

OHN A. OLSZEWSKI, JR. County Executive

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

November 20, 2023

Charles and Janet Westerman – chucksbnf@aol.com
8402 Belair Road
Baltimore, MD 21235

RE:

Petition for Variance

Case No. 2023-0186-A

Property: 7705 Iboquois Avenue

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.

Mauren E. Murphy

MAUREEN E. MURPHY

Chief Administrative Law Judge

for Baltimore County

MEM:dlm Enclosure

C: David Billingsley - <u>dwb0209@yahoo.com</u>

IN RE: PETITION FOR VARIANCE
(7705 Iroquois Avenue)
15th Election District
7th Council District
Charles and Janet Westerman
Legal Owners

Petitioners

* BEFORE THE

OFFICE OF ADMINISTRATIVE

* HEARINGS OF

BALTIMORE COUNTY

* CASE NO. 2023-0186-A

* * * * * * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings ("OAH") as a Petition for Variance filed by Charles and Janet Westerman, legal owners ("Petitioners") for property located at 7705 Iroquois Avenue, Sparrows Point ("Property"). Petitioners filed for Variance relief from the Baltimore County Zoning Regulations ("BCZR"), §400.1 to permit an accessory structure (swimming pool) to be located in the front yard in lieu of the required back yard.

A public WebEx hearing was conducted virtually in lieu of an in-person hearing. The Petition was properly advertised and posted. David Billingsley, Central Drafting & Design, prepared a Site Plan (the "Site Plan") and appeared on behalf of the Petitioners at the hearing in support of the Petition. (Pet. Ex. 1).

Zoning Advisory Committee ("ZAC") comments were received from the Department of Planning ("DOP"), the Department of Environmental Protection and Sustainability ("DEPS") and the Department of Public Works and Transportation ("DPWT") which agencies did not oppose the requested relief.

The Property is a 13,104 sf +/-, waterfront lot located on Old Road Bay in the Sparrows Point area. It is largely rectangular in shape, but is not symmetrical. It was created as Lot 1164 on the Plat of Lodge Forest as filed in the Land Records of Baltimore County on September 20, 1933

(Liber LMcLM 10, folio 76). (Pet. Ex. 2). It is improved with a newly constructed 3-story home and existing detached garage located on the street side. An aerial photograph showed the extent of the improvements. (Pet. Ex. 4). Petitioners desire to construct an in-ground pool on the waterfront side and were instructed to request zoning relief based on the assumption that the front yard is always the waterfront side. (Pet. Ex. 1). Street view photographs show the front of the home faces Iroquois Avenue. (Pet. Ex. 5A-5F). As a result, in this particular case, the waterfront side is actually the rear yard. Accordingly, the Petitioners do not need Variance relief for the pool. However, because they are improving the Property with a pool, they do need Variance relief to retain the existing detached garage on the street side/front yard.

A variance request involves a two-step process, summarized as follows:

- (1) It must be shown the property is unique in a manner which makes it unlike surrounding properties, and that uniqueness or peculiarity must necessitate variance relief; and
- (2) If variance relief is denied, Petitioner will experience a practical difficulty or hardship.

Cromwell v. Ward, 102 Md. App. 691 (1995).

The Property is unique due its asymmetrical shape in combination with its waterfront location limits the extent of the improvements on the Property because it must comply with the Chesapeake Bay Critical Area ("CBCA") regulations. I find that the Petitioner would suffer a practical difficulty and unreasonable hardship if the existing detached garage located on street side/front yard had to be removed. The detached garage is needed for storage space particularly for watercraft because the first floor of the new home cannot be used for living space due to the tidal zone AE special hazard area on the Property. Relocating the garage to the waterfront side is not possible due to the location of the AE special hazard area. I also find that the requested Variance relief can be granted in strict harmony with the spirit and intent of the BCZR and without

injury to the health, safety or general welfare, particularly in light of the lack of opposition.

THEREFORE, IT IS ORDERED, this <u>20th</u> day of **November**, 2023, by the Administrative Law Judge for Baltimore County, that the Petition for Variance from BCZR, §400.1 to permit an accessory structure (existing detached garage) to be located in the front yard in lieu of the required rear yard, be, and it is hereby, **GRANTED**.

