

IN THE MATTER OF	*	BEFORE THE CECIL COUNTY
THE APPLICATION OF	*	BOARD OF APPEALS
DAVID AND KAREN JACKSON	*	CASE NO.: 3662
	*	
(Special Exception – NAR)	*	
	*	
* * * * * * * * * * *		

OPINION

The Cecil County Board of Zoning Appeals (the “Board”) is now asked to consider the application of David and Karen Jackson (the “Applicants”). Applicants seek a special exception to allow operation of a home business on property owned by Applicants located at 1855 Old Elk Neck Road, Elkton, Maryland 21921, designated as Parcel 449 on Tax Map 37 in the Fifth Election District of Cecil County (the “Property”), in an area zoned Northern Agricultural Residential (“NAR”) in accordance with Article V, Part V, Section 79 of the Cecil County Zoning Ordinance (the “Ordinance”).

Section 79 of the Ordinance provides:

Home occupations may be permitted in the RMU zone and permitted as a Special Exception in the NAR, SAR, RR, LDR, ST, VR, UR, MH, RM, and MEA zones provided that:

1. Home occupations are in the same building as the residence, and do not change the residential character and appearance of the dwelling.
2. No type of advertisement for the home occupations shall be carried out on the property, except one (1) unlighted sign identifying the home occupation, limited to three (3) square feet in size.
3. No goods for sale or rent shall be stored on the property in a manner as to be seen from off the premises.
4. Parking is provided in accordance with Article XIV.

6. No equipment or process shall be used which creates noise, vibration, glare, fumes, odors, or electrical interference detectable outside of the dwelling unit..

In determining whether to grant an application for a Special Exception the Board must consider Section 311 of the Ordinance, which states:

No special exception shall be approved by the Board of Appeals after considering all facts in the case unless such Board shall find:

1. Such use or any operations thereto will not be detrimental to or endanger the public health, safety, or general welfare.
2. The use will not be unduly injurious to the peaceful use and enjoyment of other property in the neighborhood, nor substantially diminish or impair property values in the neighborhood.
3. The establishment of the use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the zone.
4. The use will not, with respect to existing development in the area and development permitted under existing zoning, overburden existing public facilities, including schools, police and fire protection, water and sewer, public road, storm drainage, and other public improvements.
5. The use shall not adversely affect critical natural areas or areas of ecological importance.
6. The use shall, in all other respects, conform to the applicable regulations of the zone in which it is located.
7. That the particular use proposed at the particular location proposed, would not have any adverse effect above and beyond those inherently associated with such special exception use irrespective of its location in the zone. *Schultz v. Pritts*, 291 Md.1 (1981).
8. That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.
9. That the proposed special exception is not contrary to the objectives of the current Comprehensive Plan for the County.

Article XVII, Part II, Section 311, Cecil County Zoning Ordinance.

Applicants appeared and testified that they currently operate their business manufacturing and selling baskets as the Day Basket Co. from a store location in the Town of North East. Due to changes in the economy, the business would be better served by operating out of Applicants' residence and reducing the cost of operation. The sales would mostly consist of internet sales and artisanal shows. Foot traffic to the Property would be minimal, with Applicants testifying that approximately 10 people per week would tour the Property to see how the products are made. Manufacturing of the baskets would take place in the 24 by 24 foot garage located on the Property. The Property would be open for business from 10-5 each Saturday. Parking is limited, with approximately 4 parking spaces available. Zoning allows for the erection of a 3 square foot sign, which Applicants testified is all they would require. Applicants testified that they spoke with neighbors and nobody opposed the proposed move of the business to the Property.

No further witnesses testified in favor or in opposition to the application.

Clifford Houston of the Cecil County Department of Planning and Zoning testified that the Planning Commission recommended approval of the special exception for a period of 2 years.

Pursuant to Section 311 of the Ordinance, the Board finds as follows:

1. The special exception is not detrimental or an endangerment to the public health, safety, or general welfare. The manufacture of the proposed products does not create issues regarding pollution or other health concerns.

