

IN THE MATTER OF	*	BEFORE THE CECIL COUNTY
THE APPLICATION OF	*	BOARD OF APPEALS
DIANNA ZARLI AND	*	CASE NO.: 4306
STEPHANIE PERACCHIO	*	

(Variance – LDR)

* * * * *

OPINION

The Cecil County Board of Appeals (the “Board”) is now asked to consider the application of Dianna Zarli and Stephanie Peracchio (the “Applicants”), for a variance to expand lot coverage limitation by 7.2% for construction purposes at the subject property located at 200 Delaware Ave., North East, MD 21901 being designated as Lot 10A on Parcel 724, Block 9 on Tax Map 31G in Cecil County Election District 5 (the “Property”), in an area presently zoned Low Density Residential (“LDR”). The Property is located within the Limited Development Area of the Critical Area (the “LDA”). The Property is owned by the Applicants, both of whom properly signed Application 4306 (the “Application”).

Under the provisions of Article XVII, Part I, Section 306(1) of the Cecil County Zoning Ordinance (the “Ordinance”), Variances, as defined in Article II, Part I, Section 12 of the Ordinance, may be granted by the Board, and where, due to special features of a site or other circumstances, literal enforcement of provisions relating to the Critical Area District would result in unwarranted hardship to a property owner, the Board may grant a variance in the Critical Area District. An Unwarranted Hardship is defined as the denial of “reasonable and significant use of

the entire parcel or lot for which the variance is requested.” (Md. Code Ann. Nat Resources § 8-1808(d)(1))¹

Critical Area Law is codified in Section 8 of the Natural Resources Article of the Maryland Annotated Code, and the Board must consider the Critical Area Variance standards as set forth in COMAR 27.01.12.

COMAR 27.01.12 prohibits a local jurisdiction from granting a variance in the Critical Area unless the Applicant overcomes the presumption of non-conformance set forth in § 8-1808(d)(3)(ii) and satisfies the following variance requirements:

- A. The variance request is based on a situation where, because of special conditions, 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 the 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 LDA 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 the Ordinance to other properties in the LDA zone.
- D. The variance request does not arise from any condition related to land or building use, either permitted or non-conforming, on any neighboring property.
- E. The variance is the minimum variance that will make possible the reasonable use of land, building, or structures.

¹ All references to the Maryland Annotated Code are to the Natural Resources Article unless otherwise specified.

- F. The Board shall not grant variances in the Critical Area District (the “Critical Area”) unless the decision is based on the following criteria:
1. Strict enforcement of the provisions within the Critical Area would deprive the Applicant of rights commonly shared by other owners of property in the LDA.
 2. The granting of a variance will not confer upon the Applicant any special privilege that would be denied to other owners of like property within the Critical Area.
 3. The variance request is not based upon conditions or circumstances that are self-created or self-imposed, nor does the request arise from conditions or circumstances that are related to adjacent parcels.
 4. The granting of a variance will not adversely affect water quality or adversely impact fish, wildlife, or plant habitat within the Critical Area, and that the granting of the variance will be consistent with the spirit and intent of Cecil County’s Critical Area Program and associated ordinances as well as state law and regulations adopted under Title 8, Subtitle 18 of the Natural Resources Article and COMAR 27.01.
 5. Greater profitability or lack of knowledge of restrictions shall not be considered as sufficient cause for a variance.

The Applicants appeared and testified before the Board on September 23, 2024, in support of the Application. The Applicants provided the following testimony:

- The Applicants are applying for a variance to allow for 22.8% total lot coverage, which would exceed the lot coverage limitation on the Property by 6.8%.
- The lot size is 21000 square feet, with coverage allowance of 16%.

- The Applicants need the variance in order to construct an accessory apartment for their parents.
- The Applicants' parents are currently living with them, and do not have anywhere else to live.
- The Applicants' parents were forced to leave their home in January 2023 for financial, medical, and safety reasons.
- The Applicants' parents are unable to safely navigate stairs, so they require a one-floor dwelling.
- The Applicants considered senior living facilities, existing apartments or houses, and condos, but were unable to find a financially viable choice that met their needs.
- The Applicants believe that the proposed apartment is the best way to accommodate the needs of their parents within their budget, with the added benefit that it would enable the Applicants to be their caregivers in the future, if such care is needed.
- The Applicants purchased the home approximately one year ago, and intend to retire there, and eventually pass the home on to other family members.
- The Applicants hired a contracting company to create plans for the proposed apartment.
- The contracting company submitted an Initial Site Plan to the County in April 2024.
- The contracting company has been working with the County on various aspects of the proposal, including stormwater management, and the existing County easement on the Property.
- During the review process for the Initial Site Plan, the County calculated the impervious lot coverage to be 31.25%.

