

JOHN A. OLSZEWSKI, JR. County Executive

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

October 23, 2023

Mark Roesner & Terry Westhead – <a href="mailto:mhroesner@gmail.com">mhroesner@gmail.com</a> 2024 Rocky Point Road Essex, MD 21221

RE:

Petition for Administrative Variance

Case No. 2023-0187-A

Property: 2024 Rocky Point 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, Mauren E. Murphy

MAUREEN E. MURPHY Administrative Law Judge for Baltimore County

MEM:dlw Enclosure

c: Maureen Copeland - chesapeakedesignco@gmail.com

IN RE: PETITION FOR ADMIN. VARIANCE

(2024 Rocky Point Road)

15<sup>th</sup> Election District

7<sup>th</sup> Council District

Mark Roesner and
Terry Westhead

\* BEFORE THE

OFFICE OF ADMINISTRATIVE

\* HEARINGS FOR

\* BALTIMORE COUNTY

\* \* \* \* \* \* \* \* \*

Petitioners

## **OPINION AND ORDER**

CASE NO. 2023-0187-A

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 owners of the subject property, Mark Roesner and Terry Westhead ("Petitioners") for the property located at 2024 Rocky Point Road, Essex. The Petitioners are requesting Variance relief pursuant to the Baltimore County Zoning Regulations ("BCZR"), §1A04.3.B.2.b to allow an addition with a setback of 18 ft in lieu of the required 50 ft., and to approve an existing dwelling with setback of 31 ft. in lieu of the required 50 ft. The subject property and requested relief are more fully depicted on the site plan that was marked and accepted into evidence as Petitioners' Exhibit 1. Street view photographs were marked and accepted into evidence as Petitioners Ex. 2A-2C).

The Zoning Advisory Committee ("ZAC") comments were received and are made part of the record of this case. A ZAC comment was provided by the Department of Environmental Protection and Sustainability ("DEPS") which agency indicated that the Property is located within the Chesapeake Bay Critical Area ("CBCA") and the Limited Development Area ("LDA") and is subject to Critical Area requirements. In addition, a ZAC comment was received from the Bureau of Development Plans Review ("DPR") dated October 2, 2023, indicating the following:

#### "DPW&T Comments:

A. 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 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)."

The Petitioners having filed a Petition for Administrative Variance and the subject property having been posted on September 28, 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 to satisfy the requirements of § 307.1 of the BCZR. Furthermore, strict compliance with the BCZR would cause practical difficulty and/or unreasonable hardship for the Petitioners.

THEREFORE, IT IS ORDERED, this <u>23rd</u> day of October, 2023, by the Administrative Law Judge for Baltimore County, that the Petition for Variance seeking relief from the Baltimore County Zoning Regulations ("BCZR") § 1A04.3.B.2.b to allow an addition with a setback of 18 ft. in lieu of the required 50 ft., and to approve an existing dwelling with setback of 31 ft. in lieu of the required 50 ft., be and 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 must comply with the DEPS and DPR/DPWT ZAC comments, copies of which are attached hereto and made a part hereof.
- 3. The Site Plan (Pet. Ex. 1) 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

Mauren E. Hurphy

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:

