

IN THE MATTER OF	*	BEFORE THE CECIL COUNTY
THE APPLICATION OF	*	BOARD OF APPEALS
DAVID A. LEITHREN	*	CASE NO.: 3666
	*	
(Variance)	*	
	*	
* * * * *		

OPINION

The Cecil County Board of Zoning Appeals (the “Board”) is now asked to consider the application of David A. Leithren (the “Applicant”). Applicant seeks a variance from the forty foot front yard setback requirement in order to construct a garage on property located at 8 Carry Back Drive, Elkton, Maryland 21921, designated as Parcel 689 on Tax Map 323, in the Third Election District of Cecil County (the “Property”). The Property is in an area zoned Suburban Transition Residential (“ST”) and is owned by the Applicant.

Under the provisions of Article XVII, Part I, Section 306, Paragraph 1, variances, as defined in Article II, may be granted by the Board of Appeals. Paragraph 2 of Section 306 requires the Board to examine all facts of the case and render a decision based upon the following criteria:

- A. The variance requested is based upon a situation where, because of special circumstances, a literal enforcement of the provisions of the Ordinance would deprive the applicant of a right commonly enjoyed by other parties in the same zone under the terms of this Ordinance.
- B. Special conditions and circumstances exist that are peculiar to the land, buildings, or structures involved, and that are not applicable to other lands, buildings, or structures in the same zone, such conditions and circumstances not being the result of actions by the applicant.

C. The granting of the variance will not confer upon the applicant any special privileges that are denied by this Ordinance to other properties in the same zone.

D. The variance request does not arise from any condition to land or building use, either permitted or non-conforming, on any neighborhood property.

Applicant appeared and requested the variance in order to construct a garage on the Property. The Applicant testified that the garage would be a 40 by 40 foot structure and would require a 40-foot variance from the front yard setback requirement. Applicant is a Mac Tools distributor and has a truck designated for the business and an expensive inventory that is stored both on the truck and on his property. Because of the nature of the inventory, the truck requires a security alarm to secure the contents. Applicant testified that the alarm “has a mind of its own” and is apparently overly sensitive to wind gusts, which sets the alarm off at great volume and tremendous irritation to both Applicant and neighboring property owners. Applicant testified that the proposed structure would allow for contained storage of both the truck and his excess inventory. He further testified that no business would operate from the structure and that it would be used solely for storage purposes. Applicant testified that the residence has an existing two car garage, but that this is insufficient space for his needs. Additionally, Applicant testified that he is contemplating converting the existing garage to a bedroom for his aging mother who he anticipates he will need to take in and care for in the near future. Applicant testified that due to the position of the residence on the Property and septic and drainage fields that the only viable location for the garage requires a variance from the front yard setback requirements.

No one appeared in opposition to or in favor of the application.

From the evidence presented the Board is satisfied that the criteria set forth in Section 306 has been met, and makes the following findings:

1. The variance request is based upon a situation where, because of special circumstances, a literal enforcement of the provisions of the Ordinance would deprive the applicant of a right commonly enjoyed by other parties in the same zone under the terms of this Ordinance. Although the Property is of sufficient size, the Applicant is unable to construct the garage on his Property absent a variance because of the location of the existing residence and septic and drainage fields. Other properties of the size of the Parcel are able to construct garages in the manner proposed by the Applicant and without a variance Applicant will not be able to move forward with the proposed construction.


2. Special conditions and circumstances exist that are peculiar to the subject land, buildings or structures involved and that are not applicable to other lands, buildings, or structures in the same zone. Due to the location of the existing residence and septic and drainage fields, the proposed construction cannot be undertaken without the requested variance.

3. The granting of the variance will not confer upon the applicant special privileges that are denied by this Ordinance to other properties in the same zone. Other owners of parcels of equal size to the Property are able to construct garages on their property in the manner proposed by Applicant.

4. There is no evidence that the variance request arises from any condition to land or building use, either permitted or non-conforming, on any neighborhood property.

For the reasons stated, by unanimous vote, the Board is satisfied that the criteria set forth in Section 306 have been met, and the application is therefore **APPROVED**.

