

IN RE: PETITION FOR VARIANCE
(1704 Beechwood Avenue)
15th Election District
7th Council District
John F., Sr. & Anita A. Totty, et al.
Legal Owners

Petitioners

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*
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BEFORE THE OFFICE
OF ADMINISTRATIVE
HEARINGS FOR
BALTIMORE COUNTY

CASE NO. 2017-0248-A

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for Baltimore County as a Petition for Variance filed by John F., Sr. & Anita A. Totty, et al, owners of the subject property ("Petitioners"). Petitioners are requesting variance relief from §§1A04.3.A, 1A04.3.B.2.b, 400.1 and 400.3 of the Baltimore County Zoning Regulations ("B.C.Z.R"): (1) to permit a proposed replacement single family dwelling with side yard setbacks of 10 ft. and 24.75 ft., and a height of 40 ft. in lieu of the required 50 ft., 50 ft. and maximum allowed 35 ft., respectively; and (2) to permit a replacement detached accessory structure (garage) to be located in the front yard with a height of 20 ft. in lieu of the required rear yard and maximum allowed 15 ft. A site plan was marked as Petitioners' Exhibit 1.

John F. Totty, Sr. and David Billingsley 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 received from the Department of Environmental Protection and Sustainability (DEPS) and the Bureau of Development Plans Review (DPR). None of the reviewing agencies opposed the requests.

The site is approximately 11,470 sq. ft. in size and zoned RC-5. The waterfront property

ORDER RECEIVED FOR FILING

Date 5-8-17

By [Signature]

is improved with a single-family dwelling constructed in 1924 and a detached garage in the front yard (i.e., street side). Petitioners propose to raze both of these structures and construct a new single-family dwelling and detached garage which will be positioned on the lot in roughly the same location as the buildings being razed. To do so variances are required.

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 waterfront lot is narrow and deep (approximately 62 ft. x 228 ft.), which renders it unique. If the Regulations were strictly interpreted Petitioners would experience a practical difficulty because they would be unable to construct the proposed single-family dwelling. Finally, I find that the variances 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 lack of community and/or Baltimore County opposition.

THEREFORE, IT IS ORDERED, this 8th day of **May, 2017**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance seeking relief pursuant to §1A04.3.B.2.b, of the Baltimore County Zoning Regulations ("B.C.Z.R.): (1) to permit a proposed replacement single family dwelling with side yard setbacks of 10 ft. and 24.75 ft., and a height of 40 ft. in lieu of the required 50 ft., 50 ft. and maximum allowed 35 ft., respectively; and (2) to permit a replacement detached accessory structure (garage) to be located in the front yard with a height of 20 ft. in lieu of the required rear yard and maximum allowed 15 ft., be and is hereby

ORDER RECEIVED FOR FILING

Date 5-8-17

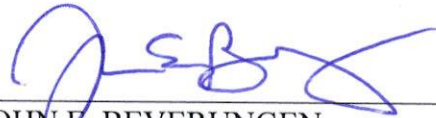
By [Signature]

GRANTED.

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. Prior to issuance of permits Petitioners must submit architectural elevations to the DOP to enable that agency to make the requisite finding under the RC-5 Performance Standards.
4. The detached garage shall not be used for commercial purposes and shall not contain living quarters and/or kitchen facilities.

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 5-8-17

By BSW



KEVIN KAMENETZ
County Executive

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

May 8, 2017

John & Anita Totty, et al
3 Misty Meadows Ct.
Essex, Maryland 21221

RE: Petition for Variance
Case No. 2017-0246-A, 2017-0247-A & 2017-0248-A
Property: 1701, 1702 & 1704 Beechwood Avenue

Dear Mr. & Mrs. Totty:

Enclosed please find a copy of the decision rendered in the above-captioned matter.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Office of Administrative Hearings at 410-887-3868.

Sincerely,

A handwritten signature in black ink, appearing to read "JEB", is written over a horizontal line.

JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County

JEB:slh
Enclosure

c: Dave Billingsley, 601 Charwood Ct., Edgewood, Maryland 21040



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 1704 BEECHWOOD AVENUE which is presently zoned RC5
 Deed References: L. 38394 F. 317 10 Digit Tax Account # 1501280001
 Property Owner(s) Printed Name(s) JOHN FRANCIS TOTTY, SR., ANITA ANN TOTTY,
JOHN F. TOTTY, JR. & STEPHANIE M. TOTTY

(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)

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):JOHN FRANCIS TOTTY, SR.
ANITA ANN TOTTY
JOHN F. TOTTY, JR., STEPHANIE M. TOTTY

Name #1 - Type or Print

Name #2 - Type or Print

Signature #1

Signature #2

3 MISTY MEADOWS CT. ESSEX MD.
Mailing Address City State21221 (410) 957-3850 johnf.totty@comcast.net
Zip Code Telephone # Email Address**Representative to be contacted:**

DAVID BILLINGSLEY

Name - Type or Print

Signature

601 CHARWOOD CT. EDGEWOOD, MD
Mailing Address City State21040 (410) 679-8719 dwb0209@yahoo.com
Zip Code Telephone # Email AddressCASE NUMBER 2017-0248-A Filing Date 3/16/17

Do Not Schedule Dates: _____

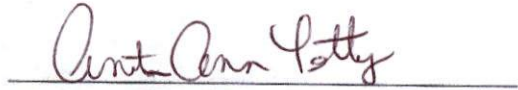
Reviewer BW



JOHN FRANCIS TOTTY, SR



JOHN F. TOTTY, JR



ANITA ANN TOTTY



STEPHANIE M. TOTTY

Item #0248

VARIANCE REQUEST

Sections 1A04.3.A, 1A04.3.B.2.b, 400.1, and 400.3 – to permit a proposed replacement single family dwelling with side yard setbacks of 10 feet and 24.75 feet, and a height of 40 feet in lieu of the required 50 feet, 50 feet, and maximum allowed 35 feet, respectively; and to permit a replacement detached accessory structure (garage) to be located in the front yard with a height of 20 feet in lieu of the required rear yard and maximum allowed 15 feet.

Item #0248

DESCRIPTION 1704 BEECHWOOD AVENUE

Beginning for the same at a point formed on the ^{west}~~east~~ side of Beechwood Avenue (30 feet wide) distant 31 feet northerly from its intersection with the centerline of Kelly Case Lane (30 feet wide) thence being all of Lots 49 as shown on the plat entitled Evergreen Park, recorded among the Baltimore County Plat Records in Plat Book 7 Folio 174.

Containing 11,470 square feet or 0.263 acre of land more or less.

Located in the 15TH Election District, 7TH Councilmanic District. Being known as 1704~~4~~ Beechwood Avenue

Item #0248

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

Nº 148677

Date: 3/16/17

Fund	Dept	Unit	Sub Unit	Rev Source/Obj	Sub Rev/Obj	Dept	Obj	BS Acct	Amount
001	806	0000		6150					5225 ⁰⁰

Total: 5225⁰⁰

Rec From:

D. Bilingsley

For:

Three (3) zoning hearings

Case # 2017-0246-A & 2017-0247-A

and # 2017-0248-A

DISTRIBUTION

WHITE - CASHIER

PINK - AGENCY

YELLOW - CUSTOMER

GOLD - ACCOUNTING

PLEASE PRESS HARD!!!!

PAID RECEIPT

BUSINESS ACTUAL TIME DRW
 3/16/2017 3/16/2017 10:21:54 1

REG MS01 WALKIN LJR

>>RECEIPT # 711690 3/16/2017 OFLN

Dept 5 528 ZONING VERIFICATION

CR NO. 148677

Recpt Tot \$225.00

\$225.00 CK \$0.00 CA

Baltimore County, Maryland

**CASHIER'S
 VALIDATION**

Item #0248



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 4890801

Sold To:

John Totty, Sr. - CU00593782
3 Misty Meadows Ct
Essex, MD 21221-3353

Bill To:

John Totty, Sr. - CU00593782
3 Misty Meadows Ct
Essex, MD 21221-3353

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

Apr 13, 2017

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: # 2017-0248-A

1704 Beechwood Avenue
W/s Beechwood Avenue, opposite Kelly Case Lane
15th Election District - 7th Councilmanic District
Legal Owner(s) John Totty, Sr., John Totty, Jr., Anita Totty,
Stephanie Totty

Variance: to permit a proposed replacement single family dwelling with side yard setbacks of 10 ft. and 24.75 ft., and a height of 40 ft. in lieu of the required 50 ft., 50 ft., and maximum allowed 35 ft., respectively; and to permit a replacement detached accessory structure (garage) to be located in the front yard with a height of 20 ft. in lieu of the required rear yard and maximum allowed 15 ft.