- The plans received approval from the County for PI Occupancy, Health permits, DPR, building plans, Fire Marshal, and water and sewer.
- The contracting company submitted a revised plan to the County in July 2024 based on conversations they had with Planning and Zoning.
- Shortly after submission of the revised plan, Planning and Zoning informed the Applicant that due to the purchase of the two additional lots in 2019, the impervious lot coverage was 16%.
- If the variance is granted the Applicant will coordinate with the contracting company to produce a landscaping plan to address and comply with the reforestation requirements in § 200.11(E) of the Ordinance to have a minimum woodland cover of at least 15%.

In response to questions from the Board, the Applicant provided the following testimony:

- The Applicants propose to move the carport from the northeastern corner of the Property to the eastern edge, aligned with the shed in the southeastern corner of the Property.
- The proposed apartment will be 834 square feet in size and would be built directly onto the northeastern side of the house.
- The proposed plans include a patio and a deck off the apartment.
- The Applicants have worked with Planning and Zoning to reduce the lot coverage as much as possible.
- In the event that the apartment is no longer needed for the Applicants' parents, the Applicants intend to incorporate it into their home.

- The house currently has three bedrooms, but would be reduced to two bedrooms if the apartment is built.
- The Applicants do not intend to rent out the apartment in the future.
- The only point of ingress and egress into the Apartment would be via a door on the back patio. The proposal does not include a front door facing Delaware Ave. for the Apartment.
- There is an existing gravel driveway on the Property. The Applicants do not intend to pave or otherwise change the nature of the driveway from its current state.
- The proposal includes a patio 112 square feet in size.
- The Applicants consider their parents' housing situation to be a hardship.

No additional witnesses spoke in favor or in opposition of the Application. Aaron Harding, Division Chief of the Planning and Zoning Division of the Department of Land Use and Development Services testified that the Division of Planning and Zoning did receive written comments.

The Division of Planning and Zoning received written comments in support of the Application from the following persons:

- Mr. Joe Fairchild, of 12 Bridgewood Ave, North East, Maryland
- Mr. Robert Dye, of 31 Heisler Ave., North East, Maryland
- Ms. Alice Neal, of 192 Delaware Ave, North East, Maryland
- A person claiming to reside at 56 Northeast Ave, North East, Maryland
- Danny Neal, of 192 Delaware Ave, North East, Maryland

The Division of Planning and Zoning received written comments in opposition to the Application from the Critical Area Commission (the "CAC"). On behalf of the CAC, Natural Resources Planner Ms. Susan Makhoulf stated that a portion of the Property is designated as a Forest Conservation Area, and that unauthorized forest clearing has occurred at some point prior to when the Applicants purchased the Property. In the event that the variance is granted, the Applicants would need to provide forest or development woodland cover of at least 15% in order to bring the Property back into compliance with applicable forestation regulations. Under state Critical Area regulations, a lot coverage variance is not required for the proposed apartment.

In response to the comments from Ms. Makhoulf and the CAC, the Applicant provided the following testimony:

- The Applicants understand the reforestation requirements and have a plan to bring the Property into compliance.
- The Applicants purchased the Property in its current de-forested state.

From the evidence presented, the Board makes the following findings of facts:

1. The Applicant has not overcome the presumption of non-conformance set forth in County and State law² and has not established an unwarranted hardship justifying a substantial and urgent need for the variance. The Board finds that denial of the variance, and thus denying the Applicant the ability to construct the desired apartment, would not deny the Applicant any use of

² See Cecil County Zoning Ordinance § 306(3)(f); COMAR 27.01.12.04(A); Md. Code Ann. Nat. Resources § 8-1808(d)(3)(ii)

the Property which is commonly enjoyed by other property owners in the LDA sufficient to justify a substantial and urgent need for the variance.

2. Literal enforcement of the provisions within the Critical Area would not deprive the Applicant of the use of the Property. The Board finds that denying the Applicant the ability to construct the accessory apartment at the desired location does not deny the Applicant reasonable use of the Property.
3. Approving the variance would confer a special privilege upon the Applicant that would be denied to other owners of like property within the LDA. The Board finds that other property owners in the LDA are prohibited from surpassing the legal lot coverage limitations without establishing all the legal requirements of a variance in the Critical Area.
4. The Applicant has failed to address the issue of an existing right of way on the Property. The Board finds that re-calculating lot coverage limitations to account for said right of way would materially alter the Application.

For the reasons stated, by unanimous vote, the Board is not satisfied that the criteria set forth in Section 306 of the Ordinance have been met, and the application is therefore **DENIED**.