2024 Dock Dt Dd	Comments 7-2-2
20/22	Currently Zoned FC D  Digit Tax Account # 1 5 1 6 6 0 0 0 3 0
Deed Reference 210321 204 10 Owner(s) Printed Name(s) 2025	
(SELECT THE HEARING(S) BY MARKING X AT THE APPR	OPRIATE SELECTION(S) AND ADDING THE PETITION REQUEST)
For Administrative Variances, the Affidavit on the reverse of this Petit	
The undersigned, who own and occupy the property situate in Baltimore hereof, bereby petition for an:	County and which is described in the plan/plat attached hereto and made a part
1. ADMINISTRATIVE VARIANCE from Section(s)	
1A04.3.B.2.b. to allow an addition with a setback of 18	ft in lieu of the required 50 feet. And to approve
an existing dwelling with setback of 31 ft. in lieu of the	required 50 ft.
of the zoning regulations of Baltimore County, to the zoning law of Baltim	nore County.
<ol> <li>ADMINISTRATIVE SPECIAL HEARING to approve a waiver pu work in this space: i.e., to raze, alter or construct addition to building)</li> </ol>	ursuant to Section 32-4-107(b) of the Baltimore County Code: (indicate type of
of the zoning regulations of Baltimore County, to the zoning law of Baltim	nore County.
Property is to be posted and advertised as prescribed by the zoning regul/ we agree to pay expenses of above petition(s), advertising, posting, et- Baltimore County adopted pursuant to the zoning law for Baltimore Coun	c. and further agree to be bound by the zoning regulations and restrictions of
Owner(s)/Petitioner(s):	
Mark Roesner, Terry	Westhead
Name #1 – Type or Priht Name #2	2 – Type or Print
Signature #1 Signatur	19#12 1
2024 Rocky Pt. Rd. Ba	Hmare MD
Mailing Address (410) 404-6098 (ity)	dx roesner@amail.com
Zip Code Telephone #'s (Cell and Home)	Email Address
Attorney for Owner(s)/Petitioner(s):	Representative to be Contacted:
Name - Type or Print	Mauveen Capeland Name-Type or Print
rvanie - Type of Filiot	Howar Consord
Signature	Signature / (1)
Mailing Address City State	Mailing Address City scaped Slate
T. O. I. Talahara H. Farall Address	21157 /TIS99-9590 / chesapeakedesigh to
Zip Code Telephone # Email Address	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	
	Administrative Law Judge for Baltimore County
CASE NUMBER 2023 - 0187-9 Filling Date 9 /12 /3	- · · · · · · · · · · · · · · · · · · ·

## **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: 2024 Rocky H. 2d.  Print or Type Address of property City	Ba Himores State	MD	2/22  Zip Code
Based upon personal knowledge, the following are the Administrative Variance at the above address. (Clear			
See attached letter	er.	Principal Control Cont	
			**************************************
	<del>.</del>		
			**************************************
		***************************************	
(If additional space for the petition request or the above	statement is needed,	, label and attach it t	to this Form)
Torres 11) o Thos of	Mil Roen		
Toresa Westherd Signature of Owner (Affiant)	Signature of Ow		<u>, , , , , , , , , , , , , , , , , , , </u>
Teresa Nosthead	MARIL RO		
Name- Print or Type	Name- Print or 1	Гуре	
The following information is to be completed I	by a Notary Public of	the State of Maryla	nd
STATE OF MARYLAND, COUNTY OF BALTIMORE	-		
HEREBY CERTIFY, this 31 st day of August and for the County aforesaid, personally appeared:	<u>∤_, 2023</u> , bel	fore me a Notary of	Maryland, in
Print name(s) here: Teresa Westherd + Mar	k Roesner		
the Affiant(s) herein, personally known or satisfactorily ide	ntified to me as such	Affiant(s).	
AS WITNESS my hand and Notaries Seal	# 1,0		
MATTHEW WESTERFIELD AARON Notary Public-Meryland Notary Public	a war	,	
Baltimore City My Commission Expires April 10, 2026  My Commission	<u> April 2026</u> n Expires	, ,	

REV. 5/5/2016

Dear Sir or Madam,

We are requesting permission to build a 1-story addition to the side of our existing residence. The addition would be 12' wide x 20' deep and would be used as a sunroom/additional living space. Our existing living room is limited in size and we are looking for additional room for our growing family.

With the current zoning of RC-5, this addition would not be possible due to the 50' side setback requirement. Considering that the existing lot is only 90' in width, this does not allow any room for expansion to the side. We considered adding the sunroom to the front of the house, however with the existing stone façade, the addition looked out-of-character and did not look like part of the original residence. The side is the most logical location for the addition so it ties into our existing living room. It will sit back from the front of the house and will be designed in keeping with the character of the houses along Rocky Point Road.