Hearing: Thursday, May 4, 2017 at 1:30 p.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.

J 4/050 April 13

4890801

The Baltimore Sun Media Group

By *S. Wilkinson*

Legal Advertising

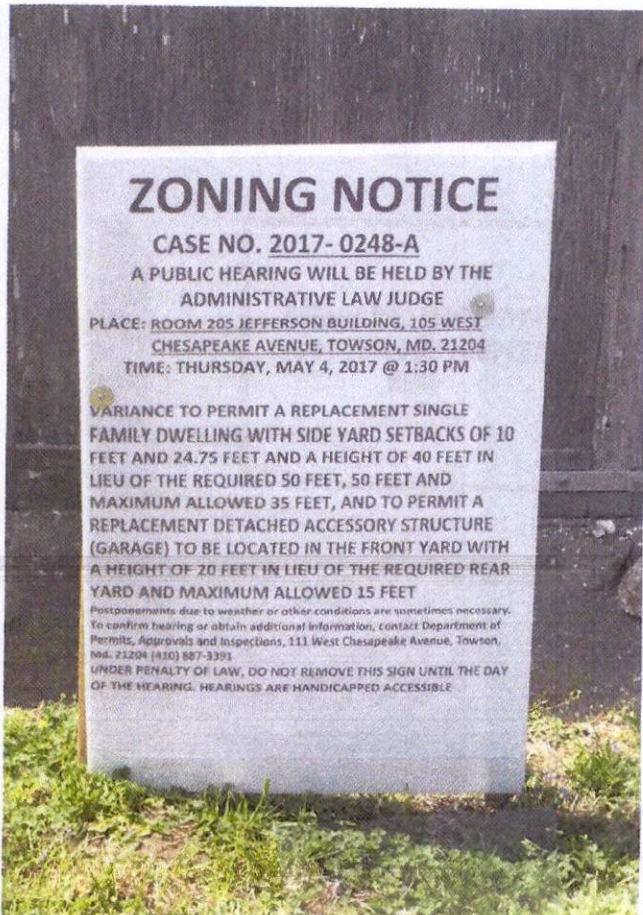
CERTIFICATE OF POSTING

Date: APRIL 14, 2017

RE: Project Name: 1704 BEECHWOOD AVENUE
Case Number /PAI Number: 2017-0248-A
Petitioner/Developer: JOHN TOTTY
Date of Hearing/Closing: MAY 4, 2017

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 1704 BEECHWOOD AVENUE

The sign(s) were posted on APRIL 14, 2017
(Month, Day, Year)



David Billingsley
(Signature of Sign Poster)

DAVID W. BILLINGSLEY
(Printed Name of Sign Poster)

601 CHARWOOD COURT
(Street Address of Sign Poster)

EDGEWOOD, MD. 21040
(City, State, Zip Code of Sign Poster)

(410) 679-8719
(Telephone Number of Sign Poster)

TO: PATUXENT PUBLISHING COMPANY
Thursday, April 13, 2017 Issue - Jeffersonian

Please forward billing to:
John Totty, Sr.
3 Misty Meadows Court
Essex, MD 21221

410-952-3850

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 NUMBER: 2017-0248-A

1704 Beechwood Avenue

W/s Beechwood Avenue, opposite Kelly Case Lane

15th Election District – 7th Councilmanic District

Legal Owners: John Totty, Sr., John Totty, Jr., Anita Totty, Stephanie Totty

Variance to permit a proposed replacement single family dwelling with side yard setbacks of 10 ft. and 24.75 ft., and a height of 40 ft. in lieu of the required 50 ft., 50 ft. and maximum allowed 35 ft., respectively; and to permit a replacement detached accessory structure (garage) to be located in the front yard with a height of 20 ft. in lieu of the required rear yard and maximum allowed 15 ft.

Hearing: Thursday, May 4, 2017 at 1:30 p.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.



KEVIN KAMENETZ
County Executive

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

March 28, 2017

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 NUMBER: 2017-0248-A

1704 Beechwood Avenue

W/s Beechwood Avenue, opposite Kelly Case Lane

15th Election District – 7th Councilmanic District

Legal Owners: John Totty, Sr., John Totty, Jr., Anita Totty, Stephanie Totty

Variance to permit a proposed replacement single family dwelling with side yard setbacks of 10 ft. and 24.75 ft., and a height of 40 ft. in lieu of the required 50 ft., 50 ft. and maximum allowed 35 ft., respectively; and to permit a replacement detached accessory structure (garage) to be located in the front yard with a height of 20 ft. in lieu of the required rear yard and maximum allowed 15 ft.

Hearing: Thursday, May 4, 2017 at 1:30 p.m. in Room 205, Jefferson Building,
105 West Chesapeake Avenue, Towson 21204

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

Arnold Jablon
Director

AJ:kl

C: Totty Residence, 3 Misty Meadows Court, Essex 21221
David Billingsley, 601 Charwood Court, Edgewood 21040

- NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY FRIDAY, APRIL 14, 2017.**
- (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.**

**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 twenty (20) 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: 2017-0248A
Property Address: 1704 Beechwood Ave
Property Description: west side of Beechwood Ave, opposite
Kelly Case Ln
Legal Owners (Petitioners): John Totter Sr.
Contract Purchaser/Lessee: _____

PLEASE FORWARD ADVERTISING BILL TO:

Name: John Totter Sr.
Company/Firm (if applicable): _____
Address: 3 Misty Meadows Ct
Balto Md 21226
Telephone Number: 410 952-3850



KEVIN KAMENETZ
County Executive

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

April 25, 2017

John Francis Totty Sr., Anita Ann Totty
John F Totty Jr., Stephanie M Totty
3 Misty Meadows Court
Essex MD 21221

RE: Case Number: 2017-0248 A, Address: 1704 Beechwood Avenue

To Whom It May Concern:

The above referenced petition was accepted for processing **ONLY** by the Bureau of Zoning Review, Department of Permits, Approvals, and Inspection (PAI) on March 16, 2017. 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
David Billingsley, 601 Charwood Court, Edgewood MD 21040

Date: 3/27/17

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

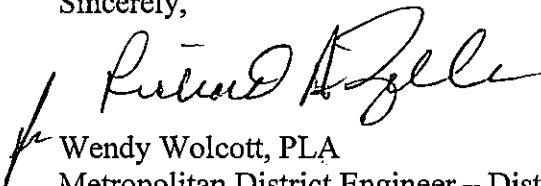
Dear Ms. Lewis:

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. 2017-0248-A

*Variance
John Francis To Hy Sr
1704 Beechwood Avenue*

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
Metropolitan District Engineer – District 4
Baltimore & Harford Counties

WW/RAZ

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE MEMORANDUM

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

DATE: 4/14/2017

FROM: Andrea Van Arsdale
Director, Department of Planning

SUBJECT: ZONING ADVISORY COMMITTEE COMMENTS
Case Number: 17-248

RECEIVED
MAY 01 2017

INFORMATION:

Property Address: 1704 Beechwood Avenue
Petitioner: John F. Totty, Jr., John Francis Totty, Sr., Anita Ann Totty, Stephanie M. Totty
Zoning: RC 5
Requested Action: Variance

The Department of Planning has reviewed the petition for variances to permit a proposed replacement single family dwelling with side yard setbacks of 10 feet and 24.75 feet, and a height of 40 feet in lieu of the required 50 feet, 50 feet, and maximum allowed 35 feet, respectively; and to permit a replacement detached accessory structure (garage) to be located in the front yard with a height of 20 feet in lieu of the required rear yard and maximum allowed 15 feet.

