

JAMIE WHITEHOUSE, AICP
DIRECTOR OF PLANNING & ZONING
(302) 855-7878 T
(302) 854-5079 F
jamie.whitehouse@sussexcountyde.gov



Sussex County

DELAWARE
sussexcountyde.gov

PLEASE NOTE

This paperless packet is published on the County's website for convenience purposes, and only includes information received up to the close of business on the day before a public hearing. Documents received after this, or documents submitted during the public hearing are not uploaded to the Paperless Packet. The legal record is the paper record maintained in the Offices of the Planning & Zoning Department.



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

BOARD OF ADJUSTMENT

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



Sussex County

DELAWARE
sussexcountyde.gov

(302) 855-7878

AGENDA

December 19, 2022

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 October 17, 2022

Approval of Finding of Facts for October 17, 2022

Public Hearings

Case No. 12772–Edwin Fredrikson seeks 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 east side of Bayberry Lane within the Keenwik on the Bay Subdivision. 911 Address: 38281 Bayberry Lane, Selbyville. Zoning District: MR. Tax Parcel: 533-20.09-103.00

Case No. 12773– Bay Shore Community Church, c/o Jeremy Ferruccio seeks a special use exception to operate a daycare (Section 115-23 of the Sussex County Zoning Code). The property is located on the west side of Old Landing Road approximately 0.12 miles from Betsy Ross Boulevard. 911 Address: 20376 Old Landing Road, Rehoboth Beach. Zoning District: AR-1. Tax Parcel: 334-18.00-78.00 & 78.01

Case No. 12774–Dianne V. Tobias seeks variances from the front yard setback requirement for proposed structures (Sections 115-34 and 115-182 of the Sussex County Zoning Code). The property is located on the southwest side of Pearl Street within the Orchard Manor Subdivision. 911 Address: 33174 Pearl Street, Millsboro. Zoning District: MR. Tax Parcel: 234-35.05-43.00



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

Case No. 12775–Joseph and Donna Kirby seek variances from the front yard setback and maximum fence height requirement for existing structures (Sections 115-42, 115-182, and 115-185 of the Sussex County Zoning Code). The property is located on the corner of Balgair Avenue and Savage Farm Court within the Fox Haven II Subdivision. 911 Address: 37002 Balgair Avenue, Frankford. Zoning District: GR. Tax Parcel: 533-11.00-667.00

Case No. 12776– Bryce Butterworth seeks variances from the rear yard setback requirements for an existing structure (Sections 115-25, 115-183, and 115-185 of the Sussex County Zoning Code). The property is located on the southwest side of Beverly Lane within the Creek Falls Farm Subdivision. 911 Address: 5009 Beverly Lane, Milton. Zoning District: AR-1. Tax Parcel: 235-22.00-605.00

Additional Business



-MEETING DETAILS-

In accordance with 29 Del. C. §10004(e)(2), this Agenda was posted on December 12, 2022, at 4:30 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, December 15, 2022.

####



Case # 12772
Hearing Date _____

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

202215022

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:

38281 Bayberry Lane (Keenwick on the Bay)
Variance/Special Use Exception/Appeal Requested. 1.1 foot variance^{30' front yard setback} being requested to build 2nd story balcony off front of house. Within HOA covenant but not county.

Tax Map #: 53320-09-103 Property Zoning: MR

Applicant Information

Applicant Name: Edwin Fredrikson
Applicant Address: 3041 Chickweed Place
City Jamsville State MD Zip: 21754
Applicant Phone #: 301-676-5343 Applicant e-mail: edfredbay@gmail.com

Owner Information

Owner Name: Edwin + Karin Fredrikson
Owner Address: 38281 Bayberry Lane
City Selbyville State DE Zip: 19975 Purchase Date: 9/2008
Owner Phone #: 301-922-0046 Owner e-mail: Karin.fred@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

Date: _____



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.

Front of house is 30 feet from road. Requesting 5 foot variance for balcony. HOA allows for this but seeking county variance

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.

To build 2nd story balcony on front of house, we need the 5 feet variance to build

3. Not created by the applicant:

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

Difficulty was not created by the appellant

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 character of the neighborhood will not be impaired

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.

5 feet is the minimum we are requesting. Will keep us within the HOA covenant of 25 feet

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.

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)

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

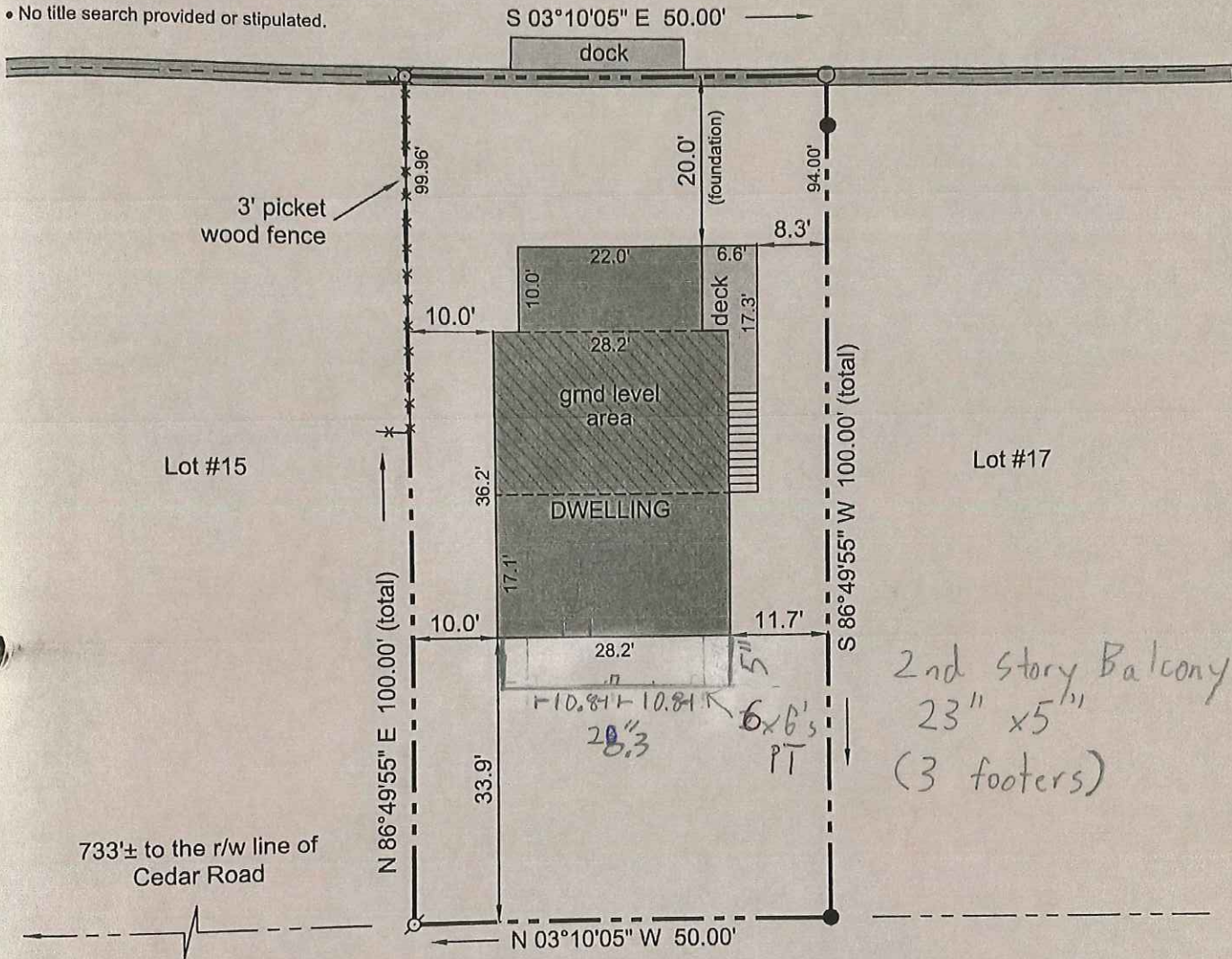
NOTES:

• This plat and survey does not verify the existence or nonexistence of right-of-ways and/or easements pertaining to this property. This includes, but is not limited to tax ditch easements and/or right-of-ways.

• No title search provided or stipulated.



Lagoon



2nd story Balcony
23" x 5"
(3 footers)

FIRM INFORMATION:
100029 - 0655 - J
JANUARY 06, 2005
ZONE: "AE", B.F.E.= 5'

BAYBERRY LANE (40' R/W)

Lands of DOROTHY BEHR, LORETTA ANNETTE BEHR, WILLIAM BEHR, and JAMES ANTHONY BEHR to be conveyed to EDWIN G. FREDRIKSON and KARIN M. FREDRIKSON. Being known as LOT NO.16, BLOCK H, SUB. NO.3, KEEN-WIK. Ref: Plat Book 3, Page 18 and Plat Book 4, Page 38.

- POINT
- 3/4" PIPE (FD)
- ∅ 5/8" REBAR (SET)
- ⊗ PK NAIL (SET)

AREA: 5,000 SQ. FT.
TAX MAP NO. 5-33-20.09-103

SCALE: 1"= 20'

HUNDRED: BALTIMORE
COUNTY: SUSSEX
STATE OF DELAWARE
DATE OF ORIGINAL: 07/25/08
DRAWN BY: A.QUILLEN

SIMPLER SURVEYING & ASSOCIATE, INC.
32486 POWELL FARM ROAD, FRANKFORD, DE 19945
www.delawaresurveyor.com
PHONE: (302) 539-7873 FAX: (302) 539-4336

CLASS "B" SURVEY
SEAL
Edwin G. Fredrikson
8.04.05
P.L.S. 711

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: CHRISTOPHER M HOLMON
2008

CASE NO. 10276 –

A hearing was held after due notice on November 17, 2008. The Board members present were: Mr. Dale Callaway, Mr. Ronald McCabe, Mr. John Mills, Mr. Brent Workman and Mr. Jeff Hudson.

Nature of Proceedings

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

Finding of Facts

The Board found that the Applicant was seeking a variance from side yard setback requirements south of Route 54, north of Bayberry Lane, Lot 16, Block H, Subdivision 3, Keenwick. The Applicant was requesting a 1.7 foot variance from the required 10 foot side yard setback. After a hearing, the Board made the following findings of fact:

1. A dwelling and staircase was constructed in 1985, but no certificate of occupancy was ever issued. The stairs are necessary to access the second floor. The violation was discovered at a real estate settlement
2. The Applicant believes that a significant hardship would be created if he had to remove an existing stairway that allows access to the second floor deck. The Application was originally tabled. Upon further consideration, the Board determined that the variance would not alter the essential character of the neighborhood, and was the minimum necessary to afford relief on a small lot.

The Board granted the requested variance.

Decision of the Board

Upon motion duly made and seconded, the application was granted. The Board members voting in favor were: Mr. Callaway, Mr. McCabe, Mr. Mills, Mr. Workman, and Mr. Hudson; voting against – none.

**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 _____

COPY



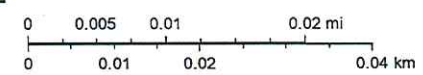
Sussex County



PIN:	533-20.09-103.00
Owner Name	FREDRIKSON EDWIN G * KARIN M
Book	3623
Mailing Address	3041 CHICKWEED PLACE
City	IJAMSVILLE
State	MD
Description	KEEN-WIK
Description 2	LOT 16 SUBDIVISION 3
Description 3	N/A
Land Code	

- polygonLayer
 - Override 1
 - polygonLayer
 - Override 1
 - Tax Parcels
 - 911 Address
 - Streets
 - County Boundaries
 - Tax Ditch Segments**
 - Tax Ditch Channel
 - De/DOT Maintained
 - HOA Maintained
 - Pipe - De/DOT
 - Pipe - Tax Ditch
 - Pipe - Private
 - Pond Feature
 - Special Access ROW
 - Extent of Right-of-Way
 - Well Head Protection Areas
 - 2007 Head of Tide Wetlands (not regulatory)
 - Municipal Boundaries

1:564





Search

Search by SUSSEXPARCELS -

533-20.09-103.00

Search results (1) Options -

name 533-20.09-103.00

Workspaces

© 2022 EagleView

map: Auto (Oblique) Feb 2022 - Mar 2022 < image 1 of 13 > 03/01/2022



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 # 12773
Hearing Date 12/19

20215705

Type of Application: (please check all applicable)

Variance
Special Use Exception
Administrative Variance
Appeal

Existing Condition
Proposed
Code Reference (office use only)
115-23

Site Address of Variance/Special Use Exception:

20376 Old Landing Road, Rehoboth Beach, DE 19971

Variance/Special Use Exception/Appeal Requested:

Special Use Exception pursuant to Section 115-23(c) of the Code for operation of a day nursery/childcare center.

Tax Map #: 334-18.00-78.00; 01

Property Zoning: AR-1

Applicant Information

Applicant Name: Bay Shore Community Church, c/o Jeremy Ferruccio
Applicant Address: 36759 Millsboro Highway
City Millsboro State DE Zip: 19966
Applicant Phone #: (302) 858-2086 Applicant e-mail: Jeremy@bayshorecc.org

Owner Information

Owner Name: Charles Litchford, Jr.
Owner Address: 26A Read Avenue
City Dewey Beach State DE Zip: 19971 Purchase Date: _____
Owner Phone #: _____ Owner e-mail: _____

Agent/Attorney Information

Agent/Attorney Name: Baird Mandalas Brockstedt Federico & Cardea LLC c/o Mackenzie Peet, Esq.
Agent/Attorney Address: 1413 Savannah Road, Suite 1
City Lewes State DE Zip: 19958
Agent/Attorney Phone #: (302) 645-2262 Agent/Attorney e-mail: mackenzie@bmbfclaw.com

Signature of Owner/Agent/Attorney

Date: 10/25/2022



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.

N/A

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.

N/A

3. Not created by the applicant:

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

N/A

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.

N/A

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.

N/A

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.

The proposed use is a day nursery/childcare center that will be located within a proposed church to be constructed on the properties. The properties are located in AR-1 where churches are permitted uses and day nurseries and childcare centers are permitted as special use exceptions. The use will be operated by the church entity and be doing business under the same entity name. The hours of operation will be from 6:30am-5:30pm, Monday through Friday.

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)

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

Mailing List Application Form

For Applications requiring a Public Hearing in Sussex County

Please fill out this form and return it with your application. As a part of your application a Public Hearing is required. The property owners within 200' of the site of the application will be notified. Staff will notify the property owners.

Application Information:

Site Address: 20376 Old Landing Road

Rehoboth Beach, Delaware 19971

Parcel #: 334-18.00-78.00

Site Address: _____

Parcel #: 334-18.00-78.01

Applicant Name: Bay Shore Community Church

Owner Name: Charles Litchford, Jr.

Type of Application:

Conditional Use:

Change of Zone:

Subdivision:

Board of Adjustment:

Date Submitted: _____

For office use only:

Date of Public Hearing: _____

File #: _____

Date list created: _____

List created by: _____

Date letters mailed: _____

Letters sent by: _____

Planning & Zoning Project Contact List

Applicant Information

Applicant Name: Bay Shore Community Church/ Jeremy Ferruccio
 Applicant Address: 36759 Millsboro Highway
 City: Millsboro State: DE Zip: 19966
 Phone #: (302) 858-2086 E-mail: jeremy@bayshorecc.org

Owner Information

Owner Name: Charles Litchford, Jr.
 Owner Address: 26A Read Avenue
 City: Dewey Beach State: DE Zip: 19971
 Phone #: _____ E-mail: n/a

Engineer/Surveyor Information

Engineer/Surveyor Name: Solutions IPEM, LLC c/o Jason Palkewicz, PE
 Engineer/Surveyor Address: 303 North Bedford Street
 City: Georgetown State: DE Zip: 19947
 Phone #: (302) 297-9215 E-mail: jpalkewicz@solutionsipem.com

Agent/Attorney Information

Agent/Attorney/Name: Baird Mandalas Brockstedt Federico & Cardeo, LLC c/o Mackenzie Peet, Esquire
 Agent/Attorney/Address: 1413 Savannah Road, Suite 1
 City: Lewes State: DE Zip: 19958
 Phone #: (302) 645-2262 E-mail: mackenzie@bmbde.com

Other

Name: _____
 Address: _____
 City: _____ State: _____ Zip: _____
 Phone #: _____ E-mail: _____



Exhibit A

Property and Deed Information

Property Information

Property Location: 20376 OLD LANDING RD
 Unit:
 City: REHOBOTH BEACH
 State: DE
 Zip: 19971
 Class: RES-Residential
 Use Code (LUC): RV-RESIDENTIAL VACANT
 Town: 00-None
 Tax District: 334 - LEWES REHOBOTH
 School District: 6 - CAPE HENLOPEN
 Fire District: 86-Rehoboth
 Deeded Acres: 3.8000
 Frontage: 0
 Depth: .000
 Irr Lot:
 Plot Book Page: /PB
 100% Land Value: \$15,200
 100% Improvement Value: \$0
 100% Total Value: \$15,200

Legal

Legal Description: W/S RD 274
 506' N FAIRWAY DR

Owners

Owner	Co-owner	Address	City	State	Zip
LITCHFORD CHARLES R JR		26A READ AVE	DEWEY BEACH	DE	19971

Owner History

Tax Year:	Owner:	Co-owner	Address:	City:	State:	Zip:	Deed Book/Page:
2022	LITCHFORD CHARLES R JR		26A READ AVE	DEWEY BEACH	DE	19971	0/0
2021	LITCHFORD CHARLES R JR		26A READ AVE	DEWEY BEACH	DE	19971	0/0
2020	LITCHFORD CHARLES R JR		26A READ AVE	DEWEY BEACH	DE	19971	0/0
2019	LITCHFORD CHARLES R JR		20376 OLD LANDING RD	REHOBOTH BEACH	DE	19971	0/0
2018	DANIELS GEORGE H JR		20376 OLD LANDING RD	REHOBOTH BEACH	DE	19971	0/0
2017	DANIELS GEORGE H JR		20376 OLD LANDING RD	REHOBOTH BEACH	DE	19971	0/0
2006	DANIELS GEORGE H JR		20376 OLD LANDING RD	REHOBOTH BEACH	DE	19971	0/0
1900	UNKNOWN					0	1079/207

Land

Line	Class	Land Use Code	Act Front	Depth	Calculated Acres	Ag
1	RES	RV	0	0	3.8000	

Land Summary

Line	1
100% Land Value	15,200

100% Values

100% Land Value	100% Improv Value	100% Total Value
\$15,200	\$0	\$15,200

50% Values

50% Land Value	50% Improv Value	50% Total Value

\$7,600

\$0

\$7,600

Permit Details

Permit Date:	Permit #:	Amount:	Note 1
02-MAY-1991	73100-1	\$2,000	SHED-W/2741 MILE S/275

1188

11065

BOOK 1079 PAGE 207

This Deed, Made this 31st day of August,

in the year of

our LORD one thousand nine hundred and eighty-one,

BETWEEN, J. LEIGHTON JOSEPH, widower, of R.D., Box 328, Rehoboth Beach, Delaware 19971, party of the first part,

A N D

GEORGE H. DANIELS, JR., of Route 274, Box 141, Rehoboth Beach, Delaware 19971, party of the second part,



Witnesseth, That the said party of the first part, for and in consideration of the sum of TWO THOUSAND DOLLARS (\$2,000.00),

lawful money of the United States of America, the receipt whereof is hereby acknowledged, hereby grants and conveys unto the said party of the second part, his heirs and assigns forever,

ALL THAT certain lot, piece and parcel of land, situate, lying and being in Lewes and Rehoboth Hundred, Sussex County, Delaware, which is more particularly described according to a survey attached hereto and made a part hereof by J. Curtis Fritchman, Registered Surveyor, dated June 30, 1981, viz: BEGINNING at an iron pipe set North 66° 35' West, 200.34 feet from a point along the Westerly right-of-way line of State Road No. 274, which forms a common corner of the lands of this Grantee and lands now or formerly of Hector LeMaire; thence, from said point of beginning South 16° 44' West, 237.81 feet to an iron pipe marking a common corner for this lot and other lands of this Grantee, thence, by and with other lands of this Grantee, South 77° 26' East, 15.13 feet to an iron pipe marking a common corner for this lot and lands now or formerly of Earl K. Poltz; thence, by and with lands now or formerly of Earl K. Poltz, South 37° 07' 39" West, 157.92 feet to an iron pipe marking a common corner for this lot,

LAW OFFICES
WILSON, HALBROOK, BAYARD,
BUNTING & MARSHALL
WEST MARKET STREET
GEORGETOWN, DELAWARE 19947

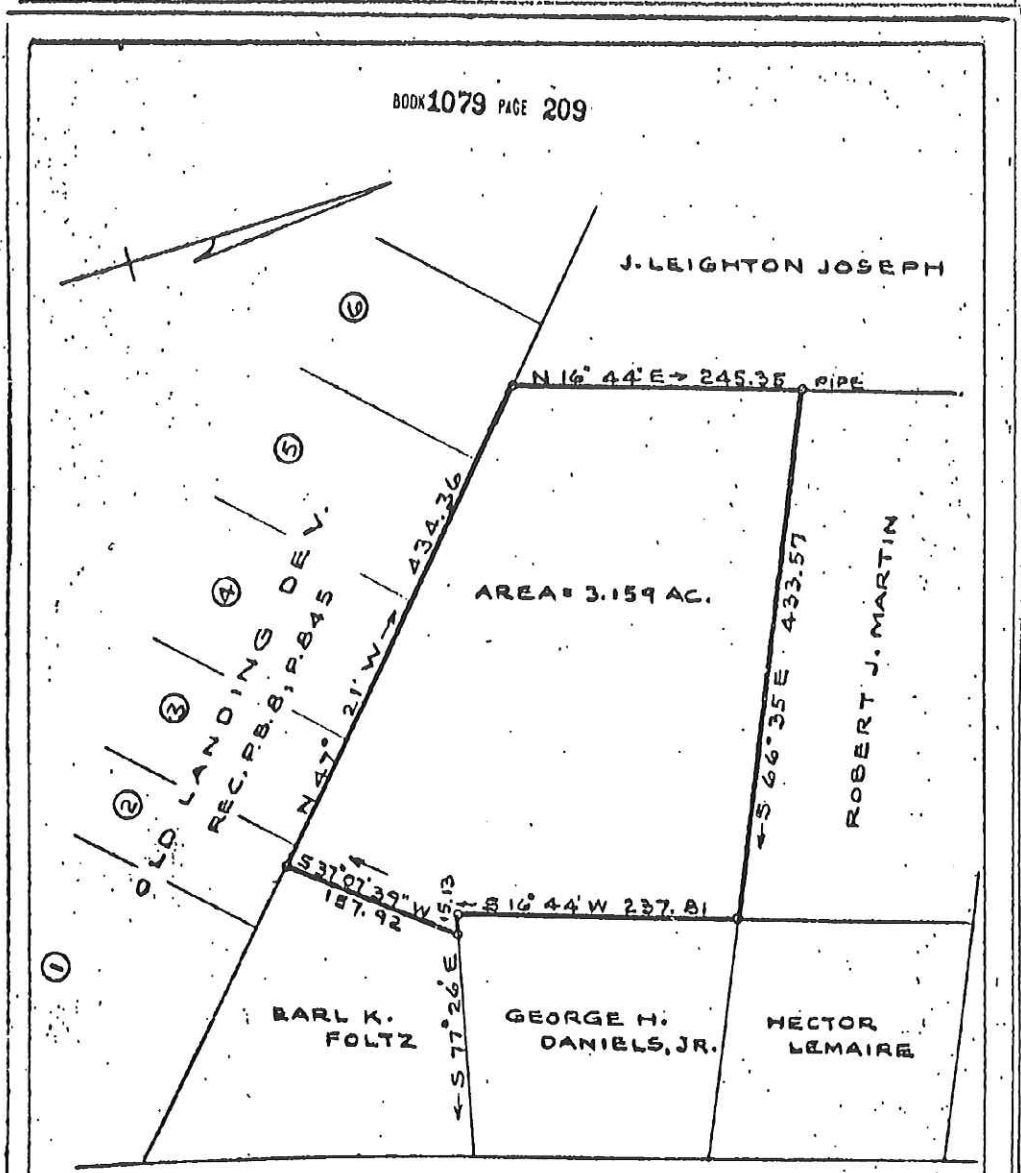
lands now or formerly of Earl K. Folts, and Old Landing Development; thence, by and with Old Landing Development, North 47° 21' West, 434.36 feet to an iron pipe marking a common corner for this lot, Old Landing Development, and lands now or formerly of this Grantor; thence, by and with lands now or formerly of this Grantor, North 16° 44' East, 245.35 feet to an iron pipe marking a common corner for this lot, lands now or formerly of this Grantor, and lands now or formerly of Robert J. Martin; thence, by and with lands now or formerly of Robert J. Martin, South 66° 35' East, 433.57 feet, home to the point and place of beginning, containing 3.159 acres of land, be the same more or less.

BEING a part of the same lands and premises heretofore conveyed unto J. Leighton Joseph and Helen T. Joseph, in equal shares, respectively, by J. Leighton Joseph and wife, in and by their two certain Deeds of Bargain and Sale, both dated July 21, 1976, and which are now of record in the Office of the Recorder of Deeds, in and for Sussex County, at Georgetown, Delaware, in Deed Book 800, Page 130, &c., and (2) in Deed Book 800, Page 134, &c., as reference thereto being had will more fully and at large appear.

AND THEREAFTER, the said Helen T. Joseph did depart this life, testate, on or about March 28, 1979, and in and by Item Fifth of her Last Will and Testament now of record in the Office of the Register of Wills, in and for Sussex County, at Georgetown, Delaware, in Will Book 92, Page 283, &c., did devise her interest in the said lands and premises unto J. Leighton Joseph, the present Grantor.

LAW OFFICES

WILSON, HALBROOK, BAYARD,
BUNTING & MARSHALL
WEST MARKET STREET
GEORGETOWN, DELAWARE 19947



STATE ROAD 274

NOTE:

THE ABOVE 3.159 AC. TRACT IS TO BE CONSIDERED AS AN ADDITION TO OTHER LAND OF GEORGE H. DANIELS, JR. AND IS NOT TO BE CONSIDERED AS A SEPARATE LOT.

APPROVED
as noted.

D.W.T.
8/17/81

3-34-18-76 EXT.
COUNTY PLANNING & ZONING BOARD
OF SUSSEX COUNTY



PLAN OF SURVEY
MADE FOR

GEORGE H. DANIELS, JR.

LEWES & REMOBOTH HUND., SUSSEX CO., DEL.
SCALE: 1" = 100' JUNE 30, 1981

J. Curtis Fritchman
J. CURTIS FRITCHMAN - REG. SURVEYOR
REMOBOTH BEACH, DEL.

14-45
10-56

In Witness Whereof, The said party of the first part ha hereunto set his hand and seal, the day and year aforesaid.

SIGNED, SEALED AND DELIVERED
In the presence of

[Handwritten signature]

J. Leighton Joseph (Seal)
J. Leighton Joseph (Seal)

_____ (Seal)

9.24.81
Wilson, Halbrook, Bayard, Bunting & Marshall

State of Delaware,
SUSSEX County, ss.

Be It Remembered, that on this 31st day of August, in the year of our Lord one thousand nine hundred and eighty-one, personally came before me, the Subscriber, a Notary Public for the State and County aforesaid, J. LEIGHTON JOSEPH, widower,

PURCHASERS REPORT MADE
2RS 1 DAY OF Sept 1981
ASSESSMENT DIVISION OF SUSSEX COUNTY

Part y to this Indenture, known to me personally to be such, and he acknowledge this Indenture to be his Deed.

