

M E M O R A N D U M

DATE: January 21, 2021
TO: Zoning Review Office
FROM: Office of Administrative Hearings
RE: Case No. 2020-0284-A – Appeal Period Expired

The appeal period for the above-referenced cases expired on January 20, 2021. 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.'

/dlw

c: Case File
Office of Administrative Hearings

IN RE: PETITION FOR ADMIN. VARIANCE * BEFORE THE
(1302 Birch Avenue) *
13th Election District * OFFICE OF ADMINISTRATIVE
1st Council District * HEARINGS FOR
Jeffrey Warner * BALTIMORE COUNTY
Petitioner *
* CASE NO. 2020-0284-A

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (“OAH”) for Baltimore County for consideration of a Petition for Administrative Variance filed by the legal owner of the subject property, Jeffrey Warner (“Petitioner”). The Petitioner is requesting Variance relief pursuant to the Baltimore County Zoning Regulations (“BCZR”) § 1B02.3.C.1 to approve a second story addition and carport on left side of the house with a 4 in. setback in lieu of the required 10 ft. setback. The subject property and requested relief is more fully depicted on the site plan that was marked and accepted into evidence as Petitioners’ Exhibit 1.

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

The Petitioners having filed a Petition for Administrative Variance and the subject property having been posted on 12/9/2020, 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 § 32-3-303 of the Baltimore County Code (“BCC”). 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

12/21/20

By

Mugnan

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 to satisfy the requirements of § 307.1 of the BCZR. Furthermore, strict compliance with the BCZR would cause practical difficulty and/or unreasonable hardship for the Petitioners.

Pursuant to the posting of the property and the provisions of both the BCC and the BCZR, and for the reasons given above, the requested variance should be granted.

THEREFORE, IT IS ORDERED, this **21st** day of **December, 2020**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance seeking relief from Baltimore County Zoning Regulations ("BCZR") § 1B02.3.C.1 to approve a second story addition and carport on left side of the house with a 4 in. setback in lieu of the required 10 ft. setback be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

- Petitioner may apply for their appropriate permits and be granted same upon receipt of this Order; however, Petitioner is 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, Petitioner 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.



PAUL M. MAYHEW
Managing Administrative Law Judge
for Baltimore County

PMM:dlm

ORDER RECEIVED FOR FILING

Date

12/21/20

By

W. M. Magon



ADMINISTRATIVE ZONING PETITION

FOR ADMINISTRATIVE VARIANCE – OR – ADMINISTRATIVE SPECIAL HEARING

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

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

Address 1302 BIRCH AVE Currently zoned DR 5.5
Deed Reference 19392 / 00205 10 Digit Tax Account # 1311670080
Owner(s) Printed Name(s) JEFFREY WARNER

(SELECT THE HEARING(S) BY MARKING X AT THE APPROPRIATE SELECTION(S) AND ADDING THE PETITION REQUEST)

For Administrative Variances, the Affidavit on the reverse of this Petition form must be completed and notarized.

The undersigned, who own and occupy the property situate in Baltimore County and which is described in the plan/plat attached hereto and made a part hereof, hereby petition for an:

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

BCZR 1B02.3.C.1 To approve a 2nd story addition and carport on left side of house with a 4 inch setback in lieu of the required 10 ft setback

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

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

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

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

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

Owner(s)/Petitioner(s):

JEFFREY WARNER

Name #1 – Type or Print

Name #2 – Type or Print

Jeffrey Warner

Signature #1

Signature #2

1302 BIRCH AVE

ARBUTUS

MD

Mailing Address

City

State

21227

443-326-0759

JWARNER_75@YAHOO.COM

Zip Code

Telephone #

Email Address

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

Name- Type or Print

Signature

Mailing Address

City

State

Zip Code

Telephone #

Email Address

Representative to be contacted:

