#### MEMORANDUM

DATE: September 27, 2016

TO: Zoning Review Office

FROM: Office of Administrative Hearings

RE: Case No. 2017-0030-A – Appeal Period Expired

The appeal period for the above-referenced case expired on September 26, 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 ADMIN. VARIANCE (2325 Blackberry Road)

3<sup>rd</sup> Election District 2<sup>nd</sup> Council District Chaim S. & Esther D. Kahn Petitioners BEFORE THE

OFFICE OF ADMINISTRATIVE

HEARINGS FOR

BALTIMORE COUNTY

CASE NO. 2017-0030-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, Chaim S. & Esther D. Kahn ("Petitioners"). The Petitioners are requesting Variance relief from §§ 1B02.3.C.1 and 301.1.A of the Baltimore County Zoning Regulations (B.C.Z.R.), to permit a deck in the rear yard with a setback of 21 ft. in lieu of the required 22.5 ft. The subject property and requested relief is more fully depicted on the site plan that was marked and accepted into evidence as Petitioners' Exhibit 1.

The Zoning Advisory Committee (ZAC) comments were received and are made part of the record of this case. There were no adverse ZAC comments submitted by any of the County reviewing agencies.

The Petitioners having filed a Petition for Administrative Variance and the subject property having been posted on August 6, 2016, 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 ORDER RECEIVED FOR FILING

Date	8-25-16					
Bv	(D)					

welfare of the public and should therefore be granted. In the opinion of the Administrative Law Judge, the information, photographs, and affidavits submitted provide sufficient facts that comply with the requirements of Section 307.1 of the B.C.Z.R. Furthermore, strict compliance with the B.C.Z.R. would result in practical difficulty and/or unreasonable hardship upon the Petitioners.

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

THEREFORE, IT IS ORDERED, this <u>25<sup>th</sup></u> day of **August**, **2016**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance relief from §§ 1B02.3.C.1 and 301.1.A of the Baltimore County Zoning Regulations (B.C.Z.R.), to permit a deck in the rear yard with a setback of 21 ft. in lieu of the required 22.5 ft., 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.

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

2

JOHN E. BEVERUNGEN Administrative Law Judge for Baltimore County

JEE	3:dlw
ORDER	RECEIVED FOR FILING
Date	8-35-14
By	190



### NISTRATIVE ZONING P

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:

Currently zoned DRZ Address 2325 Black BERRY RD BAHO. MD ZIZO9 10 Digit Tax Account # 2 5 0 0 0 0 7 3 3 2 Deed Reference 36519

Owner(s) Printed Name(s) CHAIM KAHN ESTHER KAHN

(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) 1 BOZ. 3. C. 1 " BCZR AND BOLI; BCZR to permit A DELK in The REAR YAID with A Sctback of 21 FT in lieu of the required 275FT

of the zoning regulations of Baltimore County, to the zoning law of Baltimore County

ADMINISTRATIVE SPECIAL HEARING to approve a waiver pursuant to Section 32-4-107(b) of the Baltimore County Code: (indicate type of work in this space: i.e., to raze, alter or construct addition to building)

of the Baltimore County Code, to the development law of Baltimore County

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

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

#### Owner(s)/Petitioner(s):

2325 Black Berry RD.

- 1827 21209 Zip Code Telephone # Email Address

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

Representative to be contacted:

Mailing Address

Mailing Address

John MEllEMA Type or Print

5409 EAST DRIVE Mailing Address

1410-247-7488 IJCMLS EVERIZON. NET

ZIZZT Telephone # Email Address

A PUBLIC CHARING having been formally demanded and/or found to be required, it is ordered by the Office of Administrative Hearings for Baltimore that the subject matter of this petition be set for a public hearing, advertised, and re-posted as County, this day of required by the zoning regulations of Baltimore County