Given under my hand and Seal of Office, the day and year aforesaid

RECEIVED
MARY ANN MCCABE
AUG 31 2 25 PM '81
RECORDER OF DEEDS
SUSSEX COUNTY

Katharine D. Cannon
Notary Public



LAW OFFICES
WILSON, HALBROOK, BAYARD,
BUNTING & MARSHALL
WEST MARKET STREET
GEORGETOWN, DELAWARE 19947

Property Information

Property Location:

Unit:
 City:
 State:
 Zip:

Class: RES-Residential
 Use Code (LUC): RT-RESIDENTIAL MH ON OWN LAND
 Town: 00-None
 Tax District: 334 - LEWES REHOBOTH
 School District: 6 - CAPE HENLOPEN
 Fire District: 86-Rehoboth
 Deeded Acres: .0001
 Frontage: 100
 Depth: 149.000
 Irr Lot: I
 Plot Book Page: /PB

100% Land Value: \$5,000
 100% Improvement Value: \$9,100
 100% Total Value: \$14,100

Legal

Legal Description: W/S RD 274
 406' N FAIRWAY DR
 T3841

Owners

Owner	Co-owner	Address	City	State	Zip
LITCHFORD CHARLES R JR		26A READ AVE	DEWEY BEACH	DE	19971

Owner History

Tax Year:	Owner:	Co-owner	Address:	City:	State:	Zip:	Deed Book/Page:
2022	LITCHFORD CHARLES R JR		26A READ AVE	DEWEY BEACH	DE	19971	665/845
2021	LITCHFORD CHARLES R JR		26A READ AVE	DEWEY BEACH	DE	19971	665/845
2020	LITCHFORD CHARLES R JR		26A READ AVE	DEWEY BEACH	DE	19971	665/845
2019	LITCHFORD CHARLES R JR		20376 OLD LANDING RD	REHOBOTH BEACH	DE	19971	665/845
2018	DANIELS GEORGE H JR		20376 OLD LANDING RD	REHOBOTH BEACH	DE	19971	665/845
2017	DANIELS GEORGE H JR		20376 OLD LANDING RD	REHOBOTH BEACH	DE	19971	665/845
1900	DANIELS GEORGE H JR					0	665/845

Land

Line	Class	Land Use Code	Act Front	Depth	Calculated Acres	Ag
1	RES	RT	100	149	.0001	

Land Summary

Line: 1
 100% Land Value: 5,000

100% Values

100% Land Value	100% Improv Value	100% Total Value
\$5,000	\$9,100	\$14,100

50% Values

50% Land Value	50% Improv Value	50% Total Value
\$2,500	\$4,550	\$7,050

05063

BOOK 665 PAGE 845

This Deed, made this

9TH

day of MARCH

In the year of

our LORD one thousand nine hundred and seventy-one,

BETWEEN, J. LEIGHTON JOSEPH and HELEN T. JOSEPH, of Rural

Route 1, Rehoboth Beach, Delaware, parties of the first part,

and GEORGE H. DANIELS, JR., of 806 Haines Avenue, Gordon Heights,

Wilmington, Delaware 19809, party of the second part,

Witnesseth, That the said parties of the first part, for and in consideration of the sum of TWO THOUSAND DOLLARS (\$2,000.00),

lawful money of the United States of America, the receipt whereof is hereby acknowledged, hereby grant and convey unto the said party of the second part, his heirs and assigns forever,

ALL THAT certain lot, piece or parcel of land, situate, lying and being in Lewes and Rehoboth Hundred, Sussex County and State of Delaware, more particularly bounded and described according to a survey made March 1, 1971, by J. Curtis Fritchman, Registered Surveyor, as follows: BEGINNING at an iron pipe set on the westerly right of way line of Delaware State Highway Route #274, a corner for the lands herein and hereby conveyed and lands to be conveyed by Howard H. Way, etux, to George H. Daniels, Jr; thence, along and with the westerly boundary line of Route #274, aforesaid, South 16 degrees 44 minutes West 100 feet to a point in the center of a division ditch between the lands herein and hereby conveyed and other lands of J. Leighton Joseph, one of these grantors; thence, by and with the centerline of such division ditch between the lands herein and hereby conveyed and

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Houston Wilson
WILMINGTON TRUST BUILDING
1 WEST MARKET STREET
GEORGETOWN, DELAWARE
19947

BOOK 665 PAGE 846

other lands of J. Leighton Joseph, aforesaid, North 77 degrees 26 minutes West 149.37 feet to another iron pipe; thence by another division line between the lands herein and hereby conveyed and other lands of J. Leighton Joseph, North 16 degrees 44 minutes East 114.16 feet to another iron pipe, a corner for the lands herein and hereby conveyed, and lands to be conveyed by Howard H. Way, etux, to George H. Daniels, Jr.; thence, by and with the division line between the lands herein and hereby conveyed and lands to be conveyed by said Way to said Daniels, South 71 degrees 59 minutes 50 seconds East 149.03 feet to the point or place of BEGINNING, containing 0.37 acres of land, be the same more or less.

BEING a part of the same certain tract, piece or parcel of land heretofore devised unto J. Leighton Joseph, one of these grantors, by Margaret E. Joseph, in and by her Last Will and Testament, dated December 14, 1950, and now of record in the Office of the Register of Wills, in and for Sussex County, at Georgetown, Delaware, in Will Book 45, Page 295, &c.

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GEORGETOWN, DELAWARE
1942

In Witness Whereof, The said parties of the first part ha ve hereunto set their hands and seals , the day and year aforesaid.

SIGNED, SEALED AND DELIVERED
In the presence of

Raymond M. Kinizer
As to both

J. Leighton Joseph (Seal)
Leighton Joseph
Helen T. Joseph (Seal)
Helen T. Joseph

_____ (Seal)

State of Delaware }
County. } ss.

Be It Remembered, that on this 9TH day of MARCH in the year of our Lord one thousand nine hundred and seventy-one, personally came before me , the subscriber, a Notary Public for the State and County aforesaid, J. LEIGHTON JOSEPH and HELEN T. JOSEPH, his wife,



Parties to this Indenture, known to me personally to be such, and they acknowledge this Indenture to be their Deed.
GIVEN under my hand and Seal of Office, the day and year aforesaid

PURCHASERS REPORT MADE
This 18th day of March 1971
Board of Assessment of Sussex County
By *Simon Beach, Clerk*

RECEIVED
JAMES H. BAXTER JR.
MAR 16 11 28 AM '71
REC'D OF DEEDS
SUSSEX COUNTY

Raymond M. Kinizer
Notary Public.
RAYMOND M. KINIZER, NOTARY PUBLIC
My Commission Expires August 16, 1972

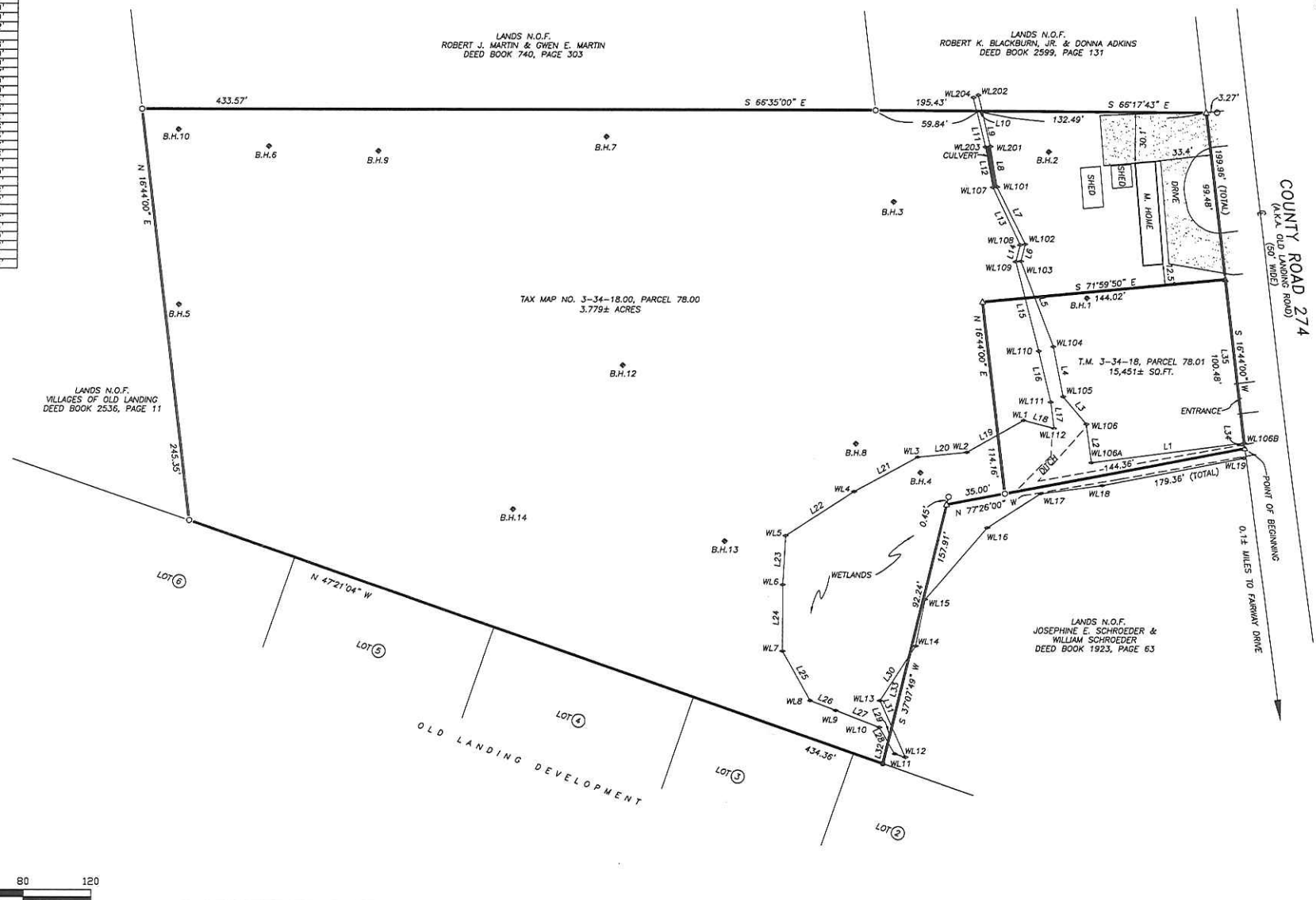
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GEORGETOWN, DELAWARE
1947

Exhibit B

Survey

LINE TABLE:

LINE	BEARING	DISTANCE
L1	N 74°05'20" W	91.08'
L2	N 15°46'48" E	22.98'
L3	N 16°24'00" W	21.36'
L4	N 12°12'28" E	28.94'
L5	N 02°30'07" E	53.94'
L6	N 37°13'17" E	10.37'
L7	N 02°53'03" W	37.89'
L8	N 1°59'45" E	24.29'
L9	N 10°05'23" E	21.92'
L10	N 66°35'00" W	3.10'
L11	S 09°36'52" W	22.33'
L12	S 13°05'24" W	24.30'
L13	S 02°03'38" E	37.20'
L14	S 37°53'03" W	10.27'
L15	S 08°47'52" W	54.49'
L16	S 10°07'28" W	30.99'
L17	S 16°23'48" W	15.84'
L18	S 51°42'21" W	18.63'
L19	S 03°42'48" W	38.54'
L20	S 72°10'32" W	28.16'
L21	S 84°45'19" W	42.75'
L22	S 80°12'23" W	48.17'
L23	S 28°55'04" W	28.86'
L24	S 23°28'18" W	39.41'
L25	S 05°50'51" E	33.50'
L26	S 45°28'00" E	16.11'
L27	S 49°58'53" E	27.56'
L28	S 06°49'23" E	10.32'
L29	S 37°07'49" E	9.20'
L30	S 38°11'44" W	31.72'
L31	S 00°52'40" E	17.14'
L32	S 37°07'49" E	13.00'
L33	S 37°07'49" E	43.47'
L34	N 16°44'00" E	3.24'
L35	S 16°44'00" W	97.24'



NOTES:

- 1) CLASS "B", SUBURBAN SURVEY
- 2) SOURCE OF TITLE: DEED BOOK 665, PAGE 645, DEED BOOK 665, PAGE 842, DEED BOOK 907, PAGE 347 & DEED BOOK 1078, PAGE 207
- 3) THIS BOUNDARY SURVEY WAS PREPARED WITHOUT THE BENEFIT OF A COMPLETE TITLE REPORT AND IS SUBJECT TO ANY ENCUMBRANCES, RESTRICTIONS, EASEMENTS AND/OR RIGHTS OF WAY THAT MIGHT BE REVEALED BY A THOROUGH TITLE SEARCH
- 4) WETLANDS SHOWN HEREON FLAGGED BY EVELYN MAURMEYER.

LEGEND:

- FOUND IRON PIPE
- FOUND IRON BAR
- △ SET IRON BAR
- B.H.14 ◆ SOIL BORINGS
- WL204 ◆ WETLAND FLAG

Prepared By
ADAMS-KEMP ASSOCIATES, INC.
 PROFESSIONAL LAND SURVEYORS
 AND PLANNERS
 217 SOUTH RACE STREET
 GEORGETOWN, DELAWARE 19947
 PHONE: (302) 656-6899
 WWW.ADAMSKEMP.COM

I, R.B. KEMP, III, 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 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.

R.B. KEMP, III, P.L.S. 541

BOUNDARY SURVEY PLAN
 PREPARED FOR
GEORGE H. DANIELS, JR.
 TAX MAP NO. 3-34-18.00, PARCELS 78.00 & 78.01
 (A.K.A. 20376 OLD LANDING ROAD)
 SITUATED IN
 LEWES & REHOBOTH HUNDRED, SUSSEX COUNTY, STATE OF DELAWARE
 AREA: 4.159± ACRES (TOTAL)
 SCALE: 1" = 40'
 DATE: MARCH 8, 2019

BEARING TO REFERENCE
 DEED BOOK 665, PAGE 842

COUNTY ROAD 274
 (A.K.A. OLD LANDING ROAD)
 65' (50' WIDE)

Exhibit C
Zoning Code

Chapter 115. Zoning

Article IV. AR-1 and AR-2 Agricultural Residential Districts

§ 115-19. Purpose.

The purpose of these districts is to provide for a full range of agricultural activities and to protect agricultural lands, as one of the county's most valuable natural resources, from the depreciating effect of objectional, hazardous and unsightly uses. They should also protect established agricultural operations and activities. These districts are also intended for protection of watersheds, water resources, forest areas and scenic values and, at the same time, to provide for low-density single-family residential development, together with such churches, recreational facilities and accessory uses as may be necessary or are normally compatible with residential surroundings. The AR regulations seek to prevent untimely scattering of more-dense urban uses, which should be confined to areas planned for efficient extension of public services.

§ 115-20. Permitted uses.

A. A building or land shall be used only for the following purposes:

- (1) Detached single-family dwellings on individual lots. A manufactured home may be used as a detached single-family dwelling on an individual lot, provided that it conforms to the following restrictions:
[Amended 7-8-1997 by Ord. No. 1153; 5-18-1999 by Ord. No. 1308; 10-12-2010 by Ord. No. 2152; 10-8-2019 by Ord. No. 2682]
 - (a) The lot is not within a major subdivision created prior to the effective date of this section.
 - (b) There is a minimum width along any exterior front, side or rear elevation of 24 linear feet, exclusive of any garage area or other attached accessory structures .
 - (c) It is permanently mounted on a solid foundation or pier foundation system and anchored and, in each case, in accordance with the manufacturer's installation instructions.
 - (d) All wheels, axles, transportation lights and removable towing apparatus, if any, shall be removed from the manufactured home when it is placed on the foundation in accordance with Subsection A(1)(c) above.
 - (e) All utilities shall be permanently connected in accordance with applicable Sussex County Code provisions.
 - (f) The siding of all manufactured homes shall be continuous so as to enclose any joining of two or more sections.
 - (g) It complies with all pertinent provisions of the Housing Code of Sussex County and the Fire and Health Codes of the State of Delaware.
 - (h) All multisectional manufactured homes, initially placed pursuant to the provisions of this section, shall be not more than 10 years old. All replacement multisectional manufactured homes shall not be of an older model than the manufactured home being replaced and shall conform to this section. Any other manufactured home which, at the effective date of this section, does not conform to the requirements of this section, may be replaced with a manufactured home which is not of an older or smaller model than the manufactured home being replaced. A single section manufactured home may be replaced by a single section manufactured home; a single section manufactured home may be replaced by a multisectional manufactured home; a multisectional manufactured home may be replaced by a multisectional manufactured home; a multisectional manufactured home shall not be replaced by a single section manufactured home.
 - (i) In addition to the requirements herein, a manufactured home shall comply in all respects with the design and technical requirements of § 115-187.
- (2) On a property of less than five acres, any farm, truck garden, orchard or nursery uses.
- (3) Temporary removable stands for not over six months' use per year, for seasonal sales of products raised on the premises and products raised on other lands in Sussex County owned or leased by the owner of the premises on which the stand is located, and no business office or store is to be permanently maintained on the premises, except as provided in § 115-22 regarding stores or shops for sale of farm products, farm supplies, groceries, beverages, drugs, food and similar stores and shops.
[Amended 11-30-2004 by Ord. No. 1729]
- (4) Churches, rectories, parish houses, convents and monasteries, temples and synagogues.
- (5) Golf courses, not lighted for night play and not including miniature golf courses, putting greens, driving ranges and similar activities operated as a business, but including a building for a golf pro shop, locker room and snack bar as an accessory use to a permitted golf course, provided that no such building is located closer than 100 feet to adjoining property lines. Practice greens and tees may accompany a standard nine-hole or eighteen-hole golf course occupying at least 75 acres.
- (6) Public parks, public and private forests, wildlife reservations and similar conservation projects.
- (7) Recreational uses such as tennis courts, swimming pools and other similar activities operated exclusively for the use of private membership and not for commercial purposes, provided that no such use, structure or accessory use is located closer than 50 feet to any adjoining property line, unless such property line fronts a public street or waterway with rights-of-way not less than 25 feet, in which instance the required setback need not exceed 25 feet, and provided further that all such facilities must be located on a site having a minimum of two acres.
- (8) Stable structures or feed lots, private, or keeping and feeding of horses, ponies, cattle, sheep, goats, hogs or poultry for personal enjoyment and not as a business, provided that any building for keeping of animals shall be located at least 50 feet from any lot lines and 100 feet from any dwelling not on the premises.
- (9) Greenhouses, commercial, provided that the lot area shall be five acres or more.

- (10) Swimming pools, game courts, picnic grounds, boat basins, lakes or similar activities in a development or subdivision when such facilities are situated on a separate lot or parcel within said development or subdivision for use of the residents and their guests and not commercially operated, may be on less than two acres. Such facilities will be subject to a site plan review, and setbacks will be determined by the Commission.
- (11) Transmission lines and their supporting elements.
- (12) Open space as defined in § 115-4.
[Added 12-16-2008 by Ord. No. 2022^[1]]
[1] *Editor's Note: This ordinance also provided that it shall apply to applications filed after 1-1-2009.*
- (13) Special events.
[Added 9-18-2018 by Ord. No. 2599]
- (a) Special events held outdoors or within a temporary structure for a purpose different from the permitted use and usual occupancy of a premises or site that are administratively approved by the Director or his or her designee, when the event: will not impair the purpose and intent of the Zoning Ordinance; is not so recurring in nature as to constitute a permanent use not otherwise permitted in the district; and will not significantly affect the surrounding properties. Events that are consistent with the permitted use and usual occupancy of a site or that occur on land owned by the United States of America, the State of Delaware, Sussex County, municipalities and educational institutions are permitted. "Special events" include circuses, carnivals, midways, promotional and tent sales events, fairs, festivals, concerts, rodeos, shows, races/walks or any other event or mass gathering.
- (b) No more than three special events shall be approved for the same property or premises during a calendar year. Each special event shall be counted as one calendar day, not including reasonable set up and removal time when the event is not otherwise underway.
- (c) In determining whether to administratively approve a special event, the Director or his or her designee shall consider the following:
- [1] The estimated number of attendees;
 - [2] The size of the parcel where the special event is to be located;
 - [3] The parking requirements of the special event;
 - [4] Roads and traffic patterns providing access to the special event;
 - [5] Prior events conducted by the applicant;
 - [6] Noise, light, odor, and dust generated by the special event;
 - [7] Proposed hours of operation and number of consecutive days; and
 - [8] Such other considerations that may be applicable to the requested event.
- (d) The Director or his or her designee may impose conditions upon an administrative approval.
- (e) All special events, regardless of size, location, use or duration, shall be subject to the requirements of the Sussex County Special Event and Public Safety Services Policies and Procedures. Failure to abide by the Sussex County Special Event and Public Safety Services Policies and Procedures may result in the termination of the special event's administrative approval.
- (f) Special events that do not meet these requirements or which are not administratively approved shall require a conditional use.
- (14) Use of a manufactured home as a single-family dwelling to meet an emergency or hardship situation that is administratively approved by the Director or his or her designee and subject to the following:
[Added 10-22-2019 by Ord. No. 2684]
- (a) The applicant must provide an affidavit from a doctor confirming the existence of the emergency or hardship situation.
- (b) There shall be a fee of \$50 to request the administrative approval which shall be credited towards a Board of Adjustment application fee should consideration by the Board become necessary.
- (c) The applicant shall submit a survey signed and sealed by a surveyor licensed in the State of Delaware to the Director showing the location of the proposed manufactured home.
- (d) The Director shall give written notice to adjacent property owners of the requested manufactured home and accept written statements within 10 working days from the date of mailing. If any objection is received, the Director shall refer the application to the Board of Adjustment for a special use exception.
- (e) The Director shall consider factors, including whether the manufactured home will have a substantially adverse effect on neighboring properties.
- (f) Within 30 working days after the request is submitted, the Director or his or her designee may approve the manufactured home or advise the applicant that an application must be submitted to the Board of Adjustment for a special use exception.
- (g) Such an approval shall not exceed two years. The Director may grant an extension for an emergency or hardship situation upon receipt of a subsequent affidavit from a doctor stating that the emergency or hardship situation still exists. Such an extension may be granted annually as long as the emergency or hardship still exists.
- (15) Garage/studio apartment with at least one parking space for the exclusive use of the tenant included on the premises that is administratively approved by the Director or his or her designee, and subject to the following:
[Added 10-22-2019 by Ord. No. 2684]
- (a) There shall be a fee of \$50 to request the administrative approval which shall be credited towards a Board of Adjustment application fee should consideration by the Board become necessary.
- (b) The applicant shall submit a survey signed and sealed by a surveyor licensed in the State of Delaware to the Director showing the location of the garage/studio apartment.
- (c) The Director shall give written notice to adjacent property owners of the requested garage/studio apartment and accept written statements within 10 working days from the date of mailing. If any objection is received, the Director shall refer the application to the Board of Adjustment for a special use exception.

- (d) The Director shall consider factors including whether the garage/studio apartment will have a substantially adverse effect on neighboring properties.
 - (e) Within 30 working days after the request is submitted, the Director or his or her designee may approve the garage/studio apartment or advise the applicant that an application must be submitted to the Board of Adjustment for a special use exception.
- (16) Use of a manufactured-home-type structure for any business, commercial or industrial use that is administratively approved by the Director or his or her designee, and subject to the following:
[Added 10-22-2019 by Ord. No. 2684]
- (a) There shall be a fee of \$50 to request the administrative approval which shall be credited towards a Board of Adjustment application fee should consideration by the Board become necessary.
 - (b) The applicant shall submit a survey signed and sealed by a surveyor licensed in the State of Delaware to the Director showing the location of the manufactured-home-type structure.
 - (c) The Director shall give written notice to adjacent property owners of the requested manufactured-home-type structure and accept written statements within 10 working days from the date of mailing. If any objection is received, the Director shall refer the application to the Board of Adjustment for a special use exception.
 - (d) The Director shall consider factors including whether the manufactured-home-type structure will have a substantially adverse effect on neighboring properties.
 - (e) Within 30 working days after the request is submitted, the Director or his or her designee may approve the manufactured-home-type structure or advise the applicant that an application must be submitted to the Board of Adjustment for a special use exception.
- B. On a farm of five acres or more, a building or land may be used for the following additional purposes:

- (1) Agriculture, including horticultural, hydroponic, chemical or general farming, truck gardens, cultivating of field crops, orchards, groves or nurseries for growing or propagation of plants, trees and shrubs, forest use (tree farming), including use of heavy cultivating machinery, spray planes or irrigating machinery, dairy farming, keeping or raising for sale of large or small animals, reptiles, fish, birds or poultry and including structures for processing and sale of products raised on the premises, provided that:
[Amended 11-26-1991 by Ord. No. 806; 6-15-1993 by Ord. No. 894]
 - (a) Any commercial grain drier shall be located at least 300 feet from any boundary of the premises on which such use is located, and any noncommercial drier shall be located at least 100 feet from any boundary.
 - (b) Any feed lot or structure used for the commercial feeding and housing of cattle, sheep and hogs or structure for storage of animal manure or animal waste composting shall be located at least 100 feet from all boundary lines of the premises on which such use is located and shall be 200 feet from any UR, MR, HR, UB or B-1 District boundary and 200 feet from any dwelling not on the premises.
[Amended 2-1-1994 by Ord. No. 953]
 - (c) Structures for commercial poultry raising, structures for storage of poultry manure and structures for poultry product composting shall be located at least 50 feet from all boundary lines and shall be 200 feet from any UR, MR, HR, UB or B-1 District boundary and 200 feet from any dwelling not on the premises.
[Amended 2-1-1994 by Ord. No. 953]
 - (d) Commercial slaughtering and processing of large animals such as horses, cows, pigs, sheep or goats shall not be conducted on the premises.
 - (e) Structures for commercial aquaculture, fish and frog farming, structures for storage of fish or frog waste and structures for fish or frog product composting shall be located at least 50 feet from all boundary lines and shall be 200 feet from any UR, MR, HR, UB or B-1 District boundary and 200 feet from any dwelling not on the premises.
[Amended 2-2-1999 by Ord. No. 1287]
- (2) Dog kennels, commercial, provided that any open pens, runs, cages or kennels shall be located at least 200 feet from any lot lines.
- (3) Grain storage structures.
- (4) Hospitals or clinics for large or small animals, provided that all buildings, structures, pens or open kennels shall be located at least 200 feet from any lot lines.
- (5) Stables, public, provided that any building for keeping of animals shall be located at least 200 feet from any lot lines.

§ 115-21. Permitted accessory uses.

- A. Permitted accessory uses on a farm of five acres or more are as follows:
- (1) Accessory structures for sale or processing of farm products raised on the premises.
 - (2) Accessory open or enclosed storage of farm materials, products or equipment.
 - (3) Accessory farm buildings, including but not limited to barns, cribs, stable sheds, tool rooms, shops, bins, tanks and silos.
 - (4) Dwellings for persons permanently employed on the premises.
 - (5) With respect to a farm of 10 acres or more, one manufactured home for residential purposes for persons employed on the premises or immediate members of the family owning or operating the farm, in addition to the main dwelling structure on the premises. One additional manufactured home may be permitted on a farm of 50 acres or more for residential purposes for persons employed on the premises or immediate members of the family owning or operating the farm. Additional manufactured homes may be permitted on a farm of 10 acres or more as a special use exception for residential purposes for persons employed on the premises or immediate members of the family owning or operating the farm, pursuant to § 115-210A(3)(n).
[Amended 3-5-1991 by Ord. No. 750; 3-25-1997 by Ord. No. 1131; 10-12-2010 by Ord. No. 2152]
 - (6) All accessory farm buildings shall have the same setbacks as those which are required for a dwelling, except as stated elsewhere in this chapter.

(7) A wind turbine which meets § 115-194.4 as a permitted use.
[Amended 9-13-2011 by Ord. No. 2213]

(8) Farm ponds, subject to § 115-219.

B. Other permitted accessory uses are as follows:
[Amended 10-8-2019 by Ord. No. 2683]

Accessory off-street parking and loading spaces

Boat docks and boathouses

Domestic storage in the main building or in an accessory building

Garages, private

Guest houses

Home barbecue grills

Home occupations in a main building or accessory building

Keeping of small animals, insects, reptiles, fish or birds, but only for personal enjoyment or household use and not as a business

Playhouses, without plumbing, limited in floor area to 150 square feet and headroom limited to five feet

Servants' quarters

Storage of a boat trailer or camp trailer or a boat, but not in a front yard, provided that it is not used for living purposes while so parked or stored

Swimming pools and game courts, lighted or unlighted, for the use of the occupants or their guests

Temporary buildings, including manufactured home-type structures, the use of which is incidental to construction operations or sale of lots during development being conducted on the same or adjoining tract or subdivision and which shall be removed upon completion or abandonment of such construction or upon the expiration of a period of two years of the time of erection of such temporary buildings, whichever is sooner. If construction operations or the initial sale of lots remain actively underway, the Director may grant extensions to this time period

§ 115-22. Conditional uses.

