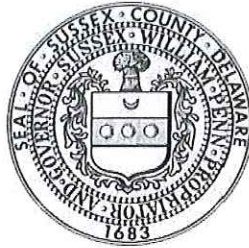


JAMIE WHITEHOUSE, AICP MRTPI
PLANNING & ZONING DIRECTOR
(302) 855-7878 T
(302) 854-5079 F
pandz@sussexcountyde.gov



Sussex County

DELAWARE
sussexcountyde.gov

Memorandum

To: Sussex County Board of Adjustment Members
From: Jamie Whitehouse, Director and Jennifer Norwood, Planning Manager
CC: James Sharp, Assistant County Attorney
Date: October 12, 2022
RE: BOA Case No. 12747 – Frank and Laura Taylor

This memo provides additional background information pertaining to the variance application located at 102 Adams Avenue, Milton based on a review by the Planning and Zoning Department. Tax Parcel 235-4.17-6.00.

- Backyard Works Inc. obtained a Building Permit for a vinyl fence proposed to be 104 linear feet and 48-inches in height and 70 linear feet of 60-inches in height
- Sussex County issued a Certificate of Compliance on March 30, 2020, following an inspection.
- On October 5, 2020, Mr. Whitehouse – Director of Planning and Zoning sent a letter to the property owner of 102 Adams Avenue regarding the height of the fence and what steps were needed to bring the fence into compliance with the Sussex County Zoning Code.
- Frank and Laura Taylor applied for a Variance from the maximum height requirement on April 22, 2021, after receiving a Notice of Violation from Sussex County due to the height of the fence exceeding 3.5-ft within 30 feet of the street line. The fence at that time was 5-ft in height.
- Sussex County Board of Adjustment denied Case No. 12572 for the variance from the maximum height requirement on June 21, 2021.
- On December 28, 2021, Mr. Whitehouse – Director of Planning and Zoning sent a letter to the Taylors' stating that the fence had not been brought into compliance or removed following the Board's decision and demanding that the fence be reduced in height.
- Planning and Zoning staff contacted Backyard Works Inc. several times regarding when the fence would be brought into compliance.
- On March 25, 2022, Sussex County Constable performed an inspection of the fence after modifications were made by Backyard Works Inc., finding that a portion of the fence was reduced to 3.5-ft in height.
- On April 5, 2022, Ms. Norwood – Planning Manager sent a letter to the Taylor's that a portion of the fence still exceeded the maximum allowable height requirement, included with the letter was a copy of the survey referenced as "Appendix A".
- On July 11, 2022, the Planning and Zoning Department received an application requesting a variance for the remaining portion of the fence that exceeds the maximum allowable height requirement for a fence in a front yard setback.



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



Sussex County

DELAWARE
sussexcountyde.gov

October 5, 2020

Frank Taylor and Laura Taylor
120 Woodstream Rd.
Boothwyn, PA, 19061.

RE: Fence Height – 102 Adams Avenue, Broadkilm Beach, Milton, DE, 19968
Tax Parcel: 235-4.17-6.00

Dear Mr. and Mrs. Taylor,

I am writing to you in relation a fence located on the above property that is more than 3.5-feet in height and is located within a side yard and is also within 30-feet of a street line.

115-185.C of the Sussex County Zoning Code States:

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...

A fence of more than 3.5-feet in height is not permitted within 30-feet of the street line of Adams Avenue.

If you wish to retain the fence in its current location, it will be necessary to request a variance from the Board of Adjustment for the increase in height of the fence above 3.5-feet in height. I have attached the relevant application form for the Board of Adjustment. The Application Fee is \$400.00 and a survey or plan showing the location of the fence will be required. Alternatively, you may relocate the fence so that it is not located within 30-feet of the street line.

I would appreciate your response within 30-days of the date of this this letter, so that a decision can be made as to how to proceed in this matter.

Please feel free to contact me with any questions during business hours 8:30am – 4:30pm Monday through Friday at 302-855-7878.

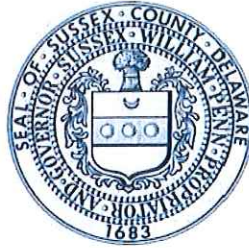
Sincerely,

Jamie Whitehouse, AICP
Director, Planning & Zoning Department



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

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



Sussex County

DELAWARE
sussexcountype.gov

December 28, 2021

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

Email: taylor120@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.

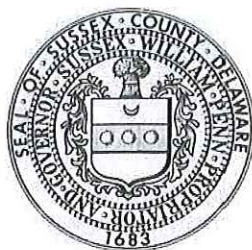
Sincerely,

Jamie Whitehouse, AICP
Director of Planning and Zoning

Cc: Lester Shaffer, Chief Constable



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



Sussex County

DELAWARE
sussexcountype.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

Appendix A

**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

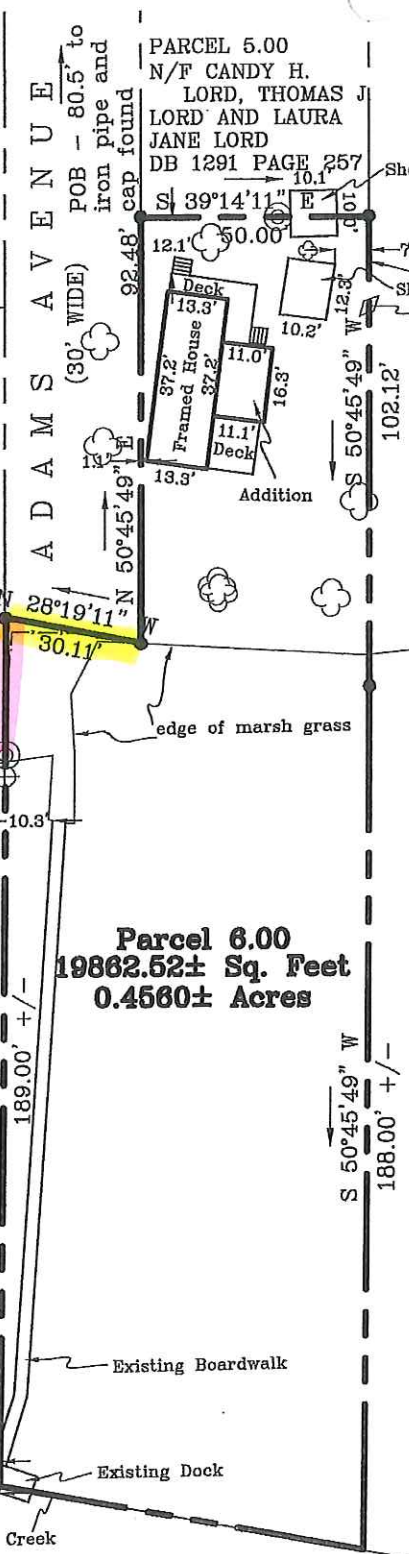
ZONING CLASSIFICATION: GR
YARD REQUIREMENTS:
FRONTYARD: 40'
SIDEYARD: 10'
REARYARD: 10'

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

*Yellow line indicates
Compliance*

*Pink line indicates
Violation of
height requirement*



**Parcel 6.00
19862.52± Sq. Feet
0.4580± Acres**

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

LEGEND

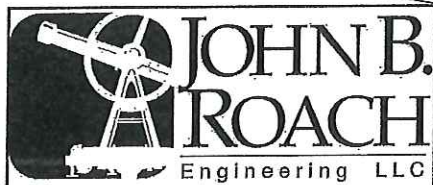
- Property Line
- x - x - Fence
- ⊙ Rebar and Cap Set
- Concrete Marker
- Iron Pipe
- ☁ Cedar Tree

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.



John B. Roach, Jr.
PROFESSIONAL ENGINEER



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

DRAWN BY: JBR

DATE: 10-03-2019

SCALE: 1"=40'

SHEET 1/1

Case # 12572
Hearing Date 6/21
202106217

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 X Existing Condition
Special Use Exception _____ Proposed _____
Administrative Variance _____ Code Reference (office use only) _____
Appeal _____

Site Address of Variance/Special Use Exception: 102 ADAMS AVE
Broadkill Beach Milton, DE 19968

Variance/Special Use Exception/Appeal Requested: We are requesting
a 1.5 FOOT HEIGHT VARIANCE FOR already erected
FENCE

Tax Map #: 235-4.17-6.00 Property Zoning: GR

Applicant Information

Applicant Name: FRANK Taylor AND LAURA Taylor
Applicant Address: 120 WOODSTREAM RD
City, State, Zip: Upper CHICHESTER, PA 19061
Applicant Phone #: 610 517 0610 Applicant e-mail: taylor5120@COMCAST.NET

Owner Information

Owner Name: FRANK Taylor AND LAURA Taylor
Owner Address: 102 ADAMS AVE Broadkill Beach
City, State, Zip: Milton DE 19968 Purchase Date: _____
Owner Phone #: 610 517 0610 Owner e-mail: taylor5120@COMCAST.NET

Agent/Attorney Information

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

Signature of Owner/Agent/Attorney

Frank Taylor
Laura A. Taylor

Date: 04-22-2021



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

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

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

1. Uniqueness of property:

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

see ATTACHED

2. Cannot otherwise be developed:

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

see ATTACHED

3. Not created by the applicant:

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

see ATTACHED

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

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

see ATTACHED

5. Minimum variance:

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

see ATTACHED

When visitors to Broadkill Beach cross the Rt 16 bridge and look south down Deep Hole Creek, our dock at the marsh is the first one that can be seen. Turning right onto S. Bayshore and coming upon Adams Ave one can turn onto Adams Ave and seeing a dead end with no fence on the property leading back to our dock/walkway could be mistaken for a public use access to Deep Hole Creek..We are seeking a 1'5" variance to help deter a clear view of our dock/walkway.

A few years ago, two ladies came upon our dock, got out of their canoe, carried it across our walkway and property to the end of Adams Ave, but the canoe on another neighbors lawn and waited for a ride.

We have also had people who we do not know want to go back to the water through our property to fish or crab.



side
fence



fence for the variance is here
The red circle is the beginning of the walkway.

Even the ferals enjoy it!



Criteria for a Variance

Uniqueness of Variance

The property holding the fence requiring a variance is at the dead end of a right of way (Adams Ave) The whole property is an "L" shape.

Given the uniqueness of the dead end of Adams Ave/right of way and the marsh behind the fence, we believe there is no chance for development on wet lands. Our additional property is to the left of the fence going south. The property to the right of the fence going north is owned by to Brenda L. Erdman.

3. The uniqueness of the lot created the exceptional practical difficulty. We purchased the lot in its current condition.

We hired a licensed contractor to install the fence with a permit. The contractor did not think the 5' fence would be a problem because it was not installed on the front of our property. The contractor was Backyard Works, 26822 Lewes Georgetown Hwy, Harbeson, DE 19951

Will not alter the essential character of the neighborhood.

We do not feel the height of the fence will or has altered the neighborhood.

Our neighbor, Brenda L Erdman, at 101/103 Adams Ave has altered the right of way since the fence was installed. Two beautiful 40+ year old cedar trees that were on our side of the right of way were removed by Ms Erdman sometime between May 15, 2020 and June 2, 2020. I have outlined this event in another section of our application along with pictures. Ms Erdman created a drastic change, not the fence. Ms Erdman also had crushed stone put on her property and approximately 10" across the right of way. That created a change, not the fence.

In our opinion, the fence in no way hinders Ms Erdman's ability to park her boat with a vehicle attached to it on her side of the right of way.

ERDMAN'S BOAT
↓

ERDMAN'S
↓ CAR



ERDMAN'S BOAT
↓

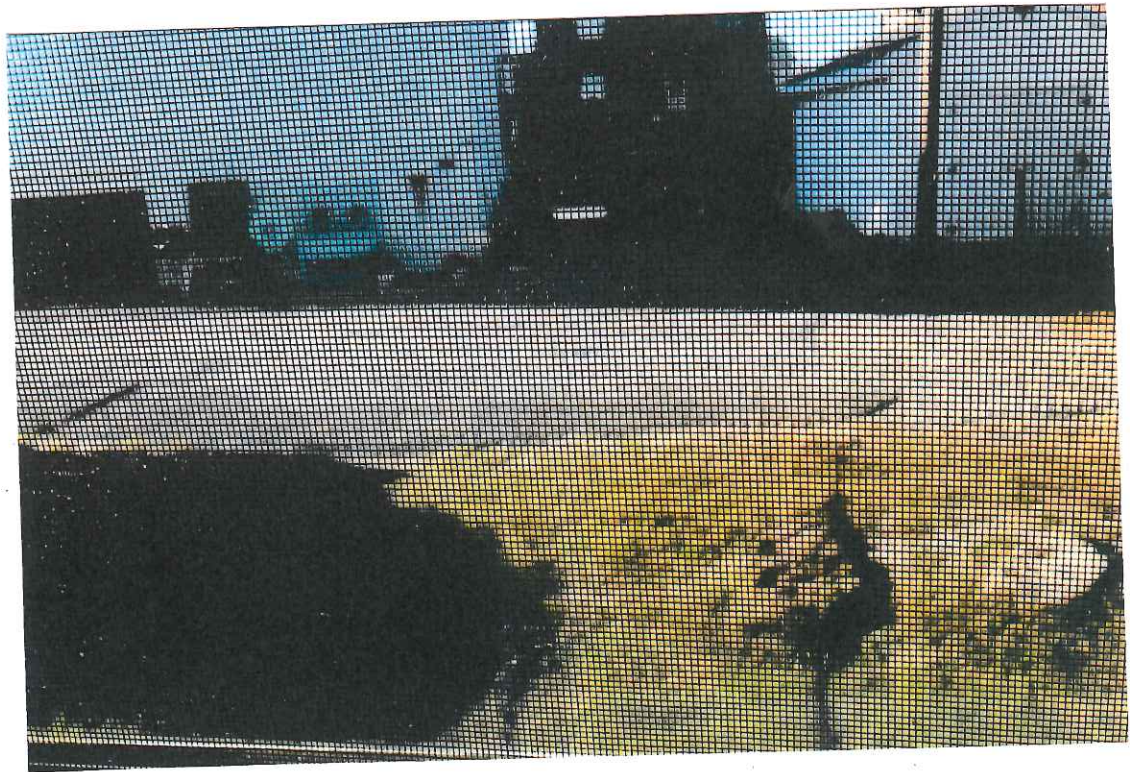


ERMAN'S BOAT AND VEHICLE IN FRONT OF FENCE

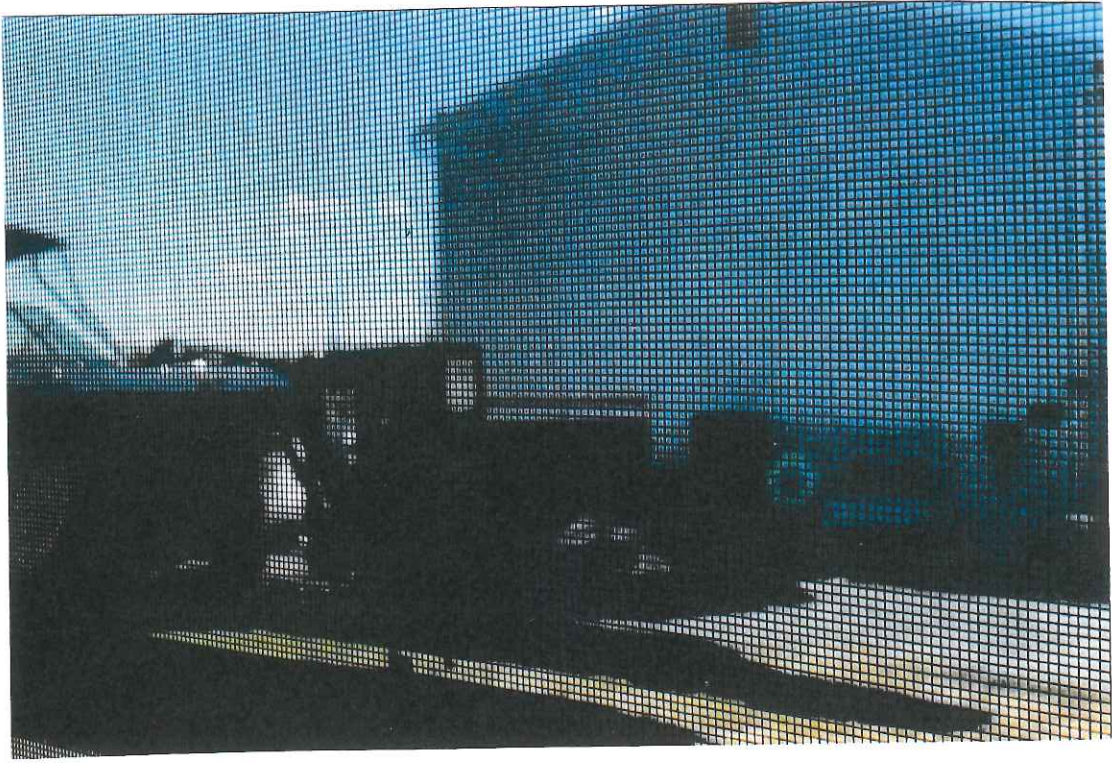




#4



#4



#4

We pay a gentleman to maintain the grass on our property at 102 Adams Ave. As part of the maintenance he trims the grass that grows along the front of the fence that runs horizontally across the end of Adams Ave/right of way. The entire width of the front of the fence is 34 feet.

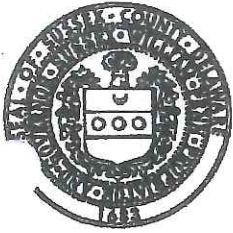
He also maintains our property behind the fence, the 10 foot right of way on our side of Adams Ave/right of way, and the 93 feet of our property going from the fence to the front of our house.

In October, 2020, we hired Randy & Mandy Landscape Company of Milton, DE to cut down the majority of fragmities on the back of our property.



Minimum variance:

We are asking to keep the fence at its current height of 5 feet.



**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

[Handwritten Signature]

Signature of Approving Official

[Handwritten Signature]

Signature of Owner/Contractor

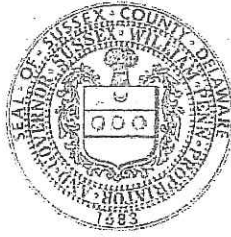
I fully understand the Zoning Requirements of this permit.

Building Permit Acknowledgement:

I/we the undersigned, acknowledge I/we have read and accept the terms of this Building Permit and shall comply with the rules and restrictions related to this building activity. This permit shall expire one (1) year from the date of issue. This permit may be renewed prior to its expiration date if construction has begun and continued in a normal manner and 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# 235-4.17-6.00
 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 *Heather Delgado*



meatner ueigado <meatner@backyardworks.net>

4/3/2020 10:54 AM

Final Inspection Verification

To: Laura Taylor <taylorl120@comcast.net> Copy: Bobbi Brooks <bobbib@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.

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: _____

922
158

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

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

SETBACKS: _____

ANY REMOVAL EXISTING: _____

IRRIGATION: _____

SPECIAL INSTRUCTIONS/ISSUES: _____

New England Caps

36' 18"

Quote

Follow-up

Follow-up

HOA Approval

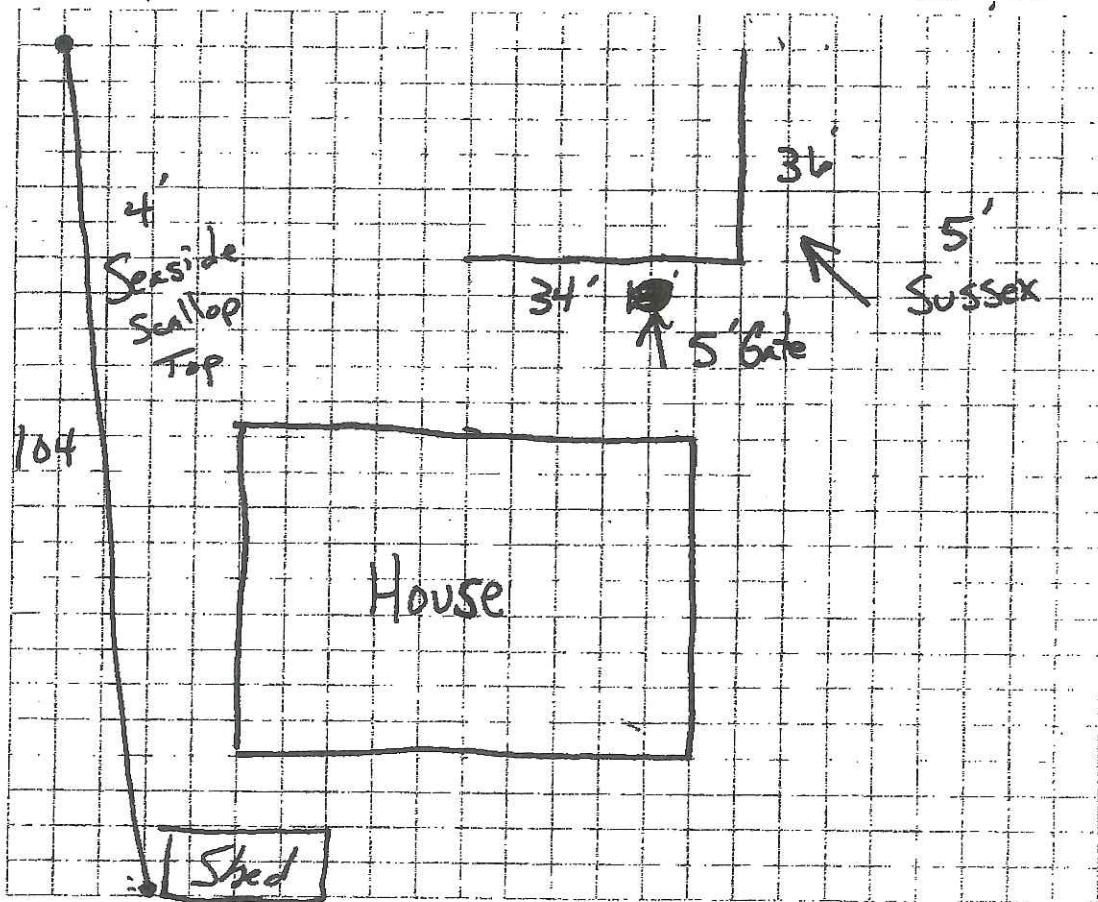
ETA

Materials Ordered

Permits

Miss Utility

Job Scheduled



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'

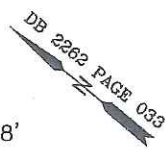
PARCEL 2.00
 N/F BRENDA L.
 ERDMAN
 DB 4413 PAGE 247

PARCEL 5.00
 N/F CANDY H.
 LORD, THOMAS J
 LORD AND LAURA
 JANE LORD
 DB 1291 PAGE 257

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

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

Parcel 6.00
19862.52± Sq. Feet
0.4560± Acres



LEGEND

- Property Line
- x-x- 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.



