

BOARD OF APPEALS

May 22, 2024

County Administration Building, 100 W. Washington St., Meeting Room 2000, Hagerstown, at 6:00 p.m.

AGENDA

AP2024-017: An appeal was filed by Keith Rice for a variance from the required 40 ft. front yard setback to 20 ft. for the replacement of the front deck on the dwelling on the property owned by the appellant and located at 16726 Fairview Road, Hagerstown, Zoned Agricultural Rural.- **GRANTED**

AP2024-018: An appeal was filed by Gregory & Deborah Keller for a variance from the required 15 ft. setback to 8 ft. for the side and rear yard for the proposed detached garage on the property owned by the appellant and located at 17204 Carty Lane, Hagerstown, Zoned Agricultural Rural.-**DENIED**

AP2024-019: An appeal was filed by NewCold Reading LLC for a variance from the parking requirement of 350 spaces to 115 spaces and a variance from the 75 ft. maximum height to 150 ft. for proposed high-bay cold storage warehouse on the property owned by VA Ave LLC on the vacant lot next to property 16965 Virginia Avenue, Williamsport, Zoned Industrial Restrict.- **PARKING VARIANCE GRANTED - HEIGHT VARIANCE DENIED**

AP2024-020: An appeal was filed by Obidi Holding LLC for a special exception to establish a full service physicians' office in a new commercial building on the property owned by the appellant and located at 13316 Marsh Pike, Hagerstown, Zoned Residential Suburban.- **DENIED**

.....

Pursuant to the Maryland Open Meetings Law, notice is hereby given that the deliberations of the Board of Zoning Appeals are open to the public. Furthermore, the Board, at its discretion, may render a decision as to some or all of the cases at the hearing described above or at a subsequent hearing, the date and time of which will be announced prior to the conclusion of the public hearing. Individuals requiring special accommodations are requested to contact Katie Rathvon at 240-313-2464 Voice, 240-313-2130 Voice/TDD no later than May 13, 2024. Any person desiring a stenographic transcript shall be responsible for supplying a competent stenographer.

The Board of Appeals reserves the right to vary the order in which the cases are called. Please take note of the Amended Rules of Procedure (Adopted July 5, 2006), Public Hearing, Section 4(d) which states:

Applicants shall have ten (10) minutes in which to present their request and may, upon request to and permission of the Board, receive an additional twenty (20) minutes for their presentation. Following the Applicant's case in chief, other individuals may receive three (3) minutes to testify, except in the circumstance where an individual is representing a group, in which case said individual shall be given eight (8) minutes to testify.

Those Applicants requesting the additional twenty (20) minutes shall have their case automatically moved to the end of the docket.

For extraordinary cause, the Board may extend any time period set forth herein, or otherwise modify or suspend these Rules, to uphold the spirit of the Ordinance and to do substantial justice.

Jay Miller, Chairman

Board of Zoning Appeals



WASHINGTON COUNTY BOARD OF ZONING APPEALS

747 Northern Avenue | Hagerstown, MD 21742-2723 | P:240.313.2430 | F:240.313.2431 | Hearing Impaired: 7-1-1

ZONING APPEAL

Property Owner: Keith Rice
16726 Fairview Road
Hagerstown MD 21740

Appellant: Keith Rice
16726 Fairview Road
Hagerstown MD 21740

Property Location: 16726 Fairview Road
Hagerstown, MD 21740

Description Of Appeal: Variance from the required 40 ft. front yard setback to 20 ft. for replacement front deck.

Docket No: AP2024-017
Tax ID No: 13029059
Zoning: A(R)
RB Overlay: No
Zoning Overlay:
Filed Date: 04/29/2024
Hearing Date: 05/22/2024

Appellant's Legal Interest In Above Property:

Owner:	Yes	Contract to Rent/Lease:	No
Lessee:	No	Contract to Purchase:	No
Other:			

Previous Petition/Appeal Docket No(s):

Applicable Ordinance Sections: Washington County Zoning Ordinance Section 5A.5

Reason For Hardship: Limited area for deck due to large dedicated right of way and septic reserve area.

If Appeal of Ruling, Date Of Ruling:

Ruling Official/Agency:

Existing Use: Single Family Dwelling **Proposed Use:** Replace Existing Deck

Previous Use Ceased For At Least 6 Months: **Date Ceased:**

Area Devoted To Non-Conforming Use - **Existing:**
Proposed:

I hereby affirm that all of the statements and information contained in or filed with this appeal are true and correct.

Dupe L. Rice

Appellant Signature

State Of Maryland, Washington County to-wit:

Sworn and subscribed before me this 29 day of Apr., 2024.