Administrative Law Judge for Baltimore County

CASE NUMBER 2017 - 0030 - A

Telephone #

Filing Date / 129

Email Address

Estimated Posting Date

# Affidavit in Support of dministrative 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: 2325 Black Berry Ro Print or Type Address of property	BALTO. Co.	Mo	21209
Print or Type Address of property	City	State	Zip Code
. Based upon personal knowledge, the fol	lowing are the fac	ts upon which I/we ba	se the request for an
Administrative Variance at the above add	dress. (Clearly st	ate <u>practical difficul</u> t	ty or hardship here)
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Name- Print or Type		ESTAER KAH Name- Print or Type	· · · · · · · · · · · · · · · · · · ·
The following information is to	be completed by a N	iotary Public of the State	e of Maryland
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STATE OF MARYLAND, COUNTY OF	BALTIMORE, to v	wit: .	
I HEREBY CERTIFY, this 28th day	. of Tile.	20/6 hotors ma	a Notary of Maryland, in
and for the County aforesaid, personally app	of	ZOI P, pelore me	a Notary of Maryland, in
and for the County arries and, personally app	beared.		
Print name(s) here: CHAIM KHAW	+ ESTHER	KHAN	
the Affiant(s) herein, personally known or sa	tisfactorily identified	to me as such Affiant(s	s).
AS WITNESS my hand and Notaries Seal /	Melu: 2	Phin	
· 14	otary Public	1/19	
- M	ly Commission Exp	irac	

### Affidavit in Support desidministrative 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.

REV. 5/8/2014

· Rad C

Address: Z3ZS Black Bekay Ro Print or Type Address of property	BAHD.Co.	MD	21209
Print or Type Address of property	. City	State	Zip Code
Based upon personal knowledge, the follow	ing are the i	facts upon which I/v	ve base the request for an
Administrative Variance at the above addre	-	•	•
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topography of the land.			<del></del>
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			111
	2,	Esther	- Kahi
Signature of Owner (Affiant)	_	Signature of Owner	(Affiant)
CHAIM KAHN		ESTHER KA	AHA)
Name- Print or Type	_	Name- Print or Type	9
•			
The following information is to be	completed by	a Notary Public of the	State of Maryland
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STATE OF MARYLAND, COUNTY OF BA	LTIMORE, t	o wit:	Section 1
an the	<i>-</i> 1	0 - 1/	• •
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and for the County aforesaid, personally appear	red: <i>O</i>		ı
man Cularia	Lugal	1 ECHIEN	Kel 2 2 1
Print name(s) here: Telippe CHAIM	CHAN	+ ESTHER	KAAN
the Affiant(s) herein, personally known or satisfa	actorily identif	ied to me as such Aff	iant(s).
AS WITNESS my hand and Notaries Seal	Willen	LKir.	
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### ADMISTRATIVE ZONING PINTION

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:

To the office of Administrative from	ingo ioi bailainoi o	
Address 2325 Black BERRY RO BAIto.	MO 21209	Currently zoned DR Z
Deed Reference 36519 / 306	10 Digit Ta	ax Account # 2500007332
Owner(s) Printed Name(s) CHAIM KAHN +	ESTHER KAHN	

(SELECT THE HEARING(S) BY MARKING  $\underline{X}$  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 ADMINIS	STRATIVE VARIANCE from Section(s) 1802. 3. C.1; BCZR, And 301.1; BCZR
to permi	t A DECK in the rear yand with A SEIbrell of
ZI PT 17	I lieu of the required ZZ.S P.
of the zoning reg	ulations 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.

If 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):

	Name #1 - Type or Print	Shame #2 - Type or Print
	Signature #1 Signature	gnature # 2
	2325 Black Berry RD BA Mailing Address City	sito. Co. MD State
	ZIZ09 / 4/0 908 - 1627 Zip Code Telephone #	Email Address
for Owner(s)/Petitioner(s): ING	Representative to be contacted	
SEORFILI	John Mellema Ja	2

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.

Administrative Law Judge for Ba	Itimore County
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CASE NUMBER 2017-0030-A

Filing Date 7,29, 16

Estimated Posting Date 8

16 Re

Reviewer\_JCM

#### JOHN C. MELLEMA SR., INC. LAND SURVEYORS 5409 EAST DR. BALTO. MD. 21227 PHONE: 410-247-7488 FAX: 410-247-2507 JULY 28, 2016

### ZONING DESCRIPTION #2325 BLACKBERRY ROAD

BEGINNING FOR THE SAME AT A POINT ON THE EAST SIDE OF BLACBERRY ROAD WHICH IS A 40 FOOT RIGHT OF WAY, 130 FEET FROM THE CENTERLINE OF SWEET MEADOW ROAD WHICH IS A 40 FOOT RIGHT OF WAY, THENCE RUNNING EASTERLY 110 FEET, THENCE SOUTHERLY 110 FEET, THENCE WESTERLY 91 FEET, THENCE NORTHWESTERLY 26.87 FEET, THENCE NORTHERLY 91 FEET TO THE PLACE OF BEGINNING.