John B. Roach, Jr.
 PROFESSIONAL ENGINEER



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

DRAWN BY: JBR

DATE: 10-03-2019

SCALE: 1"=40'

SHEET 1/1

Prepared By:

Merritt Burke, III, Esquire
401-B Rehoboth Avenue
Rehoboth Beach, DE 19971
(302) 226-1800

Tax Map: 2-35 4.17 Parcels 6 &
Part of 7

THIS QUITCLAIM DEED, Made this 15 day of Jan, A.D.,
1998 between:

JENNIE H.J. LAYTON By Her Attorney In Fact, ANNE L. LAYTON of
202 North Bedford Street, Georgetown, Sussex County, Delaware,
party of the first part.

- AND -

FRANK I. TAYLOR and LAURA TAYLOR, his wife, of Delaware
County, Commonwealth of Pennsylvania, parties of the second part.

WITNESSETH. That the said party of the first part, for an in
consideration of the sum of ONE DOLLAR (\$1.00)-----, lawful money
of the United States of America, the receipt whereof is hereby
acknowledged, hereby grants and conveys unto the said party of the
second part.

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:

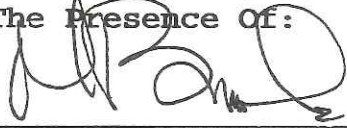
BEGINNING at the southwestern terminus of Adams Avenue, thence
traveling North 50 degrees 45 minutes 49 seconds East, by and along
the southerly right-of-way of Adams Avenue, a distance of 92.48
feet to a iron pipe set; thence turning and traveling South 39
degrees 14 minutes 11 seconds East, a distance 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 o the Recorder of Deeds,
Georgetown, Sussex County, Delaware in Deed Book 288 at Page 598.

BEING a part of the lands conveyed to Halsted P. Layton and
Jennie H.J. Layton, by deed of Marion Collins, dated May 22, 1945,
and of record in the Office of the Recorder of Deeds, at
Georgetown, Sussex County, Delaware, in Deed Book 351, Page 529.
The said Halsted P. Layton died February 8, 1963, leaving Jennie
H.J. Layton the sole owner in possession of these lands.

IN WITNESS WHEREOF, the said party of the first part has hereunto set her hand and seal the day and year aforesaid.

Anne L Layton (SEAL)
JENNIE H.J. LAYTON By Her
Attorney in Fact, ANNE L.
LAYTON

Sealed And Delivered
In The Presence Of:



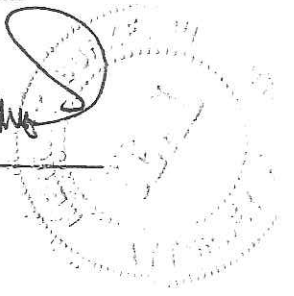
Witness

SWORN TO And SUBSCRIBED before me the day and year aforesaid.



NOTARY PUBLIC

MERRITT BURKE, III
ATTORNEY AT LAW
STATE OF DELAWARE
NOTARY POWER UNDER
10 DEL C S 4323



PREPARED BY:

Merritt Burke, III, Esquire
401-B Rehoboth Avenue
Rehoboth Beach, DE 19971
(302) 226-1800

Tax Map: 2-35-4.17
PART 85 102

THIS DEED, Made this 15 day of Jan, A.D., 1998
between:

JENNIE H.J. LAYTON By Her Attorney In Fact, ANNE L. LAYTON of
202 North Bedford Street, Georgetown, Sussex County, Delaware,
party of the first part,

- AND -

FRANK I. TAYLOR and LAURA TAYLOR, his wife, of Delaware
County, Commonwealth of Pennsylvania, parties of the second part.

WITNESSETH. That the said party of the first part, for an in
consideration of the sum of FIVE THOUSAND DOLLARS (\$5,000.00)-----,
lawful money of the United States of America, the receipt whereof
is hereby acknowledged, hereby grants and conveys unto the said
party of the second part.

ALL that certain lot, piece or parcel of land lying and being
at the southwestern terminus of Adams Avenue, as found on a plot of
Broadkill Beach, as the same now appears of record in the Office of
the Recorder of Deeds, Georgetown, Sussex County, Delaware, in Deed
Book 288 at Page 598 as follows, to-wit:

BEGINNING at the southwestern terminus of Adams Avenue, thence
traveling south 28 degrees 19 minutes 11 seconds East, a distance
of 50.92 feet to an iron pipe set; thence turning and running South
50 degrees 45 minutes 49 seconds West, a distance of 188 feet, more
or less to the top of the bank of Old Broadkill Creek; thence
turning and running North 29 degrees 25 minutes West, a distance of
81 feet, more or less to a point, said point being an extension of
the northerly right-of-way of Adams Avenue; thence turning and
running North 50 degrees 45 minutes 49 seconds East, a distance of
189 feet more or less to an iron pipe set, said iron pipe being the
northwest terminus of Adams Avenue; thence turning and running
South 28 degrees 19 minutes 11 seconds East, a distance of 30.11
feet, to the point and place of beginning, said area to contain
15,000 square feet of land, more or less.

It is the intent of the parties hereto that this parcel of
land shall merge into and become a part of the plot of land deeded
by this Grantor to these Grantees of even date and recorded in the
Office of the Recorder of Deeds, Georgetown, Sussex County,
Delaware in Deed Book 2262 at Page 31., said parcels to be
considered a single building lot.

BEING a part of the lands conveyed to Halsted P. Layton and Jennie H.J. Layton, by deed of Marion Collins, dated May 22, 1945, and of record in the Office of the Recorder of Deeds, at Georgetown, Sussex County, Delaware, in Deed Book 351, Page 529. The said Halsted P. Layton died February 8, 1963, leaving Jennie H.J. Layton the sole owner in possession of these lands.

IN WITNESS WHEREOF, the said party of the first part has hereunto set her hand and seal the day and year aforesaid.

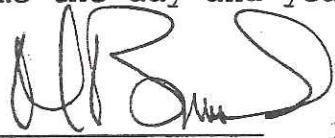
Anne L Layton (SEAL)
JENNIE H.J. LAYTON By Her
Attorney in Fact, ANNE L.
LAYTON

Sealed And Delivered
In The Presence Of:



Witness

SWORN TO And SUBSCRIBED before me the day and year aforesaid.



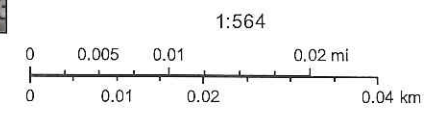
NOTARY PUBLIC

MERRITT BURKE, III
ATTORNEY AT LAW
STATE OF DELAWARE
NOTARY POWER UNDER
10 DEL C S 4323



PIN:	235-4.17-6.00
Owner Name	TAYLOR FRANK I LAURA
Book	2262
Mailing Address	120 WOODSTREAM RD
City	BOOTHWYN
State	PA
Description	BROADKILL BEACH
Description 2	BROADKILN BEACH
Description 3	P O LOTS 5 9 11
Land Code	

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



APR 22, 2021

RECEIVED

APR 22 2021

SUSSEX COUNTY
PLANNING & ZONING

Director Jamie Whitehouse
Sussex County Planning + Zoning
2 The Circle
P.O. Box 417
Georgetown, De 19947

SUPPORT EXHIBIT

Theodore H. Walrus
12303 DuPont Blvd.
Ellendale, De 19941

Subject: Height VARIANCE FOR A FENCE

Mr. Director Whitehouse,

I being a Property Owner At 204 South
Bay Shore Dr. Broadkill Beach Milton, De.

I have NO OPPOSITION to the height
VARIANCE FOR A fence ON Property
OF FRANK AND LAURE Taylor At Adams Ave,
Broadkill Beach Milton, De Tax Parcel. 235-4.17.6.00

Thank You,
Theodore H Walrus

Timothy J. Taylor
2105 Broomall Street
Upper Chichester, PA 19061

April 24, 2021

Ann Lepore
%County Administrative Offices
2 The Circle
PO Box 417
Georgetown, DE 19947

RECEIVED

APR 30 2021

SUSSEX COUNTY
PLANNING & ZONING

RE: Tax Parcel: 235-4.17-6.00

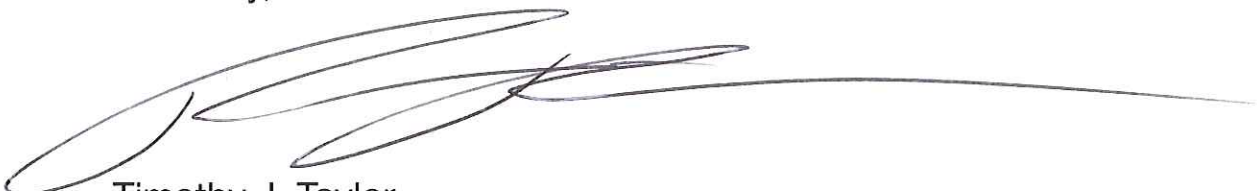
Dear Sussex County Planning and Zoning,

I am writing to show support for a 1'5" fence height variance at 102 Adams Ave, Broadkill Beach, Milton, DE 19968.

As an heir of the current owners, Frank Taylor and Laura Taylor, and potential inheritor of the property I would wish the fence be allowed to stay the same height as it stands, 5-feet.

Thank you for your time and consideration.

Sincerely,

A handwritten signature in black ink, appearing to read 'Timothy J. Taylor', with a long horizontal flourish extending to the right.

Timothy J. Taylor

April 26, 2021

Ann Lepore
%County Administrative Offices
2 The Circle
PO Box 417
Georgetown, DE 19947

RE: Tax Parcel: 235-4.17-6.00

Dear Sussex County Planning and Zoning,

I am writing to show support for / in favor of a 1'5" fence height variance at 102 Adams Ave, Broadkill Beach, Milton, DE 19968. The property owners are Frank Taylor and Laura Taylor.

Thank you for your time and consideration.

Sincerely,

Jason Harshbarger

203 S Bayshore Drive, Milton, DE 19968

Michael Hilligoss
205 S Bayshore Dr
Broadkill Beach
Milton, DE 19968

April 26, 2021

Ann Lepore
%County Administrative Offices
2 The Circle
PO Box 417
Georgetown, DE 19947

RE: Tax Parcel: 235-4.17-6.00

Dear Sussex County Planning and Zoning,

I am writing to show support for / favor of a 1'5" fence height variance keeping the current height at 5 feet.

Property owners are Frank Taylor and Laura Taylor, 102 Adams Ave Broadkill Beach, Milton, DE 19968

Thank you for your time and consideration.

Sincerely,

Michael Hilligoss

Theodore and Candy Mills

8 Tuscany Rd Aston, Pa 19014 | (610) 494-6624 | n3up@comcast.net

June 14, 2021

Ann Lepore
Sussex County Planning and Zoning
County Administrative offices
2 The Circle
PO Box 417
Georgetown De, 19947

Opposition
Exhibit

RE: Case #12572 102 Adams Av. Milton De, 19968

Tax Parcel 235-4.17-6.00

To Sussex County Planning and Zoning:


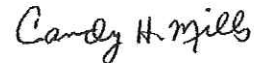
As the owners of 201 S. Bayshore Dr, we are writing to question the need for granting a variance for the height of the fence, as we do not believe the additional height is required for the reasons given by the Taylors.

Prior to the erection of the current fence, view of the dock was obscured from the road by the normal growth of vegetation and the angle of the path to the dock. A fence of the height permitted by the regulations would be sufficient to provide visual protection from view from a vehicle on the road.

Security of the dock is not provided by the fence as constructed, because a person can walk around the end of the L shaped fence to access the dock, or simply use the gate, which is not locked. Also, there is no "No Trespassing" signage posted. The additional height requested does not increase the security or effectiveness of the fence.

We believe that the fence would fundamentally alter the character of the neighborhood since there are very few other fences visible from public access areas in the neighborhood, and those that do exist are mostly decorative and not for security or visual obscurement.

Sincerely,

Theodore D Mills Candy H Mills

June 11, 2021

Opposition
Exhibit

RECEIVED

JUN 21 2021

SUSSEX COUNTY
PLANNING & ZONING

Ann Lepore
Sussex County Administrative Offices
2 The Circle
PO Box 417
Georgetown, DE 19947

RE: Variance/Tax Parcel 235-4.17-6.00

Dear Sussex County Planning & Zoning BOA,

I am writing to **oppose** the 1 ft. 5 inches fence height variance request submitted by property owners Frank Taylor and Laura Taylor, 102 Adams Ave, Broadkill Beach, Milton DE 19968.

My wife and I have been residents of Broadkill Beach for 40+ years. We are 83 & 80, and regretfully will not be able to attend the variance meeting to personally tell the board members why we totally **oppose** this variance.

Every morning, I walk past Adams Ave to get my mail. Being neighborly, many times I would walk back Adams Ave to check on my neighbor's property. I have always had the pleasure of seeing the natural beauty of the Prime Hook Wildlife Refuge, salt marsh and habitat. That natural view that once existed on Adams Ave was destroyed when the Taylors decided to replace their old 20+ year old open split rail fence with a 5 ft. solid white plastic fence. That fence does not allow anyone to see if someone could be hiding behind the fence & can't be looked over by the average height person, including the Taylors. More importantly it violates planning & zoning fence height restriction. Isn't that the purpose of having fence height restrictions? See the attached photos; OLD open split rail fence vs NEW 5 ft. solid white plastic fence

This is "Broadkill Beach", not a development in the suburbs where solid white fences are common in backyards, but again are still not allowed to be 5ft. in front yards.

All the other fencing the Taylors had erected on their property are NOT solid fencing and are NOT 5ft high. Why & what was the Taylors real reason that this area of fencing is totally different from their other property fence? The Taylors did not fence in their entire property. What's the purpose of a 5ft. FREE STANDING fence that anyone could easily walk around? Wouldn't a simple sign have been sufficient? EX:NO TRESPASSING, PRIVATE PROPERTY, NO PUBLIC ACCESS, there are several areas along Bay Shore Dr where that signage is posted.

Without a doubt, the 5 ft. solid white fence alters the essential character of the neighborhood, its also placed in wetlands, it permanently restricts the use, access & development of the adjacent property (Brenda & Alan Erdman's property) and creates a public safety issue.

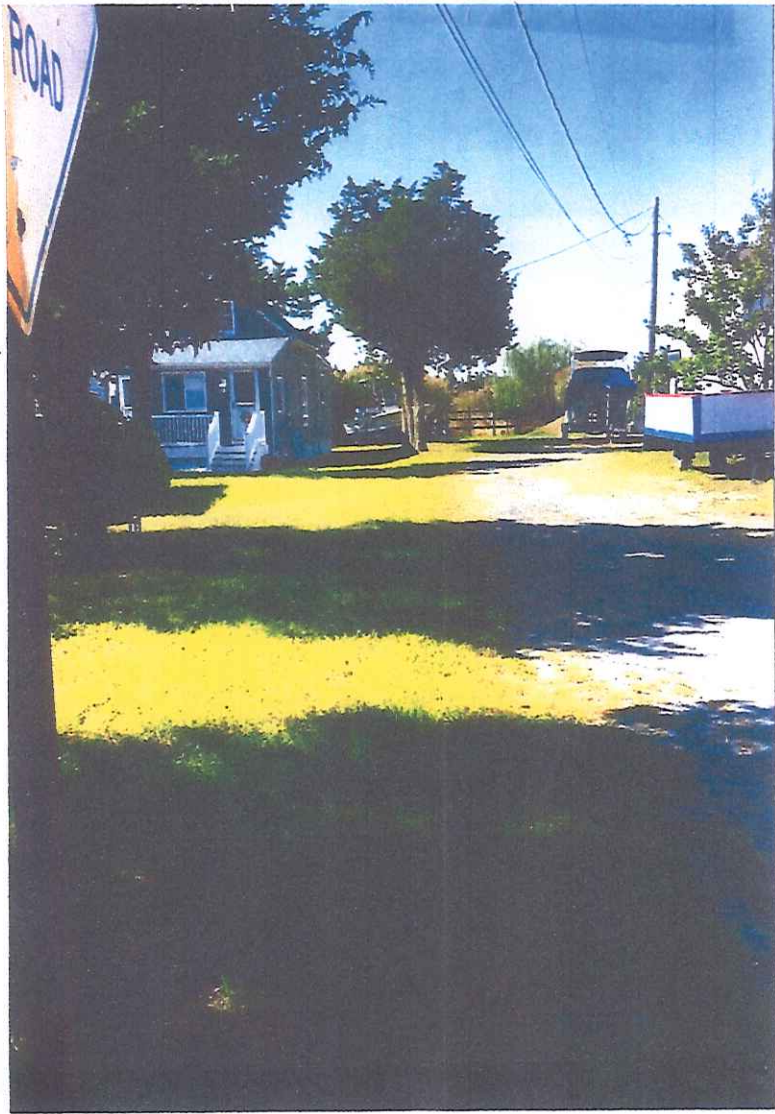
There is no reason a 5ft. fence is necessary or should be allowed on Adams Ave.

We, Thank you for allowing us to provide our comments and your consideration to keeping Broadkill Beach/Primehook environment unique & our neighborhood safe.

