

— AA 469-00  
VAR

Gardiner, John  
0308

MSA-S-1829-810

LC letter  
9/15/00



Judge John C. North, II  
Chairman

Ren Serey  
Executive Director

**STATE OF MARYLAND**  
**CHESAPEAKE BAY CRITICAL AREA COMMISSION**

1804 West Street, Suite 100, Annapolis, Maryland 21401  
(410) 260-3460 Fax: (410) 974-5338

September 15, 2000

Mr. Kevin Dooley  
Anne Arundel County Department of Planning and Code Enforcement  
2664 Riva Road, MS 6301  
Annapolis, MD 21401

RE: Variance 2000-0308-V, John Gardiner

Dear Mr. Dooley:

Thank you for providing information on the above referenced variance application. The applicant is requesting a variance to permit an accessory structure with less setbacks than required. The property is designated IDA and is currently developed with a house, garage (to be replaced), and two sheds.

Because there are no habitat protection areas which would be impacted, this office has no comment on this setback variance. Because the lot is designated IDA, the 10% pollutant reduction rule should be addressed. Usually, on lots of this size, plantings are sufficient to meet this requirement. Also, mitigation for new impervious surfaces on this Buffer Exempt lot should be provided in accordance with the County Zoning Ordinance.

Thank you for the opportunity to provide comments. Please include this letter in your file and submit it as part of the record for this variance. Also, please notify the Commission in writing of the decision made in this case.

Sincerely,

A handwritten signature in cursive script that reads "LeeAnne Chandler".

LeeAnne Chandler  
Natural Resources Planner

cc: AA469-00

Branch Office: 31 Creamery Lane, Easton, MD 21601  
(410) 822-9047 Fax: (410) 820-5093

TTY FOR DEAF ANNAPOLIS-974-2609 D.C. METRO-586-0450

469-66

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OCT 11 2000

CHESAPEAKE BAY  
CRITICAL AREA COMMISSION

IN THE OFFICE OF ADMINISTRATIVE HEARINGS

CASE NUMBER 2000-0308-V

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IN RE: JOHN GARDINER

THIRD ASSESSMENT DISTRICT

DATE HEARD: OCTOBER 5, 2000

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ORDERED BY: STEPHEN M. LeGENDRE, ADMINISTRATIVE HEARING OFFICER

ZONING ANALYST: PATRICIA A. MILEY

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DATE FILED: OCTOBER 9, 2000

## **PLEADINGS**

John Gardiner, the applicant, seeks a variance (2000-0308-V) to permit an accessory structure with less setbacks than required on property located along the southwest side of Edgewood Avenue, south of Alfred Avenue, Pasadena.

## **PUBLIC NOTIFICATION**

The case was advertised in accordance with the County Code. The file contains the certification of mailing to community associations and interested persons. Each person designated in the application as owning land that is located within 175' of the property was notified by mail, sent to the address furnished with the application. Mr. Gardiner testified that the property was posted for more than 14 days prior to the hearing. I find and conclude that the requirements of public notice have been satisfied.

## **FINDINGS AND CONCLUSIONS**

The applicant owns a single-family residence located at 7712 Edgewood Avenue, in the subdivision of Green Haven, Pasadena. The property comprises 13,400 square feet and is zoned R-5 residential with a Chesapeake Bay Critical Area designation as Intensely Developed Area (IDA). This is a waterfront lot on Stoney Creek. The applicant seeks to raze an existing detached garage and replace it with a new detached garage (18' X 24') which is located two feet from the east side property line.

The Anne Arundel County Code, Article 28, Section 2-107(a) requires accessory structures in the R-5 district to maintain 10 feet from any side lot line. Accordingly, the proposal necessitates a variance of eight feet.

Patricia A. Miley, a zoning analyst with the Office of Planning and Zoning, testified that the property satisfies the area and width for the R-5 district. Nevertheless, it is somewhat unusual in shape, narrower on Edgewood Avenue and wider on Stoney Creek. Even though the existing garage maintains only two feet from the north side property line, she opposed the request on the grounds that the relief has not been minimized.