The following uses may be permitted as conditional uses when approved in accordance with the provisions of Article XXIV of this chapter:

Agricultural related industry, provided that such use is visually and acoustically screened from adjacent highways and property in such a manner that a reasonable passerby is not attracted to or aware of the establishment
[Added 1-27-2004 by Ord. No. 1658]

Airports and landing fields or seaplane bases, provided that they shall comply with the recommendations of the Federal Aviation Administration

Aquariums, commercial

Beaches, commercial

Biotech campus

[Added 1-27-2004 by Ord. No. 1659]

Biotech industry not located within a biotech campus provided that such use is visually and acoustically screened from adjacent highways and property in such a manner that a reasonable passerby is not attracted to or aware of the establishment.

[Added 1-27-2004 by Ord. No. 1659]

Cemeteries, including a crematorium if located at least 200 feet from the boundaries of the cemetery

Excavation or backfilling of borrow pits, extraction, processing and removal of sand, gravel or stone, stripping of topsoil (but not including stripping of sod) and other major excavations other than for construction of swimming pools and foundations for buildings and other than those approved in connection with a street, subdivision or planned residential development. (See § 115-172B.)

Exposition centers or fairgrounds

Heliports or helistops

Hospitals and sanitariums, but not animal hospitals

Institutions, educational or philanthropic, including museums, art galleries and libraries

Land application of sludge, treated sludge or any product containing these materials. For purposes of this section, "sludge" means the accumulated semiliquid suspension, settled solids or dried residue of these solids that is deposited from liquid waste in a wastewater treatment plant or surface or ground waters treated in a water treatment plant, whether or not these solids have undergone treatment. "Septage" is included herein as sludge. "Land application" means the placement of sludge, treated sludge or any other product containing these materials within two feet below the surface of land used to support vegetative growth.

[Added 5-8-1990 by Ord. No. 681]

Livestock auction markets in an AR District

Marinas or yacht clubs

Multifamily dwelling structures and/or townhouses and/or town homes, subject to the provisions of this chapter when:

[Added 7-31-2007 by Ord. No. 1920]

- A. Said multifamily dwelling structures and/or townhouses and/or town homes, the owners of which would share and own in common the surrounding grounds (which may also be referred to herein collectively as "units"), lie within a Town Center, a Developing Area, or a Coastal Area as described within the Land Use Element and as shown on the Future Land Use Plan of the adopted Sussex County Comprehensive Plan; and [Amended 5-21-2019 by Ord. No. 2656]
- B. The developer has proffered to Sussex County for the purpose of creating open space for preservation and/or active and/or passive recreation areas a development fee per unit, as described in Chapter 62, § 62-7, for every unit in excess of two units per gross acre that is included in the application; and
- C. The Sussex County Council prior to the signing of a contract to purchase or lease open space for preservation and/or active and/or passive recreation areas shall approve all such land or conservation easement purchases which utilize monies paid to the County under the terms of this amendment. All such approvals by the Council shall be by a four-fifths majority vote and shall include a determination that the land and/or conservation easement to be acquired is located in the same watershed area as the land where the bonus density will be located; and
- D. It is understood that Sussex County shall control all monies paid to it under this amendment and that the Sussex County Land Trust may act as a recommending body and/or partner at the discretion of the Sussex County Council; and
- E. The maximum number of multifamily dwelling structures and/or townhouses and/or town homes, as defined in Subsection A above, included in

- the application, shall not exceed four dwelling units per gross acre, including land set aside for common open space and/or recreational uses; and
- F. The minimum percentage of the total site which shall be set aside as common open space shall be 40% of the total land area included in the application; and
- G. There shall be a vegetated buffer of not less than 75 feet, subject to the following conditions:
- (1) The vegetated buffer shall be located adjacent to a numbered road shown on the General Highway Map for Sussex County and may include the required setback area from the road and shall be kept free of vehicle parking areas, buildings and structures; and
 - (2) The vegetated buffer shall include a mix of deciduous shade trees and evergreen trees, a majority of which shall be of common local species; and
 - (3) The deciduous shade trees shall include trees reasonably capable of attaining a minimum trunk diameter of two inches measured 3.5 feet above the ground within five years of being planted; and
 - (4) The evergreen trees shall include trees reasonably capable of attaining a minimum height of 10 feet above the ground within five years of being planted; and
 - (5) The goal of the landscape plan for the buffer area shall be include trees of the type indicated herein that will be planted in a natural manner, as they might appear in nature, as opposed to being planted in row fashion which will filter views from the road in such a manner that the dwelling units appear more green and less dense than if no landscaping had been required; and
 - (6) A further goal of the landscape plan would be to avoid placing plantings in an area adjacent to the entrance to the development in such a manner as to restrict the view of motorists entering or exiting from the development or restricting sight lines for motorists in such a manner as to create a potential safety hazard; and
 - (7) The landscape plan for the buffer area shall be designed and signed by a Delaware licensed landscape architect and approved by the Planning and Zoning Commission and County Council; and
- H. Council and/or the County Administrator may consider and authorize an expedited review of a conditional use application filed under this section; and
- I. Multifamily dwelling structures and/or townhouses and/or town homes shall not be considered as a conditional use under any other provision of this section which existed prior to the date of this amendment; and
- J. The density bonus fee for each multifamily and/or townhouse and/or town home dwelling unit in excess of two units per gross acre shall be determined by reference to and the use and application of the per-unit density bonus fees adopted as part of Ordinance 1842 and applicable to cluster developments and appearing in Chapter 62, Article III, § 62-7, as the same may hereafter be modified by Council, from time to time. Council will review the fees for a density bonus under the terms of this amendment on an annual basis and revise such fees as it deems necessary by an appropriate amendment.

Manufactured home parks

[Amended 10-12-2010 by Ord. No. 2152]

Nursing and similar care facilities

[Added 4-16-2019 by Ord. No. 2645]

Parks or campgrounds for mobile campers, tents, camp trailers, touring vans and the like

Private clubs

Public or governmental buildings and uses, including schools, parks, parkways, playgrounds and public boat landings

Public utilities or public service uses, buildings, generating or treatment plants, pumping or regulator stations or substations, but not telephone central offices

Racetracks, any type, including horses, stock cars or drag strip

Recreation facilities, privately or commercially operated, such as a fishing or boating lake, picnic grounds or dude ranch, and accessory facilities, including sale of food, beverages, bait, incidentals, supplies and equipment

Residential, business, commercial or industrial uses when the purposes of this chapter are more fully met by issuing a conditional use permit

[Added 4-6-2004 by Ord. No. 1677^[1]]

Special events such as circuses or carnival grounds, amusement parks or midways, festivals, concerts, race/walks or any other special event or gathering being held outdoors or within a temporary structure or at a site and for a purpose different from the designated use and usual occupancy of the premises and located on unincorporated lands within Sussex County, permanently or for a temporary time period exceeding three days. Special events not approved by the Director as a permitted use under § 115-20 shall require a conditional use permit. All special events, regardless of duration, shall be subject to the requirements of the Sussex County Special Event Policy.

[Amended 5-1-1990 by Ord. No. 680; 11-10-1992 by Ord. No. 863; 8-20-2013 by Ord. No. 2316; 9-18-2018 by Ord. No. 2599]

Sports arenas or stadiums, commercial athletic fields or baseball parks

Stores or shops for the sale of farm products, farm supplies, groceries, beverages, drugs and food and similar stores and shops

Structures for commercial poultry raising on farms of less than five acres

Swimming or tennis clubs, private, nonprofit or commercially operated

[1] *Editor's Note: This entry was previously repealed 1-27-2004 by Ord. No. 1658.*

§ 115-23. Special use exceptions.

Special use exceptions may be permitted by the Board of Adjustment in accordance with the provisions of Article XXVII of this chapter and may include:

- A. Temporary and conditional permits for a period not to exceed five years, such period to be determined by the Board, for the following uses:
[Amended 11-10-1992 by Ord. No. 863; 10-12-1999 by Ord. No. 1346; 10-12-2010 by Ord. No. 2152; 10-22-2019 by Ord. No. 2684]

Archery ranges

Asphalt batching plants or concrete batching plants

Commercial dog kennels

Miniature golf courses or driving ranges^[1]

Outdoor display or promotional activities at shopping centers or elsewhere

Pony rings

Raising for sale of birds, bees, rabbits and other small animals, fish and other creatures

Riding academies

Rifle or pistol ranges, trap or skeet shooting

Sawmills for cutting timber grown on the premises

Temporary buildings for use as a sales or rental office for an approval real estate development or subdivision

Tents for special purposes for a period exceeding three days. The Director may, without requiring an application for a special use exception, grant approval for a tent for a special purpose (revival, reception, tent sale as an accessory to a business or commercial use, or other similar activities). If approved by the Director, a tent for special purposes may be utilized on a parcel no more than three times in a calendar year.

Use of a manufactured home as a single-family dwelling in any district to meet an emergency or hardship situation when not approved administratively by the Director or his or her designee, such permit not to exceed two years. The Director may, without requiring an application for a special use exception, grant an extension for an emergency or hardship situation previously approved by the County Board of Adjustment upon receipt of an affidavit from a doctor stating that the emergency or hardship situation still exists. Such extension may be granted annually as long as the emergency or hardship still exists.

Use of a manufactured-home-type structure for any business, commercial or industrial use when not approved administratively by the Director or his or her designee

- [1] *Editor's Note: The former entry reading "Nonaccessory tents for special purposes," which immediately followed this entry, was repealed 11-10-1992 by Ord. No. 863. See now the entry beginning with "Tents."*

B. Exceptions to parking and loading requirements as follows:

- (1) Off-street parking areas, adjacent to or at a reasonable distance from the premises on which parking areas are required by the parking regulations of Article XXII, where practical difficulties, including the acquisition of property, or undue hardships are encountered in locating such parking areas on the premises and where the purpose of these regulations to relieve congestion in the streets would best be served by permitting such parking off the premises.
- (2) Waiver or reduction of the parking and loading requirements in any district whenever the character or use of the building is such as to make unnecessary the full provision of parking or loading facilities.
- (3) Waiver or reduction of loading space requirements where adequate community loading facilities are provided.
- (4) Waiver or reduction of loading space requirements for uses which contain less than 10,000 square feet of floor area where construction of existing buildings, problems of access or size of lot make impractical the provision of required loading space.

C. Other special use exceptions as follows:

- (1) Private garages for more than four automobiles and with floor area of more than 900 square feet in a residential district.
- (2) Cemeteries for pets.
- (3) Commercial greenhouses, wholesale or retail.

- (4) ^[2]Day nurseries or child-care centers.

[2] *Editor's Note: Former Subsection C(4), Convalescent homes, nursing homes or homes for the aged, was repealed 4-16-2019 by Ord. No. 2645. Ordinance No. 2645 also redesignated former Subsection C(5) through (14) as Subsection C(4) through (13), respectively.*

- (5) Garage/studio apartments, when not approved administratively by the Director or his or her designee, provided that at least one parking space for the exclusive use of the tenant is included on the premises.^[3]

[Added 3-18-2008 by Ord. No. 1959; amended 10-22-2019 by Ord. No. 2684]

[3] *Editor's Note: Former Subsection C(6), which listed frog or fish farms, was repealed 11-26-1991 by Ord. No. 806.*

- (6) Nurseries for growing of plants, trees and shrubs, including a building for sale of products produced on the premises.
- (7) Public telephone booths in residential areas.
- (8) Telephone central offices, provided that all storage of materials, all repair facilities and all housing of repair crews are within a completely enclosed building.

- (9) (Reserved)^[4]

[4] *Editor's Note: Former Subsection C(10), pertaining to mobile home use in AR District, was repealed 3-25-1997 by Ord. No. 1131.*

- (10) The alteration, extension or replacement of a nonconforming manufactured home, subject to the provisions of § 115-196.
[Amended 10-12-2010 by Ord. No. 2152]

- (11) More than one manufactured home may be permitted on a farm of 10 acres or more pursuant to § 115-21A(5), provided that all manufactured homes or dwellings on the property are the primary place of residence for persons employed on the premises or immediate members of the family owning or operating the farm, and provided that the granting of this exception will not adversely affect the values or uses of adjacent properties.
[Amended 3-25-1997 by Ord. No. 1131; 10-12-2010 by Ord. No. 2152]

- (12) Farm ponds on less than five acres, subject to § 115-219.^[5]

[5] *Editor's Note: Former Subsection C(13), regarding windmills and wind-powered generators, was repealed 9-13-2011 by Ord. No. 2213. This ordinance also provided for the renumbering of the remainder of this Subsection C.*

- (13) Tourist homes (also referred to as bed-and-breakfast inns).
[Added 5-16-1989 by Ord. No. 585]

- (14) ^[6]Commercial communications towers and antennas.
[Added 4-24-2001 by Ord. No. 1445]

[6] *Editor's Note: Former Subsection C(14), (15), and (17), regarding manufactured homes, as amended, were repealed 10-8-2019 by Ord. No. 2682. This ordinance also renumbered former Subsection C(16) as Subsection C(14).*

§ 115-24. Permitted signs.

[Amended 10-3-1989 by Ord. No. 619; 9-11-1990 by Ord. No. 719; 12-2-2008 by Ord. No. 2008]

See Article XXI, § 115-159.1, for signs permitted in the AR-1 and AR-2 Districts and other regulations relating to signs.

§ 115-25. Height, area and bulk requirements.

[Amended 11-7-1989 by Ord. No. 632; 10-31-1995 by Ord. No. 1062; 7-15-1997 by Ord. No. 1157; 8-3-2004 by Ord. No. 1709]

A. Minimum lot sizes for lots using a wastewater disposal system located entirely on that lot and generally defined as an on-site septic system.

(1) Standard lot option:

District (square feet)	Area (feet)	Width* (feet)	Depth
AR-1	32,670	100	100

NOTES:

A lot fronting on a numbered road shown on the latest revision of the General Highway Map for Sussex County shall have a minimum width of 150 feet.

- (2) Cluster development option. The minimum lot size may be reduced to one-half acre (21,780 square feet) where soil conditions are suitable as approved by DNREC. The total number of lots allowed shall not exceed the number of lots that would be permitted under the standard lot option. The number of dwelling units permitted shall be determined by dividing the gross area by 32,670 square feet. "Gross area" shall include the lot area and the area of land set aside for common open space or recreational use but shall exclude any area designated as a tidal tributary stream or tidal wetlands by § 115-193. However, if the proposed cluster development lies within a Low-Density Area as described within the Land Use Element and as shown on the Future Land Use Plan of the adopted Sussex County Comprehensive Plan, the total number of lots permitted shall be determined by first reducing the gross area by 25%.

[Amended 1-31-2006 by Ord. No. 1822; 12-4-2018 by Ord. No. 2618]

B. Minimum lot sizes, dimensions and open space for lots using a central sewer system as defined by § 115-194A:

(1) Standard lot option:

District	Area** (square feet)	Width* (feet)	Depth (feet)
AR-1	20,000	100	100

- (2) Cluster development option (subject to § 115-25F):

[Amended 5-21-2019 by Ord. No. 2656]

Minimum Tract Size (acres)	Minimum Lot Size (square feet)	Required Open Space
10	7500	30%

NOTES:

* A lot fronting on a numbered road shown on the latest revision of the General Highway Map for Sussex County shall have a minimum width of 150 feet.

** For lots located in the Coastal Area, the Development Districts or the Town Center Districts, the overlay ordinance for that district shall determine the minimum lot size.

- (3) The number of dwelling units permitted shall be determined by dividing the gross area by 21,780 square feet. When a cluster development lies within a Town Center, a Developing Area, or the Coastal Area as described within the Land Use Element and as shown on the Future Land Use Plan of the adopted Sussex County Comprehensive Plan, and the developer has proffered to Sussex County for the purpose of creating open space preservation/active and passive recreation areas a development fee per unit for every unit in excess of two units per acre, then the maximum number of dwelling units that may be permitted by the Planning and Zoning Commission shall be determined by dividing the gross area by 10,890 square feet. The development fee shall not be less than the minimum established by the Sussex County Council and shall be paid prior to recording any lot based upon the fee in effect at the time the application was filed. "Gross area" shall include the lot area and the area of land set aside for common open space or recreational use but shall exclude any area designated as a tidal tributary stream or tidal wetlands by § 115-193. The Sussex County Council prior to the signing of a contract to purchase, shall approve all such land or conservation easement purchases which utilize monies paid to the County under the terms of this act. All such approvals by the Council shall be by a four-fifths majority vote. It is understood that the County shall control all monies and the Sussex County Land Trust will act as a recommending body and partner at the discretion of the County Council.

[Amended 1-31-2006 by Ord. No. 1822; 4-2-2006 by Ord. No. 1842; 12-4-2018 by Ord. No. 2618; 7-27-2021 by Ord. No. 2791]

C. Minimum yard requirements. Minimum yard requirements shall be as follows:

District	Depth of Front Yard (feet)	Width of Side Yard* (feet)	Depth of Rear Yard (feet)	Minimum Lot Width (feet)
AR-1 and AR-2 (Cluster with central sewer)	25	10	10	60
AR- and AR-2 (All others)	40(30)**	15	20	100

NOTES:

* A lot having an area of less than 20,000 square feet or having a width of less than 100 feet, which lot was legally recorded prior to January 1, 1971, shall be subject to the minimum side yard requirements applicable to an MR District rather than to the minimum side yard requirements of this district.

** See also the table of district regulations at the end of this chapter.

D. Maximum height requirements. Maximum height requirements shall be as follows:

District	Feet
----------	------

District	Feet
AR-1 and AR-2	42

E. Design requirements for cluster development.

- (1) All development shall be in accordance with the latest amendment to the community design standards.
- (2) Housing types in the low-density area, as shown on the Sussex County Comprehensive Plan, are limited to single-family detached dwellings and manufactured homes where permitted by ordinance.
- (3) A forested buffer area with a minimum width of 30 feet shall be provided for lots abutting an agricultural area
- (4) Dwellings located within 50 feet of an existing residential development shall provide adequate transition in density or shall provide a thirty-foot buffer meeting the standards below and maintained by a designated entity.
 - (a) A planting strip at least 30 feet wide near the property line which shall include two canopy trees, four understory trees and 10 shrubs per 100 linear feet of buffer; or
 - (b) A landscaped rolling berm at least four feet in height; or
 - (c) A solid fence or wall a minimum of six feet in height designed with durable materials, texture and colors compatible with adjacent residential development.
- (5) No lots shall have direct access to any state-maintained roads.
- (6) All lots shall be configured to be contained completely outside of all wetlands.
- (7) Any development using the option in Subsection B(2) shall have central water and wastewater systems operated and maintained by companies authorized by the State of Delaware to perform such services. Wastewater collection and treatment systems must be designed in accordance with the requirements of Sussex County ordinances and conform to the requirements for a central sewer system as defined in § 115-194A of the Sussex County Zoning Ordinance.

F. Review procedures for cluster development.

- (1) The developer shall submit an application for a cluster development in accordance with Chapter 99, Subdivision of Land, of the Sussex County Code and which shall include, at a minimum, a sketch plan showing the location and uses of all open spaces, the extent of existing wooded areas and wetlands and the location of any historical or cultural resources. The Director of Planning and Zoning may waive this requirement when the proposed development does not contain significant natural features or resources.
- (2) The information submitted shall include a plan for the management of all open space.
- (3) The Planning and Zoning Commission shall determine that the following requirements are met before approving any preliminary plan and such application shall be reviewed on an expedited basis.
[Amended 1-31-2006 by Ord. No. 1822; amended 4-2-2006 by Ord. No. 1842; 12-16-2008 by Ord. No. 2024^[1]; 12-4-2018 by Ord. No. 2618; 6-11-2019 by Ord. No. 2658]
 - (a) The cluster development sketch plan and the preliminary plan of the cluster subdivision provides for a total environment and design which are superior, in the reasonable judgment of the Planning Commission, to that which would be allowed under the regulations for the standard option. For the purposes of this subsection a proposed cluster subdivision which provides for a total environment and design which are superior to that allowed under the standard option subdivision is one which, in the reasonable judgment of the Planning Commission meets all of the following criteria:
[Amended 5-17-2022 by Ord. No. 2852]
 - [1] Homes shall be clustered on the environmentally suitable portions of the tract, specifically those portions of the tract least encumbered by sensitive environmental features, including but not limited to wetlands, mature woodlands, waterways and other water bodies. This does not inhibit the development of wooded parcels.
 - [2] (Reserved)
 - [3] Required open space shall comply with the following criteria:
 - [a] All required open space must meet the official definition of acceptable open space contained in § 115-4.
 - [b] Required open space must be designed to be beneficial to the residents or users of the open space. It shall not be constituted of fragmented lands with little open space value. Accordingly, 30% of all required open space shall be located on one contiguous tract of land, except that such open space may be separated by water bodies and a maximum of one street.
 - [c] If one of the following physical conditions exists adjacent to the proposed cluster development tract, at least 30% of all required open space must be adjacent to:
 - [i] An existing or officially planned public park, land preserved by easement, or land preserved as open space and in municipal, County, state, or federal ownership.
 - [ii] Existing wetlands, waterways, wildlife corridors, or other ecology-sensitive land.
 - [iii] Existing farmland and/or woodlands.
 - [iv] If more than one of these physical features exist on adjacent properties, then one of these features will be identified and utilized to satisfy this requirement.
 - [v] If the open space is proposed to be dedicated to a municipality, a County, state, or federal agency or a homeowners' association, an agreement shall be provided, in advance, stipulating that such entity agrees in advance to accept that dedication and maintain that land for public recreation or as a nature preserve.
 - [vi] Open space in a cluster development shall include a pedestrian trail system accessible to residents. This trail system shall connect to an adjacent trail, adjacent neighborhood, adjacent commercial area, or adjacent public open space, if any such areas exist adjacent to the proposed cluster development. Construction materials for the proposed trail shall be identified, and a typical construction detail for the proposed trail shall be shown. Trail construction materials shall be pervious in nature.

- [4] The preliminary plan shall comply with the requirements of § 115-193.
- [5] Stormwater management shall be designed to promote groundwater recharge and protect groundwater quality. Natural drainage flows shall be maintained to the greatest extent possible. Drainage from rooftops shall be directed to vegetated areas or allow green technology. Stormwater detention and retention facilities should be designed to resemble natural ponds as referenced by DNREC in the National Resource Conservation Service's (NRCS) Pond Code 378, Visual Resource Design.
- [6] Removal of healthy mature trees shall be limited.
- [7] Scenic views that can be seen from within the tract should be preserved to the greatest extent possible.
- [8] The applicant for a cluster development shall illustrate that the following sequence and process was followed in the site design of the cluster project:
 - [a] Identify lands that should be preserved. First, areas worthy of preservation should be mapped, including wetlands, wooded areas, waterways, other water bodies, and natural drainage areas. Then, other features that are important should be mapped, such as tree lines, scenic views, historic buildings, and prime farmland. The areas with the fewest important natural, scenic and historic features should be considered the "potential development area."
 - [b] Identify developable areas. Next, the most appropriate locations for development should be chosen to minimize the impact to the most important features mapped in the first step.
 - [c] Locate roads and trails. After the developable areas are determined, a road system should be designed to serve those homes. A trail system that links homes to destinations outside of the tract should be designed.
 - [d] Locate lot lines. The last step is to configure lot lines and make necessary adjustments to satisfy the various reviewing agencies' comments.
- [9] Sidewalks shall be required at least on one side of each street, subject to Planning and Zoning Commission approval.
- (b) The cluster development plan will preserve the natural environment and any historic or archeological resources.
- (c) All of the items in Ordinance Number 1152 (see § 99-9C) have been addressed and approval of the cluster option for the proposed development will not have an adverse effect on any of the items to be considered.^[2]
 - [2] *Editor's Note: Former Subsection F(3)(d), which immediately followed and required that the cluster development developer proffer a development fee to the County for the purpose of creating open space for preservation and/or active and/or passive recreation areas was repealed 7-27-2021 by Ord. No. 2791. For current provisions, see Subsection B(3).*
 - [1] *Editor's Note: This ordinance also provided that it shall apply to all cluster subdivision applications filed after 1-1-2009.*
- (4) The Sussex County Planning and Zoning Commission may add conditions to the approval of any cluster development to protect adjacent properties and the natural environment.

§ 115-26. Reference to additional regulations.

The regulations contained in this article are supplemented or modified by regulations contained in other articles of this chapter, especially the following:

- Article I, § 115-4, Definitions and word usage
- Article XX, Tables of Height, Area and Bulk Requirements
- Article XXI, Signs
- Article XXII, Off-Street Parking
- Article XXIII, Off-Street Loading
- Article XXIV, Conditional Uses
- Article XXV, Supplementary Regulations
- Article XXVII, Board of Adjustment

§ 115-27. AR-2 to be closed district.

As of the date of adoption, the AR-2 District shall be considered a closed district and shall not be applied to any additional lands in Sussex County. The district and its various provisions and regulations shall continue to exist as they apply to AR-2 Districts legally established under the procedures of this chapter.

ZONING

115 Attachment 1

Sussex County

TABLE I

**General Table of Height, Area and Bulk Requirements
Sussex County
(See also § 115-156A)**

Article of chapter	District or Use	Maximum Height		Lot Area (square feet)	Width of Lot (feet)	Depth of Lot (feet)	Depth of Front Yard (feet)	Width of Side Yard (2 required) (feet)	Depth of Rear Yard (feet)
		Feet	Stories						
IV (9)	AR-1 District	42 (12)	-- (12)	20,000 (14)	100 (10)	100	40 (7)(8)	15	20
IV (9)	AR-2 District	42 (12)	-- (12)	15,000 (14)	100 (10)	100	40 (7)(8)	15	20
V (9)(6)	MR District	42 (12)	-- (12)	10,000 (14)	75 (10)	100	40 (7)(8)	10	10
VI (9)(6)	GR District	42 (12)	-- (12)	10,000 (14)	75 (10)	100	40 (7)(8)	10	10
VII (6)(9)	Detached single-family dwelling in HR-1 District	52 (12)	-- (12)	7,500 (14)	60 (10)	100	40 (7)(8)	10	10
VII (6)(9)	Detached single-family dwelling in HR-2 District	52 (12)	-- (12)	7,500 (14)	60 (10)	100	40 (7)(8)	10	10
VIII (9)(6)	UR District	42 (12)	-- (12)	10,000 (14)	75 (11)	100	(2)	10	10
IX (9)(6)	UB District	42 (12)	-- (12)	Dwellings 10,000 (14)	75 (11)	100	40 (7)(8)	10	10
		42 (12)	-- (12)	Other 10,000 (14)	75 (11)	100	40 (7)(8)	5 (3)	5 (3)
X (9)(6)	B-1 District	42 (12)	-- (12)	Dwellings 10,000 (14)	75 (10)	100	40 (7)(8)	10	10
		42 (12)	-- (12)	Other 10,000 (14)	75 (10)	100	60 (7)(8)(15)	5 (3)	5 (3)
XI (9)(6)	C-1 District	42 (12)	-- (12)	Dwellings 10,000 (14)	75 (10)	100	40 (7)(8)	10	10
		42 (12)	-- (12)	Other 10,000 (14)	75 (10)	100	60 (7)(8)(15)	5 (3)	5 (3)
XII	M District	42 (12)	-- (12)	Dwellings 10,000 (14)	75 (10)	100	40	10	10
		45 (12)	-- (12)	Other 10,000 (14)	75 (10)	100	40	10 (5)	10 (5)
XIII	LI-1 District	42 (12)	-- (12)	43,560/1 acre (14)	150	200	50	20	20 (4)
XIV	LI-2 District	52 (12)	-- (12)	1 acre	150	200	50	20	20 (4)
XV	HI-1 District	125 (1)	--	2 acre	200	200	50	20	20 (4)
XVI	Manufactured home parks (13)	15	1	5,000	50	50	10	10	10

NOTES:

- (1) Grain elevators, industrial tanks or towers and other similar structures may exceed 125 feet in height, but whenever such use in the HI-1 District adjoins a residential district, such structure shall not exceed 50 feet in height unless set back one foot from all required yard lines for each foot of additional height above 50 feet).
- (2) See § 115-58.
- (3) None is required when there is a party wall to an adjoining building, except that there shall be a side yard not less than 20 feet in width on the side of a lot adjoining a residential district and there shall be a rear yard not less than 30 feet in depth on the rear side of a lot adjoining a residential district.
- (4) None is required, except that there shall be a rear yard not less than 40 feet in depth on the rear side of a lot adjoining a residential district.

