

M E M O R A N D U M

DATE: August 1, 2016
TO: Zoning Review Office
FROM: Office of Administrative Hearings
RE: Case No. 2016-0279-A – Appeal Period Expired

The appeal period for the above-referenced case expired on July 29, 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

(2117 Oak Road)

15th Election District

7th Council District

Barry Jackson and Emily Kirk

Legal Owners

Petitioners

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BEFORE THE OFFICE

OF ADMINISTRATIVE

HEARINGS FOR

BALTIMORE COUNTY

CASE NO. 2016-0279-A

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for Baltimore County as Petitions Special Hearing and Variance on behalf of Barry Jackson and Emily Kirk, owners of the subject property ("Petitioners"). The special hearing request seeks to permit an accessory structure (garage) on a "lot by itself." Petitioners request variance relief from the Baltimore County Zoning Regulations (B.C.Z.R.) §§ 400.1 and 303.1 to permit a replacement detached accessory structure (garage) with a front yard setback of 25 ft. in lieu of the required front yard average of 40 ft. A site plan was marked as Petitioners' Exhibit No. 1.

Barry Jackson and Emily Kirk appeared in support of the Petition. No Protestants or interested citizens attended the hearing. 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 Planning (DOP), the Bureau of Development Plans Review (DPR) and the Department of Environmental Protection and Sustainability (DEPS).

The subject property is approximately 20,000 square feet and is zoned DR 5.5. Petitioners in 2012 purchased the property at 2117 Oak Road, which is improved with a single-family dwelling constructed in 1946. The existing dwelling is situated on Lot 1080 as shown on the plat of Lodge Forest Manor. Petitioners also acquired at the same time an adjoining lot (Lot 1079) on

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Date 6/29/16

By sen

the Lodge Forest Manor plat. This lot is improved with a detached building formerly used as a garage, although there is no dwelling on the lot. Petitioners propose to raze the existing garage and in its place construct a new garage that would accommodate two vehicles.

Given the facts as stated above and the testimony at the hearing, I believe Lots 1079 and 1080 have merged for zoning purposes. Petitioners explained they purchased their home from the daughter of the original owners, who was raised in the home and now resides just across the street. The seller explained the garage on Lot 1079 has existed in its present location for many years, and was always used by the owners of 2117 Oak Road and in conjunction with that property. As such, the lots have merged pursuant to Friends of the Ridge v. BGE, 352 Md. 645 (1999).

The most immediate consequence of this finding is that Petitioners do not require the special hearing relief sought in the petition, since the garage is in fact not located on a "lot by itself." While Petitioners do need a variance, it is not for a front setback as sought in the Petition. Instead, since the lots have merged the proposed garage would be accessory to the principal dwelling at 2117 Oak Road and a variance under B.C.Z.R. 400.1 is required to construct the building in the front yard.

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 difficulty or hardship.

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

Petitioners have met this test. The property is narrow and deep, and is bordered by a parcel of land subject to flood zone restrictions. As such it is unique. If the Regulations were strictly interpreted, Petitioners would experience a practical difficulty because they would be unable to rebuild the

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Date 6/29/16

By sen

existing garage, which has fallen into disrepair. Finally, I believe 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. This is demonstrated by the support of Petitioners' neighbors, all of whom signed a petition which was marked as Exhibit No. 4.

I am mindful the DOP does not support the requested front yard location for the garage. That agency believed the front averaged setback should be observed "to preserve the relationship of structures to street line now established on Oak Road." But as noted above, for more than 50 years the garage has in fact been located in the front yard of the dwelling, and thus I do not believe rebuilding the garage in this location would disturb in any way the relationship between structures and the street line. In fact, even if I was not inclined to grant the variance for the front yard location (which is a very common zoning request) I believe Petitioners would be entitled to rebuild the garage in its present location pursuant to B.C.Z.R. §104 pertaining to nonconforming uses and structures.

THEREFORE, IT IS ORDERED, this 29th day of June, 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.") §§ 400.1 and 303.1 to permit a replacement detached accessory structure (garage) with a front yard setback of 25 ft. in lieu of the required front yard average of 40 ft., be and is hereby DISMISSED as unnecessary.

IT IS FURTHER ORDERED that the petition for special hearing to permit an accessory structure on a "lot by itself," be and is hereby DISMISSED as unnecessary.

IT IS FURTHER ORDERED that the petition for variance to construct an accessory building (garage) in the front and side yard of the principal dwelling in lieu of the required rear yard location, be and is hereby GRANTED.

ORDER RECEIVED FOR FILING

Date 6/29/16

By Sen

The relief granted herein shall be subject to the following:

1. Petitioners may apply for necessary permits and/or licenses upon receipt of this Order. However, Petitioners are hereby made aware that proceeding at this time is at their own risk until 30 days from the date hereof, during which time an appeal can be filed by any party. If for whatever reason this Order is reversed, Petitioners would be required to return the subject property to its original condition.
2. Prior to issuance of permits Petitioners must comply with Critical Area and flood protection regulations.
3. The proposed garage shall not contain living quarters or kitchen/bathroom facilities and shall not be used for commercial purposes.

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



JOHN E. BEVERUNGEN
Administrative Law Judge for
Baltimore County

JEB/sln

ORDER RECEIVED FOR FILING

Date 6/29/16

By sln



C3CA

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 2117 Oak Road which is presently zoned DR 5.5
 Deed References: 35238:0405 10 Digit Tax Account # 1504200000
 Property Owner(s) Printed Name(s) Barry Jackson Emily Kirk

(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

... should approve a replacement detached accessory structure (garage) to be located on a lot by itself.

2. ☐ a **Special Exception** under the Zoning Regulations of Baltimore County to use the herein described property for

3. ☒ a **Variance** from Section(s)

Sections 400.1.d.(2).(B) (ZCPM) and 303.1 (BCZR) – to permit a replacement detached accessory structure (garage) with a front yard setback of 25 feet in lieu of the required front yard average of 40 feet.

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)

to be presented at hearing

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):

Barry Jackson, Emily Kirk

Name #1 - Type or Print

Name #2 - Type or Print

Signature #1

Signature #2

2117 Oak Road Balto. Md.

Mailing Address City State

21219 / 443-250-9596 / emily.kirk@remichel.com

Zip Code Telephone # Email Address

Representative to be contacted:

Joseph Lamb Sr.

Name - Type or Print

Signature

3101 Elliott St. Balto. Md.

Mailing Address City State

21224 / 443-992-1488 / Lamb Contracting - LLC

Zip Code Telephone # Email Address

CASE NUMBER 2016-0279-SPHA Filing Date 5/11/16Do Not Schedule Dates: Reviewer R.D.

**Barry Jackson & Emily Kirk
2117 Oak Road
Baltimore Md. 21219**

**Representative ;
Joseph J. Lamb Sr.
3101 Elliott Street
Baltimore, Md. 21224
443-992-1488**

ZONING DESCRIPTION OF PROPERTY for ;

2117 Oak Road Baltimore, Md. 21219

*Beginning at a point on the east side of Oak Road which is 40 feet right away wide at the distance of 220 feet south of the centerline of the nearest improved intersecting street North Point Creek Road which is 40 feet right away wide.

Subdivision Lot - Lot is part of record plat

Being lots 1079 & 1080 in the subdivision of Lodge Forest in Baltimore County Plat Book # 10, Folio # 76, containing 20,000 SF. Located in the 15th Election District and 7th Council District.

