

JOHN A. OLSZEWSKI, JR. County Executive

MAUREEN E. MURPHY
Chief Administrative Law Judge
ANDREW M. BELT
Administrative Law Judge
DEREK J. BAUMGARDNER
Administrative Law Judge

December 18, 2023

Allen Lee Himes, Jr. – <u>ahimes86@comcast.net</u> 1607 Bowleys Quarters Road Baltimore, MD 21220

RE:

Petition for Administrative Variance

Case No. 2023-0166-A

Property: 1607 Bowleys Quarters Road

Dear Mr. Himes:

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,

MAUREEN E. MURPHY
Chief Administrative Law Judge

Mauren E. Hurphy

for Baltimore County

MEM:dlw Enclosure

c: Rick Richardson - rick@richardsonengineering.net

IN RE: PETITION FOR ADMIN. VARIANCE * BEFORE THE

(1607 Bowleys Quarters Road)

15th Election District * OFFICE OF ADMINISTRATIVE

5th Council District
Allen Lee Himes, Jr. * HEARINGS FOR

* BALTIMORE COUNTY

Petitioner * CASE NO. 2023-0166-A

* * * * * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings ("OAH") as a Petition for Administrative Variance filed by the legal owner of the property, Allen Lee Himes, Jr. ("Petitioner") for the property located at 1607 Bowleys Quarters Road, Middle River (the "Property"). The Petitioner is requesting Variance relief from the Baltimore County Zoning Regulations ("BCZR"), § 400.3, to permit an accessory structure of 24 ft. height in lieu of the permitted 15 ft. height.

The Property is more fully depicted on the site plan which was marked and accepted into evidence as Petitioner's Exhibit 1. Street view photographs of the Property were provided. (Pet. Exs. 2A-2C). A ZAC comment was received from the Department of Environmental Protection and Sustainability ("DEPS") dated September 1, 2023, indicating that the Property is subject to certain environmental regulations. In addition, a ZAC comment was received from the Bureau of Development Plans Review ("DPR")/Department of Public Works and Transportation ("DPWT") dated August 28, 2023, indicating that the proposed garage is located in a tidal Zone AE hazard area, and the Administrative Variance must be denied unless the structure is reduced.

As a result of the ZAC comments, Petitioner, through his engineer, Patrick Richardson, PE of Richardson Engineering, reduced the size of the garage to 900 sf. A redlined Site Plan was

submitted showing those changes. (Pet. Ex. 1A).

The Petitioner having filed a Petition for Administrative Variance and the Property having been posted on August 20, 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 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.

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. Additionally, both the DPR/DPWT and DEPS ZAC comments will be attached and must be met prior to permitting.

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 <u>18th</u> day of <u>December</u>, <u>2023</u>, by the Administrative Law Judge for Baltimore County, that the Petition for Variance relief from the Baltimore County

Zoning Regulations ("BCZR"), § 400.3, to permit an accessory structure of 24 ft. height in lieu of the permitted 15 ft. height, be and is hereby, **GRANTED.**

The relief granted herein shall be subject to the following:

- 1. Petitioner may apply for his appropriate permits and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at his 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.
- 2. Petitioner 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. Prior to permitting, Petitioner must comply with the DPR/DPWT dated August 28, 2023, and DEPS ZAC comments dated September 1, 2023, copies of which are attached hereto and made a part hereof.
- 6. The redlined Site Plan (Pet. Ex. 1A) is attached hereto and incorporated herein in its entirety.