Sincerely,

Benito Cautillo
Jane L. Cautillo

Benito & Jane Cautillo
105 S Bayshore Dr
Broadkill Beach,
Milton DE, 19968



Original fence



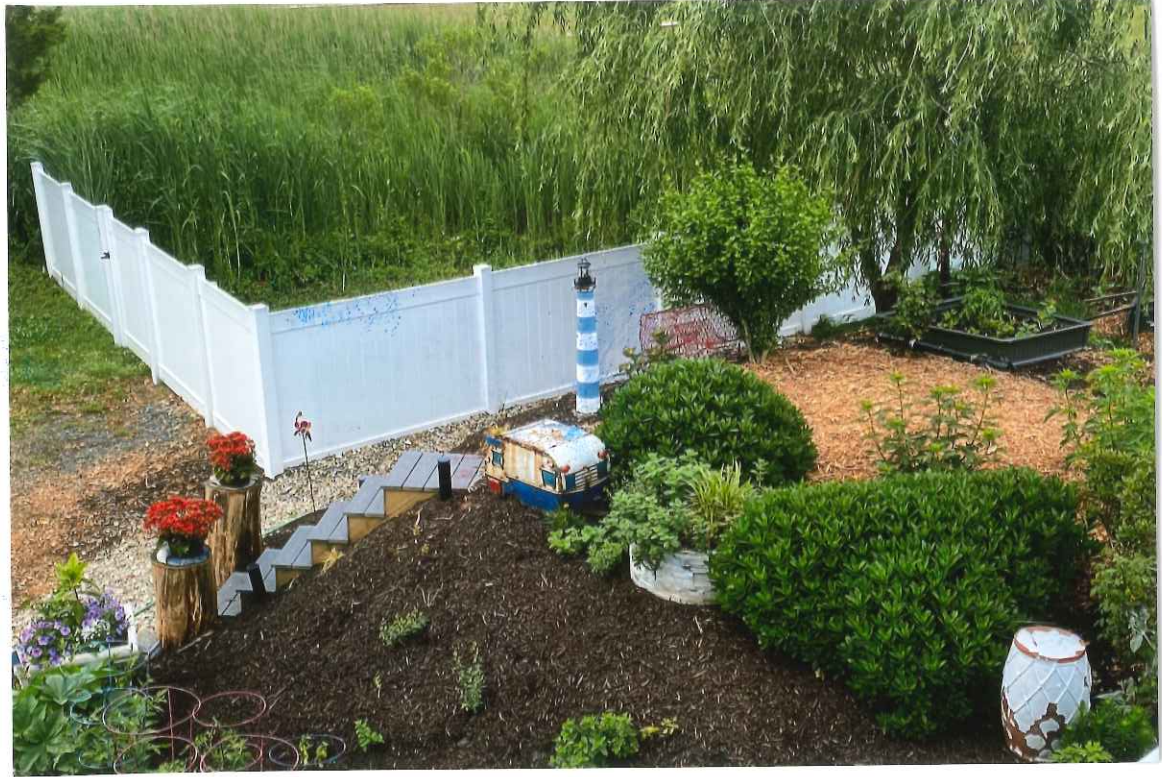
5' Solid White fence

Adams Ave
View from Bay Shore Drive

Security
Issue to
US
12572







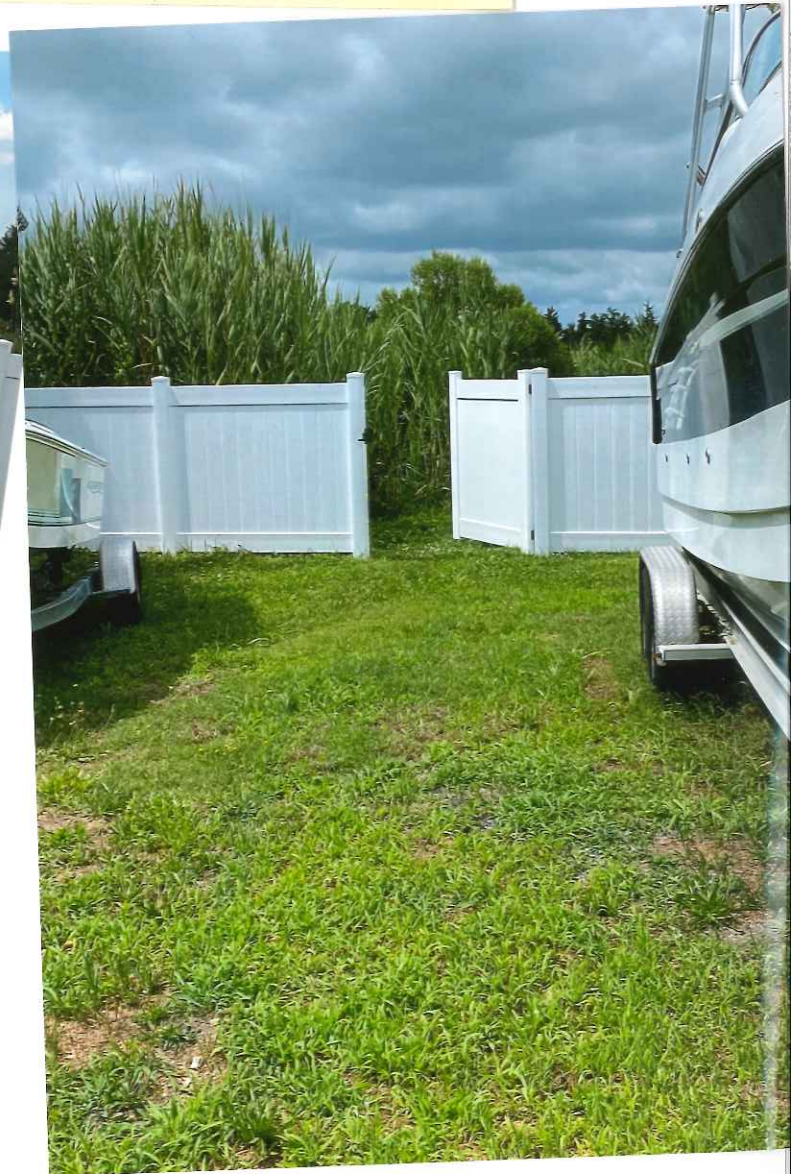
Original
fence
No Permit

12/5/21

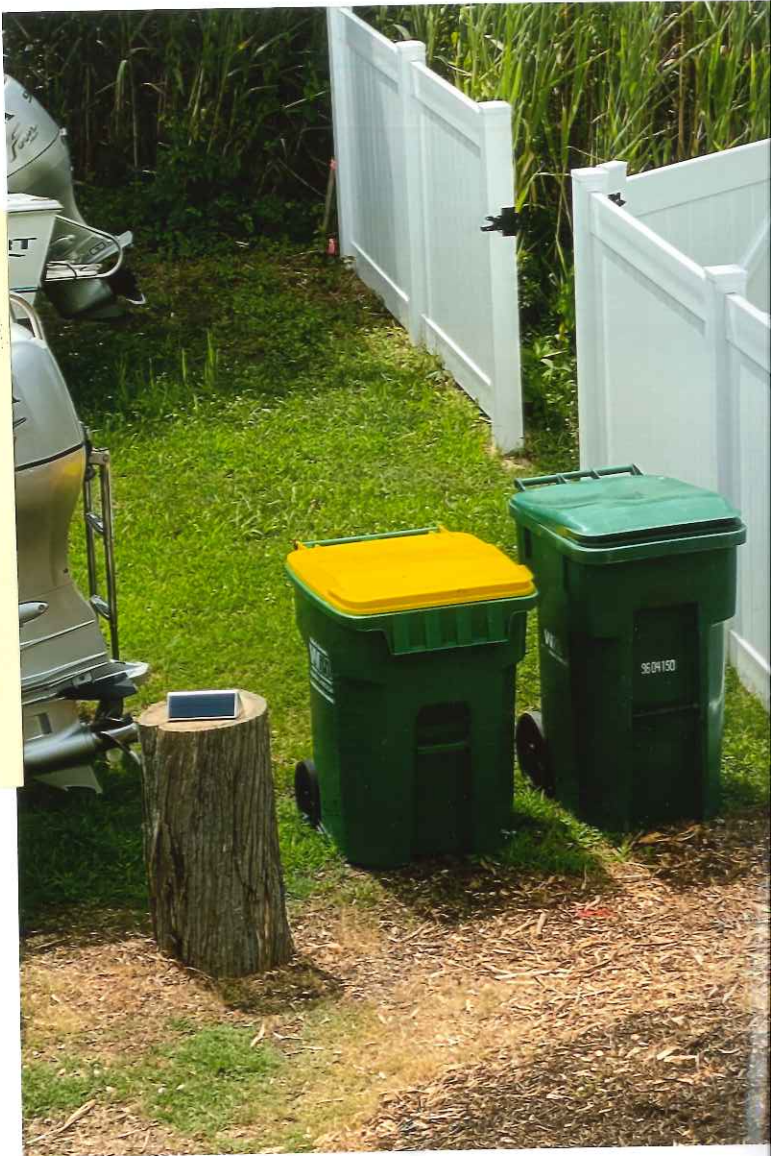


GATE left open

12572



GATE left open
12572





12570
Fence
Photo's









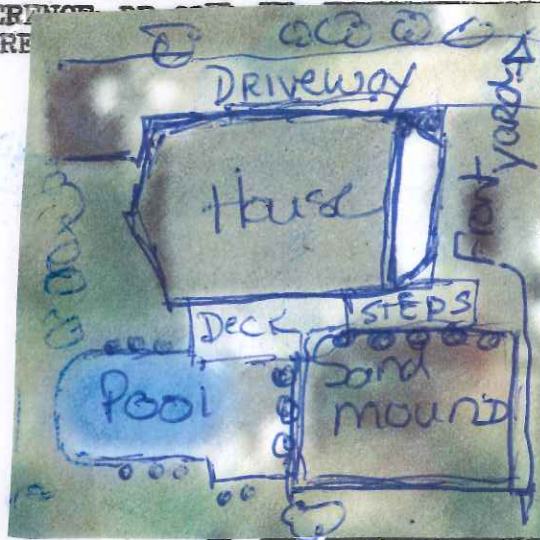
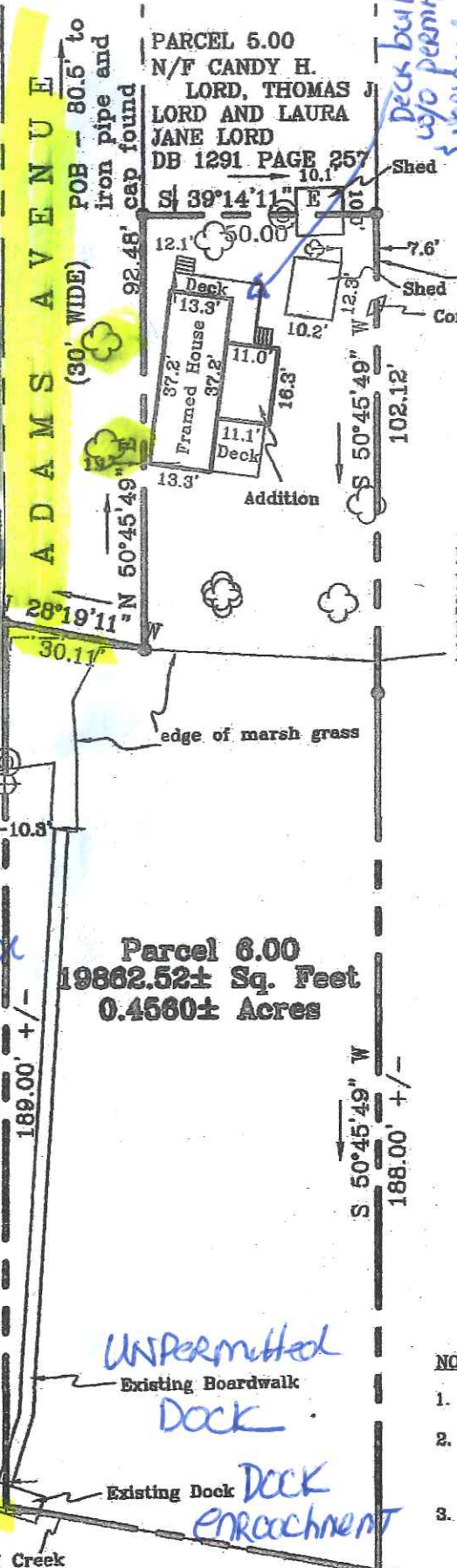


12572

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 #: 235-4.17-8.00
DEED REFERENCE
PLAT REFERENCE



Erdman's
2 Parcels
each 50' Road
Frontage on
Adams Ave

No Rebar or Cap Exposed
No Rebar Pin Exposed

Opposition
Exhibit

FILE COPY

Taylor's Survey
Dated 10-3-2019

LEGEND

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

ON Road + obscurer
Drive Way Entrance



- 1.
- 2.
- 3.

NO. 1
2
3

Shed
Shed
Con

Deck built w/o permit + variance

UNPermitted
Existing Boardwalk
Dock
Existing Dock
Deck
ENCROACHMENT

1.8'
3.6'
Edge of Creek

S 50°45'49" W 189.00' +/-

S 50°45'49" W 188.00' +/-

Parcel 6.00
19862.52± Sq. Feet
0.4560± Acres

PARCEL 5.00
N/F CANDY H.
LORD, THOMAS
LORD AND LAURA
JANE LORD
DB 1291 PAGE 257

ADAMS AVENUE (30' WIDE)
POB - 80.5' to iron pipe and cap found

N 50°45'49" W 30.11'

28°19'11" W

30.11'

10.3'

10.3'

10.3'

10.3'

10.3'

10.3'

10.3'

10.3'

10.3'

10.3'

10.3'

10.3'

10.3'

10.3'

10.3'

10.3'

10.3'

S 39°14'11" E 10.1'

S 50°45'49" W 12.3'

S 50°45'49" W 10.2'

S 50°45'49" W 12.3'

S 50°45'49" W 10.2'

S 50°45'49" W 12.3'

S 50°45'49" W 10.2'

S 50°45'49" W 12.3'

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S 50°45'49" W 10.2'

S 50°45'49" W 12.3'

S 50°45'49" W 10.2'

12572



Erdman's property
Overview from
Planning & Zoning's
Current MAP
as of today

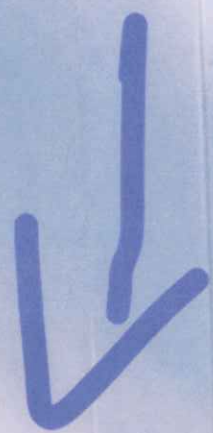
House
Driveway
Sand mound
Pool
Access to Adams
Ave - Road Frontage

Opposition
Exhibit

FILE COPY

12572

This is Front Facing Property



Opposition Exhibit

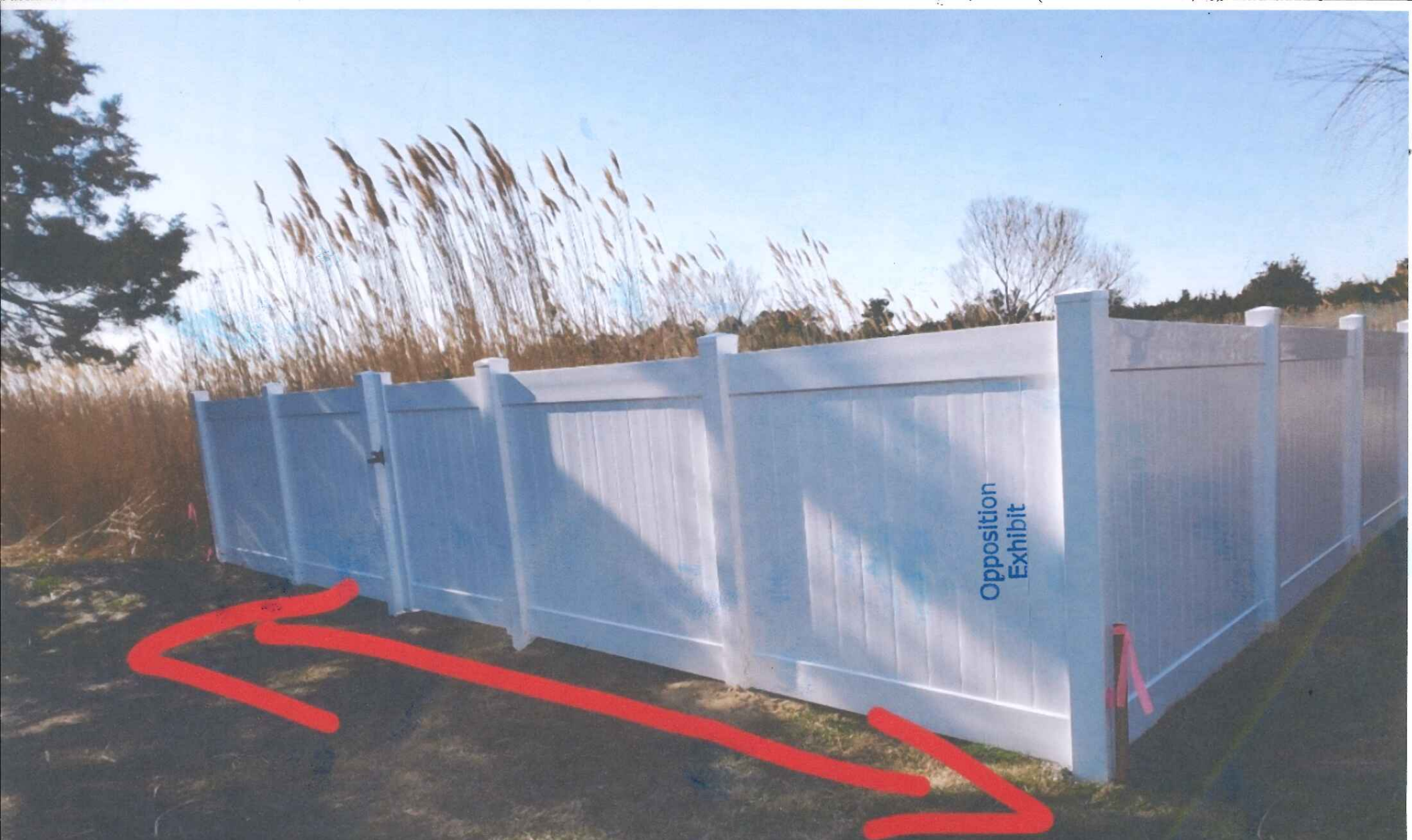
FILE COPY

My property line

My sand mound

ROAD





This is where the road is

A photograph showing the exterior of a blue corrugated metal building. A red square is drawn on the image, highlighting a tree stump in the background. The ground is covered with grass and some debris. The text "My current property end marker Is this stump" is overlaid in white. There are also blue and red markings on the building's surface.

My current property
end marker
Is this stump

Opposition
Exhibit

FILE COPY



Opposition
Exhibit

FILE COPY



Map

Lot Lines

Bird's Eye

FILE COPY

Opposition Exhibit

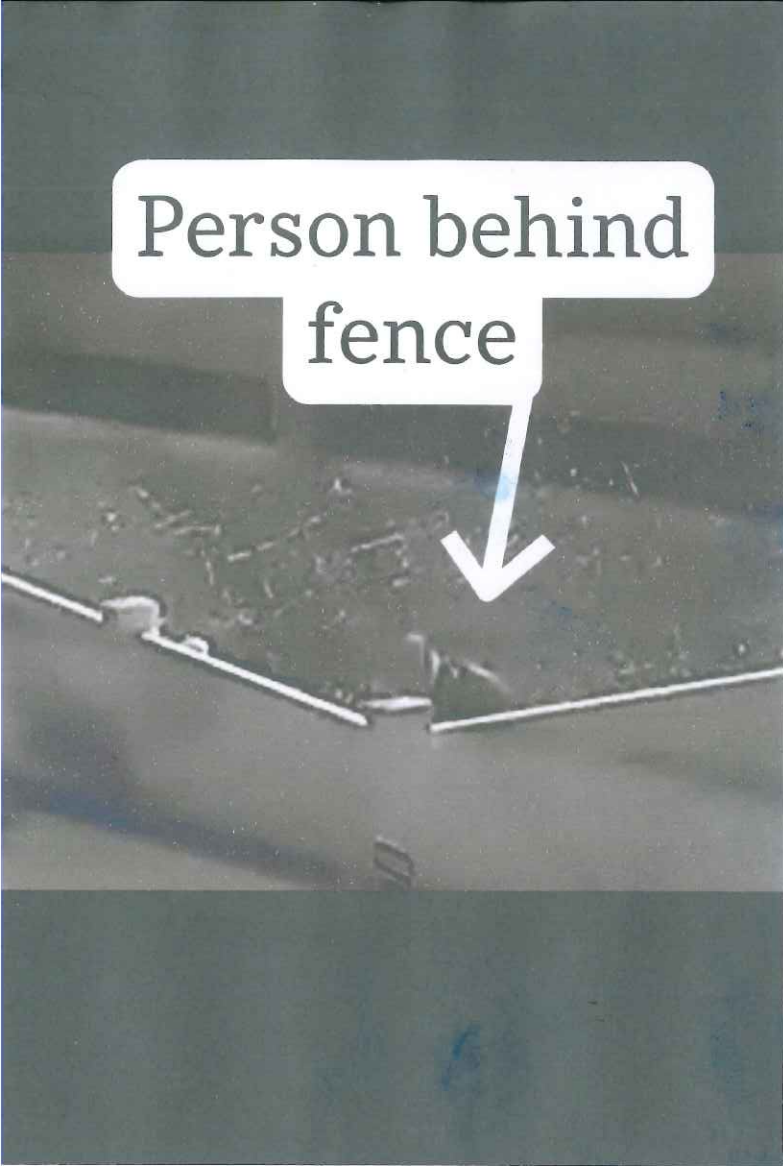
Adams Ave



Case

12572

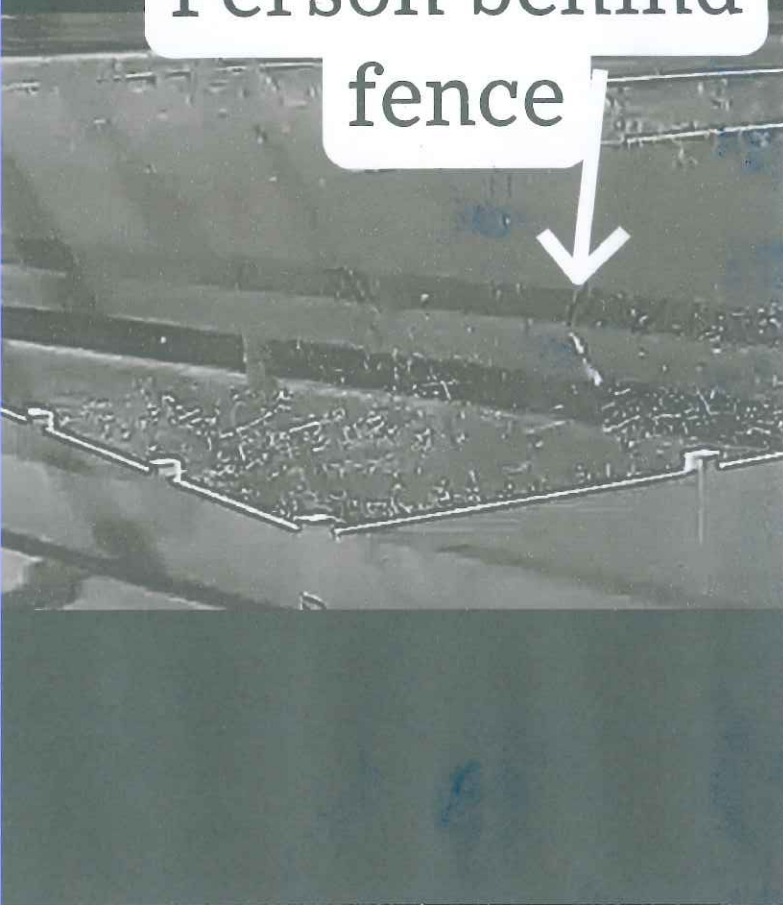
Person behind
fence



Opposition
Exhibit

FILE COPY

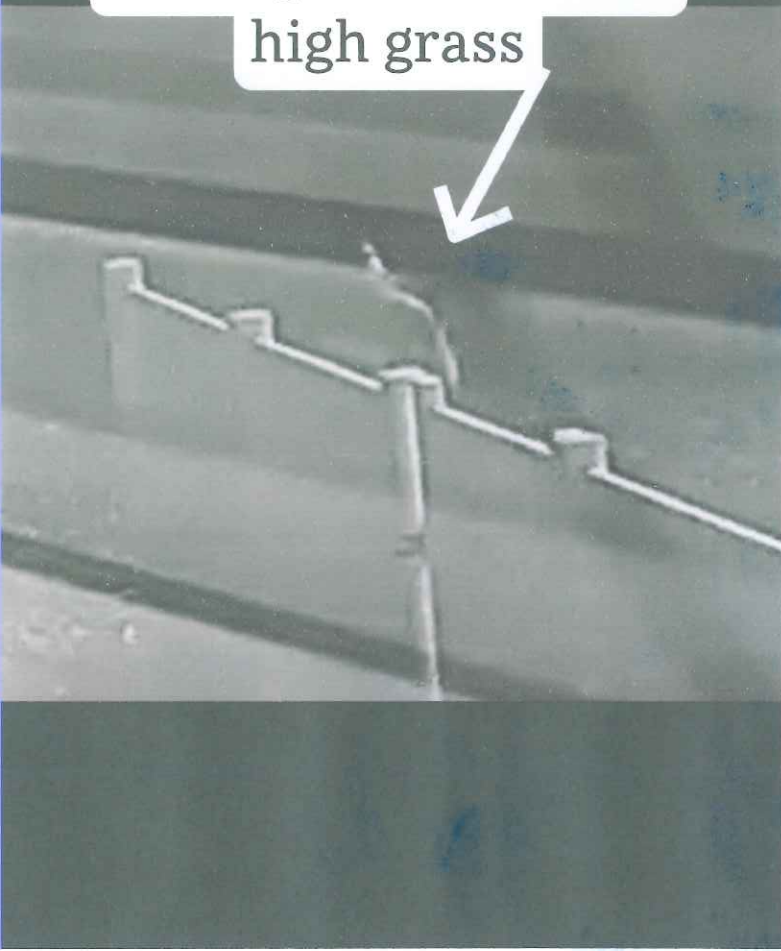
Person behind
fence



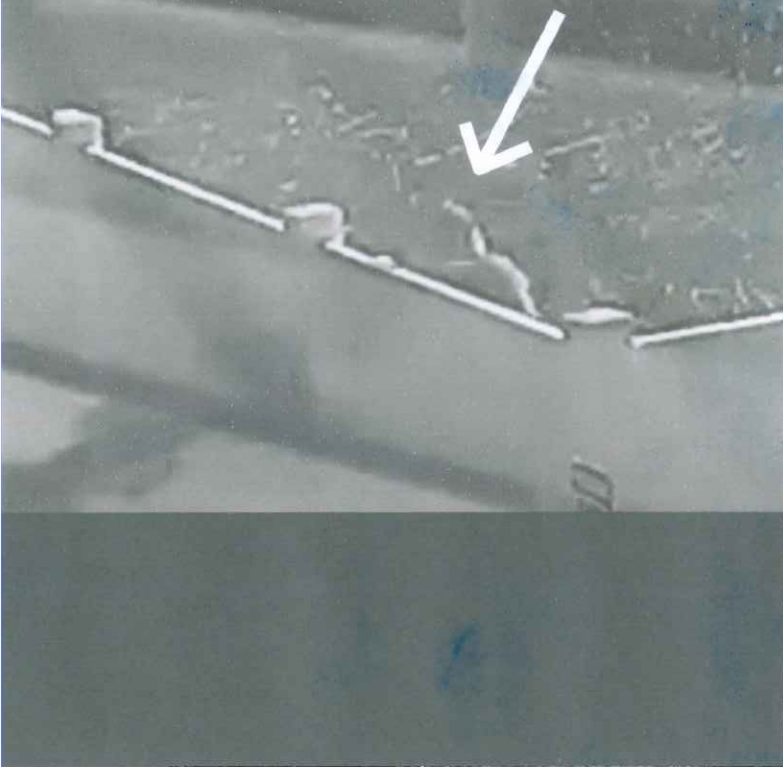
Opposition
Exhibit

FILE COPY

Person behind fence
coming out from side
high grass



Person behind
fence



Opposition
Exhibit

FILE COPY

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



BAIRD
MANDALAS
BROCKSTEDT LLC

Mackenzie M. Peet
mackenzie@bmbde.com
(302)645-2262

October 7, 2022

VIA EMAIL

Department of Planning and Zoning
Attn: Board of Adjustment
2 The Circle
P.O. Box 417
Georgetown, DE 19947
Email: pandz@sussexcountyde.gov

RE: Variance request for 102 Adams Avenue, Milton, DE 19968 (TMP 235-4.17-6.00)

Dear Director Whitehouse:

Please find a copy of supplemental exhibits to be added to Mr. Frank Taylor and Mrs. Laura Taylor's hearing record for BOA Case No. 12747.