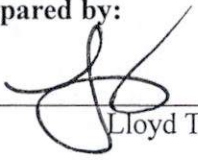
A site visit was conducted on April 4, 2017.

The Department has no objection to granting the petitioned zoning relief.

Please be advised this site is subject to the RC 5 Performance Standards as listed in Section 1A04.4 of the BCZR. Architectural elevations for the principal dwelling must be submitted to the Department of Planning for review at the time of building permit application.

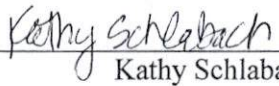
For further information concerning the matters stated herein, please contact Krystle Patchak at 410-887-3480.

Prepared by:



Lloyd T. Moxley

Division Chief:



Kathy Schlabach

AVA/KS/LTM/ka

c: Krystle Patchak
David Billingsley, Central Drafting & Design, Inc.
Office of the Administrative Hearings
People's Counsel for Baltimore County

BALTIMORE COUNTY, MARYLAND INTER-OFFICE MEMORANDUM

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

FROM: Andrea Van Arsdale
Director, Department of Planning

SUBJECT: ZONING ADVISORY COMMITTEE COMMENTS
Case Number: 17-248



INFORMATION:

Property Address: 1704 Beechwood Avenue
Petitioner: John F. Totty, Jr., John Francis Totty, Sr., Anita Ann Totty, Stephanie M. Totty
Zoning: RC 5
Requested Action: Variance

The Department of Planning has reviewed the petition for variances to permit a proposed replacement single family dwelling with side yard setbacks of 10 feet and 24.75 feet, and a height of 40 feet in lieu of the required 50 feet, 50 feet, and maximum allowed 35 feet, respectively; and to permit a replacement detached accessory structure (garage) to be located in the front yard with a height of 20 feet in lieu of the required rear yard and maximum allowed 15 feet.

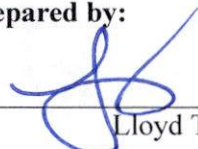
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The Department has no objection to granting the petitioned zoning relief.

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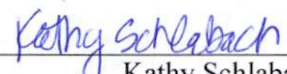
For further information concerning the matters stated herein, please contact Krystle Patchak at 410-887-3480.

Prepared by:



Lloyd T. Moxley

Division Chief:



Kathy Schlabach

AVA/KS/LTM/ka

c: Krystle Patchak
David Billingsley, Central Drafting & Design, Inc.
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 (DEPS) - Development Coordination

DATE: April 11, 2017

SUBJECT: DEPS Comment for Zoning Item # 2017-0248-A
Address 1704 Beechwood Road
(Totty, John and Anita Property)

Zoning Advisory Committee Meeting of **April 3, 2017**.

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 a Modified Buffer Area (MBA) and is subject to Critical Area requirements. The applicant is proposing to construct a replacement dwelling and detached garage with zoning relief for setbacks and height. The proposed development must meet LDA and MBA requirements for lot coverage. Based on the property area above mean high water, the maximum Critical Area defined lot coverage allowance for this property is 31.25% with mitigation for any new amount over 25%. If the applicant can meet these requirements, and meet all mitigation requirements for lot coverage and buffer impacts, the relief requested can result in minimal adverse impacts to water quality. Critical Area Lot coverage is defined in State of Maryland Natural Resources Article §8-1802(a)(17).

2. Conserve fish, plant, and wildlife habitat;

This is a waterfront property located on Back River with the required Critical Area buffer covering almost half of the property. Meeting the modified buffer area requirements, lot coverage requirements, tree requirements, and any

mitigation requirements for buffer impacts will aid in the conservation of fish, plant, and wildlife habitat in the watershed.

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 development of this property can meet all modified buffer area, lot coverage, tree, and mitigation requirements, the relief requested will be consistent with established land-use policies.

Reviewer: Paul Dennis

Date: April 7, 2017

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

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

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

SUBJECT: Zoning Advisory Committee Meeting
For April 3, 2017
Item No. 2017-0248

DATE: April 4, 2017

The Bureau of Development Plans Review has reviewed the subject zoning items 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 17-0248-04032017.doc

RE: PETITION FOR VARIANCE	*	BEFORE THE OFFICE
1704 Beechwood Avenue; W/S Beechwood	*	OF ADMINSTRATIVE
Avenue, Opposite Kelly Case Lane	*	HEARINGS FOR
15 th Election & 7 th Councilmanic Districts	*	BALTIMORE COUNTY
Legal Owner(s): John, Sr. & Jr., Anita	*	2017-248-A
& Stephanie Totty		
Petitioner(s)		

* * * * *

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

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 29th day of March, 2017, a copy of the foregoing Entry of Appearance was mailed to David Billingsley, 601 Charwood Court, Edgewood, Maryland 21040, Representative for Petitioner(s).

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

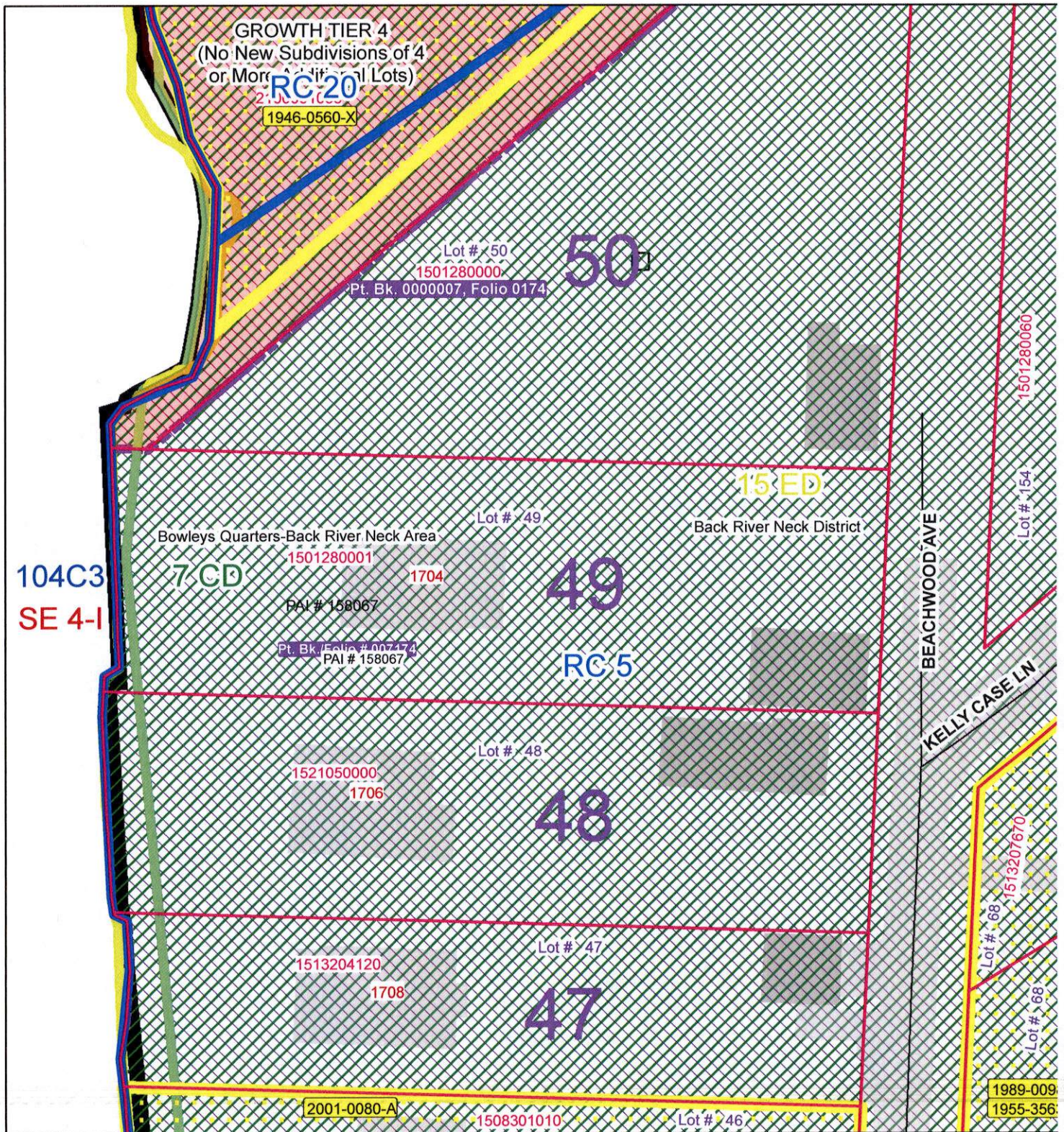
M E M O R A N D U M

DATE: June 8, 2017
TO: Zoning Review Office
FROM: Office of Administrative Hearings
RE: Case No. 2017-0248-A- Appeal Period Expired

