

**FINDINGS AND RECOMMENDATION
OFFICE OF PLANNING AND ZONING
ANNE ARUNDEL COUNTY, MARYLAND**

APPLICANTS: Gustav & Bonnie Kurtz

ASSESSMENT DISTRICT: 3

CASE NUMBER: 2024-0047-V

COUNCIL DISTRICT: 3

HEARING DATE: May 28, 2024

PREPARED BY: Joan A. Jenkins
Planner II



REQUEST

The applicants are requesting a variance to allow an accessory structure (barn) on a lot without a principal structure and with less setbacks than required on property known as 2083 Kurtz Avenue in Pasadena.

LOCATION AND DESCRIPTION OF SITE

The subject property consists of four lots with a total of 41,175 square feet of land, more or less and is located with 100 feet of frontage on the southeast side of Magothy Avenue, southwest of W Kurtz Avenue. The site is known as Lots 117-120 of Parcel 17 in Grid 3 on Tax Map 18 in the Paradise Beach subdivision.

The property has been zoned primarily RLD - Residential Low Density District and OS - Open Space District since the adoption of comprehensive zoning for the Third Councilmanic District effective January 29, 2012. This property has a portion of Leath Pond on it and is located in the Chesapeake Bay Critical Area, classified as primarily LDA – Limited Development Area with a small area of RCA - Resource Conservation Area along the shoreline of the pond. This is not considered a waterfront lot and therefore does not have a buffer delineation.

The property is developed with a barn in the northern corner. The property includes a portion of the previously mentioned pond and a large forested area.

PROPOSAL

The applicant proposes to demolish the existing barn (30 feet by 30 feet) and replace it with a larger barn (36 feet by 30 feet by 25 feet high) with an attached lean-to (36 feet by 10 feet).

REQUESTED VARIANCE

§ 18-2-204 (c) of the Anne Arundel County Zoning Ordinance states that an accessory structure or use may not be located on a lot other than the lot on which a principal structure is located. This residential property does not have a principal structure (dwelling unit) therefore a variance to the provision is required.

§ 18-4-401 of the Anne Arundel County Code requires an accessory structure in the RLD District that is eight feet or greater in height to be set back sixty feet from the front lot line. The proposed barn will be located as close as forty feet from the front lot line, requiring a variance of twenty feet to the front lot line setback requirement.

FINDINGS

The subject property is shown as rectangular-shaped on the subdivision plat and site plan. According to the State Department of Assessment and Taxation this property is 41,175 square feet in area. This area meets the minimum lot size requirement; and the 100-foot width meets the minimum width requirement for a lot in the RLD District. There has been a longstanding barn on the property since 1933, according to the applicant's letter. This barn predates County zoning and is nonconforming to current RLD setback requirements, being set back 20 feet from the front lot line, and is not currently an allowed use. The property does not contain any other structures.

A review of the County aerial photograph from 2024 reveals that although this property has an address of Kurtz Avenue, the driveway leading to the property is called Magothy Avenue and is a platted road in the Paradise Beach Subdivision. Directly across Magothy Avenue is a structure with multiple garage openings that would be considered an accessory structure. There does not appear to be any other structures for that property either.

The **Health Department** commented that it does not have an approved plan for this project, but has no objection as long as a plan is submitted and approved by the Health Department.

The **Cultural Resources Section** commented that the subject property is located within the Kurtz Pleasure Beach Survey District (AA-2522) which is listed in the Maryland Inventory of Historic Properties and is a contributing building. The existing shed/barn, however, has lost structural integrity. Therefore, preservation of this resource is not required under Article 17-6-501. The proposed development is to construct a barn in the same location. While the architectural style of the proposed barn is not in the same character as the other historic contributing buildings, the large trees and vegetation that are located to the north and east side of the building are to remain and they will act as a visual buffer to the main complex of historic resources. The variance application notes that the woodland vegetation shall not be disturbed. Please note that our office shall need to review any associated permits since approval is contingent on the vegetation being retained.