Date

10/22/24

Mark Saunders, Chairman

BOARD OF APPEALS APPLICATION
CECIL COUNTY, MARYLAND

RECEIVED

MEET. MONTH: Sept 2024
FILE NO. 4306

THIS REQUEST IS FOR:

- SPECIAL EXCEPTION RENEWAL ()
- SPECIAL EXCEPTION ()
- VARIANCE (X)
- APPEAL ()

AUG 08 2024

DATE FILED: 8/8/24
AMOUNT PD: \$200
ACCEPTED BY: JB

Cecil County DLUDS

Division of Planning & Zoning

A. APPLICANT INFORMATION - ALL APPLICANTS MUST SIGN

DIANNA ZARLI & STEPHANIE PERACCHIO

APPLICANT NAME - PLEASE PRINT CLEARLY

200 Delaware Ave North East MD 21901
ADDRESS CITY STATE ZIP CODE

[Signature] [Signature] dgzarli@gmail.com 610-216-3173
APPLICANT SIGNATURE EMAIL PHONE NUMBER

B. PROPERTY OWNER INFORMATION - ALL PROPERTY OWNERS MUST SIGN

DIANNA ZARLI & STEPHANIE PERACCHIO

PROPERTY OWNER NAME - PLEASE PRINT CLEARLY

200 Delaware Ave North East MD 21901
ADDRESS CITY STATE ZIP CODE

[Signature] [Signature] dgzarli@gmail.com 610-216-3173
PROPERTY OWNER SIGNATURE EMAIL PHONE NUMBER

C. PROPERTY INFORMATION

200 Delaware Ave Fifth Election Dist. 122163
PROPERTY ADDRESS ELECTION DIST. ACCT. NUMBER

316 9 724 10A .48 LDR
TAX MAP BLOCK PARCEL LOT # #ACRES ZONE

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

We are applying for a variance in order to request an approval to keep existing carport, shed, and deck and to build an accessory apartment. We request an allowance of 22.8% lot coverage. The proposed plan complies with Section 74 of Cecil County zoning ordinance (which limits accessory apartments that are a part of primary dwelling to no more than 30% of gross floor area) The plan adds a small bedroom and bathroom to be considered as part of primary structure.

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.

A Variance is requested lot coverage limitations by 7.2%.

F. LAND USE DESIGNATION

- Is property in the Critical Area? X YES _____ NO
- If yes, Pertinent provision of the Chesapeake Bay Critical Area Program: Lot coverage
- 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: Residential Art XI, Part I Section 200.13 Art XVII Part I Section 306

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

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

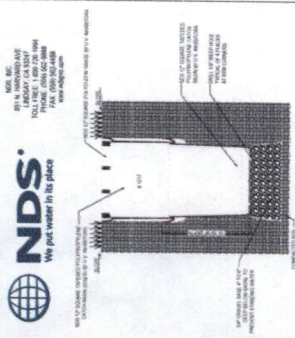
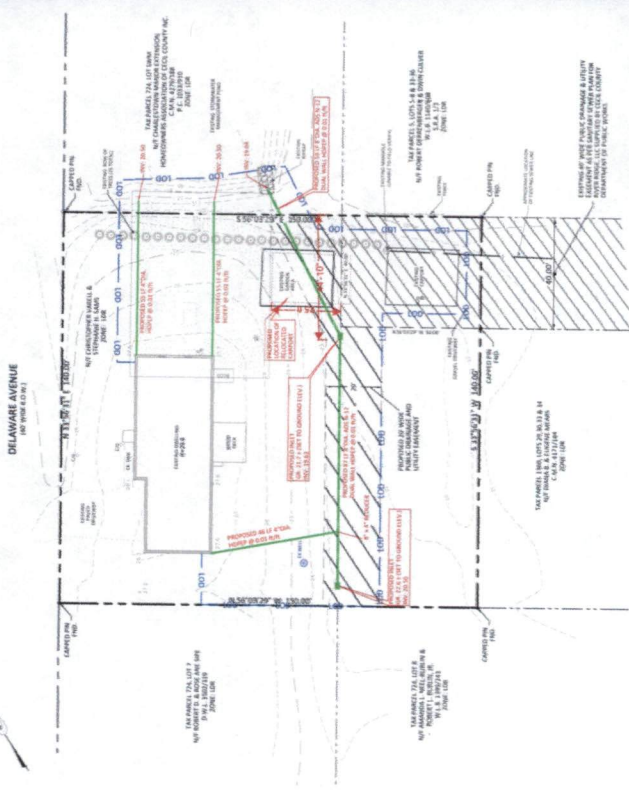
Will unit be visible from the road? _____ If yes, distance: _____

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: _____

STORM SYSTEM PLAN 200 DELAWARE AVENUE NORTHEAST, MARYLAND



SQUARE CATCH BASIN
 1. GRATE SHALL BE 12" x 12" SQUARE OPEN GRATE.
 2. RISER SHALL BE 18" DIA. RISER WITH 18" DIA. MANHOLE OPENING.
 3. OUTLET PIPE SHALL BE 12" DIA. WITH 18" DIA. MANHOLE OPENING.
 4. ALL CONNECTIONS SHALL BE MADE WITH 18" DIA. MANHOLE OPENING.
 5. ALL CONNECTIONS SHALL BE MADE WITH 18" DIA. MANHOLE OPENING.
 6. ALL CONNECTIONS SHALL BE MADE WITH 18" DIA. MANHOLE OPENING.

TECHNICAL SPECIFICATIONS

DOWN SPOUT ADAPTER FOR SEWER AND DRAIN PIPE
 1. ADAPTER SHALL BE 12" DIA. WITH 18" DIA. MANHOLE OPENING.
 2. ADAPTER SHALL BE 12" DIA. WITH 18" DIA. MANHOLE OPENING.
 3. ADAPTER SHALL BE 12" DIA. WITH 18" DIA. MANHOLE OPENING.