SAME AS ABOVE

Name – Type or Print

Signature

Mailing Address

City

State

Zip Code

Telephone #

Email Address

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

Administrative Law Judge for Baltimore County

CASE NUMBER 2020-0284-A

Filing Date 11/20/2020

Estimated Posting Date 11/29/2020

Reviewer CP

Affidavit in Support of Administrative Variance

(THIS AFFIDAVIT IS NOT REQUIRED FOR AN HISTORIC ADMINISTRATIVE SPECIAL HEARING)

The undersigned hereby affirms under the penalties of perjury and upon personal knowledge to the Administrative Law Judge for Baltimore County, that the information herein given is true and correct and that the undersigned is/are competent to testify in the event that a public hearing is scheduled in the future with regard thereto. In addition, the undersigned hereby affirms that the property is not the subject of an active Code Enforcement case and that the residential property described below is owned and occupied by the undersigned.

Address: 1302 BIRCH AVE ARBUTUS MD 21227
Print or Type Address of property City State Zip Code

Based upon personal knowledge, the following are the facts upon which I/we base the request for an Administrative Variance at the above address. **(Clearly state practical difficulty or hardship here)**

I WOULD LIKE TO BUILD AN ADDTION THAT WOULD SERVE AS A CARPORT AND 2ND STORY ROOM THAT IS
12'6" W X 16'6" D. THE SECOND FLOOR ROOM WOULD SERVE AS AN ADDITIONAL BEDROOM FOR OUR EXANDING FAMILY
WHILE ALSO SERVING AS AN ATTACHED CARPORT FOR ONE OF OUR VEHICLES. I HAVE BEEN HERE FOR 16 YEARS
AND WANT TO FURTHER IMPROVE THE FUNCTIONALITY OF OUR HOME. WE LOVE ARBUTUS AND PLAN TO STAY HERE.

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

Jeffrey Warner
Signature of Owner (Affiant)

JEFFREY WARNER

Name- Print or Type

Signature of Owner (Affiant)

Name- Print or Type

The following information is to be completed by a Notary Public of the State of Maryland

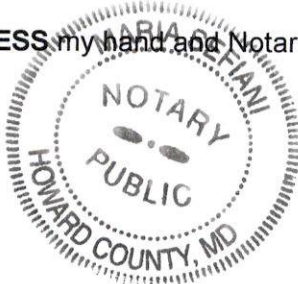
STATE OF MARYLAND, COUNTY OF BALTIMORE, to wit:

I HEREBY CERTIFY, this 12th day of November, 2020, before me a Notary of Maryland, in and for the County aforesaid, personally appeared:

Print name(s) here: Jeffrey H. Warner

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

AS WITNESS my hand and Notaries Seal



[Signature]
Notary Public

07-11-23
My Commission Expires

2020-0284-A

Zoning Petition Property Description

Zoning Property Description for 1302 Birch Ave

Beginning at a point on the north side of Birch Ave which is 33 feet 6 inches wide at a distance of 96' feet east of the centerline of the nearest improved intersection street (Highview Rd) which is 30 feet 6 inches wide.

Being Lot #'s 207, 208, and 209 in the subdivision of Linden Heights as recorded in Baltimore County Plat Book # 7, Folio # 132, containing 6180 square feet (0.142 square acres) of lot. Located in the 13 Election District and 1 Council District.

2020-0284-A

Re- Certification of Posting

Case No 2020-0284-A



1302 Birch Avenue – front, NW side of property (1 of 2)

Richard E. Hoffman (signed) 12/9/20

Richard E. Hoffman

904 Dellwood Drive

Fallston, Md. 21047

443-243-7360

Re-Certification of Posting

Case No 2020-0284-A



1302 Birch Avenue – front, SE side of property (2 of 2)

Richard E. Hoffman (signed) 12/9/20

Richard E. Hoffman

904 Dellwood Drive

Fallston, Md. 21047

443-243-7360

**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/neighbor 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: 2020-0284-A
Property Address: 1302 Birch Ave
Property Description: 3 bedroom single family dwelling
Legal Owners (Petitioners): Jeffrey Warner
Contract Purchaser/Lessee: _____