This Office has no objection to the variance to reconstruct a longstanding accessory structure on a lot without a principal structure. The existing barn was built prior to zoning regulations and replacing this structure with a similar but slightly larger structure will not alter the essential character of the neighborhood as this proposal is a replacement of a longstanding structure in approximately the same location, will not negatively impact the use of the adjacent properties and in fact will be an improvement as the barn will comply with side setbacks whereas the existing barn does not, will not reduce forest cover in the critical area, will not be contrary to acceptable clearing and replanting practices, nor be detrimental to the public welfare.

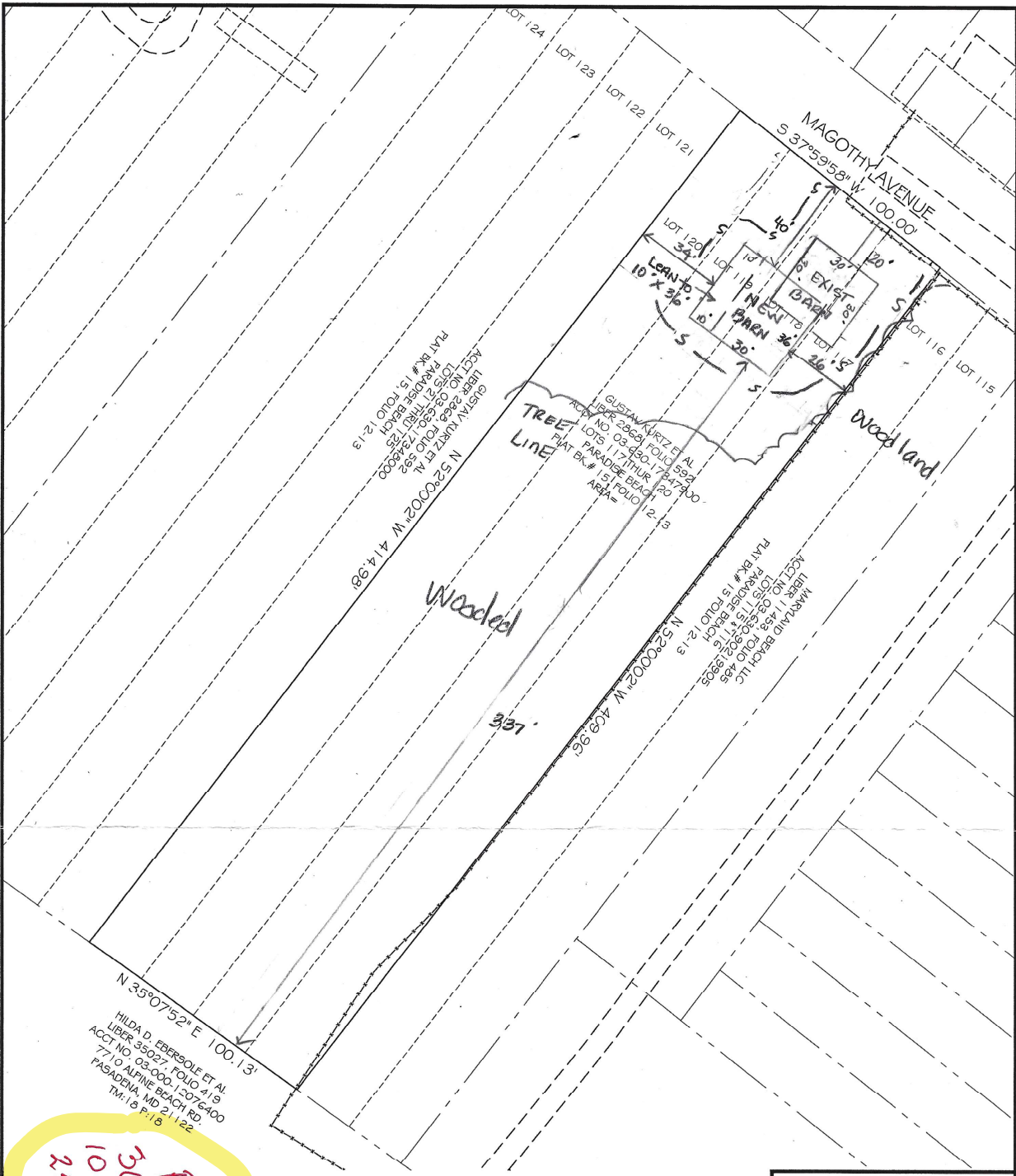
The applicant notes that the existing barn requires replacement due to the fact that it is falling down, however, the barn could be replaced in-kind without a variance to the setbacks¹ or located to meet the setback requirement. Although the lot is wooded, based on the location of the tree line on the site plan, there is ample room on the lot to locate the structure in compliance with the zoning setback requirements, including the limit of disturbance, without disturbing the woodlands. Therefore, the variance for setbacks is unwarranted and cannot be considered to be the minimum necessary to afford relief.

