

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

October 17, 2022

6:00 P.M.

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

### Call to Order

### Pledge of Allegiance

### Approval of Agenda

### Public Hearings

**Case No. 12750– Joseph and Hollie Gordon** seek variances from the side yard setback requirement for an existing shed (Sections 115-25 and 115-183 of the Sussex County Zoning Code). The property is located on the northwest side of East Trap Pond Road approximately .49 miles from Parker Road. 911 Address: 22906 East Trap Pond Road, Georgetown. Zoning District: AR-1. Tax Parcel: 135-19.00-50.05

**Case No. 12747– Frank and Laura Taylor** seek a variance from the maximum fence height requirement for an existing fence (Sections 115-42, 115-182, and 115-185 of the Sussex County Zoning Code). The property is located on the southeast side of Adams Avenue approximately 110 feet southwest of South Bay Shore Drive in Broadkill Beach. 911 Address: 102 Adams Avenue, Milton. Zoning District: GR. Tax Parcel: 235-4.17-6.00

**Case No. 12748– David and Kathleen Berch** seek 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 northeast side of West Stoney Run within the Keenwick Sound Subdivision. 911 Address: 37843 West Stoney Run, Selbyville. Zoning District: MR-RPC. Tax Parcel: 533-19.00-697.00

**Case No. 12749– Norman Gruwell** seeks a variance from the rear yard setback requirement for a proposed detached garage (Section 115-25, 115-183, and 115-185 of the Sussex County Zoning Code). The property is located on the northeast side of Woodland Avenue approximately 110 ft. from 1<sup>st</sup> street. 911 Address: 34031 Woodland Avenue, Lewes. Zoning District: AR-1. Tax Parcel: 335-8.18-24.02



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

**Case No. 12751– John T. Covelli** seeks variances from the side and rear yard setback requirements for an existing shed (Sections 115-25 and 115-183 of the Sussex County Zoning Code). The property is located on the. 911 Address:30954 Poole Court, Dagsboro. Zoning District: AR-1. Tax Parcel: 134-6.00-208.00

**Case No. 12752– Herbert Reynolds** seeks variances from the side yard setback, lot coverage, and separation distance requirements for a proposed detached garage (Sections 115-25, 115-172, 115-183, and 115-185 of the Sussex County Zoning Code). The property is located on the north side of Jasper View Lane within the Masseys Landing manufactured home park. 911 Address: 37269 Jasper View Lane, Millsboro. Zoning District: AR-1. Tax Parcel: 234-25.00-31.00-8874

**Additional Business**

**Case No. 12527 – Kathleen Stone and John Meyer – Time Extension**

\*\*\*\*\*



-MEETING DETAILS-

In accordance with 29 Del. C. §10004(e)(2), this Agenda was posted on October 10, 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](mailto:pandz@sussexcountyde.gov). All comments are encouraged to be submitted by 4:30 P.M. on Thursday, October 13, 2022.

####



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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 # 12750  
Hearing Date 11/7  
202210912

**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

**Site Address of Variance/Special Use Exception:**

22906 E Trap Pond Road, Georgetown, DE

**Variance/Special Use Exception/Appeal Requested:**

Requesting variance for shed on permanent foundation constructed on property (without permit) prior to us purchasing our home in 13 years ago.

Tax Map #: 135-19.00-50.05

Property Zoning: AR

**Applicant Information**

Applicant Name: Joseph & Hollie Gordon

Applicant Address: 22906 E Trap Pond Road

City Georgetown State DE Zip: 19947

Applicant Phone #: (302) 448-0016 Applicant e-mail: hollie@greenjoegreen.com

**Owner Information**

Owner Name: Same as Above

Owner Address: \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip: \_\_\_\_\_ Purchase Date: 9/1/20

Owner Phone #: \_\_\_\_\_ Owner e-mail: \_\_\_\_\_

**Agent/Attorney Information**

Agent/Attorney Name: NA

Agent/Attorney Address: \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip: \_\_\_\_\_

Agent/Attorney Phone #: \_\_\_\_\_ Agent/Attorney e-mail: \_\_\_\_\_

**Signature of Owner/Agent/Attorney**

Hollie Marino-Gordon

Date: 07/26/2022



**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.

Our lot is deep and wooded and neighboring property is wooded. When we purchased our home as an estate sale the shop was in existence and area adjacent to it was graveled and in use. The gravel driveway, also in existence, has portions over the line. We did not realize lines were on an angle. Due to this and an existing survey stake (we thought was the line) we were unaware the shop was so close to property line. See photos 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.

Structure in question has already been constructed prior to us purchasing in 2009.

---

3. Not created by the applicant:

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

The shop was not constructed by us, and it is on a permanent foundation.

---

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.

We live on a country road, not in a neighborhood. Since the shop was in existence when we purchased the property- it will not alter the character of our road.

---

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 existing shop is .77' from the property line in the rear, and the front is 3.14' from the property line.

---

**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)

---

# Gordon Variance Photos

22906 E Trap Pond Road Georgetown, DE

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Property line marker in driveway

Image of house and shop standing at her property



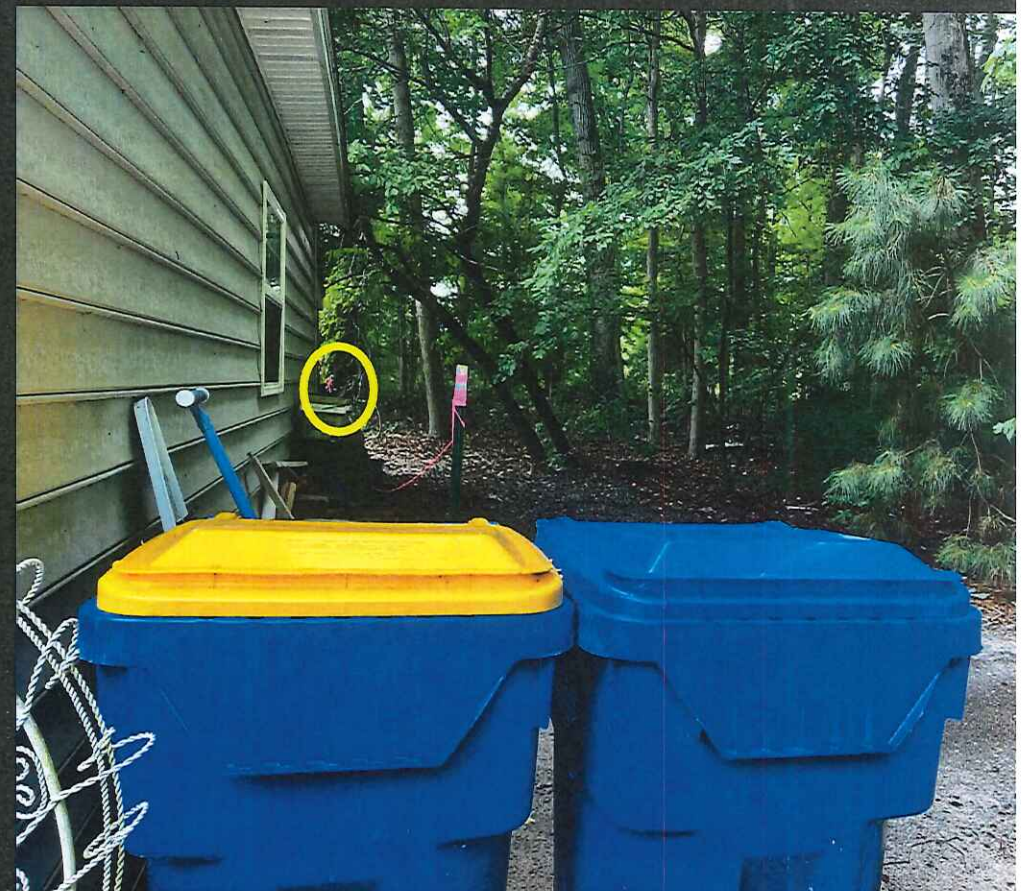
White is actual line, blue is random property marker we thought was line



Gravel area next to shop



Property Line, by Lingo Surveyor John Roach

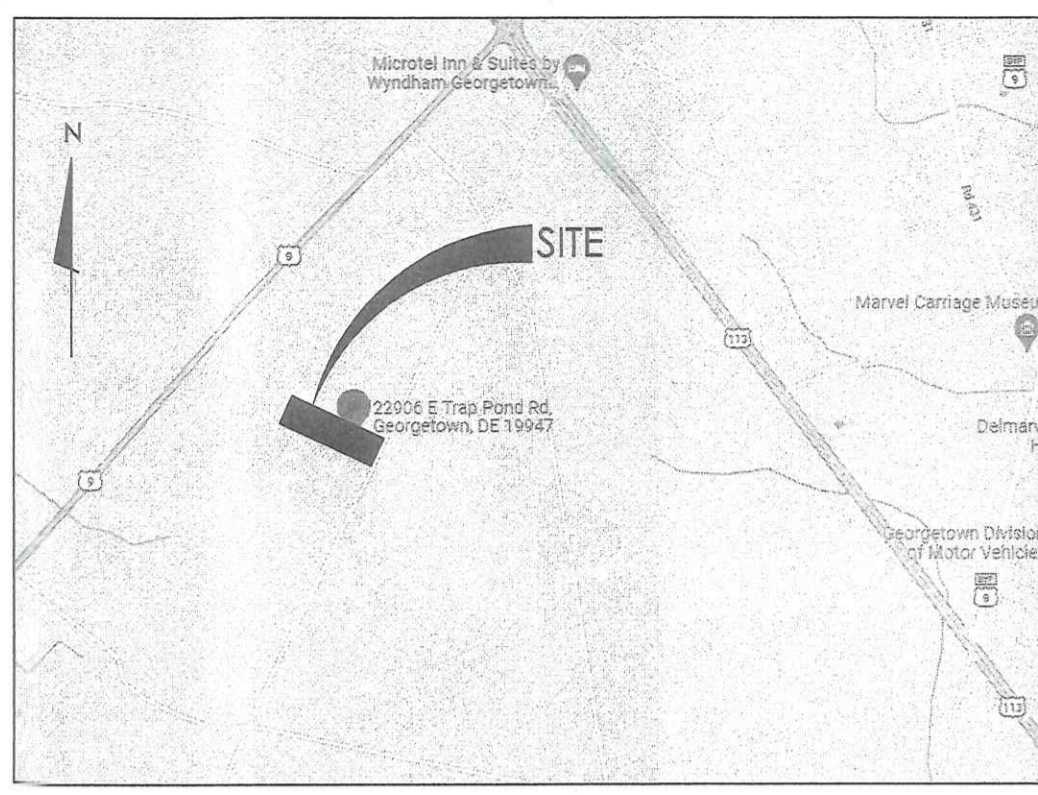


Rear property line .77' from our shop

DELAWARE STATE GRID NORTH (NAD83)

**LEGEND**

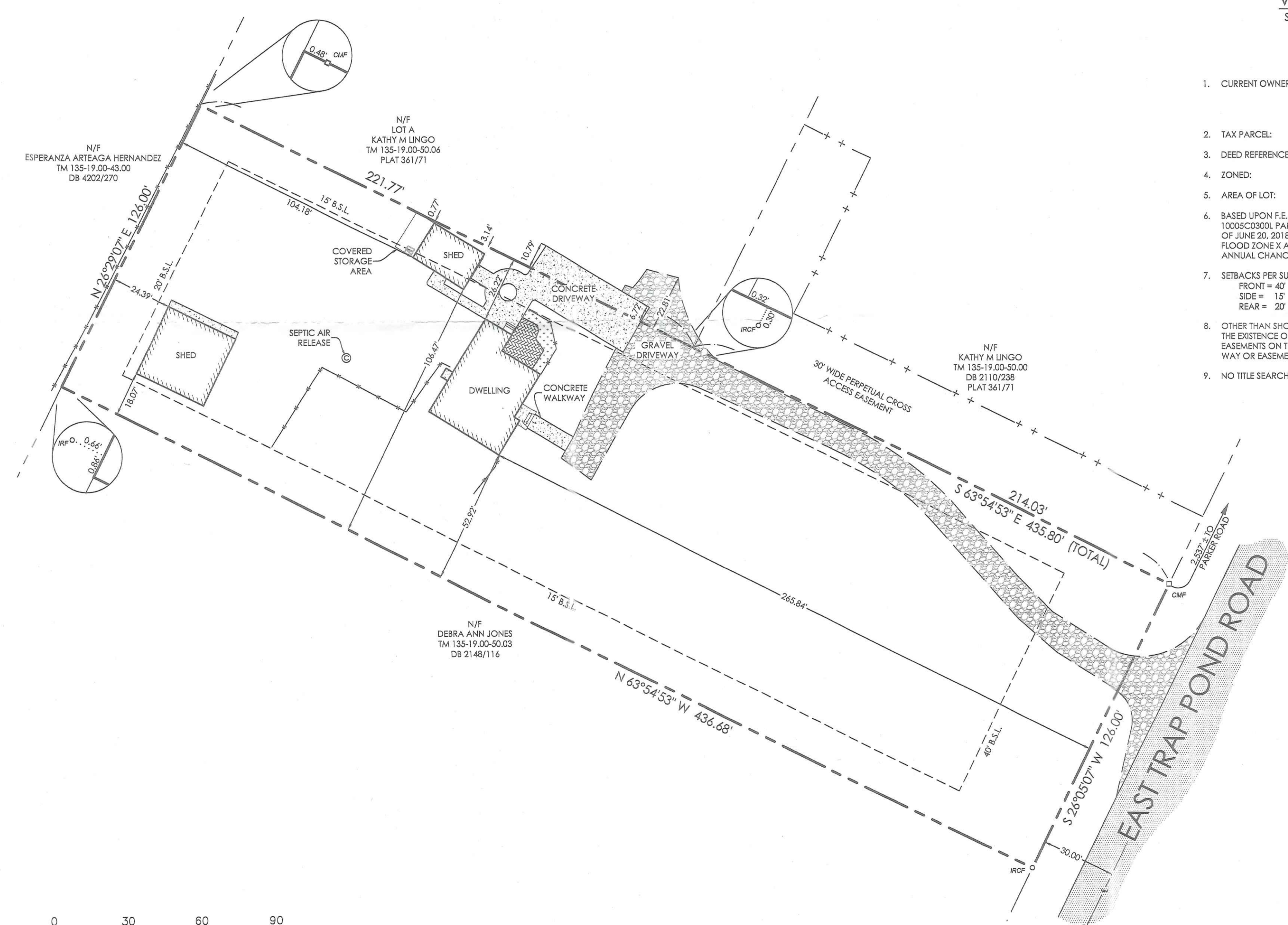
PROPERTY LINE	---
ADJOINING PROPERTY LINE	---
EASEMENT LINE	-+ -+
SETBACK LINE	- - - -
IRON ROD FOUND	○ IRF
CONCRETE MONUMENT FOUND	□ CMF
IRON ROD & CAP FOUND	○ IRCF
HVAC UNIT	⊠
CONCRETE	▨
PAVEMENT	▨
GRAVEL	▨
BUILDING OUTLINE	▨
FENCE LINE	× × × ×
SANITARY CLEANOUT	⊙



**VICINITY MAP**  
SCALE: 1" = 2,000'

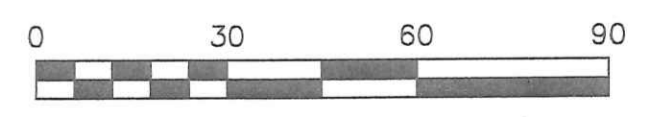
**SITE DATA**

- CURRENT OWNERS: HOLLIE LYNN MARINO-GORDON & JOSEPH EDWIN GORDON JR., 22906 EAST TRAP POND RD, GEORGETOWN, DE 19947
- TAX PARCEL: 135-19.00-50.05
- DEED REFERENCE: DB 3720/263
- ZONED: AR-1
- AREA OF LOT: 1.26 AC± (54,964.88 ± SQ. FT.)
- BASED UPON F.E.M.A. FLOOD INSURANCE RATE MAP 1005C0200A PANEL 300 OF 440 WITH AN EFFECTIVE DATE OF JUNE 20, 2018, THIS PROPERTY IS LOCATED WITHIN FLOOD ZONE X AREAS DETERMINED TO BE OUTSIDE THE 2% ANNUAL CHANCE FLOODPLAIN.
- SETBACKS PER SUSSEX COUNTY ZONING CODE  
FRONT = 40'  
SIDE = 15'  
REAR = 20'
- OTHER THAN SHOWN, THIS SURVEY PLAT DOES NOT VERIFY THE EXISTENCE OR NON-EXISTENCE OF RIGHTS OF WAY OR EASEMENTS ON THIS PROPERTY. NO RECORDED RIGHTS OF WAY OR EASEMENTS ARE WERE PROVIDED.
- NO TITLE SEARCH WAS REQUESTED OR STIPULATED.



MARK O. BEHRE  
REGISTERED PROFESSIONAL LAND SURVEYOR  
No. 820  
07/15/2022

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JUL 27 2022  
SUSSEX COUNTY  
PLANNING & ZONING



**solutions**  
Integrated Planning  
Engineering & Management, LLC

353 N. Bedford St.  
Georgetown, DE 19947  
T. 302.277.9215  
3003 Marlett Mill Road  
Salisbury, MD 21804  
T. 410.572.8833  
www.solutionsipem.com Copyright © 2022

REVISIONS	DESCRIPTION
DATE	

**LOCATION SURVEY PLAN**  
FOR  
**HOLLIE LYNN MARINO-GORDON & JOSEPH EDWIN GORDON**  
22096 EAST TRAP POND ROAD  
CITY OF GEORGETOWN  
GEORGETOWN HUNDRED, SUSSEX COUNTY DELAWARE

Date:	7/14/2022
Job Number:	S22060
Scale:	1" = 30'
Drawn By:	WPW
Designed By:	
Approved By:	SWF
Sheet No.:	1
File Name:	S22060-Location.dwg



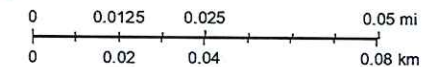
# Sussex County



<b>PIN:</b>	135-19.00-50.05
<b>Owner Name</b>	GORDON HOLLIE LYNN MARINO- &
<b>Book</b>	3720
<b>Mailing Address</b>	22906 E TRAP POND RD
<b>City</b>	GEORGETOWN
<b>State</b>	DE
<b>Description</b>	W/RT 62
<b>Description 2</b>	2550' S/ RT 469
<b>Description 3</b>	N/A
<b>Land Code</b>	

- Special Access ROW** (Symbol: +)
- Extent of Right-of-Way** (Symbol: Dashed line)
- polygonLayer**
  - Override 1
- Tax Parcels** (Symbol: Dotted line)
- 911 Address** (Symbol: Dashed line)
- Streets** (Symbol: Solid line)
- County Boundaries** (Symbol: Dotted line)
- Tax Ditch Segments**
  - Tax Ditch Channel (Symbol: Solid line)
  - DeIDOT Maintained (Symbol: Solid line)
  - HOA Maintained (Symbol: Solid line)
  - Pipe - DeIDOT (Symbol: Solid line)
  - Pipe - Tax Ditch (Symbol: Solid line)
  - Pipe - Private (Symbol: Solid line)
  - Pond Feature (Symbol: Dotted line)

1:1,128



**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 # 12747  
Hearing Date \_\_\_\_\_

*202210311*

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JUL 18 2022

SUSSEX COUNTY  
PLANNING & ZONING

**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:**

102 Adams Way, Milton (Broadkill Beach), DE 19968

**Variance/Special Use Exception/Appeal Requested:**

Applicant seeks a variance from the maximum fence height requirement for a portion of an existing fence in the amount of 1.5 feet. See Sections 115-42, 115-182, and 115-185.

**Tax Map #:** 235-4.17-6.00

**Property Zoning:** GR

**Applicant Information**

Applicant Name: Frank Taylor and Laura Taylor  
Applicant Address: 102 Adams Avenue  
City Milton State DE Zip: 19968  
Applicant Phone #: (610) 517-0610 Applicant e-mail: Taylor120@comcast.net

**Owner Information**

Owner Name: Frank Taylor; Laura Taylor, and Timothy J. Taylor  
Owner Address: 102 Adams Avenue  
City Milton State DE Zip: 19968 Purchase Date: \_\_\_\_\_  
Owner Phone #: (610) 517-0610 Owner e-mail: Taylor120@comcast.net

**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  
Agent/Attorney Phone #: (302) 645-2262 Agent/Attorney e-mail: mackenzie@bmbde.com

**Signature of Owner/Agent/Attorney**

*[Handwritten signature]*

Date: 07/11/2022



**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.

The property is a unique, as a hexagon, L-shaped property located in Broadkill Beach. Majority of the property is marshland, as indicated on the survey and aerial maps attached hereto, and a dock is located in the rear of the property. The fence is located at the dead end of a gravel right of way called Adams Avenue.

---

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 existing fence is permitted and Sussex County issued a Certificate of Compliance.

---

3. Not created by the applicant:

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

The Applicant hired a licensed contractor to complete fence installation. The contractor received a building permit to construct the fence and Sussex County issued a Certificate of Compliance for the fence.

Understandly, the contractor did not consider Adams Avenue to be the "front" of the property and subject to the 3.5 feet height limitation imposed by Section 1150185(C). 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.

The fence serves as a privacy fence to deter trespassers, including adjacent property owners, from using the dock located behind the fence. There are other existing fences in the vicinity of the property that serve as privacy fences and exceed 3.5 feet in height. 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.

1.5 feet is the minimum variance that will afford relief.

---

**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.

N/A

---

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

N/A

---

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

N/A

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## Planning & Zoning Project Contact List

### Applicant Information

Applicant Name: Frank Taylor & Laura Taylor  
Applicant Address: 102 Adams Avenue  
City: Milton State: DE Zip: 19958  
Phone #: (610) 517-0610 E-mail: Taylors120@comcast.net

### Owner Information

Owner Name: Frank Taylor; Laura Taylor & Timothy J. Taylor  
Owner Address: 102 Adams Avenue  
City: Milton State: DE Zip: 19968  
Phone #: (610) 517-0610 E-mail: Taylors120@comcast.net

### Engineer/Surveyor Information

Engineer/Surveyor Name: John B. Roach Engineering LLC  
Engineer/Surveyor Address: 22184 Melson Road  
City: Georgetown State: DE Zip: 19947  
Phone #: (302) 856-1565 E-mail: \_\_\_\_\_

### 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: \_\_\_\_\_



# 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: 102 Adams Avenue  
Milton, DE 19968  
Parcel #: 235-4.17-6.00

Site Address: \_\_\_\_\_  
\_\_\_\_\_  
Parcel #: \_\_\_\_\_

Applicant Name: Frank Taylor and Laura Taylor  
Owner Name: Frank, Laura and Timothy Taylor

## 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: \_\_\_\_\_

# Exhibit A

## Property and Deed Information

**Property Information**

Property Location: 102 ADAMS AV  
 Unit:  
 City: MILTON  
 Zip: 19968  
 State: DE  
 Class: RES-Residential  
 Use Code (LUC): RS-RESIDENTIAL SINGLE FAMILY  
 Town: 00-None  
 Tax District: 235 - BROAD KILL  
 School District: 6 - CAPE HENLOPEN  
 Council District: 3-Schaeffer  
 Fire District: 85-Milton  
 Deeded Acres: .0001  
 Frontage: 92  
 Depth: 50.000  
 Irr Lot: I  
 Plot Book Page: /PB  
 100% Land Value: \$3,200  
 100% Improvement Value: \$4,100  
 100% Total Value: \$7,300

**Legal**

Legal Description: BROADKILL BEACH  
 BROADKILN BEACH  
 P O LOTS 5 9 11

**Owners**

Owner	Co-owner	Address	City	State	Zip
TAYLOR FRANK I	LAURA TAYLO TIMOTHY J TAYLOR	120 WOODSTREAM RD	BOOTHWYN	PA	19061

**Sales**

Sale Date	Book/Page	Sale Price	Stamp Value	Parcels Sold	Grantee/Buyer
12/30/2021	5621/105	\$ .00			TAYLOR FRANK I
01/15/1998	2262/33	\$5,000.00	\$100.00	1	

**Owner History**

Tax Year:	Owner:	Co-owner	Address:	City:	State:	Zip:	Deed Book/Page:
2021	TAYLOR FRANK I	LAURA TAYLO TIMOTHY J TAYLOR	120 WOODSTREAM RD	BOOTHWYN	PA	19061	5621/105
2020	TAYLOR FRANK I LAURA		120 WOODSTREAM RD	BOOTHWYN	PA	19061	2262/33
2019	TAYLOR FRANK I LAURA		120 WOODSTREAM RD	BOOTHWYN	PA	19061	2262/33
2018	TAYLOR FRANK I LAURA		120 WOODSTREAM RD	BOOTHWYN	PA	19061	2262/33
2017	TAYLOR FRANK I LAURA		120 WOODSTREAM RD	BOOTHWYN	PA	19061	2262/33
2006	TAYLOR FRANK I LAURA		120 WOODS STREAM RD	BOOTHWYN	PA	19061	2262/33
1900	STRICKLAND AMOS ELIZABETH					0	2262/33

**Land**

Line	Class	Land Use Code	Act Front	Depth	Calculated Acres	Ag
1	RES	RS	92	50	.0001	

**Land Summary**

Line	1
100% Land Value	3,200

**100% Values**

---

100% Land Value	100% Improv Value	100% Total Value
\$3,200	\$4,100	\$7,300

**50% Values**

---

50% Land Value	50% Improv Value	50% Total Value
\$1,600	\$2,050	\$3,650

**Permit Details**

---

Permit Date:	Permit #:	Amount:	Note 1
18-AUG-2020	202009759	\$1,000	48 LINEAR FT SEASIDE SCALLOP TOP FENCE
31-JAN-2020	202001162	\$4,677	104' VINYL FENCING (48" IN HEIGHT), 70' VINYL FENCING (60"
18-DEC-2014	201410895	\$13,000	REPLACE SIDING AND REPLACE DECK BOARDS
02-JUL-2001	60013-5	\$1,000	REPLACE WINDOW/WOOD-BROADKILL BCH LOT 5911
23-AUG-1990	60013-4	\$0	RENEW PERMIT 109853-BROADKILL BEACHLOT 5911
28-AUG-1989	60013-2	\$2,200	PORCH & REMODELING-BROADKILL BEACHLOT 5911
28-AUG-1989	60013-3	\$0	PORCH & REMODELING-BROADKILL BEACHLOT 5911
11-OCT-1985	60013-1	\$1,000	REMODELING-N/A

PARCEL NO.: 235-4.17-6.00

PREPARED BY & RETURN TO:  
Parkowski, Guerke & Swayze, P. A.  
19354C Miller Road  
Rehoboth Beach, DE 1971

NO TITLE SEARCH OR SURVEY  
PERFORMED OR REQUESTED

**THIS DEED**, made this 9<sup>th</sup> day of December, 2021, by and between:

**FRANK I. TAYLOR** and **LAURA TAYLOR**, husband and wife, of 120 Woodstream Rd., Boothwyn, Delaware County, Pennsylvania, parties of the first part,

AND

**FRANK I. TAYLOR** and **LAURA TAYLOR**, of 120 Woodstream Rd., Boothwyn, Delaware County, Pennsylvania, and **TIMOTHY J. TAYLOR** of 2105 Broomall St., Upper Chichester, Delaware County, Pennsylvania, as joint tenants with rights of survivorship, parties of the second part.