PLEASE FORWARD ADVERTISING BILL TO:

Name: Jeffrey Warner
Company/Firm (if applicable): _____
Address: 1302 Birch Ave
Arbutus, MD 21227
Telephone Number: 443-326-0759

Revised 7/9/2015



JOHN A. OLSZEWSKI, JR.
County Executive

MICHAEL D. MALLINOFF, *Director*
Department of Permits,
Approvals & Inspections

December 14, 2020

Jeffrey Warner,
1302 Birch Ave
Arbutus MD 21227

RE: Case Number: 2020-284-A, 1302 Birch Ave

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 November 20, 2020. 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, appearing to read "W. Carl Richards, Jr.", is written over the "Very truly yours," text.

W. Carl Richards, Jr.
Supervisor, Zoning Review

WCR/kl

Enclosures

c: People's Counsel



BALTIMORE COUNTY, MARYLAND

JOHN A. OLSZEWSKI, JR.
County Executive

Inter-Office Correspondence

MICHAEL D. MALLINOFF, *Director*
Department of Permits,
Approvals & Inspections



TO: Hon. Paul M. Mayhew; Managing Administrative Law Judge
Office of Administrative Hearings

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

DATE: December 8, 2020

SUBJECT: DEPS Comment for Zoning Item # 2020-0284-A
Address 1302 Birch Avenue
(Warner Property)

Zoning Advisory Committee Meeting of **December 14, 2020.**

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

Reviewer: Steve Ford

ADMINISTRATIVE VARIANCE INFORMATION SHEET AND DATES

Case Number 2020- 0284 -A Address 1302 Birch Ave
Contact Person: Christina Frank Phone Number: 410-887-3391
Planner, Please Print Your Name
Filing Date: 11-20-2020 Posting Date: 11-29-2020 Closing Date: 12-14-2020

Any contact made with this office regarding the status of the administrative variance should be through the contact person (planner) using the case number.

1. **POSTING/COST:** The petitioner must use one of the sign posters on the approved list (on the reverse side of this form) and the petitioner is responsible for all printing/posting costs. Any reposting must be done only by one of the sign posters on the approved list and the petitioner is again responsible for all associated costs. The zoning notice sign must be visible on the property on or before the posting date noted above. It should remain there through the closing date.
2. **DEADLINE:** The closing date is the deadline for an occupant or owner within 1,000 feet to file a formal request for a public hearing. Please understand that even if there is no formal request for a public hearing, the process is not complete on the closing date.
3. **ORDER:** After the closing date, the file will be reviewed by the zoning or deputy zoning commissioner. He may: (a) grant the requested relief; (b) deny the requested relief; or (c) order that the matter be set in for a public hearing. You will receive written notification, usually within 10 days of the closing date if all County agencies' comments are received, as to whether the petition has been granted, denied, or will go to public hearing. The order will be mailed to you by First Class mail.
4. **POSSIBLE PUBLIC HEARING AND REPOSTING:** In cases that must go to a public hearing (whether due to a neighbor's formal request or by order of the zoning or deputy zoning commissioner), notification will be forwarded to you. The sign on the property must be changed giving notice of the hearing date, time and location. As when the sign was originally posted, certification of this change and a photograph of the altered sign must be forwarded to this office.

(Detach Along Dotted Line)

Petitioner: This Part of the Form is for the Sign Poster Only

USE THE ADMINISTRATIVE VARIANCE SIGN FORMAT

Case Number 2020- 0284 -A Address: 1302 Birch Ave
Petitioner's Name: Jeffrey Warner Telephone: 443-326-0759
Posting Date: 11-29-2020 Closing Date: 12-14-2020

Wording for Sign:

TO APPROVE a 2nd STORY addition and CARPORT on left
side of house with a 4 inch setback in lieu of the
Required 10 ft setback

CHECKLISTComment
ReceivedDepartmentSupport/Oppose/
Conditions/
Comments/
No Comment

