

## BOARD OF ADJUSTMENT

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



# Sussex County

DELAWARE  
sussexcountyde.gov

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

## TELECONFERENCE MEETING\*\* AGENDA

June 15, 2020

6:00 P.M.

**PLEASE NOTE – AS PERMITTED BY GUBERNATORIAL AUTHORITY, IN ORDER TO LIMIT THE RISK OF POTENTIAL COVID-19 EXPOSURE, THE PUBLIC SHALL BE DENIED ENTRY TO THE BOARD OF ADJUSTMENT MEETING.<sup>1</sup> THE PUBLIC IS ENCOURAGED TO PARTICIPATE IN THE MEETING ELECTRONICALLY. FURTHER INSTRUCTIONS ARE LISTED AT THE BOTTOM OF THIS AGENDA.**

### Call to Order

### Pledge of Allegiance

### Approval of Agenda

### Old Business

**Case No. 12428 – Sun Leisure Point Resort, LLC** seeks variances from the separation distance requirement for proposed structures (Section 155-172 of the Sussex County Zoning Code) The property is location on the southwest side of Diplomat Street, approximately 440 ft. southeast of Radie Kay Lane. 911 Address: N/A. Zoning District: AR-1. Tax Parcel: 234-24.00-39.02 and 39.06

### Public Hearings

**Case No. 12434 – Matthew & Regina Pyzik** seek variances from the rear yard setback requirement and from the aggregate of the front yard and rear yard setbacks for proposed structures (Sections 115-34, 115-183, 115-185 and 115-188 of the Sussex County Zoning Code). The property is located on the north side of Cormorant Way within the Bay Forest Club subdivision. 911 Address: 21036 Cormorant Way, Ocean View. Zoning District: MR-RPC. Tax Parcel: 134-8.00-1195.00

**Case No. 12435 – Jeff-Kat, LLC** seeks variances from the side yard and rear yard setback requirements for a proposed structure (Sections 115-82, 115-83.22 115-183, 115-185 of the Sussex County Zoning Code). The property is located on the east side of Kings Highway (Rt. 9) approximately 0.35 mile northeast of Gills Neck Road. 911 Address: 1007 Kings Highway,



Lewes. Zoning District: C-1 & C-3. Tax Parcel: 335-8.00-39.00

**Case No. 12436 – Tomato Sunshine (Harold E. Dukes & Anthony Crivella)** seeks a special use exception to place a tent for special events (Sections 115-80 & 115-210 of the Sussex County Zoning Code). The property is located on the northeast side of Central Avenue approximately 40 ft. southwest of Canal Crossing Road. 911 Address: 19827 Central Avenue, Rehoboth Beach. Zoning District: C-1. Tax Parcel: 334-13.20-22.00

**Case No. 12437 – Eric Reed** seeks a variance from the rear yard setback requirements for an existing structure (Sections 115-25, 115-183 and 115-185 of the Sussex County Zoning Code). The property is located on the east side of Shoemaker Drive approximately 325 ft. north of E. Redden Road. 911 Address: 17863 Shoemaker Drive, Georgetown. Zoning District: AR-1. Tax Parcel: 135-6.00-27.02

**Case No. 12438 – Tirana White** seeks a special use exception to operate a day care center (Sections 115-40 and 115-210 of the Sussex County Zoning Code). The property is located on the south side of Coastal Highway (Rt. 1) opposite the ramp to Argos Corner Road. 911 Address: 9010 Coastal Highway, Milford. Zoning District: GR. Tax Parcel: 230-8.00-20.01

**Case No. 12439 – Sharon Denise McPhatten** seeks a special use exception to operate a day care center (Sections 115-23 and 115-210 of the Sussex County Zoning Code). The property is located on the north side of Johnson Road approximately 0.25 mile east of Dupont Boulevard (Rt. 113). 911 Address: 18073 Johnson Road, Lincoln. Zoning District: AR-1. Tax Parcel: 130-6.00-113.15

**Additional Business**

Consideration of Request for Rehearing for case 12416 – Lands of Jessica F. Peake.

Consideration of Request for Rehearing for case 12427 – Lands of Robert Barkey & Janet Hynes.

\*\*\*\*\*

**Board of Adjustment meetings can be monitored on the internet at  
[www.sussexcountyde.gov](http://www.sussexcountyde.gov).**

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**In accordance with 29 Del. C. §10004(e)(2), this Agenda was posted on June 5, 2020 at 5:00 p.m., and at least seven (7) days in advance of the meeting.**



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

-MEETING INSTRUCTIONS-

\*\* The Sussex County Board of Adjustment is holding this meeting under the authority issued by Governor John C. Carney through Proclamation No. 17-3292. The meeting will be conducted using teleconference technology.

To join the meeting via phone, please dial:

Conference Number: 800-988-0494

Passcode: 1695792

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

The County will stream this meeting using the same technology it uses for its Chamber Broadcast that can be viewed at <https://sussexcountyde.gov/council-chamber-broadcast>. This stream will broadcast the meeting materials and audio only, the public will not be able to comment or speak using this broadcast. This stream will experience a 30-second delay.

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

Please note - Other than verbal testimony, the Board of Adjustment will not be able to accept the submission of any written comments, documents, materials or photographs during the teleconference meeting. These must be submitted to the office of Planning & Zoning no later than 4:30 p.m on Thursday, June 11, 2020

####

<sup>i</sup> **These restrictions are being implemented to limit the exposure and risk related to “COVID-19” for County personnel and members of the public who seek to attend the Board of Adjustment Meeting. These decisions are being made under the authority issued by Governor John C. Carney through Proclamation No. 17-3292. See: <https://governor.delaware.gov/proclamation-173292-03132020/>.**



Case # 12434  
Hearing Date April 20, 2020  
202002035

## Board of Adjustment Application Sussex County, Delaware

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

Type of Application: (please check all applicable)

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

Site Address of Variance/Special Use Exception: 21036 Cormorant Way, Ocean View, DE 19970

Variance/Special Use Exception/Appeal Requested: Homeowner is requesting a variance from rear setback requirement making it 14.3 instead of the 20' requirement. (5.7 into rear setback) . Still leaving 4.3' to rear 10' utility/drainage easement

Tax Map #: 134 - 8.00 -1195.00 Property Zoning: MR - Residential Planned Community

### Applicant Information

Applicant Name: Matthew and Regina Pyzik  
Applicant Address: 21036 Cormorant Way  
City, State, Zip: Ocean View, DE 19970  
Applicant Phone #: 410-365-4790 Applicant e-mail: mpyzik@husykheatoil.com

### Owner Information

Owner Name: Matthew and Regina Pyzik  
21036 Cormorant Way  
City, State, Zip: Ocean View, DE 19970 Purchase Date: JAN 2019  
Owner Phone #: 410-365-4790 Owner e-mail: Mpyzik@huskyheatingoil.com

### Agent/Attorney Information

Agent/Attorney Name: William Blatzheim  
Agent/Attorney Address: 33343 Lone Cedar Landing  
City, State, Zip: Millville, DE 19967  
Agent/Attorney Phone #: 302-864-8969 Agent/Attorney e-mail: rightcoastllc@gmail.com

### Signature of Owner/Agent/Attorney

Matthew Pyzik

Date: 1-27-2020





**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.

Property currently has 20' rear setback and can only build out 8.3' from furthest inset of building. Due to the property's shallow depth and length of building (this building is 72.6' in length compared to 64.6' of the other buildings on the same side of Cormorant Way) This particular unit is also the only unit in the building that does not have a built in "porch" addition. We respectfully request a variance of 5.7' to accommodate a "usable" 3-season room addition for their large family use.

2. Cannot otherwise be developed:

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

Due to the shallow nature of the property and length of building with no built in rear screen porch addition at time of construction /sale of property there is no possibility of constructing a viable porch addition without a 5.7' variance.

Homeowners believe the rear property woodline as well as the drainage easement that holds water at times of heavy rain creates a nuisance of bugs for their family to enjoy their property. We have determined that the most feasible way to counter act this nuisance would be to construct a 3-season room addition.

3. Not created by the applicant:

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

This difficulty was not created by homeowner. At time of sale, the building was not under construction and homeowners relied on sales consultants information on rear setbacks. Grebe Lane adjacent to Cormorant Way was under construction at the time and had 10' rear setbacks. They were provided erroranous information on any future construction of a porch addition in relation to setback requirements. This particular end unit also is 8' longer then the adjacent end units around.

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

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

The 3-season porch addition will definitely NOT alter the character of the neighborhood. Product design matches all existing exterior features of the building as well as the neighborhood as is required by the HOA. If approved the variance will still provide adequate distance from rear 10' utility and drainage easement. The space behind the property is in a secluded portion of the development and backs up to a wooded area with no development potential behind it.

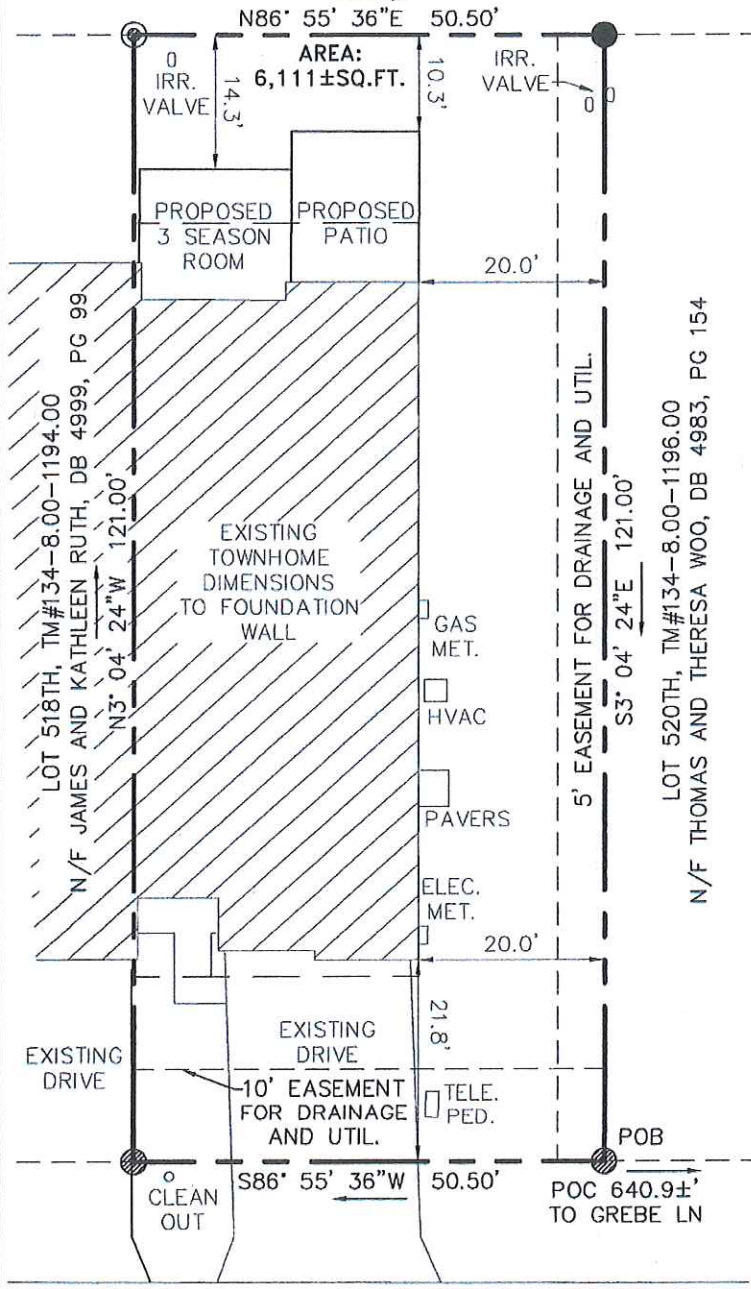
5. Minimum variance:

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

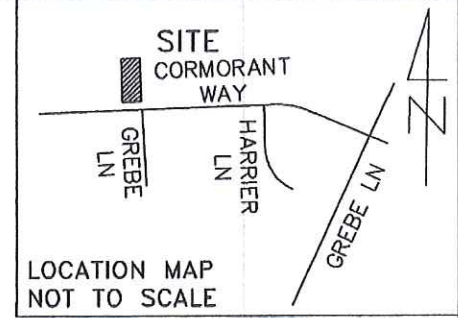
If granted, the 5.3' variance would provide the mininum variance that would provide an adequate space for the family to rightfully enjoy their property. This variance would provide a 14.7 foot rear setback distance from proposed porch addition to rear property line. Addition would not cause any adverse drainage concerns with adjacent properties or rear utility/drainage easement.



OPEN SPACE, TM#134-8.00-15.02  
 N/F BAY FOREST, LLC, DB 2993, PG 326

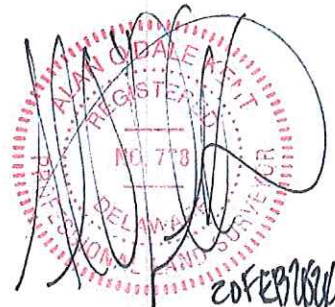


DS/PC, NSRS 2011



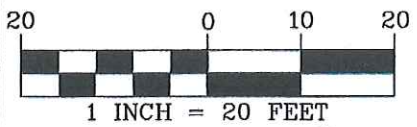
- PLAN DATA:**
- TITLE REFERENCED TO:  
 TM# 134-8.00-1195.00, DB 5006, PG 4  
 21036 CORMORANT WAY, OCEAN VIEW, DE 19970  
 LOT 519TH, PHASE 4, BAY FOREST CLUB  
 BALTIMORE HUNDRED, SUSSEX COUNTY  
 STATE OF DELAWARE
  - NO TITLE REPORT PERFORMED OR FURNISHED IN PREPARATION OF THIS PLAT.
  - THIS PLAN DOES NOT CERTIFY THE EXISTENCE OR NON-EXISTENCE OF EASEMENTS OR RIGHTS OF WAY AS A FULL AND COMPLETE SEARCH MAY REVEAL IN THE SUSSEX COUNTY RECORDER OF DEEDS.
  - ACCORDING TO SUSSEX COUNTY PLANNING AND ZONING ONLINE GIS, ZONING IS MR. ACCORDING TO PB 229, PG 1 SETBACKS ARE: FRONT-20, SIDE-20, AND REAR-20.
  - ALL SIDE AND REAR LOT LINES ARE RESERVED FOR THE CENTER OF A 10 FEET WIDE DRAINAGE AND UTILITY EASEMENT. FRONT LINE HAS 10 FEET FROM THE FRONT.
  - ACCORDING TO FEMA FLOOD MAP 10005C0503K EFFECTIVE DATE 03/16/2015 THIS PROPERTY LIES IN ZONE X.

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



ALAN O'DALE KENT, PLS#738, DATE THIS IS AN URBAN SURVEY

**CORMORANT WAY**  
 (50 FEET WIDE)



- LEGEND:**
- DISTURBED REBAR FOUND
  - ⊙ CAPPED PIN FOUND
  - ⊙ CAPPED IRON PIN SET
  - PROPERTY LINE
  - - - ADJOINING PROPERTY LINES
  - - - BUILDING RESTRICTION LINE

JOB #2020044		BOUNDARY SURVEY PLAN, SITE PLAN, AND VARIANCE REQUEST FOR RIGHT COAST CONSTRUCTION, CO. OF THE LANDS NOW OR FORMERLY OF MATTHEW AND REGINA R. PYZIK
DATE OF PLAN	19 FEB 2020	
DATE OF LAST FIELD WORK	12 FEB 2020	PREPARED BY ALAN O KENT LAND SURVEYING, LLC SEAFORD, DE 19973 (302) 745-1735



5.7' VARIANCE REQUESTED











AREA TO CONSTRUCT  
3-SEASON PORCH  
(16' x 14')



Matthew Pyzik  
21036 Cormorant Way  
Ocean View, DE 19970

February 10, 2020

Dear Neighbor,

This letter is to inform you that we are submitting an application for a building permit to the Sussex County Council for a three-season sunroom in the rear of our home, attached to what is currently our family room, as well as a paver patio.

We are also submitting an application to apply for a 5.7-foot variance in the rear of our home, Lot 519, to accommodate this sunroom. The attached plans help identify the scope of our project.

Your support for the approval of our plans, including the variance would be greatly appreciated. Please provide your name, address and approval of the variance request for the Sussex County Council.

Thank you for your help with this approval.

Sincerely

Gina and Matt Pyzik

Cell# 410-365-4790

---

NAME:

Thomas & Theresa Woo / Lot 520

ADDRESS

21030 Cormorant Way, Ocean View, DE 19970

Approve

Thomas Woo / Yes /

Signature

Theresa Woo

---

Matthew Pyzik  
21036 Cormorant Way  
Ocean View, DE 19970

February 10, 2020

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Thank you for your help with this approval.

Sincerely

Gina and Matt Pyzik

Cell# 410-365-4790

---

NAME: Jim & KATHIE ROY / LOT 518

ADDRESS 21040 Cormorant Way

Approve YES

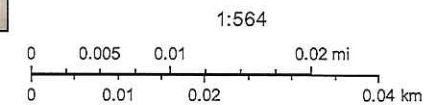
Signature Jim Roy

Kathie Roy



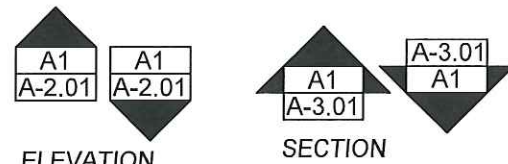
<b>PIN:</b>	134-8.00-1195.00
<b>Owner Name</b>	PYZIK MATTHEW
<b>Book</b>	5006
<b>Mailing Address</b>	9738 NORTHERN LAKES LN
<b>City</b>	LAUREL
<b>State</b>	MD
<b>Description</b>	BAY FOREST CLUB
<b>Description 2</b>	PHASE 4
<b>Description 3</b>	LOT TH 519
<b>Land Code</b>	

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





# SYMBOLS



- ① DOOR
- Ⓐ WINDOW

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

# SITE MAP



# SHEET INDEX

A-0.01	COVER SHEET
A-0.02	SITE PLAN
A-0.03	LANDSCAPING PLAN
A-1.01	FOUNDATION PLAN
A-1.02	FLOOR PLAN
A-2.01	REAR ELEVATION
A-2.02	SIDE ELEVATION
A-3.01	BUILDING SECTION
A-3.02	BUILDING SECTION
A-3.03	FIRE RATED WALL DETAIL

# PROJECT DATA

**ARCHITECT**  
**ARCHOLOGY**  
 107 S. WASHINGTON ST.  
 MILFORD, DELAWARE 19963  
 (302) 339-5566

**SCOPE OF WORK:**  
 3-SEASONS ROOM AND PAVER PATIO ADDITION .

**SQUARE FOOTAGE:**

SCREEN PORCH: 228± SQ. FT.  
 PAVER PATIO: 220 ± SQ. FT.

# GENERAL NOTES

1. DO NOT SCALE THESE DRAWINGS. (VERIFY ALL DIMENSIONS IN THE FIELD PRIOR TO CONSTRUCTION.)
2. THE CONTRACTOR SHALL VERIFY ALL SITE CONDITIONS PRIOR TO CONSTRUCTION.
3. THE 2012 INTERNATIONAL RESIDENTIAL CODE AS ADOPTED BY THE COUNTY OF SUSSEX DELAWARE SHALL GOVERN CONSTRUCTION OF THIS PROJECT.
4. ALL DIMENSIONS ARE FROM FACE OF STUDS OR FACE OF MASONRY UNITS UNLESS NOTED OTHERWISE.
5. ALL WOOD IN CONTACT WITH CONCRETE OR MASONRY UNITS OR EXPOSED TO THE ENVIRONMENT SHALL BE PRESSURE TREATED WOOD.
6. PROVIDE SOLID BRIDGING AT MID-SPAN FOR JOISTS 10' OR GREATER IN LENGTH.
7. PROVIDE DOUBLE JOISTS AROUND ALL FLOOR AND ROOF OPENINGS (UNLESS NOTED OTHERWISE).
8. BOTTOM OF ALL FOOTINGS SHALL BE A MINIMUM OF 24" BELOW FINISH GRADE OR PER APPLICABLE BUILDING CODE FOR THIS PROJECT (USE GREATER OF THE TWO CONDITIONS).
9. CONTRACTOR SHALL NOTIFY MISS UTILITY NOT LESS THAN 2 WORKING DAYS, BUT NOT MORE THAN 10 WORKING DAYS, PRIOR TO EXCAVATION OR DEMOLITION ON THIS PROJECT.
10. ALL NEW MATERIALS SHALL BE FREE OF LEAD, ASBESTOS OR MERCURY.
11. ALL ELECTRICAL WORK SHALL COMPLY WITH NFPA 70, NATIONAL FIRE CODES AND NATIONAL ELECTRIC CODE (N.E.C.).
12. SHOULD ANY WORDS OR NUMBERS THAT ARE NECESSARY FOR A CLEAR UNDERSTANDING OF THE WORK BE ILLEGIBLE OR OMITTED, OR SHOULD AN ERROR OR DISCREPANCY OCCUR IN ANY OF THE CONTRACT DOCUMENTS, THE CONTRACTOR SHALL NOT PROCEED WITH THAT PORTION OF THE WORK UNTIL CLARIFICATION IS RECEIVED. IN THE EVENT THE CONTRACTOR PROCEEDS WITHOUT SO NOTIFYING THE ARCHITECT, THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE COST OF CORRECTING SAME, INCLUDING ANY RESULTING DAMAGE.
13. ALL P.T. WD. WITHIN 12" OF GRADE TO BE RATED FOR GROUND CONTACT

# SELECTIVE DEMOLITION

1. PROTECT WALLS, CEILINGS, FLOORS, AND OTHER EXISTING FINISH WORK THAT ARE TO REMAIN AND ARE EXPOSED DURING SELECTIVE DEMOLITION OPERATIONS.
2. PROVIDE AND MAINTAIN INTERIOR AND EXTERIOR SHORING, BRACING, OR STRUCTURAL SUPPORT TO PRESERVE STABILITY AND PREVENT MOVEMENT & SETTLEMENT
3. CLEAN ADJACENT STRUCTURES AND IMPROVEMENTS OF DUST, DIRT, AND DEBRIS CAUSED BY SELECTIVE DEMOLITION OPERATIONS. RETURN ADJACENT AREAS TO CONDITION EXISTING PRIOR TO START OF SELECTIVE DEMOLITION.
4. DEMOLISH AND REMOVE EXISTING CONSTRUCTION ONLY TO THE EXTENT REQUIRED BY NEW CONSTRUCTION.
5. PROMPTLY PATCH AND REPAIR HOLES AND DAMAGED SURFACES CAUSED TO ADJACENT CONSTRUCTION BY SELECTIVE DEMOLITION OPERATIONS.
6. WHERE REPAIRS TO EXISTING SURFACES ARE REQUIRED, PATCH TO PRODUCE SURFACES SUITABLE FOR NEW MATERIALS.
7. RESTORE EXPOSED FINISHES OF PATCHED AREAS AND EXTEND FINISH RESTORATION INTO ADJOINING CONSTRUCTION TO REMAIN IN A MANNER THAT ELIMINATES EVIDENCE OF PATCHING AND REFINISHING.
8. PATCH AND REPAIR FLOOR AND WALL SURFACES IN THE NEW SPACE WHERE DEMOLISHED WALLS OR PARTITIONS EXTEND ONE FINISHED AREA INTO ANOTHER. PROVIDE A FLUSH AND EVEN SURFACE OF UNIFORM COLOR AND APPEARANCE.
9. PATCH, REPAIR, OR REHANG EXISTING CEILINGS AS NECESSARY TO PROVIDE AN EVEN-PLANE SURFACE OF UNIFORM APPEARANCE.
10. DISPOSAL: PROMPTLY DISPOSE OF DEMOLISHED MATERIALS. DO NOT ALLOW DEMOLISHED MATERIALS TO ACCUMULATE ON-SITE.
  - a) DO NOT BURN DEMOLISHED MATERIALS
  - b) TRANSPORT DEMOLISHED MATERIALS OFF OF OWNER'S PROPERTY AND LEGALLY DISPOSE OF THEM.
11. CONTRACTOR TO CLEAR DEBRIS FROM SITE PRIOR TO LEAVING THE SITE AT THE END OF THE WORK DAY.