**WITNESSETH**, that the said party of the first part, for and in consideration of the sum of **TEN DOLLARS (\$10.00)**, lawful money of the United States of America and other valuable considerations, the receipt whereof is hereby acknowledged, hereby grant and convey unto the party of the second part, their heirs and assigns, in fee simple, the following described lands, situate, lying and being in Sussex County, State of Delaware:

**ALL** that certain lot, piece or parcel of land lying and being in Broadkill Hundred, Sussex County, Delaware, more particularly described as follows, to-wit:

**BEGINNING** at the southwestern terminus of Adams Avenue, thence traveling North 50 degrees 45 minutes 49 seconds East, by an along the southerly right-of-way of Adams Avenue, a distance of 92.48 feet to an iron pipe set; thence turning and traveling South 39 degrees 14 minutes 11 seconds East, a distance of 50 feet to an iron pipe set; thence turning and traveling South 50 degrees 45 minutes 49 seconds West, a distance of 19.5 feet to a concrete marker found, thence traveling the same course, a distance of 102.12 feet to a point, being the southwesterly corner of the parcel to be conveyed and marked by an iron pipe set; thence traveling North 28 degrees 19 minutes 11 seconds West, a distance of 50.92 feet to the point and place of beginning, be the contents thereof what they may and being the northerly half of Lot No. 9, the northern portion of Lot No. 11 and the western 19.5 feet of Lot No. 5, Block 3, as shown upon a plot of Broadkill Beach as the same now appears of record in the Office of the Recorder of Deeds, in and for Sussex

County, Delaware in Deed Book 288, Page 598.

**SUBJECT TO ALL** covenants, conditions, restrictions and easements of record, this reference to which shall not be construed to reimpose the same.

**BEING** the same lands conveyed unto Frank I. Taylor and Laura Taylor, by deed of Jennie H.J. Layton by her Attorney in Fact, Anne L. Layton dated January 15, 1998 and recorded January 26, 1998 in the Office of the Recorder of Deeds, in and for Sussex County, Delaware, in Deed Book 2262, Page 31.

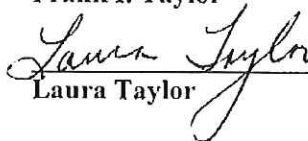
**IN WITNESS WHEREOF**, the said party of the first part has hereunto set their Hand and Seal the day and year first above written.

**SIGNED, SEALED AND DELIVERED**  
in the presence of:

\_\_\_\_\_

 (SEAL)  
Frank I. Taylor

\_\_\_\_\_

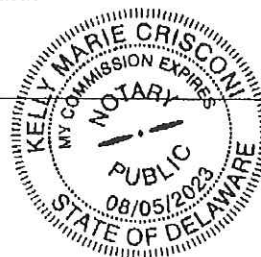
 (SEAL)  
Laura Taylor

STATE OF DELAWARE :  
                                      :           ss.  
COUNTY OF SUSSEX :

BE IT REMEMBERED, that on this 9<sup>th</sup> day of December, 2021, personally came before me, a Notary Public in and for the State and County aforesaid, **FRANK I. TAYLOR** and **LAURA TAYLOR**, parties to this Indenture, known to me personally to be such, and they acknowledged this Indenture to be their act and deed.

GIVEN under my hand and seal of office, the day and year aforesaid.

  
Notary Public



# Exhibit B

## Survey



**BOUNDARY SURVEY PLAN**  
**LANDS OF "FRANK I. AND LAURA TAYLOR"**

ALSO KNOWN AS: "102 ADAMS STREET, MILTON, DE"  
 PARTS OF LOT 9, LOT 11 AND LOT 3- BLOCK 3  
 OLD BROADKILL BEACH - DEED BOOK 300 PAGE 600  
 SITUATE IN: "BROADKILL HUNDRED"  
 SUSSEX COUNTY \* STATE OF DELAWARE  
 TAX MAP #: 235-4.17-6.00  
 DEED REFERENCE: DB 2262, PG 033  
 PLAT REFERENCE: DB 300, PG 600

ZONING CLASSIFICATION: GR  
 YARD REQUIREMENTS:  
 FRONTYARD: 40'  
 SIDEYARD: 10'  
 REARYARD: 10'

PARCEL 2.00  
 N/F BRENDA L. ERDMAN  
 DB 4413 PAGE 247

PARCEL 8.00  
 N/F JASON AND STACY HARSHBARGER  
 DB 4959 PAGE 316

**Parcel 6.00**  
**19862.52± Sq. Feet**  
**0.4560± Acres**

PARCEL 102.00  
 N/F PATRICIA T. BURKE AND SUSAN T. WATKINS  
 WB 6178

**LEGEND**

- Property Line
- Fence
- Rebar and Cap Set
- Concrete Marker
- Iron Pipe
- Cedar Tree

- NOTES**
1. THIS SURVEY IS CLASSIFIED AS A "SUBURBAN" SURVEY.
  2. UNLESS THIS PLAT HAS A 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.

*[Handwritten Signature]*  
 PROFESSIONAL ENGINEER



**JOHN B. ROACH**  
 Engineering LLC

22184 MELSON ROAD  
 GEORGETOWN, DELAWARE 19847  
 PHONE NO. 302-856-1565

DRAWN BY: JBR  
 SCALE: 1"=40'

DATE: 10-03-2019  
 SHEET 1/1

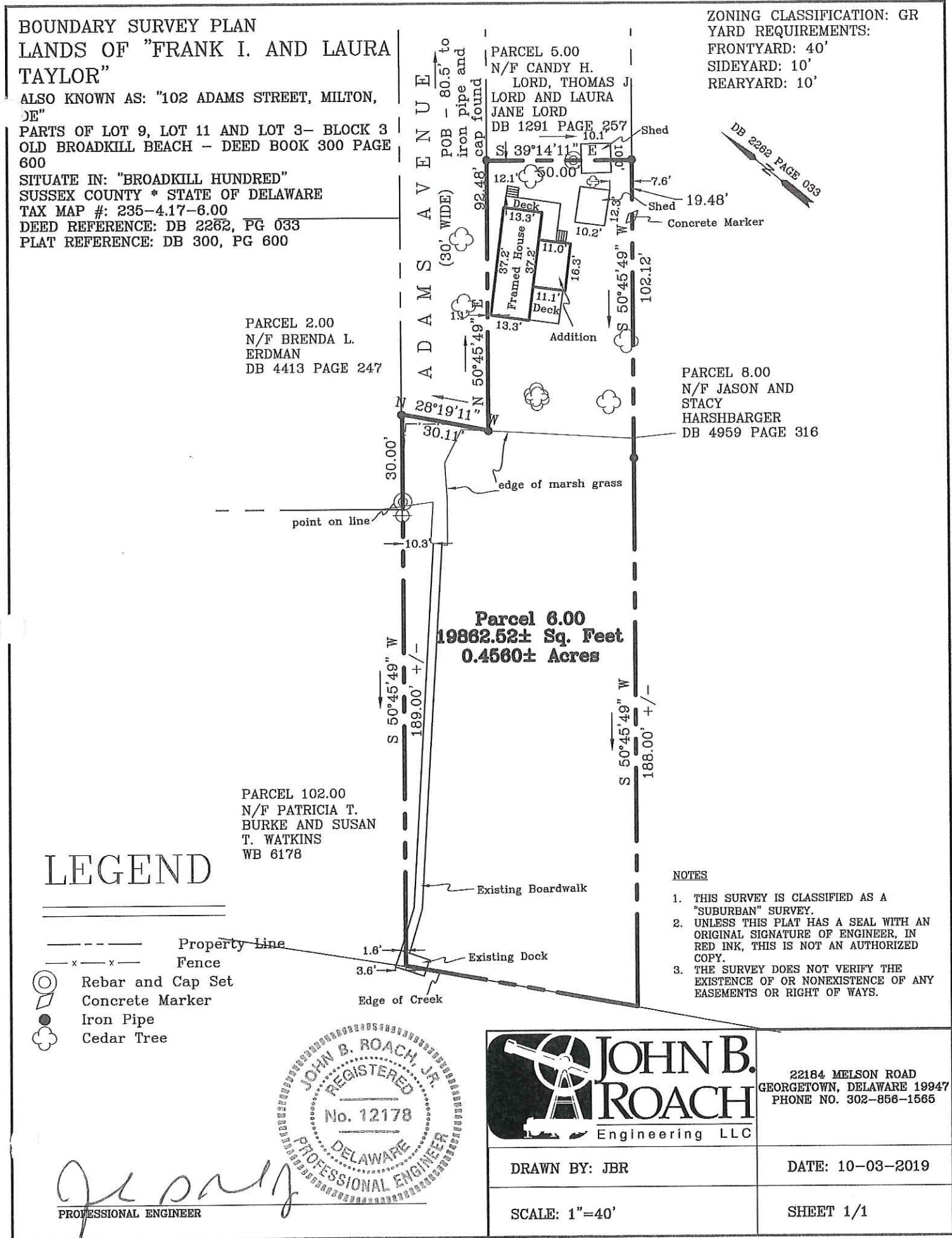


Exhibit C  
Zoning Code

## Chapter 115. Zoning

### Article VI. GR General Residential District

#### § 115-42. Height, area and bulk requirements.

[Amended 11-7-1989 by Ord. No. 632; 10-31-1995 by Ord. No. 1062; 3-25-1997 by Ord. No. 1131]

A. Minimum lot sizes. Minimum lot sizes shall be as follows:

Area** (square feet)	Width* (feet)	Depth (feet)
10,000	75	100

\*NOTE: 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]

\*\*NOTE: 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]

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

Depth of Front Yard (feet)	Width of Side Yard (feet)	Depth of Rear Yard (feet)
40 (30)**	10	10

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

C. Maximum height requirements. Maximum height requirements shall be as follows: 42 feet.

### Article XXV. Supplementary Regulations

#### § 115-182. Front yards.

- On through lots, the required front yard shall be provided on each street.
- There shall be a front yard of at least 15 feet on the side street of a corner lot in any district.
- On a street or road with existing buildings having a front yard setback that is less than that required in the district, any building may have a front yard setback that is equal to the average setback of those existing buildings located on the same side of the street or road and being with 300 feet of the building. Any vacant lot shall be calculated as having the required setback for the

district. No front yard setback reduced pursuant to this subsection shall be reduced to less than five feet. The provision of this subsection shall not apply to any lot in a cluster subdivision, Coastal Area cluster subdivision or residential planned community.

[Amended 3-20-2018 by Ord. No. 2557; 5-21-2019 by Ord. No. 2656]

- D. Open unenclosed decks, porches, platforms or steps not covered by a roof or canopy and which do not extend above the level of the first floor of the building may extend or project into the front yard not more than five feet. This provision does not apply to manufactured home parks or campgrounds.

[Added 11-29-1989 by Ord. No. 639; amended 2-1-2005 by Ord. No. 1748; 10-12-2010 by Ord. No. 2152]

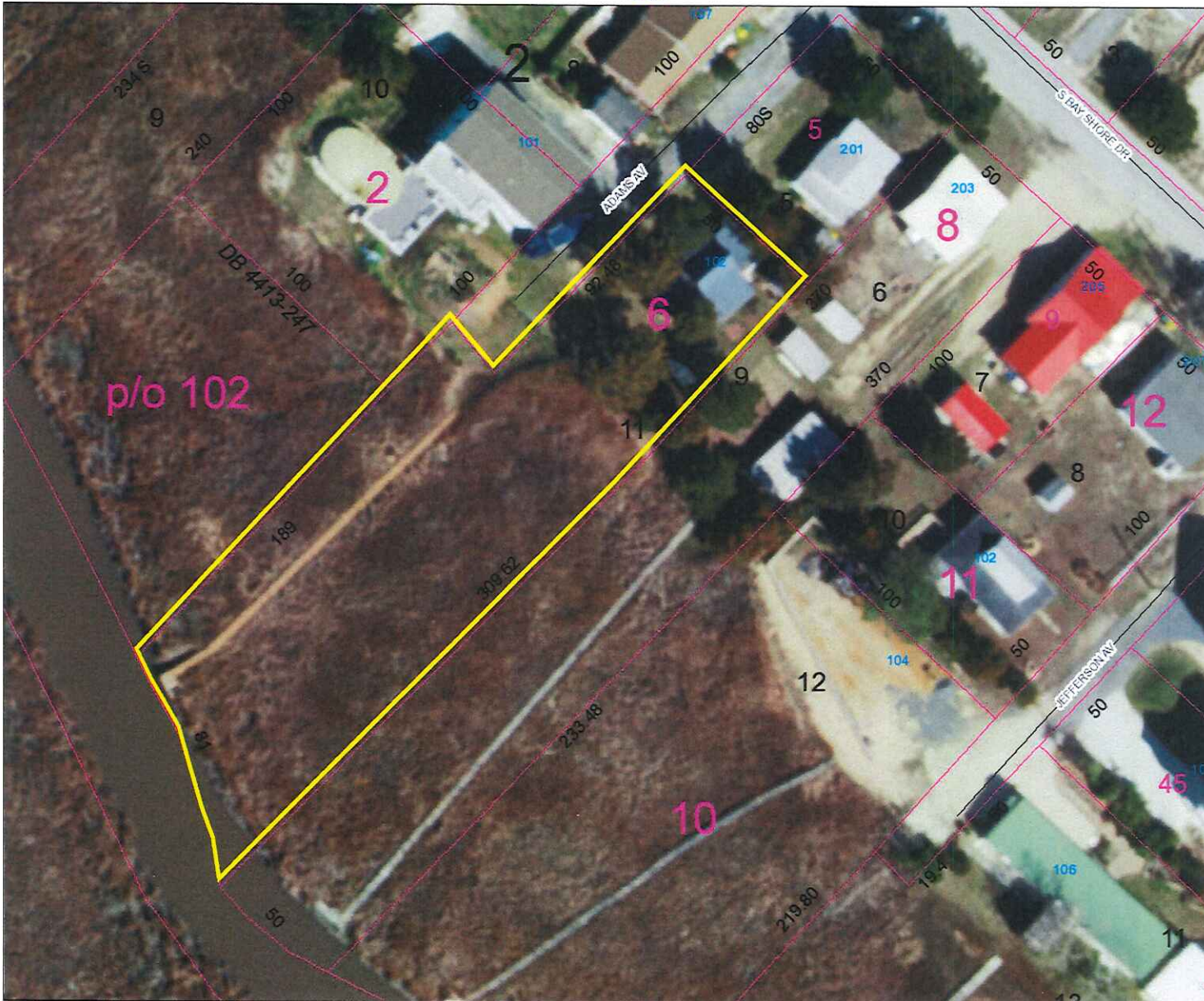
## § 115-185. Accessory buildings and structures.

- A. Except as herein provided, no accessory building shall project beyond a required yard line along any street.
- B. Filling station pumps and pump islands may occupy the required yards; provided, however, that they are not less than 20 feet from street lines.
- C. Any fence or wall for residential use, not more than 3 1/2 feet in height, may project into or enclose any required front or side yard to a depth from the street line equal to the required depth of the front yard. Any fence, hedge or wall for residential use may project into or enclose other required yards, provided that such fences, hedges and walls do not exceed a height of seven feet. This height limit does not apply to fences or walls used for commercial, industrial or agricultural uses, screening or tennis courts. Every such fence must be approved by the Director.
- D. Accessory swimming pools, open and unenclosed, may occupy a required rear or side yard, provided that they are not located closer than 10 feet to an interior side lot line or six feet to a rear lot line. A walk space at least three feet wide shall be provided between pool walls and protective fences or barrier walls. Every swimming pool shall be protected by a safety fence or barrier at least four feet in height and constructed of chain-link, concrete, stockade-wood or equal.
- E. Permitted accessory storage of a boat, boat trailer or camp trailer shall not be conducted in a front yard.
- F. Accessory buildings which are not a part of the main building may be constructed in a rear yard, provided that such accessory building does not contain more than 600 square feet of area, and may be located five feet from a side lot line and five feet from a rear lot line.

Exhibit D  
Aerial Maps

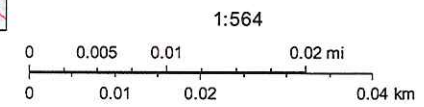


# Sussex County



<b>PIN:</b>	235-4.17-6.00
<b>Owner Name</b>	TAYLOR FRANK I
<b>Book</b>	5621
<b>Mailing Address</b>	120 WOODSTREAM RD
<b>City</b>	BOOTHWYN
<b>State</b>	PA
<b>Description</b>	BROADKILL BEACH
<b>Description 2</b>	BROADKILN BEACH
<b>Description 3</b>	P O LOTS 5 9 11
<b>Land Code</b>	

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





# Sussex County



<b>PIN:</b>	235-4.17-6.00
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**polygonLayer**  
Override 1

**polygonLayer**  
Override 1

- Tax Parcels
- 911 Address
- Streets

1:1,128

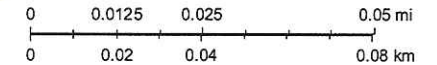


EXHIBIT E  
Property Images  
& Video













EXHIBIT F  
Neighboring Property  
Images







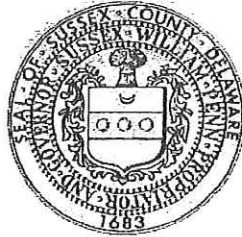






EXHIBIT G  
Land Use History

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



# Sussex County

DELAWARE  
sussexcountyde.gov

April 5, 2022

Mr. & Mrs. Taylor  
120 Woodstream Rd  
Boothwyn, PA 19061

RE: 102 Adams Ave  
Tax Parcel: 235-4.17-6.00

Dear Mr. & Mrs. Taylor:

I am writing to you as Owners of Record for the above property. This letter is a follow-up to my letter to you dated December 28, 2021. As noted in that letter, our office received a complaint regarding the height of fencing on your property. At issue was the height of the fence on the southwest side of Adams Avenue and a portion of the fence along the northwest side of your property located southwest of the terminus of Adams Avenue. Since this office's prior correspondence to you, it appears that you took measures to bring the portion of the fence along the southwest side of Adams Avenue into compliance with the Code by reducing the height of the fence. The Planning and Zoning Department, however, has received an additional complaint regarding the height of the fence on your property located at 102 Adams Avenue, Milton.

In response to that complaint, the Sussex County Constable Department performed an inspection on March 25, 2022, and issued findings to our Department regarding the fence. After review of the Constable's findings, the Planning & Zoning Department finds that there is still a portion of the fence that has not been brought into compliance. Pursuant to Sussex County Code §115-185C, a fence in the side yard may project into the front yard to a depth from the street line equal to the depth of the front yard provided that the fence is no taller than 3.5 feet tall. Based on the recent inspection, it is clear that the portion of the fence along the side property line going back 30 feet from the terminus of Adams Avenue is not in compliance with §115-185C because the fence in that area is taller than 3.5 feet.

To provide clarity on this point, please find enclosed a copy of the survey of your property which was submitted with Case No. 12572 (which application was denied by the Board of Adjustment on June 21, 2021). Our office has highlighted the sections of fence and the fence's height. The "yellow" highlighted line indicates the portion of fence that has been modified to comply with the 3.5-ft maximum height requirement §115-185C. The "pink" highlighted line indicates the portion of fence that still exceeds the 3.5-ft maximum height requirement §115-185C. The "pink" area of the fence needs to be brought into compliance with the Code.

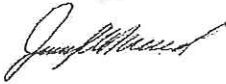


COUNTY ADMINISTRATIVE OFFICES  
2 THE CIRCLE | PO BOX 417  
GEORGETOWN, DELAWARE

As such, this letter shall serve as notice that the fence must be brought into compliance within 30-days of this letter and that failure to reduce the height of the fence to bring the fence into compliance with the Code constitutes a violation of the Code for Sussex County §115-229. In the event you fail to bring the fence into compliance with the Code, Sussex County may take any and all actions necessary to bring the fence into compliance with the Code.

Should you have any questions, please contact me at (302) 855-7878.

Sincerely,

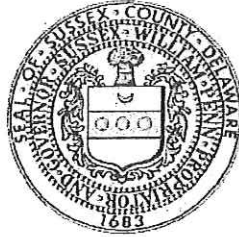


Jennifer Norwood  
Planning Manager

Enc: Copy of letter dated December 28, 2021  
Appendix A

CC: Lester Shaffer, Chief Constable  
Backyard Works

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



Sussex County

DELAWARE  
sussexcountyde.gov

December 28, 2021

Mr. & Mrs. Taylor  
120 Woodstream Rd  
Boothwyn, PA 19061

Email: [taylors120@comcast.net](mailto:taylors120@comcast.net)

Dear Mrs. Taylor,

I have today received a complaint that there has been no progress in rectifying the height of the fence.

The last information that we received was back in September when you informed us that a contractor had been instructed to undertake the necessary works. A copy of your email is below.

As matters currently stand and based on the lack of progress, it appears to me that it will now be necessary for us to consider formal action against the Owner(s) of Record to reduce the height of the fence to the maximum height permitted. Whilst it is the County's preference to avoid such action, I must draw your attention to Section 115-229 of the Code for Sussex County:

**§ 115-229 Violations and penalties.**

*Any person or corporation who shall violate any of the provisions of this chapter or who shall fail to comply therewith or with any of the requirements thereof or who shall build or alter any building in violation of any detailed statement or plan submitted and approved hereunder shall be guilty of a misdemeanor and shall be liable to a fine of not more than \$100, and each day such violation shall be permitted to exist shall constitute a separate offense. The owner or owners of any building or premises or part thereof where anything in violation of this chapter shall be placed or shall exist and any architect, builder, contractor, agent, person or corporation employed in connection therewith and who has assisted in the commission of any such violation shall be guilty of a separate offense and, upon conviction thereof, shall be fined as hereinbefore provided.*

It is my hope that this matter can be resolved swiftly. With that in mind, please could I ask for you to contact me before January 7, 2022, to provide an update. I have copied in Mr. Shaffer, Chief Constable for his information.

Please feel free to contact me at the number below should you have any questions.

Sincerely,

Jamie Whitehouse, AICP  
Director of Planning and Zoning

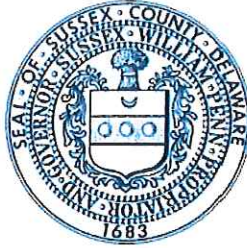
Cc: Lester Shaffer, Chief Constable



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

## BOARD OF ADJUSTMENT

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



# Sussex County

DELAWARE  
sussexcountyde.gov

(302) 855-7878 T

## REVISED AGENDA

June 21, 2021

6:30 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 April 19, 2021

### Approval of Finding of Facts for April 19, 2021

### Old Business

**Case No. 12538** – **Marc Forman** seeks variances from the side yard setback requirements for a proposed structure (Sections 115-25, 115-183 and 115-185 of the Sussex County Zoning Code). The property is located on the east side of Reynolds Road approximately 807 ft. northwest of Zion Church Road. 911 Address: 12921 Reynolds Road, Milton. Zoning District: AR-1. Tax Parcel: 235-8.00-18.00

### Public Hearings

**Case No. 12571** – **ADBM Holdings, LLC** seek a variance from the front yard setback requirement for a proposed structure (Sections 115-82 and 115-182 of the Sussex County Zoning Code). The property is located on the southwest side of DuPont Boulevard (Rt. 113) at the intersection of North Oak Drive. 911 Address: 28362 DuPont Boulevard, Millsboro. Zoning District: C-1. Tax Parcel: 133-16.00-105.00 & 105.01

**Case No. 12572** – **Frank & Laura Taylor** seek a variance from maximum fence height requirement for an existing fence. (Sections 115-42, 115-182 and 115-185 of the Sussex County Zoning Code). The property is located on the southeast side of Adams Avenue approximately 110 feet southwest of South Bay Shore Drive in Broadkill Beach. 911 Address: 102 Adams Avenue, Milton. Zoning District: GR. Tax Parcel: 235-4.17-6.00





BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: FRANK TAYLOR & LAURA TAYLOR

(Case No. 12572)

A hearing was held after due notice on June 21, 2021. The Board members present were: Dr. Kevin Carson, Mr. Jeff Chorman, Mr. John T. Hastings, Mr. Jordan Warfel, and Mr. John Williamson.

Nature of the Proceedings

This is an application for a variance from the maximum fence height requirement for an existing fence.