Item #0279



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 4226403

Sold To:

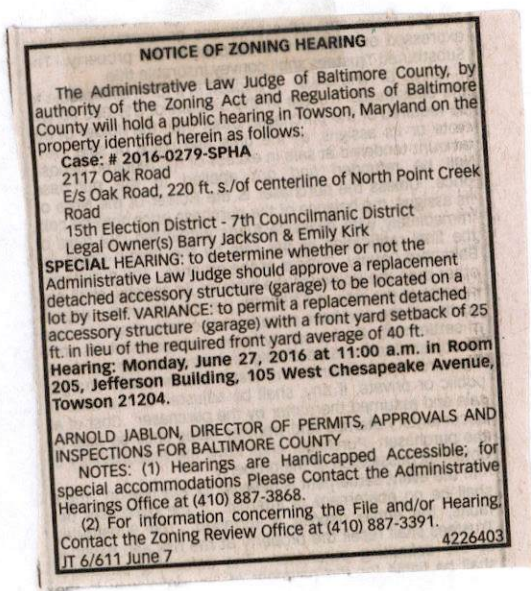
Joseph Lamb - CU00541621
3101 Elliott St
Baltimore, MD 21224-4909

Bill To:

Joseph Lamb - CU00541621
3101 Elliott St
Baltimore, MD 21224-4909

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

Jun 07, 2016



The Baltimore Sun Media Group

By

S. Wilkinson

Legal Advertising

CERTIFICATE OF POSTING

Date: May 31, 2016

RE: Project Name: PUBLIC HEARING
Case Number /PAI Number: 2016-0279-SPHA
Petitioner/Developer: Barry Jackson, Emily Kirk
Date of Hearing/Closing: June 27, 2016

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 2117 Oak Road
Baltimore, MD. 21224

The sign(s) were posted on May 31, 2016

(Month, Day, Year)



John M. Altmeyer
(Signature of Sign Poster)

John M. Altmeyer
(Printed Name of Sign Poster)

21722 Orwig Rd
(Street Address of Sign Poster)

Freeland, MD. 21053
(City, State, Zip Code of Sign Poster)

410-382-6580
(Telephone Number of Sign Poster)



KEVIN KAMENETZ
County Executive

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

May 23, 2016

NOTICE OF ZONING HEARING

The Administrative Law Judges 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 NUMBER: 2016-0279-SPHA

2117 Oak Road

E/s Oak Road, 220 ft. s/of centerline of North Point Creek Road

15th Election District – 7th Councilmanic District

Legal Owners: Barry Jackson & Emily Kirk

Special Hearing to determine whether or not the Administrative Law Judge should approve a replacement detached accessory structure (garage) to be located on a lot by itself. **Variance** to permit a replacement detached accessory structure (garage) with a front yard setback of 25 ft. in lieu of the required front yard average of 40 ft.

Hearing: Monday, June 27, 2016 at 11:00 a.m. in Room 205, Jefferson Building,
105 West Chesapeake Avenue, Towson 21204

A handwritten signature in dark ink, appearing to read "Arnold Jablon".

Arnold Jablon
Director

AJ:kl

C: Barry Jackson, Emily Kirk, 2117 Oak Road, Baltimore 21219
Joseph Lamb, Sr., 3101 Elliott Street, Baltimore 21224

- NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY TUESDAY, JUNE 7, 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.**



KEVIN KAMENETZ
County Executive

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

May 23, 2016

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TO: PATUXENT PUBLISHING COMPANY
Tuesday, June 7, 2016 Issue - Jeffersonian

Please forward billing to:
Joseph Lamb
3101 Elliott Street
Baltimore, MD 21224

443-992-1488

NOTICE OF ZONING HEARING

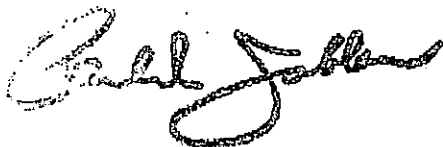
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15th Election District – 7th Councilmanic District
Legal Owners: Barry Jackson & Emily Kirk

Special Hearing to determine whether or not the Administrative Law Judge should approve a replacement detached accessory structure (garage) to be located on a lot by itself. **Variance** to permit a replacement detached accessory structure (garage) with a front yard setback of 25 ft. in lieu of the required front yard average of 40 ft.

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105 West Chesapeake Avenue, Towson 21204



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

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(2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.

RE: PETITION FOR SPECIAL HEARING * BEFORE THE OFFICE
AND VARIANCE *
2117 Oak Road; E/S Oak Road, 220' S of cline* OF ADMINISTRATIVE
of North Point Creek Road
15th Election & 7th Councilmanic Districts * HEARINGS FOR
Legal Owner(s): Barry Jackson & Emily Kirk *
Petitioner(s) * BALTIMORE COUNTY
* 2016-279-SPHA

* * * * *

ENTRY OF APPEARANCE

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

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

Carole S. Demilio

CAROLE S. DEMILIO
Deputy People's Counsel
Jefferson Building, Room 204
105 West Chesapeake Avenue
Towson, MD 21204
(410) 887-2188

RECEIVED

MAY 18 2016

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 18th day of May, 2016, a copy of the foregoing Entry of Appearance was mailed to Joseph Lamb, Sr, 3101 Elliott Street, Baltimore, Maryland 21224, Representative for Petitioner(s).

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

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: 2016-0279-SPHA

Petitioner: Joseph Lamb

Address or Location: 2117 Oak Rd. Balto. Md. 21219

PLEASE FORWARD ADVERTISING BILL TO:

Name: Joseph Lamb

Address: 3101 Elliott St.

BALTO. MD. 21224

Telephone Number: ✓ 443-992-1488

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

No.

139258

Date:

5/11/16

PAID RECEIPT

BUSINESS ACTUAL TDC TCR

5/11/2016 5/11/2016 10:23:53 1

REG 1501 MARKER LRG LDR

>> RECEIPT # 557515 5/11/2016 OFLN

DEPT 5 520 ZONING VERIFICATION

U NO. 139258

Recpt Tot. \$150.00

\$150.00 OK 1.00 CA

Baltimore County, Maryland

Fund	Dept	Unit	Sub Unit	Rev Source/ Obj	Sub Rev/ Sub Obj	Dept	Obj	BS Acct	Amount
001	806	0000		6150					\$150.00

Total: \$150.00

Rec.

From:

For: Zoning hearing - case # 2016-0279-SPHA

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*

June 23, 2016

Barry Jackson
Emily Kirk
2117 Oak Road
Baltimore MD 21219

RE: Case Number: 2016-0279 A, Address: 2117 Oak Road

Dear Mr. Jackson & Ms. Kirk:

The above referenced petition was accepted for processing **ONLY** by the Bureau of Zoning Review, Department of Permits, Approvals, and Inspection (PAI) on May 11, 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." in a cursive style.

W. Carl Richards, Jr.
Supervisor, Zoning Review

WCR: jaw

Enclosures

c: People's Counsel
Joseph Lamb Sr., 3101 Elliott Street, Baltimore MD 21224

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



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

Date: 5/16/10

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

Dear Ms. Lewis:

Thank you for the opportunity to review your referral request on the subject of the Case number referenced below. 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 Case No. 2016-0279-SPHA

Special Hearing Variance -
Barry Jackson & Emily Kirk
2117 Oak Road.

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 blue ink, appearing to read 'Richard Zeller', is written over a horizontal line.

Wendy Wolcott, PLA
Acting Metropolitan District Engineer – District 4
Baltimore & Harford Counties

WW/RAZ

6-27

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence

RECEIVED

JUN 06 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: June 6, 2016

SUBJECT: DEPS Comment for Zoning Item # 2016-0279-SPHA
Address 2117 Oak Road
(Jackson & Kirk Property)

Zoning Advisory Committee Meeting of May 23, 2016.