MATERIAL	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P	Q	R	S	T	U	V	W	X	Y	Z
PC
SPRINK

NDS

DUAL RAIL FABRICATED REDUCERS
 6" x 4" x 4" GRATE

PART #	PIPE USE	A	B	C	JOINT
107000A	12" x 12"	11.5"	8.25"	3.5"	-
107000B	12" x 12"	11.5"	8.25"	3.5"	-
107000C	12" x 12"	11.5"	8.25"	3.5"	-
107000D	12" x 12"	11.5"	8.25"	3.5"	-
107000E	12" x 12"	11.5"	8.25"	3.5"	-
107000F	12" x 12"	11.5"	8.25"	3.5"	-
107000G	12" x 12"	11.5"	8.25"	3.5"	-
107000H	12" x 12"	11.5"	8.25"	3.5"	-
107000I	12" x 12"	11.5"	8.25"	3.5"	-
107000J	12" x 12"	11.5"	8.25"	3.5"	-
107000K	12" x 12"	11.5"	8.25"	3.5"	-
107000L	12" x 12"	11.5"	8.25"	3.5"	-
107000M	12" x 12"	11.5"	8.25"	3.5"	-
107000N	12" x 12"	11.5"	8.25"	3.5"	-
107000O	12" x 12"	11.5"	8.25"	3.5"	-
107000P	12" x 12"	11.5"	8.25"	3.5"	-
107000Q	12" x 12"	11.5"	8.25"	3.5"	-
107000R	12" x 12"	11.5"	8.25"	3.5"	-
107000S	12" x 12"	11.5"	8.25"	3.5"	-
107000T	12" x 12"	11.5"	8.25"	3.5"	-
107000U	12" x 12"	11.5"	8.25"	3.5"	-
107000V	12" x 12"	11.5"	8.25"	3.5"	-
107000W	12" x 12"	11.5"	8.25"	3.5"	-
107000X	12" x 12"	11.5"	8.25"	3.5"	-
107000Y	12" x 12"	11.5"	8.25"	3.5"	-
107000Z	12" x 12"	11.5"	8.25"	3.5"	-



12" x 12" SQUARE C
 11 3/4"
 1 1/2"

3/4" Grate Open
 11 3/4"
 1 1/2"

NDS
 12" x 12" SQUARE C
 11 3/4"
 1 1/2"

3/4" Grate Open
 11 3/4"
 1 1/2"

DELAWARE AVE.

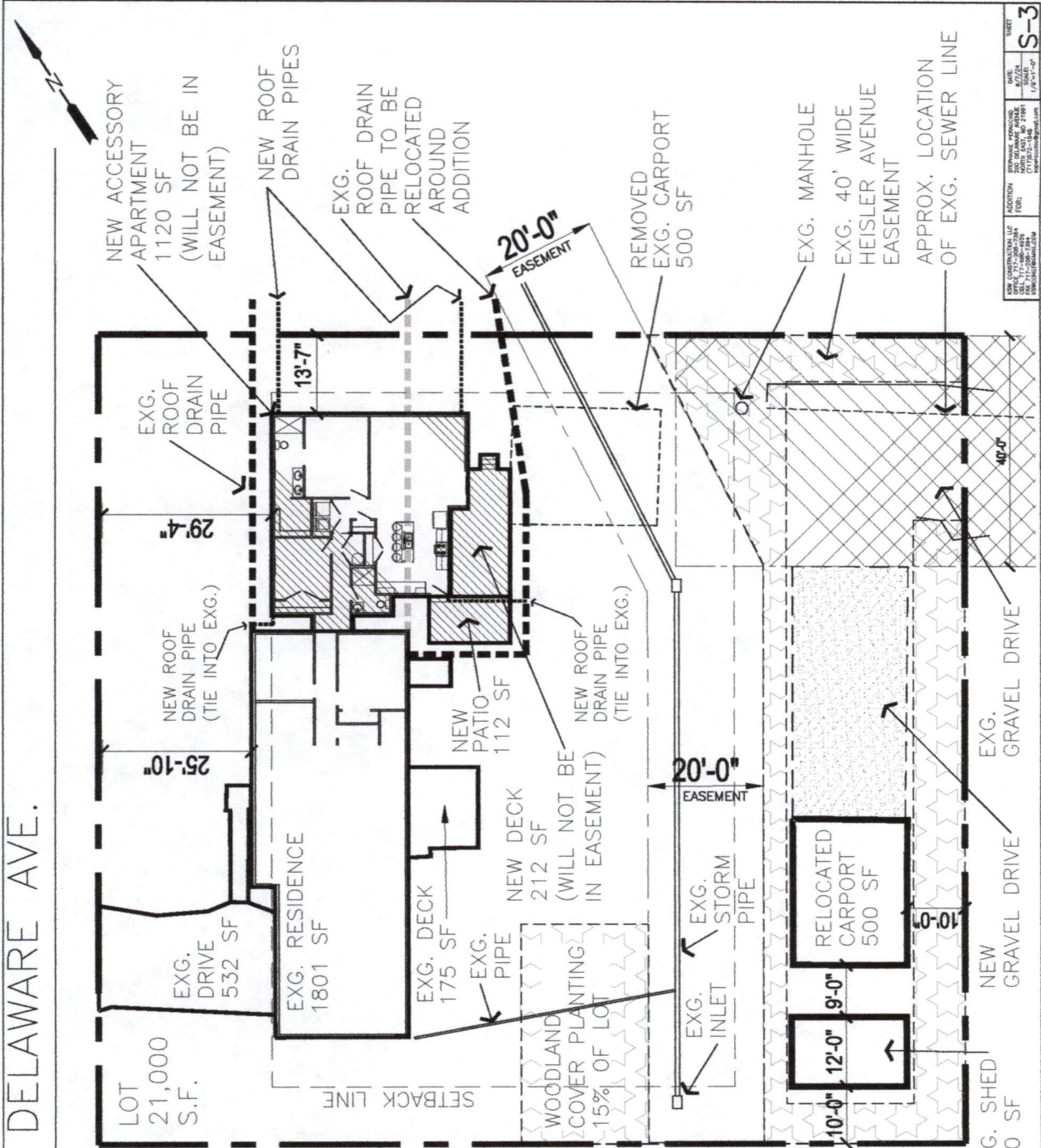
EXG. RESIDENCE	1801 SF
EXG. WALK	68 SF
EXG. DRIVE	532 SF
EXG. DECK	175 SF
EXG. BILCO	33 SF
EXG. SHED	240 SF
EXG. CARPORT	500 SF
<hr/>	
	3349 SF
÷	21,000 SF
	= 16.0%