Findings of Fact

The Board found that the Applicants are requesting a variance of 1.5 feet from the maximum fence height requirement of 3.5 feet for an existing fence. This application pertains to certain real property located on the southeast side of Adams Avenue approximately 110 feet southwest of South Bay Shore Drive in Broadkill Beach (911 Address: 102 Adams Avenue, Milton); said property being identified as Sussex County Tax Map Parcel Number 2-35-4.17-6.00. After a public hearing, the Board made the following findings of fact:

1. The Board was given copies of the Application, an aerial photograph of the Property, pictures, a building permit application, inspection notes, a drawing from Backyard Works, a survey dated October 3, 2019, and a portion of the tax map of the area.
2. The Board found that the Office of Planning & Zoning received four letters in support of and two letters opposition to the Application.
3. The Board found that Laura Taylor was sworn in to testify about the Application.
4. The Board found that Ms. Taylor testified that she and her husband had a fence installed at 102 Adams Avenue by Backyard Works in February 2020, and that a permit was obtained by the contractor but she later received a notice of violation.
5. The Board found that Ms. Taylor testified that the house faces Bayshore Drive but is 80 feet from Bayshore Drive and that Adams Avenue provides access to the lot.
6. The Board found that Ms. Taylor testified that, when the fence company installed the fence, they considered Bay Shore Drive as being the front of the Property and thought that the fence was in compliance with side yard zoning requirements.
7. The Board found that Ms. Taylor testified that the back of the lot is unbuildable as it is on the marsh.
8. The Board found that Ms. Taylor testified that the fence is located at the end of Adams Avenue and is at the edge of the marsh.
9. The Board found that Ms. Taylor testified that there is a dock in the rear yard and that members of the public were crossing the subject property to access the water with canoes. She noted, however, that "no trespasser" signs are not on the Property.
10. The Board found that Ms. Taylor testified that the fence blocks the view of the marsh from the public and that prevents the public from entering the Property. She noted that she previously had a split-rail fence but it has been replaced with a taller fence.
11. The Board found that Ms. Taylor testified that the Property is unique because of the "L" shape.
12. The Board found that Ms. Taylor testified that a 3.5 foot tall fence could work but she believes a taller fence is a better deterrent.
13. The Board found that Ms. Taylor testified that she has only seen one trespasser since the fence was erected and that was a local worker.

14. The Board found that Ms. Taylor testified that neighbors have views of the marsh from their decks.
15. The Board found that Brenda Erdman and Alan Erdman were sworn in to give testimony in opposition to the Application. Ms. Erdman submitted exhibits to the Board to review.
16. The Board found that Ms. Erdman testified that her parents bought their lot in 1966 and 1971 and that she lives there from April to October.
17. The Board found that Ms. Erdman testified that the prior split-rail fence was able to be seen through but the new fence is solid white. She believes that the fence is an unsafe condition for her and her family as she cannot see behind the fence, which concerns her because she has a disabled daughter who is under 5 feet tall.
18. The Board found that Ms. Erdman testified that there is an alarm and light on the fence and that the alarm has gone off at 10:30 pm.
19. The Board found that Ms. Erdman testified that she lets her dogs out at night and cannot see where they go.
20. The Board found that Ms. Erdman testified that trespassing is not a constant thing but there have been approximately five people over the years who she has witnessed using the Applicant's dock.
21. The Board found that Ms. Erdman testified that she tells others not to use the dock.
22. The Board found that Mr. Erdman testified that the fence is also on the front of their property as the properties have a shared property line and that the fence runs perpendicular to his property line.
23. The Board found that Mr. Erdman testified that he has concerns for the safety of his wife when she is outdoors after dark as they cannot see behind the fence.
24. The Board found that Mr. Erdman testified that he believes the fence is a spite fence.
25. The Board found that Mr. Erdman testified that the gate to the fence swings open to the road. Ms. Taylor, however, disputed that claim and testified that the fence swings to the marsh.
26. The Board found that Mr. Erdman testified that a 3.5 foot tall fence with a no trespassing sign would suffice to keep trespassers off the Taylor property.
27. The Board found that Mr. Erdman testified that there are no similar fences in the neighborhood.
28. The Board found that Ms. Taylor testified that the neighbor's dogs have run onto her property.
29. The Board found that Ms. Taylor testified that the new fence is generally in the same location as the previous fence.
30. The Board found that one person appeared in support of and two persons appeared in opposition to the Application.
31. 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 failed to meet the standards for granting a variance. The findings below further support the Board's decision to deny the Application.
  - a. The Applicants failed to demonstrate that the Property was unique and that the uniqueness of the Property has created an exceptional practical difficulty. The Applicants complain of occasional trespassers due to the open nature of their prior, split-rail fence and, as a result of those issues, the Applicants installed a taller, solid fence. The fence is taller than is permitted under the Code. The Applicants, however, failed to demonstrate that there was some unique physical condition to the Property which necessitated the variance. The Applicants admitted that they did not install no trespassing signs to deter the trespassers. Moreover, the Applicants acknowledged that a fence built in compliance with the Code may work; though they would prefer a taller fence. The exceptional practical difficulty

- appears to be due to the Applicants' wants rather than due to some unique physical condition of the Property.
- b. The Applicants failed to prove that the Property could not be developed in strict conformity with the Sussex County Zoning Code. As previously noted the Applicants admitted that a fence built in compliance could work and the Applicants have not taken steps to show that a smaller fence with no trespassing signs would not otherwise deter the trespassers. Rather, the Applicants went from having a largely open fence to a taller, solid fence with no signage without even attempting to see if a fence built in compliance with the Code would work. The Board finds that the Applicants failed to demonstrate that there was no other way to reasonably develop the lot without a variance or that the variance was necessary to reasonably use the Property. While the fence may be shorter than the Applicants seek, the Applicants can likely construct a fence on the site without a variance. The Board was simply not convinced that the Applicants could not otherwise develop the Property in compliance with the Code. For these reasons, the Board finds that the Property could be developed in strict conformity with the Code and that the variance is not necessary to enable reasonable use of the Property.
  - c. The Board finds that the Applicants are creating their own exceptional practical difficulty by erecting a fence which does meet the County Code requirements. The Applicants' decision to construct this fence at this height is the reason for the need for a variance and has nothing to do with the size, shape, or condition of the Property. The Board was not convinced that there was some unusual condition to the Property which has created this difficulty. The building envelope appears to otherwise be able to fit a fence, albeit a shorter fence than the one preferred by the Applicants, without the need for the variance. The Board was not convinced that the variance request was the product of a *need*. Instead, the variance request appears to be the product of a *want* as the Applicants seek to build the fence as proposed for purposes of convenience, profit, and / or caprice. Since the Applicants can develop the Property in compliance with the Sussex County Zoning Code, the need for the variance is something created by the Applicants' wants rather than an unusual physical condition relating to the Property. The Applicants have thus created their own exceptional practical difficulty.
  - d. The Board finds that the Applicants failed to demonstrate that the variance would not alter the essential character of the neighborhood. The Applicants have constructed the fence near its neighbor's property line and at the terminus of Adams Avenue. The neighbors noted there are no other similar fences in the neighborhood. The Board has concerns that, if the fence remains at this height, others may seek to also build fences which do not comply with the Code. Given the nature of this area, tall fences out of compliance with the Code would likely alter the character of the neighborhood.
  - e. Since the variance is not necessary to enable the reasonable use of the Property, the Board also finds that the variance requested is not the minimum variance necessary to afford relief. Furthermore, the Board finds that no variance is needed to afford relief since a shorter fence would afford the Applicants relief by providing a solid barrier from the dock to the road.

The Board denied the variance application 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 denied. The Board Members in favor of the Motion to deny were Dr. Kevin Carson, Mr. Jeffrey Chorman, Mr. Travis Hastings, Mr. Jordan Warfel, and Mr. John Williamson. No Board Member voted against the Motion to deny the variance application.

BOARD OF ADJUSTMENT  
OF SUSSEX COUNTY

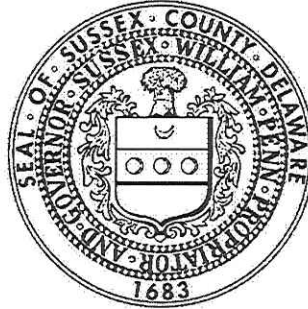


John Williamson  
Chair

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

Date September 13, 2021

EXHIBIT H  
Building Permit &  
Certificate of Compliance



**Sussex County**

## ***Certificate of Occupancy/Compliance***

**CERTIFICATE NUMBER:** 129184

**PARCEL ID:** 235-4.17-6.00

**LOCATION:** 102 ADAMS AVENUE

**DESCRIPTION:** BROADKILL BEACH BROADKILN BEACH P O LOTS 5 9 11

**OWNER:** TAYLOR FRANK I LAURA

**PROJECT DESCRIPTION:** MISC

104' VINYL FENCING (48" IN HEIGHT), 70' VINYL FENCING (60"  
IN HEIGHT), (1) GATE

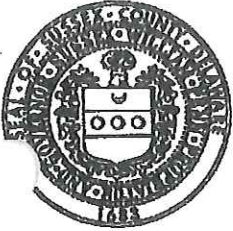
**Issued Date:** 03/30/2020

**Expiration Date:**

**This certifies that the (structure) (premises) describe in Application #202001162 conforms to and complies with the requirements of Chapter 52 (Building Code) and Chapter 115 (Zoning Code) for Sussex County, Delaware and may be occupied as of the above date.**

  
\_\_\_\_\_  
Building Code Officer





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

**202001162**  
Issue Date: 01/31/2020  
Expire Date: 01/30/2021

Permit Type: **MISC. OUT OF TOWN**

235-4.17-6.00	102 ADAMS AVENUE	GR
---------------	------------------	----

Name: TAYLOR FRANK I LAURA Phone:	Name: BACKYARD WORKS INC Phone:
--------------------------------------	------------------------------------

Name: TAYLOR FRANK I LAURA CID: 109942 Phone:	License Number: License Exp. Date: Insurance Exp. Date:
---	---

Proposed Use: FENCES  
Construction Type:  
Estimated Cost of Construction: \$ 4,677  
Cannot Occupy More than \_\_\_\_\_ of Total Lot Area  
Distance from any Dwelling of other Ownership: \_\_\_\_\_  
Distance from any other Mobile Home or Accessory Structure: \_\_\_\_\_

**Measurements taken from Property Lines**  
Front Setback: 30.00 /3.5' MAX IN 1ST 30' Rear Setback: /  
Side Setback: / Corner Setback: /  
Maximum Building Height: 7' Location Description:  
**FLOOD ZONE** BROADKILL BEACH BROADKILN BEACH P O LOTS 5 9 11  
Flood Zone: AE P 180 K  
\_\_\_\_\_ If Initialed, See Attached Flood Plan Construction Review Coastal and Flood-Prone Area Building Requirements.

**Project Description:** MISC  
**Scope of Work:**  
104' VINYL FENCING (48" IN HEIGHT), 70' VINYL FENCING (60" IN HEIGHT), (1) GATE  
**Permit Details:**

302-259-8815

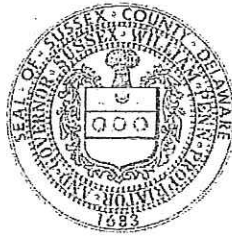
*[Signature]*  
\_\_\_\_\_  
Signature of Approving Official

*[Signature]*  
\_\_\_\_\_  
Signature of Owner/Contractor

**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 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.

**BUILDING CODE**

MAIN OFFICE (302) 855-7880  
 MAIN OFFICE (FAX) (302) 855-7821  
 INSPECTION SCHEDULING (302) 858-5500  
 INSPECTIONS (FAX) (302) 855-7821  
 PLAN REVIEW (302) 855-7860  
 PLAN REVIEW (FAX) (302) 855-7869



**Sussex County**

DELAWARE  
 sussexcountyde.gov  
 ANDY WRIGHT  
 CHIEF OF BUILDING CODE

**Final Completion Requirements**

**To Obtain Certificate of Compliance/Occupancy**

The following items, when applicable, must be sent into the Sussex County Building Code Office prior to any final inspection being scheduled:

- On-site wastewater/septic completion report (with red stamp) from DNREC.
- Del-Dot entrance permit when required on new construction and commercial projects.
- Final elevation certificate. (when in flood zone)

A certificate of compliance/occupancy will be issued when the above documents are received, and Sussex County field inspections are completed. Please call (302) 858-5500 between 7:30 am – 3:00 pm to schedule inspections.

Application # 202001160  
 District/Map/Parcel# 235-417-6.00  
 Property Owner Taylor  
 Email \_\_\_\_\_

My signature certifies I understand this certificate must be issued prior to any occupancy or intended use to complete the application.

Name (please print) Heather Delgado  
 Signature [Handwritten Signature]





Calendar   
 Hubspot



NOTES:

Fence

Today's Date: 10/22/19

Estimate Appt: 10:00 AM

Name: Laura Taylor

Address: 102 Adams Ave  
Milton DE

Development: \_\_\_\_\_ Email: \_\_\_\_\_

Phone: 610-517-0610 Cell: \_\_\_\_\_

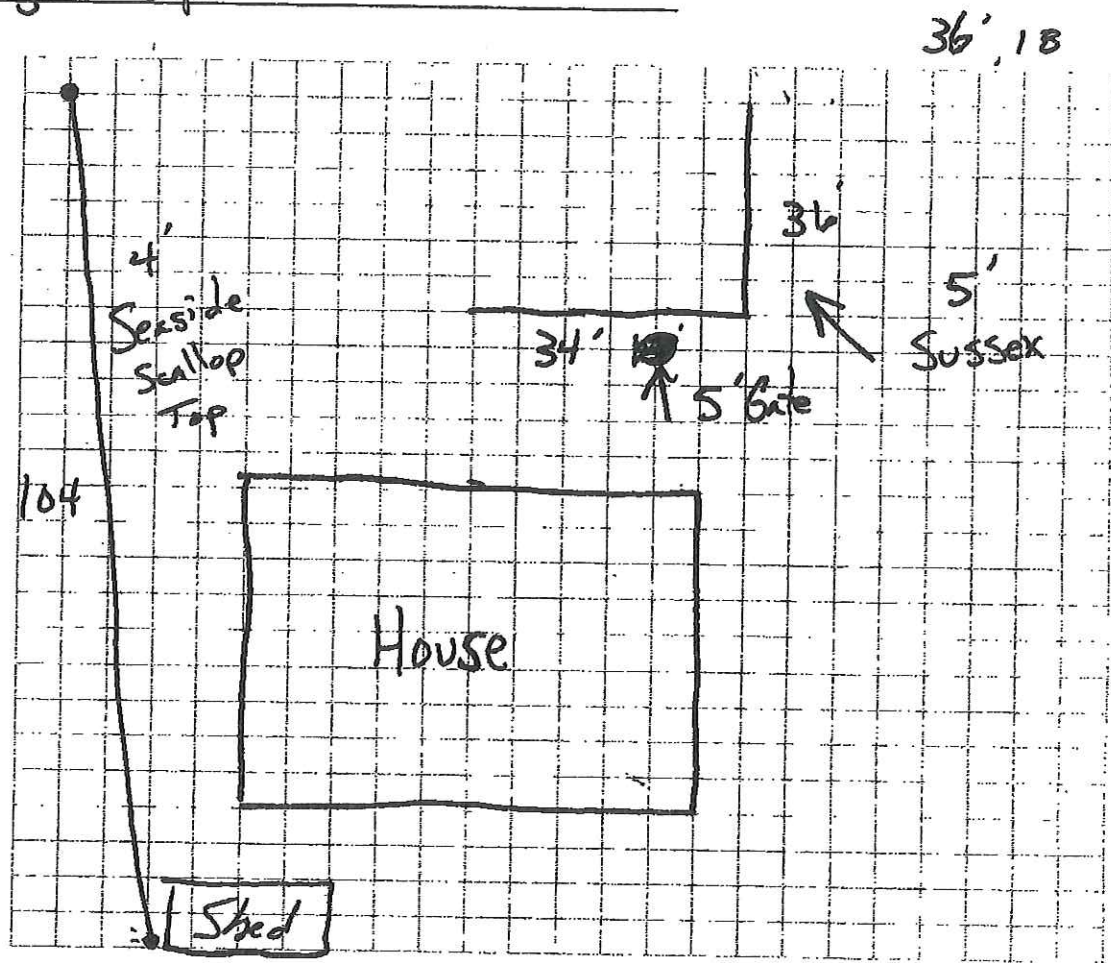
912  
158

Footage	Height	Style	Color	Straight Top	Concave	Convex
104'	4'	Seaside Scallop				
54'	5'	Sussex		X		

SETBACKS: \_\_\_\_\_  
 ANY REMOVAL EXISTING: \_\_\_\_\_  
 IRRIGATION: \_\_\_\_\_  
 SPECIAL INSTRUCTIONS/ISSUES:  
New England Caps

Gate	H	W
Gate 1	H	W
Gate 2	H	W
Gate 3	H	W
Gate 4	H	W

- Quote
- Follow-up
- Follow-up
- HOA Approval
- ETA
- Materials Ordered
- Permits
- Miss Utility
- Job Scheduled



# Permits and Inspections

## Inspection 232021

[Return to Application Details](#)

### Inspection Details

[View inspection checklist](#)

<b>Inspection Type</b>	PLANNING & ZONING FINAL
<b>Contractor Name</b>	TAYLOR FRANK I LAURA
<b>Contractor ID</b>	
<b>Application Contractor ID</b>	64527
<b>Requested Date</b>	3/30/2020
<b>Scheduled Date</b>	3/30/2020 - Z
<b>Performed Date</b>	3/30/2020 - 02:32 PM
<b>Inspector Name</b>	STEVEN D. HICKMAN
<b>Comments</b>	
<b>Results</b>	PASS

### Fees

<b>Fee amount</b>	\$0.00
<b>Paid to date</b>	\$0.00
<b>Balance due</b>	\$0.00

Heather Delgado <heather@backyardworks.net>

4/3/2020 10:54 AM

## Final Inspection Verification

To Laura Taylor <taylors120@comcast.net> Copy Bobbi Brooks <bobbi@backyardworks.net>

Good morning, this email is to inform you that your final inspection has been completed and your project passed inspection. We hope you are enjoying the addition to your property. If you have any questions do not hesitate to contact me directly via this email or you can call the office at 302-703-9888 and ask for Bobbi or Heather.

Heather M Delgado  
Operations Manager  
Backyard Works



Edited with HubSpot.



# Sussex County



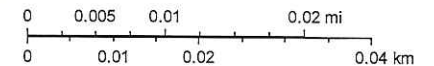
<b>PIN:</b>	235-4.17-6.00
<b>Owner Name</b>	TAYLOR FRANK I
<b>Book</b>	5621
<b>Mailing Address</b>	120 WOODSTREAM RD
<b>City</b>	BOOTHWYN
<b>State</b>	PA
<b>Description</b>	BROADKILL BEACH
<b>Description 2</b>	BROADKILN BEACH
<b>Description 3</b>	P O LOTS 5 9 11
<b>Land Code</b>	

- polygonLayer**

  - Override 1
- polygonLayer**

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

1:564



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 # 12748  
Hearing Date 11-7  
202210309

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:

37843 W. Stoney Run Selbyville, DE 19975

Variance/Special Use Exception/Appeal Requested:

We are requesting a variance to allow a front porch to be constructed on our house exceeding the setback by 2.7 feet.

Tax Map #: 5-33-19.00-697.00 Property Zoning: MR-RPC

Applicant Information

Applicant Name: Kathleen Berch  
Applicant Address: 5660 French Avenue  
City Sylvestre State MD Zip: 21784  
Applicant Phone #: 410-740-4582 Applicant e-mail: kberch@comcast.net

Owner Information

Owner Name: David and Kathleen Berch  
Owner Address: -same as above-  
City \_\_\_\_\_ State \_\_\_\_\_ Zip: \_\_\_\_\_ Purchase Date: \_\_\_\_\_  
Owner Phone #: \_\_\_\_\_ 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

KMBerch

Date: 7/15/2022



**Criteria for a Variance:** (Please provide a written statement regarding each criteria). — see attached

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.

---

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.

---

3. Not created by the applicant:

That such exceptional practical difficulty has not been 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.

---

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 Variance

1. There are unique physical circumstances of the existing property that prevent a suitably sufficient and functional front porch to be constructed within the lot's front 30' Building Setback Line (30 BSL). The uniqueness is such that the physical location of the existing structure is set 35.3' from the front property line (at proposed front left corner porch). A variance is being requested to extend a front porch 2.7' over the 30 BSL. The total width of the proposed front porch is to be 8 feet. It is the applicant's experience with a 6' wide front porch that 6 feet is not quite adequate to navigate unencumbered across a front porch that has furniture. The applicant's long-term plan is to use the property as their primary residence in retirement and is preparing the space for the challenges that older individuals may face in the future.
2. Without approving the requested variance, a suitably sufficient and functional front porch cannot be constructed. The existing property structure is one of the first dwellings constructed within the community. The applicant is striving to maintain the integrity of both the community and existing structure by performing improvements to the structure without having to move the house back from the 30 BSL via demolition. The applicant believes, if possible, it is much better to improve what is existing to maintain community character rather than "build new". The existing structure is well cared for. The applicant is in process of home renovations including new exterior siding and remodeled kitchen. The structure was constructed as a permanent residence having existing insulation throughout the exterior walls, crawl space and attic. Please note that the HOA's Architectural Committee has approved the front porch construction as well (approval letter attached).
3. The applicant did not create the practical difficulty as to the location of the existing structure in relation to the 30 BSL. The existing structure was built in 1989. The applicant purchased the property in 2012. The condition should be considered existing to the present owner/applicant.
4. The proposed front porch addition will not alter the essential character of the neighborhood. Older homes in the neighborhood have gone through various renovations including front porches. What the applicants have observed is that front porch additions are adding to the character of the neighborhood by fostering communication and friendships. Neighbors walk through the community, stopping to chat and say "Hello". The front porch is viewed as an inviting amenity, allowing a place for neighbors to congregate and entertain.
5. The variance requested will be for the minimum variance required for the least modification possible while still allowing for a suitably sufficient and functional addition to the existing structure. The variance request will improve the property's living space and foster the community's character by allowing a place to entertain and enjoy a neighbor's company.

**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.

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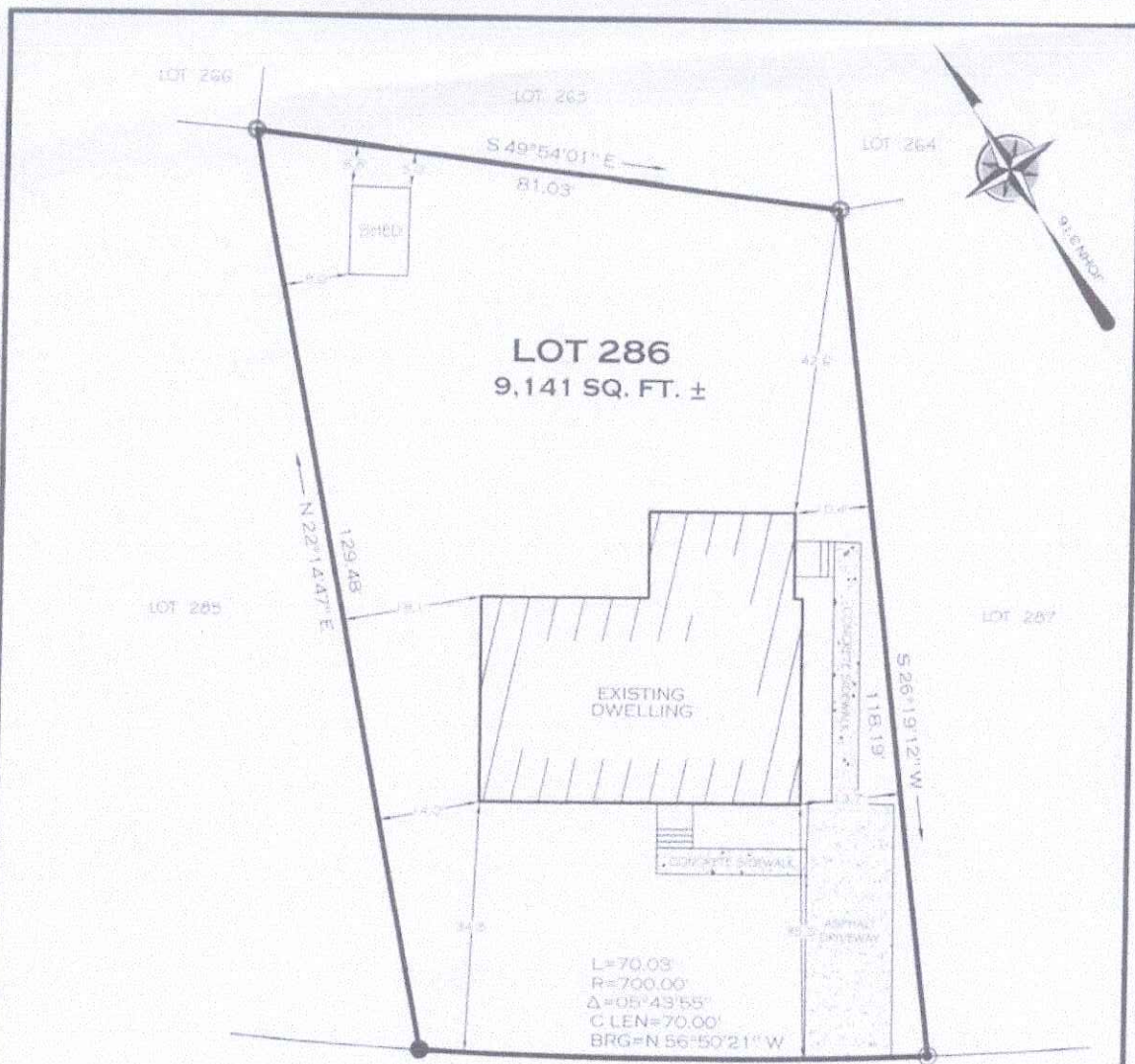
2. Any other requirements which apply to a specific type of special use exception as required by the Sussex County Code. (Ex. Time limitations – 5 year maximum)