RECOMMENDATION

Based upon the standards set forth in Article 18-16-305, under which a variance may be granted, the Office of Planning and Zoning recommends ***approval*** of a variance to § 18-2-204 (c) to allow reconstruction of an accessory structure (barn) on a lot without a principal structure; however, this Office recommends ***denial*** of a variance to § 18-4-401 to allow construction of a barn as shown on the site plan.

DISCLAIMER: This recommendation does not constitute a building permit. In order for the applicant to construct the structure(s) as proposed, the applicant shall apply for and obtain the necessary building permits, and obtain any other approvals required to perform the work described herein. This includes but is not limited to verifying legal lot status, resolving adequacy of public facilities, and demonstrating compliance with environmental site design criteria.

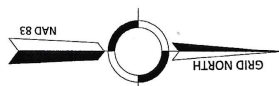
¹ § 18-2-303 allows that in-kind replacement is exempt from applicable bulk regulations if the original structure has been in the same location for at least twenty years and a building permit is obtained within eighteen months after the removal or destruction of the original structure.



Proposed:
 36 x 30 w/A
 10 x 36 Length
 25' HIGH

GENERAL NOTES

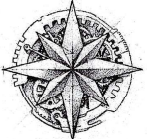
- 1) THIS SURVEY HAS BEEN PREPARED IN ACCORDANCE WITH THE SURVEYING AND MAPPING ACT OF 2004 AND OTHER RESTRICTIONS MAY AFFECT THIS PROPERTY AND NOT BE SHOWN.
- 2) THE INFORMATION SHOWN HEREON IS BASED ON THE DEEDS AND PLATS OF RECORD AND THE CADASTRE OF ANNE ARUNDEL COUNTY, MARYLAND. BEARINGS SHOWN HEREON ARE REFERENCED TO NAD 83.
- 3) THIS SURVEY DOES NOT ADDRESS WHETHER OR NOT PERMITTED WASTE OR OTHER MATERIALS ARE SHOWN ON REPORTS, STUDIES OR INFORMATION REGARDING SUCH BEEN PROVIDED.
- 4) THE IMPROVEMENTS SHOWN HEREON WERE FIELD LOCATED ON SEPTEMBER 25, 2023.
- 5) NOTE THIS DRAWING NOT VALID WITHOUT ORIGINAL SEAL AND SIGNATURE.



JESSICA A. KING
 MD REG #21684
 EXP. 12/24
 SEPTEMBER 27, 2023

THIS IS TO CERTIFY THAT THIS PLAT WAS MADE IN ACCORDANCE WITH COMAR 09.13.06.10 MINIMUM STANDARDS AND PROCEDURES FOR A SPECIAL PURPOSE SURVEY. THE VISIBLE IMPROVEMENTS ARE SHOWN TO A TOLERANCE OF 1 FOOT MORE OR LESS.