Should you need additional information, please contact me or my paralegal, Meagan Garey, at meagan@bmbde.com.

Sincerely,

/Mackenzie M. Peet

Mackenzie M. Peet, Esq.







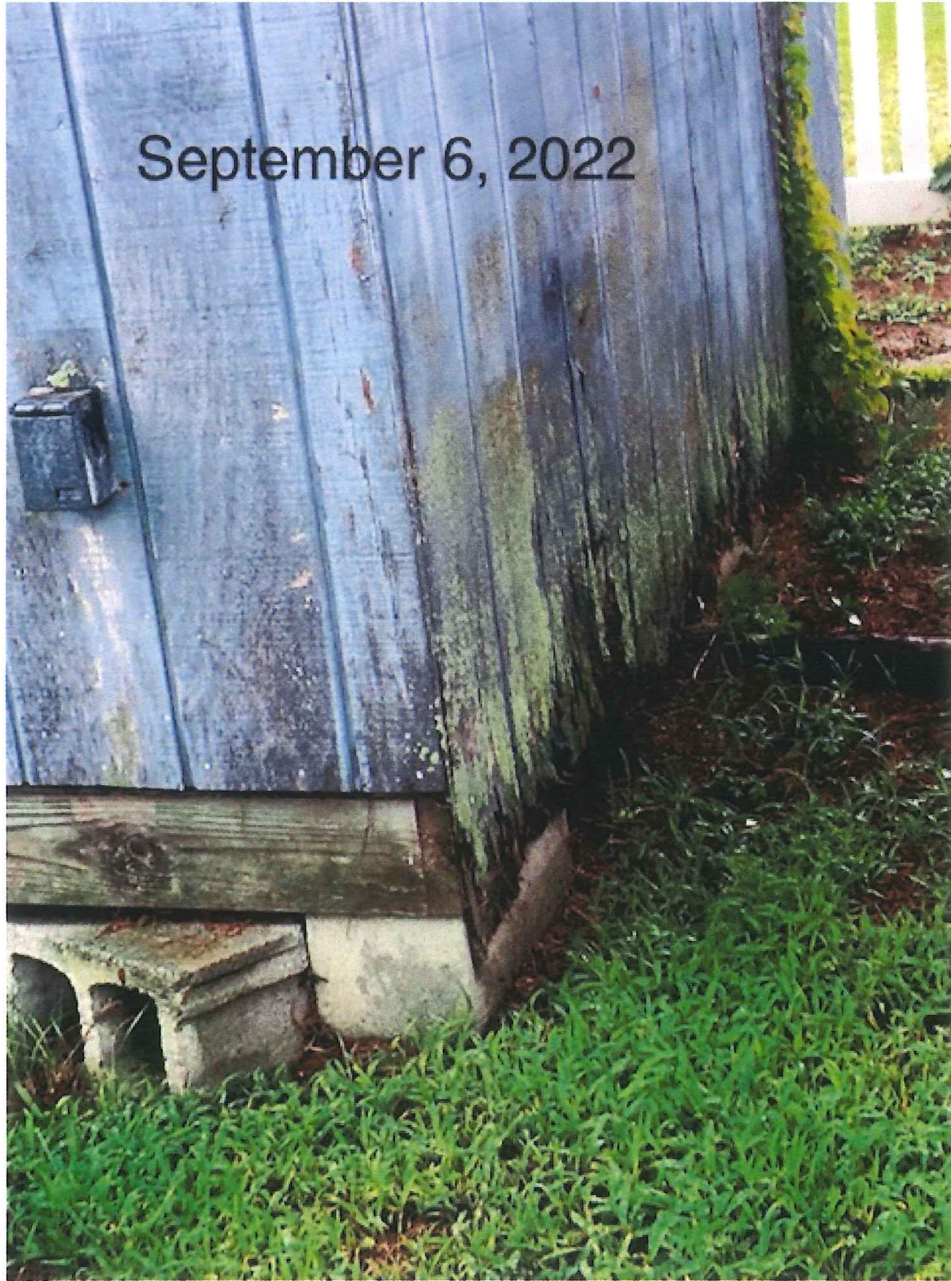
July 4
10:06 AM

Edit





September 6, 2022



August 28, 2022











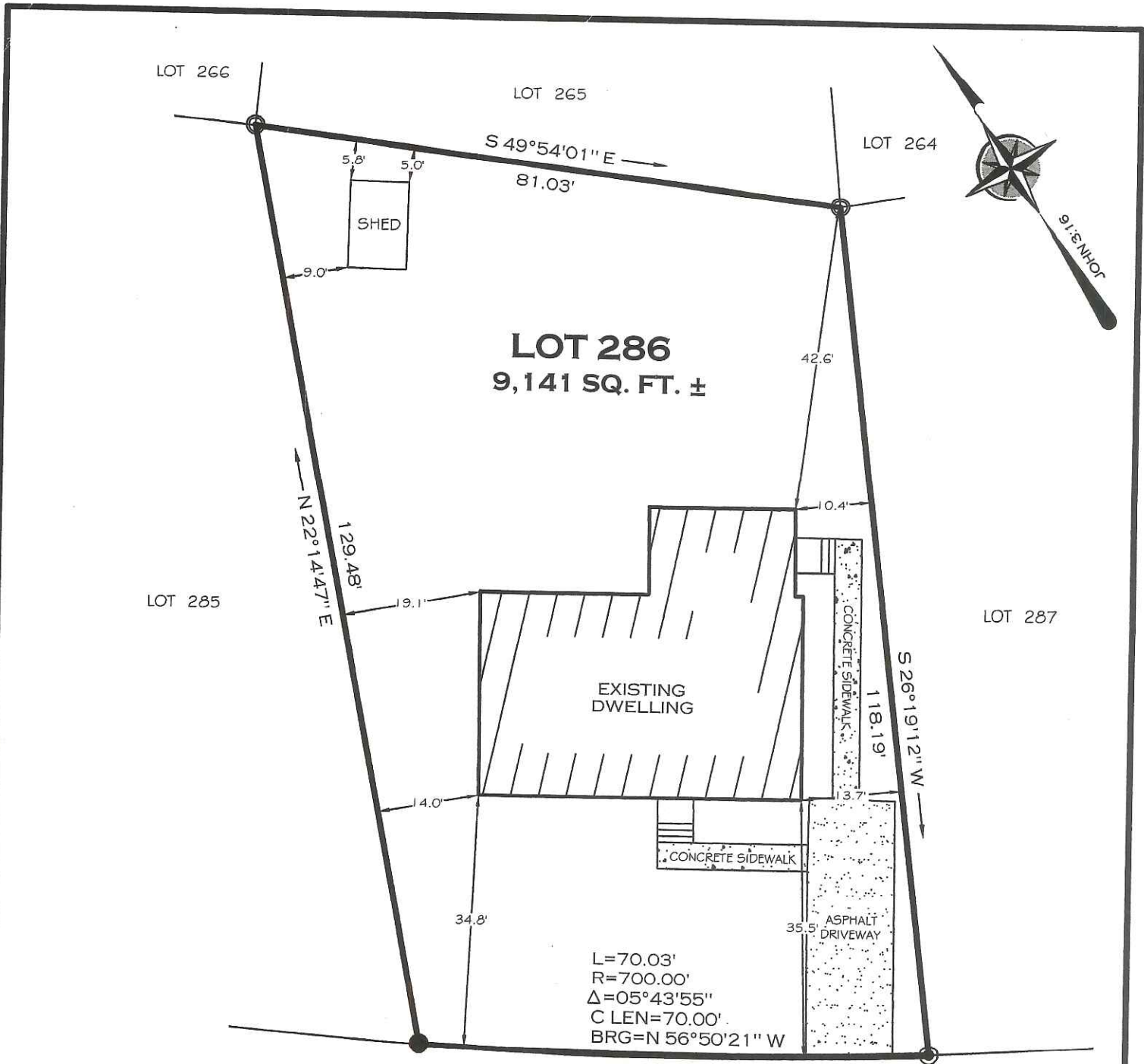
Criteria for a Variance

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.

RECEIVED

OCT 13 2022

SUSSEX COUNTY
PLANNING & ZONING



**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.



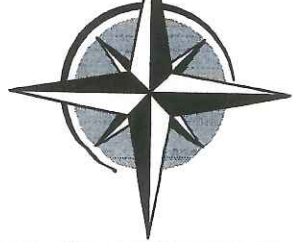
TAX MAP	5-33 - 19.00 - 697.00
STATE	DELAWARE
COUNTY	SUSSEX
HUNDRED	BALTIMORE
SUBDIVISION	KEENWICK SOUND
PHASE	2
LOT	286
AREA	9,141 SQ. FT. ±
DEED REF.	2151 / 298
PLAT REF.	32 / 260
DRAWN BY	BAA
DATE	10/26/12
SCALE	1" = 20'
SURVEY #	DE - 01089

**BOUNDARY SURVEY
PLAN**

FOR
DAVID K. BERCH
&
KATHLEEN N. BERCH

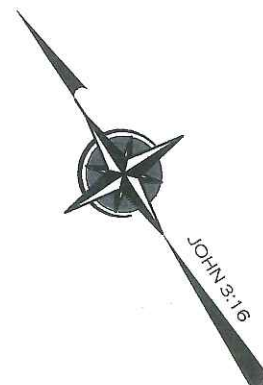
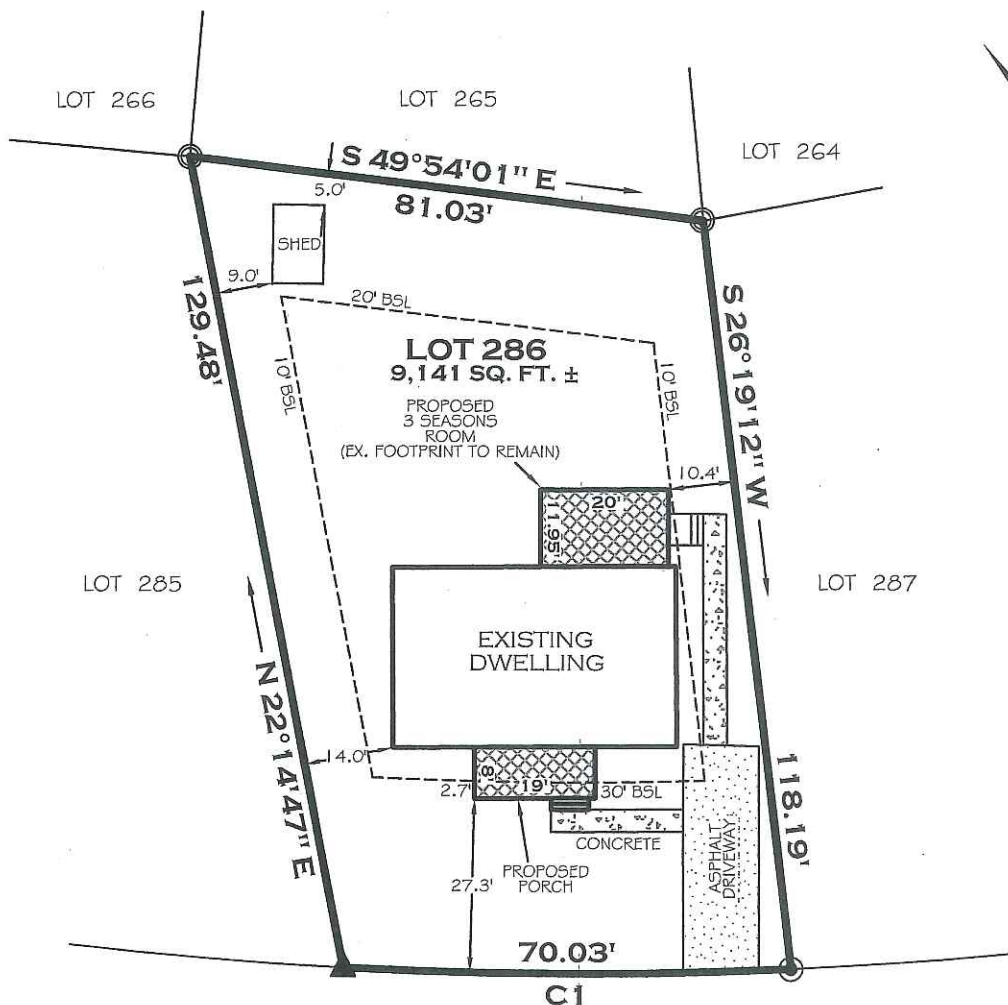
37843 W. STONEY RUN, SELBYVILLE, DELAWARE 19975

TRUE NORTH



LAND SURVEYING

118 ATLANTIC AVENUE, SUITE 202
OCEAN VIEW, DE 19970
DE: 302-539-2488
MD: 410-430-2092
FX: 302-539-2499
WEB: TRUENORTHLS.COM



**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

A1. Building Owner's Name DAVID K. & KATHLEEN N. BERCH		FOR INSURANCE COMPANY USE	
A2. 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	Company NAIC Number:	
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		ZIP Code 19975	
A4. Building Use (e.g., Residential, Non-Residential, Addition, Accessory, etc.)		RESIDENTIAL	
A5. Latitude/Longitude: Lat. 38° 28' 06.94" N Long. 75° 06' 30.89" W		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 6			
A8. For a building with a crawlspace or enclosure(s):			
a) Square footage of crawlspace or enclosure(s)		1515.75 sq ft	
b) Number of permanent flood openings in the crawlspace or enclosure(s) within 1.0 foot above adjacent grade 1			
c) Total net area of flood openings in A8.b 200.00 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		N/A sq ft	
b) Number of permanent flood openings in the attached garage within 1.0 foot above adjacent grade 0			
c) Total net area of flood openings in A9.b 0.00 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:
 FIS Profile FIRM Community Determined Other/Source: _____

B11. Indicate elevation datum used for BFE in Item B9: NGVD 1929 NAVD 1988 Other/Source: _____

B12. Is the building located in a Coastal Barrier Resources System (CBRS) area or Otherwise Protected Area (OPA)? Yes No
 Designation Date: _____ CBRS OPA

Handwritten: 2.11.22



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.

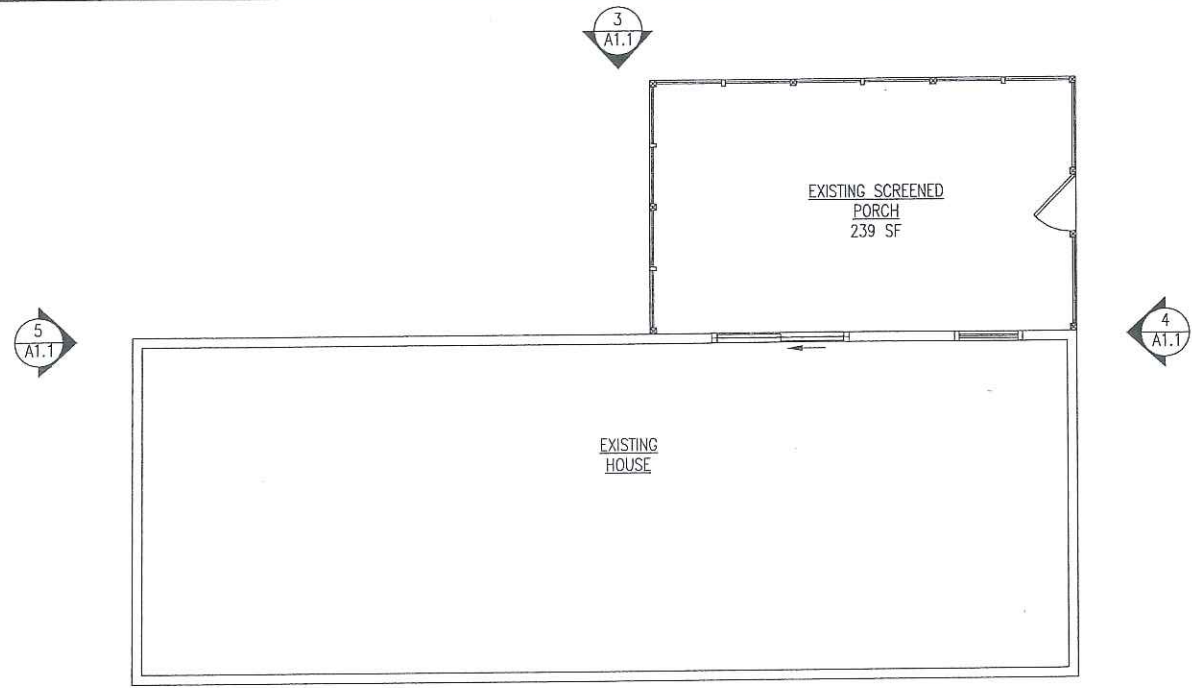
- It is the responsibility of the homeowner to keep their property clean during the construction process.
- Sussex County building permits must be placed in a prominent place in the front of the property
- Both ARC and Sussex County permits expire 12 months from approval
- ARC guidelines can be found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

Agreed to (property owner): KUBerch Date: 11/3/21
 ARC Disposition: Approved Karen deHuarte Date: 11/10/2021
 Denied _____ Date: _____

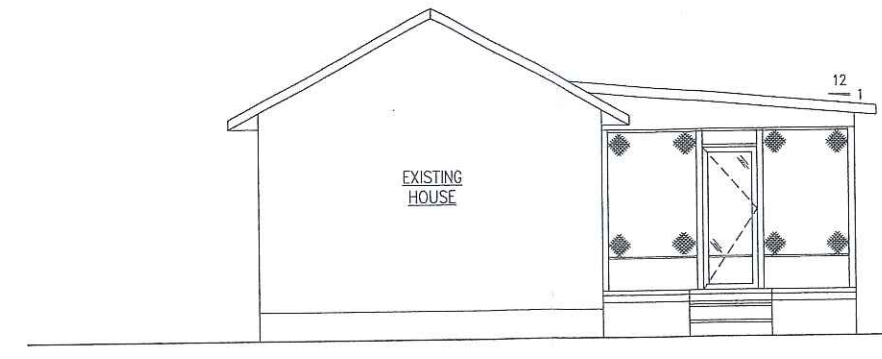
ARC Committee: Jim Berger 302-430-1051 Tom Yockel 443-865-3045
 Joe Andrews 302-604-3790 Karen deHuarte 302-988-2740

Please call or email ARC@KSHOA.NET with any questions!

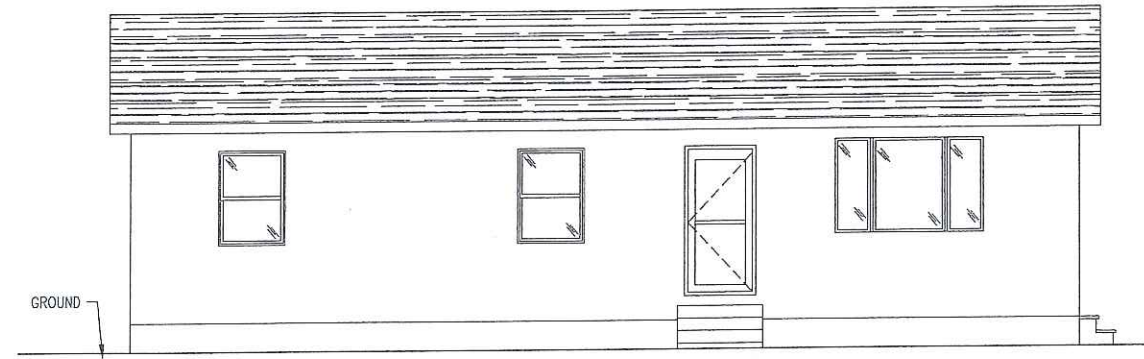
Important numbers:
 DNREC, Wetlands section - 302-739-9921
 Approval from Army Corp of Engineers - 302-739-9943
 Building Permits Counter - 302-855-7720 (PLEASE call the county if you are unsure if you need a permit)
 Boat Dock/Bulkhead permits require approval from all of the above.



