



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 30, 2024

Joseph and Dena McIlhenney – joemacbaseball@aol.com
2028 Poplar Road
Essex, MD 21221

RE: Petition for Administrative Variance
Case No. 2024-0255-A
Property: 2028 Poplar 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 blue ink signature of Andrew M. Belt, written in a cursive style, is positioned above the name and title of the signatory.

ANDREW M. BELT
Administrative Law Judge
for Baltimore County

AMB:dlw
Enclosure

IN RE: PETITION FOR ADMIN. VARIANCE	*	BEFORE THE
(2028 Poplar Road)		
15 th Election District	*	OFFICE OF ADMINISTRATIVE
7 th Council District		
Joseph & Dena McIlhenney	*	HEARINGS FOR
Petitioners	*	BALTIMORE COUNTY
	*	CASE NO. 2024-0255-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, Joseph and Dena McIlhenney (“Petitioners”) for the property located at 2028 Poplar Road, Essex (the “Property”). The Petitioners are requesting Variance relief from the Baltimore County Zoning Regulations (“BCZR”), Section 400.1, to permit an in-ground pool to be placed in the front yard (water side) in lieu of the required rear yard placement.

The Property and requested relief are more fully depicted on the site plan that was marked and accepted into evidence (the “Site Plan”). (Pet. Ex. 1). Street view photographs of the property was provided. (Pet. Ex. 2A-2D).

A Zoning Advisory Committee (“ZAC”) comment, dated December 2, 2024, was submitted by the Bureau of Development Plans Review (“DPR”), indicating the following:

The proposed site is north of the coordinates described in County Code 32-8-201(J)(2) so the base flood elevation is 8.5. All proposed living spaces must be elevated above the base flood elevation plus the required freeboard as outlined in Bill 6-24, the current County Code. Any area below this elevation cannot be used for living space, storage only, or flood proof materials must be used. The LiMWA is not on the property. The pool mechanisms must be elevated out of the flood protection elevation. The pool must be anchored to prevent floatation.

The property is located within the Chesapeake Bay Critical Area (“CBCA”) and is subject to Critical Area Regulations. As such, the Petitioners must comply with those conditions imposed by the Department of Environmental Protection and Sustainability (“DEPS”), dated December 3, 2024.

The Petitioners having filed a Petition for Administrative Variance and the Property having been posted on December 8, 2024, and there being no request for a public hearing, a decision shall be rendered based upon the documentation presented. Prior Case No. 2017-0353-A determined that the subject property is “unique” in keeping with the holding in *Cromwell v. Ward*, 102 Md. App. 691 (1995). The Petitioners have filed the supporting affidavit as required by Baltimore County Code (“BCC”), Section 32-3-303. 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 Site Plan, photographs, and affidavit submitted provide sufficient facts that comply with the requirements of BCZR, Section 307.1. Furthermore, strict compliance with the BCZR would result in practical difficulty and/or unreasonable hardship upon the Petitioners.

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 30th day of **December, 2024**, by the Administrative Law Judge for Baltimore County Zoning Regulations (“BCZR”), Section 400.1, to permit an in-ground pool to be placed in the front yard (water side) in lieu of the required rear yard placement, be and 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. The Site Plan, (Pet. Ex. 1) a copy of which is attached hereto, is incorporated herein.

3. Petitioners and all subsequent owners shall comply with the DPR and DEPS ZAC comments, dated December 2, 2024 and December 3, 2024, respectively; copies of which are attached hereto and made a part hereof.

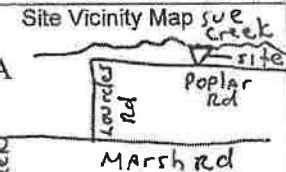
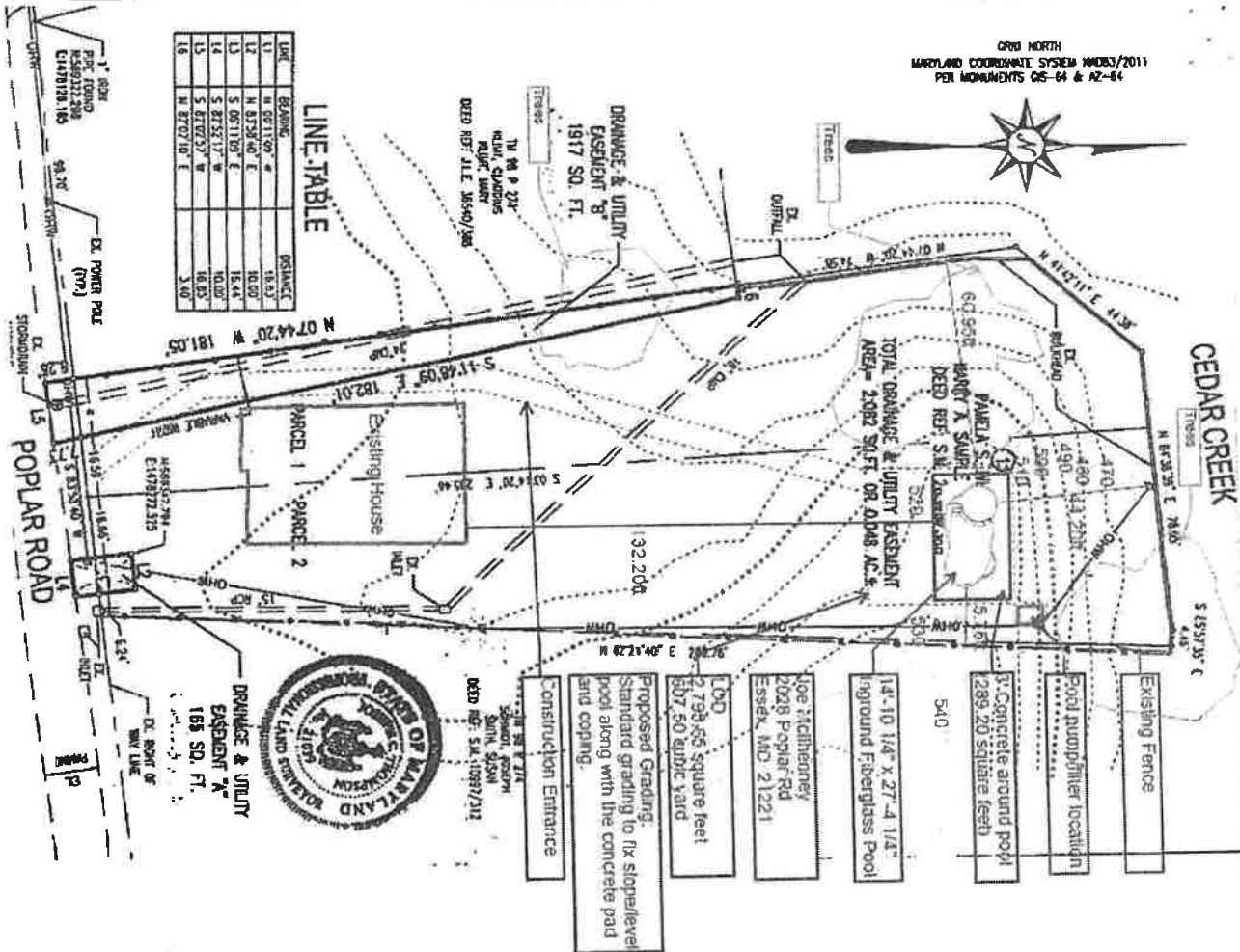
Any appeal of this decision must be made within thirty (30) days of the date of this Order.



