



JOHN A. OLSZEWSKI, JR.
County Executive

PAUL M. MAYHEW
Managing Administrative Law Judge
MAUREEN E. MURPHY
Administrative Law Judge

May 8, 2023

Jeffrey Warner – jwarner_75@yahoo.com
1302 Birch Avenue
Arbutus, MD 21227

RE: Petition for Administrative Variance
Case No. 2023-0078-A
Property: 1302 Birch Avenue

Dear Mr. Warner:

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

Pursuant to Baltimore County Code § 32-3-401(a), "a person aggrieved or feeling aggrieved" by this Decision and Order 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 that reads "Maureen E. Murphy". The signature is written in a cursive style with a large, stylized "M" and "E".

MAUREEN E. MURPHY
Administrative Law Judge
for Baltimore County

MEM:dlw
Enclosure

IN RE: PETITION FOR ADMIN. VARIANCE	*	BEFORE THE
(1302 Birch Avenue)		
13 th Election District	*	OFFICE OF ADMINISTRATIVE
1 st Council District		
Jeffrey Warner	*	HEARINGS FOR
Petitioner	*	BALTIMORE COUNTY
	*	CASE NO. 2023-0078-A

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (“OAH”) for consideration of a Petition for Administrative Variance filed by the legal owner of the property, Jeffrey Warner (“Petitioner”) for the property located at 1302 Birch Avenue, Arbutus, Md. (the “Property”). The Petitioner is requesting Variance relief pursuant to the Baltimore County Zoning Regulations (“BCZR”), §301.1.A to approve an open projection (carport) on the left side of the house with a setback of 4 inches in lieu of the minimum required 7.5 ft. The Property and requested relief are more fully depicted on the site plan (the “Site Plan”) (Pet. Ex.1). Street view photographs were submitted showing the location of the proposed carport. (Pet. Ex. 2A, 2B).

There were no adverse Zoning Advisory Committee (“ZAC”) comments received from any of the County reviewing agencies.

The Petitioner having filed a Petition for Administrative Variance and the Property having been posted on April 15, 2023, and there being no request for a public hearing, a decision shall be rendered based upon the documentation presented. The Petitioner has filed the supporting affidavits as required by BCC, §32-3-303.

The Petitioner has filed the supporting affidavits as required by §32-3-303 of the Baltimore County Code (“BCC”). The Property previously received Variance relief in Case No.:

2020-284-A for the Petitioner to construct an addition as close as 4 inches to property line in lieu of the required 10 ft. Here, Petitioner is converting the addition to a carport as close as 4 inches in lieu of the required 7.5 ft. 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 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 §307.1 of the BCZR. Furthermore, strict compliance with the BCZR would result in practical difficulty and/or unreasonable hardship upon the Petitioner. I find that there is no evidence in the file to indicate that the requested variance would adversely affect the health, safety or general welfare of the public and should therefore be granted.

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 **8th** day of **May, 2023**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance seeking relief from Baltimore County Zoning Regulations ("BCZR"), §301.1.A to approve an open projection (carport) on the left side of the house with a setback of 4 inches in lieu of the minimum required 7.5 ft., be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

1. Petitioner may apply for necessary permits and/or licenses upon receipt of this Order. However, Petitioner is hereby made aware that proceeding at this time is at his own risk until 30 days from the date hereof, during which time an appeal can be filed by any party. If for whatever reason this Order is reversed, Petitioner would be required to return the subject property to its original condition.
2. Building materials for the carport addition shall be compatible with those of the existing principal dwelling.

3. The carport shall remain open on the three exposed sides and shall not be enclosed at any time.

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

Order.

A handwritten signature in cursive script that reads "Maureen E. Murphy".

MAUREEN E. MURPHY
Administrative Law Judge
for Baltimore County

MEM:dlw



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 DR5.5
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 301.1.A To approve an open projection (carport) on the left side of house with a setback of 4 inches in lieu of minimum required 7.5 ft

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 zoning regulations of Baltimore County, to the zoning 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 #'s (Cell and Home) 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 2023-0078-A Filing Date 4/7/2023 Estimated Posting Date 4/16/2023 Reviewer CF

Revised 8/2022

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 A CARPORT ON THE SIDE OF MY HOUSE OVER MY DRIVEWAY TO HELP PROTECT MY VEHICLES.