2. The use will not be unduly injurious to the peaceful use and enjoyment of other property in the neighborhood, or substantially diminish or impair property values in the neighborhood. The business use does not create pollution in the form of noise, light, or particulate matter. The Board finds that the proposed use will not cause injury to the peaceful

use and enjoyment of other property in the neighborhood nor will it substantially diminish or impair property values in the neighborhood.

3. The use will not impede the normal and orderly development and improvement of the surrounding properties for uses permitted in the zone. The Board does not find that the operation of a home business such as that proposed by Applicants is an impediment to the preservation of the character of the area or to the reasonable and orderly residential development permissible within the zone. The proposed use will not change the character of the Property or contribute to an increase in traffic that would alter the character of the neighborhood.

4. The proposed use will not overburden existing public facilities, including schools, police and fire protection, water and sewer, public road, storm drainage, and other public improvements. No evidence was presented indicating that the proposed use would contribute to an increased burden upon public facilities or municipal services.

5. The proposed use will not adversely affect critical natural areas or areas of ecological importance. The Property is not located in a Critical Area District.

6. The proposed use will, in all other respects, conform to the applicable regulations of the zone in which it is located. The Board finds that this portion of the NAR is primarily residential. Based upon the evidence presented, the Board finds that the proposed use as contemplated by Applicants is not inconsistent with these neighboring uses.

7. The particular use proposed at the particular location proposed will not have any adverse effects above those inherently associated with such special exception use irrespective of its location in the zone. *Schultz v. Pritz*, 291 Md. 1 (1981). The Board finds that, because of the residential density of the zone and the nature of the activities undertaken in the area, the impact of Applicants' proposed use in this particular area of the NAR zone is no different than the

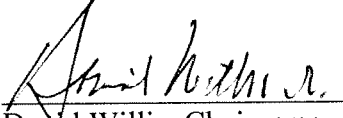
impact of the operation of a home occupation in other areas of the NAR zone.

8. Adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion on the public streets. No evidence was presented evincing issues related to traffic and parking.

9. The use is not contrary to the objectives of the Comprehensive Plan for the County. The special exception is presumptively valid and the Board finds nothing in the record to indicate that the proposed use is contrary to the objectives of the Comprehensive Plan.

For the reasons stated above, by unanimous vote, the Board is satisfied that the requirements of Article XVII, Part II, Section 311, of the Ordinance have been met and the application for special exception under Section 79 is therefore **APPROVED** for a period of 2 years.

11/26/2013
Date


David Willis, Chairperson

BOARD OF APPEALS APPLICATION
CECIL COUNTY, MARYLAND

MEET. MONTH: Oct. 2013
FILE NO. 3662

THIS REQUEST IS FOR:
SPECIAL EXCEPTION RENEWAL
SPECIAL EXCEPTION
VARIANCE
APPEAL

()
()
()
SEP 18 2013

DATE FILED: 9-18-13
AMOUNT PD: 250.00
ACCEPTED BY: J. Dempsey

CECIL COUNTY OFFICE OF
PLANNING & ZONING

CK# 714

A. APPLICANT INFORMATION

David and Karen Jackson Day Basket Co.
APPLICANT NAME - PLEASE PRINT CLEARLY
1855 Old Elk Neck Rd Elkton MD 21921
ADDRESS CITY STATE ZIP CODE
David M Jackson Karen M Jackson 410-398-5150
APPLICANT SIGNATURE PHONE NUMBER

B. PROPERTY OWNER INFORMATION

David M. Jackson and Karen M. Jackson
PROPERTY OWNER NAME - PLEASE PRINT CLEARLY
1855 Old Elk Neck Rd. Elkton MD 21921
ADDRESS CITY STATE ZIP CODE
David M Jackson Karen M Jackson 410-398-5150
PROPERTY OWNER SIGNATURE PHONE NUMBER
(c) 443-350-5310

C. PROPERTY INFORMATION

1855 Old Elk Neck Rd. - Elkton - 05 065623
PROPERTY ADDRESS ELECTION DIST. ACCT. NUMBER
37 8 449 - 2.048 NAR
TAX MAP # BLOCK PARCEL LOT # #ACRES ZONE

D. PURPOSE OF APPLICATION - Indicate reasons why this application should be granted. (attach separate sheet if necessary)

Sales will be internet and Artisan shows/Festivals.
Allowing home business will help our Historic company to
continue operating. It will help continue the proud tradition
of handmade American products. Our existing building would be
used for business operation.