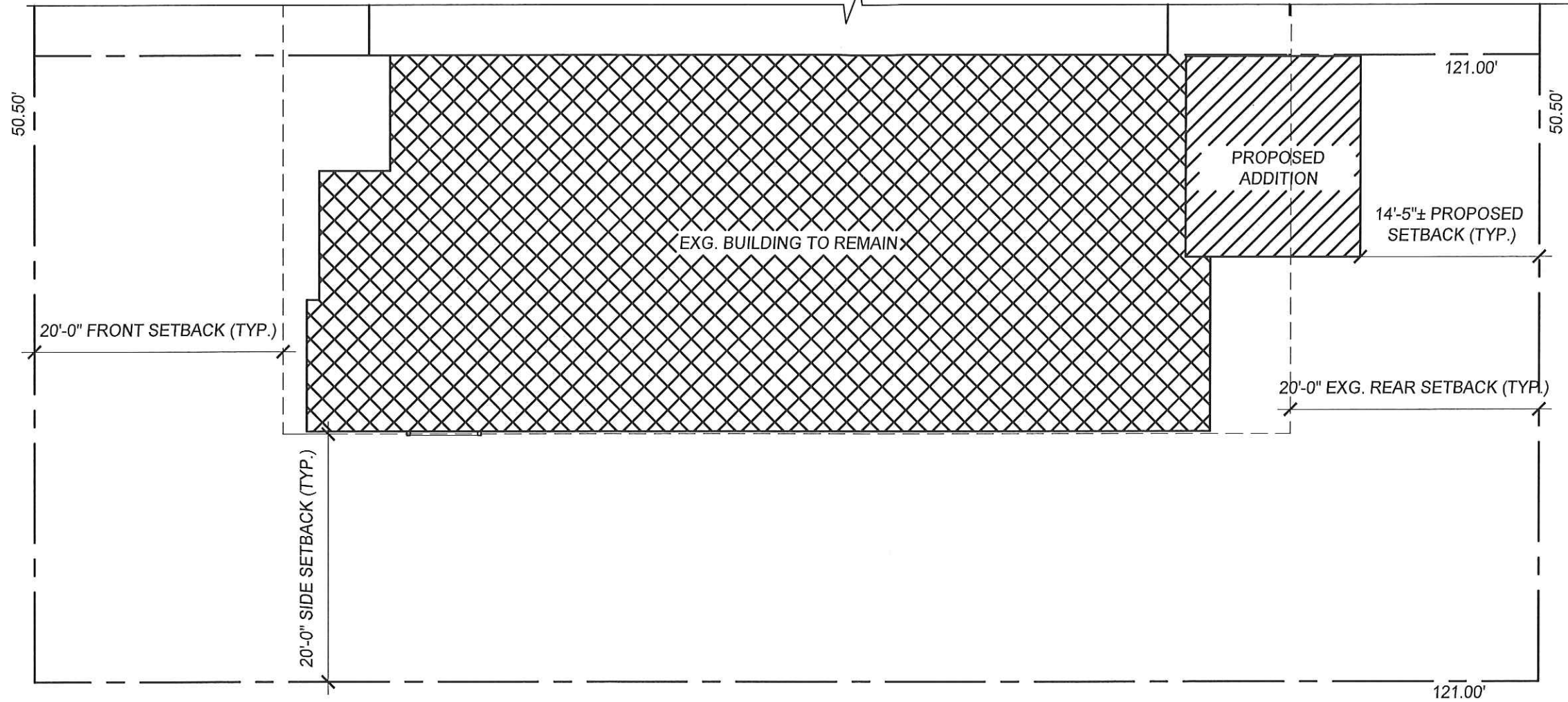


ALL DESIGN CONCEPTS, IDEAS AND DRAWINGS ARE THE PROPERTY OF ARCHOLOGY, LLC AND ARE INTENDED TO BE USED IN WHOLE OR IN PART FOR ANY OTHER PURPOSE WHATSOEVER WITHOUT THE WRITTEN PERMISSION OF ARCHOLOGY, LLC. NO CHANGES OR DEVIATIONS SHALL BE ALLOWED WITHOUT THE WRITTEN PERMISSION OF ARCHOLOGY, LLC.

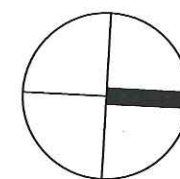
REV. DATE:	
ARCHOLOGY, LLC	© 2020
CONSTRUCTION DRAWING FOR THE NEW: PYZIK 3-SEASONS ROOM ADDITION	
2108 CORMORANT WAY, OCEAN VIEW, SUSSEX COUNTY, DELAWARE	
PROJECT #	20026
COVER SHEET	

DATE: 02/05/2020  
 SHEET # A-0.01





SITE PLAN BASED ON SURVEY  
 PROVIDED BY MORRIS AND RITCHIE  
 ASSOCIATES INC. DATED AUGUST 22,  
 2018



A1 SITE PLAN

3/8" = 1'-0"



ALL DRAWINGS, CONCEPTS, LOGO AND  
 INFORMATION IS THE PROPERTY OF  
 ARCHOLOG, LLC AND ARE INTENDED TO  
 BE USED ONLY FOR THE PROJECT AND SHALL NOT  
 BE REPRODUCED OR TRANSMITTED IN ANY  
 FORM OR BY ANY MEANS, ELECTRONIC OR  
 MECHANICAL, INCLUDING PHOTOCOPYING,  
 RECORDING, OR BY ANY INFORMATION  
 SYSTEMS WITHOUT PERMISSION IN WRITING  
 FROM ARCHOLOG, LLC. NO CHANGES OR  
 DEVIATIONS SHALL BE ALLOWED WITHOUT THE  
 WRITTEN APPROVAL OF ARCHOLOG, LLC.  
 ARCHITECTURE AND DESIGN SERVICES

REV.	DATE

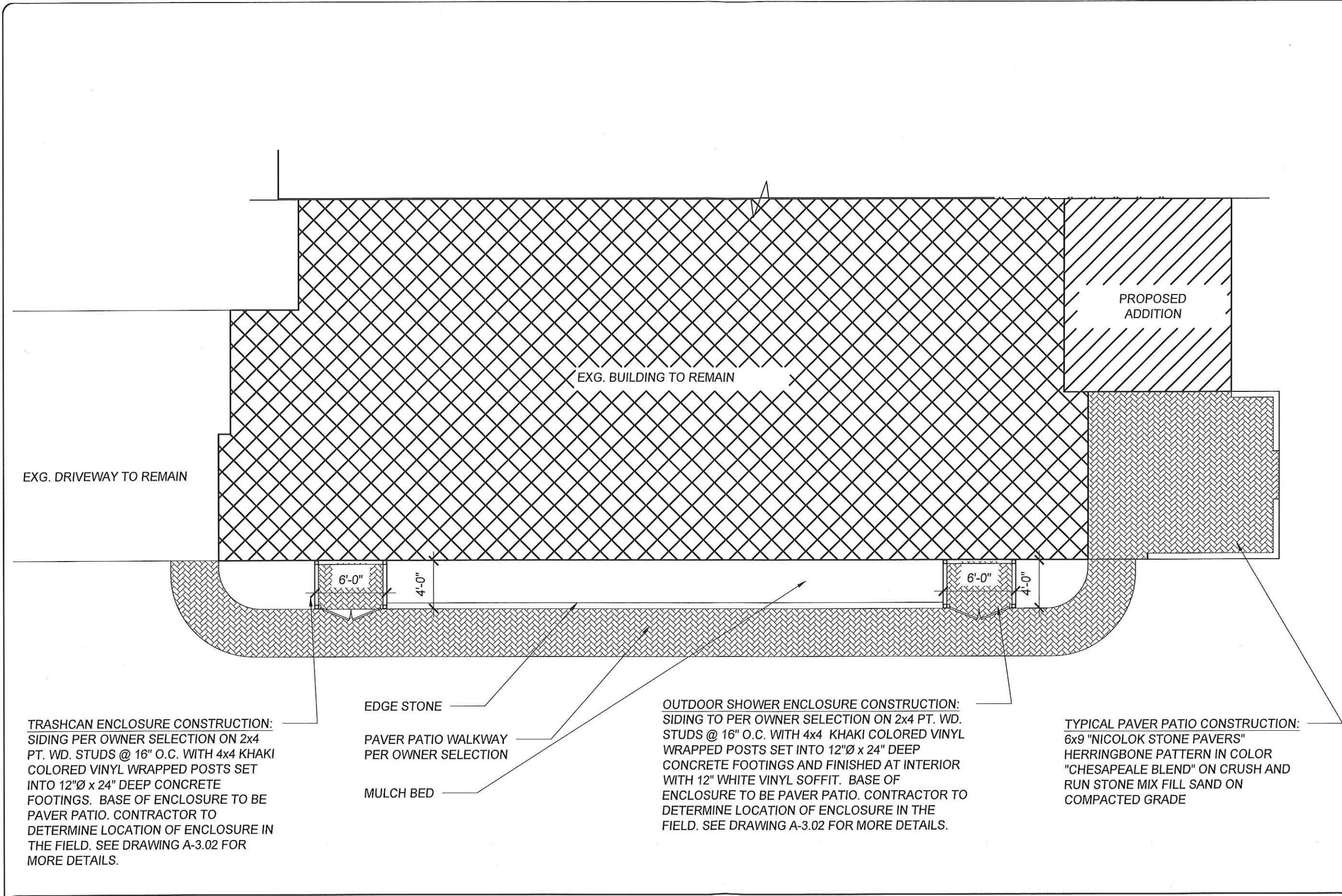
ARCHOLOG, LLC  
 © 2020

CONSTRUCTION DRAWING FOR THE NEW:
<b>PYZIK 3-SEASONS ROOM ADDITION</b>
21036 CORMORANT WAY
OCEAN VIEW, SUSSEX COUNTY, DELAWARE
<b>SITE PLAN</b>
PROJECT #
<b>20026</b>

DATE:  
**02/05/2020**

SHEET #  
**A-0.02**



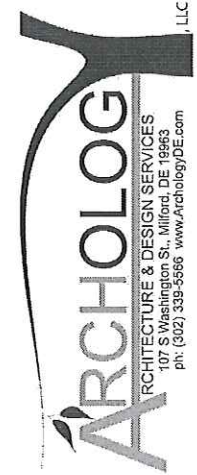


**TRASHCAN ENCLOSURE CONSTRUCTION:**  
 SIDING PER OWNER SELECTION ON 2x4 PT. WD. STUDS @ 16" O.C. WITH 4x4 KHAKI COLORED VINYL WRAPPED POSTS SET INTO 12"Ø x 24" DEEP CONCRETE FOOTINGS. BASE OF ENCLOSURE TO BE PAVER PATIO. CONTRACTOR TO DETERMINE LOCATION OF ENCLOSURE IN THE FIELD. SEE DRAWING A-3.02 FOR MORE DETAILS.

EDGE STONE  
 PAVER PATIO WALKWAY PER OWNER SELECTION  
 MULCH BED

**OUTDOOR SHOWER ENCLOSURE CONSTRUCTION:**  
 SIDING TO PER OWNER SELECTION ON 2x4 PT. WD. STUDS @ 16" O.C. WITH 4x4 KHAKI COLORED VINYL WRAPPED POSTS SET INTO 12"Ø x 24" DEEP CONCRETE FOOTINGS AND FINISHED AT INTERIOR WITH 12" WHITE VINYL SOFFIT. BASE OF ENCLOSURE TO BE PAVER PATIO. CONTRACTOR TO DETERMINE LOCATION OF ENCLOSURE IN THE FIELD. SEE DRAWING A-3.02 FOR MORE DETAILS.

**TYPICAL PAVER PATIO CONSTRUCTION:**  
 6x9 "NICOLOK STONE PAVERS" HERRINGBONE PATTERN IN COLOR "CHESAPEALE BLEND" ON CRUSH AND RUN STONE MIX FILL SAND ON COMPACTED GRADE



ALL EXISTING CONCRETE, IRON AND STEEL ARE TO REMAIN UNLESS OTHERWISE SPECIFIED ON THESE DRAWINGS. ARCHOLOG, LLC AND ITS ARCHITECTS ARE NOT TO BE HELD RESPONSIBLE FOR ANY CHANGES OR DEVIATIONS FROM THE ARCHITECTURE AND DESIGN SERVICES PROVIDED BY ARCHOLOG, LLC WITHOUT THE WRITTEN CONSENT OF ARCHOLOG, LLC. ARCHITECTURE AND DESIGN SERVICES SHALL BE PROVIDED BY ARCHOLOG, LLC.

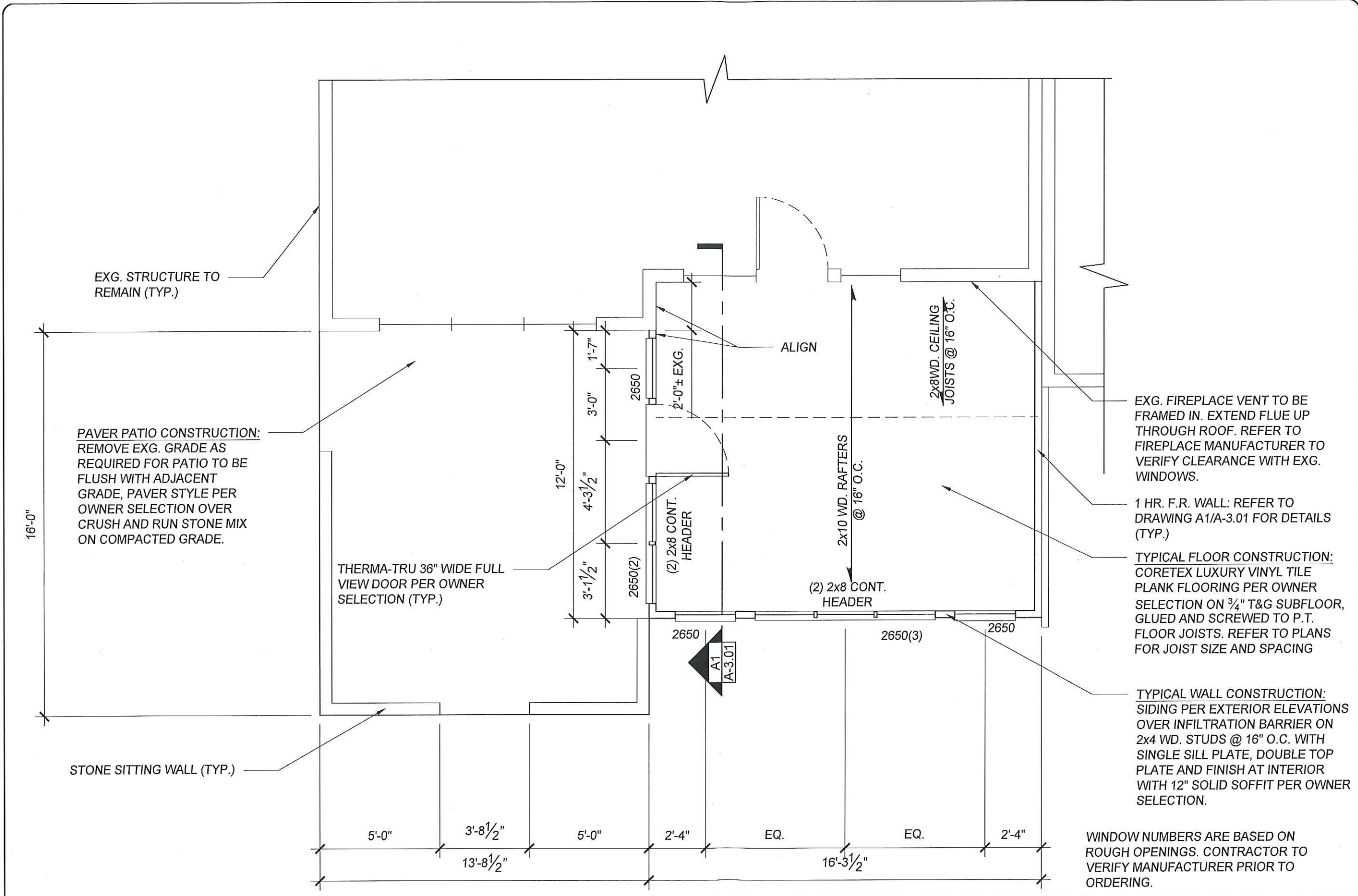
REV. DATE:	ARCHOLOG, LLC
	© 2020

CONSTRUCTION DRAWING FOR THE NEW:	PYZIK 3-SEASONS ROOM ADDITION
	21036 CORCORANT WAY
	OCEAN VIEW, SUSSEX COUNTY, DELAWARE
PROJECT #	20026
	LANDSCAPING PLAN

DATE:	02/05/2020
SHEET #	A-0.03







PAVER PATIO CONSTRUCTION:  
REMOVE EXG. GRADE AS  
REQUIRED FOR PATIO TO BE  
FLUSH WITH ADJACENT  
GRADE, PAVER STYLE PER  
OWNER SELECTION OVER  
CRUSH AND RUN STONE MIX  
ON COMPACTED GRADE.

THERMA-TRU 36" WIDE FULL  
VIEW DOOR PER OWNER  
SELECTION (TYP.)

STONE SITTING WALL (TYP.)

EXG. STRUCTURE TO  
REMAIN (TYP.)

ALIGN

2x8WD. CEILING  
JOISTS @ 16" O.C.

2x10 WD. RAFTERS  
@ 16" O.C.

(2) 2x8 CONT.  
HEADER

(2) 2x8 CONT.  
HEADER

EXG. FIREPLACE VENT TO BE  
FRAMED IN. EXTEND FLUE UP  
THROUGH ROOF. REFER TO  
FIREPLACE MANUFACTURER TO  
VERIFY CLEARANCE WITH EXG.  
WINDOWS.

1 HR. F.R. WALL: REFER TO  
DRAWING A1/A-3.01 FOR DETAILS  
(TYP.)

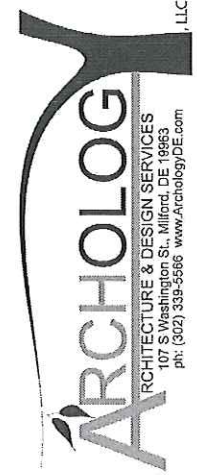
TYPICAL FLOOR CONSTRUCTION:  
CORETEX LUXURY VINYL TILE  
PLANK FLOORING PER OWNER  
SELECTION ON 3/4" T&G SUBFLOOR,  
GLUED AND SCREWED TO P.T.  
FLOOR JOISTS. REFER TO PLANS  
FOR JOIST SIZE AND SPACING

TYPICAL WALL CONSTRUCTION:  
SIDING PER EXTERIOR ELEVATIONS  
OVER INFILTRATION BARRIER ON  
2x4 WD. STUDS @ 16" O.C. WITH  
SINGLE SILL PLATE, DOUBLE TOP  
PLATE AND FINISH AT INTERIOR  
WITH 12" SOLID SOFFIT PER OWNER  
SELECTION.

WINDOW NUMBERS ARE BASED ON  
ROUGH OPENINGS. CONTRACTOR TO  
VERIFY MANUFACTURER PRIOR TO  
ORDERING.

A1 FLOOR PLAN

1/4" = 1'-0"



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DRAWINGS ARE THE PROPERTY OF  
ARCHOLOG, LLC AND ARE INTENDED TO  
BE USED IN WHOLE OR IN PART FOR ANY  
SPECIFIC PROJECT ONLY AND SHALL NOT  
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MECHANICAL, INCLUDING PHOTOCOPYING,  
RECORDING, OR BY ANY INFORMATION  
SYSTEMS WITHOUT THE WRITTEN CONSENT OF  
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NO CHANGES OR DEVIATIONS SHALL BE  
MADE WITHOUT THE WRITTEN CONSENT OF  
ARCHITECTURE AND DESIGN SERVICES.

REV.	DATE:

CONSTRUCTION DRAWING FOR THE NEW:  
**PYZIK 3-SEASONS ROOM ADDITION**  
21036 CORCORANT WAY  
OCEAN VIEW, SUSSEX COUNTY, DELAWARE

ARCHITECTURE & DESIGN SERVICES  
ARCHOLOG, LLC  
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PROJECT #  
**20026**

FLOOR PLAN

DATE:  
**02/05/2020**

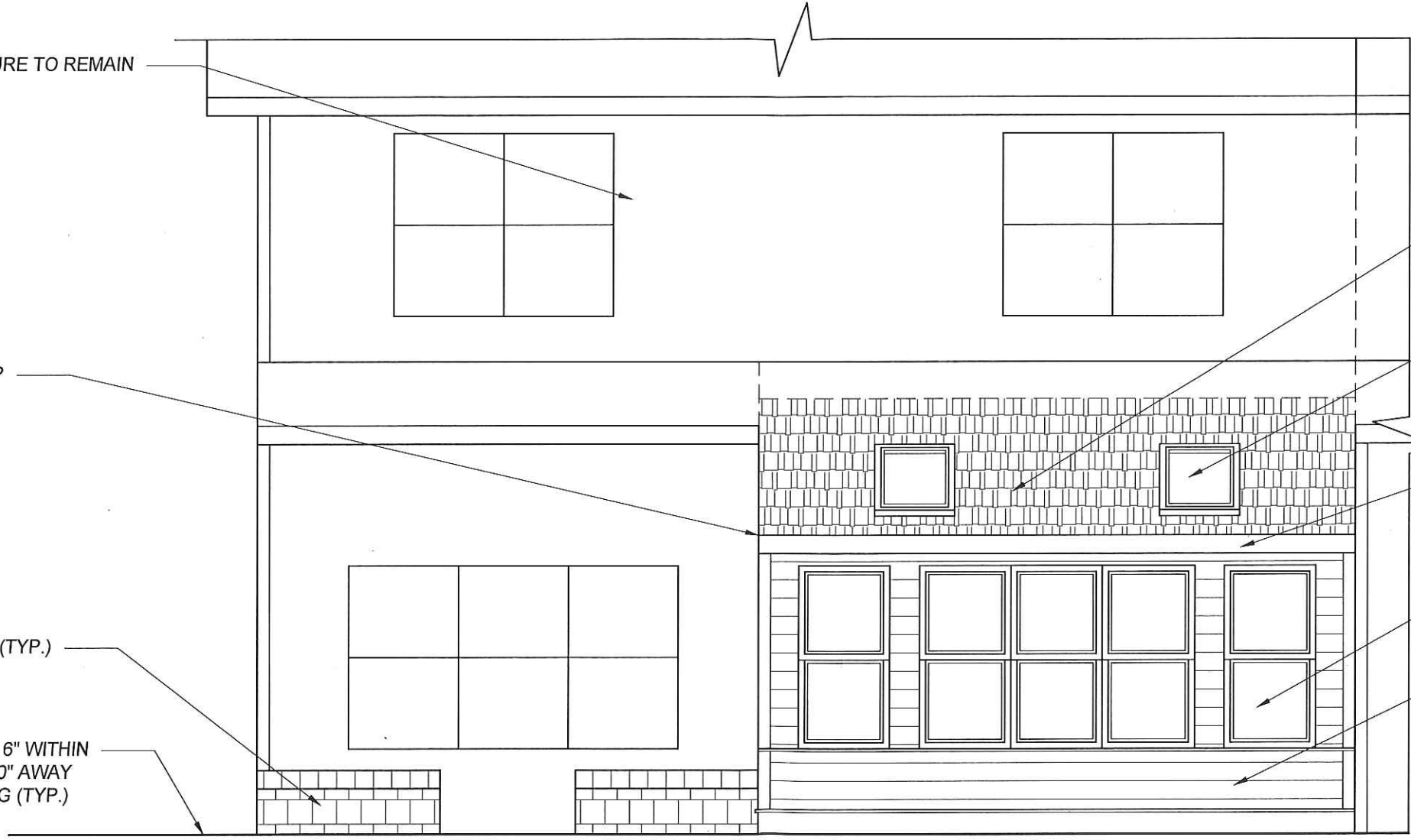
SHEET #  
**A-1.02**

EXG. STRUCTURE TO REMAIN (TYP.)

CONT. AL. DRIP EDGE (TYP.)

SITTING WALL (TYP.)

SLOPE GRADE 6" WITHIN THE FIRST 10'-0" AWAY FROM BUILDING (TYP.)



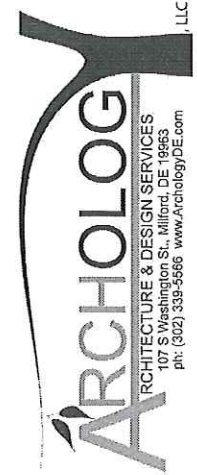
ARCHITECTURAL STYLE ASPHALT SHINGLES TO MATCH EXG. ON ICE AND WATER SHIELD (TYP.)

