

IN THE MATTER OF	*	BEFORE THE CECIL COUNTY
THE APPLICATION OF	*	BOARD OF APPEALS
BARBARA JEAN BAYNES	*	CASE NO.: 3713
	*	
(Special Exception – NAR)	*	
	*	
* * * * * *	*	* * * * * *

OPINION

The Cecil County Board of Zoning Appeals (the “Board”) is now asked to consider the application of Barbara Jean Baynes (the “Applicant”). Applicant seeks a special exception to operate an in-home office on her property known as 533 Goosemar Road, Rising Sun, MD 21911, consisting of approximately 7.33 acres (the”Property”), located in the Fifth Election District, Tax Map 24, Parcel 43, said property currently being zoned Northern Agricultural Residential (NAR). In accordance with Article V, Part III, 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 conducted on the same property as the residence, and do not change the residential character of the property.
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.

5. 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 Article XVII, Part II, 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.

The Applicant, Barbara Jean Baynes, testified that she wants to operate an office at her property in a cabin she had moved onto her property from the Nazarene Camp Grounds. She indicated that she

has a dump truck business, that the trucks are located in Middle River, Maryland, and that she does milling work. She is requesting the in-home office so that she has a place to handle her paperwork and dispatching.

In response to the inquiry of Mr. Mark Saunders, Acting Chairperson, regarding the storage of trucks on the Property, she stated that she does bring trucks there occasionally, but that she does not store trucks there. Mr. Saunders also questioned whether the Applicant stored any material or equipment there, and she replied that she did not store any material, but that she did own a backhoe that her father had given her to do some work at her property. In response to Mr. Saunders' inquiry as to hours of operation, she indicated that her business operates six (6) days a week. As to her proximity to her neighbors, she stated that she has a neighbor at the end of the driveway, but that her property sits well back from there. And finally, she indicated that her in-home occupation would not require any signs being placed on her 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 Applicant's special exception for an in-home occupation for a period of two (2) years.

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

1. The special exception is neither detrimental to nor an endangerment to the public health, safety, or general welfare, and the proposed use is on a property in an area suitable to the use.

2. The proposed use will not be unduly injurious to the peaceful use and enjoyment of other property in the neighborhood, nor will the use substantially diminish or impair property values in the neighborhood. There is nothing in the nature of the proposed in-home occupation

that would 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 in-home occupation of an office for handling paperwork and dispatching for a dump truck business is an impediment to the preservation of the character of the area or to the reasonable and orderly residential development permissible within the zone.

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.

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. Based upon the evidence presented, the Board finds that the Applicant's proposed in-home occupation of an office for handling paperwork and dispatching for a dump truck business is not inconsistent with 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 Applicant's proposed use in this particular area of the NAR zone is no different than the impact of the operation of such an in-home occupation in other areas of the NAR zone.

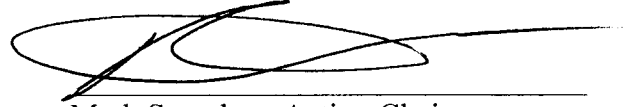
8. Adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion on the public streets. No evidence was presented

evincing issues related to traffic and parking.

9. The proposed 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 the proposed special exception under Section 79 is therefore **APPROVED** for a period of two (2) years from the date of this Opinion.

4/28/15
Date


Mark Saunders, Acting Chairperson

BOARD OF APPEALS APPLICATION
CECIL COUNTY, MARYLAND

MEET. MONTH: March 2015
FILE NO. 3713

Received

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

DATE FILED: 2/12/15
AMOUNT PD: \$250.00
ACCEPTED BY: [Signature]

FEB 12 2015

A. APPLICANT INFORMATION

Barbara Jean Baynes
APPLICANT NAME - PLEASE PRINT CLEARLY

533 Goosemar Rd Rising Sun Md 21911
ADDRESS CITY STATE ZIP CODE

Barbara Bay 410-287-3700
APPLICANT SIGNATURE PHONE NUMBER

B. PROPERTY OWNER INFORMATION

Barbara Jean Baynes
PROPERTY OWNER NAME - PLEASE PRINT CLEARLY

Same as Above CITY STATE ZIP CODE

Barbara Bay 410-287-3700
PROPERTY OWNER SIGNATURE PHONE NUMBER

C. PROPERTY INFORMATION

533 Goosemar Road, Rising Sun 5 5-053099
PROPERTY ADDRESS ELECTION DIST. ACCT. NUMBER

24 5 43 — 7.33 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)