The subject property is located within the Chesapeake Bay Critical Area. According to BCZR Section 500.14, no decision shall be rendered on any petition for special exception, zoning variance, or zoning special hearing for a property within the Critical Area until the Department of Environmental Protection and Sustainability (EPS) has provided written recommendations describing how the proposed request would:

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 lot coverage requirements. Critical Area lot coverage differs from BCZR lot coverage and is defined in Natural Resources Article §8-1802(a)(17), as follows:

(17) (i) "Lot coverage" means that percentage of total lot or parcel that is:

1. Occupied by a structure, parking area, driveway, walkway, or roadway; or
2. Covered with gravel, stone, shell impermeable decking, a paver, permeable pavement, or any manmade material

(ii) "Lot coverage" includes the ground area covered or occupied by a stairway or impermeable deck.

(iii) "Lot coverage" does not include:

1. A fence or wall that is less than 1 foot in width that has not been constructed with a footer;
2. A walkway in the buffer or expanded buffer, including a stairway, that provides direct access to a community or private pier;
3. A wood mulch pathway; or
4. A deck with gaps to allow the water to pass freely.

The subject property, Lot #1079, comprises a total of 10,000 square feet (sf). This lot contains an existing, detached garage that has been present on the property for decades and is in poor condition. This lot is associated with, and under the same ownership as adjacent Lot #1080, where there is an existing dwelling. The petitioner's request seeks to allow, on Lot #1079, for a larger replacement accessory structure (garage) and an adjoining, covered pad with a street-side "setback of 25 feet in lieu of the required front yard average of 40 feet". In order to minimize impacts on water quality, the applicant must comply with the LDA lot coverage limit, which, for a property this size, is 31 ¼% (3,125 sf), with mitigation required for lot coverage between 25% (2,500 sf) and 31 ¼%. The LDA regulations also require 15% afforestation on the property, which equates to 3 trees for a property this size. This requirement appears to be satisfied by the existing trees on the lot. According to recent aerial photography and the plan submitted for this review, the net total lot coverage on this lot will be approximately 1,272 sf, taking into consideration the removal of the existing garage and its replacement with a larger garage and covered pad. It is noted that any access that may be needed from the street to the proposed garage is not shown on the plan, and this would add to the total. Any plan or application that is received by this Department will be reviewed for compliance with the LDA lot coverage regulations, as well as the afforestation requirement. Therefore, by allowing the items requested by the petitioner, impacts on water quality will be minimized.

2. Conserve fish, wildlife, and plant habitat; and

The current development proposal for the property will be reviewed for application of the LDA regulations, which will minimize impacts to any adjacent buffers, thereby will improve buffer functions, and conserve fish, wildlife and plant habitat in North Point Creek and Old Road Bay.

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.

The petitioner's request, if granted, will be consistent with established land use policies and will minimize or avoid environmental impacts provided that the applicants meet any LDA requirements applicable to the proposal.

Reviewer: Thomas Panzarella; Environmental Impact Review

6-27

BALTIMORE COUNTY, MARYLAND INTER-OFFICE MEMORANDUM

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

DATE: June 6, 2016

FROM: Andrea Van Arsdale
Director, Department of Planning

SUBJECT: ZONING ADVISORY COMMITTEE COMMENTS
Case Number: 16-279

RECEIVED

JUN 10 2016

INFORMATION:

Property Address: 2117 Oak Road
Petitioner: Barry Jackson, Emily Kirk
Zoning: DR 5.5
Requested Action: Special Hearing, Variance

OFFICE OF ADMINISTRATIVE HEARINGS

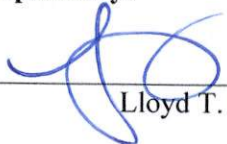
The Department of Planning has reviewed the petition for special hearing to determine whether or not the Administrative Law Judge should approve an accessory structure (garage) to be located on a lot not having a principal structure. The Department has also reviewed the petition for variance to permit a replacement detached accessory structure (garage) with a front yard setback of 25 feet in lieu of the required averaged front yard setback of 40 feet.

A site visit was conducted on May 20, 2016.

The Department of Planning has no objection to granting the petitioned special hearing relief. The Department does not support granting the petitioned variance relief and recommends any new structure conform to required averaged front yard setback to preserve the relationship of structures to street line now established on Oak Road.

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: Josephine Selvakumar
Joseph Lamb, Sr.
Office of the Administrative Hearings
People's Counsel for Baltimore County

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

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

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

SUBJECT: Zoning Advisory Committee Meeting
For May 23, 2016
Item No. 2016-0279

DATE: May 20, 2016

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

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

* * * * *

DAK:CEN
cc:file

ZAC-ITEM NO 16-0279-05232016.doc



BALTIMORE COUNTY, MARYLAND

INTER-OFFICE MEMORANDUM

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

DATE: June 6, 2016

FROM: Andrea Van Arsdale
Director, Department of Planning

SUBJECT: ZONING ADVISORY COMMITTEE COMMENTS
Case Number: 16-279

INFORMATION:

Property Address: 2117 Oak Road
Petitioner: Barry Jackson, Emily Kirk
Zoning: DR 5.5
Requested Action: Special Hearing, Variance

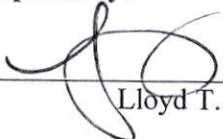
The Department of Planning has reviewed the petition for special hearing to determine whether or not the Administrative Law Judge should approve an accessory structure (garage) to be located on a lot not having a principal structure. The Department has also reviewed the petition for variance to permit a replacement detached accessory structure (garage) with a front yard setback of 25 feet in lieu of the required averaged front yard setback of 40 feet.

A site visit was conducted on May 20, 2016.

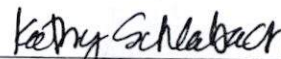
The Department of Planning has no objection to granting the petitioned special hearing relief. The Department does not support granting the petitioned variance relief and recommends any new structure conform to required averaged front yard setback to preserve the relationship of structures to street line now established on Oak Road.

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: Josephine Selvakumar
Joseph Lamb, Sr.
Office of the Administrative Hearings
People's Counsel for Baltimore County

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence



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: June 6, 2016

SUBJECT: DEPS Comment for Zoning Item # 2016-0279-SPHA
Address 2117 Oak Road
(Jackson & Kirk Property)

Zoning Advisory Committee Meeting of May 23, 2016.

The subject property is located within the Chesapeake Bay Critical Area. According to BCZR Section 500.14, no decision shall be rendered on any petition for special exception, zoning variance, or zoning special hearing for a property within the Critical Area until the Department of Environmental Protection and Sustainability (EPS) has provided written recommendations describing how the proposed request would:

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 lot coverage requirements. Critical Area lot coverage differs from BCZR lot coverage and is defined in Natural Resources Article §8-1802(a)(17), as follows:

(17) (i) "Lot coverage" means that percentage of total lot or parcel that is:

- 1. Occupied by a structure, parking area, driveway, walkway, or roadway; or*
- 2. Covered with gravel, stone, shell impermeable decking, a paver, permeable pavement, or any manmade material*

(ii) "Lot coverage" includes the ground area covered or occupied by a stairway or impermeable deck.

(iii) "Lot coverage" does not include:

1. A fence or wall that is less than 1 foot in width that has not been constructed with a footer;
2. A walkway in the buffer or expanded buffer, including a stairway, that provides direct access to a community or private pier;
3. A wood mulch pathway; or
4. A deck with gaps to allow the water to pass freely.