The relief granted herein shall be subject to the following:

- 1. Petitioners may apply for necessary permits and/or licenses upon receipt of this Order. However, Petitioners are hereby made aware that proceeding at this time is at their 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, Petitioners would be required to return the subject property to its original condition.
- 2. Petitioners shall comply with the DEPS and DPR/DPWT ZAC comments, copies of which are attached hereto.
- 3. The Site Plan 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

Chief Administrative Law Judge

Mauren E. Murphy

for Baltimore County

MEM/dlm

PETITION FOR ZONING HEARING(S)

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 1705 1500005 /	AVENUECurrently ZonedDR.5. 5
Deed Reference <u> </u>	10 Digit Tax Account#
Owner(s) Printed Name(s) <u>CHAPLES AND J.</u>	AVET YYESTERMAN
(SELECT THE HEARING(S) BY MARKING X AT TH	E APPROPRIATE SELECTION(S) AND ADDING THE PETITION REQUEST)
	·
the undersigned, who own and occupy the property situate in Bi hereof, hereby petition for an:	altimore County and which is described in the plan/plat attached hereto and made a part
	he Zoning Regulations of Baltimore County, to determine whether
or not the Zoning Commissioner should approve	
2a Special Exception under the Zoning Reg	ulations of Baltimore County to use the herein described property for
3: X a Variance from Section(s) 400.1 (BCZR)	TO PERMIT AN ACCESSORY STRUCTURE (SWIMMING POOL)
, ,	ED IN THE FRONT YARD IN LIEU OF THE REQUIRED REAR YARD.
The state of the s	The second secon
	ne zoning law of Baltimore County, for the following reasons: (Indicate
	indicate below "TO BE PRESENTED AT HEARING". If you need
additional space, you may add an attachment to	this petition)
TO BE PRESENTED AT	T HEARING
Property is to be posted and advertised as prescribed by the zor	
ir we agree to pay expenses of above petition(s), advertising, po Baltimore County adopted pursuant to the zoning law for Baltimo	isting, etc. and further agree to be bound by the zoning regulations and restrictions of one County.
Legal Owner(s) Affirmation: 1 / 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:	Legal Owners (Petitioners):
	CHARLES WESTERMAN JANET WESTERMAN
Name - Type or Print	Name #1 Type or Smit Name #2 - Type or Brint
Signature	Signature #1 Signature # 2
agridure.	8407 BFLAIR ROAD BALTO MO
Malling Address City State	Mailing Address City State
	71736 , (410) 241-9716 chucksbrif @ gol. con
Zlp Code Telephone # Email Address	Zip Code Telephone #'s (Cell and Home) Email Address
Attorney for Petitioner:	Representative to be contacted:
-	DAYAD BILLINGSLEY
Name - Type or Print	Name - Type or Print
	- Oleud Runnings 12
Signature	Signature
Mailing Address City State	601 CHARYOOD CT EDGEWOOD MO
Mailing Address City State	Malling Address City State 21040 (410)675-8719 Clty/102096 yo hoo Co
Zip Code Telephone # Email Address	Zip Code Telephone # Email Address
	" 17
Case Number 2023-0186-A Filing Date 7	1/2 1 23 Do Not Schedule Dates Reviewer 5

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:

October 5, 2023

SUBJECT:

DEPS Comment for Zoning Item

2023-0186-A

Address:

7705 IROQUOIS AVE.

Legal Owner: Charles & Janet Westerman

Zoning Advisory Committee Meeting of October 2, 2023.

The Department of Environmental Protection and Sustainability 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 proposing to permit an accessory structure (swimming pool) to be located in the front yard in lieu of the required rear yard. The lot is waterfront and is within a Modified Buffer Area (MBA). Any proposed development must meet all LDA and MBA requirements, including lot coverage limits, MBA mitigation, and afforestation requirements. Lot coverage is limited to a maximum of 31.25% (4,095 square feet), with mitigation required for any new lot coverage between 25% and 31.25%. Proposed lot coverage information was not provided. 15% afforestation (4 trees) is required. Mitigation for any new impacts to the MBA will be required. While the proposed pool will be located within the MBA, quantified impacts to the MBA have not been provided. If the lot coverage, afforestation, and MBA mitigation requirements are met, then the relief requested by the applicant will result in minimal adverse impacts to water quality.

2. Conserve fish, plant, and wildlife habitat;

This property is waterfront and is within a Modified Buffer Area (MBA). The property must meet all lot coverage, afforestation requirements, and any MBA mitigation requirements. If lot coverage, afforestation, and MBA mitigation requirements are met, this request will 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;

This is a grandfathered lot. Provided that the applicants meet their lot coverage, afforestation, and MBA mitigation requirements, then the relief requested will be consistent with the established land-use policies.