SUSSEX COUNTY CODE

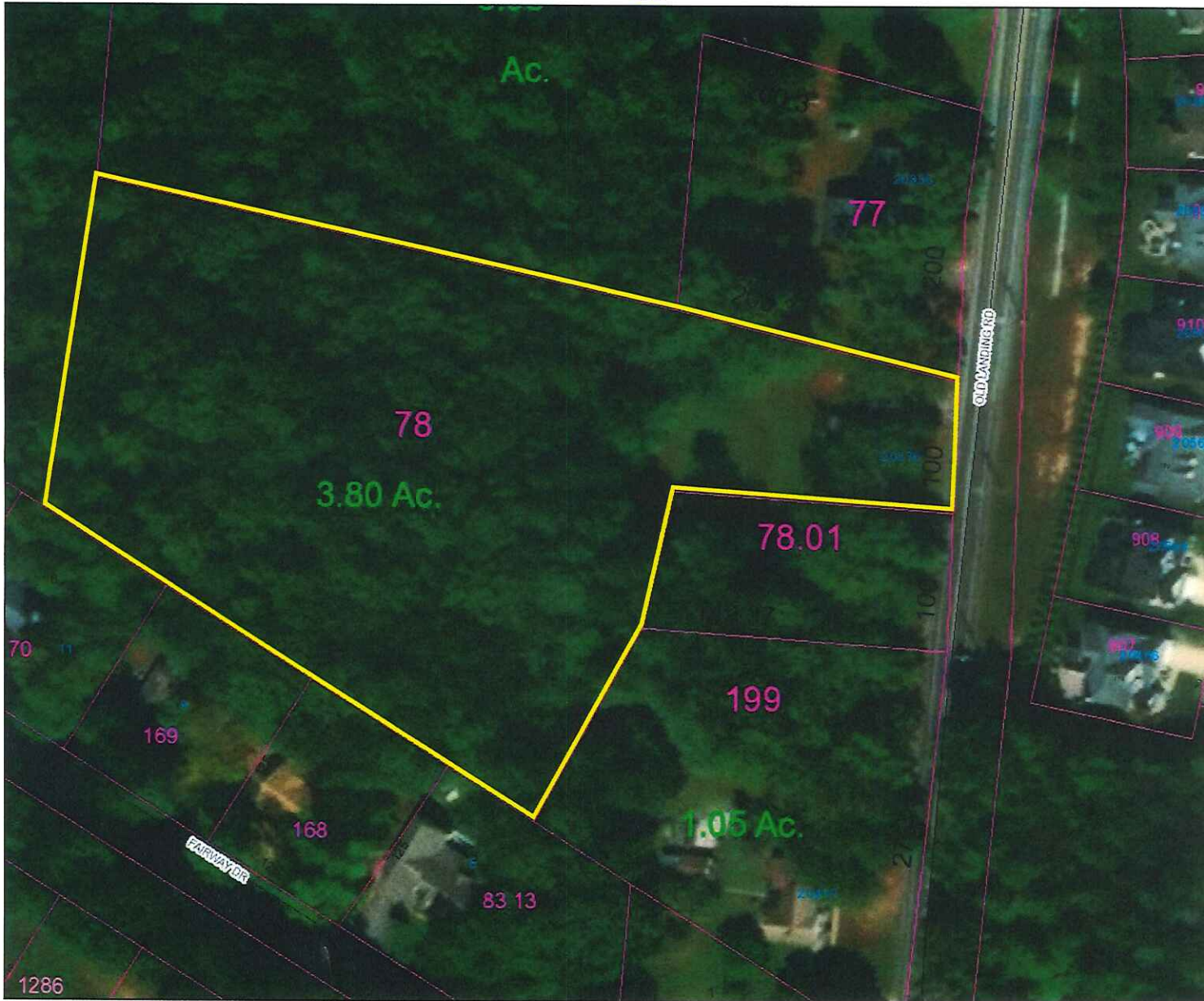
(NOTES cont'd):

- (5) No rear yard or side yard shall be required on that rear or side of a lot which adjoins a waterway.
- (6) See § 115-50 for tables covering townhouses and multifamily dwellings in HR-1 and HR-2 multifamily residential districts. See Table II for tables covering multifamily dwellings in MR, GR, UR, UB, B-1, M and C-1 Districts.
- (7) On property fronting on highways designated by the Delaware Department of Transportation as Principal Arterials or Minor Arterials, the setback shall be measured from a point not less than 50 feet from the center line of the right-of-way. On property fronting on highways designated by the Delaware Department of Transportation as Major or Minor Collectors, the setback shall be measured from a point not less than 40 feet from the center line of the right-of-way. On property fronting on all other local roads shown on the General Highway Map for Sussex County of 1964, as last revised, the setback shall be measured from a point not less than 30 feet from the center line of the right-of-way. If the existing right-of-way on any of these roads or highways is greater than the minimum dimension listed above, the setback shall be measured from the existing right-of-way line. [Amended 8-3-2004 by Ord. No. 1711]
- (8) Any lot fronting on a subdivision street and not fronting on a numbered road shown on the General Highway Map for Sussex County of 1964, as revised January 1979, shall have a setback of not less than 30 feet.
- (9) For buildings located on lots adjacent to waterways, golf courses and similar special situations, the front of such lots may be determined by the Commission. In the event that a Commission ruling makes a rear yard adjacent to the street line, an additional depth of rear yard may be required by the Commission, and an additional setback of accessory buildings from the street line may be required.
- (10) A lot fronting on a numbered road shown on the General Highway Map for Sussex County of 1964, as revised, shall have a minimum lot width of 150 feet. [Added 11-7-1989 by Ord. No. 632]
- (11) A lot fronting on a numbered road shown on the General Highway Map for Sussex County of 1964, as revised, shall have a minimum lot width of 90 feet. [Added 11-7-1989 by Ord. No. 632]
- (12) [Amended 10-31-1995 by Ord. No. 1062]
- (13) [Amended 3-25-1997 by Ord. No. 1131; 10-12-2010 by Ord. No. 2152]
- (14) Any lot which is not connected to a central sewer system, as defined by § 115-194A, or which is located within a planning area as defined by a sewer planning study approved by the Sussex County Council, shall have a minimum area of 3/4 acre. [Added 7-15-1997 by Ord. No. 1157]
- (15) [Amended 7-20-1999 by Ord. No. 1328]
- (16) For any existing approved lot which is not located in a cluster subdivision, Coastal Area cluster subdivision or residential planned community, and consists of less than 10,000 square feet, the following setbacks shall apply: the side yard setback shall be reduced to five feet and the rear yard setback shall be reduced by five feet. For any lot with side or rear yard setbacks reduced by operation of § 115-183D, no structures shall extend or project closer than five feet from the lot line. The front yard setback may be reduced to the average front yard setback of the existing buildings located on the same side of the street or road and being within 300 feet of the structure; provided, however, the front yard setback is not less than five feet. Any vacant lot within 300 feet of the structure shall be calculated as having the required setback for the district. [Added 3-20-2018 by Ord. No. 2557; amended 5-21-2019 by Ord. No. 2656]

Exhibit D
Aerial Maps

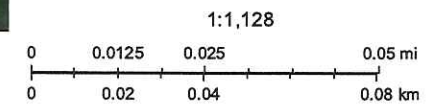


Sussex County



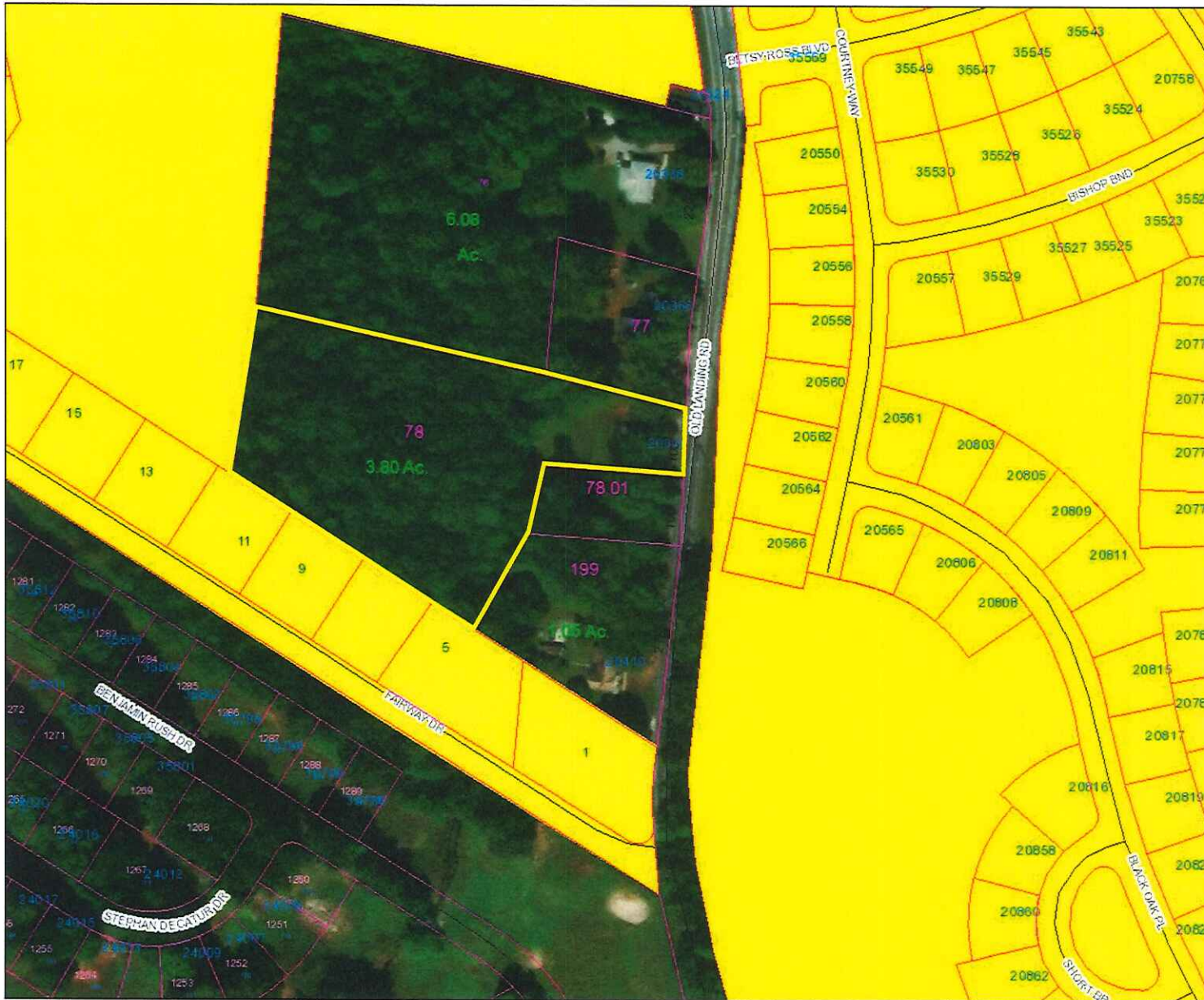
PIN:	334-18.00-78.00
Owner Name	LITCHFORD CHARLES R JR
Book	0
Mailing Address	26A READ AVE
City	DEWEY BEACH
State	DE
Description	W/S RD 274
Description 2	506' N FAIRWAY DR
Description 3	N/A
Land Code	

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



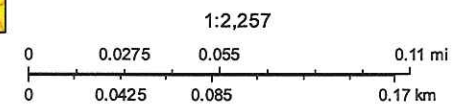


Sussex County



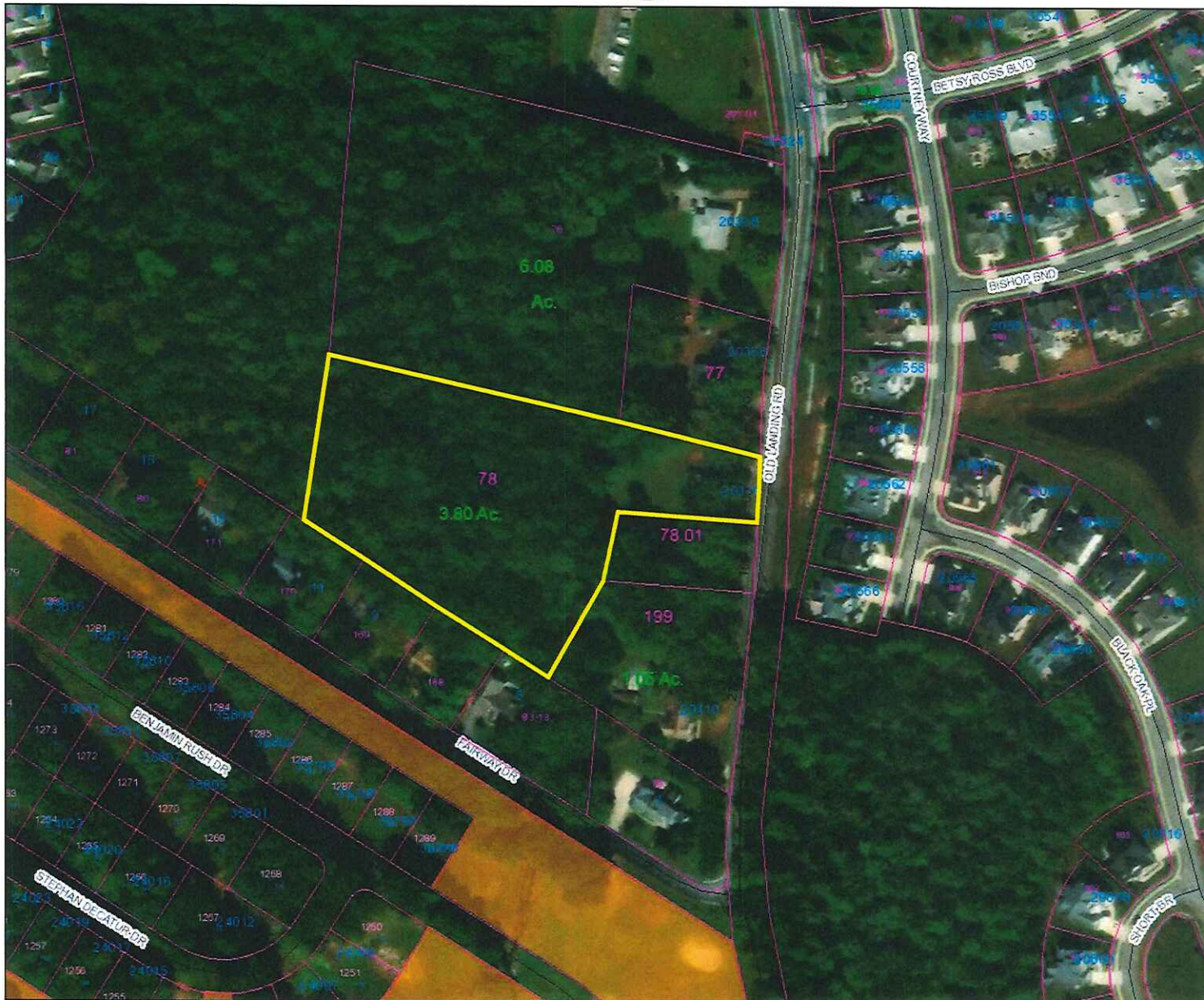
PIN:	334-18.00-78.00
Owner Name	LITCHFORD CHARLES R JR
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Description	W/S RD 274
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- polygonLayer**
- Override 1
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- 911 Address
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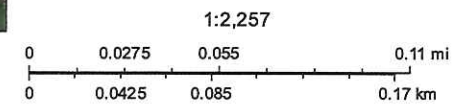


Sussex County



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State	DE
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Description 3	
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- polygonLayer**
- Override 1
- polygonLayer**
- Override 1
- Tax Parcels
- 911 Address
- Streets
- County Boundaries
- Municipal Boundaries
- TID
- Conditional Use



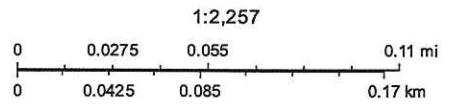


Sussex County



PIN:	334-18.00-78.00
Owner Name	LITCHFORD CHARLES R JR
Book	0
Mailing Address	26A READ AVE
City	DEWEY BEACH
State	DE
Description	W/S RD 274
Description 2	506' N FAIRWAY DR
Description 3	
Land Code	

- polygonLayer**
- Commercial
 - Developing Area
 - Existing Development Area
 - Industrial
 - Municipalities
 - Town Center
 - Municipal Boundaries
 - TID
- 2019 Future Land Use**
- Low Density
 - Coastal Area



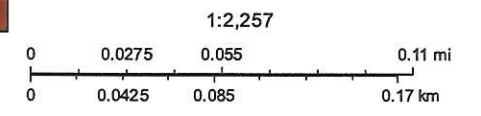


Sussex County



PIN:	334-18.00-78.00
Owner Name	LITCHFORD CHARLES R JR
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Mailing Address	26A READ AVE
City	DEWEY BEACH
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Description	W/S RD 274
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Description 3	
Land Code	

- polygonLayer**
- Override 1
- polygonLayer**
- Override 1
- Tax Parcels
- 911 Address
- Streets
- County Boundaries
- Sewer Tiers**
- Tier 1 - Sussex County Unified Sanitary Sewer District
- Tier 2 - Sussex County Planning Area
- Tier 3 - Coordinated CPCN Areas
- Tier 4 - System Optional Areas
- Tier 5 - Regulated On-site Area
- Municipal Boundaries
- TID



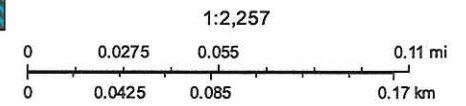


Sussex County



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- polygonLayer**
- Override 1
- Tax Parcels
- 911 Address
- Streets
- County Boundaries
- Water CPCN
- Municipal Boundaries
- TID





Sussex County

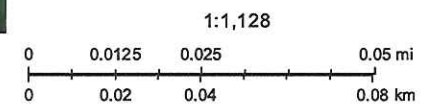


PIN:	334-18.00-78.01
Owner Name	LITCHFORD CHARLES R JR
Book	665
Mailing Address	26A READ AVE
City	DEWEY BEACH
State	DE
Description	W/S RD 274
Description 2	406' N FAIRWAY DR
Description 3	T3841
Land Code	

- polygonLayer**

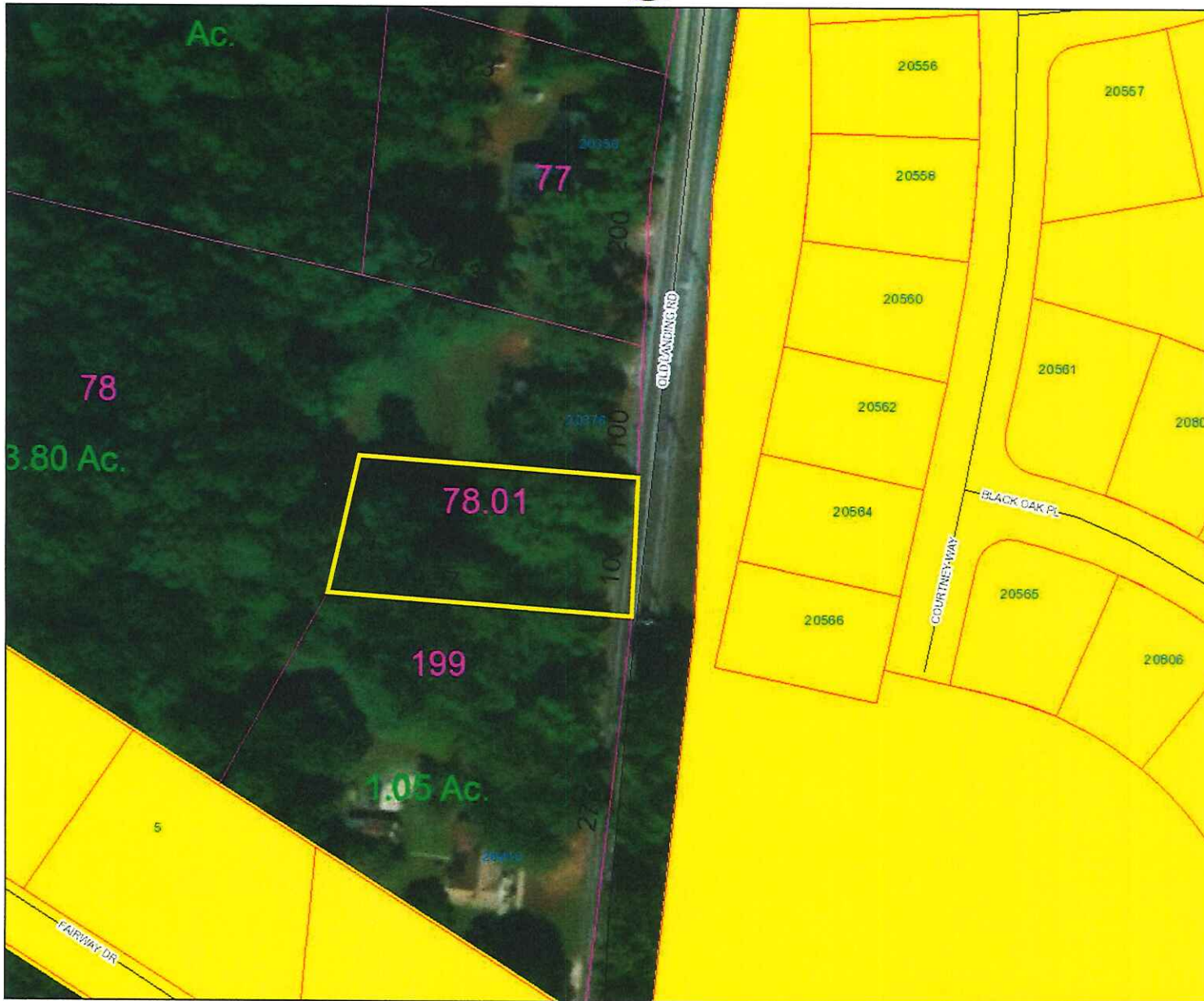
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- polygonLayer**

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



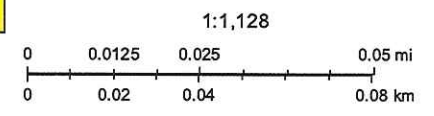


Sussex County



PIN:	334-18.00-78.01
Owner Name	LITCHFORD CHARLES R JR
Book	665
Mailing Address	26A READ AVE
City	DEWEY BEACH
State	DE
Description	W/S RD 274
Description 2	406' N FAIRWAY DR
Description 3	T3841
Land Code	

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



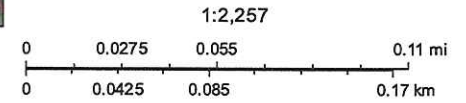


Sussex County



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Owner Name	LITCHFORD CHARLES R JR
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Land Code	

- polygonLayer**
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- polygonLayer**
- Override 1
- Tax Parcels
- 911 Address
- Streets
- County Boundaries
- Conditional Use



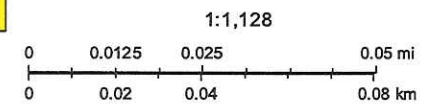


Sussex County



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State	DE
Description	W/S RD 274
Description 2	406' N FAIRWAY DR
Description 3	T3841
Land Code	

- polygonLayer** --- Town Center
- Override 1
- polygonLayer**
- Override 1
- Tax Parcels
- 911 Address
- Streets
- County Boundaries
- 2019 Future Land Use**
- Low Density
- Coastal Area
- Commercial
- Developing Area
- Existing Development Area
- Industrial
- Municipalities



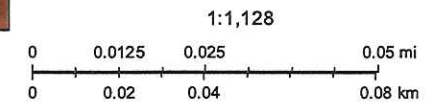


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- Tier 1 - Sussex County Unified Sanitary Sewer District
- Tier 2 - Sussex County Planning Area
- Tier 3 - Coordinated CPCN Areas
- Tier 4 - System Optional Areas
- Tier 5 - Regulated On-site Area



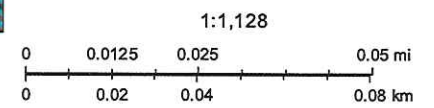


Sussex County



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- polygonLayer**
- Override 1
- Tax Parcels
- 911 Address
- Streets
- County Boundaries
- Water CPCN





BAIRD
MANDALAS
BROCKSTEDT
FEDERICO & CARDEA LLC

Mackenzie M. Peet, Esquire
(302) 645-2262
mackenzie@bmbfclaw.com

October 25, 2022

VIA EMAIL AND REGULAR MAIL

Planning & Zoning Department
Attn: Jamie Whitehouse, Director
2 The Circle
PO Box 417
Georgetown, DE 19947

RE: Special Use Exception for 20376 Old Landing Road, Rehoboth Beach, DE 19971
TMP: 334-18.00-78.00; 01

Director Whitehouse,

We represent Bay Shore Community Church. Enclosed please find a copy of Bay Shore Community Church's Board of Adjustment Application seeking a Special Use Exception pursuant to Section 115-23(c) of the Code of Operation of a day nursery/ childcare center.

Please contact my office should the Department have any questions or need any additional information.

Sincerely,

/s/Mackenzie M. Peet, Esq.