I WAS PREVIOUSLY APPROVED FOR A SECOND STORY ADDITION OVER MY DRIVEWAY THAT WOULD SERVE AS A

CARPORT AND ADDITIONAL LIVING SPACE BUT DUE TO INCREASE CONSTRUCTION COSTS, I HAVE DECIDED TO SCALE

BACK SO I AM FILING FOR A NEW PETITION FOR A CARPORT ONLY. I HAVE LIVED IN ARBUTUS SINCE 2003 AND PLAN ON

STAYING FOR ANOTHER 20 YEARS SO I WILL UTILIZE THE FUNCTIONALITY OF A CARPORT. OTHER HOUSES IN THE

NEIGHBORHOOD ALSO HAVE CARPORTS SO IT WOULD CERTAINLY NOT BE AN EYE SORE.

FOR THE RECORD, THE PREVIOUS CASE # WAS 2020-0284-A.

(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)

Signature of Owner (Affiant)

Jeffrey Warner
Name - Print or Type

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 31st day of March, 2023, before me a Notary of Maryland, in and for the County aforesaid, personally appeared:

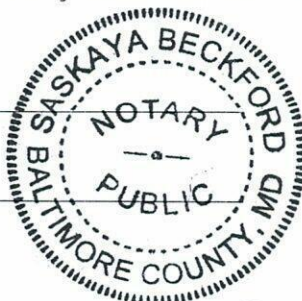
Print name(s) here: Jeffrey Warner

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

AS WITNESS my hand and Notaries Seal

Brynn Buck
Notary Public

10/25/2023
My Commission Expires



2023-0078-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.

2023-0078-A

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

TO: Peter Gutwald, Director
Department of Permits, Approvals
EFC for VKD
FROM: Vishnu Desai, Supervisor
Bureau of Development Plans Review
SUBJECT: Zoning Advisory Committee Meeting
For April 17, 2023
Item No. 2023-0070-SPH

DATE: April 25, 2023

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

DPW&T Response:

The proposed 30' x 60' utility shed is located in a tidal Zone AE special hazard area per FEMA FIRM 2400100465F dated 9/26/08. The proposed utility shed is 1800 square feet. Baltimore County Building Code dated 2015 Part 124.3 (3) prohibits accessory structures greater than 900 square feet. The Administrative Variance must be denied unless the structure size is reduced.

*

*

*

*

*

VKD: cen
cc: file

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

TO: Peter Gutwald, Director
Department of Permits, Approvals

FROM: Vishnu Desai, Supervisor
EPL for VKD
Bureau of Development Plans Review

SUBJECT: Zoning Advisory Committee Meeting
For April 17, 2023
Item No. 2023-0076-A

DATE: April 25, 2023

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

Prior to building permit application, the petitioner shall contact the Office of DPW&T, to determine the Flood Protection Elevation so that the floor elevation can be set

*

*

*

*

*

VKD: cen
cc: file

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

TO: Peter Gutwald, Director
Department of Permits, Approvals

DATE: April 25, 2023

FROM: Vishnu Desai, Supervisor
EFC for VKD
Bureau of Development Plans Review

SUBJECT: Zoning Advisory Committee Meeting
For April 17, 2023
Item No. 2023-0071-A, 0073-A, 0074-A, 0077-A & 0078-A

The Bureau of Development Plans Review has reviewed the subject zoning items and we have no comments.