Additional Comments:

Reviewer:

Libby Errickson

10/4/23

INTEROFFICE CORRESPONDENCE

TO:

Peter Gutwald, Director

DATE: October 2, 2023

Department of Permits, Approvals

FROM:

Vishnu Desai, Supervisor

Bureau of Development Plans Review

SUBJECT:

Zoning Advisory Committee Meeting

For October 2, 2023 Item No. 2023-0186-A

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

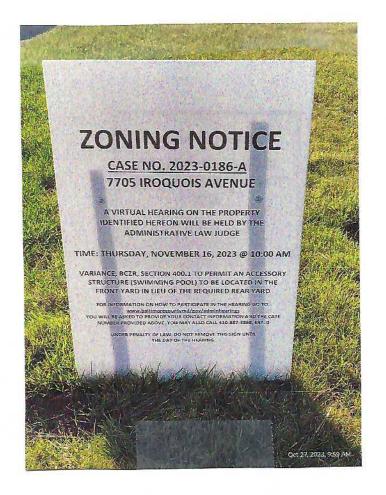
DPW&T Comments:

- A) The proposed pool is in a tidal Zone AE special hazard area, per FEMA FIRM 2400100555F dated 9/26/08. The pool shall be anchored against floatation, and the electrical equipment shall be placed above the special flood hazard area base flood elevation (7.7).
- B) The property is within the Tidal Special Flood Hazard Area Zone AE (BFE = 7.7), per panel FIRM 2400100555F dated 9/26/08. Must comply with the 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.

CERTIFICATE OF POSTING

Date: OCTOBER 28, 2023

RE:	Project Name:	7705 IROQUOIS AVENUE #1					
	Case Number /PAI Number:	2023-0186-A					
	Petitioner/Developer:	WESTERMAN					
	Date of Hearing/Closing:	NOVEMBER 16, 2023					
were		enalties of perjury that the necessary sign(s) required by law property located at7705 IROQUOIS AVENUE					
	The sign(s) were posted on _	OCTOBER 27, 2023 (Month, Day, Year)					



Janet Billingsley
(Signature of Sign Poster)

DAVID W. BILLINGSLEY

(Printed Name of Sign Poster)

601 CHARWOOD COURT

(Street Address of Sign Poster)

EDGEWOOD, MD. 21040

(City, State, Zip Code of Sign Poster)

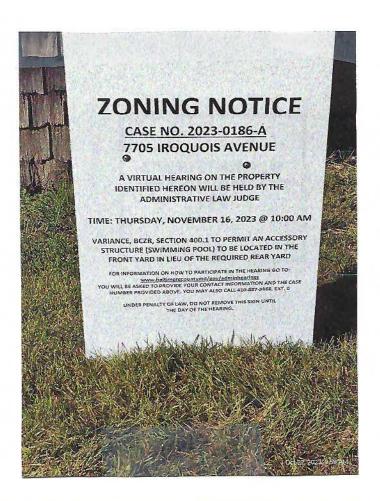
(410) 679-8719

(Telephone Number of Sign Poster)

CERTIFICATE OF POSTING

Date: OCTOBER 28, 2023

RE:	Project Name:	7705 IROQUOIS AVENUE #2
	Case Number /PAI Number:	2023-0186-A
	Petitioner/Developer:	WESTERMAN
	Date of Hearing/Closing:	NOVEMBER 16, 2023
were		enalties of perjury that the necessary sign(s) required by law property located at7705 IROQUOIS AVENUE
	The sign(s) were posted on _	
		(Month, Day, Year)



DAVID W. BILLINGSLEY

(Printed Name of Sign Poster)

601 CHARWOOD COURT
(Street Address of Sign Poster)

EDGEWOOD, MD. 21040
(City, State, Zip Code of Sign Poster)

(410) 679-8719 (Telephone Number of Sign Poster)

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: October 5, 2023

SUBJECT: DEPS Comment for Zoning Item # 2023-0186-A

Address: 7705 IROQUOIS AVE. Legal Owner: Charles & Janet Westerman

Zoning Advisory Committee Meeting of October 2, 2023.

The Department of Environmental Protection and Sustainability 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;

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2. Conserve fish, plant, and wildlife habitat;

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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;

This is a grandfathered lot. Provided that the applicants meet their lot coverage, afforestation, and MBA mitigation requirements, then the relief requested will be consistent with the established land-use policies.