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

---





WEST STONEY RUN  
50' RIGHT OF WAY

LEGEND	
●	= IRON T-BAR W/ CAP FOUND
○	= IRON PIPE FOUND
⊙	= IRON ROD W/ CAP SET

NOTES

1. CLASSIFICATION OF SURVEY: SUBURBAN
2. NO TITLE REPORT WAS PROVIDED FOR OUR USE, THEREFORE THIS BOUNDARY SURVEY IS SUBJECT TO ANY ENCUMBRANCES, RESTRICTIONS, EASEMENTS, AND/OR RIGHTS OF WAY THAT MIGHT BE REVEALED BY A THOROUGH TITLE SEARCH

TAX MAP	5-35-19.00-697.00
STATE	DELAWARE
COUNTY	SUSSEX
HUNDRED	BALTIMORE
SUBDIVISION	KEENWICK SOUND
PHASE	2
LOT	286
AREA	9,141 SQ. FT. ±
DEED REF	2151/200
PLAT REF	32/260
DRAWN BY	BAA
DATE	10/26/12
SCALE	1" = 20'
SURVEY #	DE-01089

BOUNDARY SURVEY  
PLAN

FOR

DAVID K. BERCH

&

KATHLEEN N. BERCH

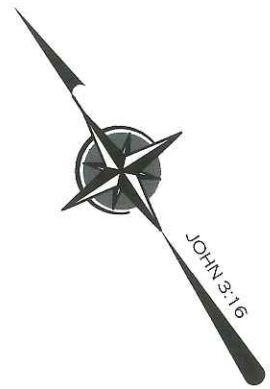
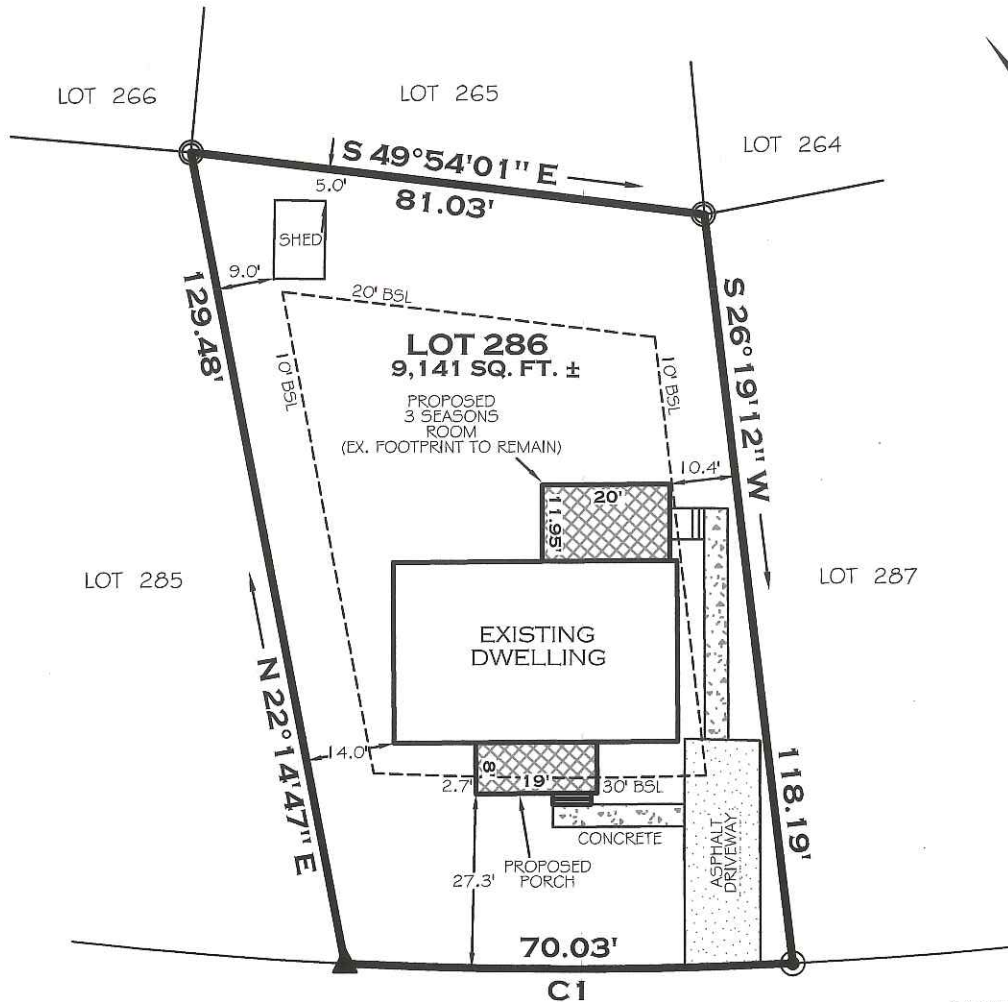
TRUE NORTH



LAND SURVEYING

118 ATLANTIC AVENUE, SUITE 202  
OCEAN VIEW, DE 18070  
DE: 302-539-2488  
MD: 410-430-2092  
FX: 302-539-2499  
WEB: TRUENORTHLS.COM

37843 W. STONEY RUN, SELBYVILLE, DELAWARE 19975



**WEST STONEY RUN  
50' RIGHT OF WAY**

**NOTES**

1. CLASSIFICATION OF SURVEY: SUBURBAN
2. ZONE: MR-RPC
3. BUILDING SETBACK LINES (BSL)  
FRONT 30'  
SIDE 5'(10' PER HOA)  
REAR 20'(20' PER HOA)

CURVE	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING
C1	700.00'	70.03'	70.00'	N 56°50'21" W

ALL SETBACKS ARE THE RESPONSIBILITY OF THE HOME OWNER AND/OR GENERAL CONTRACTOR. SETBACKS SHOWN AS PER SUSSEX COUNTY & MAY DIFFER FROM THE HOME OWNERS ASSOCIATION (HOA) SETBACKS. ANY USER OF SAID INFORMATION IS URGED TO DIRECTLY CONTACT THE LOCAL AGENCY AND HOA, IF APPLICABLE, TO VERIFY IN WRITING ALL SETBACKS & REQUIREMENTS.

4. ALL SIDE AND REAR LOT LINES ARE RESERVED FOR THE CENTERLINE OF A TEN (10) FOOT DRAINAGE AND/OR UTILITY EASEMENT. ALL PERIMETER LOT LINES SHALL HAVE A TEN (10) FOOT PERMANENT CONSTRUCTION & MAINTENANCE EASEMENT FOR UTILITIES AND/OR DRAINAGE ALONG INTERIOR SIDE OF BOUNDARY LINE, UNLESS OTHERWISE NOTED. (PER PLAT 28 / 329)

5. NO TITLE REPORT WAS PROVIDED FOR OUR USE, THEREFORE THIS BOUNDARY SURVEY IS SUBJECT TO ANY ENCUMBRANCES, RESTRICTIONS, EASEMENTS, AND/OR RIGHTS OF WAY THAT MIGHT BE REVEALED BY A THOROUGH TITLE SEARCH.

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

BRADLEY A. ABSHER, DE PLS # 735  
DATE 6.21.22

LEGEND	
○	IRON PIPE FOUND
▲	T-BAR FOUND
⊙	IRON ROD W/ CAP SET

TAX MAP	5-33 - 19.00 - 697.00
STATE	DELAWARE
COUNTY	SUSSEX
HUNDRED	BALTIMORE
TOWN	---
AREA	9,141 ± SQ. FT.
DEED REF.	4061 / 238
PLAT REF.	32 / 260
DRAWN BY	MCS
DATE	06 / 21 / 2022
SCALE	1" = 30'
SURVEY #	DE - 01089

**SITE PLAN**

**LOT 286**  
**KEENWICK SOUND, PHASE II**

FOR  
**DAVID K. & KATHLEEN N. BERCH**

**37843 WEST STONEY RUN, SELBYVILLE, DE 19975**

**TRUE NORTH**



**LAND SURVEYING**

35380 ATLANTIC AVENUE  
MILLVILLE, DE 19967  
302-539-2488

# 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 DAVID K. & KATHLEEN N. BERCH				Policy Number:	
A2. Building Street Address (including Apt., Unit, Suite, and/or Bldg. No.) or P.O. Route and Box No. 37843 W. STONEY RUN				Company NAIC Number:	
City SELBYVILLE		State Delaware		ZIP Code 19975	
A3. Property Description (Lot and Block Numbers, Tax Parcel Number, Legal Description, etc.) TAX MAP 5 - 33 - 19.00 - 697.00; LOT 286, PHASE 2					
A4. Building Use (e.g., Residential, Non-Residential, Addition, Accessory, etc.) <u>RESIDENTIAL</u>					
A5. Latitude/Longitude: Lat. <u>38° 28' 06.94" N</u> Long. <u>75° 06' 30.89" 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>8</u>					
A8. For a building with a crawlspace or enclosure(s):					
a) Square footage of crawlspace or enclosure(s) <u>1515.75</u> sq ft					
b) Number of permanent flood openings in the crawlspace or enclosure(s) within 1.0 foot above adjacent grade <u>1</u>					
c) Total net area of flood openings in A8.b <u>200.00</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>N/A</u> sq ft					
b) Number of permanent flood openings in the attached garage within 1.0 foot above adjacent grade <u>0</u>					
c) Total net area of flood openings in A9.b <u>0.00</u> sq in					
d) Engineered flood openings? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No					
SECTION B – FLOOD INSURANCE RATE MAP (FIRM) INFORMATION					
B1. NFIP Community Name & Community Number 100029 - SUSSEX COUNTY UNINCORPORATED			B2. County Name SUSSEX		B3. State Delaware
B4. Map/Panel Number 10005 C 0653	B5. Suffix K	B6. FIRM Index Date 03-16-2015	B7. FIRM Panel Effective/ Revised Date 03-16-2015	B8. Flood Zone(s) AE, (X)	B9. Base Flood Elevation(s) (Zone AO, use Base Flood Depth) 4'
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					

BLU

2.11.22

# ELEVATION CERTIFICATE

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

<b>IMPORTANT: In these spaces, copy the corresponding information from Section A.</b>			<b>FOR INSURANCE COMPANY USE</b>
Building Street Address (including Apt., Unit, Suite, and/or Bldg. No.) or P.O. Route and Box No. 37843 W. STONEY RUN			Policy Number:
City SELBYVILLE	State Delaware	ZIP Code 19975	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: DICARLO RTN Vertical Datum: NAVD 1988

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) _____	5.2	<input checked="" type="checkbox"/> feet	<input type="checkbox"/> meters	
b) Top of the next higher floor _____	7.0	<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) _____	N/A	<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) _____	7.0	<input checked="" type="checkbox"/> feet	<input type="checkbox"/> meters	
f) Lowest adjacent (finished) grade next to building (LAG) _____	4.5	<input checked="" type="checkbox"/> feet	<input type="checkbox"/> meters	
g) Highest adjacent (finished) grade next to building (HAG) _____	6.6	<input checked="" type="checkbox"/> feet	<input type="checkbox"/> meters	
h) Lowest adjacent grade at lowest elevation of deck or stairs, including structural support _____	5.0	<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 Bradley A. Absher	License Number DE PLS 735, MD PLS 21165	Place Seal Here
Title President		
Company Name True North Land Surveying, Inc.		
Address 35380 Atlantic Avenue		
City Millville	State Delaware	
Signature 	Date 02-11-2022	Telephone (302) 539-2488
		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)  
C2b. EXISTING ELEVATION OF FLOOR OF THE PROPOSED 3 SEASONS ROOM  
C2e. EXISTING OUTSIDE HVAC

DE - 01089

**\*THIS ELEVATION CERTIFICATE IS NOT VALID UNLESS FIRST PAGE IS DATED AND INITIALED BY CERTIFIER\***

# ELEVATION CERTIFICATE

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

<b>IMPORTANT: In these spaces, copy the corresponding information from Section A.</b>			<b>FOR INSURANCE COMPANY USE</b>
Building Street Address (including Apt., Unit, Suite, and/or Bldg. No.) or P.O. Route and Box No. 37843 W. STONEY RUN			Policy Number:
City SELBYVILLE	State Delaware	ZIP Code 19975	Company NAIC Number

## SECTION E – BUILDING ELEVATION INFORMATION (SURVEY NOT REQUIRED) FOR ZONE AO AND ZONE A (WITHOUT BFE)

For Zones AO and A (without BFE), complete Items E1–E5. If the Certificate is intended to support a LOMA or LOMR-F request, complete Sections A, B, and C. For Items E1–E4, use natural grade, if available. Check the measurement used. In Puerto Rico only, enter meters.

- E1. Provide elevation information for the following and check the appropriate boxes to show whether the elevation is above or below the highest adjacent grade (HAG) and the lowest adjacent grade (LAG).
- a) Top of bottom floor (including basement, crawlspace, or enclosure) is \_\_\_\_\_  feet  meters  above or  below the HAG.
- b) Top of bottom floor (including basement, crawlspace, or enclosure) is \_\_\_\_\_  feet  meters  above or  below the LAG.
- E2. For Building Diagrams 6–9 with permanent flood openings provided in Section A Items 8 and/or 9 (see pages 1–2 of Instructions), the next higher floor (elevation C2.b in the diagrams) of the building is \_\_\_\_\_  feet  meters  above or  below the HAG.
- E3. Attached garage (top of slab) is \_\_\_\_\_  feet  meters  above or  below the HAG.
- E4. Top of platform of machinery and/or equipment servicing the building is \_\_\_\_\_  feet  meters  above or  below the HAG.
- E5. Zone AO only: If no flood depth number is available, is the top of the bottom floor elevated in accordance with the community's floodplain management ordinance?  Yes  No  Unknown. The local official must certify this information in Section G.

## SECTION F – PROPERTY OWNER (OR OWNER'S REPRESENTATIVE) CERTIFICATION

The property owner or owner's authorized representative who completes Sections A, B, and E for Zone A (without a FEMA-issued or community-issued BFE) or Zone AO must sign here. The statements in Sections A, B, and E are correct to the best of my knowledge.

Property Owner or Owner's Authorized Representative's Name

Address \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ ZIP Code \_\_\_\_\_

Signature \_\_\_\_\_ Date \_\_\_\_\_ Telephone \_\_\_\_\_

Comments

Check here if attachments.

# ELEVATION CERTIFICATE

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

<b>IMPORTANT: In these spaces, copy the corresponding information from Section A.</b>			<b>FOR INSURANCE COMPANY USE</b>
Building Street Address (including Apt., Unit, Suite, and/or Bldg. No.) or P.O. Route and Box No. 37843 W. STONEY RUN			Policy Number:
City SELBYVILLE	State Delaware	ZIP Code 19975	Company NAIC Number

## SECTION G – COMMUNITY INFORMATION (OPTIONAL)

The local official who is authorized by law or ordinance to administer the community's floodplain management ordinance can complete Sections A, B, C (or E), and G of this Elevation Certificate. Complete the applicable item(s) and sign below. Check the measurement used in Items G8–G10. In Puerto Rico only, enter meters.

- G1.  The information in Section C was taken from other documentation that has been signed and sealed by a licensed surveyor, engineer, or architect who is authorized by law to certify elevation information. (Indicate the source and date of the elevation data in the Comments area below.)
- G2.  A community official completed Section E for a building located in Zone A (without a FEMA-issued or community-issued BFE) or Zone AO.
- G3.  The following information (Items G4–G10) is provided for community floodplain management purposes.

G4. Permit Number	G5. Date Permit Issued	G6. Date Certificate of Compliance/Occupancy Issued
-------------------	------------------------	---

- G7. This permit has been issued for:     New Construction     Substantial Improvement
- G8. Elevation of as-built lowest floor (including basement) of the building: \_\_\_\_\_  feet     meters    Datum \_\_\_\_\_
- G9. BFE or (in Zone AO) depth of flooding at the building site: \_\_\_\_\_  feet     meters    Datum \_\_\_\_\_
- G10. Community's design flood elevation: \_\_\_\_\_  feet     meters    Datum \_\_\_\_\_

Local Official's Name	Title
Community Name	Telephone
Signature	Date

Comments (including type of equipment and location, per C2(e), if applicable)

Check here if attachments.

# BUILDING PHOTOGRAPHS

## ELEVATION CERTIFICATE

See Instructions for Item A6.

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

<b>IMPORTANT: In these spaces, copy the corresponding information from Section A.</b>			<b>FOR INSURANCE COMPANY USE</b>
Building Street Address (including Apt., Unit, Suite, and/or Bldg. No.) or P.O. Route and Box No. 37843 W. STONEY RUN			Policy Number:
City SELBYVILLE	State Delaware	ZIP Code 19975	Company NAIC Number

If using the Elevation Certificate to obtain NFIP flood insurance, affix at least 2 building photographs below according to the instructions for Item A6. Identify all photographs with date taken; "Front View" and "Rear View"; and, if required, "Right Side View" and "Left Side View." When applicable, photographs must show the foundation with representative examples of the flood openings or vents, as indicated in Section A8. If submitting more photographs than will fit on this page, use the Continuation Page.



Photo One

Photo One Caption FRONT SIDE VIEW (TAKEN 02/10/2022)

Clear Photo One



Photo Two

Photo Two Caption LEFT SIDE VIEW (TAKEN 02/10/2022)

Clear Photo Two

**ELEVATION CERTIFICATE**

**BUILDING PHOTOGRAPHS**

Continuation Page

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

<b>IMPORTANT: In these spaces, copy the corresponding information from Section A.</b>			<b>FOR INSURANCE COMPANY USE</b>
Building Street Address (including Apt., Unit, Suite, and/or Bldg. No.) or P.O. Route and Box No. 37843 W. STONEY RUN			Policy Number:
City SELBYVILLE	State Delaware	ZIP Code 19975	Company NAIC Number

If submitting more photographs than will fit on the preceding page, affix the additional photographs below. Identify all photographs with: date taken; "Front View" and "Rear View"; and, if required, "Right Side View" and "Left Side View." When applicable, photographs must show the foundation with representative examples of the flood openings or vents, as indicated in Section A8.



Photo Three

Photo Three Caption RIGHT SIDE VIEW (TAKEN 02/10/2022)

Clear Photo Three



Photo Four

Photo Four Caption REAR SIDE VIEW (TAKEN 02/10/2022)

Clear Photo Four





# ARCHITECTURAL REVIEW COMMITTEE REQUEST

Please complete before beginning your project

Owner/Party submitting the request: David & Kathy Berch  
 Lot #: 286 Phone #: 410-812-7584  
 Street Address: 37843 W Stoney Run  
 Email Address: kberch@comcast.net  
 Date submitted to ARC: 11/3/21

Does your project require a Sussex County Permit:  YES  NO

Description of work to be done: (attach pictures, sketches, architectural plans, etc)

Construct front porch and replace siding on house.

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- It is the responsibility of the homeowner to keep their property clean during the construction process.
- Sussex County building permits must be placed in a prominent place in the front of the property
- Both ARC and Sussex County permits expire 12 months from approval
- ARC guidelines can be found online at [kshoa.net](http://kshoa.net)

Agreed to (property owner): KM Berch Date: 11/3/21  
 ARC Disposition: Approved Karen deHuarte Date: 11/10/2021  
 Denied \_\_\_\_\_ Date: \_\_\_\_\_

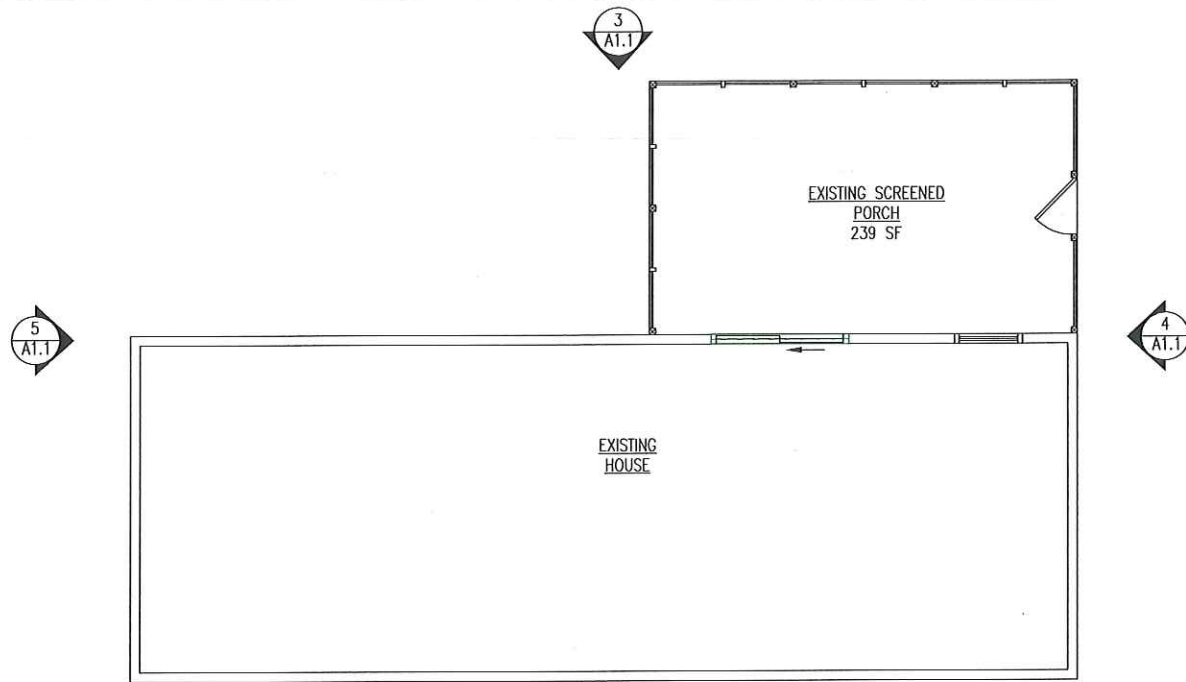
ARC Committee: Jim Berger 302-430-1051 Tom Yockel 443-865-3045  
 Joe Andrews 302-604-3790 Karen deHuarte 302-988-2740

Please call or email [ARC@KSHOA.NET](mailto:ARC@KSHOA.NET) with any questions!

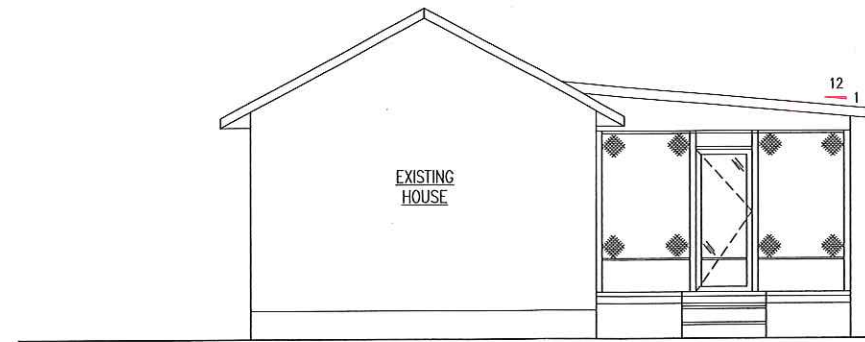
**Important numbers:**

DNREC, Wetlands section – 302-739-9921  
 Approval from Army Corp of Engineers – 302-739-9943  
 Building Permits Counter – 302-855-7720 (PLEASE call the county if you are unsure if you need a permit)  
 Boat Dock/Bulkhead permits require approval from all of the above.