ANDREW M. BELT
Administrative Law Judge
for Baltimore County

AMB:dlw

Zoning Hearing Plan for Variance X for Special Hearing _____ Mark Type Requested with (X)
 Address 2028 POPLAR RD ESSEX MD 21221- Owners(s) Name(s) MCILHENNEY JOSEPH, MCILHENNEY DENA
 Subdivision Name Cedar Beach Lot # 74 Block # N/A Section # N/A
 Plat Book # 7 Folio # 186 10 Digit Tax # 1 5 1 9 8 5 0 3 1 0 Deed Reference# 4 2 8 3 9, 0 0 0 4 1



N
 MAP IS NOT TO SCALE

Zoning Map # 98
 Zoning RC5
 Election District 15
 Council District 7
 Lot Area Acreage 0.58 AC
 Lot Square Footage 25,387
 Historic (Yes or No) NO
 CBCA (Yes or No) Yes
 Flood Plain (Yes or No) Yes
 Utilities – Mark with (X)
 Water is:
 Public X Private _____
 Sewer is:
 Public X Private _____
 Prior Hearing (Yes or No) Yes
 If (Yes) list Case Number(s) and order result(s) below:
2017-0253-A - approved
- PRIMARY STRUCTURE
SETBACKS
 Violation Case Number(s)



2024-0255-A

Plan Drawn By Splash Fiberglass Pool Company Date 11/12/2024 Scale: 1 inch = 30 Feet

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

TO: Peter Gutwald, Director
Department of Permits, Approvals

FROM: Vishnu Desai, Supervisor
Bureau of Development Plans Review

SUBJECT: Zoning Advisory Committee Meeting
Case 2024-0255-A

DATE: December 2, 2024

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

DPR: No comment.

DPW-T: The proposed site is North of the coordinates described in County Code 32-8-201(J)(2) so the base flood elevation is 8.5. All proposed living spaces must be elevated above the base flood elevation plus the required freeboard as outlined in Bill 6-24, the current County Code. Any area below this elevation cannot be used for living space, storage only, or flood proof materials must be used. The LIMWA is not on the property. The pool mechanicals must be elevated out of the flood protection elevation. The pool must be anchored to prevent floatation

Landscaping: No comment.

Recreations & Parks: No comment LOS & No Greenways affected.

AV 12-23

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence

DEC 03 2024



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

FROM: Jeff Livingston, Department of Environmental Protection and
Sustainability (DEPS) - Development Coordination

DATE: December 3, 2024

SUBJECT: DEPS Comment for Zoning Item # 2024-0255-A
Address: 2028 POPLAR ROAD
Legal Owner: Joseph & Dena McIlhenney

Zoning Advisory Committee Meeting of December 3, 2024.

DEPS 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;

This waterfront property is located within a Limited Development Area (LDA) and a Modified Buffer Area (MBA) and is subject to Critical Area requirements. Development on this property must comply with a maximum Critical Area lot coverage limit of 5,445 square feet, and must comply with additional lot coverage restrictions for accessory structures located within the tidal buffer. Critical Area lot coverage is defined in State of Maryland Natural Resources Article §8-1802(a)(17). The site plan must be to scale, and must show all existing and proposed lot coverage. If the applicant can bring the property into compliance with lot coverage requirements, and meets all mitigation requirements, the relief requested will result in minimal adverse impacts to water quality.

2. Conserve fish, plant, and wildlife habitat;

This is a waterfront property with a required Critical Area buffer covering around 70% of the property. Development within the buffer must meet the Modified Buffer Area (MBA) requirements. As previously noted, there is a maximum lot

coverage allowance for the entire property, and there is a limit on lot coverage within specific areas of the buffer. If the applicant can bring the property into compliance with Critical Area laws and regulations, this will aid in the conservation of fish, plant, and wildlife habitat in the watershed.