ADD

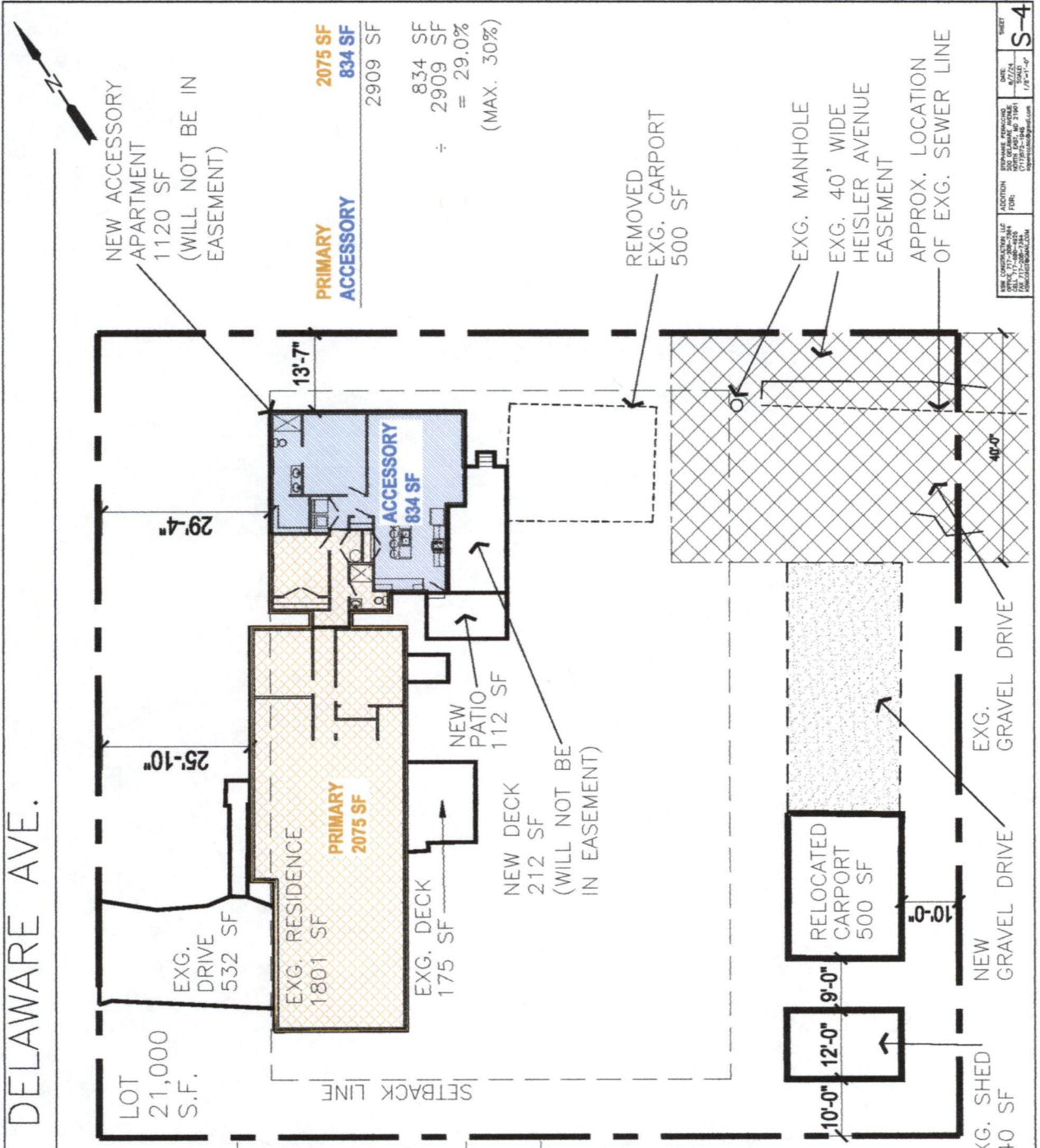
NEW ACCESSORY APARTMENT	1120 SF
NEW DECK	212 SF
NEW PATIO	112 SF
<hr/>	
	1444 SF

