

BOARD OF ADJUSTMENT

JOHN WILLIAMSON, CHAIRMAN
KEVIN E. CARSON
JEFF CHORMAN
JOHN T. HASTINGS
JORDAN WARFEL



Sussex County

DELAWARE
sussexcountyde.gov

(302) 855-7878 T

AGENDA

September 20, 2021

6:00 P.M.

PLEASE REVIEW MEETING INSTRUCTIONS AT THE BOTTOM OF THE AGENDA**

Call to Order

Pledge of Allegiance

Approval of Agenda

Approval of Minutes for July 12, 2021

Approval of Finding of Facts for July 12, 2021

Old Business

Case No. 12599 – Matthew & Jacquelyn Rhinehart seek variances from the front yard, corner front yard, side yard, and rear yard setback requirements for proposed and existing structures (Sections 115-82, 115-182, 115-183 and 115-185 of the Sussex County Zoning Code). The property is located on the northeast side of Hebron Road at the intersection of Hebron Road and Harmon Street. 911 Address: 19875 Hebron Road, Rehoboth Beach. Zoning District: C-1. Tax Parcel: 334-13.19-77.00

Public Hearings

Case No. 12607 – Paul H. Nye & Jerome V. Hofer seek a variance from maximum fence height requirement for a proposed fence. (Sections 115-25, 115-182 and 115-185 of the Sussex County Zoning Code). The property is located on the south side of S. Fieldway Court within the Kings Creek Country Club Subdivision. 911 Address: 2 S. Fieldway Court, Rehoboth Beach. Zoning District: AR-1. Tax Parcel: 334-13.00-996.00

Case No. 12608 – Charles & Paula Mundell seek a variance from the separation distance setback requirement for a proposed structure (Sections 115-25, 115-172, 115-183, and 115-185 of the Sussex County Zoning Code). The property is located on the southeast side of Sea Air Avenue within the Sea Air Village Manufactured Home Park. 911 Address: 19913 Sea



Air Avenue, Rehoboth Beach. Zoning District: AR-1. Tax Parcel: 334-13.00-310.00-21298

Case No. 12609 – Todd K. & Allyson L. Moyer seek a variance from the front yard setback requirement for a proposed structure (Sections 115-34 and 115-182 of the Sussex County Zoning Code). The property is located on the north side of Baltimore Street within the Bay View Park Subdivision. 911 Address: 39663 Baltimore Street, Bethany Beach. Zoning District: MR. Tax Parcel: 134-20.11-32.00

Case No. 12610 – Wade Thompson seeks a variance from the front yard setback requirement for a proposed structure (Sections 115-42 and 115-182 of the Sussex County Zoning Code). The property is located on the west side of Shady Ridge Drive within the Shady Ridge Subdivision. 911 Address: 127 Shady Ridge Drive, Rehoboth Beach. Zoning District: GR. Tax Parcel: 334-13.00-579.00

Case No. 12611– Charles Hairston (Roderick & Melodie Morris) seeks a special use exception to operate a daycare facility (Sections 115-23 and 115-210 of the Sussex County Zoning Code). The property is located at the north side of Johnson Road approximately 300 ft. east of Marshall Street. 911 Address: 18601 Johnson Rd., Lincoln. Zoning District: AR-1. Tax Map: 330-15.13-38.00

Case No. 12612 – W. Scott Collins seeks a variance from the front yard setback requirement for an existing structure (Sections 115-25, 115-182, and 115-185 of the Sussex County Zoning Code). The property is located on the east side of Roxana Road approximately 0.27 mile southwest of Phillips Road. 911 Address: 36617 Roxana Road, Selbyville. Zoning District: AR-1. Tax Parcel: 533-10.00-65.00

Additional Business



-MEETING DETAILS-

In accordance with 29 Del. C. §10004(e)(2), this Agenda was posted on September 13, 2021 at 4:00 p.m. and at least seven (7) days in advance of the meeting.

The Agenda was prepared by the Director of Planning and Zoning and is subject to change to include the additional or deletion of items, including Executive Sessions, which arise at the time of the meeting.

Agenda items may be considered out of sequence.

The meeting will be streamed live at <https://sussexcountyde.gov/council-chamber-broadcast>

The County is required to provide a dial-in number for the public to comment during the appropriate time of the meeting. **Note, the on-line stream experiences a 30-second delay.** Any person who dials in should listen to the teleconference audio to avoid the on-line stream delay.

To join the meeting via telephone, please dial:

Conference Number: 1 302 394 5036

Conference Code: 570176

Members of the public joining the meeting on the telephone will be provided an opportunity to make comments for those items under public hearings on this agenda.

The Board of Adjustment meeting materials, including the “packet” are electronically accessible on the County’s website at: <https://sussexcountyde.gov/agendas-minutes/board-of-adjustment>

If any member of the public would like to submit comments electronically, these may be sent to pandz@sussexcountyde.gov. All comments are encouraged to be submitted by 4:30 P.M. on Thursday, September 16, 2021

####



**Board of Adjustment Application
Sussex County, Delaware**

Sussex County Planning & Zoning Department
2 The Circle (P.O. Box 417) Georgetown, DE 19947
302-855-7878 ph. 302-854-5079 fax

Case # 12599
Hearing Date 8/16
202109926

Type of Application: (please check all applicable)

Variance

Special Use Exception

Administrative Variance

Appeal

Existing Condition

Proposed

Code Reference (office use only)

115-82 115-183

115-185

Site Address of Variance/Special Use Exception:

19875 Hebron Road, Rehoboth Beach, DE 19971

Variance/Special Use Exception/Appeal Requested:

We are requesting a variance to construct a second floor within the footprint of an existing residence that is entirely outside of the existing front and side setbacks.

We are also requesting a variance to construct a shower enclosure at the side of the property on top of the existing deck which is already encroaching the setbacks. The width of the shower enclosure will not exceed the width of existing deck.

Tax Map #: 334-13.19-77.00

Property Zoning: C-1

Applicant Information

Applicant Name: Moonlight Architecture, Inc.

Applicant Address: 29003 Lewes Georgetown Hwy

City Lewes State DE Zip: 19958

Applicant Phone #: (302) 645-9361 Applicant e-mail: Alex@moonlightarch.com

Owner Information

Owner Name: Matthew and Jacquelyn Rhinehart

Owner Address: 20 Oakmont Circle

City New Freedom State PA Zip: 17349 Purchase Date: _____

Owner Phone #: (717) 858-3316 Owner e-mail: Mprhinehart@gmail.com

Agent/Attorney Information

Agent/Attorney Name: _____

Agent/Attorney Address: _____

City _____ State _____ Zip: _____

Agent/Attorney Phone #: _____ Agent/Attorney e-mail: _____

Signature of Owner/Agent/Attorney

A Hallam

Date: 6/30/20



Criteria for a Variance: (Please provide a written statement regarding each criteria).

*You shall demonstrate to the Board of Adjustment that the property meets **all** of the following criteria for a Variance to be granted.*

In granting any variance the Board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of the Zoning Ordinance or Code. The Board is empowered in no case, however, to grant a variance in the use of land or structures thereon.

1. Uniqueness of property:

That there are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property and that the exceptional practical difficulty is due to such conditions and not to circumstances or conditions generally created by the provisions of the Zoning Ordinance or Code in the neighborhood or district in which the property is located.

The property was developed number of years ago prior to current zoning regulations and as a result in the current setbacks regulations, the house now sits entirely over the setbacks. And to complicate the issue, the house resides on a corner lot.

2. Cannot otherwise be developed:

That because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the Zoning Ordinance or Code and that the authorization of a variance is therefore necessary to enable the reasonable use of the property.

For the reasons mentioned above no further work can be performed to the house since the entire house lays over the setbacks.

3. Not created by the applicant:

That such exceptional practical difficulty has not been created by the appellant.

The Owner purchased this house with the existing conditions already in place. And the changes in setback were based on the County changing the regulations.

4. Will not alter the essential character of the neighborhood:

That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located and nor substantially or permanently impair the appropriate use of development of adjacent property, nor be detrimental to the public welfare.

Most of the surrounding structures are residential and the proposed addition and renovation to the house will conform and stay in character with the existing neighborhood. The proposed addition will remain within the existing footprint to the current house.

5. Minimum variance:

That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible of the regulation in issue.

We are requesting a variance to construct a second floor over the existing footprint and we are requesting a variance to construct this second story entirely outside of the existing front and side setbacks but not outside of the existing footprint.

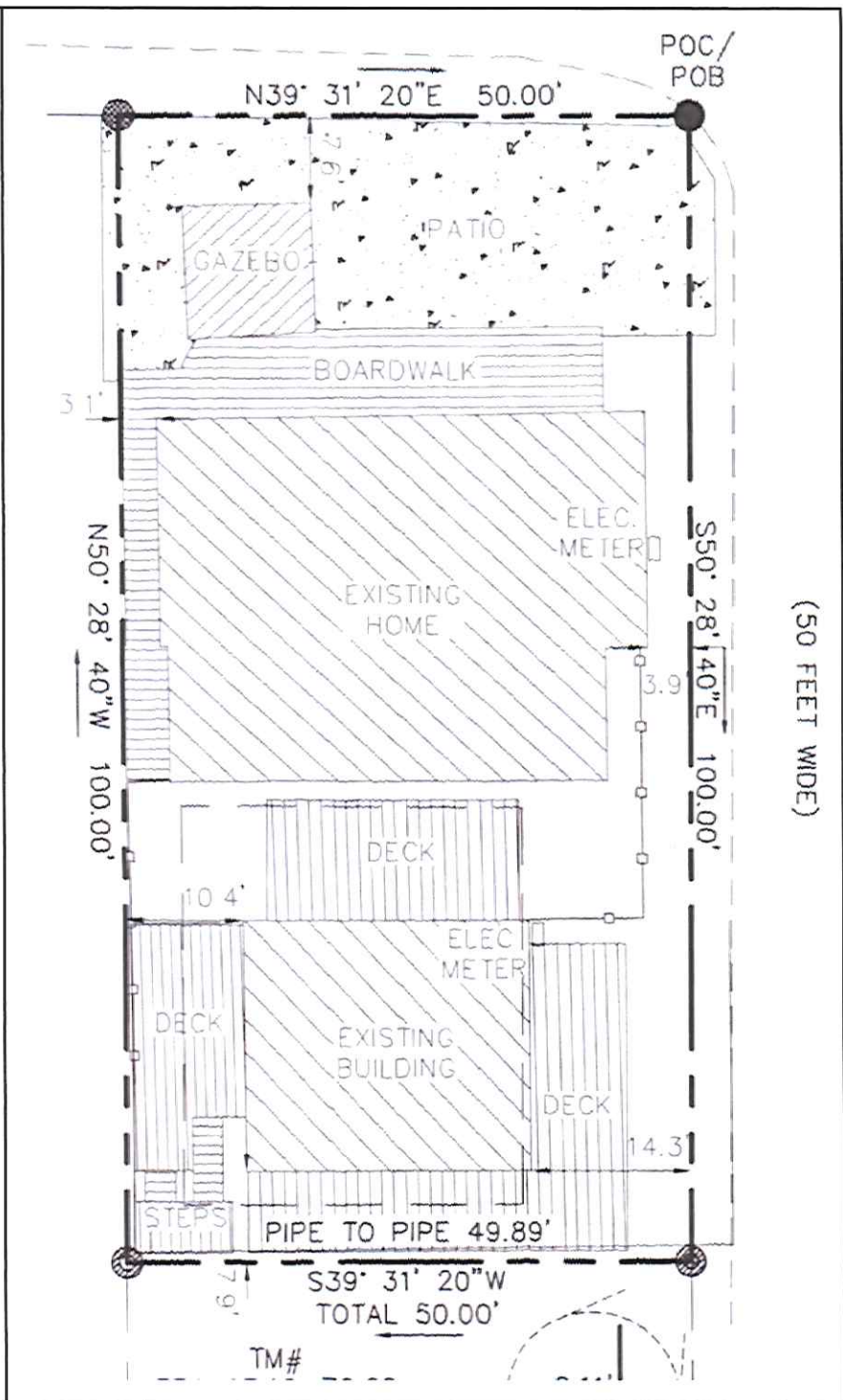
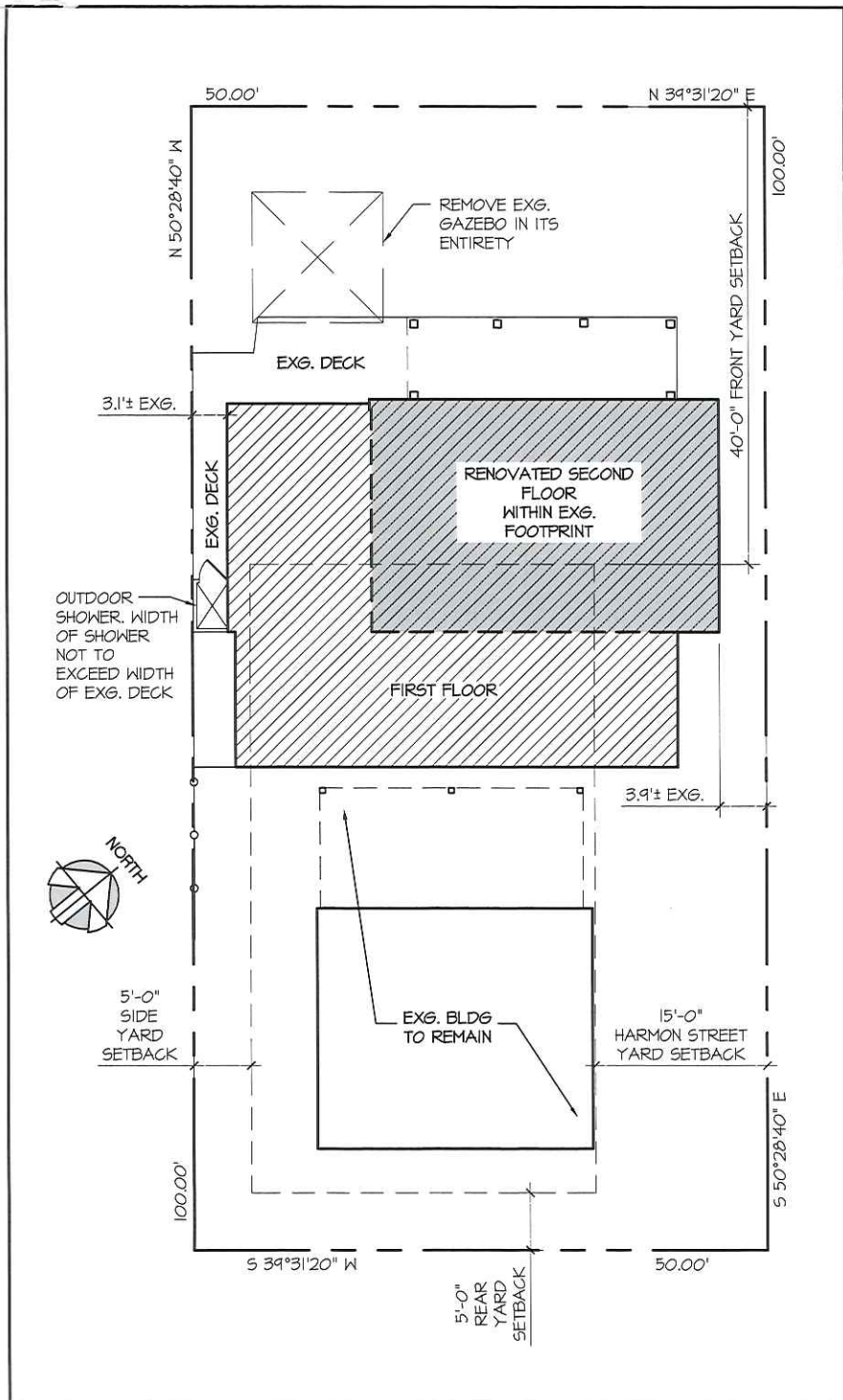
We are also requesting a variance to construct a shower enclosure at the side of the property on top of the existing deck which is already encroaching the setbacks.



Moonlight
Architecture, Inc.
Architecture • Interior Design
Site Planning

DE (302) 645-9361
MD (410) 677-4747
www.moonlightarch.com

CONSTRUCTION DOCUMENTS FOR THE:
RHINEHART RESIDENCE
RENOVATIONS,
19875 HEBRON ROAD,
SUSSEX COUNTY,
DELAWARE



(50 FEET WIDE)

SCALE:
AS NOTED
DRAWING DATE:
00/00/2021
SHEET TITLE:
PROPOSED ADDITION SITI
PLAN AND EXISTING
CONDITIONS SITE PLAN

© COPYRIGHT 2021 MOONLIGHT ARCHITECTURE, INC.
PROJECT NUMBER:
21054

SHEET #:
ED0.01



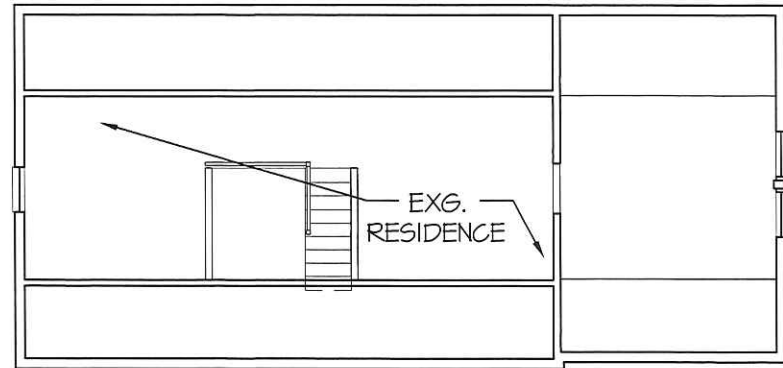
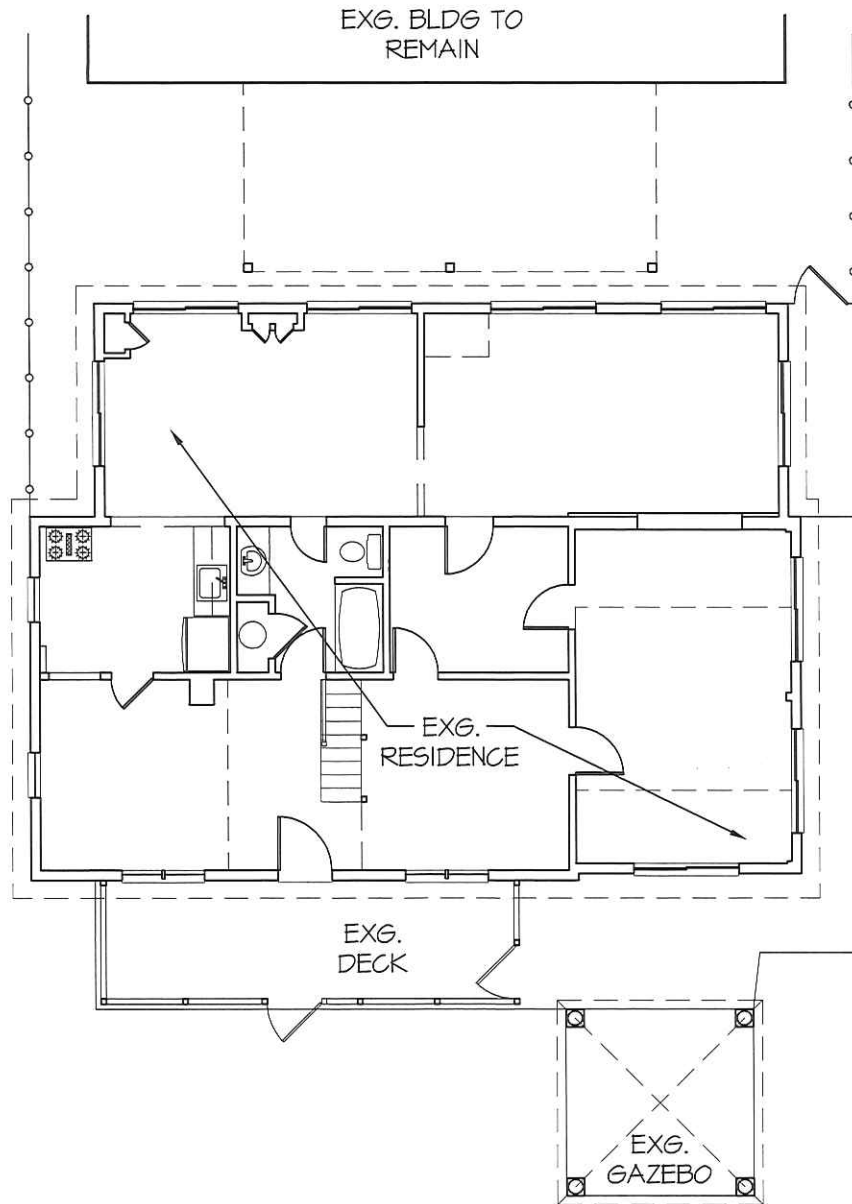
Moonlight
Architecture, Inc.

Architecture • Interior Design
Site Planning

DE (302) 645-9361
MD (410) 677-4747
www.moonlightarch.com

CONSTRUCTION DOCUMENTS FOR THE:

RHINEHART
RESIDENCE
RENOVATIONS,
19875 HEBRON
ROAD,
REHOBOTH
BEACH, SUSSEX
COUNTY,
DELAWARE



SCALE:
3/32" = 1'-0"
DRAWING DATE:
06/30/2021

SHEET TITLE:
**EXISTING FIRST FLOOR
PLAN AND EXISTING
SECOND FLOOR PLAN**

© COPYRIGHT 2021 MOONLIGHT ARCHITECTURE, INC.
PROJECT NUMBER:
21054

SHEET #:
ED1.01

A1	EXISTING FIRST FLOOR PLAN
3/32" = 1'-0"	KEY

B1	EXISTING SECOND FLOOR PLAN
3/32" = 1'-0"	KEY




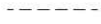

Moonlight
Architecture, Inc.

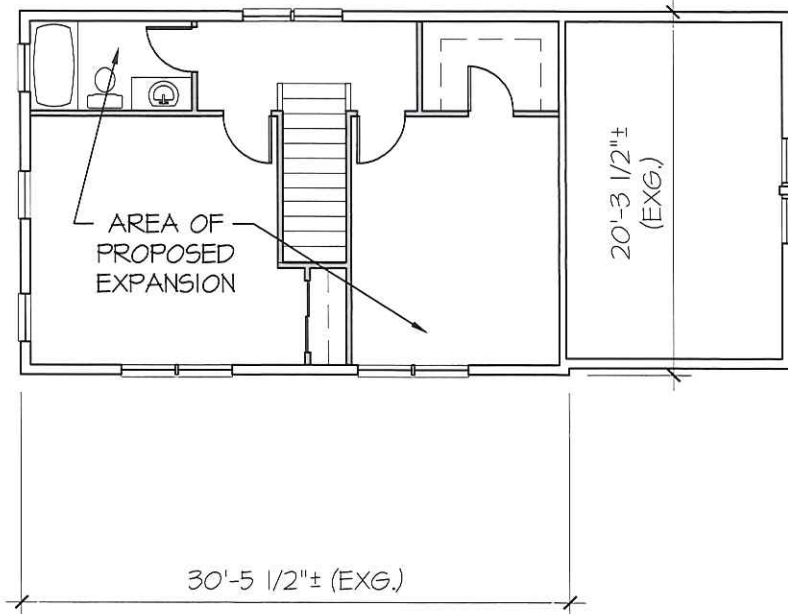
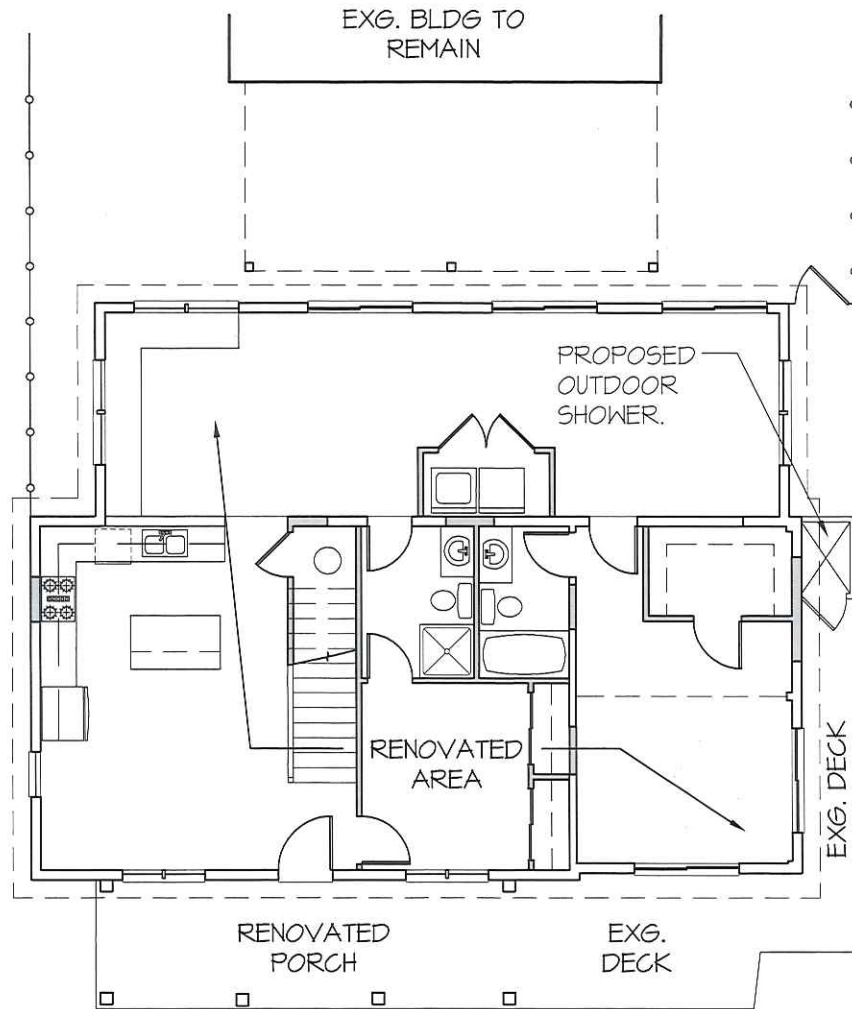
Architecture • Interior Design
Site Planning

DE (302) 645-9361
MD (410) 677-4747
www.moonlightarch.com

CONSTRUCTION DOCUMENTS FOR THE:
RHINEHART
RESIDENCE
RENOVATIONS,
19875 HEBRON
ROAD,
REHOBOTH
BEACH, SUSSEX
COUNTY,
DELAWARE

WALL LEGEND

-  EXG. WALL TO REMAIN.
-  EXG. WALL TO BE REMOVED.
-  NEW WALL



SCALE:
3/32" = 1'-0"
DRAWING DATE:
06/30/2021

SHEET TITLE:
**PROPOSED FIRST FLOOR
PLAN AND PROPOSED
SECOND FLOOR PLAN**

© COPYRIGHT 2021 MOONLIGHT ARCHITECTURE, INC.
PROJECT NUMBER:
21054

SHEET #:
ED1.02

A1 PROPOSED FIRST FLOOR PLAN

3/32" = 1'-0"

KEY

B1 PROPOSED SECOND FLOOR PLAN

3/32" = 1'-0"

KEY



Moonlight
Architecture, Inc.
Architecture • Interior Design
Site Planning

DE (302) 645-9361
MD (410) 677-4747
www.moonlightarch.com

CONSTRUCTION DOCUMENTS FOR THE:
**RHINEHART
RESIDENCE
RENOVATIONS,
19875 HEBRON
ROAD,
REHOBOTH
BEACH, SUSSEX
COUNTY,
DELAWARE**



EXG. LEFT SIDE ELEVATION



EXG. RIGHT SIDE ELEVATION



EXG. FRONT ELEVATION

SCALE:
3/32" = 1'-0"

DRAWING DATE:
06/30/2021

SHEET TITLE:
**EXISTING EXTERIOR
ELEVATIONS**

© COPYRIGHT 2021 MOONLIGHT ARCHITECTURE, INC.
PROJECT NUMBER:
21054

SHEET #:
ED2.01

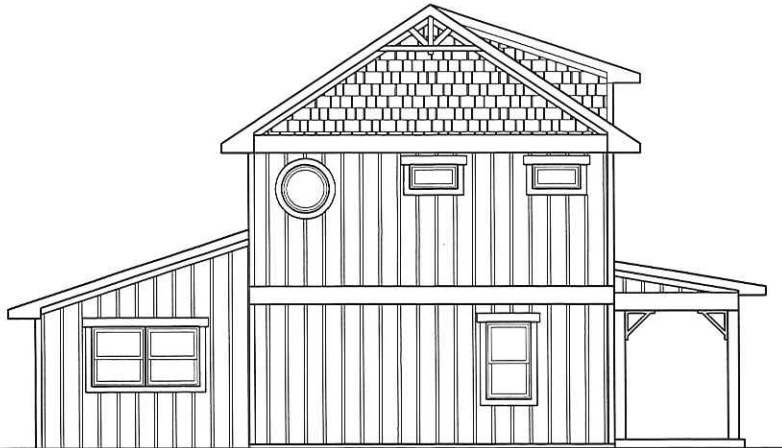
A1	EXISTING EXTERIOR ELEVATIONS
3/32" = 1'-0"	KEY



Moonlight
Architecture, Inc.
Architecture • Interior Design
Site Planning

DE (302) 645-9361
MD (410) 677-4747
www.moonlightarch.com

CONSTRUCTION DOCUMENTS FOR THE:
**RHINEHART
RESIDENCE
RENOVATIONS,**
19875 HEBRON
ROAD,
REHOBOTH
BEACH, SUSSEX
COUNTY,
DELAWARE



PROPOSED LEFT SIDE ELEVATION



3D VISUALIZATION OF PROPOSED ADDITION



PROPOSED FRONT ELEVATION

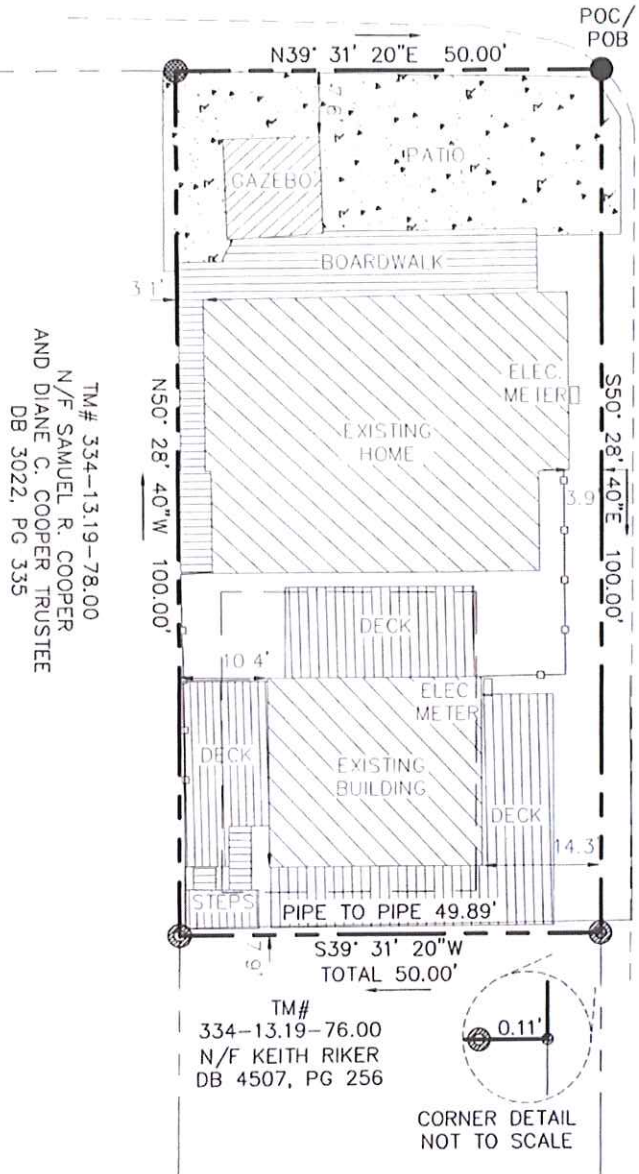
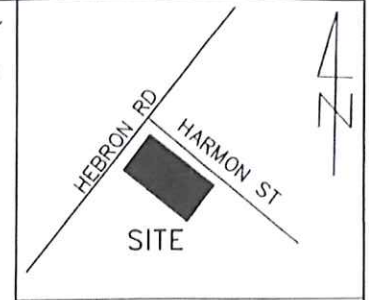
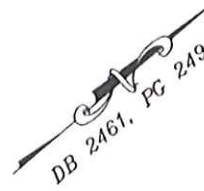
SCALE:
3/32" = 1'-0"
DRAWING DATE:
06/30/2021
SHEET TITLE:
**PROPOSED EXTERIOR
ELEVATIONS**

© COPYRIGHT 2021 MOONLIGHT ARCHITECTURE, INC.
PROJECT NUMBER:
21054

SHEET #:
ED2.02

A1	PROPOSED EXTERIOR ELEVATIONS
3/32" = 1'-0"	KEY

HEBRON ROAD
(50 FEET WIDE)



TM# 334-13.19-78.00
N/F SAMUEL R. COOPER
AND DIANE C. COOPER TRUSTEE
DB 3022, PG 335

HARMON STREET
(50 FEET WIDE)

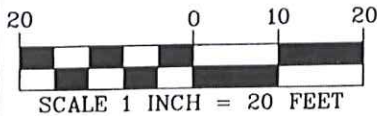
PLAN DATA:

- TITLE REFERENCED TO:
TM# 334-13.19-77.00
DB 2461, PG 249
19875 HEBRON ROAD
REHOBOTH BEACH, DE 19971
LEWES AND REHOBOTH HUNDRED
SUSSEX COUNTY, STATE OF DELAWARE
- NO TITLE REPORT PERFORMED OR FURNISHED IN PREPARATION OF THIS PLAT.
- THIS PLAN DOES NOT CERTIFY THE EXISTENCE OR NON-EXISTENCE OF EASEMENTS OR RIGHTS OF WAY AS A FULL AND COMPLETE SEARCH MAY REVEAL IN THE SUSSEX COUNTY RECORDER OF DEEDS.
- ACCORDING TO SUSSEX COUNTY PLANNING AND ZONING THE ZONING IS C1 AND THE SETBACKS ARE: FRONT-60', SIDE- 5', REAR- 5', AND HARMON STREET-15'.
- AREA: 5,000±SQ.FT. OR 0.114±ACRE

LOCATION MAP
NOT TO SCALE

I, ALAN O'DALE KENT, REGISTERED AS A PROFESSIONAL LAND SURVEYOR IN THE STATE OF DELAWARE, HEREBY STATE THAT THE INFORMATION SHOWN ON THIS PLAN HAS BEEN PREPARED UNDER MY SUPERVISION AND MEETS THE STANDARDS OF PRACTICE AS ESTABLISHED BY THE STATE OF DELAWARE BOARD OF PROFESSIONAL LAND SURVEYORS. ANY CHANGES TO THE PROPERTY CONDITIONS, IMPROVEMENTS, BOUNDARY OR PROPERTY CORNERS AFTER THE DATE SHOWN HEREON SHALL NECESSITATE A NEW REVIEW AND CERTIFICATION FOR ANY OFFICIAL OR LEGAL USE.

26 JAN 2021
ALAN O'DALE KENT, PLS#738, DATE



LEGEND:

- STAKE
- DRILL HOLE SET
- IRON PIPE FOUND
- CORNER NOT MARKED
- PROPERTY LINE
- - - ADJOINING PROPERTY LINE
- BUILDING RESTRICTION LINE
- CENTERLINE OF ROAD

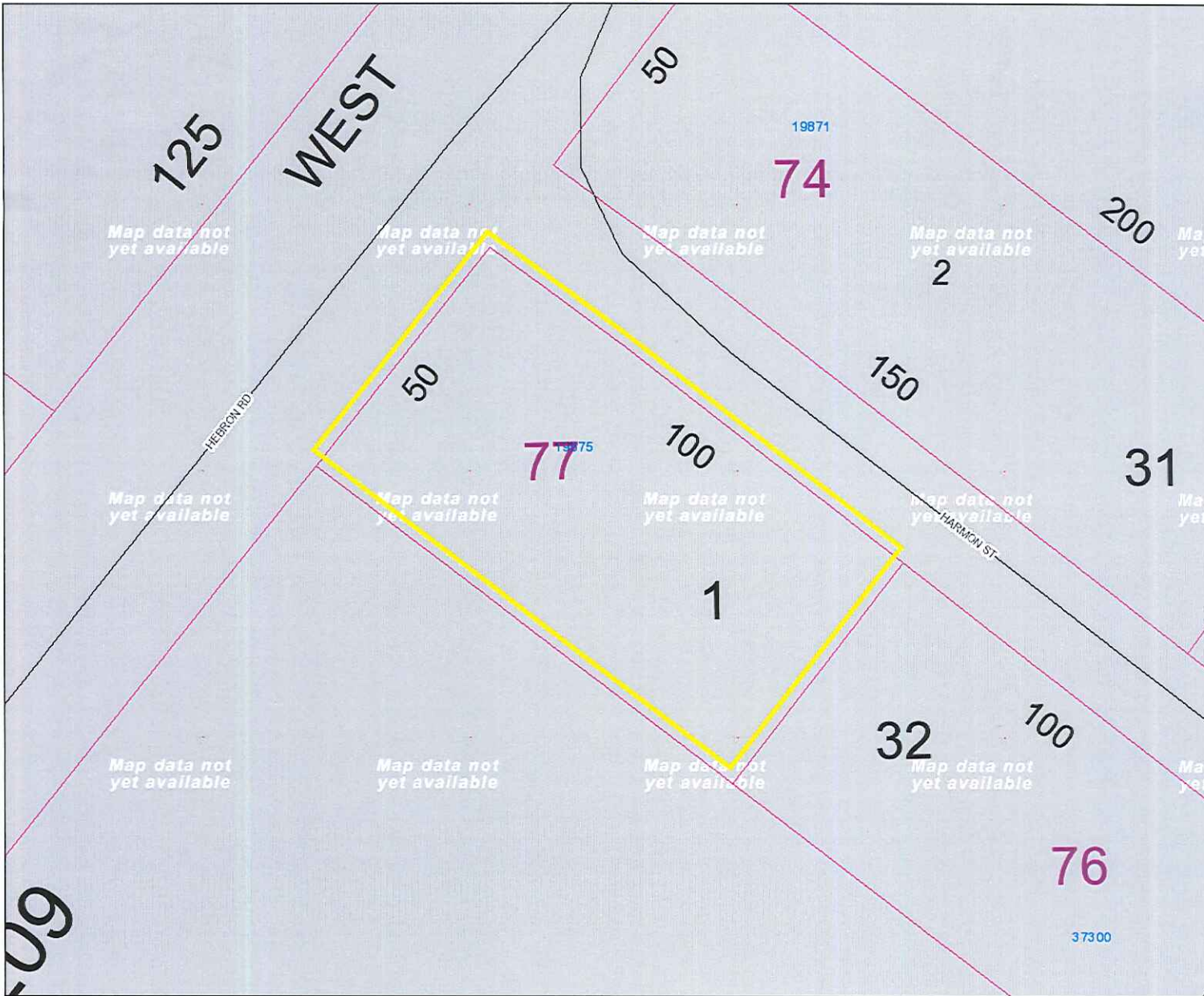
JOB #2021027

THIS IS A SUBURBAN SURVEY

DATE OF PLAN
26 JAN 2021

DATE OF LAST FIELD WORK
25 JAN 2021

BOUNDARY SURVEY PLAN
FOR
MATTHEW P. RHINEHART
AND JACQUELYN R. RHINEHART
OF THE LANDS NOW OR FORMERLY OF
KEITH D. RIKER
PREPARED BY
ALAN O KENT LAND SURVEYING, LLC
SEAFORD, DE 19975
(302) 745-1725

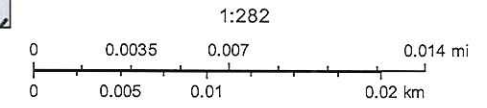


PIN:	334-13.19-77.00
Owner Name	RHINEHART MATTHEW P
Book	5414
Mailing Address	20 OAKMONT CIR
City	NEW FREEDOM
State	PA
Description	PINE RD LOT
Description 2	N/A
Description 3	N/A
Land Code	

- polygonLayer**

 - Override 1
- polygonLayer**

 - Override 1
- Tax Parcels
- 911 Address
- Streets
- County Boundaries
- Municipal Boundaries



Non-conforming dwelling – built in 1957

Previous BOA 11357 Variances

1 – 9.2-ft var from 15-cor front for existing deck

2 – 9.6-ft var from 10-ft side for existing deck

3 – 9.1-ft var from 10-ft rear for existing deck

4 – 22-ft var from 30-ft front for existing gazebo

Applicant appealed Board's decision and was to re-apply – no record of another application – no action on County's part – Assessment records show in 2017 the existing garage was re-assessed as living quarters

Variances for BOA 12599

I have included the all existing and proposed structures to bring the property into compliance

1 – 1.9-ft var from 5-ft side for existing dwelling

~~2 – 5-ft var from 5-ft side for existing boardwalk & proposed outside shower~~

3 – 4.6-ft var from 5-ft side for existing 2nd story deck and steps 4.4 Based on the Survey we have

4 – 4.1-ft var from 5-ft rear for existing 2nd story deck and steps 4.2 Based on the Survey we have

5 – 3.8-ft var from 5-ft rear for existing 2nd story deck 4.0 Based on the Survey we have

6 – 0.7-ft var from 15-ft corner front for existing dwelling

7 – 9.2-ft var from 15-ft corner front for existing second story deck 9.3 Based on the Survey we have

8 – 9.1-ft var from 15-ft corner front for existing second story deck I couldn't find the location of this variance

9 – 11.1-ft var from 15-ft corner front for existing dwelling and proposed 2nd floor addition

10 – 7.1-ft var from 15-ft corner front for existing boardwalk/front porch 7.3 Based on the Survey we have

11 – 21.4-ft var from 40-ft front for existing and proposed structures 14.6 Based on the Survey we have and 40 feet Front Yard Setback

Existing non-conforming dwelling w/front porch/boardwalk is 18.6-ft from property line 18.1 Based on the Survey we have

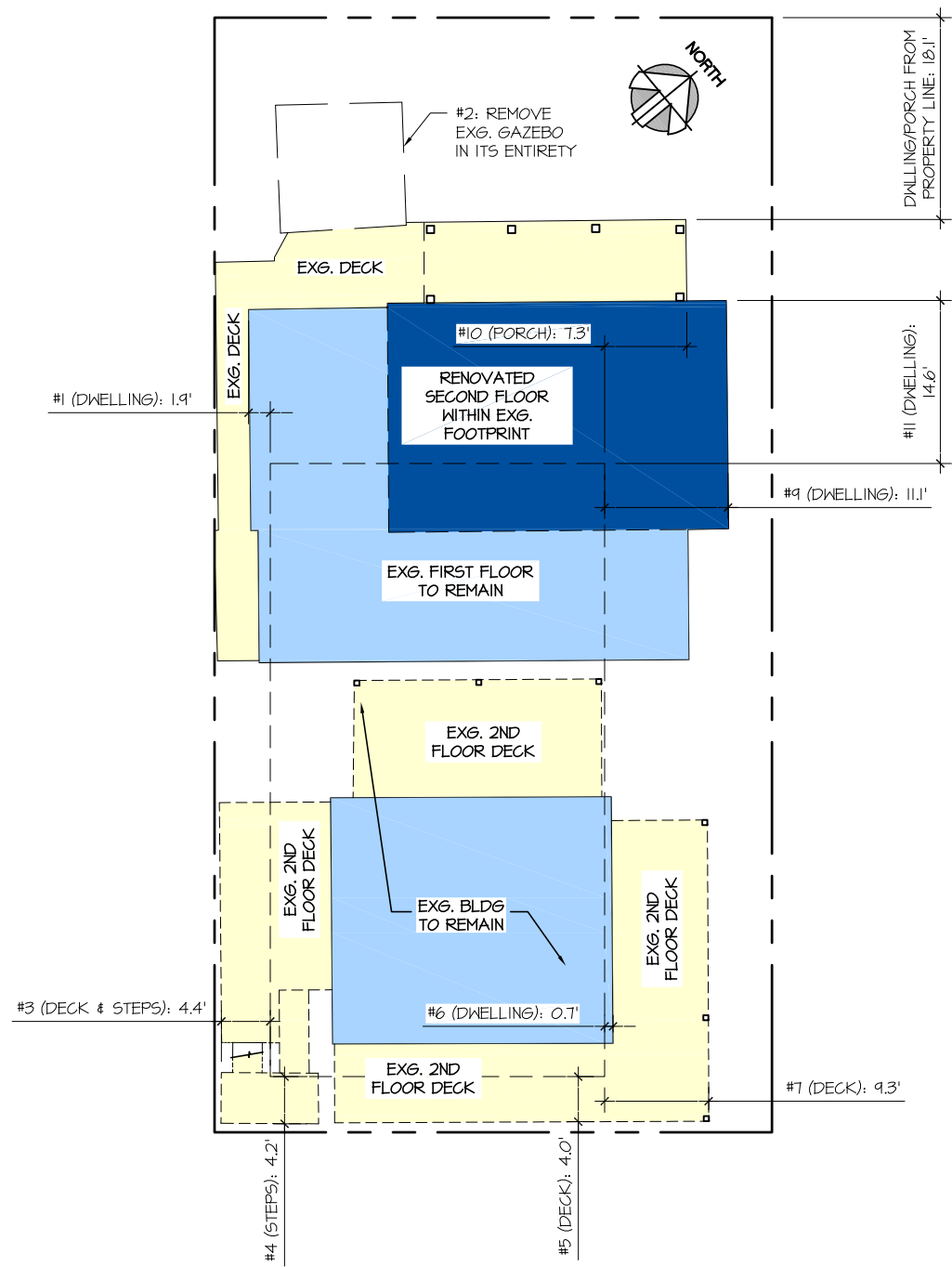


Moonlight
Architecture, Inc.

Architecture • Interior Design
Site Planning

DE (302) 645-9361
MD (410) 677-4747
www.moonlightarch.com

CONSTRUCTION DOCUMENTS FOR THE:
**RHINEHART
RESIDENCE
RENOVATIONS,**
19875 HEBRON ROAD,
REHOBOTH BEACH,
SUSSEX COUNTY,
DELAWARE



SCALE:
AS NOTED
DRAWING DATE:
09/07/2021
SHEET TITLE:
**SITE PLAN WITH
VARIANCES FOR BOA
12599A**

© COPYRIGHT 2021 MOONLIGHT ARCHITECTURE, INC.
PROJECT NUMBER:
21054

SHEET #:
ED0.02

A1	SITE PLAN WITH VARIANCES FOR BOA 12599A
1/16" = 1'-0"	KEY

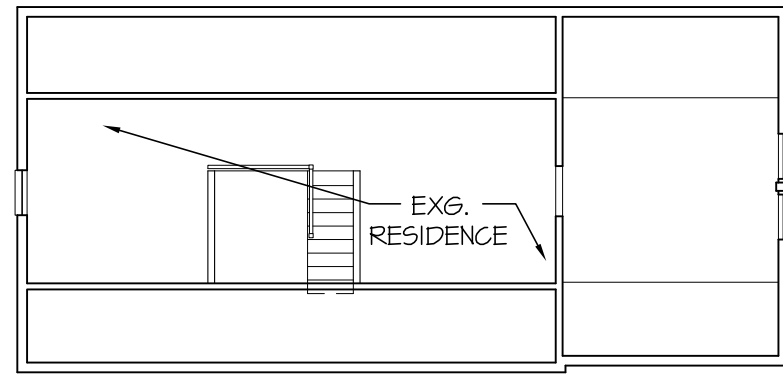
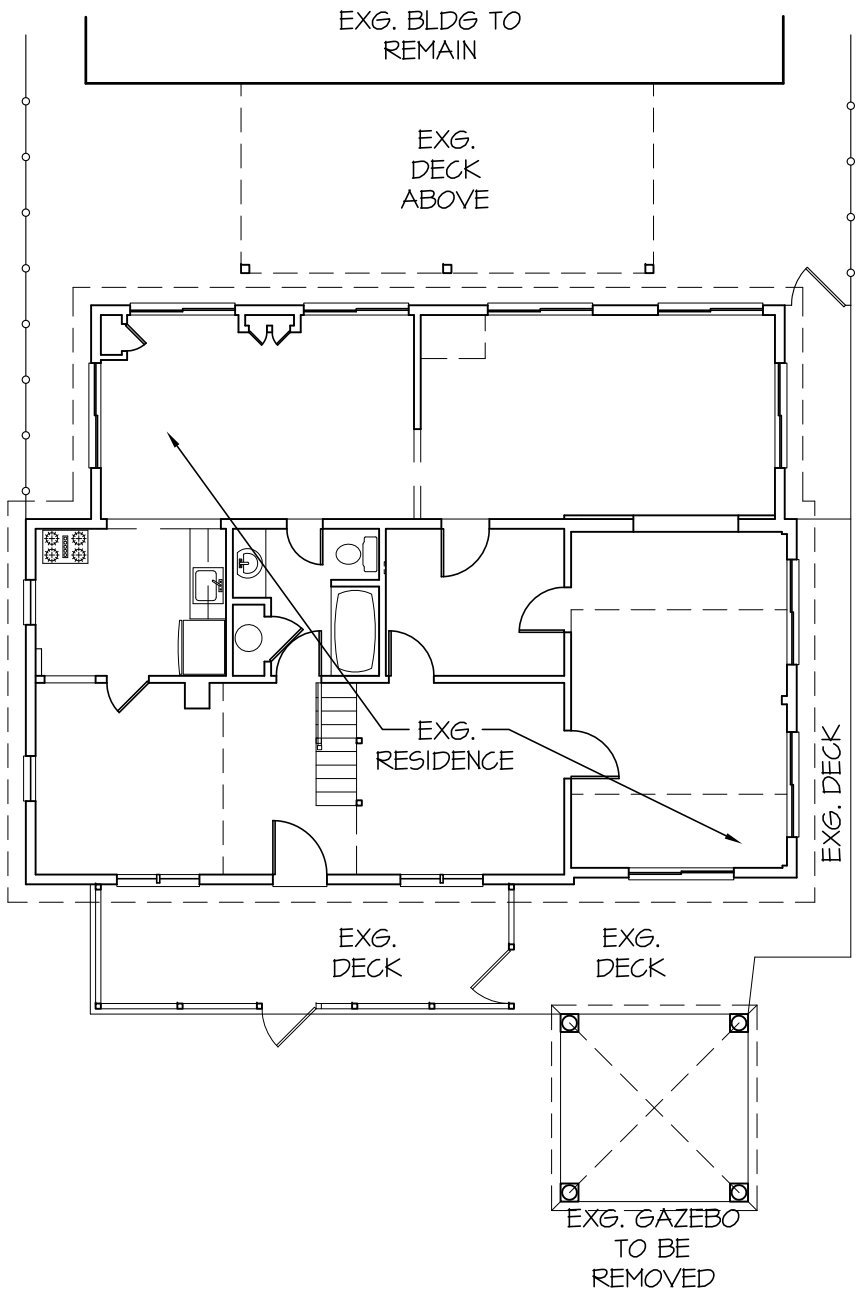


Moonlight
Architecture, Inc.

Architecture • Interior Design
Site Planning

DE (302) 645-9361
MD (410) 677-4747
www.moonlightarch.com

CONSTRUCTION DOCUMENTS FOR THE:
**RHINEHART
RESIDENCE
RENOVATIONS,**
19875 HEBRON ROAD,
REHOBOTH BEACH,
SUSSEX COUNTY,
DELAWARE



A1	EXISTING FIRST FLOOR PLAN
3/32" = 1'-0"	KEY

B1	EXISTING SECOND FLOOR PLAN
3/32" = 1'-0"	KEY

SCALE:
3/32" = 1'-0"
DRAWING DATE:
08/27/2021

SHEET TITLE:
**EXISTING FIRST FLOOR
PLAN AND EXISTING
SECOND FLOOR PLAN**

© COPYRIGHT 2021 MOONLIGHT ARCHITECTURE, INC.
PROJECT NUMBER:
21054

SHEET #:
ED1.01






Moonlight
Architecture, Inc.

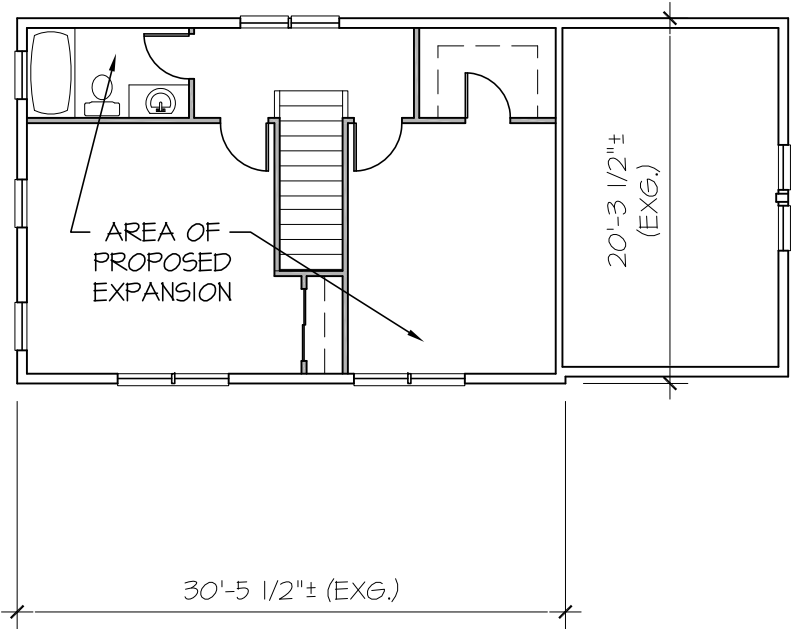
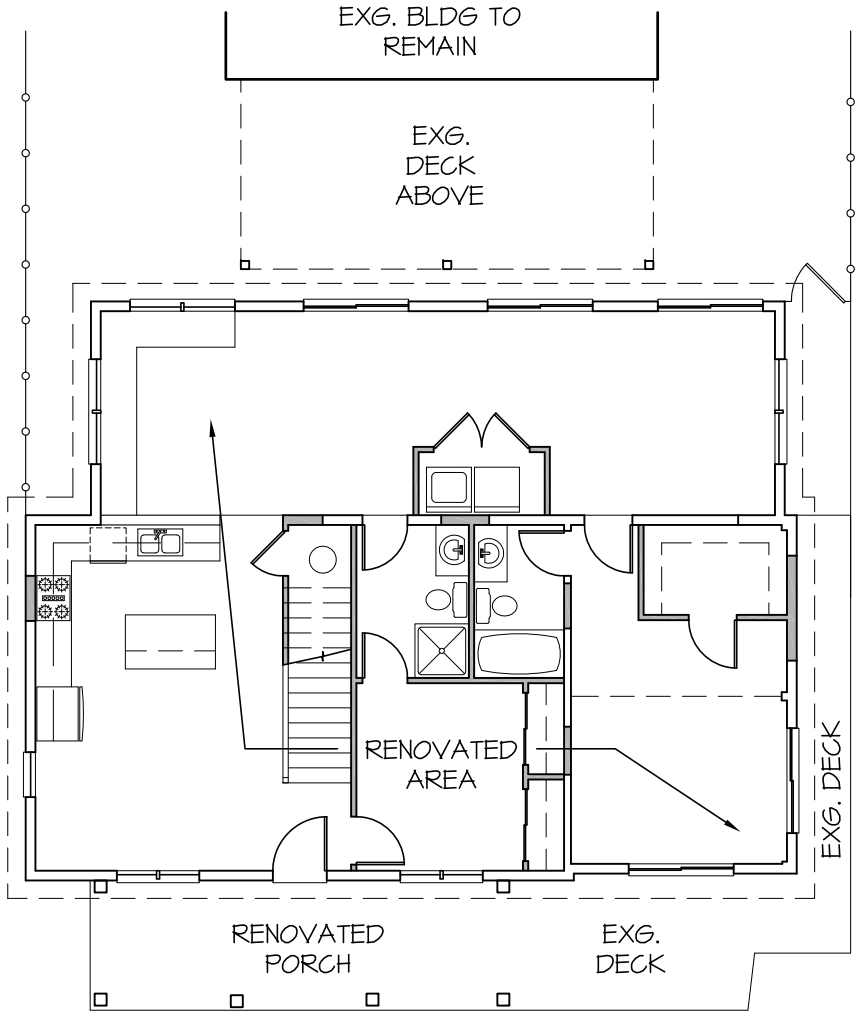
Architecture • Interior Design
Site Planning

DE (302) 645-9361
MD (410) 677-4747
www.moonlightarch.com

CONSTRUCTION DOCUMENTS FOR THE:
**RHINEHART
RESIDENCE
RENOVATIONS,**
19875 HEBRON
ROAD,
REHOBOTH
BEACH, SUSSEX
COUNTY,
DELAWARE

WALL LEGEND

-  EXG. WALL TO REMAIN.
-  EXG. WALL TO BE REMOVED.
-  NEW WALL



SCALE:
3/32" = 1'-0"
DRAWING DATE:
08/27/2021

SHEET TITLE:
**PROPOSED FIRST FLOOR
PLAN AND PROPOSED
SECOND FLOOR PLAN**

© COPYRIGHT 2021 MOONLIGHT ARCHITECTURE, INC.
PROJECT NUMBER:
21054

SHEET #:
ED1.02

A1	PROPOSED FIRST FLOOR PLAN
3/32" = 1'-0"	KEY

B1	PROPOSED SECOND FLOOR PLAN
3/32" = 1'-0"	KEY



Moonlight
Architecture, Inc.

Architecture • Interior Design
Site Planning

DE (302) 645-9361
MD (410) 677-4747
www.moonlightarch.com

CONSTRUCTION DOCUMENTS FOR THE:
**RHINEHART
RESIDENCE
RENOVATIONS,
19875 HEBRON
ROAD,
REHOBOTH
BEACH, SUSSEX
COUNTY,
DELAWARE**



EXG. LEFT SIDE ELEVATION



EXG. RIGHT SIDE ELEVATION



EXG. FRONT ELEVATION

SCALE:
3/32" = 1'-0"

DRAWING DATE:
08/27/2021

SHEET TITLE:
**EXISTING EXTERIOR
ELEVATIONS**

© COPYRIGHT 2021 MOONLIGHT ARCHITECTURE, INC.
PROJECT NUMBER:
21054

SHEET #:
ED2.01

A1	EXISTING EXTERIOR ELEVATIONS
3/32" = 1'-0"	KEY

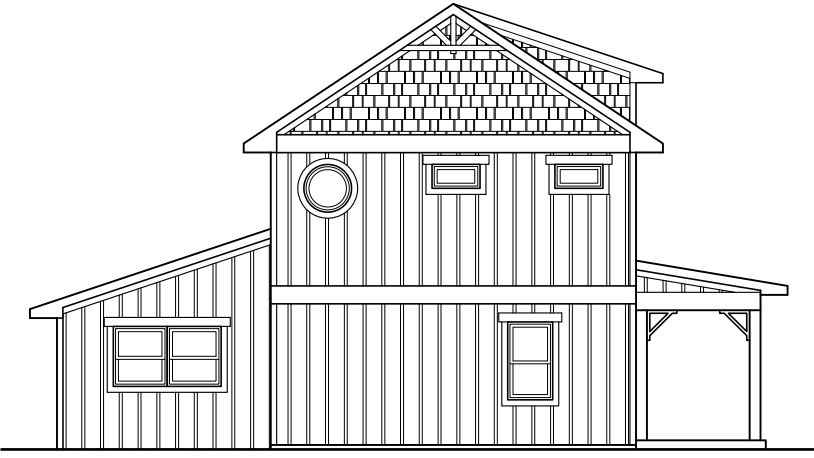


Moonlight
Architecture, Inc.

Architecture • Interior Design
Site Planning

DE (302) 645-9361
MD (410) 677-4747
www.moonlightarch.com

CONSTRUCTION DOCUMENTS FOR THE:
**RHINEHART
RESIDENCE
RENOVATIONS,
19875 HEBRON
ROAD,
REHOBOTH
BEACH, SUSSEX
COUNTY,
DELAWARE**



PROPOSED LEFT SIDE ELEVATION



3D VISUALIZATION OF PROPOSED ADDITION



PROPOSED FRONT ELEVATION

SCALE:
3/32" = 1'-0"
DRAWING DATE:
08/27/2021
SHEET TITLE:
**PROPOSED EXTERIOR
ELEVATIONS**

© COPYRIGHT 2021 MOONLIGHT ARCHITECTURE, INC.
PROJECT NUMBER:
21054

SHEET #:
ED2.02

A1	PROPOSED EXTERIOR ELEVATIONS
3/32" = 1'-0"	KEY

Board of Adjustment Application
Sussex County, Delaware

Sussex County Planning & Zoning Department
2 The Circle (P.O. Box 417) Georgetown, DE 19947
302-855-7878 ph. 302-854-5079 fax

Case # 12607
Hearing Date 9/20
202111242

Type of Application: (please check all applicable)

Variance
Special Use Exception
Administrative Variance
Appeal

Existing Condition
Proposed
Code Reference (office use only)
115-25 115-182
115-185

Site Address of Variance/Special Use Exception:

2 S. FIELDWAY REHOBOTH BEACH DE 19971

Variance/Special Use Exception/Appeal Requested:

SIDE YARD VARIANCE / FENCE HEIGHT

Tax Map #: 334 - 13.00 - 996.00

Property Zoning: RESIDENTIAL
AR-1

Applicant Information

Applicant Name: PAUL H. NYE - JEROME V. HOFER
Applicant Address: 2 S FIELDWAY
City REHOBOTH BEACH State DE Zip: 19971
Applicant Phone #: 215.820.8798 Applicant e-mail: phillypaul88@yahoo.com

Owner Information

Owner Name: PAUL H. NYE - JEROME V. HOFER
Owner Address: 2 S FIELDWAY
City REHOBOTH BEACH State DE Zip: 19971 Purchase Date: JUNE 2020
Owner Phone #: 215.820.8798 Owner e-mail: phillypaul88@yahoo.com

Agent/Attorney Information

Agent/Attorney Name: _____
Agent/Attorney Address: _____
City _____ State _____ Zip: _____
Agent/Attorney Phone #: _____ Agent/Attorney e-mail: _____

Signature of Owner/Agent/Attorney

Paul H. Nye
J. Hofer

Date: 7/26/2021



Criteria for a Variance: (Please provide a written statement regarding each criteria).

You shall demonstrate to the Board of Adjustment that the property meets all of the following criteria for a Variance to be granted.

In granting any variance the Board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of the Zoning Ordinance or Code. The Board is empowered in no case, however, to grant a variance in the use of land or structures thereon.

1. Uniqueness of property:

That there are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property and that the exceptional practical difficulty is due to such conditions and not to circumstances or conditions generally created by the provisions of the Zoning Ordinance or Code in the neighborhood or district in which the property is located.

LOT IS LONG AND NARROW. EXISTING HOUSE
FACES KINGS CREEK CIRCLE BUT YARD IS ON S.
FIELDWAY SIDE.

2. Cannot otherwise be developed:

That because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the Zoning Ordinance or Code and that the authorization of a variance is therefore necessary to enable the reasonable use of the property.

THERE IS NO SPACE BEHIND HOUSE. YARD IS ON
SIDE. POOL WILL REPLACE ALL EXISTING BASKET-
BALL COURT. (BY PREVIOUS OWNER)

3. Not created by the applicant:

That such exceptional practical difficulty has not been created by the appellant.

HOUSE AND BASKETBALL COURT WERE EXISTING.
CODE REQUIRES 2 CONFLICTING FENCE HTS.
4' FOR POOL SAFETY BUT 3'-6" FOR FRONT BACK SETBACK

4. Will not alter the essential character of the neighborhood:

That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located and nor substantially or permanently impair the appropriate use of development of adjacent property, nor be detrimental to the public welfare.

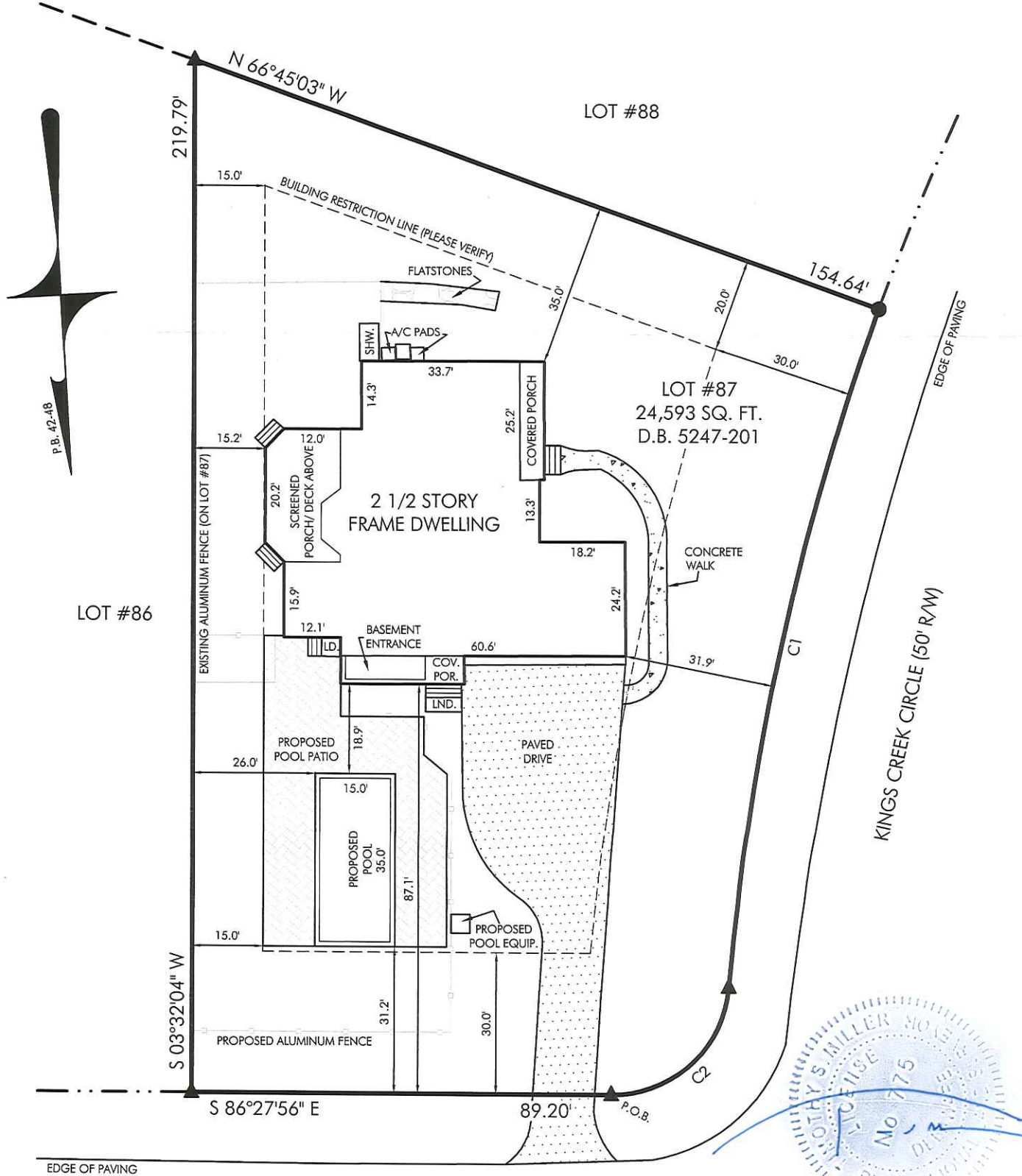
POOL DESIGN AND LOCATION APPROVED BY THE
KINGS CREEK H.O.A. LETTERS FROM NEIGHBORS
ALL APPROVE.

5. Minimum variance:

That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible of the regulation in issue.

YES , 6" HIGHER FENCE - TOTAL 4'-0"

CURVE	ARC LENGTH	RADIUS	DELTA ANGLE	CHORD BEARING	CHORD LENGTH
C1	148.52'	571.03'	14°54'08"	N 15°48'01" E	148.10'
C2	37.17'	25.00'	85°11'15"	N 50°56'27" E	33.84'



SOUTH FIELDWAY COURT (50' R/W)

PROPOSED CONDITIONS
BOUNDARY SURVEY PLAN FOR
**PAUL H. NYE &
JEROME V. HOFER**

2 SOUTH FIELDWAY COURT, REHOBOTH BEACH
LOT #87, SECTION #3 OF
"KINGS CREEK COUNTRY CLUB" SUBDIVISION
LEWES & REHOBOTH HUNDRED SUSSEX COUNTY
STATE OF DELAWARE

FEBRUARY 15, 2021* SCALE: 1" = 30'

LEGEND:

- ▲ IRON ROD (FOUND)
- IRON PIPE (FOUND)

NOTES:
ALL SETBACKS MUST BE VERIFIED BY THE HOME OWNER, GENERAL CONTRACTOR AND/OR THE DESIGNER. PLEASE CONTACT SUSSEX COUNTY AND THE H.O.A. (MORE RESTRICTIVE SUPERSEDES).
*REVISED ON 8/31/2021 TO SHOW PROPOSED CONDITIONS.
THIS DRAWING DOES NOT VERIFY THE EXISTENCE OR NON-EXISTENCE OF WETLANDS, UTILITIES, RIGHT-OF-WAYS OR EASEMENTS IN REFERENCE TO OR LOCATED ON THIS PROPERTY.
NO TITLE SEARCH PROVIDED OR STIPULATED.
SURVEY CLASS: SUBURBAN

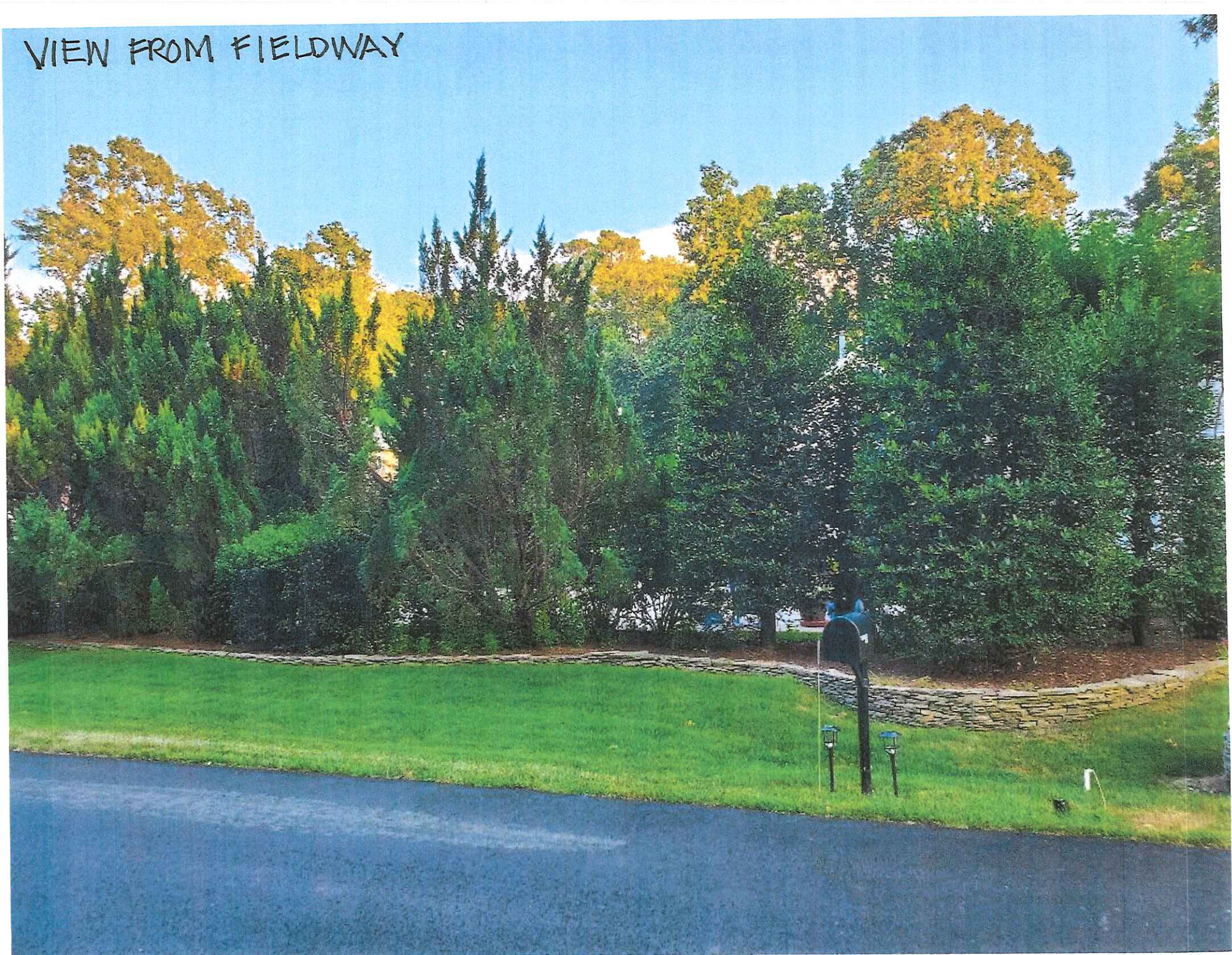
Prepared by:

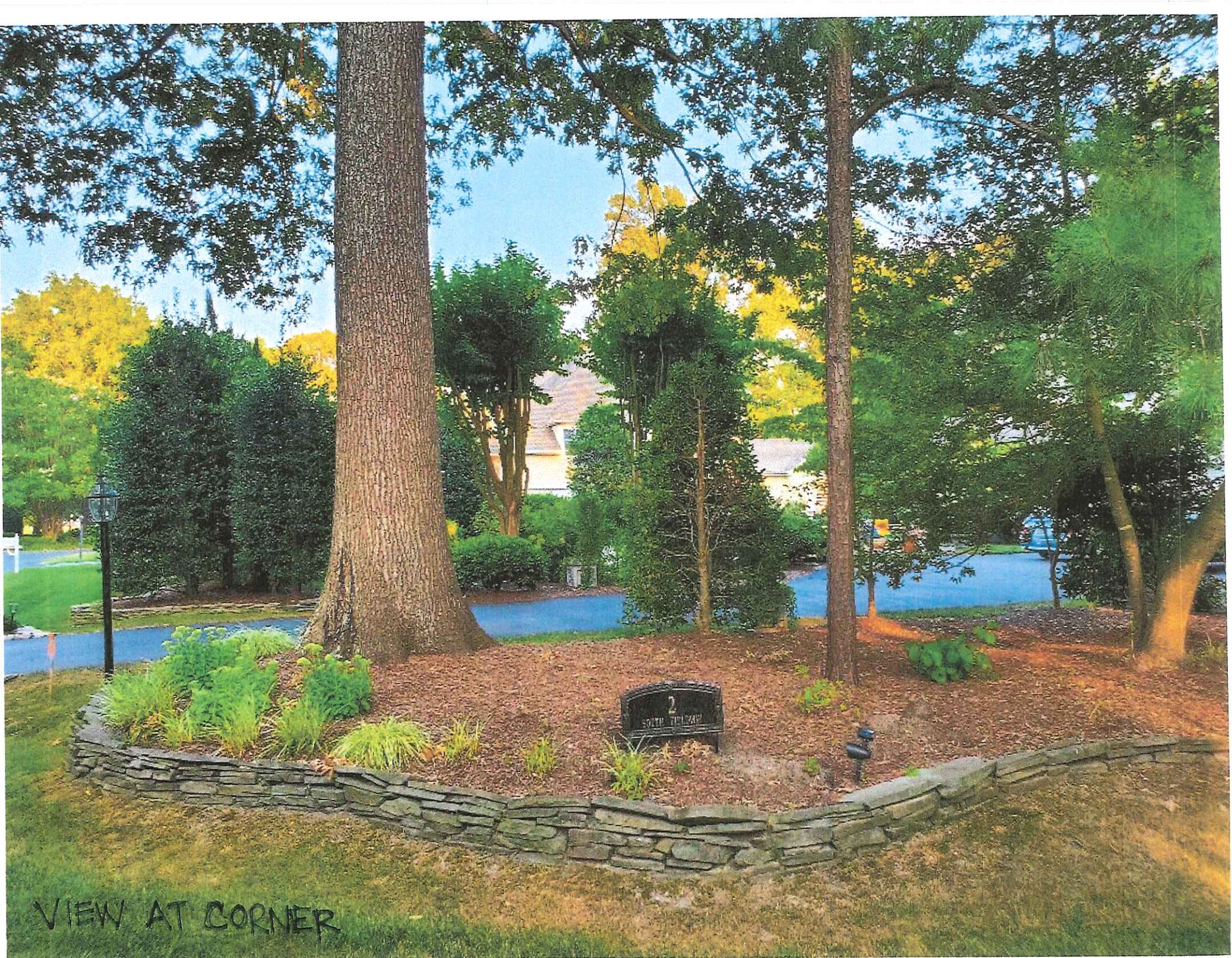


LOCATION OF PROPOSED POOL

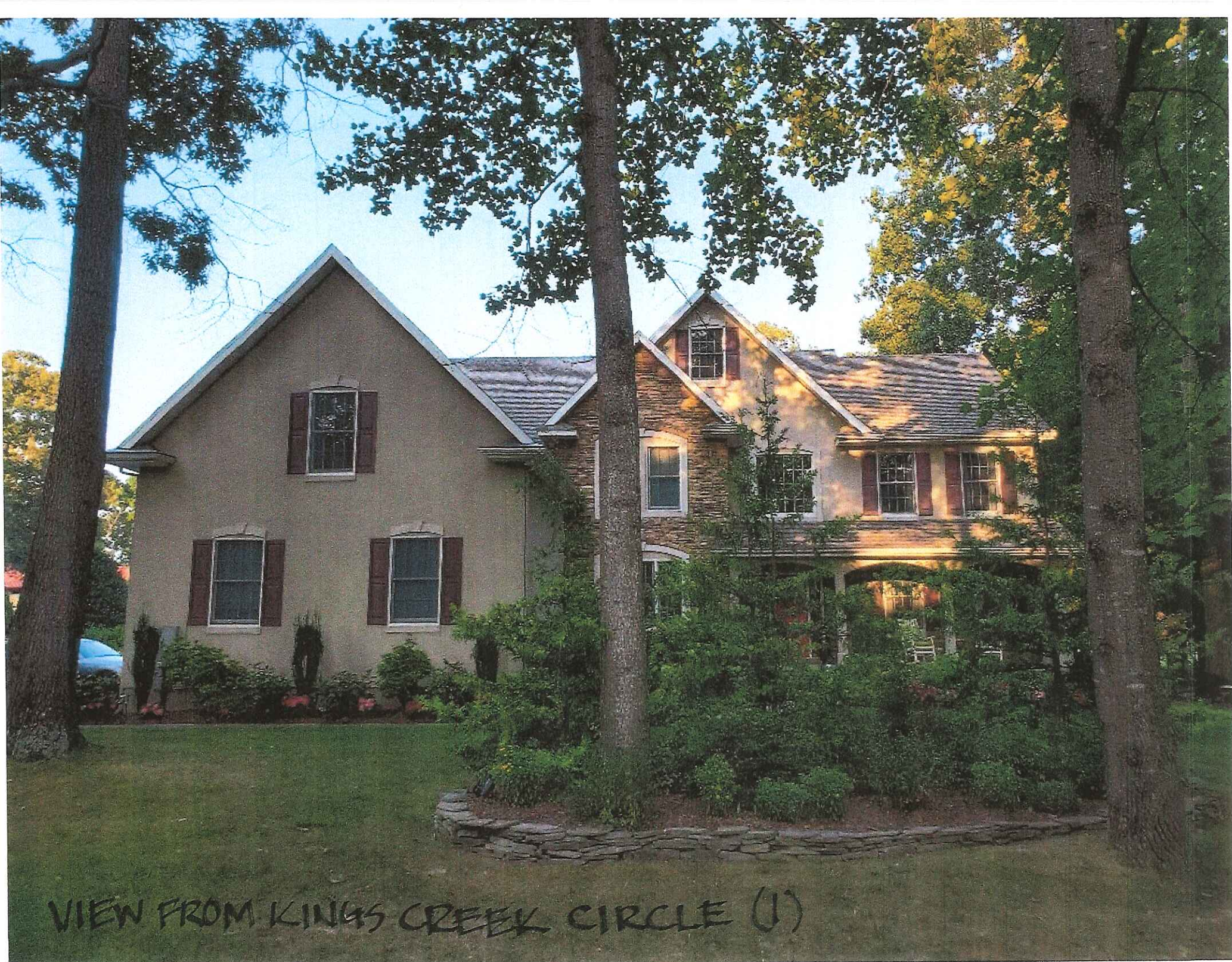


VIEW FROM FIELDWAY

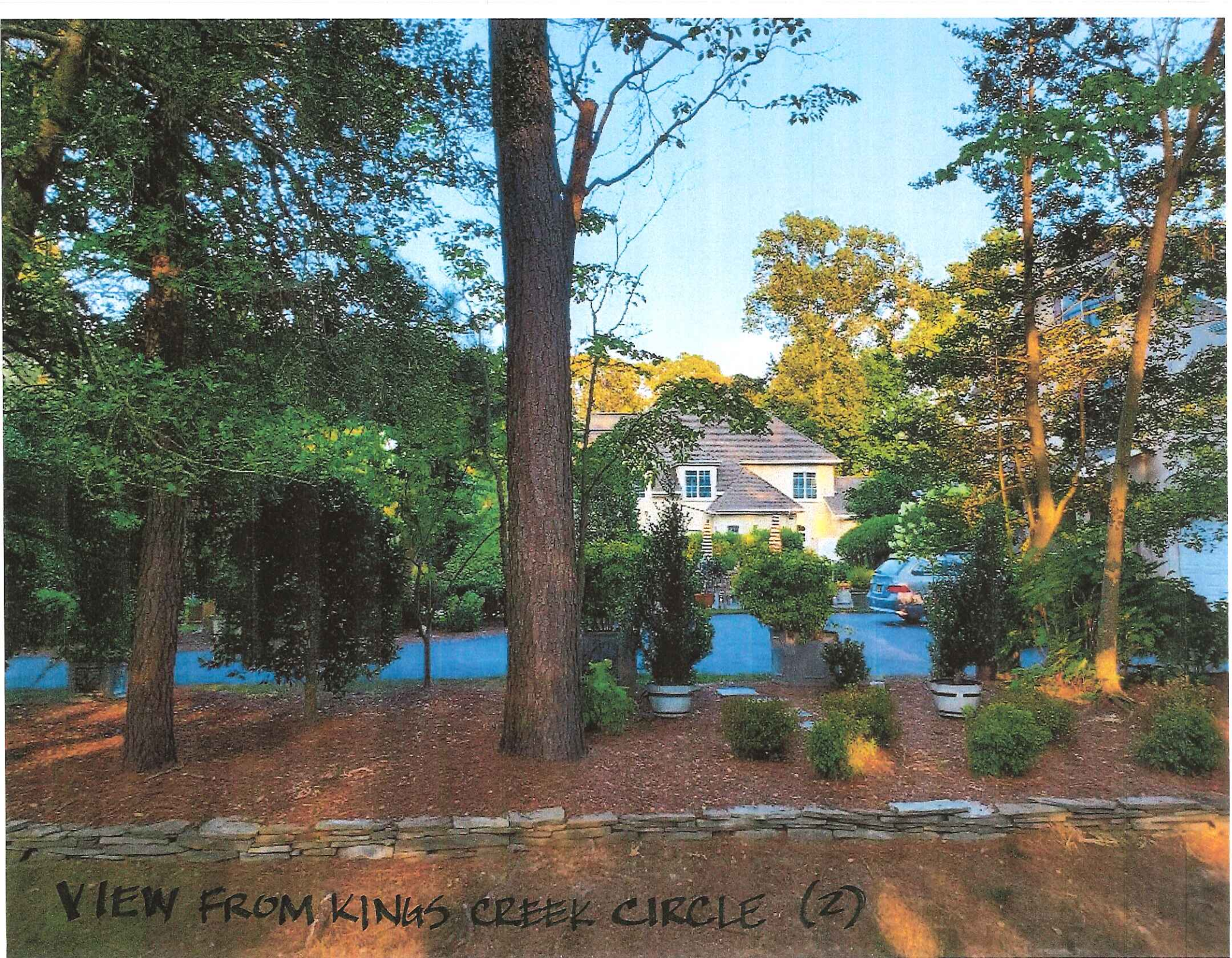




VIEW AT CORNER

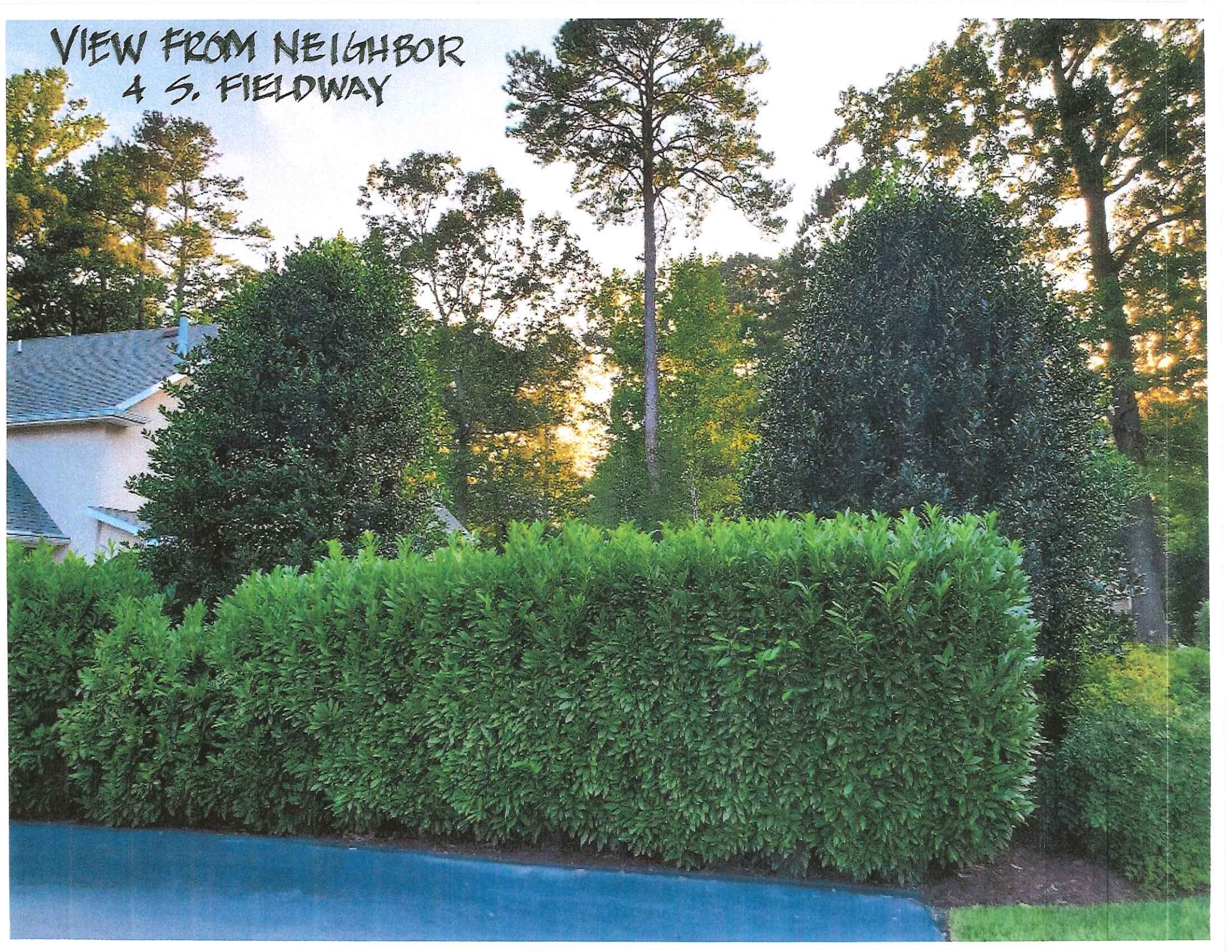


VIEW FROM KINGS CREEK CIRCLE (1)



VIEW FROM KINGS CREEK CIRCLE (2)

VIEW FROM NEIGHBOR
4 S. FIELDWAY



Kings Creek Residential Community
Architectural Review Committee
Request Form - Changes to Existing Homes

Name: PAUL NYE / JEROME HOFER

Date: 6/21/2021

Address: 2 S FIELDWAY

Lot #: 87

Phone #: 215.820.8798

E-mail address: phillypaul88@yahoo.com

Name and number of builder/contractor/landscaper: ASTON POOLS BY DESIGN
302-212-5570

Please Note:

- *Homeowner is responsible for following county building codes and permit requirements.
- *Homeowner is responsible for following all ARC Building and Landscaping Requirements (see ARC document #1) and all ARC Builders' Rules (see ARC document #2)
- *Approval of your change request signifies only that ARC requirements have been met.
- *KCHOA and ARC accept no liability related to changes made to existing properties, including but not limited to building engineering, quality, or safety; compliance with setbacks, building codes and zoning laws; or building site safety.

Type of Request

- Exterior addition (room, deck, patio, driveway, etc.) – (attach architectural drawings or design plan, survey indicating location, materials list and samples, drainage study, etc.)
- Exterior refurbishment (painting, roofing, shutters, etc.) – (attach colors and materials)
- Tree removal – (trees to be marked)
- Landscaping change – (attach landscape plan or drawing and materials list)
- Other _____

Explanation of Request: (attach additional written explanation as needed)

REMOVAL OF EXISTING CONCRETE BASKETBALL
COURT FOR NEW IN GROUND POOL AND PATIO,
4' H BLACK ALUMINUM FENCE AS REQUIRED.
DESIGN DRAWING AND MATERIAL CUT SHEETS
ATTACHED

ARC Member Sign-off:

ARC Member signature:	Date signed:	Appr./Deny/Abstain:
Deb Chase	via email 6/29/2021	Approved
Tom Maloney	via email 6/30/21	Approved
Rich Sapiro	via email 7/8/21	Approved
Ron Altschuler	via email 7/8/21	Approved
Doug Church	via email 7/8/21	Approved
Margaret Connors	via email 7/8/21	Approved

ARC Comments:

Concerned with location of pool equipment and proper screening. The ARC may require additional screening depending upon view from the streets and neighbors.

Request Approved: Request Denied: Date: 7/8/2021

Your approval expires on: 1/8/2022 (6 months)

Is a foundation forms setback check required for this project? N

Is an 'As-Built' survey required at completion of this project? N

Is a deposit, up to \$1500, required for this project? Y N Amount \$1500.00

Deposit will be refunded upon receipt of as built survey and inspection by ARC.

I have read and agree to comply with the ARC Building and Landscaping Requirements and the Builders' Rules and the above requirements:

Signature: Paul H. Dye, Jr. Date: 6/21/2021

- Deposit check received? _____ Date: _____
- Foundation forms check OK? _____ Date: _____
- As-Built survey received and OK? _____ Date: _____
- Deposit money returned to homeowner _____ Date: _____

rec'd check 7/10/21

Linda Minutella-Francis
4 South Fieldway Court
Rehoboth Beach, DE 19971

July 17, 2021

Board of Adjustment
Sussex County Planning & Zoning Department
2 The Circle (PO Box 417)
Georgetown, DE 19947

To whom it may concern:

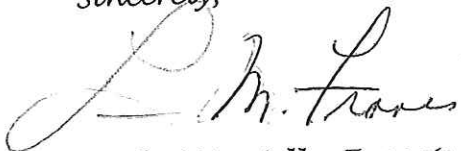
I live at 4 South Fieldway Court, next door to Paul Nye and Jerome Hofer. My property directly borders theirs. I have looked at the location of their proposed pool and the proposed layout by Ashton Pools by Design and have no objections. In fact, I look forward to having this lovely pool in place.

I have seen that the Kings Creek Home Owners Association has given their approval for the location, setbacks, and design. The proposed pool design is similar to others in our community and will be a wonderful improvement.

Between our homes we have exiting mature landscaping including my laurel hedge which provides privacy. Paul and Jerry plan to have a nice patio around the pool. I do not have any concerns about the design or location and hope you will grant your approval.

Thank you.

Sincerely,



Linda Minutella-Francis

Jane Crowe
Rob Crowe
3 South Fieldway Court
Rehoboth Beach, DE
19971

July 16, 2021

Board of Adjustment
Sussex County Planning & Zoning Department
2 The Circle (PO Box 417)
Georgetown, DE-19947

To whom it may concern:

Our home is at 3 South Fieldway, across the street from Paul Nye and Jerome Hofer. Our property looks out on the trees that border their property on South Fieldway. We have looked at the location of their proposed pool and the proposed layout by Ashton Pools by Design and have no objections.

The proposed pool design is by the same company that built the pool at our home and is known for quality design and construction. We have seen that their proposal has been given the Kings Creek HOA seal of approval.

Our homes are some distance from each other. Between us we have trees that screen the proposed location of the pool from the street and provide privacy. We hope you will grant your approval for this property improvement.

Thank you.

Sincerely,



Jane Crowe



Rob Crowe

Cathy Hutton
James Hutton
57 Kings Creek Circle
Rehoboth Beach, DE 19971

July 16, 2021

Board of Adjustment
Sussex County Planning & Zoning Department
2 The Circle (PO Box 417)
Georgetown, DE 19947

To whom it may concern:

We are neighbors of Paul Nye and Jerome Hofer at 2 South Fieldway Court. Our property directly borders theirs. We have looked at the location of their proposed pool and the proposed layout by Ashton Pools by Design and have no objections.

There are several pools in our community and this proposed new pool is similar to those currently existing. We understand that the Kings Creek Home Owners Association has also granted their approval for the location, setbacks, and design.

The proposed pool will enhance their property and the neighborhood. Please consider granting your approval.

Thank you.

Sincerely,



Cathy Hutton



James Hutton

Marilyn Haskins
56 Kings Creek Circle
Rehoboth Beach, DE 19971

July 15, 2021

Board of Adjustment
Sussex County Planning & Zoning Department
2 The Circle (PO Box 417)
Georgetown, DE 19947

To whom it may concern:


We are across the street neighbors of Paul Nye and Jerome Hofer at 2 South Fieldway. From our home we can see the landscape that borders the existing patio where the proposed pool would be located. We have reviewed their proposed design and layout by Ashton Pools by Design and have no objections.

This proposed new pool is similar to those currently existing in our Kings Creek community. We have seen that the Kings Creek Home Owners Association has given their approval for the proposal. The exiting mature landscape offers more than adequate privacy and screening from the surrounding streets.

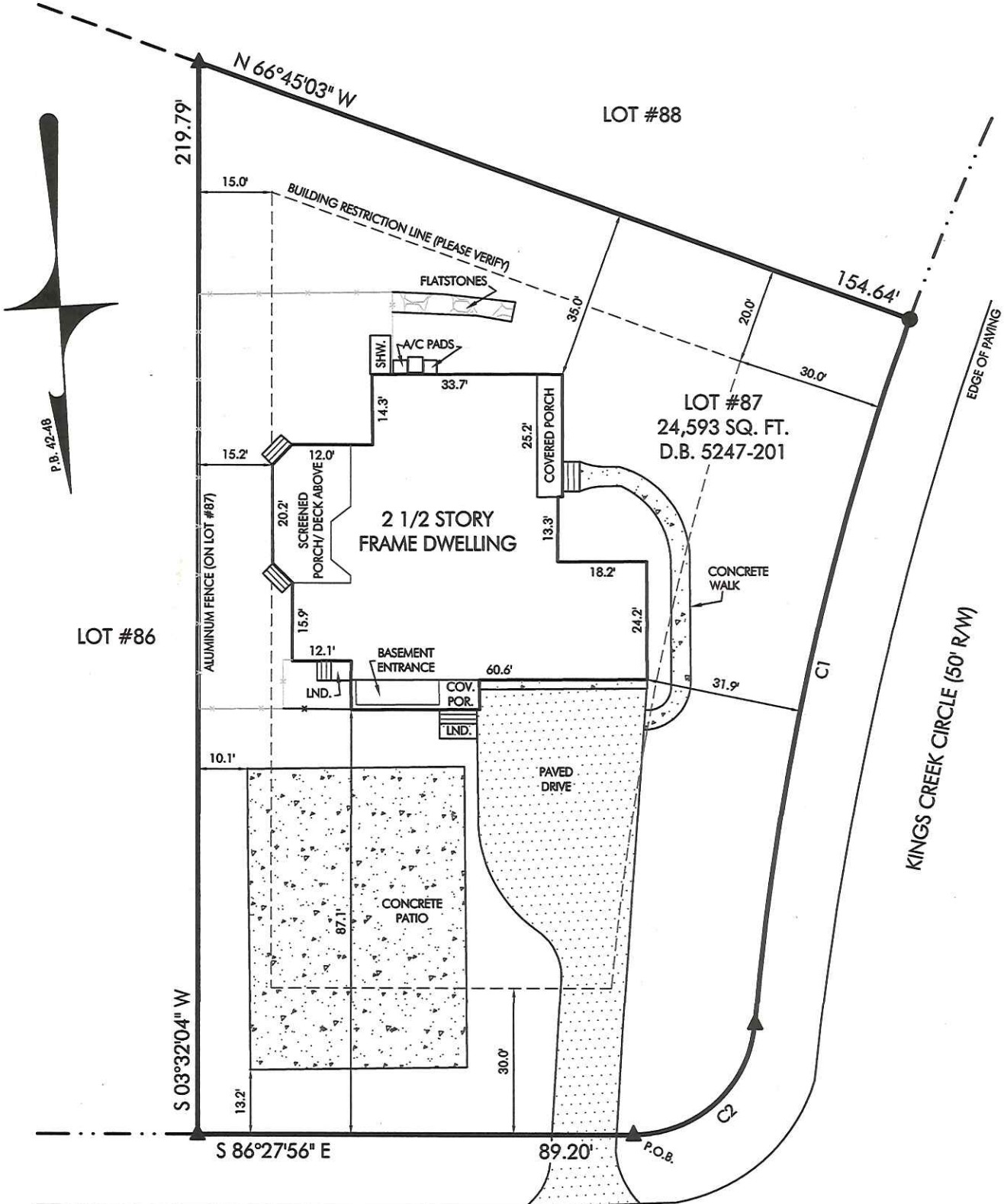
We hope that you will grant your approval so that this lovely project may move forward.

Thank you.

Yours Sincerely,


Marilyn Haskins

CURVE	ARC LENGTH	RADIUS	DELTA ANGLE	CHORD BEARING	CHORD LENGTH
C1	148.52'	571.03'	14°54'08"	N 15°48'01" E	148.10'
C2	37.17'	25.00'	85°11'15"	N 50°56'27" E	33.84'



EDGE OF PAVING

SOUTH FIELDWAY COURT (50' R/W)

BOUNDARY SURVEY PLAN FOR
**PAUL H. NYE &
 JEROME V. HOFFER**

2 SOUTH FIELDWAY COURT, REHOBOTH BEACH
 LOT #87, SECTION #3 OF
 "KINGS CREEK COUNTRY CLUB" SUBDIVISION
 LEWES & REHOBOTH HUNDRED SUSSEX COUNTY
 STATE OF DELAWARE
 FEBRUARY 15, 2021 SCALE: 1" = 30'

LEGEND:

- ▲ IRON ROD (FOUND)
- IRON PIPE (FOUND)

NOTES:

ALL SETBACKS MUST BE VERIFIED BY THE HOME OWNER, GENERAL CONTRACTOR AND/OR THE DESIGNER. PLEASE CONTACT SUSSEX COUNTY AND THE H.O.A. (MORE RESTRICTIVE SUPERSEDES). THIS DRAWING DOES NOT VERIFY THE EXISTENCE OR NON-EXISTENCE OF WETLANDS, UTILITIES, RIGHT-OF-WAYS OR EASEMENTS IN REFERENCE TO OR LOCATED ON THIS PROPERTY. NO TITLE SEARCH PROVIDED OR STIPULATED. SURVEY CLASS: SUBURBAN

Prepared by:

FORESIGHT Services

Surveying & Precision Measurement

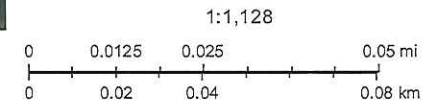


PIN:	334-13.00-996.00
Owner Name	NYE PAUL H
Book	5247
Mailing Address	2 S FIELDWAY CT
City	REHOBOTH BEACH
State	DE
Description	KINGS CREEK COUNTRY
Description 2	CLUB LOT 87 SEC 3
Description 3	KINGS CREEK CIR
Land Code	

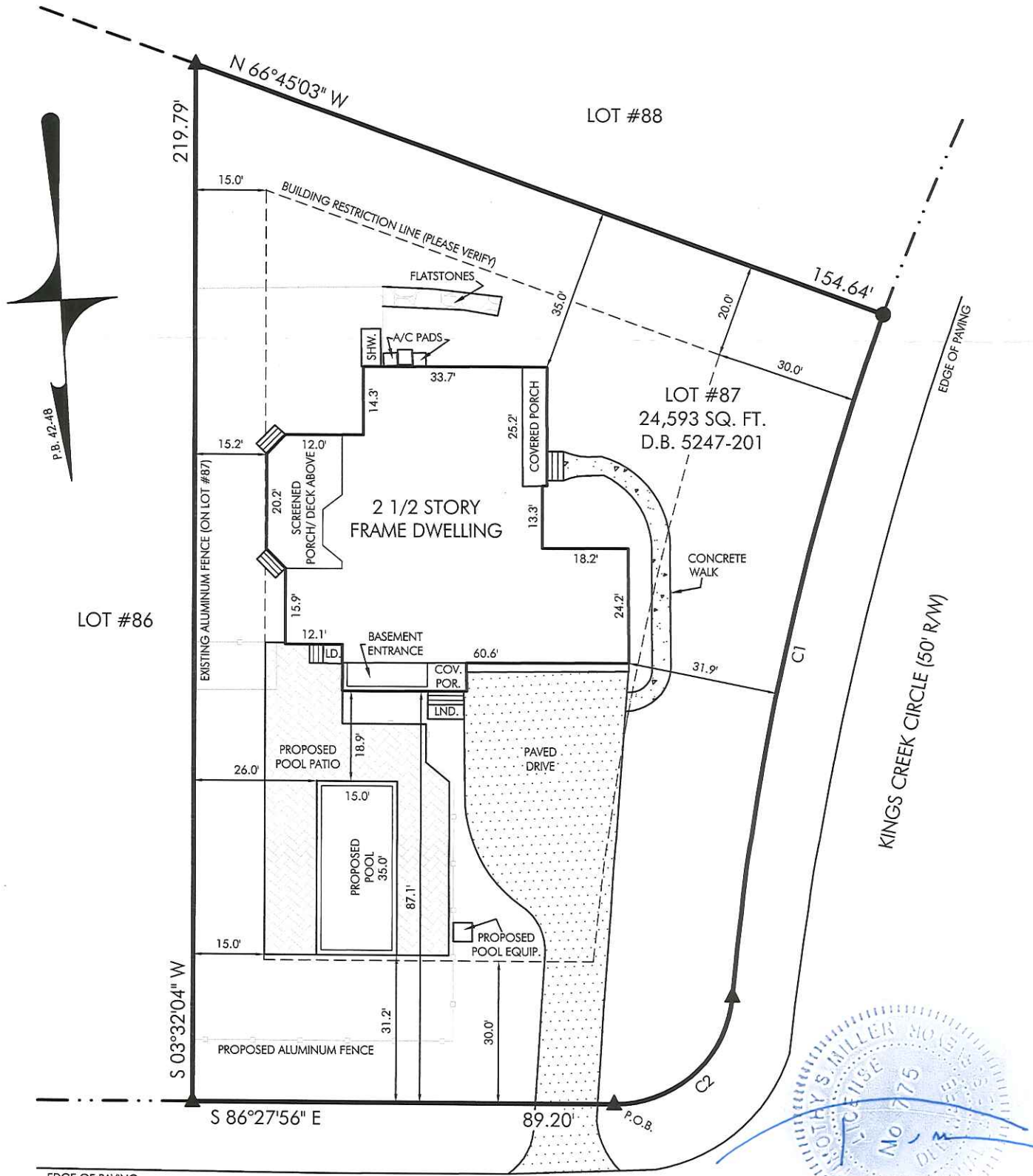
- polygonLayer**

 - Override 1
- polygonLayer**

 - Override 1
- ⋮ Tax Parcels
 - 911 Address
 - Streets
 - ⋮ County Boundaries
 - ⋮ Municipal Boundaries



CURVE	ARC LENGTH	RADIUS	DELTA ANGLE	CHORD BEARING	CHORD LENGTH
C1	148.52'	571.03'	14°54'08"	N 15°48'01" E	148.10'
C2	37.17'	25.00'	85°11'15"	N 50°56'27" E	33.84'



SOUTH FIELDWAY COURT (50' R/W)

PROPOSED CONDITIONS
BOUNDARY SURVEY PLAN FOR
**PAUL H. NYE &
JEROME V. HOFER**

2 SOUTH FIELDWAY COURT, REHOBOTH BEACH
LOT #87, SECTION #3 OF
"KINGS CREEK COUNTRY CLUB" SUBDIVISION
LEWES & REHOBOTH HUNDRED SUSSEX COUNTY
STATE OF DELAWARE

FEBRUARY 15, 2021* SCALE: 1" = 30'

LEGEND:

- ▲ IRON ROD (FOUND)
- IRON PIPE (FOUND)

NOTES:

ALL SETBACKS MUST BE VERIFIED BY THE HOME OWNER, GENERAL CONTRACTOR AND/OR THE DESIGNER. PLEASE CONTACT SUSSEX COUNTY AND THE H.O.A. (MORE RESTRICTIVE SUPERSEDES).

*REVISED ON 8/31/2021 TO SHOW PROPOSED CONDITIONS.

THIS DRAWING DOES NOT VERIFY THE EXISTENCE OR NON-EXISTENCE OF WETLANDS, UTILITIES, RIGHT-OF-WAYS OR EASEMENTS IN REFERENCE TO OR LOCATED ON THIS PROPERTY.

NO TITLE SEARCH PROVIDED OR STIPULATED.

SURVEY CLASS: SUBURBAN

Prepared by:

FORESIGHT Services

Surveying & Precision Measurement

Christin - 302-855-7878

Case # 12608
Hearing Date 9/20
202111388

**Board of Adjustment Application
Sussex County, Delaware**

Sussex County Planning & Zoning Department
2 The Circle (P.O. Box 417) Georgetown, DE 19947
302-855-7878 ph. 302-854-5079 fax

Type of Application: (please check all applicable)

Variance Existing Condition _____
Special Use Exception _____ Proposed
Administrative Variance _____ Code Reference (office use only)
Appeal _____ 115-25 115-172
115-183 115-185

Site Address of Variance/Special Use Exception: 19913 Sea Air Ave, Rehoboth Beach, DE, 19971 (B-73)

Variance/Special Use Exception/Appeal Requested: _____

Tax Map #: 334-13-310 Lot 73 Property Zoning: AR-1

Applicant Information

Applicant Name: Charles + Paula MUNDALL
Applicant Address: 19913 Sea Air Ave, Rehoboth Beach, DE 19971
City, State, Zip: Rehoboth Beach DE 19971
Applicant Phone #: 302-270-0136 Applicant e-mail: cljmundall@msn.com

Owner Information

Owner Name: SAME
Owner Address: _____
City, State, Zip: _____ Purchase Date: _____
Owner Phone #: _____ Owner e-mail: _____

Agent/Attorney Information

Agent/Attorney Name: _____
Agent/Attorney Address: _____
City, State, Zip: _____
Agent/Attorney Phone #: _____ Agent/Attorney e-mail: _____

Signature of Owner/Agent/Attorney

Charles L Mundall
Paula Mundall

Date: 7-23-21
7/23/2021



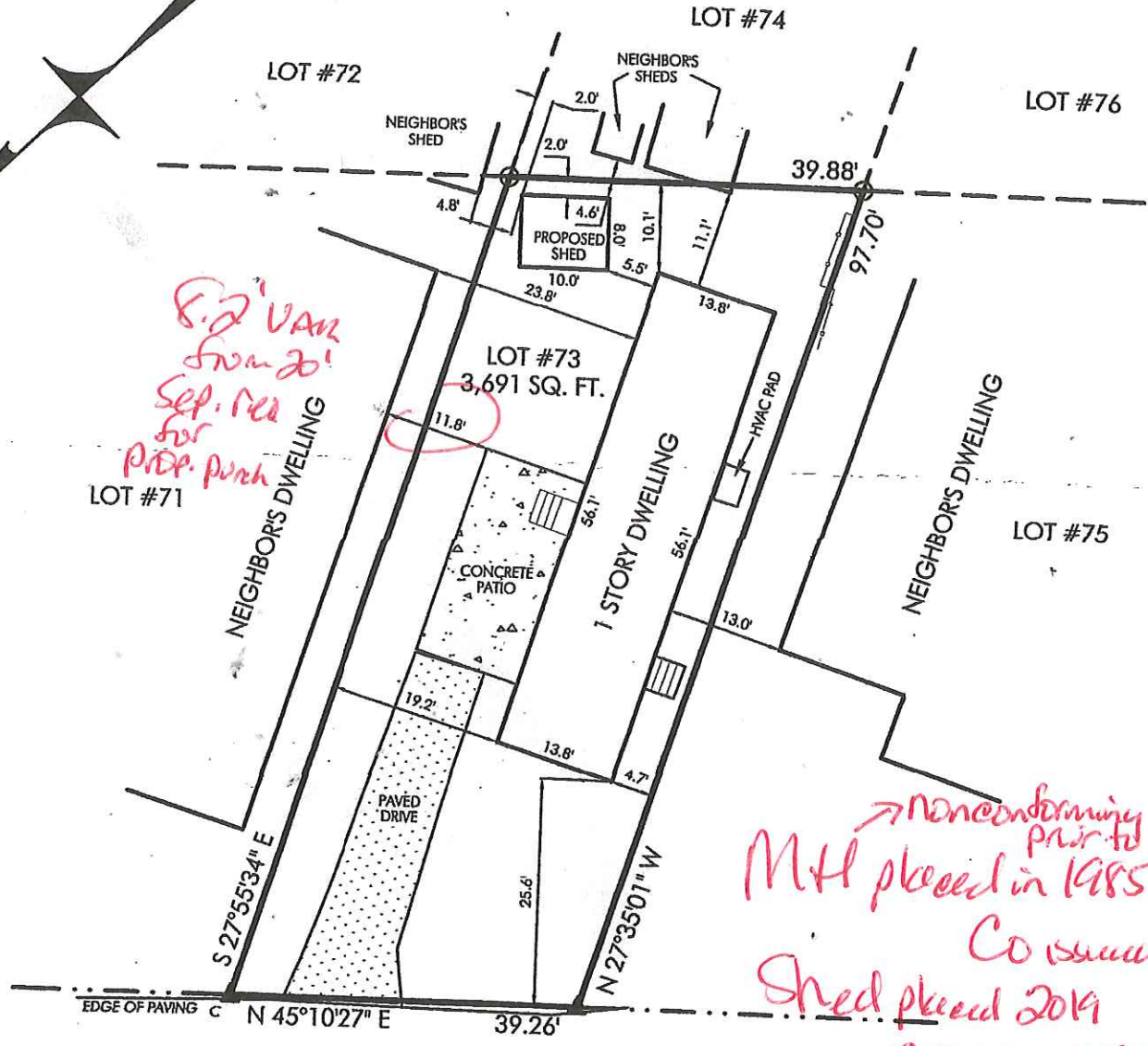
Board of Adjustment Application, Page 2.

Charles L. Mundell
19913 Sea Air Ave. B. 73
Rehoboth Beach, DE 19971
Cell: 302-270-0136

Criteria for a Variance

1. Narrow lot size established by Sea Air Village.
2. Due to the narrow lot size, the small porch cannot be built without the approval of the variance.
3. Lot size was originally established by Sea Air Village.
4. Porch will aesthetically blend into the neighborhood where there are numerous existing screen porches already. There also is adequate space for general access, lawn care and utility company access to the rear of the lot on the side of the proposed porch. Also, the width of the porch will be no wider than the existing driveway.
5. Porch will sit no wider than the existing concrete slab and will be no taller than the existing home's roof line.

Charles L. Mundell
7/27/21



*8.2' VAN
from 201
Sep. 1985
for
PROP. PORCH*

*nonconforming Access
prior to 2009
Mtl placed in 1985
CO issued 1985
Shed placed 2019
CO issued 2020
APR-21-30 issued
8/9/2021*

*Access to proposed porch
Faces paved drive*

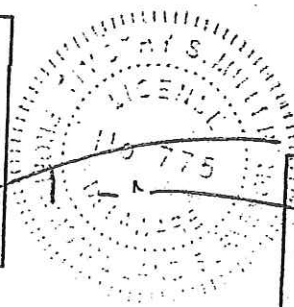
PROPOSED CONDITIONS
LOCATION PLAN FOR
19913 SEA AIR AVENUE
LOT #73 BLOCK B OF "SEA AIR VILLAGE" PARK
LEWES & REHOBOTH HUNDRED SUSSEX COUNTY
STATE OF DELAWARE

APRIL 19, 2018* SCALE: 1" = 20'

LEGEND:

- ▲ IRON ROD (FOUND)
- ▲ IRON PIPE W/ CAP (FOUND)
- POINT

NOTES:
*REVISED TO SHOW PROPOSED CONDITIONS ON MAY 15, 2019.
ALL SETBACKS MUST BE VERIFIED BY THE HOME OWNER, GENERAL CONTRACTOR AND/OR THE ARCHITECT.
THIS DRAWING DOES NOT VERIFY THE EXISTENCE OR NON-EXISTENCE OF WETLANDS, UTILITIES, RIGHT-OF-WAYS OR EASEMENTS IN REFERENCE TO OR LOCATED ON THIS PROPERTY.
NO TITLE SEARCH PROVIDED OR STIPULATED.



Prepared by:

FORESIGHT Services

Surveying & Precision Measurement

Case # ACP-21-30

Administrative Correction Process Sussex County, Delaware

Sussex County Planning & Zoning Department
2 The Circle (P.O. Box 417) Georgetown, DE 19947
302-855-7878 ph. 302-854-5079 fax

Type of Application:

Permit/CO issued in Error

Site Address of Variance: 19913 Sea Air Ave

Variance Requested:

CO issued for shed
Tax Map #: 334-13-210-21298

Property Zoning: A121

Owner/Applicant Information

Applicant Name: Charles Mendell

Applicant Address: 19913 Sea Air Ave

City Rehoboth Bch State DE Zip: 19971

Applicant Phone #: Applicant e-mail: _____

Alternate Reference Information

Agent/Attorney Name: _____

Agent/Attorney Address: _____

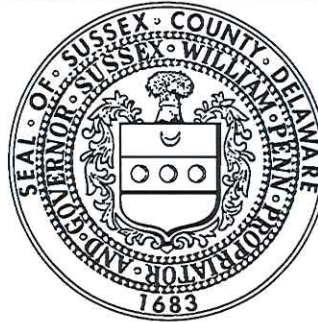
City _____ State _____ Zip: _____

Agent/Attorney Phone #: _____ Agent/Attorney e-mail: _____

Signature of Director/Director Designee



Date: 8/9/2021



Sussex County

Certificate of Occupancy/Compliance

CERTIFICATE NUMBER: 133935
PARCEL ID: 334-13.00-310.00-21298
LOCATION: 19913 SEA AIR AVENUE EXT
DESCRIPTION: SEA AIR IMP ON LOT B73
OWNER: MUNDELL CHARLES
PROJECT DESCRIPTION: ACC STRUCT<400'
8X10 SHED

Issued Date: 06/23/2020
Expiration Date:

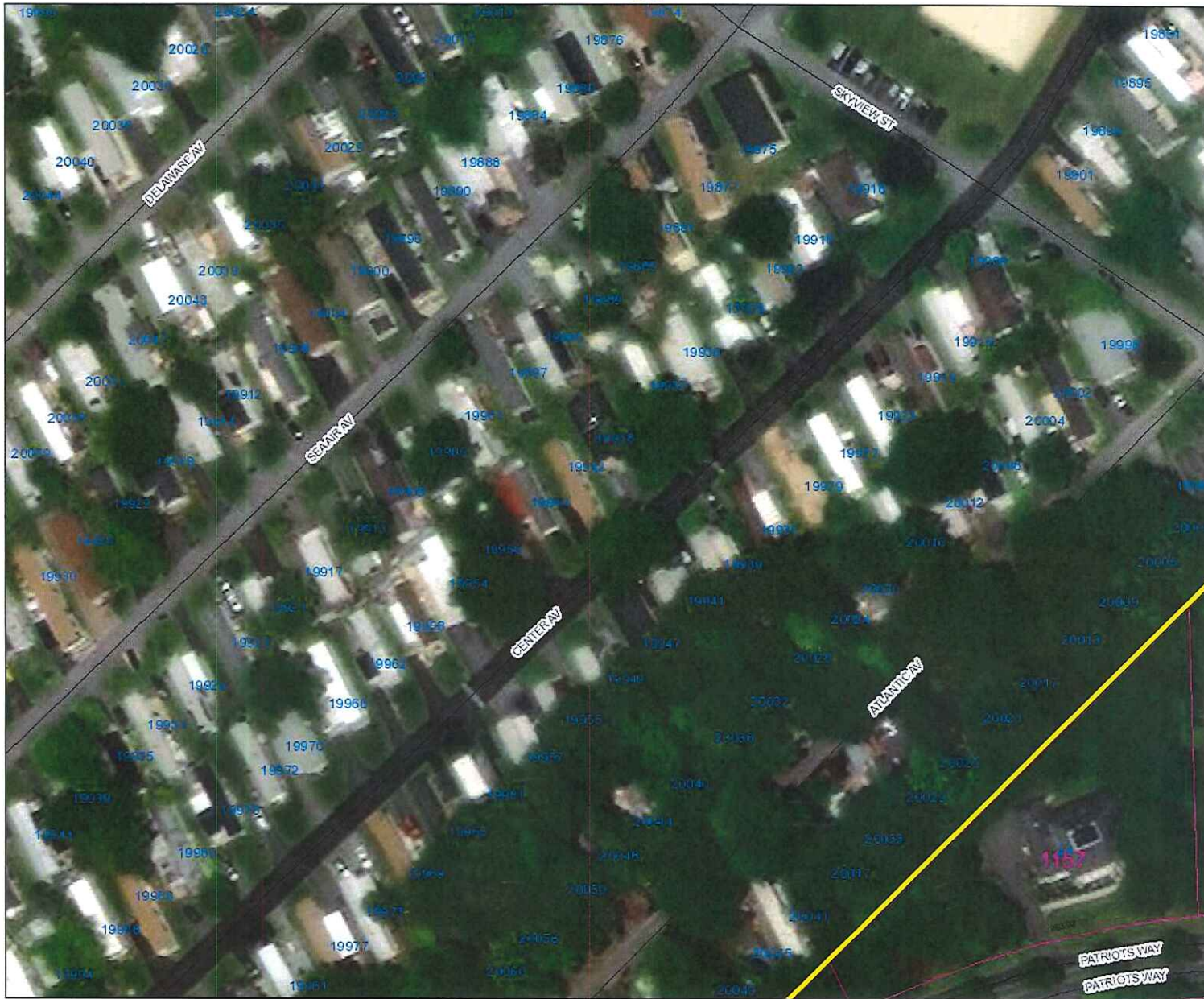
This certifies that the (structure) (premises) describe in Application #201906329 conforms to and complies with the requirements of Chapter 52 (Building Code) and Chapter 115 (Zoning Code) for Sussex County, Delaware and may be occupied as of the above date.

Building Code Officer



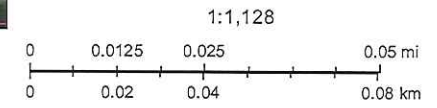


Sussex County



PIN:	334-13.00-310.00
Owner Name	SEA BREEZE LP
Book	0
Mailing Address	27777 FRANKLIN RD
City	SOUTHFIELD
State	MI
Description	GIS TIEBACK
Description 2	DUMMY ACCOUNT
Description 3	N/A
Land Code	

- polygonLayer
Override 1
- polygonLayer
Override 1
- Tax Parcels
- 911 Address
- Streets



August 5, 2021

**Board of Adjustment Application
Sussex County, Delaware**

Sussex County Planning & Zoning Department
2 The Circle (P.O. Box 417) Georgetown, DE 19947
302-855-7878 ph. 302-854-5079 fax

Case # 12609
Hearing Date 9/20
202111452

Type of Application: (please check all applicable)

Variance

Special Use Exception

Administrative Variance

Appeal

Existing Condition

Proposed

Code Reference (office use only)

115-34 115-182

Site Address of Variance/Special Use Exception:

39663 Baltimore Street, Bethany Beach, DE 19930

Variance/Special Use Exception/Appeal Requested:

Applicants request a 7.5' variance from the 5' allowed front step extension into their front yard to allow for stairwell access to the elevated first floor to meet, or exceed FEMA requirements for the first floor living level to allow for a rebuild in the 30' front yard location.

Tax Map #: 1-34-20.11-32.00

Property Zoning: MR-1

Applicant Information

Applicant Name: Todd K. and Allyson L. Moyer

Applicant Address: c/o Sergovic Carmean Weidman McCartney & Owens, P.A., 25 Chestnut
City Georgetown State DE Zip: 19947

Applicant Phone #: 8551260

Applicant e-mail: john@sussexattorney.com

Owner Information

Owner Name: Same as above

Owner Address: _____

City _____ State _____ Zip: _____ Purchase Date: 11/19/04

Owner Phone #: _____ Owner e-mail: _____

Agent/Attorney Information

Agent/Attorney Name: Sergovic Carmean Weidman McCartney & Owens, P.A.

Agent/Attorney Address: 25 Chestnut St.

City Georgetown State DE Zip: 19947

Agent/Attorney Phone #: 8551260

Agent/Attorney e-mail: john@sussexattorney.com

Signature of Owner/Agent/Attorney

Todd K Moyer
Allyson L Moyer

Date: 7/28/2021



**WRITTEN SUBMISSION
OF
TODD K. MOYER & ALLYSON L. MOYER
BOARD OF ADJUSTMENT OF SUSSEX COUNTY
VARIANCE APPLICATION**

1. Uniqueness of the Property: This application pertains to certain real property located at 39663 Baltimore Street, Bethany Beach, Delaware in the Bay View Park Subdivision, and identified by Sussex County Tax Mapping as Parcel 1-34 20.11 32.00 (the "Subject Property"). The Subject Property is located in an MR (Medium Residential) district and is currently improved with an existing dwelling which, upon information and belief, was built in approximately 1960. The Subject Property is unique in that it is a small lot in an MR (Medium Residential) district which consists of approximately 7,167 square feet even though the minimum lot in an MR district is 10,000 square feet in size. In addition, the Subject Property abuts a tidal pond and is susceptible to flooding. The exceptional practical difficulty is due to such uniqueness and not to circumstances or conditions generally created by the provisions of the Zoning Ordinance in the neighborhood or district in which the Subject Property is located.

2. Cannot otherwise be developed: As a result of such physical circumstances or conditions, there is no possibility that the Subject Property can be developed in strict conformity with the provisions of the Zoning Ordinance. The authorization of a variance is therefore necessary to enable the reasonable use of the property. The Applicants purchased the Subject Property in 2017 with the existing dwelling. In order to comply with and exceed the flood plain elevation and to avoid increased flooding events and risks, as well as meeting the needs of their growing family, the Applicants believe it is necessary to construct a new dwelling altogether. Due to the uniqueness of the Subject Property, it is necessary to obtain a variance from the allowed front step intrusion into the front yard of 5' under SCC § 115-182D, by 7.5' to allow for riser distances between the steps under building code requirements to reach the first floor living level required to be elevated by FEMA requirements. In order for their dwelling to be more livable, the Applicants seek to bring the Subject Property into compliance with, or exceed the flood plain elevation provisions of the Zoning Code and elevate the structure for the first floor living level to be at 10' ½" above ground level. Additionally, Bay View Park is a pre-subdivision ordinance community with most lots less than 10,000 square feet and with the roads being 30' right-of-way. This leaves little room for either on-site or even on road parking for this beach community. To enable parking under the elevated structure, the front steps need to be placed between the under unit parking

areas, or this necessary off-street parking opportunity to prevent congestion in streets by on-road parking will be lost.

3. Not created by the applicant: The exceptional practical difficulty has not been created by the Applicants. The Applicants purchased the Subject Property in 2017 with the existing dwelling, which was built in the 1960's, or earlier and therefore did not construct the dwelling, or have control over the size of the lot or the flooding issues. The Applicants seek to elevate a replacement dwelling to bring it out of the flood plain to avoid future flooding and to allow for parking underneath the dwelling. However, in order for the Applicants to accomplish their goal they seek a 7.5' variance from the front yard step allowance of 5' into their front yard to raise the footprint of their desired dwelling in the same relative location as their existing dwelling, except that the front of the dwelling will be at 30' to meet the front yard requirement. The replacement structure eliminates the existing dwelling encroaching at 24.7' from the right-of-way. The applicant has elected to comply with the 30' front yard requirement, rather than cause confusion using the front yard averaging allowed by the Zoning Ordinance Section 115-182C in the air space above the flood plain elevation. In fact, lots nearby the applicants' lot have also received variances based upon similar circumstances. Copies of nearby variances authorized by the Board of Adjustment are attached hereto as combined Exhibit "1" as have other lots in older beach communities. See attached Exhibit "2."

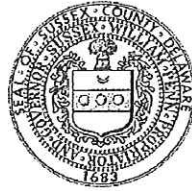
4. Will not alter the essential character of the neighborhood: The variance, if authorized, will not alter the essential character of the neighborhood or district in which the Subject Property is located, nor substantially or permanently impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare. The existing dwelling was built in the 1960's and has been owned by the Applicants for approximately four (4) years. The Applicants are unaware of any complaints made as a result of the location of the dwelling. In addition, the neighboring properties are currently developed, and the majority of the structures do not comply with the current setback requirements.

5. Minimum variance: The variance, if authorized, represents the minimum variance that will afford relief and represent the least modifications possible of the regulations in issue. The Applicants are seeking a variance sufficient to bring a replacement home into compliance with the flood plain elevation and the Zoning Code, and nothing more.

EXHIBIT “1”

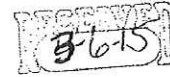
BOARD OF ADJUSTMENT

DALE A. CALLAWAY, CHAIRMAN
JEFFREY M. HUDSON
JOHN M. MILLS
NORMAN C. RICKARD
E. BRENT WORKMAN



Sussex County

DELAWARE
sussexcountyde.gov
(302) 855-7878 T
(302) 854-5079 F



March 3, 2015

Toby J. and Alexandra M. Chrostowski
c/o Sergovic, Carmean, & Weidman, P.A.
142 E Market Street
Georgetown, DE 19947

Dear Mr. Sergovic:

Attached please find the formal written decision on Case No. 11507, the application of Toby J. and Alexandra M. Chrostowski, as filed by the Board of Adjustment on January 5, 2015. Please remember that although the decision is now final, an appeal is possible up to thirty days following the date of filing.

Any work done prior to the expiration of the appeal period or during an appeal, is at risk. Nevertheless, if you wish, you may now begin the process of obtaining permits, if any are needed. Obtaining those permits may require payment of fees. Please call the Permit Department at 302-855-7720 prior to applying for any permits, in order to make certain that you have all necessary documentation. It is important that you inform the counter clerk of the above-referenced case number when you apply for a permit.

If the Board has ruled against you, you must comply with the Board's decision within thirty days of the date of filing. In order to avoid enforcement action, you should notify the office once you are in compliance.

Should you have any questions about you legal rights, you are advised to contact an attorney, as this office cannot provide legal advice.

Sincerely,

Jennifer Norwood
Recording Secretary



COUNTY ADMINISTRATIVE OFFICES
2 THE CIRCLE | PO BOX 417
GEORGETOWN, DELAWARE 19947

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY
IN RE: TOBY J. CHROSTOWSKI & ALEXANDRA M. CHROSTOWSKI
(Case No. 11507)

A hearing was held after due notice on January 5, 2015. The Board members present were: Mr. Dale Callaway, Mr. Jeff Hudson, Mr. John Mills, Mr. Norman Rickard, and Mr. Brent Workman.

Nature of the Proceedings

This is an application for a variance from the front yard setback requirement.

Findings of Fact

The Board found that the Applicants were seeking a variance of five (5) feet from the thirty (30) feet front yard setback requirement for a proposed dwelling. This application pertains to certain real property located west of Coastal Highway (Route One) and being north of Baltimore Street approximately 225 feet west of Andrew Street and being Lot 18, First Addition to Bay View Park Subdivision (911 Address: 39667 Baltimore Street, Bethany Beach, DE); said property being identified as Sussex County Tax Map Parcel Number 1-34-20.11-34.00.

1. The Board was given copies of the Application, a portion of the tax map of the area, and an undated survey of the Property.
2. The Board found that the Office of Planning and Zoning received two (2) letters in support to the Application and had not received any correspondence in opposition to the Application.
3. Toby Chrostowski was sworn in to testify about the Application. John Sergovic, Esquire, presented the Application on behalf of the Applicants and submitted exhibits to the Board to review including photographs of the Property.
4. The Board found that Mr. Sergovic stated that the lot measures 7,020-square-feet in size and that a minimum lot in an MR (Medium Residential) district is 10,000-square-feet in size.
5. The Board found that Mr. Sergovic stated that the size of the Property is unique.
6. The Board found that Mr. Sergovic stated that homes on neighboring properties also encroach into the front yard setback area and that almost all structures on the other side of the street violate the front yard setback requirements.
7. The Board found that Mr. Chrostowski testified that he plans to demolish the existing dwelling and build a new home which will be a slightly larger home so that his children and grandchildren will visit.
8. The Board found that Mr. Chrostowski testified that the existing home does not comply with the flood plain elevation and that he would need to raise the home two (2) feet to comply with the flood plain elevation.
9. The Board found that Mr. Chrostowski testified that the existing structure has a porch only 13.7 feet from the front property line but the house is 25 feet from the front property line.
10. The Board found that Mr. Chrostowski testified that the proposed dwelling will be the same distance from the front property line as the existing dwelling but not the existing porch.
11. The Board found that Mr. Chrostowski testified that the existing dwelling violates the side yard setback requirement but that the proposed dwelling will meet the side yard setback requirements.
12. The Board found that Mr. Chrostowski testified that he plans to garden in the backyard.

13. The Board found that Mr. Chrostowski testified that he intends to conform with the uses of neighboring properties and that the placement of the dwelling is consistent with other dwellings in the neighborhood.
14. The Board found that Mr. Chrostowski testified that the variance will not have a detrimental effect on the neighborhood.
15. The Board found that Mr. Chrostowski testified that the modification he requests is the minimum variance necessary to afford relief.
16. The Board found that Mr. Chrostowski, under oath, confirmed the statements made by Mr. Sergovic.
17. The Board found that Mr. Chrostowski testified that the new dwelling will meet flood zone requirements.
18. The Board found that Mr. Chrostowski testified that he hopes to have approximately twelve (12) feet to use for his rear yard after construction of the new dwelling and that the rear yard is currently fifteen (15) feet deep.
19. The Board found that Mr. Chrostowski testified that the proposed size of the dwelling will accommodate his family.
20. The Board found that Mr. Chrostowski testified that the proposed dwelling will be further from the road than the existing dwelling.
21. The Board found that Mr. Chrostowski testified that the proposed three (3) story dwelling will be approximately 3,300-square-feet in size and that the proposed dwelling will have storage and parking underneath.
22. The Board found that Mr. Chrostowski testified that the existing dwelling has no storage.
23. The Board found that Mr. Chrostowski testified that he plans to park cars under the proposed dwelling and that he cannot park under the house right now.
24. The Board found that Mr. Chrostowski testified that the rear yard has flooded in the past.
25. The Board found that Mr. Chrostowski testified that water came within six (6) inches of the house and that the rear yard was flooded during Hurricane Sandy.
26. The Board found that no parties appeared in support of or in opposition to the Application.
27. Based on the findings above and the testimony and evidence presented at the public hearing and the public record, which the Board found credible, persuasive, and un rebutted, the Board determined that the application met the standards for granting a variance. The findings below further support the Board's decision to approve the Application.
 - a. The Property is unique due to its size and susceptibility to flooding. The Property is only 70 feet wide and is smaller than minimum lots in the MR zoning district. The small size of the lot limits the area upon which the Applicants can build a new dwelling to replace the existing one. The narrow width of the lot further restricts the Applicants from building a wider home which may suit their needs. Building farther into the rear yard is also problematic due to occasional flooding in the rear yard. The flooding problems limit the building envelope. The uniqueness of the Property has created an exceptional practical difficulty for the Applicants.
 - b. The variance is necessary to enable reasonable use of the Property. The Applicants seek to construct a reasonable dwelling that complies with the side and rear yard setback requirements and is no farther into the front yard setback than the existing dwelling. The Applicant testified that the space is needed for storage and for family and that the variance is needed to construct a reasonably sized house to meet these needs. The Board was convinced that the Applicants' proposed use was reasonable and that the variance was necessary for that use.
 - c. The exceptional practical difficulty was not created by the Applicants. The Applicants acquired the Property in 2004 and did not create the size of the lot or the flooding issues. As previously noted the size of the lot and the flooding issues of the lot have created the exceptional practical difficulty.

The Board was convinced that the Applicants have not created the exceptional practical difficulty.

- d. The variance will not alter the essential character of the neighborhood nor substantially or permanently impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare. The unrebutted evidence demonstrates that other homes are similarly situated from the road in the neighborhood and that the placement of this dwelling will be consistent with those homes. Furthermore, the existing dwelling is 25 feet from the road and the porch to the existing dwelling is even closer. The proposed dwelling will be no farther from the road than the existing dwelling with porch. No testimony was presented that would demonstrate that the proposed dwelling would alter the essential character of the neighborhood.
- e. The variance sought is the minimum variance necessary to afford relief and the variance represents the least modification of the regulation at issue. The Applicants are constructing a dwelling which will lessen the degree of non-conformity on the Property as the existing dwelling does not comply with the side yard and front yard setback requirements but the new dwelling will comply with the side yard and rear yard setback requirements while being farther from the road than the existing dwelling and porch. The Applicants have also convinced the Board that the variance is the variance requested is the only variance needed to allow them to construct this reasonable dwelling.

The Board granted the variance application finding that it met the standards for granting a variance.

Decision of the Board

Upon motion duly made and seconded, the variance application was approved. The Board Members in favor were Mr. Dale Callaway, Mr. Jeff Hudson, Mr. John Mills, and Mr. Norman Rickard. Mr. Brent Workman voted against the Motion to approve the variance application.

BOARD OF ADJUSTMENT
OF SUSSEX COUNTY



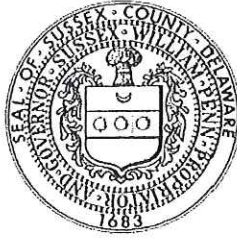
Dale Callaway
Chairman

If the use is not established within one (1)
year from the date below the application
becomes void.

Date March 3, 2015

BOARD OF ADJUSTMENT

ELLEN MAGEE, CHAIR
KEVIN E. CARSON
JEFF CHORMAN
JOHN WILLIAMSON
E. BRENT WORKMAN



Sussex County

DELAWARE
sussexcountyde.gov
(302) 855-7878 T
(302) 845-5079 F

October 22, 2019

Toby M. & Alexandra M. Chrostowski
c/o Sergovic Carmean Weidman McCartney & Owens, P.A.
25 Chestnut Street
Georgetown, DE 19947

Dear Toby M. & Alexandra M. Chrostowski:

Attached please find the formal written decision on Case No. 12342, the application of Toby M. & Alexandra M. Chrostowski as filed by the Board of Adjustment on August 19, 2019. Please remember that although the decision is now final, an appeal is possible up to thirty days following the date of filing.

Any work done prior to the expiration of the appeal period or during an appeal, is at risk. Nevertheless, if you wish, you may now begin the process of obtaining permits, if any are needed. Obtaining those permits may require payment of fees. Please call the Permit Department at 302-855-7720 prior to applying for any permits, in order to make certain that you have all necessary documentation. It is important that you inform the counter clerk of the above-referenced case number when you apply for a permit.

If the Board has ruled against you, you must comply with the Board's decision within thirty days of the date of filing. In order to avoid enforcement action, you should notify the office once you are in compliance.

Should you have any questions about your legal rights, you are advised to contact an attorney, as this office cannot provide legal advice.

Sincerely,

Ann Lepore
Recording Secretary



BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: TOBY M. CHROSTOWSKI & ALEXANDRA M. CHROSTOWSKI

(Case No. 12342)

A hearing was held after due notice on August 5, 2019. The Board members present were: Dr. Kevin Carson, Mr. Jeff Chorman, Ms. Ellen Magee, Mr. John Williamson, and Mr. Brent Workman.

Nature of the Proceedings

This is an application for variances from the front yard setback requirements for a proposed dwelling.

Findings of Fact

The Board found that the Applicants are requesting a variance of 5 feet from the thirty (30) feet front yard setback requirement for a proposed dwelling, a variance of 13.2 feet from the thirty (30) feet front yard setback requirement for a proposed dwelling, and a variance of 13.3 feet from the thirty (30) feet front yard setback requirement for a proposed dwelling. This application pertains to certain real property located on the north side of Baltimore Street approximately 226 feet west of Andrew Street in the Bay View Park subdivision (911 Address: 39667 Baltimore Street, Bethany Beach); said property being identified as Sussex County Tax Map Parcel Number 1-34-20.11-34.00. After a hearing, the Board made the following findings of fact:

1. The Board was given copies of the Application, a deed to the Property, findings of fact for Case No. 11507, findings of fact for Case No. 11878, an affidavit, a survey of the Property dated June 14, 2019, an aerial photograph of the Property, and a portion of the tax map of the area.
2. The Board found that the Office of Planning & Zoning received two (2) letters in support of and no letters in opposition to the Application.
3. The Board found that Toby Chrostowski and Michael Wigley were sworn in to give testimony about the Application. John Sergovic, Esquire, presented the Application on behalf of the Applicants and he submitted an additional letter of support and architectural renderings of the proposed dwelling.
4. The Board found that Mr. Sergovic stated that this is an application for a proposed dwelling or to elevate the existing dwelling.
5. The Board found that Mr. Sergovic stated that this property received prior variances but, due to economic reasons the building was not completed and the variance approvals expired.
6. The Board found that Mr. Sergovic stated that the Property is unique because the lot consists of only 7,020 square feet and is an undersized lot for the MR district. He argued that the size of the lot has created an exceptional practical difficulty.
7. The Board found that Mr. Sergovic stated that the Property is located in Bayview Park.
8. The Board found that Mr. Sergovic stated that the Property abuts a tidal pond and is susceptible to flooding. He argued that the Property cannot be developed without the variance and the dwelling cannot be moved back on the Property due to flooding.
9. The Board found that Mr. Sergovic stated that, during Hurricane Sandy, water came within 6 inches of the dwelling.
10. The Board found that Mr. Sergovic stated that the Applicants intend to bring the home into compliance with flood regulations but the proposed dwelling will be built in the same footprint of the current dwelling.

11. The Board found that Mr. Sergovic stated that the dwelling will not alter the essential character of the neighborhood as the home has been in the current location since the 1950s.
12. The Board found that Mr. Sergovic stated that the variance is the same variance sought in 2016.
13. The Board found that Mr. Sergovic stated that there have been no complaints from neighbors.
14. The Board found that Mr. Sergovic stated that the variances requested are the minimum variances that will afford relief to bring the existing dwelling into compliance with the flood plain elevation.
15. The Board found that Mr. Wigley; who is the Applicants' engineer, testified that a decision will be made by the homeowner based on costs to either replace the dwelling or to elevate and remodel the current dwelling. Either way, the home will occupy the same footprint and depth of the current dwelling.
16. The Board found that Mr. Wigley testified that, due to a change in the ordinance, side yard variances are no longer being requested.
17. The Board found that Mr. Wigley testified that the proposed dwelling will be in keeping with the character of the neighborhood.
18. The Board found that Mr. Wigley testified that the Applicants request the flexibility to elevate and renovate or to rebuild in this footprint as proposed.
19. The Board found that Mr. Sergovic stated that the house does not conform with the front yard setback requirement. No side yard variance is needed because the Code has changed since the prior variance approval.
20. The Board found that Mr. Chrostowski testified that it will cost more money to remodel the home and the Applicants have not decided whether to remodel or to rebuild.
21. The Board found that Mr. Wigley testified that other homes in the neighborhood encroach into the front yard setback.
22. The Board found that Mr. Wigley testified that he has received no complaints about the existing encroachment.
23. The Board found that Mr. Wigley testified that the intent is to meet the flood zone requirements and that flooding is now an issue.
24. The Board found that Mr. Wigley affirmed the statements made by Mr. Sergovic as true and correct.
25. The Board found that Mr. Sergovic stated that the Application differs from the prior application because the prior application was simply to elevate the home and this application is a request to elevate or to rebuild.
26. The Board found that Mr. Sergovic stated that the elevation allows for parking underneath the home which should alleviate congestion.
27. The Board found that Mr. Wigley testified that the front yard will be the same but the steps will project 5 feet farther into the setback area. The steps were previously located to the side yard.
28. The Board found that Mr. Wigley testified that the HVAC system will comply with the setback requirements.
29. The Board found that Mr. Wigley testified that there is approximately 30 feet from the house to the edge of paving.
30. The Board found that no parties appeared in support of or in opposition to the Application.
31. The Board tabled the discussion on this Application until August 19, 2019, at which time the Board voted on the Application.
32. Based on the findings above and the testimony and evidence presented at the public hearing and the public record, which the Board found credible, persuasive, and un rebutted, the Board determined that the application met the standards for granting a variance. The findings below further support the Board's decision to approve the Application.

- a. The Property is unique due to its size and susceptibility to flooding. The Property is only 70 feet wide and is smaller than minimum lots in the MR zoning district. The dwelling, which was constructed prior to the enactment of the Sussex County Zoning Code, encroaches into the front yard setback areas. The dwelling needs to be elevated, either through renovation or rebuild, to avoid problems associated with flooding but the home cannot be raised while still complying with the Sussex County Zoning Code. While there is space in the rear yard for the home to be located, raising the home and moving it farther into the rear yard is problematic due to occasional flooding in the rear yard. The flooding problems limit an already small building envelope. The uniqueness of the Property has, thus, created an unnecessary hardship and exceptional practical difficulty for the Applicants.
- b. The unnecessary hardship and exceptional practical difficulty are not being created by the provisions of the Sussex County Zoning Code.
- c. Due to the uniqueness of the situation, the Property cannot be developed in strict conformity with the Sussex County Zoning Code. The Applicants needs to raise their dwelling in order to avoid flooding problems. Notably, there is water to the rear yard and a boat ramp to the west side of the Property. The Applicants seek to raise the dwelling, either through renovation or rebuild, to avoid the flooding problems but are unable to do so without violating the Sussex County Zoning Code. It is clear from the survey that the dwelling cannot be raised on the Property in strict conformity with the Sussex County Zoning Code. The Board is thus convinced that the variances necessary to enable the reasonable use of the Property as the variances will allow the Applicants to raise the existing dwelling, either through renovation or rebuild. The Board is convinced that the size, shape, and location of the dwelling are reasonable. Notably, the raising of the dwelling will not lead to further encroachments into the setback areas.
- d. The unnecessary hardship and exceptional practical difficulty were not created by the Applicants. The Applicants acquired the Property in 2004 and did not create the size of the lot or the flooding issues. The Applicants also did not place the dwelling on the Property. The dwelling was placed on the lot prior to the creation of the Sussex County Zoning Code and the Applicants simply seek to raise it, either through renovation or rebuild, to avoid flood problems. As previously noted, the size of the lot and the flooding issues of the lot have created the unnecessary hardship and exceptional practical difficulty. The Board was convinced that the Applicants have not created the exceptional practical difficulty and unnecessary hardship. Furthermore, the Board is convinced that the Applicants did not come to the Property with an illegal use in mind. Rather, the Applicants are limited by the physical conditions of the Property and need to variances in order to continue the reasonable use thereof.
- e. The variances will not alter the essential character of the neighborhood nor substantially or permanently impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare. The Board is convinced that elevating the home will have no effect on the character of the neighborhood. The dwelling has been on the Property since the late 1950s and, despite the longstanding location of the dwelling, no complaints were noted in the record about its location or the potential raising either through renovation or rebuild, of the home. The Applicants have heard no complaints either from neighbors about the dwelling and Board heard no evidence that the variances would somehow alter the essential character of the neighborhood or be detrimental to the public welfare.

- f. The variances sought are the minimum variances necessary to afford relief and the variances requested represent the least modifications possible of the regulations at issue. The Applicants have demonstrated that the variances sought will allow the Applicants to elevate the dwelling, either through renovation or rebuild, to avoid flooding problems. The dwelling will encroach no farther into the setback areas as the existing dwelling encroaches. The Board also finds that the Applicants could not move the home to the rear yard due to the flooding problems on the lot.
- g. The Board notes that the Application was for variances for the proposed dwelling. If additional variances are needed for steps, the Applicant will be required to file a new application for those variances.
- h. The condition or situation of the Property and the intended use of the Property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the Sussex County Zoning Code.

The Board granted the variance application finding that it met the standards for granting a variance.

Decision of the Board

Upon motion duly made and seconded, the variance application was approved. The Board Members in favor were Dr. Kevin Carson, Mr. Jeffrey Chorman, Ms. Ellen Magee, and Mr. John Williamson. No Board Member voted against the Motion to approve the variance application. Mr. Brent Workman did not participate in the discussion or vote on this application.

BOARD OF ADJUSTMENT
OF SUSSEX COUNTY



Ellen M. Magee
Chair

If the use is not established within two (2) years from the date below the application becomes void.

Date October 22, 2019

EXHIBIT “2”

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: PEGGY A. BEERS

(Case No. 12482)

A hearing was held after due notice on October 19, 2020. The Board members present were: Dr. Kevin Carson, Mr. Jeff Chorman, Ms. Ellen Magee, Mr. John Williamson, and Mr. Brent Workman.

Nature of the Proceedings

This is an application for variances from the front yard setback and corner front yard setback requirements for proposed structures.

Findings of Fact

The Board found that the Applicant is requesting a variance of 10.3 feet from the thirty (30) feet front yard setback requirement for a proposed dwelling, a variance of 14.1 feet from the thirty (30) feet front yard setback requirement for a proposed set of steps, and a variance of 8.1 feet from the fifteen (15) feet corner front yard setback requirement for a proposed dwelling. This application pertains to certain real property located on the northwest corner of North Bayshore Drive and South Carolina Avenue (911 Address: 602 North Bayshore Drive, Milton); said property being identified as Sussex County Tax Map Parcel Number 2-35-3.16-81.00. After a public hearing, the Board made the following findings of fact:

1. The Board was given copies of the Application, pictures of the Property, property record information, a petition supporting the application, a survey of the Property dated June 29, 2020, an aerial photograph, and a portion of the tax map of the area.
2. The Board found that the Office of Planning & Zoning a petition of eight signatures in support of and no letters in opposition to the Application.
3. The Board found that Peggy Beers and John Roach were sworn in to give testimony about the Application. Mr. Roach is the Applicant's surveyor.
4. The Board found that Mr. Roach testified that the existing porch and house are located in the corner front yard and that the house was constructed in the 1950s prior to the enactment of the Sussex County Zoning Code.
5. The Board found that Mr. Roach testified that the Applicant wishes to improve the house by adding two additional floors and by raising the house above the flood plain. The dwelling will require a new foundation.
6. The Board found that Mr. Roach testified that the Property is unique as it is a corner lot.
7. The Board found that Mr. Roach testified that the house cannot be improved with two additional floors without the variances.
8. The Board found that Mr. Roach testified that the exceptional practical difficulty was not created by the Applicant as the dwelling was built prior to zoning code.
9. The Board found that Mr. Roach testified that the variances will not alter the essential character of the neighborhood as this is a beach house in a beach community.
10. The Board found that Mr. Roach testified that the house will remain in its existing location and the variances are the minimum variances to allow for additional floors.
11. The Board found that Mr. Roach testified that the location of the septic field impedes the dwelling from being moved farther back on the Property and that the drain field is near the rear shed.

12. The Board found that Mr. Roach testified that there is approximately 5 – 8 feet between the property line and the edge of paving.
13. The Board found that Mr. Roach testified that the variances will pose no visibility issues.
14. The Board found that Ms. Beers testified that she has lived on South Carolina Avenue for 47 years and that the house was built in the 1950s.
15. The Board found that Ms. Beers testified that they will not be adding to the non-conformity of the existing dwelling as they are only adding floors to the existing dwelling.
16. The Board found that Ms. Beers testified that the block shed that is on the property is non-conforming and has been in place for approximately 48 years. The shed is a concrete block shed and cannot be moved.
17. The Board found that Ms. Beers testified that there have been no complaints from neighbors.
18. The Board found that one person appeared in support of and no parties appeared in opposition to the Application.
19. Based on the findings above and the testimony and evidence presented at the public hearing and the public record, which the Board found credible, persuasive, and un rebutted, the Board determined that the application met the standards for granting a variance. The findings below further support the Board's decision to approve the Application.
 - a. The Property is unique as it is a small lot measuring only 5,000 square feet and the house needs to be elevated due to flood plain regulations. Furthermore, the Property is improved with a septic system which limits the developable area of the lot. Additionally, the Property is a corner lot with enhanced setback requirements and the Applicant cannot take advantage of the small lot ordinance on that side since it is a corner lot. These unique conditions have created a small and limited building envelope. The Property's unique conditions have thus created an unnecessary hardship and exceptional practical difficulty for the Applicant who seeks to construct a new dwelling and steps.
 - b. The unnecessary hardship and exceptional practical difficulty are not being created by the provisions of the Sussex County Zoning Code.
 - c. Due to the uniqueness of the Property and the situation, the Property cannot be developed in strict conformity with the Sussex County Zoning Code. The Applicant seeks to construct a new dwelling steps but is unable to do so while complying with the Sussex County Zoning Code. The Board is thus convinced that the variances are necessary to enable the reasonable use of the Property as the variance will allow the Applicant to construct a new dwelling with steps on the lot. The Board is convinced that the size, shape, and location of the structures are reasonable.
 - d. The unnecessary hardship and exceptional practical difficulty were not created by the Applicant. As discussed above, the Property has unique conditions which have limited the Applicant's ability to reasonably develop the Property. The Applicant did not create the unique conditions of the lot and the Applicant has designed a reasonably sized house to fit on the lot but cannot comply with the setback requirements due to the lot's unique conditions. The Board was convinced that the Applicant has not created the exceptional practical difficulty and unnecessary hardship. Furthermore, the Board is convinced that the Applicant did not come to the Property with an illegal use in mind. Rather, the Applicant is limited by the physical conditions of the Property and the Applicant needs the variances in order to reasonably develop the Property as proposed.

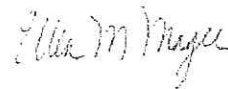
- e. The variances will not alter the essential character of the neighborhood nor substantially or permanently impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare. The Board is convinced that the variances will have no effect on the character of the neighborhood. The variances will allow the Applicant to remodel and elevate an older home and to construct new steps. Neighbors have indicated support for the application and no evidence was presented which demonstrate that the variances would somehow alter the essential character of the neighborhood or be detrimental to the public welfare. The Board also notes that the house will be in the same location as the existing house and there were no complaints in the record about the location of the existing house.
- f. The variances sought are the minimum variances necessary to afford relief and the variances requested represent the least modifications possible of the regulations at issue. The Applicant has demonstrated that the variances sought will allow the Applicant to construct a new dwelling with steps as proposed. The Board notes that the house will not encroach farther than the existing house and the Applicant has designed the HVAC system to comply with the setback requirements. The Board also notes that the Applicant must elevate the house due to flood plain requirements and is limited by the unique conditions of the lot.
- g. The condition or situation of the Property and the intended use of the Property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the Sussex County Zoning Code.

The Board granted the variance application finding that it met the standards for granting a variance.

Decision of the Board

Upon motion duly made and seconded, the variance application was approved. The Board Members in favor were Dr. Kevin Carson, Mr. Jeffrey Chorman, Ms. Ellen Magee, Mr. John Williamson, and Mr. Brent Workman. No Board Member voted against the motion to approve Application.

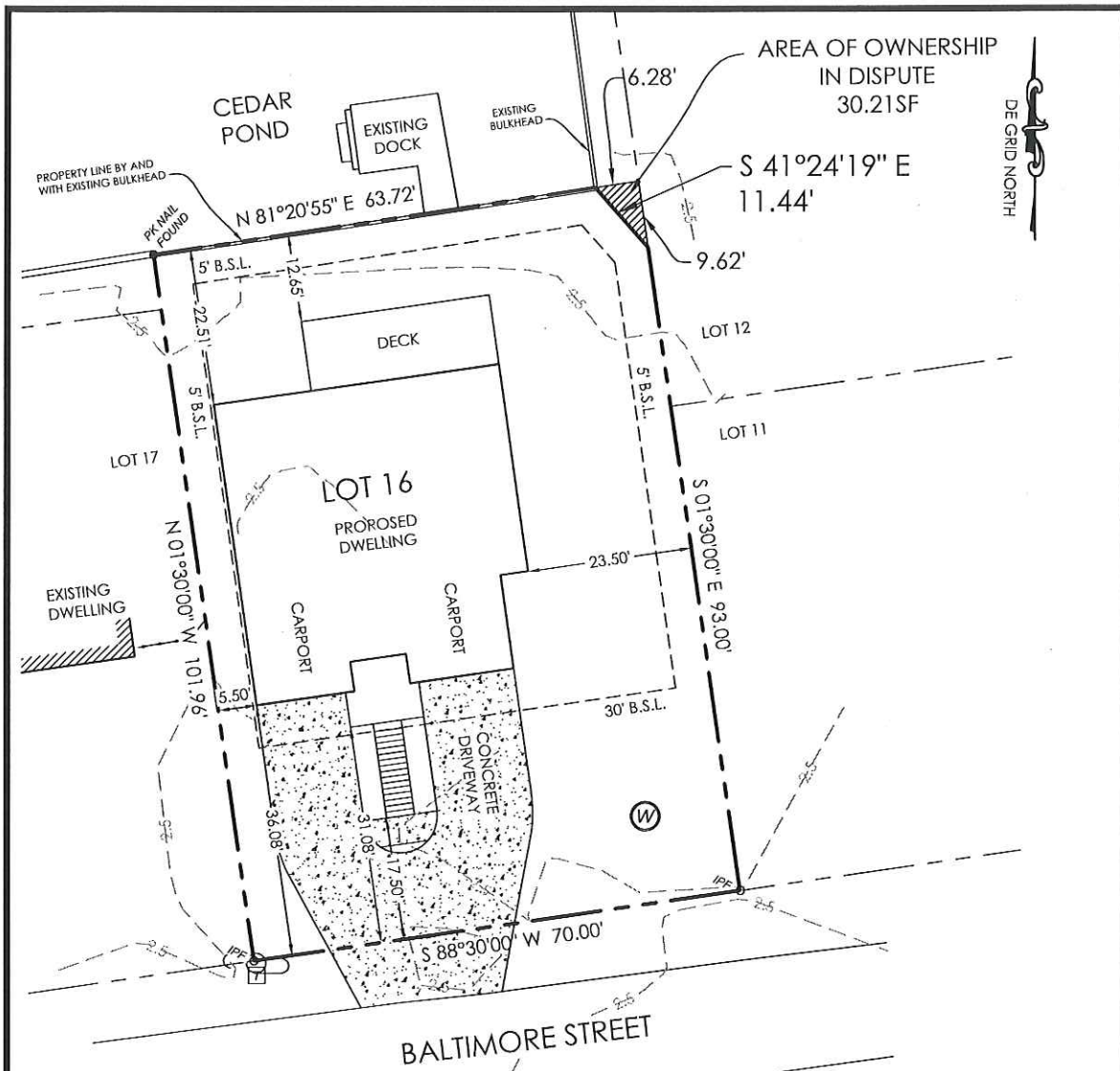
BOARD OF ADJUSTMENT
OF SUSSEX COUNTY



Ellen M. Magee
Chair

If the use is not established within two (2) years from the date below the application becomes void.

Date December 21, 2020



SITE DATA

- 1. OWNER: TODD K. MOYER
ALLYSON L. MOYER
7 KINDLING WAY
JACKSON, NJ 08527
- 2. TAX REF.: 134-20.11-32.00
DEED REF.: 4773/183
- 3. ZONED: MR - MEDIUM RESIDENTIAL
- 4. SITE AREA: 7,130 S.F..
- 5. SETBACKS: FRONT = 30 FT.
SIDE = 5 FT.
REAR = 5 FT.

- 6. OTHER THAN SHOWN, THIS SURVEY PLAT DOES NOT VERIFY THE EXISTENCE OR NON-EXISTENCE OF RIGHTS OF WAY OR EASEMENTS ON THIS PROPERTY.
- 7. NO TITLE SEARCH WAS REQUESTED OR STIPULATED.
- 8. INTENDED USE: SINGLE FAMILY RESIDENCE
- 9. BASED UPON F.E.M.A. FLOOD INSURANCE RATE MAP NUMBER 10005C0518K PANEL 518 OF 660, WITH AN EFFECTIVE DATE OF MARCH 16, 2015, THIS SITE IS LOCATED WITHIN FLOOD ZONE AE (ELEV. 6), BASE FLOOD ELEVATIONS DETERMINED.

LEGEND

IRON PIPE FOUND	○ IPF
IRON ROD & CAP SET	● IRCS
UTILITY POLE	⊂
TELEPHONE PEDESTAL	⊞
MAJOR CONTOUR	- - - 2.5 - - -
WELL	⊙



solutions
Integrated Planning
Engineering & Management, LLC

3003 Merritt Mill Road
Salisbury, MD 21804
T. 401.572.8833
www.solutionsipem.com

Copyright © 2021

Fuller Hall
& ASSOCIATES, INC.
A Wholly Owned Subsidiary

VARIANCE EXHIBIT B

LOT 16, BAY VIEW PARK

BALTIMORE HUNDRED
SOUTH BETHANY, SUSSEX COUNTY, DELAWARE

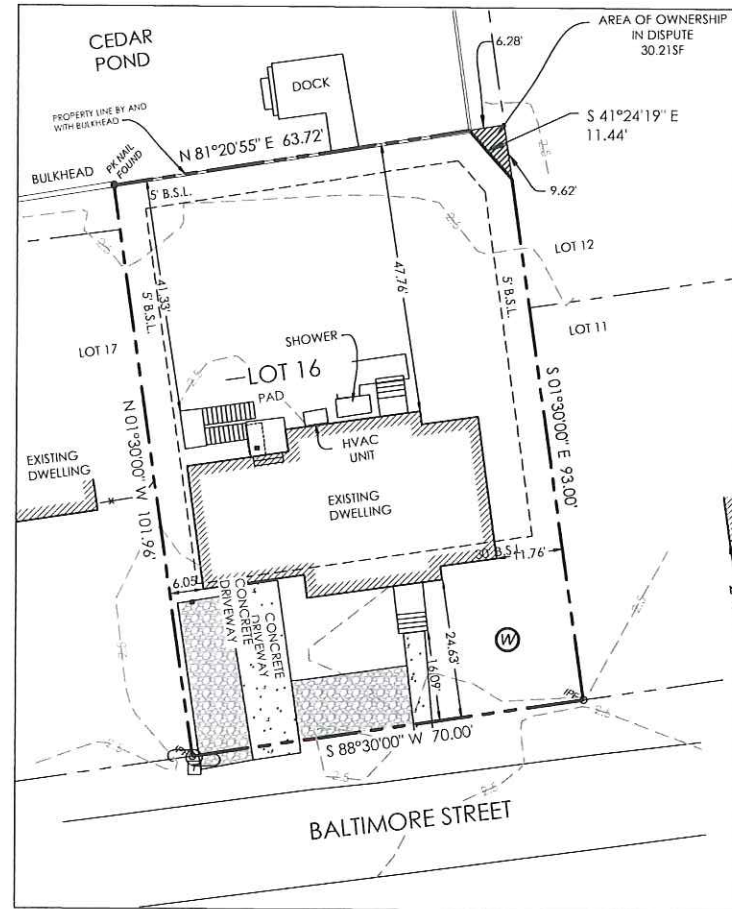
Drawn by: RAM

Job No.: S21048

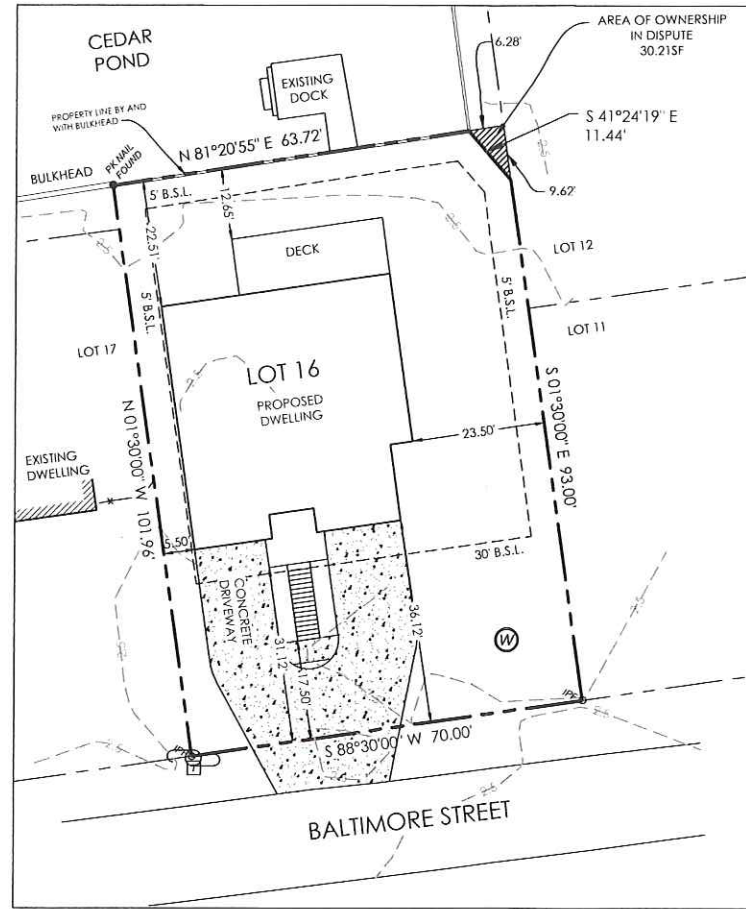
Scale: 1" = 30'

Date: 07/19/21

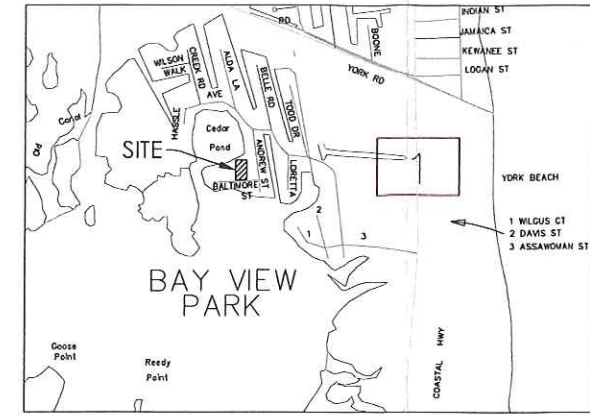
Sheet 1 of 1



EXISTING CONDITIONS



PROPOSED



VICINITY MAP

1"=1000'

SITE DATA

1. OWNER: TODD K. MOYER
ALLYSON L. MOYER
7 KINDLING WAY
JACKSON, NJ 08527
- SURVEYOR: SOLUTIONS IPEM, LLC
3003 MERRITT MILL ROAD
SALISBURY, MD 21804
T. 410-572-8833
F. 410-341-3970
2. TAX REF.: 134-20.11-32.00
DEED REF.: 4773/183
3. ZONED: MR - MEDIUM RESIDENTIAL
4. SITE AREA: 7,130 S.F.
5. SETBACKS: FRONT = 30 FT.
SIDE = 5 FT.
REAR = 5 FT.
6. OTHER THAN SHOWN, THIS SURVEY PLAT DOES NOT VERIFY THE EXISTENCE OR NON-EXISTENCE OF RIGHTS OF WAY OR EASEMENTS ON THIS PROPERTY.
7. NO TITLE SEARCH WAS REQUESTED OR STIPULATED.
8. INTENDED USE: SINGLE FAMILY RESIDENCE
9. BASED UPON F.E.M.A. FLOOD INSURANCE RATE MAP NUMBER 10005C0518K PANEL 518 OF 660, WITH AN EFFECTIVE DATE OF MARCH 16, 2015, THIS SITE IS LOCATED WITHIN FLOOD ZONE AE (ELEV. 6), BASE FLOOD ELEVATIONS DETERMINED.



solutions
Integrated Planning
Engineering & Management, LLC

Fuller Hall
& ASSOCIATES, INC.
A Wholly Owned Subsidiary

303 N. Beaford St.
Georgetown, DE 19947
T. 302.297.9215

3003 Merritt Mill Road
Salisbury, MD 21804
T. 410.572.8833

www.solutionsipem.com Copyright © 2021

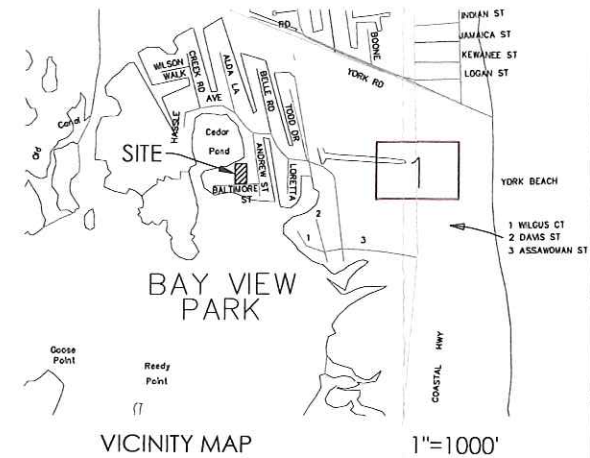
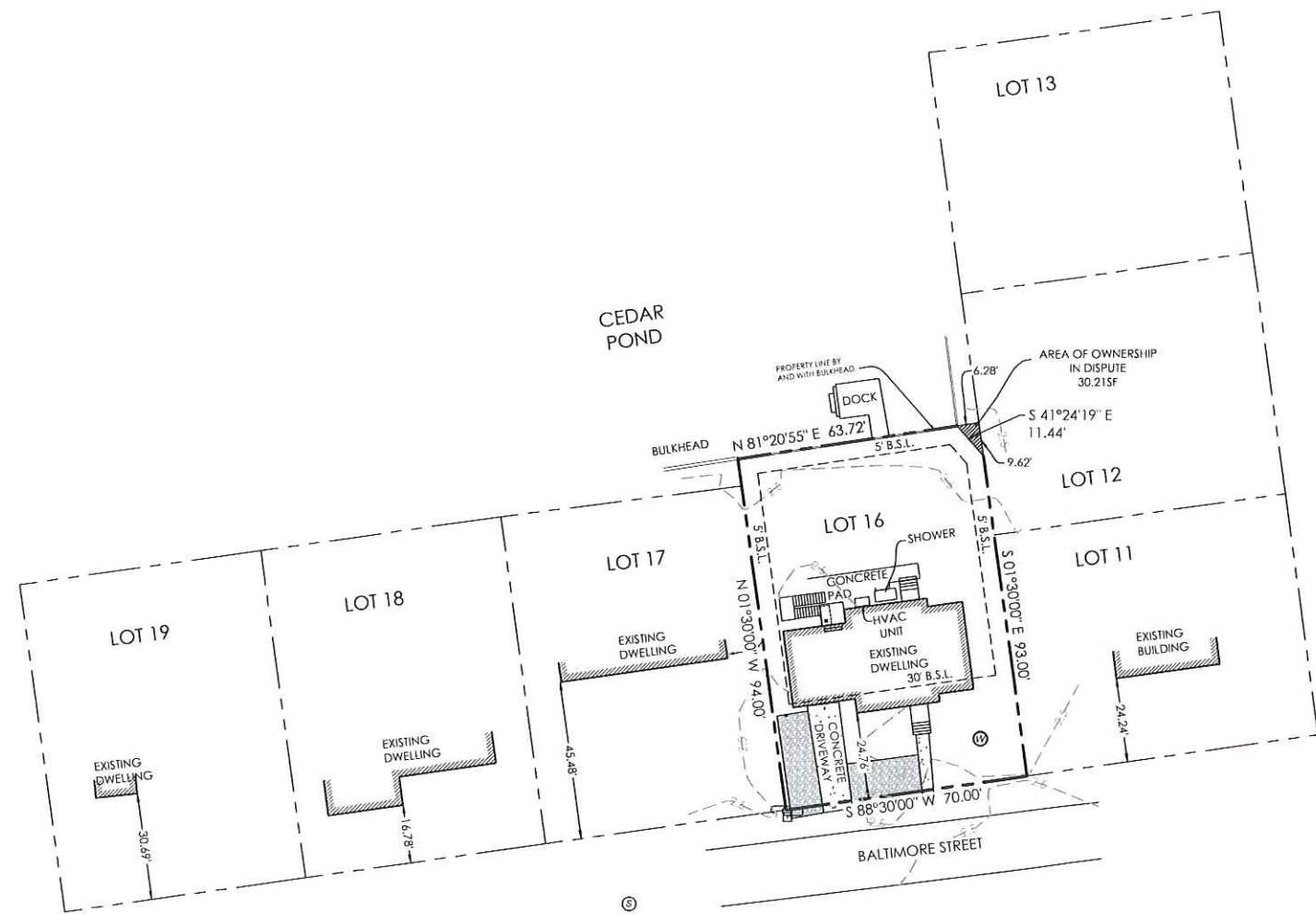
REVISIONS	DESCRIPTION
DATE	

SITE PLAN
for
LOT 16, BAY VIEW PARK
BALTIMORE HUNDRED
SOUTH BETHANY, SUSSEX COUNTY, DELAWARE

Date:	07/01/21
Job Number:	S21048
Scale:	1" = 30'
Drawn By:	RAM
Designed By:	SWF
Approved By:	SWF

Sheet No.: 1

File Name: S21048 SITE.dwg



SITE DATA

1. OWNER: TODD K. MOYER
ALLYSON L. MOYER
7 KINDLING WAY
JACKSON, NJ 08527
- SURVEYOR: SOLUTIONS IPFM, LLC
3003 MERRITT MILL ROAD
SALISBURY, MD 21804
T. 410.572.8833
F. 410.341.3970
2. TAX REF.: 134.20.11-32.00
DEED REF.: 4773/183
3. ZONED: MR - MEDIUM RESIDENTIAL
4. SITE AREA: 7,130 S.F..
5. SETBACKS: FRONT = 30 FT.
SIDE = 5 FT.
REAR = 5 FT.
6. OTHER THAN SHOWN, THIS SURVEY PLAT DOES NOT VERIFY THE EXISTENCE OR NON-EXISTENCE OF RIGHTS OF WAY OR EASEMENTS ON THIS PROPERTY.
7. NO TITLE SEARCH WAS REQUESTED OR STIPULATED.
8. INTENDED USE: SINGLE FAMILY RESIDENCE
9. BASED UPON F.E.M.A. FLOOD INSURANCE RATE MAP NUMBER 10005C0518K; PANEL 518 OF 660, WITH AN EFFECTIVE DATE OF MARCH 16, 2015, THIS SITE IS LOCATED WITHIN FLOOD ZONE AE (ELEV. 6). BASE FLOOD ELEVATIONS DETERMINED.



solutions
 Integrated Planning
 Engineering & Management, LLC

Fuller Hall
 & ASSOCIATES, INC.
 A Wholly Owned Subsidiary

303 N. Beaford St.
 Georgetown, DE 19947
 T. 302.297.9215

3003 Merritt Mill Road
 Salisbury, MD 21804
 T. 410.572.8833

www.solutionsipfm.com Copyright © 2021

REVISIONS	DESCRIPTION
DATE	

EXISTING CONDITIONS
 for
LOT 16, BAY VIEW PARK
 BALTIMORE HUNDRED
 SOUTH BETHANY, SUSSEX COUNTY, DELAWARE

Date:	07/01/21
Job Number:	S21048
Scale:	1" = 30'
Drawn By:	RAM
Designed By:	SWF
Approved By:	SWF

Sheet No.: 1

File Name: S21048 SITE.dwg



RAY & JANET ASCHENBACH

39665 Baltimore St, Bethany Beach, DE 19930

7/28/2021

Board of Adjustment
Sussex County Planning & Zoning Department
2 The Circle
Georgetown, DE 19947

Dear Board of Adjustment:

We are neighbors of Todd & Allyson Moyer and have a home that borders their property. After reviewing their plans with a center staircase to the front entry, we strongly support the variance request for an additional 7.5 feet of stair encroachment. In addition, we believe the project and house will be an enhancement to the neighborhood.

Sincerely,



Ray & Janet Aschenbach



Toby and Alexandra Chrostowski
39661 Baltimore Street
Bethany Beach, DE 19930

7/28/2021

Board of Adjustment
Sussex County Planning & Zoning Department
2 The Circle
Georgetown, DE 19947

Dear Board of Adjustment,

We have been neighbors of Todd & Allyson Moyer for several years and have a home that borders their property and another that is two houses down from their property. We have reviewed the plans (including the need for a center entry staircase necessitating a 7.5 foot variance in addition to the 5 foot allowable encroachment for stairs). We strongly support their variance request. We are excited to see their new house and believe the project and their house will be an enhancement to our street.

Sincerely,

Toby Chrostowski
Alexandra Chrostowski

Toby and Alexandra Chrostowski

GEORGE & JEANNE CHURCHWELL

39662 Baltimore St, Bethany Beach, DE 19930

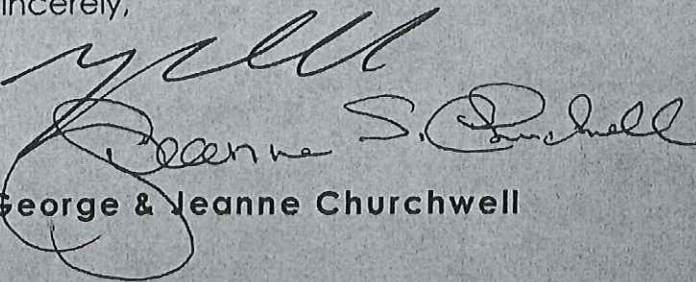
7/28/2021

Board of Adjustment
Sussex County Planning & Zoning Department
2 The Circle
Georgetown, DE 19947

Dear Board of Adjustment:

We own a home across the street from Todd & Allyson Moyer. After reviewing their plans with a center staircase to the front entry, we strongly support the variance request for an additional 7.5 feet of stair encroachment. The resulting home will enhance the neighborhood.

Sincerely,



George & Jeanne Churchwell

**PLANNING & ZONING COMMISSION
BOARD OF ADJUSTMENT
IN AND FOR
SUSSEX COUNTY, DELAWARE**

In the Case of:

Todd K. and Allyson L. Moyer

Name of Applicant/Owner


Case No. _____

AFFIDAVIT

The below listed persons are the true and lawful owners of all lands lying within two hundred (200) feet of all the boundaries of the property which is the subject of the above-mentioned Zoning Application. I do solemnly swear that the names and addresses are true and correct and represent a complete listing of all owners of lands within 200 feet of the subject property which is the subject of this application.

1. John B. Hendrickson and Mary P. Hendrickson, 35026 Andrew Street, Bethany Beach, DE 19930 (1-34-20.11-28.00)	12. John H.C. Gordon, 5206 Wehawken Road, Bethesda, MD 20816 (1-34-20.11-41 & 43)
2. Geoffrey Abbott & Carole Abbott, Trustees, 35028 Andrew Street, Bethany Beach, DE 19930 (1-34-20.11-29)	13. Frank P. Balcavage, 1717 Wildberry Road, Bethlehem, PA 18015 (1-34-20.11-41.01)
3. Stanley J. Fleischer & Pascale Fleischer, 519 Risen Star Court, Havre De Grace, MD 21078 (1-34-20.11-30)	14. George Churchwell & Jeanne Churchwell, 12520 Philmont Drive, Herndon, VA 20170 (1-34-20.11-41.02)
4. 34874 Alda Lane, LLC, P.O. Box 166, Florence, NJ 08518 (1-34-20.11-31)	15. John H.C. Gordon & Peter C. Gordon, 5206 Wehawken Road, Bethesda, MD 20816 (1-34-20.11-42)
5. Raymond E. Aschenbach and Janet R. Aschenbach, 39665 Baltimore Street, Bethany Beach, DE 19930 (1-34-20.11-33)	16. Michael Glick & Jane Glick, 7909 Sherwood Avenue, Ruxton, MD 21204 (1-34-20.11-44)
6. Toby J. Chrostowski and Alexandra M. Chrostowski, 54 E. Oak Ave., Moorestown, NJ 08057 (1-34-20.11-34)	17. Brian A. Burke and lea M. Burke, 740 Issac Taylor Drive, West Chester, PA 19382 (1-34-20.11-45)
7. Frederick J. Meckley & Anne Meckley,	18. Louis R. Rakus & Nancy S. Rakus,

445 Urban Road, Herndon, PA 17830 (1-34-20.11-35)	309 Woodview Road, West Grove, PA 19390 (1-34-20.11-46)
8. William H. Yeomans & Carol L. Yeomans, Trustees, 39673 Baltimore Street, Bay View Park, Bethany Beach, DE 19930 (1-34-20.11-36)	19. Herschel Hudson & Edith M. Hudson, Trustees, 35031 Andrew Street, Bethany Beach, DE 19930 (1-34-20.11-47)
9. Daniel F. Rice and Dana N. Rice, 5108 Worthington Dr., Bethesda, MD 20816 (1-34-20.11-37)	20. Suzanne A. Glover & Storm G. Feigles, 11431 Iager Blvd., Fulton, MD 20759 (1-34-20.11-48)
10. Paul Blinkhorn, 6415 Wilson Lane, Bethesda, MD 20817 (1-34-20.11-39)	21. IHLE Family LLC, 12168 Falls Road, Cockeysville, MD 21030 (1-34-20.11-38)
11. George M. Bouyat & Ingrid T. Bouyat, 8546 Brickyard Road, Potomac, MD 20854 (1-34-20.11-40)	22. Michael J. Coombs, Sr., 1760 Daisy Road, Woodbine, MD 21797 (1-34-20.11-49)



 John A. Sergovic, Jr., Authorized Agent

SWORN TO AND SUBSCRIBED before me this 29 day of July, 2021.





 Notary Public

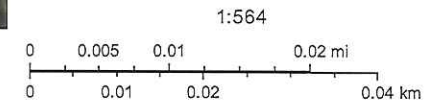


PIN:	134-20.11-32.00
Owner Name	MOYER TODD K
Book	4773
Mailing Address	7 KINDLING WAY
City	JACKSON
State	NJ
Description	BAY VIEW PARK
Description 2	LOT 16
Description 3	1ST ADD
Land Code	

- polygonLayer**

 - Override 1
- polygonLayer**

 - Override 1
- Tax Parcels
- 911 Address
- Streets
- County Boundaries
- Municipal Boundaries



RECEIVED

AUG 05 2021

SUSSEX COUNTY
PLANNING & ZONING

Board of Adjustment Application

Sussex County, Delaware

Sussex County Planning & Zoning Department
2 The Circle (P.O. Box 417) Georgetown, DE 19947
302-855-7878 ph. 302-854-5079 fax

Case # 12 610
Hearing Date 9/20

202111704

Type of Application: (please check all applicable)

Variance
Special Use Exception
Administrative Variance
Appeal

Existing Condition
Proposed
Code Reference (office use only)
115-42 115-182

Site Address of Variance/Special Use Exception:

127 Shady Ridge Drive, Rehoboth Beach, Delaware 19971

Variance/Special Use Exception/Appeal Requested:

Decrease in Front Property Setback from 30 Feet to 15 Feet.

Tax Map #: 3-34-13.00-579

Property Zoning: Ros. GR

Applicant Information

Applicant Name: Laura V. Bearsch
Applicant Address: 329 Webster Street
City Bel Air State MD Zip: 21014
Applicant Phone #: (443) 794-3181 Applicant e-mail: LBearsch@LFBALAW.com

Owner Information

Owner Name: Wade Thompson
Owner Address: 37606 Br. grant: ne CT
City Rehoboth State DE Zip: 19971 Purchase Date: NA
Owner Phone #: 302-542-8228 Owner e-mail: Cwadet@gmail.com

Agent/Attorney Information

Agent/Attorney Name: NA
Agent/Attorney Address: _____
City _____ State _____ Zip: _____
Agent/Attorney Phone #: _____ Agent/Attorney e-mail: _____

Signature of Owner/Agent/Attorney

CWDET TTEE

Date: 7/29/21



Criteria for a Variance: (Please provide a written statement regarding each criteria).

You shall demonstrate to the Board of Adjustment that the property meets all of the following criteria for a Variance to be granted.

In granting any variance the Board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of the Zoning Ordinance or Code. The Board is empowered in no case, however, to grant a variance in the use of land or structures thereon.

1. Uniqueness of property:

That there are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property and that the exceptional practical difficulty is due to such conditions and not to circumstances or conditions generally created by the provisions of the Zoning Ordinance or Code in the neighborhood or district in which the property is located.

The property is unique in that of the approximately 11,812 square feet, 80% is federal protected tidal wetlands. Accordingly, there is only a small portion of the property comprised of buildable uplands. This uniqueness and practical difficulty is due to these conditions and not circumstances created by the Zoning Ordinance or Code.

2. Cannot otherwise be developed:

That because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the Zoning Ordinance or Code and that the authorization of a variance is therefore necessary to enable the reasonable use of the property.

Without a variance to decrease the front setback from 30 feet to approximately 15 feet, the building envelope is not sufficient to accommodate a small single family home or a double-wide manufactured home. A setback variance is necessary to enable the reasonable use of the property for the construction of a small single family residence.

3. Not created by the applicant:

That such exceptional practical difficulty has not been created by the appellant.

The exceptional practical difficulty is due to the land's natural topography and has not been created by the property owner or any other person.

4. Will not alter the essential character of the neighborhood:

That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located and nor substantially or permanently impair the appropriate use of development of adjacent property, nor be detrimental to the public welfare.

The variance would not alter the essential character of the neighborhood or property district, nor would it substantially or permanently impair the appropriate use and development of adjacent property or be detrimental to public welfare. The granting of the variance would actually enhance the neighborhood by permitting the development of a currently vacant, overgrown property. The variance would permit the construction of a single family residence consistent with all other homes on Shady Ridge Dr.

5. Minimum variance:

That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible of the regulation in issue.

The variance, if authorized, will represent the minimum variance that will afford relief and represents the least possible modification of the regulation in issue. The decrease of the setback from 30 feet to 15 feet would create a building envelope of approximately 35x55 sqft. This area would then permit the construction of a small single family residence with a footprint of less than 2000 sqft. The neighbors have expressed approval of the addition of a new home in their neighborhood.

Addendum to Variance Setback Request for 127 Shady Ridge Drive, Rehoboth Beach, Delaware 19971

This information supplements my application for a variance in the property's front setback. I am requesting that the setback be reduced from 30 feet to 15 feet. This variance would create a sufficient building envelope to construct a single-family home on the property. If the variance is approved, the depth of the envelope would increase from 23 feet to 38 feet. That would enable me to develop a home 30 feet in depth and a small rear-facing screened porch.

I don't think positioning the home a bit closer to the road would have any negative impact. Shady Ridge Drive is a dead-end street. Accordingly, the only traffic appears to be people who live on the street or visiting someone who lives there. The lot I am hoping to purchase is toward the end of Shady Ridge Drive and very close to the turn-around.

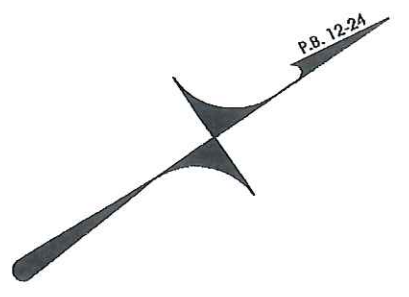
Additionally, Mr. Edward Launay is the environmental engineer who did the work for the Army Corps of Engineers permit. This permit enabled the property owner to fill a small portion of the tidal wetlands and install a protective retaining wall. Mr. Launay advised that it is preferable to leave a small space between the retaining wall and the home in the event the wall needs repair or replacement in the future. Expanding this building envelope just a few feet would allow for that additional space.

I have spoken with some people who live in Shady Ridge, and they are happy to see the lot developed and welcome me as a potential new neighbor. I intend to build a home that is consistent with the other newer homes on Shady Ridge Drive and would hopefully be a wonderful addition to the community. I owned a townhome in Rehoboth for 10 years and just sold it this month. My dream has always been to own a single-family residence in Rehoboth with enough room for family and friends and retire there full-time.

Thank you for considering my application. If you need any additional information, please let me know.

Laura Bearsch

LANDS N/F
LAURA M. THISTLE
D.B. 4575-305



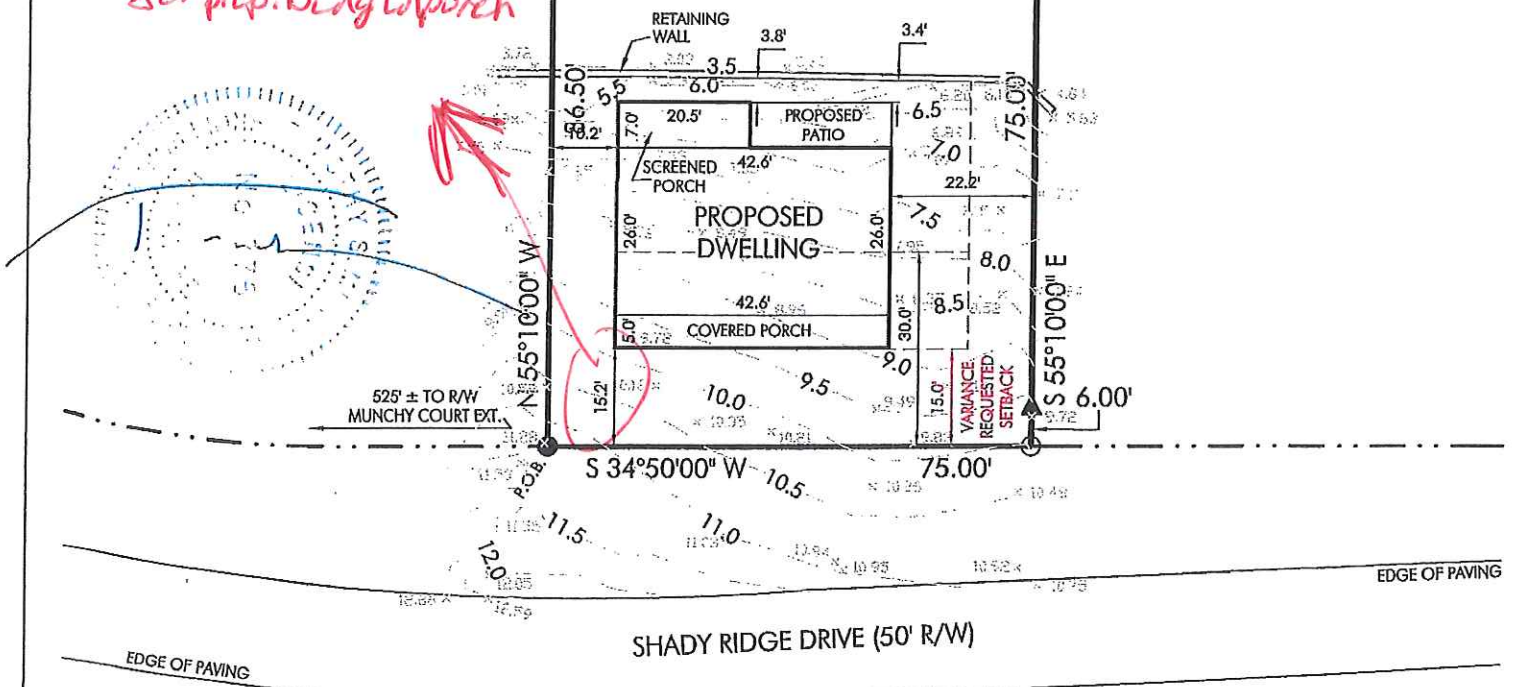
Setbacks
30' Front
10' sides
10' rear

No steps per sketches
submitted by Applicant
HVAC can comply with
setbacks per prop. Duly
location
LOT #26

Req. 14.8' var from
30' Front Yards
for prop. Duly w/porch

LOT #25
14,175 SQ. FT.
D.B. 4070-244

LOT #24



NOTES:

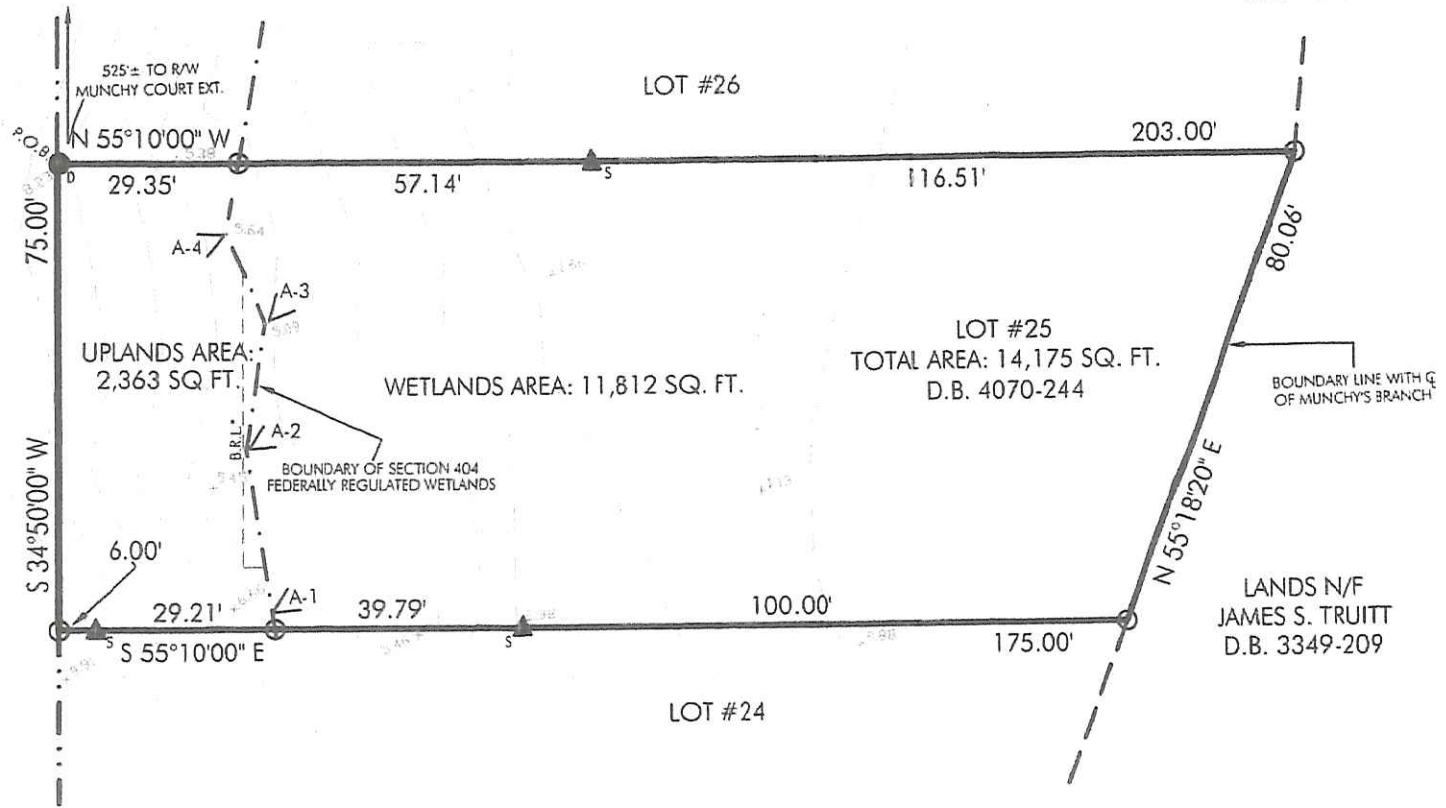
THIS DRAWING DOES NOT VERIFY THE EXISTENCE
OR NON-EXISTENCE OF WETLANDS, UTILITIES,
RIGHT-OF-WAYS OR EASEMENTS IN REFERENCE TO
OR LOCATED ON THIS PROPERTY.

VERTICAL DATUM: NAVD (1988)
PARCEL IS IN FLOOD ZONE AF (FEV 51)

PROPOSED CONDITIONS
TOPOGRAPHIC &
BOUNDARY SURVEY PLAN FOR
LAURA M. THISTLE

SHADY RIDGE DRIVE
(50' R/W)

EDGE OF PAVING



LEGEND:

- ▲ (with 'S') IRON ROD (SET)
- ▲ IRON ROD (FOUND)
- (with 'D') DISTURBED IRON PIPE (FOUND)
- POINT
- A-1 > FEDERALLY REGULATED WETLANDS FLAG 4/6/2017
- (with '88') ELEVATION SPOT SHOT (NAVD 88)
- 0 EXISTING CONTOUR

TOPOGRAPHIC &
BOUNDARY SURVEY PLAN FOR
WADE THOMPSON

LOT #25 OF "SHADY RIDGE" SUBDIVISION
LEWES & REHOBOTH HUNDRED SUSSEX COUNTY
STATE OF DELAWARE
APRIL 7, 2017 SCALE: 1" = 30'

WETLANDS STATEMENT

I, EDWARD M. LAUNAY, PWS, STATE THAT THE BOUNDARIES OF WATERS OF THE UNITED STATES INCLUDING WETLANDS SUBJECT TO THE CORPS OF ENGINEERS REGULATORY PROGRAM DELINEATED UPON THIS PLAN HAVE BEEN DETERMINED USING MY PROFESSIONAL JUDGEMENT IN ACCORDANCE WITH THE 1987 CORPS OF ENGINEERS WETLANDS DELINEATION MANUAL, ATLANTIC GULF COAST REGIONAL SUPPLEMENT, REGULATIONS AND SUPPLEMENTAL GUIDANCE (33 CFR 328.3(a)(8)), Waters of the U.S. Definition/CECW-DR, 10-7-1991, Questions and Answers on the 1987 CDE Manual/CECW-DR, 9-26-1990, RGL 90-7/CECW-DR, 3-6-1992 Clarification and Interpretation of the 1987 Manual. THIS DELINEATION HAS NOT BEEN CONDUCTED FOR USDA PROGRAM OR AGRICULTURAL PURPOSES.

THERE ARE NO STATE REGULATED WETLANDS ON THIS PROPERTY

EDWARD M. LAUNAY, PWS No. 875
SOCIETY OF WETLANDS SCIENTISTS
CORPS OF ENGINEERS, CERTIFIED WETLAND
DELINEATOR WD093MD0510036B

Date

NOTES:

- VERTICAL DATUM: NAVD (1988)
- THESE PARCELS ARE IN: ZONE AE (B.F.E.:5)
- FLOOD INSURANCE RATE MAP: 10005C0351K, MARCH 16, 2015
- *ALL SETBACKS MUST BE VERIFIED BY THE HOME OWNER AND/OR GENERAL CONTRACTOR. PLEASE CALL SUSSEX COUNTY (302-855-7720), DNREC (302-739-9939), AND THE HOA (MOST RESTRICTIVE SUPERSEDES).
- THIS DRAWING DOES NOT VERIFY THE EXISTENCE OR NON-EXISTENCE OF UTILITIES, RIGHT-OF-WAYS OR EASEMENTS IN REFERENCE TO OR LOCATED ON THIS PROPERTY
- WETLAND BOUNDARIES WERE DETERMINED BY ENVIRONMENTAL RESOURCES INC.
- NO TITLE SEARCH PROVIDED OR STIPULATED.
- SURVEY CLASS: SUBURBAN

Prepared by

FORESIGHT Services

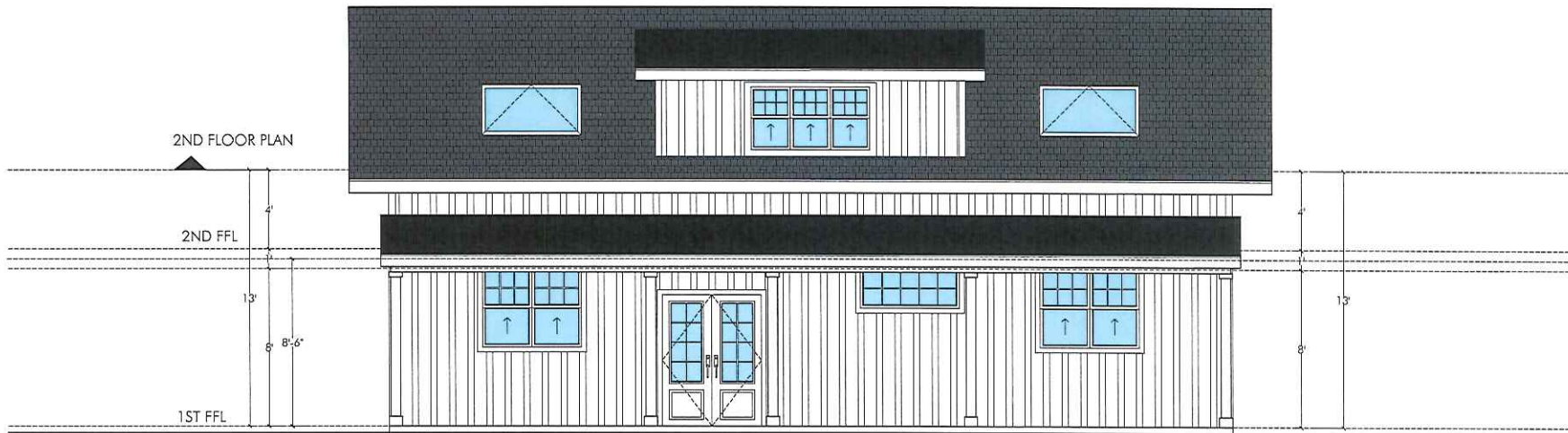
Surveying & Precision Measurement

302-226-2779 phone

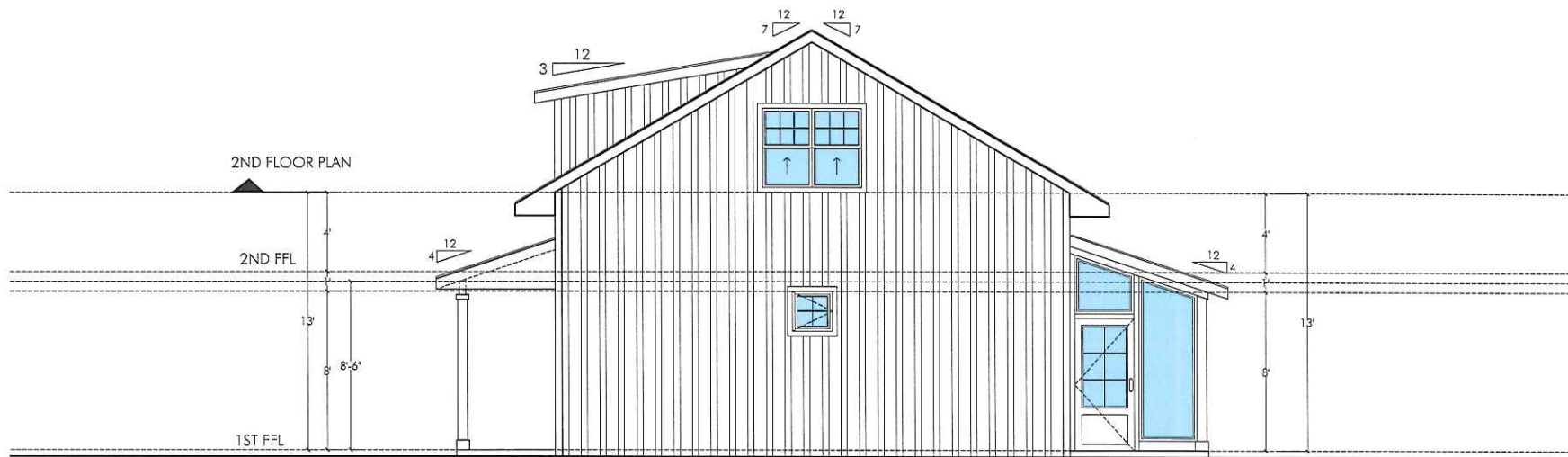
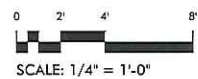
302-226-2239 fax

2103A Coastal Highway

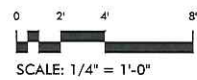
Dewey Beach, DE 19971

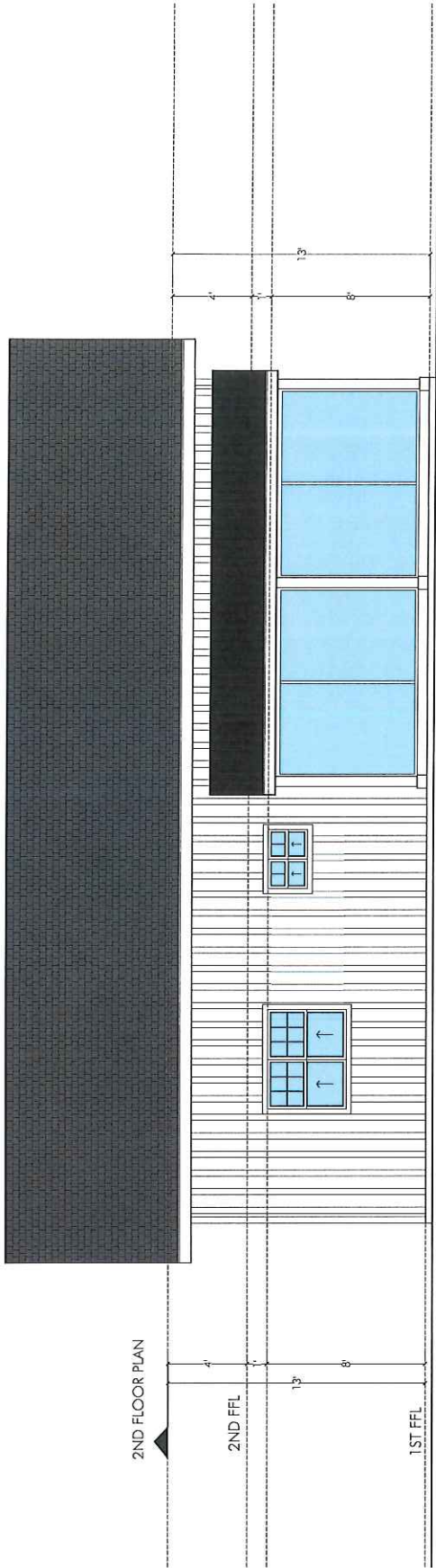


ELEVATION 1



ELEVATION 2



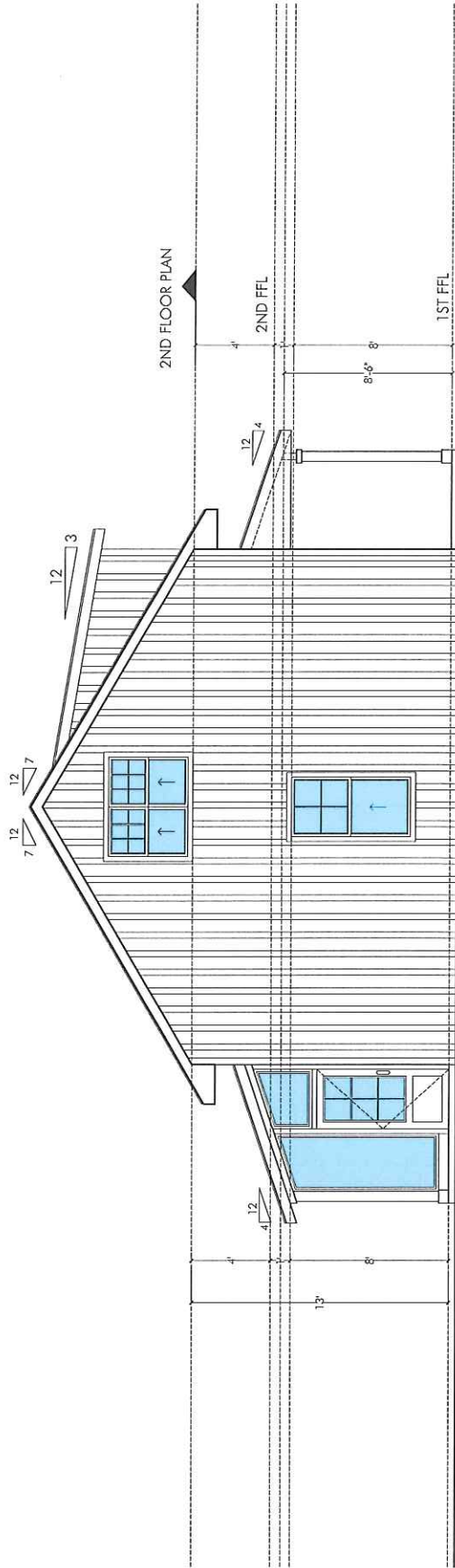
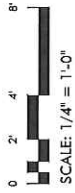


2ND FLOOR PLAN

2ND FFL

1ST FFL

ELEVATION 3



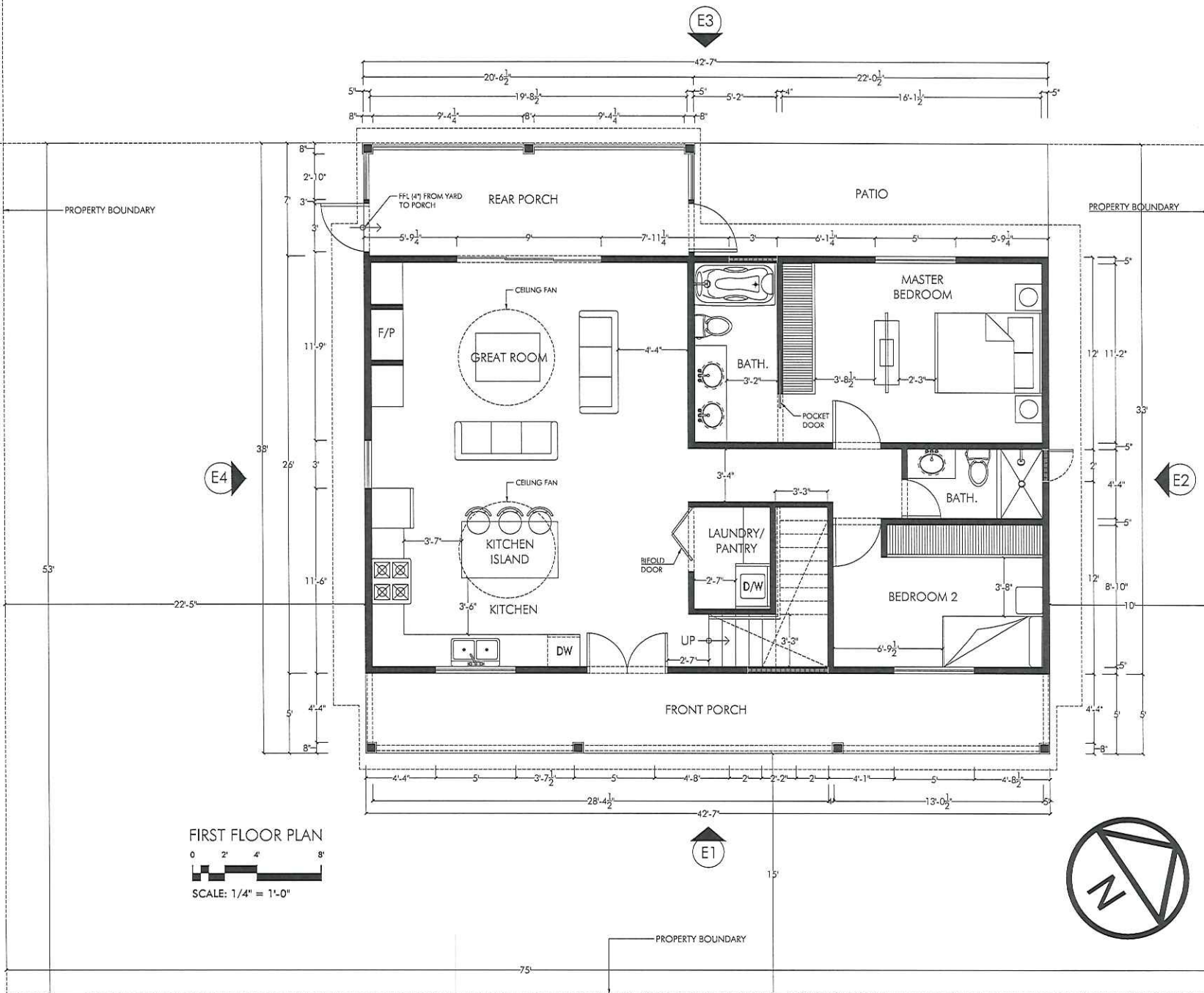
2ND FLOOR PLAN

2ND FFL

1ST FFL

ELEVATION 4





FIRST FLOOR PLAN
 0 2' 4' 8'
 SCALE: 1/4" = 1'-0"

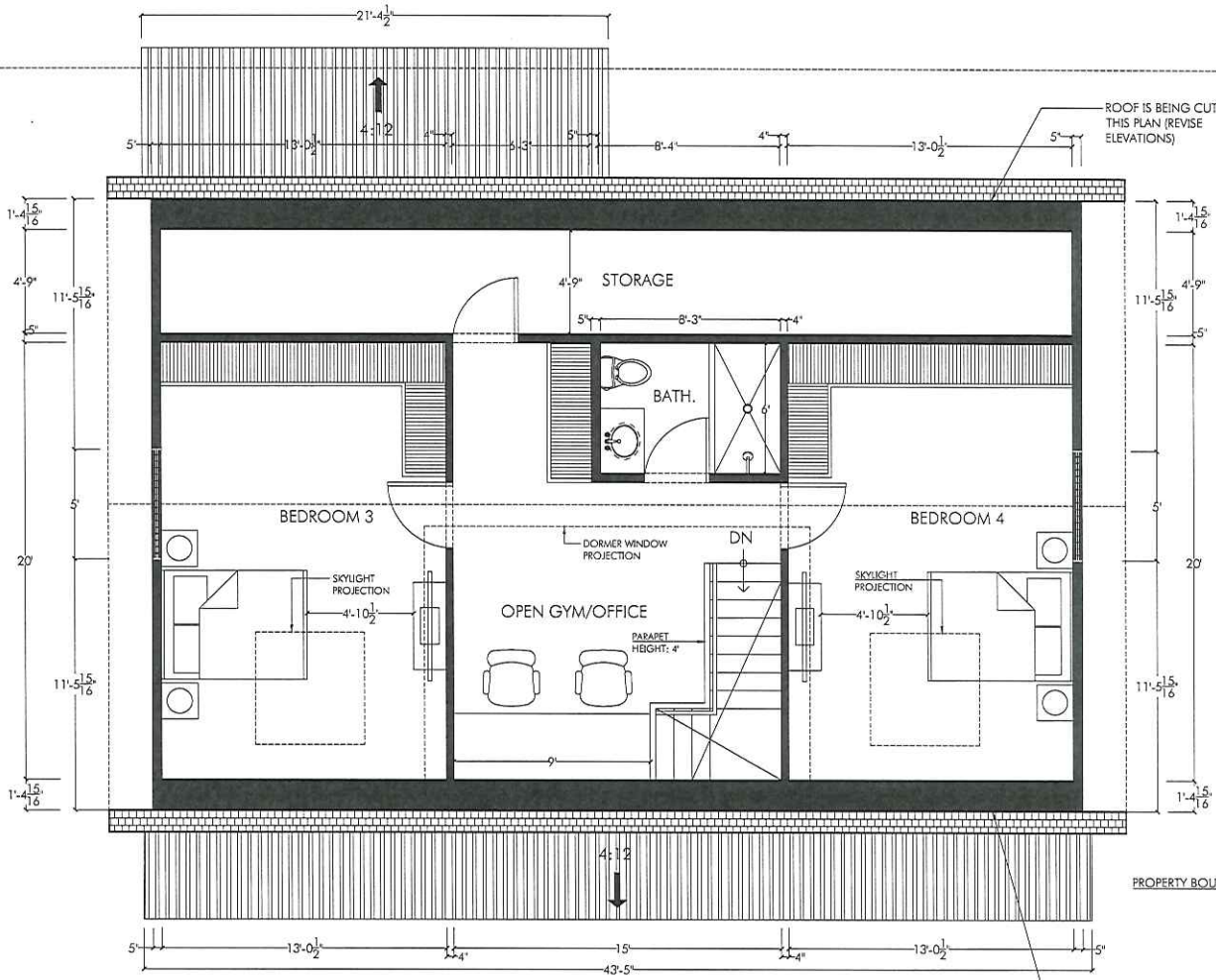


E3

E4

E2

E1



SECOND FLOOR PLAN



SCALE: 1/4" = 1'-0"



PROPERTY BOUNDARY

PROPERTY BOUNDARY

PROPERTY BOUNDARY

ROOF IS BEING CUT IN THIS PLAN (REVISE ELEVATIONS)

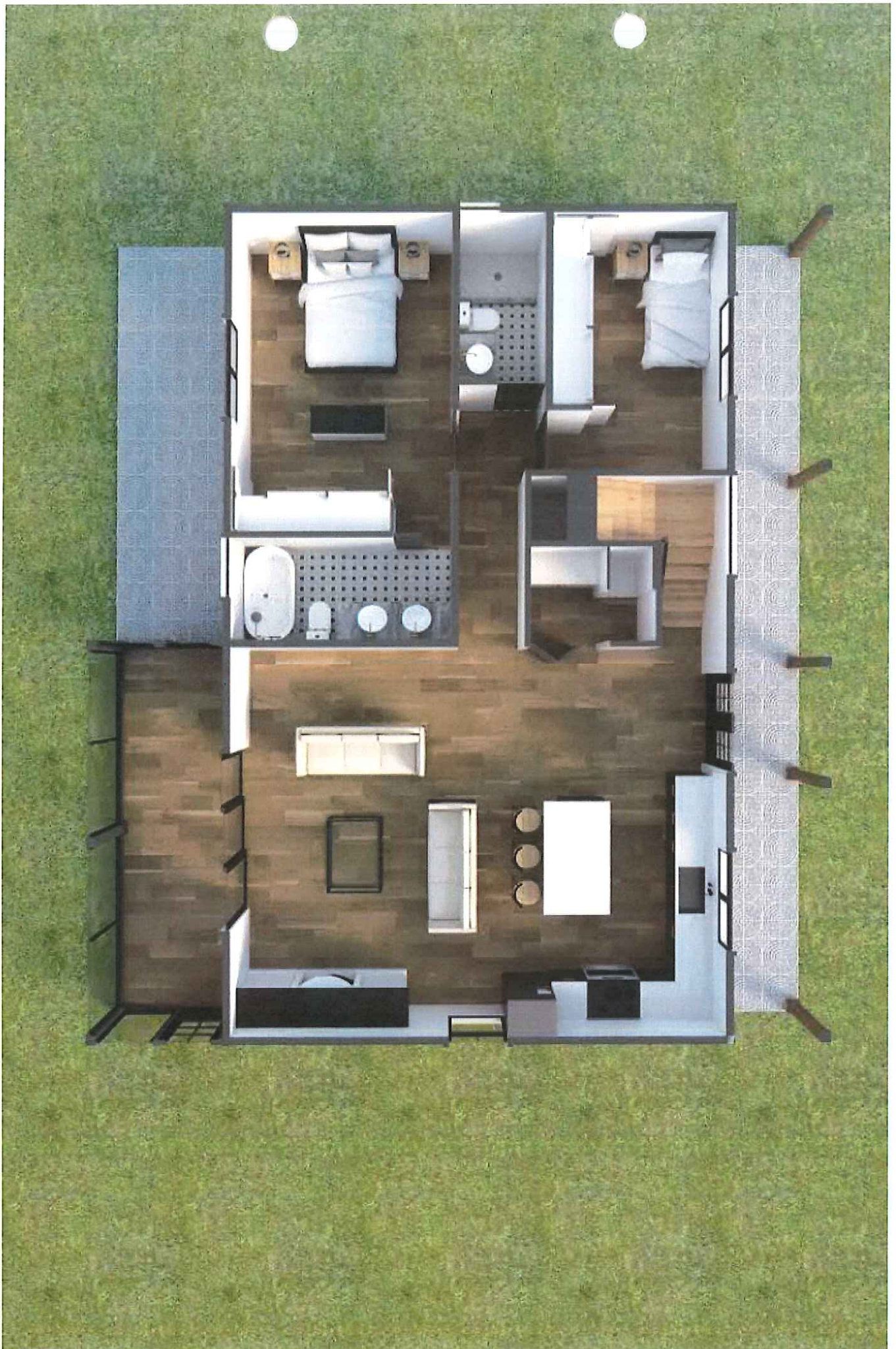
ROOF IS BEING CUT IN THIS PLAN (REVISE ELEVATIONS)









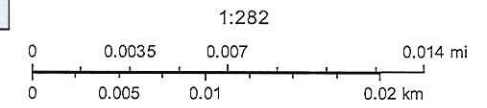






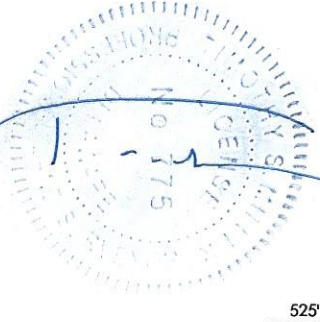
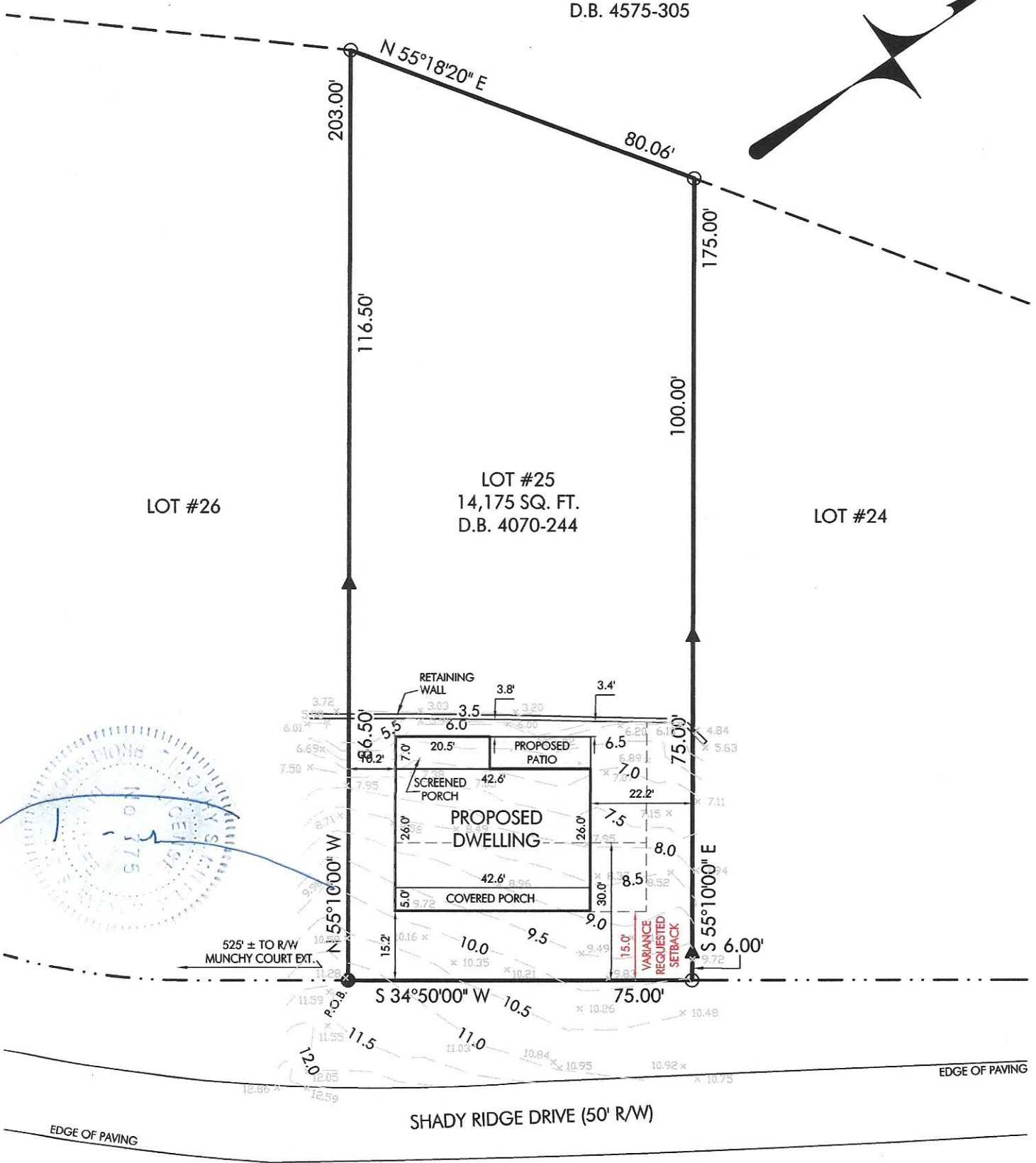
PIN:	334-13.00-579.00
Owner Name	THOMPSON CHRISTOPHER WADE TRUSTEE
Book	4070
Mailing Address	PO BOX 52
City	NASSAU
State	DE
Description	RT 270A SHADY RIDGE
Description 2	LOT 25
Description 3	N/A
Land Code	

- polygonLayer
 - Override 1
- polygonLayer
 - Override 1
 - Tax Parcels
 - 911 Address
 - Streets
 - County Boundaries
 - Municipal Boundaries



LANDS N/F
 LAURA M. THISTLE
 D.B. 4575-305

P.B. 12.24



NOTES:
 THIS DRAWING DOES NOT VERIFY THE EXISTENCE OR NON-EXISTENCE OF WETLANDS, UTILITIES, RIGHT-OF-WAYS OR EASEMENTS IN REFERENCE TO OR LOCATED ON THIS PROPERTY.
 VERTICAL DATUM: NAVD (1988)
 PARCEL IS IN FLOOD ZONE: AE (ELEV. 5')
 F.I.R.M. 10005C0351K, JUNE 20, 2018
 ALL SETBACKS MUST BE VERIFIED BY THE OWNER, GENERAL CONTRACTOR AND/OR THE DESIGNER. PLEASE CONTACT SUSSEX COUNTY (302-855-7878) AND THE H.O.A. (MORE RESTRICTIVE SUPERSEDES).
 NO TITLE SEARCH PROVIDED OR STIPULATED.
 SURVEY CLASS: SUBURBAN

- LEGEND:**
- DISTURBED IRON PIPE (FOUND)
 - ▲ IRON ROD (SET)
 - POINT
 - × 0.00 ELEVATION SPOT SHOT (NAVD 88)
 - 0 — EXISTING CONTOUR LINE (NAVD 88)

**PROPOSED CONDITIONS
 TOPOGRAPHIC &
 BOUNDARY SURVEY PLAN FOR
 LAURA BEARSCH**
 127 SHADY RIDGE DRIVE, REHOBOTH
 LOT #25 OF "SHADY RIDGE" SUBDIVISION
 LEWES & REHOBOTH HUNDRED SUSSEX COUNTY
 STATE OF DELAWARE
 SEPTEMBER 1, 2021 SCALE: 1" = 30'

Prepared by:
FORESIGHT Services
 Surveying & Precision Measurement

302.226.2229 phone 302.226.2239 fax 2103A Coastal Highway Dewey Beach, DE 19971

Board of Adjustment Application
Sussex County, Delaware

Sussex County Planning & Zoning Department
2 The Circle (P.O. Box 417) Georgetown, DE 19947
302-855-7878 ph. 302-854-5079 fax

Case # 1261
Hearing Date 9/20

202111757

Type of Application: (please check all applicable)

Variance
Special Use Exception
Administrative Variance
Appeal

Existing Condition
Proposed
Code Reference (office use only)
115-25 115-210

Site Address of Variance/Special Use Exception:

18601 Johnson Rd. Lincoln DE 19960

Variance/Special Use Exception/Appeal Requested:

special use to expand current daycare facility

Tax Map #: 330-15.13-38.00

Property Zoning: AR-1

Applicant Information

Applicant Name: Roderick & Melodie Morris
Applicant Address: 891 Windrow Way
City Magnolia State DE Zip: 19962
Applicant Phone #: 302922 3153 Applicant e-mail: lovedrives@comcast.net

Owner Information

Owner Name: Charles Hairston
Owner Address: 112 Gillespie Ave.
City Middletown State DE Zip: 19709 Purchase Date: 3/24/17
Owner Phone #: (302) 312 8277 Owner e-mail: hairstch@yahoo.com

Agent/Attorney Information

Agent/Attorney Name: _____
Agent/Attorney Address: _____
City _____ State _____ Zip: _____
Agent/Attorney Phone #: _____ Agent/Attorney e-mail: _____

Signature of Owner/Agent/Attorney

mm

Date: 7-30-21



Criteria for a Special Use Exception: (Please provide a written statement regarding each criteria)

You shall demonstrate to the Board of Adjustment that the property meets all of the following criteria for a Special Use Exception to be granted.

1. Such exception will not substantially affect adversely the uses of adjacent and neighboring property. *This property currently has a special use exception. The expansion will not adversely affect the neighboring properties.*

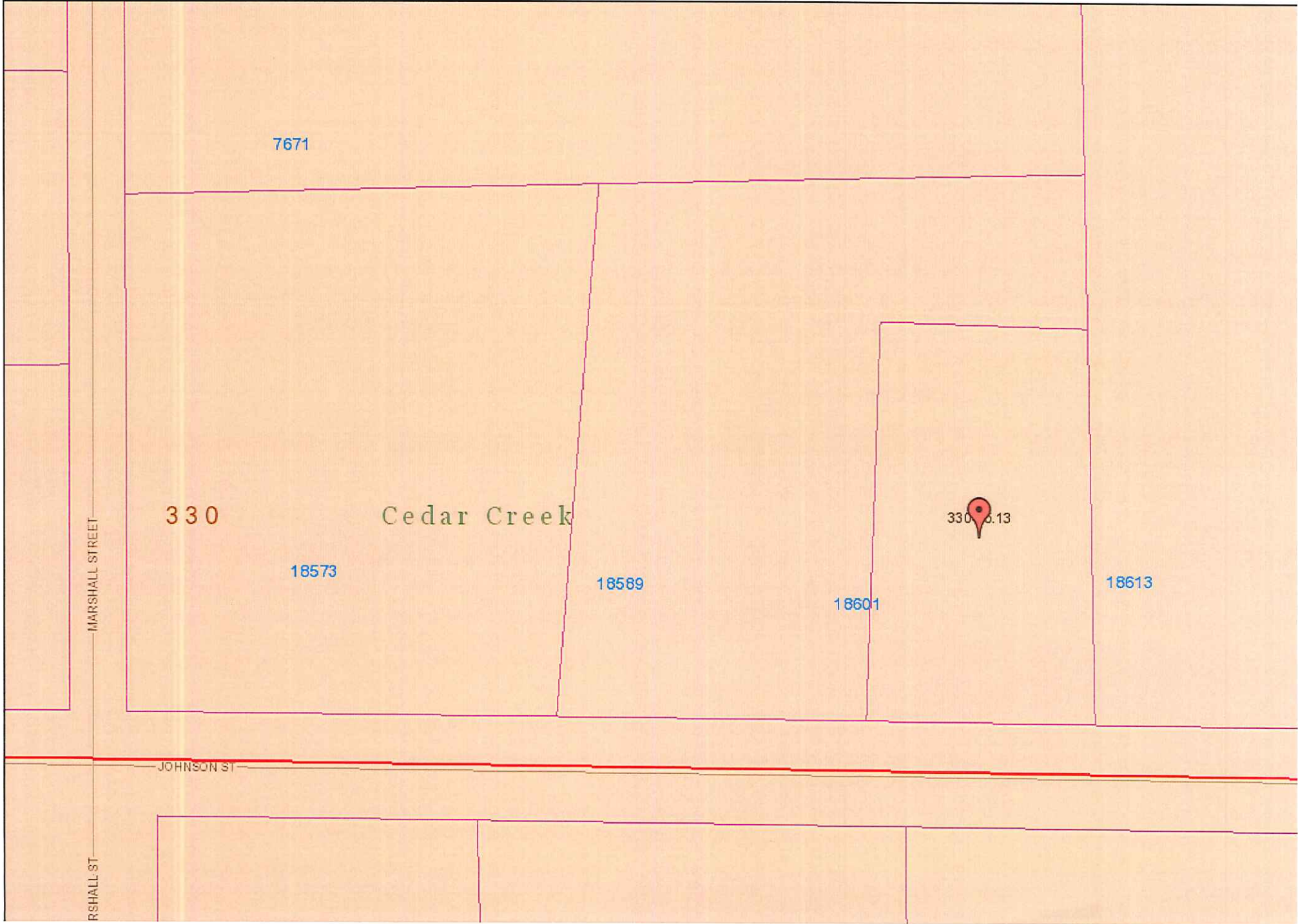
2. Any other requirements which apply to a specific type of special use exception as required by the Sussex County Code. (Ex. Time limitations – 5 year maximum)

N/A

Basis for Appeal: (Please provide a written statement regarding reason for appeal)

N/A

330-15.13-38.00



BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: CHARLES HAIRSTON

(Case No. 12023)

A hearing was held after due notice on September 18, 2017. The Board members present were: Mr. Dale Callaway, Ms. Ellen Magee, Mr. John Mills, Mr. Norman Rickard, and Mr. Brent Workman.

Nature of the Proceedings

This is an application for a special use exception to operate a daycare facility.

Findings of Fact

The Board found that the Applicant is requesting a special use exception to operate a daycare facility. This application pertains to certain real property located north side of Johnson Road (Route 207), approximately 300 feet east of Marshall Street (Route 225) (911 Address: 18601 Johnson Road, Lincoln); said property being identified as Sussex County Tax Map Parcel Number 3-30-15.13-38.00. After a hearing, the Board made the following findings of fact:

1. The Board was given copies of the Application, a portion of the tax map of the area, and a letter from Melodie Morris.
2. The Board found that the Office of Planning and Zoning received no correspondence in support of or in opposition to the Application.
3. The Board found that Melodie Morris was sworn in and testified regarding the Application.
4. The Board found that Ms. Morris testified that the facility will serve up to twelve (12) children and the hours of operation would be from 7:00 am to 5:30 pm Monday through Friday.
5. The Board found that Ms. Morris testified that there is ample parking for the facility. The parking area is along a long driveway and there is plenty of room for cars to turn around without of backing out the driveway. The driveway is large enough to accommodate at least six (6) cars.
6. The Board found that Ms. Morris testified that all of the children will not be coming at the same time.
7. The Board found that Ms. Morris testified that the facility will have two employees.
8. The Board found that Ms. Morris testified that the proposed facility will not substantially affect adversely neighboring properties.
9. The Board found that Ms. Morris testified that an elementary school is located approximately 400 feet from the Property and there is a trucking company and multiple businesses are also located nearby along Johnson Road.
10. The Board found that Ms. Morris testified that the facility will have a fenced-in playground area.
11. The Board found that Lyle Merrick and Everett Tyrell were sworn in and testified in opposition of the Application.
12. The Board found that Ms. Merrick testified that her property is located across the street from the proposed daycare facility and her brother owns the adjoining property to her property. The Lincoln School is located next to her property and is separated by a chain-link fence.
13. The Board found that Ms. Merrick testified that the milkman is there at 4:00 am, the bread man at 5:00 am, and the dumpster at 6:00 am. Buses and traffic are also in the area most of the day.
14. The Board found that Ms. Merrick testified that Lincoln used to be a relatively residential place and the center of Lincoln is mainly residential.

15. The Board found that Ms. Merrick testified that Johnson Road (Road 207) is located in front of her property and has become a thoroughfare from Route 113 to Route 1 and there is constant traffic along Johnson Road.
16. The Board found that Ms. Merrick testified that the driveway does not appear large enough for twelve people to come and pick up their children because the only access to the Property is a pull in / back out driveway.
17. The Board found that Ms. Merrick testified that she does not feel they need any more activity in the area because of the noise and traffic associated with the school and Johnson Road.
18. The Board found that Ms. Merrick testified that the facility is not sufficient enough to help 12 kids learn and grow.
19. The Board found that Ms. Merrick testified that the owner bought the bungalow and renovated it and it looks very nice, but it is in a residential area and should not be used for a daycare.
20. The Board found that Mr. Tyrell testified that he is concerned for the welfare of the children.
21. The Board found that Mr. Tyrell testified that there is too much noise already.
22. The Board found that Mr. Tyrell testified that Johnson Road has a speed limit of 25 miles per hour but there is a shoulder on either side of the road.
23. The Board found that Ms. Morris testified that the house consists of approximately 1,300 square feet and the home was recently renovated.
24. The Board found that Ms. Morris testified that the home has adequate space for twelve (12) children. She is currently operating a daycare for six (6) children in a residential development but is moving her operation to this new location in order to expand her business. She will not be living on the Property.
25. The Board found that Ms. Morris testified that this daycare will be operated as a business instead of a home daycare.
26. The Board found that Ms. Morris testified that there are teachers from the nearby elementary school that are excited there will be a daycare nearby
27. The Board found that no parties appeared in favor of the Application.
28. The Board found that two (2) parties were in opposition of the Application.
29. Based on the findings above and the testimony and evidence presented at the public hearing and the public record, which the Board weighed and considered, the Board determined that the application met the standards for granting a special use exception because the daycare facility will not substantially affect adversely the uses of neighboring and adjacent properties. The findings below further support the Board's decision to approve the Application.
 - a. The Property is located along Johnson Road near a school and other businesses. The testimony from both the Applicant and the opposition is clear that there is already commercial activity and children in the area. The daycare is consistent with those uses.
 - b. The opposition presented concerns about traffic and safety but those concerns appear to be speculative at best. The opposition testified that the traffic in the area has increased but there was no evidence that the daycare facility has caused this traffic increase or that the existence of the facility will substantially adversely increase traffic beyond the traffic that already exists in the area. The evidence was clear, however, that the facility will be used by a small number of people; 2 employees and up to 12 children. The 12 children will likely not be picked up or dropped off at the facility at the same time.
 - c. The opposition presented concerns about parking on the Property but the aerial photograph shows that there is ample parking on the Property as well as a shoulder along Johnson Road. The Board has no concerns that the

parking will substantially adversely impact the uses of neighboring and adjacent properties.

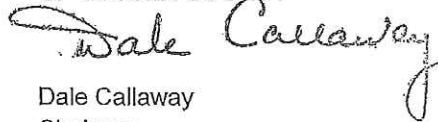
- d. The opposition complained about noise in the area from other uses but presented no substantial evidence that the daycare would increase noise pollution in the area to a level that would substantially affect adversely the uses of neighboring and adjacent properties. Rather, the hours of the facility are reasonable so any noise generated from the facility will be at reasonable hours. The facility is located in close proximity to a school and any noise generated by the daycare should be consistent with noises from the school such as children playing outside.
- e. The number of children served at the daycare is limited and is reasonable. The Applicant does not intend to have more than 2 employees so the number of people on the Property is also limited and reasonable.
- f. The playground area will be fenced-in to keep the children on the Property which should reduce the impact of the daycare on neighboring properties.
- g. There was no evidence presented that the daycare would have a substantial adverse effect on emissions, vibrations, property values, air quality, or pollution in the area.
- h. The Board was not convinced that the daycare would have a substantial adverse effect on neighboring and adjacent properties.

The Board granted the special use exception application finding that it met the standards for granting a special use exception.

Decision of the Board

Upon motion duly made and seconded, the special use exception application was approved. The Board Members in favor were Mr. Dale Callaway, Ms. Ellen Magee, Mr. John Mills, Mr. Norman Rickard, and Mr. Brent Workman. No Board Members voted against the Motion to approve the special use exception application.

BOARD OF ADJUSTMENT
OF SUSSEX COUNTY



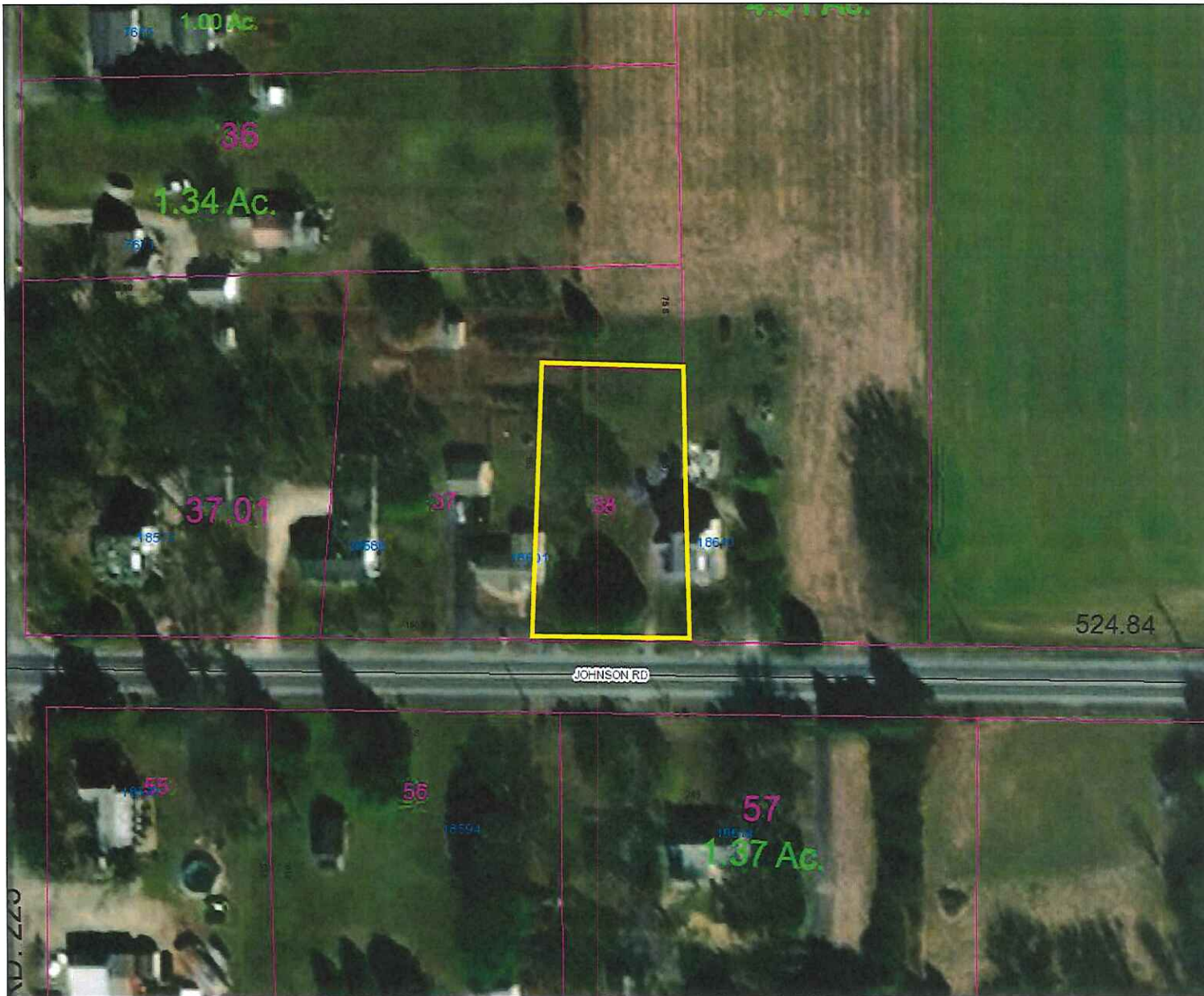
Dale Callaway
Chairman

If the use is not established within one (1) year from the date below the application becomes void.

Date November 21, 2017



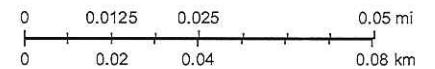
Sussex County



PIN:	330-15.13-38.00
Owner Name	HAIRSTON CHARLES
Book	4683
Mailing Address	18601 JOHNSON RD
City	LINCOLN
State	DE
Description	ON JOHNSON AVE
Description 2	N/RT 207 300'
Description 3	E/RT 225
Land Code	

- polygonLayer
 - Override 1
- polygonLayer
 - Override 1
 - ⋮ Tax Parcels
 - 911 Address
 - Streets
 - ⋮ County Boundaries
- Tax Ditch Segments**
 - Tax Ditch Channel
 - Pond Feature
 - ⊕ Special Access ROW
 - ⋮ Extent of Right-of-Way
 - ⋮ Approx. Watershed Boundary
 - ⋮ Municipal Boundaries

1:1,128





Record Navigator

14 3 of 5

Return to Search

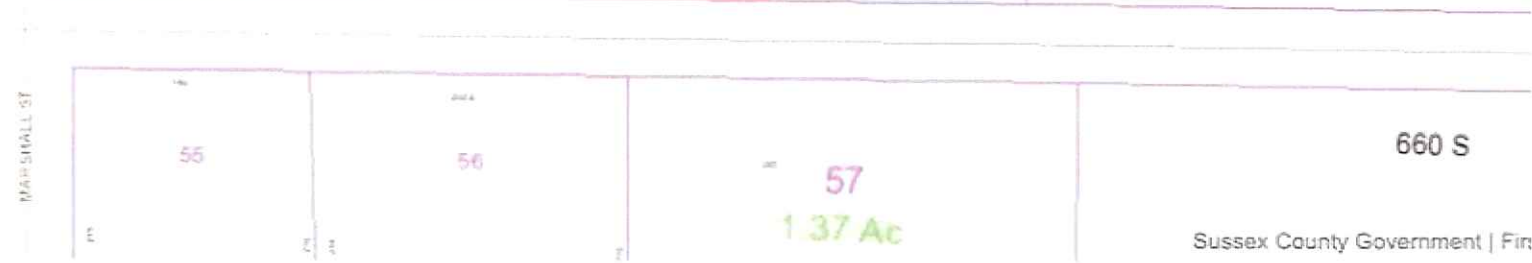
Actions

Buffer Search

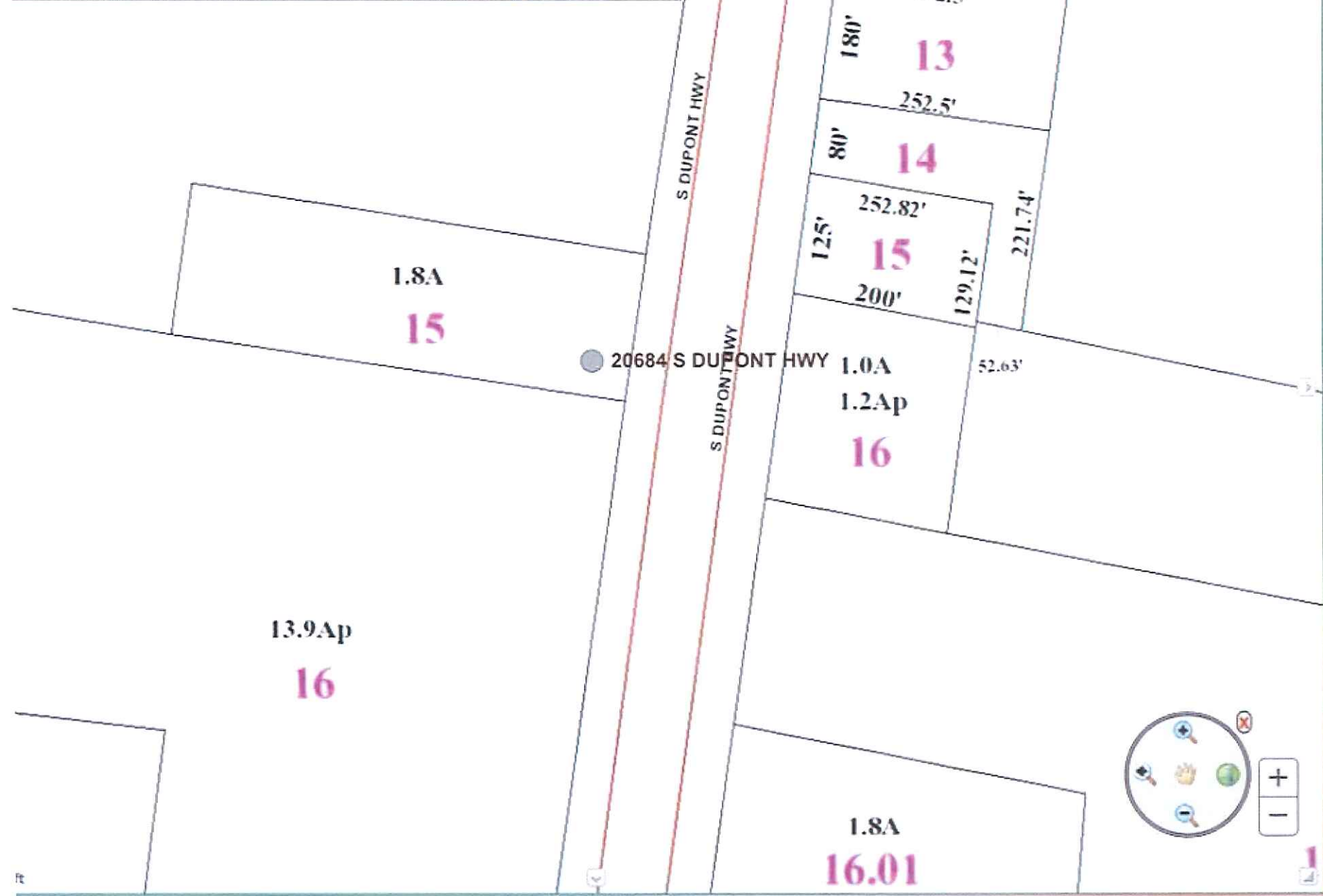
JOHNSON ST

Revised PG 173-76

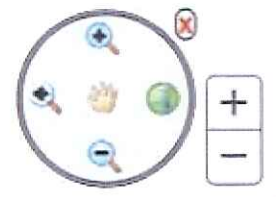
146.04	124	101.44
38		
146.04	146.04	101.44
	39.01	
61.871		



- Airport
- Blue Li
- Contou
- Groun
- Noise (
- Soils
- Tax Ditch
- Wellhe
- Wetlar
- APZ
- Current FI



- Land Use, Zoning
- Aerials
- Roads & Adresse
- Public Works
- Boundaries & Dist
- Annotation
- Parcels





MCKENZIE

CAMPUS







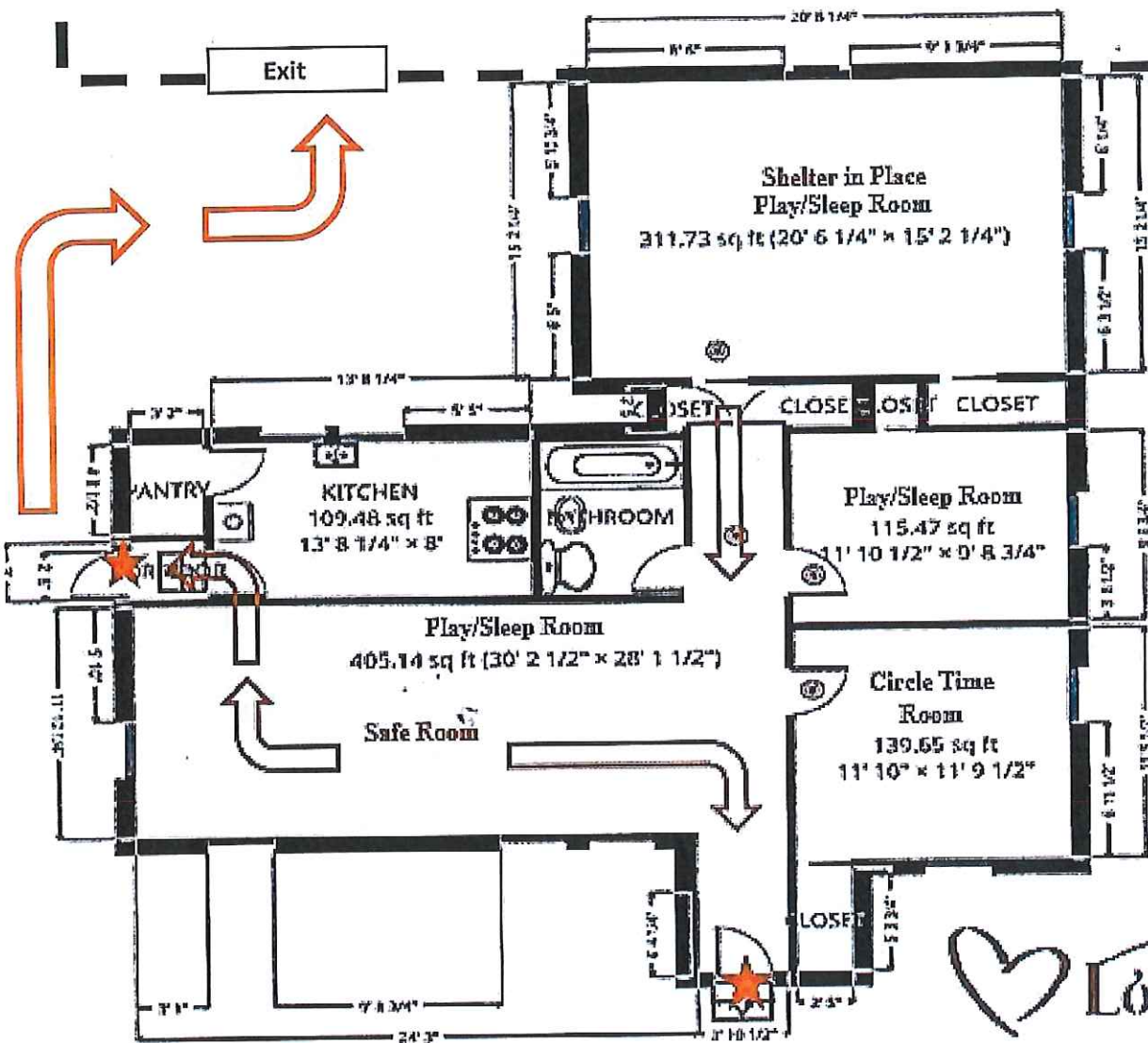








Fenced in Play Area

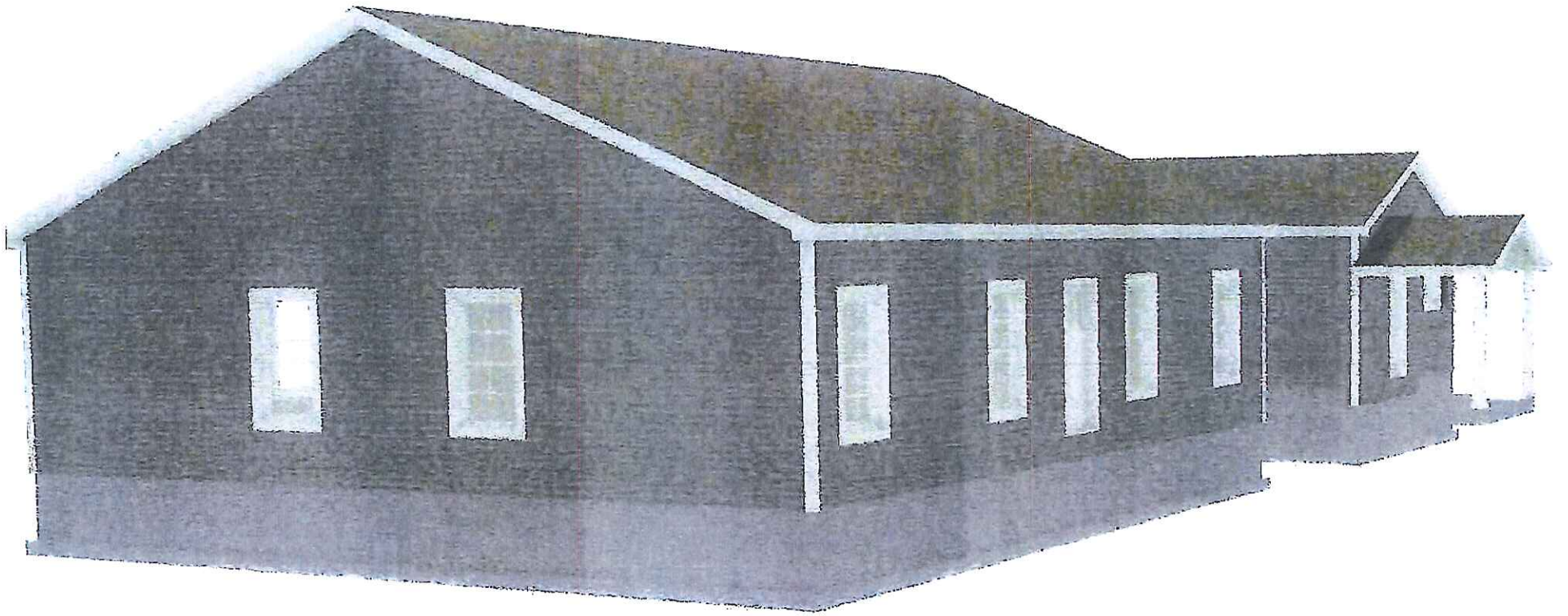


KEY of Emergency Exit:

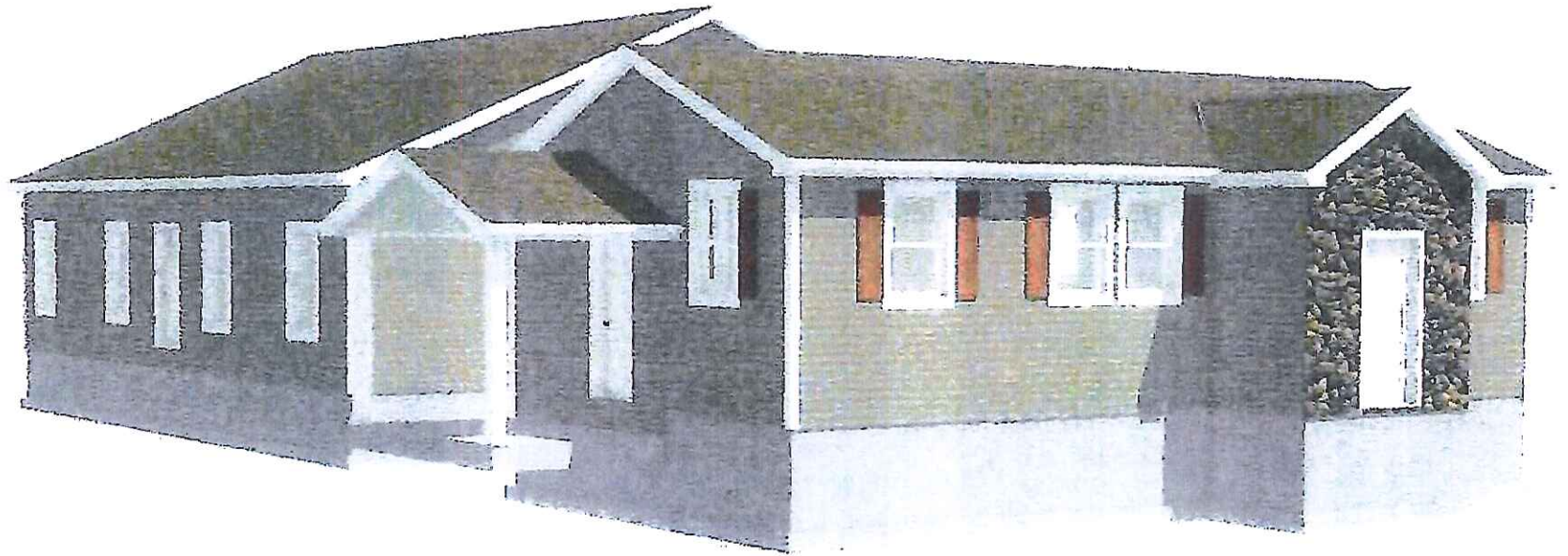
- ★ Exit Door to Outside
- Exit Door
- Ⓢ Single Doorway

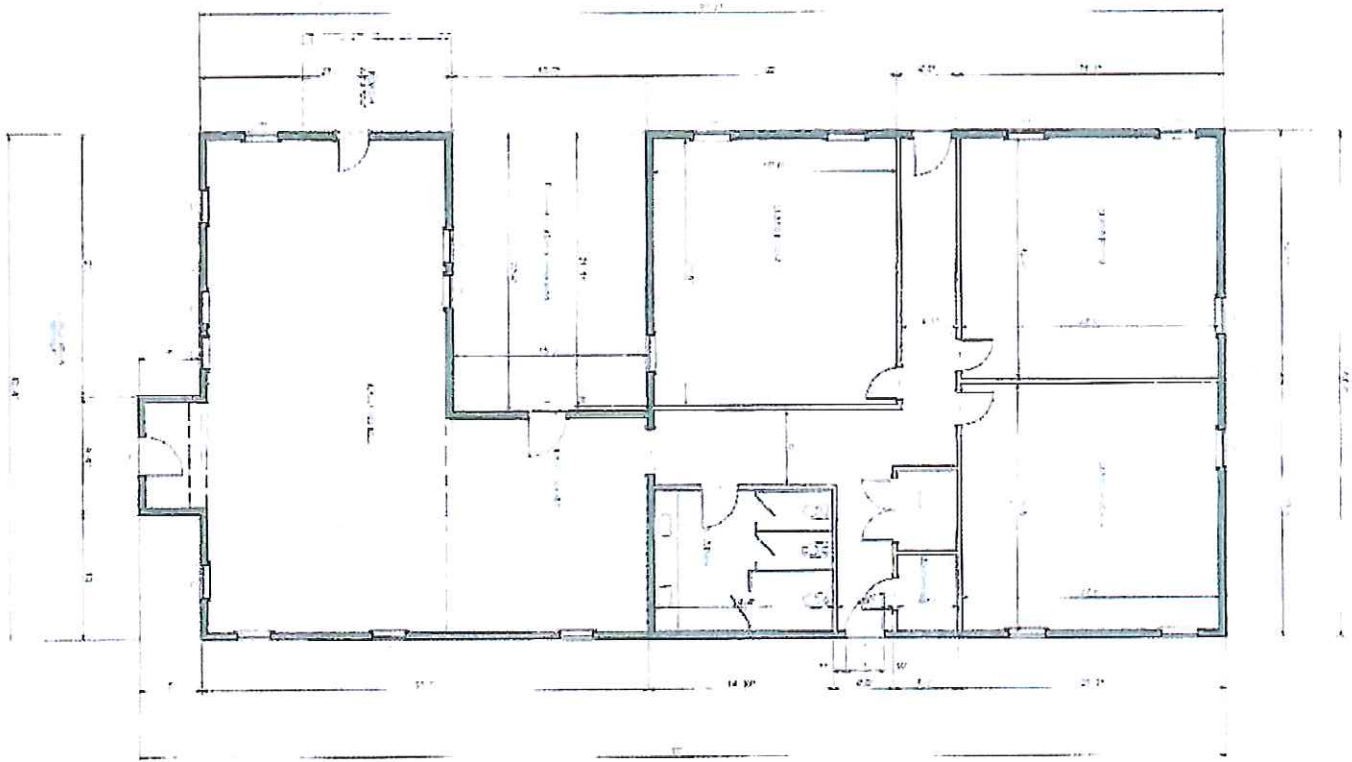
Shelter in Place – Place where the staff and child can stay inside the Large Family Child Care and can keep air out until officials advise us that it is safe.

Safe Room – Place where the staff and children can stay inside the Large Family Child Care during an emergency until officials advise us that it is safe.









**Board of Adjustment Application
Sussex County, Delaware**

Sussex County Planning & Zoning Department
2 The Circle (P.O. Box 417) Georgetown, DE 19947
302-855-7878 ph. 302-854-5079 fax

Case # 12612
Hearing Date 9/20

202112116

Type of Application: (please check all applicable)

Variance
Special Use Exception
Administrative Variance
Appeal

Existing Condition
Proposed
Code Reference (office use only)
115-25 115-182
115-105

Site Address of Variance/Special Use Exception:

36617 Roxana Rd, Selbyville, DE 19975

Variance/Special Use Exception/Appeal Requested:

Request for 7.8' from the 40' set Back.

Tax Map #: 5-33-10-65

Property Zoning: AR-1

Applicant Information

Applicant Name: W. Scott Collins
Applicant Address: 31385 Bishopville Rd
City Selbyville State DE Zip: 19975
Applicant Phone #: 302-344-8546 Applicant e-mail: wscottcollins910@gmail.com

Owner Information

Owner Name: W. Scott Collins
Owner Address: 31385 Bishopville Rd
City Selbyville State DE Zip: 19975 Purchase Date: _____
Owner Phone #: 302-344-8546 Owner e-mail: _____

Agent/Attorney Information

Agent/Attorney Name: _____
Agent/Attorney Address: _____
City _____ State _____ Zip: _____
Agent/Attorney Phone #: _____ Agent/Attorney e-mail: _____

Signature of Owner/Agent/Attorney



Date: 8/12/21




Criteria for a Variance: (Please provide a written statement regarding each criteria).

You shall demonstrate to the Board of Adjustment that the property meets all of the following criteria for a Variance to be granted.

In granting any variance the Board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of the Zoning Ordinance or Code. The Board is empowered in no case, however, to grant a variance in the use of land or structures thereon.

1. Uniqueness of property:

That there are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property and that the exceptional practical difficulty is due to such conditions and not to circumstances or conditions generally created by the provisions of the Zoning Ordinance or Code in the neighborhood or district in which the property is located.

When the Pole building was built, I attempted to keep it as close to parallel to the N.W. property line and edge of property, and facing Roxanna Rd, but at an angle. Due to the angle of the property line relative to the roadway one corner of the building is 58.1' from the roadway and the other corner is 32.2' from the 

2. Cannot otherwise be developed:

That because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the Zoning Ordinance or Code and that the authorization of a variance is therefore necessary to enable the reasonable use of the property.

Building already in place, and would be extremely difficult to move.


3. Not created by the applicant:

That such exceptional practical difficulty has not been created by the appellant.

When placing building to match angle of property line, the one corner was moved forward without notice by me.

4. Will not alter the essential character of the neighborhood:

That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located and nor substantially or permanently impair the appropriate use of development of adjacent property, nor be detrimental to the public welfare.

The building's proximity to the roadway will not alter the character of the area, nor impair any of the neighboring properties. Its location does not effect visibility, and actually sits farther from the roadway than the farmhouse that is currently on the property. 

5. Minimum variance:

That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible of the regulation in issue.

I am being advised that the North East corner of the building is 7'10" from complying with the 40' set back.