SKYLIGHTS PER OWNER SELECTION (TYP.)

FASCIA TO MATCH EXG. (TYP.)

WINDOW UNIT: REFER TO PLANS FOR DETAILS (TYP.)

SIDING TO MATCH EXG. INFILTRATION BARRIER



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REV.	DATE

CONSTRUCTION DRAWING FOR THE NEW:  
**PYZIK 3-SEASONS ROOM ADDITION**  
 21036 CORCORANT WAY  
 OCEAN VIEW, SUSSEX COUNTY, DELAWARE

PROJECT #  
**20026**

ARCHIOLOGY, LLC  
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**REAR ELEVATION**

DATE:  
**02/05/2020**

SHEET #  
**A-2.01**

**A1 REAR ELEVATION**

1/4" = 1'-0"







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REV.	DATE	DESCRIPTION

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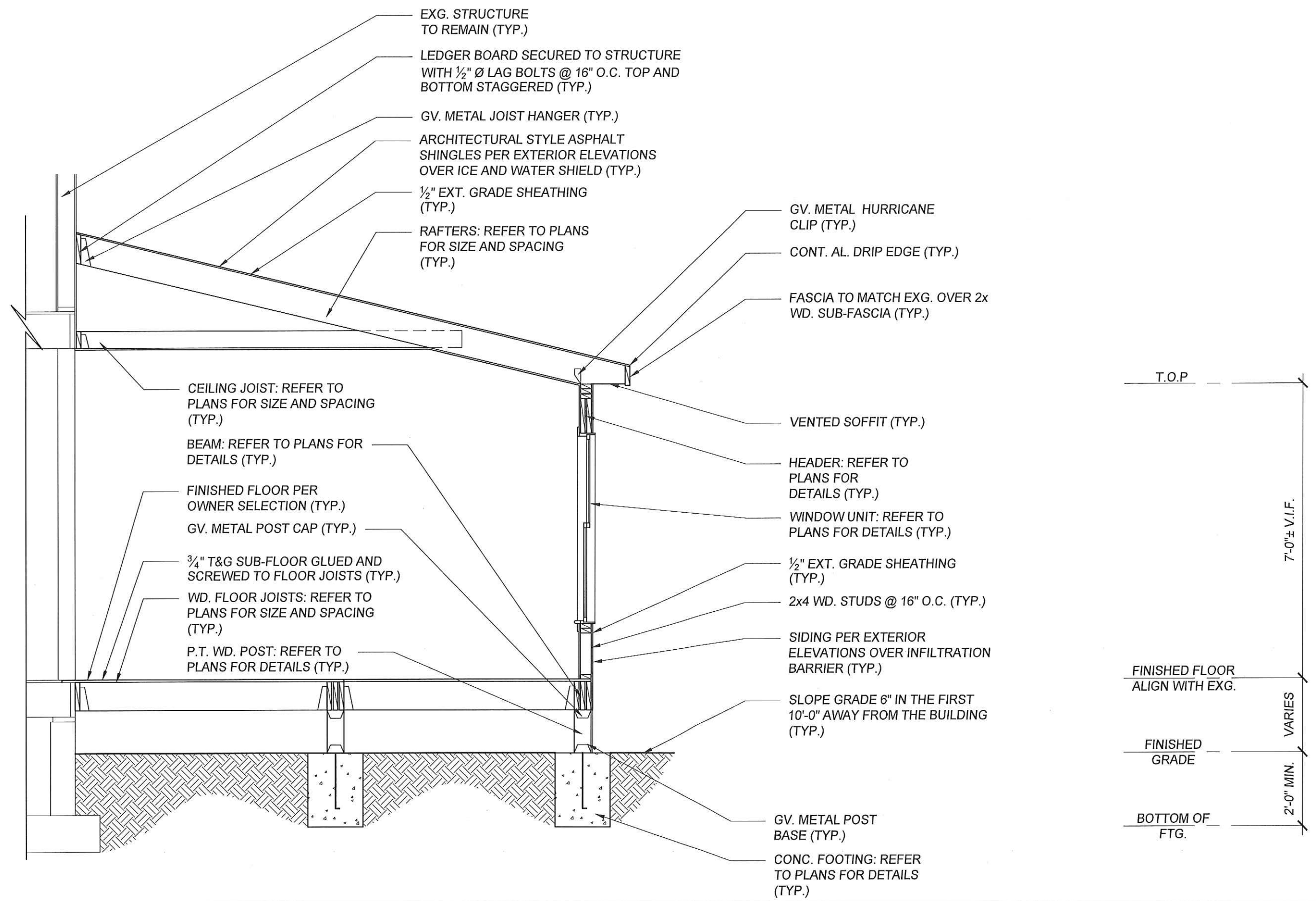
CONSTRUCTION DRAWING FOR THE NEW:  
**PYZIK 3-SEASONS ROOM ADDITION**  
 21036 CORMORANT WAY  
 OCEAN VIEW, SUSSEX COUNTY, DELAWARE

**BUILDING SECTION**

PROJECT #  
**20026**

DATE:  
**02/05/2020**

SHEET #  
**A-3.01**



- EXG. STRUCTURE TO REMAIN (TYP.)
  - LEDGER BOARD SECURED TO STRUCTURE WITH 1/2" Ø LAG BOLTS @ 16" O.C. TOP AND BOTTOM STAGGERED (TYP.)
  - GV. METAL JOIST HANGER (TYP.)
  - ARCHITECTURAL STYLE ASPHALT SHINGLES PER EXTERIOR ELEVATIONS OVER ICE AND WATER SHIELD (TYP.)
  - 1/2" EXT. GRADE SHEATHING (TYP.)
  - RAFTERS: REFER TO PLANS FOR SIZE AND SPACING (TYP.)
  - GV. METAL HURRICANE CLIP (TYP.)
  - CONT. AL. DRIP EDGE (TYP.)
  - FASCIA TO MATCH EXG. OVER 2x WD. SUB-FASCIA (TYP.)
  - VENTED SOFFIT (TYP.)
  - HEADER: REFER TO PLANS FOR DETAILS (TYP.)
  - WINDOW UNIT: REFER TO PLANS FOR DETAILS (TYP.)
  - 1/2" EXT. GRADE SHEATHING (TYP.)
  - 2x4 WD. STUDS @ 16" O.C. (TYP.)
  - SIDING PER EXTERIOR ELEVATIONS OVER INFILTRATION BARRIER (TYP.)
  - SLOPE GRADE 6" IN THE FIRST 10'-0" AWAY FROM THE BUILDING (TYP.)
  - GV. METAL POST BASE (TYP.)
  - CONC. FOOTING: REFER TO PLANS FOR DETAILS (TYP.)
- CEILING JOIST: REFER TO PLANS FOR SIZE AND SPACING (TYP.)
  - BEAM: REFER TO PLANS FOR DETAILS (TYP.)
  - FINISHED FLOOR PER OWNER SELECTION (TYP.)
  - GV. METAL POST CAP (TYP.)
  - 3/4" T&G SUB-FLOOR GLUED AND SCREWED TO FLOOR JOISTS (TYP.)
  - WD. FLOOR JOISTS: REFER TO PLANS FOR SIZE AND SPACING (TYP.)
  - P.T. WD. POST: REFER TO PLANS FOR DETAILS (TYP.)

T.O.P.

7'-0"± V.I.F.

FINISHED FLOOR ALIGN WITH EXG.

VARIABLES

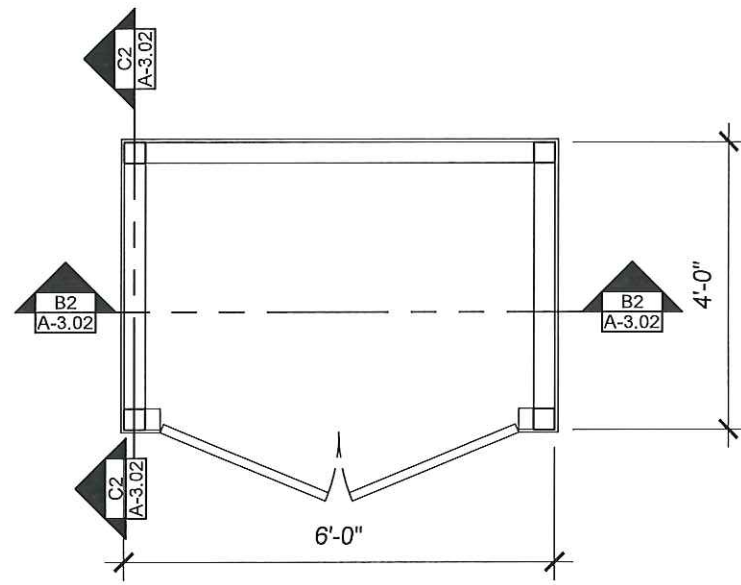
FINISHED GRADE

2'-0" MIN.

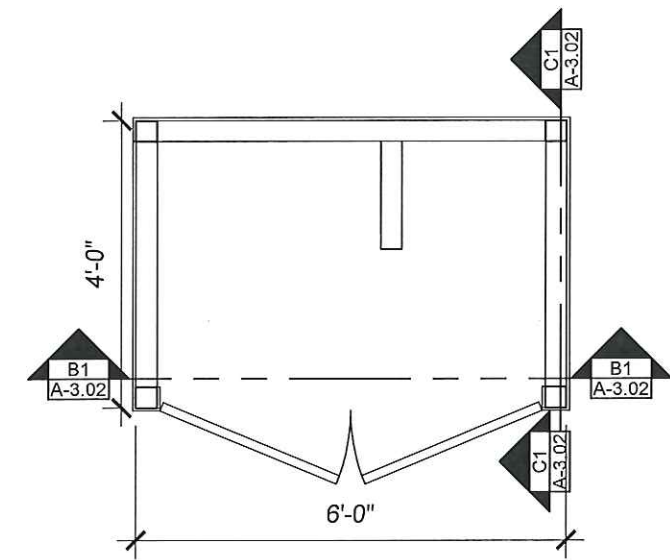
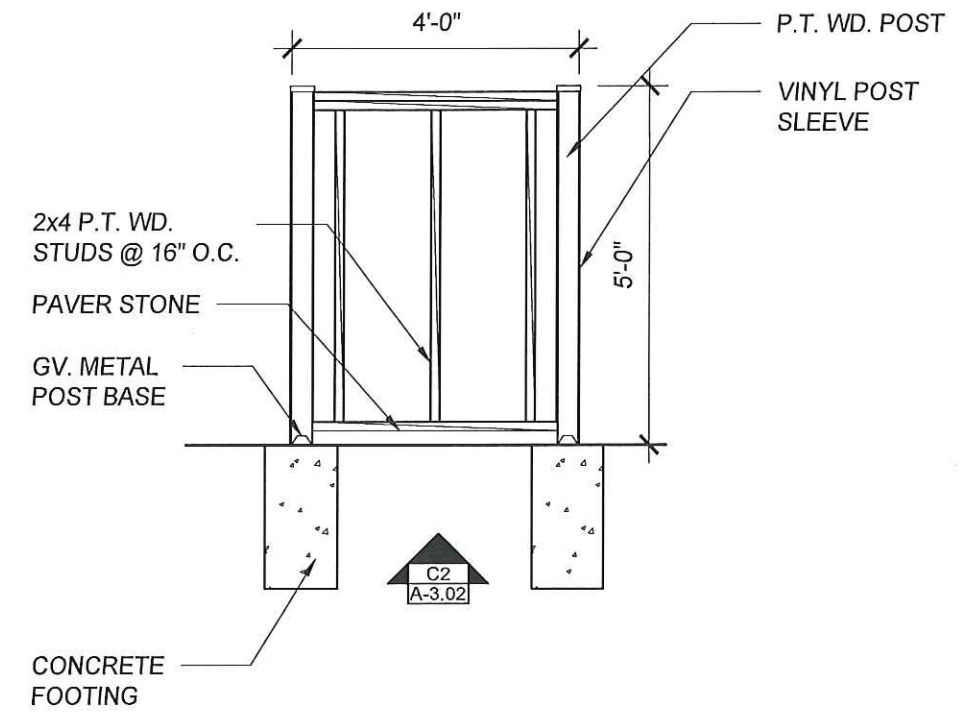
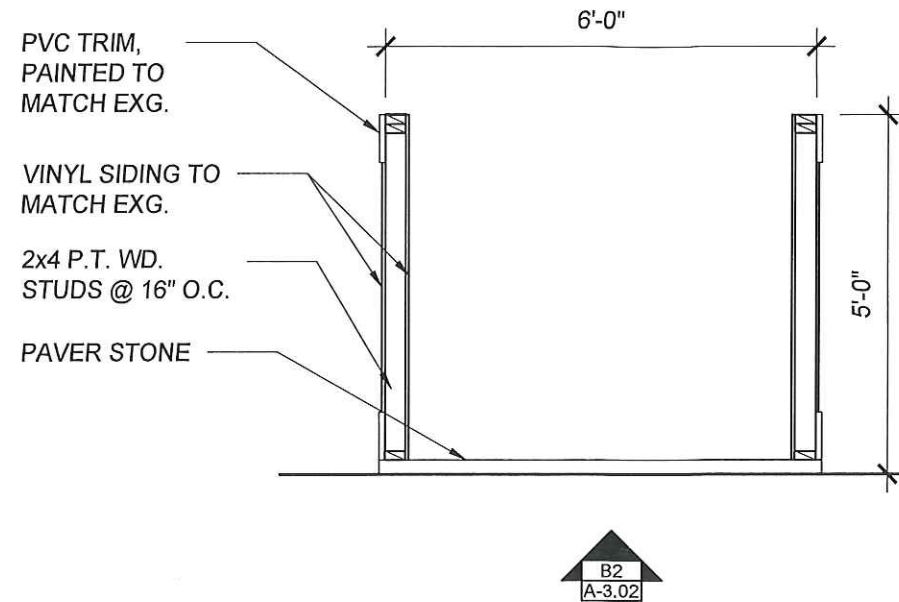
BOTTOM OF FTG.

**A1 BUILDING SECTION**

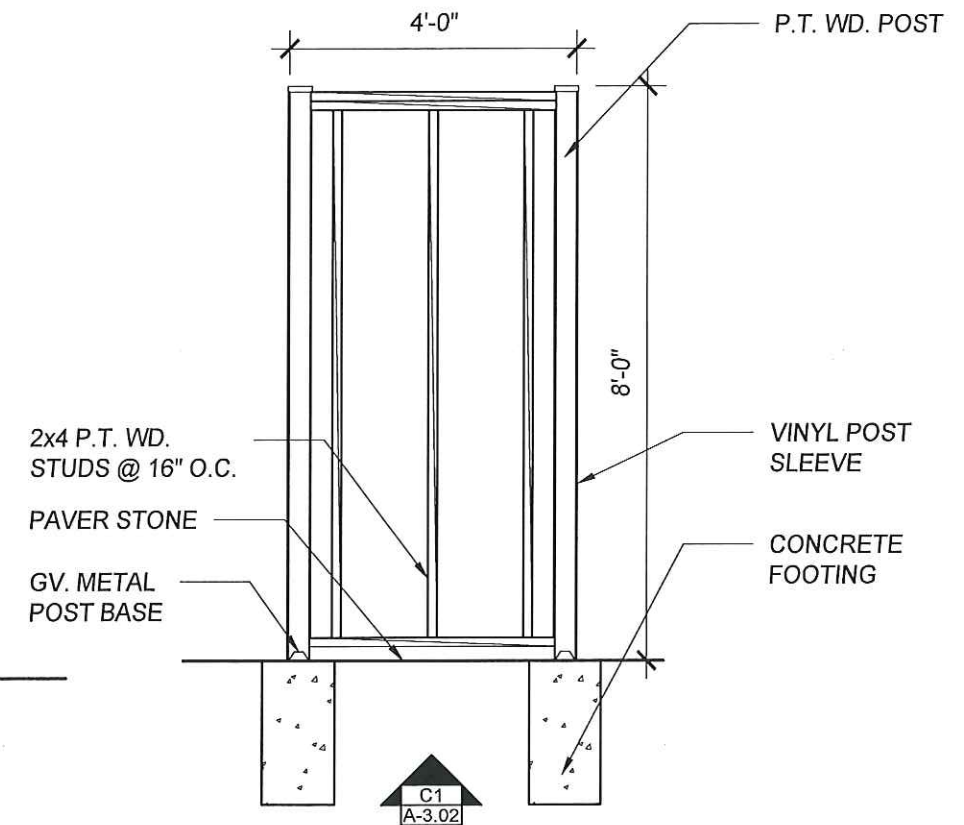
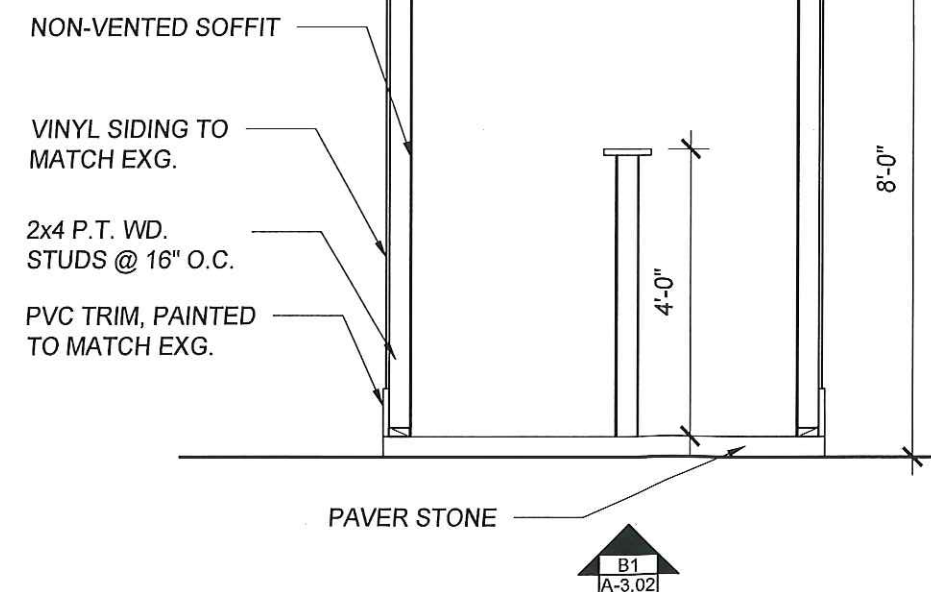
3/8" = 1'-0"



TRASHCAN ENCLOSURE



OUTDOOR SHOWER ENCLOSURE



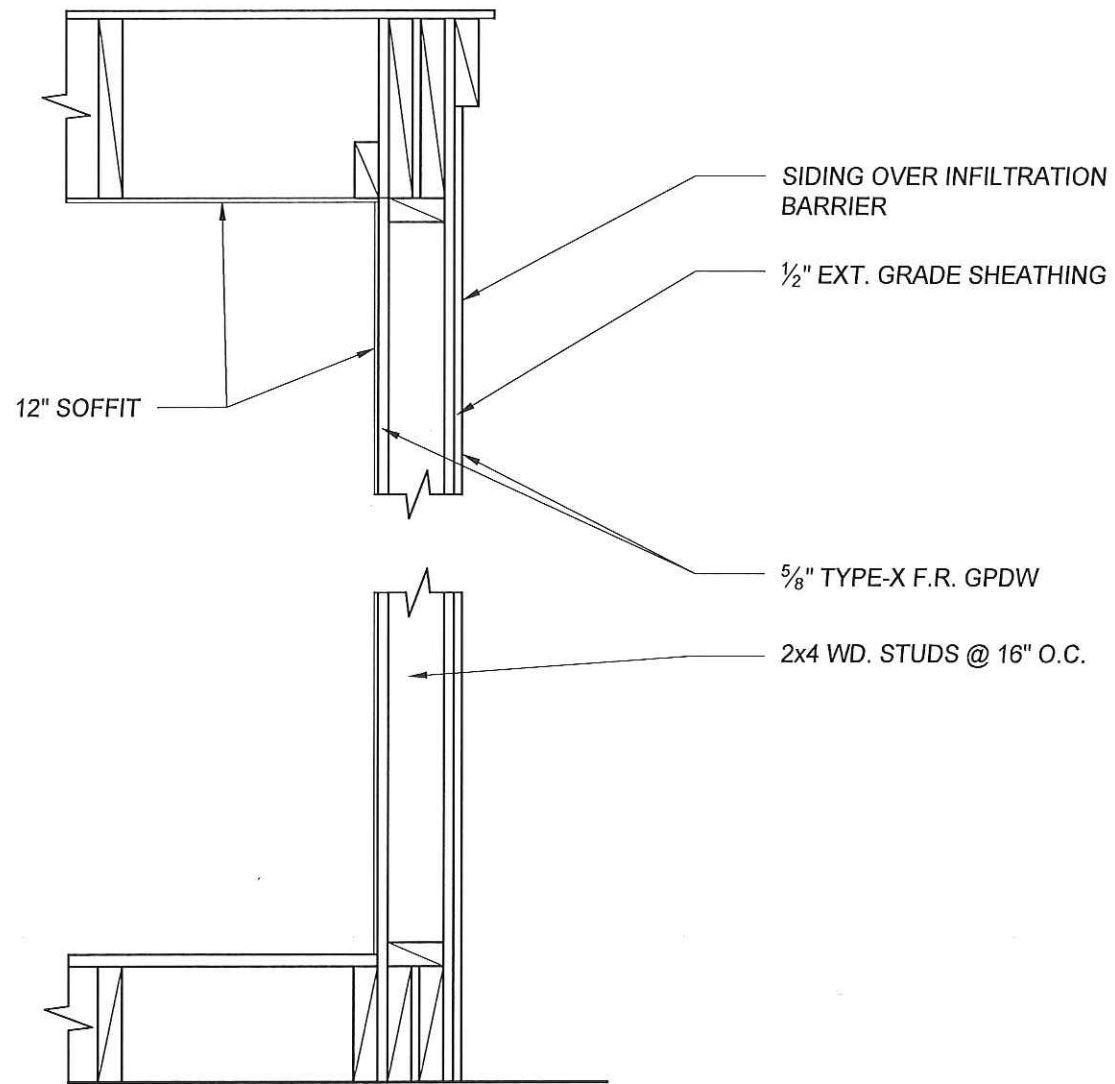
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REV. DATE:	
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CONSTRUCTION DRAWING FOR THE NEW:	PYZIK 3-SEASONS ROOM ADDITION
PROJECT #	20026
	OCEAN VIEW, SUSSEX COUNTY, DELAWARE
	BUILDING SECTION

DATE:	02/05/2020
SHEET #	A-3.02





A1 UL U305 - 1 HR. F.R. WALL

3/8" = 1'-0"



ARCHITECTURE & DESIGN SERVICES  
107 S Washington St., Milford, DE 19963  
ph: (302) 339-5566 www.ArchologyDE.com LLC

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REV. DATE:	
REV. DATE:	
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CONSTRUCTION DRAWING FOR THE NEW:  
**PYZIK 3-SEASONS ROOM ADDITION**  
 21036 CORMORANT WAY  
 OCEAN VIEW, SUSSEX COUNTY, DELAWARE

PROJECT #  
**20026**

**FIRE RATED WALL DETAIL**

DATE:  
02/05/2020

SHEET #  
A-3.03

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

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

Case # 12435  
Hearing Date 4/20/20  
202002185

RECEIVED

FEB 25 2020

SUSSEX COUNTY  
PLANNING & ZONING

**Type of Application: (please check all applicable)**

Variance   
Special Use Exception   
Administrative Variance   
Appeal

Existing Condition   
Proposed   
Code Reference (office use only)  
\_\_\_\_\_  
\_\_\_\_\_

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

1007 Kings Highway, Lewes

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

Variance to reduce the 20' side yard setback to 14' and to reduce the 30' rear yard setback to 14' to construct a 50'x60' (3,000 SF) storage building. The side and rear setbacks in a C-3 district are normally 5' each, however the more stringent setbacks are applied because the adjacent parcels are zoned residential (AR-1).