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 defined lot coverage requirements, meet all Modified Buffer Area requirements, and meet all tree and mitigation requirements, the relief requested will be consistent with established land-use policies.

Reviewer: Paul Dennis



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:

Address 2028 Poplar Rd, Essex, md 21221 Currently Zoned RC5
Deed Reference /42839 / 00041 10 Digit Tax Account # 1 5 1 9 8 5 0 3 1 0
Owner(s) Printed Name(s) JOSEPH MCILHENNEY , DENA MCILHENNEY

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

For Administrative Variances, the Affidavit on the reverse of this Petition form must be completed and notarized.

The undersigned, who own and occupy the property situate in Baltimore County and which is described in the plan/plat attached hereto and made a part hereof, hereby petition for an:

1. X **ADMINISTRATIVE VARIANCE** from Section(s)

BCZR: 400.1 → To permit an in-ground pool to be placed in the front yard (water side) in lieu of the required rear yard placement.

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

2. ADMINISTRATIVE SPECIAL HEARING to approve a waiver pursuant to Section 32-4-107(b) of the Baltimore County Code: (indicate type of work in this space: i.e., 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/ we agree to pay expenses of above petition(s), advertising, posting, etc. and further agree to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the zoning law for Baltimore County.

Owner(s)/Petitioner(s):

<u>JOSEPH MCILHENNEY</u>	<u>DENA MCILHENNEY</u>
Name #1 – Type or Print	Name #2 – Type or Print
<u>[Signature]</u>	<u>[Signature]</u>
Signature #1	Signature #2
<u>2028 Poplar Rd</u>	<u>Essex MD</u>
Mailing Address	City State
<u>21221 / 14436953767</u>	<u>/ joemacbaseball@aol.com</u>
Zip Code Telephone #'s (Cell and Home)	Email Address

Attorney for Owner(s)/Petitioner(s):

Name - Type or Print

Signature

Mailing Address City State

Zip Code Telephone # Email Address

Representative to be Contacted:

Joseph McIlhenney

Name - Type or Print

[Signature]

Signature

2028 Poplar Rd Essex MD

Mailing Address City State

21221 / 4436953767 / joemacbaseball@aol.com

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 of Baltimore County.

Administrative Law Judge for Baltimore County

Case Number 2024-0255-A Filing Date 11 / 25 / 24 Estimated Posting Date 12 / 8 / 24 Reviewer JS

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: 2028 Poplar Rd Essex md 21221
Print or Type Address of Property City State Zip Code

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

We are requesting a variance for a in ground fiberglass pool located in the front yard of our waterfront property.

The waterfront property has irregular dimensions that will not accommodate
An inground fiberglass pool in the back yard or sides of the house. The only place
feasible would be the front yard making it therefore unique. If the regulations
were strictly interpreted we would experience a practical difficulty because
we would be unable to construct an inground pool on this lot.

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

Signature of Owner (Affiant)

Joseph McIlhenney
Name - Print or Type

Signature of Owner (Affiant)

Dena McIlhenney
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 14th day of November, 2024, before me a Notary of Maryland, in and for the County aforesaid, personally appeared:

Print name(s) here: Joseph McIlhenney, Dena McIlhenney

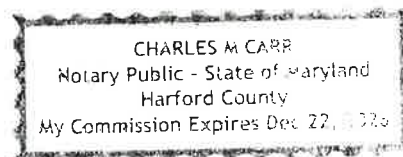
the Affiant(s) herein, personally known or satisfactorily identified to me as such Affiant(s).

AS WITNESS my hand and Notaries Seal

Notary Public

12-22-2026

My Commission Expires



Zoning Property Description For 2028 Poplar Rd. Essex, MD 21221

Beginning for the first thereof on the northernmost side of Poplar Road at the southwest corner of Lot N 74 as shown on the Plat of Cedar Beach recorded among the Land Records of Baltimore County in Plat Book WPC No. 7 folio 186 which plat of beginning is distant 148.05 feet easterly from the end of the S 79 03' east line of the northernmost side of Poplar Road as shown on said Plat thence running S 88 47' east 32.90 feet thence N 4 0' east 252.8 feet more or less to the Waters of Cedar Creek thence westerly bounding the waters of Cedar Creek to intersect a line drawn N 0 30' west from the place of beginning and thence reversing the line so drawn and binding thereon S 0 30' east 262.2 feet to the place of beginning. Being parts of Lot Nos. 74 and 75 as shown on Plat of Cedar Beach.

Beginning for the second thereof on the northernmost side of Poplar Road at the distance of 32.90 feet easterly from the southwest corner of lot No. 74 as shown on the Plat of Cedar Beach recorded among the Land Records of Baltimore County in Plat Book WPC No. 7 folio 186 which plat of beginning is also distant 180.95 feet from the end of the S 79 03' east line of the northernmost side of Poplar Road as shown on said plat thence running S 88 47' east 32.90 feet thence N 9 36' east 245 feet more or less to the waters of Cedar Creek thence east from the place of beginning and thence reversing the line so drawn and binding thereon S 4 0' west 282.8 feet more or less to the place of beginning. Being parts of lot Nos. 74-75 and 76 as shown on the Plat of Cedar Beach

The improvements thereon being known as 2028 Poplar Road, Essex, Maryland 21221.

