

IN THE MATTER OF	*	BEFORE THE CECIL COUNTY
THE APPLICATION OF	*	BOARD OF APPEALS
BARRY HAZELWOOD	*	CASE NO.: 3696
	*	
(Variance)	*	
* * * * * *	*	* * * * *

OPINION

The Cecil County Board of Zoning Appeals (the “Board”) is now asked to consider the application of Barry Hazelwood (the “Applicant”). Applicant seeks a variance for 15’ rear-yard setback requirements at property located at Little Egypt, Elkton, Maryland 21921, designated as Parcel 360 on Tax Map 14, in the Fourth Election District of Cecil County (the “Property”). The Property is in an area zoned Low Density Residential (“LDR”) and is owned by Barry Hazelwood.

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 build a deck on the Property. The Applicant testified that the proposed deck would encroach upon the 15' setback requirement. Applicant requested a 25 foot setback variance in order to construct the deck.

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 dimensions of the Property along with the position of the property line render Applicant unable to construct a deck on the property without a variance from the yard setback requirement. Other properties of the size of the Parcel are able to construct decks in the manner proposed by the Applicant and without a variance Applicant will not be able to move forward with construction of the deck.

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 position of the dwelling on the parcel and the distance to the property line the deck cannot be constructed without the requested yard setback variance.

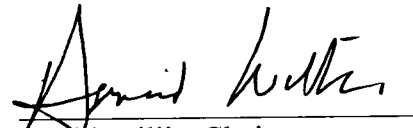
3. The granting of the variance will not confer upon the applicant special privileges that are denied by this Ordinance to other properties in the same zone. Other owners of parcels of equal

size to the Property are able to construct decks 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**.

11/25/2014
Date


David Willis, Chairperson

IN RE: VARIANCE REQUEST
BARRY HAZELWOOD
MAP 14, PARCEL 360

An application has been submitted to reduce the backyard building restriction line from fifty (50) feet to thirty-five (35) feet. Currently the building restriction line for LDR would be forty (40) feet but the original plat showed a setback of fifty (50) feet. The property is located off of Little Egypt Road and is Zoned LDR (Limited Development Residential). The reason for this request is demonstrated on the attached Rear Setback Variance Exhibit prepared by McCrone. Although this lot consists of approximately 2.01 acres, much of the front portion of the parcel consists on an existing pond. In addition, much of the remainder of the front portion of the property is steeply sloped and consists of the spillway into the pond. Beyond this area is the approved septic area. In order to keep the septic area a distance of 100 feet from the neighbor's well, the site for the proposed house must be moved back to at least thirty-seven (37) feet from the rear property line. A variance to allow building within thirty-five (35) feet is requested to allow two (2) feet of extra room as needed as building progresses.

Without this variance, it would be impossible to place a normally sized house on this parcel because of the aforementioned lot constraints. This lot was part of a major resubdivision approved in 1987. This variance request is based on a situation where, because of the special conditions of this lot as expressed above, a literal enforcement of the setback restriction in the Ordinance for rear yards would deprive the applicant of a right commonly enjoyed by owners of other two acre lots in the LDR zone; that is, to construct a normal single family dwelling on the lot. As the applicant purchased this lot in 2003, he was not aware of these constrictions and how they would affect use of the lot when he purchased it. These special conditions are peculiar to this lot and are not applicable to other lots in the LDR District. The conditions are not the result of any actions by the applicant. The granting of the variance will merely allow the applicant to place a house on this lot while meeting all stormwater management regulations and health department regulations and will not confer upon the applicant any special privilege denied by the Ordinance to other properties in the LDR zone. The variance request does not arise from any condition related to land or building use, either permitted or non-conforming, on any neighborhood property. The application is not based on any condition resulting from any action by the applicant.

9-16-2014

Date

Barry Hazelwood

Barry Hazelwood, Applicant

McCRONE
 ENGINEERS • SURVEYORS • PLANNERS
 ANAPLIS • GREENVILLE • HAGERSTOWN • SALESBURY

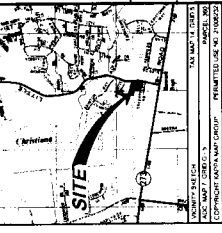
1000 W. GREENWOOD AVE.
 ANAPLIS, MD 21403
 TEL: 410-291-1100
 FAX: 410-291-1101