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

MAUREEN E. MURPHY

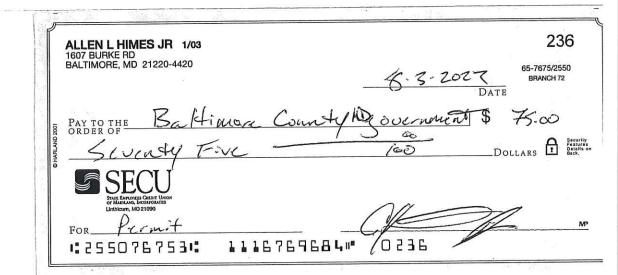
Chief Administrative Law Judge

Mauren E. Hurphy

for Baltimore County

MEM:dlw

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BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

TO:

Peter Gutwald, Director

DATE: August 28, 2023

Department of Permits, Approvals

FROM:

Vishnu Desai, Supervisor

Bureau of Development Plans Review

SUBJECT:

Zoning Advisory Committee Meeting

For August 28, 2023 Item No. 2023-0166-A

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

DPW&T Comments:

- A) The proposed 30' x 40' garage is located in a tidal Zone AE special hazard area per FEMA FIRM 2400100445F dated 9/26/08. The proposed garage is 1200 square feet. Baltimore County Building Code dated 2015 Part 124.3 (3) prohibits accessory structures greater than 900 square feet in a special flood hazard area. The Administrative Variance must be denied unless the structure size is reduced.
- B) The 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 LiMWA is not on the property.

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence



SEP - 1 2023

OFFICE OF ADMINISTRATIVE HEARINGS

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:

September 1, 2023

SUBJECT:

DEPS Comment for Zoning Item

2023-0166-A

Address:

1607 BOWLEYS QUARTERS RD

Legal Owner: Allen Lee Himes, Jr.

Zoning Advisory Committee Meeting of August 28, 2023.

EPS has reviewed the subject zoning petition for compliance with the goals of the Statemandated Critical Area Law listed in the Baltimore County Zoning Regulations, Section 500.14. Based upon this review, we offer the following comments:

 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 property is located within a Limited Development Area (LDA) and is subject to Critical Area requirements. Critical Area lot coverage (defined in State of Maryland Natural Resources Article §8-1802(a)(17)) is limited to 15% (6,391 square feet). According to the plan, the lot coverage exceeds the allowance and would exceed the allowance by a greater amount without the removal of existing lot coverage. Also, file information and mapped soils on and near the property indicate that wetland areas may exist on or near the property. No stream/wetland delineation has been received to evaluate the property for environmental constraints, including any required Critical Area buffer. While the height of the proposed structure is not an issue for this office, the size and the location of the structure must comply with all Critical Area requirements. Without an approved stream, wetland, and buffer delineation, or any required Critical Area variance review, it cannot be determined that the proposed structure will result in minimal adverse impacts to water quality.

2. Conserve fish, wildlife, and plant habitat; and

because there has been no evaluation of environmental resource delineations, the conservation of fish, plant, and wildlife habitat related to this proposal cannot be determined at this time. The applicant must submit a stream/wetland delineation, buffer determination to this office so that the proposed development can be evaluated. The Critical Area review may require the applicant to request other setback relief.

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.

As submitted, the Critical Area information is incomplete, and therefore it cannot be determined if the proposed development will be consistent with established land-use policies.

Reviewer: Paul Dennis, Environmental Impact Review

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: September 1, 2023

SUBJECT: DEPS Comment for Zoning Item # 2023-0166-A

Address: 1607 BOWLEYS QUARTERS RD

Legal Owner: Allen Lee Himes, Jr.

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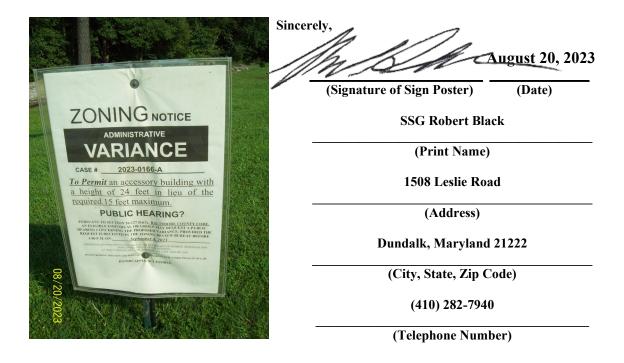
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Reviewer: Paul Dennis, Environmental Impact Review

