



JOHN A. OLSZEWSKI, JR.
County Executive

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

May 26, 2023

Frederick John Dillon – fjdbpd50@yahoo.com
8622 Tall Oaks Road
Sparrows Point, MD 21219

RE: Petition for Administrative Variance
Case No. 2023-0091-A
Property: 8622 Tall Oaks Road

Dear Mr. Dillon:

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,


PAUL M. MAYHEW
Managing Administrative Law Judge
for Baltimore County

PMM:dlw
Enclosure

IN RE: PETITION FOR ADMIN. VARIANCE	*	BEFORE THE
(8622 Tall Oaks Road)		
15 th Election District	*	OFFICE OF ADMINISTRATIVE
7 th Council District		
Frederick John Dillon	*	HEARINGS FOR
	*	BALTIMORE COUNTY
Petitioner	*	CASE NO. 2023-0091-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 property, Frederick John Dillon (“Petitioner”). The Petitioner is requesting Variance relief pursuant to the Baltimore County Zoning Regulations (“BCZR”) § 400.1: To permit a proposed gazebo (accessory structure) to be located in the front yard in lieu of the rear yard. The subject property and requested relief is more fully depicted on the site plan that was marked and accepted into evidence as Petitioner’s Exhibit 1.

The Zoning Advisory Committee (“ZAC”) comments were received and are made part of the record of this case. A ZAC comment was received from the Department of Environmental Protection and Sustainability (“DEPS”), dated May 8, 2023 which will be incorporated in this Order.

The Petitioner having filed a Petition for Administrative Variance and the subject property having been posted on May 6, 2023, and May 22, 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 § 32-3-303 of the Baltimore County Code (“BCC”). Based upon the information available, there is no evidence in

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: May 8, 2023

SUBJECT: DEPS Comment for Zoning Item # 2023-0091-A
Address: 8622 TALL OAKS RD
Legal Owner: Frederick John Dillon

Zoning Advisory Committee Meeting of May 8, 2023.

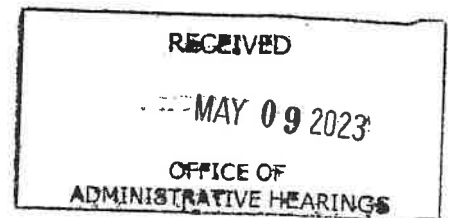
The Department of Environmental Protection and Sustainability (EPS) has reviewed the subject zoning petition for compliance with the goals of the State-mandated Critical Area Law listed in the Baltimore County Zoning Regulations; Section 500.14. Based upon this review, we offer the following comments:

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 is subject to Critical Area requirements. The applicant is seeking a special hearing to allow an accessory structure (gazebo) in the side yard instead of the rear yard. The proposed structure meets LDA requirements and the 15% afforestation requirement. The location is ideal, as it is more than 100 feet from tidal waters. Per Critical Area requirements, no structures are allowed within 100 feet of waterways without a variance from the State Critical Area Commission. Based on this, EPS has determined that adverse impacts on water quality from the pollutants discharged from the proposed development can be minimized with mitigation pursuant to Critical Area requirements.

2. Conserve fish, plant, and wildlife habitat.

This is a waterfront lot with a 100-foot Critical Area buffer extending onto the property from North Point Creek. The proposed structure will be located outside the Critical Area buffer in compliance with buffer regulations. Meeting buffer requirements, lot coverage



requirements, and the 15% afforestation requirement 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 proposed structure meets buffer, lot coverage, and afforestation requirements, this development will be consistent with established land-use policies.

Additional Comments:

Reviewer: Marie Brady

GH 23-0372



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 8622 TALL OAKS ROAD, SPARROWS POINT, MD Currently Zoned DR-S.5
Deed Reference 386441 / 00393 10 Digit Tax Account # 2200026122
Owner(s) Printed Name(s) FREDERICK JOHN DILLON

(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) 400.1 BCZL; To permit a proposed gazebo (accessory structure) located in the side yard in lieu of the required rear yard.