BEING KNOWN AND DESIGNATED AS LOT 176 AS SHOWN ON PLAT TWO PHASE FOUR B, BONNIE VIEW ESTATES RECORDED IN BALTIMORE COUNTY, MARYLAND IN PLAT BOOK RDH 79 FOLIO 112.



### **CERTIFICATE OF POSTING**

**ATTENTION:** KRISTEN LEWIS

**DATE:** 8/7/2016

Case Number: 2017-0030-A

Petitioner / Developer: CHAIM KAHN

Date of Hearing (Closing): AUGUST 22, 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: 2325 BLACKBERRY ROAD

The sign(s) were posted on: AUGUST 6, 2016



Linda O Keefe (Signature of Sign Poster)

Linda O'Keefe

(Printed Name of Sign Poster)

523 Penny Lane

(Street Address of Sign Poster)

Hunt Valley, Maryland 21030

(City, State, Zip of Sign Poster)

410 - 666 - 5366

(Telephone Number of Sign Poster)

ADMINISTRATIVE VARIANCE INFORMATION SHEET AND DATES	
Case Number 2017- 0030 -A Address 2325 BLACKBERRY Rd.	
Contact Person:    Planner, Please Print You Name   Phone Number: 410-887-3391     Planner, Please Print You Name   Phone Number: 410-887-3391     Posting Date:   7/29/16   Posting Date: 8/21/6   Closing Date: 8/22/6     Any contact made with this office regarding the status of the administrative variance should be through the contact person (planner) using the case number.   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.   DEADLINE: The closing date is the deadline for an occupant or owner within 1,000 feet to file a formal request for a public hearing. Please understand that even if there is no formal request for a public hearing, the process is not complete on the closing date.   ORDER: After the closing date, the file will be reviewed by the zoning or deputy zoning commissioner. He may: (a) grant the requested relief; (b) deny the requested relief; or (c) order that the matter be set in for a public hearing. You will receive written notification, usually within 10 days of the closing date if all County agencies' comments are received, as to whether the petition has been granted, denied, or will go to public hearing. The order will be mailed to you by First Class mail.    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	
Any contact made with this office regarding the status of the administrative variance should be through the contact person (planner) using the case number.	
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	
a formal request for a public hearing. Please understand that even if there is no formal	
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	
(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	
(Detach Along Dotted Line)	
Petitioner: This Part of the Form is for the Sign Poster Only	
USE THE ADMINISTRATIVE VARIANCE SIGN FORMAT	
Case Number 2017- 0030 -A Address 2325 BLACKBERRY PD	
Petitioner's Name <u>CHAIM KAHN</u> Telephone 410-908-1827	
Posting Date: $8/7/16$ Closing Date: $8/22/16$	
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KEVIN KAMENETZ County Executive ARNOLD JABLON
Deputy Administrative Officer
Director Department of Permits,
Approvals & Inspections

August 23, 2016

Chaim & Esther Kahn 2325 Blackberry Road Baltimore MD 21209

RE: Case Number: 2017-0030 A, Address: 2325 Blackberry Road

Dear Mr. & Ms. Kahn:

The above referenced petition was accepted for processing **ONLY** by the Bureau of Zoning Review, Department of Permits, Approvals, and Inspection (PAI) on July 29, 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,

W. Carl Richards, Jr. Supervisor, Zoning Review

WCR: jaw

Enclosures

c: People's Counsel John Mellema Jr., 5409 East Drive, Arbutus MD 21227

AV 8-22-16

#### **BALTIMORE COUNTY, MARYLAND**

RECEIVED

#### **Inter-Office Correspondence**

AUG 1 2 2016





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:

August 12, 2016

SUBJECT:

DEPS Comment for Zoning Item

# 2017-0030-A

Address

2325 Black Berry Road

(Kahn Property)

Zoning Advisory Committee Meeting of August 15, 2016.