Mr. Gardiner testified that the existing garage predates his purchase of the property in 1971. There is a fence along the north side property line. The fence abuts a driveway on his neighbor's property. The applicant submitted a letter in support of the request from the neighbors (Lewis and Helen Hooper). He stated that the garage cannot be located any further from the property line without impeding access for a boat trailer between the dwelling and the garage. There is no opportunity to move the garage front or rear without removing mature trees. The witness testified that he has no difficulty maintaining the existing garage with the same setback.

Upon review of the facts and circumstances, I find and conclude that the applicant is entitled to relief from the code. This case minimally satisfies the test of unique physical conditions, consisting of the shape of the property and the need to provide boat access to Stoney Creek, such that there is no reasonable possibility

of developing the lot with a replacement garage in strict conformance with the code. I further find that the variance is the minimum necessary to afford relief. As noted, the new structure will maintain the same setback as the one it replaces. Although this office typically prefers a greater distance to the side property line, at this location, maintenance and drainage have not been problematic. I further find that the granting of the variance will not alter the essential character of the neighborhood, substantially impair the appropriate use or development of adjacent property, or be detrimental to the public welfare. In this regard, the presence of the fence line and the driveway on the neighboring site lessen the impact of the structure on the adjacent property. The approval shall be subject to the condition in the Order.

### ORDER

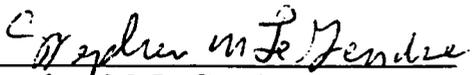
PURSUANT to the application of John Gardiner, petitioning for a variance to permit an accessory structure with less setbacks than required; and

PURSUANT to the advertising, posting of the property, and public hearing and in accordance with the provisions of law, it is this 9<sup>th</sup> day of October, 2000,

ORDERED, by the Administrative Hearing Officer of Anne Arundel County, that the applicant is hereby **granted** a variance of eight feet to the 10-foot north side setback to permit an 18' X 24' garage in accordance with the site plan.

*The foregoing variance is subject to the condition that the applicant shall*

*provide mitigation as required by the Permit Application Center.*

  
Stephen M. LeGendre  
Administrative Hearing Officer

**NOTICE TO APPLICANT**

Within thirty (30) days from the date of this Decision, any person, firm, corporation, or governmental agency having an interest therein and aggrieved thereby may file a Notice of Appeal with the County Board of Appeals.

Further, Section 11-102.2 of the Anne Arundel County Code states:

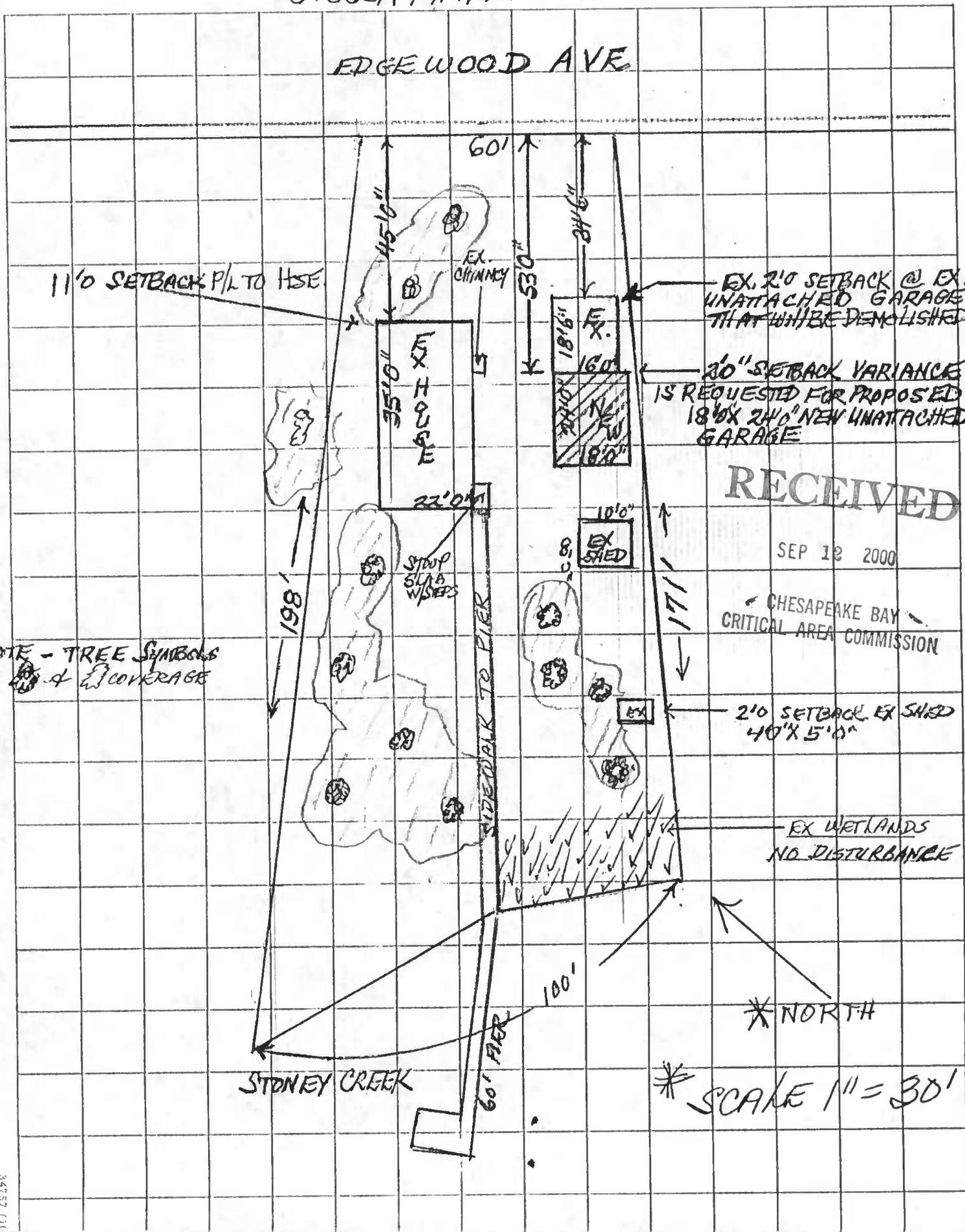
A variance granted under the provisions of this Article shall become void unless a building permit conforming to the plans for which the variance was granted is obtained within one year of the grant and construction is completed within two years of the grant.

If this case is not appealed, exhibits must be claimed within 60 days of the date of this order, otherwise they will be discarded.

# SITE PLAN

7712 EDGEWOOD AVE.  
GREENHAVEN ARMGR ADD.

(14)



NOTE - TREE SYMBOLS & COVERAGE

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SEP 12 2000

CHESAPEAKE BAY  
CRITICAL AREA COMMISSION

2'0" SETBACK EX SHED 40' X 5'0"