2024-0255-A

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET AND FINANCE
MISCELLANEOUS CASH RECEIPT

No. 235030

Date: 11/25/24

Fund	Dept	Unit	Sub Unit	Rev Source/ Obj	Sub Rev/ Obj	Dept Obj	BS Acct	Amount
001	806	0000		6150				\$ 75.00

Total: \$ 75.00

Rec

From: MCILHENNEY

For: 2024-0255-A

2028 POPLAR RD

ISS 24-1078

DISTRIBUTION

WHITE - CASHIER

PINK - AGENCY

YELLOW - CUSTOMER

GOLD - ACCOUNTING

PLEASE PRESS HARD!!!!

**CASHIER'S
VALIDATION**

JOSEPH S MCILHENNEY

DENA P MCILHENNEY

2028 POPLAR RD.
ESSEX, MD 21221

7-11
520 6413

337

DATE 11/15/24



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ORDER OF

M&T Bank

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

ADMINISTRATIVE VARIANCE INFORMATION SHEET AND DATES

Case Number: 2024 - 0255 -A Address 2028 POPLAR RD., 21221

Contact Person: JASON SEIDELMAN Phone Number: 410-887-3391
Planner, Please Print Your Name

Filing Date: 11/25/24 Posting Date: 12/8/24 Closing Date: 12/23/24

Any contact made with this office regarding the status of the administrative variance should be through the contact person (planner) using the case number.

- POSTING/COST:** The petitioner must use one of the sign posters on the approved list and the petitioner is responsible for all printing/posting costs. Any reposting must be done only by one of the sign posters on the approved list and the petitioner is again responsible for all associated costs. The zoning notice sign must be visible on the property on or before the posting date noted above. It should remain there through the closing date.
- DEADLINE:** The closing date is the deadline for a neighbor (occupant or owner) within 1,000 feet to file a formal request for a public hearing. Please understand that even if there is no formal request for a public hearing, the process is not complete on the closing date.
- ORDER:** After the closing date, the file will be reviewed by the Administrative Law Judge. The judge may: (a) grant the requested relief; (b) deny the requested relief; or (c) order that the matter be set in for a public hearing. If all County/State agencies' comments are received, you will receive written notification as to whether the petition has been granted, denied, or will proceed to a public hearing. This decision is usually made within 10 days of the closing date. The written order will be mailed to you by First Class mail.
- POSSIBLE PUBLIC HEARING AND REPOSTING:** In cases that must go to a public hearing (whether due to a neighbor's formal request or by order of the Administrative Law Judge), notification will be forwarded to you. The sign on the property must be changed giving notice of the hearing date, time and location. As when the sign was originally posted, certification of this change and a photograph of the altered sign must be forwarded to this office.

Petitioner: This Part of the Form is for the Sign Poster Only (Detach Along Dotted Line)

USE THE ADMINISTRATIVE VARIANCE SIGN FORMAT

Case Number: 2024 - 0255 -A Address 2028 POPLAR RD., 21221

Petitioner's Name: MC HENNEY Telephone (Cell) 443-695-3767

Posting Date: 12/8/24 Closing Date: 12/23/24

Wording for Sign: To Permit _____

_____ To permit an in-ground pool to be placed in the front yard (water side)
_____ in lieu of the required rear yard placement.

Revised 1/2022

**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 the posting of two signs 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: 2024-0255-A

Property Address: 2028 Poplar Rd Essex, MD 21221

Property Description: Residential property

Legal Owners (Petitioners): Joseph and Dena McIlhenney

Contract Purchaser/Lessee: _____

PLEASE FORWARD ADVERTISING BILL TO:

Name: Joseph McIlhenney

Company/Firm (if applicable): _____

Address: 2028 Poplar Rd
Essex, MD 21221

Telephone Number: 443-695-3767

*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.



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:

Address 2028 Poplar Rd, Essex, md 21221 Currently Zoned RC5
Deed Reference /42839 / 00041 10 Digit Tax Account # 1 5 1 9 8 5 0 3 1 0
Owner(s) Printed Name(s) JOSEPH MCILHENNEY , DENA MCILHENNEY

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

For Administrative Variances, the Affidavit on the reverse of this Petition form must be completed and notarized.

The undersigned, who own and occupy the property situate in Baltimore County and which is described in the plan/plat attached hereto and made a part hereof, hereby petition for an:

1. ☒ **ADMINISTRATIVE VARIANCE** from Section(s)

BCZR: 400.1 → To permit an in-ground pool to be placed in the front yard (water side) in lieu of the required rear yard placement.

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

2. ☐ **ADMINISTRATIVE SPECIAL HEARING** to approve a waiver pursuant to Section 32-4-107(b) of the Baltimore County Code: (indicate type of work in this space: i.e., 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/ we agree to pay expenses of above petition(s), advertising, posting, etc. and further agree to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the zoning law for Baltimore County.

Owner(s)/Petitioner(s):

<u>JOSEPH MCILHENNEY</u>	<u>DENA MCILHENNEY</u>
Name #1 – Type or Print	Name #2 – Type or Print
<u>[Signature]</u>	<u>[Signature]</u>
Signature #1	Signature #2
<u>2028 Poplar Rd</u>	<u>Essex MD</u>
Mailing Address	City State
<u>21221 / 14436953767</u>	<u>/ joemacbaseball@aol.com</u>
Zip Code Telephone #'s (Cell and Home)	Email Address

Attorney for Owner(s)/Petitioner(s):

Name - Type or Print

Signature

Mailing Address City State

Zip Code Telephone # Email Address

Representative to be Contacted:

Joseph McIlhenney

Name - Type or Print

[Signature]

Signature

2028 Poplar Rd Essex MD

Mailing Address City State

21221 / 4436953767 / joemacbaseball@aol.com

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 of Baltimore County.