DEVELOPMENT PLANS REVIEW

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

12/8

DEPS

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

N/C

FIRE DEPARTMENT

PLANNING

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

STATE HIGHWAY ADMINISTRATION

TRAFFIC ENGINEERING

COMMUNITY ASSOCIATION

ADJACENT PROPERTY OWNERS

ZONING VIOLATION

(Case No. _____)

PRIOR ZONING

(Case No. _____)

NEWSPAPER ADVERTISEMENT

Date: _____

SIGN POSTING (1st)

Date: _____

12/9/20

by B. Hoffman

SIGN POSTING (2nd)

Date: _____

by _____

PEOPLE'S COUNSEL APPEARANCE

Yes

☐

No

☐

PEOPLE'S COUNSEL COMMENT LETTER

Yes

☐

No

☐

Comments, if any: _____

Donna Mignon

From: RICHARD HOFFMAN <dick_e@comcast.net>
Sent: Friday, December 11, 2020 12:36 PM
To: Administrative Hearings
Subject: Re-Certification Sign Posting-Case #2020-0284-A / 1302 Birch Ave.
Attachments: Certification of Posting-1302 Birch Ave. 1A of 3.docx; Certification of Posting-1302 Birch Ave. 2A of 2.docx

Follow Up Flag: Follow up
Flag Status: Flagged

CAUTION: This message from dick_e@comcast.net originated from a non Baltimore County Government or non BCPL email system. Hover over any links before clicking and use caution opening attachments.

Good Afternoon,

Attached are the Re-Certification photo's for the subject Administrative Variance Case #.