*

*

*

*

*

VKD: cen
cc: file

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence



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: April 20, 2023

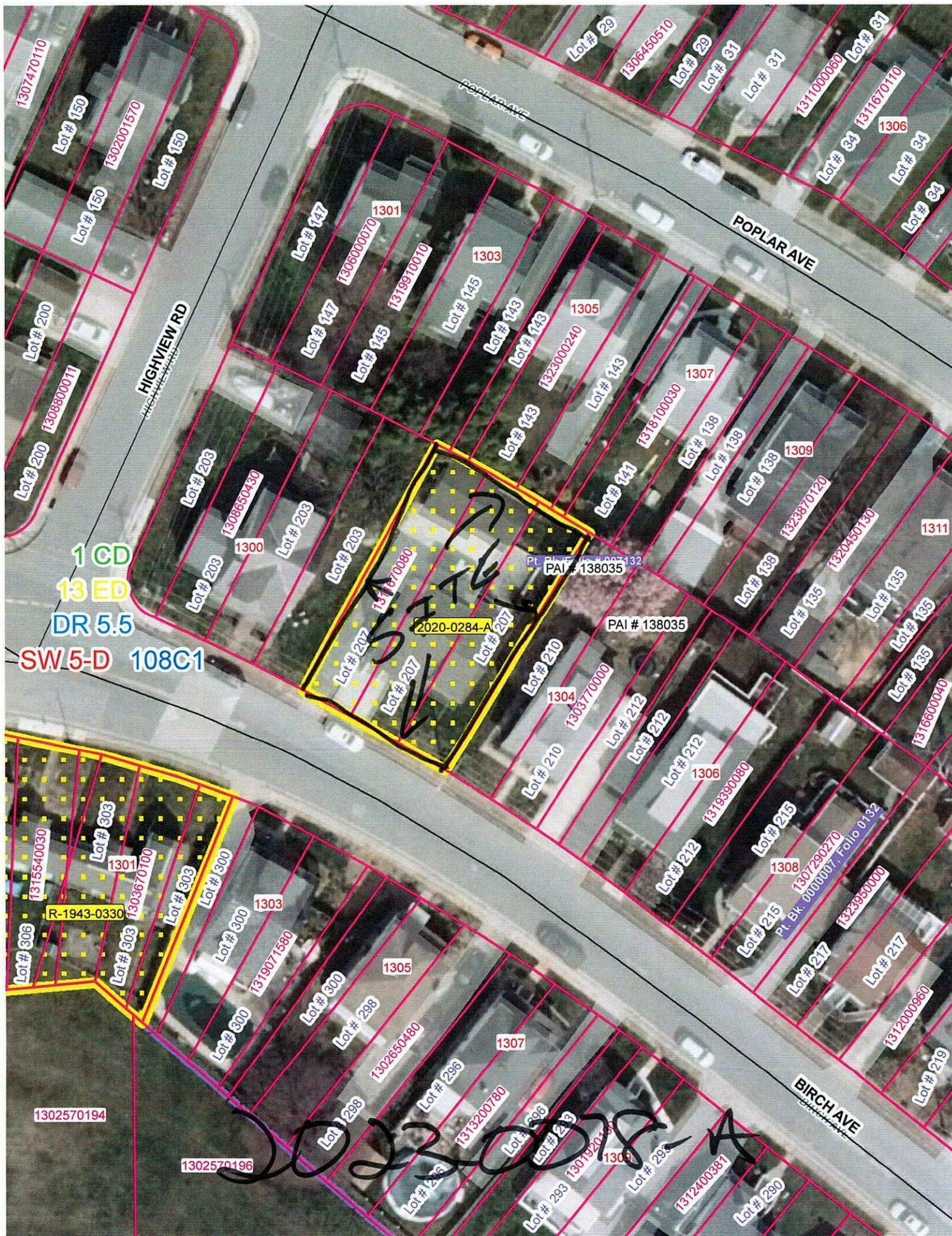
SUBJECT: DEPS Comment for Zoning Item # 2023-0078-A
Address: 1302 Birch Ave
Legal Owner: Jeffrey Warner

Zoning Advisory Committee Meeting of April 17, 2023.

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

Additional Comments:

Reviewer: Earl D. Wrenn



BALTIMORE COUNTY DEPARTMENT OF PERMITS, APPROVALS AND INSPECTIONS
ZONING REVIEW OFFICE

ADMINISTRATIVE VARIANCE INFORMATION SHEET AND DATES

Case Number: 2023 - 0078 -A Address 1302 Birch Ave

Contact Person: Christina Frank Phone Number: 410-887-3391
Planner, Please Print Your Name

Filing Date: 4-7-2023 Posting Date: 4-16-2023 Closing Date: 5-1-2023

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 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 a neighbor (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 Administrative Law Judge. The judge may: (a) grant the requested relief; (b) deny the requested relief; or (c) order that the matter be set in for a public hearing. If all County/State agencies' comments are received, you will receive written notification as to whether the petition has been granted, denied, or will proceed to a public hearing. This decision is usually made within 10 days of the closing date. The written 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 Administrative Law Judge), 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.

