

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

June 4, 2024

Karen Herzog- herzogkaren@gmail.com 109 Gorsuch Road Timonium, MD 21093

RE:

Petition for Variance

Case No. 2024-0100-A

Property: 109 Gorsuch Road

Dear Ms. Herzog:

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

for Baltimore County

MEM:dlm Enclosure

c: Bruce Doak - bdoak@bruceedoak@consulting.com

IN RE: PETITION FOR VARIANCE
(109 Gorsuch Road)

8<sup>th</sup> Election District
3rd Council District
Karen Herzog
Legal Owner

BEFORE THE

\* OFFICE OF ADMINISTRATIVE

\* HEARINGS OF

\* BALTIMORE COUNTY

Petitioner \* CASE NO. 2024-0100-A

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

#### **OPINION AND ORDER**

This matter comes before the Office of Administrative Hearings ("OAH") as a Petition for Variance filed by Karen Herzog ("Petitioner") for property located at 109 Gorsuch Road, Lutherville, (the "Property"). Petitioner is requesting Variance relief from Baltimore County Zoning Regulations ("BCZR"), §1B02.3.B (March 30, 1955, Vested R-10) to permit an addition to a dwelling to have a side setback of 6 ft. in lieu of the required 10 ft., and the sum of the side setbacks of 16 ft. in lieu of the required 25 ft.

A public WebEx hearing was conducted virtually in lieu of an in-person hearing. The Petition was properly advertised and posted. The Petitioner attended the hearing in support of the requested relief. Bruce E. Doak, certified property line surveyor of Bruce E. Doak Consulting, LLC, assisted the Petitioner and prepared and sealed a site plan (the "Site Plan"). (Pet. Ex. 1). There were no Protestants or other interested persons in attendance.

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

The Property was created as Lot 5 on Plat No. 4 "Addition to Yorkshire" filed in the Land Records of Baltimore County on April 10, 1956 (Liber 22, folio 148). (Pet. Ex. 3). It measures 10,875 sf +/- (145 ft. x 75 ft.) and is improved with a 1-story, 1,378 sf single family home constructed in 1957. My Neighborhood Map and an aerial photograph shows the Property is located within a residential neighborhood. (Pet. Exs. 4, 5). Street view photographs depict that the Property has a steep slope from the rear Property line toward the rear foundation line of the home, as well as a steep hill in the front yard with steps leading from Gorsuch Rd. up to the front door. (Pet. Exs. 6A-6P). It is zoned Density Residential (DR 3.5). (Pet. Ex. 4).

Petitioner requests to enclose the carport located on the western side of the home and to build an addition extending into the rear yard. The addition will measure 522 sf. As constructed, each of the 3 bedrooms are located on the rear of the home. Petitioner testified that the addition cannot be constructed in the rear yard without losing one (1) bedroom; without eliminating the outside stairway into the basement; and without relocating existing, underground drainage which is needed to remove storm water runoff from the steep slope in the rear yard. The home, and the proposed addition, will meet both the front yard and rear yard setbacks. With the new addition, the existing patio will be relocated to the eastern side of the rear yard addition for easy access to the outside.

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 applicable setbacks for this subdivision are those as prescribed by the BCZR

applicable to such use at the time the plan was approved by the Planning Board. (BCZR, §1B02.3.B). Pursuant to BCZR, §1B02.3.A.1, the Record Plat here was approved by the Planning Board on April 6, 1956. Accordingly, in the 1955 BCZR, the Property was zoned R-10 which provided for 10 ft. side yard setbacks, and 25 ft. for the sum of the side yard setbacks.

As explained above, the Property is irregular due to its steep topography in the rear yard which causes a convex shape where, but-for the underground drainage system, water would collect in that low area. With the basement stairwell on the rear of the home, and steep hill in front yard, the Property presents a unique challenge for expansion of this mid-century modern home. Importantly, as constructed, the carport is already set-off from the western Property line by 7.5 ft., and enclosing it is an efficient use of existing space. The addition, which will extend into the rear yard, will have a slight bump-out such that the side yard setback will be 6 ft. at its shortest distance. I find that the Petitioner would suffer a practical difficulty and unreasonable hardship if the proposed side yard setback of 6 ft., and sum of the side yard setbacks of 16 ft., were not granted because Petitioner would not be able to construct the addition onto her home. 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 4th day of June, 2024, by the Administrative Law Judge for Baltimore County, that the Petition for Variance pursuant to BCZR, §1B02.3.B (March 30, 1955, Vested R-10) to permit an addition to a dwelling to have a side setback of 6 ft., in lieu of the required 10 ft., and the sum of the side setbacks of 16 ft. in lieu of the required 25 ft. be, and they are each hereby, **GRANTED**.

The relief granted herein shall be subject to the following:

1. 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 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, Petitioner would be required to return the subject property to its original condition.