Thanks,
dickh



9090-09-24-14



9090-0606

2020-0284-A



1489-0600

HIGHVIEW RD

Lot # 147

Lot # 147

Lot # 145

Lot # 145

1303

1319910010

Lot # 143

Lot # 143

1323000240

1305

Lot # 143

Lot # 141

1307

1318100030

1323870120

Lot # 138

Lot # 138

Lot # 138

Lot # 138

Lot # 203

1308650430

1300

Pt. Bk. 0000007, Folio 0132

Lot # 203

Lot # 203

1311670080

1302

Lot # 207

Lot # 207

PAI # 138035

Pt. Bk./Folio # 007132

PAI # 138035

1303770000

1304

Lot # 210

Lot # 210

Lot # 212

Lot # 212

1319390080

Lot # 212

Lot # 212

Lot # 215

1307290270

1319071580

1303

Lot # 300

Lot # 300

Lot # 300

Lot # 300

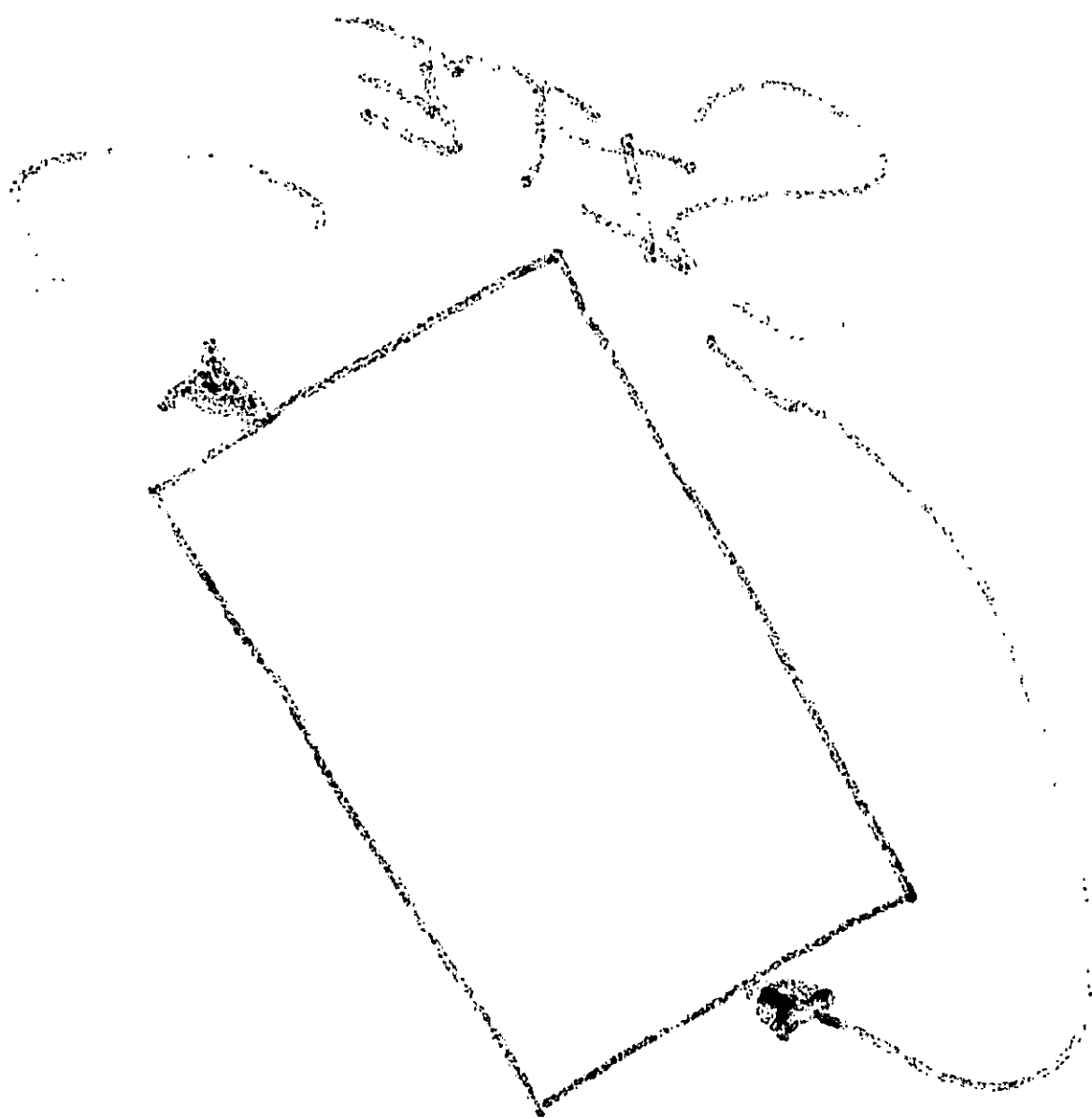
Lot # 298

BIRCH AVE

13 ED
SW 5-D
DR 5.5
108C1

1 CD

0000-0084-A



1260-0000

2020-03-28

Second story room
carport below



9090-0954-47

ZONING HEARING PLAN FOR VARIANCE X

FOR SPECIAL HEARING

ADDRESS: 1302 BIRCH AVE OWNER(S) NAME: JEFFREY WARNER

SUBDIVISION: LINDEN HEIGHTS LOT#: 207, 208, 209 BLOCK#:

PLAT BOOK#: 7 FOLIO#: 132

10 DIGIT TAX#: 1311670080

SECTION#:

DEED REF#: 19392/00205

popular ave

highview rd

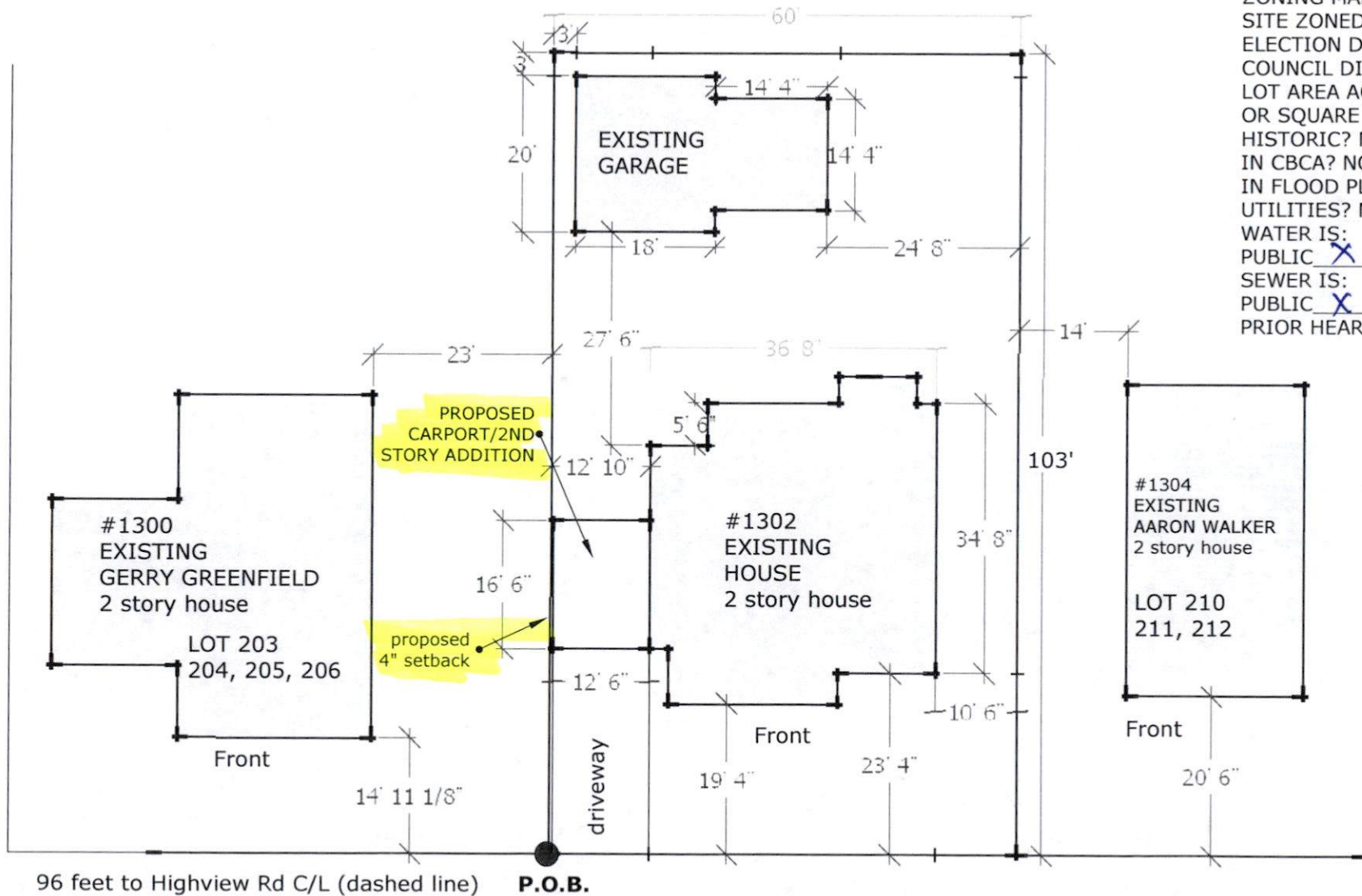


birch ave



MAP IS NOT TO SCALE
ZONING MAP#: 108C1
SITE ZONED DR5.5
ELECTION DISTRICT 13
COUNCIL DISTRICT 1
LOT AREA ACREAGE 0.142
OR SQUARE FEET 6180
HISTORIC? NO
IN CBCA? NO
IN FLOOD PLAIN? NO
UTILITIES? MARK WITH X
WATER IS:
PUBLIC X PRIVATE
SEWER IS:
PUBLIC X PRIVATE
PRIOR HEARING? NO

Highview Rd (30 feet 6 inch road width)



BIRCH AVE (33 feet 6 inches road width)

DRAWN BY: JEFFREY WARNER

Date: 11/11/2020

Scale: 1 INCH = 20 FEET

2020-0284-A

N

Real Property Data Search (w3)