Mackenzie M. Peet, Esquire

MMP/mag

Enclosures

Cc: Bay Shore Community Church
Jeremy Ferruccio



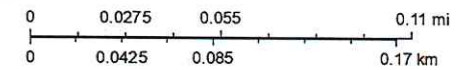
Sussex County



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- polygonLayer
 - Override 1
- Tax Parcels
- 911 Address
- Streets
- County Boundaries
- Tax Ditch Segments**
 - Tax Ditch Channel
 - De/DOE Maintained
 - HOA Maintained
 - Pipe - De/DOE
 - Pipe - Tax Ditch
 - Pipe - Private
 - Pond Feature
 - Special Access ROW
 - Extent of Right-of-Way
 - Well Head Protection Areas
 - 2007 Head of Tide Wetlands (not regulatory)
 - Municipal Boundaries

1:2,257





Search

Search by SUSSEXPARCELS -

334-18.00-78.00

Search results (1) Options -

name: 334-18.00-78.00

Workspaces v





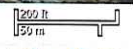
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334-16.00-78.01

Search results (1) Options -

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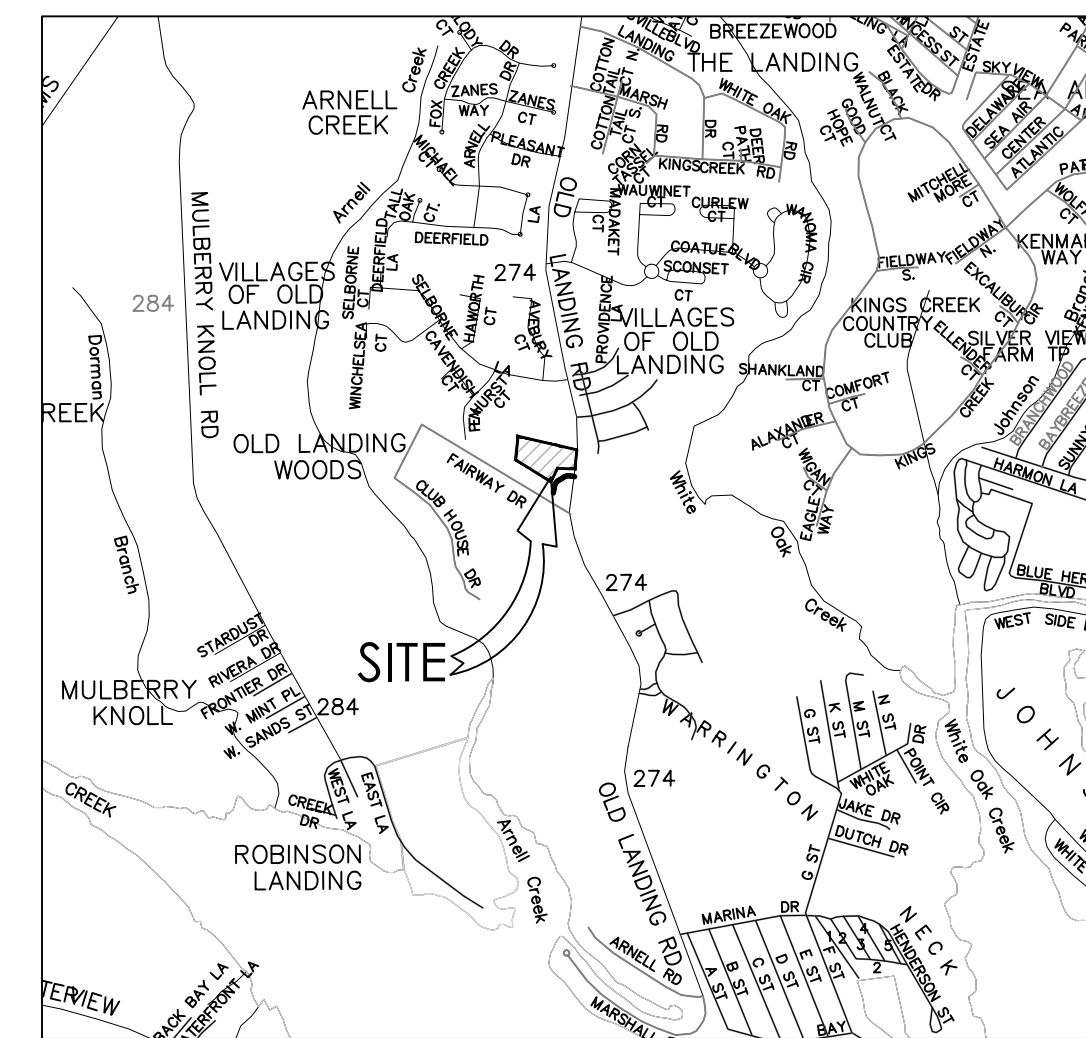


SITE PLAN

FOR

BAY SHORE COMMUNITY CHURCH

LEWES REHOBOTH HUNDRED - SUSSEX COUNTY, DELAWARE



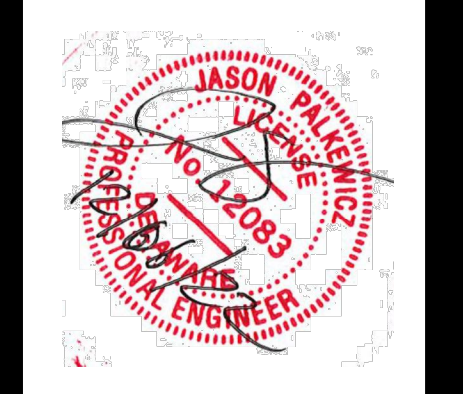
VICINITY MAP
SCALE: 1" = 2,000'

solutions
i p e m

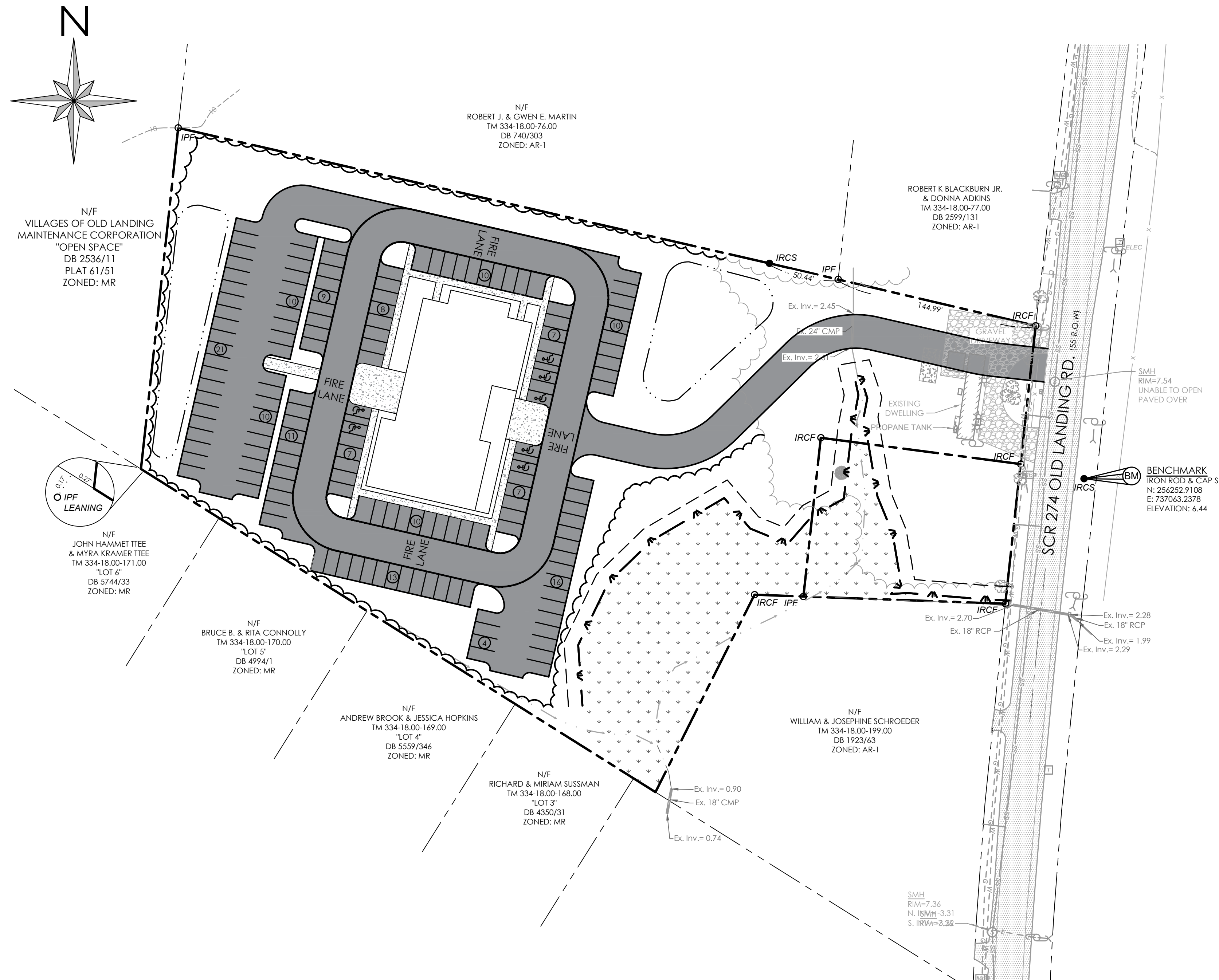
303 North Bedford Street
Georgetown, DE 19947
T. 302.297.9215

3033 Manitt Mill Road
Salisbury, MD 21804
T. 410.572.8833

www.solutionsipem.com Copyright © 2022



LEGEND	
PROPERTY LINE	---
EASEMENT/BUFFER LINE	- - - - -
SETBACK LINE	---
CONCRETE MONUMENT FOUND	CMF □
MAJOR CONTOUR	-----10-----
MINOR CONTOUR	-----7-----
ROAD CENTERLINE	---
EDGE OF CONCRETE	---
EDGE OF PAVEMENT	---
PAINT STRIPE	---
CURB	---
PAVEMENT HATCH	▨
CONCRETE HATCH	▩
BUILDING OUTLINE	---
SIDEWALK	N/A
SIDEWALK HATCH	N/A
FUTURE FORCEMAIN	N/A
OVERHEAD ELECTRIC	---
UTILITY POLE	⊕
TREE LINE	~~~~~



SITE DATA:

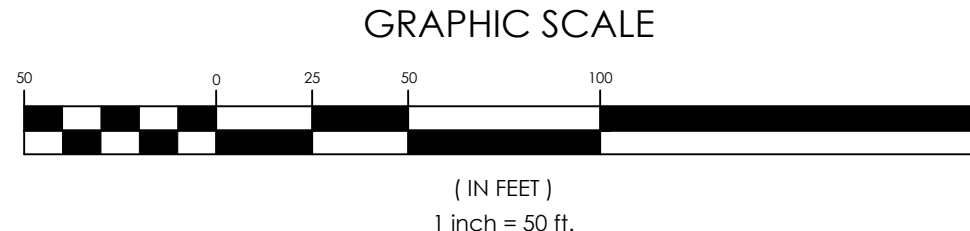
- OWNER:** CHARLES R. LITCHFORD, JR.
26A READ AVENUE
DEWEY BEACH, DE 19971
- DEVELOPER:** GREENROOM CONSULTANTS, LLC
30046 JUMP LANE, UNIT 101, SANDY COVER
OCEAN VIEW, DE 19970
CONTACT: TIM TICE
- ENGINEER/
LAND PLANNER:** SOLUTIONS IPEM, LLC
303 NORTH BEDFORD STREET
GEORGETOWN, DE 19947
PHONE: 302.297.9215
CONTACT: JASON PALKEWICZ, PE
- TAX MAP 334-18.00-78.00 & 78.01
AREA= 1.739 AC.±
 - EXISTING ZONING: AR-1 (COASTAL AREA)
 - DEED REFERENCE: 665/845
 - PROPOSED USE: CHURCH
 - SETBACKS:
EXISTING:
FRONT YARD = 40'
SIDE YARD = 12' (2 REQUIRED)
REAR YARD = 20'
MAXIMUM BUILDING HEIGHT: 42'
 - FLOOD ZONE:
PROPERTY IS LOCATED WITHIN FLOOD ZONE AE (EL. 5) SPECIAL FLOOD HAZARD AREAS SUBJECT TO INUNDATION BY THE 1% ANNUAL CHANCE FLOOD. BASE FLOOD ELEVATION DETERMINED. ZONE X (SHADED) AREAS OF 0.2% ANNUAL CHANCE FLOOD AND ZONE X (UNSHADED) AREAS DETERMINED TO BE OUTSIDE THE 0.2% ANNUAL CHANCE FLOODPLAIN, PER FIRM MAP NUMBER 10005C0334K, MAP REVISED MARCH 16, 2015.
 - WATER SUPPLY: LONG NECK WATER COMPANY
 - SANITARY SEWER: SUSSEX COUNTY - INLAND BAYS PRESERVATION COMPANY, LLC
 - SOIL TYPES:
D₆GB - DOWNER SANDY LOAM - HYDROLOGIC SOIL A
F₆GA - FALLINGSTON LOAMS - HYDROLOGIC SOIL C/D
G₆A - GREENWICH LOAM - HYDROLOGIC SOIL B
P₆A - PINEYNECK LOAM - HYDROLOGIC SOIL C
 - PARKING:
REQUIRED: 1 SPACE PER 4 SEATS
400 SEATS / 4 = 100 SPACES REQUIRED
 - PARKING PROVIDED:
161 SPACES (154 STANDARD + 7 HANDICAP)

REVISIONS	
NO.	DESCRIPTION

SITE PLAN
for
BAY SHORE COMMUNITY CHURCH
LEWES REHOBOTH HUNDRED
SUSSEX COUNTY, DELAWARE

NOTES:

- ROUTE 298 (BANKS ROAD) IMPROVEMENTS SHALL BE PER THE APPROVED DELAWARE DEPARTMENT OF TRANSPORTATION ENTRANCE PLANS.
- SURVEY: THE BOUNDARY AND TOPOGRAPHIC INFORMATION SHOWN HEREIN ARE AS PROVIDED BY SOLUTIONS IPEM, LLC
- PROJECT DATUM:
HORIZONTAL: DELAWARE STATE PLANE NAD 83
VERTICAL: NAVD 88



ENGINEER'S CERTIFICATION	
I HEREBY CERTIFY THAT THESE DRAWINGS HAVE BEEN PREPARED UNDER MY SUPERVISION.	
JASON PALKEWICZ, PE	DATE
DEVELOPER'S CERTIFICATION	
THE DEVELOPER, GREENROOM CONSULTANTS, LLC, HEREBY CERTIFIES THAT THESE DRAWINGS HAVE BEEN APPROVED.	
TIM TICE	DATE
APPROVED, SUSSEX COUNTY ENGINEER AGREEMENT #	
HANS MEDLARZ, PE.	DATE

Date:	11/28/22
Job Number:	GZ2089
Scale:	1"=50'
Drawn By:	ML
Designed By:	JIP
Approved By:	JIP
Sheet No.:	1
File Name:	20089-site-plan

Board of Adjustment
Sussex County, Delaware

RECEIVED
DEC 12 2022
SUSSEX COUNTY
PLANNING & ZONING

To the Sussex County Board of Adjustment,

We, the neighboring properties to Case Number 12773, Bay Shore Community Church, are absolutely opposed to a special use exception being granted to operate a daycare on this property.

A daycare facility is out of character for this area which is 100% residential. Old Landing Road is an area of residential homes only.

Old Landing Road is a two lane road which is already overtaxed with traffic. It was never designed to handle the traffic it currently supports and cannot handle the hundreds of extra trips per day that a daycare would create.

Also, a daycare facility in a residential area, would surely harm our property values, both now and in the future.

For all of these reasons, and many others, we are strictly opposed to this special use exception.

Robert J. Martin

date Dec. 6, 2022

Gwen Martin

date Dec 6, 2022

Address: 20338 Old Landing Rd. Rehoboth DE

Board of Adjustment
Sussex County, Delaware

RECEIVED
DEC 12 2022
SUSSEX COUNTY
PLANNING & ZONING

To the Sussex County Board of Adjustment,

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For all of these reasons, and many others, we are strictly opposed to this special use exception.

Linda Hussong

date 12-10-22

date

Address: 26391 ZOAR RD, Georgetown, De 19947

Board of Adjustment
Sussex County, Delaware

RECEIVED
DEC 12 2022
SUSSEX COUNTY
PLANNING & ZONING

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For all of these reasons, and many others, we are strictly opposed to this special use exception.

Eugene Devine

date 11/07/22

date

Address: 36099 BAY DRIVE ROBERTA BEACH DE

P.S. Old Landing Road Road OUT for 15 HOUSING DEVELOPMENT AND IS LAND LOCKED

Board of Adjustment
Sussex County, Delaware

RECEIVED
DEC 12 2022
SUSSEX COUNTY
PLANNING & ZONING

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We, the neighboring properties to Case Number 12773, Bay Shore Community Church, are absolutely opposed to a special use exception being granted to operate a daycare on this property.

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For all of these reasons, and many others, we are strictly opposed to this special use exception.

Patricia DeBois date 12-4-22

36099 Bay Drive date _____

Address: Rech of Beth Beth DE

Case # 12774
Hearing Date 12/19

202215650

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
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:

33174 PEARL ST. MILLSBORO, DE 19966

Variance/Special Use Exception/Appeal Requested: we are requesting a 8' variance to move up the new home placement toward Pearl Street. Other homes on Pearl Street have Requested a variance & were approved. Your help would be appreciated.

Tax Map #: 234-35.05-43.00

Property Zoning: MR - SFR

Applicant Information

Applicant Name: DIANNE V. TOBIAS
Applicant Address: 1102 HILLTOP RD.
City LEESPORT State PA Zip: 19533
Applicant Phone #: 610-301-8512 Applicant e-mail: DDCOOPER17@AOL.COM

Owner Information

Owner Name: DIANNE V. TOBIAS
Owner Address: 1102 HILLTOP RD.
City LEESPORT State PA Zip: 19533 Purchase Date: 9/29/22
Owner Phone #: 610-301-8512 Owner e-mail: DDCOOPER17@AOL.COM

Agent/Attorney Information = Builder Agent

Agent/Attorney Name: Donaway Homes = Robert Smith
Agent/Attorney Address: 36950 Sussex Highway
City Delmar State DE Zip: 19940
Agent/Attorney Phone #: 302-846-2400 Agent/Attorney e-mail: robert@donawayhomes.com
302-245-0972

Signature of Owner/Agent/Attorney

Dianne V. Tobias

Date: 10/24/22



Robert Smith
Robert Smith

10-24-22



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 narrow & it requires us to build our front steps in a fashion that will be difficult to access.

We would like to move the home placement as far as you will allow.

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.

The property can not be subdivided.

3. Not created by the applicant:

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

We didn't create anything in this manner.

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.

Other homes on Pearl Street are closer than our current placement. Our neighbor received an approved variance from the Board of Adjustment & we were hoping we could move the home up as far as possible.

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 8' variance but within the Board of Adjustment Decision we would like to move the home placement up as far as possible.

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. Our Request for 8' variance will not effect the neighboring Properties. Actually the other homes on Pearl Street have already been Granted a variance & I was hoping we will be approved as well.

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)

We have no other Requirements

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

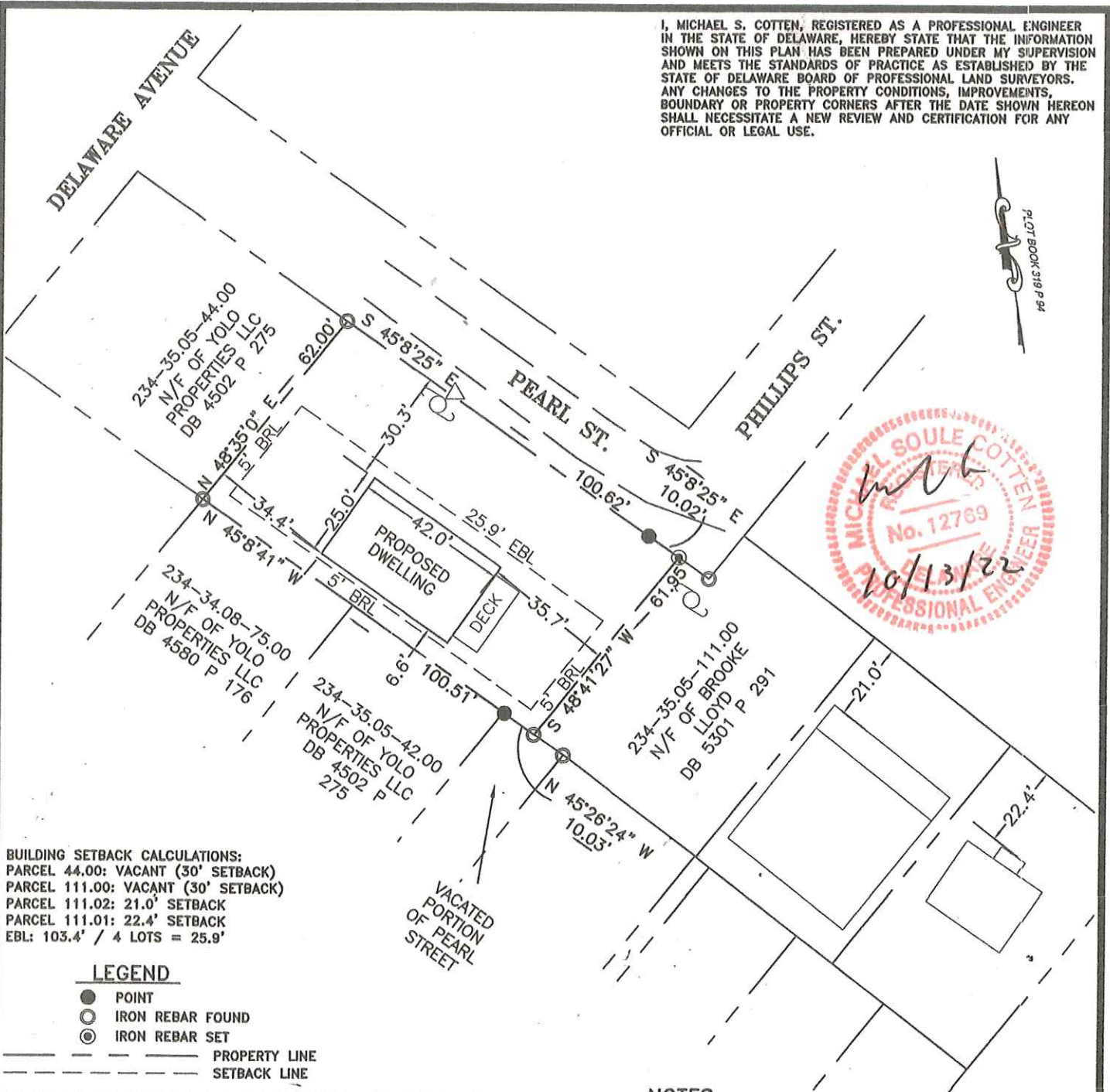
Our Daughter will be living in this new home and if we are granted a variance it will allow us to Build the Front Steps differently so our daughter can access the Entrance alot easier than the current position. Other homes on Pearl Street

have been approved for variance & we are hoping the Board will allow us to move the new home placement toward Pearl Street. We are Requesting the 8' variance but we will be happy if the Board would allow as much as possible but still be within the Board's tolerance & guidelines.

Thank You.

I, MICHAEL S. COTTEN, REGISTERED AS A PROFESSIONAL ENGINEER 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.

PLAT BOOK 219 P 94



BUILDING SETBACK CALCULATIONS:
 PARCEL 44.00: VACANT (30' SETBACK)
 PARCEL 111.00: VACANT (30' SETBACK)
 PARCEL 111.02: 21.0' SETBACK
 PARCEL 111.01: 22.4' SETBACK
 EBL: 103.4' / 4 LOTS = 25.9'

LEGEND

- POINT
- IRON REBAR FOUND
- ⊙ IRON REBAR SET
- PROPERTY LINE
- - - SETBACK LINE

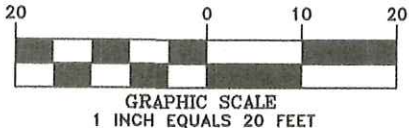
**BOUNDARY SURVEY/SITE PLAN
 FOR DIANE TOBIAS
 (DONAWAY HOMES)
 33174 PEARL STREET
 MILLSBORO, DE 19966
 INDIAN RIVER HUNDRED
 SUSSEX COUNTY, DELAWARE
 TAX MAP #234-35.05-43.00
 AREA: 6,836±SF / 0.157±ACRES**

NOTES

1. TITLE REFERENCED TO DEED BOOK 5300, P 205.
2. "SUBURBAN" SURVEY.
3. SUBJECT TO ANY AND ALL RESTRICTIONS, RESERVATIONS, CONDITIONS, EASEMENTS & AGREEMENTS OF RECORD IN THE OFFICE OF RECORDER OF DEEDS, SUSSEX COUNTY, DE. NO TITLE SEARCH PROVIDED.
4. THIS SURVEY DOES NOT CERTIFY AS TO THE EXISTENCE OR NON EXISTENCE OF ANY EASEMENTS OR RIGHT OF WAYS AFFECTING THIS PROPERTY.
5. FEMA FLOOD ZONE 'AE' EL 7.0 FEET PER PANEL 10005C0481 (3/16/15)

COTTEN ENGINEERING LLC
 CIVIL ENGINEERS
 10087 CONCORD RD.
 SEAFORD DE 19973
 PHONE/FAX (302) 628-9164

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DESIGNED BY: CE	REV:	JOB # 22-525
DRAWN BY: JCD	DATE: 10/13/2022	SHEET 1 OF 1
CHECKED BY: JCD	SCALE: AS-SHOWN	

ELEVATION CERTIFICATE

Important: Follow the instructions on pages 1-9.

Copy all pages of this Elevation Certificate and all attachments for (1) community official, (2) insurance agent/company, and (3) building owner.

SECTION A – PROPERTY INFORMATION				FOR INSURANCE COMPANY USE	
A1. Building Owner's Name DIANNE TOBIAS				Policy Number:	
A2. Building Street Address (including Apt., Unit, Suite, and/or Bldg. No.) or P.O. Route and Box No. 33174 PEARL STREET				Company NAIC Number:	
City MILLSBORO		State Delaware		ZIP Code 19966	
A3. Property Description (Lot and Block Numbers, Tax Parcel Number, Legal Description, etc.) LOTS 4,5,6,7 WHITLEDGE LOTS, SUSSEX COUNTY TAX MAP #234-35.05-43.00					
A4. Building Use (e.g., Residential, Non-Residential, Addition, Accessory, etc.) <u>RESIDENTIAL</u>					
A5. Latitude/Longitude: Lat. <u>38°35'51.98" N</u> Long. <u>75°10'21.87" W</u> Horizontal Datum: <input type="checkbox"/> NAD 1927 <input checked="" type="checkbox"/> NAD 1983					
A6. Attach at least 2 photographs of the building if the Certificate is being used to obtain flood insurance.					
A7. Building Diagram Number <u>1A</u>					
A8. For a building with a crawlspace or enclosure(s):					
a) Square footage of crawlspace or enclosure(s) <u>450.00</u> sq ft					
b) Number of permanent flood openings in the crawlspace or enclosure(s) within 1.0 foot above adjacent grade <u>3</u>					
c) Total net area of flood openings in A8.b <u>600.00</u> sq in					
d) Engineered flood openings? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No					
A9. For a building with an attached garage:					
a) Square footage of attached garage <u>600.00</u> sq ft					
b) Number of permanent flood openings in the attached garage within 1.0 foot above adjacent grade <u>3</u>					
c) Total net area of flood openings in A9.b <u>600.00</u> sq in					
d) Engineered flood openings? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No					
SECTION B – FLOOD INSURANCE RATE MAP (FIRM) INFORMATION					
B1. NFIP Community Name & Community Number SUSSEX COUNTY #100029			B2. County Name SUSSEX		B3. State Delaware
B4. Map/Panel Number 10005C0481	B5. Suffix K	B6. FIRM Index Date 03-16-2015	B7. FIRM Panel Effective/ Revised Date 03-16-2015	B8. Flood Zone(s) AE	B9. Base Flood Elevation(s) (Zone AO, use Base Flood Depth) 7.0
B10. Indicate the source of the Base Flood Elevation (BFE) data or base flood depth entered in Item B9: <input type="checkbox"/> FIS Profile <input checked="" type="checkbox"/> FIRM <input type="checkbox"/> Community Determined <input type="checkbox"/> Other/Source: _____					
B11. Indicate elevation datum used for BFE in Item B9: <input type="checkbox"/> NGVD 1929 <input checked="" type="checkbox"/> NAVD 1988 <input type="checkbox"/> Other/Source: _____					
B12. Is the building located in a Coastal Barrier Resources System (CBRS) area or Otherwise Protected Area (OPA)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Designation Date: _____ <input type="checkbox"/> CBRS <input type="checkbox"/> OPA					

ELEVATION CERTIFICATE

OMB No. 1660-0008
Expiration Date: November 30, 2022

IMPORTANT: In these spaces, copy the corresponding information from Section A.			FOR INSURANCE COMPANY USE
Building Street Address (including Apt., Unit, Suite, and/or Bldg. No.) or P.O. Route and Box No. 33174 PEARL STREET			Policy Number:
City MILLSBORO	State Delaware	ZIP Code 19966	Company NAIC Number

SECTION C – BUILDING ELEVATION INFORMATION (SURVEY REQUIRED)

C1. Building elevations are based on: Construction Drawings* Building Under Construction* Finished Construction

*A new Elevation Certificate will be required when construction of the building is complete.

C2. Elevations – Zones A1–A30, AE, AH, A (with BFE), VE, V1–V30, V (with BFE), AR, AR/A, AR/AE, AR/A1–A30, AR/AH, AR/AO. Complete Items C2.a–h below according to the building diagram specified in Item A7. In Puerto Rico only, enter meters.

Benchmark Utilized: CORS KEYNET GPS, VRS Vertical Datum: NAVD88, GEOID 12B

Indicate elevation datum used for the elevations in items a) through h) below.

NGVD 1929 NAVD 1988 Other/Source: _____

Datum used for building elevations must be the same as that used for the BFE.


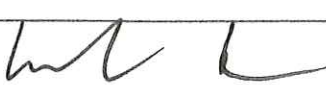
Check the measurement used.

- | | | | |
|---|------|--|---------------------------------|
| a) Top of bottom floor (including basement, crawlspace, or enclosure floor) _____ | 4.0 | <input checked="" type="checkbox"/> feet | <input type="checkbox"/> meters |
| b) Top of the next higher floor _____ | 14.1 | <input checked="" type="checkbox"/> feet | <input type="checkbox"/> meters |
| c) Bottom of the lowest horizontal structural member (V Zones only) _____ | N/A | <input checked="" type="checkbox"/> feet | <input type="checkbox"/> meters |
| d) Attached garage (top of slab) _____ | 4.0 | <input checked="" type="checkbox"/> feet | <input type="checkbox"/> meters |
| e) Lowest elevation of machinery or equipment servicing the building
(Describe type of equipment and location in Comments) _____ | 7.2 | <input checked="" type="checkbox"/> feet | <input type="checkbox"/> meters |
| f) Lowest adjacent (finished) grade next to building (LAG) _____ | 3.5 | <input checked="" type="checkbox"/> feet | <input type="checkbox"/> meters |
| g) Highest adjacent (finished) grade next to building (HAG) _____ | 3.8 | <input checked="" type="checkbox"/> feet | <input type="checkbox"/> meters |
| h) Lowest adjacent grade at lowest elevation of deck or stairs, including structural support _____ | 3.5 | <input checked="" type="checkbox"/> feet | <input type="checkbox"/> meters |

SECTION D – SURVEYOR, ENGINEER, OR ARCHITECT CERTIFICATION

This certification is to be signed and sealed by a land surveyor, engineer, or architect authorized by law to certify elevation information. I certify that the information on this Certificate represents my best efforts to interpret the data available. I understand that any false statement may be punishable by fine or imprisonment under 18 U.S. Code, Section 1001.