GRAND TOTAL	4793 SF
÷	21,000 SF
	= 22.8%

MAX. 15% COVERAGE
(VARIANCE NEEDED TO ALLOW 22.8%)



DELAWARE AVE.



EXG. RESIDENCE	1801 SF
EXG. WALK	68 SF
EXG. DRIVE	532 SF
EXG. DECK	175 SF
EXG. BILCO	33 SF
EXG. SHED	240 SF
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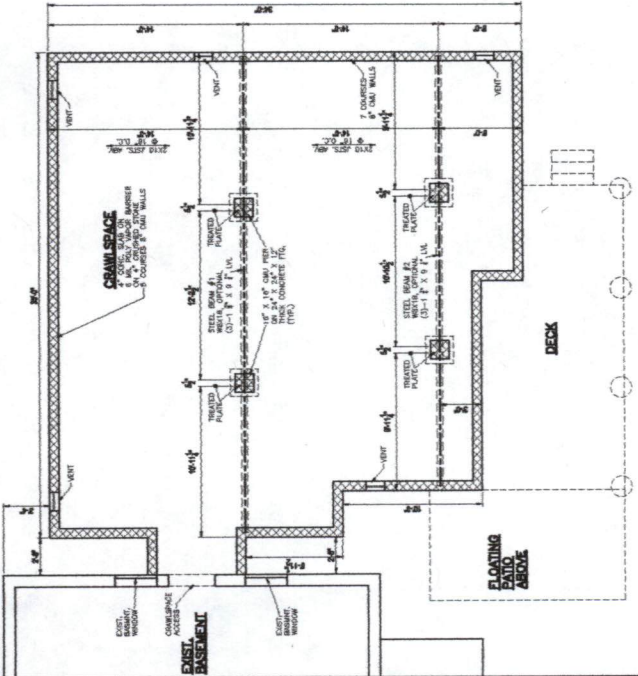
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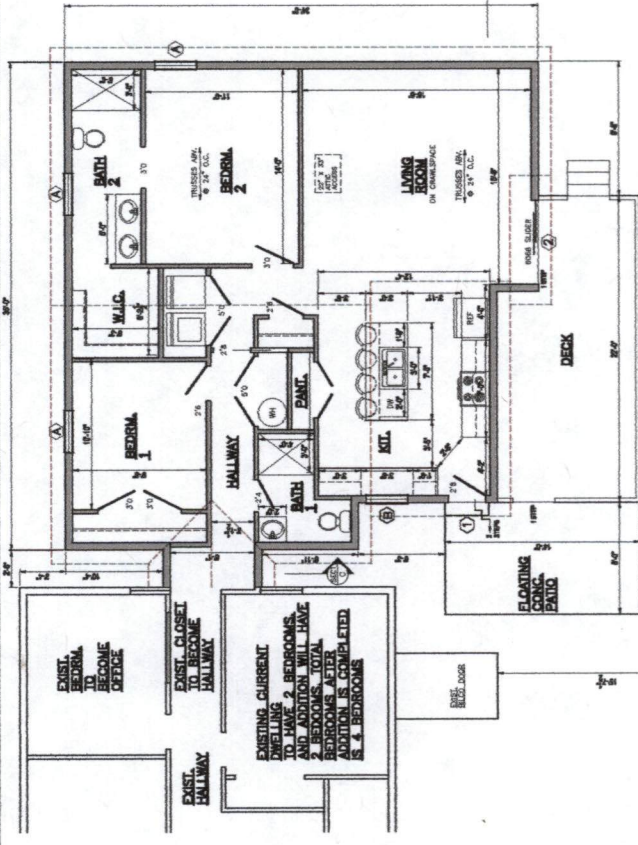
PRIMARY 2075 SF
ACCESSORY 834 SF
 2909 SF