EXISTING SITE CONDITIONS SURVEY OF
LOTS 117 THRU 120
PARADISE BEACH
 MAGOTHY AVE. PASADENA, MD 21122
 TAX MAP: 0018 PART OF PARCEL: 0017
 THIRD ELECTION DISTRICT
 ANNE ARUNDEL COUNTY, MARYLAND



King's Point Surveys, Inc.
 8019 Long Hill Rd.
 Pasadena, MD 21122
 410-255-1378 jking@kingspointsurveys.com

DRAWN: JAK
CHECKED: JAK
DATE: 09-26-2023
JOB # 2023-0000
SCALE: 1"=40'
SHEET: 1 OF 1

March 11, 2024

Anne Arundel County
Office of Planning and Zoning
2664 Riva Road
Annapolis, Maryland 21401

RE: 2083 Kurtz Avenue, Pasadena

Letter of Explanation

This is to request a variance to Section 18-2-204 to allow an accessory structure without a principal structure. A variance to Section 18-4-401 to the front setback for RLD Zoning.

The lot is improved with a detached Barn that was constructed in 1933. The barn presently is falling down and in need of replacement. The old barn is located 20' from the front property line/paper road. The new barn will be located 40' to the front property line/ paper road to avoid any disturbance to any woodland.

Requirements for the granting of the Variance:

- 1.) The variance is the minimum to afford relief since the use of the property will remain the same. The property cannot be developed for any other purpose.
- 2.) The granting of the variance will not alter the essential character of the neighborhood. The barn has been there for 91 years. There is also a barn located on the adjacent property owner.
- 3.) The development will not impair the adjacent property owners. They also own a barn.
- 4.) The proposed location is to avoid any woodland disturbance.
- 5.) The improvement is not detrimental to public welfare.

To: Anne Arundel County Inspections and Permits

March 2, 2024

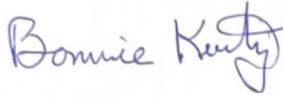
From: Bonnie K Kurtz

Ref: 2083 Kurtz Ave, Barn Replacement, Tax ID#3630-1734-7900

To Whom it May Concen,

I, Bonnie Kurtz, am applying for a building permit to replace an existing building that is in disrepair and unsafe to use. This building was the first building on this property, and was constructed in 1933. It has had many uses over the past 90 years, most recently as a barn/horse stable, until it was too unsafe to use. It was constructed before there were any zoning rules and regulations. I ask that you grant us the ability to replace this existing building.

Sincerely,

A handwritten signature in blue ink that reads "Bonnie Kurtz". The signature is written in a cursive style with a large, stylized 'B' and 'K'.

Bonnie Kurtz

CRITICAL AREA REPORT

2083 Kurtz Avenue
Pasadena, Maryland 21122
Tax Map 18, Block 0003, Parcel 0017
Tax Account #3-630-1734-7900
Critical Area LDA -RLD
Lots 117,118,119 and 120

INTRODUCTION

The site is in the LDA area of Anne Arundel County Critical Area program. The site is known as 2083 Kurtz Avenue. The property is zone RLD & R-2. The lot consists of 41,175 square feet. The lot is residential and is improved with a Deteriorated barn. This property is not served by well or septic. The lot is considered a historical site.

PURPOSE

Demo and rebuild an existing barn which was constructed in 1933. Relocate the barn to 20' to the front property line to 40' front property line to avoid any disturbance to woodlands. Enlarge the barn.

PROPERTY CHARACTERISTICS

The property has approximately 37,000 square feet of woodland. There are evasive veins surrounding the Barn that will need to be removed for the demolition. All other woodlands to remain. The site is long and narrow and backs up to Leath Pond. The existing Lot coverage on this site is 900 Square Feet. The new lot coverage will be 1,440. Lot coverage allowed is 6,176.

STORMWATER MANAGEMENT

There are no stormwater management devices on site. The ne barn will address Stormwater Management Practices and the building permit stage. No erosion was noted.

Impervious Coverages

Barn/ Accessory – 900 sq. ft.
New Barn/ Accessory 1,440

Total Impervious 1,440

Habitat Protection

The lot is heavily wooded and backs up to Leath Pond. There will be no woodland disturbance in order to protect the wildlife.