Were latitude and longitude in Section A provided by a licensed land surveyor? Yes No Check here if attachments.

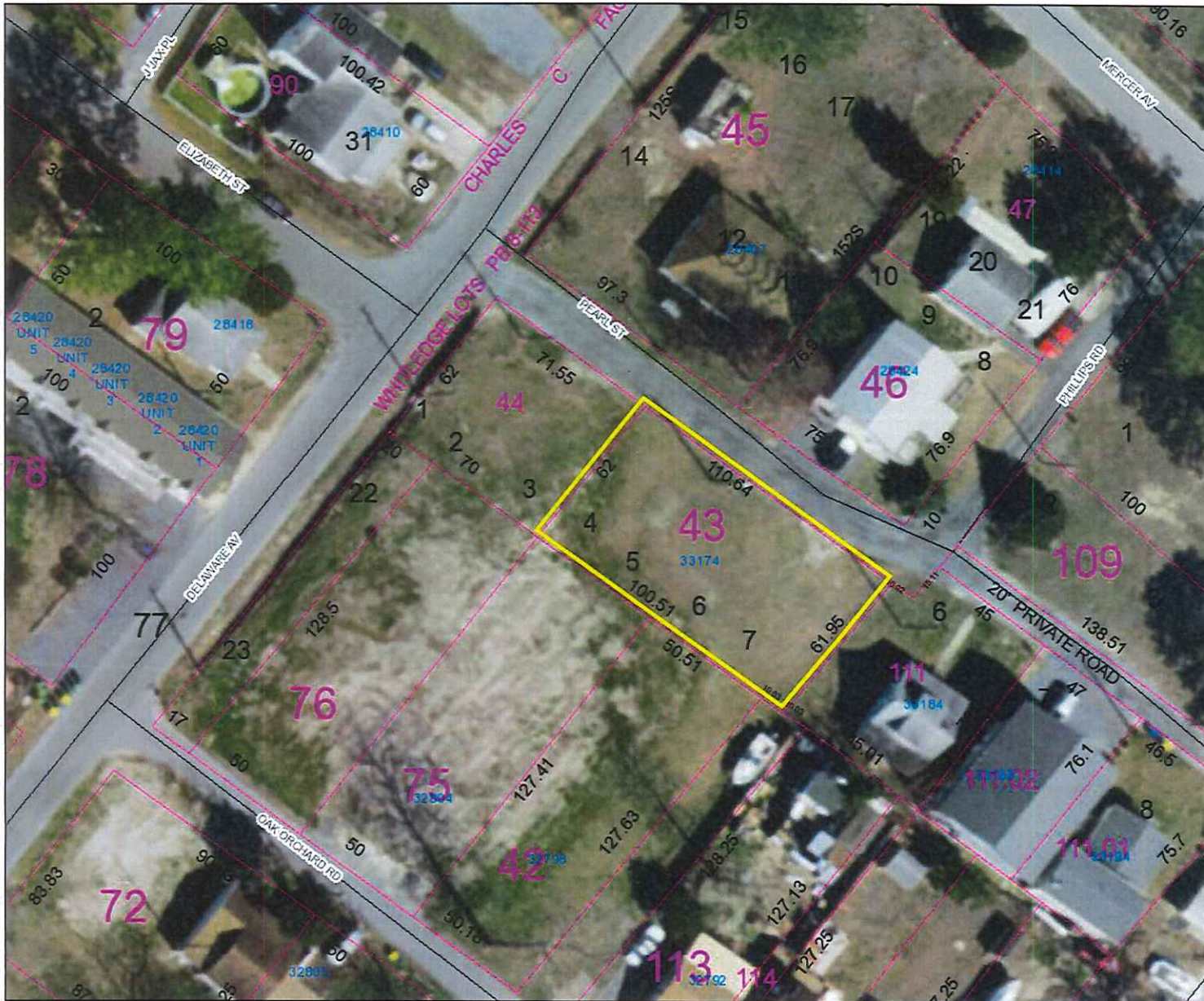
Certifier's Name MICHAEL S. COTTEN, P.E.	License Number DE #12769		
Title PRESIDENT			
Company Name COTTEN ENGINEERING, LLC			
Address 10087 CONCORD ROAD			
City SEAFORD	State Delaware		ZIP Code 19973
Signature 	Date 10-14-2022	Telephone (302) 628-9164	Ext.

Copy all pages of this Elevation Certificate and all attachments for (1) community official, (2) insurance agent/company, and (3) building owner.

Comments (including type of equipment and location, per C2(e), if applicable)
 LOWEST ELEVATION OF MACHINERY REFERS TO PROPOSED VAULTED HVAC UNIT. PROPOSED FLOOD VENTS:
 SMARTVENT 1540-520 INSULATED OR NON INSULATED MODELS. ICC-ESR-2074 EACH RATED FOR 200 SF FLOOR AREA.



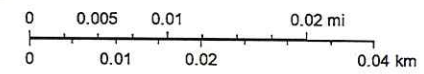
Sussex County



PIN:	234-35.05-43.00
Owner Name	TOBIAS DIANNE V
Book	5784
Mailing Address	1102 HILLTOP RD
City	LEESPORT
State	PA
Description	OAK ORCHARD
Description 2	WHITLEDGE ST
Description 3	LOTS 4 5 6 7
Land Code	

- polygonLayer
 - Override 1
- polygonLayer
 - Override 1
- Tax Parcels
- 911 Address
- Streets
- County Boundaries
- Tax Ditch Segments
 - Tax Ditch Channel
 - DelDOT Maintained
 - HOA Maintained
 - Pipe - DelDOT
 - Pipe - Tax Ditch
 - Pipe - Private
- Pond Feature
- Special Access ROW
- Extent of Right-of-Way
- Well Head Protection Areas
- 2007 Head of Tide Wetlands (not regulatory)
- Municipal Boundaries

1:564





Search

Search by SUSSEXPARCELS -

234-35 05-43.00

Search results (1) Options -

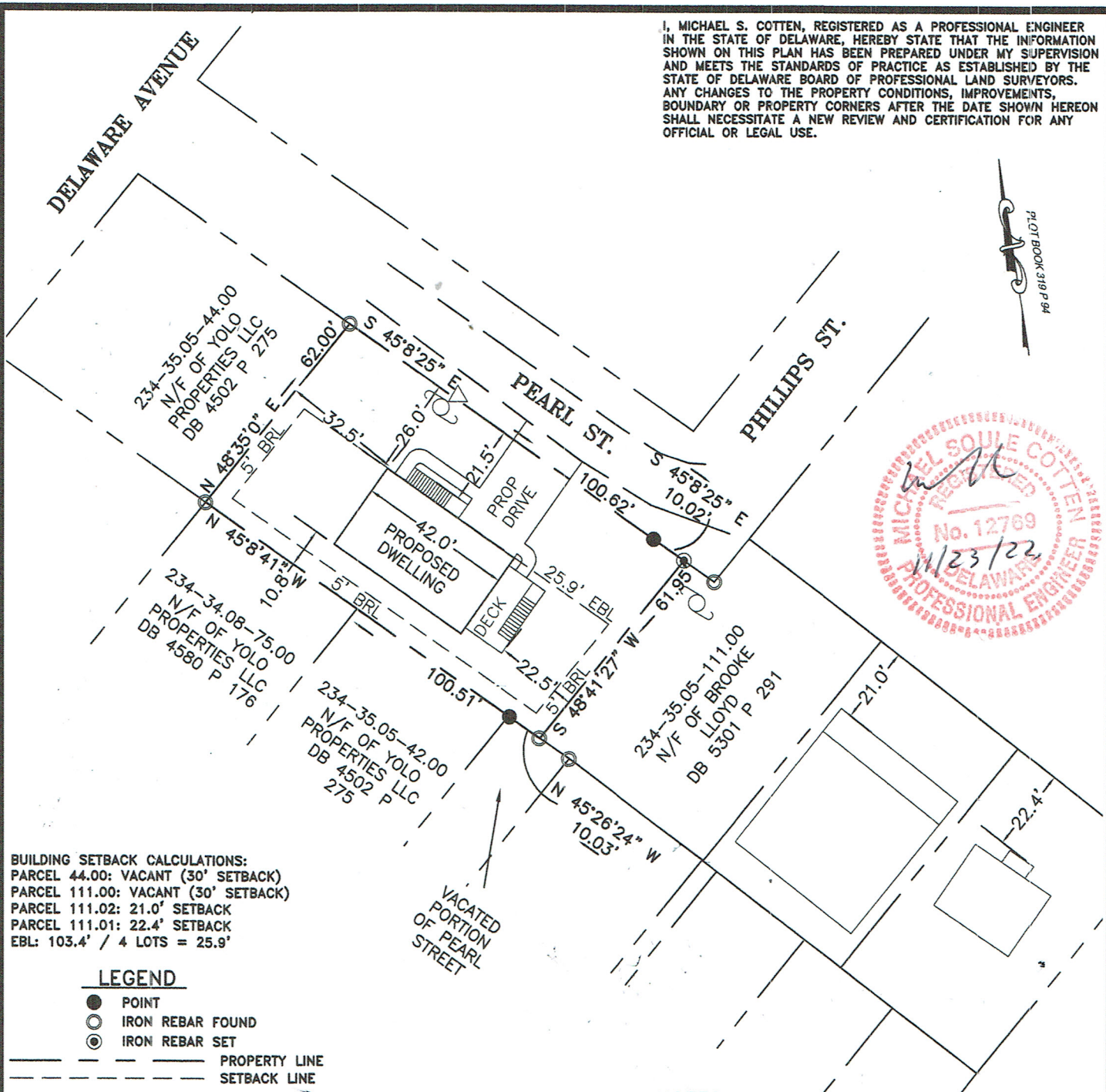
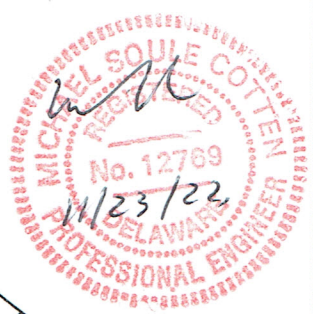
name: 234-35 05-43.00

Workspaces v



I, MICHAEL S. COTTEN, REGISTERED AS A PROFESSIONAL ENGINEER 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.

PLAT BOOK 319 P 94



BUILDING SETBACK CALCULATIONS:
 PARCEL 44.00: VACANT (30' SETBACK)
 PARCEL 111.00: VACANT (30' SETBACK)
 PARCEL 111.02: 21.0' SETBACK
 PARCEL 111.01: 22.4' SETBACK
 EBL: 103.4' / 4 LOTS = 25.9'

LEGEND

- POINT
- IRON REBAR FOUND
- ⊙ IRON REBAR SET
- PROPERTY LINE
- - - SETBACK LINE

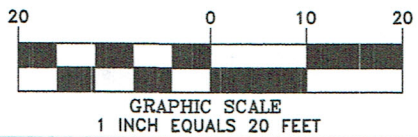
NOTES

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4. THIS SURVEY DOES NOT CERTIFY AS TO THE EXISTENCE OR NON EXISTENCE OF ANY EASEMENTS OR RIGHT OF WAYS AFFECTING THIS PROPERTY.
5. FEMA FLOOD ZONE 'AE' EL 7.0 FEET PER PANEL 10005C0481 (3/16/15)

BOUNDARY SURVEY/SITE PLAN
 FOR DIANE TOBIAS
 (DONAWAY HOMES)
 33174 PEARL STREET
 MILLSBORO, DE 19966
 INDIAN RIVER HUNDRED
 SUSSEX COUNTY, DELAWARE
 TAX MAP #234-35.05-43.00
 AREA: 6,836±SF / 0.157±ACRES

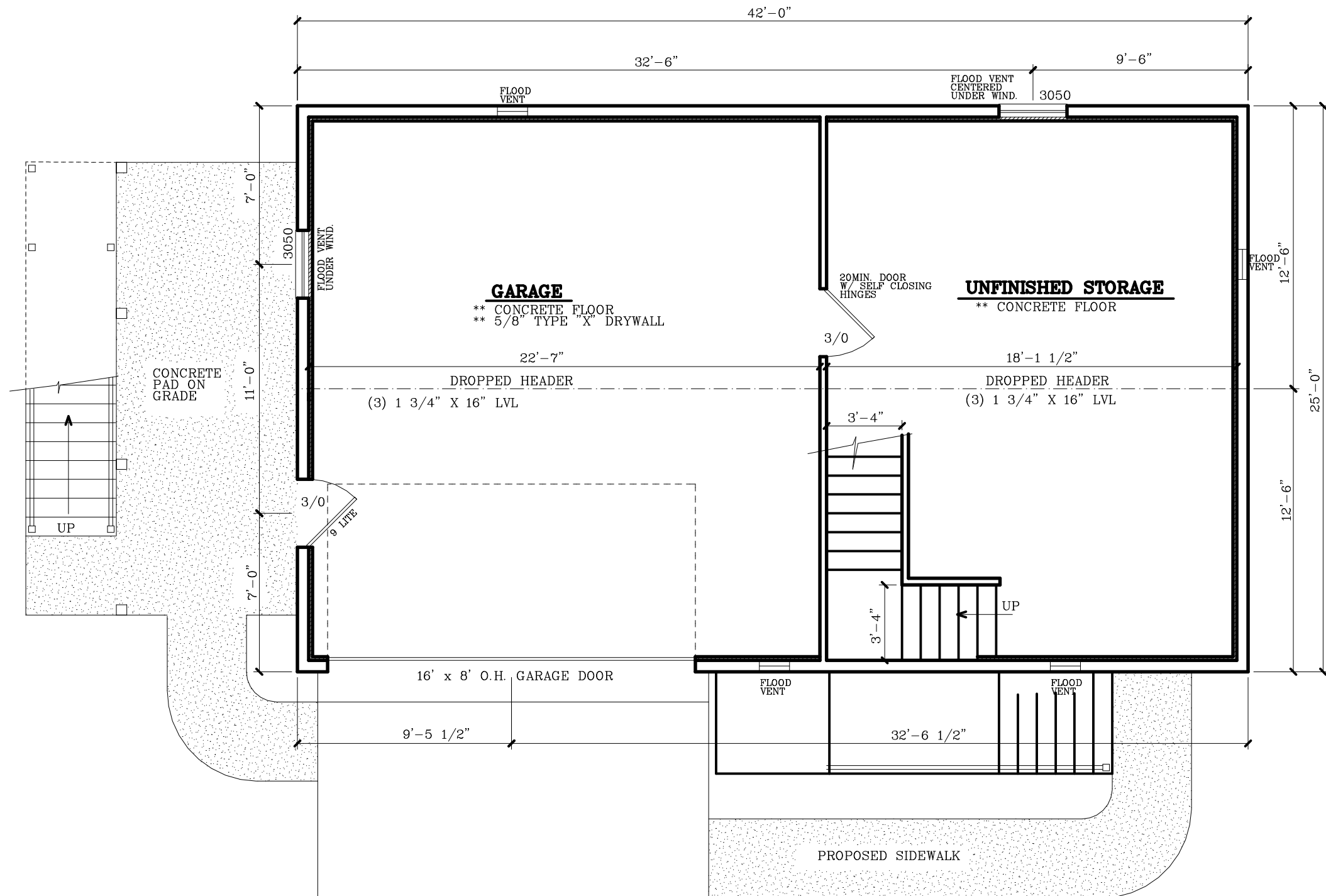
COTTEN ENGINEERING LLC

CIVIL ENGINEERS
 10087 CONCORD RD.
 SEAFORD DE 19973
 PHONE/FAX (302) 628-9164



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DESIGNED BY: CE	REV:	JOB # 22-525
DRAWN BY: JCD	DATE: 11/23/2022	SHEET 1 OF 1
CHECKED BY: JCD	SCALE: AS-SHOWN	



**PRELIMINARY
FRIST FLOOR**

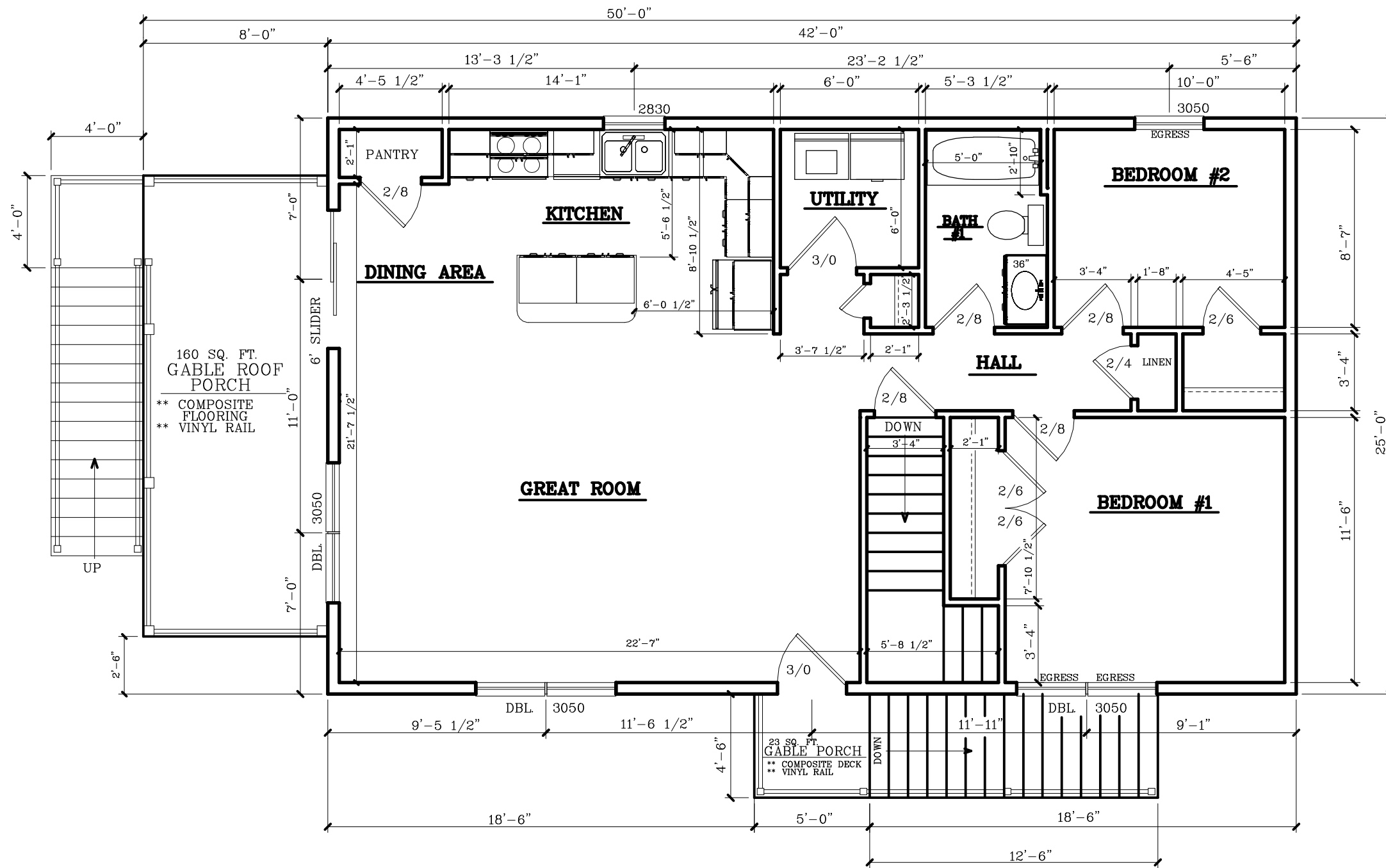
1050 SQ. FT - UNFINISHED WOOD FRAMED BASEMENT
SCALE: 3/16" = 1'-0"



TOBIAS RESIDENCE

SCALE: AS NOTED LOCATION: PEARL STREET
OAK ORCHARD, DE. 19966

DATE: 10-5-2022 REV: DRAWN BY: MFS



PRELIMINARY SECOND FLOOR

1050 SQ. FT. LIVING AREA
SCALE: 3/16" = 1'-0"



TOBIAS RESIDENCE

SCALE: AS NOTED LOCATION: PEARL STREET
OAK ORCHARD, DE. 19966

DATE: 10-5-2022 REV: DRAWN BY: MFS



FRONT ELEVATION

SCALE: 3/16" = 1'-0"

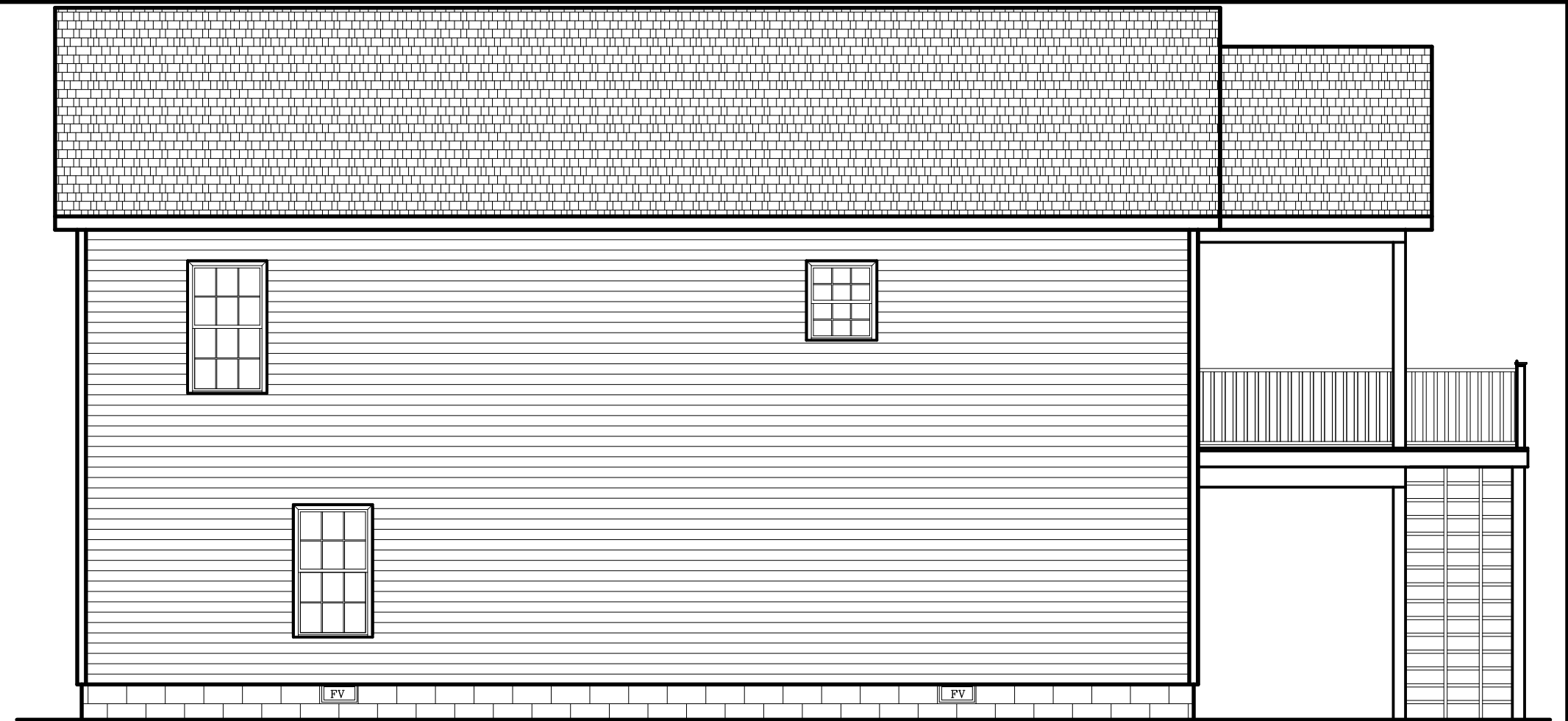


RIGHT SIDE ELEVATION

SCALE: 3/16" = 1'-0"



TOBIAS RESIDENCE		
SCALE: AS NOTED	LOCATION:	PEARL STREET OAK ORCHARD, DE. 19966
DATE: 10-5-2022	REV:	DRAWN BY: MFS



REAR ELEVATION

SCALE: 3/16" = 1'-0"



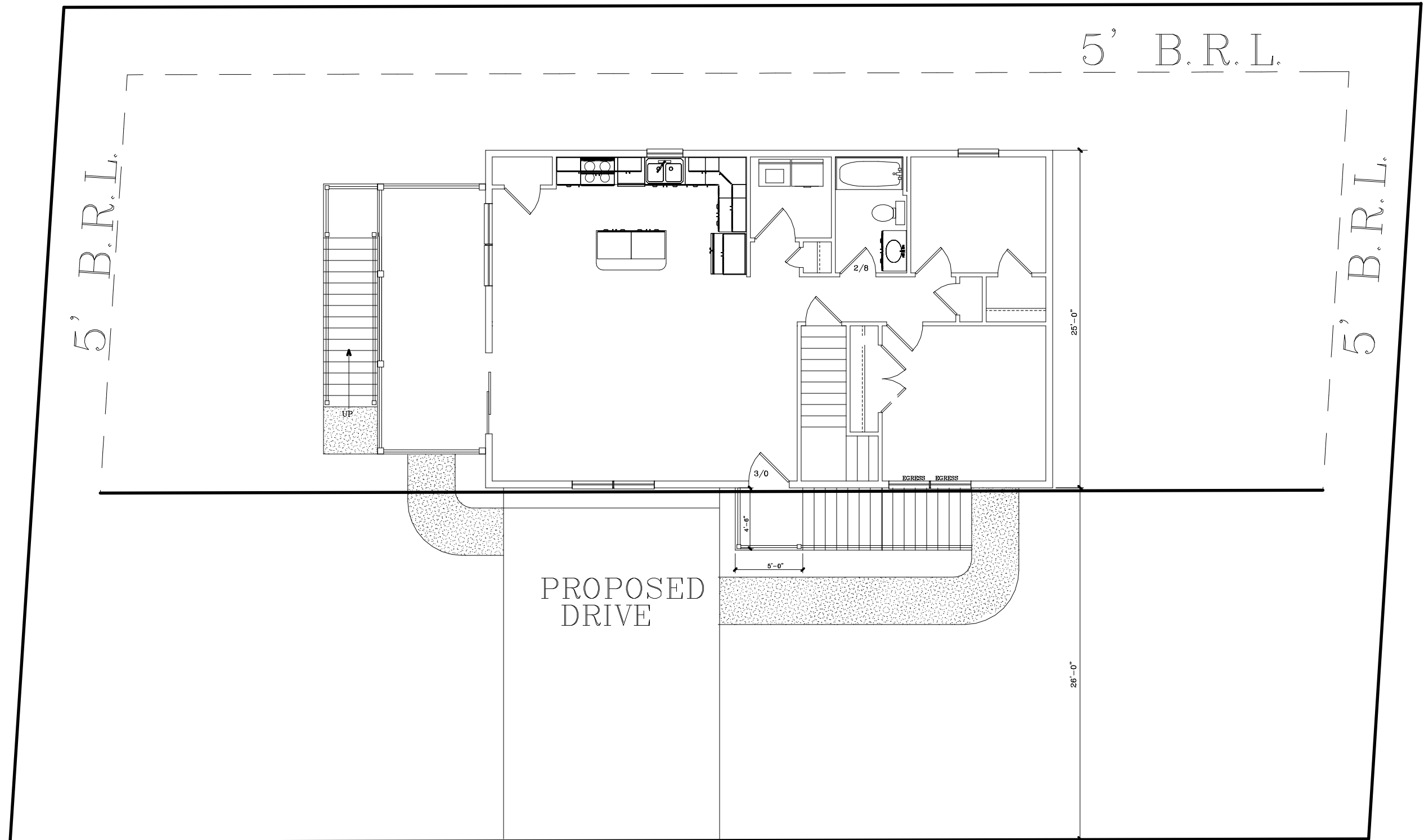
LEFT SIDE ELEVATION

SCALE: 3/16" = 1'-0"



TOBIAS RESIDENCE

SCALE: AS NOTED	LOCATION: PEARL STREET OAK ORCHARD, DE. 19966
DATE: 10-5-2022	REV: DRAWN BY: MFS



PEARL STREET

Amy Hollis

From: DAVID SMITH <commsmith@comcast.net>
Sent: Wednesday, November 23, 2022 10:02 AM
To: Planning and Zoning
Cc: Dave Smith
Subject: Case No. 12774 Request for front yard variance at 33174 Pearl Street, Millsboro.