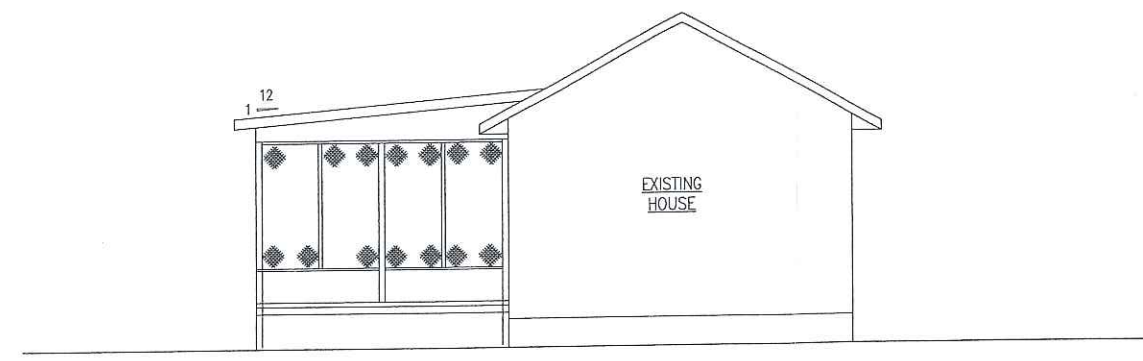
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A1.1 EXISTING FLOOR PLAN
SCALE: 1/4" = 1'-0"



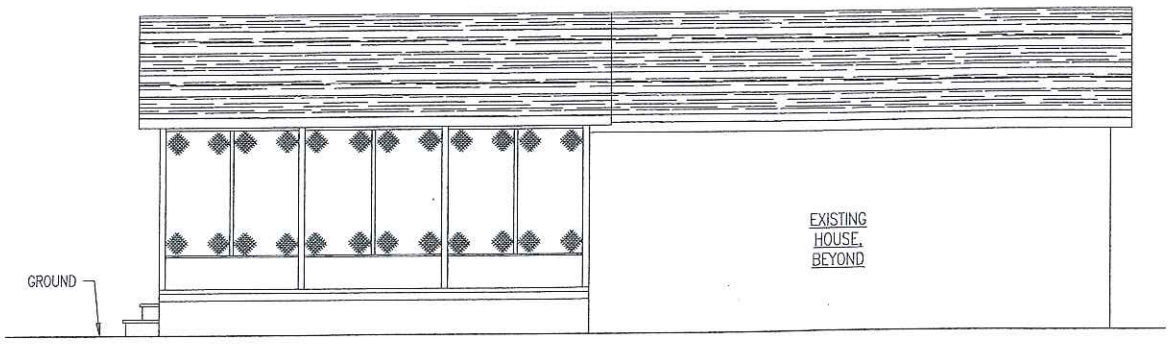
4
A1.1 EXISTING SIDE 'A' ELEVATION
SCALE: 1/4" = 1'-0"



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



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



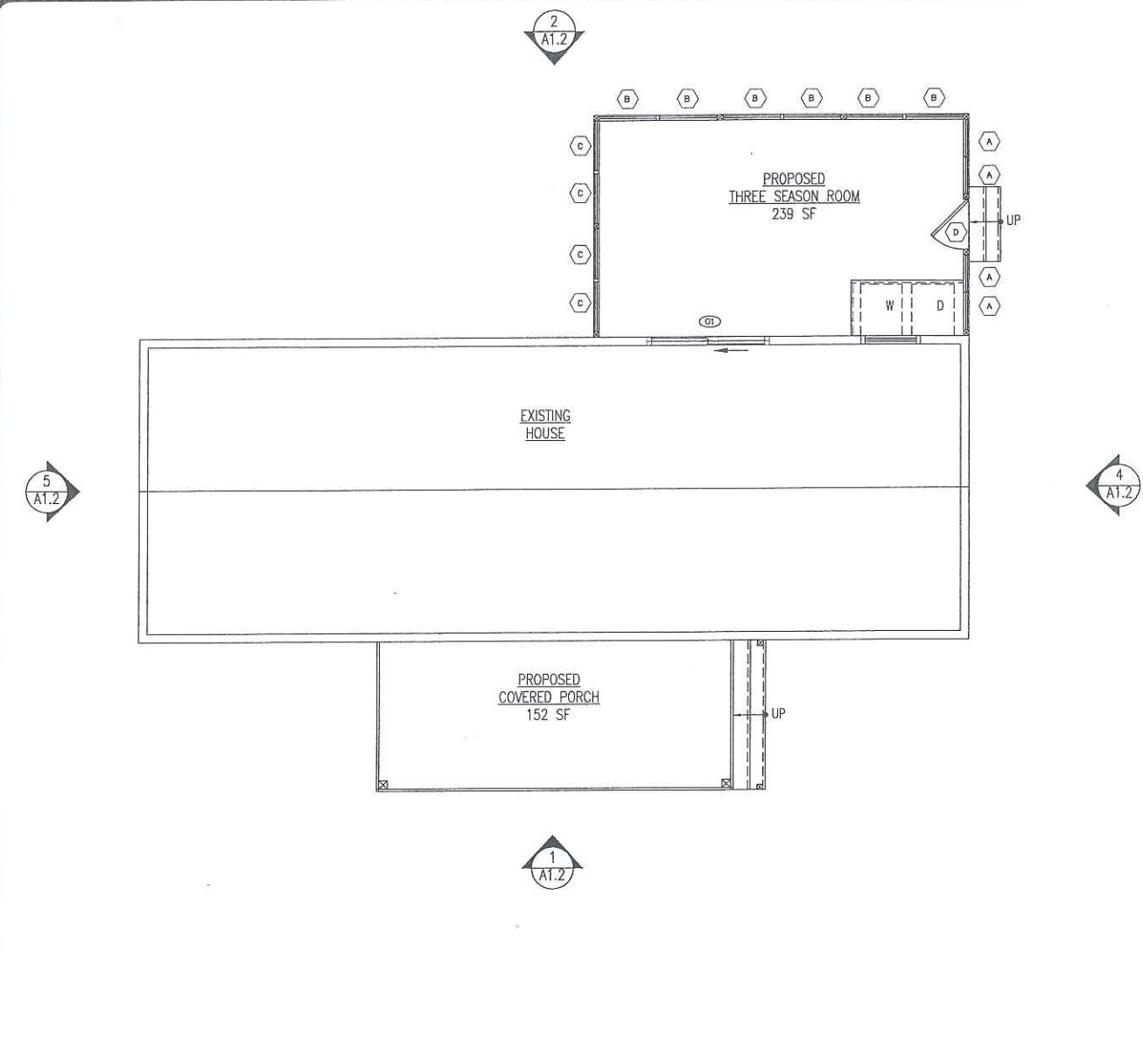
3
A1.1 EXISTING REAR ELEVATION
SCALE: 1/4" = 1'-0"

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

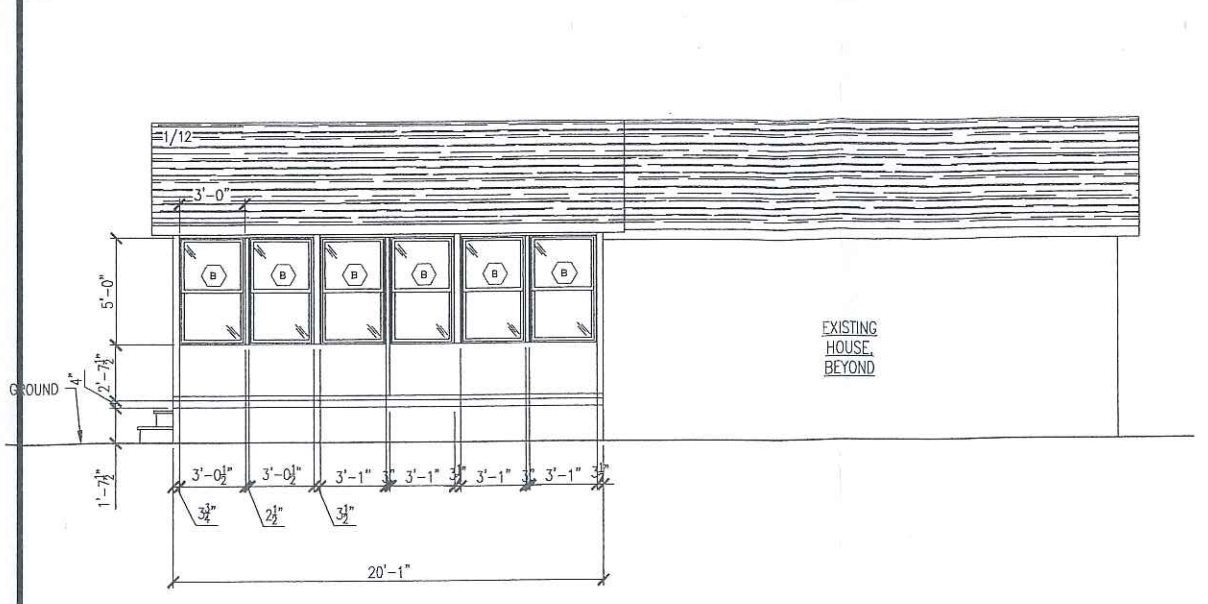
BERCH
37843 WEST STONEY RUN, SELBYVILLE, DELAWARE

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

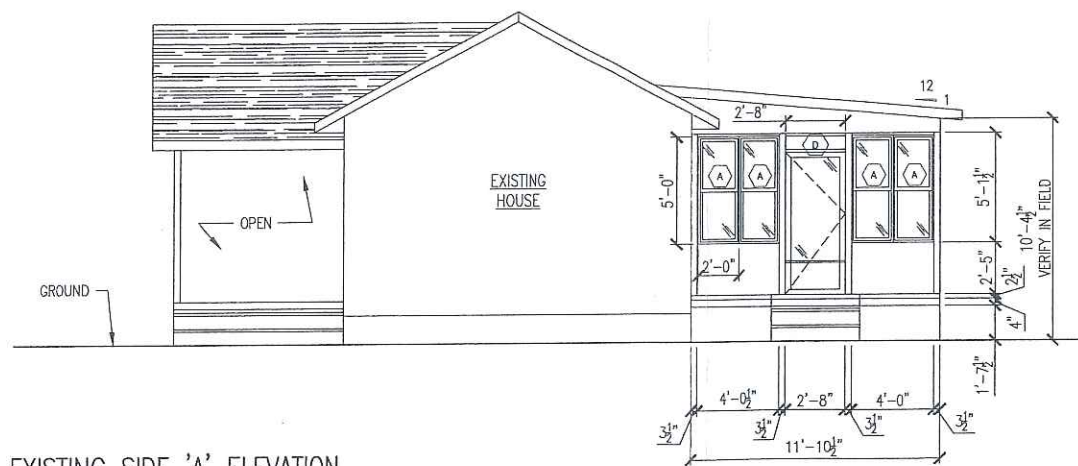
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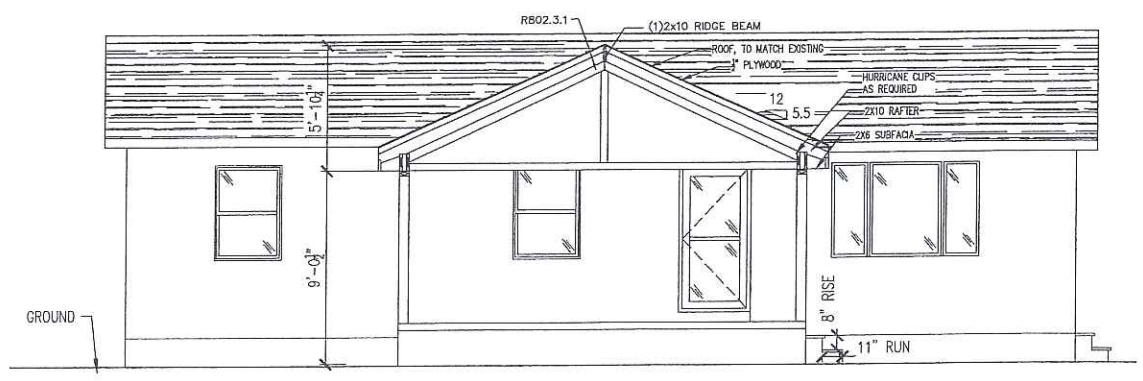
1 EXISTING FLOOR PLAN
A1.1 SCALE: 1/4" = 1'-0"



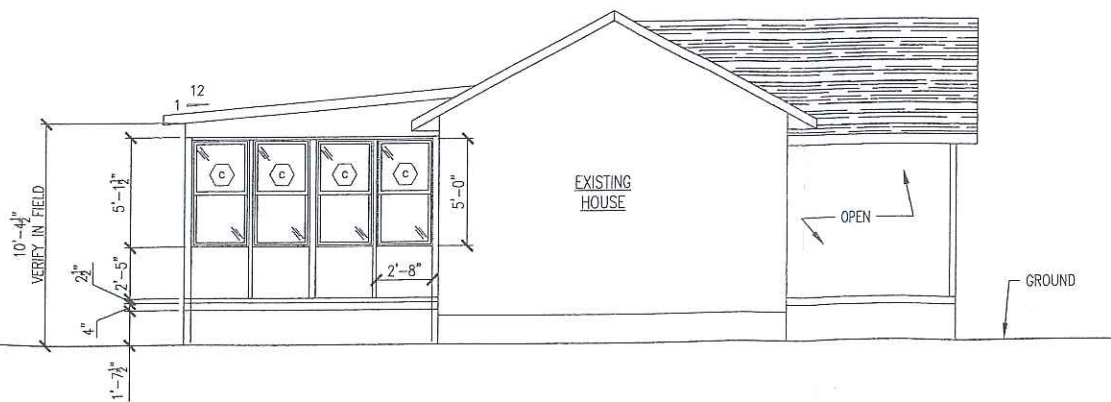
3 EXISTING REAR ELEVATION
A1.1 SCALE: 1/4" = 1'-0"



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



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



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

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

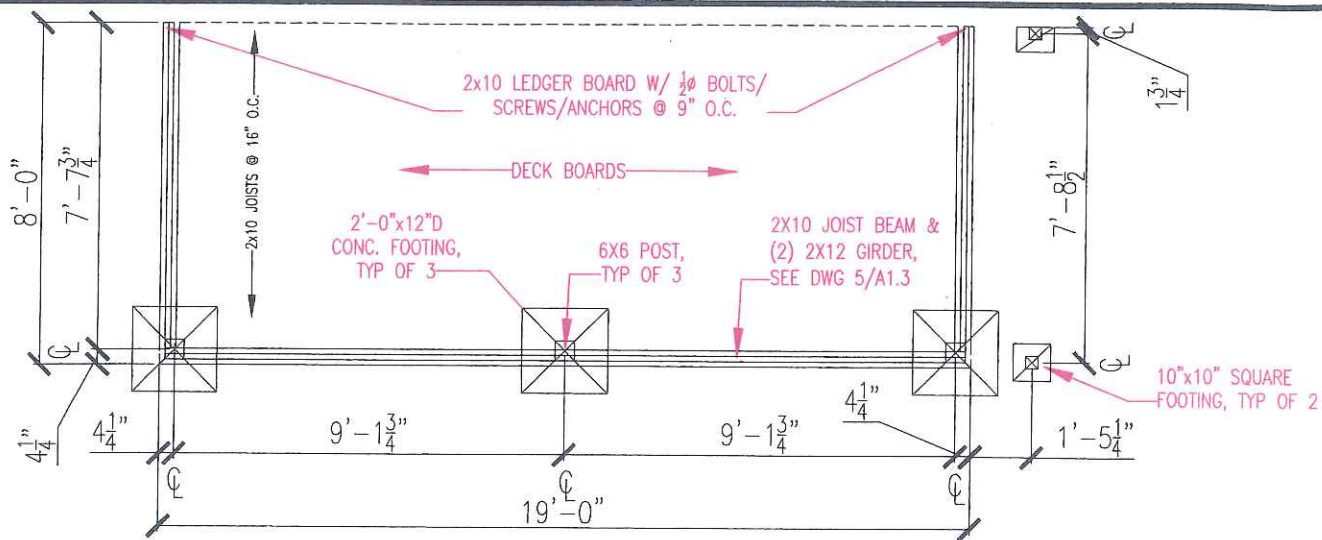
MODERN DESIGNS
BUILDERS

BERCH

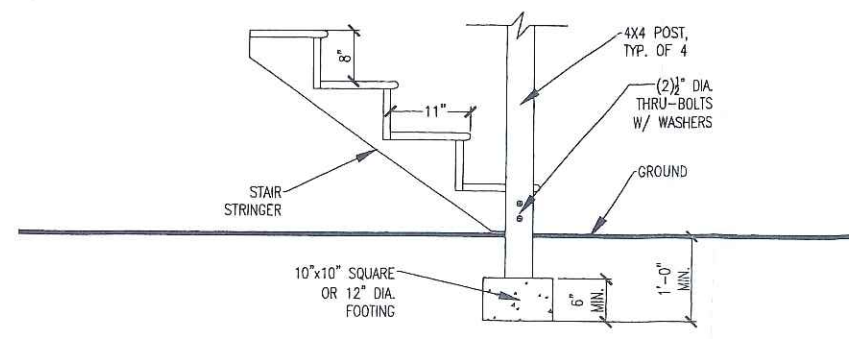
37843 WEST STONEY RUN, SELBYVILLE, DELAWARE

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

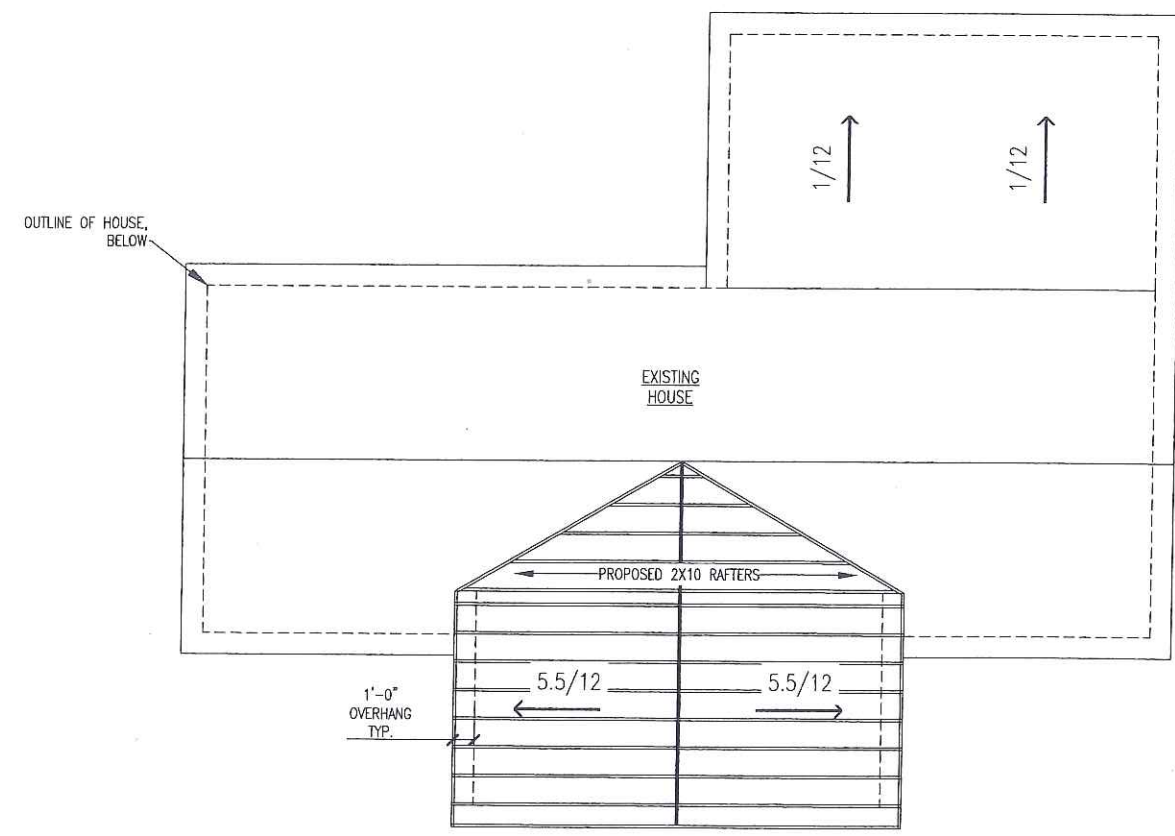
A1.2



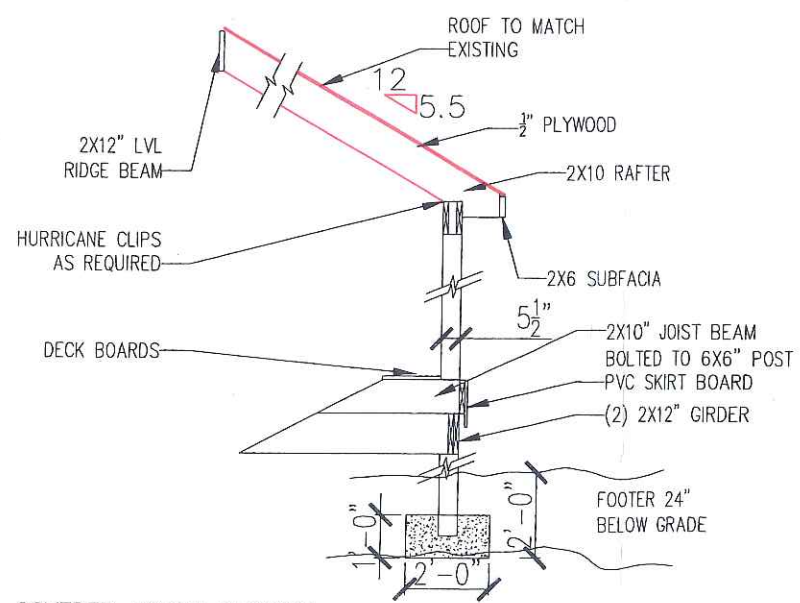
1 PROPOSED FOUNDATION & FRAMING PLAN
SCALE: 1/2" = 1'-0"



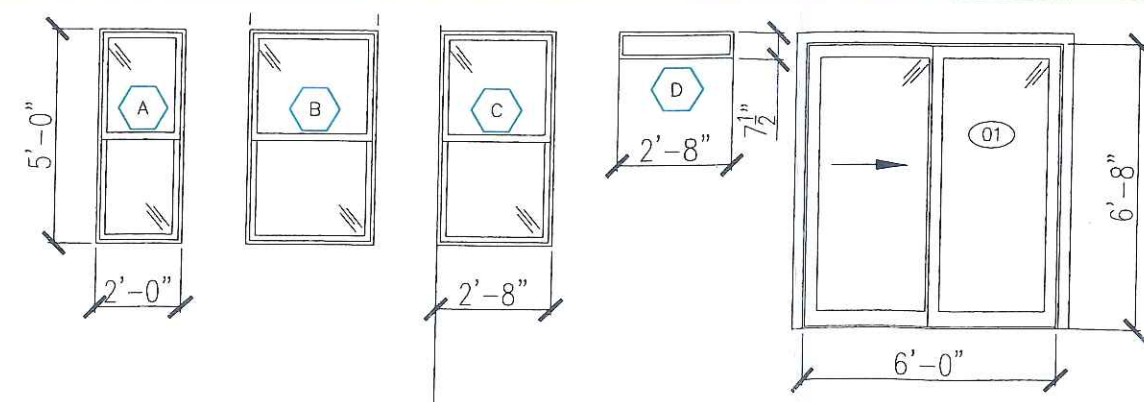
4 TYPICAL STAIR FOOTER DETAIL
SCALE: 1" = 1'-0"



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



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



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

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

MODERN DESIGNS
BUILDERS

BERCH

37843 WEST STONEY RUN, SELBYVILLE, DELAWARE

PROPOSED FOUNDATION & ROOF FRAMING PLANS, SECTION, DETAIL & SCHEDULE
SCALE: VARIES
DATE: 09/21/21
DRAWN BY: JLR

A1.3

Google Maps









DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF KEENWICK SOUND

THIS DECLARATION is made and executed this first day of November, 1983 by KEENWICK SOUND, INC., c/o Route 54, Keenwick, Selbyville, Delaware 19975, hereinafter referred to as the "Developers."