The subject property, Lot #1079, comprises a total of 10,000 square feet (sf). This lot contains an existing, detached garage that has been present on the property for decades and is in poor condition. This lot is associated with, and under the same ownership as adjacent Lot #1080, where there is an existing dwelling. The petitioner's request seeks to allow, on Lot #1079, for a larger replacement accessory structure (garage) and an adjoining, covered pad with a street-side "setback of 25 feet in lieu of the required front yard average of 40 feet". In order to minimize impacts on water quality, the applicant must comply with the LDA lot coverage limit, which, for a property this size, is 31 1/4% (3,125 sf), with mitigation required for lot coverage between 25% (2,500 sf) and 31 1/4%. The LDA regulations also require 15% afforestation on the property, which equates to 3 trees for a property this size. This requirement appears to be satisfied by the existing trees on the lot. According to recent aerial photography and the plan submitted for this review, the net total lot coverage on this lot will be approximately 1,272 sf, taking into consideration the removal of the existing garage and its replacement with a larger garage and covered pad. It is noted that any access that may be needed from the street to the proposed garage is not shown on the plan, and this would add to the total. Any plan or application that is received by this Department will be reviewed for compliance with the LDA lot coverage regulations, as well as the afforestation requirement. Therefore, by allowing the items requested by the petitioner, impacts on water quality will be minimized.

2. Conserve fish, wildlife, and plant habitat; and

The current development proposal for the property will be reviewed for application of the LDA regulations, which will minimize impacts to any adjacent buffers, thereby will improve buffer functions, and conserve fish, wildlife and plant habitat in North Point Creek and Old Road Bay.

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.

The petitioner's request, if granted, will be consistent with established land use policies and will minimize or avoid environmental impacts provided that the applicants meet any LDA requirements applicable to the proposal.

Reviewer: Thomas Panzarella; Environmental Impact Review

This Deed, made this 17th day of July, 2014, by and between **Kathleen J. Conley nka Kathleen Conley Langston** and **Lorraine I. Palmer**, GRANTORS, and **Barry Jackson** and **Emily Kirk**, GRANTEES.

Witnesseth —

That in consideration of the sum of One Hundred Seventy-Eight Thousand and 00/100 Dollars (\$178,000.00), which includes the amount of any outstanding Mortgage or Deed of Trust, if any, the receipt of which is hereby acknowledged, the said Grantors do hereby grant and convey to the said Grantees, as joint tenants unto the survivor of them, their heirs and assigns, in fee simple, all that lot of ground situate in the County of Baltimore, State of Maryland and described as follows, that is to say:

BEING KNOWN AND DESIGNATED, as Lots Nos. 1079 and 1080 as shown on the Plat of Lodge Forest, which plat is recorded among the Land Records of Baltimore County, Maryland in Plat Book No. C.W.B., Jr. No. 10, folio 76.

The improvements thereon being known as No. 2117 Oak Road.

BEING the fee simple property which, by Deed dated September 17, 1996, and recorded in the Land Records of the County of Baltimore, Maryland, in Liber 11850, Folio 222, was granted and conveyed by Marie Demski, Life Tenant unto Marie Demski, Life Tenant and Kathleen J. Conley and Lorraine I. Palmer, remainderman. The said Marie Demski departed this life on or about January 14, 2013 without having exercised her powers, thereby vesting fee simple title unto Kathleen J. Conley and Lorraine I. Palmer, her remaindermen.

Together with the buildings and improvements thereon erected, made or being; and all and every, the rights, alleys, ways, waters, privileges, appurtenances and advantages thereto belonging, or in anywise appertaining.

To Have and To Hold the said tract of ground and premises above described and mentioned, and hereby intended to be conveyed, together with the rights, privileges, appurtenances and advantages thereto belonging or appertaining unto and to the proper use and benefit of the said Barry Jackson and Emily Kirk, as joint tenants unto the survivor of them, their heirs and assigns, in fee simple.

And the Grantors hereby covenant that they have not done or suffered to be done any act, matter or thing whatsoever, to encumber the property hereby conveyed; that they will warrant Specially the property hereby granted; and that they will execute such further assurances of the same as may be requisite.

In Witness Whereof, - tors have caused this Deed to be properly executed and sealed the day and year first above written.

Kathleen J. Conley nka Kathleen Conley
Langston (SEAL)

Lorraine I. Palmer (SEAL)

STATE OF MARYLAND } ss
COUNTY OF BALTIMORE }

I hereby certify that on this 17th day of July, 2014, before me, the subscriber, a Notary Public of the State and County aforesaid, personally appeared Kathleen J. Conley nka Kathleen Conley Langston and Lorraine I. Palmer, the Grantors herein, known to me (or satisfactorily proven) to be the persons whose names are subscribed to the within instrument, and acknowledged the same for the purposes therein contained, and further acknowledged the foregoing Deed to be their act, and in my presence signed and sealed the same, giving oath under penalties of perjury that the consideration recited herein is correct.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Notary Public

My Commission Expires: _____

THIS IS TO CERTIFY that the within Deed was prepared by, or under the supervision of the undersigned, an Attorney duly admitted to practice before the Court of Appeals of Maryland.

Attorney- Dan Radebaugh, Esq.

AFTER RECORDING, PLEASE RETURN TO:
R&P Settlement Group, LLC
809 Gleneagles Court
Suite 119
Towson, MD 21286

C H E C K L I S TSupport/Oppose/
Conditions/
Comments/
No CommentComment
ReceivedDepartment

5/20

DEVELOPMENT PLANS REVIEW

(if not received, date e-mail sent _____)

C

6/6

DEPS

(if not received, date e-mail sent _____)

C

6/6

FIRE DEPARTMENT

PLANNING

(if not received, date e-mail sent _____)

C

5/16

STATE HIGHWAY ADMINISTRATION

TRAFFIC ENGINEERING

NO Obj

COMMUNITY ASSOCIATION

ADJACENT PROPERTY OWNERS

ZONING VIOLATION

(Case No. _____)

PRIOR ZONING

(Case No. _____)

NEWSPAPER ADVERTISEMENT

Date:

6-7-16

SIGN POSTING

Date:

5-31-16

by

Altmeier

PEOPLE'S COUNSEL APPEARANCE

Yes



No



PEOPLE'S COUNSEL COMMENT LETTER

Yes



No



Comments, if any: _____

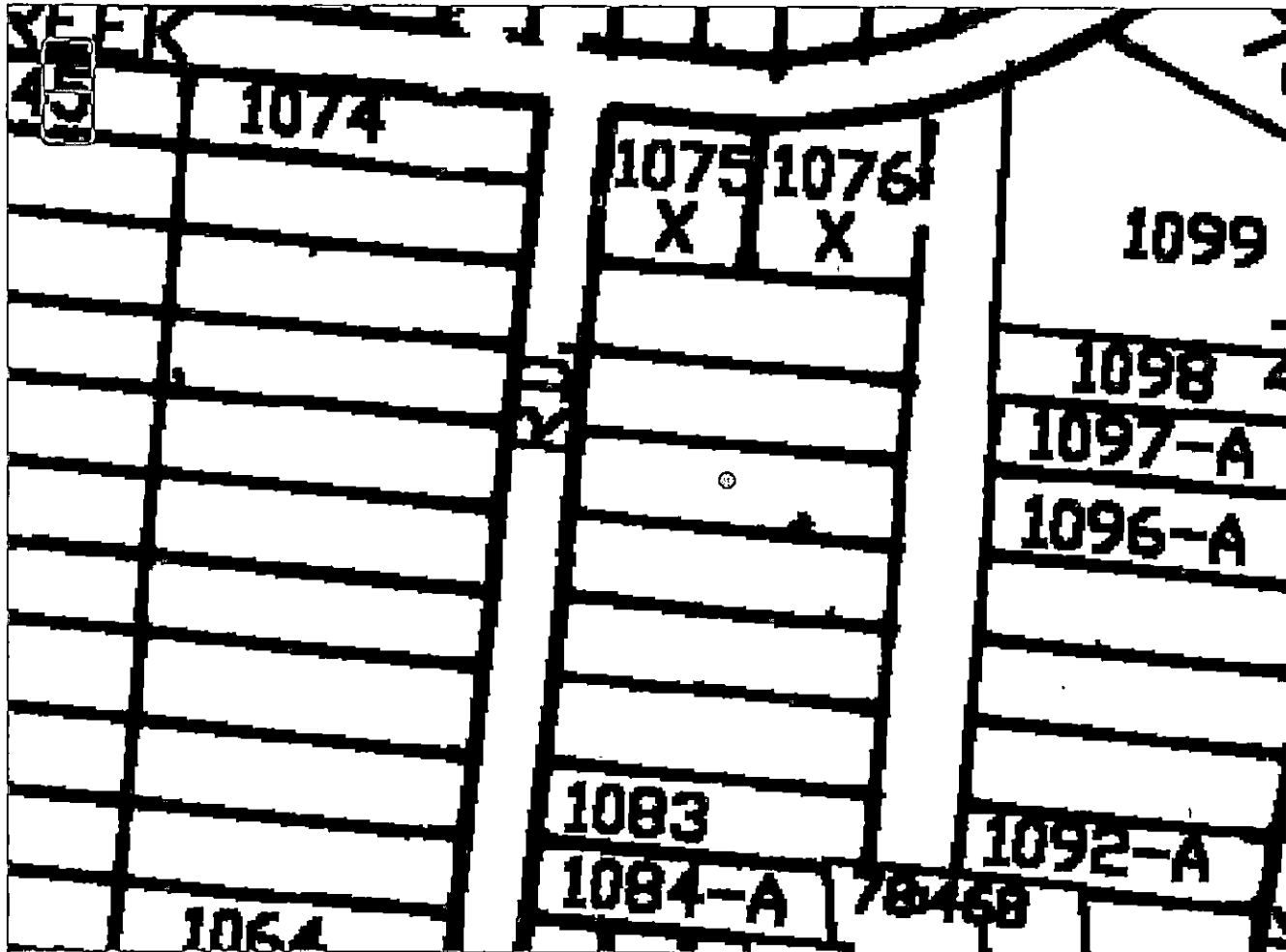
Real Property Data Search (w2)

Guide to searching the database

Search Result for BALTIMORE COUNTY

View Map		View GroundRent Redemption				View GroundRent Registration				
Account Identifier:		District - 15 Account Number - 1504200000								
Owner Information										
Owner Name:		JACKSON BARRY KIRK EMILY				Use: Principal Residence:		RESIDENTIAL YES		
Mailing Address:		2117 OAK RD BALTIMORE MD 21219-2213				Deed Reference:		/35238/ 00405		
Location & Structure Information										
Premises Address:		2117 OAK RD BALTIMORE 21219-2213				Legal Description:		LT 1079,1080 2117 OAK RD LODGE FOREST		
Map:	Grid:	Parcel:	Sub District:	Subdivision:	Section:	Block:	Lot:	Assessment Year:	Plat No:	
0111	0017	0098		0000			1079	2015	Plat Ref:	0010/0076
Special Tax Areas:					Town: Ad Valorem: Tax Class:		NONE			
Primary Structure Built		Above Grade Enclosed Area			Finished Basement Area		Property Land Area		County Use	
1946		1,204 SF					20,000 SF		04	
Stories	Basement	Type	Exterior		Full/Half Bath		Garage	Last Major Renovation		
1 1/2	YES	STANDARD UNIT	ASBESTOS SHINGLE		1 full		1 Detached			
Value Information										
			Base Value		Value As of 01/01/2015		Phase-in Assessments As of 07/01/2015 As of 07/01/2016			
Land:			77,000		77,000					
Improvements			75,600		83,800					
Total:			152,600		160,800		155,333		158,067	
Preferential Land:			0						0	
Transfer Information										
Seller: DEMSKI MARIE Type: ARMS LENGTH MULTIPLE				Date: 08/07/2014 Deed1: /35238/ 00405			Price: \$178,000 Deed2:			
Seller: DEMSKI JOSEPH Type: NON-ARMS LENGTH OTHER				Date: 10/16/1996 Deed1: /11850/ 00222			Price: \$0 Deed2:			
Seller: Type:				Date: Deed1:			Price: 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: Approved 02/10/2015										

Baltimore County

New Search (<http://sdat.dat.maryland.gov/RealProperty>)District: **15** Account Number: **1504200000**

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>).

Case No.: 2016-0279-A

Exhibit Sheet

Petitioner/Developer

Protestant

SLW
6-29-16

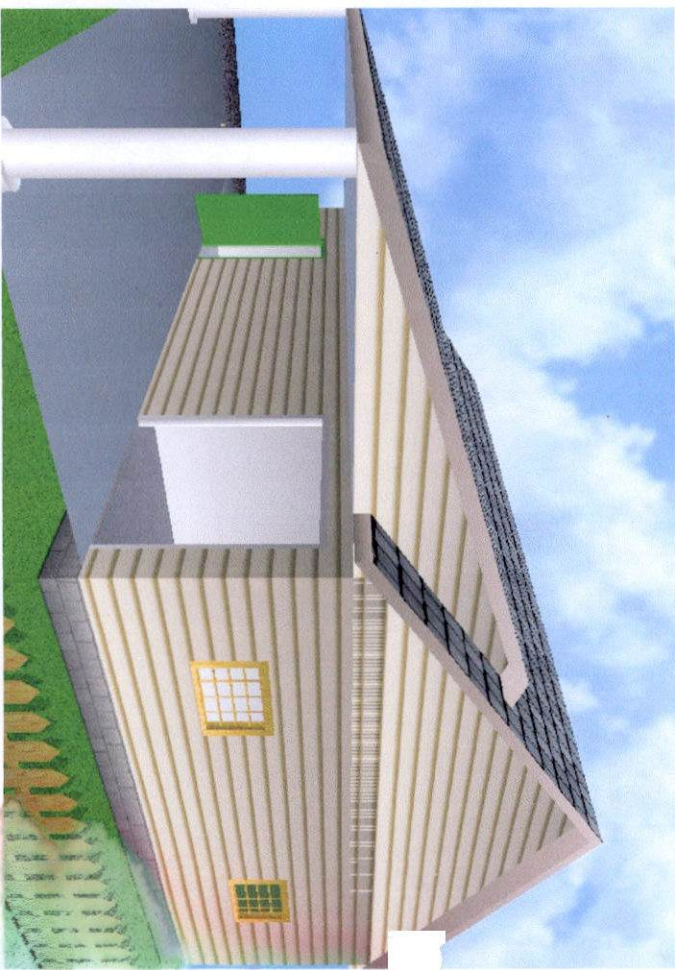
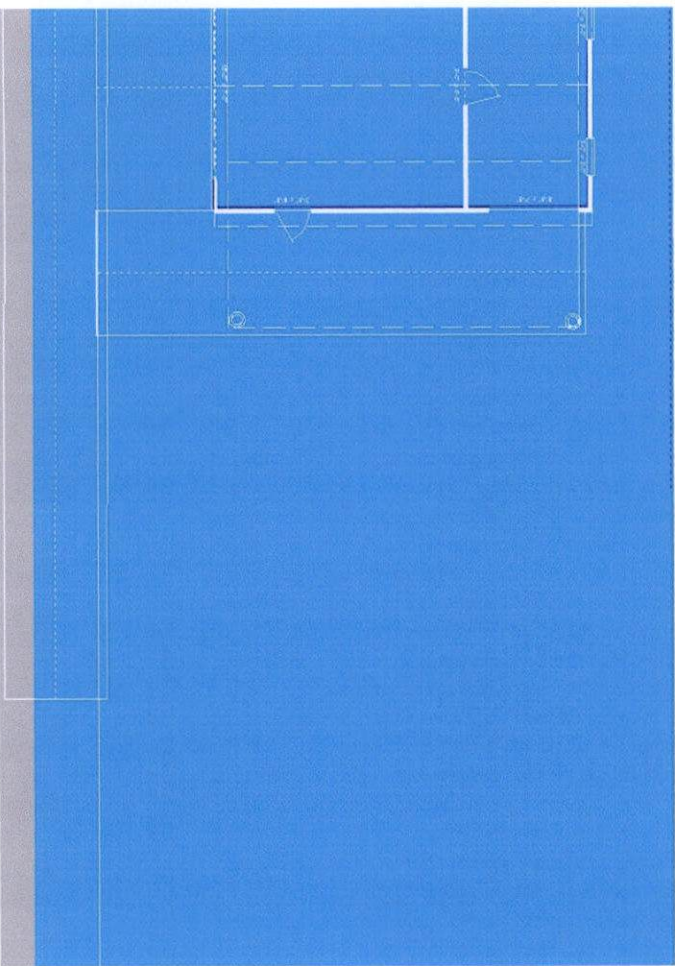
No. 1	Site plan	
No. 2	photos of existing garage	
No. 3	Elevations - proposed garage	
No. 4	Petition of support signed by neighbors	
No. 5		
No. 6		
No. 7		
No. 8		
No. 9		
No. 10		
No. 11		
No. 12		