12/23/13
Date


Mark Saunders, Acting Chairperson

**BOARD OF APPEALS APPLICATION
CECIL COUNTY, MARYLAND**

MEET. MONTH: Nov. 2013
FILE NO. 3666

THIS REQUEST IS FOR:
SPECIAL EXCEPTION RENEWAL ()
SPECIAL EXCEPTION ()
VARIANCE (X)
APPEAL ()

DATE FILED: 10/15/13
AMOUNT PD: \$ 200.00 CH
ACCEPTED BY: [Signature] 1027

Dal Tools, LLC

A. APPLICANT INFORMATION

DAVID A. LEITHREN
APPLICANT NAME - PLEASE PRINT CLEARLY
8 CARRY BACK DR. ELKTON Md. 21921
ADDRESS CITY STATE ZIP CODE
David A. Leithren 302-275-2374 Cell / 410-398-7275 Home
APPLICANT SIGNATURE PHONE NUMBER

Received

OCT 15 2013

Cecil County Office of Planning & Zoning

B. PROPERTY OWNER INFORMATION

DAVID A. LEITHREN
PROPERTY OWNER NAME - PLEASE PRINT CLEARLY
8 CARRY BACK DR. ELKTON Md 21921
ADDRESS CITY STATE ZIP CODE
David A. Leithren 302-275-2374 Cell / 410-398-7275 Home
PROPERTY OWNER SIGNATURE PHONE NUMBER

C. PROPERTY INFORMATION

8 Carry Back Dr. Elkton, Md 21921
PROPERTY ADDRESS
323 12 689 1 .553 ST
TAX MAP # BLOCK PARCEL LOT # #ACRES ZONE
ELECTION DIST. 03 ACCT. NUMBER 003426

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

Attached
40' Front Yard setback for construction purposes.

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 X NO
If yes, Pertinent provision of the Chesapeake Bay Critical Area Program:
Is property in the 100 year Floodplain? YES X NO
Is property an Agricultural Preservation District? YES X 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: Section 306

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:

Oct 13, 2013
Board of Appeals Application
Cecil County, Maryland

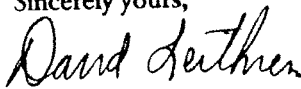
Purpose of application:

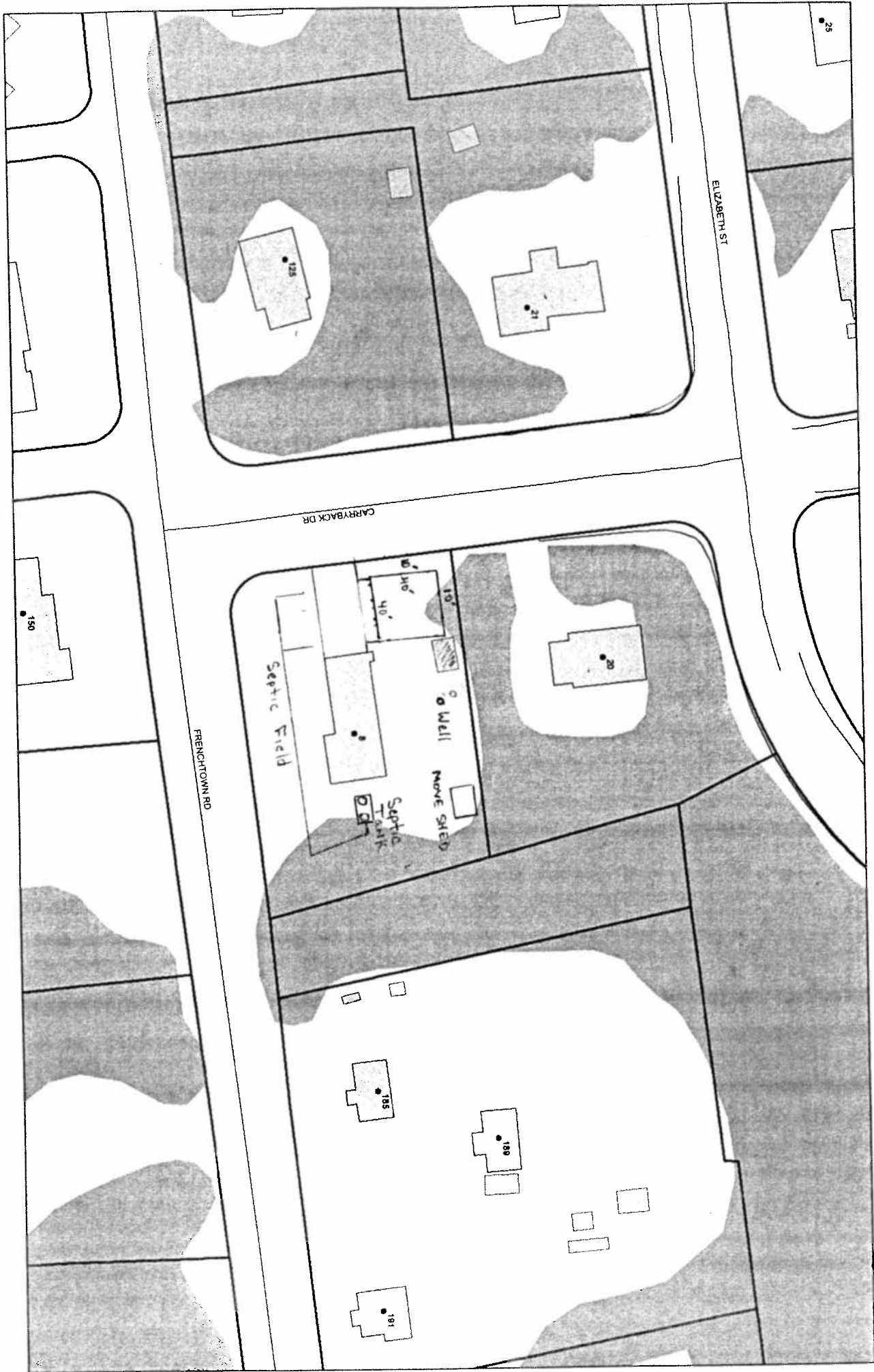
I want to build a steel garage on my property at 8 Carry Back Drive Elkton, Md. 21921, so I can park my MAC TOOL truck under cover to better protect my business investment from theft, weather, and the annoying security alarm that goes off during the middle of the night waking the neighborhood. I need a garage large enough to fit the truck and working inventory that I carry on my truck. The garage would be a three bay garage with the dimensions of 40' x 40', all steel constructed and color matched to the existing house. There are only two possible locations that I can locate this building on my property. The first location that was looked at was in the north east back corner of the property. There I only needed to be ten feet off each of the property lines, but the drive way to get down to the garage would go over the septic drain field and lines.