Administrative Law Judge for Baltimore County

Case Number 2024-0255-A Filing Date 11 / 25 / 24 Estimated Posting Date 12 / 8 / 24 Reviewer JS

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: <u>2028 Poplar Rd</u>	<u>Essex</u>	<u>md</u>	<u>21221</u>
Print or Type Address of Property	City	State	Zip Code

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

We are requesting a variance for a in ground fiberglass pool located in the front yard of our waterfront property.

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An inground fiberglass pool in the backyard or sides of the house. The only place
feasible would be the front yard making it therefore unique. If the regulations
were strictly interpreted we would experience a practical difficulty because
we would be unable to construct an inground pool on this lot.

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

Signature of Owner (Affiant)

Joseph McIlhenney
Name - Print or Type

Signature of Owner (Affiant)

Dena McIlhenney
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 14th day of November, 2024, before me a Notary of Maryland, in and for the County aforesaid, personally appeared:

Print name(s) here: Joseph McIlhenney, Dena McIlhenney

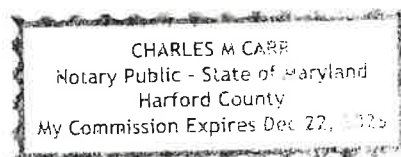
the Affiant(s) herein, personally known or satisfactorily identified to me as such Affiant(s).

AS WITNESS my hand and Notaries Seal

Notary Public

12-22-2026

My Commission Expires



Zoning Property Description For 2028 Poplar Rd. Essex, MD 21221

Beginning for the first thereof on the northernmost side of Poplar Road at the southwest corner of Lot N 74 as shown on the Plat of Cedar Beach recorded among the Land Records of Baltimore County in Plat Book WPC No. 7 folio 186 which plat of beginning is distant 148.05 feet easterly from the end of the S 79 03' east line of the northernmost side of Poplar Road as shown on said Plat thence running S 88 47' east 32.90 feet thence N 4 0' east 252.8 feet more or less to the Waters of Cedar Creek thence westerly bounding the waters of Cedar Creek to intersect a line drawn N 0 30' west from the place of beginning and thence reversing the line so drawn and binding thereon S 0 30' east 262.2 feet to the place of beginning. Being parts of Lot Nos. 74 and 75 as shown on Plat of Cedar Beach.

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The improvements thereon being known as 2028 Poplar Road, Essex, Maryland 21221.

2024-0255-A

CERTIFICATE OF POSTING

2024-0255-A

RE: Case No.: _____

Petitioner/Developer: _____

Joseph and Dena McIlhenney

December 23, 2024

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: Jeff Perlow:

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: _____

2028 Poplar Road

December 8, 2024

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



Sincerely,



December 8, 2024

(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, MARYLAND

INTEROFFICE CORRESPONDENCE

TO: Peter Gutwald, Director
Department of Permits, Approvals

DATE: December 2, 2024

FROM: Vishnu Desai, Supervisor
Bureau of Development Plans Review

SUBJECT: Zoning Advisory Committee Meeting
Case 2024-0255-A

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

DPR: No comment.

DPW-T: The proposed site is North of the coordinates described in County Code 32-8-201(J)(2) so the base flood elevation is 8.5. All proposed living spaces must be elevated above the base flood elevation plus the required freeboard as outlined in Bill 6-24, the current County Code. Any area below this elevation cannot be used for living space, storage only, or flood proof materials must be used. The LiMWA is not on the property. The pool mechanicals must be elevated out of the flood protection elevation. The pool must be anchored to prevent floatation

Landscaping: No comment.

Recreations & Parks: No comment LOS & No Greenways affected.

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence



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

FROM: Jeff Livingston, Department of Environmental Protection and
Sustainability (DEPS) - Development Coordination

DATE: December 3, 2024

SUBJECT: DEPS Comment for Zoning Item # 2024-0255-A
Address: 2028 POPLAR ROAD
Legal Owner: Joseph & Dena McIlhenney

Zoning Advisory Committee Meeting of December 3, 2024.

DEPS 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;

This waterfront property is located within a Limited Development Area (LDA) and a Modified Buffer Area (MBA) and is subject to Critical Area requirements. Development on this property must comply with a maximum Critical Area lot coverage limit of 5,445 square feet, and must comply with additional lot coverage restrictions for accessory structures located within the tidal buffer. Critical Area lot coverage is defined in State of Maryland Natural Resources Article §8-1802(a)(17). The site plan must be to scale, and must show all existing and proposed lot coverage. If the applicant can bring the property into compliance with lot coverage requirements, and meets all mitigation requirements, the relief requested will result in minimal adverse impacts to water quality.

2. Conserve fish, plant, and wildlife habitat;

This is a waterfront property with a required Critical Area buffer covering around 70% of the property. Development within the buffer must meet the Modified Buffer Area (MBA) requirements. As previously noted, there is a maximum lot

coverage allowance for the entire property, and there is a limit on lot coverage within specific areas of the buffer. If the applicant can bring the property into compliance with Critical Area laws and regulations, this will aid in the conservation of fish, plant, and wildlife habitat in the watershed.

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 defined lot coverage requirements, meet all Modified Buffer Area requirements, and meet all tree and mitigation requirements, the relief requested will be consistent with established land-use policies.