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):

FREDERICK JOHN DILLON
Name #1 – Type or Print Name #2 – Type or Print
[Signature]
Signature #1 Signature #2
8622 TALL OAKS RD., SPARROWS POINT, MARYLAND
Mailing Address City State
21219 / 443-602-1638 / fjd.bpd50@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:

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 2023-0091-A Filing Date 4/25/23 Estimated Posting Date 5/17/23 Reviewer GH
Closing 5/22/23 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: 8622 TALL OAKS ROAD SPARROWS POINT, MD 21219
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)**

The area available to place the gazebo is only in the side yard of my property. The back yard of the property is all water frontage on the North Creek. The gazebo can not be placed within the 100' from the water limitation. The other side yard is lined with trees and I do not wish to cut them down.

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

Signature of Owner (Affiant)

FREDERICK JOHN DILLON

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 17 day of APRIL, 2023, before me a Notary of Maryland, in and for the County aforesaid, personally appeared:

Print name(s) here: Frederick John Dillon

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

AS WITNESS my hand and Notaries Seal

Notary Public

My Commission Expires

2023-0091-A

Property Description

8622 Tall Oaks Road

Beginning at East side of Tall Oaks Road, which is about 20 +/- feet in width,
at a distance of 219 +/- feet North of Shore Road.

TAKEN FROM
TALL OAKS ROAD

2023-0091A

GH 23-0372



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:

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Deed Reference 386441 / 00393 10 Digit Tax Account # 2200026122
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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):

FREDERICK JOHN DILLON
Name #1 – Type or Print Name #2 – Type or Print
[Signature]
Signature #1 Signature #2
8622 TALL OAKS RD., SPARROWS POINT, MARYLAND
Mailing Address City State
21219 / 443-602-1638 / fjd.bpd50@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:

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 2023-0091-A Filing Date 4/25/23 Estimated Posting Date 5/17/23 Reviewer GH
Closing 5/22/23 Revised 8/2022

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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: 8622 TALL OAKS ROAD SPARROWS POINT, MD 21219
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)**

The area available to place the gazebo is only in the side yard of my property. The back yard of the property is all water frontage on the North Creek. The gazebo can not be placed within the 100' from the water limitation. The other side yard is lined with trees and I do not wish to cut them down.

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Signature of Owner (Affiant)

FREDERICK JOHN DILLON

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 17 day of APRIL, 2023, before me a Notary of Maryland, in and for the County aforesaid, personally appeared:

Print name(s) here: Frederick John Dillon

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Notary Public

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2023-0091-A

Property Description

8622 Tall Oaks Road

Beginning at East side of Tall Oaks Road, which is about 20 +/- feet in width,
at a distance of 219 +/- feet North of Shore Road.

TAKEN FROM
TALL OAKS ROAD

2023-0091A

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.

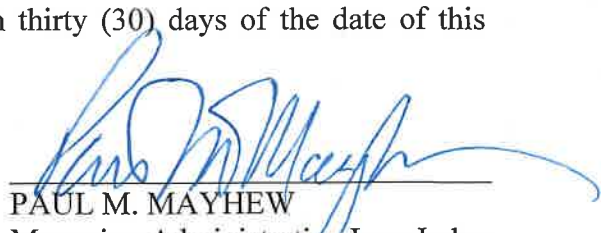
Pursuant to the posting of the property and the provisions of both the BCC and the BCZR, and for the reasons given above, the requested variance should be granted.

THEREFORE, IT IS ORDERED, this 26th day of **May, 2023**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance seeking relief from BCZR § 400.1: To permit a proposed gazebo (accessory structure) to be located in the front yard in lieu of the rear yard, be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

- 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.
- Petitioner must comply with the DEPS comment, dated May 8, 2023, which is attached hereto and made a part hereof.

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:dlw

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

TO: Peter Gutwald, Director
Department of Permits, Approvals

DATE: June 7, 2023

FROM:  Vishnu Desai, Supervisor
Bureau of Development Plans Review

SUBJECT: Zoning Advisory Committee Meeting
For May 8, 2023
Item No. 2023-0088-SPH

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

DPW&T Comments:

Lot Line adjustments are considered development according to county code. A riverine flood plain that meets the qualifications of a Baltimore County flows overland on the property. Based on Baltimore County Code 32-4-414, development in a riverine flood plain is prohibited. A riverine flood study based on ultimate land use conditions according to the Department of Permits, Approvals and Inspections Bureau of Development Plans Review (DPR) Policy Manual and DPW&T Design Manual must be submitted and "Accepted for Filing" by DPR before the approval of the Special Hearing.