834 SF
 ÷ 2909 SF
 = 29.0%
 (MAX. 30%)

NO.	DESCRIPTION	AMOUNT	UNIT	PRICE	TOTAL
1	FOUNDATION	1	SQ. FT.	150.00	150.00
2	FLOORING	1	SQ. FT.	2.00	2.00
3	PAINT	1	SQ. FT.	1.00	1.00
4	CEILING	1	SQ. FT.	1.00	1.00
5	WALLS	1	SQ. FT.	1.00	1.00
6	ROOFING	1	SQ. FT.	1.00	1.00
7	MECHANICAL	1	SQ. FT.	1.00	1.00
8	ELECTRICAL	1	SQ. FT.	1.00	1.00
9	PLUMBING	1	SQ. FT.	1.00	1.00
10	LANDSCAPE	1	SQ. FT.	1.00	1.00
11	CONCRETE	1	SQ. FT.	1.00	1.00
12	WOODWORK	1	SQ. FT.	1.00	1.00
13	GLASS	1	SQ. FT.	1.00	1.00
14	IRONWORK	1	SQ. FT.	1.00	1.00
15	MECHANICAL	1	SQ. FT.	1.00	1.00
16	ELECTRICAL	1	SQ. FT.	1.00	1.00
17	PLUMBING	1	SQ. FT.	1.00	1.00
18	LANDSCAPE	1	SQ. FT.	1.00	1.00
19	CONCRETE	1	SQ. FT.	1.00	1.00
20	WOODWORK	1	SQ. FT.	1.00	1.00
21	GLASS	1	SQ. FT.	1.00	1.00
22	IRONWORK	1	SQ. FT.	1.00	1.00
23	MECHANICAL	1	SQ. FT.	1.00	1.00
24	ELECTRICAL	1	SQ. FT.	1.00	1.00
25	PLUMBING	1	SQ. FT.	1.00	1.00
26	LANDSCAPE	1	SQ. FT.	1.00	1.00
27	CONCRETE	1	SQ. FT.	1.00	1.00
28	WOODWORK	1	SQ. FT.	1.00	1.00
29	GLASS	1	SQ. FT.	1.00	1.00
30	IRONWORK	1	SQ. FT.	1.00	1.00



FOUNDATION PLAN
1/4" = 1'-0"



FLOOR PLAN
1/4" = 1'-0"
1117 SQ. FT.
HEATED LIVING SPACE

1. ALL WORK TO BE DONE IN ACCORDANCE WITH THE 2018 INTERNATIONAL RESIDENTIAL CODE BOOK (IRC) AND THE 2018 INTERNATIONAL MECHANICAL AND PLUMBING CODE BOOK (IMPC) AND THE 2018 INTERNATIONAL ELECTRICAL CODE BOOK (IEC).

2. ALL WORK TO BE DONE IN ACCORDANCE WITH THE 2018 INTERNATIONAL BUILDING DEPARTMENT (IBD) CODE BOOK (IBC).

3. ALL WORK TO BE DONE IN ACCORDANCE WITH THE 2018 INTERNATIONAL FIRE AND CODE ENFORCEMENT BOARD (IFCEB) CODE BOOK (IFC).

4. ALL WORK TO BE DONE IN ACCORDANCE WITH THE 2018 INTERNATIONAL ENERGY CONSERVATION CODE BOOK (IECC).

5. ALL WORK TO BE DONE IN ACCORDANCE WITH THE 2018 INTERNATIONAL SWEET'S BUILDING DIRECTORY (SBD).

6. ALL WORK TO BE DONE IN ACCORDANCE WITH THE 2018 INTERNATIONAL SWEET'S ELECTRICAL DIRECTORY (SED).

7. ALL WORK TO BE DONE IN ACCORDANCE WITH THE 2018 INTERNATIONAL SWEET'S MECHANICAL AND PLUMBING DIRECTORY (SMDP).

8. ALL WORK TO BE DONE IN ACCORDANCE WITH THE 2018 INTERNATIONAL SWEET'S ROOFING DIRECTORY (SRD).

9. ALL WORK TO BE DONE IN ACCORDANCE WITH THE 2018 INTERNATIONAL SWEET'S LANDSCAPE DIRECTORY (SLD).

10. ALL WORK TO BE DONE IN ACCORDANCE WITH THE 2018 INTERNATIONAL SWEET'S CONCRETE DIRECTORY (SCD).

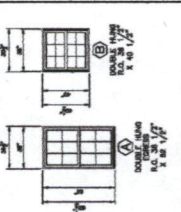
11. ALL WORK TO BE DONE IN ACCORDANCE WITH THE 2018 INTERNATIONAL SWEET'S WOODWORK DIRECTORY (SWD).

12. ALL WORK TO BE DONE IN ACCORDANCE WITH THE 2018 INTERNATIONAL SWEET'S GLASS DIRECTORY (SGD).

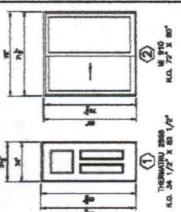
13. ALL WORK TO BE DONE IN ACCORDANCE WITH THE 2018 INTERNATIONAL SWEET'S IRONWORK DIRECTORY (SID).