Thank you for your attention to this matter and please let us know if you need anything further,

Mark Roesner and Terry Westhead

2023-0187-A

## ZONING PROPERTY DESCRIPTION FOR 2024 ROCKY POINT RD

Beginning at a point in the center of Rocky Point Rd. which is 40 feet wide at the distance of 1700 feet south of the centerline of Barrison Point Rd. which is 30 feet wide.

Thence the following courses and distances:

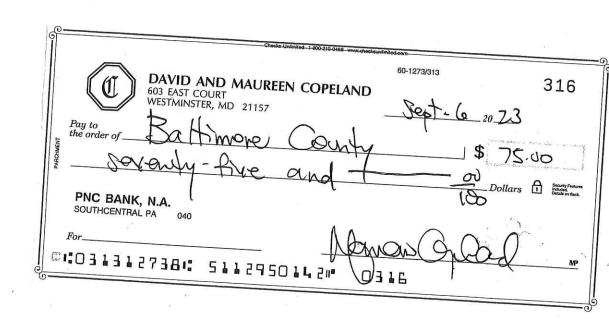
(1st POC) S 09 deg 51min E 72.29feet, (2nd POC) S 15 deg 51min E 17.92 feet, (3rd POC) S 82 deg 04 min W 362.80 feet, (4th POC) N 00 deg 05 min W 90.85 feet, (5th POC) N 82 deg 04 min E 345.52 feet, back to the point of beginning as recorded in Deed Liber 29632, Folio 00401, containing 31,860 square feet. Located in the 15th Election District and 7th Council Dist.

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

## ADMINISTRATIVE VARIANCE INFORMATION SHEET AND DATES

Case Numb	er: 2023	-0187 -A	Address	2024	ROCK	1 PC	1774	nd
Contact Per	rson: 5	how e	CYGW for a	Nome		Phone Num	ber: 410-88	37-3391
Filing Date:	: 9/12	/23	Posting Date:	9/24/2	3 Closi	ng Date: _	10/91	23
Any contac contact per	st made wi rson (plann	th this office er) using the o	regarding the st ase number.	atus of the ad	ministrative	variance sh	ould be thr	ough the
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a fo	ormal requi	est for a publi	is the deadline c hearing. Pleas not complete o	se understand	that even if	owner) wi there is no	thin 1,000 fo formal requ	eet to file uest for a
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to a forv	a neighbor warded to I location.	's formal rec you. The sign As when the	AND REPOSTING THE PROPERTY OF	er of the Adr ty must be cha illy posted, cer	ninistrative l Inged giving	aw ludge) notice of th	, notifications of	n will be late, time
Petitioner:	: This Part	of the Form is	for the Sign Po	ster Only (Detac	ch Alang Dotted L	ine)		
		USETH	HE ADMINISTRA	TIVE VARIANC	E SIGN FORM	1AT		
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Petitioner's	s Namer 🖊	Bric ROG	Address	4 WEST hast	elephone (Ce	II) <u>410                                    </u>	404.6	298
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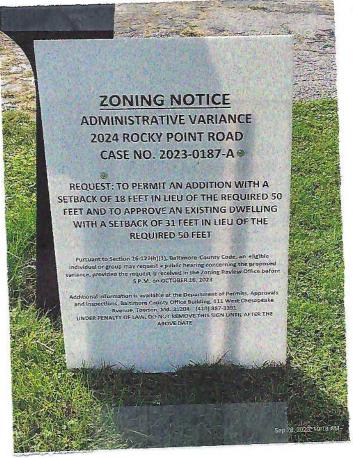
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## **CERTIFICATE OF POSTING**

Date: SEPTEMBER 28, 2023

RE:	Project Name:	2024 ROCKY POINT ROAD #1
	Case Number /PAI Number	2023-0187-A
	Petitioner/Developer:	ROESNER
	Date of Hearing/Closing:	OCTOBER 16, 2023
were	posted conspicuously on the	property located at2024 ROCKY POINT ROAD
	The sign(s) were posted on	SEPTEMBER 28, 2023
	<b>5</b> (-)	(Month, Day, Year)



