



JOHN A. OLSZEWSKI, JR.
County Executive

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

July 13, 2023

Kenneth C. and Elaine Nowakowski – seahunt232@netzero.net
1615 Holly Tree Road
Middle River, MD 21220

RE: Petition for Administrative Variance
Case No. 2023-0132-A
Property: 1615 Holly Tree Road

Dear Petitioners:

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.

MAUREEN E. MURPHY
Administrative Law Judge
for Baltimore County

MEM:dlw
Enclosure

c: Rick Richardson – rick@richardsonengineering.net

IN RE: PETITION FOR ADMIN. VARIANCE	*	BEFORE THE
(1615 Holly Tree Road)		
15 th Election District	*	OFFICE OF ADMINISTRATIVE
5 th Council District		
Kenneth C. & Elaine Nowakowski	*	HEARINGS FOR
	*	BALTIMORE COUNTY
Petitioners	*	CASE NO. 2023-0132-A

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (“OAH”) as a Petition for Administrative Variance filed by the legal owners of the property, Kenneth C. and Elaine Nowakowski (“Petitioners”) for the property located at 1615 Holly Tree Road, Middle River, Maryland (the “Property”). The Petitioners are requesting Variance relief from the Baltimore County Zoning Regulations (“BCZR”), §§ 400.1 and 400.3: To permit an accessory structure in the side yard and in an area other than the third furthest portion of the lot on a corner lot, and to permit an accessory structure with a height of 21 ft. in lieu of the permitted 15 ft. The Property is more fully depicted on the site plan which was marked and accepted into evidence as Petitioners’ Exhibit 1. Street view photographs of the Property were provided. (Pet. Ex. 2). Building elevations of the proposed garage and attached carport were submitted. (Pet. Ex. 3). A Zoning Advisory Committee (“ZAC”) comment was received from Development Plans Review (“DPR”) in regard to the floodplain.

The Petitioners having filed a Petition for Administrative Variance and the Property having been posted on June 24, 2023 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 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 Petitioners. 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.

Although the Department of Planning did not make any recommendations related to the detached garage, I will impose conditions that the detached garage shall not be converted into a dwelling unit or apartment, shall not contain any sleeping quarters, living area, kitchen or bathroom facilities, and will not have separate electric or utility connections, or used for commercial purposes. The DPR ZAC comment will also be incorporated into this Order.

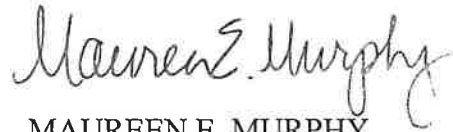
Pursuant to the posting of the Property and the provisions of both the BCC and the BCZR, and for the reasons given above, the requested variance should be granted.

THEREFORE, IT IS ORDERED, this 13th day of **July, 2023**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance relief from the Baltimore County Zoning Regulations ("BCZR"), §§400.1 and 400.3: To permit an accessory structure in the side yard and in an area other than the third furthest portion of the lot on a corner lot, and to permit an accessory structure with a height of 21 ft. in lieu of the permitted 15 ft., be and it is hereby, **GRANTED.**

The relief granted herein shall be subject to the following:

1. Petitioners may apply for their appropriate permits and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, Petitioners would be required to return, and be responsible for returning, said property to its original condition.
2. Petitioners and subsequent owners shall not convert the detached garage into a dwelling unit or apartment. The detached garage shall not contain any sleeping quarters, living area, bathroom facilities or kitchen facilities.
3. The detached garage shall not have a separate utility or electric connection and shall connect all electrical to the home.
4. The detached garage shall not be used for commercial or industrial purposes.
5. Petitioners shall comply with the DPR ZAC comment which is attached hereto and incorporated herein.

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



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 Law of Baltimore County for the property located at:

Address 1615 Holly Tree Road which is presently zoned RC-5

Deed Reference 19246/ 101 10 Digit Tax Account # 1520200030

Property Owner(s) Printed Name(s) Kenneth C. and Elaine Nowakowski

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

Administrative Variances require that the Affidavit on the reverse of this Petition Form be completed / notarized.

The undersigned legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a

1. ☒ **ADMINISTRATIVE VARIANCE** from section(s) 400.1 to permit an accessory structure in the side yard and in an area other than the 1/3 furthest portion of the lot on a corner lot, and section 400.3 to permit an accessory structure of 21' in lieu of the permitted 15'.