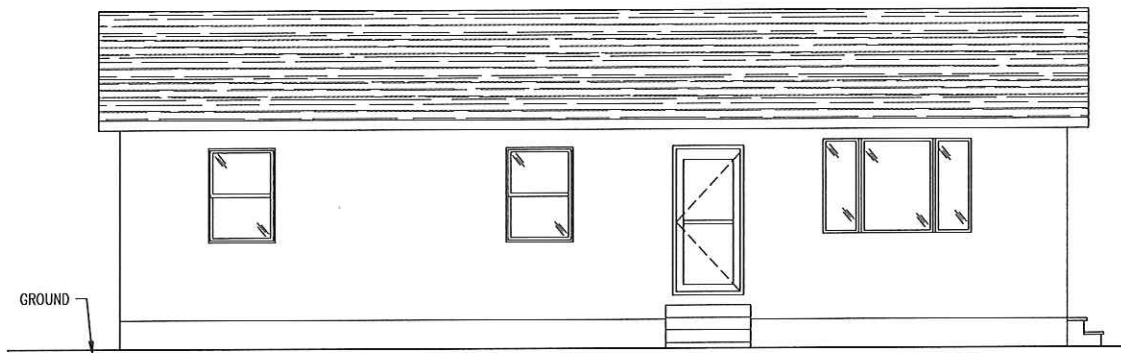




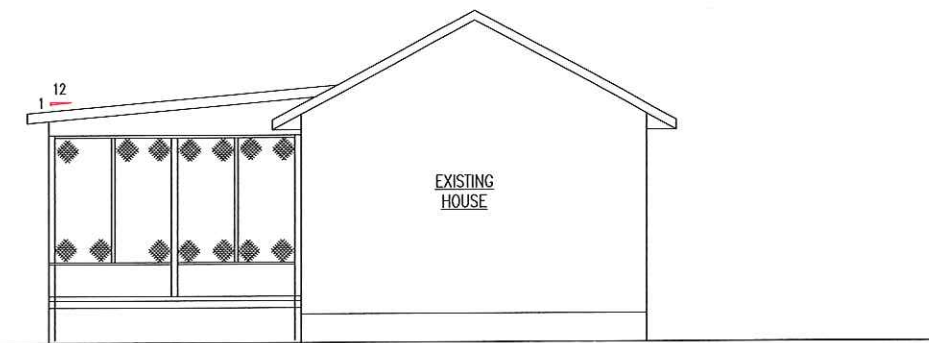
1  
A1.1 EXISTING FLOOR PLAN  
SCALE: 1/4" = 1'-0"



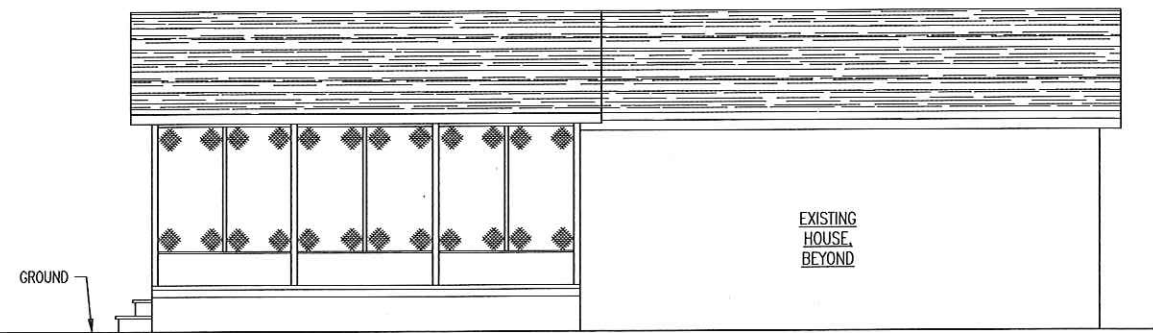
4  
A1.1 EXISTING SIDE 'A' ELEVATION  
SCALE: 1/4" = 1'-0"



2  
A1.1 EXISTING FRONT ELEVATION  
SCALE: 1/4" = 1'-0"



5  
A1.1 EXISTING SIDE 'B' ELEVATION  
SCALE: 1/4" = 1'-0"



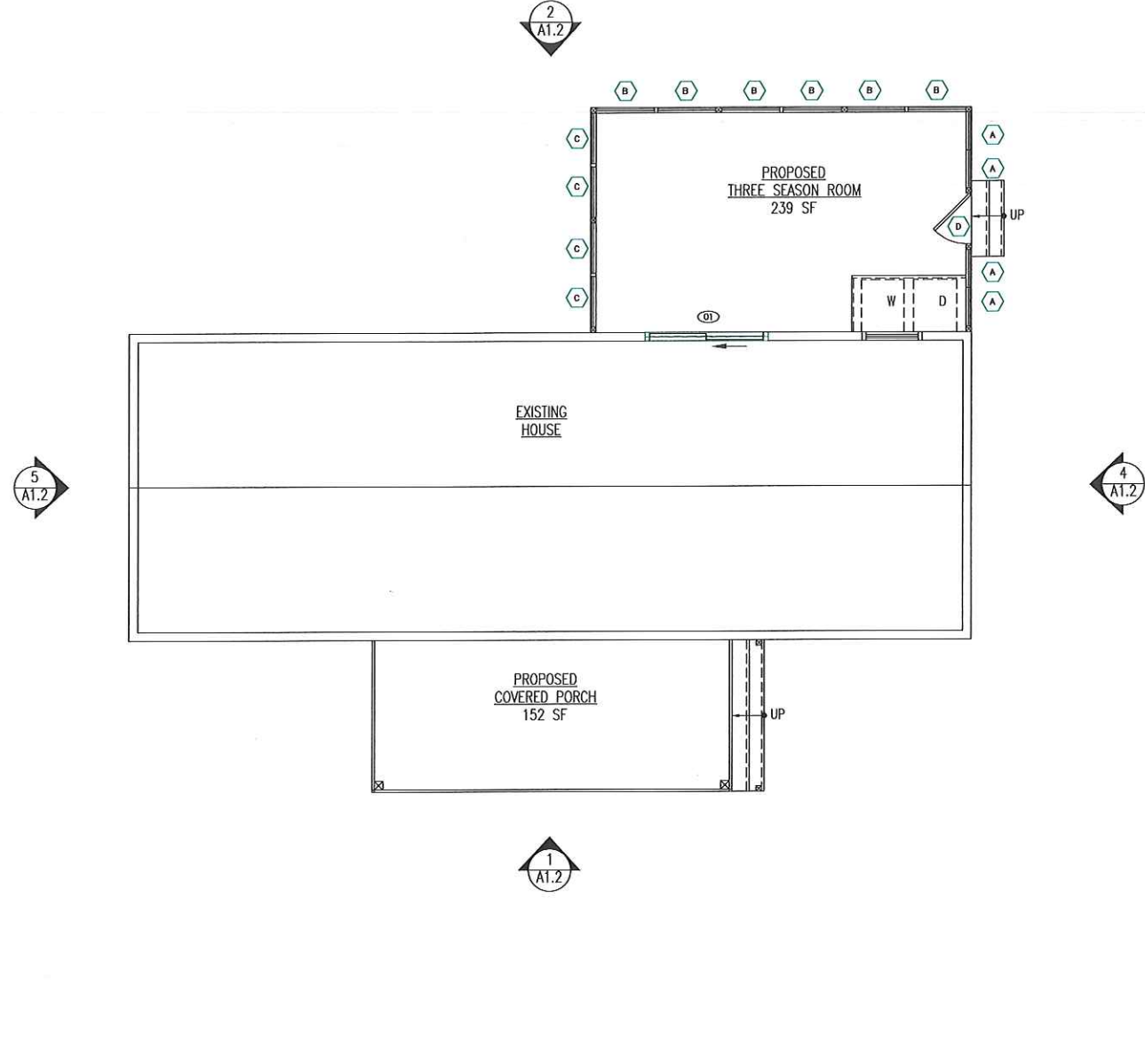
3  
A1.1 EXISTING REAR ELEVATION  
SCALE: 1/4" = 1'-0"

FRANKFORD, DE 19945  
CONTACT: JESSE BOYES  
PHONE: 302-568-0699  
**MODERN DESIGNS**  
BUILDERS

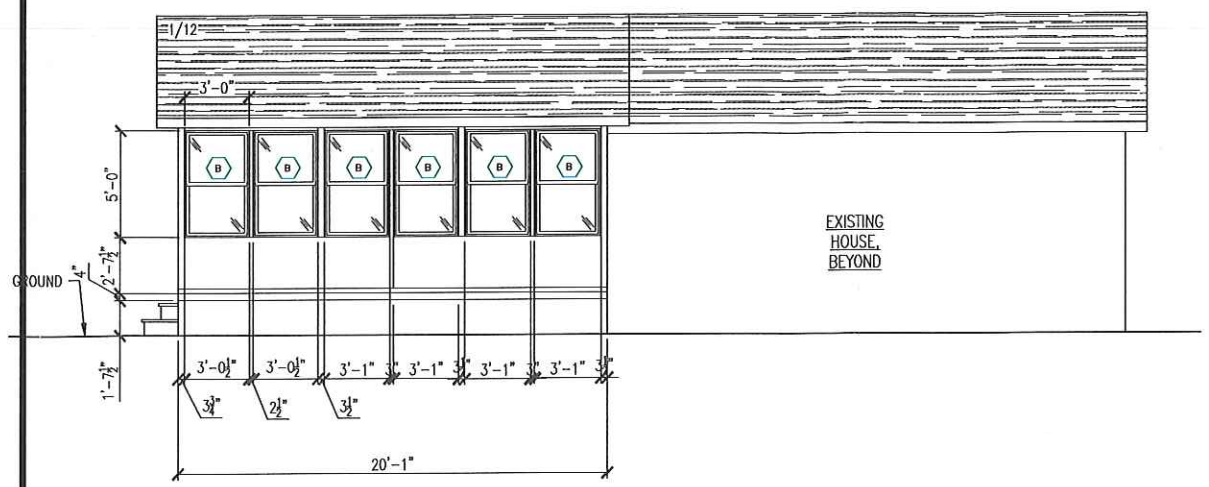
**BERCH**  
37843 WEST STONEY RUN, SELBYVILLE, DELAWARE

EXISTING FLOOR  
PLANS &  
ELEVATIONS  
SCALE: 1/4" = 1'-0"  
DATE: 09/21/21  
DRAWN BY: JLR

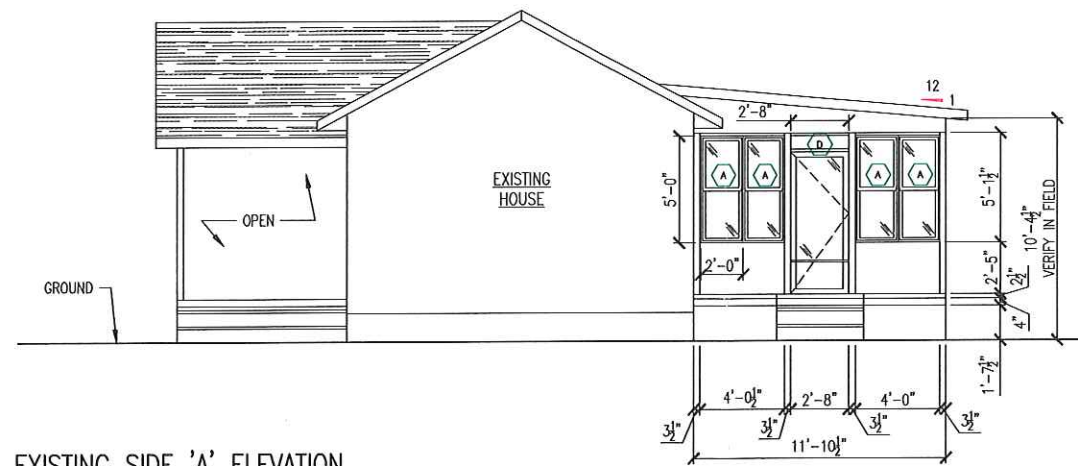
A1.1



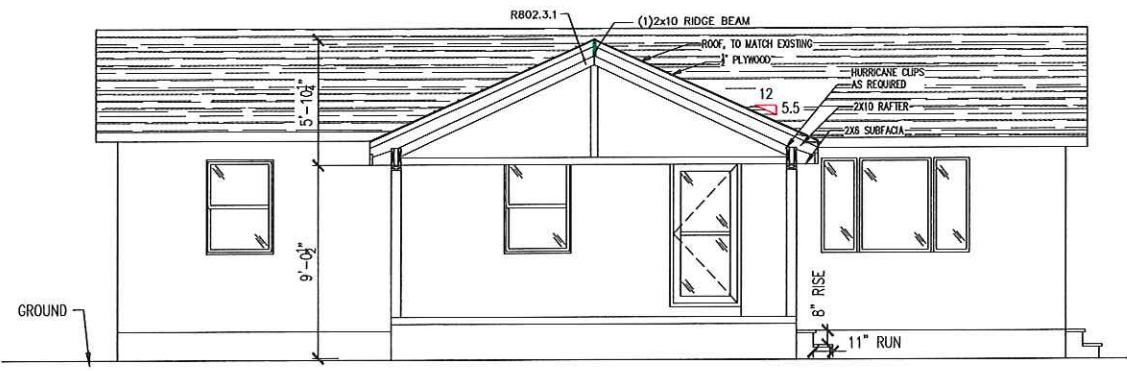
1  
A1.1  
EXISTING FLOOR PLAN  
SCALE: 1/4" = 1'-0"



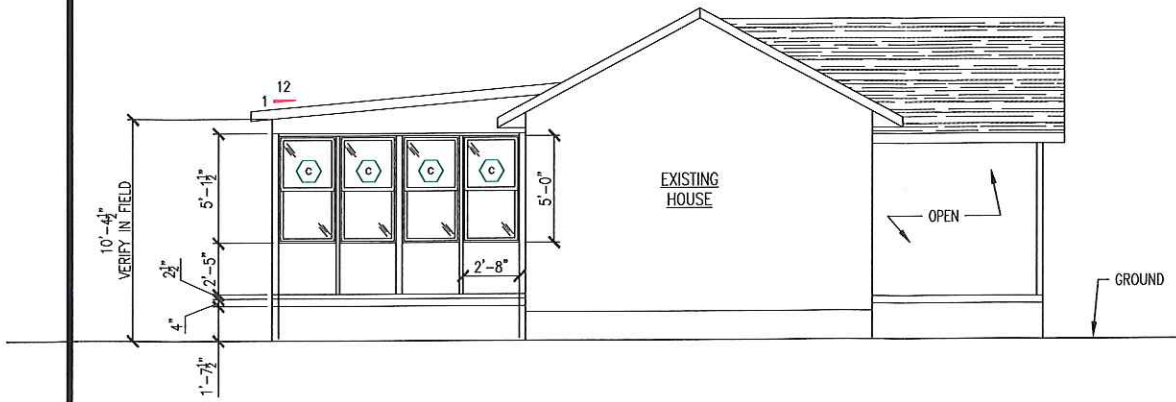
3  
A1.1  
EXISTING REAR ELEVATION  
SCALE: 1/4" = 1'-0"



4  
A1.1  
EXISTING SIDE 'A' ELEVATION  
SCALE: 1/4" = 1'-0"



2  
A1.1  
EXISTING FRONT ELEVATION  
SCALE: 1/4" = 1'-0"



5  
A1.1  
EXISTING SIDE 'B' ELEVATION  
SCALE: 1/4" = 1'-0"

FRANKFORD, DE 19945  
CONTACT: JESSE BOYES  
PHONE: 302-569-0699

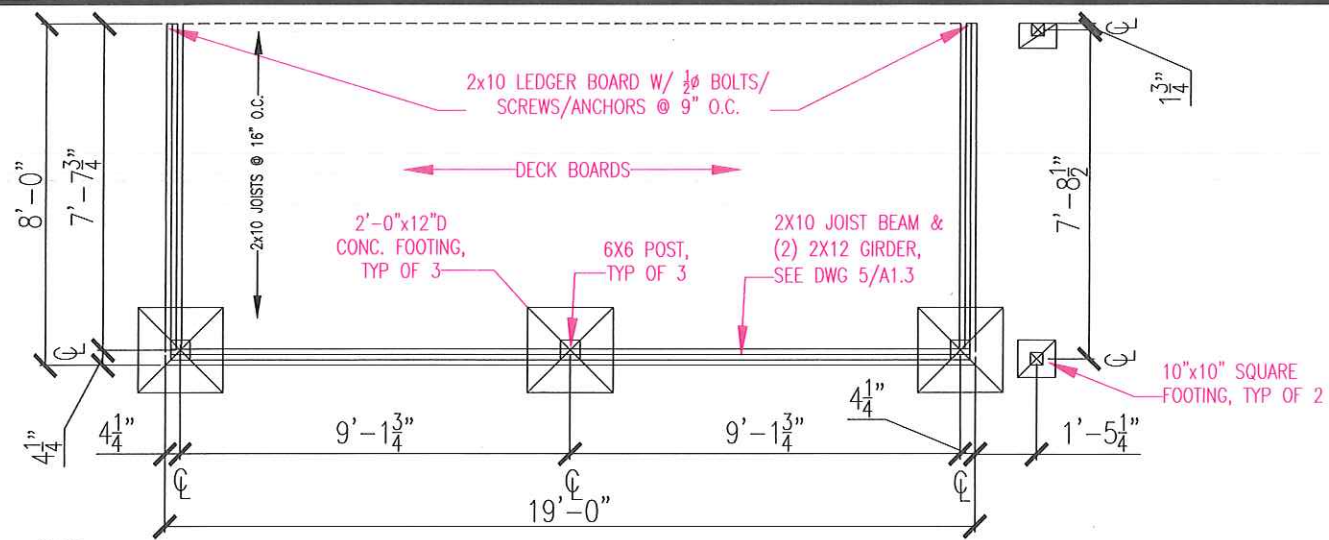
**MODERN DESIGNS**  
BUILDERS

**BERCH**

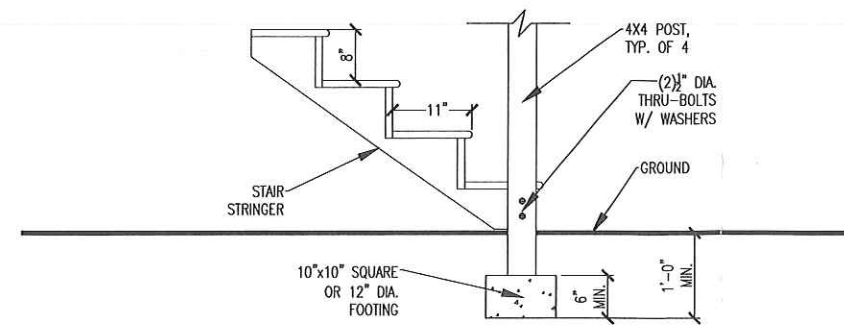
37843 WEST STONEY RUN, SELBYVILLE, DELAWARE

PROPOSED FLOOR  
PLANS &  
ELEVATIONS  
SCALE: 1/4" = 1'-0"  
DATE: 09/21/21  
DRAWN BY: JLR

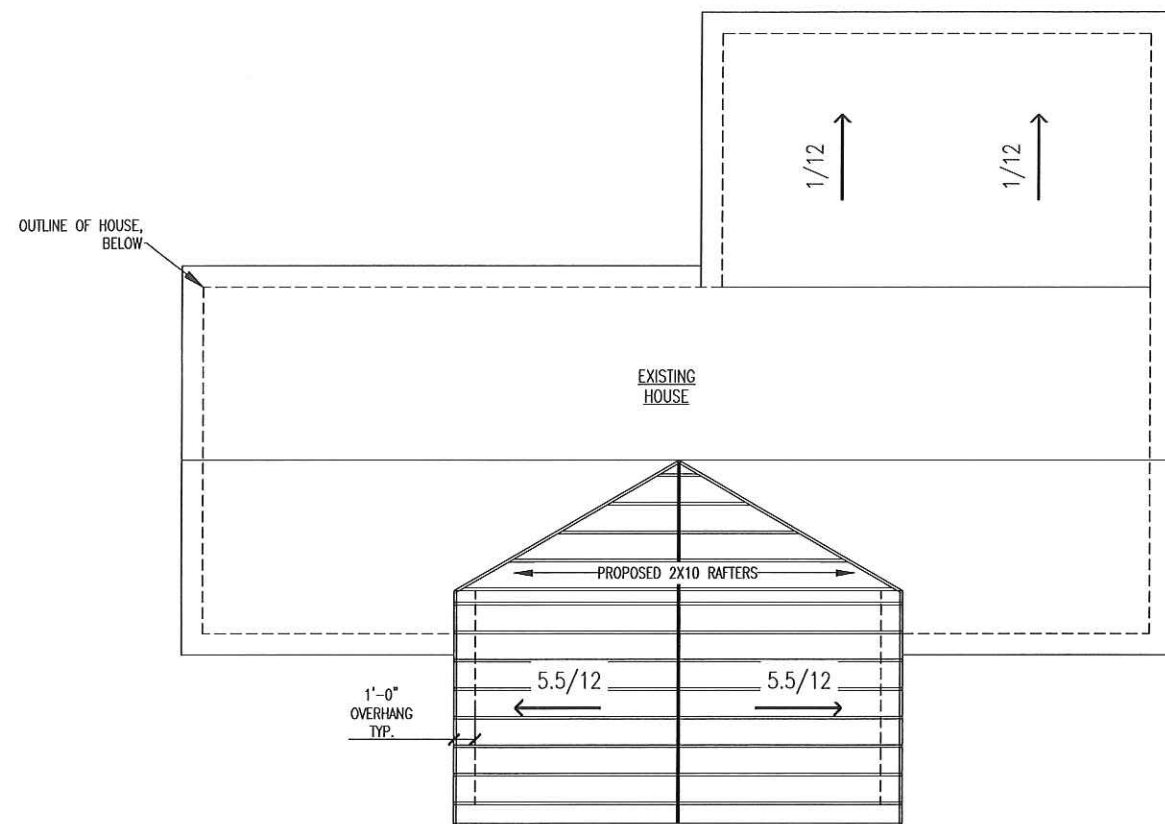
A1.2



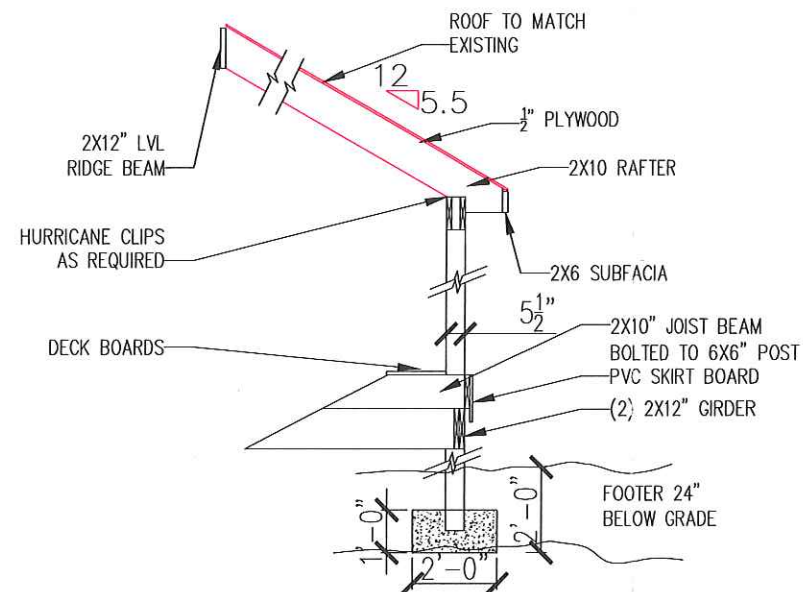
1 PROPOSED FOUNDATION & FRAMING PLAN  
A1.3 SCALE: 1/2" = 1'-0"



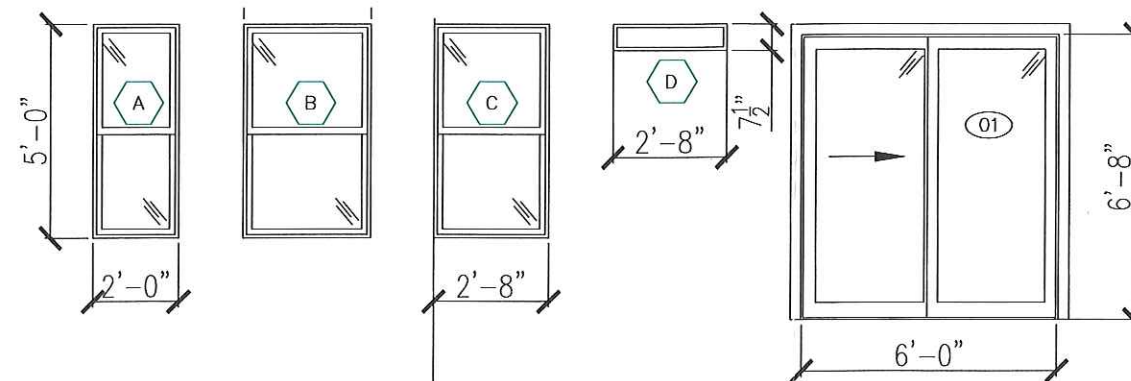
4 TYPICAL STAIR FOOTER DETAIL  
A1.3 SCALE: 1" = 1'-0"



2 PROPOSED ROOF FRAMING PLAN  
A1.3 SCALE: 1/2" = 1'-0"



3 TYPICAL COVERED PORCH SECTION  
A1.3 SCALE: 1/2" = 1'-0"



4 WINDOW & DOOR SCHEDULE  
A1.3 SCALE: 1/2" = 1'-0"



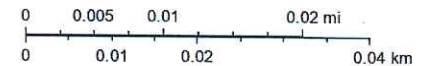
# Sussex County



<b>PIN:</b>	533-19.00-697.00
<b>Owner Name</b>	BERCH DAVID K
<b>Book</b>	4061
<b>Mailing Address</b>	5660 FRENCH AVE
<b>City</b>	SYKESVILLE
<b>State</b>	MD
<b>Description</b>	KEENWICK SOUND
<b>Description 2</b>	LOT 286
<b>Description 3</b>	PHASE II
<b>Land Code</b>	

- Special Access ROW**
- Extent of Right-of-Way**
- 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

1:564



Case # 12749  
Hearing Date 202210647

## 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)

115-25 115-183 115-185

### Site Address of Variance/Special Use Exception:

34031 WOODLAND AV. LEWES DEL. 19958

### Variance/Special Use Exception/Appeal Requested:

FIFTEEN FOOT VARIANCE FROM THE REAR YARD SETBACK OF 20 FT.

Tax Map #: 335-8-18-24-02 Property Zoning: AR-1

### Applicant Information

Applicant Name: NORMAN GRUWELL  
Applicant Address: 34031 WOODLAND AV  
City LEWES State DE Zip: 19958  
Applicant Phone #: 6103683960 Applicant e-mail: NORMGRUWELL2@GMAIL.COM

### Owner Information

Owner Name: SAME AS ABOVE  
Owner Address: \_\_\_\_\_  
City \_\_\_\_\_ State \_\_\_\_\_ Zip: \_\_\_\_\_ Purchase Date: \_\_\_\_\_  
Owner Phone #: \_\_\_\_\_ Owner e-mail: \_\_\_\_\_

### Agent/Attorney Information

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

### Signature of Owner/Agent/Attorney

*Norman Gruwell*

Date: 7/22/22



**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.

GUY WIRE IS MAKING TURNING RADIUS TO SMALL

I HAVE HOMES ON PROPERTY (TWO)

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.

DRIVEWAY WOULD BE MOST CONVENIENT AT  
THAT LOCATION

3. Not created by the applicant:

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

TELEPHONE POLE AND GUY WIRES WERE NOT PUT IN  
BY ME

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

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

THE LOCATION WOULD MAKE IT MORE LOGICAL  
FOR APPEARANCE

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.