Petitioners No. 2



Petersons No. 3

PETITION FOR SPECIAL HEARING AND VARIANCE
2117 Oak Road; 220' S of centerline of North Point Creek
Road, 15th Election & 7th Councilmanic Districts

#2016-279-SPHA

Legal owners Barry Jackson & Emily Kirk

Neighbors in Favor of and Approval

Of constructing a new two car garage with work shed and car
port in place of existing structure.

Name	Address	Contact Info
Michael Kenney	2116 OAK ROAD	410-477-1944
Cheyenne Carpenter	2124 OAK RD	443-834-4704
Don Boston	7723 North Point Creek Rd	443-798-8715
ALMA WILLS	7731 N. POINT CREEK RD	410-477-4712
Rose McGrath	7720 N POINT CREEK RD	410 477 9004
Gloria Strasbaugh	7708 N. Pt Creek Rd	410 477 5127
RUTH M. GOWGH	OAK RD	410-358-1211
Angelina L. Donnelly	2114 OAK RD-	
Lois Wactor	2108 OAK RD	410-477-1757
Larry Wilson	7714 Bayfront Rd	
Tanya McCuskey	7730 Bayfront Rd	410 608 5556
James Imhoff	2102 Sweet Rd	410-477-0470
Michael P Conner	2121 OAK Rd	443 562 4468
KATHY LANGSTON	2112 OAK ROAD	410-477-8555
William McCuskey	7732 Bayfront Rd	410-303-5216

Petitioners No. 4

**To The Office of Administrative Law Of Baltimore County
Special Hearing in the Matter of**

**Barry Jackson & Emily Kirk
2117 Oak Road
Baltimore Md. 21219**

Tuesday, May 3, 2016

To Whom It May Concern,

(We) Barry Jackson and Emily Kirk Are requesting approval from the Zoning Board of Baltimore County to remove an existing one car garage that is in distress, located on one of two lots owned by us, and construct in its place a two car garage with an exterior covered utility area.

The existing garage structure is outdated and serves no historical value. It was, at its time, constructed to use as a garage to park an automobile, which were smaller back in that time period, and needs approximately \$16,000.00 in repairs to bring it up to cosmetic, structural code, and neighborhood standards. With making these repairs it would still not be suitable or large enough to house the necessities of "today's standards of living", with both parties working and both parties driving their own vehicles. The exact same location of the existing structure and the new structure poses no negative impact to traffic, the environment, visibility, or real estate values. In this matter, it is an improvement to the neighborhood by removing the distressed structure.

It was investigated to build the structure in the rear of the existing lot which imposes no zoning issue I believe, but the driveway would need to be almost 160 linear feet long, would cost as much as the existing structure to renovate, would not be practical in bad weather conditions to enter and exit, and add further monetary hardship. The existing position requested is more practical.

This property was vacant for over a year, we purchased the property and both lots in July of 2014, and have made extensive repairs to the existing home, slowly bringing its curb appeal to neighborhood standards, and installed high grade fencing around the perimeter of both lots. We reside at the property with our son and two dogs, and we have made this our home.

Item #0279

A survey of our intentions to construct a new 24 x 36 structure, following all height and construction requirements were proposed throughout the neighborhood, and we have 100% neighborhood cooperation and unity to move forward with our plans. In most cases each nearby homeowner that was approached said the same thing, "They would be happy to see the eye soar go away and a new structure put in its place".

We hope Zoning will allow us to begin construction on our new garage and find that the existing structure does not accommodate today's necessities. Furthermore that the amount of repairs needed to bring the structure up to date does invoke financial hardship, spending monies on a outdated structure that cannot be used by today's standards.

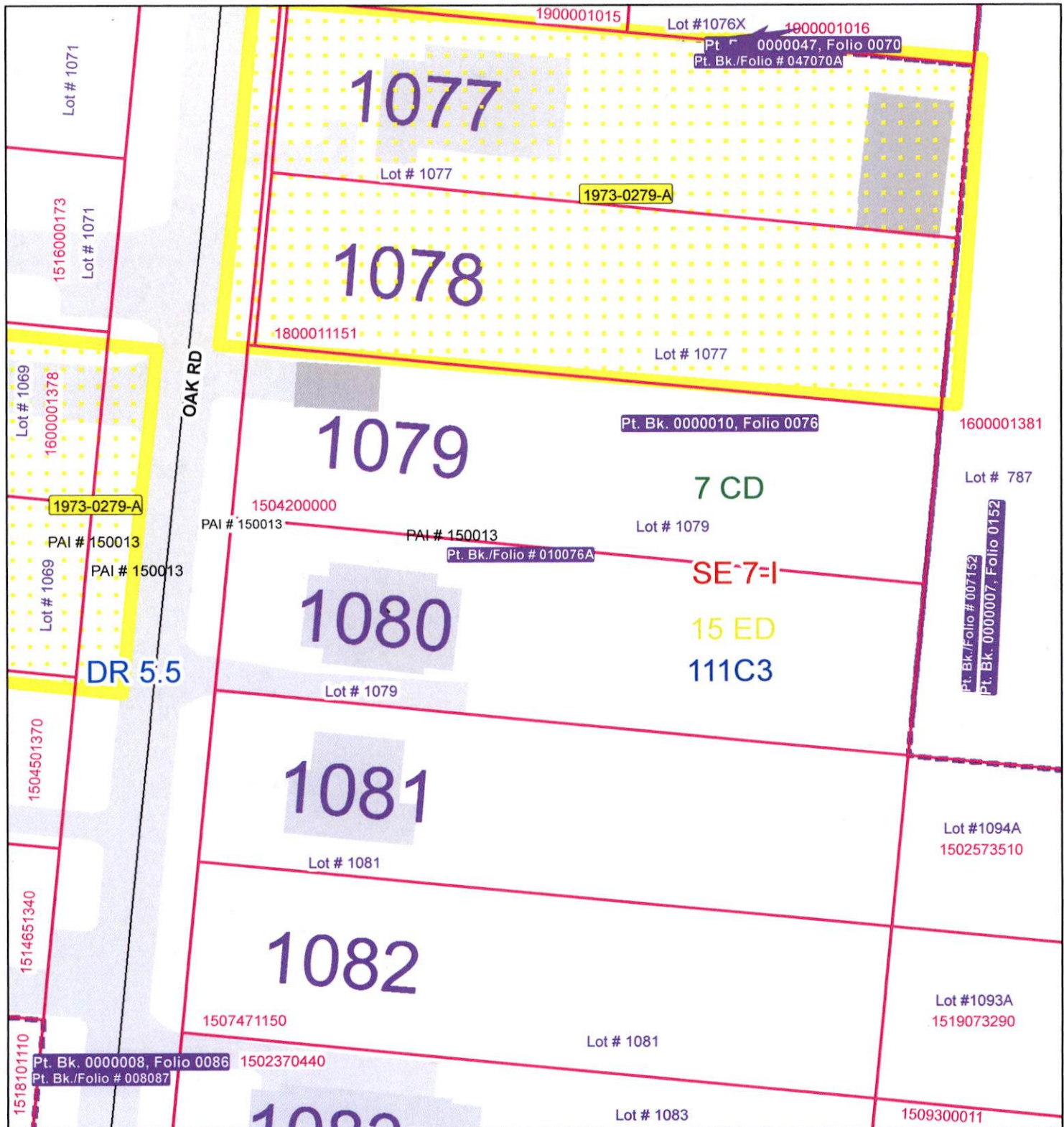
Photographs of existing property and structures respectfully submitted along with renderings of new garage.