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

Reviewer:

Steve Ford

Date: 08-12-2016



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

Pete K. Rahn, Secretary

Gregory C. Johnson, P.E., Administrator

Date: 8/8/16

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. 2017-0030-1

Administrative Variance Chiam & Esther Kahn 2325 Black Berry 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).

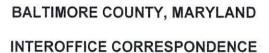
Sincerely,

Wendy Wolcott, PLA

Acting Metropolitan District Engineer – District 4

Baltimore & Harford Counties

WW/RAZ



RECEIVED

AUG 1 5 2016

DEPARTMENT OF PERMITS
APPROVALS AND INSPECTIONS

TO:

Arnold Jablon, Director

**DATE:** August 12, 2016

Department of Permits, Approvals

And Inspections

FROM:

Dennis A. Kennedy, Supervisor

Bureau of Development Plans Review

SUBJECT:

Zoning Advisory Committee Meeting

For August 15, 2016

Item No. 2017-0028, 0029, 0030, 0031, 0032, 0034, 0035 and 0037

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\ZAC08152016.doc

#### **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:

August 12, 2016

SUBJECT:

**DEPS** Comment for Zoning Item

# 2017-0030-A

Address

2325 Black Berry Road

(Kahn Property)

Zoning Advisory Committee Meeting of August 15, 2016.

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

Reviewer:

Steve Ford

Date: 08-12-2016

## CHECKLIST

Comment <u>Received</u>	. <u>Dep</u> :	artme <u>nt</u>			Support/Oppose/ Conditions/ Comments/ No Comment
8-12	DEVELOPMEN (if not received,			_)	<u> </u>
812	DEPS (if not received, o	date e-mail sent _			NO
	FIRE DEPARTM	MENT			<u> </u>
<del></del>	PLANNING (if not received,	date e-mail sent _	•		
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	COMMUNITY A	ASSOCIATION		_	
	ADJACENT PR	OPERTY OWNE	ERS		
ZONING VIOLAT	ION (C	Case No			
PRIOR ZONING	(0	Case No	<del></del> :	•	
NEWSPAPER AD	VERTISEMENT	Date:			
SIGN POSTING		Date:	8-6	,-(6	by O'Keefe
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Comments, if any:	-				
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Account Identifier:	District - 03			17 100000000000000000000000000000000000	7332			
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Owner Name:	KAHN CHAIN		Use			RESIDE	NTIAL	
Mailing Address:	KAHN ESTHE 2325 BLACK			ncipal Re ed Refere		e: YES /36519/ (	00306	
,	BALTIMORE	MD 21209	9-					
			tructure Inf	ormation		Name of the same o		
Premises Address:	2325 BLACKI BALTIMORE			gal Descr	iption:	2325 BL	PHAS F ACKBER VIEW ES	RY RD
Map: Grid: Parce	el: Sub Subdi District:	vision:	Section:	Block:	Lot:	Assessment		2
0079 0002 0396	0000				176	Year: 2017	No: Plat Ref:	0079/ 0112
Special Tax Areas:			Town: Ad Valore Tax Class			No	ONE	0112
Primary Structure Built	Above Grade Enclo Area	sed	Finished E Area	Basement		Property Land Area	Us	unty e
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Stories Basement 2 YES	Type STANDARD UNIT	Exterio SIDING		If Bath half	Garag	- TOTAL - TOTA	lajor Ren	ovation
		Value	Informatio	n				
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Improvements	416,000		416,000					
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Seller: BEAZER HOM			8/10/2015	222		Price: \$6	62,404	
Type: ARMS LENGTH	IMPROVED		: /36519/ 00	306		Deed2:		
Seller:		Date:				Price:		
Type:		Deed1			~~~	Deed2:		
Seller: Type:		Date: Deed1				Price: Deed2:		
Type.			on Informa	tion		Deedz:		
Partial Exempt	Class	-Author		01/2016		07/01/20	17	
Assessments:						0.701720		
County:	000		0.0					
State:	000		0.0			0.001		
Municipal:	000	Showing	0.0			0.00		
Tax Exempt: Exempt Class:		Specia NONE	ıl Tax Reca	pture:				
Exempt Olass.	11			-60 mm41 -				
Homestead Application			plication Ir	iiormatio	n			
	www. Ito Applicatio							