* * * * *

VKD: cen
cc: file

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

TO: Peter Gutwald, Director

DATE: June 7, 2023

FROM: Vishnu Desai, Supervisor
Bureau of Development Plans Review

SUBJECT: Zoning Advisory Committee Meeting
For May 8, 2023
Item No. 2023-0089-SPH

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

DPW&T Comments:

Lot Line adjustments are considered development according to county code. A riverine flood plain that meets the qualifications of a Baltimore County flows overland on the property. Based on Baltimore County Code 32-4-414, development in a riverine flood plain is prohibited. A riverine flood study based on ultimate land use conditions according to the Department of Permits, Approvals and Inspections Bureau of Development Plans Review (DPR) Policy Manual and DPW&T Design Manual must be submitted and "Accepted for Filing" by DPR before the approval of the Special Hearing.

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VKD: cen

cc: file

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

TO: Peter Gutwald, Director
Department of Permits, Approvals

FROM:  Vishnu Desai, Supervisor
Bureau of Development Plans Review

SUBJECT: Zoning Advisory Committee Meeting
For May 8, 2023
Item No. 2023-0092-A

DATE: June 7, 2023

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

DPW&T Comments:

A riverine flood plain that meets the qualifications of a Baltimore County flows overland very close to the property. Based on Baltimore County Code 32-4-414, development in a riverine flood plain is prohibited. A riverine flood study based on ultimate land use conditions according to the Department of Permits, Approvals and Inspections Bureau of Development Plans Review (DPR) Policy Manual and DPWT Design Manual must be submitted and "Accepted for Filing" by DPR before the approval of the Administrative Variance for the addition. The proposed addition must also meet DPW&T Design Manual Plate DF-1.

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VKD: cen
cc: file

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

TO: Peter Gutwald, Director
Department of Permits, Approvals
VKD

DATE: June 7, 2023

FROM: Vishnu Desai, Supervisor
Bureau of Development Plans Review

SUBJECT: Zoning Advisory Committee Meeting
For May 8, 2023
Item No. 2023-0090-A, 0091-A, 0093-A