SHIFTING IT BACK WOULD MAKE TURNING RADIUS  
MORE LOGICAL



**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)

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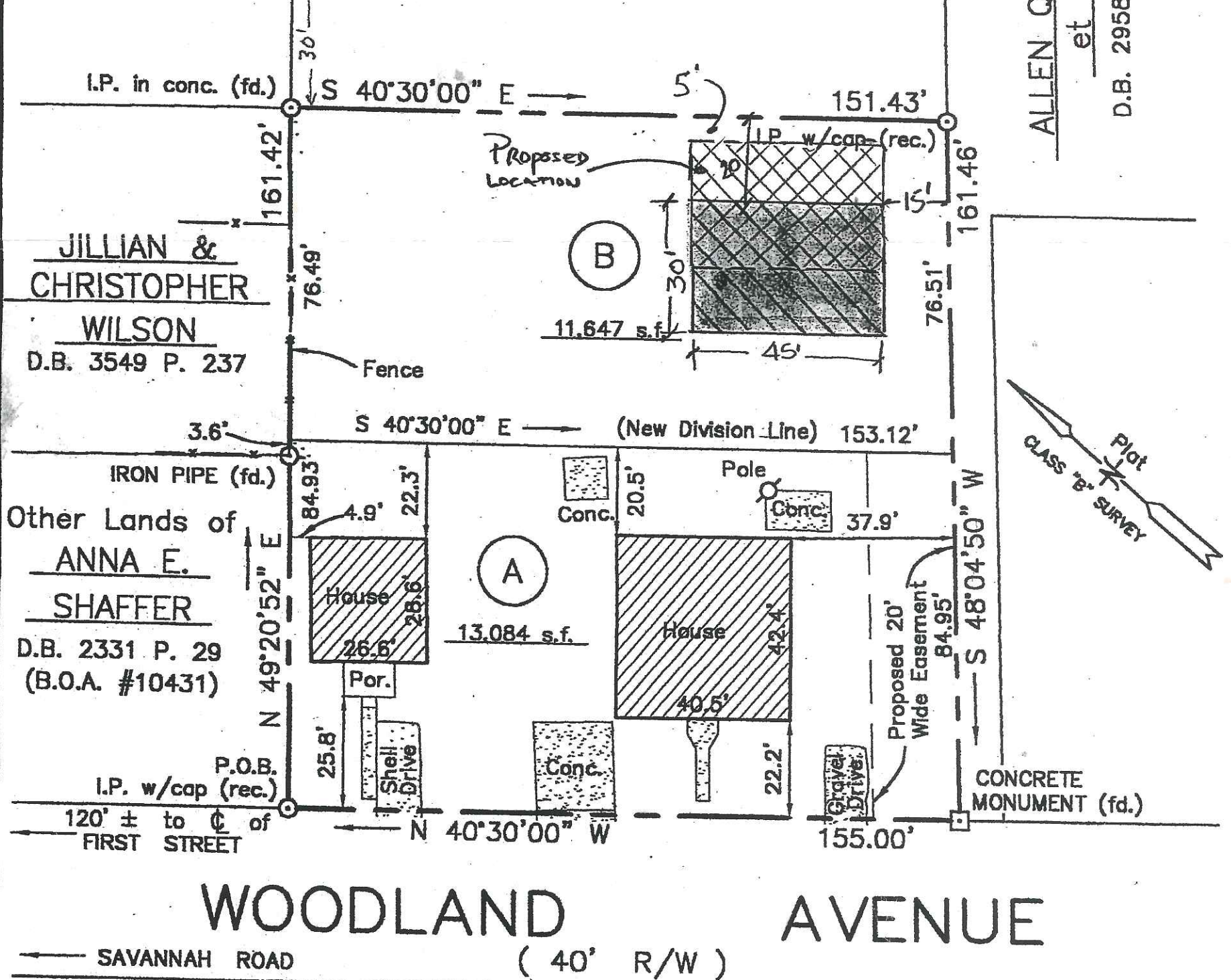
**Basis for Appeal:** (Please provide a written statement regarding reason for appeal)

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SUZETTE &  
DAVID HURST  
D.B. 2331 P. 26

Other Lands of  
ANNA E. SHAFFER  
D.B. 2331 P. 29

ALLEN QUILLEN,  
et al.  
D.B. 2958 P. 217



WOODLAND AVENUE  
(40' R/W)  
SAVANNAH ROAD

SECOND STREET

Partition of  
24,731 s.f. Lot

Prepared for

NORMAN GRUWELL

Located in

LEWIS & CLARK COUNTY, MISSISSIPPI

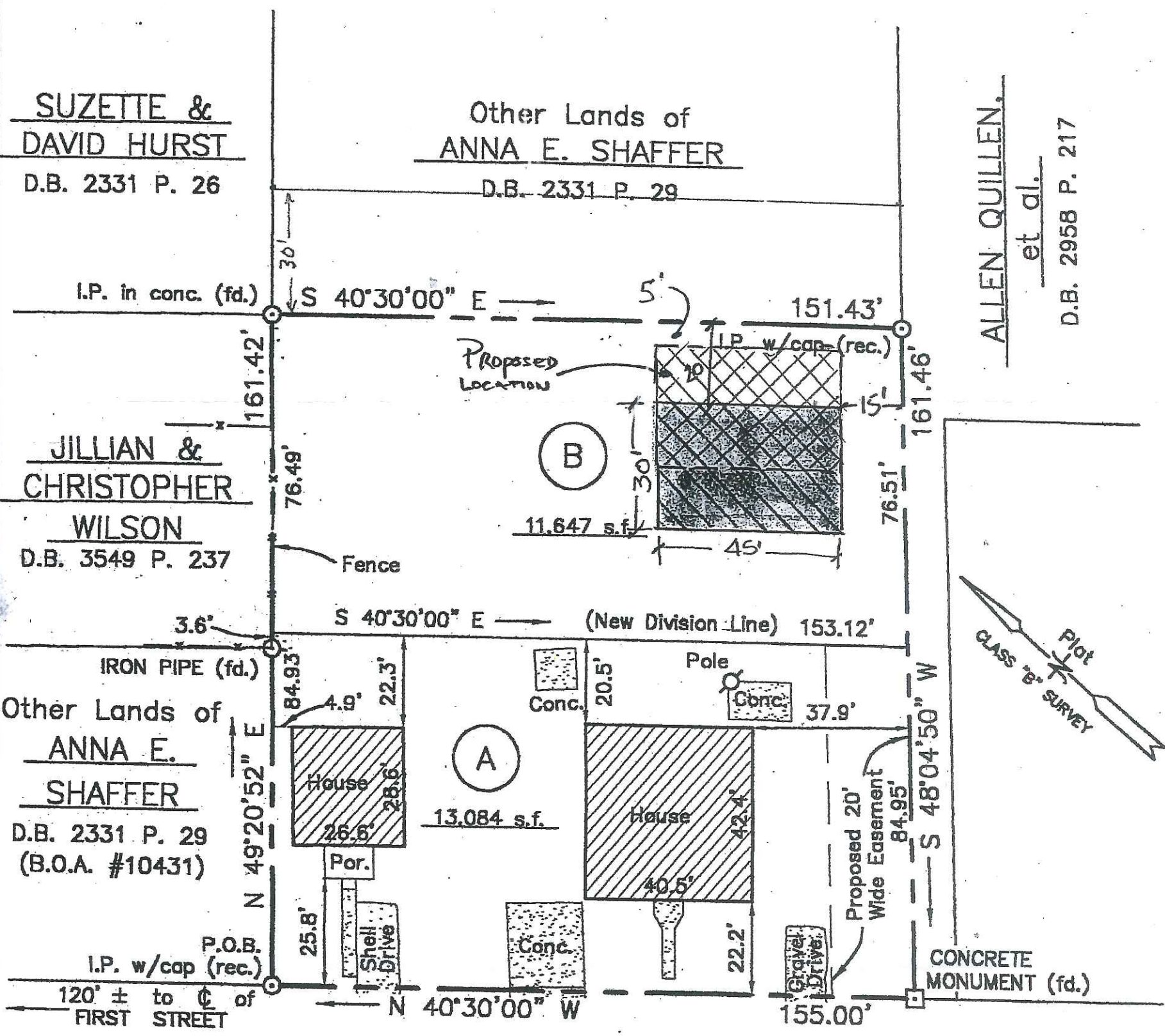
SUZETTE &  
DAVID HURST  
D.B. 2331 P. 26

Other Lands of  
ANNA E. SHAFFER  
D.B. 2331 P. 29

ALLEN QUILLEN,  
et al.  
D.B. 2958 P. 217

JILLIAN &  
CHRISTOPHER  
WILSON  
D.B. 3549 P. 237

Other Lands of  
ANNA E.  
SHAFFER  
D.B. 2331 P. 29  
(B.O.A. #10431)



# WOODLAND AVENUE

SAVANNAH ROAD (40' R/W)

SECOND STREET

## Partition of 24,731 s.f. Lot

Prepared for

### NORMAN GRUWELL

Located in

LEWIS & CLARKE COUNTY, MISSISSIPPI



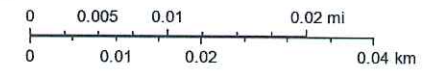
# Sussex County



<b>PIN:</b>	335-8.18-24.02
<b>Owner Name</b>	GRUWELL NORMAN
<b>Book</b>	3857
<b>Mailing Address</b>	125 RONALDSON ST
<b>City</b>	MEDIA
<b>State</b>	PA
<b>Description</b>	NE/WOODLAND AVE
<b>Description 2</b>	NE/2ND ST
<b>Description 3</b>	N/A
<b>Land Code</b>	

- polygonLayer**
  - Override 1
  - Special Access ROW
  - Extent of Right-of-Way
- 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

1:564



Case # 12751  
Hearing Date 11-7  
202211179

**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)  
115-25 115-183

Site Address of Variance/Special Use Exception:

30954 POOLE CT

Variance/Special Use Exception/Appeal Requested:

3' X 3' VARIANCE

Tax Map #: 1-34-6.00-208.00

Property Zoning: AR-1

**Applicant Information**

Applicant Name: JOHN T. COVELLI  
Applicant Address: 30954 POOLE CT  
City DAGSBORO State DE Zip: 19939  
Applicant Phone #: 302-448-5860 Applicant e-mail: JTCFIXER@MCHSI.COM

**Owner Information**

Owner Name: JOHN T. COVELLI  
Owner Address: 30954 POOLE CT  
City DAGSBORO State DE Zip: 19939 Purchase Date: \_\_\_\_\_  
Owner Phone #: 302-448-5860 Owner e-mail: JTCFIXER@MCHSI.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: 8-2-22



**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.

*Too Close To SEPTIC SYSTEM*

---

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.

*NO OTHER PLACE FOR SHED*

---

3. Not created by the applicant:

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

*Property purchased w/ SEPTIC, P, BOX + SHED  
location as noted*

---

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.

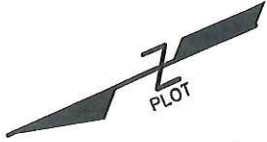
*See attached Photos of neighboring properties*

---

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.

*Looking for minimum Amount of footage*

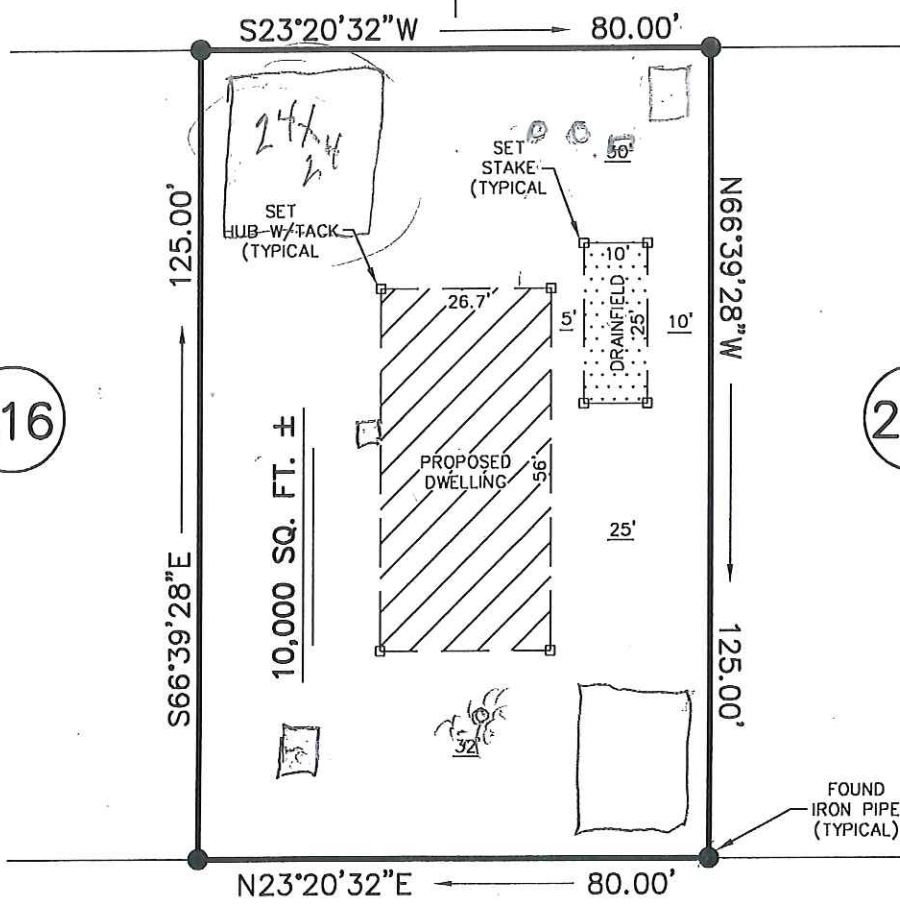


201

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216

214



**POOLE COURT**  
(50' WIDE)

*Maxwell J. Morris*

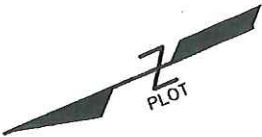
<b>DELAWARE SURVEYING SERVICES</b> MAXWELL J. MORRIS, DE. PLS #625 P.O. BOX 88 BETHANY BEACH, DE. 19930 (302) 537-7094	DATE: MARCH 29, 2018	PLOT REF: P.B. 8, P. 494
	SCALE: 1" = 30'	TAX MAP #: 1-34-6.00-208.00
<b>BOUNDARY SURVEY &amp; HOUSE STKT.</b> CLASS "B" SURVEY		

DESCRIPTION:	LOT 215, SECTION 4, " DOGWOOD ACRES "	DRAWING #:
	BALTIMORE HUNDRED * SUSSEX COUNTY * DELAWARE	18-010







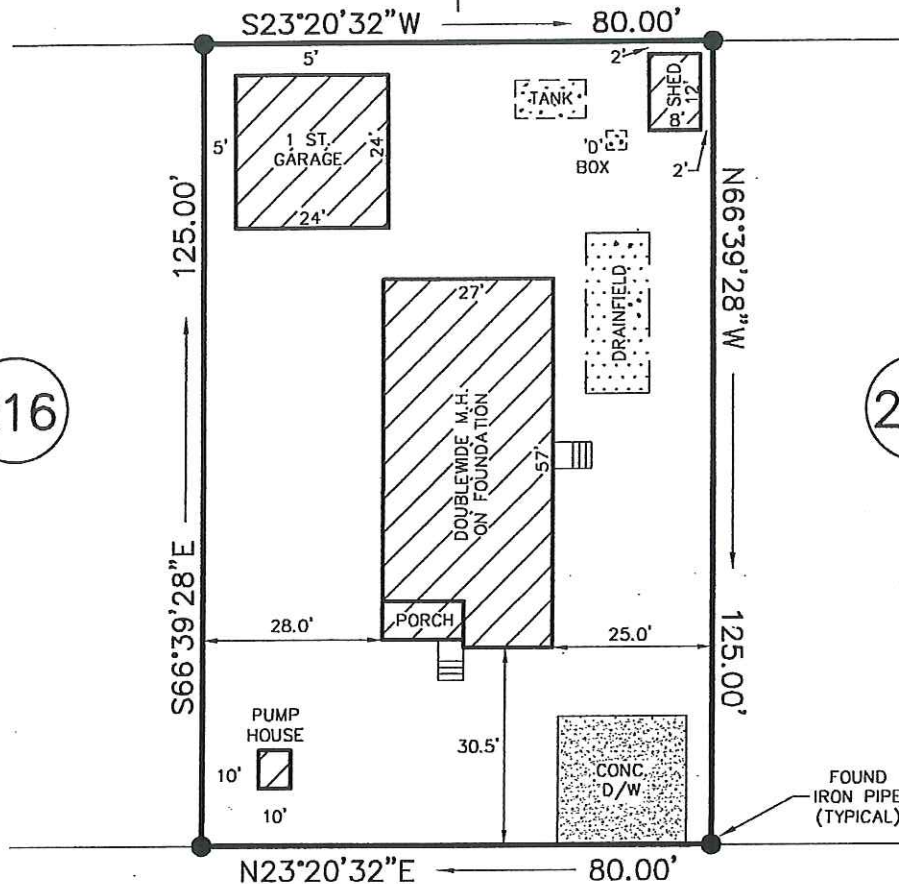


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**POOLE COURT**

(50' WIDE)

*Maxwell J. Morris*

AREA = 10,000 SQ. FT. ±

<b>DELAWARE SURVEYING SERVICES</b> MAXWELL J. MORRIS, DE. PLS #625 P.O. BOX 88 BETHANY BEACH, DE. 19930 (302) 537-7094	DATE: <b>AUG. 10, 2022</b>	PLOT REF: P.B. 8, P. 494
	SCALE: <b>1" = 30'</b>	TAX MAP #: 1-34-6.00-208.00
<b>LOCATION SURVEY</b> CLASS "B" SURVEY		
DESCRIPTION:	<b>LOT 215, SECTION 4, "DOGWOOD ACRES"</b> <b>BALTIMORE HUNDRED * SUSSEX COUNTY * DELAWARE</b>	DRAWING #: <b>18-010A</b>



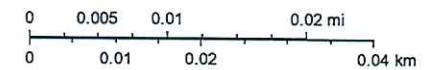
# Sussex County

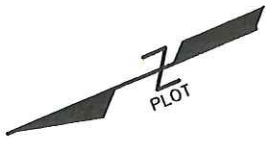


<b>PIN:</b>	134-6.00-208.00
<b>Owner Name</b>	COVELLI JOHN T TTEE REV TR
<b>Book</b>	4774
<b>Mailing Address</b>	30954 POOLE CT
<b>City</b>	DAGSBORO
<b>State</b>	DE
<b>Description</b>	DOGWOOD ACRES
<b>Description 2</b>	LOT 215
<b>Description 3</b>	CT#16339
<b>Land Code</b>	

- polygonLayer**
- Special Access ROW
  - Extent of Right-of-Way
- 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

1:564



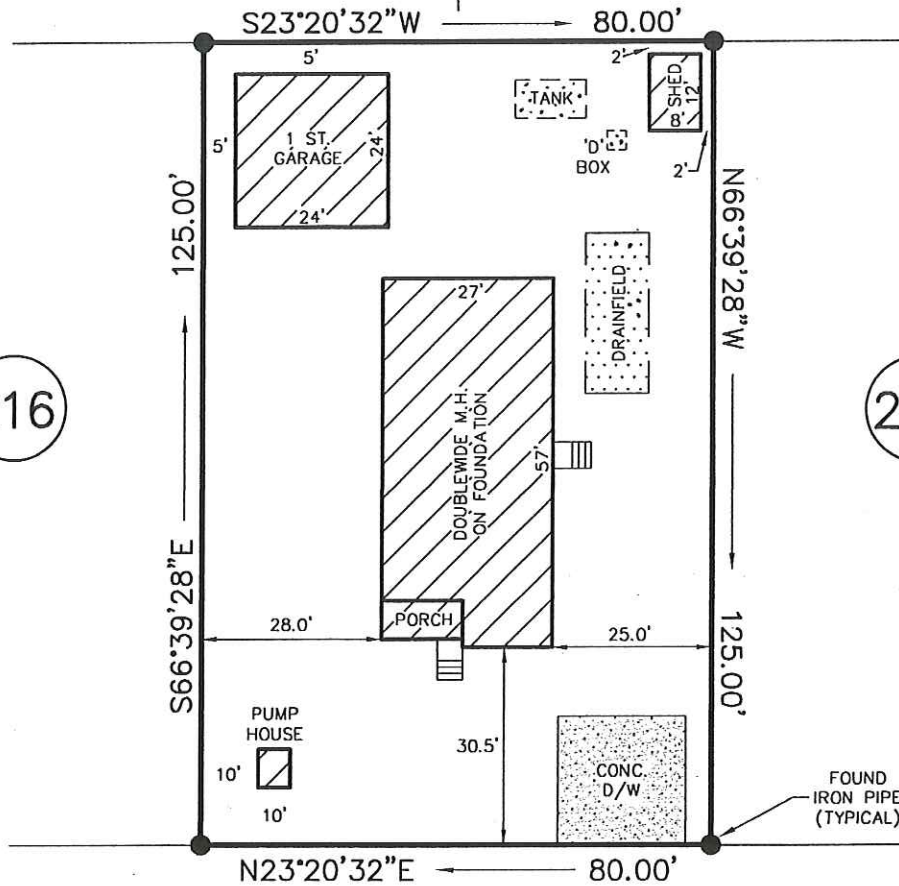


201

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214



**POOLE COURT**  
(50' WIDE)

*Maxwell J. Morris*

AREA = 10,000 SQ. FT. ±

**DELAWARE SURVEYING SERVICES**

MAXWELL J. MORRIS, DE. PLS #625  
P.O. BOX 88  
BETHANY BEACH, DE. 19930  
(302) 537-7094

DATE: AUG. 10, 2022

PLOT REF: P.B. 8, P. 494

SCALE: 1" = 30'

TAX MAP #: 1-34-6.00-208.00

**LOCATION SURVEY**

CLASS "B" SURVEY

DESCRIPTION:

LOT 215, SECTION 4, " DOGWOOD ACRES "  
BALTIMORE HUNDRED \* SUSSEX COUNTY \* DELAWARE

DRAWING #:

18-010A





Case # 12752  
Hearing Date \_\_\_\_\_

202211579

**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)

115-25 115-172 115-183

115-185

**Site Address of Variance/Special Use Exception:**

37269 Jasper View Lane, Millsboro, DE 19966

**Variance/Special Use Exception/Appeal Requested:**

Applicant seeks variances to allow construction of a freestanding 18' X 54' garage: 1) a 3' variance on the west side side yard setback (115-183); 2) a 5.18' variance from the 20' separation yard requirement (115-172); and, 3) an 8.73% variance from the 35% lot coverage requirement (115-25). This request represents a substantial change from Applicant's January 31, 2022 variance request denied on April 4, 2022.

**Tax Map #:** 234-25.00-31.00-8874

**Property Zoning:** AR-1

**Applicant Information**

Applicant Name: Herbert Reynolds

Applicant Address: c/o The Smith Firm, LLC, 323D Rehoboth Avenue

City Rehoboth Beach State DE Zip: 19971

Applicant Phone #: (302) 897-5663 Applicant e-mail: herbsparts777@gmail.com

**Owner Information**

Owner Name: \_\_\_\_\_

Owner Address: \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip: \_\_\_\_\_ Purchase Date: \_\_\_\_\_

Owner Phone #: \_\_\_\_\_ Owner e-mail: \_\_\_\_\_

**Agent/Attorney Information**

Agent/Attorney Name: Blake W. Carey, Esq.; The Smith Firm, LLC

Agent/Attorney Address: 323D Rehoboth Avenue

City Rehoboth Beach State DE Zip: 19971

Agent/Attorney Phone #: (302) 875-5595 Agent/Attorney e-mail: carey@vslcgai.net

**Signature of Owner/Agent/Attorney**

/s/ Blake W. Carey, DE Bar ID No 5145

Date: 7/14/22



**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 physically unique as the lot-size is significantly small (6,441.50), and an existing shed, telephone pole and sump pump do not allow a garage to be constructed within the front portion of the home and lot. Additionally, the home cannot be raised due to structural concerns with the same.

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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.

Due to the unique physical characteristics of the property, there is no possibility that the property can be developed in strict conformity with the code. As noted above, there is no other location for a garage other than that requested.

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3. Not created by the applicant:

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

The applicant did not create the lot size, nor can the applicant move the existing sump pump/pump house and telephone pole which were not placed by the applicant.

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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 variances will not alter the essential character of the neighborhood as several other homes in the community have free-standing garages. Further the location will not substantially or permanently impair the use of the adjacent property or its current view-shed, and a 2' walkway exists between the structure and the adjacent lot line to allow for maintenance and drainage. Finally, the structure will have no detrimental impact to public welfare as it poses no risk or danger to the public.

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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.

This variance represents a substantial change from a previous variance requested by the applicant, significantly reducing the proposed garage and meeting front and rear setbacks. It is the minimum variance that will allow for a usable detached garage suitable to the applicant's needs.