CRITICAL AREA COMMISSION
 CHESAPEAKE AND ATLANTIC COASTAL BAYS
 1804 WEST STREET, SUITE 100
 ANNAPOLIS, MD 21401

PROJECT NOTIFICATION APPLICATION

GENERAL PROJECT INFORMATION

Jurisdiction: Anne Arundel County

Date: 3-7-2020

Tax Map #	Parcel #	Block #	Lot #	Section
18	17	3	117-120	

FOR RESUBMITTAL ONLY

- Corrections
- Redesign
- No Change
- Non-Critical Area

*Complete Only Page 1
 General Project Information

Tax ID: 3-630-1734 7900

Project Name (site name, subdivision name, or other) Paradise Beach

Project location/Address 2083 Kurtz Avenue

City PASADENA Zip 21122

Local case number

Applicant: Last name GAEVER First name Brenda

Company Permit Services, Inc

Application Type (check all that apply):

- | | |
|---|---|
| Building Permit <input checked="" type="checkbox"/> | Variance <input checked="" type="checkbox"/> |
| Buffer Management Plan <input type="checkbox"/> | Rezoning <input type="checkbox"/> |
| Conditional Use <input type="checkbox"/> | Site Plan <input checked="" type="checkbox"/> |
| Consistency Report <input type="checkbox"/> | Special Exception <input type="checkbox"/> |
| Disturbance > 5,000 sq ft <input type="checkbox"/> | Subdivision <input type="checkbox"/> |
| Grading Permit <input type="checkbox"/> | Other <input type="checkbox"/> |

Local Jurisdiction Contact Information:

Last name AACo Zoning Administration Section First name

Phone # 410-222-7437 Response from Commission Required By TBD

Fax # Hearing date TBD

SPECIFIC PROJECT INFORMATION

Describe Proposed use of project site:

Residential Barn

<p>Intra-Family Transfer <input type="checkbox"/></p> <p>Grandfathered Lot <input checked="" type="checkbox"/></p> <p>Project Type (check all that apply)</p> <p>Commercial <input type="checkbox"/></p> <p>Consistency Report <input type="checkbox"/></p> <p>Industrial <input type="checkbox"/></p> <p>Institutional <input type="checkbox"/></p> <p>Mixed Use <input type="checkbox"/></p> <p>Other <input type="checkbox"/></p>	<p style="text-align: right;">Yes</p> <p>Growth Allocation <input type="checkbox"/></p> <p>Buffer Exemption Area <input type="checkbox"/></p> <p>Recreational <input type="checkbox"/></p> <p>Redevelopment <input type="checkbox"/></p> <p>Residential <input checked="" type="checkbox"/> Barn</p> <p>Shore Erosion Control <input type="checkbox"/></p> <p>Water-Dependent Facility <input type="checkbox"/></p>
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SITE INVENTORY (Enter acres or square feet)

	Acres	Sq Ft		Acres	Sq Ft
IDA Area			Total Disturbed Area		4,800
LDA Area		41,175	# of Lots Created	0	
RCA Area					
Total Area		41,175			

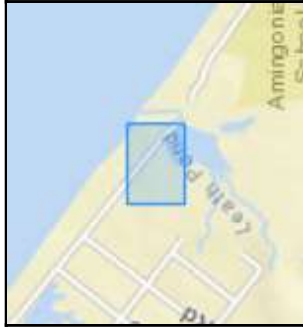
	Acres	Sq Ft		Acres	Sq Ft
Existing Forest/Woodland/Trees		3700	Existing Lot Coverage		900
Created Forest/Woodland/Trees		500	New Lot Coverage		1440
Removed Forest/Woodland/Trees		300	Removed Lot Coverage		900
			Total Lot Coverage		1440

VARIANCE INFORMATION (Check all that apply)

	Acres	Sq Ft		Acres	Sq Ft
Buffer Disturbance	0	0	Buffer Forest Clearing	0	0
Non-Buffer Disturbance			Mitigation		