Tax Map #: 335-8.00-39.00

Property Zoning: C-1/C-3

**Applicant Information**

Applicant Name: JeffKat, LLC c/o Jeff Hamer

Applicant Address: 113 Draper Drive

City Rehoboth Beach State DE Zip: 19971

Applicant Phone #: (302) 745-0875 Applicant e-mail: jeffatfins@comcast.net

**Owner Information**

Owner Name: Jeff-Katt, LLC (same as above)

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

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

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

**Agent/Attorney Information**

Agent/Attorney Name: Davis, Bowen & Friedel, Inc., - Ring Lardner, P.E.

Agent/Attorney Address: 1 Park Ave

City Milford State DE Zip: 19963

Agent/Attorney Phone #: (302) 424-1441 Agent/Attorney e-mail: rwl@dbfinc.com

**Signature of Owner/Agent/Attorney**



Date: 2/24/2020



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

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

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

**1. Uniqueness of property:**

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

Due to the layout of the major subdivision plan that created this lot (The Mitchell Farm aka Zwaanendael Farm) there is a rectangular bump out that becomes nearly unbuildable when the setbacks for C-3 adjacent to residential are applied

---

**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.

When the C-3 setbacks for land adjacent to a residential district are applied an area that is only 30' wide remains for placement of a building, which does not meet the needs of the property owner.

---

**3. Not created by the applicant:**

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

The property owner was not involved in the creation of the lot as described in item #1.

---

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

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

The variance will be used to construct a storage building that will be aligned with and directly behind the Lane Builders workshop and will be of similar size. The adjacent property (parcel 37.00) has submitted an application to be rezoned to C-3, which would reduce the 30' setback to 5'. The Lane Builders site is zoned AR-1, but functions as a commercial property, therefore the 20' setback is out of context for this site.

---

**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.

If the adjacent properties were considered commercial, which is how they function or how they intend to function in the future the variance would not be required as the setbacks would be 5'. The variance is the minimum required to meet the owner's needs.



February 25, 2020

Sussex County Administrative Building  
Planning and Zoning Department  
2 The Circle  
P.O. Box 589  
Georgetown, Delaware 19947

Michael R. Wigley, AIA, LEED AP  
W. Zachary Crouch, P.E.  
Michael E. Wheedleton, AIA  
Jason P. Loar, P.E.  
Ring W. Lardner, P.E.  
Jamie L. Sechler, P.E.

Attn: Mr. Jamie Whitehouse, AICP, MRTPI  
Director of Planning

RE: Big Oyster Brewery Building Expansion (S-19-45)  
Variance Application  
Tax Parcel No.: 3-35-8.00-39.00  
DBF #3007A002.B01

RECEIVED  
FEB 25 2020  
SUSSEX COUNTY  
PLANNING & ZONING

Dear Mr. Whitehouse,

On behalf of our client, Jeff-Kat, LLC, we are pleased to submit a Variance application for the placement of a Storage Building. The configuration of the lot creates a buildable area that is significantly diminished by applying greater building setbacks for parcels adjacent to residentially zoned lands as required by code. When viewed in context with the existing and future uses the proposed building setbacks match the surroundings. Please find enclosed the following:

- Completed Board of Adjustment Application
- Storage Building Site Plan
- Check for \$400 to Sussex County Council

We respectfully request to be placed on the next available Board of Adjustment meeting Agenda. If you have any questions regarding this submission, please contact me at (302) 424-1441 or via e-mail at [cdm@dbfinc.com](mailto:cdm@dbfinc.com).

Sincerely,  
DAVIS, BOWEN & FRIEDEL, INC.



Cliff Mumford, P.E.  
Engineer

P:\Jeff Kat 2\King's Highway Site Expansion\Documents\P&Z\Variance\Big Oyster - Storage-Bldg-Variance-Cover.doc

CC: Jeff Hamer, Jeff-Kat, LLC



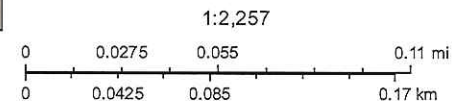


<b>PIN:</b>	335-8.00-39.00
<b>Owner Name</b>	JEFF-KAT LLC
<b>Book</b>	4456
<b>Mailing Address</b>	113 DRAPER DR
<b>City</b>	REHOBOTH BEACH
<b>State</b>	DE
<b>Description</b>	LEWESMURRAYS COR
<b>Description 2</b>	N/A
<b>Description 3</b>	N/A
<b>Land Code</b>	

- polygonLayer**

  - Override 1
- polygonLayer**

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



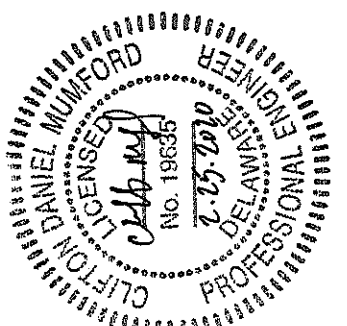
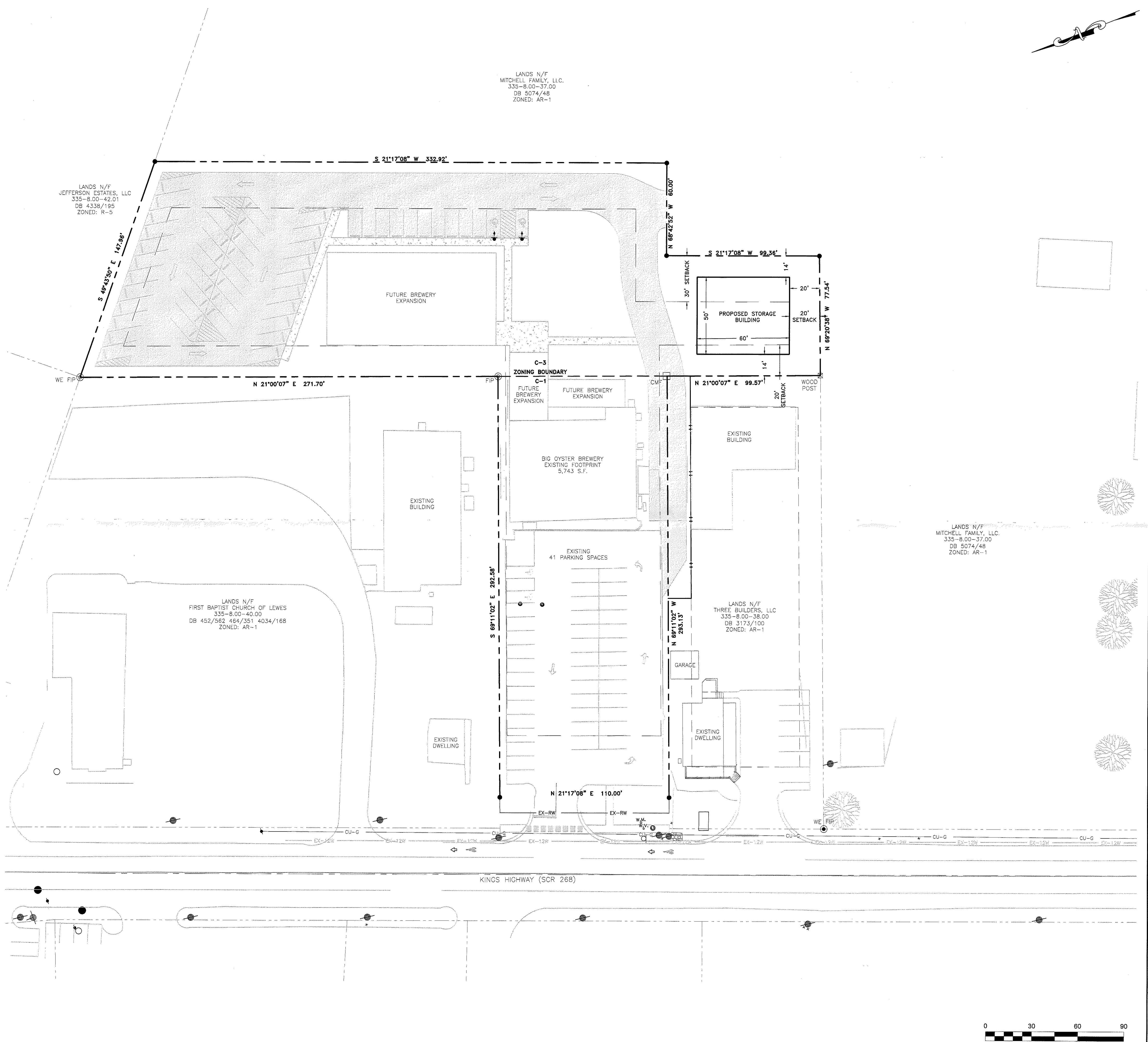


**DATA COLUMN**

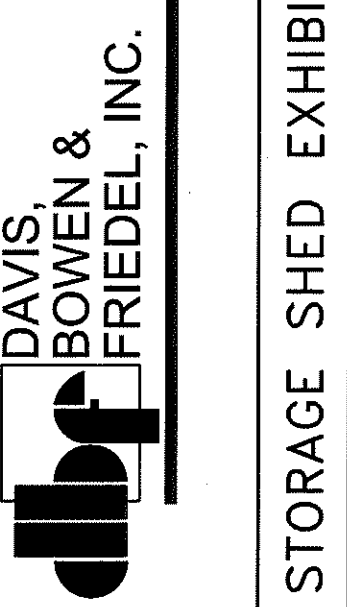
TAX MAP ID: 335-8.00-39.00  
 DEED REFERENCE: DEED BOOK 4456, PAGE 123  
 DATUM:  
 VERTICAL: NAVD 88  
 HORIZONTAL: NAD 83 (DE STATE PLANE)  
 LAT/LON:  
 BENCHMARK #1: W&E FIP: NW PROPERTY CORNER, LAT:38.7609, LON:-75.1445  
 SITE ADDRESS: 1007 KINGS HIGHWAY, LEWES, DE. 19958  
 LAND USE  
 EXISTING: BREWERY/RESTAURANT  
 PROPOSED: BREWERY/RESTAURANT  
 ZONING  
 EXISTING: C-1 (GENERAL COMMERCIAL DISTRICT)  
 C-3 (HEAVY COMMERCIAL DISTRICT)  
 MINIMUM REQUIREMENTS  
 FRONT SETBACK: C-1 60 FT. C-3 60 FT.  
 SIDE SETBACK: 5 FT. 5 FT. (\*20 FT.)  
 REAR SETBACK: 5 FT. 5 FT. (\*30 FT.)  
 (\*SETBACK APPLIES IF BOUNDARY LINE IS ADJACENT TO A RESIDENTIAL DISTRICT)  
 MAXIMUM REQUIREMENTS  
 BUILDING HEIGHT: 42 FT.  
 UTILITIES  
 SEWER PROVIDER: SUSSEX COUNTY UNIFIED SANITARY SEWER DISTRICT  
 WATER PROVIDER: LEWES BOARD OF PUBLIC WORKS  
 WETLANDS - THIS PROPERTY IS NOT IMPACTED BY WETLANDS.  
 FLOODPLAIN - THE PROPERTY IS NOT IMPACTED BY THE 100 YEAR FLOODPLAIN AS DETERMINED BY FEMA PANEL 10005C0194K.  
 THE PROPERTY IS NOT LOCATED IN A SOURCE WATER PROTECTION AREA.  
 STATE STRATEGIES MAP: INVESTMENT LEVEL 1  
 THIS PROPERTY IS LOCATED 1,865'± TO THE NORTH OF THE INTERSECTION OF KINGS HWY AND GILLS NECK ROAD.  
 KINGS HWY POSTED SPEED LIMIT: 45 M.P.H.  
 OWNER/DEVELOPER  
 JEFF-KATT, LLC.  
 55 BAY REACH  
 REHOBOTH BEACH, DE 19971  
 ENGINEER:  
 DAVIS, BOWEN, & FRIEDEL, INC.  
 CLIFTON D. MUMFORD, P.E.  
 1 PARK AVE.  
 MILFORD, DE 19963  
 PHONE: 302-424-1441  
 FAX: 302-424-0430

**NOTES**

- ALL FIRE LANES, FIRE HYDRANTS, AND FIRE DEPARTMENT CONNECTIONS SHALL BE MARKED IN ACCORDANCE WITH THE DELAWARE STATE FIRE PREVENTION REGULATIONS (DSFPR 705, CHAPTER 5).



ARCHITECTS ENGINEERS SURVEYORS  
 SALISBURY, MARYLAND (410) 643-2898  
 MILFORD, DELAWARE (302) 424-1441  
 EASTON, MARYLAND (410) 770-4774



**BIG OYSTER BREWERY EXPANSION  
 LEWES & REHOBOTH HUNDRED  
 SUSSEX COUNTY, DELAWARE**

Revisions:  
 Date: JANUARY, 2020  
 Scale: 1" = 30'  
 Dwn.By: BJM  
 Proj.No.: 3007A002  
 Dwg.No.: 01

P:\Jeff Katt\Kings Highway Site Expansion\Design\3007A002 - SHED EXHIBIT.dwg Feb 24, 2020 - 11:55am MMSB



Case # 12437  
Hearing Date 202002866

## 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 <input checked="" type="checkbox"/>	Existing Condition <input checked="" type="checkbox"/>
Special Use Exception _____	Proposed _____
Administrative Variance _____	Code Reference (office use only)
Appeal _____	_____

**Site Address of Variance/Special Use Exception:** \_\_\_\_\_  
17863 Shoemaker Dr

**Variance/Special Use Exception/Appeal Requested:** \_\_\_\_\_  
4.4' from req. 20' rear for proposed addition  
Existing garage removed (O (Apl-20-12))

**Tax Map #:** 135-6.00-27.02      **Property Zoning:** AR-1

**Applicant Information**

Applicant Name: Eric Reed  
Applicant Address: 17863 Shoemaker Dr.  
City, State, Zip: Georgetown DE 19947  
Applicant Phone #: 302-542-0838      Applicant e-mail: ereed@scowmarkts.com

**Owner Information**

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

**Agent/Attorney Information**

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

**Signature of Owner/Agent/Attorney**

Eric Reed      Date: 3-11-2020



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

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

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

1. Uniqueness of property:

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

The property is accessed by way of A private Roadway and is Narrow.  
When the Property was Subdivided what was the side yard Became the  
Rear So Changing the setbacks

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.

I am adding on to an existing building already on the lot.  
Structurally more sound with adding on the same Footprint and also keeping  
the Original layout!

3. Not created by the applicant:

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

The Reason for the Variance is to add on to a building that has already been  
given a CO.

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

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

The Variance would not alter the Character it will make the property look  
More uniform with the existing building.

5. Minimum variance:

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

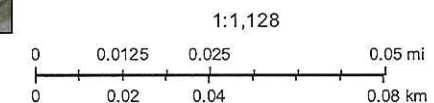
I am asking for the Variance because the existing Pole Barn I measured off of  
and ordered materials and started building was given a CO and we later found  
out that some setbacks were off!





<b>PIN:</b>	135-6.00-27.02
<b>Owner Name</b>	REED ERIC J
<b>Book</b>	4479
<b>Mailing Address</b>	17863 SHOEMAKER DR
<b>City</b>	GEORGETOWN
<b>State</b>	DE
<b>Description</b>	NE/SHOEMAKER DR
<b>Description 2</b>	348'NW/RD 565
<b>Description 3</b>	LOT A
<b>Land Code</b>	

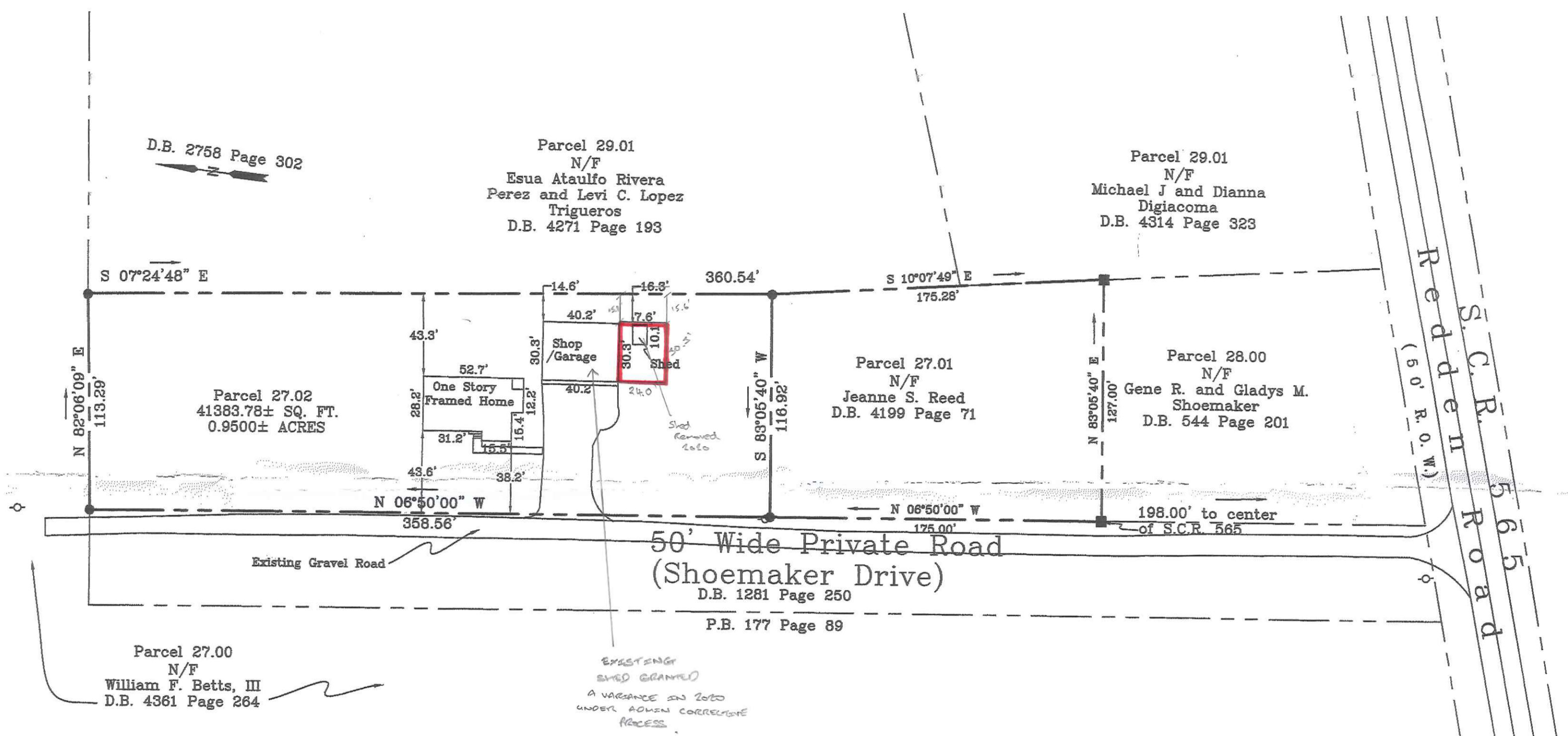
- polygonLayer**
- Override 1
- polygonLayer**
- Override 1
- Tax Parcels
- 911 Address
- Streets
- County Boundaries
- Subdivisions
- Tax Ditch Segments**
- Tax Ditch Channel
- Pond Feature
- Special Access ROW
- Approx. Watershed Boundary





Survey of Parcel 27.02  
 Prepared for:  
 Jeanne S. Reed

T.M. 1-35-6.00 Parcel 27.02  
 Deed Book 2758 Page 300  
 Georgetown Hundred  
 Sussex County Delaware  
 Zoning AR-1



Notes:  
 1. Unless this plat has an embossed seal with an original signature of the Engineer, in red ink, this is not an authorized copy.  
 2. This survey or plat does not verify the existence or the nonexistence of rights-of-ways or easements crossing or affecting the property.  
 3. Jeanne S. Reed will be responsible for the perpetual maintenance of the 60' right of way.  
 5. Parcels 27.01 and 27.02 shall have access from Shoemaker Drive, via a 50' wide private road.

**LEGEND**

- Property Line
- Concrete Monument Found
- Iron Pipe Found
- Existing Power Pole



LANDS OF: Jeanne S. Reed	<b>JOHN B. ROACH</b> Engineering LLC	22184 Nelson Road Georgetown, Delaware 19947 Phone No. 302-856-4912
	Drawn By: JBR	Date: 10-26-2015
	Scale: 1"=50'	Sheet 1/1



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

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

Case # 12436  
Hearing Date 4/20/2020  
202002382

**Type of Application: (please check all applicable)**

Variance

Special Use Exception

Administrative Variance

Appeal

Existing Condition

Proposed

Code Reference (office use only)

\_\_\_\_\_  
\_\_\_\_\_

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

19827 Central Avenue, Rehoboth Beach, DE 19971

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

Special Use Exception § 115-80 to allow for "Tents for special purposes for a period exceeding three days" for the operation of Tomato Sunshine, a garden center and farm market.

Period of 5 years - May 1st to Nov 1st each year

Tax Map #: 334-13.20-22.00

Property Zoning: C-1

**Applicant Information**

Applicant Name: Tomato Sunshine

Applicant Address: 14 Wolf Pit Court

City Rehoboth Beach State DE Zip: 19971

Applicant Phone #: (302) 381-0814 Applicant e-mail: donnadeangelis@comcast.net

**Owner Information**

Owner Name: Harold E. Dukes, Jr. & Anthony Crivella

Owner Address: 323E Rehoboth Avenue

City Rehoboth Beach State DE Zip: 19971 Purchase Date: 4/26/13

Owner Phone #: (302) 227-1314 Owner e-mail: \_\_\_\_\_

**Agent/Attorney Information**

Agent/Attorney Name: Mackenzie M. Peet, Esq.

Agent/Attorney Address: 323E Rehoboth Avenue

City Rehoboth Beach State DE Zip: 19971

Agent/Attorney Phone #: (302) 227-1314 Agent/Attorney e-mail: mackenzie@tunnellraysor.com

**Signature of Owner/Agent/Attorney**

Mackenzie M. Peet, Esq.

Date: 2/27/20



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

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

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

The placement of a small, 30' x 40' tent will not substantially or adversely affect the uses of the adjacent and neighboring properties. The lot is zoned C-1 and the placement of this small, 30' x 40' tent will not alter the character of the district. The tent is proposed to provide shade and rain coverage for the operation of Tomato Sunshine, a garden center and farm market.