Oard Bellengely
(Signature of Sign Poster)

DAVID W. BILLINGSLEY
(Printed Name of Sign Poster)

601 CHARWOOD COURT
(Street Address of Sign Poster)

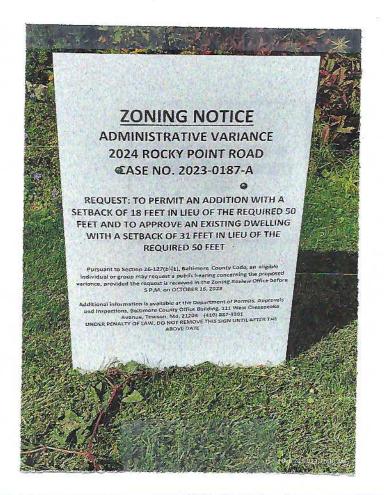
EDGEWOOD, MD. 21040
(City, State, Zip Code of Sign Poster)

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

## **CERTIFICATE OF POSTING**

Date: SEPTEMBER 28, 2023

RE:	Project Name:	2024 ROCKY POINT ROAD #2
	Case Number /PAI Number	2023-0187-A
	Petitioner/Developer:	ROESNER
	Date of Hearing/Closing:	OCTOBER 16, 2023
were		enalties of perjury that the necessary sign(s) required by law property located at2024 ROCKY POINT ROAD



Daws 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)

BALTIMORE COUNTY, MARYLANI

Inter-Office Correspondence

OFFICE OF

RECEIVED.



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 29, 2023

SUBJECT:

DEPS Comment for Zoning Item

# 2023-0187-A

Address:

2024 ROCKY POINT RD.

Legal Owner: Mark Rosner, Terry Westhead

Zoning Advisory Committee Meeting of October 2, 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:

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;

This property is located within a Limited Development Area (LDA) and is subject to Critical Area requirements. Development of this property must comply with a maximum lot coverage limit of 5,445 square feet with mitigation for any new lot coverage amount over 15%, and must meet a minimum 15% tree cover requirement. Critical Area lot coverage is defined in State of Maryland Natural Resources Article §8-1802(a)(17). If the applicant complies with the requirements, and meets all mitigation requirements for lot coverage and trees, the relief requested will result in minimal adverse impacts to water quality.

2. Conserve fish, plant, and wildlife habitat;

If lot coverage requirements, tree requirements, and mitigation requirements can be met, this will help conserve fish, plant, and wildlife habitat.

3. Be consistent with established land use policies for development in the Chesapeake Bay Critical Area, which accommodate growth and also address the C:\Users\dmignon\AppData\Local\Microsoft\Windows\INetCache\Content.Outlook\D7EWEZC4\2023-0187-A Comment Letter 2024 Rocky Point Road.docx

fact that, even if pollution is controlled, the number, movement and activities of persons in that area can create adverse environmental impacts;

If lot coverage, tree requirements, and any mitigation requirements are met, the relief requested will be consistent with established land-use policies.

Reviewer:

Paul Dennis

Date: September 29, 2023

## BALTIMORE COUNTY, MARYLAND

## 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. 2023-0187-A

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

#### **DPW&T Comments:**

A. 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 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).

### **BALTIMORE COUNTY, MARYLAND**

### **Inter-Office Correspondence**



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If lot coverage, tree requirements, and any mitigation requirements are met, the relief requested will be consistent with established land-use policies.