The appeal period for the above-referenced case expired on June 7, 2017. 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

1704 Beechwood Avenue



Publication Date: 3/15/2017



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

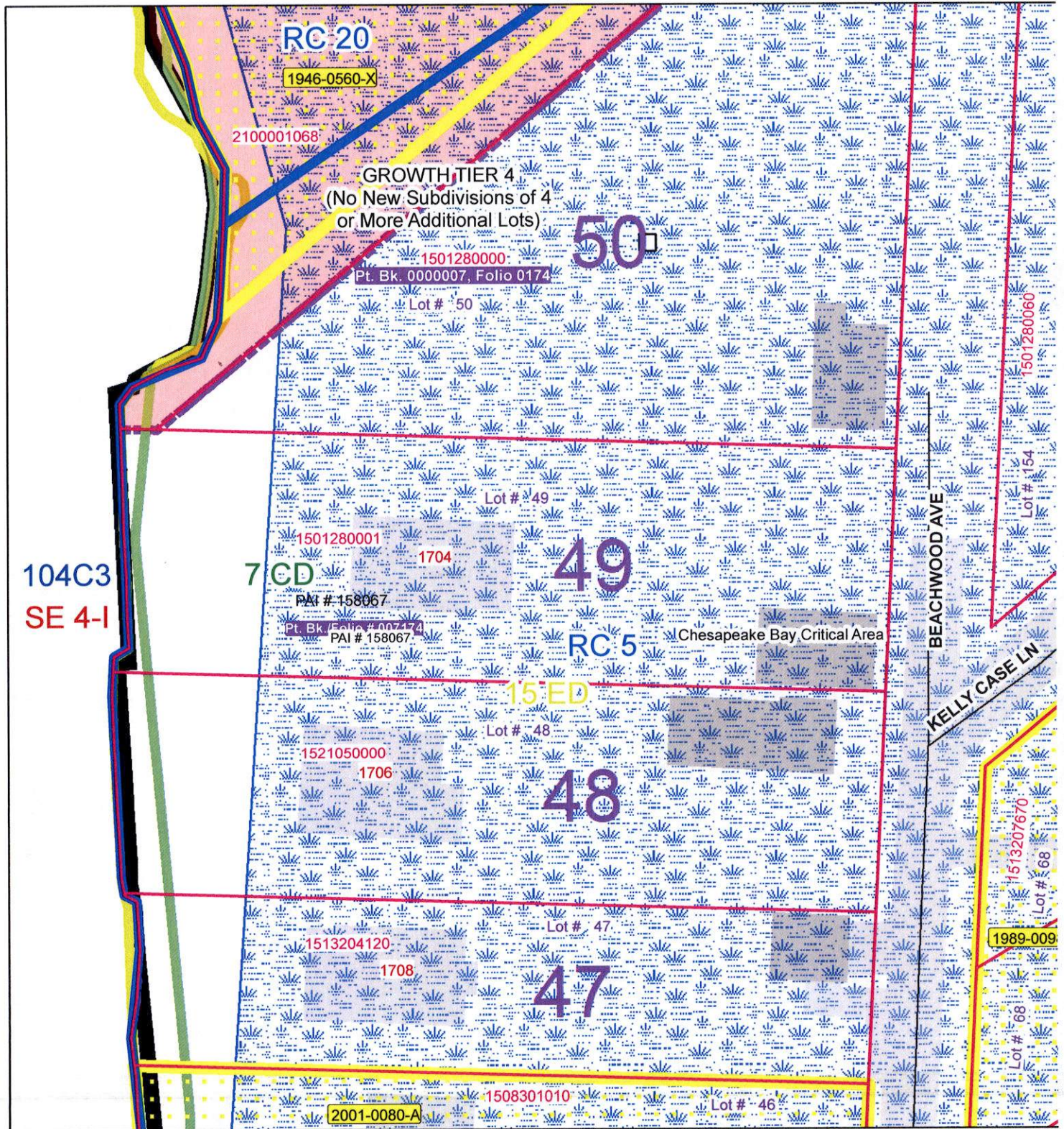


0 10 20 40 60 80 Feet

1 inch = 40 feet

Item #0248

Chesapeake Bay Critical Area



Publication Date: 3/15/2017



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

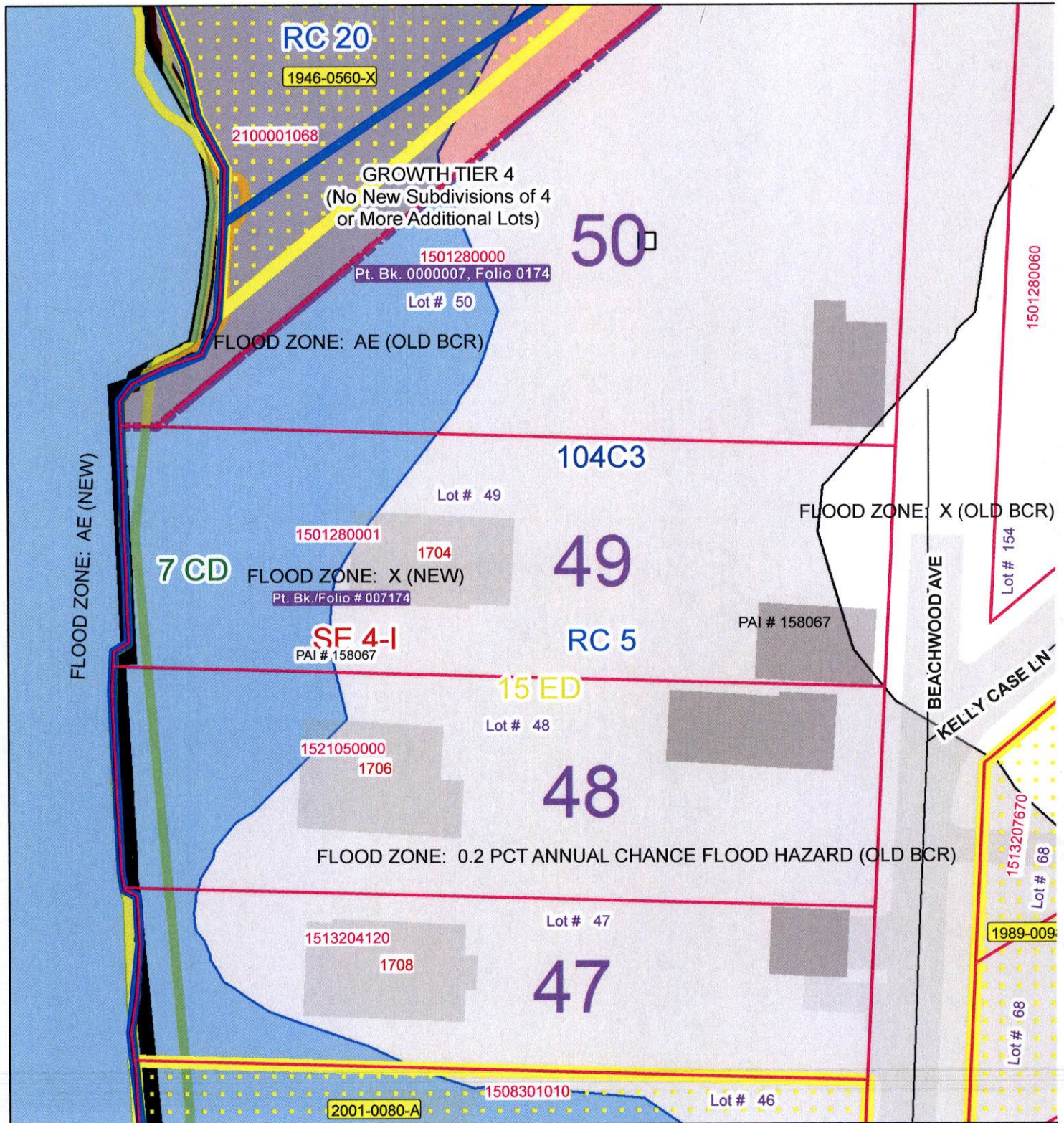


0 10 20 40 60 80 Feet

1 inch = 40 feet

Item #0248

Flood Hazard Areas



Publication Date: 3/15/2017



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 #0248

CASE NAME 1704 BEECHWOOD AVE.
CASE NUMBER 2017-0248-A
DATE 5/4/17

[illegible]

PETITIONER'S EXHIBITS

1701, 1702 AND 1704 BEECHWOOD AVENUE

CASE NOS. 2017-0246-A, 2017-0247-A AND 2017-0248-A

1. PLAT TO ACCOMPANY PETITION FOR VARIANCES DATED APRIL 16, 2017 (CHANGE MADE TO ROAD NAME FROM RIVERSIDE TO BEECHWOOD IN TITLE)
2. SDAT REAL PROPERTY DATA SEARCH
3. DEED OF RECORD LIBER 38394 FOLIO 317 DATED NOVEMBER 18, 2016
4. PLAT OF EVERGREEN PARK PLAT BOOK 7 FOLIO 174 RECORDED NOVEMBER 6, 1924
5. BALTIMORE COUNTY MY NEIGHBORHOOD MAPS AERIAL PHOTO
6. GOOGLE MAPS AERIAL PHOTO
7. BALTIMORE COUNTY SEWER PLAN 2002-1825 SHOWING EXISTING DWELLING AT 1702 BEECHWOOD AVENUE
- 8 a-d. PHOTOS

6-8-17
RW

5-8-17
RW

Real Property Data Search (w/1) Guide to searching the database

Search Result for BALTIMORE COUNTY

View Map		View GroundRent Redemption		View GroundRent Registration	
Account Identifier:		District - 15 Account Number - 1501280001			
Owner Information					
Owner Name:		TOTTY JOHN FRANCES SR TOTTY ANITA ANN		Use:	RESIDENTIAL
Mailing Address:		3 MISTY MEADOWS CT ESSEX MD 21221-		Principal Residence:	NO
				Deed Reference:	/38394/ 00317
Location & Structure Information					
Premises Address:		1704 BEECHWOOD AVE 0-0000 Waterfront		Legal Description: NW COR OAK AVENUE EVERGREEN PARK	
Map:	Grid:	Parcel:	Sub District:	Subdivision:	Section: Block: Lot: Assessment Year: Plat No: Plat Ref:
0104	0024	0268		0000	49 2015 0007/0174
Special Tax Areas:			Town: NONE		
			Ad Valorem:		
			Tax Class:		
Primary Structure Built	Above Grade Enclosed Area		Finished Basement Area	Property Land Area	County Use
1924	864 SF			11,470 SF	34
Stories	Basement	Type	Exterior	Full/Half Bath	Garage
1	YES	STANDARD UNIT	SIDING	1 full	1 Detached
Last Major Renovation					
Value Information					
		Base Value	Value	Phase-in Assessments	
			As of	As of	As of
			01/01/2015	07/01/2016	07/01/2017
Land:		202,300	202,300		
Improvements		54,100	47,400		
Total:		256,400	249,700	249,700	249,700
Preferential Land:		0			0
Transfer Information					
Seller: LIBERCCI ANNETTE		Date: 12/14/2016		Price: \$340,000	
Type: ARMS LENGTH MULTIPLE		Deed1: /38394/ 00317		Deed2:	
Seller: AHL FRANK J		Date: 04/21/2014		Price: \$0	
Type: NON-ARMS LENGTH OTHER		Deed1: /34884/ 00081		Deed2:	
Seller: AHL FRANK J		Date: 01/13/2003		Price: \$0	
Type: NON-ARMS LENGTH OTHER		Deed1: /17367/ 00469		Deed2:	
Exemption Information					
Partial Exempt Assessments:	Class	07/01/2016		07/01/2017	
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					

3. The Baltimore County Department of Public Works has reviewed the information provided and has determined that the information is accurate and reliable. While we have confidence in

PETITIONER'S
EXHIBIT NO. 2

Real Property Data Search (w/1) Guide to searching the database

Search Result for BALTIMORE COUNTY

View Map		View GroundRent Redemption		View GroundRent Registration	
Account Identifier:		District - 15 Account Number - 1501280000			
Owner Information					
Owner Name:		TOTTY JOHN FRANCES SR TOTTY ANITA ANN		Use:	RESIDENTIAL NO
Mailing Address:		3 MISTY MEADOWS CT WESSEX MD 21221-		Principal Residence:	
				Deed Reference:	/38394/ 00317
Location & Structure Information					
Premises Address:		1702 BEECHWOOD AVE 0-0000		Legal Description:	
EVERGREEN PARK					
Map:	Grid:	Parcel:	Sub District:	Subdivision:	Section:
0104	0024	0268		0000	
					Block:
					50
					Lot:
					50
					Assessment Year:
					2015
					Plat No:
					0007/0174
Special Tax Areas:			Town:		
			NONE		
			Ad Valorem:		
			Tax Class:		
Primary Structure Built		Above Grade Enclosed Area		Finished Basement Area	
1934		628 SF			
				Property Land Area	
				1.0100 AC	
				County Use	
				04	
Stories	Basement	Type	Exterior	Full/Half Bath	Garage
1	NO	STANDARD UNIT	ASBESTOS SHINGLE	1 full	
					Last Major Renovation
Value Information					
		Base Value	Value	Phase-in Assessments	
			As of 01/01/2015	As of 07/01/2016	As of 07/01/2017
Land:		95,000	95,000		
Improvements		500	500		
Total:		95,500	95,500	95,500	95,500
Preferential Land:		0			0
Transfer Information					
Seller: LIBERCCI ANNETTE		Date: 12/14/2016		Price: \$340,000	
Type: ARMS LENGTH MULTIPLE		Deed1: /38394/ 00317		Deed2:	
Seller: AHL FRANK J		Date: 04/21/2014		Price: \$0	
Type: NON-ARMS LENGTH OTHER		Deed1: /34884/ 00081		Deed2:	
Seller: AHL FRANK J		Date: 01/13/2003		Price: \$0	
Type: NON-ARMS LENGTH OTHER		Deed1: /17367/ 00469		Deed2:	
Exemption Information					
Partial Exempt Assessments:		Class	07/01/2016	07/01/2017	
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					

3. Baltimore County is proud to be a Green County. We have confidence in

Real Property Data Search (w/1) Guide to searching the database

Search Result for BALTIMORE COUNTY

View Map		View GroundRent Redemption		View GroundRent Registration	
Account Identifier:		District - 15 Account Number - 1501280060			
Owner Information					
Owner Name:		TOTTY JOHN FRANCES SR TOTTY ANITA ANN		Use:	RESIDENTIAL NO
Mailing Address:		3 MISTY MEADOWS CT ESSEX MD 21221-		Deed Reference:	/38394/ 00317
Location & Structure Information					
Premises Address:		OAK AVE 0-0000		Legal Description:	LT 154,155 NE COR BEACHWOOD AVE EVERGREEN PARK
Map:	Grid:	Parcel:	Sub District:	Subdivision:	Section: Block: Lot:
0104	0024	0268		0000	154
				Assessment Year:	Plat No:
				2015	0007/0174
Special Tax Areas:				Town:	NONE
				Ad Valorem:	
				Tax Class:	
Primary Structure Built	Above Grade Enclosed Area	Finished Basement Area	Property Land Area	County Use	
			31,222 SF	04	
Stories	Basement	Type	Exterior	Full/Half Bath	Garage Last Major Renovation
Value Information					
		Base Value	Value As of 01/01/2015	Phase-in Assessments As of 07/01/2016 As of 07/01/2017	
Land:		64,200	64,200		
Improvements		0	0		
Total:		64,200	64,200	64,200	64,200
Preferential Land:		0			0
Transfer Information					
Seller: LIBERCCI ANNETTE		Date: 12/14/2016		Price: \$340,000	
Type: ARMS LENGTH MULTIPLE		Deed1: /38394/ 00317		Deed2:	
Seller: AHL FRANK J		Date: 04/21/2014		Price: \$0	
Type: NON-ARMS LENGTH OTHER		Deed1: /34884/ 00075		Deed2:	
Seller: AHL FRANK J		Date: 01/13/2003		Price: \$0	
Type: NON-ARMS LENGTH OTHER		Deed1: /17367/ 00473		Deed2:	
Exemption Information					
Partial Exempt Assessments:	Class	07/01/2016		07/01/2017	
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					

3. The following information is provided for informational purposes only. It is not intended to be used for legal purposes. While we have confidence in

Lawyers Trust Company

File No. 16-1252MSH

Tax ID # (15) 15-01-280001, (15) 15-01-280000 and (15) 15-01-280060

This Deed, made this 18th day of November, 2016, by and between Annette Libercci, Rosemary Stinebert, Ellen Gatta and Diane Meyer, parties of the first part, Grantors; and John Francis Totty, Sr., Anita Ann Totty, John F. Totty, Jr. and Stephanie M. Totty, parties of the second part, Grantees.

- Witnesseth -

That for and in consideration of the sum of Three Hundred Forty Thousand And 00/100 Dollars (\$340,000.00), which includes the amount of any outstanding Mortgage or Deed of Trust, if any, the receipt whereof is hereby acknowledged, the said Grantors do grant and convey to the said John Francis Totty, Sr., Anita Ann Totty, John F. Totty, Jr. and Stephanie M. Totty, 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:

BEGINNING for the first and being all those lots or parcels of ground known and designated as Lots Nos. 49 and 50 on the Plat of Evergreen Park, said Plat being recorded among the Land Records of Baltimore County in Plat Book W.P.C. No. 7 folio 174, etc.

BEGINNING for the second and being known and designated as Lots Nos. 154 and 155, as shown on the Plat of Evergreen Park, duly recorded among the Plat Records of Baltimore County in Plat Book W.P.C. No. 7 folio 174.

Being the same property, which by deed dated October 14, 2013 and recorded among the Land Records of Baltimore County in Liber JLE 34884 at Folio 75, was granted and conveyed by Annette Libercci, Rosemary Steinbert, Ellen Gatta and Diane Meyer unto Annette Libercci, Rosemary Stinebert, Ellen Gatta and Diane Meyer.

LR - Deed (w Taxes)
Recording only \$720.00
Name: Anita Totty
Ref:
Deed (with Taxes)
Surcharge 40.00
Deed State
Liber Tax 1,700.00
Liber Tax - 1kd 0.00
SubTotal: 1,760.00

ALSO Being the same property, which by deed dated October 14, 2013 and recorded among the Land Records of Baltimore County in Liber JLE 34884 at Folio 81, was granted and conveyed by Annette Libercci, Rosemary Steinbert, Ellen Gatta and Diane Meyer unto Annette Libercci, Rosemary Stinebert, Ellen Gatta and Diane Meyer.

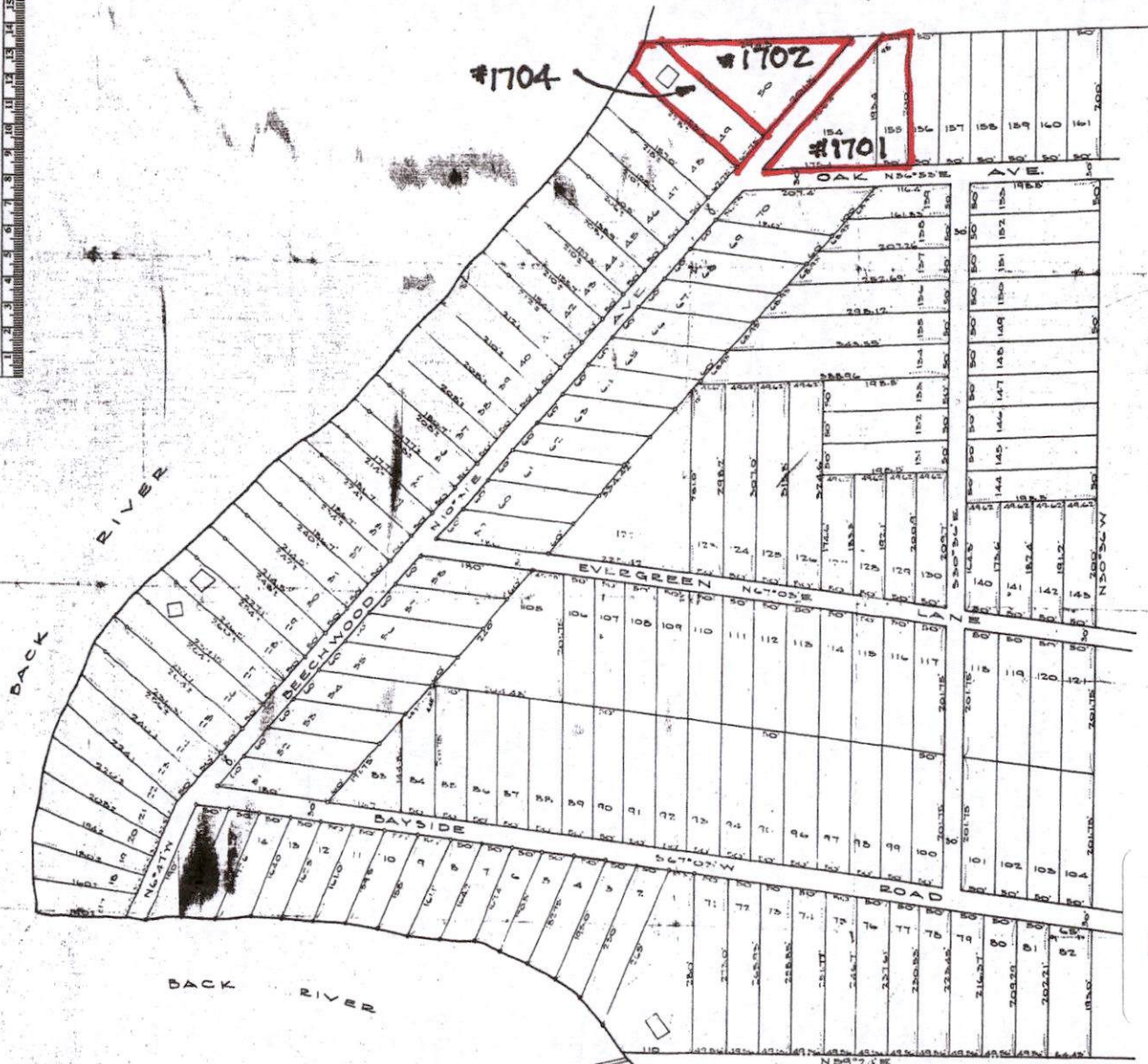
Total: 1,820.00
12/14/2016 02:34
CC03-CG
CC03-CG
Baltimore
County CC03-01-04 -
Register 04

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 John Francis Totty, Sr., Anita Ann Totty, John F. Totty, Jr. and Stephanie M. Totty, as joint tenants unto the survivor of them, their heirs and assigns, in fee simple.

And the said parties of the first part 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 hereof they will execute such further assurances of the same as may be required.

PETITIONER'S
EXHIBIT NO. 3



PETITIONER'S
EXHIBIT NO. 4

P.B. 7 / 174
RECORDED 11/6/1924

PLAT OF
EVERGREEN PARK
FIFTEENTH DISTRICT
BALTIMORE COUNTY
MARYLAND

SCALE 1"=100 OCT 29 1924
BY COONAN AND CO
SURVEYORS & CIVIL ENGRS
231 COURTLAND STREET
BALTIMORE, MD



My Neighborhood Map

Created By
Baltimore County
My Neighborhood



This data is only for general information purposes only. This data may be inaccurate or contain errors. It does not warrant the accuracy, completeness, or reliability of the data, implied, or merchantable, but not limited to, attorneys' and experts' use from or in connection with any legal proceeding.

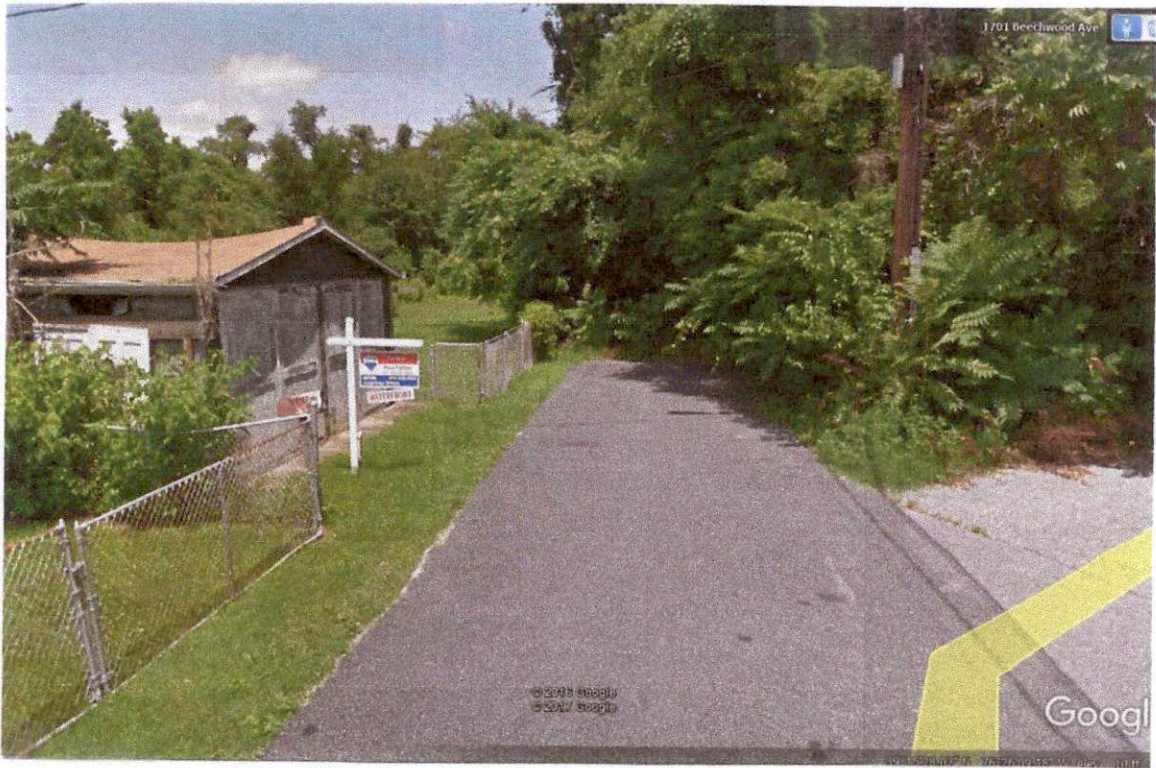
**PETITIONER'S
EXHIBIT NO. 5**



PETITIONER'S
EXHIBIT NO. 6

Imagery Date:

G
4" W



a



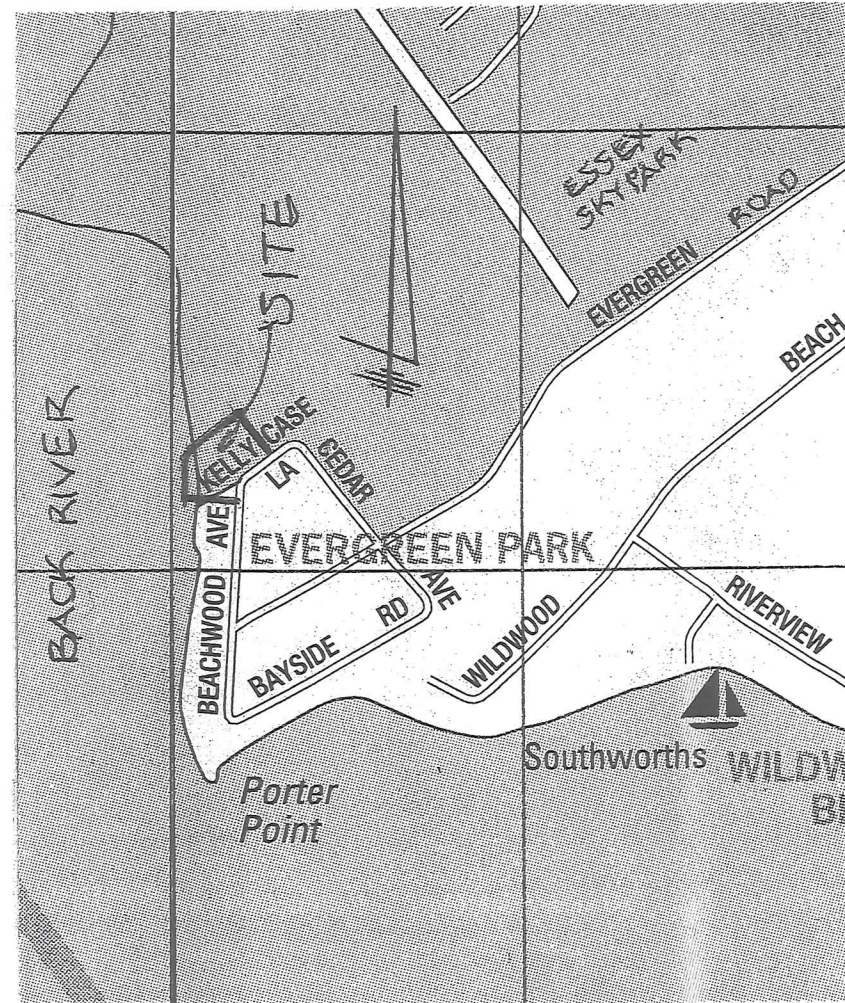
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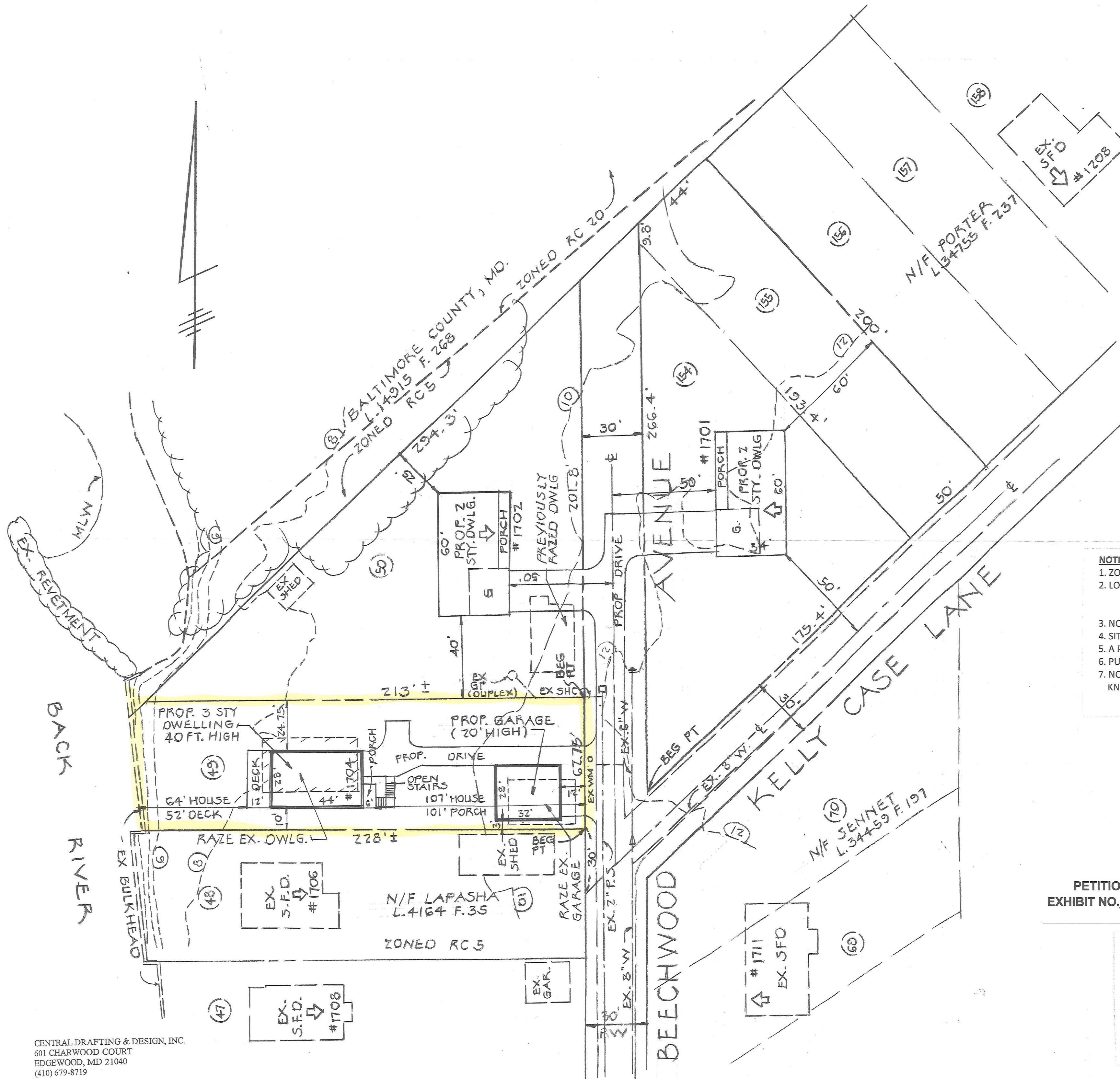
C