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

---

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

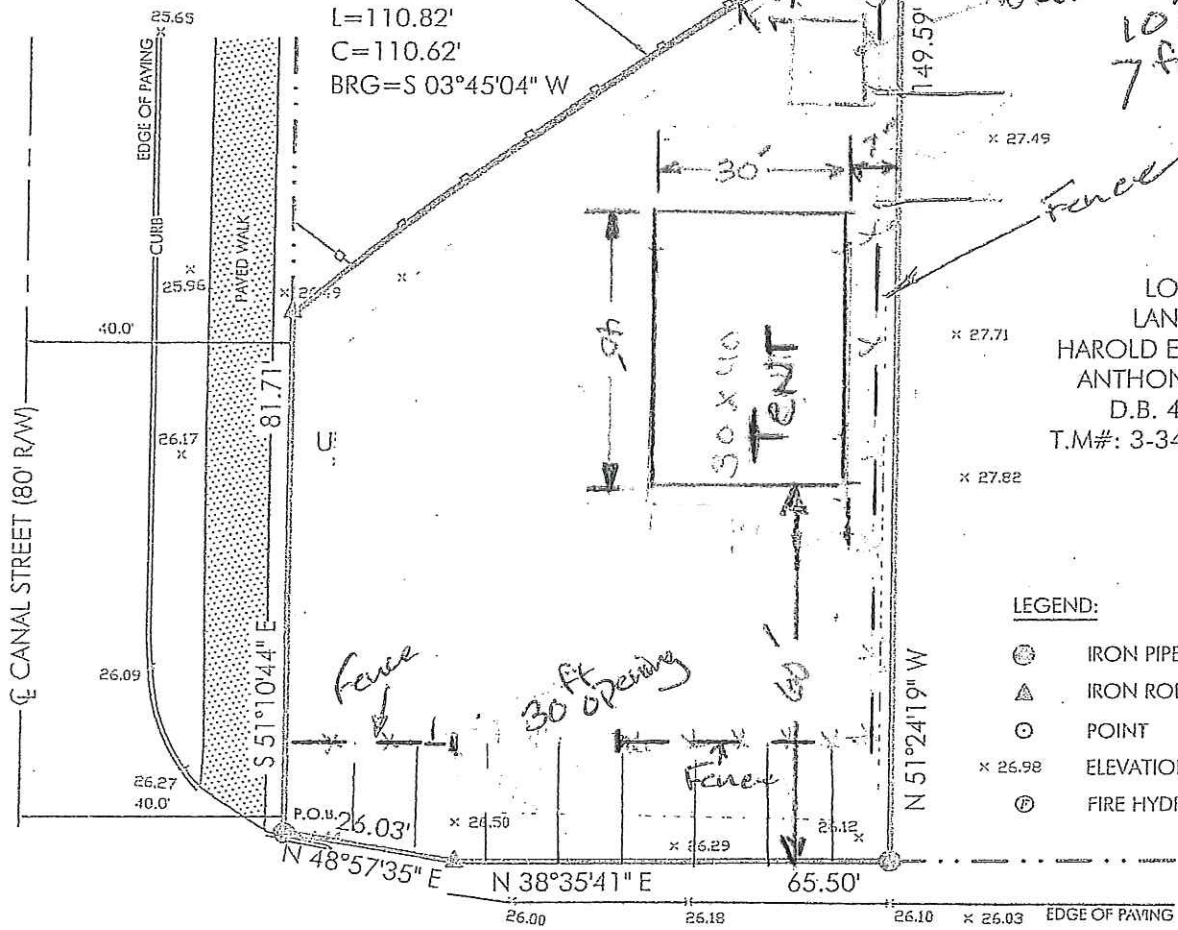
---



LANDS N/F  
 PARK SHORE DEVELOPMENT LLC.  
 D.B. 4544-282  
 T.M#: 3-34-13.20-33.01

R=543.69'  
 $\Delta=11^{\circ}40'41''$   
 L=110.82'  
 C=110.62'  
 BRG=S 03°45'04" W

*Walk-in Box  
 10x12'  
 7 feet From  
 Property Line*



LOT #47  
 LANDS N/F  
 HAROLD E. DUKES JR. &  
 ANTHONY CRIVELLA  
 D.B. 4107-118  
 T.M#: 3-34-13.20-23.01

LEGEND:

- ⊙ IRON PIPE (FOUND)
- △ IRON ROD (TO BE SET)
- ⊙ POINT
- x 26.98 ELEVATION SPOT SHOT (NAVD 88)
- ⊕ FIRE HYDRANT

CENTRAL AVENUE (25' R/W) PRIVATE STREET

BOUNDARY SURVEY PLAN FOR  
HAROLD E. DUKES JR. &  
ANTHONY CRIVELLA

REFERENCE: DEED BOOK 4119 PAGE 214

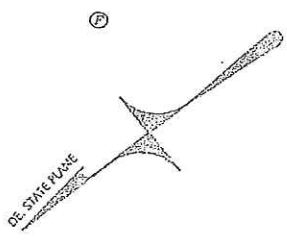
19827 CENTRAL AVENUE, REHOBOTH BEACH

LOT #48 BLOCK 4 OF "GEORGE E. SHOCKLEY" SUBDIVISION &

"A PORTION OF UNNAMED & UNPAVED ROAD ADJACENT TO CANAL STREET"  
 LEWES & REHOBOTH HUNDRED SUSSEX COUNTY

STATE OF DELAWARE

FEBRUARY 6, 2019 SCALE: 1" = 30'



NOTES:  
 ZONING: GENERAL COMMERCIAL C-1  
 ALL SETBACKS ARE THE RESPONSIBILITY  
 OF THE OWNER AND/OR  
 GENERAL CONTRACTOR.  
 VERTICAL DATUM: NAVD 88  
 THIS DRAWING DOES NOT VERIFY THE  
 EXISTENCE OR NON-EXISTENCE OF  
 WETLANDS, UTILITIES, RIGHT-OF-WAYS  
 OR EASEMENTS IN REFERENCE TO OR  
 LOCATED ON THIS PROPERTY.  
 NO TITLE SEARCH PROVIDED OR STIPULATED.  
 SURVEY CLASS: SUBURBAN

Prepared by:  
**FORESIGHT** Services  
 Surveying & Precision Measurement

302 226 2239 phone 302 226 2239 fax 2103A Coastal Highway Dewey Beach, DE 19971

16546

BK: 4119 PG: 214

RETURN TO:  
Harold E. Dukes, Jr, and Anthony Crivella  
323E Rehoboth Avenue  
Rehoboth Beach, DE 19971

Tax No.: 3-34 13.20 22.00  
PREPARED BY:  
Tunnell & Raysor, P.A.  
323E Rehoboth Avenue  
Rehoboth Beach, DE 19971  
File No. AS8496/TAC

**THIS DEED**, made this 26th day of April, 2013,

- BETWEEN -

**BRENDA MAULL** and **JUANITA AMES**, of 16953 Sweet Briar Road, Lewes, DE 19958, parties of the first part,

- AND -

**HAROLD E. DUKES, JR.**, as to a 50% interest and **ANTHONY CRIVELLA**, as to a 50% interest of 323E Rehoboth Avenue, Rehoboth Beach, DE 19971, as tenants in common, parties of the second part.

**WITNESSETH:** That the said parties of the first part, for and 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 grant and convey unto the parties of the second part, and their heirs and assigns, in fee simple, the following described lands, situate, lying and being in Sussex County, State of Delaware:

Parcel No. 1.

ALL that certain lot, piece and parcel of land situate, lying and being in Lewes and Rehoboth Hundred, Sussex County, State of Delaware, known and designated as Lot No. FORTY-EIGHT (48), in Block No. Four (4), on the Plot of Lands of George E. Shockley, made by John C. Lank, Surveyor, which Plot is recorded in the Office of the Recorder of Deeds, in and for Sussex County, at Georgetown, Delaware in Deed Book 334, at Page 152.

Parcel No. 2.

ALL that certain piece or parcel of land situate in the Lewes and Rehoboth Hundred, Sussex County, Delaware, being a portion of an unnamed ad unpaved road



KS



BK: 4119 PG: 215

adjacent to Canal Street, and being more particularly described according to a more recent survey by Coast Survey, Inc. dated July 13, 2006:

**BEGINNING** at a point in the Northerly corner of Lot 48 and the Lot now or formerly owned by Henlopen Station Condo Association then running 107.36 along a line between Lot 48 and the unnamed paved dirt road North 51 Degrees 08 Minutes 00 Seconds West to a point in the corner of Lot 48 and along Central Avenue, thence turning and running along a line between Central Avenue and the unnamed unpaved dirt road 26.21 feet North 51 Degrees 10 Minutes 35 Seconds to a point in the corner of Central Avenue and the unnamed unpaved dirt road, thence turning and running along a line between the Canal Street Right-of-Way and the unnamed unpaved dirt road 81.34 feet South 50 Degrees 54 Minutes 25 Seconds East to a found iron pipe with cap; then turning and running along a curve between the unnamed unpaved dirt road and the lands now or formerly of Henlopen Station Condo Association with radius of 543.56 feet, the chord being 03 Degrees 25 Minutes 39 Seconds a distance of 32.52 feet to said point of beginning containing 2,405 square feet more or less.

BEING the same lands conveyed to Brenda Maull and Juanita Ames, as Joint Tenants with Rights of Survivorship by Deed of Brenda Maull and Juanita Ames, said Deed dated March 22, 2009, and filed for record in the Office of the Recorder of Deeds, in and for Sussex County, at Georgetown, Delaware, on May 19, 2009, in Deed Book 3677, Page 39.

BEING the same lands conveyed to Brenda Maull and Juanita Ames, by Deed of George Ames and Juanita Ames, his wife, said Deed dated October 10, 1986, and filed for record in the Office of the Recorder of Deeds, in and for Sussex County, at Georgetown, Delaware, on October 13, 1986, in Deed Book 1446, Page 340.

**SUBJECT** to any and all restrictions, reservations, conditions, easements and agreements of record in the Office of the Recorder of Deeds in and for Sussex County, Delaware.

BK: 4119 PG: 216

IN WITNESS WHEREOF, the parties of the first part have hereunto set their hands and seals the day and year first above written.

Signed, Sealed and Delivered in the presence of:

Pamela S. Beckman  
Witness

Brenda Maull (SEAL)  
Brenda Maull

Pamela S. Beckman  
Witness

Juanita Ames (SEAL)  
Juanita Ames

STATE OF DELAWARE :  
: SS  
COUNTY OF SUSSEX :

BE IT REMEMBERED, that on the 26th day of April, 2013, personally came before me, the subscriber, Brenda Maull and Juanita Ames, parties of the first part to this Indenture, known to me personally to be such, and acknowledged this Indenture to be their act and deed.

GIVEN under my Hand and Seal of Office the day and year aforesaid.

MICHELLE L. GUNN  
NOTARY PUBLIC  
STATE OF DELAWARE  
My Commission Expires July 17, 2013

Michelle L. Gunn  
Notary Public

My Commission Expires: \_\_\_\_\_

RECEIVED

APR 29 2013

ASSESSMENT DIVISION  
OF SUSSEX COUNTY

Consideration: 102,500.00

County	1,537.50
State	1,537.50
Town	Total 3,075.00
Received: Sue D Apr 29, 2013	

Recorder of Deeds  
Scott Dailey  
Apr 29, 2013 11:23A  
Sussex County  
Doc. Surcharge Paid







# Sussex County Building Permit

P.O. Box 589  
Georgetown, DE 19947  
302-855-7720

Application Number
201908624
Issue Date: 07/25/2019
Expire Date: 07/24/2020

Permit Type: **COMMERCIAL OUT OF TOWN**

Parcel ID	Address	Zone Code
334-13.20-22.00	19827 CENTRAL AVENUE	C-1

Owner Information	Applicant Information
Name: DUKES HAROLD E JR Phone:	Name: DUKES HAROLD E JR Phone:

Contractor Information	
Name: DUKES HAROLD E JR CID: 1062691 Phone:	License Number: License Exp. Date: Insurance Exp. Date:

Building Information
Proposed Use: COMMERCIAL Construction Type: Estimated Cost of Construction: \$ 7,500 Cannot Occupy More than _____ of Total Lot Area Distance from any Dwelling of other Ownership: _____ Distance from any other Mobile Home or Accessory Structure: _____

Property Information
<b>Measurements taken from Property Lines</b> Front Setback: _____ / _____      Rear Setback: _____ / _____ Side Setback: _____ / _____      Corner Setback: _____ / _____ Maximum Building Height: _____      Location Description: _____ <b>FLOOD ZONE</b> <u>SW INTER' OF CENTRAL AVE CANAL ST</u> Flood Zone: XP353K _____ If Initialed, See Attached Flood Plan Construction Review Coastal and Flood-Prone Area Building Requirements.

**Project Description:** COMMERCIAL W/O BC  
**Scope of Work:**  
296' OF CHAINLINK FENCE, 10X12 METAL WALKIN COOLER

**Permit Details:**

Signature of Approving Official

Signature of Owner/Contractor

I fully understand the Zoning Requirements of this permit.

**Building Permit Application:**

ZONING AND BUILDING PERMIT will expire one (1) year from the date of issue. Permit may be renewed if construction has begun and continued in a normal manner and not discontinued for reasons other than those beyond the permit-holder's control. Grading or surface-shaping of the site shall not be considered as "actual construction". Permit must be renewed prior to expiration date.  
ASSESSORS AND INSPECTORS HAVE A RIGHT TO GO ON PREMISES TO ASSESS AND INSPECT PROPERTY. The owner or owners of these premises do hereby consent to the Board of Assessment, Planning and Zoning and Building Code Officials 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, said consent being given on the signing of this permit.  
THE SUSSEX COUNTY PLANNING AND ZONING COMMISSION APPROVAL OF THIS PERMIT APPLICATION PERTAINS ONLY TO COMPLIANCE WITH SUSSEX COUNTY ZONING ORDINANCES. IT IS NOT TO BE CONSTRUED AS AN ALL INCLUSIVE APPROVAL FOR THE REQUIREMENTS OF ANY OTHER GOVERNMENTAL AGENCIES, WHICH MAY PERTAIN TO THIS SITE.

<b>Permit Number</b>	BP-114430	<b>TOTAL FEES:</b>	\$ 47.25
----------------------	-----------	--------------------	----------



PAYMENT SUMMARY RECEIPT

Sussex County, DE  
PO BOX 589

DATE: 07/25/19 CUSTOMER#:  
TIME: 13:55:00  
CLERK: cpatters

RECPT#: 2447955 PREV BAL: 47.25  
TP/YR: P/2020 AMT PAID: 47.25  
BILL: 2447955 ADJSTMNT: .00  
EFF DT: 07/25/19 BAL DUE: .00  
PERMITS/INSP PAYMENT: 201908624

-----TOTALS-----

PRINCIPAL PAID: 47.25  
INTEREST PAID: .00  
ADJUSTMENTS: .00  
DISC TAKEN: .00

AMT TENDERED: 47.25  
AMT APPLIED: 47.25  
CHANGE: .00

PAID BY: STRICKSON LLC  
PAYMENT METH: CHECK  
PAYMENT REF: 1070



**PLANNING & ZONING**  
JANELLE M. CORNWELL, AICP  
DIRECTOR  
(302) 855-7878 T  
(302) 854-5079 F



**Sussex County**  
DELAWARE  
sussexcountyde.gov

## Service Level Evaluation Request Form

This form **shall** be submitted to the Planning and Zoning Office and a response **shall** be received back from DelDOT prior to the applicant being able to submit an application to the Planning and Zoning Office.

Date: 2/27/20

### Site Information:

Site Address/Location: 19827 Central Avenue

Tax Parcel Number: 334-13.20-22.00

Current Zoning: C-1

Proposed Zoning: \_\_\_\_\_

Land Use Classification: Commercial

Proposed Use(s): Placement of a small, 30' x 40' tent on the lot.

Square footage of any proposed buildings or number of units: N/A

### Applicant Information:

Applicant's Name: Tomato Sunshine

Applicant's Address: 14 Wolf Pit Court

City: Rehoboth Beach State: DE Zip Code: 19971

Applicant's Phone Number: (302) 381-0214

Applicant's e-mail address: donnadeangelis@comcast.net



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

Last updated 7-27-18

## Planning & Zoning Project Contact List

### Applicant Information

Applicant Name: Tomato Sunshine  
Applicant Address: 19827 Central Avenue  
City: Rehoboth Beach State: DE Zip: 19971  
Phone #: (302) 381-0214 E-mail: donnadeangelis@comcast.net

### Owner Information

Owner Name: Harold E. Dukes, Jr. and Anthony Crivella  
Owner Address: 323E Rehoboth Avenue  
City: Rehoboth Beach State: DE Zip: 19971  
Phone #: (302) 227-1314 E-mail: \_\_\_\_\_

### Engineer/Surveyor Information

Engineer/Surveyor Name: Foresight Services Surveying and Precision Measurement  
Engineer/Surveyor Address: 2103A Coastal HWY  
City: Dewey Beach State: DE Zip: 19971  
Phone #: (302) 226-2229 E-mail: \_\_\_\_\_

### Agent/Attorney Information

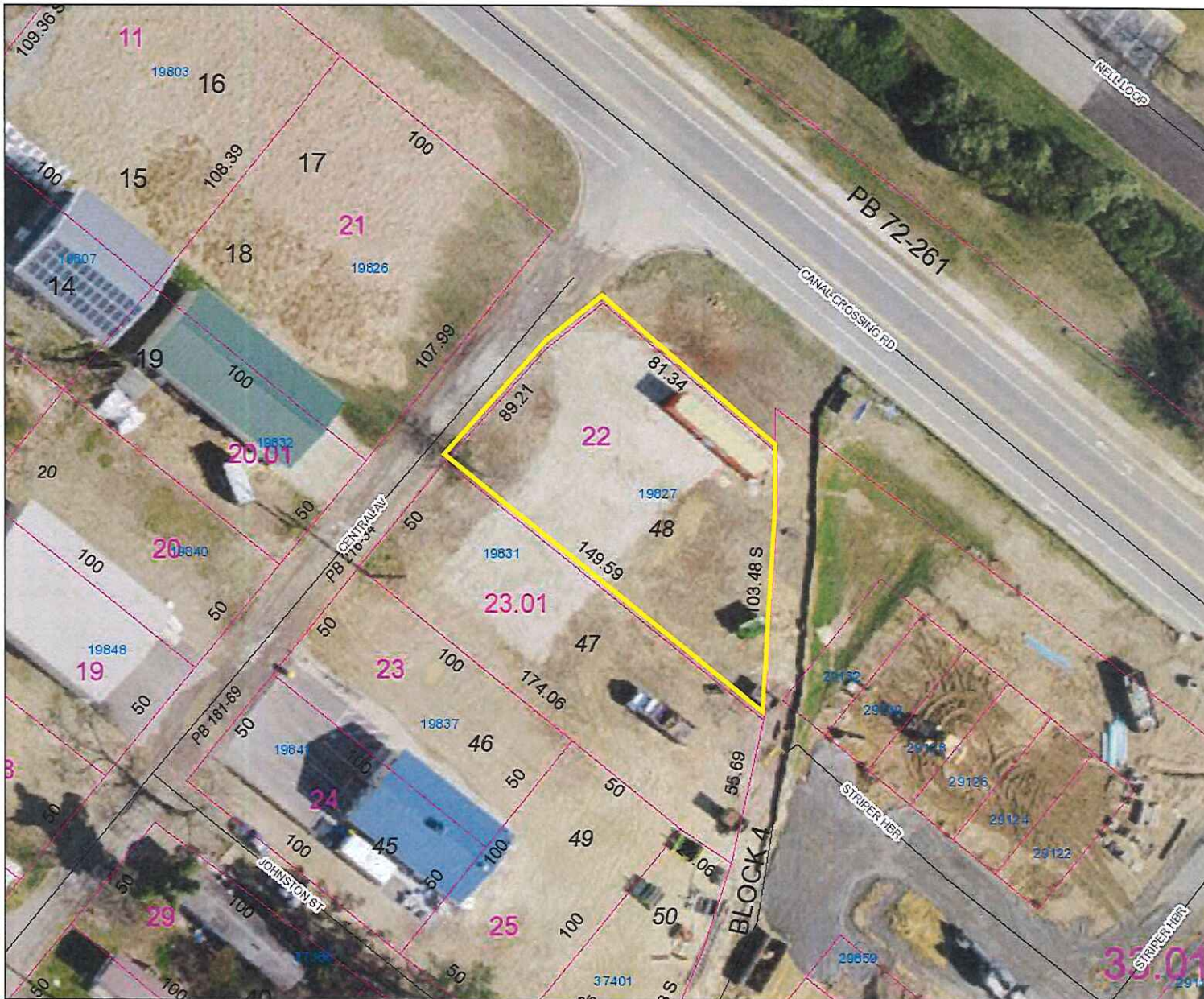
Agent/Attorney/Name: Mackenzie M. Peet, Esq.  
Agent/Attorney/Address: 323E Rehoboth Avenue  
City: Rehoboth Beach State: DE Zip: 19971  
Phone #: (302) 227-1314 E-mail: mackenzie@tunnellraysor.com

### Other

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







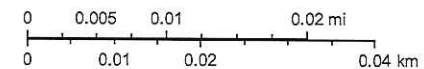
<b>PIN:</b>	334-13.20-22.00
<b>Owner Name</b>	DUKES HAROLD E JR
<b>Book</b>	4119
<b>Mailing Address</b>	323E REHOBOTH AVE
<b>City</b>	REHOBOTH BEACH
<b>State</b>	DE
<b>Description</b>	SW INTER' OF CENTRAL
<b>Description 2</b>	AVE CANAL ST
<b>Description 3</b>	N/A
<b>Land Code</b>	

- polygonLayer**

  - Override 1
- polygonLayer**

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

1:564





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

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

Case # 212438  
Hearing Date 4/20  
202002608

**Type of Application: (please check all applicable)**

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

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

9010 Coastal Highway, Milford DE, 19963

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

I would like to apply for conditional use/special use exception so that a child care facility can operate on the property

Tax Map #: 2-30 8.00 20.01 Property Zoning: GR

**Applicant Information**

Applicant Name: Tirana White  
Applicant Address: 21498 Withers Way  
City Lincoln State DE Zip: 19960  
Applicant Phone #: 302-245-3762 Applicant e-mail: mollywhite912@yahoo.com

**Owner Information**

Owner Name: Jerry Hall  
Owner Address: 21498 Withers Way  
City Lincoln State DE Zip: 19960 Purchase Date: 02/21/2020  
Owner Phone #: 302-864-3262 Owner e-mail: jerryhall27@gmail.com

**Agent/Attorney Information**

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

**Signature of Owner/Agent/Attorney**

Jerry Hall

Date: 3/4/2020





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

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

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

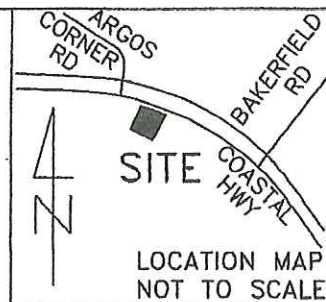
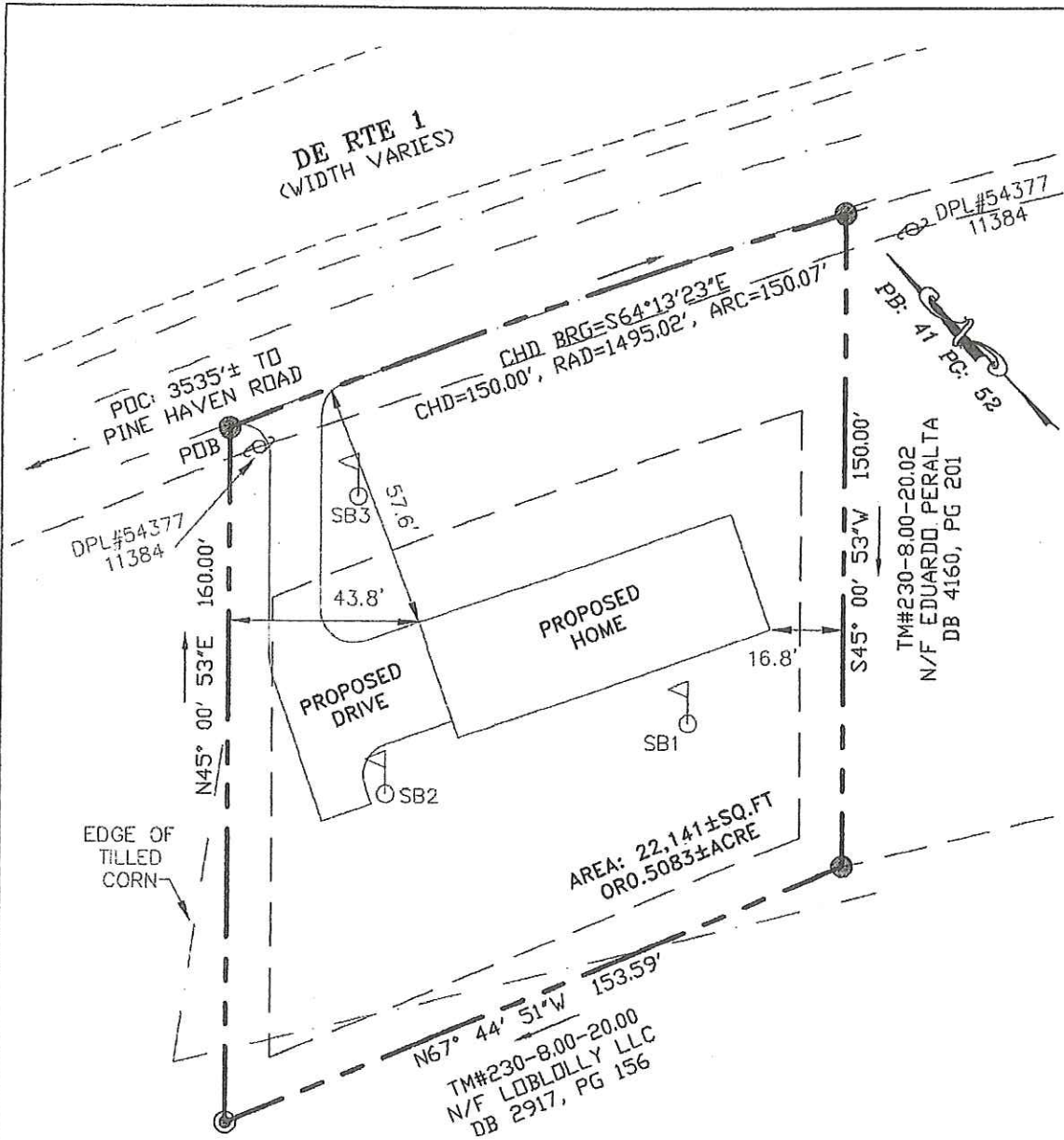
The entry and exit from the property will remain as it is. Also, noise barriers, and a 6ft vinyl fence will be added to the side of the property where neighbors reside and a 4 ft. vinyl fence will be in the front of the property on both sides. An additional fence will be added where the children will play. All safety and security guards and parking requirements will be met according to code.