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

2. ☐ **ADMINISTRATIVE SPECIAL HEARING** to approve a waiver pursuant to Sections 32-4-107(b), 32-4-223.(8), and Section 32-4- 416(a)(2): (indicate type of work in this space 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, 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:

Kenneth C. Nowakowski / Elaine Nowakowski

Name #1 – Type or Print Name #2 – Type or Print

[Signature] / [Signature]

Signature #1 Signature #2

1615 Holly Tree Road Baltimore MD

Mailing Address City State

21220-4432 / 410-913-3813 / seahunt232@netzero.net

Zip Code Telephone # Email Address

Representative to be contacted:

Richardson Engineering, LLC Rick Richardson

Name – Type or Print

[Signature]

Signature

7 Deneison Street Timonium MD

Mailing Address City State

21093 / 410-560-1502 / rick@richardsonengineering.net

Zip Code Telephone # Email Address

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

Administrative Law Judge of Baltimore County

CASE NUMBER 2023-0132-A Filing Date 6/12/23 Estimated Posting Date 6/25/23 Reviewer gn

Rev 10/12/11

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 to the Administrative Law Judge of Baltimore County, the following: That the information herein given is within the personal knowledge of the Affiant(s) and that the Affiant(s) is/are competent to testify thereto in the event that a public hearing is scheduled in the future with regard thereto.

That the property is not under an active zoning violation citation and Affiant(s) is/are the resident home owner(s) of this residential lot, or is/are the contract purchaser(s) of this residential lot, who will, upon purchase, reside at the existing dwelling on said property located at:

Address: 1615 Holly Tree Road Baltimore MD 21220
Print or Type Address of property City State Zip Code

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

The proposed garage is going to be constructed in the same location as an existing structure that burned down on the property. The location cannot be in the 1/3 of the lot furthest from the side road because of large trees and other structures already in that location. The garage is being constructed with a second floor so that it will allow for storage of materials to be out of the floodplain and a higher first floor ceiling height for storage of a boat on a trailer in the carport area. The garage will not be used for living space and there will not be any utilities installed in the building.

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

Kenneth C. Nowakowski
Signature of Affiant

Kenneth C. Nowakowski
Name- Print or Type

Elaine Nowakowski
Signature of Affiant

Elaine Nowakowski
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 14 day of May, 2023, before me a Notary of Maryland, in and for the County aforesaid, personally appeared

Kenneth Nowakowski and Elaine Nowakowski
the Affiant(s) herein, personally known or satisfactorily identified to me as such Affiant(s) (Print name(s) here)

AS WITNESS my hand and Notaries Seal

Elaine Nowakowski

Notary Public

12/15/2026

My Commission Expires

EMMA NUKOLCZAK
NOTARY PUBLIC - MARYLAND
BALTIMORE COUNTY
COMMISSION EXPIRES 12-15-2026



Richardson
ENGINEERING

CIVIL | COMMERCIAL
RESIDENTIAL
INDUSTRIAL

RICHARDSON ENGINEERING, LLC.
7 DENEISON ST. | TIMONIUM, MD 21093
410-560-1502 | RICHARDSONENGINEERING.NET

**ZONING PROPERTY DESCRIPTION FOR
1615 HOLLY TREE ROAD
15th ELECTION DISTRICT
5th COUNCILMANIC DISTRICT
BALTIMORE COUNTY, MARYLAND**

Located on the East side of Holly Tree Road 0' South of the intersection of Holly Tree Road and Burke Road. Being Lots #95 and 96 as shown on the plat of "Plat No. 3, Plat of Bowley's Quarters", which is recorded among the land records of Baltimore County in Plat Book W.H.M. No. 9, Folio 56.

Containing a net area of 31,500 square feet or 0.72 acres +/-.



PROFESSIONAL CERTIFICATION:

I HEREBY CERTIFY THAT THESE DOCUMENTS WERE
PREPARED OR APPROVED BY ME, AND THAT I AM A DULY
LICENSED PROFESSIONAL ENGINEER UNDER THE LAWS OF
THE STATE OF MARYLAND. LICENSE NUMBER 16597,
EXPIRATION DATE: 08-15-2023

2023-0132-A

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

TO: Peter Gutwald, Director
Department of Permits, Approvals

FROM: *MSL*
Vishnu Desai, Supervisor
Bureau of Development Plans Review

SUBJECT: Zoning Advisory Committee Meeting
For June 20, 2023
Item No. 2023-0132-A

DATE: June 30, 2023

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

DPW&T Comments:

- A) The entire property is within the Tidal Special Flood Hazard Area Zone AE (BFE=8.5) per panel FIRM 2400100445F dated 9/26/08. Must comply with Flood Plain Ordinance, See County Bill 40-15 (the latest edition of the Baltimore county Code) and Bill 42-15, and Section 32-4-414 of Article 32, Title 4 of the Baltimore County Code, 2003, as amended. The proposed accessory structure is located to the landward side of the LIMWA as shown on FIRM 2400100445G dated 5/5/14 as amended by LOMR 19-03-1117P effective 7/29/2019 and LOMR 19-03-1183P effective 12/31/19.
- B) The proposed accessory structure, 896 square feet states on plan submitted, is located in a tidal Zone AE special hazard area per FEMA FIRM 2400100445F dated 9/26/08. Baltimore County Building Code dated 2015 Part 124.5 (2) requires a non-conversion agreement or recorded declaration of land restrictions. The Administrative Variance can be approved but a condition should be included requiring a non-conversion agreement or recorded declaration of land restriction.

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: July 17, 2023

SUBJECT: DEPS Comment for Zoning Item # 2023-0132-A
Address: 1615 HOLLY TREE RD
Legal Owner: Kenneth & Elaine Nowakowski

Zoning Advisory Committee Meeting of July 3, 2023.

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 approval to permit an accessory structure in the side yard and in an area other than the 1/3 furthest portion of the lot on a corner lot. In addition, the applicant seeks approval to construct an accessory structure 21 feet in height in the lieu of the permitted 15 feet. The proposed accessory structure is a garage that will replace an existing garage that burned down. Based on the site plan, the proposed garage will be the same size and in the same location as the previous garage. As a result, it appears the proposed development will not add any additional lot coverage. The proposed development must meet LDA requirements and the 15% afforestation requirement. If the proposed development can comply with the lot coverage restrictions and the 15% afforestation requirement, the relief requested can result in minimal adverse impacts to water quality.

2. Conserve fish, plant, and wildlife habitat;

This non-waterfront property includes lawn area and scattered trees. All Critical area buffer, lot coverage, and afforestation requirements must be met for any proposed development. Meeting these requirements can help conserve fish, plant, and wildlife habitat in the Chesapeake Bay.

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 development can be designed to meet the Critical Area buffer, lot coverage, and afforestation requirements, the relief requested will be consistent with established land-use policies.

Reviewer: Gris Batchelder

CERTIFICATE OF POSTING

2023-0132-A

RE: Case No.: _____

Petitioner/Developer: _____

Kenneth & Elaine Nowakowski

July 10, 2023

Date of Hearing/Closing: _____

Baltimore County Department of
Permits, Approvals and Inspections
County Office Building, Room 111
111 West Chesapeake Avenue
Towson, Maryland 21204

Attn: Kristen Lewis:

Ladies and Gentlemen:

This letter is to certify under the penalties of perjury that the necessary sign(s) required by law were posted conspicuously on the property located at: _____

1615 Holly Tree Road ***SIGN 1***

June 24, 2023

The sign(s) were posted on _____
(Month, Day, Year)



Sincerely,

 **June 24, 2023**
(Signature of Sign Poster) (Date)

SSG Robert Black

(Print Name)

1508 Leslie Road

(Address)

Dundalk, Maryland 21222

(City, State, Zip Code)

(410) 282-7940

(Telephone Number)



View from Holly Tree Road to garage behind and trees in the area



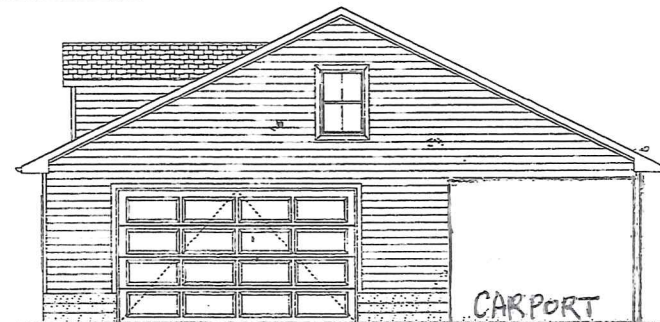
View from Burke Road to garage on left before it was damaged.