DATE: _____
 REV. # _____ DATE _____ DESCRIPTION _____

REVISIONS

REV. #	DATE	DESCRIPTION

DATE: _____
 SEAL: _____
 PRELIMINARY



TAX PARCEL 229
 NE LANDS OF
**ZACKARY TODD
 HENSEL**
 D.W.L. 3462/160
 H.A.T. 1800K/P.A.S. 208
 ZONING LDR

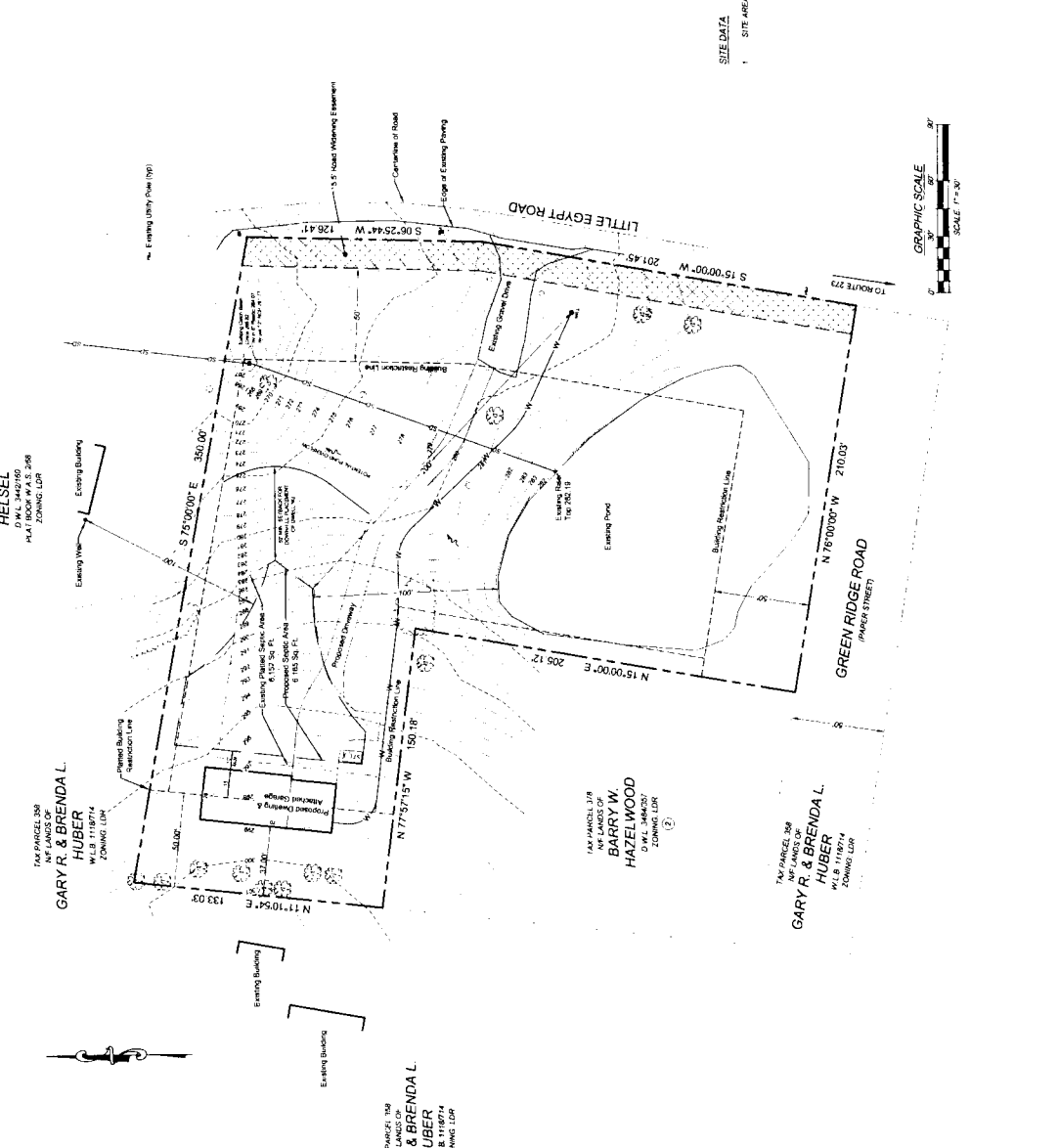
TAX PARCEL 230
 NE LANDS OF
**GARY R. & BRENDA L.
 HUBER**
 W.L.B. 11897/14
 ZONING LDR