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

for Baltimore County

MEMdlm



### PETITION FOR ZONING HEARING(S)

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 109 GORSUCH ROAD which is presently zoned 223.5 10 Digit Tax Account # 0 8 0 5 0 3 4 2 5 0 Deed References: 37271 / 390 Property Owner(s) Printed Name(s) KAREN HERZOG (SELECT THE HEARING(S) BY MARKING X AT THE APPROPRIATE SELECTION AND PRINT OR TYPE THE PETITION REQUEST) The undersigned legal owner(s) of the property situate in Baltimore County and which is described in the description and plan attached hereto and made a part hereof, hereby petition for: a Special Hearing under Section 500.7 of the Zoning Regulations of Baltimore County, to determine whether or not the Zoning Commissioner should approve a Special Exception under the Zoning Regulations of Baltimore County to use the herein described property for 3. X a Variance from Section(s) SEE ATTACHED PAGE of the zoning regulations of Baltimore County, to the zoning law of Baltimore County, for the following reasons: (Indicate below your hardship or practical difficulty or indicate below "TO BE PRESENTED AT HEARING". If you need additional space, you may add an attachment to this petition) TO BE PRESENTED AT THE HEARING

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:	Legal Owners (Petitioners):					
Name- Type or Print	KAREN HERZOG					
Name-Type of Plint	Name #1 – Type or Print  Name #2 – Type or Print					
Signature	Signature #1 Signature #2					
Mailing Address City State	Mailing Address City State					
Zip Code Telephone # Email Address	Zip Code Telephone # Email Address AMAIL COM					
Attorney for Petitioner:	Representative to be contacted:  BRUCE E. DOAK  BRUCE E. DOAK CONSULTING U.C.					
Name- Type or Print	Name – Type or Print					
Signature	Signature 3801 BANGER SCHOOLHOUSE ROAD FREELAND MO					
Mailing Address City State	Mailing Address City State					
Zip Code Telephone # Email Address	Zip Code Telephone # Email Address					
CASE NUMBER 2024-D100-A Filing Date 4 1712	BOOAK @ BRUCE E POAK CON SULTING. COM  DO Not Schedule Dates: Reviewer C					

## Zoning Hearing Petitions Being Requested

Variance to permit an addition to a dwelling to have a side setback of 6 feet in lieu the required 15 feet and the sum of the side setbacks of 16 feet in lieu of the required 25 feet per Section 1B02.3.C.1 (chart) -March 30, 1955 DR 3.5 BCZR

2024-0100-A



## **Zoning Description**

109 Gorsuch Road Eighth Election District Third Councilmanic District Baltimore County, Maryland

Beginning at a point on the south side of Gorsuch Road, 50 feet wide, 25 feet from the center line and 270 feet, more or less, easterly of the centerline of Tree Lane,

Being Lot #5 as shown on the plat entitled "Plat No. 4 Addition to Yorkshire" dated January 12, 1956 and recorded in the land records of Baltimore County in Plat Book 22, page 148.