WHEREAS, the Developer is the fee simple owner of certain real property located in Baltimore Hundred. The lands of Keenwick Sound, which are owned by Keenwick Sound, Inc., are described in Exhibit "A" hereto, and the Developer desires to develop on the lands described in Exhibit "A" hereto a unified community; and

WHEREAS the Developer is the owner of the parcel of land described in Exhibit "A" and the Developer, as the owner of Exhibit "A" hereto, has caused to be recorded a subdivision plot for a part of the lands of Exhibit "A" hereto which are designated as the subdivision plan of Keenwick Sound Phase I, dated September, 1983, and recorded in the Sussex County Recorder of Deeds Office In Plot Book 28, page 329, hereinafter referred to as Keenwick Sound Phase I, a part of the property and described in Exhibit "B" hereto; and

WHEREAS, the Developer intends to subdivide and place of record in the Office of the Recorder of Deeds, a subdivision plan for the remainder of the property described In Exhibit "A" hereto, which subdivision plan once recorded will be designated Keenwick Sound Phase II, the lands of which are described In Exhibit "C" hereto; and

WHEREAS, it is the desire and intent of the Developer who currently owns the lands described in Exhibit "A" hereto, to submit all the lands of Exhibit "A" to the same set of restrictive covenants and to have a property owners association administer the common areas and lands that are or will be developed on the parcels designated as Exhibit "A" hereto in accordance with the existing subdivision plan of Keenwick Sound Phase I and the proposed subdivision plan of Keenwick Sound Phase II; and

WHEREAS, the Developer desires to provide for the preservation of the values and amenities in said community and for the maintenance of common lands and facilities and to this end, desires to subject the Property to the covenants, restrictions, easements, charges and liens (hereinafter referred to collectively as the "Restrictions"), as hereinafter set forth, for the benefit of the Property and each owner thereof; and

WHEREAS, the Developer has deemed it desirable for the efficient preservation of values and amenities in said community, to create an agency to which will be delegated and assigned the powers of maintaining and administering any community facilities, common lands and recreational amenities, and administering and enforcing the covenants and restrictions and levying, collecting and disbursing the assessments and charges hereinafter created; and

WHEREAS, the Developer will incorporate under the law of the State of Delaware, as a nonprofit corporation, the Keenwick Sound Homeowners Association, Inc., or a similar named corporation, for the purpose of exercising the functions aforesaid; and

WHEREAS, it is the intention of the Developer, by this Indenture, and by future amendments or supplements to this Indenture, to set aside certain interests in the real estate and to impose upon certain portions of the real estate the condition that they be held as Common Areas, and Recreation Areas in which Owners in the Development will have an "in common interest" and easements of enjoyment therein, the ultimate title of which shall be placed in an Association comprised of the Owners and being a nonprofit membership corporation.

NOW THEREFORE, the Developer hereby declares that the following Restrictions shall run with, burden and bind the lands shown and depicted on the subdivision plan of Keenwick Sound Phase I, as recorded in the Office of the Recorder of Deeds, in and for Sussex County, in Plot Book 28 at page 329, and as described in Exhibit "B," and the Developer hereby declares that the lands of Exhibit "B" shall be held, transferred, sold, conveyed, occupied and used subject to the Restrictions hereinafter set forth during the period of time hereinafter set forth; and subject to all

easements, rights of way and restrictions previously placed upon the property as recorded in the Office of the Recorder of Deeds, in and for Sussex County, by the Developer or its predecessors in title. The Developer hereby further declares that upon recording of a subdivision plan for Keenwick Sound Phase II, the property shown and depicted on the subdivision plot of Keenwick Sound Phase II, as described in Exhibit "C" hereto shall be subject to the following restrictions which will run with, burden and bind the property described in Exhibit "C" hereto upon the recording of a subdivision plot for Keenwick Sound Phase II, once the same is placed of record in the Office of the Recorder of Deeds, in and for Sussex County; provided however, that these restrictions shall not apply to any land areas shown in the recorded subdivision plots as a commercial area.

ARTICLE I

DEFINITIONS

The following words, when used in this Declaration (unless the context shall prohibit) shall have the following meaning:

- A. "Association" shall mean and refer to the Keenwick Sound Homeowners Association, Inc., or such other nonprofit corporation as the Developer shall form, its successors and assigns.
- B. "Common Areas" shall mean and refer to those areas of land designated on the recorded subdivision plots of the Property as (1) the roads shown upon the recorded subdivision plots and therein designated as River Run, Breakwater Run, West Stoney Run, West Pond Circle, Bluewater Run West, East Stoney Run, Bluewater Run East, East Pond Circle, and Bay Run; (2) The recreation areas and common areas as shown upon the recorded plots; (3) The internal ponds; (4) All ramps and boat slips on, contiguous to or adjoining the waterfront recreation area; (5) The facilities erected or to be erected on the non-waterfront recreation area as shown on the recorded plot; and (6) All areas designated on the recorded subdivision plot as common areas. All said Common Areas shall be subject to all restrictions, easements or rights of way previously granted by the Developer or its predecessors in title.
- C. "Developer" shall mean and refer to Keenwick Sound, Inc.
- D. "Lot" shall mean and refer to any unimproved or improved residential plot of land intended and subdivided for a detached single family residence, shown upon the recorded plot as a numbered parcel, but shall not include the "Common Areas" as hereinabove defined and shall not include any parcel reserved for commercial use as shown on the recorded subdivision plots.
- E. "Member" shall mean and refer to all those Owners who are members of the Association as provided in Article II, Section 1 of this Declaration.
- F. "Mortgage" shall mean and refer to any mortgage, deed of trust, or similar instrument granted as security for the performance of any obligation.
- G. "Owner" shall mean and refer to the record owner, whether one or more person or entities, holding a fee simple title to any Lot but shall not mean or refer to any mortgagee or subsequent holder of a mortgage, unless and until such mortgagee or holder has acquired title pursuant to foreclosure or any proceeding in lieu of foreclosure.
- H. "Keenwick Sound Phase I" refers to the lands as plotted on the subdivision plot of Keenwick Sound Phase I, as described in Exhibit "B," of record in the Office of the Recorder of Deeds, in and for Sussex County, in Plot Book 28 at page 329, and made a part of the development and submitted to these restrictive covenants as lots and common areas with the recording of this indenture.

- I. "Keenwick Sound Phase II" shall refer to the lands as plotted on the subdivision plan of Keenwick Sound Phase II, once the plot of same has been approved, and is recorded in the Office of the Recorder of Deeds, in and for Sussex County. Provided however, until Keenwick Sound Phase II is actually recorded, the lands of Keenwick Sound Phase II, as described in Exhibit "C." notwithstanding any other provision of this indenture, shall be deemed to be free of these restrictive covenants; and upon recording of a plot of Keenwick Sound Phase II, consented to by the Developer, the property depicted on the plot of Keenwick Sound Phase II, shall be submitted to these Restrictive Covenants.
- J. "Development" shall mean and refer to all the lands shown and depicted on the recorded subdivision plots of Keenwick Sound Phase I and Phase II; provided however, the development shall not include the lots and parcel depicted on the subdivision plot of Keenwick Sound Phase II, until the same is recorded in the Office of the Recorder of Deeds, in and for Sussex County. The development is intended to include all of the lands described in Exhibit "A" hereto upon the recording of record subdivision plots showing numbered lots, common areas, common roads and a reserved commercial area have been subdivided of record through a recorded subdivision plot of said lands under the designation, Keenwick Sound Phase I and Keenwick Sound Phase II.

ARTICLE II

MEMBERSHIP AND VOTING RIGHTS

Section 1. Every owner of a Lot, which is subject to assessment or subject to a later assessment shall be a Member of the Association, provided, however, that any such person or entity who holds such interest merely to secure performance for an obligation shall not be a Member, unless and until such person or entity has succeeded to such Owner's interest by enforcement of such security interest. Membership shall be appurtenant to and may not be separated from the ownership of any Lot, which is subject to assessment. Provided however, that the Developer shall be considered an Owner of each Lot held by the Developer whether such Lot or Lots are or are not subject to assessment.

Section 2. The Association shall have one class of voting membership.

(a) Class A members shall be all lot Owners of a lot in the recorded subdivision plots of Keenwick Sound Phase I and Keenwick Sound Phase II, once recorded, who shall be entitled to one (1) vote for each Lot. When more than one person holds an Interest in any Lot, all such persons shall be Members. The vote of such Lot shall be exercised as they among themselves determine, but in no event shall more than one (1) vote be cast with respect to any Lot.

ARTICLE III

PROPERTY SUBJECT TO DECLARATION

Section 1. Existing Property. The real property subject to this Declaration is all that property located in Baltimore Hundred, Sussex County, Delaware shown on the recorded plot, which is incorporated herein by reference and as described in Exhibit "B," attached hereto and incorporated herein by reference; and this Declaration and the lands subject to this Declaration shall also be subject to restrictions, easements, or rights of way previously granted by the Developer, or its predecessors in title, as recorded in the Office of the Recorder of Deeds, in and for Sussex County; provided however, that the area designated as reserved for commercial use shown on the subdivision plot are not subject to these restrictions.

Section 2. Future Property. The real property described in Exhibit "C" hereto located in Baltimore Hundred, Sussex County, shall become subject to this Declaration upon the recording of a subdivision plot in the Office of the Recorder of Deeds, in and for Sussex County, designated Keenwick Sound Phase II, provided same is approved on

its face by the Developer. It shall also be subject to restrictions, easements or rights of way previously granted by the Developer, or its predecessors in title, as recorded in the Office of the Recorder of Deeds, in and for Sussex County; provided however, that the area designated as reserved for commercial use shown on any subdivision plot designated Keenwick Sound Phase I or Keenwick Sound Phase II, shall not be subject to these restrictions.

Section 3. Mergers. Upon a merger or consolidation of the Association with another association as provided in its Certificate of Incorporation, its properties, rights and obligations may, by operation of law, be transferred to another surviving or consolidated association, or alternatively, the properties, rights and obligations of another association may, by operation of law, be added to the properties, rights and obligations of the association as a surviving corporation pursuant to a merger; provided however, that such merger shall have been approved by a vote of two-thirds (2/3) of the Class A membership, at a meeting duly called for such purpose. The surviving or consolidated association may administer the covenants and restrictions established by this Declaration within the Property together with covenants and restrictions established upon any other properties as one community. No such merger or consolidation, however, shall effect any revocation or change to the covenants established by this Declaration within the Property.

ARTICLE IV

PROPERTY RIGHTS IN THE COMMON AREAS

Section 1. Owner's Easement of Enjoyment. Subject to the provisions of Section 3 of ARTICLE IV, every Owner shall have a right and easement of enjoyment in and to the Common Areas, and such easement shall be appurtenant to and shall pass with the title to every lot.

Section 2. Title to Common Areas. The Developer shall convey legal title in the Common Areas to the Association. The Developer may retain legal title in the Common Areas: (1) until such time as it has completed improvements thereon; and (2) until such a time as, in the opinion of the Developer, the Association shall be able to maintain the same. Notwithstanding any other provision herein, the Developer hereby covenants for itself, its successors and assigns, that it shall convey all its right, title and interest in the Common Areas to the Association, subject to all previous restrictions of record and this Declaration no later than December 1, 1988.

Section 3. Extent of Member's Easements: The rights and easements of enjoyment created hereby shall be subject to the following:

- (a) The right of the Association as provided in its Certificate of Incorporation and by-laws, to suspend the enjoyment rights of any Member in any easement or in any Common Areas, for any period during which any assessment against such Member remain unpaid, and for any period not to exceed sixty (60) days for any infraction of the Association's published rules and regulations.
- (b) The right of the Association and/or the Developer to dedicate or transfer all or any part of its interest in the Common Areas (subject to easements created hereunder, or previously created of record) to any public agency, authority or utility.
- (c) The right of the Developer prior to the conveyance of the Common Areas to the Association, and of the Association, to grant and reserve easements and rights-of-way through, under, over and across the Common Areas, for the installation, maintenance and inspection of lines and appurtenances for water, sewer, drainage, gas, electricity, telephone, cable television and other utilities.
- (d) The right of the Association to adopt rules and regulations governing the use by the Owners of the Common Areas.

Section 4. Delegation of Use. Any Owner may delegate his rights of enjoyment to the Common Areas and facilities to the members of his family, tenants, or contract purchases (and members of the family of any tenant or contract purchaser) who reside on the property or to such other persons as may be permitted by the Association.

Section 5. Obligations of the Association. The Association shall:

- (a). Operate, install and maintain, for the use and benefit of all Members of the Association, all Common Areas and facilities and improvements developed thereon.
- (b). Maintain and Install all facilities on, mow the grass on, replace all dead or destroyed original landscaping on, all Common Areas.
- (c). Maintain, if permitted, bulkheads, boat ramps, docks and boat slips forming any part or adjoining the waterfront recreation area shown on the recorded plot.
- (d). Operate, install and maintain a system of allocation for the boat slips, if any, located on or adjoining the waterfront recreation area as shown on the recorded plot among the members, and establish a user charge for such boat slips to the members who seek to have a boat slip assigned.
- (e). Be responsible for the pro rata portion of the total cost of the installation, operation and maintenance of the traffic signal at the intersection of Delaware Route 54 (Sussex County Road 58) and the entrance to Keenwick Sound. The costs are as detailed in an agreement between the State of Delaware, Department of Transportation and Keenwick Sound, Inc. All terms of the agreement shall be binding on the Association.

Section 6. Water Access Easement. Every Owner of a residential Lot shown on the recorded subdivision plots of Keenwick Sound Phase I and Keenwick Sound Phase II, that is the subject matter of this Declaration, shall have an easement over and across the common area as shown on the recorded subdivision lot of Keenwick Sound Phase I. adjoining Roy Creek in order to gain access to Roy Creek through these common areas. Such easement shall be appurtenant to and shall pass with the title to every lot. Any such owner may delegate his right of access to, and enjoyment of, the water access easement to the members of his family, tenants or contract purchasers (and the members of the family of any tenant or contract purchaser) who reside on such property or to such other persons as may be permitted by the Association.

ARTICLE V

COVENANT FOR MAINTENANCE

Section 1. Creation of Lien and Personal Obligation of Assessments. The Developer, or itself and its successors and assigns, and for each lot within the Property hereby covenants, and each Owner of any lot, by acceptance of a deed or other transfer document therefore, whether or not it shall be expressly established in such Deed or other transfer document, hereby covenants and agrees to pay the Association: (1) annual assessments or charges; (2) special assessments for capital improvements, operations, repair, replacement and reserve funds, such assessments to be fixed, established and collected as hereinafter provided; and (3) user assessments to provide for the maintenance and improvements of boat slips located upon or adjoining the waterfront recreation area shown on the recorded plot. The annual, special and user assessments, together with interest, costs and reasonable attorneys' fees, shall be a charge on the land, and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs, and reasonable attorneys' fees, for the collection thereof, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. A personal obligation for delinquent assessment shall not pass to the owner's successor in title (other than as a lien on the land), unless expressly assumed by them.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety and welfare of the residents in the Property, and particularly for the improvement and maintenance of the Common Areas located in the Property, and for services and facilities devoted to this purpose and related to the use and enjoyment of the Common Areas, including, but not limited to, the payment of taxes and insurance thereon and repair, replacement and additions thereto, for the cost of labor, equipment, materials, management and supervision thereof, and for operating reserve funds and reserve funds for repair and replacement of the Common Areas and facilities thereon.

Section 3. Basis and Maximum Annual Assessment. Each respective Lot to be sold by the Developer, or by any successor developer, if and as conveyed by the Developer or a successor developer after the final date of transfer from the Developer to any Owner, shall thereafter be subject to an annual maintenance charge or assessment to be paid to the association. The amount of such assessment shall be fixed annually by the Association and shall be charged or assessed in equal proportions against each Lot within the Property, provided however, that such assessment shall in no event exceed the sum of Two Hundred Dollars (\$200) per lot for any year unless said maximum be adjusted as hereafter provided. The first assessment year shall be January 1, 1984 and thereafter each assessment shall be made for each subsequent calendar year commencing as of January 1 each year. Each yearly assessment shall be due and payable on or before ninety (90) days after it has been fixed and levied. It shall be the duty of the Association to notify all Owners, whose Addresses are listed with the said Association, within thirty (30) days after said assessment has been fixed or levied, giving the amount of the charge of the assessment for said year, when due and the amount due on each lot or parcel of land owned by each such Owner. Failure of the Association to levy the assessment or charge for any one year shall not affect the right of the Association to do so for any subsequent year.

Note - the Fourth Amendment replaced Article V, Section 3, sentence 2 with "The amount of such assessment shall be fixed annually by the Association and shall be charged or assessed in equal proportions against each Lot within the Property, provided however, that such assessment shall in no event exceed Four Hundred Dollars (\$400.00) per lot annually, commencing with the payment for the fiscal year starting July 1, 2020, unless said maximum be adjusted as hereafter provided."

Note - the Third Amendment replaced Article V, Section 3, sentence 2 with "The amount of such assessment shall be fixed annually by the Association and shall be charged or assessed in equal proportions against each Lot within the Property. Such assessment shall be Three Hundred Dollars (\$300.00) per lot annually, commencing with the payment for the fiscal year starting July 1, 2008, unless said maximum be adjusted as hereafter provided."

Note - the First Amendment replaced Article V, Section 3, sentence 3 with "The assessment year shall commence on July 1 of each calendar year."

Section 4. Establishment of Annual Assessment Rate. The Board of Directors of the Association may, after consideration of current operation costs, current maintenance costs, and future needs of the Association, fix the annual Assessment in an amount below the maximum annual assessment set forth in Section 3 hereof and may provide for the payment in monthly installments, provided however, the amount of the Annual Assessment shall not exceed Two Hundred Dollars (\$200), unless two-thirds (2/3) of Class A membership of the Association agree that the maximum yearly assessment shall be raised.

Note - the Fourth Amendment replaced Article V, Section 4 with "The Board of Directors of the Association may, after consideration of current operation costs, current maintenance costs, and future needs of the Association, increase the annual Assessment of Four Hundred Dollars (\$400.00) in a percentage up to ten percent (10%) of the

prior year's annual Assessment amount without obtaining the consent of two-thirds (2/3) of Class A membership of the Association."

Note - the Third Amendment replaced Article V, Section 4 with "The Board of Directors of the Association may, after consideration of current operation costs, current maintenance costs, and future needs of the Association, increase the annual Assessment of Three Hundred Dollars (\$300.00) only by obtaining the consent of two-thirds (2/3) of Class A membership of the Association that the maximum yearly assessment shall be raised."

Section 5. Special Assessment for Capital Improvements and Operating Reserves. In addition to the Annual Assessment authorized by Section 3 hereof the Association may levy in any assessment year a special assessment (which may be fixed at one uniform rate for each Lot) applicable to that year only, for the purpose of defraying in whole or in part the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Areas, including the necessary fixture and personal property related thereto, and for operating the Common Areas, for which a reserve fund does not exist or is not adequate, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of the Class A membership.

Section 6. Date of Commencement Assessment; Due Date. The annual assessment as to any Lot shall commence on the conveyance of such lot, prorated or the remaining portion of said year, providing such conveyance is after January 1, 1984. In the event a Lot is conveyed prior to January 1, 1984, the annual assessment will commence on January 1, 1984. The annual assessment due upon the conveyance of any lot in the development from the Developer to any third party purchasers after January 1, 1984, and collectible at settlement shall be One Hundred Dollars (\$100) per lot unless the annual assessment be changed by the Association. The rate of any special assessment under Section 3 hereof shall be fixed in any resolution authorizing such assessment.

Note – the First Amendment deleted Article V, Section 6 in its entirety.

Section 7. Effect of Nonpayment of Assessment. The Personal Obligation of the Owner: the Lien; Remedies of the Association. If any Assessment is not paid on the date when due as hereinabove provided, then such Assessment shall be deemed delinquent and shall together with such interest thereon and cost of collection, including reasonable attorneys' fees, thereof as hereinafter provided, continue as a lien on the Lot and any structure built thereon which shall bind such Lot in the hands of the then Owner, his heirs, devisees, personal representatives, successors and assigns. In addition to such lien rights, the personal obligation of the then Owner to pay such Assessment, however, shall remain his personal obligation and shall not pass to his successors in title (other than as a lien on the land) unless expressly assumed by then. If the Assessment is not paid within thirty (30) days after the due date, the Assessment shall bear interest from the date of delinquency at the rate of the legal interest rate authorized by 6 Del. C. { 2301 as amended and the Association may bring a legal action against the Owner personally obligated to pay the same or may enforce or foreclose the lien against the lot; and in the event a judgment is obtained, such judgment shall include interest on the Assessment above provided and on reasonable attorneys' fees to be fixed by the court, together with the cost of the action. No Owner of a lot may waive or otherwise escape liability for the Assessment provided for herein by nonuse of the Common Areas or abandonment of his or its Lot.

Section 8. Subordination of the Lien to the First Mortgage. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage on the Lot. Sale or transfer of any Lot, shall not affect the assessment lien. No sale or transfer shall relieve such lot from liability for any assessments thereafter becoming due or from the lien thereof.

Section 9. The following property subject to this Declaration shall be exempted from the assessments, charges and liens created herein:

a) All properties dedicated to and accepted by a government body, agency or authority and devoted to public use;

(b) All Common Areas;

(c) All Lots owned by the Developer and any successor Developer and not sold or leased by the Developer or its successor to third persons until January 1, 1989. Thereafter said lots will be subject to the assessments of the Association.

ARTICLE VI

RESTRICTIVE AND PROTECTIVE COVENANTS

Section 1. Utility Easements. The Developer, for it, its successors and assigns, and for the Association, hereby reserves the right to grant easements over, under, in, on and through the Common Areas and all roads plotted and shown on the recorded plots for the installation, construction, reconstruction, relocation, removal, maintenance, repair, operation, inspection of water service, sewer, drainage, electric, gas, television, telephone, and cable telephone and television facilities and wires, lines, conduits and other accessory and proper attachments in connection therewith, for the benefit of the adjoining land owners, the Developer, any federal, state or local authority, commission or agency having jurisdiction thereover or any corporation, either public, quasi-public, or private, supplying or serving such facilities.

Section 2. Utility Easements; Prior Restrictions. The properties are subject to all those prior easements, rights of way and restrictions placed upon the Property by the Developer's predecessors in title as such be recorded among the land records in the Office of the Recorder of Deeds, in and for Sussex County.

Section 3. Residential Use. All numbered lots as plotted on the recorded subdivision plots of Keenwick Sound Phase I and Keenwick Sound Phase II, except the parcel designated as commercial area, shall be used for residential purposes exclusively. No structure, except as hereinafter provided, shall be erected, altered, placed or permitted to remain upon any such numbered Lot other than one (1) detached single family dwelling, with attached garage building or carport (hereinafter sometimes referred to as the main dwelling). The use of any such main dwelling or accessory building shall not include any activity normally conducted as a business.

Section 4. Restrictions as to Types of Construction, Prohibiting Mobile Homes. No trailer, mobile home, double wide or similar type structure, which moves to a building site on wheels attached to its own under carriage, tent, shack, garage, barn or other type outbuildings shall at any time be used as a residence, temporary or permanently, and no trailer, mobile home, double wide, tent, shack, garage, or barn shall be utilized as a main or single family dwelling unit on any lot as shown on the recorded plot.

Note – the Second Amendment added the following paragraph to Article VI, Section 4.