Sincerely,

A handwritten signature in blue ink, appearing to read "Barry Jackson & Emily Kirk". The signature is stylized, with the first name "Barry" written in a cursive script and the last name "Kirk" written in a more upright, blocky style.

Barry Jackson & Emily Kirk

2117 Oak Road



Publication Date: 4/5/2016



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

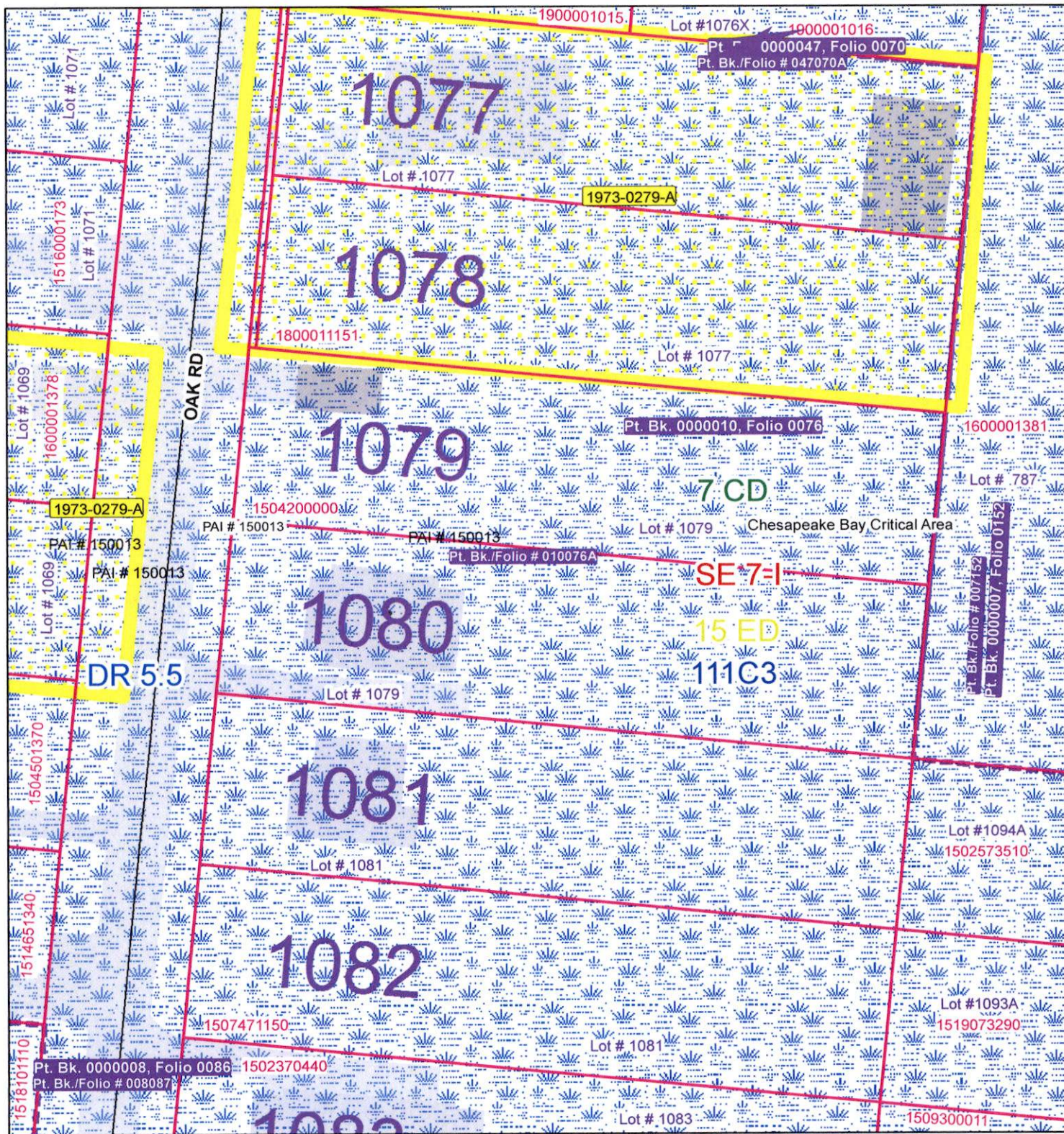


0 10 20 40 60 80 Feet

1 inch = 40 feet

Item #0279

Chesapeake Bay Critical Area



Publication Date: 4/5/2016



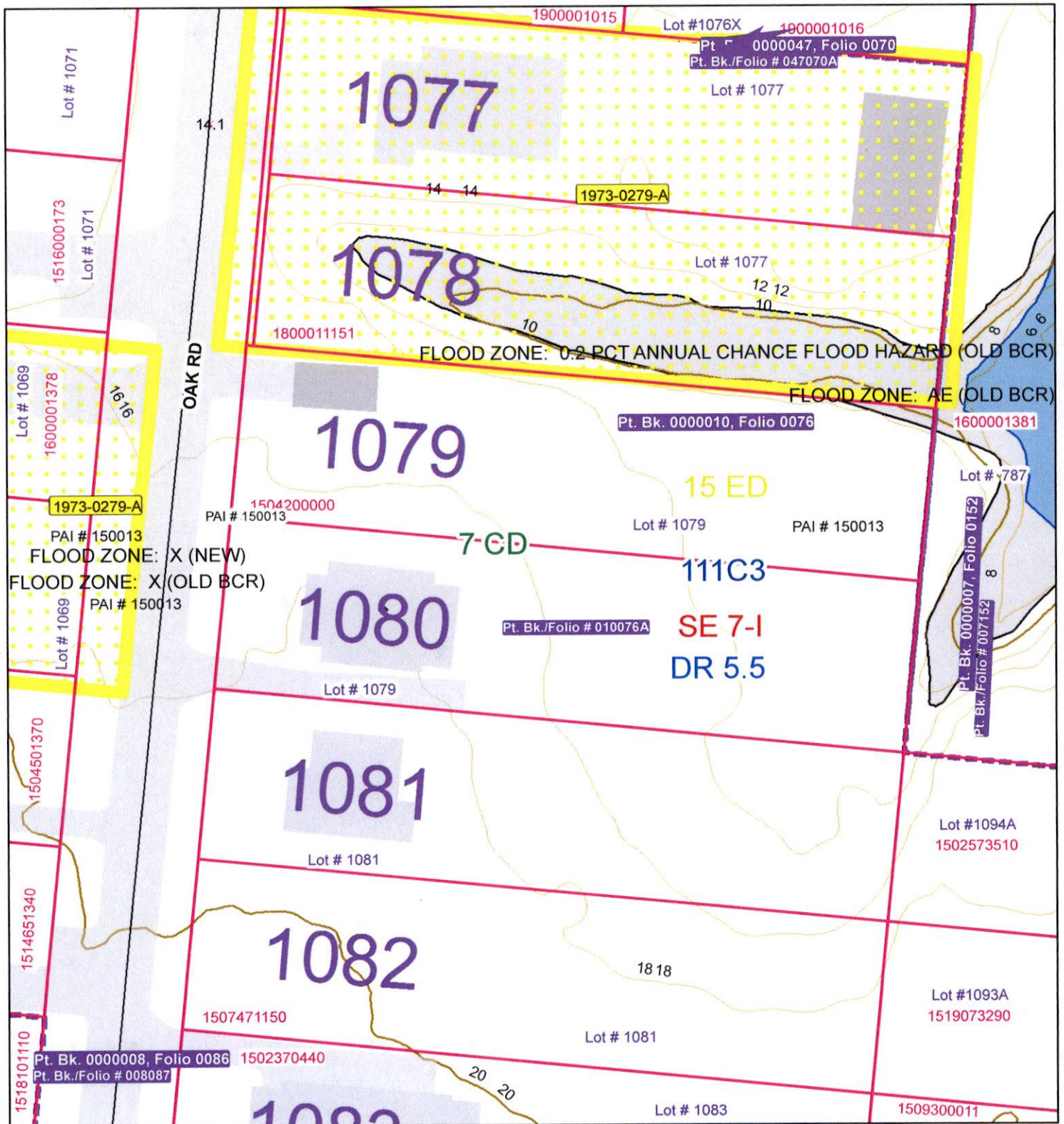
Publication Agency: Permits, Approvals & Inspections
Projection/Datum: Maryland State Plane,
FIPS 1900, NAD 1983/91 HARN, US Foot



1 inch = 40 feet

Item # 0279

Elevations and Flood Hazards