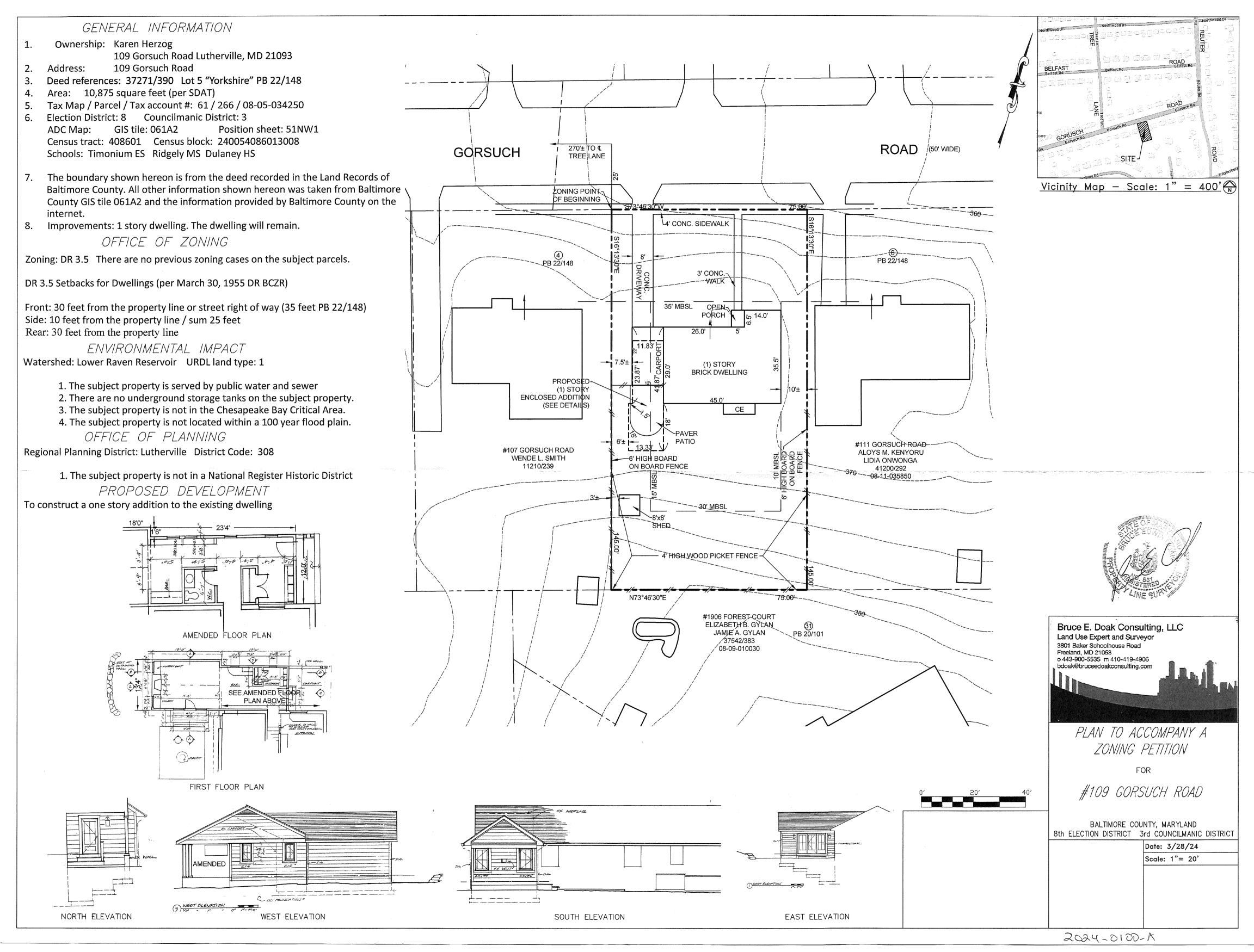
Containing 10,875 square feet of land, more or less.

This description is part of a zoning hearing petition and is not intended for any conveyance purposes.



Bruce E. Doak Consulting, LLC 3801 Baker Schoolhouse Road Freeland, MD 21053 410-419-4906 cell / 443-900-5535 office bdoak@bruceedoakconsulting.com

2024-0100-A



#### **BALTIMORE COUNTY, MARYLAND**

#### **Inter-Office Correspondence**



Hon. Maureen E. Murphy; Chief Administrative Law Judge TO:

Office of Administrative Hearings

FROM: Jeff Livingston, Department of Environmental Protection and

Sustainability (EPS) - Development Coordination

DATE: April 24, 2024

SUBJECT: **DEPS** Comment for Zoning Item # 2024-0100-A

> Address: 109 GORSUCH RD

Legal Owner: Karen Herzog

Zoning Advisory Committee Meeting of April 26, 2024.

X The Department of Environmental Protection and Sustainability has no comment on the above-referenced zoning item.

#### Additional Comments:

Earl D. Wrenn Reviewer:

### **BALTIMORE COUNTY, MARYLAND**

#### INTEROFFICE CORRESPONDENCE

TO: Peter Gutwald, Director DATE: April 22, 2024

Department of Permits, Approvals

**FROM:** Vishnu Desai, Supervisor

Bureau of Development Plans Review

**SUBJECT:** Zoning Advisory Committee Meeting

Case 2024-0100-A

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

**DPR:** No comment.

**DPW-T:** No Exception taken.

Landscaping: No comment.

Recreations & Parks: No Greenways affected.

# BALTIMORE COUNTY, MARYLAND INTER-OFFICE MEMORANDUM

**TO:** C. Pete Gutwald **DATE:** 4/26/2024

Director, Department of Permits, Approvals and Inspections

**FROM:** Steve Lafferty

Director, Department of Planning

SUBJECT: ZONING ADVISORY COMMITTEE COMMENTS

Case Number: 2024-0100-A

**INFORMATION:** 

Property Address: 109 Gorsuch Road Petitioner: Karen Herzog Zoning: DR 3.5 Requested Action: Variance

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

#### Variance -

1. To permit an addition to a dwelling to have a side setback of 6' in lieu of the required 15', and the sum of the side setbacks of 16' in lieu of the required 25' per Section 1B02.3.C.1 (chart) – March 30, 1955 DR3.5 – of the Baltimore County Zoning Regulations (BCZR).

The subject site is an approximately 10,875 square foot parcel in the Timonium area. The site is improved with a one-story single family detached dwelling with a carport, concrete driveway, and six-foot tall wooden privacy fence. The site is located off of York Road; uses along York Road are primarily commercial, however uses off of York Road are primarily residential. Many of the residential dwellings surrounding the subject site are similarly sized and are on similarly sized lots as the subject site.