**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.

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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)

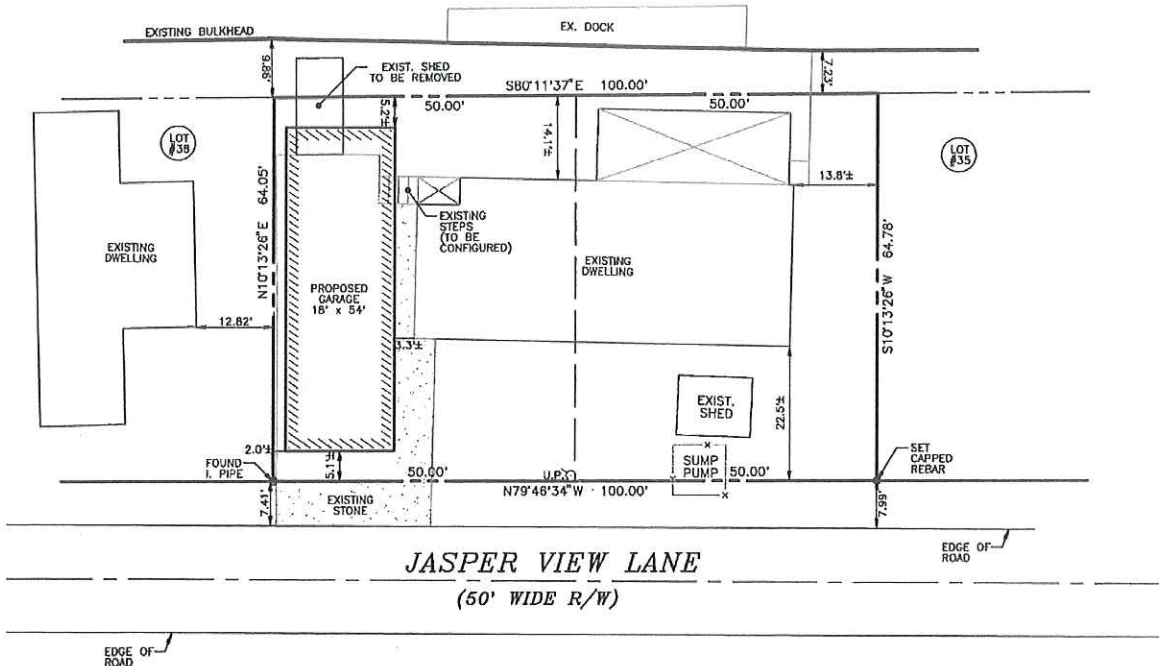
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**Basis for Appeal:** (Please provide a written statement regarding reason for appeal)

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NORTH LAGOON MARINA



JASPER VIEW LANE  
(50' WIDE R/W)

LOT SIZE--	6441.50 sq ft
EXISTING IMPERVIOUS--	1845 sq ft = 28%
PROPOSED IMPERVIOUS--	972 sq ft
TOTAL IMPERVIOUS--	2817 sq ft = 43.73%

FRONT SETBACKS:5
REAR SETBACKS:5
SIDE SETBACKS:5

SITE DATA:

- 1.) TAX PARCEL NUMBER 234-25.00-31.00-8874
- 2.) ZONING AR-1
- 3.) RECORD PLAT BOOK 297, PAGE 037
- 4.) OWNER/APPLICANT HERBERT & RUTH REYNOLDS  
3 CHASE LANE  
MIDDLETOWN, DE 19709
- 5.) SITE ADDRESS 37269 JASPER VIEW LANE  
MILLSBORO, DE 19966
- 6.) LOTS #36 & 37 PER PLOT BOOK 297, PAGE 037

THIS PLAN IS NOT TO BE USED FOR THE ESTABLISHMENT OF ANY PROPERTY LINES, CONSTRUCTION OF FENCES, PLACEMENT OF TREES OR SHRUBS, OR TO OBTAIN BUILDING PERMITS OF ANY KIND, AS THIS IS NOT A SURVEY BUT A LOCATION SURVEY PREPARED FOR THE USE OF THE APPROPRIATE LENDING INSTITUTION AND/OR TITLE INSURANCE COMPANY.

<p>LOCATION SURVEY FOR LANDS OF <b>37269 JASPER VIEW LANE</b> T.P. #234-25.00-31.00-8874 PREPARED FOR <b>HERBERT &amp; RUTH REYNOLDS</b> TOWN OF MILLSBORO SUSSEX COUNTY DELAWARE</p>	REV. per Sussex Co. P&Z	3/1/22	<p><b>Clifton L. Bakhsh, Jr., Inc.</b> Land Surveyors &amp; Planners 4450 Summit Bridge Road, Middletown, DE 19709 (302) 378-8009</p>
	REVISED PER CLIENT	4/18/22	
			<p>Date : <u>October 18, 2021</u> Drawn By : <u>F.R.Perno</u> Scale : <u>1" = 20'</u> Checked By : <u>[Signature]</u> Job No. : <u>BJ - 27336</u></p>
			<p>No. 720 APPROVED BY: <u>[Signature]</u> Sheet No. 1 of 1</p>
Revision	Date		

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: HERBERT REYNOLDS

(Case No. 12676)

A hearing was held after due notice on April 4, 2022. The Board members present were: Dr. Kevin Carson, Mr. Jeff Chorman, Mr. John T. Hastings, Mr. Jordan Warfel and Mr. John Williamson.

Nature of the Proceedings

This is an application for variances from the front yard setback, side yard setback, rear yard setback, maximum lot coverage and separation distance setback requirements for a proposed structure.

Findings of Fact

The Board found that the Applicant is requesting the following variances:

1. A variance of 5 feet from the five (5) feet front yard setback requirement for a proposed detached garage;
2. A variance of 5 feet from the five (5) feet rear yard setback requirement for a proposed garage;
3. A variance of 5 feet from the five (5) feet side yard setback requirement on the west side for a proposed garage;
4. A variance of 7.18 feet from the twenty (20) feet separation requirement between structures in a manufactured home park for a proposed garage to be located 12.82 feet from a dwelling on the adjacent Lot 38; and
5. A variance of 13% from the 35% lot coverage requirement (or 870 square feet over the 35% lot coverage requirement) for a proposed garage in a manufactured home park.

This application pertains to certain real property located on the north side of Jasper View Lane within the Masseys Landing manufactured home park (911 Address: 37269 Jasper View Lane, Millsboro); said property being identified as Sussex County Tax Map Parcel Number 234-25.00-31.00-8874 ("the Property"). After a public hearing, the Board made the following findings of fact:

1. The Board was given copies of the Application, an aerial photograph of the Property, a site plan of the Property dated October 18, 2021, a letter from Massey's Landing Park, Inc., a survey of the Property dated October 18, 2021, correspondence, an administrative variance approval, and a portion of the tax map of the area.
2. The Board found that the Office of Planning & Zoning received two (2) letters in support of and no correspondence in opposition to the Application.
3. The Board found that Herbert Reynolds was sworn in to testify about the Application.
4. The Board found that Mr. Reynolds testified that he recently retired from two (2) businesses restoring cars and selling parts which he has been doing such for most of his life and he wants to be able to work on his own vehicles but not as a mechanic for others.
5. The Board found that Mr. Reynolds testified that this garage was not his first choice of options for a structure as other options were not feasible. He noted that he looked at raising his house but a structural engineer said he could not do that and he also looked at offsite options but those options did not work for him either.

6. The Board found that Mr. Reynolds testified that he wants to store vehicles which he has had since his high school days and he is downsizing from his current home in Middletown where he had a 40 feet by 60 feet shop.
7. The Board found that Mr. Reynolds testified that he has support from his neighbors.
8. The Board found that Mr. Reynolds testified that he would take care of any maintenance of his structure on an "as needed" basis.
9. The Board found that Mr. Reynolds testified that his lot is unique due to the sewer pump and telephone pole at his front yard.
10. The Board found that Mr. Reynolds testified that he purchased the lot as it is now and that he would have laid the Property out differently. He noted that all structures on the Property were existing when he purchased the Property.
11. The Board found that Mr. Reynolds testified that his neighbors have garages also including two neighbors who have multi-car garages.
12. The Board found that Mr. Reynolds testified that a smaller garage would not allow him the ability to do what he is attempting.
13. The Board found that Mr. Reynolds testified that the neighbors directly next to him would be the only persons affected as he would have to be on the neighbor's property to maintain the structure.
14. The Board found that Mr. Reynolds testified that he asked for no overhang on the roof towards the neighbor's property and that the garage will have a pitched roof.
15. The Board found that Mr. Reynolds testified that the Property has issues with flooding from the canal as the lagoon crests over the bulkhead.
16. The Board found that Mr. Reynolds testified that the garage would be a one (1) story structure but he is unsure of the exact height.
17. The Board found that Mr. Reynolds testified that he could probably make the garage smaller by about five (5) feet.
18. The Board found that Mr. Reynolds testified that his proposed garage would run the whole depth of his property.
19. The Board found that Mr. Reynolds testified that his neighbor's bump out is a living room or fun room.
20. The Board found that Mr. Reynolds testified that his shed is already located in the neighbor's view line of the lagoon.
21. The Board found that Mr. Reynolds testified that the shed measures 12 feet by 10 feet.
22. The Board found that Mr. Reynolds testified that a garage measuring 20 feet by 20 feet would not allow him to conduct himself in the way he would like.
23. The Board found that Mr. Reynolds testified that, if the pumphouse and telephone pole were not there, he could place his garage there with less need for variance.
24. The Board found that Mr. Reynolds testified that there is 7.41 feet from the edge of paving of Jasper View Lane to the front property line and that the telephone pole appears to be 10 to 15 feet from the road.
25. The Board found that Mr. Reynolds testified that he could do garage measuring 10 feet less, with 5 feet on the front and the rear.
26. The Board found that Mr. Reynolds testified that his home has no entrance from the front. Rather, the entrance is from the rear with steps on the side.
27. The Board found that Mr. Reynolds testified that his runoff would go to the lagoon.
28. The Board found that no one appeared in support of or in opposition to the Application.
29. Based on the findings above and the testimony and evidence presented at the public hearing and the public record, which the Board weighed and considered, the Board determined that the application failed to meet the standards for granting a variance. The findings below further support the Board's decision to deny the Application.

- a. The Applicant failed to demonstrate that the Property was unique and that the uniqueness of the Property has created an exceptional practical difficulty. The lot is a rectangular lot measuring 100 feet wide by 64 feet deep. The Property actually consists of 2 manufactured home lots identified as Lots 36 and 37. The lot is improved with a dwelling and sheds and the Applicant seeks to remove a shed and to place a large garage on the Property that will extend to the front, rear, and side yard property lines. The Applicant did not present substantial evidence of unique topography or other conditions which convinced the Board that the Applicant would be unable to develop or use the Property in strict conformity with the Code or that those conditions have created an exceptional practical difficulty. Rather, the difficulty is clearly the result of the Applicant's intention to over-develop the Property. As such, the Applicant has failed to demonstrate that there was some unique condition which has created the exceptional practical difficulty.
- b. The Applicant failed to prove that the Property could not be developed in strict conformity with the Sussex County Zoning Code. The Property has been previously developed with a house but the Applicant intends to further develop the Property with a large garage that will encroach into three setback areas and will significantly develop the Property beyond what is allowed under the Code. The Board is particularly disturbed by the fact that the garage will need a 100% variance from the front, side, and rear yard setback requirements. Rather than developing the lot to comply with the Code's setback requirements, it is clear that the Applicant has chosen not to build in strict conformity with the Code. The Applicant argues that a smaller garage will not suit his needs but the Applicant admits that he is downsizing from a larger home where he maintained a large workshop. The Property is already developed with a house and there was no evidence that the Property could not otherwise be reasonably used without the garage, or one which complied with the Code. While the size and location of a smaller garage, may not be of the size or in the location the Applicant prefers, the Applicant failed to demonstrate that he could not otherwise comply with the Code's setback requirements. Simply put, the Applicant is not entitled to have the garage in this location. For these reasons, the Board finds that the Property could be developed in strict conformity with the Code and that the variances are not necessary to enable reasonable use of the Property.
- c. The Board finds that the Applicant is creating his own exceptional practical difficulty by proposing to construct a garage which does not fit within the building envelope. The Applicant's decision to construct the garage of this size and in this location is the reason for the need for variances and has nothing to do with the size, shape, or condition of the Property. There is no unusual condition to the Property which has created this difficulty. The lot is a rectangular lot without a unique condition that limits the Applicant's ability to reasonably develop the lot. The Board was not convinced that the variance requests were the product of a *need*. Instead, the variance requests appear to be the product of a *want* as the Applicant seek to build and retain structures as proposed for purposes of convenience, profit, and / or caprice. Since the Applicant can develop the Property in compliance with the Sussex County Zoning Code, the need for the variances is something created by the Applicant's wants rather than an unusual physical condition relating to the Property. The Applicant has thus created his own exceptional practical difficulty.
- d. The Board finds that the Applicant failed to demonstrate that the variances, if approved, would not alter the essential character of the neighborhood, not

permanently impair the appropriate use or development of adjacent property, and not be detrimental to the public welfare. The Applicant has proposed an extreme deviation from the Sussex County Zoning Code by seeking a 100% variance from the front, side, and rear yard setback requirements. It is difficult to see how the garage could be maintained or erected without trespassing on neighboring lands. The Board also has concerns as the Applicant has noted that the lagoon crests over the bulkhead to the rear of the Property and the garage will drain all stormwater to the lagoon. The Applicant presented no substantial evidence as to how the addition of such a large garage would not exacerbate flooding or stormwater issues in the area. The proposed structure also would effectively create a wall along the shared property lines and would threaten the integrity of the buffer areas between properties as intended by the imposition of setback requirements in the Code.

- e. Since the variances are not necessary to enable the reasonable use of the Property, the Board also finds that the variances requested are not the minimum variances necessary to afford relief. Mr. Reynolds testified that he wants the new garage to use for his cars. The Board was not convinced by the Applicant of a need for this structure, particularly of this size. Rather, the Board finds that no variance is needed to afford relief. The Board also notes that Mr. Reynolds even testified that he could build a smaller garage.

The Board denied the variance application 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 denied. The Board Members in favor of the Motion to deny were Dr. Kevin Carson, Mr. Jeffrey Chorman, Mr. Travis Hastings, Mr. Jordan Warfel, and Mr. John Williamson. No Board Member voted against the Motion to deny the variance application.

BOARD OF ADJUSTMENT  
OF SUSSEX COUNTY



John Williamson  
Chair

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

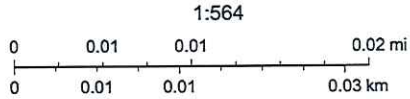
Date June 6, 2022

# Sussex County



August 10, 2022

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



State of Delaware, Maxar, Microsoft, DNREC, Division of Watershed Stewardship, Drainage Program, john.inkster@state.de.us, Sussex County Government, Sussex County Mapping and Addressing

Case # 12676  
Hearing Date 4-4-22  
202201463

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

Sussex County Planning & Zoning Department  
2 The Circle (P.O. Box 417) Georgetown, DE 19947  
902-855-7878 ph, 902-854-5079 fax

Type of Application: (please check all applicable)

Variance   
Special Use Exception \_\_\_\_\_  
Administrative Variance \_\_\_\_\_  
Appeal \_\_\_\_\_

Existing Condition \_\_\_\_\_  
Proposed \_\_\_\_\_  
Code Reference (office use only)  
115-25 115-183  
115-185 115-172

Site Address of Variance/Special Use Exception: 37269 Jasper View Ln.  
Millsboro, DE 19966

Variance/Special Use Exception/Appeal Requested: Variance requested  
for a Bldg involving front, side & rear yard  
5' - rear      5' - side      3' - front

Tax Map #: 234-25.00-31.00-8874 Property Zoning: AR-1

Applicant Information

Applicant Name: Herbert Reynolds  
Applicant Address: 3 Chase Ln.  
City, State, Zip: Middletown DE 19709  
Applicant Phone #: 302-997-5663 Applicant e-mail: herbsparts777@gmail.com

Owner Information

Owner Name: Same as Above  
Owner Address: \_\_\_\_\_  
City, State, Zip: \_\_\_\_\_ Purchase Date: \_\_\_\_\_  
Owner Phone #: \_\_\_\_\_ 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

[Signature] Date: 1-31-22





**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.

We wish to build a structure to which would enable me to continue working on my hobbies at retirement, such as classic cars. The only space available to do this is on the westerly side of our site. This is in preparation of retiring & moving to this 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.

If we were to build within conformity of the code, I would have less than an oversized 1 car garage

3. Not created by the applicant:

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

NONE. This is due to the lot size

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.

In step, with some of our neighbors in the community, this will not offer a distraction or impede public safety

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.

Anything less than the variance requested would be a non functional Bldg in my case

# Planning & Zoning Project Contact List

### Applicant Information

Applicant Name: Herbert Reynolds  
Applicant Address: 3 Chase Ln.  
City: Millsboro State: DE Zip: 19709  
Phone #: 302-897-5663 E-mail: herbsparts777@gmail.com

### Owner Information

Owner Name: Same  
Owner Address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
Phone #: \_\_\_\_\_ E-mail: \_\_\_\_\_

### Engineer/Surveyor Information

Engineer/Surveyor Name: Clifton L. Bakhsh, Jr. Inc  
Engineer/Surveyor Address: 445D Summit Bridge Rd.  
City: Middletown State: DE Zip: 19709  
Phone #: 302-378-8009 E-mail: info@cbakhsh.com

### Agent/Attorney Information

Agent/Attorney Name: N/A  
Agent/Attorney Address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
Phone #: \_\_\_\_\_ E-mail: \_\_\_\_\_

### Other

Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
Phone #: \_\_\_\_\_ E-mail: \_\_\_\_\_



### Check List for Applications

The following shall be submitted with the application

- Completed Application
- Provide a survey of the property (Variance)
  - Survey shall show the location of building(s), building setbacks, stairs, deck, etc.
  - Survey shall show distances from property lines to buildings, stairs, deck, etc.
  - Survey shall be signed and sealed by a Licensed Surveyor.
- Provide a Site Plan or survey of the property (Special Use Exception)
- Provide Fee \$400.00
- Provide written response to criteria for Variance or Special Use Exception (may be on a separate document if not enough room on the form)
- Copy of Receipt (staff)
- Optional - Additional information for the Board to consider (ex. photos, letters from neighbors, etc.)
- Please be aware that Public Notice will be sent to property owners within 200 feet of the subject site and County staff will come out to the subject site, take photos and place a sign on the site stating the date and time of the Public Hearing for the application.

*\*Please be advised that the decision of the Board of Adjustment is only final when the written decision is filed with the Board's secretary. To determine whether the written decision has been filed, you may call the Planning & Zoning Department at 302-855-7878. The written decision is generally completed within thirty (30) to sixty (60) days following the Board's vote on the application or appeal. Please include the case number when calling about the decision.*

*\*Please be advised that any action taken in reliance of the Board's decision prior to the filing of the written decision and the expiration of any applicable appeal period is taken at the Property Owner's Risk.*

The undersigned acknowledges that that he or she has read the application completely and that if the appellant / applicant is unable to convince the Board that the standards for granting relief have been met, the appeal / application will be denied.

Signature of Owner/Agent/Attorney

 \_\_\_\_\_

Date: \_\_\_\_\_

For office use only:

Date Submitted: \_\_\_\_\_

Fee: \$400.00 Check #: \_\_\_\_\_

Staff accepting application: \_\_\_\_\_

Application & Case #: \_\_\_\_\_

Location of property: \_\_\_\_\_

Subdivision: \_\_\_\_\_

Lot#: \_\_\_\_\_

Block#: \_\_\_\_\_

Date of Hearing: \_\_\_\_\_

Decision of Board: \_\_\_\_\_



Ruth Reynolds <herbsparts777@gmail.com>

---

**Massey's Variance**

1 message

---

**Connie Kapoor** <brickrx@gmail.com>

Tue, Feb 15, 2022 at 5:03 PM

To: herbsparts777@gmail.com

Please disregard the previous message...I entered the incorrect lot number for you. Below is corrected:

Herb and Ruth Reynolds,

We have reviewed the plans for improvement on lots 37/38 Massey's Landing, 37269 Jasper View Ln. We have no problems with the proposed garage plan and request for a variance for this structure to overlap the setback along, and up to the property line of the adjoining lot. The lessor of the neighboring affected lot is agreeable to the variance as well. We approve the plan as submitted, pending Sussex County agreement.

If you need anything else, please let us know.

Connie Kapoor, Secretary  
Massey's Landing Park, Inc.



Ruth Reynolds <herbsparts777@gmail.com>

---

**Property**

1 message

---

**Becka Fissel** <becka.fissel@gmail.com>  
To: herbsparts777@gmail.com

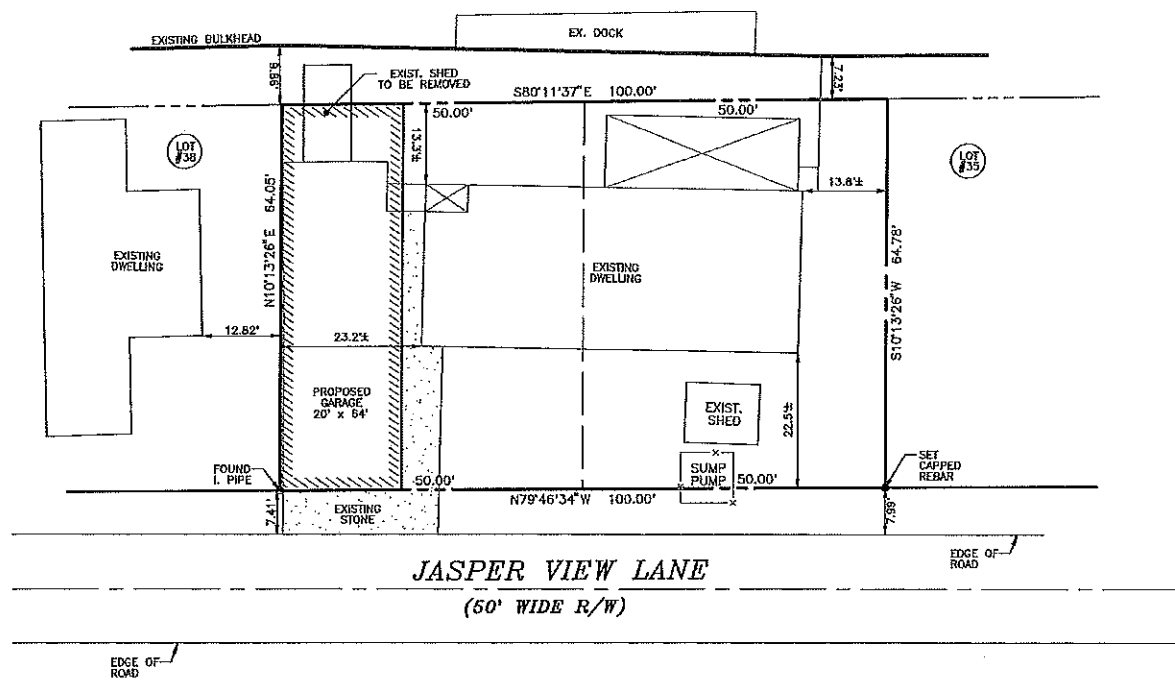
Sun, Jan 30, 2022 at 12:33 PM

I have no Problems or concerns with Herb and Ruth placing a building on the property line that is beside my property at 37263 Jasper View Lane.

Rebecca Fissel  
7174200737  
Sent from my iPhone



**NORTH LAGOON MARINA**



LOT SIZE-- 6441.50 sq ft
EXISTING IMPERVIOUS-- 1845.81 sq ft = 28%
PROPOSED IMPERVIOUS-- 1280.00 sq ft
TOTAL IMPERVIOUS-- 3125.81 sq ft = 48%

FRONT SETBACKS:5  
REAR SETBACKS:5  
SIDE SETBACKS:5

**SITE DATA:**

- 1.) TAX PARCEL NUMBER 234--25.00--31.00--8874
- 2.) ZONING AR--1
- 3.) RECDRD PLAT BOOK 297, PAGE 037
- 4.) OWNER/APPLICANT HERBERT & RUTH REYNOLDS  
3 CHASE LANE  
MIDDLETOWN, DE 19709
- 5.) SITE ADDRESS 37269 JASPER VIEW LANE  
MILLSBORO, DE 19966
- 6.) LOTS #36 & 37 PER PLOT BOOK 297, PAGE 037

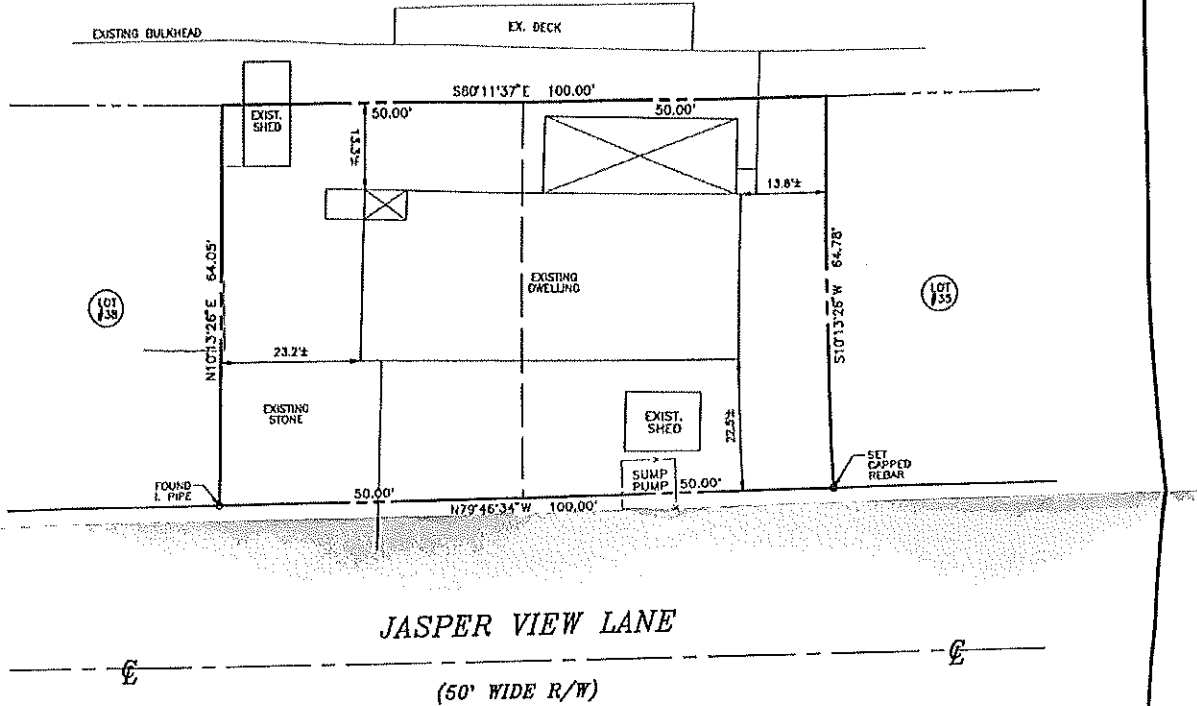
THIS PLAN IS NOT TO BE USED FOR THE ESTABLISHMENT OF ANY PROPERTY LINES, CONSTRUCTION OF FENCES, PLACEMENT OF TREES OR SHRUBS, OR TO OBTAIN BUILDING PERMITS OF ANY KIND, AS THIS IS NOT A SURVEY BUT A LOCATION SURVEY PREPARED FOR THE USE OF THE APPROPRIATE LENDING INSTITUTION AND/OR TITLE INSURANCE COMPANY.