Reviewer: Paul Dennis

Real Property Data Search ()
Search Result for BALTIMORE COUNTY

View Map	View GroundRent Redemption	View GroundRent Registration
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Special Tax Recapture: None

Account Identifier: District - 15 Account Number - 1519850310

Owner Information

Owner Name:	MCIHENNEY JOSEPH	Use:	RESIDENTIAL
	MCIHENNEY DENA	Principal Residence:	YES
Mailing Address:	2028 POPLAR RD	Deed Reference:	/42839/ 00041
	ESSEX MD 21221-		

Location & Structure Information

Premises Address:	2028 POPLAR RD	Legal Description:	PRT LTS 74,75
	ESSEX 21221-		598 E MARSH RD
	Waterfront		CEDAR BEACH

Map: Grid: Parcel: Neighborhood: Subdivision: Section: Block: Lot: Assessment Year: Plat No:
0098 0020 0273 15080077.04 0000 74 2024 Plat Ref: 0012/ 0004

Town: None

Primary Structure Built	Above Grade Living Area	Finished Basement Area	Property Land Area	County Use
2019	2,083 SF		8,738 SF	34

Stories	Basement Type	Exterior Quality	Full/Half Bath	Garage	Last Notice of Major Improvements
1 1/2	YES	STANDARD UNITS	SIDING/4	2 full/ 1 half	1 Attached

Value Information

	Base Value	Value	Phase-in Assessments	
		As of	As of	As of
		01/01/2024	07/01/2024	07/01/2025
Land:	218,400	347,300		
Improvements	285,000	357,900		
Total:	503,400	705,200	570,667	637,933
Preferential Land:	0	0		

Transfer Information

Seller: FEJES WILLIAM M	Date: 05/15/2020	Price: \$540,000
Type: ARMS LENGTH MULTIPLE	Deed1: /42839/ 00041	Deed2:
Seller: WIEGAND PAMELA S	Date: 03/12/2018	Price: \$145,000
Type: ARMS LENGTH MULTIPLE	Deed1: /40034/ 00136	Deed2:
Seller: SAMPLE MURIEL E	Date: 11/19/2007	Price: \$0
Type: NON-ARMS LENGTH OTHER	Deed1: /26396/ 00386	Deed2:

Exemption Information

Partial Exempt Assessments:	Class	07/01/2024	07/01/2025
County:	000	0.00	
State:	000	0.00	
Municipal:	000	0.00 0.00	0.00 0.00

Special Tax Recapture: None

Homestead Application Information

Homestead Application Status: Approved 07/28/2020

Homeowners' Tax Credit Application Information

Homeowners' Tax Credit Application Status: No Application Date:

2024-0255-A



2028 Poplar Rd



Imagery ©2024 Airbus, Maxar Technologies, Map data ©2024 100 ft



2028 Poplar Rd

Building



Directions



Save



Nearby



Send to
phone



Share

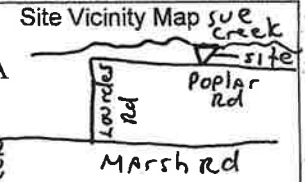
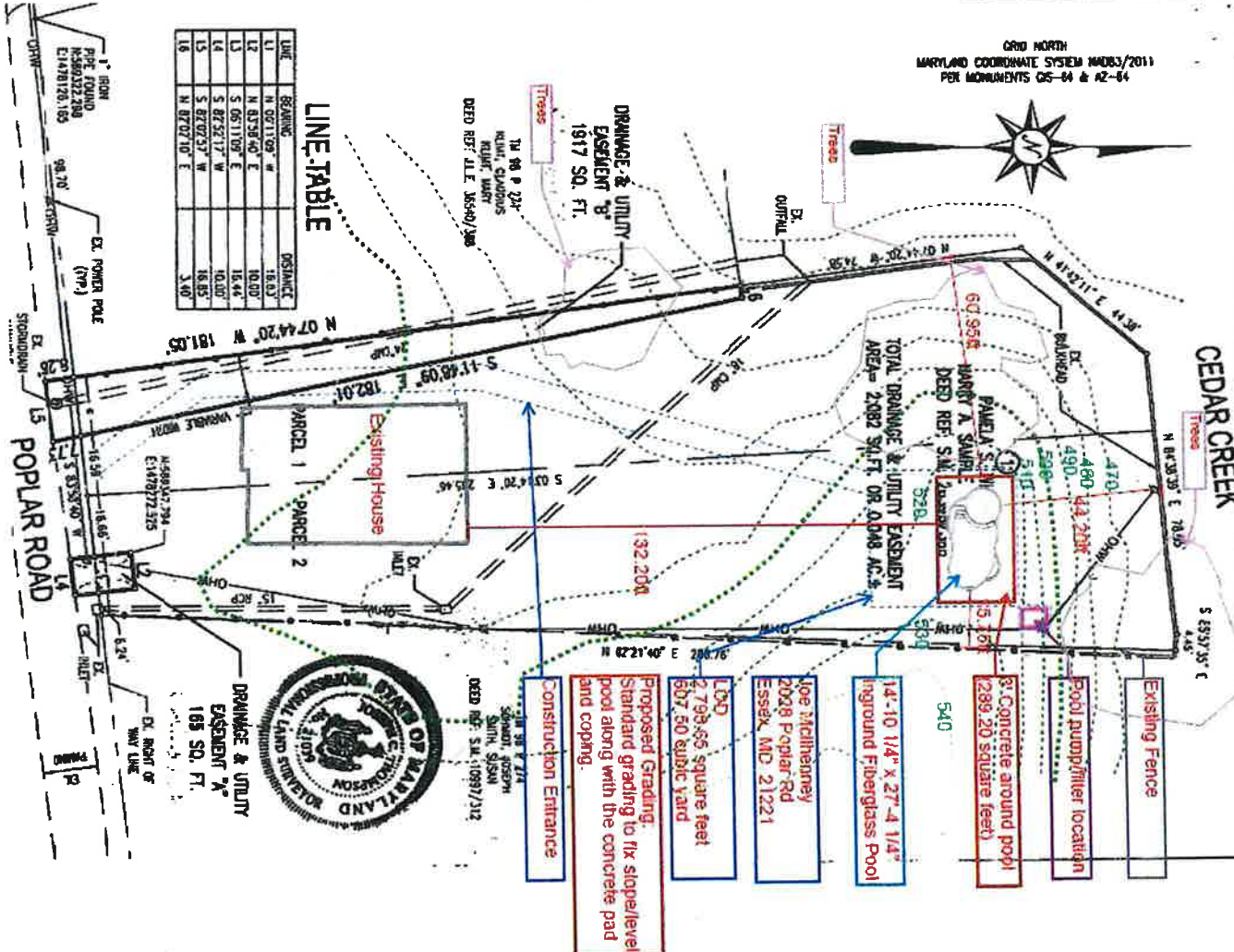