REAR ELEVATION - 1/4" = 1'-0"



LEFT SIDE ELEVATION - 1/4" = 1'-0"



RIGHT SIDE ELEVATION - 1/4" = 1'-0"



FRONT ELEVATION - 1/4" = 1'-0"

DAVID M. CROSS
PROFESSIONAL BUILDING DESIGNER
1837-B GLEN COVE ROAD
DARLINGTON, MARYLAND 21034



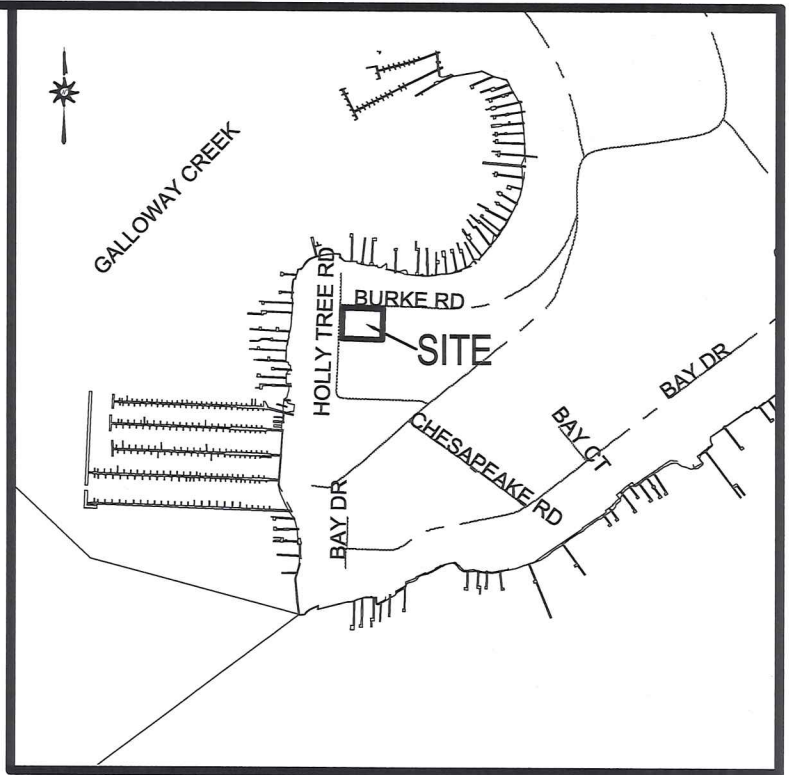
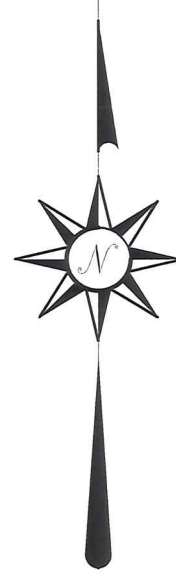
GARAGE FIRE RESTORATION:
1615 HOLLY TREE ROAD
MIDDLE RIVER, MARYLAND

PROGRESS
PRELIMINARY
PLANS

DATE
November 06, 2022

SHEET
A-1

2023-0132-A



VICINITY MAP

SCALE: 1" = 1000'

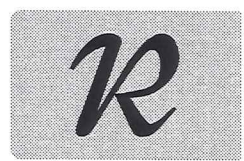
GENERAL NOTES:

OWNER: KENNETH C. NOWAKOWSKI
ELAINE NOWAKOWSKI
1615 HOLLY TREE RD
BALTIMORE MD 21220-4432

1. SITE AREA:
NET: 33,600 Sq.Ft. or 0.77 Ac.±
GROSS: 38,150 Sq.Ft. or 0.90 Ac.±
2. EXISTING BUILDING AREA: 2,568 Sq.Ft.
3. UTILITIES
PUBLIC SEWER
4. DEED REF: 19246/101
5. TAX ACCOUNT: 1520200030
6. COUNCILMANIC DISTRICT: 5TH
7. REGIONAL PLANNING DISTRICT: WINDLASS
8. CENSUS TRACT: 4518.02
9. WATERSHED: MIDDLE RIVER
10. EXISTING ZONING: RC 5
11. TAX MAP #98, GRID #11, PARCEL #16, PLAT #9/56, LOT #95.96
12. PRIOR PERMITS ON FILE: B691311 RAZE SFD, TO BE TORN DOWN, PERMIT EXPIRES 90 DAYS FROM DATE OF ISSUE, ISSUED MAY 12, 2008.
B691312 CONSTRUCT SFD, 2-STORY WITH UNFINISHED GROUND FLOOR, 3-BEDROOMS WITH BONUS ROOM, FRONT COVERED WRAP-AROUND PORCH, REAR COVERED SCREENED PORCH, 2 FIREPLACES, ISSUED JUNE 6, 2008.
13. THE SITE DOES LIE WITHIN THE CHESAPEAKE BAY CRITICAL AREA
14. SOME OF THIS SITE LIES WITHIN ZONE AE (S EL) ON AS SHOWN ON FLOOD INSURANCE RATE MAP (FIRM) PANEL 240010045G, DATED MAY 5, 2014.
15. THERE ARE NO HISTORIC FEATURES ON SITE NOR IS THE SITE ITSELF HISTORIC.
16. BASIC SERVICE MAPS (2022)