Additional Comments:

Reviewer: Libby Errickson 10/4/23

BALTIMORE COUNTY, MARYLAND INTER-OFFICE MEMORANDUM

TO: C. Pete Gutwald **DATE:** 9/27/2023

Director, Department of Permits, Approvals and Inspections

FROM: Steve Lafferty

Director, Department of Planning

SUBJECT: ZONING ADVISORY COMMITTEE COMMENTS

Case Number: 2023-0186-A

INFORMATION:

Property Address: 7705 Iroquois Avenue

Petitioner: Charles and Janet Westerman

Zoning: DR 5.5 **Requested Action:** Variance

The Department of Planning has reviewed the petition for the following:

Variance -

1. From Section 400.1 of the Baltimore County Zoning Regulations to permit an accessory structure (swimming pool) to be located in the front yard in lieu of the required rear yard.

The subject site is an approximately 13,104 square foot waterfront parcel in the Sparrows Point area. The property fronts Old Road Bay/North Point Creek and is improved with a single family detached dwelling, which was constructed in 2022 following the issuance of Permit B987313 – as well as an existing garage and driveway. Per the submitted site plan, the Petitioner's wish to construct a pool between the dwelling and the water.

Uses surrounding the subject site are primarily residential with single family detached homes on relatively narrow lots. McCluskey's Marina is located northeast of the subject site at Bay Front Road and Iroquois Avenue. Per Google Streetview from 2020 available to the Department of Planning, multiple nearby homes have swimming pools between the home and the water, including 7607, 7711, and 7715 Iroquois Avenue.

The subject site is within the boundaries of the Greater Dundalk-Edgemere Community Conservation Plan, the Eastern Baltimore County Revitalization Strategy, and the Eastern Baltimore County Pedestrian and Bicycle Access Plan. The Greater Dundalk-Edgemere Community Conservation Plan explains that the Greater Dundalk area has 64 of the approximately 219 miles of shoreline in Baltimore County, and it emphasizes what an asset the waterfront is and how it is a nice place to live (pages 3-4).

The Department of Planning has no objections to the requested Variance relief. The proposed location of the pool in the front yard will not be visible from the public right of way. Further, the location is only considered the front yard due to the dwelling's orientation towards the water.

For further information concerning the matters stated herein, please contact Taylor Bensley at 410-887-3482.

Prepared by:

Krystle Patchak

Division Chief:

enifer G. Nugent

SL/JGN/KP

c: David Billingsley
David Birkenthal, Community Planner
Maria Mougridis, Community Planner
Jeff Perlow, Zoning Review
Kristen Lewis, Zoning Review
Office of Administrative Hearings
People's Counsel for Baltimore County

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/ neighboring 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:	2023·C	186-F	7		
Property Address:	7705 I				
Legal Owners (Petitioners):	Charles	and c	Sang 9	GKStern	<i>ap</i>
Contract Purchaser/Lessee: _			,		
PLEASE FORWARD ADVERT	TISING BILL TO:				
Name: Company/Firm (if appli	cable):				
Address:				·	
Telephone Number					,

*Failure to advertise and/or post a sign on the property within the designated time will result in the Hearing request being delayed. The delayed Hearing Case will be cycled to the end of pending case files and rescheduled in the order that it is received. Also, a \$250.00 rescheduling fee may be required after two failed advertisings and/or postings.

Real Property Data Search ()

Search Result for BALTIMORE COUNTY View Map View GroundRent Redemption View GroundRent Registration Special Tax Recapture: None Account Identifier: District - 15 Account Number - 1501850030 **Owner Information** Owner Name: WESTERMAN CHARLES RESIDENTIAL WESTERMAN JANET Principal Residence: NO 8402 BELAIR RD Mailing Address: Deed Reference: /38570/ 00490 BALTIMORE MD 21236-3019 **Location & Structure Information** Premises Address: 7705 IROQUOIS RD Legal Description: SPARROWS POINT 21219-2218 Waterfront LODGE FOREST Map: Grid: Parcel: Neighborhood: Subdivision: Section: Block; Lot: Assessment Year: Plat No: 0111 0017 0098 15130121.04 Plat Ref: 0010/0076 0000 11642024 Primary Structure BuiltAbove Grade Living AreaFinished Basement AreaProperty Land AreaCounty Use 13.104 SF Stories Basement Type Exterior Quality Full/Half Bath Garage Last Notice of Major Improvements Value Information Base Value Value Phase-in Assessments As of As of As of 01/01/2021 07/01/2023 07/01/2024 Land: 162,700 162,700 Improvements 10,500 10.500 Total: 173,200 173,200 173,200 Preferential Land: 0