Search Result for BALTIMORE COUNTY

View Map		View GroundRent Redemption		View GroundRent Registration	
Special Tax Recapture: None					
Account Identifier:		District - 13 Account Number - 1311670080			
Owner Information					
Owner Name:	WARNER JEFFREY HAMILTON		Use:	RESIDENTIAL	
Mailing Address:	1302 BIRCH AVE BALTIMORE MD 21227-2625		Principal Residence:	YES	
			Deed Reference:	/19392/ 00205	
Location & Structure Information					
Premises Address:		1302 BIRCH AVE BALTIMORE 21227-2625		Legal Description:	PT LT 207,208,209 1302 BIRCH AVE LINDEN HEIGHTS
Map:	Grid:	Parcel:	Neighborhood:	Subdivision:	Section: Block: Lot: Assessment Year: Plat No:
0108	0005	0658	13030046.04	0000	207 2019 0007/0132
Town: None					
Primary Structure Built	Above Grade Living Area	Finished Basement Area	Property Land Area	County Use	
1948	1,288 SF	360 SF	6,180 SF	04	
Stories	Basement	Type	Exterior	Quality	Full/Half Bath
2	YES	STANDARD UNIT	ASBESTOS SHINGLE/	4	2 full
				Garage	Last Notice of Major Improvements
				1 Detached	
Value Information					
		Base Value	Value	Phase-in Assessments	
			As of 01/01/2019	As of 07/01/2020	As of 07/01/2021
Land:		57,300	57,300		
Improvements		147,500	174,000		
Total:		204,800	231,300	222,467	231,300
Preferential Land:		0			0
Transfer Information					
Seller: KENWALS LLC		Date: 01/06/2004		Price: \$185,000	
Type: ARMS LENGTH IMPROVED		Deed1: /19392/ 00205		Deed2:	
Seller: PERRY CHESSIE E		Date: 06/03/2003		Price: \$142,000	
Type: ARMS LENGTH IMPROVED		Deed1: /18114/ 00363		Deed2:	
Seller: KOENIG A WILLIAM		Date: 06/26/2001		Price: \$125,900	
Type: NON-ARMS LENGTH OTHER		Deed1: /15337/ 00728		Deed2:	
Exemption Information					
Partial Exempt Assessments:	Class	07/01/2020		07/01/2021	
County:	000	0.00			
State:	000	0.00			
Municipal:	000	0.00 0.00		0.00 0.00	
Special Tax Recapture: None					
Homestead Application Information					
Homestead Application Status: Approved 12/31/2012					
Homeowners' Tax Credit Application Information					
Homeowners' Tax Credit Application Status: No Application				Date:	

2020-0284 A

ZONING HEARING PLAN FOR VARIANCE X

FOR SPECIAL HEARING

ADDRESS: 1302 BIRCH AVE OWNER(S) NAME: JEFFREY WARNER

SUBDIVISION: LINDEN HEIGHTS LOT#: 207, 208, 209 BLOCK#:

PLAT BOOK#: 7 FOLIO#: 132

10 DIGIT TAX#: 1311670080

SECTION#:

DEED REF#: 19392/00205

popular ave

highview rd

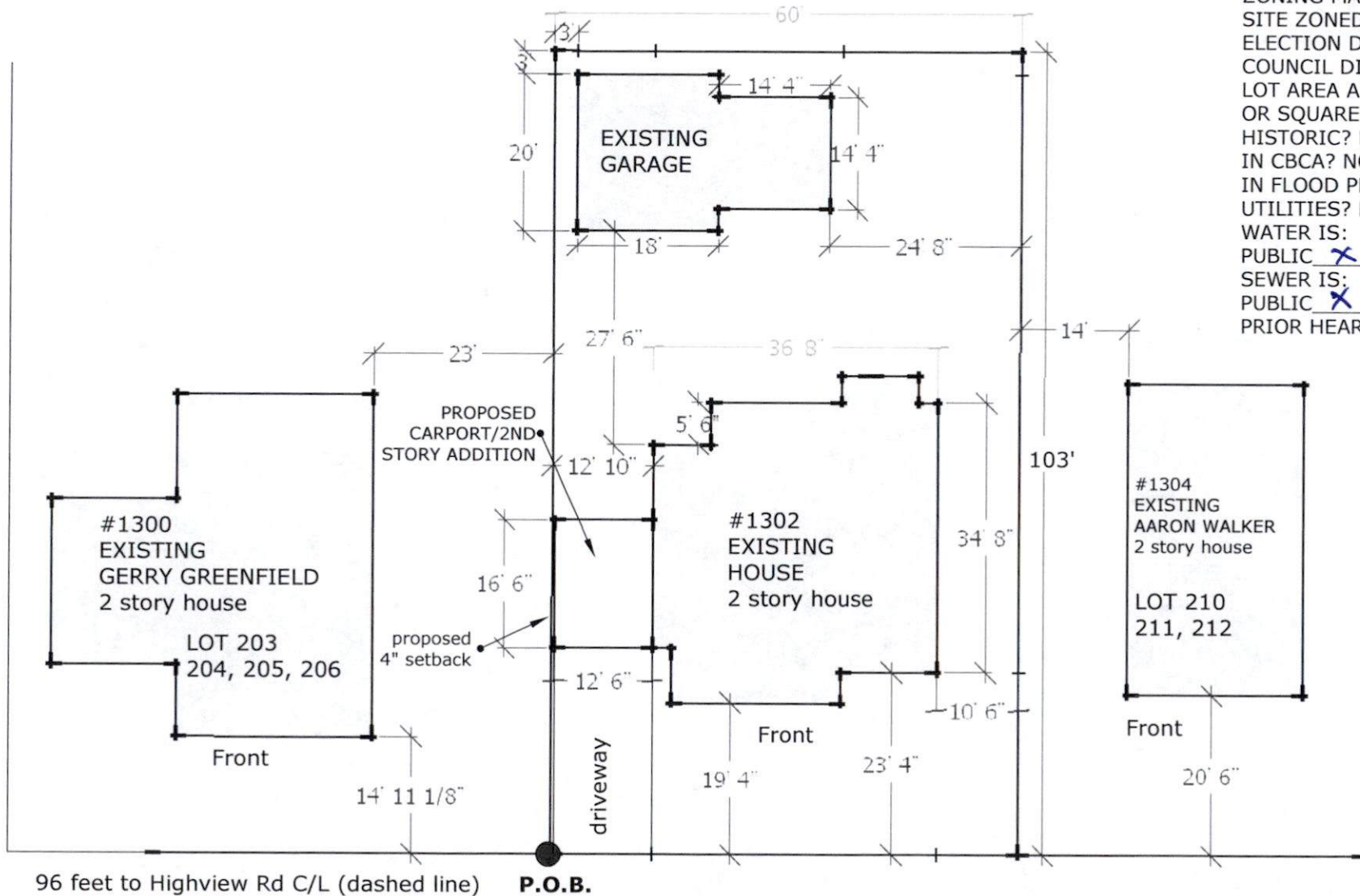
site

birch ave



MAP IS NOT TO SCALE
ZONING MAP#: 108C1
SITE ZONED DR5.5
ELECTION DISTRICT 13
COUNCIL DISTRICT 1
LOT AREA ACREAGE 0.142
OR SQUARE FEET 6180
HISTORIC? NO
IN CBCA? NO
IN FLOOD PLAIN? NO
UTILITIES? MARK WITH X
WATER IS:
PUBLIC X PRIVATE
SEWER IS:
PUBLIC X PRIVATE
PRIOR HEARING? NO

Highview Rd (30 feet 6 inch road width)



BIRCH AVE (33 feet 6 inches road width)

DRAWN BY: JEFFREY WARNER

Date: 11/11/2020

Scale: 1 INCH = 20 FEET

2020-0284-A

N