2028 Poplar Rd, Essex, MD 21221

Photos

2024-0255-A

Zoning Hearing Plan for Variance X for Special Hearing _____ Mark Type Requested with (X)
 Address 2028 POPLAR RD ESSEX MD 21221 Owners(s) Name(s) MCILHENNEY JOSEPH, MCILHENNEY DENA
 Subdivision Name Cedar Beach Lot # 74 Block # N/A Section # N/A
 Plat Book # 7 Folio # 186 10 Digit Tax # 1 5 1 9 8 5 0 3 1 0 Deed Reference# 4 2 8 3 9, 0 0 0 4 1



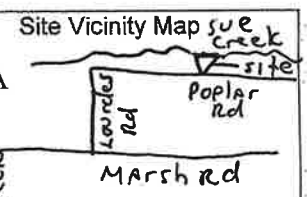
Zoning Map # 98
 Zoning RC5
 Election District 15
 Council District 7
 Lot Area Acreage 0.58 AC
 Lot Square Footage 25,387
 Historic (Yes or No) no
 CBCA (Yes or No) yes
 Flood Plain (Yes or No) yes
 Utilities – Mark with (X)
 Water is:
 Public X Private _____
 Sewer is:
 Public X Private _____
 Prior Hearing (Yes or No) yes
 If (Yes) list Case Number(s) and order result(s) below:
2017-0353-A - approved
- PRIMARY STRUCTURE
SETBACKS
 Violation Case Number(s)



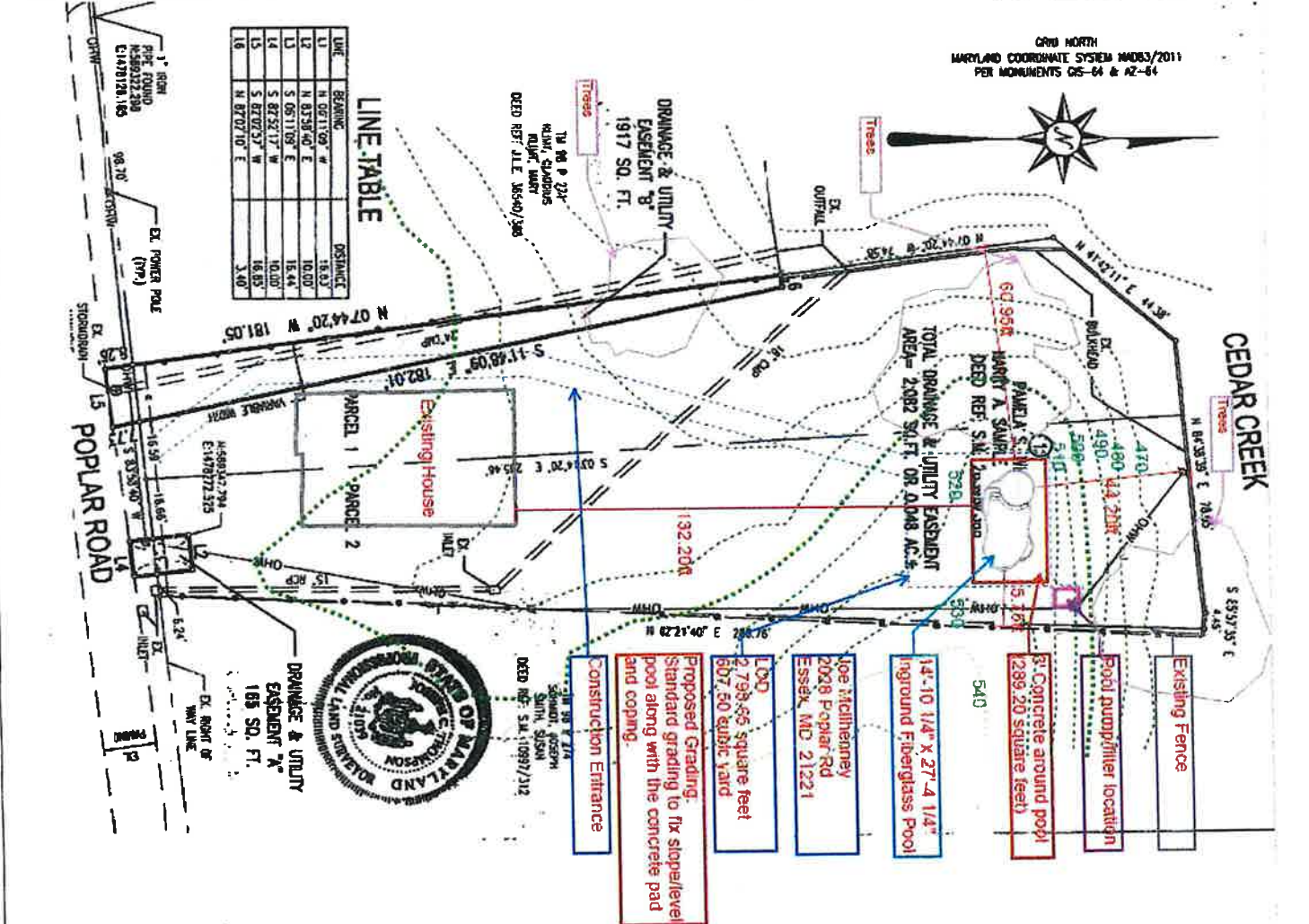
2024-0255-A

Plan Drawn By Splash Fiberglass Pool Company Date 11/12/2024 Scale: 1 inch = 30 Feet