EX WETLANDS NO. DISTURBANCE

\* NORTH

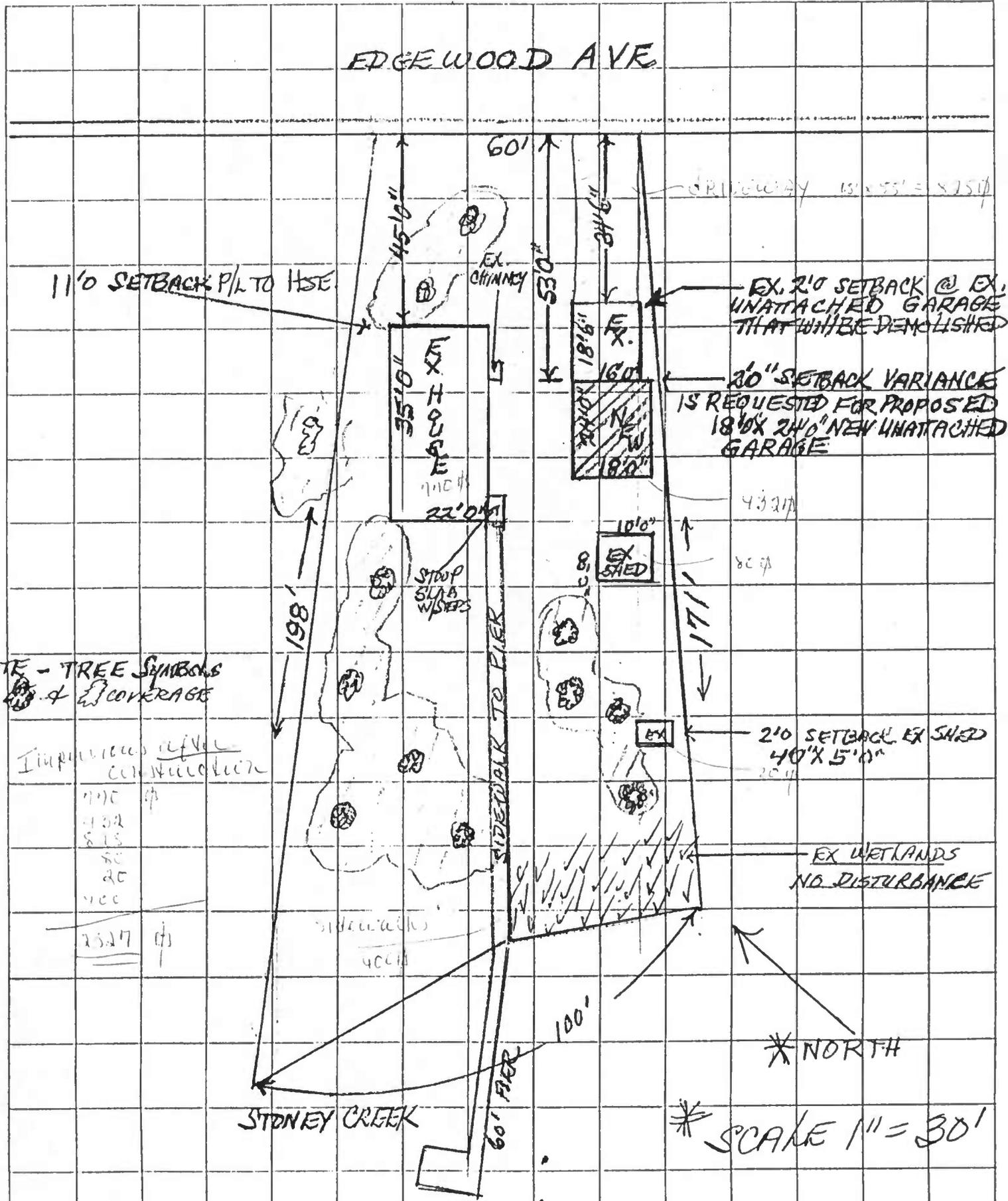
\* SCALE 1" = 30'

# SITE PLAN

## 7712 EDGEWOOD AVE.

### GREENHAVEN ARMGR ADD.

(14)



11'0" SETBACK P/L TO HSE

CRIBWAY 15' x 55' = 8250'

EX. 2'0" SETBACK @ EX. UNATTACHED GARAGE THAT WILL BE DEMOLISHED

30" SETBACK VARIANCE IS REQUESTED FOR PROPOSED 18' x 24' NEW UNATTACHED GARAGE

NOTE - TREE SYMBOLS & COVERAGE

Impervious area construction

- 4100
- 4132
- 813
- 80
- 20
- 400

2527 (H)

2'0" SETBACK EX SHED 40' x 5' 0"

EX WETLANDS NO DISTURBANCE

\* NORTH

\* SCALE 1" = 30'