CERTIFICATE OF POSTING

| | 2023-0166-A |
|--|--|
| | RE: Case No.: |
| | Petitioner/Developer: |
| | Allen Himes |
| | September 4, 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 penal posted conspicuously on the property le | ties of perjury that the necessary sign(s) required by law were ocated at: |
| 1607 Bowleys Qua | arters Road SIGN 1 |
| The sign(s) were posted on | August 20, 2023 |
| | (Month, Day, Year) |



CERTIFICATE OF POSTING

| DE | 2023-0166-A E: Case No.: |
|---|--|
| KI | 2. Case 110 |
| | Petitioner/Developer: |
| | Allen Himes |
| | September 4, 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 perjur posted conspicuously on the property located at: | |
| 1607 Bowleys Quarters | Road SIGN 2 |
| The sign(s) were posted on | ust 20, 2023 ath, Day, Year) |



Sincerely,

August 20, 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)

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

Revised 1/2022

Real Property Data Search () Search Result for BALTIMORE COUNTY

| Map: Grid: Parcel: Neighborhood: Subdivision: Section: Block: Lot: Assessment Year: Pla 0098 0011 0016 15030020.04 0000 71 2024 Pla Town: None Primary Structure Built Above Grade Living Area Finished Basement Area Property Land A 1959 1,112 SF 0.9900 AC Stories Basement Type Exterior Quality Full/Half Bath Garage Last Notice of Major 1 YES STANDARD UNIT SIDING/ 3 1 full/ 1 half Value Information Base Value Value Phase-in Assessments As of As of As | YS QUARTERS I JARTERS | | |
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| Seller: WEINREICH HENRY C Date: 05/22/2002 Price: \$150 Type: ARMS LENGTH IMPROVED Deed1: /16433/ 00328 Deed2: | 0,000 | | |
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| State: 000 0.00 | | | |
| Municipal: 000 0.00 0.00 | | | |
| Special Tax Recapture: None | | | |
| Homestead Application Information | | | |
| Homestead Application Status: Approved 08/26/2008 | | | |
| Homeowners' Tax Credit Application Information | | | |
| Homeowners' Tax Credit Application Status: No Application Date: | | | |
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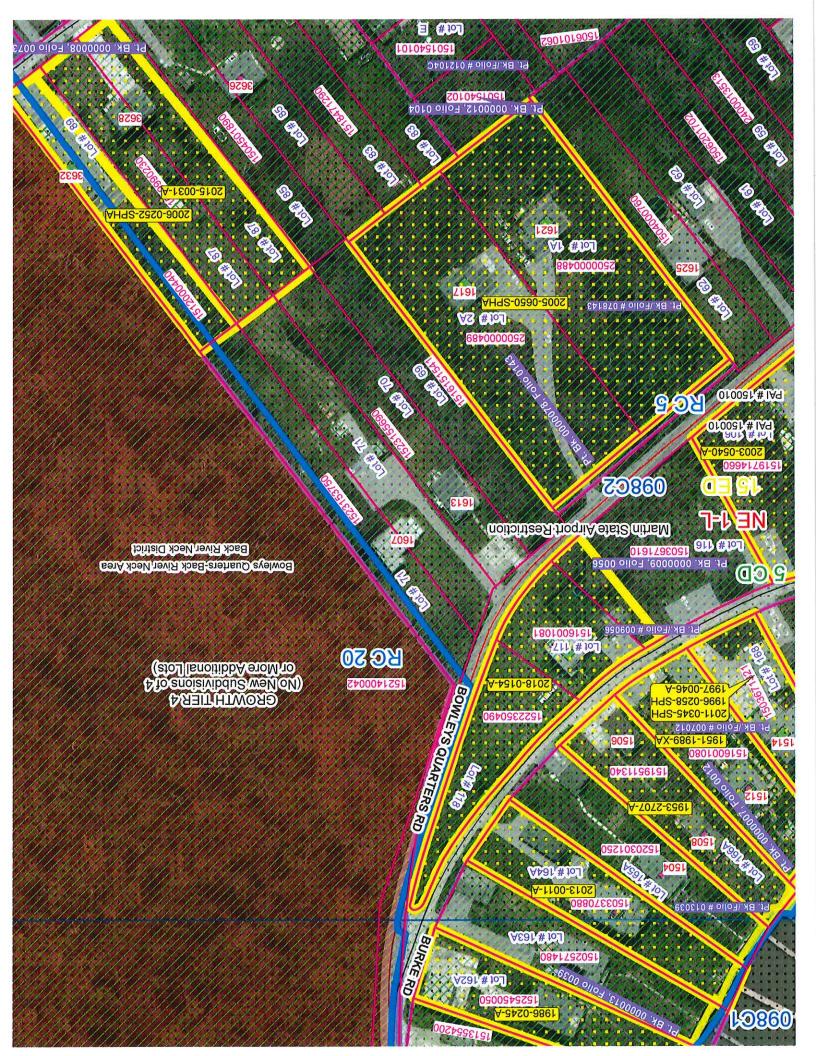
View from behind house facing southeast. Shed to be removed.