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

N/A

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

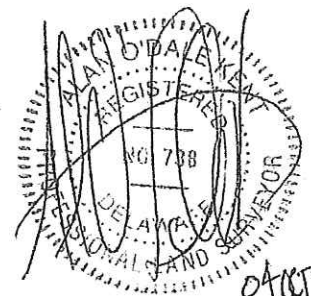
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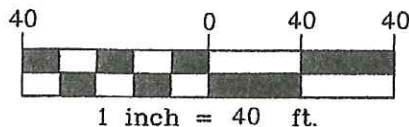
I, ALAN O'DALE KENT, REGISTERED AS A PROFESSIONAL LAND SURVEYOR IN THE STATE OF DELAWARE, HEREBY STATE THAT THE INFORMATION SHOWN ON THIS PLAN HAS BEEN PREPARED UNDER MY SUPERVISION AND MEETS THE STANDARDS OF PRACTICE AS ESTABLISHED BY THE STATE OF DELAWARE BOARD OF PROFESSIONAL LAND SURVEYORS. ANY CHANGES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

**PLAN DATA:**

1. TITLE REFERENCED TO: TM# 230-8.00-20.01, DB 1660, PG 243, PB 41, PG 52 DELAWARE ROUTE 1, MILFORD, DE 19963 CEDAR CREEK HUNDRED, SUSSEX COUNTY, STATE OF DELAWARE
2. NO TITLE REPORT PERFORMED OR FURNISHED IN PREPARATION OF THIS PLAT.
3. THIS PLAN DOES NOT CERTIFY THE EXISTENCE OR NON-EXISTENCE OF EASEMENTS OR RIGHTS OF WAY AS A FULL AND COMPLETE SEARCH MAY REVEAL IN THE SUSSEX COUNTY RECORDER OF DEEDS.
4. ACCORDING TO SUSSEX COUNTY PLANNING AND ZONING THE ZONING IS GR AND THE SETBACKS ARE: FRONT-40, SIDE-10, AND REAR 10.



ALAN O'DALE KENT, PLS#738, DATE THIS IS A SUBURBAN SURVEY

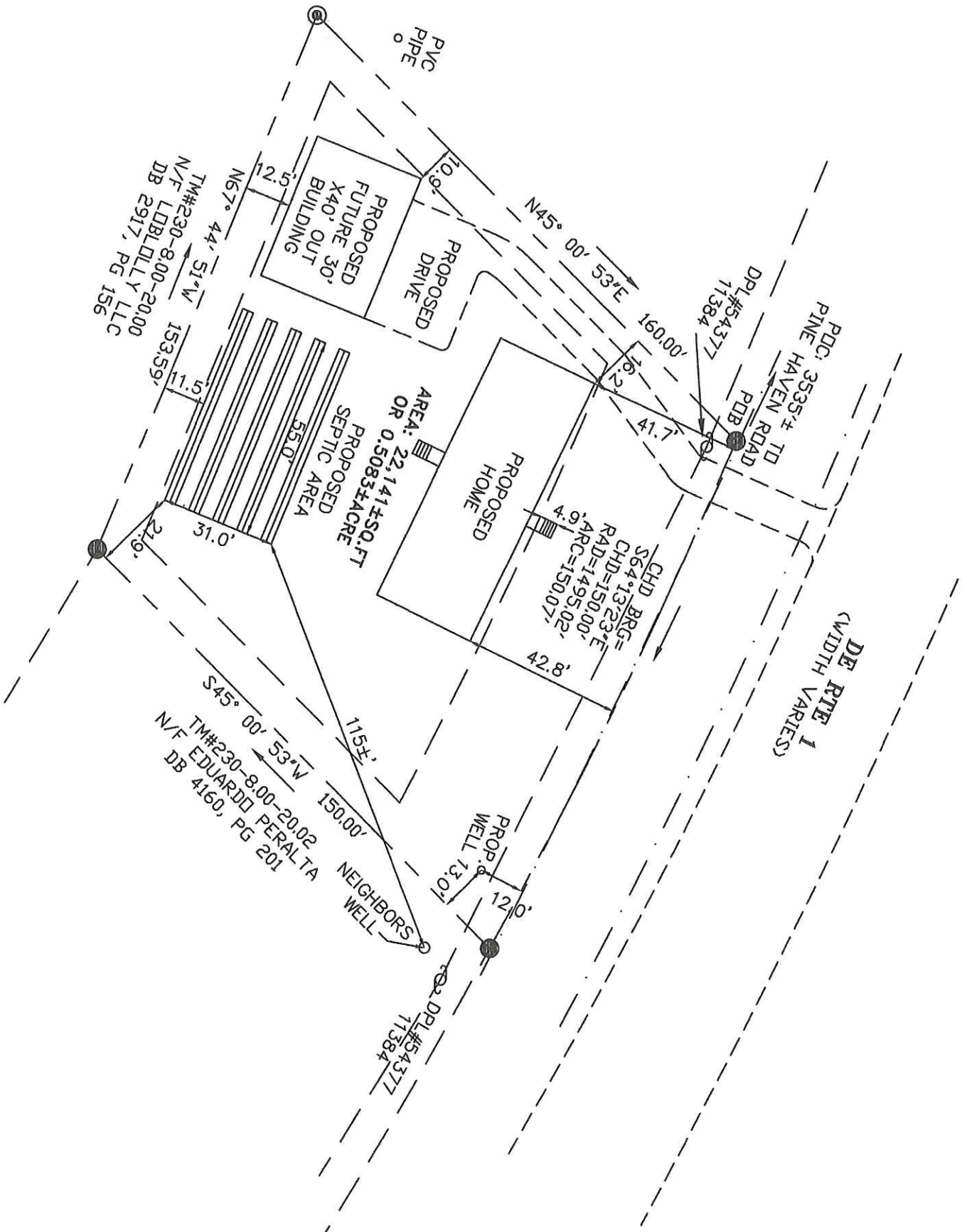


- LEGEND:**
- IRON REBAR FOUND
  - CAPPED IRON PIN SET
  - PROPERTY LINE
  - ADJOINING PROPERTY LINES
  - BUILDING RESTRICTION LINE

JOB # 2019171		<b>BOUNDARY SURVEY PLAN AND SITE PLAN FOR CMH HOMES, INC. OF THE LANDS NOW OR FORMERLY OF JOYCE A. DOTTERWEICH AND SHARON R. CURRY</b> PREPARED BY ALAN O KENT LAND SURVEYING, LLC SEAFORD, DE 19973 (302) 745-1735
DATE OF PLAN	04 OCT 2019	
DATE OF LAST FIELD WORK	17 SEP 2019	



updated Hall septic moved





## OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY

### SCHEDULE C LEGAL DESCRIPTION

File No. **10735A-KH**

ALL that certain lot, piece or parcel of land, lying and being situate in Cedar Creek Hundred, Sussex County, State of Delaware, being known and designated as Lot 1 on a recorded plot entitled "Subdivision of the Lands of John Davis Farens" of record in the Office of the Recorder of Deeds, in and for Sussex County, Delaware, in Plot Book 41 at Page 52, being more particularly described as follows, to wit:

BEGINNING at a set iron pin lying on the southerly side of Delaware Route #1 (Southbound Lane), said pin being a corner for these lands and Lot 2; thence along these lands and Lot 2 South 45 degrees 00 minutes 53 seconds West 150.00 feet to set iron pin, said pin being a corner for these lands and Lot 2; thence turning and running along these lands and lands now or formerly of John Davis Farens North 67 degrees 44 minutes 51 seconds West 153.59 feet to a set iron pin, said pin being a corner for these lands; thence turning and running along these lands North 45 degrees 00 minutes 53 seconds East 160.00 feet to a set iron pin, said pin being a corner for these lands; thence turning and running along these lands and with the southerly side of Delaware Route #1 (Southbound Lane) along a curve having a radius of 1495.02 feet, an arc distance of 150.10 feet home to the point and place of beginning, said to contain 0.5083 acres of land, be the same more or less, as will more fully and at large appear upon reference to the aforementioned recorded plot.

**Tax Map and Parcel # 2-30 8.00 20.01**







RECEIVED

JUN 10 2020

SUSSEX COUNTY  
PLANNING & ZONING

*Just In Time Learning Academy Junior Toddler Classroom*



*Just In Time Learning Academy Pre-School Classroom*





*Just In Time Learning Academy Kindergarten Prep Classroom*





*Just In Time Learning Academy Tiny Tod Classroom*

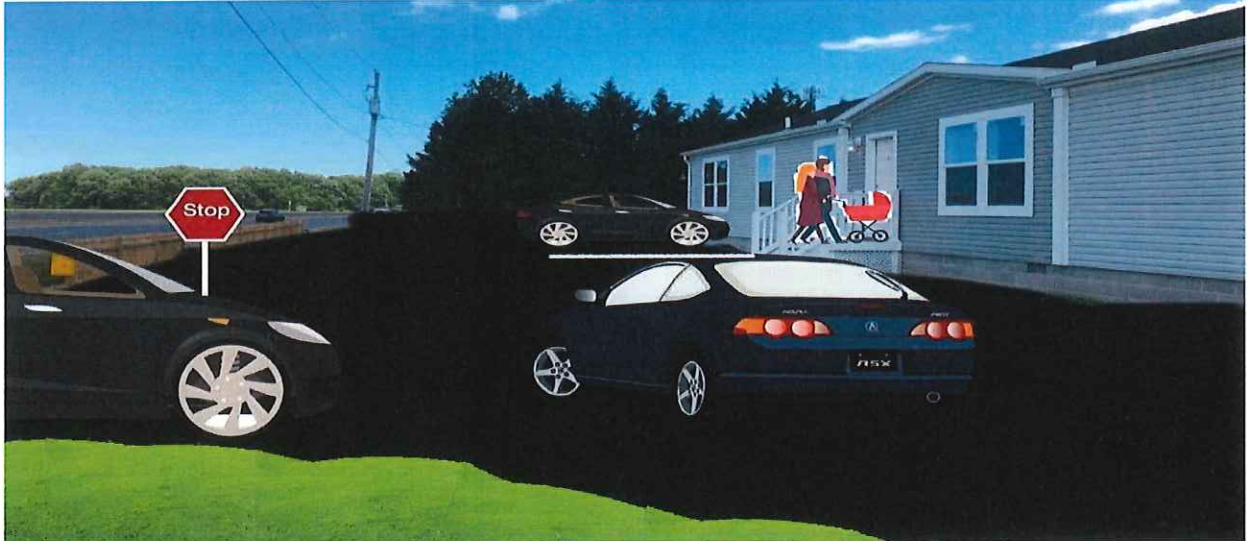


*Just In Time Learning Academy Special Delivery Zone*





*Just In Time Learning Academy Parking Lot*



*Just In Time Learning Academy Fenced Playground Area*



I have over 16 years of experience in the Early Childhood field. I have an outstanding reputation in our community with families and professionals that I have worked with over the years. I have confidently and successfully managed and operated two local childcare facilities in a professional manner while offering a family atmosphere and a quality environment. I am familiar with the Delaware Office Of Child Care Licensing's procedures and policies and have a great licensing review record. I am looking for the opportunity to open my own facility where children can thrive from a thoughtful and engaging atmosphere where social/emotional, spiritual, and academic needs are met in a variety of forms. It is my desire to provide exceptional care and education to the children and adults in our community. We will offer nonconventional hours and Saturday care to benefit many different occupations and family structures. I have also developed a curriculum to keep parents involved as we will provide education classes and activities to strengthen the family unit. I have developed systems that pay special attention to quality of care and plan on enrolling in the Delaware Stars Program (quality rating system). I am extremely knowledgeable about Delaware Stars, as I lead my last team to a 5-star rating. The facility will also bring over 15 new jobs to the Milford area and serve around 30 children. It is in a convenient location for the everyday worker/parent traveling on route one. It will not cause any additional congestion/traffic to the town of Milford.

Thank you for your consideration

Tirana "Molly" White

Early Childhood Professional



Date: February 28, 2020

Subject: Recommendation for Tirana White and Just In Time Learning Academy

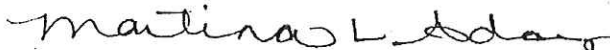
To whom it may concern:

I am more than proud to recommend Mrs. Tirana White's childcare center to any growing family in the State of Delaware. Mrs. White has been the Early Childhood Administrator for my daughter's daycare since I returned to work when my little one was only 9 weeks old. Going back to work for any mother can be extremely challenging and having someone as supportive as Mrs. White to help with the emotional transition was invaluable to my family.

I have known Mrs. White since March 2017 and entrusted her with the care of my child. She has continuously surpassed all my expectations regarding communication, professionalism, and support. Mrs. White is patient and kind while still maintaining discipline and gaining the utmost respect of the children in her care. Mrs. White has always provided more than the average daycare environment for my family; ensuring a safe, loving and structured atmosphere daily. One of the most impressive things about Mrs. White is her ability to intuitively pick up on what a child and parent need. She worked with me to handle some difficult stages of infancy and early childhood, from sleeping, feeding issues and tantrums. She has always been available for discussions or questions and open to learning about my family's structure of living such as religious food restrictions. I am confident that the concepts and skills she will teach within Just In Time Learning Academy will adequately prepare the children for success.

It is hard to put into words how wonderful Mrs. White has been to work with. It is difficult to leave your children in someone else's care and finding a childcare provider you can trust is vital. Mrs. White is excellent with children of all ages and will make an excellent childcare provider in the State of Delaware. If you need more information, I am happy to answer any questions you may have; please feel free to contact me at 302.519.9020 or via email at [Martina.Adams@delaware.gov](mailto:Martina.Adams@delaware.gov).

Sincerely,



Martina L. Adams

3310 Savannah East Sq.

Lewes, DE 19958

302.519.9020

Shavionte Harris  
Assessment Department Sussex County

February 25, 2020

To Whom it May Concern:

My name is Shavionte Harris, and I have two little ones, ages 5 years old and 5 months old, that attend Beach Babies Rehoboth. It has been a pleasure, as a parent, to be part of the Beach Babies family under the direction of Tirana White. I've had the pleasure of knowing Tirana for about five years since starting my son at the Beach Babies facility. Her smiling face and warm welcome have made it possible to call Beach Babies my second home. Every morning I get to embrace Tirana's chipper spirit and personality as she's greeting all parents and staff. She possesses a vibrant electrifying energy and aura that creates an exciting, positive, and safe atmosphere for parents, children, and staff.

She has gone the extra mile to ensure my work schedule needs are met from week to week as it fluctuates. Tirana has the best interest of children and parents. She continues to be the epitome of what I've always hoped for in a childcare provider. She is a great role model for any daycare environment as well as a strong leader. My experience knowing her has been nothing short of amazing. She's a great asset to Beach Babies Childcare.

If there are any questions, please feel free to contact me at (757) 709-0694. Thank you for your time.

Sincerely,

Shavionte Harris



EXCEPTIONAL HEALTHCARE. EXCEPTIONAL PEOPLE.



February 27, 2020

RE: Letter of Reference for Mrs. Tirana White

To whom it may concern:

I have known Mrs. White for over 5 years as she has served in the role of director of Beach Babies Childcare in Rehoboth. My daughter has attended their program since age one.

I have always found her to be friendly, responsible and considerate with the children and parents. Her staff have also been dynamic throughout all levels, which is a testament to her leadership ability. The facility is always clean, the children always seem engaged and eager to learn, and the curriculum really prepared my daughter for school.

Although I am sad to see her leave her current position, I have no doubt that she will succeed in her own endeavor. Future parents, children, and teachers will all benefit from her extensive knowledge, skillset, and dedication to providing care, education and compassion to children.

If you have any questions, please feel free to contact me at 301-602-4665.

Sincerely,

A handwritten signature in black ink, appearing to read "Danielle Giddins", enclosed within a simple oval outline.

Danielle Giddins, MD  
Millsboro Family Medicine



Molly White <beachbabiesmolly@gmail.com>

**PTO**

4 messages

Thomas Toner <tctoner@yahoo.com>

Thu, Feb 27, 2020 at 12:15 PM

Reply-To: Thomas Toner <tctoner@yahoo.com>

To: Molly White <molly@beachbabieschildcare.com>, Thomas Toner <tctoner@yahoo.com>, Deborah Toner <beachbabiespartners@yahoo.com>, Sean Toner <stonerbeachbabies@yahoo.com>

Hey Molly,

Your big day is almost here and I wish you all the best as you go forward with your dream. I married a girl who had a dream and fulfilled the dream. You have always been fair and good to us and we will surely miss your pleasant and contagious attitude every single day, with no exceptions. Thanks Molly I can honestly say I will miss you and have enjoyed my time spent in your company.

Anyway, we owe you some PTO pay.

This is my calculation:

PTO balance(2/28) 284.96 hours

11/22/2019 - 144 hours PTO advanced to existing PTO balance

144 hours of PTO calculates to 5.54 hours accrued every pay period(26 pay periods in a year)

You worked 7 pay periods earning accrued PTO

You did not work 19 pay periods necessary to earn 144 hours of PTO

You were advanced 105.5 hours of PTO on 11/22 not you will not earn(5.54x19)

284.96 hours of PTO

105.50 hours of PTO not earned

170.46 hours of earned PTO as of 2/28

Yearly rate of \$ [redacted] (salary)

Your hourly rate is \$ [redacted] (\$4 [redacted] / 4 [redacted] weekly x [redacted] weeks)

\$ [redacted] (hours of PTO) = \$ [redacted] due you for your unused earned PTO.

Any questions, call





Beach Babies Child Care, Inc.  
6020 Summit Bridge Road  
Townsend, DE 19734  
302-378-4778 (office)  
302-378-7233 (fax)

To Whom It May Concern,

I had the pleasure of working with Tirana White from January 2011 until July 2016 at Beach Babies in Rehoboth. During this time, Tirana was the administrator of the center and my direct supervisor. For this position, Tirana was required to recruit and train staff, conduct tours of the center, manage the accounts at the center, and handle any situation that arose. As the administrator of the center Tirana was able to lead Beach Babies to a level five star designation through the Delaware Stars program. Along with that, Tirana passed several licensing inspections with zero non-compliance reports and she helped the center receive the prevent child abuse Delaware grant.

Tirana's leadership skills and creativity were invaluable to the center. Her staff looked up to her and respected her. As a leader, Tirana always pushed her staff towards greatness. She encouraged them to reach for their dreams and put in all of their effort each and every day. I would consider any center that Tirana owned or operated to be a high quality center with the needs of the children, families, and staff put first and foremost. If you have any further questions please do not hesitate to contact me.

Sincerely,

Maggie Robinson  
Curriculum Coordinator  
Beach Babies Townsend

Brenda Bush  
Curriculum Coordinator  
(302) 249-4508  
beachbabiesbren@yahoo.com  
2/27/2020

**Subject:** Recommendation for Tirana White

To whom it may concern,

As Tirana White's teammate at Beach Babies for the past 10 years, I've benefited from her creative problem-solving, tireless work ethic, and willingness to do whatever it takes to accomplish her goals. She is a wonderful leader and I can only hope that I can emulate her. She cares about the people who work with her. She goes above and beyond what any director has to do to maintain happy and healthy employees. She has always made it a point to greet everyone in the morning. You know she really cares what you have to say when she asks you how you are doing. She is a therapist, social worker and best friend to everyone. She balanced being a professional director with enough compassion that we all want to leave and come work for her. Tirana White is incredibly generous with her time and expertise. She always has an open door and is willing to teach or just help and encourage you to solve any problems that you might encounter. Beyond that, as her co-worker, I have to say that her humor and good nature make long days and tough times much easier to deal with. She is the true definition of a leader.

I'd be happy to answer any questions you might have about her specific skills and experience.

Thanks, and best regards,

Brenda Bush

beachbabiesbren@yahoo.com

(302) 249-4508



To Whom It May Concern:

I have known Tirana for many years in a variety of capacities in the early education field, from a supervisor, to mentor, to colleague. I have had the pleasure of watching her lead various teams while being compassionate and trustworthy. Based on Tirana's genuineness and superior leadership skills she has gained the trust of those she leads by setting a great example.

Tirana has also been a true leader in her former position at Beach Babies Childcare as an Administrator. Over the last ten years, Tirana has ran Beach Babies' day-to-day operations along with managing a staff of 16. She has had much success with making the center feel like a "family" for both her staff and the families they service. Because of that, Tirana has been able to retain over 90% of her staff for the last 8 years – a feat almost unheard of in the early education field. Tirana also never settles; instead she is passionate about always reaching for higher goals and pushing herself more because she is determined to constantly improve herself- as well as improve those around her.

Tirana is always eager to learn more and is not afraid of a challenge. She is very ambitious and has set goals for herself. While being goal-oriented Ms. White, realizes that she does not have all the answers, and I respect her inquisitive nature as well as her willingness to ask for assistance for those who may be more knowledgeable on a subject.

In conclusion, I would highly recommend your approval for Tirana White to open her own childcare center. If her performance as a leader coupled with her being compassionate, and intelligent are any indications, then Tirana will be an amazing owner/operator. If you have any questions or concerns, please feel free to contact me via phone or email.

Sincerely,

Brittany S. Hazzard  
(P) 302-538-4504  
[Bhazzard07@hotmail.co](mailto:Bhazzard07@hotmail.co),

To whom it may concern,

I have known Tirana White for over 12 years now. Tirana was one of my former supervisors at a local daycare center. Tirana is a very enthusiastic person and her leadership skills are impeccable. She is very empathetic, caring and honest. She is accountable, responsible and very compassionate in every task that she sets out to accomplish. Tirana is such a great example to anyone she comes in contact with. She strives to be the best she can at whatever she does.

Through our working relationship we developed a personal relationship that I cherish dearly. Tirana and I have spent time together raising our children and she is a great mother. Tirana loves children and always has their best interest at heart. Tirana has the ability to handle children in any situation and they are guaranteed to come out flourishing and thriving.

Tirana has such great qualities and I know that she will be a great asset to you and your company. I recommend Tirana to work with children at any level because of her character and integrity. She will bring growth to any community she connects with. Please feel free to call me should you have any other questions or concerns. My telephone number is (302)249-4724.

Sincerely,

Nicole Hooper, BSW



Latisha A. Lewis  
Administrative Assistant 2  
251 Westview Street  
Canton, GA 30114  
2/25/2020

RE: Tirana White

To Whom It May Concern:

I have known Tirana White in a variety of capacities for many years. She is my only daughter's God mother, one of my closest confidants and we have in the past worked together closely in two different Early Childhood facilities.

Tirana is friendly, efficient, organized, intelligent, helpful and extremely competent. She has, in many instances been my "go to girl" when I am in need of assistance with both work and personal conflicts. She is a hard worker, who is dedicated to helping others achieve their full potential by leading the way with both her words and actions. She is able to connect with all kinds of people and inspires them to keep going in times where most would give up. I have seen her during some of her very own high times in life as well as her lows and never have I heard her complain, but she always finds a way to brighten up even the darkest moments and push her way through. Her tenacity and willingness to never give up is why I believe she has achieved the success she has thus far.

In summary, I am excited with Tirana and overly proud of her as she embarks on this new journey. I know without any doubt that she will use this next step in her life to continue to inspire and help both children and those who care for them as she has always done.

If you have any questions, please do not hesitate to contact me.

Sincerely,

Latisha A. Lewis  
Administrative Assistant 2  
Bright From the Start:  
Georgia Department of Early Care and Learning  
470-631-0014  
Latisha.lewis@dec.al.ga.gov

February 26<sup>th</sup>, 2020

To whom it may concern,

Inspirational, motivational, driven and passionate about Early Childhood education; Tirana White has encompassed all of these characteristics and so much more as an administrator, educator, advocate for children and leader. Tirana was my supervisor from April 2016 until June 2018 at Beach Babies Child Care in Rehoboth Beach D.E. I was a three year old teacher and pre-k teacher under her supervision.