"All roofs shall not be less than 5/12 roof pitch. All floors and joists shall be of wood construction. No steel or metal beams are allowed in the floor construction or underside. All exterior walls shall be at least 2x4 construction. No home having a Department of Motor Vehicle Title or a book value will be allowed in the development. On site custom built homes or off site constructed custom sectional homes shall be the only type construction that will be approved. All homes shall be of new construction. No old structures shall be moved onto any Lot in the development."

Section 5. Restriction Against Business Use. No numbered lot, except the area designated commercial areas shown on the recorded subdivision plots of Keenwick Sound Phase I and Keenwick Sound Phase II, shall be used at any time to conduct business, or for the conduct on said numbered Lot of any trade or business of any description nor shall said premises be used for any purpose whatsoever except for the purpose of private dwelling or residence. No building shall be used as a residence until the exterior is fully completed, according to the plans and specifications approved therefore, as such approval is hereinafter provided. No one shall reside on any numbered

lot, casually, temporarily or permanently except in a dwelling house, completed according to the plans and specifications approved as hereinafter provided.

Section 6. Approval of Plans and Specifications Required. No building, boat house, garage, structure, fence, wall, bulkhead, pier or other improvement, shall be commenced, erected, maintained or used, nor shall any addition to or change or alterations therein, or in the use thereof, be made upon any of the numbered lots which are shown on the recorded subdivision plots of Keenwick Sound Phase I and Keenwick Sound Phase II, no matter for what purpose or use, until complete and comprehensive plans and specifications, showing the nature, kind, shape, height, materials, floor plans, exterior architectural scheme, location and frontage in the Lot, approximate cost of such building, structure, or other erection, and the grading and landscaping of the Lot to be built upon or improved, shall be submitted to and approved in writing by the Association, through its duly designated Architectural Review Committee, its successors or assigns, and until a copy of all such plans and specifications, finally approved as aforesaid, shall be lodged permanently with the Association, its successors or Assigns, providing that nothing herein shall require the aforesaid approval as to interior decorations, alterations or changes. The Association, its successors and assigns, shall have the right to refuse approval of any such plans or specifications, or grading or landscaping plans or changes, which are not suitable or desirable in its or its successors opinion, for aesthetic or other reasons. In passing upon such plans and specifications, or grading and landscaping plans, the Association, its successors or assigns, shall have the right to take into consideration the suitability of the proposed building or improvements or erections and/or the materials of which the building or other improvements or erections are to be built and the site upon which it is proposed to be erected and used, the harmony thereof with the surroundings and the effect of such improvements, additions, alterations or changed use, as planned, on the outlook from the adjacent or neighboring property, and any and all factors which in its opinion would affect the desirability or suitability of such proposed improvements, erections, or alteration or change. In order to insure the development and maintenance of the properties as a residential development of high standard, the Owner of each Lot, as shown on the recorded division plots of Keenwick Sound Phase I and Keenwick Sound Phase II, by accepting title thereto or by occupying the same, hereby covenants and agrees that no building, structure or improvement shall be erected, altered, placed or permitted to remain upon any such Lot, or other land area, unless and until plans and specifications therefore have first met the requirements of this Section.

Section 7. Resubdivision. No lot as shown upon the recorded plots of Keenwick Sound Phase I and Keenwick Sound Phase II, shall be resubdivided, sold, or otherwise alienated in a lesser or smaller parcel, except in accordance with a supplemental plot plan thereof being approved by the Association or its successors and recorded in the Office of the Recorder of Deeds, in and for Sussex County, at Georgetown, Delaware.

Section 8. Sanitation. Cesspools or outside toilets shall be absolutely prohibited. No outdoor incinerator shall be permitted unless flames or draft from same are enclosed and a permanent fire screen is approved by the Association, through the Architectural Review Committee, and/or those public agencies having jurisdiction. Public sewer is made available to all numbered lots and such lot shall be connected to said public sewage system at the expense of the then lot owner.

Section 9. Signs and Advertising Regulated. No signs, notices or advertising matter of any nature or description shall be erected, used or permitted upon any of the Lots shown on Exhibit "A," unless erected after securing the written permission of the Association or its successors or assigns. The Developer, however, retains the right to erect signs on any lot to advertise said lot for sale.

Section 10. Setback Restrictions-Height Limitation.

The building setback requirements, height limitations, and permitted accessory uses shall be the setback requirements, height limitations and permitted accessory uses as established in the MR-Medium Residential density district by the Zoning Ordinance of Sussex County, as such may be amended from time to time.

In the event there is no Zoning Ordinance covering the property, the building setback requirements, height limitations and accessory uses shall be recommended by the Architectural Review Committee of the Association and formally adopted by the Association, and submitted as an Amendment to these presents.

Section 11. Garbage Receptacles. Each Lot shown on the recorded plot shall provide receptacles for garbage in a screened area not generally visible from any interior road, as shown upon the recorded subdivision plot of Keenwick Sound Phase I and Keenwick Sound Phase II, or provide underground garbage receptacles or similar facilities in accordance with reasonable standards established by the Association or its successors or assigns.

Section 12. Storage Receptacles. No fuel tanks or similar storage receptacles may be exposed to view; but same may be installed within the main dwelling, or within an accessory building or buried underground or properly screened from view providing the method of screening is approved by the Association.

Section 13. Construction and Demolition. Once construction or demolition of any building has been commenced on any numbered lot, such construction or demolition shall proceed without delay until the same is completed except where such completion is impossible or results in great hardship to the owner or builder due to strikes, fires, national emergencies or national calamities. Cessation of work upon the construction or demolition of any building once started and before completion thereof for a continuous period of sixty (60) days shall be prima facie evidence of an attempt to abandon the same in its partially completed or demolished state and shall be deemed to be a public nuisance. In the event construction plans have been approved pursuant to Section 6, construction must commence pursuant to said approved plans within one (1) year of the date of approval. Failure to commence construction within one (1) year of the date of approval of plans will void the approval.

Section 14. Fences. No boundary fence or wall shall be constructed to a height of more than four (4) feet. No wall or fence of any height shall be constructed upon any Lot until the height, design and approximate location thereof has been approved in writing by the Association or its successors or assigns. No boundary fence or wall shall be constructed within any front setback area. Provided however, the fences enclosing pools or garbage receptacles may be constructed to a height of up to eight (8) feet if approved by the Association through its designated Architectural Review Committee.

Section 15. Nuisances. It shall be the responsibility of each Owner to prevent the development of any unclean, unsightly, or unkempt conditions of buildings or grounds upon a Lot which will tend to substantially decrease the beauty of the development as a whole, or the beauty of the specific area. No noxious or offensive activity shall be permitted upon any lot, nor shall anything be done thereon tending to cause embarrassment, discomfort, annoyance, or nuisance to the Property. There shall not be maintained upon any Lot any plant, animal, device or thing of any sort, the normal activities of which is in any way noxious, dangerous, unsightly, unpleasant or of such a nature as may diminish or destroy the enjoyment of the Property. Specifically included under this Section is the prohibition against any livestock being kept on any Lots. The keeping of any non-domestic animals shall be deemed a nuisance per se under this Section; but the keeping of domestic cats and dogs, or other traditional household pets, unless the activity of such pets is in any way noxious, dangerous, unsightly, or unpleasant, shall not be prohibited under this Section.

Section 16. Landscaping. No landscaping, shrubs or trees to be placed on or removed from any lot in conjunction with the erection of any main dwelling shall be planted, until complete and comprehensive landscaping plans shall be submitted to and approved in writing by the Association through its duly designated Architectural Review Committee. The land area not occupied by structures, hard-surfacing, vehicular driveways or pedestrian paths shall be kept planted with grass, trees or shrubs or other ground covering or landscaping in conformance with the standards set by the Architectural Review Committee of the Association. Such standards will take into consideration the need for providing effective site development to:

(a) Enhance the site and building;

- (b) Screen undesirable areas or views;
- (c) Establish acceptable relationships between buildings, parking and adjacent properties; and
- (d) Control drainage and erosion.

Section 17. Weeds and Undergrowth. No noxious weeds, undergrowth or accumulated trash of any kind shall be permitted to grow or maintain upon any lot by the owner or occupier thereof. The Association, its successors and assigns reserves the right to notify the owner or occupier to cut and/or remove any such offending growth or trash. Within ten (10) days of the giving of notice in writing by the Association to the owner or occupier of any lot to remove trash or control undergrowth or weeds and, if the owner or occupier shall fail or neglect to comply with any notice, in such an event, the Association or its successors shall be empowered to enter upon such lot, together with such assistance and equipment as may be required, and thereupon to cut and/or remove the same, all without being deemed a trespasser, and all at the expense of the owner of said lot. Any expense incurred by the Association or its successors in conjunction with this Section, shall be billed to the owner, and the owner agrees to remit same within thirty (30) days of billing. Failure to remit within thirty (30) day of such bill, on the receipt thereof by the owner, shall entitle the Association, its successors or assigns to bring suit, for such charges; and in any such suit the Association shall be entitled to treble the amount of such expenses it has incurred, plus the costs of said suit, and the reasonable attorneys' fees, incurred by it, enforcing this restriction. By the acceptance of any numbered lot in the subdivision, each owner thereof, hereby accepts this Section, and agrees that the treble damages and reasonable attorneys' fees to collect same, for non-remittance of the expenses of the Association, its successors and assigns, incurred to remove trash or noxious growth is reasonable and will constitute liquidated damages for the cost and expense of the Association, its successors and assigns in enforcing this restriction through litigation. This Section and any part hereof shall not be construed as an obligation on the part of the Association or its successors and assigns to provide garbage or trash removal services, nor shall it be construed as an obligation on the part of the Association or its successors and assigns to provide garbage or trash removal services, nor shall it be construed as an obligation upon the Association to remove the underbrush or rubbish or to cut grass or brush from any of the lots in the development, after same have been outconveyed by the Developer. However, the Association, its successors and assigns, reserves the right and privilege to enter upon any said lot for the purposes as set forth herein, being to maintain the appearance of any lots so as not to cause detriment to the community at large.

Section 18. Minimum Size. No main dwelling shall be erected or used on any lot, the square footage of which shall be less than one thousand square feet (1,000 sq. ft.), exclusive of all porches, breezeways, carports, garages and terraces, stoops and the like. And in the event of a multi-level or multi-story dwelling, at least one floor of such dwelling shall contain a minimum square footage of nine hundred square feet (900 sq. ft.), and the overall dimensions shall be a minimum of one thousand one hundred square feet (1,100 sq. ft.), exclusive of all porches, breezeways, carports, garages and terraces, stoops and the like.

Note – the Second Amendment replaced Article VI, Section 18, sentence 1 with “No main dwelling shall be erected or used on any lot, the square footage of which shall be less than one thousand two hundred square feet (1,200 sq. ft.), exclusive of all porches, breezeways, carports, garages and terraces, stoops and the like.”

Note – the Second Amendment replaced Article VI, Section 18, sentence 2 with “And in the event of a multi-level or multi-story dwelling, the first floor of such dwelling shall contain a minimum square footage of one thousand square feet (1,000 sq. ft.), and the overall dimensions shall be a minimum of one thousand eight hundred square feet (1,800 sq. ft.), exclusive of all porches, breezeways, carports, garages and terraces, stoops and the like.”

Section 19. Parking Spaces. Each numbered lot shall have provided space for parking two (2) automobiles off the private roads of the subdivision prior to occupying any dwelling constructed on any lot.

Section 20. Exterior Lights. Exterior lights not attached to any permissible main structure placed or erected, and maintained or any lot set forth on the recorded plot, shall not be in excess of two (2) feet in height above ground level. In no event shall any vapor or security exterior lights be placed on any lot in the subdivision, whether attached, or not attached, to any building permitted pursuant to these restrictions.

Note – the Second Amendment replaces Article VI, Section 20 with “Exterior post lamps, low intensity landscape lights and floodlights mounted on the house are permitted. In no event shall any high intensity vapor pole or building mounted area lights be placed on any Lot in the subdivision, whether attached, or not attached, to any building permitted pursuant to the restrictions.”

Section 21. Restrictions on Bulkheads-Piers-Docks.

- (a) No piers, docks, wharfs or other facilities shall be constructed so as to extend more than five (5) feet off shore from the shoreline of any canal or lagoon, nor more than four (4) feet above mean high water mark. Nothing contained herein, however, shall prevent the construction of a boat house or garage which is attached to the main dwelling. In the same manner and fashion that a garage or carport is permissible within the development; provided however, that the owner shall construct any canal leading to his boat house entirely upon his property, and not at any point within the side setback restrictions; and provided further that the said dwelling and boat house shall not encroach upon any side setback restrictions hereinabove provided. In no case shall any private garage or boat house be constructed in advance or used in advance of construction and completion of the main dwelling.
- (b) No alteration shall be made in the contour or bulkheading of the shoreline boundary of any lot bordering upon any lagoon, canal or the bay until plans and specifications have first been submitted and approved in writing by the Association in accordance with the discretion and rights of the Association to approve plans and specifications for any structure as hereinafter provided.
- (c) Each lot owner who takes title or any ownership interest in a lot which adjoins any lagoon or has been bulkheaded by the acceptance of any such ownership agrees to maintain the bulkhead to prevent fill materials or spoils from entering into the adjoining lagoons.

Section 22. The provisions of Article VI, Sections 3, 5, 9, 10, 13, 14 and 19 shall not apply to Common Areas.

ARTICLE VII

GENERAL PROVISIONS

Section 1. Duration and Amendment. The Restrictions of this Declaration run with and bind the Property and shall inure to the benefit of and be enforceable by the Association, or the Owner of any Lot subject to this Declaration, their respective legal representatives, heirs, successors and assigns, as the case may be in perpetuity; subject, however, to the provision that the Association or its successors, by and with the vote or written consent of two-thirds (2/3) of the then Owners of the Lots, shall have the power to waive, abandon, terminate, modify, alter, change, amend, eliminate or add to these Restrictions and this Declaration at any time hereafter. Any such waiver, abandonment, termination, modification, alteration, change, amendment, elimination, or addition shall take effect when a copy thereof executed and acknowledged by the Association or its successors in accord with the usual form of execution and acknowledgement of deeds, together with written consents of the requisite number of Owners, has been filed for record in the Office of the Recorder of Deeds, in and for Sussex County, and the same shall thereafter remain in effect in perpetuity unless otherwise provided.

Section 2. In addition to the amendment power set forth in Article VII, Section 1, the Keenwick Sound Homeowners Association action through the Architectural Review Committee, shall have the power, at its sole discretion, and for

the purpose of aesthetics and providing a systematic development of the community; to waive, modify, or vary the restrictions establishing minimum setback requirements, front, side and rear lines, and the minimum square footage required for any main structure built upon any lot. In the event the Keenwick Sound Homeowners Association through its Architectural Review Committee, exercises its power, or in the event of any exercise of power to modify, or grant a variance of the restrictions as to setback lines, front, rear and side, and minimum main building square footage size, such grant of codification or variance shall take effect upon a copy of said grant of modification or variance thereof executed and acknowledged by Keenwick Sound Homeowners Association, Inc., its successors and assigns, being filed for record in the Office of the Recorder of Deeds, in and for Sussex County and the same shall thereafter remain in effect as to that lot in perpetuity; provided however, that such modification, or variance as to a particular lot, shall have no effect as to the setback restrictions, and minimum square footage requirement of main residential structures as to any lot in the subdivision. It is specifically recognized that this right to grant a variance or modification as to the setback restrictions and the minimum square footage restrictions, is reserved, and acknowledged to be in Keenwick Sound Homeowners Association, Inc., for the purpose of allowing each lot in the subdivision to be developed to that lot's maximum aesthetic potential. Taking into consideration the configuration of the lot, and preserving the value of the lot in question, and lots which are adjacent, or in close proximity to such lot which is the subject matter of the grant of any such modification or variance.

Section 3. Remedies. The Association, or any Owner, shall have the right to enforce this Declaration and the Restrictions contained herein by any proceeding at law or in equity, against any person or persons violating or attempting to violate any provision of this Declaration or any restrictions contained herein, to restrain violation, to require specific performance and/or to recover damages; and to proceed against any lot to enforce any lien created by these Restrictions. The expense of enforcement by the Association shall be chargeable to the Owner of the Lot, including the costs of reasonable attorneys' fees, in the event any legal action is taken by the Association, and such fees, approved by a court of competent jurisdiction, shall constitute a lien on the lot, collectible in the same manner as assessments hereunder.

Section 4. Assignability. The Developer, its successors and assigns, shall at all times have the right to fully transfer and assign any or all of its rights and powers under this Declaration, subject to the Developer's obligations hereunder.

Section 5. Non-waiver. Failure of the Developer or any Owner, or their respective legal representatives, heirs, successors and assigns, to enforce any Restrictions contained in this Declaration shall in no event be considered a waiver of the right to do so thereafter, as to the same violation or breach or as to such violation or breach occurring prior or subsequent thereto.

Section 6. Construction and Interpretation. The Association, to the extent provided herein, may adopt and promulgate reasonable rules and regulations regarding the administration, and interpretation and the enforcement of the provisions of this Declaration. In so adopting and promulgating such rules and regulations and in making any finding, determination, ruling or order or in carrying out any directive contained herein relating to the Issuance of permits, authorizations, approvals, rules or regulations, the Association shall take into consideration the best interest of the Owners to the end that Property shall be preserved and maintained as a viable community.

Section 7. Severability. All the covenants, conditions, restrictions, and reservations contained in this Declaration are hereby declared to be severable and a finding by any court of competent jurisdiction that any of them or any clause or phrase thereof is void, unlawful or unenforceable shall not affect the validity or enforceability of any other covenants, conditions, restrictions, reservations, clause or phrase thereof.

Section 8. Non-liability. Nothing contained in this Declaration shall be construed in any manner as to impose upon the Association or the Developer, or their successors or assigns, any liability whatsoever for property damage and/or personal injury occurring to any person or persons whomsoever, or by reason of any use of any Common Areas, or roads, or adjacent waters, depicted on the recorded plot. Any and all persons using any such roads, common areas,

easements, boat slips and water ways, or any of them, shall do so at their own risk and without any liability whatsoever on the part of the Association, the Developer or their respective successors or assigns, as the case may be.

IN WITNESS WHEREOF. Keenwick Sound, Inc., a corporation of the State of Delaware, the Developer, has caused this instrument to be executed by its proper corporate officers and its corporate seal to be hereunto affixed, the day and year first above written.

KEENWICK SOUND. INC.

BY: /s/William G. Adkins/s/, President

Attest: /s/ Janet H. Cherest/s/ Secretary

STATE OF DELAWARE :

: ss.

COUNTY OF SUSSEX :

BE IT REMEMBERED, that on this 1st day of November, A.D. 1983, personally came before me, The Subscriber, a Notary Public for the State and County aforesaid, William G. Adkins President of KEENWICK SOUND, INC., a corporation of the State of Delaware, party to this Indenture, known to me personally to be such and acknowledged this Indenture to be his act and Deed, and the act and the Deed of the said corporation; that the signature of the President is in his own proper handwriting; that the seal affixed is the common and corporate seal of the said corporation duly affixed by its authority; and that the act of signing, sealing, acknowledging and delivering the said Indenture was first duly authorized by resolution of the Board of Directors of the said corporation. GIVEN under my Hand and Seal of office, the day and year aforesaid.

William P. Hol.....

Notary Public

EXHIBIT "A"

ALL that certain tract, piece or parcel of land, lying and being situate in Baltimore Hundred, Sussex County, State of Delaware, lying on the Southside of Delaware Route No. 54, and being more particularly described as follows, to wit: Commencing at a concrete marker situate on the southerly right-of-way of Route #54, said concrete marker being located 2,002 feet more or less from centerline of Route 394A, said concrete marker being a corner for these lands and lands now or formerly of Jesse S. & Geraldine H. Cobb; thence by and with lands now or formerly of Jesse S. & Geraldine H. Cobb and lands now or formerly of Mabel F. Murray, South 19 degrees 27 minutes 29 seconds East, 10.05 feet to a point, the place of BEGINNING, thence by and with lands now or formerly of Jesse S. & Geraldine H. Cobb and lands now or formerly of Mabel F. Murray the following 2 courses and distances: (1) South 19 degrees 27 minutes 29 seconds East, 732.00 feet to a concrete marker; thence (2) South 31 degrees 18 minutes 25 seconds West, 48.02 feet to an iron pipe, said iron pipe being a corner of these lands and lands now or formerly of Mabel F. Murray; thence by and with lands now or formerly of Irvin J., & Edna A. McGee and the centerline of a ditch, the following 7 courses and distances: (3) South 65 degrees 57 minutes 49 seconds East. 27.59 feet to a point, thence (4) South 76 degrees 23 minutes 04 seconds East, 246.84 feet to a point; thence (5) South 55 degrees 48 minutes 30 seconds East, 289.87 feet to a point; thence (6) South 51 degrees 48 minutes 10 seconds East, 277.34 feet to a point; thence (7) South 44 degrees 14 minutes 07 seconds East, 259.05 feet to a point; thence (8) South 63 degrees 13 minutes 23 seconds East, 331.68 feet to a point, thence (9) North 08 degrees 28 minutes 44 seconds East, 14.0 feet to a point, said point being situate in the centerline of Roy Creek; thence by and with the centerline of Roy Creek, the following 5 courses and distances: (10) South 63 degrees 10 minutes 44 seconds East, 434.57 feet to a point; thence (11) North 72 degrees 09 minutes 39 seconds East, 61.59 feet to a point; thence (12) South 66 degrees 11 minutes 01 seconds East, 280.69 feet to a point; thence (13) South 76 degrees 17 minutes 02 seconds

East, 143.38 feet to a point; thence (14) North 85 degrees 35 minutes 50 seconds East, 392.16 feet to a point, said point being the intersection of Roy Creek and the centerline of a lagoon; thence by and with centerline of said lagoon, the following 6 courses and distances: (15) North 17 degrees 55 minutes 25 seconds East, 326.17 feet to a point; thence (16) North 20 degrees 29 minutes 21 seconds West, 370.46 feet to a point, thence (17) North 20 degrees 48 minutes 4 seconds East, 484.36 feet to a point; thence (18) North 24 degrees 56 minutes 46 seconds West, 330.53 feet to a point; thence (19) North 15 degrees 31 minutes 07 seconds East, 82.25 feet to a point; thence (20) North 41 degrees 42 minutes 38 seconds East, 159.32 feet to a point, said point being the centerline of said lagoon and a corner of these lands and lands now or formerly of Marvin Long; thence by and with lands now or formerly of Marvin Long the following 2 courses and distances: (21) North 80 degrees 04 minutes 49 seconds West, 50.81 feet more or less to a concrete marker; thence (22) North 10 degrees 40 minutes 02 seconds East, 227.12 feet to a point, said point being a corner of these lands, lands now or formerly of Marvin Long and being situate 40 feet southerly from the centerline of aforesaid Route #54; thence by and with said lands and 40 feet from the centerline of Route #54, the following 3 courses and distances: (23) North 86 degrees 48 minutes 59 seconds West, 1,249.36 feet to a point; thence (24) by and with a curve bearing to the left, said curve having a delta angle of 28 degrees 10 minutes 46 seconds and a radius of 1,185.25 feet and an arc distance of 582.93 feet to a point; thence (25) South 65 degrees 00 minutes 15 seconds West, 549.12 feet to the home place of beginning. The above described parcel of lands contains 94.76 acres of land, be the same more or less. The description herein was derived from a survey prepared by McCann Surveyors, Inc., in October, 1983.