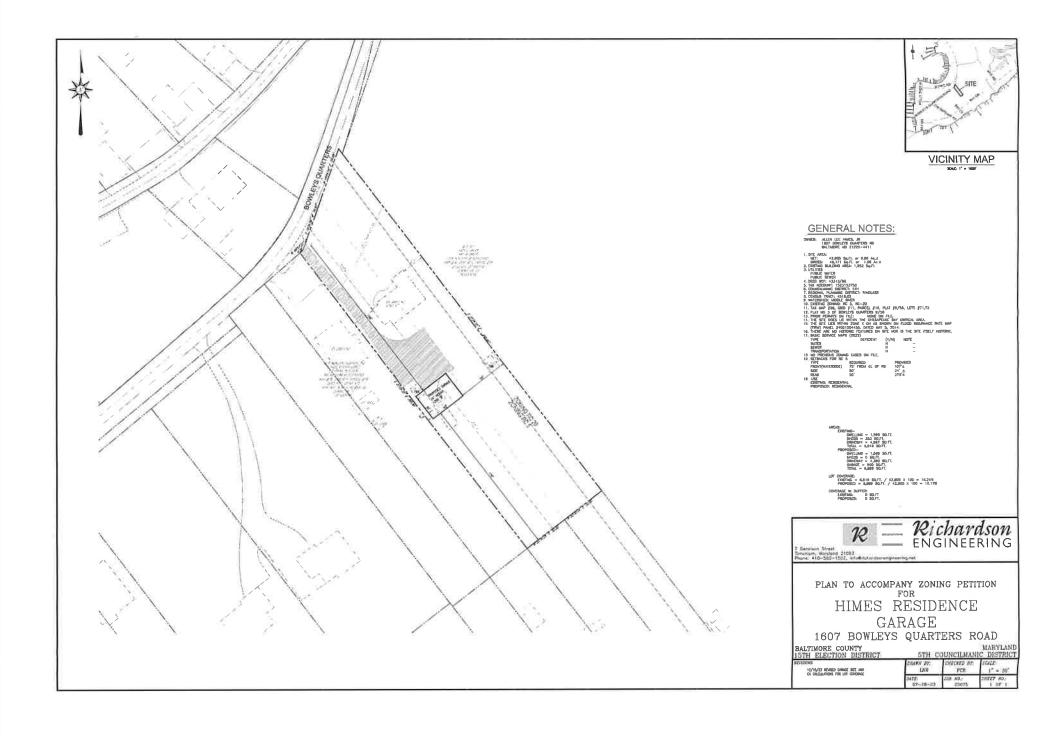


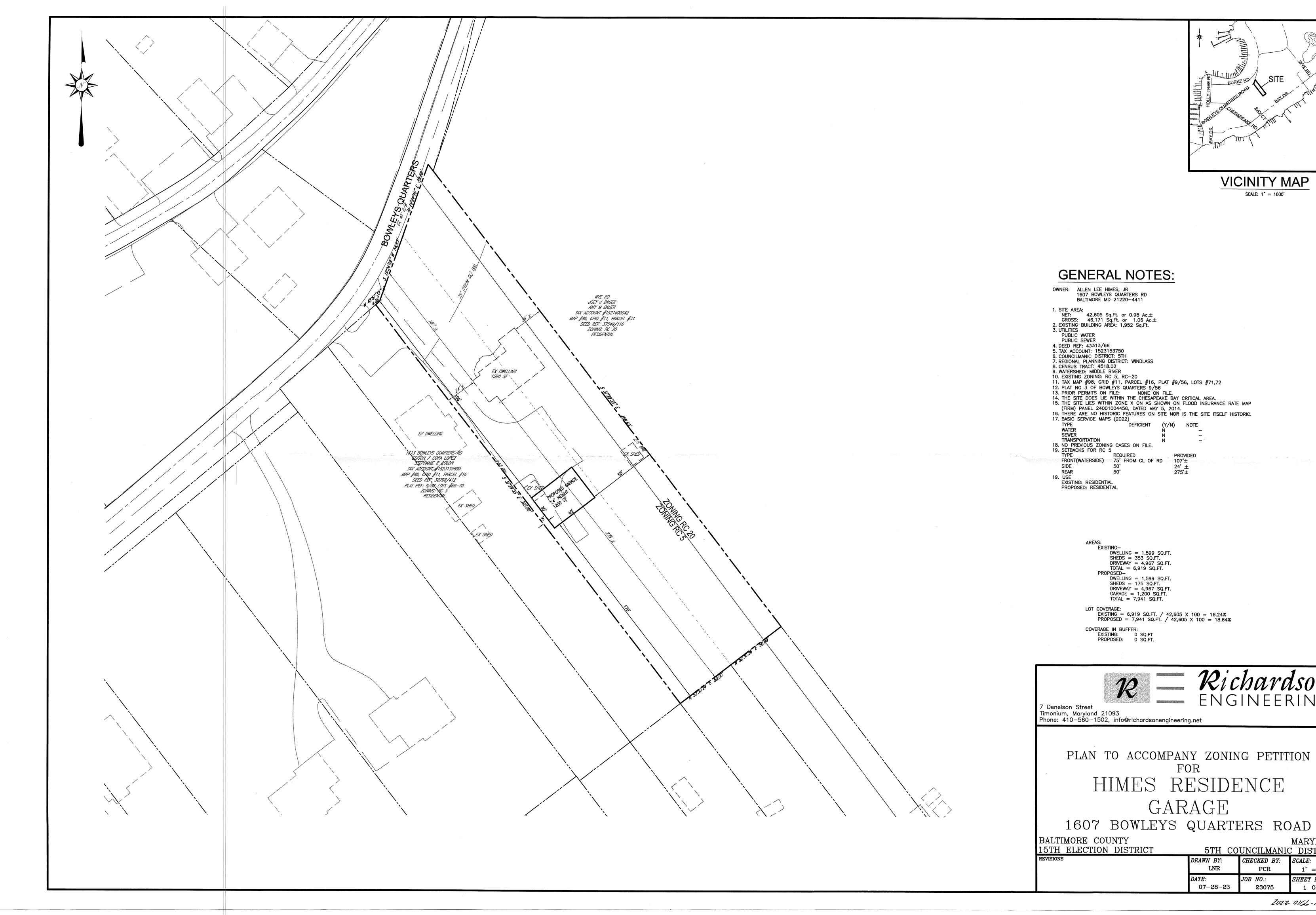
 $\label{thm:continuous} \mbox{ View from east side of property looking southwest to where new garage is proposed.}$



From rear looking toward street. Shed on left is neighbor's. House on left is 1613 Bowleys Quarters Road. Shed on right to be removed







2023-0166-A

SCALE:

5TH COUNCILMANIC DISTRICT

CHECKED BY:

23075

JOB NO.:

07-28-23

MARYLAND

1" = 30'

1 OF 1

SHEET NO.:

VICINITY MAP

SCALE: 1" = 1000'