TYPE	DEFICIENT	(Y/N)	NOTE
WATER	N		
SEWER	N		
TRANSPORTATION	N		
17. PREVIOUS ZONING CASES ON FILE: 2021-0198-SPHA TO APPROVE A LOT LINE ADJUSTMENT BETWEEN THE TWO RECORDED AND SEPARATELY TAXED ADJACENT LOTS IN COMMON OWNERSHIP. PETITION REQUEST 2 TO PERMIT A MINIMUM FRONT YARD SETBACK OF 30 FT IN LIEU OF THE RC 5 FRONT SETBACK OF "AT LEAST 75 FT FROM THE CENTER LINE OF ANY OTHER STREET OR ROAD, AND AT LEAST 50 FT FROM ANY LOT LINE OTHER THAN A STREET LINE." TO PERMIT THE SUM OF THE SIDE YARDS TO BE A MINIMUM OF 25 FT IN LIEU OF SETBACK OF "AT LEAST 50 FT FROM ANY LOT LINE OTHER THAN A STREET LINE." TO PERMIT A REAR YARD SETBACK TO BE A MINIMUM OF 45 FT IN LIEU OF A SETBACK OF "AT LEAST 50 FT FROM ANY LOT LINE OTHER THAN A STREET LINE." TO PERMIT A LOT OF AREA OF 0.289 AC +/- IN LIEU OF "A LOT HAVING AN AREA OF LESS THAN 1.5 AC MAY NOT BE CREATED IN AN RC 5 ZONE. THE MAXIMUM GROSS RESIDENTIAL DENSITY IS 0.5 DWELLING PER ACRE." ADDITIONAL ITEMS RELATED HERETO AS MAY BE PRESENTED AT THE HEARING OF THIS PETITION.			
18. SETBACKS FOR RC 5			
TYPE	REQUIRED	PROVIDED	
FRONT(WATERSIDE)	75' FROM CL OF RD	77'±	
SIDE	50'	59'±	
REAR	50'	52'±	
19. USE			
EXISTING: RESIDENTIAL			
PROPOSED: RESIDENTIAL			

AREAS:
EXISTING-
DWELLING = 2,177 SQ.FT.
SHEDS = 390 SQ.FT.
DRIVEWAY = 3,741 SQ.FT.
WALK = 265 SQ.FT.
TOTAL = 6,573 SQ.FT.
PROPOSED:
DWELLING = 2,177 SQ.FT.
SHEDS = 390 SQ.FT.
DRIVEWAY = 3,741 SQ.FT.
WALK = 265 SQ.FT.
GARAGE = 1,280 SQ.FT.
TOTAL = 7,853 SQ.FT.
LOT COVERAGE:
EXISTING = 6,573 SQ.FT. / 33,600 X 100 = 19.56%
PROPOSED = 7,853 SQ.FT. / 33,600 X 100 = 23.37%
COVERAGE IN BUFFER:
EXISTING: DWELLING: 0 SQ.FT.
PROPOSED: DWELLING: 0 SQ.FT.



Richardson
ENGINEERING

7 Deneison Street
Timonium, Maryland 21093
Phone: 410-560-1502, info@richardsonengineering.net

PLAN TO ACCOMPANY A ZONING PETITION
FOR
NOWAKOWSKI RESIDENCE
REPLACEMENT GARAGE
1615 HOLLY TREE ROAD

BALTIMORE COUNTY
15H ELECTION DISTRICT

MARYLAND
5TH COUNCILMANIC DISTRICT

REVISIONS	DRAWN BY:	CHECKED BY:	SCALE:
	LNR	PCR	1" = 20'
	DATE:	JOB NO.:	SHEET NO.:
	05-18-23	23070	1 OF 1

2623-0132-0