Transfer Information

Seller: REVERSE MORTGAGE Date: 01/31/2017 Price: \$175,000 SOLUTIONS INC Type: NON-ARMS LENGTH OTHER Deed1: /38570/ 00490 Deed2: Seller: WILLIAMS JOHN W SR Date: 12/20/2016 Price: \$217,807 Type: NON-ARMS LENGTH OTHER Deed1: /38412/ 00214 Deed2: Selter: PEGG MICHAEL S Date: 11/15/2000 Price: \$148,000 Type: ARMS LENGTH IMPROVED Deed1: /14809/ 00286 Deed2:

Exemption Information

Partial Exempt Assessments: Class 07/01/2023 07/01/2024 County: 000 0.00 State: 000 0.00 Municipal: 000 0.00 0.00

Special Tax Recapture: None

Homestead Application Information

Homestead Application Status: No Application

Homeowners' Tax Credit Application Information

Homeowners' Tax Credit Application Status: No Application Date:

2023.0186 2

			ID FINANC I RECEIPT				2200					
Fund	Dept	Unit	Sub Unit	Rev Source/ Obj		Date:		/2/23 Amo				
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7705 IROQUOIS AVE

ZONING DESCRIPTION 7705 IROQUOIS AVENUE

Beginning for the same at a point on the south side of Iroquois Avenue (20 feet wide), distant 475 feet southwesterly from its intersection with the south side of Bay Front Road, thence being all of Lot 1164 as shown on the plat entitled Lodge Forest recorded among the Baltimore County plat records in plat Bok 10 Folio 76.

Containing 13,104 square feet or 0.301 acre of land, more or less.

Being known as 7705 Iroquois Avenue and located in the 15TH Election District, 7TH Councilmanic District of Baltimore County, Maryland

2023.0186.A



	OVE RD
ZONING HEARING PLAN FOR VARIANCE X FOR SPECIAL HEARING (MARK TYPE REQUESTED WITH X)	NORTH POINT
ADDRESS 7705 IROQUOIS AVENUE OWNER(S) NAME(S) CHARLES & LAKET WESTERMAN	Chesapeake Markels
SUBDIVISION NAME LODGE FOREST LOT# 1164 BLOCK # SECTION #	
PLAT BOOK # 10 FOLIO # 76 10 DIGIT TAX # 150 1 & 5 00 30 DEED REF. # 38570 / 490_	FRONT S ROS ROS
	IROQUOIS AVE
	7/00
7 25 PR 5.5	LOCATION PLAN SCALE I"= 1000"
SHED SHED SHED STATE TO SHED SHED SHED SHED SHED SHED SHED SHED	
	ZONING MAP# 11103
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CENTRAL DRAFTING & DESIGN 601 CHARWOOD COURT	
EDGEWOOD, MD 21040 PLAN DRAWN BY DWB DATE $O/C9/C9$ SCALE: 1 INCH = $9/C9/C9$ FEET	
(410) 679-8719	VIOLATION CASE INFO:
	N/A·

2023 · 0186 - A



(MARK TYPE REQUESTED WITH X) ZONING HEARING PLAN FOR VARIANCE X FOR SPECIAL HEARING ADDRESS 7705 I BOQUOIS AVENUE OWNER(S) NAME(S) CHARLES & JANET WESTERMAN SUBDIVISION NAME LODGE FOREST LOT# 1164 BLOCK # 10 DIGITTAX # 15 0 1 8 5 00 3 0 DEED REF. # 38 970 / 490 PLAT BOOK # 10 DA 5.5 LOCATION PLAN SHED ZONING MAP# 11103 SITE ZONED DR.5.5 ELECTION DISTRICT 1.5 COUNCIL DISTRICT_T LOT AREA ACREAGE EX. DRIVE OR SQUARE FEET 13,104 HISTORIC ?_ NO INCECA? YES IN FLOOD PLAIN ? YES SHED WATER IS: PUBLIC X PRIVATE SEWER IS: PUBLIC_X PRIVATE EX. DRIVE PRIOR HEARING ? N/A IF SO GIVE CASE NUMBER AND ORDER RESULT BELOW N/A PETITIONER'S CENTRAL DRAFTING & DESIGN 601 CHARWOOD COURT EDGEWOOD, MD 21040 (410) 679-8719 EXHIBIT NO._ DATE 8/25/23 SCALE: 1 INCH = 30' FEET PLAN DRAWN BY_ DWB

UTILITIES? MARK WITH X

VIOLATION CASE INFO: