

BOARD OF ADJUSTMENT

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



Sussex County

DELAWARE
sussexcountye.gov

(302) 855-7878 T
(302) 845-5079 F

DRAFT AGENDA

January 06, 2020

6:00 P.M.

Call to Order

Pledge of Allegiance

Approval of Agenda

Old Business

Public Hearings

Case No. 12399 – Kevin & Paula Burr seek variances from the rear yard setback requirements for a proposed structure (Section 115-25 of the Sussex County Zoning Code). The property is located on the west side of Linden Dr. approximately 332 ft. north of Woodland Cir. within the Angola by the Bay Subdivision. 911 Address: 22934 Linden Drive., Lewes. Zoning District: AR-1. Tax Parcel: 234-11.20-71.00

Case No. 12400 – Richard Byrd seeks a variance from the front yard setback, side yard setback and rear yard setback requirements for a proposed structure and existing structures (Sections 115-25, 115-182, 115-183 and 115-185 of the Sussex County Zoning Code). The property is located on the south side of 8th St. approximately 167 ft. east of Bald Eagle Rd. 911 Address: 37348 8th St., Rehoboth Beach. Zoning District: AR-1 Tax Parcel: 334-19.16-98.00

Case No. 12401 – Laura Messick seeks a special use exception to operate a day care center (Sections 115-23 and 115-210 of the Sussex County Zoning Code). The property is located on the west side of Shore Dr. at the intersection of Shore Dr. and Carvel Rd. within the Lakeshore subdivision. 911 Address: 22056 Shore Dr., Seaford. Zoning District: AR-1. Tax Parcel: 331-3.00-8.00

Case No. 12393 – Furniture & More seeks a special use exception to place a tent for special events (Sections 115-80 & 115-210 of the Sussex County Zoning Code). The property is located on the west side of Beacon Dr., north of Lighthouse Rd. 911 Address: 38993 Beacon Dr., Fenwick Island. Zoning District: C-1. Tax Parcel: 134-23.00-3.04

Case No. 12397 – Kelly Hales seeks variances from the front yard setback and side yard



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

setback requirements for existing structures (Sections 115-42, 115-182, & 115-185 of the Sussex County Zoning Code). The property is located on the west side of East Lagoon Rd., approximately 511 ft. north of Falling Point Rd. 911 Address: 30835 & 30843 East Lagoon Rd., Dagsboro. Zoning District: GR. Tax Parcels: 134-6.00-123.00 & 134-6.00-124.00

Additional Business

**Board of Adjustment meetings can be monitored on the internet at
www.sussexcountyde.gov.**

In accordance with 29 Del. C. §10004(e)(2), this Agenda was posted on **July 26, 2019 at 9:00 a.m., and at least seven (7) days in advance of the meeting.**

**This Agenda is subject to change to include the addition or deletion of items, including Executive Sessions, which arise at the time of the Meeting.
Agenda items listed may be considered out of sequence.**

####



RECEIVED

NOV 04 2019

SUSSEX COUNTY
PLANNING & ZONING

Board of Adjustment Application

Sussex County, Delaware

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

Case # 201912824
Hearing Date 1/6/2020
12393

Type of Application: (please check all applicable)

Variance ☐

Special Use Exception ☒

Administrative Variance ☐

Appeal ☐

Existing Condition ☐

Proposed ☐

Code Reference (office use only)

115-80 115-210

Site Address of Variance/Special Use Exception:

38993 Beacon Dr. Fenwick Island

Variance/Special Use Exception/Appeal Requested:

Tax Map #: 1-34-23.00-3.04

Property Zoning: General Business
Commercial
C-1

Applicant Information

Applicant Name: Furniture + more

Applicant Address: 38993 Beacon Drive

City Fenwick Island State DE Zip: _____

Applicant Phone #: 302-538-1100 Applicant e-mail: dmiller182@gmail.com

Owner Information

Owner Name: Norino Properties

Owner Address: 8100 Harford Road

City Baltimore State MD Zip: 21234 Purchase Date: _____

Owner Phone #: 410-663-9444 Owner e-mail: norinolk@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

[Signature]

Date: 10/15/19



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.

*Temporary Tent Twice a year.
our Tent, items for Sale + Parking are not adjacent to any other property. we have had 2 successful tent sales without problems and see no problems going forward.*

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)

*Temporary Tent Twice a year
10 days surrounding memorial day + Labor Day
Example memorial day 5/21 - 5/30
Labor day 8/27 - 9/5*

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

LITTLE ASSAWOMAN BAY
"DITCH"

SITE DATA BY COMPOSITE LOCATION SURVEY
McConn, Inc.
SURVEYING • ENGINEERING • SITE PLANNING
GEORGETOWN, DE • CLARKSVILLE, DE • DOVER, DE
(302) 896-7958 (302) 529-0202 (302) 674-7777
DATE: SEPT. 15, 1997
JOB NO. SF-C1772
(SURVEY SUBJECT TO UPDATED VERIFICATION)
F.E.M.A. DATA
COMMUNITY PANEL: 10005CD660 F Date: JUNE 15, 1995
ZONE: AE Base flood elevation of +6.00' N.G.V.D.
SITE AREA DATA:
TOTAL SITE AREA: 953,011 ± SQ.FT.
21.8 ± ACRES
TOTAL PAST LAND: 240,823 ± SQ.FT.
5.5 ± ACRES
TOTAL WETLANDS: 712,187 ± SQ.FT.
16.3 ± ACRES
ZONING DISTRICT:
S-1 NEIGHBORHOOD BUSINESS DISTRICT



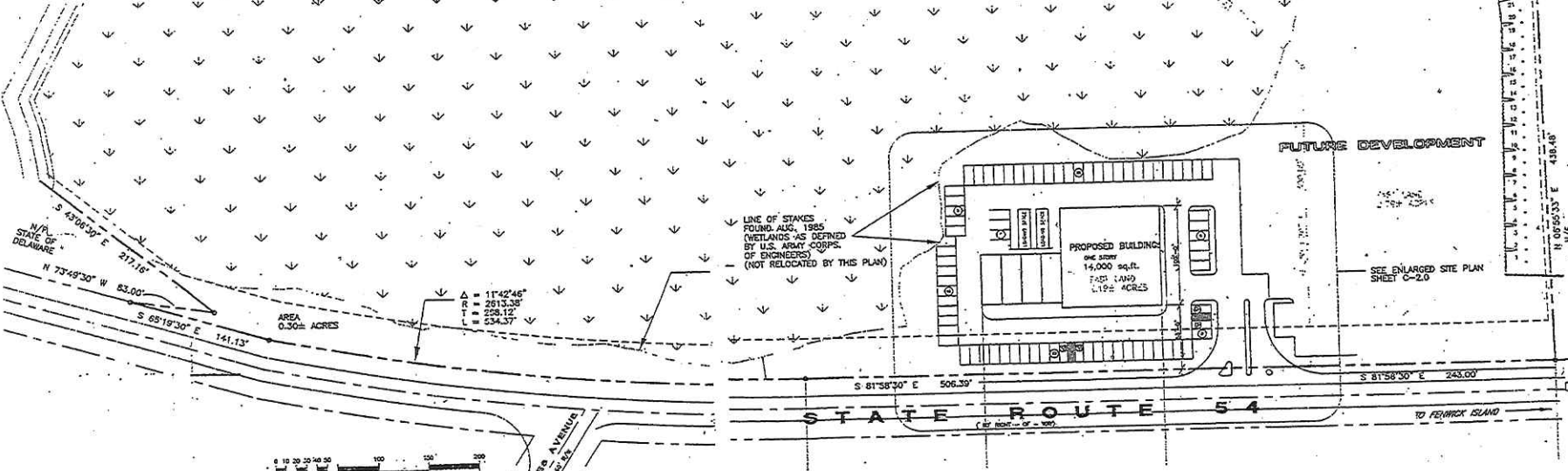
lowell e.
nelson
ala architect
4213 great oak road
rossville, md 20863
tel 1-800-928-9640

LIGHTHOUSE COVE

route 54
Baltimore Hundred, Sussex County, Delaware
Seashore Realty, Inc.
tel 1-854
Baltimore Tel: 410-388-1000

LIGHTHOUSE COVE

FOR SITE DESIGN SEE DRAWINGS BY LANDDESIGN



OVERALL SITE PLAN

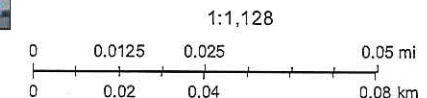
3/29/00
1/6/00
12/22/99

Drawing No.
2.
of 1



PIN:	134-23.00-3.04
Owner Name	BALSAMO & NORINO PROPERTIES LLC
Book	4751
Mailing Address	8100 HARFORD RD
City	BALTIMORE
State	MD
Description	N/ LIGHTHOUSE RD
Description 2	RT 54 APPROX
Description 3	1847.33' W/RT 1
Land Code	

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



BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: FURNITURE & MORE

(Case No. 12169)

A hearing was held after due notice on July 23, 2018. The Board members present were: Mr. Dale Callaway, Ms. Ellen Magee, Mr. Bruce Mears, Mr. John Mills, and Mr. Brent Workman.

Nature of the Proceedings

This is an application for a special use exception to place a tent for special events.

Findings of Fact

The Board found that the Applicant is requesting a special use exception to use a tent for special events. This application pertains to certain real property located on the west side of Beacon Drive, north of Lighthouse Road (911 Address: 38993 Beacon Drive, Fenwick Island); said property being identified as Sussex County Tax Map Parcel Number 1-34-23.00-3.04. After a hearing, the Board made the following findings of fact:

1. The Board was given copies of the Application, a drawing of the Property, a site plan dated March 29, 2000, an aerial photograph of the Property, and a portion of the tax map of the area.
2. The Board found that the Office of Planning and Zoning received no correspondence in support of the Application and seven (7) letters in opposition to the Application.
3. The Board found that Derek Millman was sworn in to testify about the Application. Mr. Millman is the manager of Furniture & More.
4. The Board found that Mr. Millman testified that the Applicant had a tent sale 2 times in 2017 and the Applicant traditionally holds tent sales on Memorial Day and Labor Day weekends. The Applicant seeks permission to conduct tent sales twice a year for a ten (10) days each time as that time frame will allow the Applicant time to set up the tent, conduct the sale, and tear down the tent.
5. The Board found that Mr. Millman testified that a tent costs \$2,500 to rent and it takes 2 days to set up a tent sale. The first weekend pays for the tent and the second weekend is where the Applicant makes its profit off the tent. Memorial Day and Labor Day weekends are important times of year for their sales.
6. The Board found that Mr. Millman testified that many businesses in the area close down in the off-season and the Applicant uses the profits from the tent sales to pay for the business to remain open the rest of the year.
7. The Board found that Mr. Millman testified that there is a community adjacent to the Property.
8. The Board found that Mr. Millman testified that the tent will be positioned 40 feet away from building, the entrance, and the community to the rear of the property. The tent will take up 7 parking spaces on the east side of the Property and additional space not reserved for parking. The Applicant is willing to move the tent closer to the building as well and there is room to do so. He believes that moving the tent would alleviate parking concerns expressed by neighbors.
9. The Board found that Mr. Millman testified that the tent will be set back farther from Route 54 than the existing building.
10. The Board found that Mr. Millman testified that the Applicant shares an entrance onto Route 54 with the adjacent community and other businesses on the site but the tent will not impede traffic coming to and from the neighboring property or impact neighbors' ability to access their property.

11. The Board found that Mr. Millman testified that this special use exception will not substantially affect adversely the uses of adjacent neighboring properties.
12. The Board found that Mr. Millman testified that the Applicant does not use all of its parking spaces even with the tent in place.
13. The Board found that Mr. Millman testified that there are no safety issues with the tent as the tent recently withstood winds of 50 miles per hour.
14. The Board found that Mr. Millman testified that there were some complaints about the placement of the tent and that it created a visibility issue the first time they used it but there were no complaints the following 2 times the tent was put up.
15. The Board found that Mr. Millman testified that store hours are as follows: Sunday 11am – 6 pm, Monday through Thursday 10 am – 6 pm, and Friday and Saturday 10 am – 7 pm.
16. The Board found that Mr. Millman testified that the nearby restaurant (High Stakes) has a lot of business and cars park all over the site when the restaurant is busy. High Stakes receives deliveries from tractor trailers.
17. The Board found that Mr. Millman testified that there is a right-of-way around the building and a car can navigate around the building.
18. The Board found that Mr. Millman testified that parking is always an issue and that High Stakes is a busy location and uses the majority of parking. High Stakes pay for 30% and Furniture & More pay for 70% of the parking lot but High Stakes uses the Applicant's parking spaces.
19. The Board found that Mr. Millman testified that, during the day, the Applicant will pull out some furniture outside the tent. At night, the Applicant shuts down the tent and retains a security guard to secure the premises overnight.
20. The Board found that Mr. Millman testified that the cars in the picture presented by the opposition were parked in the right-of-way to the development in the rear but he could not confirm if they were patrons of the business or if they were family members visiting the development in the rear. He testified that cars park near the gate even when the tent is not erected.
21. The Board found that Mr. Millman testified that the tent measures 40 feet by 60 feet and he believes that includes the stakes and tie-downs.
22. The Board found that Mr. Millman testified that he has not noticed any traffic issues for the neighboring properties related to the tent and that any traffic issues are related to vehicular traffic on Route 54. He does not believe that the tent affects traffic.
23. The Board found that no parties appeared in support of and ten (10) parties appeared in opposition to the Application. Randy Wallenhurst, Linda Bauers, George Bennett, and Sandra Simkins were sworn in to give testimony in opposition to the Application. Mr. Wallenhurst, Ms. Simkins, and Ms. Bauers submitted pictures to the record.
24. The Board found that Mr. Wallenhurst testified that he is a part-time resident at the community across from Furniture & More on Route 54 and. He bought his property for the view of the bay but his view is impeded by the tent and he is concerned about the effect of the tent on property values. He noted that Route 54 is a mess with many accidents.
25. The Board found that Ms. Bauers testified that she is a resident at Lighthouse View Condominiums which is the building at the rear of the applicant's property and is accessed through the Applicant's parking lot. She noted that her community is filled during Memorial Day and Labor Day weekends.
26. The Board found that Ms. Bauers testified that tent stays up 2 weeks when it is erected.
27. The Board found that Ms. Bauers testified that furniture extends beyond the tent and that customers mill around the parking lot. She also noted that furniture is placed on the sidewalk thereby limiting use of the sidewalk. She believes that the tent creates a safety issue.

28. The Board found that Ms. Bauers testified that cars have been parked in the right-of-way to her development blocking both a fire hydrant and the key pad entrance to her community.
29. The Board found that Ms. Bauers testified that there is not enough parking and the tent makes it worse as visibility is blocked by the tent and it is difficult to see around the tent.
30. The Board found that Ms. Bauers testified that the tent substantially affects adversely the uses of neighboring and adjacent properties.
31. The Board found that Ms. Bauers testified that 2 cars cannot pass each other when the tent is erected and that moving the tent closer to the building will not help the situation because cars will not be able to navigate around the building.
32. The Board found that Ms. Simkins testified that there is a parking problem even when the tent is not present but the tent amplifies the issue because a car cannot enter the development when cars are parked in the easement.
33. The Board found that Ms. Simkins testified that, even if the tent was moved, it would still be a safety issue.
34. The Board found that Ms. Simkins testified that the tent poses a safety issue and that large vehicles have difficulty accessing the community when the tent is erected.
35. The Board found that Mr. Bennett testified that the tent in place affects sixty (60) homeowners, their family, and friends and the tent creates a safety issue which magnifies the parking problem. He believes that placing the tent elsewhere on the Property still substantially affects adversely the use of the neighboring property.
36. The Board tabled its discussion and vote on the Application until August 6, 2018, at which time the Board discussed and voted on the Application.
37. Based on the findings above and the testimony and evidence presented at the public hearing and the public record, which the Board weighed and considered the Board determined that the application met the standards for granting a special use exception because the proposed outdoor display or promotional activity will not substantially affect adversely the uses of neighboring and adjacent properties. The findings below further support the Board's decision to approve the Application.
 - a. The Applicant owns a furniture retail store and wishes to hold tent sales during Memorial Day and Labor Day weekends. The Applicant has held such sales on the Property previously and the Applicant intends to erect the tent before and after each of those holiday weekends on an annual basis.
 - b. The Property is a commercial site used for a furniture store and a restaurant. A majority of the parking spaces are to be used for the furniture store and the Applicant presented credible testimony that the customers of the store do not use all of the Applicant's designated parking spaces.
 - c. The opposition presented concerns about the blocking of the drive aisle accessing their community. The Board, however, was not convinced that the blocking of the drive aisle was due to the tent or even due to the Applicant's business. The opposition noted that the neighboring community is often "filled" during these holiday weekends and that the restaurant has a steady business as well. The Board notes that the site plan and tax map demonstrate that only a small portion of the drive aisle is actually located on the Property and that much of the lane is located off the Property.
 - d. The opposition expressed concerns about traffic but both sides acknowledged that traffic along the adjacent Route 54 is often hectic during summer months. It was clear to the Board that cars using the drive aisle may have to wait to turn onto Route 54 at times. The Board was not convinced that the existence of the tent somehow contributed to traffic concerns along Route 54.

- e. To the extent the tent has an impact on the drive aisle, the Board does not find that the impact is a substantial adverse impact. To reduce whatever impact may exist, however, the Board, as part of its approval, conditions that the tent must be placed adjacent to the Furniture & More building away from the drive aisle.
- f. The location of the tent should provide neighbors of the nearby community with an opportunity to shop for additional furniture without having to traverse onto Route 54 and this opportunity would benefit neighboring and adjacent properties.
- g. The tent will be used only on a temporary basis during limited times of the year.
- h. The approval is conditioned on the following:
 - i. The tent shall be no larger than 40 feet by 60 feet as proposed by the Applicant.
 - ii. The tent shall be placed on the east side of the Furniture & More building on the Property as shown on the site plan submitted by the Applicant. The tent must be adjacent to the building and away from the entrance to Route 54.
 - iii. The tent is allowed to be used two (2) times per year for a total of sixteen (16) days per year. The sixteen (16) days are to be divided equally between the Memorial Day and Labor Day holiday weekends. The Applicant is permitted two (2) days at the beginning of each tent sale to set up the tent and two (2) days at the end of each tent sale to disassemble and remove the tent. The times for erection and disassembly of the tent shall be included as part of the sixteen (16) days allotted for the tent sale to occur.
 - iv. The approval is valid for a period of one (1) year.

The Board granted the special use exception application for a period of one (1) year with conditions finding that it met the standards for granting a special use exception.

Decision of the Board

Upon motion duly made and seconded, the special use exception application was approved with conditions for a period of one (1) year. The Board Members in favor were Mr. Dale Callaway, Mr. John Mills, and Mr. Brent Workman. Ms. Ellen Magee and Mr. Bruce Mears voted against the Motion to approve the special use exception application with conditions.

BOARD OF ADJUSTMENT
OF SUSSEX COUNTY


John Mills
Chairman

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

Date October 2, 2018

Case # 12397
Hearing Date 1/6

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

201913095
201913097

Type of Application: (please check all applicable)

Variance X
Special Use Exception _____
Administrative Variance _____
Appeal _____

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

Site Address of Variance/Special Use Exception:

30835 East Lagoon Rd, Dagsboro DE 19939

Variance/Special Use Exception/Appeal Requested: To keep existing set back on the front of my new structure where one corner is 14ft back in stead of 17.6 that my average was set as.

12211 - OLD APP

Tax Map #: 134-6.00-123.00 + 124.00

Property Zoning: GR

Applicant Information

Applicant Name: Kelly Hales
Applicant Address: 316963 Sussex Hwy
City, State, Zip: Delmar, DE 19940
Applicant Phone #: 302-846-0930 Applicant e-mail: paige_rg@verizon.net

Owner Information

Owner Name: Kelly and Reece Hales
Owner Address: 316963 Sussex Hwy
City, State, Zip: Delmar DE 19940 Purchase Date: _____
Owner Phone #: 302-846-0930 Owner e-mail: paige_rg@verizon.net

Agent/Attorney Information

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

Signature of Owner/Agent/Attorney

Kelly Hales

Date: 1-8-19



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.

There's a wall/retaining wall behind house. Which made our lot a tight space to build our home, but the problem was not our's. We had it surveyed so we knew our house would fit the space the contractor moved our stakes. I had an average done with

2. Cannot otherwise be developed: Mr. LANK on 11-3-16 all for site guy to move my stakes.

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.

It was not our fault that home was placed in wrong spot. The contractor moved our stakes. The house was constructed before we realized the issue

3. Not created by the applicant:

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

This was not our fault the contractor who built the structure moved our stakes that was not suppose to be touched. We hired a survey before we built to make sure our stakes were in compliance with our set backs.

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.

This will not effect the neighbor hood in any way all homes along this dead end street are close to the road. The mobile home and closed in porch on home that was there before we removed it sat closer than my home now. My home actually improves

5. Minimum variance: the development.

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

I only need variance for the one corner of the front of house.

The rest is within set back requirements. I'm asking to keep home the 14 ft on one corner and 17.8 on other corner. The 17.8 is in compliance, but the 14ft is

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)

✓ I'm appealing because I do not want to have to remove my new structure that sits on a concrete pad which also has all my plumbing in concrete. It was not our fault that the contractor moved our stakes. He admitted it in JP Court. I have no way of getting you this info. The contractor told us he was trying to parallel it with our retaining wall. We told him it couldn't be and he must put the stakes back where they belong. We gave him measurements and told him to make sure he puts them back he said he would. So when I got my 2nd survey done through the building process I was shocked to see he didn't fix it. The surveyor even went back because he thought he measured something wrong. He was sad to tell me that my house was off 3 1/2 ft on one corner. So I'm pleading for you to let me keep my new home where it sits. I have not been able to use it all year since last hearing.

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: KELLY HALES

(Case No. 12211)

A hearing was held after due notice on October 1, 2018. The Board members present were: Mr. Dale Callaway, Ms. Ellen Magee, Mr. Bruce Mears, Mr. John Mills, and Mr. Brent Workman.

Nature of the Proceedings

This is an application for variances from the front yard and side yard setback requirements for existing structures.

Findings of Fact

The Board found that the Applicant is seeking a variance of 8.6 feet from the 17.6 feet average front yard setback requirement for the existing pump house, a variance of 3.6 feet from the 17.6 feet average front yard setback requirement for the existing dwelling, a variance of 8.1 feet from the ten (10) feet side yard setback requirement on the north side of Lot 10 for an existing guesthouse, and a variance of 1.1 feet from the five (5) feet side yard setback requirement on the north side of Lot 11 for an existing shed. This application pertains to certain real property on the west side of East Lagoon Road, approximately 511 feet north of Falling Point Road (911 Address: 30835 & 30843 East Lagoon Road, Dagsboro.) said property being identified as Sussex County Tax Map Parcel Numbers 1-34-6.00-123.00 & 1-34-6.00-124.00.

1. The Board was given copies of the Application, an aerial photograph of the Property, a survey of the Property dated September 2, 2016, a survey of the Property dated July 31, 2018, and a portion of the tax map of the area.
2. The Board found that the Property consists of 2 parcels. Sussex County Tax Map Parcel No. 1-34-6.00-123.00 contains Lots 9 and 10 and Sussex County Tax Map Parcel No. 1-34-6.00-124.00 contains Lot 11 (collectively "the Property").
3. The Board found that the Office of Planning & Zoning received no correspondence in support of or in opposition to the Application.
4. The Board found that Kelly Hales was sworn in to testify about the Application. Ms. Hales submitted exhibits to the Board to review.
5. The Board found that Ms. Hales testified that the Property is in Dogwood Acres and consists of three lots each measuring 50 feet wide. Neighboring homes are located close to the road.
6. The Board found that Ms. Hales testified that Planning & Zoning approved the proposed location of the home and the location was staked out. She hired a contractor for the dwelling and the contractor pulled the stakes prior to placing the dwelling. The builder did not place the home in compliance with the stakes. She has since sued the builder.
7. The Board found that Ms. Hales testified that the Property is unique because it is in a flood zone. The Property slopes towards the rear yard.
8. The Board found that Ms. Hales testified that the Property has a water pumphouse.
9. The Board found that Ms. Hales testified that she wants to keep the home where it sits. The house is parallel to the retaining wall but not the front yard.
10. The Board found that Ms. Hales testified that the Property cannot be otherwise developed as the home is already in place.
11. The Board found that Ms. Hales testified that the need for the variances was not created by the Applicant but by the builder who placed the home in the wrong location.

12. The Board found that Ms. Hales testified that the variances will not alter the character of the neighborhood as other homes in the area also sit close to the front of the Property.
13. The Board found that Ms. Hales testified that the septic system is located in front of the guest house and the drain field is located where the shed is located.
14. The Board found that Ms. Hales testified that the only improvement that she has made is placing the house on the lot.
15. The Board found that Ms. Hales testified that this variance request is the least variance to allow for the home to remain in the current location.
16. The Board found that no parties appeared in support of or in opposition to the Application.
17. The Board tabled the Application until October 15, 2018, at which time the Board voted on the Application.
18. Based on the findings above and the testimony and evidence presented at the public hearing and the public record, which the Board weighed and considered, the Board determined that the application for the variances for the pumphouse, shed, and guesthouse met the standards for granting a variance. The findings below further support the Board's decision to approve the Application for the variances for those structures.
 - a. The Property is unique due to its size and shape. The Property, though consisting of 3 lots, is wide but not deep. Furthermore, a significant portion of the rear yard is considered to be in the flood zone. The Applicant testified that the Property slopes towards the rear yard. These unique characteristics of this Property limit the buildable area available to the Applicant and have created an exceptional practical difficulty for the Applicant who seeks to retain existing structures on the lot.
 - b. Due to the uniqueness of the lot, the Property cannot be developed in strict conformity with the Sussex County Zoning Code. The Property has a unique size and the buildable area thereof is limited due to its size, shape, and physical conditions. The Applicant seeks to retain an existing pump house, shed, and guest house on the lot but is unable to do so without violating the Sussex County Zoning Code. The Board is convinced that the variances are necessary to enable the reasonable use of the Property as the variances will allow reasonably sized, existing pump house, shed, and guest house to remain on the lot. The Board is convinced that the shape and location of these structures are also reasonable, which is confirmed when reviewing the survey provided by the Applicant.
 - c. The exceptional practical difficulty was not created by the Applicant. The Applicant did not create the unusual size, shape, and physical conditions of the Property. These conditions have resulted in a limited building envelope on the Property and the small building envelope has created the exceptional practical difficulty. The difficulty caused by the small size of the lot is exacerbated due to the fact that a portion of the rear yard is located in a flood zone. The unique characteristics of the Property are clear when reviewing the survey. The Board is convinced that the exceptional practical difficulty was not created by the Applicant but was created by the lot's unique characteristics. The Board also notes that the shed, pumphouse, and guesthouse were located on the Property by a prior owner and appear to have been located on the Property for many years.
 - d. The variances will not alter the essential character of the neighborhood nor substantially or permanently impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare. The Board is convinced that the existing pump house, shed, and guest house will have no effect on the character of the neighborhood. These structures have been

on the Property for quite some time without noted complaints in the record. No evidence was presented that the variances would somehow alter the essential character of the neighborhood. The lack of evidence is telling since, if these structures had somehow altered the essential character of the neighborhood, the Board would expect some evidence thereof. The Board also notes that the variance for the guesthouse is likely unnoticeable since the guesthouse is located near the center of the Property but close to the lot line separating Lots 10 and 11 and all three lots are essentially treated as one collective property.

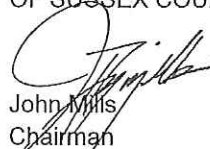
- e. The variances sought are the minimum variances necessary to afford relief and the variances requested represent the least modifications possible of the regulations at issue. The Applicant has demonstrated that the variances sought will allow the Applicant to retain existing pump house, shed, and guest house. No additions or modifications to those structures are proposed.
19. Based on the findings above and the testimony and evidence presented at the public hearing and the public record, which the Board weighed and considered, the Board determined that the application for the variance for the dwelling failed to meet the standards for granting a variance. The findings below further support the Board's decision to deny the Application for the variance for that structure.
- a. The Applicant failed to prove that the dwelling could not be built in strict conformity with the Sussex County Zoning Code. The dwelling was only recently located on the Property and there was no evidence that the Applicant could not move the home into compliance. Rather, the Applicant testified that the dwelling could fit within the building envelope. For these reasons, the Board finds that the dwelling could be developed in strict conformity with the Code and that the variance is not necessary to enable reasonable use of the Property.
 - b. Prior to placing the dwelling on the lot, the Applicant was aware of the front yard setback requirement for a new dwelling. Notably, the front yard setback requirement is lesser than normal for lots because the Applicant benefited from the averaging of other lots in the neighborhood. Despite this reduced setback and clear evidence as to the front yard setback requirement, the Applicant contracted for the placement of the home and the home was placed in the front yard setback area. While the Applicant claims that this was due to builder error, the Applicant did not convince the Board that this error was unavoidable or that the mistake could not be remedied. The exceptional practical difficulty with regard to the dwelling appears to have nothing to do with some unique physical characteristic of the Property and, instead, appears to be created by the Applicant or her agents.
 - c. The Applicant also failed to convince the Board that the variance for the dwelling is the minimum variance necessary to afford relief. As noted in Paragraph 19(a) above, the Applicant could place the dwelling in compliance with the Code. As such, the variance for the dwelling is not the minimum variance necessary to afford relief.

The Board approved the variance application for the shed, pumphouse, and guesthouse finding that it met the standards for granting a variance but the Board denied the variance application for the dwelling finding that it failed to meet the standards for granting a variance.

Decision of the Board

Upon motion duly made and seconded, the variance application was approved in part and denied in part. The Board Members in favor of the motion to approve in part and deny in part were Mr. Dale Callaway, Mr. Bruce Mears, and Mr. John Mills. Ms. Ellen Magee and Mr. Brent Workman voted against the Motion to approve the variance application for the shed, pumphouse, and guesthouse but to deny the application for the dwelling.

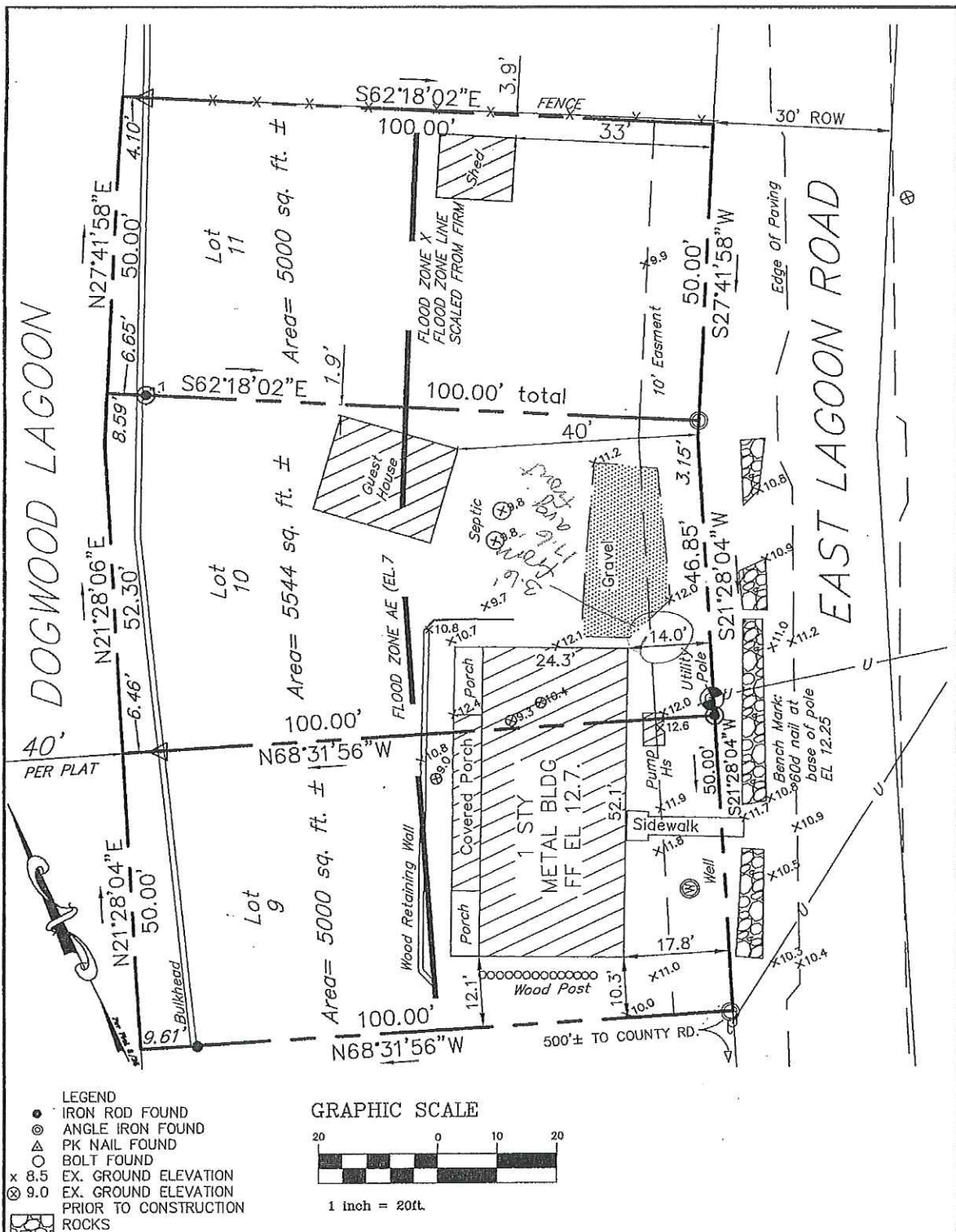
BOARD OF ADJUSTMENT
OF SUSSEX COUNTY



John Mills
Chairman

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

Date December 18, 2018.



JOB NO. 09-014-16

As Built Survey
for
Kelly L. & Reece G. JR., Hales
30835 East Lagoon Road, Dagsboro
Sussex County, DE 19939

DRB

DON R. BAUMGARTNER
Land Surveyor

31618 Shavox Road
Salisbury, MD 21804

Tel: 443-783-4862

Email: Don270@verizon.net

Maryland: Property Line Surveyor No. 601

Delaware: Professional Land Surveyor No. 553

DATE 7/31/2018

PIN 134-6.00-123.00

DEED 3639/59

PLAT: 8/35

SURVEY CLASS-SUBURBAN
OFFSET ACCURACY 0.1'±

FIRM 10005C0485J

DATE JAN. 6, 2005

BY: DRB

SCALE: 1"=20'

7/31/18
Don R. Baumgartner

The paper's your getting ready to look at show
Serrval things.

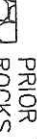
1. The original Structure that was located on my property.
2. The set backs of my new Structure /that was not our fault.
3. The set backs of my neighbors on same side of street.
4. How my structure dose not change the neighborhood
of how

DOGWOOD LAGOON

LEGEND

- IRON ROD FOUND
- ◎ ANGLE IRON FOUND
- △ PK NAIL FOUND
- BOLT FOUND
- x 8.5 EX: GROUND ELEVATION
- ⊗ 9.0 EX: GROUND ELEVATION

PRIOR TO CONSTRUCTION

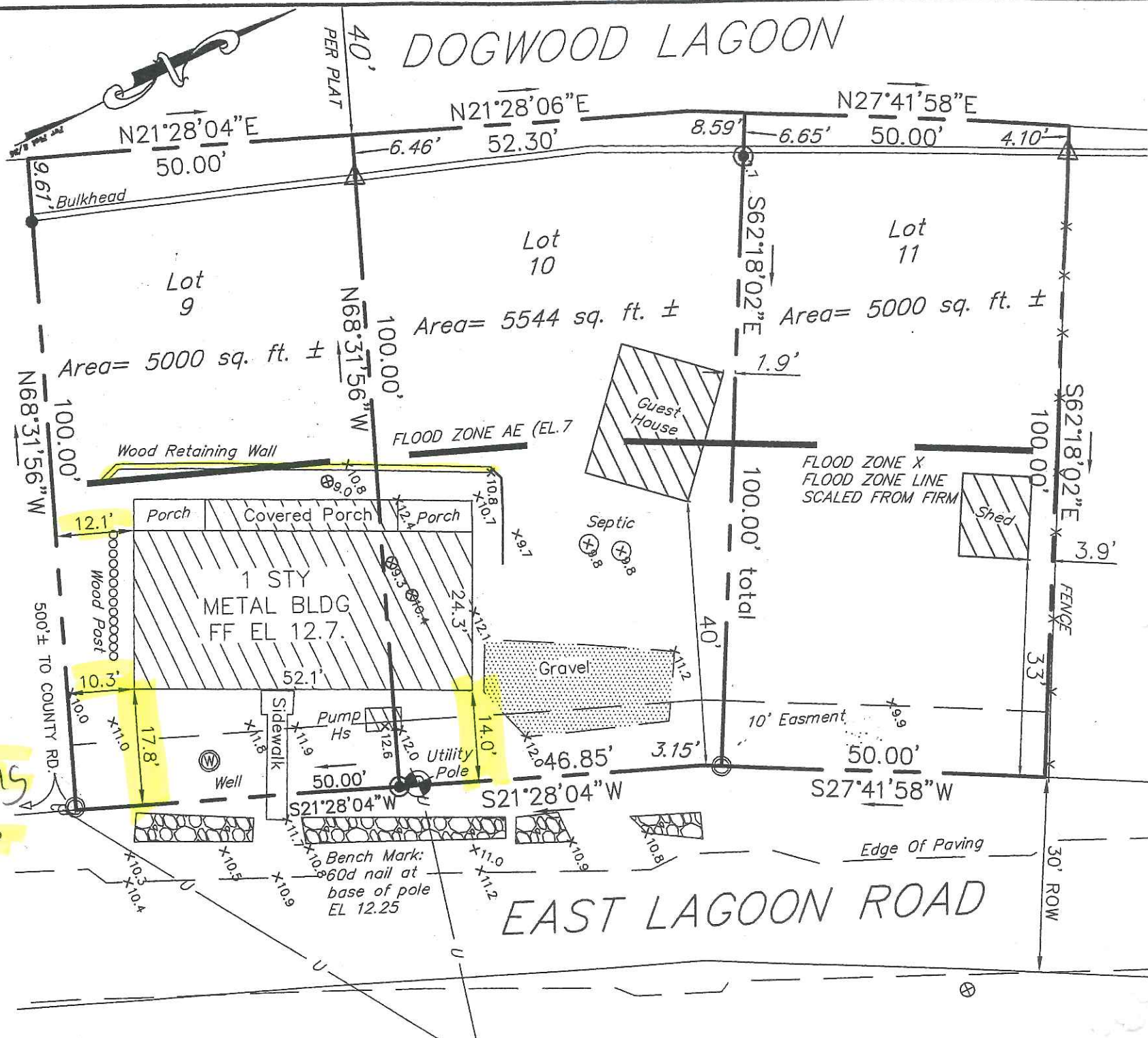


ROCKS

GRAPHIC SCALE

1 inch = 20ft

My dwelling
set back's
as home
sits now



[illegible]

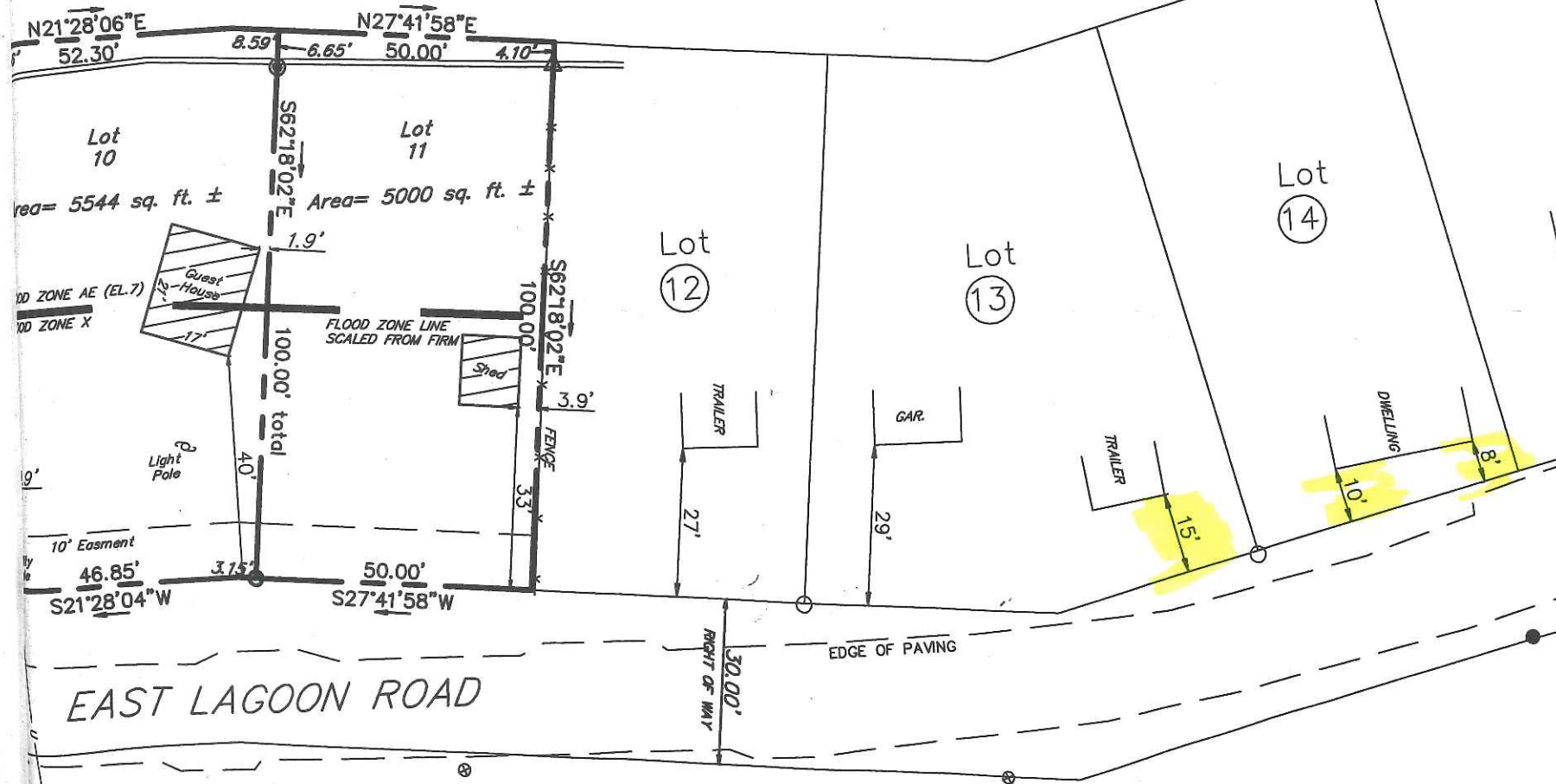
point south, with limited amount of survey work
 it is not clear exactly where the road right of
 located. Extensive research and field work
 necessary to precisely identify the right of way
 or the purpose of this survey the edge of
 used for a reference line in this area.



This shows homes on same side
 of Street that sits closer than mine.

DOGWOOD LAGOON

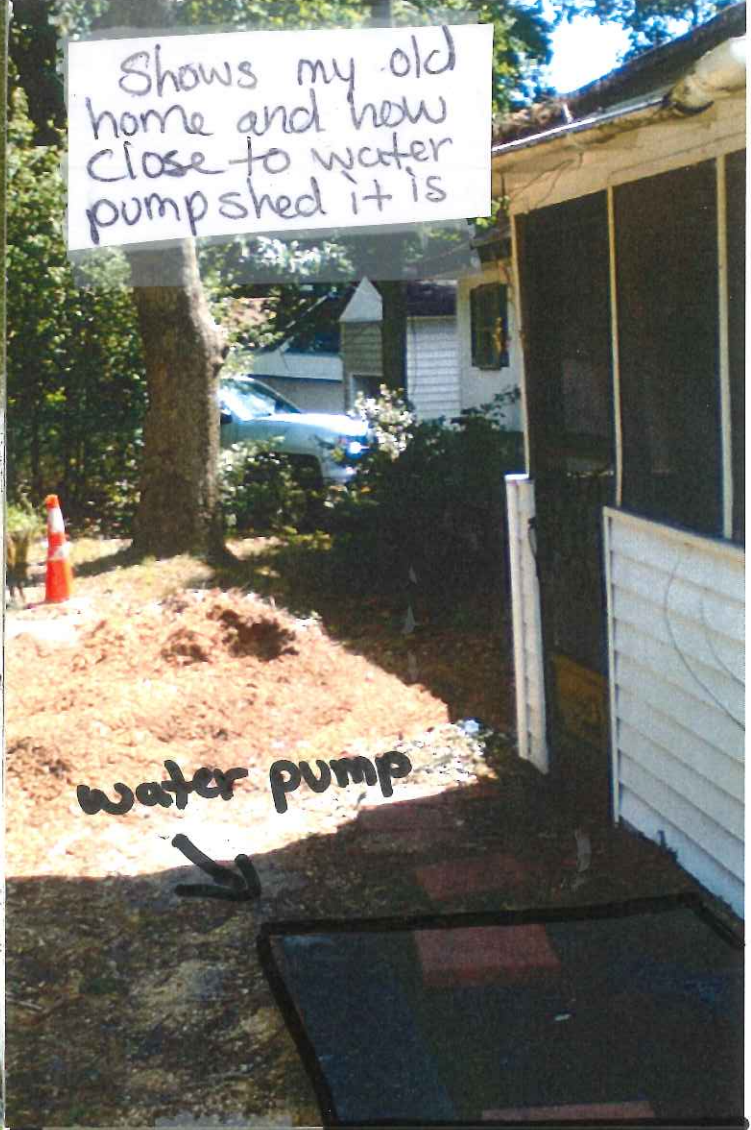
Per Plot 8/86



Shows other side how other homes sit closer too 325'±

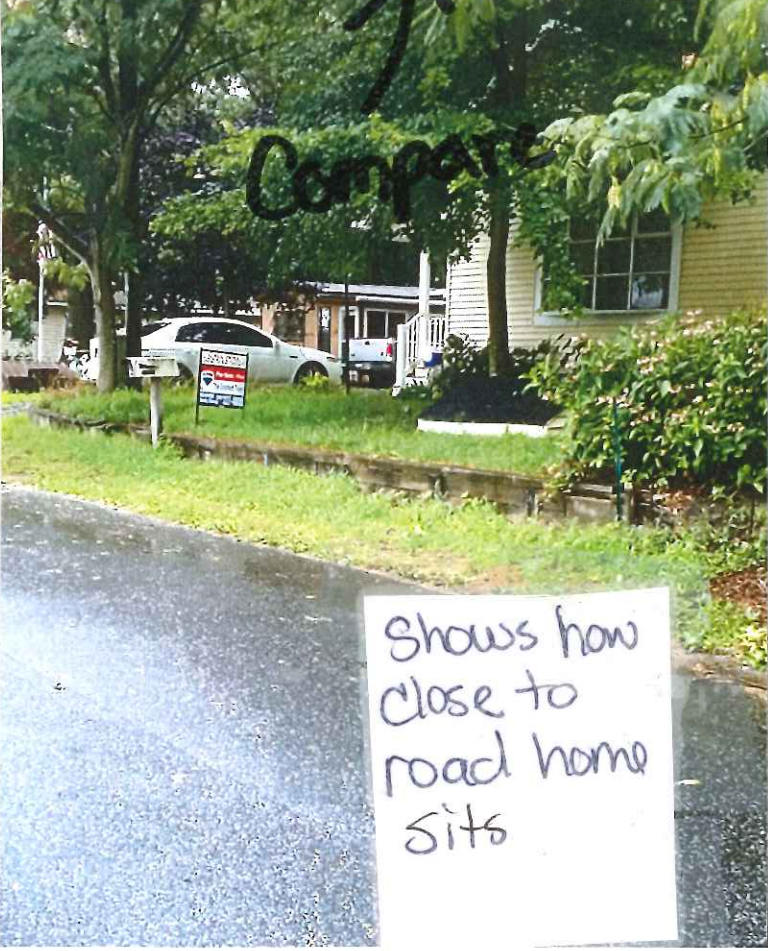


Shows how far
away from road



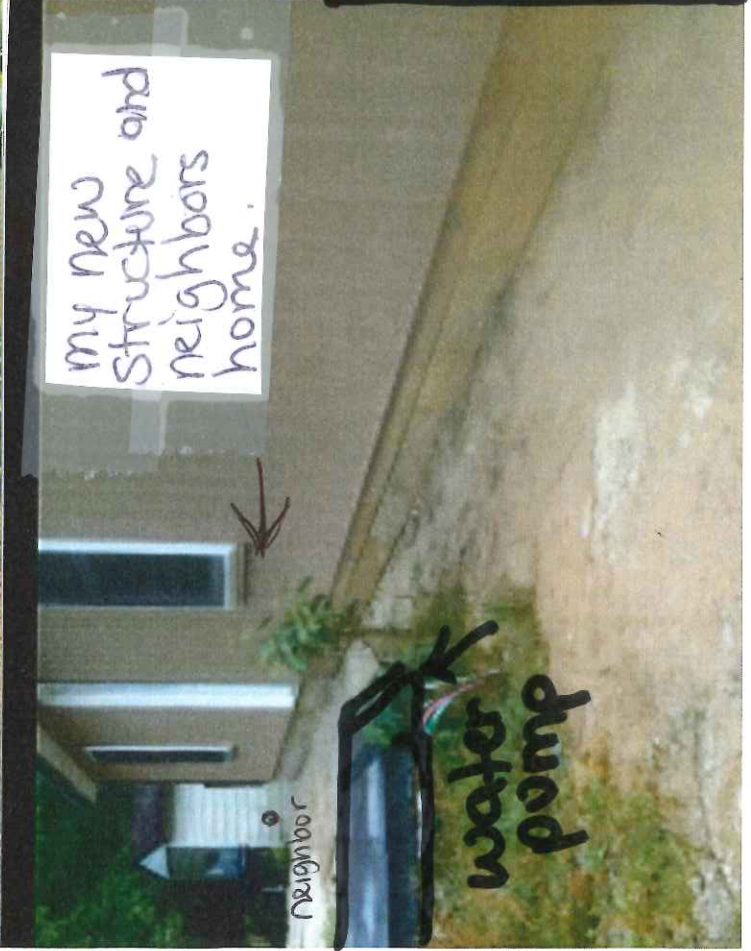
Shows my old
home and how
close to water
pump shed it is

water pump



Compare

Shows how
close to
road home
sits



my new
structure and
neighbors
home.



water
pump

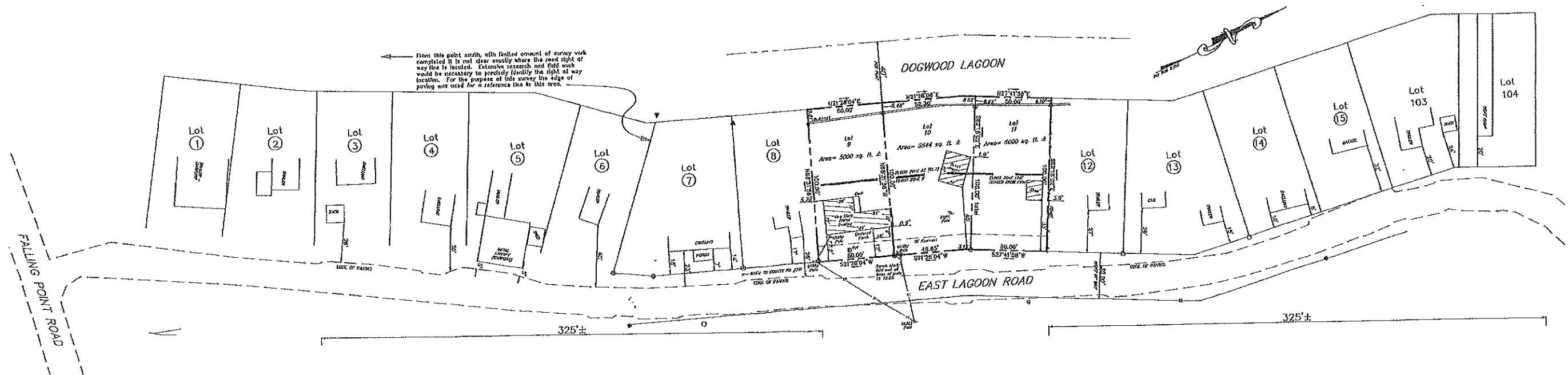
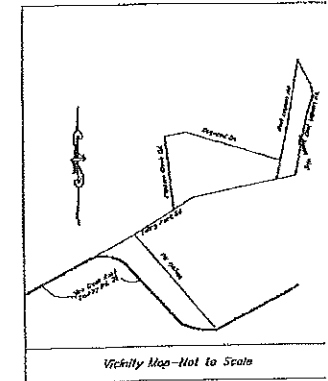
neighbor

Legend

- Iron Rod Found
- Angle Iron Found
- ▲ PK Nail Found
- Ball Found
- △ PK Nail Set
- ⊗ Iron Rod And Cap Set
(Inscribed DAB Prop Cor PLS #553)
- ⊗ Iron Nail Found
- Pinned Pipe Found
- Iron Pipe Found

Notes:

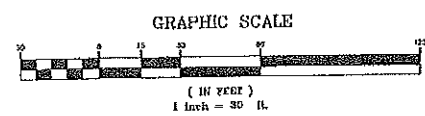
- 1.) Dead Reference—Lot 9, 10, & 11 36.39/59
- 2.) Plot Reference— 8/35
- 3.) Survey Class "Suburban" offset accuracy 0.1±
Buildings off property, offset accuracy 1'±
- 4.) FIRM MAP 10005CD4854, DATED JAN. 6, 2005
FLOOD ZONE X & AE (EL 7)
- 5.) Bench Mark Established By Static GPS, OPUS
Solution Report Dated September 3, 2016,
NAVD 88.
- 6.) Tax I.D. # 1-34 6.00 123.00 and 124.00



NOTE:
THE PURPOSE OF THIS SURVEY IS TO SHOW APPROXIMATE OFFSETS TO THE EXISTING ADJACENT DWELLINGS TO HELP DETERMINE THE FRONT BUILDING OFFSET LINES FOR LOTS 9 TO 11.
SIDE LOT BOUNDARY LINES ARE APPROXIMATE.
ROAD RIGHT OF WAY LINES, WHERE SHOWN, ARE BASED ON MONUMENTS FOUND IN FIELD THAT BEST MATCH THE RECORD SUBDIVISION PLAT.
LOTS 9 TO 11 AS SHOWN REPRESENT A "BOUNDARY SURVEY".



Don R. Baumgartner



APPROVED
Average of 17.4
6.6 11.5.16

**Location Survey,
Showing Building Offsets To Street**
for
Kelly & Reese Hales
30835 East Lagoon Road, Dagsboro
Sussex County, DE 19939

DON R. BAUMGARTNER
Land Surveyor
P.O. Box 775
Seaboard, MD 21803
Tel: 410-742-0977
Email: Don2700@comcast.net
Maryland: Property Line Surveyor No. 601
Delaware: Professional Land Surveyor No. 553

FOR NO. 02-014-18
DATE 09/02/2016
SCALE 1"=30'



PIN:	134-6.00-123.00
Owner Name	HALES REECE G JR & KELLY L
Book	3639
Mailing Address	36963 SUSSEX HWY
City	DELMAR
State	DE
Description	DOGWOOD ACRES
Description 2	LOTS 910 11
Description 3	N/A
Land Code	

polygonLayer

Override 1

polygonLayer

Override 1

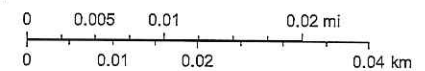
Tax Parcels

911 Address

Streets

County Boundaries

1:564



Case # 12400
Hearing Date 1/6/2020
2019 13635

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~~ Administrative Variance ☐

Appeal ☐

Existing Condition ☐

Proposed ☒

Code Reference (office use only)

115-25

115-185

Site Address of Variance/Special Use Exception:

37348 8th Street

Variance/Special Use Exception/Appeal Requested:

11.3' from 30' req front for proposed
screen porch on existing deck.

Tax Map #: 334-19.12-98.00

Property Zoning: AR-1

Applicant Information

Applicant Name: Richard Byrd

Applicant Address: 1110 Hidden Trail Dr

City, State, Zip: Owings Mills, MD 21117

Applicant Phone #: 443-761-7138 Applicant e-mail: RByrd@Byrddesignandbuild.com

Owner Information

Owner Name: Same

Owner Address: Same

City, State, Zip: Same

Purchase Date:

Owner Phone #:

Owner e-mail:

Agent/Attorney Information

Agent/Attorney Name:

Agent/Attorney Address:

City, State, Zip:

Agent/Attorney Phone #:

Agent/Attorney e-mail:

Signature of Owner/Agent/Attorney

[Signature]

Date: 11/22/19



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.

existing dwelling on a small lot with an existing deck that already is non conforming

2. Cannot otherwise be developed:

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

there is no other option to put it on this narrow and small lot.

3. Not created by the applicant:

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

It was an existing deck that was poorly built and it would have to rehabilitate it and improve the aesthetic of the home

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

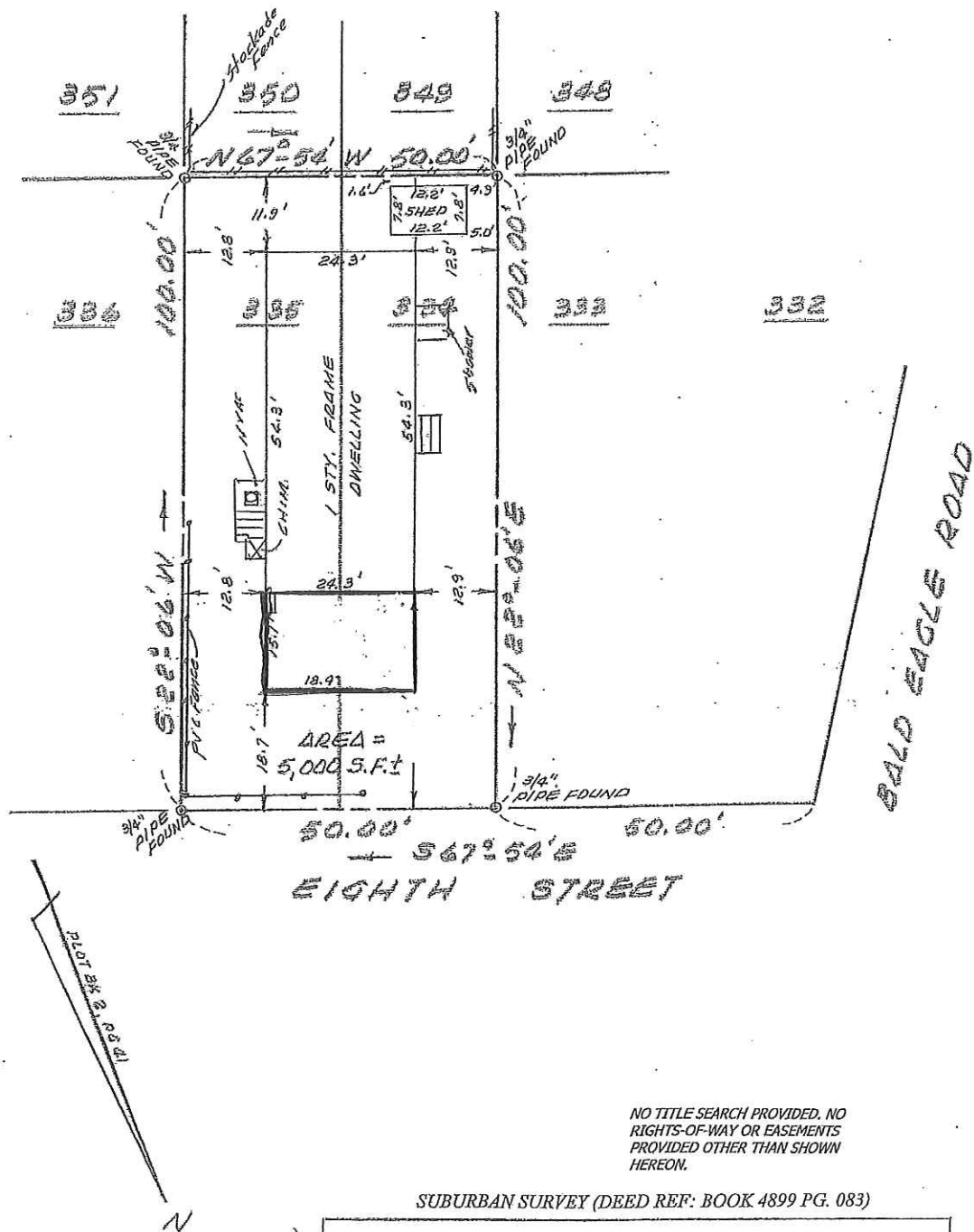
That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located and nor substantially or permanently impair the appropriate use of development of adjacent property, nor be detrimental to the public welfare.

It will not alter the character of the neighborhood and will improve the aesthetic of the home and block

5. Minimum variance:

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

I will not be making it more non conforming. It will be the same size only improved



NO TITLE SEARCH PROVIDED. NO RIGHTS-OF-WAY OR EASEMENTS PROVIDED OTHER THAN SHOWN HEREON.

SUBURBAN SURVEY (DEED REF: BOOK 4899 PG. 083)

BOUNDARY & IMPROVEMENT SURVEY PLAN
prepared for
RICHARD BYRD

LOTS 334 & 335, BAY VISTA (5,000 S.F.)
(K/A 37348 8TH STREET),
LEWES & REHOBOTH HUNDRED,
SUSSEX COUNTY, DELAWARE

WINGATE & ESCHENBACH, LLC, REGISTERED SURVEYORS
P.O. BOX 142, REHOBOTH BEACH, DE 19971

SCALE: 1" = 20'

20 AUGUST 2019



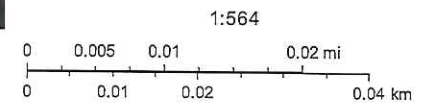
Sussex County



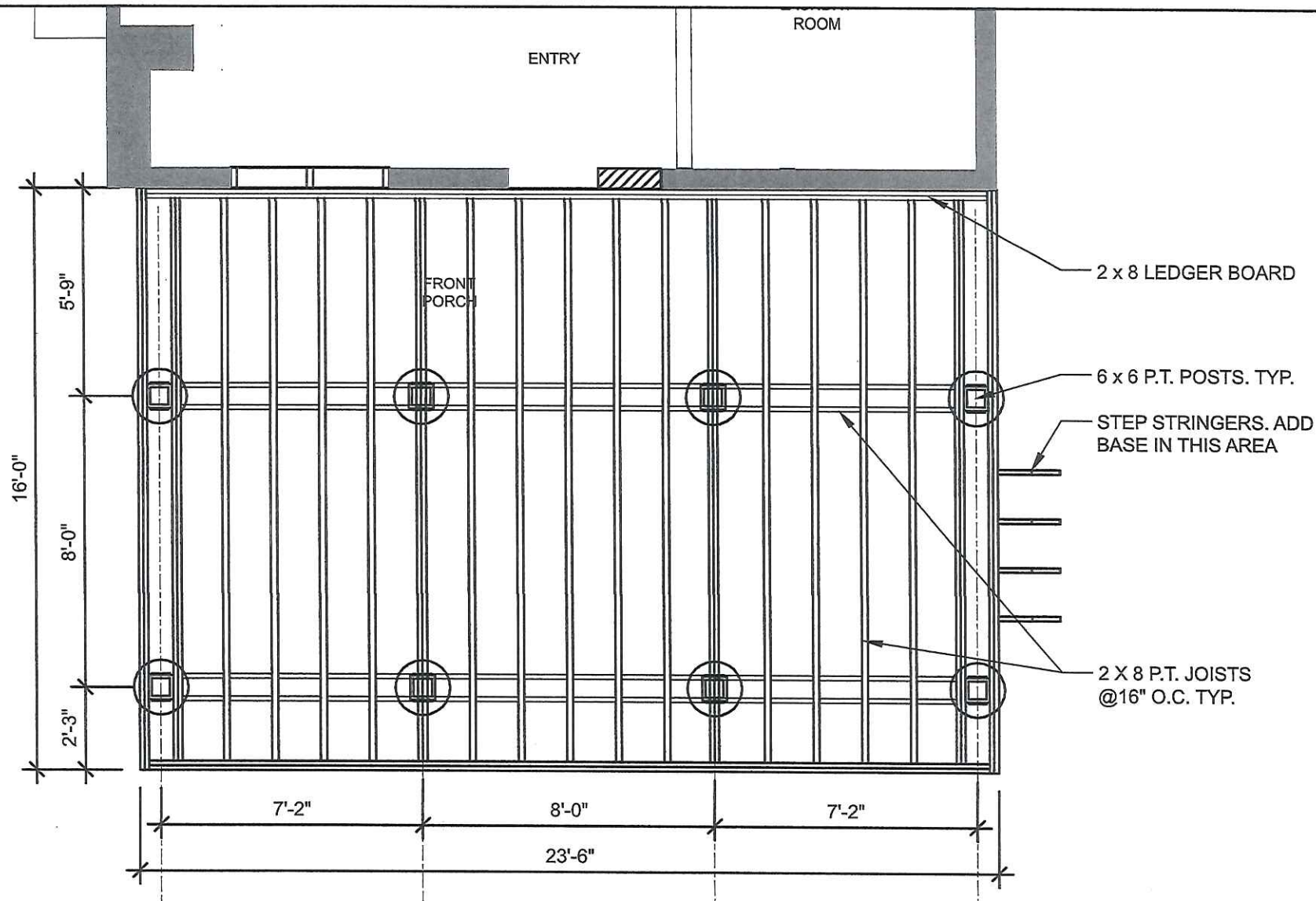
PIN:	334-19.16-98.00
Owner Name	BYRD RICHARD
Book	5116
Mailing Address	37348 8TH ST
City	REHOBOTH BEACH
State	DE
Description	BAY VISTA EIGHTH ST
Description 2	UNITS 334 335
Description 3	N/A
Land Code	

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

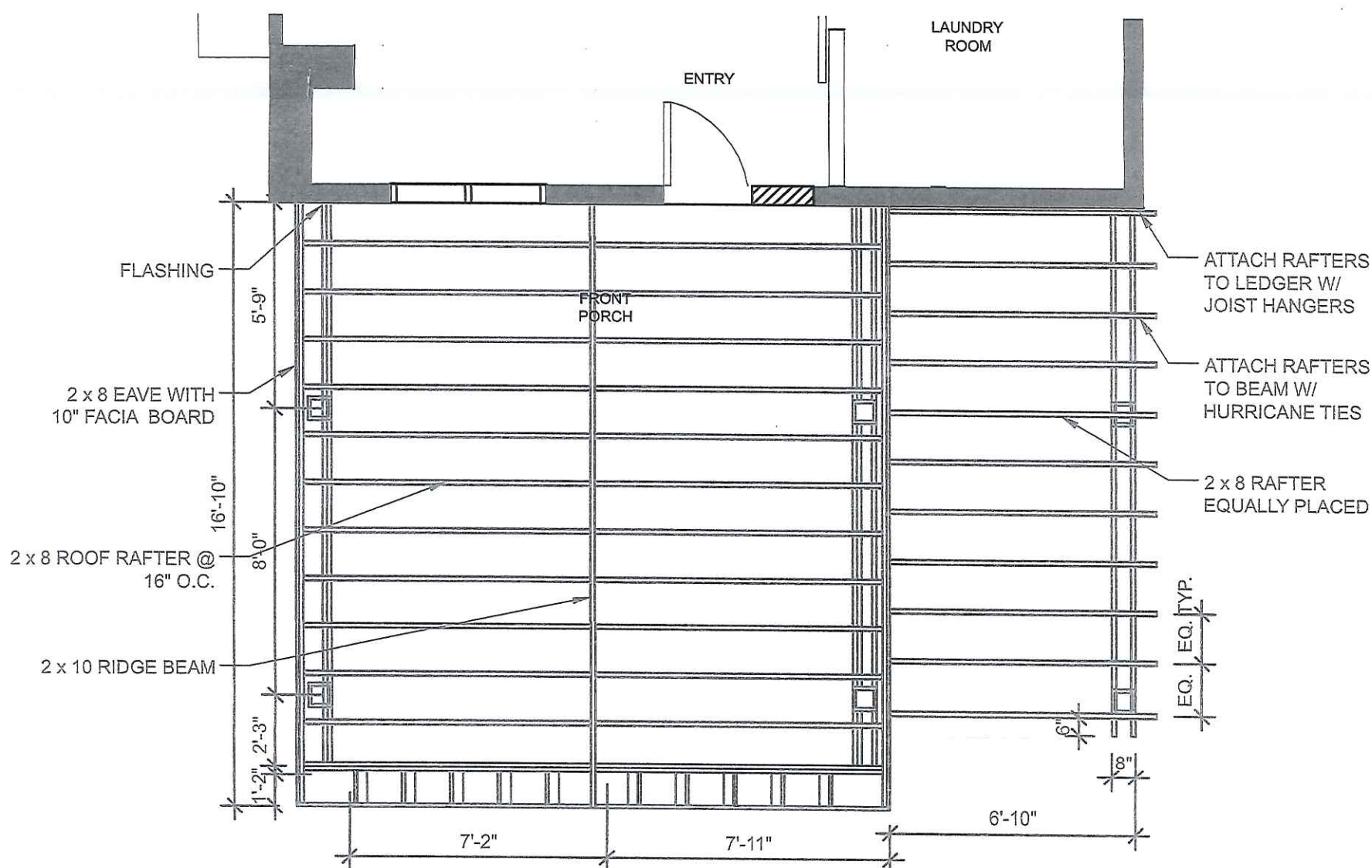
December 4, 2019







1 **DECK FRAMING PLAN**
A1.1 SCALE: $\frac{1}{4}" = 1'-0"$



2 **DECK ROOF FRAMING PLAN**
A1.1 SCALE: $\frac{1}{4}" = 1'-0"$

BYRD BEACH HOUSE

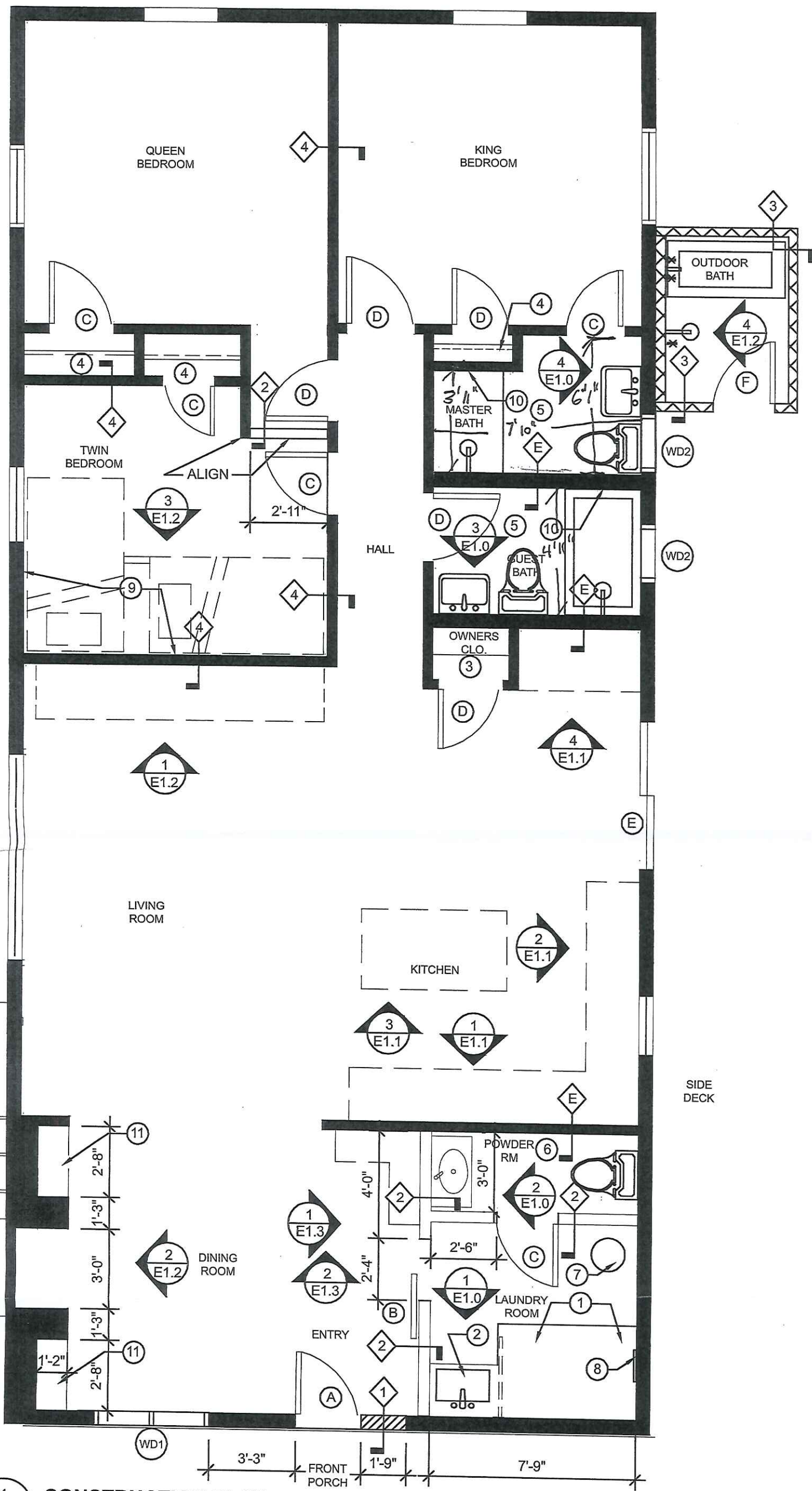
37348 8th Street

10/11/19

SCALE: NTS

CONSTR.

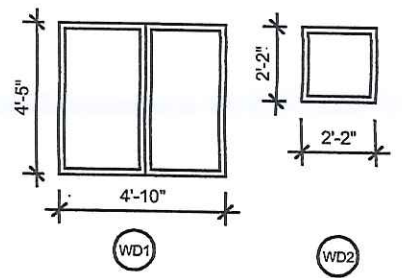
A 1.1



- CONSTRUCTION NOTES**
- 1 NEW FRONT LOAD WASHER & DRYER, TBD.
 - 2 NEW UTILITY SINK.
 - 3 PROVIDE NEW BRACKETS & SHELVES.
 - 4 PROVIDE NEW CLOSET SYSTEMS.
 - 5 NEW TOILET, VANITY AND SHOWER & OR BATHTUB FIXTURES.
 - 6 NEW TOILET & VANITY.
 - 7 NEW HOT WATER HEATER.
 - 8 EXIST. ELECTRICAL PANEL TO REMAIN.
 - 9 CUSTOM BUNK BEDS TO BE LOCATED ON THESE WALLS, SEE ELEVATIONS.
 - 10 LOCATION OF NICHE, CENTERED IN TILE WALL & 46" AFF
 - 11 LOCATION OF FABRICATED MILLWORK. SEE ELEVATIONS.

- DOOR SCHEDULE**
- A NEW FRONT ENTRY DOOR, TBD.
 - B NEW BARN DOOR, TBD.
 - C NEW INTERIOR SINGLE PANEL, SOLID CORE RIGHT HAND DOOR, TBD.
 - D NEW INTERIOR SINGLE PANEL, SOLID CORE LEFT HAND DOOR, TBD.
 - E EXISTING DOOR TO REMAIN.
 - F NEW OUTDOOR SHOWER DOOR, TBD.

- WINDOW SCHEDULE**
- WD1 NEW DOUBLE HUNG WINDOW, TBD.
 - WD2 NEW SINGLE FIXED WINDOW.



- WALL SCHEDULE**
- E EXIST. WALL TO REMAIN.
 - 1 NEW EXTERIOR WALL TO MATCH EXISTING EXTERIOR WALLS.
 - 2 NEW INTERIOR WALL, 2 X 4 WOOD STUDS 16" O.C., GYPSUM WALL BOARD WITH TEXTURE FINISH ON EACH SIDE, APPROVED BY BDB. PROVIDE INSULATION AS PER ENERGY CODE AS NEEDED.
 - 3 NEW EXTERIOR WALL, 2 X 4, WOOD STUDS 16" O.C., PRESSURE TREATED WOOD APPROVED BY BDB.
 - 4 NEW INTERIOR 5/8" GYPSUM WALL BOARD WITH R-13 SOUND INSULATION & TEXTURE FINISH ON EACH SIDE, APPROVED BY BDB.

1 CONSTRUCTION PLAN
A1.0 SCALE: 1/4" = 1'-0"

BYRD BEACH HOUSE

37348 8th Street

10/11/19

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

CON



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 # 12399
Hearing Date 11/6/20

201913498

Type of Application: (please check all applicable)

Variance ☒

Special Use Exception ☐

Administrative Variance ☐

Appeal ☐

Existing Condition ☐

Proposed ☐

Code Reference (office use only)

115-25 115-182
115-185

Site Address of Variance/Special Use Exception:

22934
Lots 29 & 30 Linden Drive, Lewes, DE Angola By The Bay

Variance/Special Use Exception/Appeal Requested:

Rear setback variance request.
side setback variance

WT created 2016 - PB236 / PG14

Tax Map #: 2-34-11.20 Parcels 71.00 & 72.00 Property Zoning: AR-1

Applicant Information

Applicant Name: Bryan Elliott - Insight Homes

Applicant Address: 16255 Sussex Hwy.

City Bridgeville State DE Zip: 19933

Applicant Phone #: 302-604-0693 Applicant e-mail: belliotte@insightde.com

Owner Information

Owner Name: Kevin & Paula Burr

Owner Address: 6428 Frothingham Ct.

City Elkridge State MD Zip: 21075 Purchase Date: _____

Owner Phone #: 410-707-4034 Owner e-mail: burrkp@comcast.net

Agent/Attorney Information

Agent/Attorney Name: Same as applicant

Agent/Attorney Address: _____

City _____ State _____ Zip: _____

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

Signature of Owner/Agent/Attorney

Bryan Elliott

Date: 11-19-2019



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

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

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

1. Uniqueness of property:

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

The property is unique as it is only 10,000 sq. ft.

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.

A variance is needed to enable reasonable use of the property due to the small size.

3. Not created by the applicant:

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

The issue is not created by the applicant.

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

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

The variance if allowed will not alter the essential character of the neighborhood, but will enhance it.

5. Minimum variance:

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

The request represents the minimum variance to afford relief.

The lot backs up to a common area which is wooded.



R=792.40'
L=47.04'
Δ=3°24'04"
CB=N18°15'24"E
CL=47.03

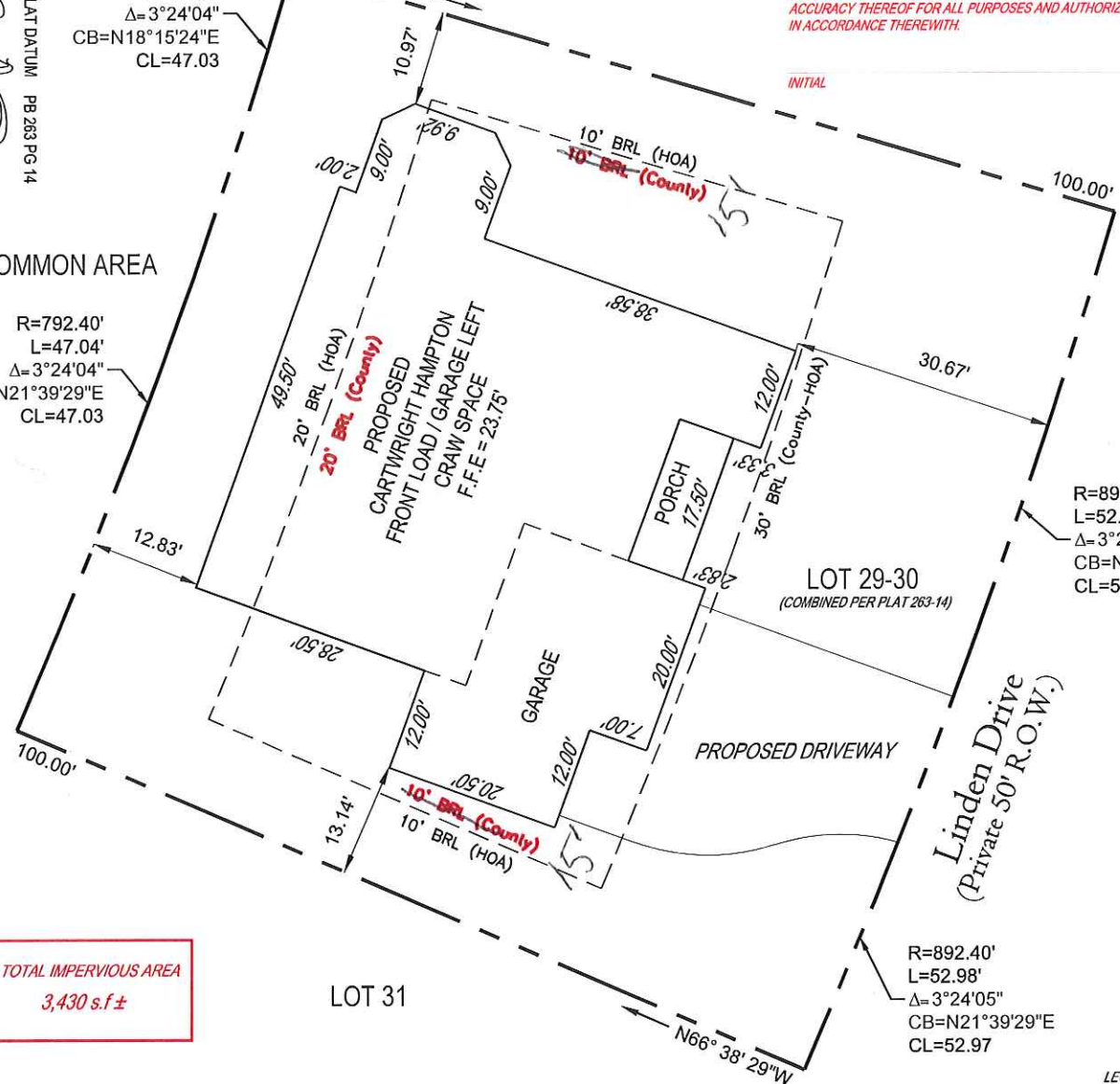
COMMON AREA

R=792.40'
L=47.04'
Δ=3°24'04"
CB=N21°39'29"E
CL=47.03

LOT 28

APPROVED FOR STAKEOUT
I, THE UNDERSIGNED, HAVING THOROUGHLY REVIEWED THIS PLAN,
DO HEREBY CONFIRM, ACKNOWLEDGE AND CERTIFY TO THE DIMENSIONAL
ACCURACY THEREOF FOR ALL PURPOSES AND AUTHORIZE STAKEOUT
IN ACCORDANCE THEREWITH.

INITIAL



TOTAL IMPERVIOUS AREA
3,430 s.f ±

LOT 31

LOT 29-30
(COMBINED PER PLAT 263-14)

Linden Drive
(Private 50' R.O.W.)

R=892.40'
L=52.98'
Δ=3°24'05"
CB=N18°15'25"E
CL=52.97

R=892.40'
L=52.98'
Δ=3°24'05"
CB=N21°39'29"E
CL=52.97

GENERAL NOTES:

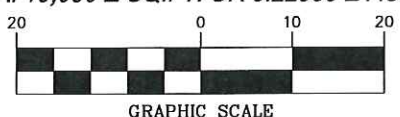
1. THIS SURVEY HAS BEEN PREPARED WITHOUT BENEFIT OF A FORMAL TITLE REPORT. EASEMENTS, RIGHTS-OF-WAY, COVENANTS AND OTHER RESTRICTIONS MAY AFFECT THIS PROPERTY AND NOT BE SHOWN.
2. THIS SURVEY IS BASED ON THE FINAL SITE PLAN OF ANGOLA BY THE BAY, AND IS SUBJECT TO ANY OR ALL EASEMENTS AND RIGHT-OF-WAYS AS RECORDED. BEARING SYSTEM REFERENCED TO PLAT BOOK 08 PAGES 03 & BOOK 263 PAGES 14
3. THIS SURVEY SHOWS ONLY VISIBLE ABOVE GROUND IMPROVEMENTS AND DOES NOT ADDRESS WETLANDS, CONTAMINATED WASTE OR TOXIC SOIL CONDITIONS, NOR HAVE ANY REPORTS, STUDIES OR INFORMATION REGARDING SUCH BEEN PROVIDED.
4. THE INFORMATION SHOWN HEREON IS BASED ON THE PLATS OF RECORD AS INDEXED IN THE PROPERTY CADASTRE OF SUSSEX COUNTY, DELAWARE AND A FIELD RUN SURVEY. (FLOOD ZONE X-UNSHADED PER FEMA MAP #10005C0341 K DATED 03/16/15)

LEGEND

- DENOTES CONCRETE MON
- DENOTES IRON REBAR
- DENOTES IRON PIPE
- DENOTES POINT
- DENOTES PROPERTY LINE
- - - - - DENOTES B.R.L.

SITE PLAN
PREPARED FOR ZZ-91

LOTS 29-30, BLOCK "Q", SECTION 3, ANGOLA BY THE BAY
INDIAN RIVER HUNDRED
SUSSEX COUNTY, DELAWARE
TAX MAP #2-34-11.20 PARCELS 71.00 & 72.00
AREA: 10,000 ± SQ.FT. OR 0.22956 ± ACRES



GRAPHIC SCALE



Landscape Architects, Land Planning Consultants and Engineers
11634 Worcester Hwy, Showell, MD 21862
ph. 410-352-5604 fax 410-352-3875 email vista@vistadesigninc.com

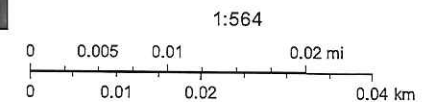
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DESIGNED BY: VD	FIELD BOOK#	PAGE#	JOB# 19-065-29-30
DRAWN BY: VD	DATE: 05/29/19		
CHECKED BY: DLA	SCALE: AS SHOWN		SHEET 1 OF 1



PIN:	234-11.20-71.00
Owner Name	BURR KEVIN
Book	4584
Mailing Address	6428 FROTHINGHAM CRT
City	ELKRIDGE
State	MD
Description	ANGOLA BY THE BAY
Description 2	LOT 29 BLK Q SEC 3
Description 3	
Land Code	

polygonLayer
Override 1
polygonLayer
Override 1
☐ Tax Parcels
911 Address
— Streets
☐ County Boundaries



**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 # 12401
Hearing Date 1/6/20

201913806

Type of Application: (please check all applicable)

Variance ☐

Special Use Exception ☒

Administrative Variance ☐

Appeal ☐

Existing Condition ☒

Proposed ☐

Code Reference (office use only)

115-23

115-210

Site Address of Variance/Special Use Exception:

22056 Shore Drive, Seaford, DE 19973

Variance/Special Use Exception/Appeal Requested:

Request to increase our in-home Child Care capacity from 6 to 12.

Tax Map #: 331-3.00-8.00

Property Zoning: AR-1 Agricultural/Residential

Applicant Information

Applicant Name: Laura Messick

Applicant Address: 22056 Shore Drive

City Seaford State DE Zip: 19973

Applicant Phone #: (302) 396-4379 Applicant e-mail: info@thelearningtreede.org

Owner Information

Owner Name: David Messick

Owner Address: 4421 Rabbit Run Road

City _____ State DE Zip: 19933 Purchase Date: _____

Owner Phone #: (302) 337-3271 Owner e-mail: _____

Agent/Attorney Information

Agent/Attorney Name: N/A

Agent/Attorney Address: _____

City _____ State _____ Zip: _____

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

Signature of Owner/Agent/Attorney

David Messick

Date: 12/2/19



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.

We currently service five families, and have a wait list of 3 children, which would add an addition two families to our enrollment, if the variance is approved. We have been in operation a little over a month and neighbors have not had any complaints, rather they have been accepting and encouraging of our new business endeavor.

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)

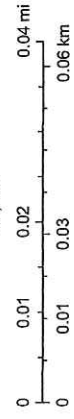
Unknown.

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

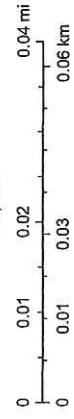
331-3.00-8.00 22056 SHORE DR, SEAFORD, DE, 19973



October 30, 2019



1:1,061



Sussex County Government, FirstMap

Property Tax Information - Sussex County DE

- ☐ Tax Parcels
- ☐ Surrounding States
- ☐ Communities
- ☐ Geographic Names
- ☐ Public Protected Lands
- ☐ Municipalities
- ☐ Contours
- ☐ Index
- ☐ Depression
- ☐ Hidden
- ☐ Interval
- ☐ Lakes, Ponds, Bays
- ☐ Streams
- ☐ Major Rivers
- ☐ Rail Lines
- ☐ Roads
- ☐ Major Routes
- ☐ Interstate
- ☐ State
- ☐ United States
- ☐ Boundaries State County

0

1; 2; 3; 4; 5; 6; 7

9

December 2, 2019

To whom it may concern,

Charlotte S. Russell, am the adjacent neighbor to Laura Messick, residing at 22056 Shore Drive, Seaford, DE 19973. I am aware Laura currently runs an in-home daycare and has a maximum capacity of 6 children. Laura has discussed with me her need to increase her capacity from 6 children to 12 children, with one of the additional children being her own, unborn little one. I understand the capacity increase would mean possibly up to two or three additional vehicles would be traveling our road Monday- Friday from 7am to 5:30 pm, excluding major holidays.

☒ I am okay, and in agreement that Laura should be granted the increase.

☐ I am not okay, or in agreement that Laura should be granted the increase. Because:

Charlotte S. Russell
Name

12/2/19
Date

22070 Shore Drive, Seaford, DE
Address

302629-7497
Phone

Charlotte S. Russell
Signature