E. On an attached sheet, PLEASE submit a sketch of the property indicating the proposed project. Show distances from the front, side and rear property lines and the dimensions of the project.

F. LAND USE DESIGNATION

Is property in the Critical Area? YES NO
If yes, Pertinent provision of the Chesapeake Bay Critical Area Program:
Is property in the 100 year Floodplain? YES NO
Is property an Agricultural Preservation District? YES NO

If property is located in the Critical Area, all provisions and requirements must be met as outlined in Article XVII, Part I, II & III of the Zoning Ordinance.

G. PROVISION OF ZONING ORDINANCE:

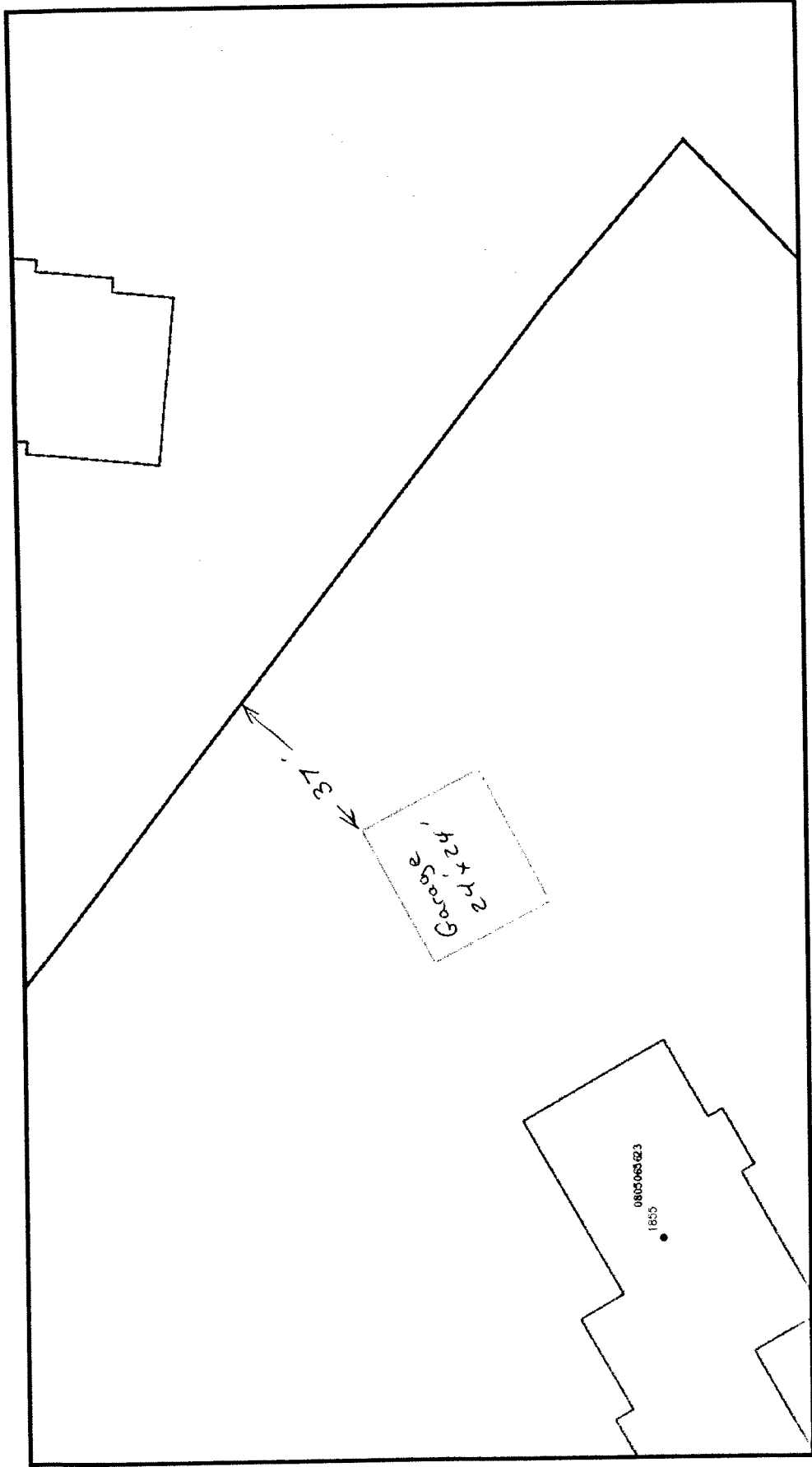
Art V. Sec 79

H. SPECIAL EXCEPTION RENEWAL - PREVIOUS FILE NO. & CONDITIONS FOR APPROVAL: N/A

I. SPECIAL EXCEPTION FOR A MANUFACTURED HOME - Please fill out the following information:

~~Will unit be visible from the road? If yes, distance:
Will unit be visible from adjoining properties? If yes, distance:
Distance to nearest manufactured home: Size/Model/Year of Unit:
Number of units on property at present time:~~

Map



Scale = 1:112

OWNNAME1: JACKSON DAVID M & OWNNAME2:

KAREN M

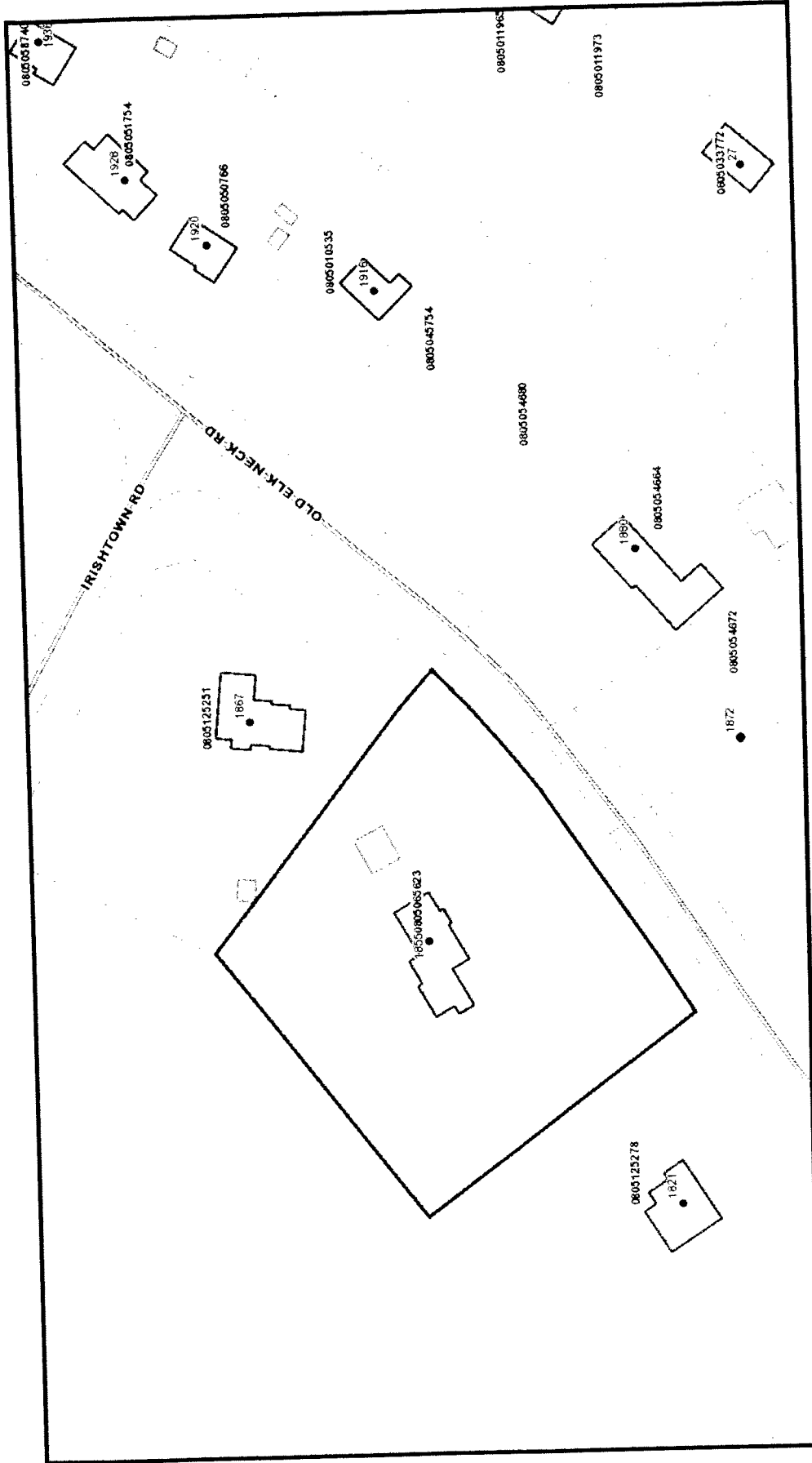
OWNADD1: 1855 OLD ELK NECK RD

OWNCITY: ELKTON

OWNSTATE: MD

ACCTID: 0805065623

Map



Scale = 1:448

OWNNAME1: JACKSON DAVID M & OWNNAME2:

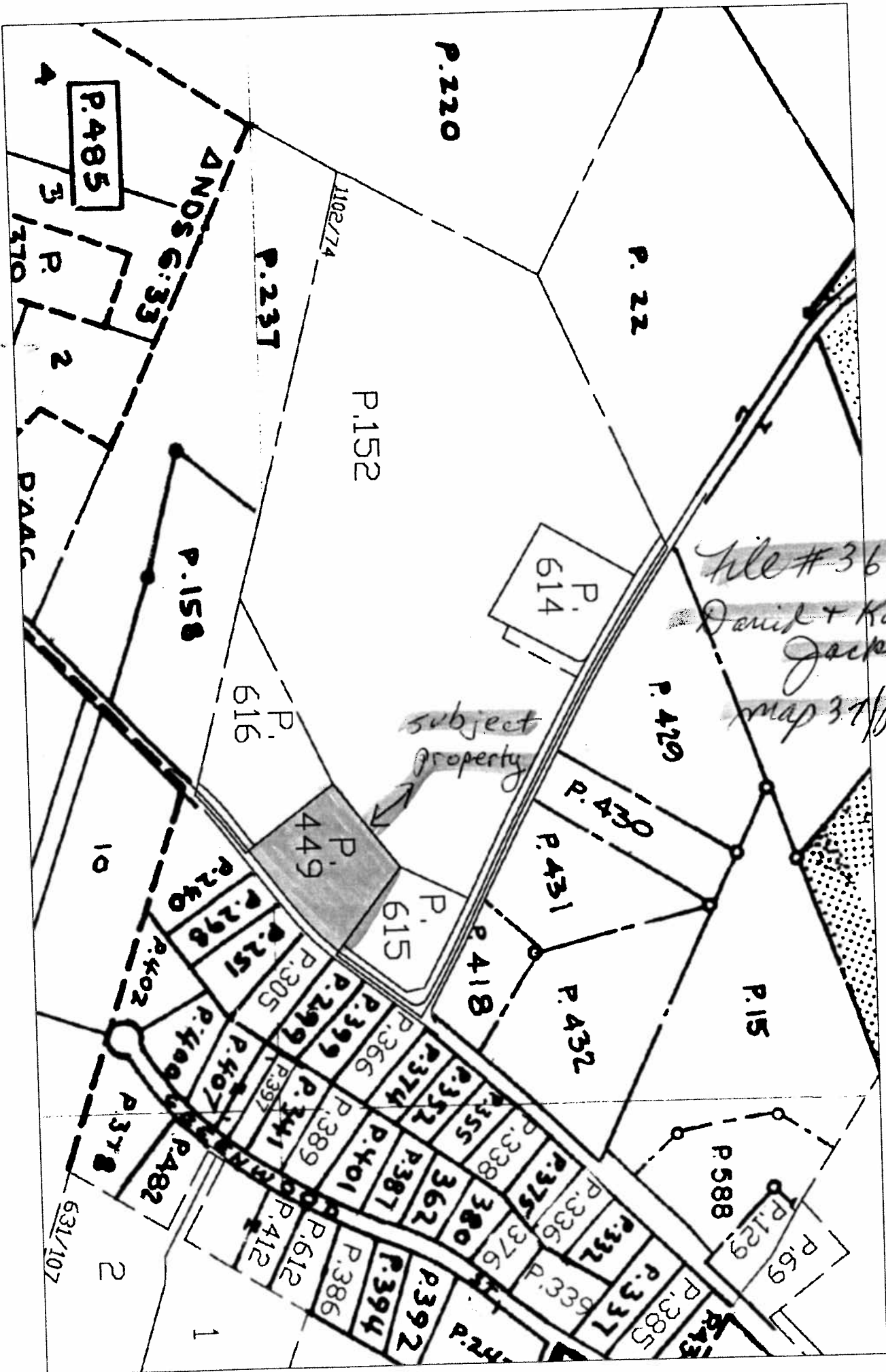
KAREN M

OWNADD1: 1855 OLD ELK NECK RD

OWNCITY: ELKTON

OWNSTATE: MD

ACCTID: 0805065623



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subject property

file # 3662

David + Karen Jackson

map 37 / Paul 449

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D.V.A.C.

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CHECK \$250.00 to
CECIL COUNTY GOVERNMENT

Northern Agricultural Residential

Real Property Data Search (w1)
Search Result for CECIL COUNTY

[Search Help](#)

[View Map](#) [View GroundRent Redemption](#) [View GroundRent Registration](#)
Account Identifier: District - 05 Account Number - 065623

Owner Name: JACKSON DAVID M & KAREN M **Use:** RESIDENTIAL
Mailing Address: 1855 OLD ELK NECK RD **Principal Residence:** YES
ELKTON MD 21921-7453 **Deed Reference:** 1) /00524/ 00739
2)

Premises Address: 1855 OLD ELK NECK RD **Legal Description:** 2.048 ACRES
ELKTON 21921-0000 1855 OLD ELK NECK ROAD
S/W OF ELKTON

Map: 0037 **Grid:** 0008 **Parcel:** 0449 **Sub District:** **Subdivision:** 0000 **Section:** **Block:** **Lot:** **Assessment Year:** 2012 **Plat No:** **Plat Ref:**