My Commission Expires
Kathryn B. Rathvon
NOTARY PUBLIC
WASHINGTON COUNTY
MARYLAND
MY COMMISSION EXPIRES NOVEMBER 07, 2025

[Signature]

Notary Public



WASHINGTON COUNTY BOARD OF ZONING APPEALS

747 Northern Avenue | Hagerstown, MD 21742-2723 | P: 240.313.2430 | F: 240.313.2431 | Hearing Impaired: 7-1-1

AFFIDAVIT IN COMPLIANCE WITH SECTION 25.51(C)

Docket No: AP2024-017

State of Maryland Washington County, To Wit:

On 4/29/2024, before me the subscriber, a Notary of the public of the State and County aforesaid, personally appeared Dixie Rice and made oath in due form of law as follows:

Dixie Rice will post the zoning notice sign(s) given to me by the Zoning Administrator in accordance with Section 25.51(c) of the Washington County Zoning Ordinance for the above captioned Board of Appeals case, scheduled for public hearing on 05/22/2024, and that said sign(s) will be erected on the subject property in accordance with the required distances and positioning as set out in the attached posting instructions.

Sign(s) will be posted on 05/07/2024 and will remain until after the above hearing date.

Dixie Rice

Sworn and subscribed before me the day and year first above written.

Notary Public



My Commission Expires

Seal



WASHINGTON COUNTY BOARD OF ZONING APPEALS

747 Northern Avenue | Hagerstown, MD 21742-2723 | P:240.313.2430 | F:240.313.2431 | Hearing Impaired: 7-1-1

BOARD OF ZONING APPEALS

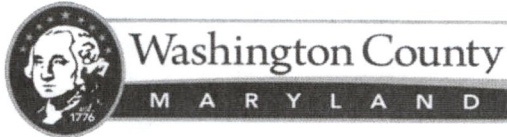
ATTENTION!

Posting Instructions

The premises **MUST** be posted in accordance with the following rules:

1. The sign must be posted a minimum of fourteen (14) days prior to the public hearing. Section 25.51(c) Property upon which the application or appeal is concerned shall be posted conspicuously by a zoning notice no less in size than twenty-two (22) inches by twenty-eight (28) inches at least fourteen (14) days before the date of the hearing.
2. The sign must be placed on the property within ten (10) feet of the property line which abuts the most traveled public road.
3. The sign must be posted in a conspicuous manner not over six (6) feet above the ground level, and affixed to a sturdy frame where it will be clearly visible and legible to the public.
4. The sign shall be maintained at all times by the applicant until after the public hearing. If a new sign is needed or required, please contact the Plan Review Department at 240-313-2460.
5. An affidavit certifying the property will be posted for the minimum of fourteen (14) days prior to the public hearing date.

Proper posting of the sign will be spot checked by the Zoning Inspector. IF SIGN IS NOT IN COMPLIANCE, IT MAY RESULT IN RESCHEDULING OF THE HEARING.



BOARD OF ZONING APPEALS

OWNER REPRESENTATIVE AFFIDAVIT

This is to certify that Dixie Rice
is authorized to file an appeal with the Washington County Board of Appeals for
Variance for front deck on property
located 16726 Fairview Road.
The said work is authorized by Keith Rice
the property owner in fee.

PROPERTY OWNER

Keith L. Rice
Name
16726 Fairview Road
Address
Hagerstown, MD 21740
City, State, Zip Code
Keith Rice
Owner's Signature

Sworn and subscribed before me this 24 day of April, 2024.

[Signature]
Notary Public

My Commission Expires:



AUTHORIZED REPRESENTATIVE

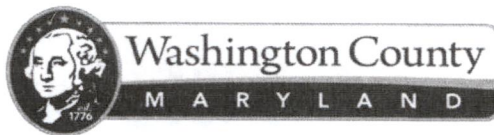
Dixie L. Rice
Name
16726 Fairview Road
Address
Hagerstown, MD 21740
City, State, Zip Code
Dixie L. Rice
Authorized Representative's Signature

Sworn and subscribed before me this 24 day of April, 2024.



[Signature]
Notary Public

My Commission Expires:



BOARD OF ZONING APPEALS

747 Northern Avenue | Hagerstown, MD 21742 | P: 240.313.2430 | F: 240.313.2461 | Hearing Impaired:

7-1-1 WWW.WASHCO-MD.NET

Appeal for Variance

Appeal is hereby made for a variance from a requirement of the Washington County Zoning Ordinance as follows:

Location 16726 Fairview Road

Appellant's present legal interest in above property: (Check One)

☒ Owner (Including Joint Ownership) ☐ Lessee ☐ Contract to rent/lease
☐ Contract to Purchase ☐ Other

Specify the Ordinance section and subsection from which the variance is desired:

Section 5A.5

Specify the particular requirement(s) from which a variance is desired in that section or subsection:

Front yard setback 40ft.

Describe the nature and extent of the desired variance from Ordinance requirements: listed above:

Front yard down to 20ft for new 24'x16' deck.