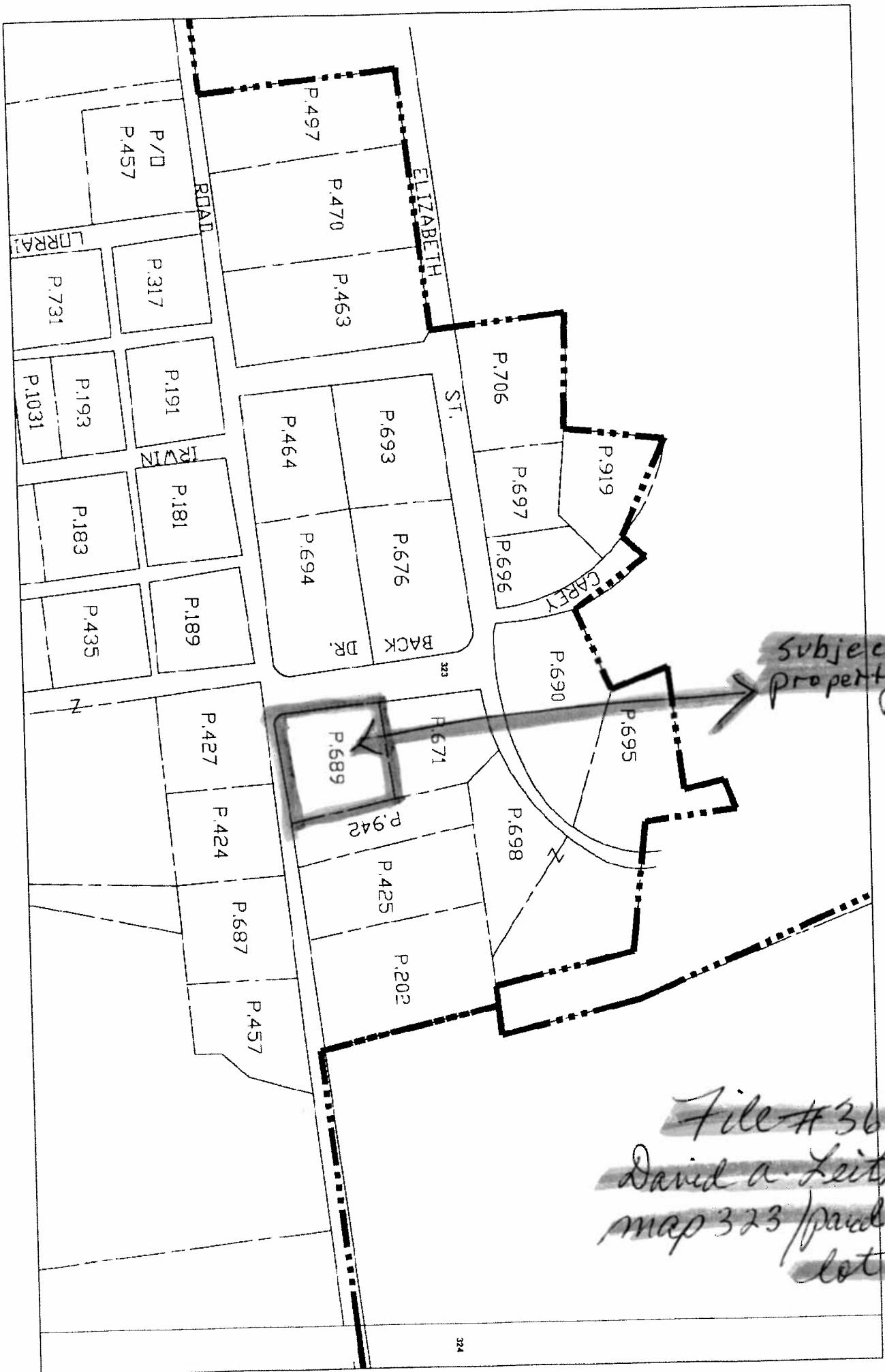
The second choice would be to build the garage in the north west corner of the property that would allow me to use the existing drive way. This would also be much more accessible from the house and flow with the natural flow of how everything enters to the property. The existing code states that I have to be ten feet from the back property line and fifty feet from the edge of the road. I can't do this because my well is in the way and the garage would interfere with the house structure as well. I'm asking for a variance so I can locate the garage in the north west corner of the property coming ten feet off the north and west property lines. This would allow the garage to fit in that given area and not interfere with the well or the house structure. I would just have to relocate my shed down to the north east corner of the property.

I have gotten approval from all of the neighbors living right around me. They would be happy so not to hear the security alarm going off in the middle of the night on my tool truck.

Sincerely yours,


DAVID LEITHREN





Subject Property

File # 3666
David A. Leithren
map 323 / parcel 689
lot #1

I, David A. Leitman, the home owner of 8 Carry Back Drive, Elkton, Md. 21921 of Cecil County, want to build a 40'x40' steel garage on the NW portion of my property, coming 10' off each property line and having the garage but up to the existing driveway with the garage doors facing the driveway. I'm applying for a variance with the county in order to place garage in this given area. The undersigned neighbors do not have any objection to me placing my garage in this location on my property.

NAME	ADDRESS	SIGNATURE	DATE
PRYOR	20 Carry Back Dr., Elkton, Md. 21921	<i>Richard Pryor</i>	10/7/13
PRYOR Dean	21 Carry Back Dr., Elkton, Md 21921	<i>John & Dina J</i>	10/6/13
MCCARTHY	125 Frenchtown Rd., Elkton, Md. 21921	<i>William J. McCarthy</i>	10/6/13
SMITH	31 Elizabeth Str., Elkton, Md. 21921	<i>John E. Smith</i>	10/6/13
MARCUS	49 Elizabeth Str., Elkton, Md. 21921	<i>Francis Marcus</i>	10/7
NORMAN	130 Frenchtown Rd., Elkton, Md. 21921	<i>James L. Norman</i>	
vacant house	150 Frenchtown Rd., Elkton, Md. 21921		
SCOTT #	140 FRENCHTOWN RD	<i>John A. Scott</i>	10/14/13