D



VICINITY MAP
SCALE: 1"=1000'



NOTES

1. ZONING.....RC5 (MAP NO. 104C3)
2. LOT AREAS: # 1701.....31,222 S.F. = 0.717 ACRE +/-
1702.....43,995 S.F. = 1.010 ACRE +/-
1704.....11,470 S.F. = 0.263 ACRE +/-
3. NO PREVIOUS ZONING HISTORY OR VIOLATIONS ARE KNOWN
4. SITE IS LOCATED IN THE CBCA
5. A PORTION OF # 1702 AND # 1704 ARE WITHIN THE 100 YEAR FLOOD ZONE
6. PUBLIC WATER AND SEWER
7. NO HISTORIC STRUCTURES OR SITES OR UNDERGROUND STORAGE TANKS ARE KNOWN TO EXIST.

OWNERS

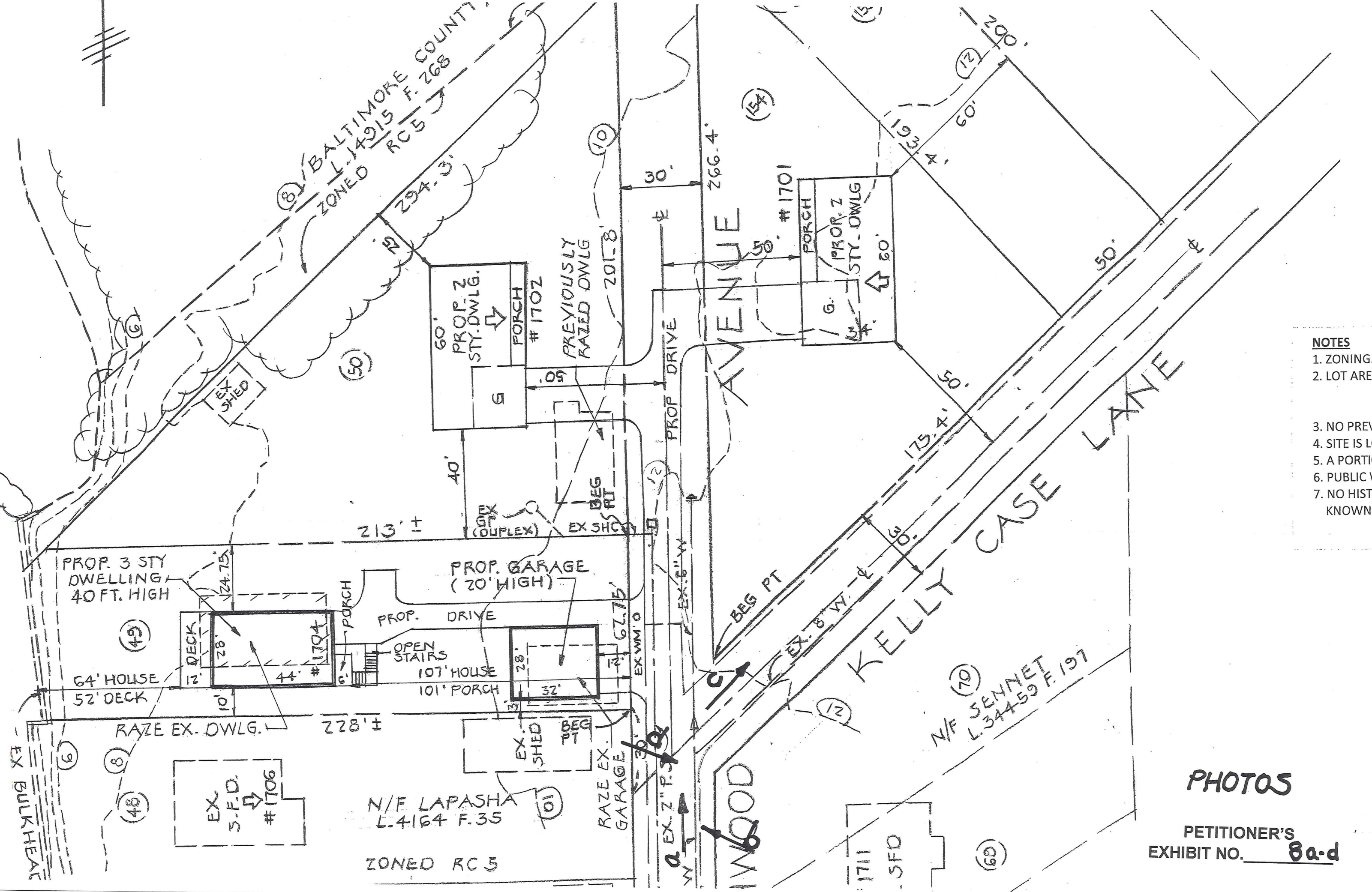
JOHN FRANCIS TOTTY, SR, ANITA ANN TOTTY,
JOHN F. TOTTY, JR. AND STEPHANIE M. TOTTY
C/O JOHN TOTTY
3 MISTY MEADOWS COURT
ESSEX, MD. 21221
DEED REFERENCE: L.38394 F.317

ACCT. NOS.

1701 - 1501280060
1702 - 1501280000
1704 - 1501280001

PETITIONER'S
EXHIBIT NO. 1

**PLAT TO ACCOMPANY PETITION
FOR VARIANCES**
1701, 1702 AND 1704 BEECHWOOD AVENUE
ELECTION DISTRICT 15C37
BALTIMORE COUNTY, MARYLAND
SCALE: 1 INCH = 30 FEET APRIL 16, 2017



- NOTES**
- 1. ZONING..
 - 2. LOT AREA
 - 3. NO PREV
 - 4. SITE IS LC
 - 5. A PORTIC
 - 6. PUBLIC V
 - 7. NO HIST
 - KNOWN

PHOTOS

PETITIONER'S
EXHIBIT NO. **8a-d**