Petitioner: This Part of the Form is for the Sign Poster Only (Detach Along Dotted Line)

USE THE ADMINISTRATIVE VARIANCE SIGN FORMAT

Case Number: 2023 - 0078 -A Address 1302 Birch Ave

Petitioner's Name: Jeffrey Warner Telephone (Cell) 443-326-0759

Posting Date: 4-16-2023 Closing Date: 5-1-2023

Wording for Sign: To Permit an open projection (carport) on the left side of house with a setback of 4 inches
in lieu of minimum required 7.5 ft

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

No. 216069

Date: 4-7-2023

Fund	Dept	Unit	Sub Unit	Rev	Sub	Dept	Obj	BS	Acct	Amount
				Source/	Rev/					
001	806	000		6150						75.00

Total: 75.00

Rec
From:

2023-0078-A

For:

1302 Birch Ave

DE 5.5

DISTRIBUTION

WHITE - CASHIER

PINK - AGENCY

YELLOW - CUSTOMER

GOLD - ACCOUNTING

PLEASE PRESS HARD!!!!

CASHIER'S
VALIDATION

CP 23-0306



JEFFREY WARNER
1302 BIRCH AVENUE
HALETHORPE, MD 21227

1172

65-7675/2550

3/29/2023

Date

CHECK ARMOR
FRAUD PROTECTION

PAY to the
Order of

Baltimore County

\$ 75.00

seventy-five

00/100 Dollars



Photo
Safe
Deposit
Details on back

secu
LINTHICUM, MD 21090

For

Administrative Expenses

Jeffrey Warner

MP

A photograph of a two-story house with light-colored siding and a stone foundation. The house has a front porch with white railings and a small gabled roof. A gravel driveway leads to the house, and a paved sidewalk runs along the front. To the left, another house is partially visible. The sky is blue with scattered clouds. A text box is overlaid on the upper left portion of the image.

Carport would be attached to side of the house and extend over driveway to 4" from property line. A survey was conducted so accurate boundaries are known. After carport, driveway can be completed to finalize renovations.

2023-0078-A



Carport would be attached to side of the house and extend over driveway to 4" from property line. A survey was conducted so accurate boundaries are known. After carport, driveway can be completed to finalize renovations.