CAUTION: This email originated from outside of the organization. Do not click links, open attachments, or reply unless you recognize the sender and know the content is safe. Contact the IT Helpdesk if you need assistance.

We own the property located at 33191 Pearl Street. My wife and I feel that the front setback for the subject property should not be any closer than the other houses on southwest side of Pearl Street. The request for an 8-foot variance is acceptable but no closer to the property line.

The owner should be aware that Pearl Street is a private road maintained by the homeowners. Any disturbance of the road during construction of the home should be repaired immediately in a manner suitable to the other homeowners who have just paid to restore the road. After Ms. Tobias moves in we expect her to contribute as necessary to maintain the road.

Respectfully,
David and Carolyn Smith

Case # 12775
Hearing Date 2022/5/53

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
Special Use Exception
Administrative Variance
Appeal

Existing Condition
Proposed
Code Reference (office use only)
115-42 115-182 115-185

Site Address of Variance/Special Use Exception:

37002 BALGAIN AVENUE FRANKFORD DELAWARE 19945

Variance/Special Use Exception/Appeal Requested:

7.5 FT VARIANCE
0.5-Ft var from 3.5' max height per an existing fence
Parcel ID - 533-11.00-667.00

Tax Map #: 667 533-11.00-667.00 Property Zoning: GR

Applicant Information

Applicant Name: Joseph & Donna Kirby
Applicant Address: 37002 BALGAIN AVENUE
City FRANKFORD State DE Zip: 19945
Applicant Phone #: 4436042037 Applicant e-mail: JOEKIRBYJR@GMAIL.COM

Owner Information

Owner Name: Joseph & Donna Kirby
Owner Address: 37002 BALGAIN AVENUE
City FRANKFORD State DE Zip: 19945 Purchase Date: 7/20/2020
Owner Phone #: 4436042037 Owner e-mail: JOEKIRBYJR@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

Joseph W Kirby Jr
Donna Kirby

Date: 10/28/2022



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.

See ATTACHED

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.

See ATTACHED

3. Not created by the applicant:

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

See ATTACHED

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.

See ATTACHED

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.

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.

See ATTACHED

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)

No

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

See ATTACHED

Sussex County, DE – BOA Application
Criteria for a Variance Responses
37002 Balgair Avenue Frankford DE 19945

1. Uniqueness of Property:

The HOA only allows the shed to be placed behind the back houseline on the property.

- The left side of the back houseline is restricted due to a drainage easement (see sheet A).
- The center of the back houseline (directly behind the house) we would like to keep open for the future option to build a patio, deck and/or addition. We'd also like to keep the view to the pond clear (see sheet B).
- The right side of the back houseline sits on Savage Farm Ct. That street (a short distance away) is 1 of 2 entrances into the community and has a considerable amount of traffic (walking and driving) (see sheet B). We would like to place the shed along that streetline, with a 7.5' setback, so to create a privacy barrier between our yard and the street. If we were to come in the required 15 ft setback the shed would cover a window in the back bedroom.

2. Cannot otherwise be developed:

- a. The reasonable use of the property is drastically impacted if the shed conforms to the 15ft setback. 1) The bedroom window sits 4'4" from the end of the house or 21'4" from the side property line. If we were to honor the 15 ft setback the shed would completely block the window, overlapping it by 8" (See sheet C). 2) If we were to move the shed toward the back property line and stay within the 15' setback we would be infringing on the size of a future addition and the placements of windows on that addition (see sheet D).

b.

3. Not created by the applicant:

- a. We were unable to get a contractor to take on the building of the shed as they found the project too small for their time, especially during an incredibly busy time after the COVID 19 impact was reduced. Having the shed built onsite was our preference as we already had a fence in place and did not really want to have to dismantle the fence to allow delivery of a pre-built shed. I believe a builder would have been aware of the corner setback applying to us and we would have likely postponed until we had the sunroom added and made the storage option within that structure.
- b. When we applied for the permit we were given the form to initial. The word "corner" was identified as a 15' setback. We thought it referred to the front corner of the property which we are clearly away from. There was no additional explanations (verbal or written) by the county person giving us the form or from our HOA, who viewed our permit. We did not know that this "corner" setback referred to the entire length of Savage Farm Ct. Knowing that our neighbor across the street, who also shares this requirement, recently was **approved** for a shed in the same location with the same setback as we are asking for made us feel we were within the guidelines. We since found out that his inspector did not catch the

setback distance mistake and the approval was given due to an administrative error.

- c. We now understand that "corner" refers to the setback along the entire street. We actually thought this list was of all the setback options and only some applied to our request. For example, we knew the front setback was not applicable as our HOA only allows behind the back wall of the house. We did think the corner setback referred to the area near the intersection of Savage Farm Ct and Balgair Avenue (the corner). If an explanation were given or written on the application, especially the corner setback for a corner homeowner, it would have assisted us in understanding. It was not obvious or explained to me that each of these were specific to me. We will also say the person we dealt with was very pleasant and may have assumed we knew more than we did. As a homeowner who has never had to do a permit process it was quite a shock when the inspector called to say we failed.

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

- a. The shed complies with our HOA rules and blends into the house very nicely as it matches all color and material aspects of the house.
- b. As mentioned above, our neighbor across the street, also a corner house, has an approved shed that sits less than the 15' setback. Our shed would be consistent with this shed. We have gathered signatures from neighbors stating their approval.
- c. Several other corner lot owners are not at the 15ft setback. As such I would not think that our shed would be any less attractive than what is already in place.

5. Minimum variance:

- a. We are asking for this 8ft variance to avoid having the shed located behind the house in our backyard and also to avoid having to have the current pad removed and a new pad installed. We have already paid \$1,600 for a pad as a recommendation of our Shed company, Pine Ridge, for stability. While the shed company required me to get the permit I will mention that neither the Shed company or the contractor installing the pad were aware of the corner setback requirement.

Criteria for a Special Use Exception

1. Such exception will not substantially affect adversely the uses of adjacent and neighboring property.

- a. We have talked with neighbors at several houses in each direction and all of them (see letters submitted) are in favor of us leaving the shed where it is and find no issues with it. Our shed is setup like almost all in the neighborhood and like the other 2 corner lots with sheds on our street.

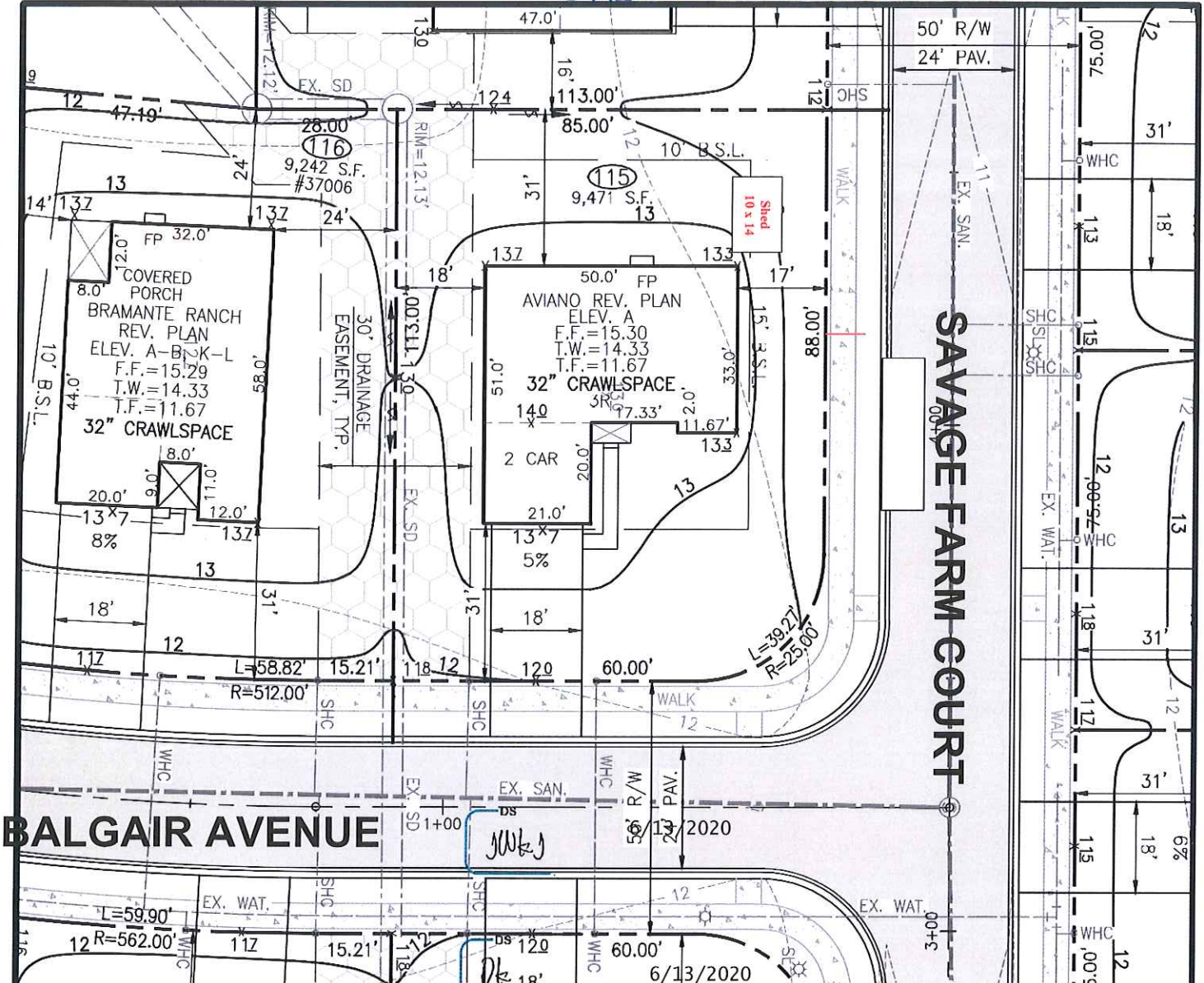
Basis for Appeal:

We truly were not aware that a corner setback was required for our shed. We talked to all of our neighbors who got sheds prior to us and the HOA extensively about the requirements. There was

no explanation from the permit office when I purchased the permit. There was a line for the names of the streets creating the intersection and it was blank. Had Balgair and Savage Farm been written in it may have provided more explanation and direction on what was required. We had a shed company and a contractor for a special pad involved and neither of them were aware of this restriction for my location. Please be aware that our lot has a drainage easement prohibiting us from locating the shed on the other side of the yard. If we were aware of this 15ft setback we would not have gotten a shed and just built extra storage in our future sunroom addition.

Hopefully this provides the information you need to allow us a variance.


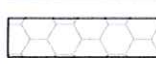
Showing Shed Location current location



BALGAIR AVENUE

SAVAGE FARM COURT

REVISION: ALBERTI TO AVIANO 12/18/19 (J.C. J.B.)

-  5' CONC. SIDEWALK
-  DENOTES DRAINAGE AND/OR UTILITY EASEMENT

PR. CUT:	72 CYs
PR. FILL:	104 CYs
NET:	32 CYs
	IMPORT

AREA CALCULATIONS	
DRIVEWAY	576 SF
LEADWALK	75 SF
PUBLIC WALK	951 SF
SEED	-- SF
SOD	6,755 SF
R/W SOD	1,170 SF
WHC	51 LF
SHC	51 LF
HSE FACING	EAST



ALL INTERIOR SIDE LOT LINES ARE RESERVED FOR THE CENTERLINE OF A 10' WIDE DRAINAGE AND/OR UTILITY EASEMENT. A 10' WIDE DRAINAGE AND/OR UTILITY EASEMENT IS RESERVED ON EACH LOT ALONG THE FRONT AND REAR PROPERTY LINES.

SETBACKS: GR
 FRONT: 30' MIN.
 SIDE: 10' MIN.
 REAR: 10' MIN.

SAN. INV. @ MAN= 0.53±

BUILDER
 RYAN HOMES
 32445 ROYAL BLVD., SUITE 1
 DAGSBORO, DE 19939
 PHONE: 302-732-9900

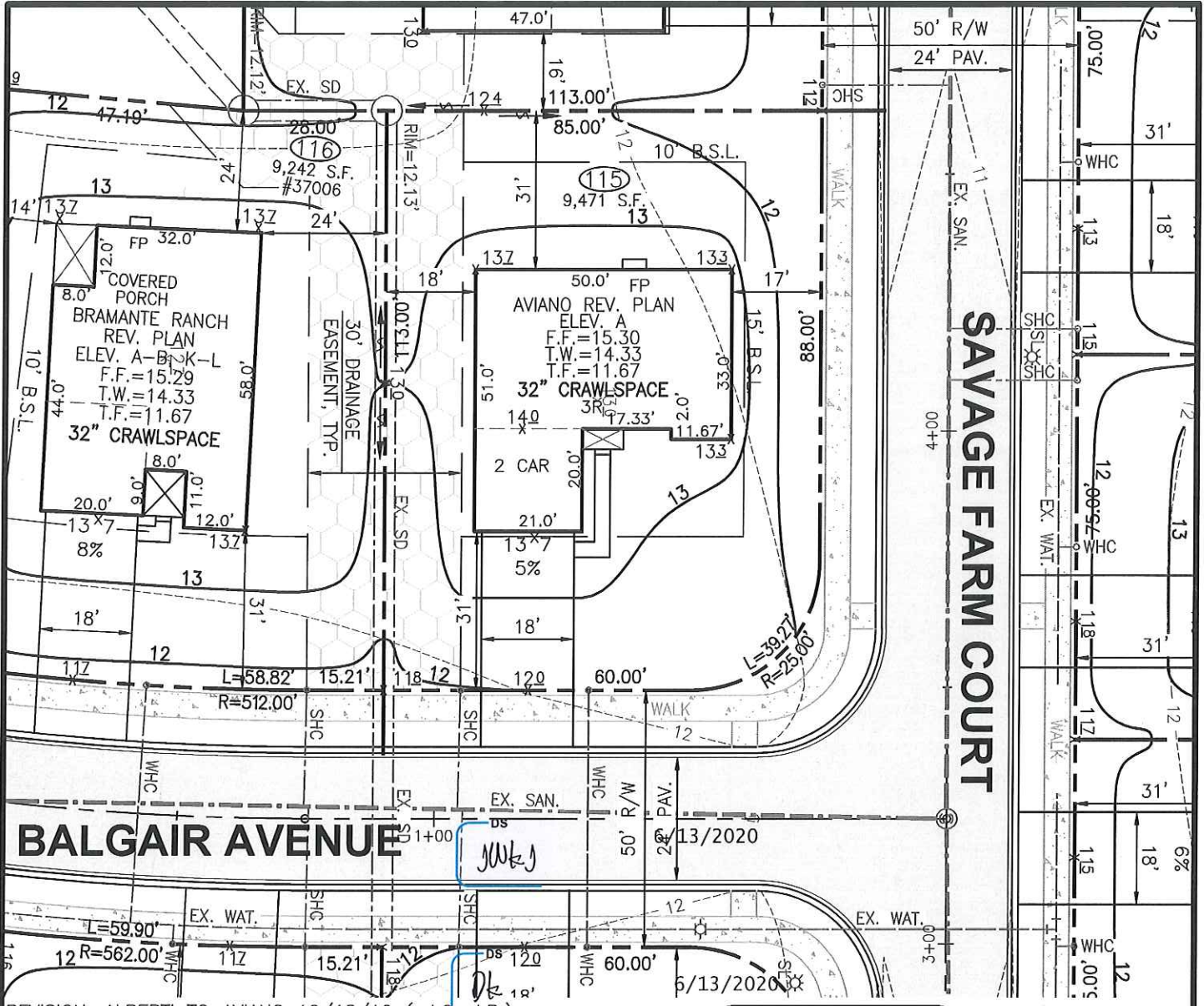


MORRIS & RITCHIE ASSOCIATES, INC.
 ENGINEERS, ARCHITECTS, PLANNERS, SURVEYORS AND LANDSCAPE ARCHITECTS
 3445-A BOX HILL CORPORATE CENTER DRIVE
 ABINGDON, MD 21009
 (410) 515-9000
 FAX: (410) 515-9002
 www.mragta.com

SITE AND GRADING PLAN
 FOR
FOX HAVEN II
 LOT 115
 BALGAIR AVENUE
 BALTIMORE HUNDRED SUSSEX COUNTY, DELAWARE

SCALE: 1"=30'	DATE: NOVEMBER 23, 2018	DRAWN BY: J.C.	DESIGN BY: J.C.	REVIEW BY: J.B.	JOB NO.: 20312
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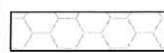
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SAVAGE FARM COURT

BALGAIR AVENUE

REVISION: ALBERTI TO AVIANO 12/18/19 (J.C. J.B.)

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1 of 2 entrances into the community

Neighbor at 37003 Balgair Ave

Our Home at 37002 Balgair Ave



View to pond

MODEL
PARKING

JOHNSON ROAD

BALGAIR AVENUE

REYNARD WAY

BALGAIR AVENUE

PHASE I

SWM POND

SWM POND

FOX HALL ROAD

SAVAGE FARM COURT

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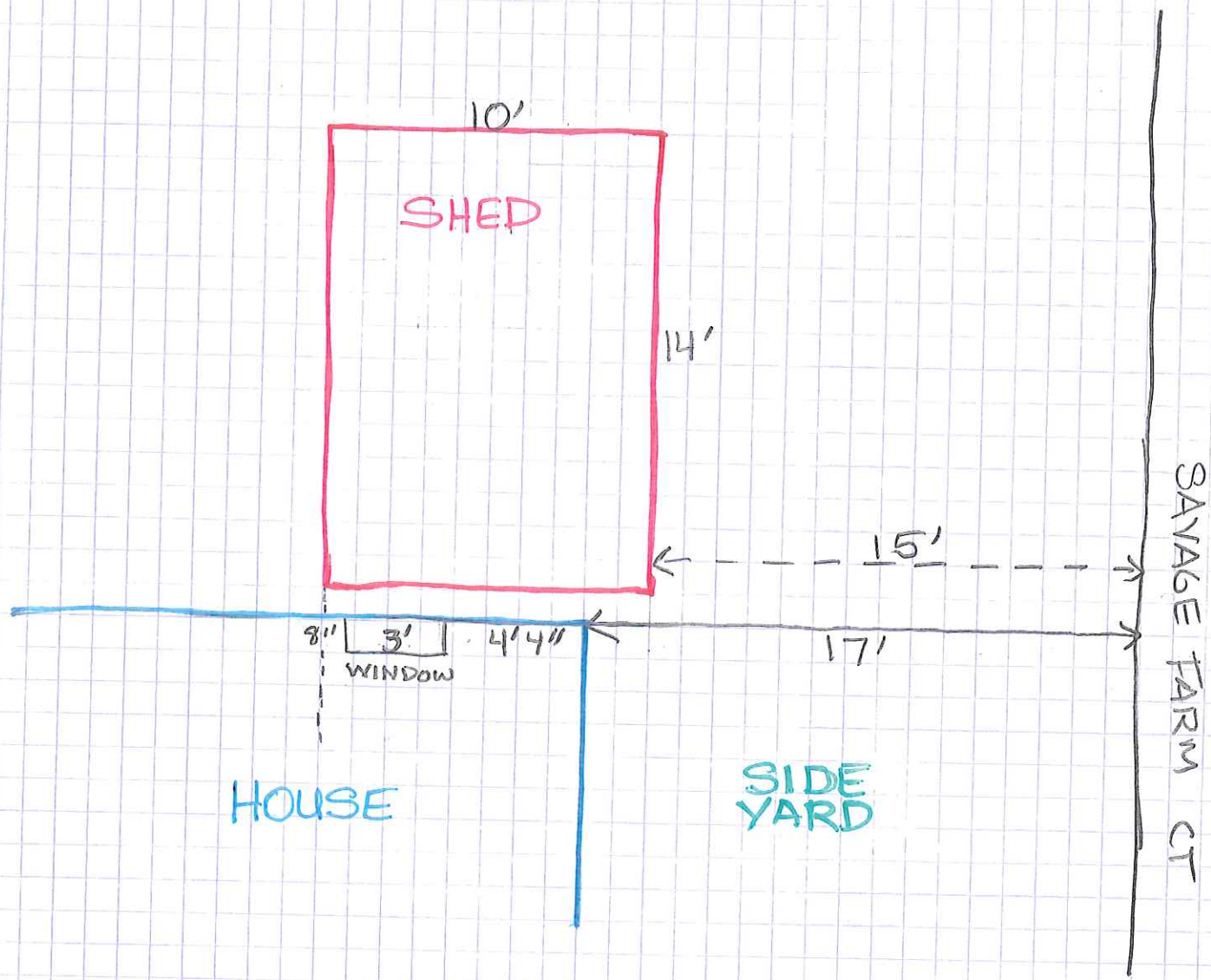
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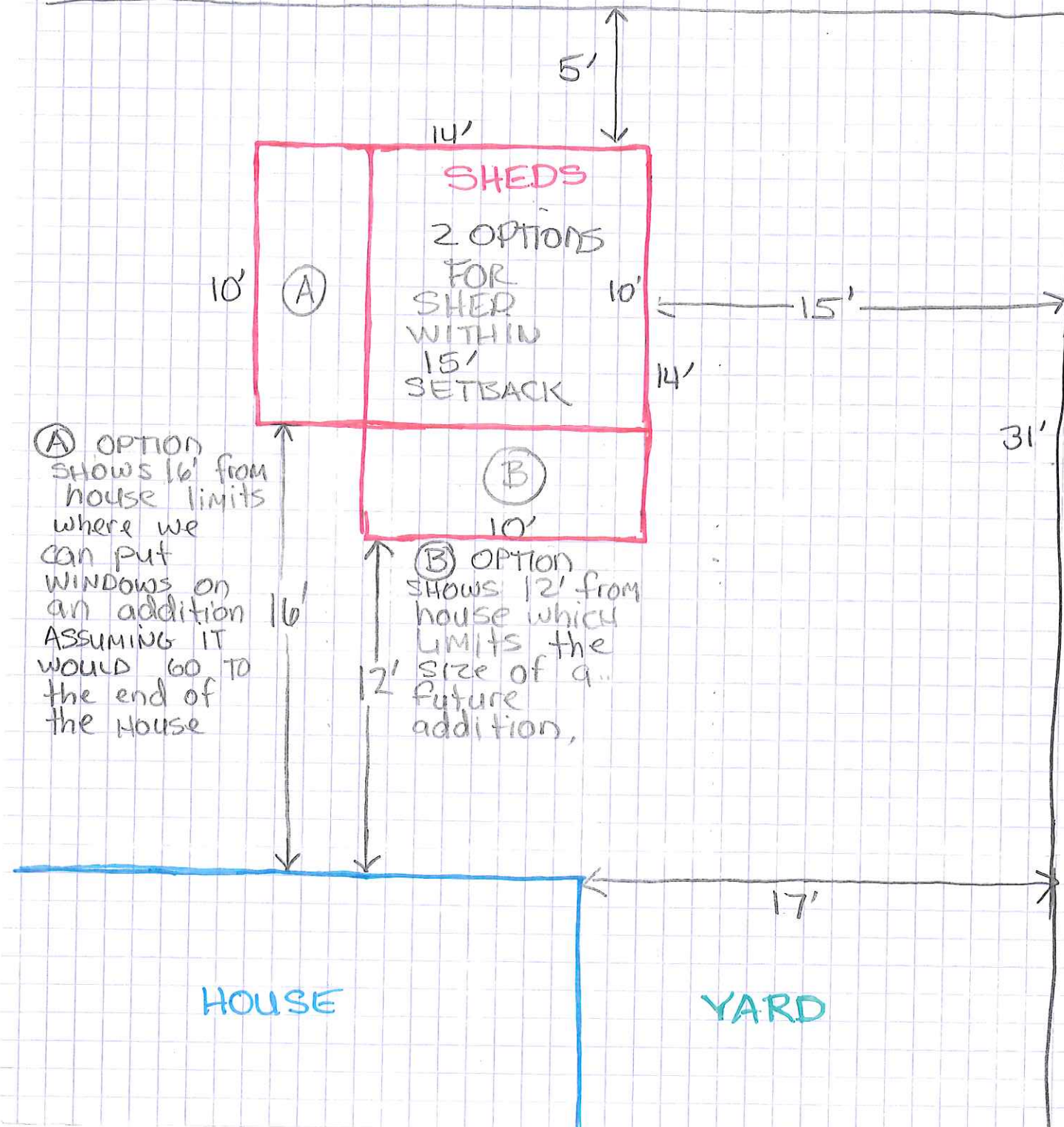
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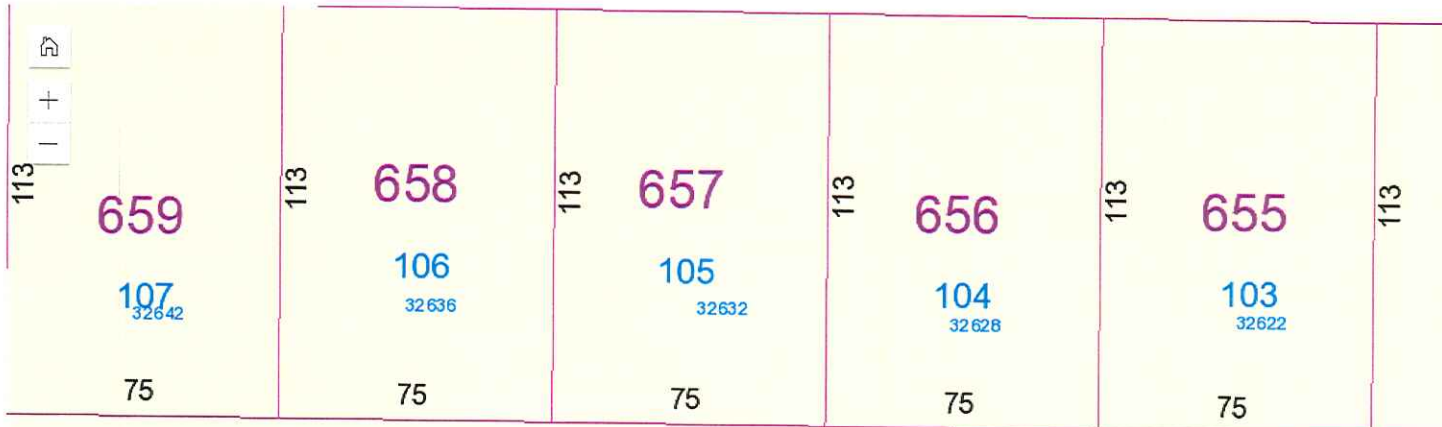


PROPERTY LINE ON SAVAGE FARM CT



Ⓐ OPTION SHOWS 16' from house limits where we can put windows on an addition ASSUMING IT WOULD GO TO the end of the house

Ⓑ OPTION SHOWS 12' from house which limits the size of a future addition,



Parcel Inspector

Select Parcel

533-11.00-667.00

Search Clear Results

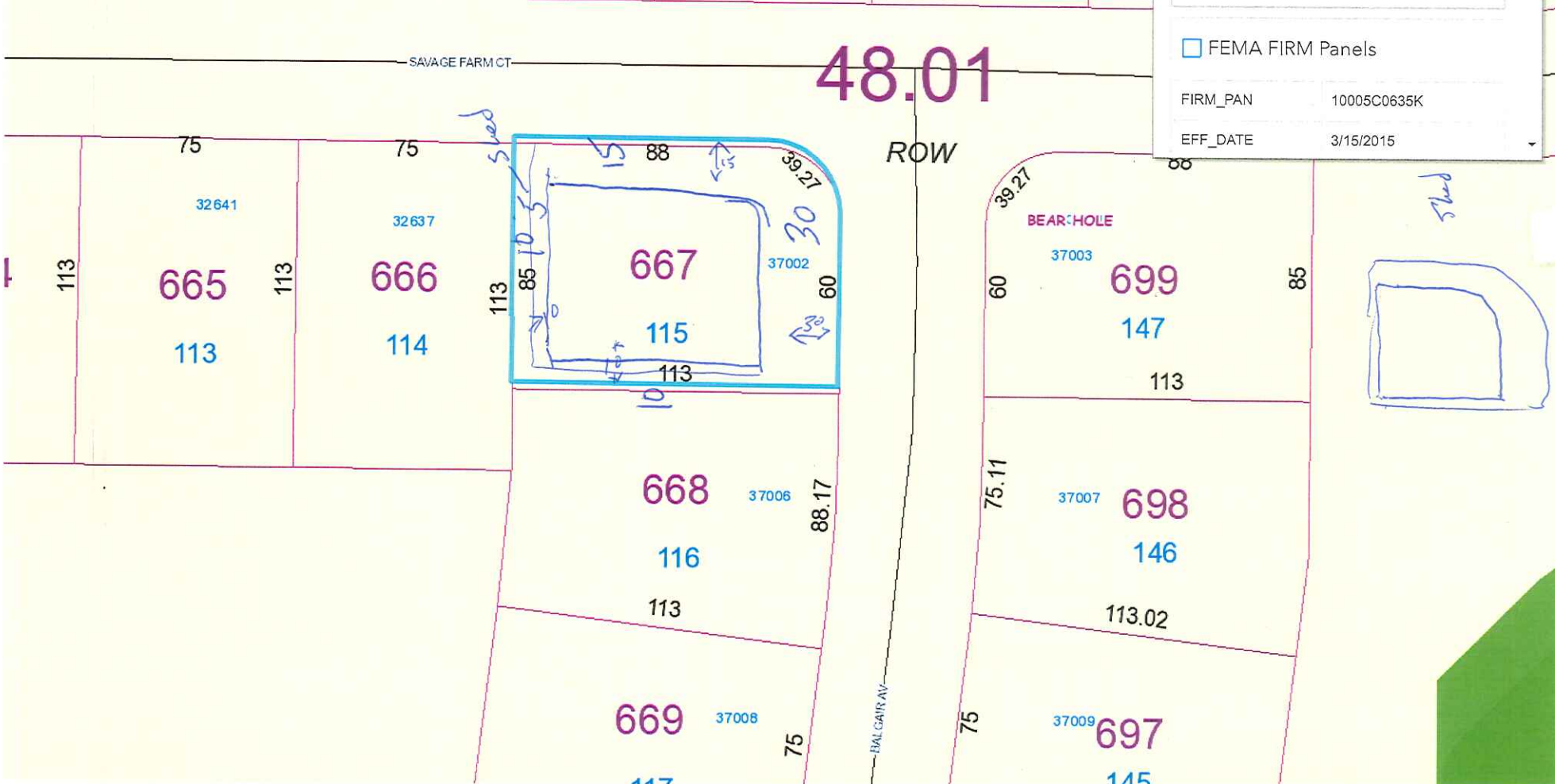
533-11.00-667.00

Ownership Information

FEMA FIRM Panels

FIRM_PAN 10005C0635K

EFF_DATE 3/15/2015



Balgair Avenue











To: Sussex County Planning & Zoning Office
 From: Joe and Donna Kirby
 Date: 10-21-2022
 RE: Letter of support for variance on 37002 Balgair Avenue Frankford Delaware 19945

The Kirby's have a shed located with a 7 foot setback from the property line adjacent to Savage Farm Ct.