TAX PARCEL 178
 NE LANDS OF
**BARRY W.
 HAZELWOOD**
 D.W.L. 3462/160
 H.A.T. 1800K/P.A.S. 208
 ZONING LDR

TAX PARCEL 208
 NE LANDS OF
**GARY R. & BRENDA L.
 HUBER**
 W.L.B. 11897/14
 ZONING LDR

TAX PARCEL 178
 NE LANDS OF
**BARRY W.
 HAZELWOOD**
 D.W.L. 3462/160
 H.A.T. 1800K/P.A.S. 208
 ZONING LDR

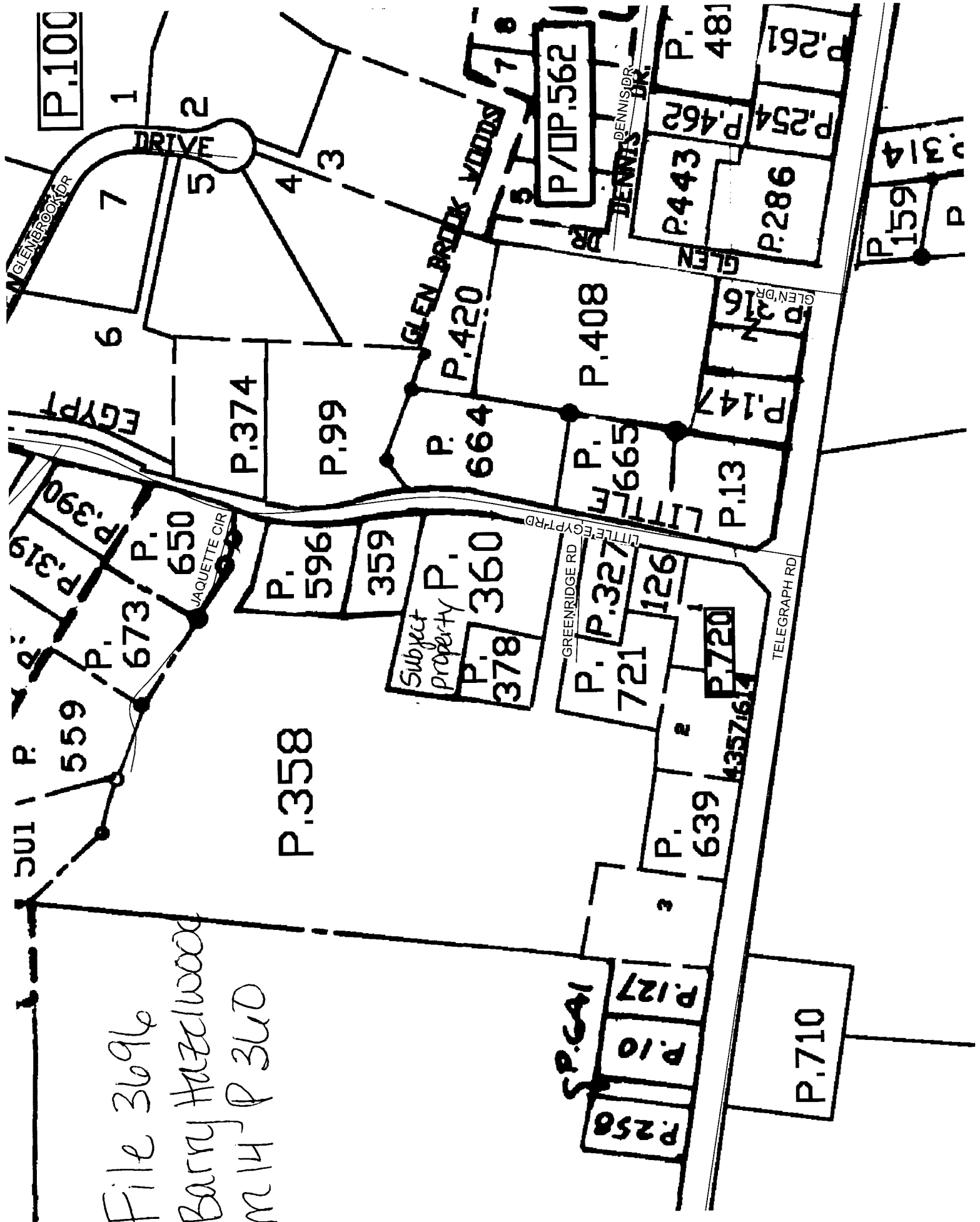
TAX PARCEL 208
 NE LANDS OF
**GARY R. & BRENDA L.
 HUBER**
 W.L.B. 11897/14
 ZONING LDR



- NOTES
1. LOT LINES SHOWN HEREON TAKEN FROM A PLANNED MAJOR RESUBDIVISION PLAN GREEN RIDGE LOTS 3 & 4 DATED SEPTEMBER 4, 1987 AND RECORDED AMONG THE PLAT BOOKS OF CECEL COUNTY BY THE NAME OF THE RESULT OF A BOUNDARY SURVEY OF MCCRONE INC. AT THIS TIME.
 2. TOPOGRAPHY SHOWN HEREON BASED ON FIELD LOCATION BY MCCRONE INC. PREPARED ABOUT THE BENEFIT OF A TITLE SEARCH.
 3. THE PURPOSE OF THIS PLAN IS TO DEMONSTRATE THE NEED FOR A 15' REAR BUILDING SETBACK VARIANCE FOR LOT 3 TO SITE THE HOUSE ON THIS PARCEL. OTHER RESPONSIBLE DATA TO SITE THE HOUSE ON THE EXISTING WELL TO THE NORTH AND LEASING THE ROAD TO THE SOUTH TO THE CURRENT REAR SETBACK FOR LOT 3 ZONING IS 40'.



File 3696
 Barry Hazelwood
 nr 14 P 360



Subject Property P. 378

S.P. 641

P. 710

P. 100

DRIVE

GLEN BRICK YARDS

DENNIS DR

TELEGRAPH RD

GREENRIDGE RD

LITTLE EGYPT RD

JAQUETTE CIR

EGYPT

SUI P

1
2
3
4
5
6
7

P/OP. 562

P. 314
P. 159

P. 481
P. 261
P. 254
P. 462
P. 443
P. 286

GLEN DR
P. 216
P. 147
P. 13

P. 408
P. 665
P. 13

P. 420
P. 664

P. 374
P. 99

P. 596
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435767

P. 639

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P. 10