<b>LOCATION SURVEY</b> FOR LANDS OF <b>37269 JASPER VIEW LANE</b> T.P. #234--25.00--31.00--8874 PREPARED FOR <b>HERBERT &amp; RUTH REYNOLDS</b> TOWN OF MILLSBORO SUSSEX COUNTY DELAWARE	REV. per Sussex Co. P&Z	3/1/22	<b>Clifton L. Bakhsh, Jr., Inc.</b> Land Surveyors & Planners 4450 Summit Bridge Road, Middletown DE 19709 (302) 378-8009 Date : October 18, 2021 Drawn By : F.R. Perno Scale : 1" = 20' Checked-By : Job No. 720 BJ 27356 APPROVED BY
Revision	Date	Sheet No. 1 of 1	

Unaltered existing lot



NORTH LAGOON MARINA



SITE DATA:

- 1.) TAX PARCEL NUMBER 234-25.00-31.00-8874
- 2.) ZONING AR-1
- 3.) RECORD PLAT BOOK 297, PAGE 037
- 4.) OWNER/APPLICANT HERBERT & RUTH REYNOLDS  
3 CHASE LANE  
MIDDLETOWN, DE 19709
- 5.) SITE ADDRESS 37269 JASPER VIEW LANE  
MILLSBORO, DE 19966
- 6.) LOTS #35 & 37 PER PLOT BOOK 297, PAGE 037

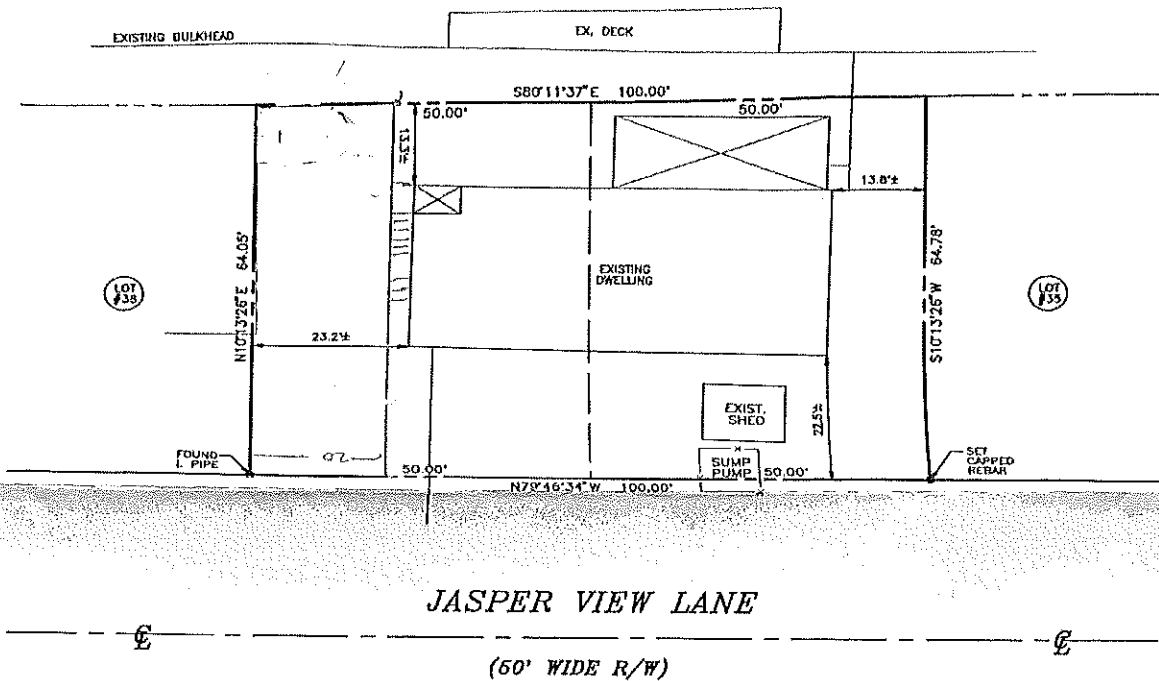
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<p>LOCATION SURVEY FOR LANDS OF <b>37269 JASPER VIEW LANE</b> T.P. #234-25.00-31.00-8874 PREPARED FOR HERBERT &amp; RUTH REYNOLDS TOWN OF MILLSBORO SUSSEX COUNTY DELAWARE</p>			<p><b>Clifton L. Bakhsh, Jr., Inc.</b> Land Surveyors &amp; Planners 4450 Summit Bridge Road, Middletown, DE 19709 (902) 378-8000</p>	
			<p>Date : <u>October 18, 2021</u> Drawn By : <u>F.R.Parno</u> Scale : <u>1" = 20'</u> Checked By : <u>[Signature]</u> Job No: <u>1912B/C 27336</u></p>	
			<p><u>[Signature]</u> APPROVED BY</p>	<p>110.720 Sheet No. <u>1</u> of <u>1</u></p>
	Revision	Date		

proposed Garage 20' x 64'



NORTH LAGOON MARINA



SITE DATA:

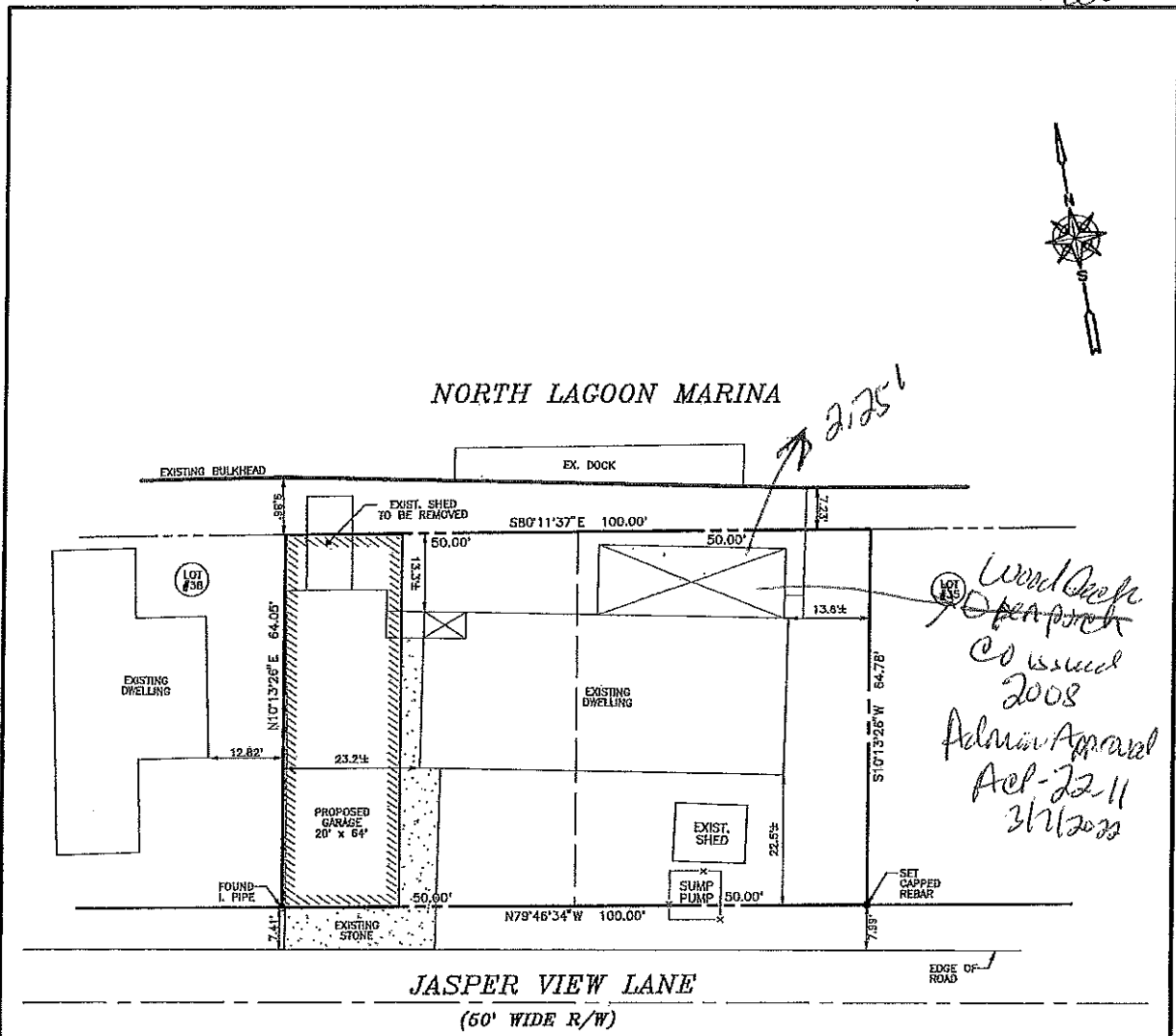
- 1.) TAX PARCEL NUMBER 234-25.00-31.00-8874
- 2.) ZONING AR-1
- 3.) RECORD PLAY BOOK 297, PAGE 037
- 4.) OWNER/APPLICANT HERBERT & RUTH REYNOLDS  
3 CHASE LANE  
MIDDLETOWN, DE 19709
- 5.) SITE ADDRESS 37269 JASPER VIEW LANE  
MILLSBORO, DE 19966
- 6.) LOTS #36 & 37 PER PLOT BOOK 297, PAGE 037

THIS PLAN IS NOT TO BE USED FOR THE ESTABLISHMENT OF ANY PROPERTY LINES, CONSTRUCTION OF FENCES, PLACEMENT OF TREES OR SHRUBS, OR TO OBTAIN BUILDING PERMITS OF ANY KIND, AS THIS IS NOT A SURVEY BUT A LOCATION SURVEY PREPARED FOR THE USE OF THE APPROPRIATE LENDING INSTITUTION AND/OR TITLE INSURANCE COMPANY.

<p>LOCATION SURVEY FOR LANDS OF <b>37269 JASPER VIEW LANE</b> T.P. #234-25.00-31.00-8874 PREPARED FOR HERBERT &amp; RUTH REYNOLDS TOWN OF MILLSBORO SUSSEX COUNTY DELAWARE</p>			<p><b>Clifton L. Bakhsh, Jr., Inc.</b> Land Surveyors &amp; Planners 4450 Summit Bridge Road, Middletown, DE 19709 (302) 378-0009</p>
	Revision	Date	
			<p>APPROVED BY: <i>[Signature]</i> No. 720 Sheet No. 1 of 1</p>



*D. Z. Review*



*Wood Creek Open Park Co issued 2008 Admin Approval April-22-11 3/1/2012*

*① 5' var from 5' Front, side, + rear  
 ② 17.18' var from 20' sep. rear, btr elements  
 ③ 13% var from 35% lot coverage OR 870 SF over the 35% allowable Max lot coverage*

LOT SIZE-- 6441.50 sq ft
EXISTING IMPERVIOUS-- 1845.81 sq ft = 28%
PROPOSED IMPERVIOUS-- 1280.00 sq ft
TOTAL IMPERVIOUS-- 3125.81 sq ft = 48%

FRONT SETBACKS: 5
REAR SETBACKS: 5
SIDE SETBACKS: 5

- SITE DATA:**
- TAX PARCEL NUMBER 234--25.00--31.00--8874
  - ZONING AR-1
  - RECORD PLAT BOOK 297, PAGE 037
  - OWNER/APPLICANT HERBERT & RUTH REYNOLDS  
3 CHASE LANE  
MIDDLETOWN, DE 19709
  - SITE ADDRESS 37269 JASPER VIEW LANE  
MILLSBORO, DE 19968
  - LOTS #36 & 37 PER PLOT BOOK 297, PAGE 037

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<p><b>LOCATION SURVEY</b> FOR LANDS OF <b>37269 JASPER VIEW LANE</b> T.P. #234--25.00--31.00--8874 PREPARED FOR <b>HERBERT &amp; RUTH REYNOLDS</b> TOWN OF MILLSBORO SUSSEX COUNTY DELAWARE</p>	REV. per Sussex Co. P&Z	3/1/22	<p><b>Clifton L. Bakhsh, Jr., Inc.</b> Land Surveyors &amp; Planners 4460 Summit Bridge Road, Middletown DE 19709 (302) 378-8009</p>	
	Date	October 18, 2023		Drawn By: J.R. Perno
	Scale	1" = 20'		Checked By: N. 720
				Job No.: 4 BJ CT 27358
	Revision			Date
			DELAWARE PROFESSIONAL LAND SURVEYOR Sheet No. 1 of 1	

**Administrative Correction Process  
Sussex County, Delaware**

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

**Type of Application:**

Permit/CO issued in Error

**Site Address of Variance:** 37269 Jasper View Lane

**Variance/Special Use Exception/Appeal Requested:** CO issued for open deck on rear of MH -  
2.75-ft var from 5-ft rear yard

**Tax Map #:** 234-25.00-31.00-8874      **Property Zoning:** AR-1

**Owner Information**

Owner Name: Herbert Reynolds  
Owner Address: 37269 Jasper View Lane  
City, State, Zip: Millsboro, DE 19966      Purchase Date: \_\_\_\_\_  
Owner Phone #: \_\_\_\_\_      Owner e-mail: \_\_\_\_\_

**Alternate Reference Information**

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

**Signature of Director/Director Designee**

Jennifer Norwood

Date: 3/7/2022



### Check List for Applications

The following shall be submitted with the application

- Completed Application
- Provide Building Permit for Structure
- Provide a survey of the property (Variance)
  - Survey shall show the location of building(s), building setbacks, stairs, deck, etc.
  - Survey shall show distances from property lines to buildings, stairs, deck, etc.
  - Survey shall be signed and sealed by a Licensed Surveyor.
- Optional - Additional information for the Board to consider (ex. photos, letters from neighbors, etc.)

*\*Please be advised that the decision of the Board of Adjustment is only final when the written decision is filed with the Board’s secretary. To determine whether the written decision has been filed, you may call the Planning & Zoning Department at 302-855-7878. The written decision is generally completed within thirty (30) to sixty (60) days following the Board’s vote on the application or appeal. Please include the case number when calling about the decision.*

*\*Please be advised that any action taken in reliance of the Board’s decision prior to the filing of the written decision and the expiration of any applicable appeal period is taken at the Property Owner’s Risk.*

The undersigned acknowledges that that he or she has read the application completely and that if the appellant / applicant is unable to convince the Board that the standards for granting relief have been met, the appeal / application will be denied.

Signature of Applicant/Staff Member

Jennifer Norwood \_\_\_\_\_

Date: \_\_\_\_\_

For office use only:

Date Submitted: \_\_\_\_\_ Fee: \$400.00 Check #: \_\_\_\_\_  
 Staff accepting application: \_\_\_\_\_ Application & Case #: \_\_\_\_\_  
 Location of property: \_\_\_\_\_

Subdivision: \_\_\_\_\_ Lot#: \_\_\_\_\_ Block#: \_\_\_\_\_  
 Date of Hearing: \_\_\_\_\_ Decision of Board: \_\_\_\_\_

**Chase Phillips**

---

**From:** stone97meyer@gmail.com  
**Sent:** Friday, September 23, 2022 3:19 PM  
**To:** Planning and Zoning; johncmeyer@yahoo.com  
**Subject:** Case No. 12527 request for Variance Extension  
**Attachments:** Request for Variance Extension.docx  
  
**Categories:** Chase

RECEIVED  
SEP 23 2022  
SUSSEX COUNTY  
PLANNING & ZONING

**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.

Attached is our request for our Variance Extension. Please contact me if you have any questions. We appreciate your review and consideration. Thank you!

Kathleen Stone  
1292 Sedgewick Dr.  
Downingtown PA 19335  
484-639-2298

---

38439 Carolina St  
Dewey Beach DE 19971

Kathleen Stone  
John Meyer  
38439 Carolina Street  
Dewey Beach, DE 19971  
[Stone97meyer@gmail.com](mailto:Stone97meyer@gmail.com)  
September 23, 2022

RECEIVED  
SEP 23 2022  
SUSSEX COUNTY  
PLANNING & ZONING

Mr. John Williamson  
Chairman  
Board of Adjustment  
2 The Circle,  
P.O. Box 417  
Georgetown, DE 19947

RE: Case No. 12527

Dear Mr. John Williamson:

We appreciate you hearing and approving our variance on May 17, 2021. We have been working with an architect, and builder to move forward with the property at 38439 Carolina St. Dewey Beach DE 19971. We were planning on meeting the August 2, 2023, deadline but unfortunately there have been a few issues that have caused delays in our progress. They include the following:

- Family illness
- Additional time for design because it is an irregular sized lot, and we are attempting to build a more “passive” house which adds complexity
- Delays that Covid placed on our builder’s previous project along with supply chain issues has forced a delay as to when they can begin work on our project.

We would like approval for a one-year extension of our variance approval moving the deadline to August 2, 2024. We appreciate your consideration for the extension.

Sincerely,

*Kathleen D Stone*

Kathleen Stone  
Homeowner

**BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY**

**IN RE: KATHLEEN D. STONE & JOHN C. MEYER**

**(Case No. 12527)**

A hearing was held after due notice on May 17, 2021. The Board members present were: Dr. Kevin Carson, Mr. Jeff Chorman, Mr. John Williamson, and Mr. Jordan Warfel.

Nature of the Proceedings

This is an application for variances from the front yard setback requirement and the landscape buffer requirements in the Combined Highway Corridor Overlay Zone (CHCOZ) for proposed structures.

Findings of Fact

The Board found that the Applicants are requesting the following variances: 1) a variance of 34.2 feet from the sixty (60) feet Combined Corridor Overlay Zone (CHCOZ) requirement for a proposed porch and steps, 2) a variance of 30.4 feet from the sixty (60) feet Combined Corridor Overlay Zone (CHCOZ) requirement for a proposed dwelling, 3) a variance of 14.2 feet from the forty (40) feet front yard setback requirement for proposed porch and steps, 4) a variance of 10.4 feet from the forty (40) feet front yard setback requirement for a proposed dwelling, and 5) a variance of 20 feet from the Combined Highway Corridor Overlay Zone (CHCOZ) requirement along Route 1 for an existing fence. This application pertains to certain real property located on the west side of Carolina Street approximately 90 feet northeast of Coastal Highway (Route 1) (911 Address: 38439 Carolina Street, Dewey Beach); said property being identified as Sussex County Tax Map Parcel Number 3-34-20.09-167.00. After a public hearing, the Board made the following findings of fact:

1. The Board was given copies of the Application, a survey of the Property dated May 29, 2019, a setback information request form, photographs, findings of fact for Case No. 11452, portions of the Sussex County Zoning Code, photographs, deeds, an aerial photograph of the Property, and a portion of the tax map of the area.
2. The Board found that the Office of Planning & Zoning received two letters in support of and no correspondence in opposition to the Application
3. The Board found that Kathleen Stone was sworn in to give testimony about the Application. Mackenzie Peet, Esquire, appeared on behalf of the Applicants. Ms. Peet provided a video to the Board, which was reviewed during the hearing.
4. The Board found that Ms. Peet stated that the Property is located along Route 1 in the area commonly referred to as the "Forgotten Mile".
5. The Board found that Ms. Peet stated that the Applicants are not seeking variances from the side yard setback requirements because the proposed dwelling will have the outdoor shower and HVAC systems flush with the dwelling.
6. The Board found that Ms. Peet stated that the existing dwelling, which was purchased by the Applicants in 2014, is non-conforming and needs to be replaced. Ms. Peet explained that the current home was built on a cinder block foundation and the house is not level. She noted that there were holes drilled into the cinder block in the basement and, when it rains, the water gathers in the yard and shoots through the holes in the cinder block and pours into the basement. According to Ms. Peet, there are two sump pumps to help relieve the problem and the Applicants invested in a \$40,000.00 rubber membrane surrounding the foundation but those efforts have not corrected the issue.
7. The Board found that Ms. Peet stated that the Property is a 5,334 square foot lot and is in the General Commercial Zoning District

8. The Board found that Ms. Peet stated that the building is located towards the rear of the Property but is almost entirely within the front yard setback and CHCOZ setback areas.
9. The Board found that Ms. Peet stated that the existing dwelling is in need of repair which prompted this Application.
10. The Board found that Ms. Peet stated that proposed porch and steps will be in the same location as the existing porch and steps.
11. The Board found that Ms. Peet stated that the fence was built prior to the adoption of the CHCOZ ordinance but Applicants would like to include the variance for the fence for completion for the entire property.
12. The Board found that Ms. Peet stated that the Property is a uniquely shaped flag lot with a uniquely shaped buildable area which includes the Applicants' driveway that limits the buildable area and these conditions have created an unusually shaped buildable area and an exceptional practical difficulty.
13. The Board found that Ms. Peet stated that the basement flooding from the unstable cinder block is unique and requires the demolition and construction of a replacement dwelling.
14. The Board found that Ms. Peet stated that the current conditions on the lot restrict the Applicants' reasonable use of the Property to make normal improvements to the aged existing structure.
15. The Board found that Ms. Peet stated that, because of the physical conditions, there is no possibility that the Property can be developed in strict conformity with the provisions of the Zoning Code.
16. The Board found that Ms. Peet stated that the buildable area is in the rear which is the location of the driveway and the only access to the Property.
17. The Board found that Ms. Peet stated that the existing dwelling has been located in the front yard setback for decades and was not created by the Applicants.
18. The Board found that Ms. Peet stated that the Applicants are proposing to make improvements to remedy the issues with the existing dwelling and will not be increasing the non-conformity of the dwelling.
19. The Board found that Ms. Peet stated that the variances will not alter the essential character of the neighborhood as the Applicants are proposing to rebuild the proposed structure in the same location as the existing structure. The new dwelling will have a foundation.
20. The Board found that Ms. Peet stated that there has been no opposition from neighbors and two letters of support have been included with the Application.
21. The Board found that Ms. Peet stated that these requests are the minimum variances necessary to afford relief and will represent the least modifications possible of the regulations in issue.
22. The Board found that Ms. Peet stated that Lots 5 and 6 were all one parcel originally but were subdivided and the easement historically existed over the front parcel.
23. The Board found that Ms. Peet stated that the front yard is considered to be along Route 1 but the access is from Carolina Street.
24. The Board found that Ms. Stone affirmed statements made by Ms. Peet as true and correct.
25. The Board found that Ms. Stone testified that the water is pumped out to the yard and flows back in the house again.
26. The Board found that Ms. Stone testified that a French drain was installed to pump out to the front of the Property.
27. The Board found that Ms. Stone testified that there have been no complaints about the location of the existing structure.
28. The Board found that Ms. Stone testified that is approximately 15 feet from the existing fence to the edge of paving of Route 1 and that there is gravel and curbing in that area.

29. The Board found that Ms. Stone testified that there are no additional plantings proposed for the Property in the CHCOZ area.
30. The Board found that no one appeared in support of or in opposition to the Application.
31. Based on the findings above and the testimony and evidence presented at the public hearing and the public record, which the Board found credible, persuasive, and un rebutted, the Board determined that the application met the standards for granting a variance. The findings below further support the Board's decision to approve the Application.
  - a. The Property is unique as it is a small and unusually shaped lot. The lot consists of only 5,334 square feet and is shaped like a flag. While the access to the lot is from Carolina Street, the Property is also adjacent to Route 1 and there are large setbacks from Route 1 that limit the lot's developable area. Since the only access to the Property is from Carolina Street, much of the building envelope towards the north side of the lot is needed for access and parking. The lot is quite narrow as it measures 42 feet wide along Route 1 and this size and shape has created an exceptionally limited building envelope. These conditions greatly restrict the building envelope on the Property and affect the Applicants' ability to reasonably develop the lot. It is clear to the Board that the lot's unique characteristics have created an unnecessary hardship and exceptional practical difficulty for the Applicants who seeks to make reasonable improvements on the lot.
  - b. The unnecessary hardship and exceptional practical difficulty are not being created by the provisions of the Sussex County Zoning Code.
  - c. Due to the uniqueness of the lot, the Property cannot be developed in strict conformity with the Sussex County Zoning Code. The Property is a small and unusually shaped lot. The Applicants seek to construct a new home with related structures on the lot but are 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 the Applicants to make those improvements on the Property. 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 Applicants. The Board also notes that the structures will be in a similar location to the existing structures.
  - d. The exceptional practical difficulty and unnecessary hardship were not created by the Applicants. The Applicants did not create the lot size or shape. Those conditions have limited the building envelope of the lot. The unique characteristics of the Property are clear when reviewing the survey. The Applicants also did not place the existing house on the lot and that house needs to be replaced due to major foundational issues. The house was placed on the lot by a prior owner years ago. The Board is convinced that the unnecessary hardship and exceptional practical difficulty were not created by the Applicants but was created the lot's unique characteristics and the deterioration of the existing home.
  - e. The variances will not alter the essential character of the neighborhood nor substantially or permanently impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare. The Board is convinced that the structures will have no effect on the character of the neighborhood. The dwelling (with porch and steps) will be located in a similar location to the prior house and structures and no complaints about those structures were noted in the record. The fence is existing and has been the lot for many years as well. Neighbors have indicated support of



the request and there was no evidence that the structures would present visibility concerns along Route 1. Furthermore, no evidence was presented which would indicate that the variances would somehow alter the essential character of the neighborhood or be detrimental to the public welfare.

- f. The variances sought are the minimum variances necessary to afford relief and the variances requested represent the least modifications possible of the regulations at issue. The Applicants have demonstrated that the variances sought will allow the Applicants to construct a reasonably sized home and related structures on the lot. The Board notes the Applicants were constrained by the unique conditions of the lot but still took efforts to minimize encroachments by redesigning the house, HVAC, and outdoor shower so that no side yard variances were needed. Even with those redesign efforts, variances were still needed.
- g. The condition or situation of the Property and the intended use of the Property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the Sussex County Zoning Code.

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

#### Decision of the Board

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

BOARD OF ADJUSTMENT  
OF SUSSEX COUNTY



John Williamson  
Chair

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

Date August 2, 2021