HOME OFFICE,

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: 79

H. SPECIAL EXCEPTION RENEWAL - PREVIOUS FILE NO. & CONDITIONS FOR APPROVAL: NA

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

Will unit be visible from the road? NA If yes, distance: _____

Will unit be visible from adjoining properties? _____ If yes, distance: _____

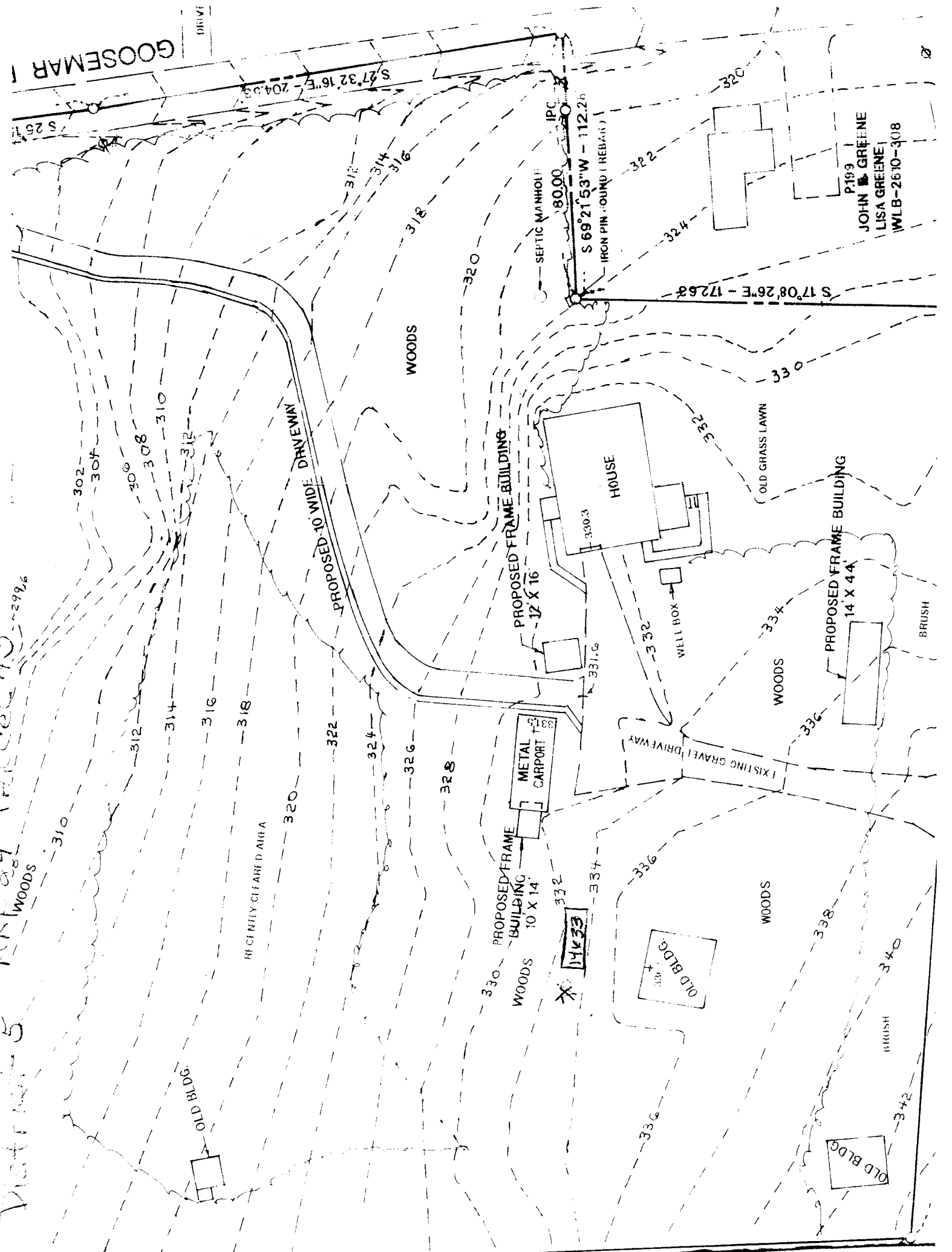
Distance to nearest manufactured home: _____ Size/Model/Year of Unit: _____

Number of units on property at present time: _____

District 5

UNPLANNED WOODS - 29%

WOODS



GOOSEMAR I DRIVE

DRIVE

S 47° 32' 16" E - 204.83

S 27° 32' 16" E - 204.83

312
314
316

WOODS

320

80.00 IPC

SEPTIC MANHOLE

S 69° 21' 53" W - 112.20
IRON PIN FOUND (REBAR)

322

324

P199
JOHN & LISA GREENE
WL8-2610-308

S 17° 08' 26" E - 172.63

330

OLD GRASS LAWN

PROPOSED 10 WIDE DRIVEWAY

PROPOSED FRAME BUILDING
12' X 16'

HOUSE

330.3

WELL BOX

PROPOSED FRAME BUILDING
14' X 44'

BRUSH

322

324

326

328

330

PROPOSED FRAME BUILDING
10' X 14'

WOODS

332

334

336

336

OLD BLDG.