From her guidance and support, I was able to receive a scholarship that helped me to graduate with my Bachelor's degree and I was also able to benefit from the WAGES program, which provides me with a bonus every six months as an ECE professional. Tirana also gave me many opportunities to grow and expand my knowledge in ECE and as well as express my creativity with various administrative tasks and projects at the center. In her desire to see me learn and continue to develop, she provided me with honest feedback, support and resources to improve upon my performance in the classroom and always offered encouragement in difficult times.

Tirana White is the definition of a leader who is always doing anything she can to lift her staff up to their potential and beyond. No one is ever left behind, her door is always open and her words are so sincere. I am so very fortunate to have worked with Mrs. White and can only hope that one day we will get to work with each other again as ECE professionals, committed to improving the quality of Early Childhood Education in Kent and Sussex County.

If you have any questions, please feel free to contact me at (302)-604-0299.

Sincerely,

Holly Griest  
Delaware Stars Technical Assistant  
Children and Families First



February 28, 2020

To whom it may concern,

I have worked for Tirana (Molly) White for over four years at Beach Babies Child Care. I have tried to describe Molly in one word; however, it is quite impossible, so that I will describe her in three words. Molly is nurturing, motivated, and passionate. As an administrator, she was responsible for over 80 children, 200 plus guardians, and 13 employees, and she made knew every person by name. Every person who walked through the door became part of Molly's Beach Babies Family.

I had the privilege to see how Molly could be nurturing to children, parents, and staff. I had a student in my classroom who was facing homelessness. I spoke to Ms. Molly, and she was able to provide the family with resources to help them immediately. I have personally been through some difficult times. When my brother passed away three years ago, Ms. Molly always checked on me and even sang at the funeral. What is so special about Molly is puts her employees first. She does not like performing at funerals, but she knew it would bring me joy, and that is the type of loving leader she is.

Molly has always been able to motivate the staff. Her great singing, smiling face, and loud greetings motivated the team staff to engage with our students and parents in the same manner. She challenged each employee to stay involved and have excellent communication with the parents. Her motivation is a testament to why Beach Babies Rehoboth thrives. There is not a person there who has not been directly influenced by Molly.

Lastly, Molly is one of the most passionate women I have ever met. She has impacted the community in a significant way. She is passionate about educating children and families. Providing social and emotional care for families is her priority. Molly will do fantastic with her new child care facility. The Milford community is blessed to have Molly.

I am very grateful for all that Ms. Molly does for me. It is because of this woman I know what qualities are needed to run a child care facility with greatness. I am proud to say that Molly is the best mentor and leader I ever had the pleasure of working beside.

Ashley Hood

Beach Babies Child Care

Early Childhood Administrator

Lakeyia Allen  
159 Holmes Street  
Dover, DE 19901  
Email: [latwinkles76@aol.com](mailto:latwinkles76@aol.com)

Wednesday, March 11, 2020

Re: Character Reference for Tirana White

To Whom It May Concern,

I met Tirana White (Molly) approximately three years ago when I interviewed for a position with Beach Babies Child Care. The first few of months, Molly was my mentor as I trained for my position. Molly was very helpful in introducing me to the companies various policies and procedures and navigated thru all things operational. She also supported me as I got to know the staff.

During the time I have gotten to know Molly, I have found her to be honest and trustworthy. I can confide in Molly about personal and things business related and she will always give me her authentic perception of the issue. Also, thru various peers and subordinates, I have heard and seen what a great leader and inspiration Molly is.

Molly has made the decision to dedicate herself in the field of Early Childhood Education as well as other ventures. I wish her well and luck in all her future endeavors.

If any additional information is required concerning my associated with Tirana White (Molly), please feel free to contact me. Thank you for your time.

Sincerely,

*Lakeyia Allen*

Lakeyia Allen



Ceocie Scott  
28412 Dupont Blvd  
Unit 204  
Millsboro, DE 19966  
302-382-5234  
Ceciscott82@yahoo.com

February 25, 2020

Tirana White  
21498 Withers Way  
Lincoln, DE 19960

To whom It May Concern:

It is with great pleasure to write this letter on behalf of Tirana White. I have known her for over 3 years, and it has been a wonderful experience.

Tirana has always displayed a high degree of responsibility, integrity and ambition. She is definitely a leader rather than a follower. In addition to her inspiring personality, she has also proven her leadership ability by establishing a choir at Friendship United Methodist Church, Millsboro, DE., to provide young ladies an opportunity to minister to hurting men and women.

She is respected by many in her community, workplace and church as well as her home. Mrs. White is a very compassionate human being with praiseworthy perseverance and purpose. I believe that she will make a positive difference in the life of every person she will meet.

I am happy to let you know how honest, dependable, peaceful, and conscientious Mrs. White is with everyone she meets. She is currently pursuing her dream to open her own business and I cannot think of a better individual who is more deserving. I am truly grateful for her friendship, but more importantly, I am grateful for the impact she has made in this world.

Sincerely,

Ceocie Scott

Date: February 26, 2020  
To: State of Delaware Licensing Bureau  
Re: Character Reference For Tirana White

To Whom it May Concern:

I have known Tirana, (Molly,) for nineteen plus years. We met at Friendship UM Church where we both attend and serve together in various capacities. During that time, this young lady has worked hard at educating herself and earning promotions in the career field of childcare.

Because of her love for children and the desire to see each one learn and excel to become productive and purpose driven members of society, she has dedicated her adult life to giving of herself to them, as well as offering moral support to their parents. Molly has a true servant's heart and would rather maintain peace than to engage in, or stir up strife and negativity. Her dream has long been to own and operate her own Daycare Center.

Molly has acquired a "can do" reputation amongst her family, friends, peers and church family. We have watched her hold down a job, go to school, raise two beautiful children, maintain a Godly home and be a loving wife while proving to be a powerful force as a leader of worship through songs at church. Her obstacles have been many, but Molly's determination to succeed in her quest to invest in the lives of little ones has caused her to be focused and driven to fulfill her dream; A dream which is exceeded only by her love for her Creator and sustainer. Her calm, positive nature along with an angelic voice is atmosphere changing.

No one is more deserving of the opportunity to reach this milestone as an independent business owner than this woman of integrity. Her business will be an asset and positive influence in the surrounding community.

Thank you for your careful consideration and favorable response to this matter.

Sincerely,



Patsy E. Wright  
PO Box 1302  
Millsboro, DE 19966  
302-604-4808  
stellymorris@yahoo.com



# Delaware Technical Community College



*upon recommendation of the Faculty, the Trustees of  
Delaware Technical Community College  
have conferred upon*

**Tirana Chanel White**

*the degree of*

Associate in Applied Science

Early Childhood Education

Early Childhood Development

*with all the rights and privileges thereunto appertaining*

*Given at Owens Campus, the twenty-first day of May A.D. 2013.*

A stylized, handwritten signature in black ink.

Chairman, Board of Trustees

A handwritten signature in black ink that reads "Ciana M. Smith".

Vice President and Campus Director

A handwritten signature in black ink that reads "Orlando George".

President



AIM4EXCELLENCE™ NATIONAL DIRECTOR CREDENTIAL

The McCormick Center for Early Childhood Leadership at  
National Louis University awards this certificate to,

**Tirana "Molly" White**

for successful completion of all requirements of the  
Aim4Excellence™ National Director Credential.

DATE ISSUED August 25, 2014

EXPIRATION DATE August 31, 2019

*Paula Jorde Bloom*      *Kara E. Lehnhardt*  
Paula Jorde Bloom      Kara E. Lehnhardt  
Michael W. Louis Endowed Chair      Director of Technology Initiatives



MCCORMICK CENTER FOR EARLY CHILDHOOD LEADERSHIP | AT NATIONAL LOUIS UNIVERSITY  
4111 Central Drive | Wheeling, IL 60090 | McCormickCenter.nlu.edu | 815.352.5211 ext 5115

aim *excellence*



Delaware  
First



Delaware Department of Education  
Delaware First  
Professional Development System



*Recognizes*

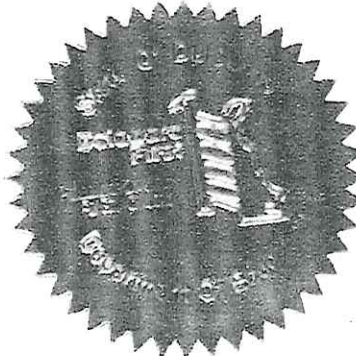
**Tirana White**

*Meets the qualifications of*

**Early Childhood Administrator**

*In accordance with Office of Child Care Licensing Delaware: Rules for Early Care and Education and School-Age Centers*

**Specialized Training Credentials  
Infant/Toddler**



**Effective Date: August 2013**

**Expiration Date: N/A**

Case # 12439  
Hearing Date 4/20  
202002621

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

Type of Application: (please check all applicable)

Variance   
Special Use Exception   
Administrative Variance   
Appeal

Existing Condition   
Proposed   
Code Reference (office use only)  
\_\_\_\_\_  
\_\_\_\_\_

Site Address of Variance/Special Use Exception:

18073 Johnson Road Hircolin, Delaware 19960

Variance/Special Use Exception/Appeal Requested:

Daycare Center 12 children

Tax Map #: 130-600-113-15

Property Zoning: AR-1

**Applicant Information**

Applicant Name: Sharon Denise McPhatten  
Applicant Address: 18073 Johnson Road  
City Hircolin State Del Zip: 19960  
Applicant Phone #: (302) 228-7183 Applicant e-mail: mephattersharon@yahoo.com

**Owner Information**

Owner Name: Sharon Denise McPhatten  
Owner Address: 18073 Johnson Road  
City Hircolin State Del Zip: 19960 Purchase Date: 2/2005  
Owner Phone #: (302) 228-7183 Owner e-mail: mephattersharon@yahoo.com

**Agent/Attorney Information**

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

**Signature of Owner/Agent/Attorney**

Sharon McPhatten

Date: 3/6/2020





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

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

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

The property where the childcare is located is not close to any of the neighbors. Noise would not be a problem - the childcare only operates during the hours of 7:30 a.m. - 5:30 p.m. The childcare is also in a fence in yard - where children play. The childcare is on 3/4 acre lot. Parking for all vehicles is on site and will not interfere with the on going traffic.

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

---

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

---







State of Delaware

License Number: 327860

REGULATED SERVICES

The Department of Services for  
Children, Youth and Their  
Families

Type: Annual Renewal

Level II

Capacity: 009

## FAMILY CHILD CARE LICENSE

The Department of Services for Children, Youth and Their Families pursuant to Title 31 Chapter 3  
of the Delaware Code hereby certifies that:

**SHARON MCPHATTER**

**18073 JOHNSON ROAD LINCOLN, DELAWARE 19960-3209**

is hereby granted a license to operate a  
licensed Family Child Care Home  
for the period:

**August 1, 2019 to July 31, 2020**

unless revoked for cause.

NOTE: This license shall be posted.

Director



# Sussex County

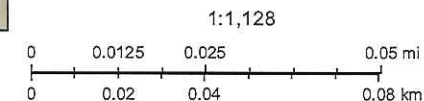


<b>PIN:</b>	130-6.00-113.15
<b>Owner Name</b>	JOHNSON SHARON D
<b>Book</b>	3108
<b>Mailing Address</b>	18073 JOHNSON RD
<b>City</b>	LINCOLN
<b>State</b>	DE
<b>Description</b>	N/RD 207
<b>Description 2</b>	JOHNSON RD
<b>Description 3</b>	LOT 3
<b>Land Code</b>	

- polygonLayer**

  - Override 1
- polygonLayer**

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



March 9, 2020



# DO NOT REMOVE



This project has passed  
*Happy Land*  
its final inspection by  
*Ch. Crave*  
the Office of State Fire  
Marshal. No further  
action is required by the  
Office of State Fire  
Marshal in order to

issue a Certificate of Occupancy.

FM #

34

Initial

JM

Date

5-19-2020

Plan #

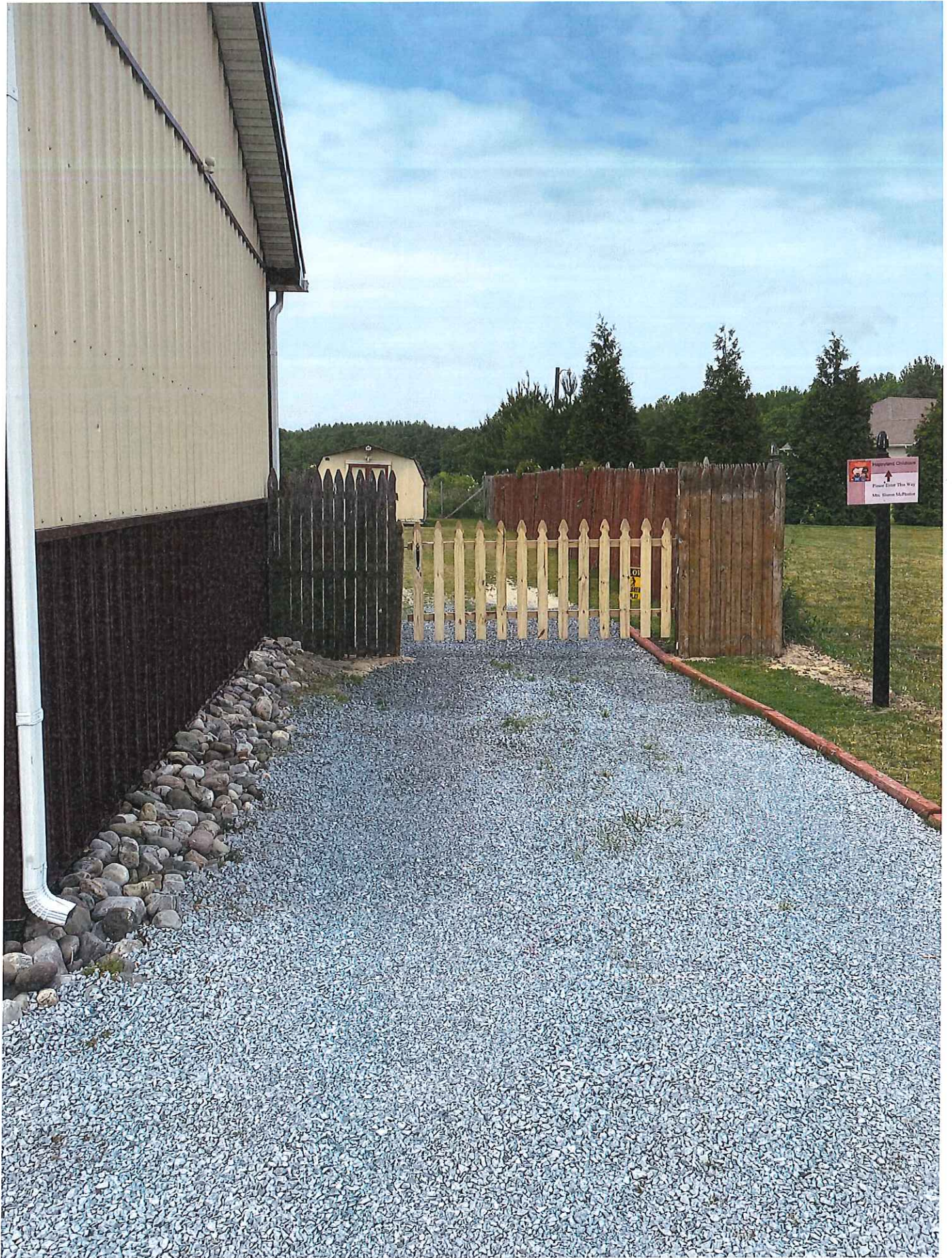
2020 04 203 312 OCC

Doc. 75-01-98-01-07























**SUSSEX COUNTY BOARD OF ADJUSTMENT**

**Re: Case No. 12427  
Robert Barkey  
Janet Hynes  
26508 Jersey Road  
Millsboro, DE 19966**

RECEIVED

MAY 15 2020

SUSSEX COUNTY  
PLANNING & ZONING

**MOTION FOR REHEARING**

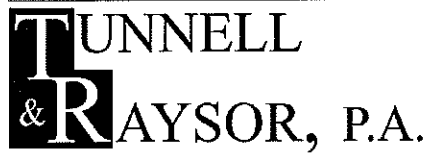
NOW COMES the Applicant to respectfully request a rehearing of Case No. 12427 for reasons established in the attached letter of memorandum.

Respectfully submitted,

**TUNNELL & RAYSOR, P.A.**

*/s/ Mackenzie M. Peet, Esq.*  
Mackenzie M. Peet  
DE Bar # 6692  
323E Rehoboth Avenue  
Rehoboth Beach, DE 19971  
(302) 227-1314  
*Attorney for Applicant*

Dated: May 15, 2020



HAROLD E. DUKES, JR.  
KELLY DUNN GELOF  
CHRISTOPHE CLARK EMMERT  
JAMIE C. KING  
A. DEAN BETTS, JR.  
ETTA R. MAYERS  
BRANDON K. RICKWOOD  
ASIM E. GULAB  
MACKENZIE MARIE PEET  
JEFFERY P. MCLANE

OF COUNSEL  
MINDI MOORE TUNNELL  
LANEYSCHA ECHEVARRÍA MÉNDEZ\*

\*Admitted in Federal Tax Matters and PR only

REHOBOTH BEACH OFFICE:

PLAZA FIVE  
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-----  
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(302) 539-8222  
FAX (302) 539-1089

GEORGETOWN:  
30 EAST PINE STREET  
GEORGETOWN, DE 19947  
(302) 856-7313  
FAX (302) 856-7329

LEWES OFFICE:  
770 KINGS HIGHWAY  
LEWES, DE 19958  
(302) 644-4442  
FAX (302) 644-4405

MILFORD:  
820 SEABURY AVE.  
MILFORD, DE 19963  
(302) 491-6758

May 15, 2020

Board of Adjustment  
2 The Circle  
PO Box 417  
Georgetown, DE 19947

**Re: Request for Rehearing Case No. 12427 Robert Barkey & Janet Hynes; 26508 Jersey Road, Millsboro, DE 19966; TMP 234-32.00-91.00**

Dear Board Members:

I respectfully write this letter on behalf of the Applicants, Robert Barkey and Janet Hynes (the "Applicants") in support of our motion for a rehearing before the Board of Adjustment pursuant to Board Rule 18.1(a), (b) and (c).

The Applicants sought a special use exception for their garage studio apartment per Sussex County Code Sections 115-23 C(5) and 115-210. Pursuant to Section 115-210, the Applicants carried the burden to prove that their garage studio apartment would "not substantially affect adversely the uses of adjacent neighboring propert[ies]."

Delaware Law and past records of request for rehearing before this Board have made clear that a motion for rehearing is not a vehicle to rehash or more forcefully present arguments already made on the record. This request is not designed to question the Board's decision based on the evidence presented to the Board at the March 16, 2020 Board of Adjustment public hearing. To the contrary, I believe that the Board decided correctly based on the information that was provided to the Board, but the record presented to the Board the night of March 16, 2020 included a *material mistake* on the record with respect to the sufficiency of the septic system, as a result of new evidence received by the Applicants from the Department of Natural Resources and Environmental Control (DNREC) subsequent to the Applicants' hearing.

Pursuant to Board Rule 18.1(a), (b) and (c), a motion for a rehearing shall be made not later than ten (10) days after the filing of a decision in the office of the Board of Adjustment. In this case, the Applicants received the Board's final decision on May 5, 2020, requiring submission to the office aforesaid by May 15, 2020. Therefore, this requirement has been satisfied by the Applicants.



The Board of Adjustment may rehear a matter for the following reasons: (a) Mistake, inadvertent surprise or excusable neglect; (b) Newly discovered evidence which by due diligence could not have been discovered at the time of the original hearing; or (c) Fraud, misrepresentation or other misconduct of an adverse party.

The Applicants respectfully request a rehearing before the Board of Adjustment for a special use exception for their garage apartment. The decision by the Board, as reflected in the Findings of Fact (the "Findings"), largely turned on the *mistaken* belief that the septic system serving the main dwelling and garage apartment was insufficient. Majority of the Board's reasoning for denial of the Applicants' special use exception, as reflected in Line 26(b) of the Finding of Facts and throughout the Finding, weighed on the mistaken belief that the system was only capable of serving three (3) bedrooms.

In fact, the system as it currently exists supports four (4) bedrooms. There is no dispute that Ms. Hynes submitted the DNREC Application Permit for On-Site Wastewater System into record reflecting the system's three (3) bedroom capacity. Admittedly, Ms. Hynes misspoke on the record, as the system is designed to support four (4) bedrooms as supported by Exhibits A, B and C.

Please see Exhibit A titled Authorization to Use an Existing System (the "Authorization") from DNREC issued on March 18, 2020 to the Applicants. Please also see Exhibit B that includes the work performed by Harry Caswell, Inc. in 2017 supporting that a Victory single pump lift station was installed on the property to accommodate the garage apartment. Finally, please see Exhibit C that shows an invoice from Multi-Koastal Services where Inspector Kenneth Walsh includes two inspection dates of January 15, 2019 and March 24, 2020 on the Property and a summary of the system showing satisfactory performance of the treatment tank(s), distribution system(s), and absorption facility(ies). The main dwelling has three (3) bedrooms occupied by one (1) full-time and one (1) part-time resident. The garage apartment has one (1) bedroom occupied by two (2) full-time residents. Therefore, pursuant to Board Rule 18.1(a), the Applicants request a rehearing because the current septic system is sufficient to support the dwelling and accessory use.

In the alternative, there are grounds for a rehearing per Board Rule 18.1(b) because the Authorization is "newly discovered evidence which by due diligence could not have been discovered at the time of the original hearing." Five elements must be established to permit a request for rehearing under Board Rule 18.1(b), including: (1) that the evidence came to the Applicants' knowledge since the hearing; (2) that the knowledge could not have been used at the hearing; (3) that it is so material and relevant that it would probably change the result if a new hearing was granted; (4) that it is not merely cumulative or impeaching in character; and (5) that it is reasonably possible that evidence will be produced at the hearing. The following paragraph addresses each element.

First, the Applicant's learned of the mistaken DNREC record at the hearing and then learned that the system was satisfactory after the hearing on March 18, 2020 by the Authorization. Second, the information could not have been used at the hearing, as it was not received by the Applicants until March 18, 2020. Third, the *newly discovered evidence is material*. According to Black's Law Dictionary, something that is "material" is "of such a nature that knowledge of the item would affect a person's decision-making process." To that point, had this information been available from DNREC, the knowledge that the system supported four (4) bedrooms - not three (3) bedrooms - would affect the Board's decision-making process in determining whether the use substantially affects adversely the neighboring and adjacent properties. The newly discovered evidence is not cumulative; the Authorization is new evidence. Fifth and finally, new evidence will be presented to show that the system is sufficient and supports the dwelling and garage apartment if the Applicants if the request for rehearing is granted by the Board.

There are grounds for a rehearing under Board Rule 18.1(c), due to *misrepresentation* by the testimony of adverse parties Mr. Murphy and Mr. Murdock. Mr. Murdock stated that the electric was not safe. This is categorically untrue. The electric has been inspected by Middle Department Inspection Agency and is in satisfactory condition. Additionally, the septic system is sufficient and the current tenants have not complained to date about the septic “backing up” like Mr. Murdock stated.

Dennis Murphy’s testimony is riddled with misrepresentations and is not credible. Mr. Murphy’s statements made on the record misrepresented the garage apartment use. Mr. Murphy and the Applicant, Mr. Barkey, have a personal conflict that resulted in the false allegation by Mr. Murphy against Mr. Barkey for assault in the second degree. This matter resulted in the entry of a *Nolle Prosequi* for the charge of Assault in the 2<sup>nd</sup> degree for reason of prosecutive merit. Please see Exhibit D. I inform the Board of this fact not for the purpose of defaming Mr. Murphy but to question the credibility of his testimony.

To correct the misrepresentations by Mr. Murphy, the garage apartment was not constructed on the back of the garage. The outside building footprint did not change. Director Whitehouse comments on the record that the garage existed prior to 1973 and that an assumption was made that the garage structure existed prior to the enactment of the Sussex County Code. The cars mentioned as coming and going from the property are unrelated to the special use exception application as confirmed by Counsel Sharp.