Special Tax Areas: **Town:** NONE **Ad Valorem:** 5 **Tax Class:**

Primary Structure Built: 1963 **Above Grade Enclosed Area:** 2,428 SF **Finished Basement Area:** **Property Land Area:** 2.0400 AC **County Use:**

Stories: 1.000000 **Basement:** YES **Type:** STANDARD UNIT **Exterior:** FRAME **Full/Half Bath:** 2 full/ 1 half **Garage:** 1 Detached **Last Major Renovation:**

Value Information

	Base Value	Value As of 01/01/2012	Phase-in Assessments	
			As of 07/01/2013	As of 07/01/2014
Land:	132,100	112,100		
Improvements:	170,500	140,400	252,500	252,500
Total:	302,600	252,500		0
Preferential Land:	0			

Transfer Information
Seller: FINLAY, WILLIAM A JR & BETTY J **Date:** 12/28/1994 **Price:** \$160,600
Type: ARMS LENGTH IMPROVED **Deed1:** WLB /00524/ 00739 **Deed2:**
Seller: **Date:** **Price:**
Type: **Deed1:** **Deed2:**
Seller: **Date:** **Price:**
Type: **Deed1:** **Deed2:**

Exemption Information

Partial Exempt Assessments:	Class	07/01/2013	07/01/2014
County:	000	0.00	
State:	000	0.00	
Municipal:	000	0.00 0.00	0.00 0.00

Tax Exempt: **Special Tax Recapture:** NONE
Exempt Class:

Homestead Application Information
Homestead Application Status: No Application