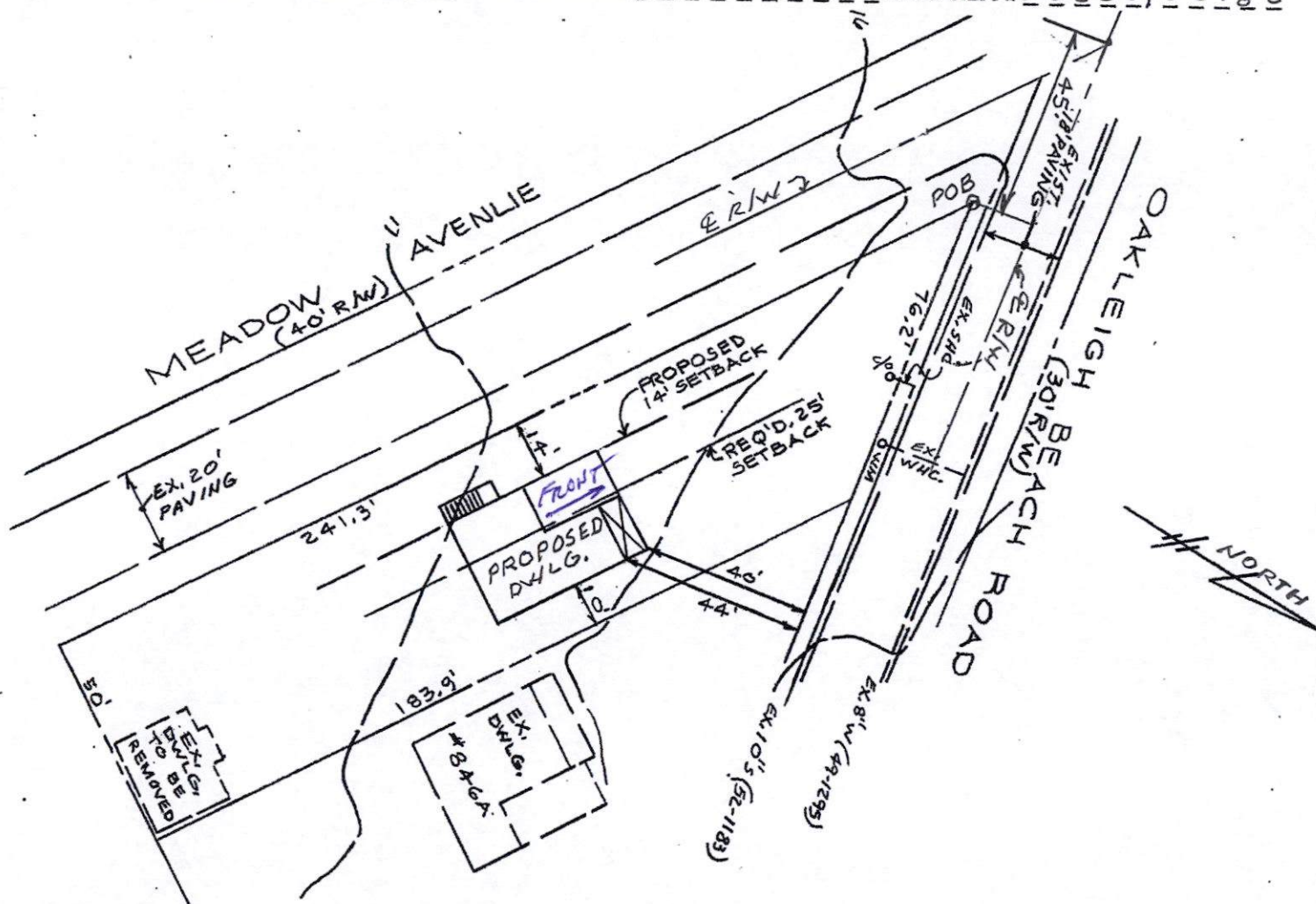


0 10 20 40 60 80 Feet

1 inch = 40 feet

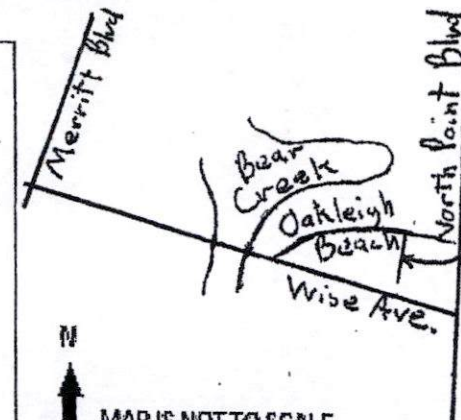
2016-0197-A

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PLAN DRAWN BY W. A. BROCATO DATE 2-22-16 SCALE: 1 INCH = 40 FEET

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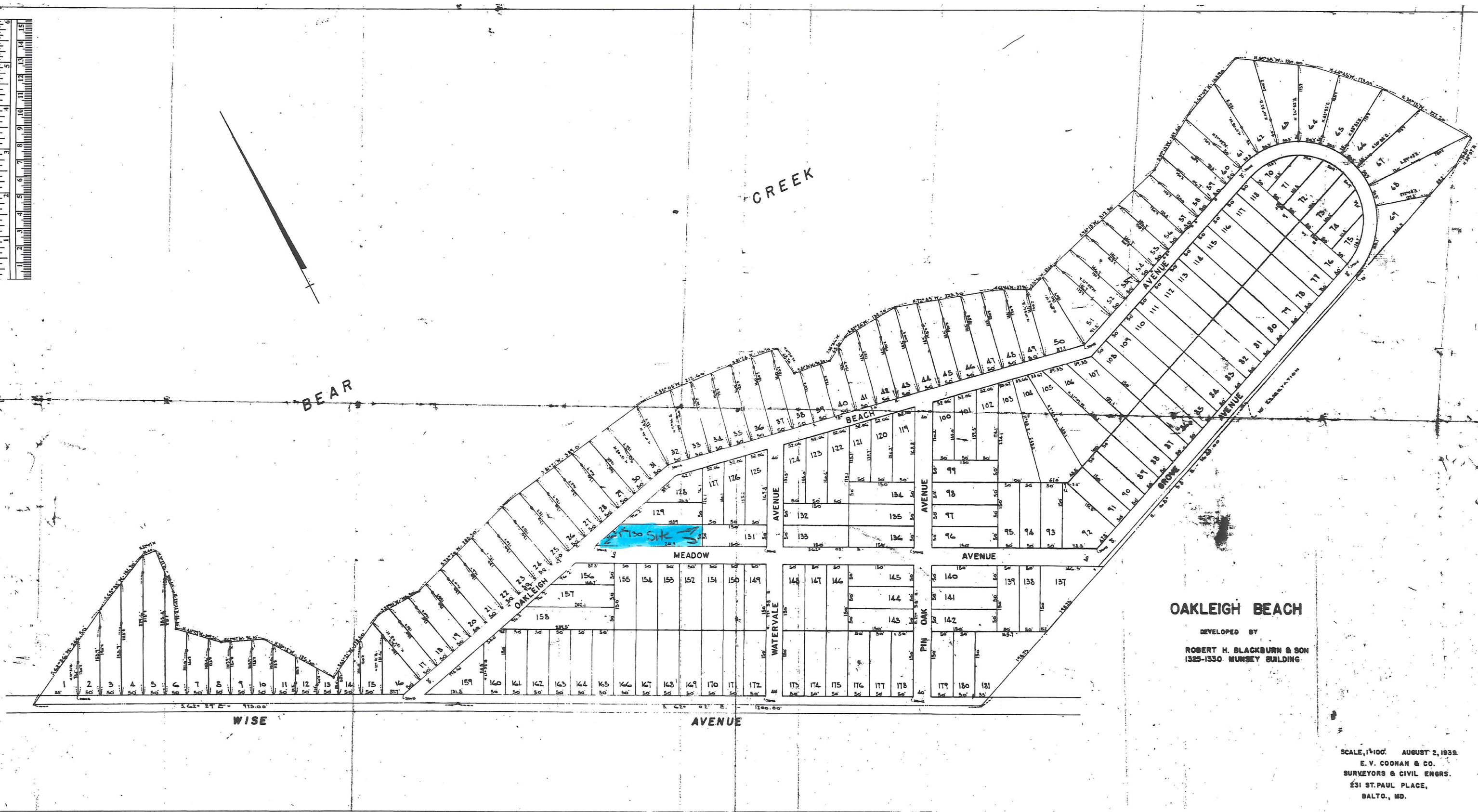
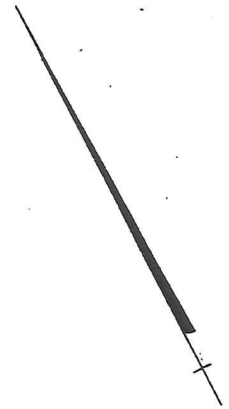
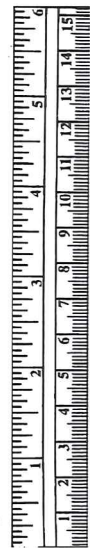


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ZONING MAP# 104A2
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 AND ORDER RESULT BELOW

VIOLATION CASE INFO:

2016-0197-1A



OAKLEIGH BEACH
DEVELOPED BY
ROBERT H. BLACKBURN & SON
1325-1330 HUNTER BUILDING

SCALE, 1"=100' AUGUST 2, 1939
E. V. COOMAN & CO.
SURVEYORS & CIVIL ENGRS.
231 ST. PAUL PLACE,
BALTO., MD.

2016-0197-A