The Fox Haven HOA has approved the variance for 7 feet vs the HOA standard rule for 10 feet because our house has a drainage easement on the other side of the yard prohibiting us from locating it there.

Sussex County rule indicates there should be a 15 foot variance because it is a corner lot (non-corner lots require a 5 foot variance).

We are asking for your support as we apply for a variance to keep the shed located in its current spot of 7 feet from the Savage Farm Ct. property line.

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One of the deciding factors for the county that will assist us in our pursuit of this variance is support by our neighbors giving their approval of this current location.

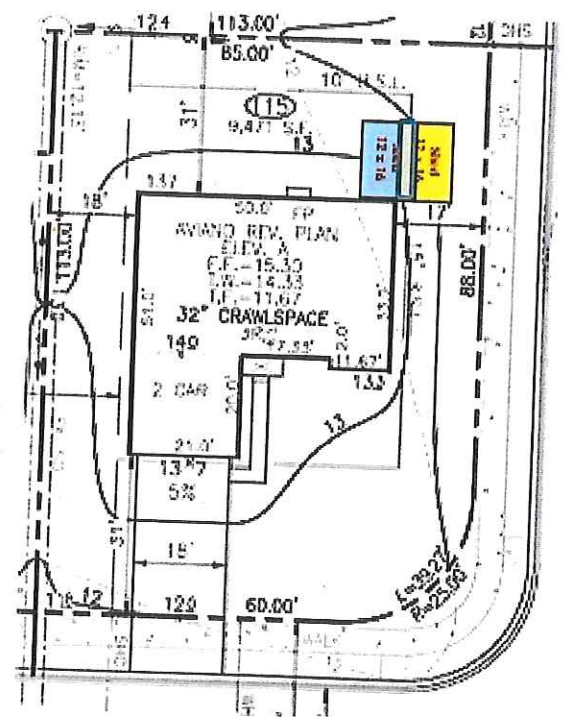
If you can support us please provide the following information.

Neighbor Support info:

Name Harry Hodgdon
 Address 37003 Balgair Ave
Frankford, DE 19945
 Date 10/28/2022
 Signature Harry Hodgdon

Thank you
 Joe and Donna Kirby

- Current location- 7 ft from property line
- 15 ft from property line
- Overlap



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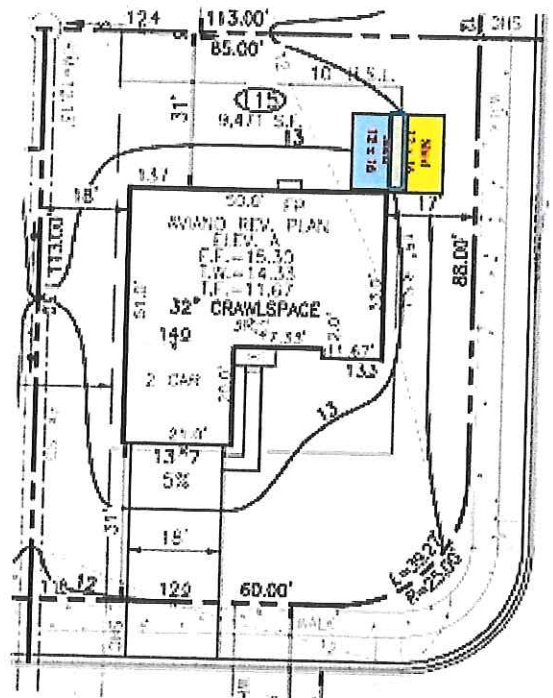
Neighbor Support info:

Name EDWARD GALFORD
 Address 32637 Savage Farm Court
Frankford De 19945
 Date 10/21/22
 Signature Edward Galford

Thank you

Joe and Donna Kirby

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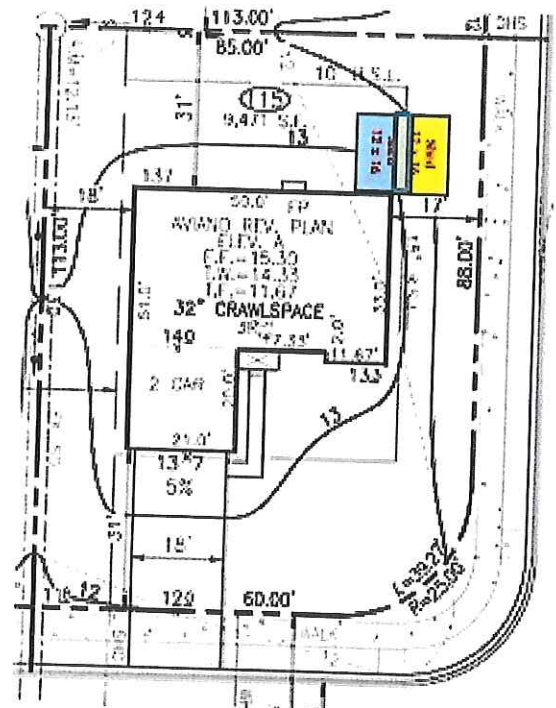
Neighbor Support info:

Name Albert Barton
Address 37006 Balgair Ave
Frankford De
Date 10/21/22
Signature Albert Barton

Thank you

Joe and Donna Kirby

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If you can support us please provide the following information.

Neighbor Support info:

Name

Christina Mainolfi

Address

*321028 Savage Farm Ct.
 Frankford DE 19945*

Date

10-21-22

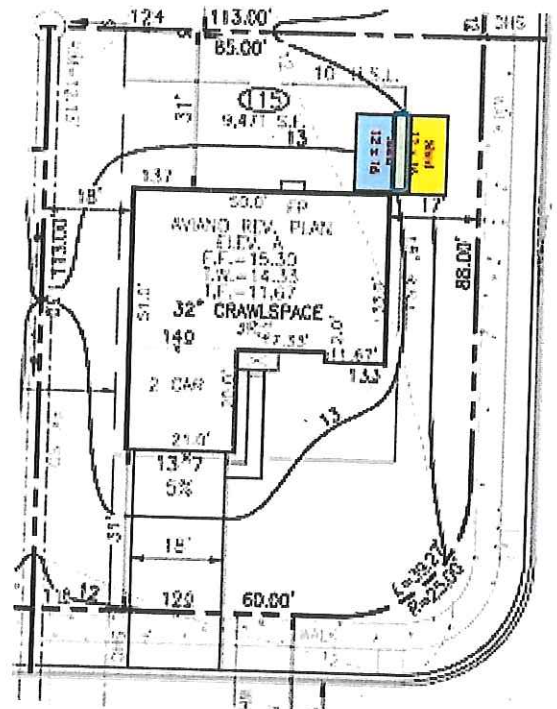
Signature

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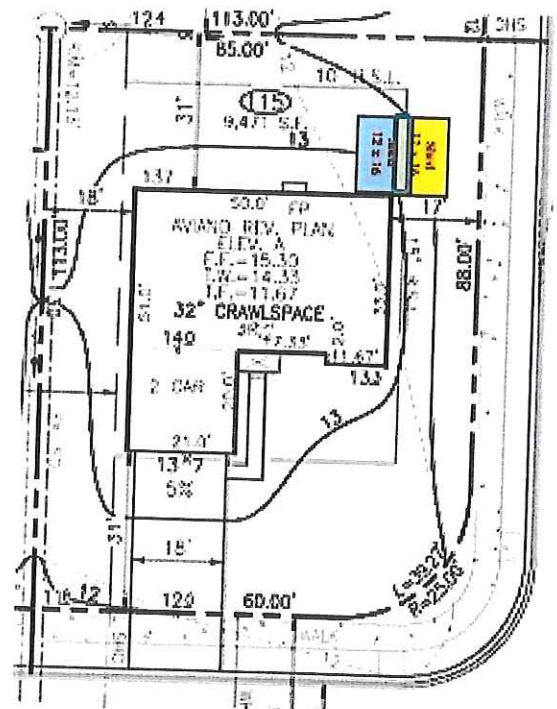
Neighbor Support info:

Name JOSEPH A. BOVE, JR
Address 32632 SAVAGE FARM CT.
FRANKFORD, DE 19945
Date 10-21-22
Signature Joseph A. Bove Jr

Thank you

Joe and Donna Kirby

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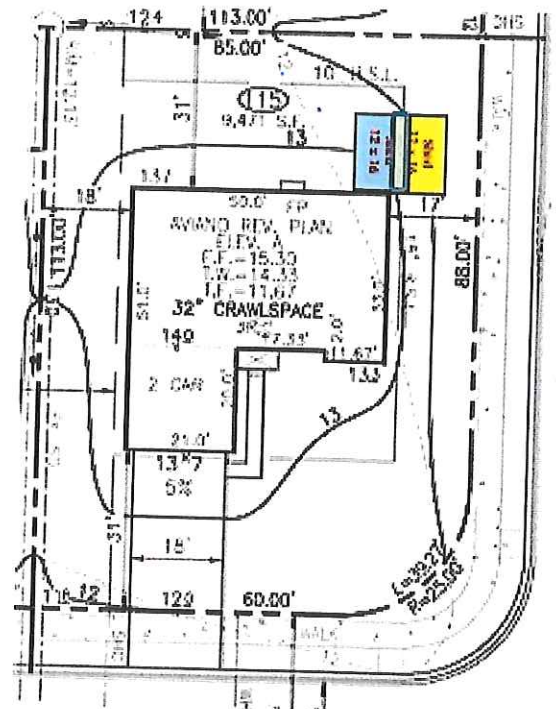
If you can support us please provide the following information.

Neighbor Support info:

Name Carl + Toni Geil
 Address 32645 Savage Farm Ct
Frankford DE 19945
 Date 10/21/2022
 Signature [Handwritten Signature]

Thank you
 Joe and Donna Kirby

- Current location- 7 ft from property line
- 15 ft from property line
- Overlap



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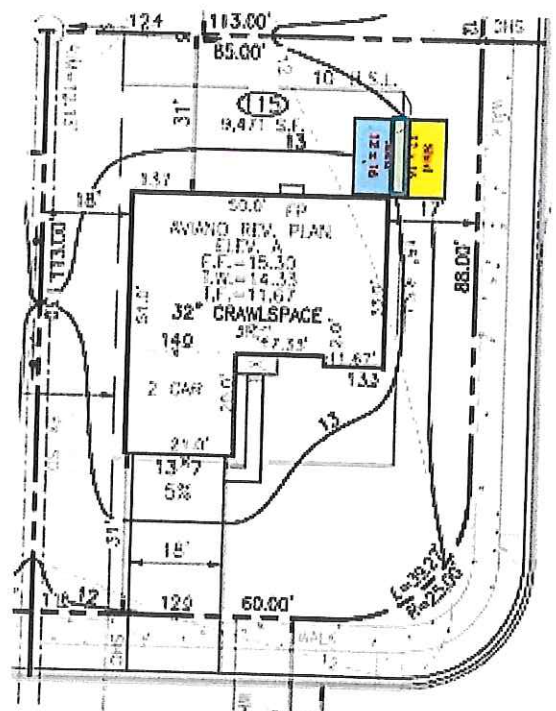
Neighbor Support info:

Name Susan Sitek
 Address 32641 Savage Farm Ct
Frankford, Delaware
 Date Oct 21, 2022
 Signature Susan J. Sitek

Thank you

Joe and Donna Kirby

- Current location- 7 ft from property line
- 15 ft from property line
- Overlap





**Sussex County
Building Permit**
P.O. Box 589
Georgetown, DE 19947
302-855-7720

Application Number
202209932
Issue Date: 07/08/2022
Expire Date: 07/08/2023

Permit Type: ACCESSORY STRUCTURE OUT OF TOWN

Parcel ID	Address	Zone Code
533-11.00-667.00	37002 BALGAIR AVENUE	

Owner Information	Applicant Information
Name: KIRBY JOSEPH WALTER JR Phone:	Name: KIRBY JOSEPH WALTER JR Phone:

Contractor Information	
Name: KIRBY JOSEPH WALTER JR CID: 287495 Phone:	License Number: License Exp. Date: Insurance Exp. Date:

Building Information
Proposed Use: SHEDS Construction Type: Estimated Cost of Construction: \$ 1,680 Cannot Occupy More than _____ of Total Lot Area Distance from any Dwelling of other Ownership: _____ Distance from any other Mobile Home or Accessory Structure: _____

Property Information	
Measurements taken from Property Lines	
Front Setback: 30.00 / _____	Rear Setback: 5.00 / _____
Side Setback: 5.00 / _____	Corner Setback: 15.00 / _____
Maximum Building Height: 42	Location Description: _____
FLOOD ZONE	FOX HAVEN II LOT 115
Flood Zone: XP 635K	
_____ If Initialed, See Attached Flood Plan Construction Review Coastal and Flood-Prone Area Building Requirements.	

Project Description: ACC STRUCT<400'

Scope of Work:
10 X 14 SHED

Permit Details:



Signature of Approving Official



Signature of Owner/Contractor
I fully understand the Zoning Requirements of this permit.

Building Permit Acknowledgement:

I/we the undersigned, acknowledge I/we have read and accept the terms of this Building Permit and shall comply with the rules and restrictions related to this building activity. This permit shall expire one (1) year from the date of issue. This permit may be renewed prior to its expiration date if construction has begun and continued in a normal manner and not discontinued for reasons other than those beyond the permit-holder's control. Grading or surface-shaping of the site shall not be considered as actual construction. I/we further acknowledge, ASSESSORS AND INSPECTORS HAVE A RIGHT TO ENTER AND ACCESS THE PREMISES TO ASSESS AND INSPECT PROPERTY. The owner or owners of these premises do hereby consent to Sussex County Officials' right to enter upon said premises during the construction of which this permit is granted, or within a reasonable time thereafter, for the purposes of assessing and inspecting said property. THE APPROVAL OF THIS PERMIT APPLICATION PERTAINS ONLY TO COMPLIANCE WITH SUSSEX COUNTY ZONING ORDINANCES. IT IS NOT TO BE CONSTRUED AS AN APPROVAL FOR THE REQUIREMENTS OF ANY OTHER GOVERNMENTAL AGENCY, WHICH MAY PERTAIN TO THIS SITE. AND FURTHER, IT IS ACKNOWLEDGED AND UNDERSTOOD THAT THIS PERMIT MAY BE REVOKED BY SUSSEX COUNTY FOR ANY VIOLATION OF THE TERMS OF THIS PERMIT OR OF ANY COUNTY, STATE OR FEDERAL LAW APPLICABLE TO THIS PERMIT.

Permit Number	BP-185975	TOTAL FEES:	\$ 14.70
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Building Description

Total Bedrooms:

Full Baths:

Total Rooms:

Basement:

Interior Walls:

Flooring:

WOOD

Half Baths:

Heat Type:

Roofing: SHINGLES

Exterior Walls: VINYL

Foundation Type: POST

Fireplace Type:

Air Conditioning: N

Additional Requirement/Restrictions


_____ Accessory Building 900 Square Feet or Greater
No more than four (4) vehicles permitted in structure without a Planning & Zoning Hearing.

_____ Agricultural Storage Structures
Storage only. NO LIVESTOCK PERMITTED.

_____ Campgrounds
Must conform to the location approved by the park.

_____ Farm-Use Permits
Prior to issuance of the Certificate of Occupancy, it must be confirmed that the building will be used for farm use only. Otherwise, the permit will be voided and plans must be submitted to the Building Code Department.

_____ Fences
Fence may only be 3.5' tall along the front property line and from the road back to the mandated front yard setback. Thereafter, fence may be a maximum of 7' tall. On corner lots, the fence may only be 3' tall along the corner fronts and 25' from the intersection of property lines. Fence may be installed on property line.

 Parcel Setbacks
All building structures and improvements shall comply with the parcel setback measurement requirements as mandated in the Sussex County Zoning Ordinance. Failure to comply with the parcel setback measurement requirements is a violation.

_____ Pools (Above-Ground)
Must have ladder up and locked at all times when not in use. Pool must be 4' high above grade. If not, a fence is required around perimeter of pool

_____ Pools (In-Ground)
A minimum 4' tall fence must be around the perimeter of the pool. A minimum 3' walkway must be between the pool and fence. Gate must be locked at all times when the pool is not in use.

_____ Pools or Guest Homes
No Cooking facilities of any kind are permitted in the structure. No separate electrical meters are permitted.

_____ Tax Ditch
Property records indicate a State regulated tax ditch appears on this property. All building activity shall comply with the rules and requirements related to State regulated tax ditches and the respective tax ditch easements.



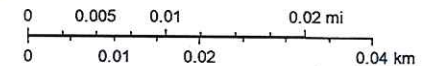
Sussex County



PIN:	533-11.00-667.00	
Owner Name	KIRBY JOSEPH WALTER JR	
Book	5275	
Mailing Address	9039 BILLOW RD	
City	COLUMBIA	
State	MD	
Description	FOX HAVEN II	
Description 2	LOT 115	
Description 3	N/A	
Land Code		

- polygonLayer**
- Override 1
- polygonLayer**
- Override 1
- Tax Parcels
- 911 Address
- Streets
- County Boundaries
- Tax Ditch Segments**
- Tax Ditch Channel
- DeDOT Maintained
- HOA Maintained
- Pipe - DeDOT
- Pipe - Tax Ditch
- Pipe - Private
- Pond Feature
- Special Access ROW
- Extent of Right-of-Way
- Well Head Protection Areas
- 2007 Head of Tide Wetlands (not regulatory)
- Municipal Boundaries

1:564





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533-11.00-667.00

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name: 533-11.00-667.00

**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 # 12776
Hearing Date 12-19
202215840

Type of Application: (please check all applicable)

Variance
Special Use Exception
Administrative Variance
Appeal

Existing Condition
Proposed
Code Reference (office use only)
115-25 115-183 115-185

Site Address of Variance/Special Use Exception:

5009 Beverly Ln Milton DE 19968

Variance/Special Use Exception/Appeal Requested:

Variance from rear setback for an existing pole building
0.8' var from 5' setback for existing shed

Tax Map #: 235-22.00-605.00 Property Zoning: AR-1

Applicant Information

Applicant Name: Bryce Butterworth
Applicant Address: 5009 Beverly Ln
City Milton State DE Zip: 19968
Applicant Phone #: 443 859-2147 Applicant e-mail: bryceworth@hotmail.com

Owner Information

Owner Name: Bryce Butterworth
Owner Address: 5009 Beverly Ln
City Milton State DE Zip: 19968 Purchase Date: _____
Owner Phone #: 443 859 2147 Owner e-mail: bryce worth @ hot ma. l. 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

[Signature]

Date: 10-31-22



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.

Due to existing structures and septic this was best location
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.

The pole building was constructed too far back by Delmarva Pole Buildings, now to get a CO variance is needed.

3. Not created by the applicant:

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

Delmarva pole building was contracted to build the pole building and built it too far back
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 pole building is in line with existing pole buildings in the area. The HOA was notified of construction and they approved.

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.

Since the building is built, granting variance will be the easiest way solve this problem.

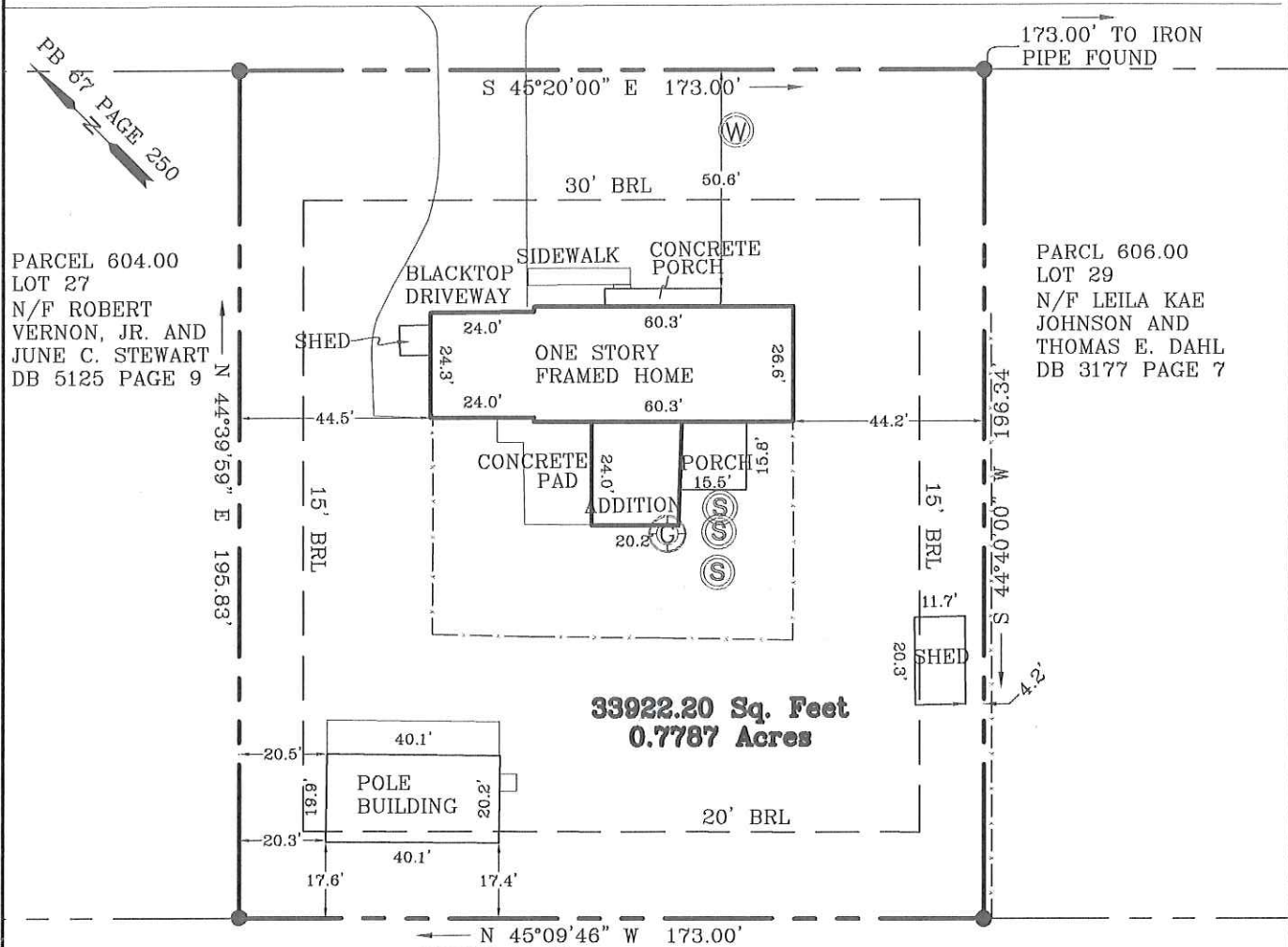
BOUNDARY SURVEY PLAN
LANDS OF "BRYCE C. AND LISA A. BUTTERWORTH"

ALSO KNOWN AS: "5009 BEVERLY LANE, MILTON, DE"
 LOT 28-CEDAR FALLS FARM, PHASE IV
 SITUATE IN: "BROAD KILN HUNDRED"
 SUSSEX COUNTY * STATE OF DELAWARE

ZONING CLASSIFICATION: AR-1
 YARD REQUIREMENTS:
 FRONTYARD: 30'
 SIDEYARD: 15'
 REARYARD: 20'

TAX MAP #: 235-35.00 PARCEL 22.00
 DEED REFERENCE: DB 5046, PG 320
 PLAT REFERENCE: PB 67, PG 250

B E V E R L Y L A N E



PARCEL 604.00
 LOT 27
 N/F ROBERT
 VERNON, JR. AND
 JUNE C. STEWART
 DB 5125 PAGE 9

PARCEL 606.00
 LOT 29
 N/F LEILA KAE
 JOHNSON AND
 THOMAS E. DAHL
 DB 3177 PAGE 7

33922.20 Sq. Feet
0.7787 Acres

LEGEND

- IRON PIPE FOUND
- ⊙ WELL
- PROPERTY LINE
- BUILDING SETBACK LINE
- FENCE

PARCEL 10.00
 N/F WALTER C. AND JENNY M. HOPKINS
 DB 4089 PAGE 33

NOTES

1. THIS SURVEY IS CLASSIFIED AS A "SUBURBAN" SURVEY.
2. UNLESS THIS PLAT HAS AN EMBOSSED SEAL WITH AN ORIGINAL SIGNATURE OF ENGINEER, IN RED INK, THIS IS NOT AN AUTHORIZED COPY.
3. THE SURVEY DOES NOT VERIFY THE EXISTENCE OF OR NONEXISTENCE OF ANY EASEMENTS OR RIGHT OF WAYS.



22184 MELSON ROAD
 GEORGETOWN, DELAWARE 19947
 PHONE NO. 302-856-1565

John B. Roach, Jr.
 PROFESSIONAL ENGINEER

DRAWN BY: JBR	DATE: 10-11-2022
SCALE: 1"=40'	SHEET 1/1

Rev. 10-19-22



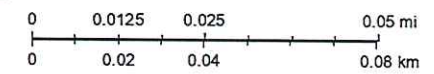
Sussex County



PIN:	235-22.00-605.00
Owner Name	BUTTERWORTH BRYCE C
Book	5046
Mailing Address	5009 BEVERLY LN
City	MILTON
State	DE
Description	CREEK FALLS FARM
Description 2	LOT 28
Description 3	PHASE IV
Land Code	

- polygonLayer**
- Override 1
- polygonLayer**
- Override 1
- :: Tax Parcels
- :: 911 Address
- Streets
- County Boundaries
- Tax Ditch Segments**
- Tax Ditch Channel
- DeDOT Maintained
- HOA Maintained
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Workspaces