Although it was unclear from parts of the record, the Applicants did not appear before the Board to seek permission for a home occupation, a variance, or for the issuance of building permits. To briefly address those issues, the home occupation is no longer in operation. The Applicants are submitting a variance application to address the side yard deck encroachment. The Application will be submitted upon receipt of an updated survey prepared by Simpler Surveying. Subject to an approval for rehearing and ability to permit the use itself, the Applicants are restricted from receiving a building permit as per a conversation I had with Director Whitehouse and Chief Constable Shaffer. The Applicants understand the need to bring their property up to Code and into compliance. The Applicants are particularly determined to do so to permit their tenants to remain in the garage apartment. The tenants are elderly and one is undergoing chemotherapy treatment. Understandably, during the current pandemic the tenants wish to remain in place and avoid eviction.

Thank you for your consideration of the Applicants request for rehearing pursuant to Board Rule 18.1(a), (b), and (c).

Sincerely,



Mackenzie M. Peet  
/mmp

**Enclosures:**

1. *Exhibit A:* DNREC Authorization to Use an Existing System
2. *Exhibit B:* Harry Caswell, Inc. Documentation
3. *Exhibit C:* Multi-Koastal Services Documentation
4. *Exhibit D:* Notice of *Nolle Prosequi*



EXHIBIT A

LAW OFFICES

---

**T**UNNELL  
& **R**AYSOR, P.A.



STATE OF DELAWARE  
 DEPARTMENT OF NATURAL RESOURCES  
 & ENVIRONMENTAL CONTROL  
 DIVISION OF WATER RESOURCES  
 20553 DUPONT BLVD  
 UNIT 5  
 GEORGETOWN, DE 19947

AUTHORIZATION TO USE AN EXISTING SYSTEM

Date: 3-18-20

Authorization is hereby granted to use the existing on-site wastewater disposal system permitted under # 232777 and tax map # 2-34-32-91.00.

We have an inspection and/or completion report verifying the system was satisfactorily installed. Approval is for the connection of a 4 bedroom Dwelling.

A Certificate of Satisfactory Completion is not required prior to issuance of a certificate of occupancy or certificate of compliance by the County.

APPROVED  
 Department of  
 Natural Resources & Environmental Control  
 State of Delaware  
 BY [Signature] 3-18-20  
 DIVISION OF ENVIRONMENTAL CONTROL.

*Delaware's good nature depends on you!*



EXHIBIT B

LAW OFFICES

---

**T**UNNELL  
& **R**AYSOR, P.A.

# Harry Caswell, Inc.

---

Phone: 302-945-5322

FAX: 302-945-7746

34836 Long Neck Rd.

Millsboro, DE 19966

---

Provide and install 1 Victory single pump lift station to accommodate apartment.

Total Cost including pump and labor: -----\$825.00

**PAID**



HARRY CASWELL, INC.

32645 Long Neck Rd.  
Millsboro, DE 19966  
302-945-5322  
302-945-7746 fax

# Invoice

Date	Invoice #
7/27/2017	641974

Bill To
Bob Barkey 26508 Jersey Rd Millsboro, DE 19966

**PAID**  
**08-17-2017**

Work Order No.	Terms	Scheduled date	Supervisor	Written by
25076	due upon receipt	7/26/2017	HC	

Description	Qty	Rate	Amount
Ran a water line from well to guest house per estimate	1	2,600.00	2,600.00
<b>Total</b>			\$2,600.00

HARRY CASWELL, INC.

32645 Long Neck Rd.  
 Millsboro, DE 19966  
 302-945-5322  
 302-945-7746 fax

# Invoice

Date	Invoice #
10/23/2017	643409

<b>Bill To</b>
Bob Barkey 26508 Jersey Rd Millsboro, DE 19966



Work Order No.	Terms	Scheduled date	Supervisor	Written by
26443	due upon receip	10/23/2017	HC	

Description	Qty	Rate	Amount
Roughed-in a Bathroom	6.5	100.00	650.00
2" PVC 90	10	1.876	18.76
2 X 2 X 112 PVC TEE	1	2.688	2.69
2" PVC CPLG	1	0.756	0.76
2" PVC STREET 45	2	1.764	3.53
2" PVC WYE	1	3.724	3.72
2" PVC P-TRAP	1	3.682	3.68
3 X 2 PVC TEE	1	6.034	6.03
3" PVC STRT 90	1	6.09	6.09
3" PVC 90	1	5.488	5.49
SIOUX CHIEF CLOSET FLANGE W/ KNOCK	1	3.2116	3.21
2" SCH40 PVC PIPE PER FT	40	1.218	48.72
1-1/2" SCH40 PIPE PER FT	10	0.826	8.26
3/4 X 1/2 PEX TEE	1	3.5896	3.59
34 X 12 X 12 PEX TEE	2	3.64609	7.29
1/2" PEX PLAS PLUG	5	0.3878	1.94
1/2" PEX PIPE PER FT	60	0.35	21.00
<b>Total</b>			<b>\$794.76</b>



EXHIBIT C

LAW OFFICES

---

**T**TUNNELL  
&**R**AYSOR, P.A.

**MULTI-KOASTAL SERVICES**

**KENNETH R. WALSH**

34756 Roxana Road, Frankford DE 19945  
302-436-8822 office 302-436-2264 fax

March 24, 2020

Robert J. Barkey & Janet M. Hynes  
26508 Jersey Road  
Millsboro, DE 19966

**INVOICE**

**Re: Operation and Maintenance Agreement for Bi-Annual Inspection  
on the Retro-Fast 0.375 Pre-Treatment Unit / Permit # 232777**

7/15/2019 - Inspection parcel: 2-34-32-91	\$ 150.00
3/24/2020- Inspection parcel: 2-34-32-91	\$ 150.00
<hr/>	
<b>Total Amount Due \$</b>	<b>300.00</b>

**Due Upon Receipt**

**Email: [ftwbob6996@yahoo.com](mailto:ftwbob6996@yahoo.com)**

Thank You!

  
KENNETH R. WALSH

**A copy of the inspection report will be sent to DNREC.**

**Next Inspection: September 2020**

*Paid  
4/14/20*



Multi-Koastal Services / Kenneth R. Walsh

34756 Roxana Road, Frankford, Delaware 19945

302-436-8822 office 302-436-2264 fax

Absorption Facility (Not Applicable )

Type:  Bed  Trenches  Sand Mound  Micro-Drip
 LPP  Capping Fill  Gravity  Other: \_\_\_\_\_

Portion of absorption facility below a deck, driveway, walkway, etc.?  yes  no

Are there signs of previous absorption facility failure?  yes  no

Do trees or tree roots interfere with the system?  yes  no

Comments: \_\_\_\_\_

Summary of System Component Inspections

Table with 4 columns: Component, Satisfactory, Satisfactory w/concerns, Unsatisfactory. Rows include Treatment Tank(s), Distribution System(s), and Absorption Facility(ies).

Owners Education Performed:  yes  no Date 7/15/2020

Tanks Needs Pumped:  yes  no

Repairs/Modifications to be scheduled: none

Repairs/Modifications that owner is responsible to arrange and have performed: none

Inspector's Name: Kenneth R. Walsh Inspector's License #: 2379

Handwritten signature of Kenneth R. Walsh

Signature:

3/26/2020
Date:

302-436-8822
Phone #:

\* It is the owners responsibility to address any repairs, replacement, tank pumping, or problems listed within this inspection unless otherwise stated. This inspection form qualifies as notification to the owner that system problems are or are not present that may need to be addressed.

EXHIBIT D

LAW OFFICES

---

**T**UNNELL  
& **R**AYSOR, P.A.



IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

THIS STATE OF DELAWARE

VS.

ROBERT J. BARKER

04/25/1959

NOTICE OF NOBLE PROSPECT

NG Case Number - SC13001353

A Noble Prospect is hereby entered on the charge of:  
190806633 001 S39080708 ASSAULT 2ND 10

FILED PROthonotary  
SUSSEX COUNTY  
AM SEP 11 P 2 19

Against the above named defendant and the Prothonotary is requested to note the same on record.

REASON: ( 10 ) PROSECUTIVE MERIT

DATED September 10, 2019

*W. J. ...*  
HEATHER C. WITERS  
Deputy Attorney General

## Ann Lepore

---

**From:** thespeakerman <thespeakerman@comcast.net>  
**Sent:** Friday, June 5, 2020 4:09 PM  
**To:** Ann Lepore  
**Subject:** Re: Rehearing request for Case 12427

ms. lepore thank you  
the septic system is servicing 6 BRs  
the main house had 3 BRs upstairs.  
when the front door was eliminated  
the foyer was converted into a guest  
BR with a privacy door and closet.  
the apartment has 2 BRs both with  
closets. when mr murdick lived there  
the last 2 years there were 2 adults in  
the BR with access to the rear deck.  
the 2nd BR housed 2 children and has  
a closet.  
mr murdick revealed he found the apt  
advertised on line as a 2 BR apt. he  
is in the process of retrieving that ad  
as i type.  
kelly passwater did the inspection  
while murdick lived there  
the constables office should do an  
inspection of the main house to  
verify actual # of BRs.thank you D murphy

Sent from my Samsung Galaxy smartphone.

----- Original message -----

**From:** Ann Lepore <ann.lepore@sussexcountyde.gov>  
**Date:** 5/28/20 11:02 AM (GMT-05:00)  
**To:** dennis murphy <thespeakerman@comcast.net>  
**Subject:** Rehearing request for Case 12427

Good Morning,

Attached, please find the request for a rehearing for Case No. 12427 – Lands of Robert Barkey & Janet Hynes. This email is to provide you with an opportunity to respond. There will be no testimony heard at the meeting on June 15, 2020 – The Board of Adjustment members will consider the request for a rehearing based on the written information submitted. If you wish to submit information for the Board of Adjustment members to consider, please submit it to me no later than the close of business on June 5, 2020.



Thank you.

Ann Lepore

Clerk II

Sussex County Council

Planning & Zoning Dept.

2 The Circle, PO Box 417

Georgetown, DE 19947

302-855-7878

**SUSSEX COUNTY BOARD OF ADJUSTMENT**

**Re: Case No. 12416**  
**Jessica Peake, Owner**  
**Nick Geracimos, Applicant**  
**32967 Coastal Highway**  
**Bethany Beach, DE 19930**

RECEIVED

MAY 15 2020

SUSSEX COUNTY  
PLANNING & ZONING

**MOTION FOR REHEARING**

NOW COMES the Applicant to respectfully request a rehearing of Case No. 12416 for reasons established in the attached letter of memorandum.

Respectfully submitted,

**TUNNELL & RAYSOR, P.A.**

*/s/ Mackenzie M. Peet, Esq.*

Mackenzie M. Peet

DE Bar # 6692

323E Rehoboth Avenue

Rehoboth Beach, DE 19971

(302) 227-1314

*Attorney for Applicant*

Dated: May 15, 2020



HAROLD E. DUKES, JR.  
KELLY DUNN GELOF  
CHRISTOPHE CLARK EMMERT  
JAMIE C. KING  
A. DEAN BETTS, JR.  
ETTA R. MAYERS  
BRANDON K. RICKWOOD  
ASIM E. GULAB  
MACKENZIE MARIE PEET  
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FAX (302) 856-7329

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[www.tunnellraysor.com](http://www.tunnellraysor.com)

OF COUNSEL  
MINDI MOORE TUNNELL  
LANEYSCHA ECHEVARRÍA MÉNDEZ\*

\*Admitted in Federal Tax Matters and PR only

May 15, 2020

Board of Adjustment  
2 The Circle  
PO Box 417  
Georgetown, DE 19947

**Re: Request for Rehearing Case No. 12416 Jessica Peake; 32967 Coastal Highway, Bethany Beach, DE 19930; TMP 134-17.11-40.00**

Dear Board Members:

I respectfully write this letter on behalf of my client, Nick Geracimos (the “Applicant”), in support of our motion for rehearing before the Board of Adjustment (the “Board”) pursuant to Board Rule 18.1(a), (b), and (c).

My client sought variances from the front yard setback requirements for proposed structures in the amount of forty-five (45) feet, the landscape buffer requirement in the Combined Highway Corridor Overlay Zone (CHCOZ) in the amount of fifteen (15) feet, and from the number of required parking spaces calculated to be 125 spaces per the Planning & Zoning Department. See Sussex County Zoning Code Sections 115-82, 115-162, 115-182, and 115-194.1, respectively.

This case was first heard on February 17, 2020 and again on March 2, 2020. At the conclusion of the first hearing, the Board voted to leave the record open for the Applicants to: (1) adjust their plan to address the Board’s safety and design concerns; (2) provide the Board with the lease agreement; (3) provide the Board with the shared parking agreement, and (4) answer the Board’s follow-up questions. At the conclusion of the first hearing, the variance application was denied by a vote of 3-2.

Pursuant to Board Rule 18.1, a request for a rehearing shall be made no later than ten (10) days after the filing of a decision in the office of the Board of Adjustment. In this case, the Applicant received the Board’s final decision on May 5, requiring submission to the aforesaid office by May 15, 2020. Therefore, this requirement has been satisfied by the Applicant.

The Board may rehear a matter for the following reasons: (a) Mistake, inadvertent surprise or excusable neglect; (b) Newly discovered evidence which by due diligence could not have been discovered at the time of the original hearing; or (c) Fraud, misrepresentation or other misconduct of an adverse party. Board Rule 18.1(a)-(c).

We recognize that Delaware law and past records of requests for rehearing before this Board have made clear that a motion for rehearing is not a vehicle to rehash or more forcefully present arguments already made on the record. Delaware law favors exhaustion of administrative remedies before seeking judicial intervention. *Salem Church (Delaware) Assocs. v. New Castle Cty.*, 2006 WL 2873745, at \*4 (Del. Ch. Oct. 6, 2006). Therefore, my clients request a rehearing pursuant to Board Rule 18.1(a), (b) and (c) to exhaust their administrative remedies and seek recourse as a result of *mistake, newly discovered evidence, and misrepresentation by an adverse party.*

In the instant matter, there is “newly discovered evidence which by due diligence [the Applicant] could not have discovered at the time of the original hearing.” Board Rule 18.1(b). To request a rehearing on these grounds, the Applicant must prove an additional five (5) elements: (1) that this evidence came to their knowledge since the hearing; (2) that the knowledge could not have been used at the hearing; (3) that it is so material and relevant that it would have probably changed the result if a new hearing was granted; (4) that it is not merely cumulative or impeaching in character; and (5) that it is reasonably possible that evidence will be produced at the new hearing.

On March 16, 2020 the Applicant appeared before the Planning & Zoning Commission (the “Commission”) for conditional use approval for the miniature golf course required by Sussex County Code (the “Code”) Section 115-79. Subsequent to the public hearings before the Board of Adjustment, the Applicants received a recommendation from the Planning & Zoning Commission to the Sussex County Council (the “Council”) for approval of the Applicant’s conditional use. Appearance before the Sussex County Council is scheduled for June 9, 2020. This recommendation for approval from the Planning & Zoning Commission resulted from consideration of the shared parking agreement presented before the Board of Adjustment as part of the parking variance request. This recommendation from the Planning & Zoning Commission is “newly discovered evidence” and is cause for a rehearing before the Board of Adjustment. The following paragraphs address each element required to establish an argument under Board Rule 18.1(a) for a rehearing.

**First**, the knowledge of the Commission’s decision came to the Applicant’s knowledge after the Board hearing. The Board hearing was closed on March 2, 2020. The Commission’s hearing took place on March 16<sup>th</sup>, 2020. The Commission therefore made a decision after the Board’s decision.

**Second**, the knowledge could not have been used at the Board of Adjustment hearing because the conditional use application had not been heard until March 16, 2020 with a recommendation for approval decided thereafter.

**Third**, the newly discovered evidence is “material.” According to Black’s Law Dictionary, something is “material” when it is “of such a nature that knowledge of the item would affect a person’s decision-making process.” The Planning & Zoning Commission is the government board delegated with the authority to determine whether the miniature golf course use is appropriate for the Property. The Commission is also delegated the authority to assess the sufficiency and acceptability of a shared parking plan per Section 115-165(B) of the Code. The Commission’s recommendation for approval included an assessment of the shared parking plan and miniature golf course use at the proposed site.



That recommendation for approval by the Commission should have affected the Board's decision-making process on the variances because the Board reasoned their decision for denial of all three variances based on its assessment of the use, traffic and parking problems and its disapproval of the parking arrangement. As such matters are exclusively for the Commission to decide, the Board overstepped its authority. Accordingly, any decision by the Board in reliance on the assessment of use, traffic and parking problems must be overturned.

For specific reference, please see the Board's reasoning in Paragraph 67(c) and (d) of the Findings. Paragraph 67(c) states that the "Board finds that the proposed golf course will be detrimental to the public welfare," because the area "suffers from traffic and parking problems during the summer months" and "Testimony from neighbors clearly demonstrates that parking is a problem and needs regular enforcement." To clarify, the Applicant did not seek a waiver from a parking requirement. The Board was to decide only whether a variance was authorized to reduce the number of spaces from 125 to a lesser required amount. The Board was not to decide matters clearly under the Commission's authority. Therefore, the knowledge that the use and the shared parking arrangement is permissible would affect the Board's decision-making process on the variances that reasoned exactly the opposite.

**Fourth**, the evidence is not cumulative. This is new evidence.

**Fifth** and finally, new evidence will be produced at a new hearing.

In addition to grounds for rehearing under Board Rule 18.1(b), the Applicant alternatively requests a rehearing pursuant to Board Rule 18.1(a). Our position is the Board made two *mistakes*.

The Board's first *mistake* in deciding on the three variances collectively rather than individually. There were three separate variances applied for. The Findings of Fact (the "Finding") address those variances collectively rather than individually. The decision for all three variances largely weighed on the parking variance decision, which was sought for the reduction in the number of required parking spaces. Madame Chair stated specifically on the record that her issue largely remained with the parking variance issue.

Pursuant to Section 115-211(B) Variances of the Sussex County Code variances shall not be authorized by the Board unless the Board finds:

- (1) 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 unnecessary hardship is due to such conditions and not to circumstances or conditions generally created by the provisions of the Zoning Ordinance or code in the neighborhood or district in which the property is located.
- (2) That, because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the Zoning Ordinance or code and that the authorization of a variance is therefore necessary to enable the reasonable use of the property.

- (3) That such unnecessary hardship has not been created by the appellant.
- (4) That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located and not substantially or permanently impair the appropriate use or development of adjacent property nor be detrimental to the public welfare.
- (5) That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible of the regulation in issue.

The Board's final decision does not address each element for each variance applied for. Rather, the Board's Finding addresses the three, separate variances together. Therefore, it is unclear if each of the five factors were considered in the Board's decision-making process for each variance requested. For example, the Board's Finding reasons denial of the front yard variance and landscape buffer as a result of traffic and parking concerns. Traffic and parking concerns are unrelated to those requests. If parking was the problem, then the Board should have denied the parking variance request not the other two variance requests. To hold otherwise would violate the Applicant's due process and 29 Del. C. § 100122(1).

The Board's second *mistake* concerns the Board's exercise of their delegated authority to issue variances; however, they are not to decide matters delegated to the Commission. The Applicant sought a variance from the parking requirements of Code Section 115-162. To repeat, the Applicant did not seek a waiver from the parking requirements of the Code. The Applicant did not appear before the Board to determine whether the use was appropriate. The Applicant also did not appear before the Board to determine how many spaces were appropriate for the miniature golf course use.

The Applicant appeared before the Board seeking a variance from the 125 parking space requirement being imposed on the Applicant, a requirement that is clearly excessive for a miniature golf course. Specifically, the Applicant requested a variance for a reduction from the requirement of 125 parking spaces. According to Section 115-163, "The parking requirements in this Article do not limit special requirements which may be imposed with large-scale developments, conditional uses (Article XXIV) or special exceptions (Article XVII)." The Code further states that "The parking space requirements for a use not specifically listed in the chart shall be the same for a listed use of similar characteristics of parking demand generation." Sussex County Code Section 115-163(c). The Planning & Zoning Department's assessment, as Applicant stated on record and herein, is that 125 spaces are required because the most similar use, an indoor commercial use, not an outdoor commercial use like a miniature golf course, would require 125 spaces for a use of this size. *See also* Finding of Facts Paragraphs 15, 16 and 17.



The Applicant encourages each member of the Board to use common sense in determining whether an 18-hole miniature golf course requires 125 parking spaces. To put this in proper perspective, this would mean that the Planning & Zoning Department is requiring 15.625 parking spaces per miniature golf course hole. The parking variance request was a request reasoned on common sense, as no reasonable person would require over 15 parking spaces for every miniature golf hole.

The Board has the authority to consider and issue variances not to exceed the scope of its authority to determine whether the shared parking arrangement or use is permissible for the Property. The Commission, not the Board is the appropriate governmental body that determines the use per Section 115-79 and whether the shared parking arrangement is sufficient for the use pursuant to Section 115-165(B). To that point, the Applicant, as previously stated, appeared before the Commission on March 16, 2020 and received a recommendation for approval from the Commission for the use which included the proposed shared parking arrangement that was presented before the Board.

This is not a usual application, as Mr. Reiger pointed out, noting procedural issues and questioning whether the Board had the authority to address the parking issue that is clearly under the authority of the Commission and not the Board. He stated correctly that the Commission is the one that is experienced to hear matters related to parking. Section 115-165(B) states “The Planning and Zoning Commission may authorize a reduction in the number of required parking spaces for multiple use developments or for uses that are located near one another...” not the Board. This is an unusual case. If this were just a request for a variance, then the decision by the Board would have been well-founded. However, the Code, as it is written, requires the Planning & Zoning Commission, to address the parking and use issues. In the Board’s decision, the dominant reason for denial was for parking and use related issues, which by statute, establishes the Commission as the controlling authority. Therefore, based on these two *mistakes* by the Board, the Applicant requests a rehearing.

In the alternative, the Applicant requests a rehearing due to *misrepresentation by an adverse party* per Board Rule 18.1(c). At the first hearing on February 17, 2020, no substantive objections were made by neighboring property owners about parking, congestion, or traffic problems. Despite this, Board Members brought up the issue regarding a property unrelated and disconnected from the Applicant’s property known as Hickman’s Plaza.

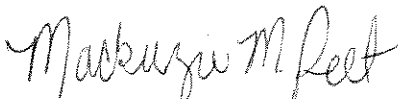
In that discussion, it was stated by the Board Members that there was an interconnection between the Applicant’s property and Hickman’s plaza that would have caused parking, congestion and traffic issues. From the first hearing to the final decision, the Board focused on Hickman’s Plaza, a use entirely disconnected from our lot. During the first hearing, Madame Chair brought to attention Hickman’s Plaza and Board Member Williamson stated on record in the first hearing that “If you think you are going to park in the Hickman’s Plaza, then they are going to tow you.” To be clear, the Applicant has never proposed and reiterates here that it does not propose parking on the Hickman’s Plaza parking lot. Applicant agrees with Board Member Williamson. If Nick’s Mini Golf patrons parked on the Hickman’s Plaza lot, then those patrons should be towed. With the record left open, investigations into these statements showed that there was no interconnection between the parking lots of Hickman’s Plaza and the Applicant’s lot. This fact was corrected on the record at the second hearing on March 2, 2020.

Despite proper notice of the first public hearing to neighboring properties, including Hickman's Plaza, Mr. Brenton Archut, co-owner of Hickman's Plaza owner, appeared before the Board at the March 2, 2020 hearing in opposition to the parking variance not the first hearing on February 17, 2020. Mr. Archut, an adverse party, made statements on the record that misrepresented that Nick's Mini Golf patrons would park in Hickman's Plaza. This is conjecture. Again, this an issue beyond the scope of the Board's consideration. Mr. Archut did not appear before the Commission to address these same concerns.

Notably, despite his statements of concern, Mr. Archut confirmed there is no "direct access" between the proposed parking spaces for the miniature golf course use and the Hickman's Plaza parking lot. To emphasize, the parking lot proposed for use by the miniature golf is physically and geographically disconnected from the Hickman's Plaza parking lot by the presence of physical barriers, a stormwater management pond and grass swale area. The presence of these physical barriers prevents access from Hickman's Plaza's parking lot to the miniature golf course parking site. Any statement to the contrary by the Board Members and the adverse party would be incorrect and a *misrepresentation* between the relationship of the Applicant's property and Hickman's Plaza with respect to the parking variance. Pursuant to Board Rule 18.1(c), this *misrepresentation by an adverse party* warrants a rehearing.

Thank you for your consideration of the Applicants request for rehearing pursuant to Board Rule 18.1(a), (b), and (c).

Sincerely,



Mackenzie M. Peet, Esq.

/mmp

Enclosure(s):

1. Motion for Rehearing