Reviewer: Paul Dennis Date: September 29, 2023

### Real Property Data Search () Search Result for BALTIMORE COUNTY

View GroundRent Registration View GroundRent Redemption View Map Special Tax Recapture: None District - 15 Account Number - 1516600030 Account Identifier: **Owner Information** RESIDENTIAL ROESNER MARK H Use: Owner Name: Principal Residence: YES WESTHEAD TERRY L Deed Reference: /29632/ 00401 2024 ROCKY POINT RD Mailing Address: **BALTIMORE MD 21221-6413** Location & Structure Information 2024 ROCKY POINT RD **Legal Description:** Premises Address: 2024 ROCKY POINT RD **BALTIMORE 21221-6413** 1700FT S BARRISON PT RD Subdivision: Section: Block: Lot: Assessment Year: Plat No: Map: Grid: Parcel: Neighborhood: Plat Ref: 15080078.04 0000 0105 0020 0231 Town: None Primary Structure Built Above Grade Living Area Finished Basement Area Property Land Area County Use 31,860 SF 1.608 SF ExteriorQualityFull/Half BathGarage Last Notice of Major Improvements StoriesBasementType STANDARD UNITSTONE/4 1 full 1 Carport YES Value Information Value Phase-in Assessments Base Value As of As of 07/01/2024 01/01/2021 07/01/2023 83,200 83,200 Land: 177,000 177,000 Improvements 260,200 260,200 260,200 Total: Preferential Land: **Transfer Information** Price: \$270,000 Seller: PORTER ETHEL V Date: 06/28/2010 Deed2: Deed1: /29632/ 00401 Type: ARMS LENGTH IMPROVED Price: \$0 Date: 08/21/2001 Seller: PORTER JAMES CALVIN Deed1: /15488/ 00312 Deed2: Type: NON-ARMS LENGTH OTHER Price: \$0 Date: 02/20/1996 Seller: PORTER JAMES C Deed1: /11439/ 00175 Deed2: Type: NON-ARMS LENGTH OTHER **Exemption Information** 07/01/2024 07/01/2023 Partial Exempt Assessments: Class 0.00 County: 0.00 000 State: 0.00 0.001 Municipal: Special Tax Recapture: None Homestead Application Information Homestead Application Status: Approved 12/08/2010

## Homeowners' Tax Credit Application Information

Homeowners' Tax Credit Application Status: No ApplicationDate:

## PICTURES TO ACCOMPANY VARIANCE FOR 2024 Rocky Point Rd.



Front view of property



Side view of property



Adjacent property at 2026 Rocky Point Road



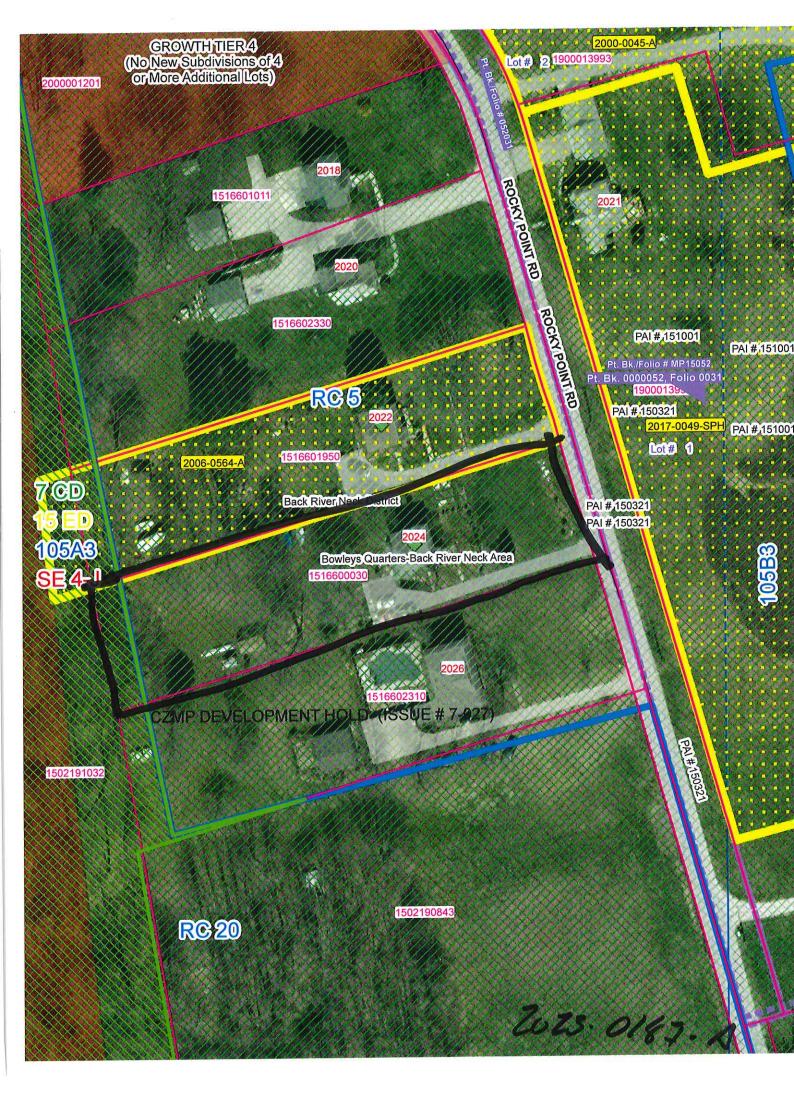
Adjacent property at 2022 Rocky Point Road