Publication Date: 4/5/2016



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

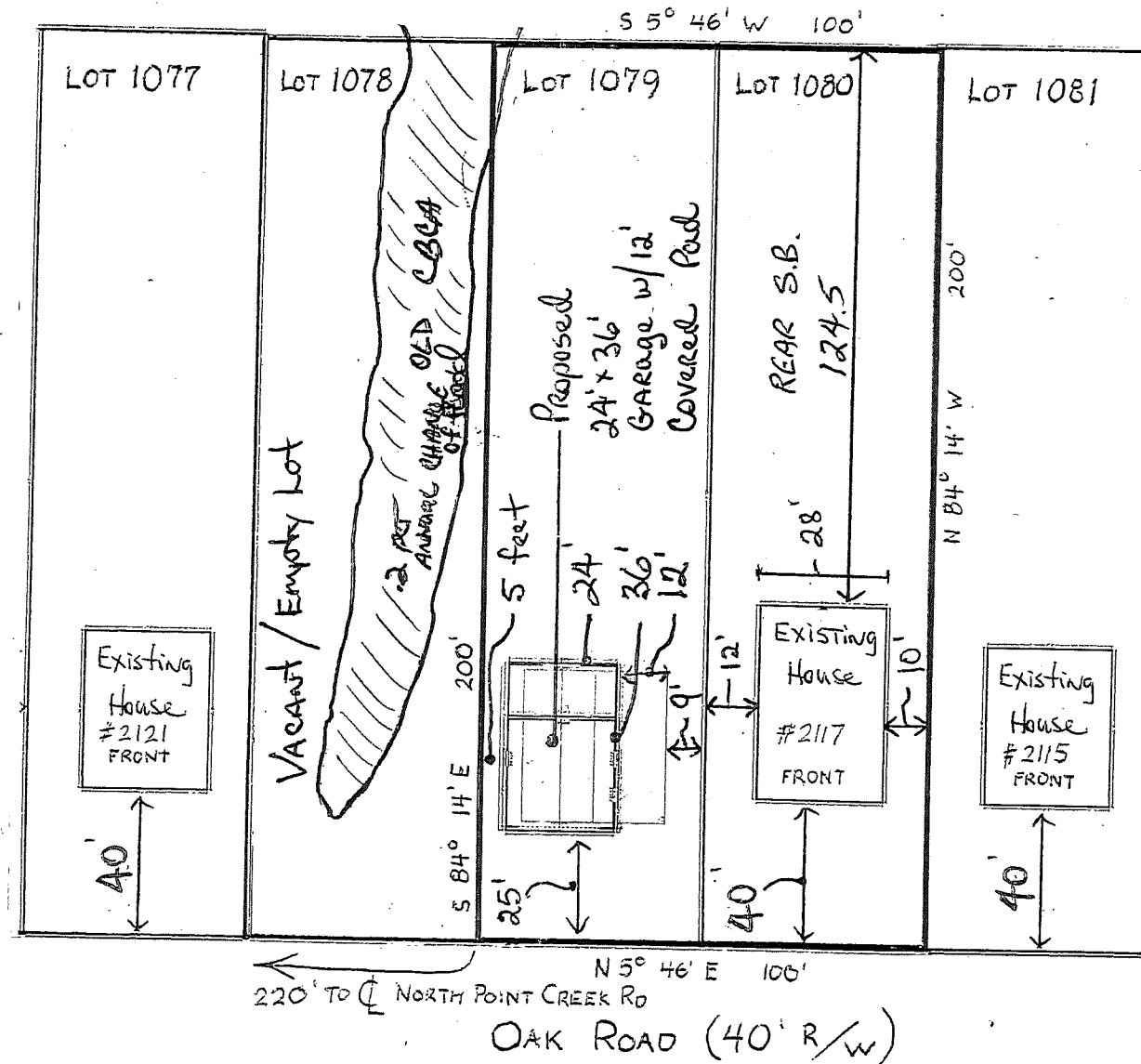
Item #0279

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

ADDRESS 2117 Oak Road OWNER(S) NAME(S) Barry Jackson & Emily Kirk

SUBDIVISION NAME Lodge Forest Manor LOT # 1079 BLOCK # 1080 SECTION # 10

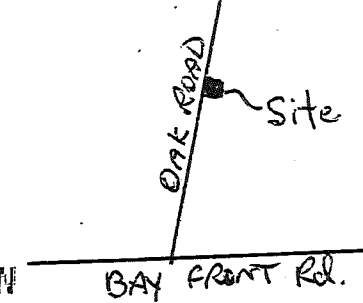
PLAT BOOK # 10 FOLIO # 76 10 DIGIT TAX # 1504200000 DEED REF. # 35238/00405



PLAN DRAWN BY Joseph Lamb

DATE 5/5/2016 SCALE: 1 INCH = 40 FEET

SITE VICINITY MAP



MAP IS NOT TO SCALE

ZONING MAP# 111C3

SITE ZONED DR5.5

ELECTION DISTRICT 15th

COUNCIL DISTRICT 7th

LOT AREA ACREAGE 20.000

OR SQUARE FEET 20,000

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:

#2016-0279-SPHA

RJD

Petitioners No. 1