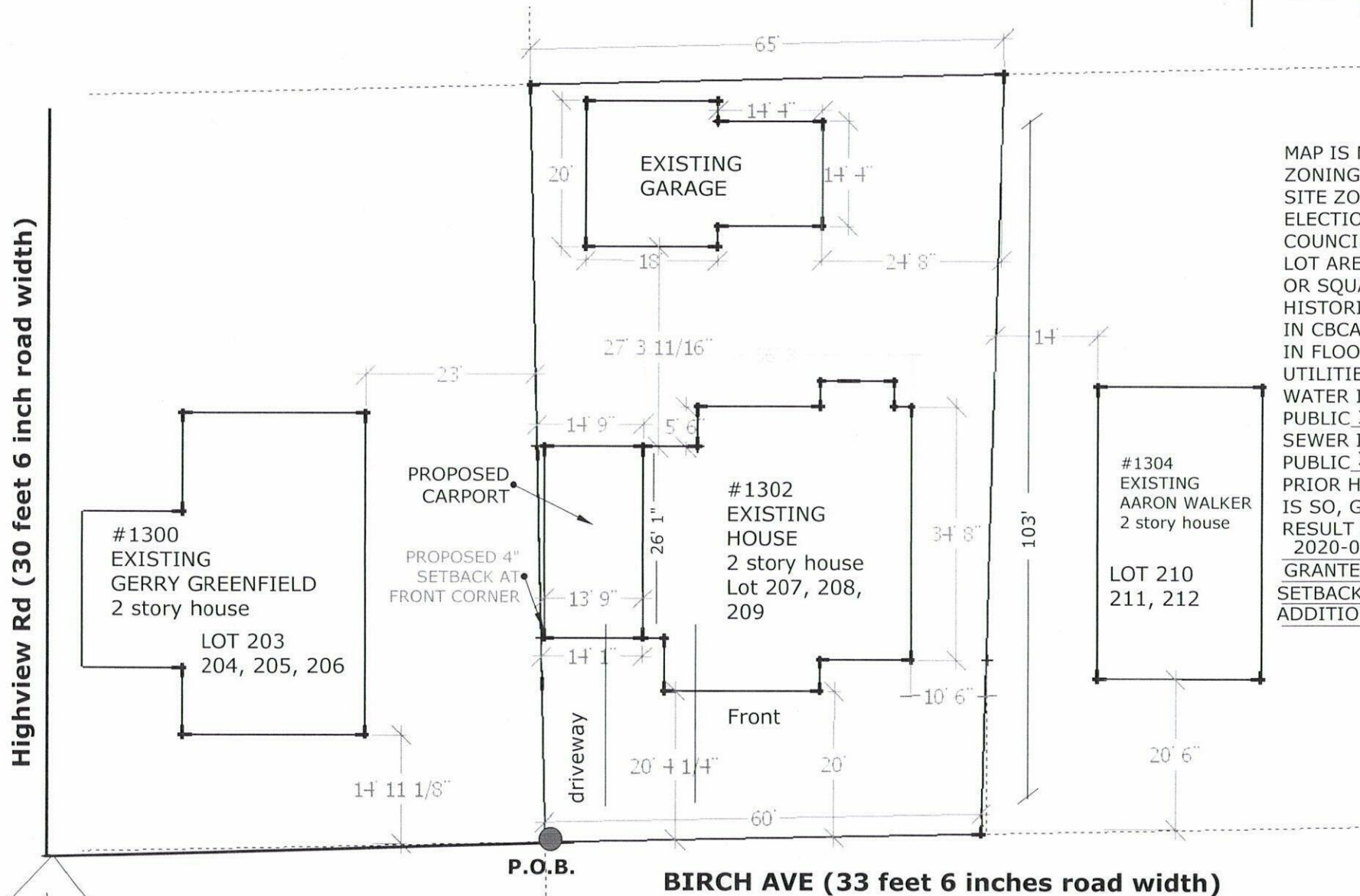
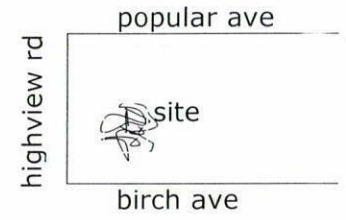
2023-0018-A

A photograph of a two-story house with a front porch and a gravel driveway. The house has light-colored siding and a stone base. A gravel driveway leads to a garage in the background. A text box is overlaid on the image.

Carport would be attached to side of the house and extend over driveway to 4" from property line. A survey was conducted so accurate boundaries are known. After carport, driveway can be completed to finalize renovations.

2023-0078-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#: _____ SECTION#: _____
 PLAT BOOK#: 7 FOLIO#: 132 10 DIGIT TAX#: 1311670080 DEED REF#: 19392/00205



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? YES
 IS SO, GIVE CASE # AND
 RESULT BELOW:
2020-0284-A
GRANTED FOR 4"
SETBACK FOR 2ND STORY
ADDITION

96 feet to Highview Rd C/L (dashed line)

DRAWN BY: JEFFREY WARNER

Date: 04/05/2023

Scale: 1 INCH = 20 FEET

2023-0078-A

Real Property Data Search ()
Search Result for BALTIMORE COUNTY

View Map	View GroundRent Redemption	View GroundRent Registration
Special Tax Recapture: None		
Account Identifier: District - 12 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 2022 0007/ 0132	
Town: None		
Primary Structure Built	Above Grade Living Area	Finished Basement Area
1948	1,824 SF	360 SF
		Property Land Area
		6,180 SF
County Use	04	
StoriesBasementType	Exterior	QualityFull/Half BathGarage
2 YES STANDARD UNITASBESTOS SHINGLE/4		3 full/ 1 half 1 Detached
Last Notice of Major Improvements		
Value Information		
	Base Value	Value
		As of
		01/01/2022
		Phase-in Assessments
		As of
		07/01/2022
		As of
		07/01/2023
Land:	57,300	76,100
Improvements	174,000	237,500
Total:	231,300	313,600
Preferential Land:	0	0
		258,733
		286,167
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	07/01/2022
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:		

2023-0078-A