Per the site plan, the Petitioner wishes to convert the existing carport into an addition and then expand the addition at the rear. The Department of Planning contacted the representative for the Petition via email on April 22<sup>nd</sup>, 2024. In a same day reply, the representative confirmed that the carport was proposed to be enclosed, with the exception of a small area at the front which would remain open, and provided the Department with the site plan shown in Figure 1 at the end of this memo. The representative also provided a floor plan – which shows the enclosed addition will be used as a mudroom, bar, and living area – and a sketch of what the proposed west elevation will look like once completed.

Within the neighborhood, there have been three other Variances granted for side yard setbacks, including the following:

- Case 2021-0172-A to permit an addition with a 7' side yard setback in lieu of the required 10' for 1908 Eastridge Avenue;
- Case 2001-0521-A to permit a side yard setback of 17' in lieu of the required 18.75' for 119 Gorsuch Road; and
- Case 1955-0184-A to permit a side yard setback of 3' in lieu of the required 11.25' and to permit a sum side yard setback of 13' in lieu of the required 25' for a carport for 105 Gorsuch Road.

The site is within the boundary of the Hunt Valley/Timonium Master Plan, adopted October 19<sup>th</sup>, 1998. The plan primarily focuses on commercial properties along York Road and in the Hunt Valley area, and maps the subject site as being part of the "Impact Area" rather than part of the "Focus Area" (Map 1, page 2).

The Department of Planning has no objections to the requested relief. The addition utilizes the existing carport to create additional living space, but still provides an open area in the front of the dwelling. Further, the portion of the addition expanded beyond the carport/into the rear yard of the property will be screened from the neighboring property at 107 Gorsuch Road with the existing wooden privacy fence.

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

**Division Chief:** 

Prepared by:

Krystle Patchak

SL/JGN/KP

c: Bruce E. Doak
David Birkenthal, Community Planner
Jeff Perlow, Zoning Review
Kristen Lewis, Zoning Review
Office of Administrative Hearings
People's Counsel for Baltimore County

8' PB 22/148 DRIVEWAY 3' CONC. CONC. WALK 35' MBSL OPENis 14.0' PORCH TO REMAIL AREA OPEN 26.0' EXISTING OPEN CAR PORT TO BE ADDED TO AND MOST ENCLOSED  $7.5' \pm$ (1) STORY **BRICK DWELLING** PROPOSED. PROPOSED ADDISION (1) STORY 10'± TO HOUSE - MOSTLY SED ADDITION ENCLOSED 45.0 SEE DETAILS) CE PAVER **PATIO** CH ROAD ON BOARD FENCE SH BOARD **SMITH** 6' HIGH BOARD 239 ON BOARD FENCE MBSL

Figure 1 – The additional site plan provided to the Department of Planning on April 22<sup>nd</sup>, 2024:



## **CERTIFICATE OF POSTING**

May 14, 2024
amended for second inspection
Re: Zoning Case No. 2024-0100-A Legal Owner: Karen Herzog Hearing date: June 4, 2024
Baltimore County Department of Permits, Approvals & Inspections County Office Building 111 West Chesapeake Avenue, Room 111 111 West Chesapeake Avenue Towson, MD 21204
Attention: Jeff Perlow
Ladies and Gentlemen,
This letter is to certify under the penalties of perjury that the two necessary signs required by law were posted conspicuously on the property located at 109 Gorsuch Road.
The signs were initially posted on May 14, 2024.
The subject property was also inspected on
Sincerely,

Bruce E. Doak

MD Property Line Surveyor #531

See the attached sheets for the photos of the posted signs

Bruce E. Doak Consulting, LLC 3801 Baker Schoolhouse Road Freeland, MD 21053 410-419-4906 cell / 443-900-5535 office bdoak@bruceedoakconsulting.com











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

#### **ADVERTISING REQUIREMENTS AND PROCEDURES FOR ZONING HEARINGS**

The <u>Baltimore County Zoning Regulations</u> (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 fifteen (15) 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: 2024-0100-A
Property Address: 109 GORSUCH ROAD TIMONIUM MD 21093
Property Description: Lot #5 Appition to YORKSHIRE PB 22/148
Legal Owners (Petitioners): KAREN HERZOG
Contract Purchaser/Lessee:
PLEASE FORWARD ADVERTISING BILL TO:
Name: Bauce E. Doak
Company/Firm (if applicable): Bruce E. Donk Consulting LLC
Address: 3801 BAKER SCHOOLHOUSE ROAD
FREELAND MO 21053
Telephone Number: 410-419-4906

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

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		Owner Inform	nation			
Owner Name:	HERZOG KA	ERZOG KAREN Use: RESIDE Principal Residence:YES				
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