- NOTES:
1. ALL WORK TO BE DONE IN ACCORDANCE WITH THE 2018 INTERNATIONAL RESIDENTIAL CODE BOOK (IRC) AND THE 2018 INTERNATIONAL MECHANICAL AND PLUMBING CODE BOOK (IMPC) AND THE 2018 INTERNATIONAL ELECTRICAL CODE BOOK (IEC).
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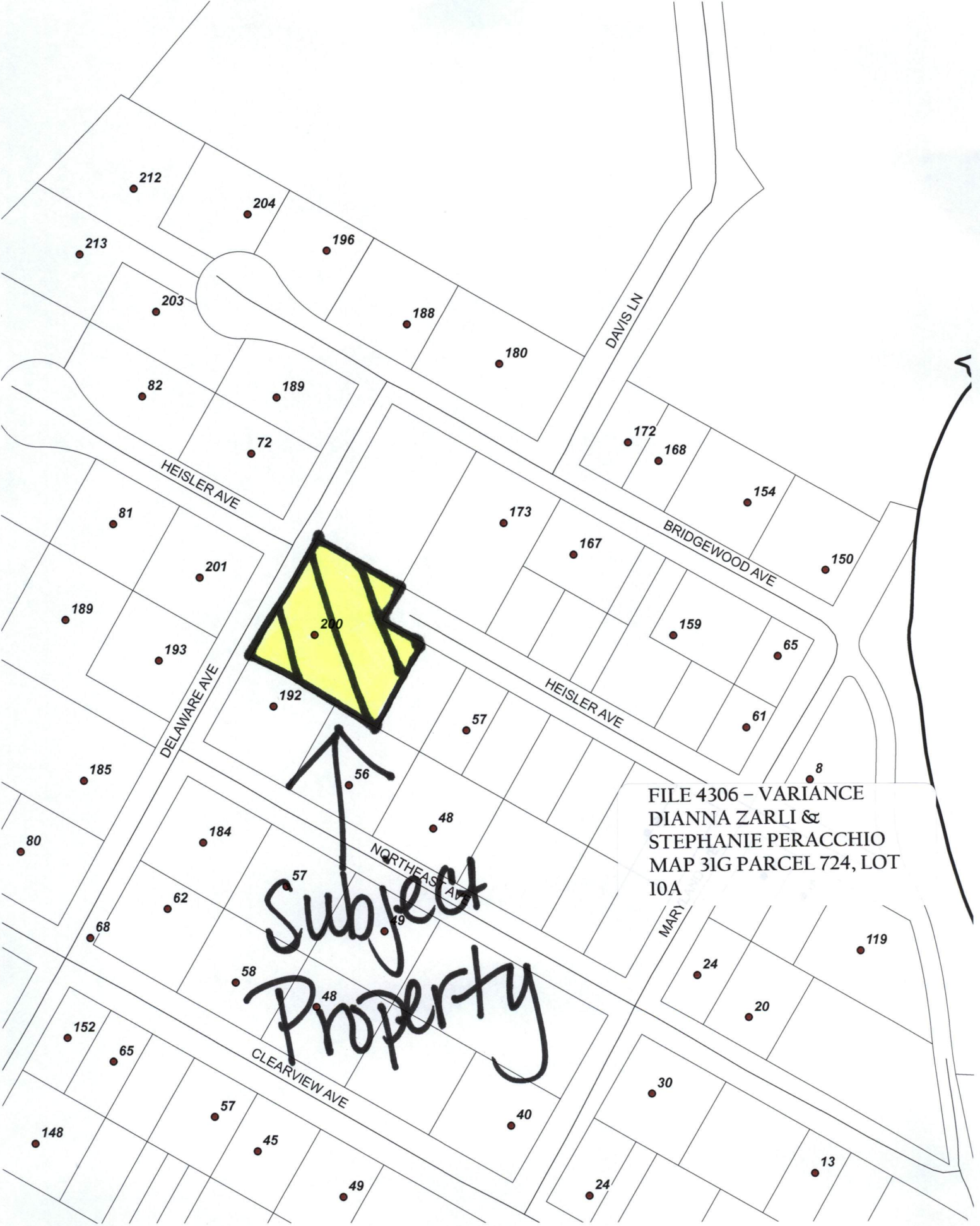
NO.	TYPE	WIDTH	HEIGHT	FINISH
1	1	36"	78"	DOUBLE HUNG
2	2	36"	78"	DOUBLE HUNG



NO.	TYPE	WIDTH	HEIGHT	FINISH
1	1	36"	78"	DOUBLE HUNG
2	2	36"	78"	DOUBLE HUNG



1. ALL WORK TO BE DONE IN ACCORDANCE WITH THE 2018 INTERNATIONAL RESIDENTIAL CODE BOOK (IRC) AND THE 2018 INTERNATIONAL MECHANICAL AND PLUMBING CODE BOOK (IMPC) AND THE 2018 INTERNATIONAL ELECTRICAL CODE BOOK (IEC).



FILE 4306 - VARIANCE
DIANNA ZARLI &
STEPHANIE PERACCHIO
MAP 31G PARCEL 724, LOT
10A

*Subject
Property*