EXHIBIT "B"

ALL that certain tract, piece or parcel of land, lying and being situate in Baltimore Hundred, Sussex County, State of Delaware, lying on the Southside of Delaware Route No. 54, and being more particularly described as follows, to wit: Commencing at a concrete marker situate on the southerly right-of-way of State Route 54, said Route 54 having a 60 foot right-of-way, said concrete marker being a corner for this parcel and lands now or formerly of Marvin Long, said concrete marker being located 4,384 feet more or less easterly from the centerline of Route 394A; thence by and with lands now or formerly of Marvin Long, South 10 degrees 40 minutes 02 seconds West, 10.09 feet to a point, said point being the place of BEGINNING, said point being located 40 feet from centerline of Route 54; thence by and with a line parallel to and 40 feet from the centerline of Route 54 (1) North 86 degrees 48 minutes 58 seconds West, 503.69 feet to a point, said point being a corner for other lands of Keenwick Sound Joint Venture; thence by and with other lands of Keenwick Sound Joint Venture the following 20 courses and distances: (2) South 41 degrees 48 minutes 58 seconds East, 35.36 feet to a point; thence (3) South 03 degrees 11 minutes 01 seconds West, 70.0 feet to a point; thence by and with a curve bearing to the right, said curve having a delta angle of 90 degrees 00 minutes 00 seconds, a radius of 25.00 feet and (4) an arc distance of 39.27 feet to a point; thence (5) North 86 degrees 48 minutes 59 seconds West, 55.0 feet to a point; thence (6) South 03 degrees 11 minutes 01 seconds West, 300.0 feet to a point; thence (7) South 02 degrees 31 minutes 37 seconds East, 50.25 feet to a point; thence (8) South 03 degrees 11 minutes 01 seconds West, 250.00 feet to a point; thence (9) South 08 degrees 09 minutes 22 seconds West, 50.19 feet to a point; thence (10) South 03 degrees 11 minutes 01 seconds West, 125.0 feet to a point; thence (11) South 86 degrees 48 minutes 59 seconds East, 75.0 feet to a point; thence by and with a curve bearing to the right, said curve having a delta angle of 08 degrees 14 minutes 13 seconds a radius of 539.50 feet and (12) an arc distance of 77.56 feet to a point; thence (13) South 22 degrees 06 minutes 09 seconds West, 44.39 feet to a point; thence (14) North 67 degrees 53 minutes 51 seconds West, 125.0 feet to a point; thence (15) South 22 degrees 06 minutes 09 seconds West, 180.00 feet to a point; thence (16) North 67 degrees 53 minutes 51 seconds West, 45.0 feet to a point; thence (17) North 22 degrees 06 minutes 09 seconds East, 125.0 feet to a point; thence (18) South 17 degrees 31 minutes 47 seconds West, 50.16 feet to a point, thence (19) South 22 degrees 06 minutes 09 seconds West, 250.00 feet to a point; thence (20) North 67 degrees 53 minutes 51 seconds West, 99.0 feet to a point; thence (21) South 22 degrees 06 minutes 09 seconds West, 206.55 feet to a point; said point located in centerline of ditch; thence by and with centerline of ditch (22) South 63 degrees 13 minutes 23 seconds East, 164.00 feet more or less to a point located in Roy Creek; thence by and with Roy Creek (23) North 08 degrees 28 minutes 44 seconds East, 14.0 feet to a point, said point being situate in the centerline of Roy Creek; thence by and with the centerline of Roy Creek, the following 5 courses and distance.: (24) South 63 degrees 10 minutes 44 seconds East, 434.57 feet to a point; (25) North 72 degrees 09 minutes 39 seconds East, 61.59 feet to a point; thence (26) South 66

degrees 11 minutes 01 seconds East, 280.69 feet to a point; thence (27) South 76 degrees 17 minutes 02 seconds East, 143.38 feet to a point; thence (28) North 85 degrees 35 minutes 50 seconds East, 392.16 feet to a point, said point being the intersection of Roy Creek and the centerline of a lagoon; thence by and with centerline of said lagoon, the following 6 courses and distances: (29) North 17 degrees 55 minutes 25 seconds East, 326.17 feet to a point; thence (30) North 20 degrees 29 minutes 21 seconds West, 370.46 feet to a point; thence (31) North 20 degrees 48 minutes 54 seconds East, 484.36 feet to a point; thence (32) North 24 degrees 56 minutes 46 seconds West, 330.53 feet to a point; thence (33) North 15 degrees 31 minutes 07 seconds West, 182.25 feet to a point; thence (34) North 41 degrees 42 minutes 38 seconds East, 159.32 feet to a point, said point being the centerline of said lagoon and a corner of these lands and lands now or formerly of Marvin Long; thence by and with lands now or formerly of Marvin Long the following 2 courses and distances: (35) North 80 degrees 04 minutes 49 seconds West, 550.81 feet more or less to a concrete marker; thence (36) North 10 degrees 40 minutes 02 seconds East, 227.12 feet to a point, said point being the place of beginning. The above described parcel of land contains 47.43 acres more or less of land, be the same more or less. The description herein was derived from a survey prepared by McCann Surveyors, Inc, in September, 1983.

EXHIBIT "C"

ALL that certain tract, piece or parcel of land, lying and being situate In Baltimore Hundred, Sussex County, State of Delaware, lying on the Southside of Delaware Route No. 54, and being more particularly described as follows, to wit: Commencing at a concrete marker situate on the southerly right-of-way of State Route 54, said Route 54 having a 60 foot right-of-way, said concrete marker being a corner for this parcel and lands now or formerly of Marvin Long. said concrete marker being located 4.384 feet more or less easterly from the centerline of Route 394A; thence by and with lands now or formerly of Marvin Long, South 10 degrees 40 minutes 02 seconds West, 10.09 feet to a point, said point being located 40 feet from centerline of Route 54; thence by and with a line parallel to and 40 feet from the centerline of Route 54 (1) North 86 degrees 48 minutes 58 seconds West, 503.69 feet to a point, said point being a corner for ether lands of Keenwick Sound Joint Venture and being the place of BEGINNING; thence by and with other lands of Keenwick Sound Joint Venture the following courses and distances: (2) South 41 degrees 48 minutes 58 seconds East, 35.36 feet to a point; thence (3) South 03 degrees 11 minutes 01 seconds West, 70.0 feet to a point; thence by and with a curve bearing to the right, said curve having a delta angle of 90 degrees 00 minutes 00 seconds, a radius of 25.00 feet and (4) an arc distance of 39.27 feet to a point; thence (5) North 86 degrees 48 minutes 59 seconds West, 55.0 feet to a point; thence (6) South 03 degrees 11 minutes 01 seconds West, 300.0 feet to a point; thence (7) South 02 degrees 31 minutes 37 seconds East, 50.25 feet to a point; thence (8) South 03 degrees 11 minutes 01 seconds West, 250.00 feet to a point; thence (9) South 08 degrees 09 minutes 22 seconds west, 50.19 feet to point; thence (10) South 03 degrees 11 minutes 01 seconds West, 125.0 feet to a point; thence (11) South 86 degrees 48 minutes 59 seconds East, 75.0 feet to a point; thence by and with a curve bearing to the right, said curve having a delta angle of 08 degrees 14 minutes 13 seconds a radius of 539.50 feet and (12) an arc distance of 77.56 feet to a point; thence (13) South 22 degrees 06 minutes 09 seconds West, 44.39 feet to a point; thence (14) North 67 degrees 53 minutes 51 seconds West, 125.0 feet to a point; thence (15) South 22 degrees 06 minutes 09 seconds West, 180.00 feet to a point; thence (16) North 67 degrees 53 minutes 51 seconds West, 45.0 feet to a point; thence (17) North 22 degrees 06 minutes 09 seconds East, 125.0 feet to a point; thence (18) South 17 degrees 31 minutes 47 seconds West, 50.16 feet to a point, thence (19) South 22 degrees 06 minutes 09 seconds West, 250.00 feet to a point; thence (20) North 67 degrees 53 minutes 51 seconds West, 99.0 feet to a point; thence (21) South 22 degrees 06 minutes 09 seconds West, 206.55 feet to a point, said point located in centerline of ditch; thence by and with centerline of ditch (22) North 63 degrees 13 minutes 23 seconds West, 167.68 feet more or less to a point in the centerline of a ditch; thence by and with lands now or formerly of Irvin J. & Edna A. McGee and the centerline of a ditch, the following 5 courses and distances; thence (23) North 44 degrees 14 minutes 07 seconds West 259.05 feet Co a point; thence (24) North 51 degrees 48 minutes 10 seconds West, 277.34 feet to a point; thence (25) North 55 degrees 48 minutes 30 seconds West, 289.87 feet to a point; thence (26) North 76 degrees 23 minutes 04 seconds West, 246.84 feet to a point; thence (27) North 65 degrees 57 minutes 49 seconds West, 27.59 feet to an iron pipe: said iron pipe being a corner of these lands and lands now or formerly of Mabel F. Murray; thence by and with lands now or formerly of Jesse S. & Geraldine H. Cobb and lands now or formerly of Mabel F. Murray the following 2 courses and distances: (28) North 31 degrees 18 minutes

25 seconds East, 48.02 feet to a concrete marker; thence (29) North 19 degrees 27 minutes 29 seconds West, 732.00 feet to a point situate 40 feet from the centerline of Route #54; thence by and with said lands and 40 feet from the centerline of Route #54, the following 3 courses and distances: thence (30) North 65 degrees 00 minutes 15 seconds East, 549.12 feet to a point; thence (31) by and with a curve bearing to the right, said curve having a delta angle of 28 degrees 10 minutes 46 seconds and a radius of 1,185.25 feet and an arc distance of 582.93 feet to a point; thence (32) South 86 degrees 48 minutes 59 seconds East, 745.67 feet, more or less, to the point and place of beginning, be the contents thereof what they may. The description herein was derived from a survey prepared by McCann Surveyors, Inc., in October, 1983.

Received

1983 Nov 3 am 11:56
SUSSEX COUNTY

Note: This document is on record in the Office of the Recorder of Deeds, in and for Sussex County, Delaware, in Deed Book 1221, Page 179, e.t seg.

I, Russell C. Carter, the owner and resident at

(Print Name)

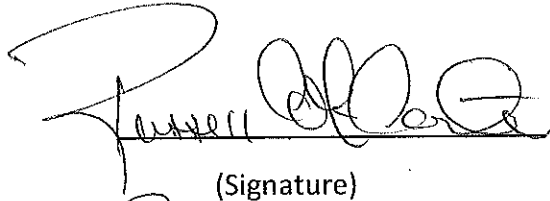
37859 W Stoney Run Sebyville DE 19975

(Address)

hereby support approval for David and Kathleen Berch of 37843 W. Stoney Run,

seeking variances from the front yard setback for proposed structures under

Case No. 12748.



(Signature)

10/11/2022

(Date)

Russell C. Carter

(Print Name)

Comments:

I, Lisa Ann Carter, the owner and resident at

(Print Name)

37859 W. Stoney Run Selbyville, DE 19975,

(Address)

hereby support approval for David and Kathleen Berch of 37843 W. Stoney Run,
seeking variances from the front yard setback for proposed structures under
Case No. 12748.

Lisa Ann Carter

(Signature)

10/11/22

(Date)

Lisa Carter

(Print Name)

Comments:

I, John + Deborah Sharkey, the owner and resident at
(Print Name)

36808 Bluewater Run West Selbyville DE 19975
(Address)

hereby support approval for David and Kathleen Berch of 37843 W. Stoney Run,
seeking variances from the front yard setback for proposed structures under
Case No. 12748.

John A. Sharkey Jr.
Deborah Sharkey

(Signature)

John A. Sharkey Jr.
Deborah Sharkey

(Print Name)

10/11/2022

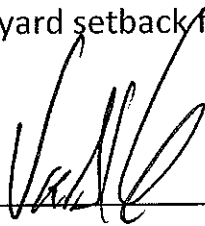
(Date)

Comments:

I, Victor Hall, the owner and resident at
(Print Name)

36814 Bluewater Run West Selbyville, DE 19975
(Address)

hereby support approval for David and Kathleen Berch of 37843 W. Stoney Run,
seeking variances from the front yard setback for proposed structures under
Case No. 12748.


(Signature)

10/11/22
(Date)

Victor Hall
(Print Name)

Comments:

I, Robin Hall, the owner and resident at
(Print Name)

36814 Bluewater Run West Selbysville, DZ
(Address) 19975

hereby support approval for David and Kathleen Berch of 37843 W. Stoney Run,
seeking variances from the front yard setback for proposed structures under
Case No. 12748.

Robin M. Hall

(Signature)

10/11/22

(Date)

Robin M. Hall

(Print Name)

Comments:

I, Norman Hall, the owner and resident at
(Print Name)

37842 West Stoney Run, Selbyville, DE,
(Address)

hereby support approval for David and Kathleen Berch of 37843 W. Stoney Run,
seeking variances from the front yard setback for proposed structures under
Case No. 12748.

Norman Hall
(Signature)

10/11/22
(Date)

Norman Hall
(Print Name)

Comments:

I, Larry E. Stewart the owner and resident at
(Print Name)

37848 W. Stoney Run, Selbyville DE 19975
(Address)

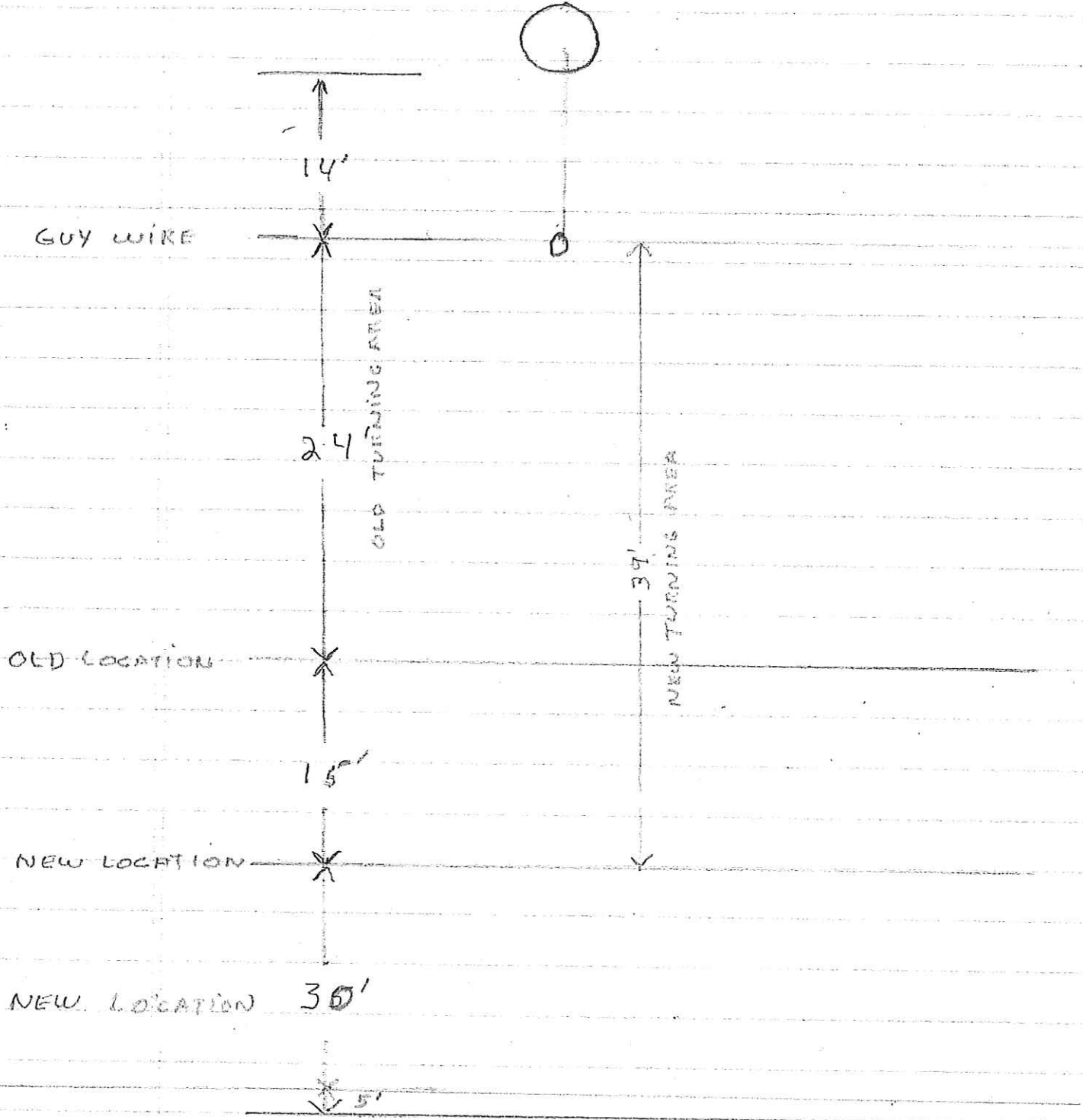
hereby support approval for David and Kathleen Berch of 37843 W. Stoney Run,
seeking variances from the front yard setback for proposed structures under
Case No. 12748.

Larry Stewart 10/11/22
(Signature) (Date)

Larry E. Stewart
(Print Name)

Comments:

NORMAN GRUWELL 34039 WOODLAND AV.



NORMAN GRUWELL 34039 WOODLAND AV.

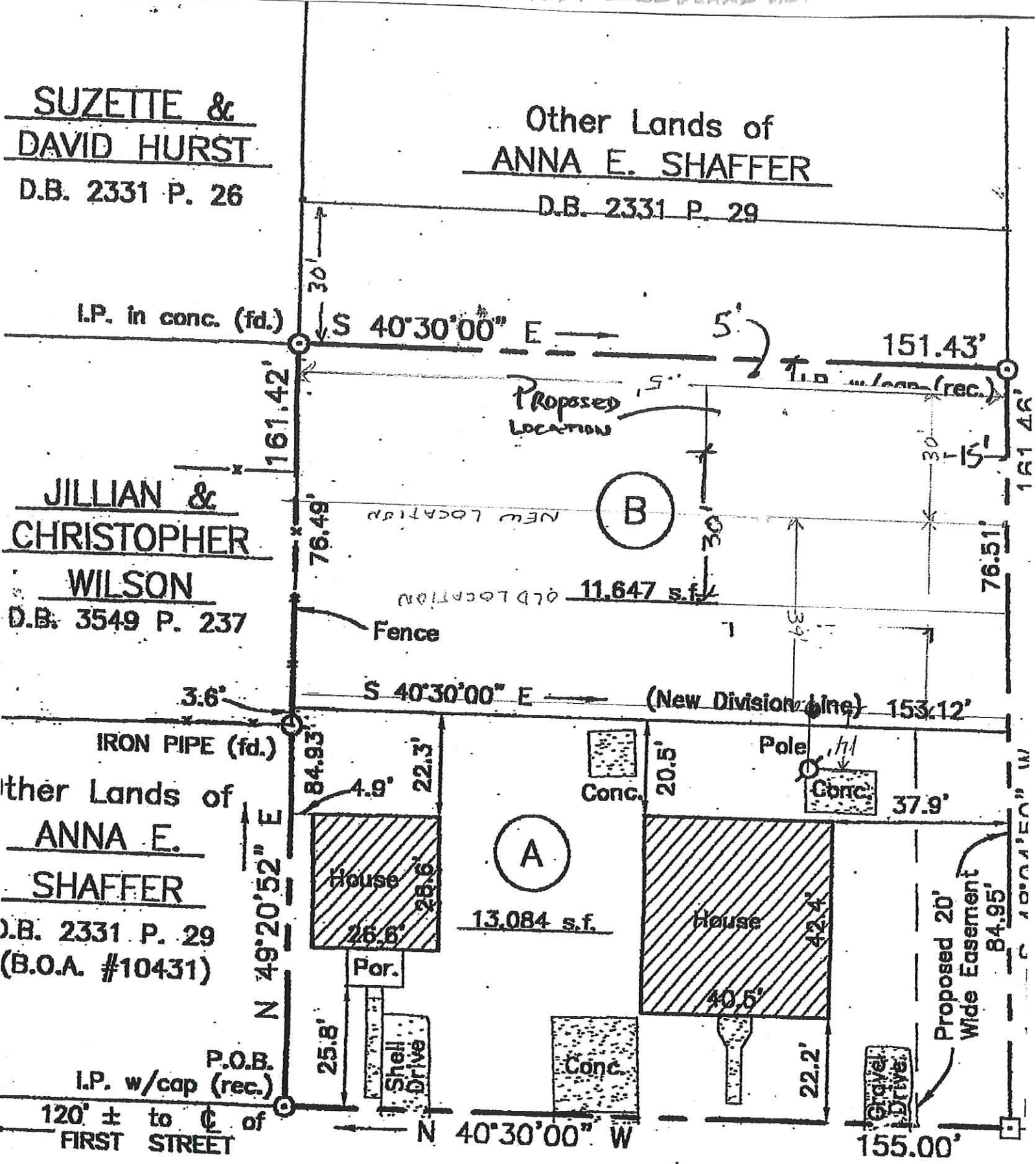
SUZETTE &
DAVID HURST
D.B. 2331 P. 26

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

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

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

P.O.B.
I.P. w/cap (rec.)
120' ± to C. of
FIRST STREET



WOODLAND AVENUE
(40' R/W)
SAVANNAH ROAD

October 11, 2022

9:00 AM

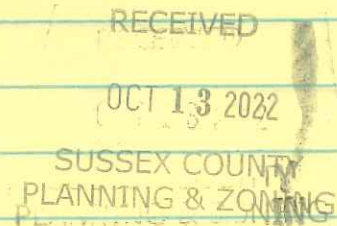
To: Jamie Whitehouse AICP

From: Stanley J. Godlewski

Parcel 134-6.00-209.00

Lot 214 T-#19060

30952 Poole Court Dagsboro



Subject: Case No. 12751 - John T. Covelli seeks variances from the side & rear yard setback requirements for an existing shed (Sections 115-25 & 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.
Public Hearing October 17, 2022 6:00 PM

Comments:

Due to prior engagements I am unable to attend. I do wish to present my opinion on this matter! I believe the request from John T. Covelli for a variance should be granted or permitted to him. This variance does not create any problems between his property and mine.

Signed

Stanley J. Godlewski

30952 Poole Ct.

Dagsboro, Delaware

19939-4022