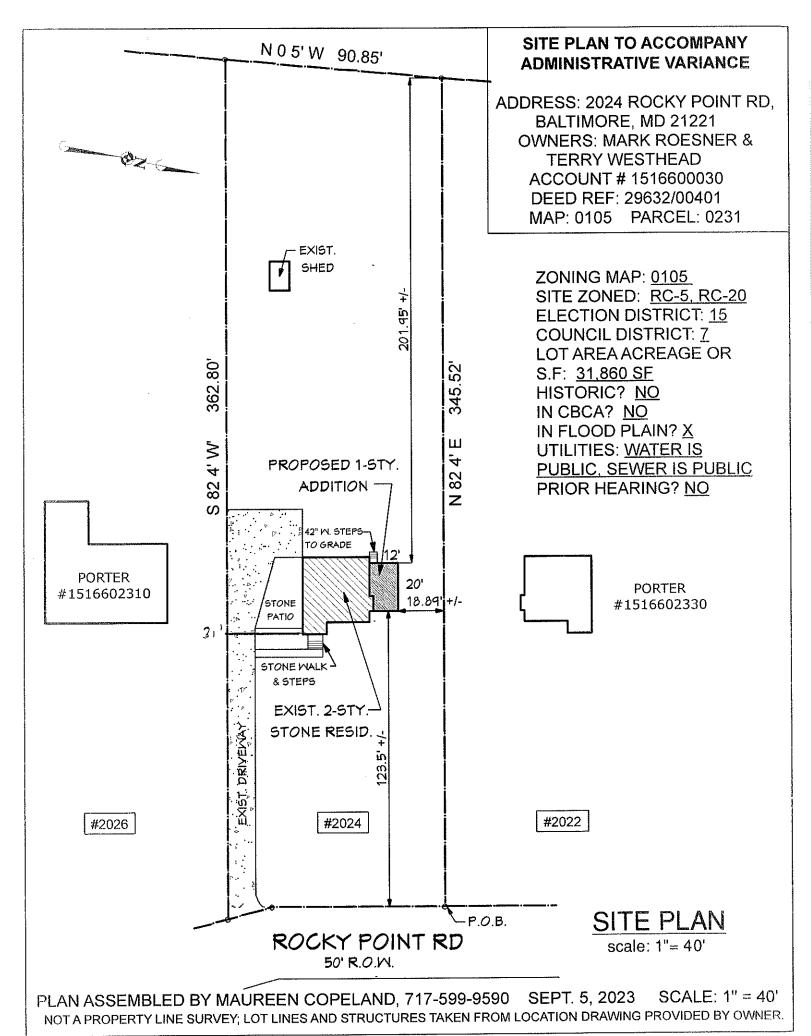


Rear yard of property



Street view of property





2072.0149.1