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

* * * * *

VKD: cen
cc: file



GAZEBO



TALL OAKS RD

2023-009-1-21

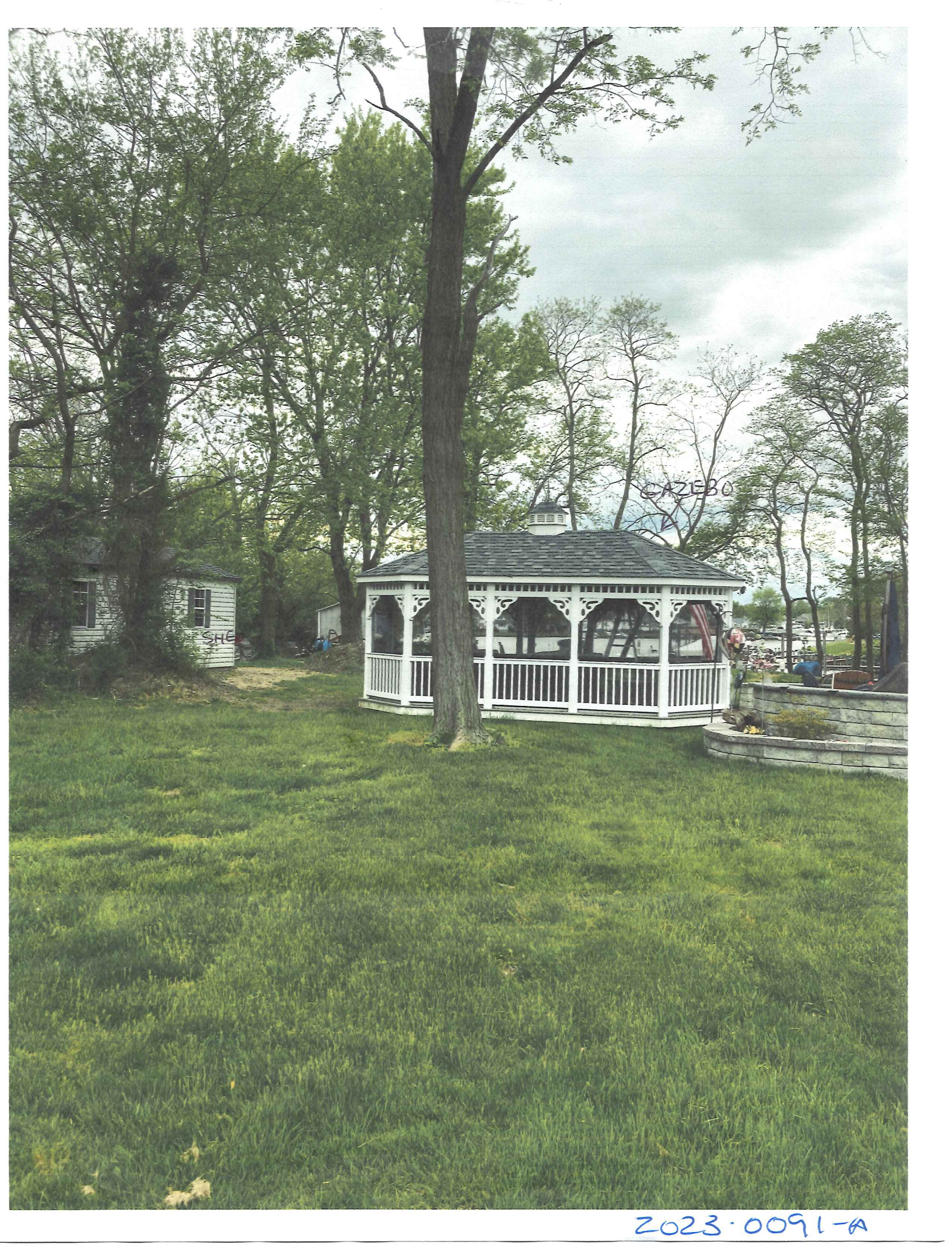


SHORE ROAD
TALL OAKS ROAD

2023-6091-A



2023-009110



2023-0091-A



GAZEBO



TALL OAKS RD

2023-009121

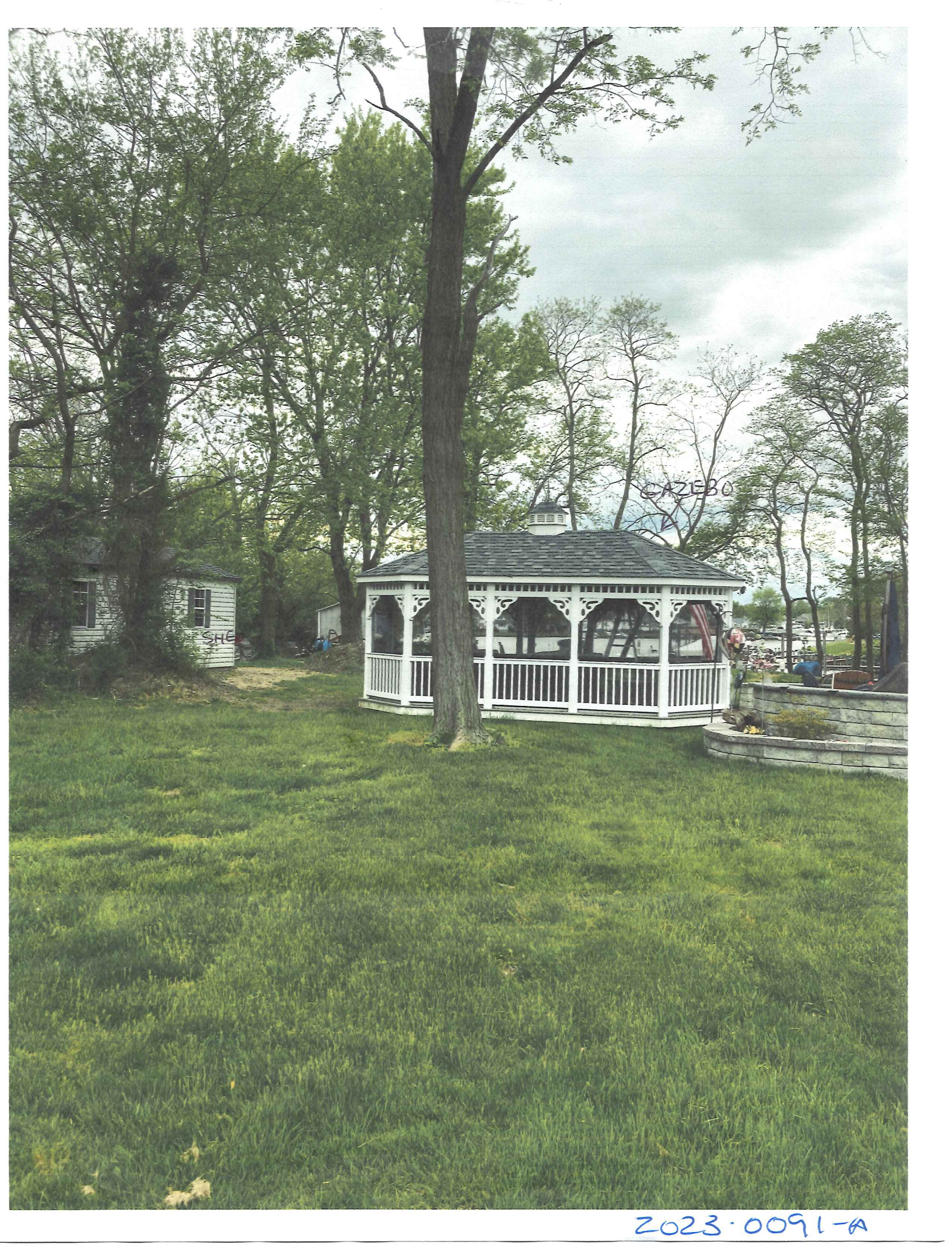


SHORE ROAD
TALL OAKS ROAD

2023-6091-A

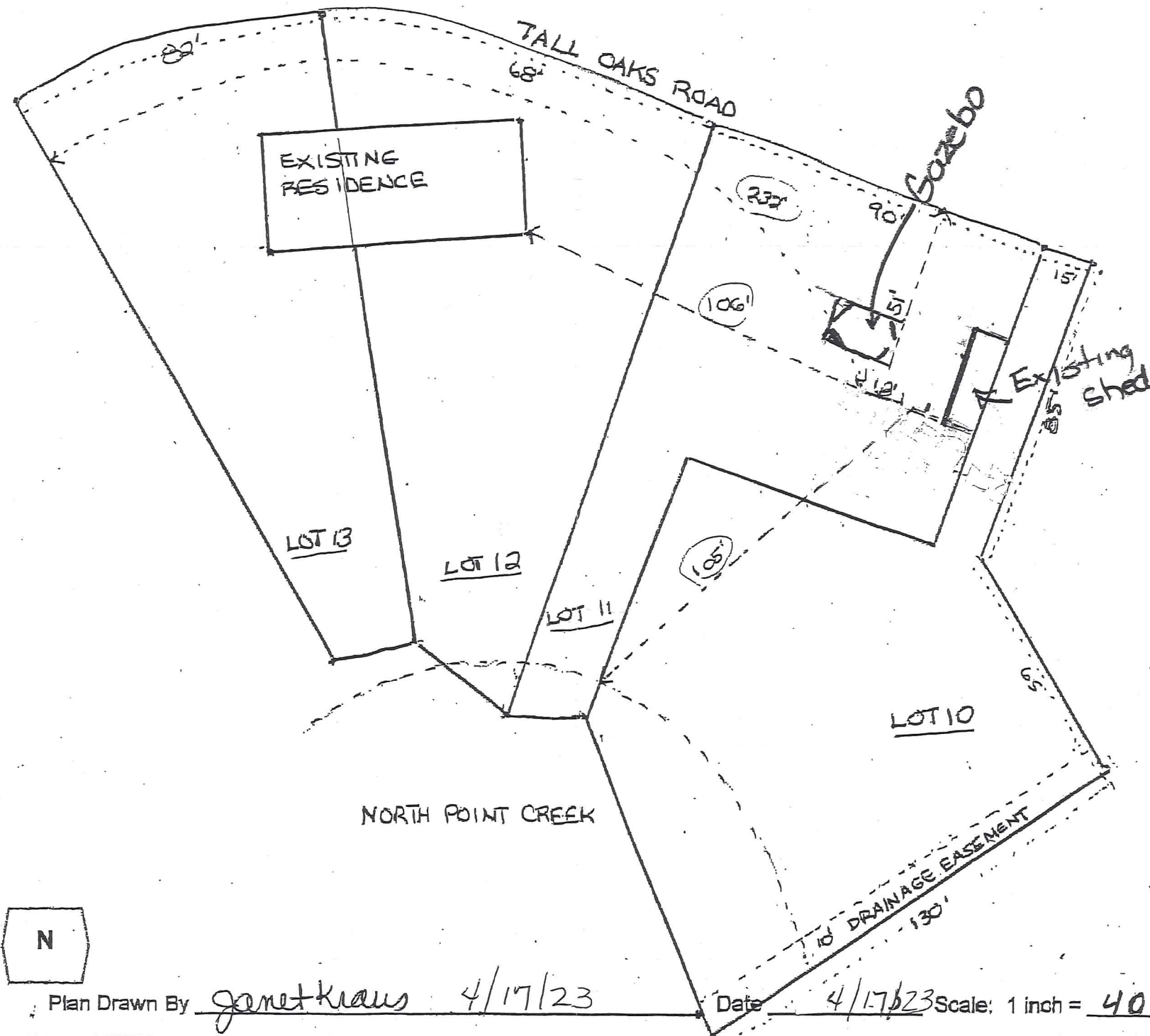


2023-009110