<p><u>Variance Type</u></p> <p>Buffer <input type="checkbox"/></p> <p>Forest Clearing <input type="checkbox"/></p> <p>HPA Impact <input type="checkbox"/></p> <p>Lot Coverage <input type="checkbox"/></p> <p>Expanded Buffer <input type="checkbox"/></p> <p>Nontidal Wetlands <input type="checkbox"/></p> <p>Setback <input checked="" type="checkbox"/></p> <p>Steep Slopes <input type="checkbox"/></p> <p>Other <input checked="" type="checkbox"/> <u>Accessory</u> w/out a principal</p>	<p><u>Structure</u></p> <p>Acc. Structure Addition <input type="checkbox"/></p> <p>Barn <input checked="" type="checkbox"/></p> <p>Deck <input type="checkbox"/></p> <p>Dwelling <input type="checkbox"/></p> <p>Dwelling Addition <input type="checkbox"/></p> <p>Garage <input type="checkbox"/></p> <p>Gazebo <input type="checkbox"/></p> <p>Patio <input type="checkbox"/></p> <p>Pool <input type="checkbox"/></p> <p>Shed <input type="checkbox"/></p> <p>Other <input type="checkbox"/></p>
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Topographic Map - Lot outline ref only not exact



Legend

- Foundation
- Parcels
- Structure
- County Structure
- Elevation
- Topo 2020
- Index
- Intermediate



Notes 1" = 100'

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 TomTom, Garmin, SafeGraph,
 GeoTechnologies, Inc, METI/NASA,

THIS MAP IS NOT TO BE
 USED FOR NAVIGATION

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 Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.





ANNE
ARUNDEL
COUNTY


MARYLAND
DEPARTMENT OF HEALTH

J. Howard Beard Health Services Building
3 Harry S. Truman Parkway
Annapolis, Maryland 21401
Phone: 410-222-7095 Fax: 410-222-7294
Maryland Relay (TTY): 711
www.aahealth.org

Tonii Gedin, RN, DNP
Acting Health Officer

MEMORANDUM

TO: Sadé Medina, Zoning Applications
Planning and Zoning Department, MS-6301

FROM: Brian Chew, Program Manager 
Bureau of Environmental Health

DATE: March 26, 2024

RE: Gustav Kurtz
2083 Kurtz Ave.
Pasadena, MD 21122

NUMBER: 2024-0047-V

SUBJECT: Variance/Special Exception/Rezoning

The Health Department has reviewed the above referenced variance to allow an accessory structure (Barn) on a lot without a principal structure and with less setbacks than required. The Health Department offers the following comments:

The Health Department does not have an approved plan for this project. The Health Department has no objection to the above referenced variance request as long as a plan is submitted and approved by the Health Department.

If you have further questions or comments, please contact Brian Chew at 410-222-7413.

cc: Sterling Seay

Menu Cancel Help

Task Details OPZ Cultural Resources

Assigned Date
03/19/2024

Assigned to
Stacy Poulos

Current Status
Complete w/ Comments

Action By
Stacy Poulos

Comments
The subject property is located within the Kurtz Pleasure Beach Survey District (AA-2522) which is listed in the Maryland Inventory of Historic Properties and is a contributing building. The existing shed/barn, however, has lost structural integrity. Therefore, preservation of this resource is not required under Article 17-6-501. The proposed development is to construct a barn in the same location. While the architectural style of the proposed barn is not in the same character as the other historic contributing buildings, the large trees and vegetation that are located to the north and east side of the building are to remain and they will act as a visual buffer to the main complex of historic resources. The variance application notes that the woodland vegetation shall not be disturbed. Please note that our office shall need to review any associated permits since approval is contingent on the vegetation being retained.

End Time
0.0

Billable
No

Time Tracking Start Date
In Possession Time (hrs)
Estimated Hours
0.0

Comment Display in ACA
 All ACA Users
 Record Creator
 Licensed Professional
 Contact
 Owner

Due Date
04/09/2024

Assigned to Department
OPZ Cultural Resources

Status Date
04/10/2024

Overtime
No

Start Time

Hours Spent
0.0

Action by Department
OPZ Cultural Resources

Est. Completion Date
 Display E-mail Address in ACA
 Display Comment in ACA

Task Specific Information

Expiration Date

Reviewer Phone Number

Review Notes
Reviewer Email

Reviewer Name



2080

2070

2075

2083

2088

KURTZ AVE

Leath Pond

LEATH POND