336

WOODS

338

BRUSH

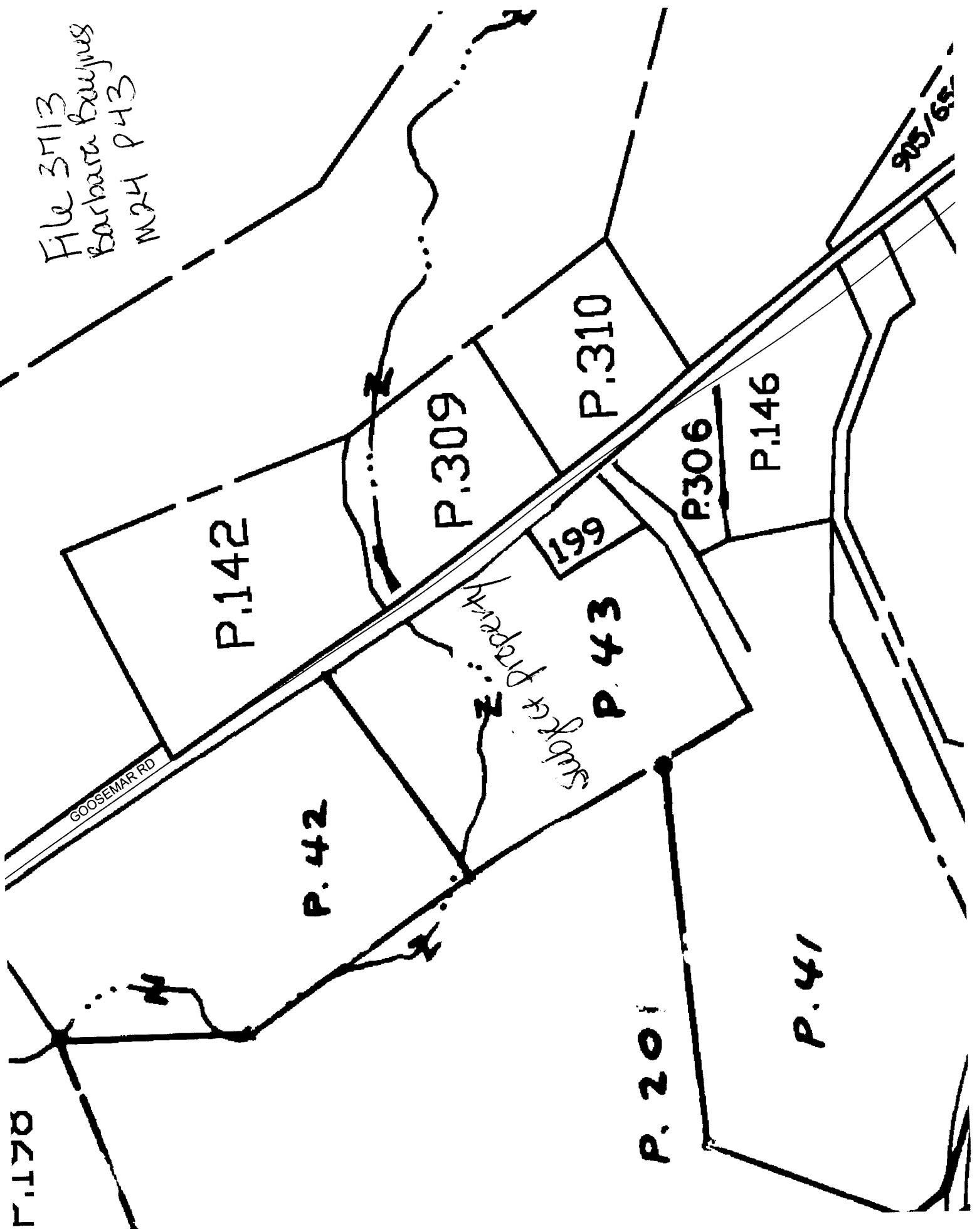
340

BRUSH

342

OLD BLDG.

File 3713
Barbara Baynes
M24 P43



P.170

905/65

P.142

P.309

P.310

P.146

P.306

P.43

P.42

P.201

P.41

GOOSEMAR RD

Subject Property
199