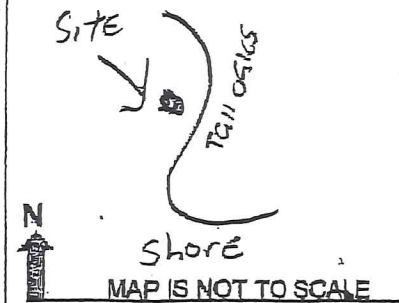
2023-0091-A

Zoning Hearing Plan for Variance _____ for Special Hearing _____ Mark Type Requested with (X)
Address 8422 TALL OAKS ROAD, SPARROWS POINT MO 63119 Owners(s) Name(s) FREDERICK JOHN DILLON
Subdivision Name ELSTANN VILLAGE Lot # 10-13 Block # A & B Section # 1
Plat Book # 41-46 Folio # 0393 10 Digit Tax # 2200026122 Deed Reference # 38644100393



Plan Drawn By Janet Kraus 4/17/23 Date 4/17/23 Scale: 1 inch = 40' Feet

Site Vicinity Map



Zoning Map # 0111C3
Zoning DR-5.5
Election District 15
Council District 7
Lot Area Acreage 1.08
Lot Square Footage 47044.8
Historic (Yes or No) NO
CBCA (Yes or No) YES
Flood Plain (Yes or No) NO
Utilities - Mark with (X)
Water is:
Public X Private _____
Sewer is:
Public X Private _____
Prior Hearing (Yes or No) NO
If (Yes) list Case Number(s)
and order result(s) below:

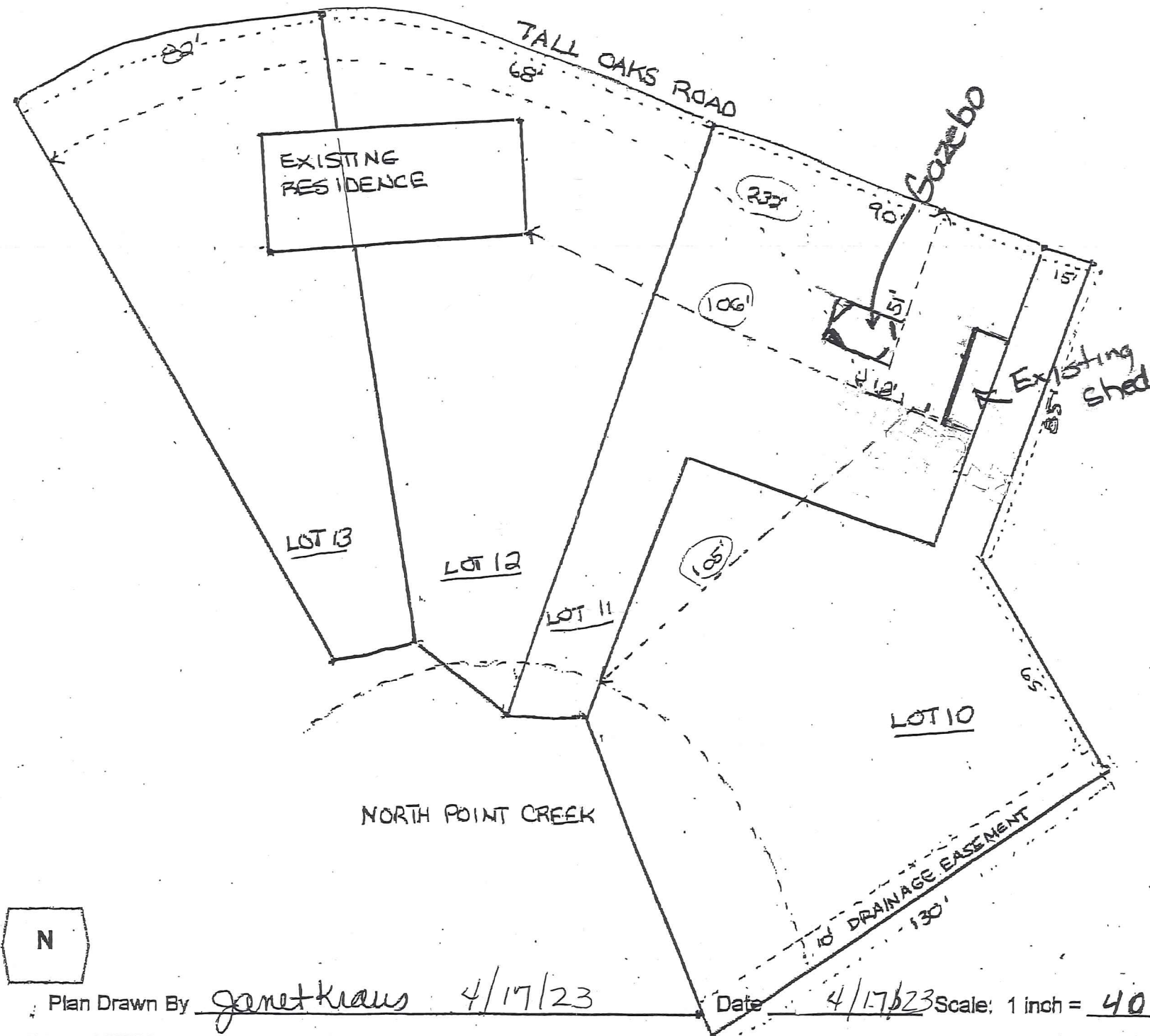
2023-0013-A

Violation Case Number(s)

NA

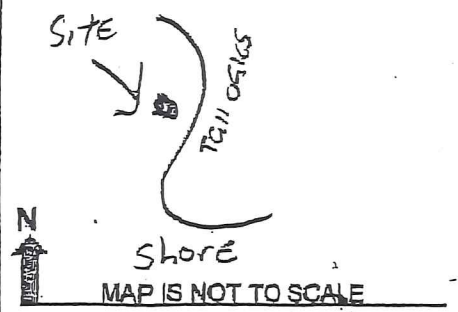
2023-0091-A

Zoning Hearing Plan for Variance _____ for Special Hearing _____ Mark Type Requested with (X)
Address 8422 TALL OAKS ROAD, SPARROWS POINT MO 63119 Owners(s) Name(s) FREDERICK JOHN DILLON
Subdivision Name ELSTANN VILLAGE Lot # 10-13 Block # A & B Section # 1
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Plan Drawn By Janet Kraus 4/17/23 Date 4/17/23 Scale: 1 inch = 40' Feet

Site Vicinity Map



Zoning Map # 0111C3
Zoning DR-5.5
Election District 15
Council District 7
Lot Area Acreage 1.08
Lot Square Footage 47044.8
Historic (Yes or No) NO
CBCA (Yes or No) YES
Flood Plain (Yes or No) NO
Utilities - Mark with (X)
Water is:
Public X Private _____
Sewer is:
Public X Private _____
Prior Hearing (Yes or No) NO
If (Yes) list Case Number(s)
and order result(s) below:

2023-0013-A

Violation Case Number(s)
NA

2023-0091-A