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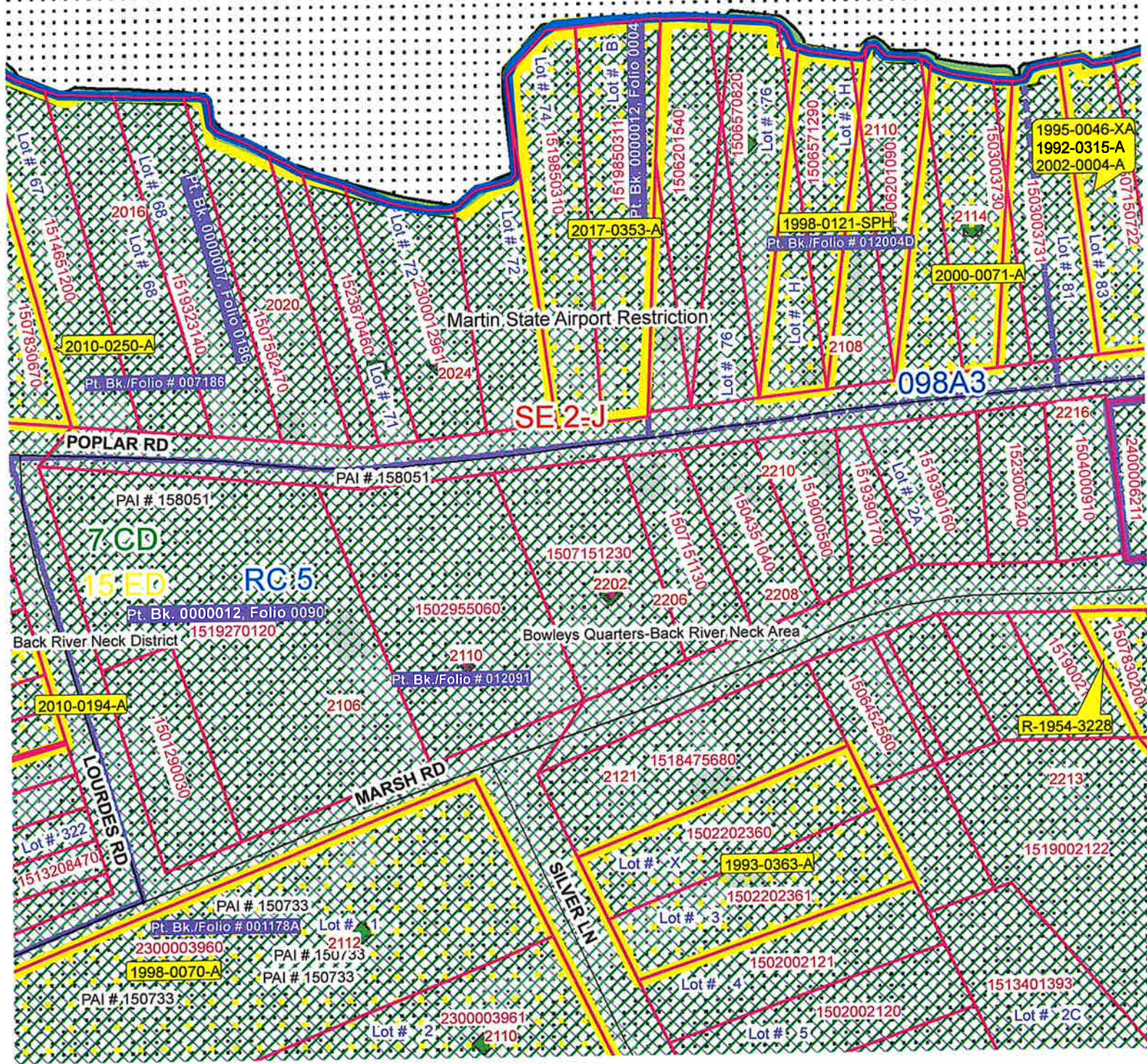


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2024-0255-A

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RC 20

SE 2-J

098A3

7 CD

15 ED

RC 5

Martin State Airport Restriction

Bowleys Quarters-Back River, Neck Area

POPLAR RD

MARSH RD

SILVER LN

PAI # 150733
Pt. Bk./Folio # 001178A
2300003960
1998-0070-A

Lot # 2
2300003961
2110

Lot # X
1502202360
1502202361
Lot # 3

Lot # 4
1502002121

Lot # 5
1502002120

1513401393

Lot # 2C

R-1954-3228

1995-0046-XA
1992-0315-A
2002-0004-A

1998-0121-SPH
Pt. Bk./Folio # 012004D

2017-0353-A

2000-0071-A

2010-0250-A

Pt. Bk./Folio # 007186

Pt. Bk. 0000007, Folio 0186

2020

2024

Lot # 67

Lot # 68

Lot # 68

Lot # 72

Lot # 72

Lot # 74

Lot # B

Pt. Bk. 0000012, Folio 0004

Lot # 76

Lot # 76

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Lot # H

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