Describe reason(s) why the Ordinance requirement(s) in question would result in peculiar and/or unusual practical difficulties to or would impose exceptional or undue hardship upon the owner of the property if the requested variance were not granted:

Provide Detailed Explanation on Separate Sheet

Has any previous petition or appeal involving this property been made to the Board?

☐ Yes ☒ No

If yes, list docket number(s): N/A

I hereby certify that I have, to the best of my knowledge, accurately supplied the information required for the above referenced appeal.

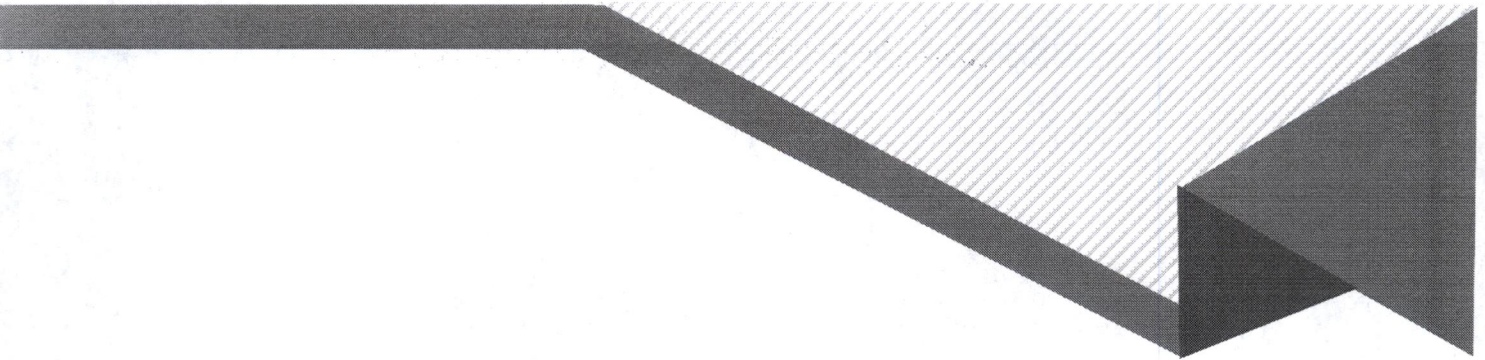
Kirk Z Rici
Signature of Appellant

Address and of Appellant

Email of Appellant

Phone Number of Appellant

This appeal form is to be used to assist the customer in gathering the information necessary to submit an application. However, the application shall be processed in person.



4/28/2024

To Whom It May Concern,

This letter serves as a formal request to obtain permission via a permit to build a new deck. Recently, I was just approved for a 12 x 24ft deck however I am requesting that this be extended by an additional 4ft to equal 16x24ft. This will be replacing the current deck that is rapidly deteriorating and posing great fall risk for my elderly mother. In addition, this is the only available location for a deck due to the septic system which interferes with it being put on the back of the house.

Kind Regards,

Keith Rice



240-446-5128



16726 Fairview Road
Hagerstown, MD 21740



N/F
IRVIN GOLDEN
L 433 F 468

NO FOREST EXISTS ON LOT 1
OR REMAINING LANDS

LOT 1 1.34 ACRES
- DEDICATED
R/W 0.12 ACRES
NET 1.22 ACRES

REMAINING LANDS
OMER & MIRIAM HEGE
L 783 F 191
2.51 ACRES



N/F
DOLORES
CHACO
L 803 F 101

FAIRVIEW ROAD—MD. RT. 494

PLAT NO. 5455
DATE — SEP 8 1994
WASHINGTON COUNTY

GRAPHIC SCALE



(IN FEET)
1 inch = 50 ft.

OWNER/DEVELOPER
OMER & MIRIAM HEGE
1673 FAIRVIEW ROAD
HAGERSTOWN, MD. 21740



**BEFORE THE BOARD OF APPEALS
FOR WASHINGTON COUNTY, MARYLAND**

KEITH RICE

Appellant

Appeal No.: AP2024-017

* * * * *

OPINION

Keith Rice (hereinafter "Appellant") requests a variance to reduce the required front yard setback from 40 feet to 20 feet for a replacement front deck at the subject property. The subject property is located at 16726 Fairview Road, Hagerstown, Maryland and is zoned Agricultural, Rural. The Board held a public hearing in this matter on May 22, 2024.

This appeal was heard pursuant to Article 25 of the Zoning Ordinance for Washington County and upon proper notice to the parties and general public as required.

Findings of Fact

Based upon the testimony given, all information and evidence presented, and upon a study of the specific property involved and the neighborhood in which it is located, the Board makes the following findings of fact:

1. Appellant is the owner of the subject property located at 16726 Fairview Road, Hagerstown, Maryland. The subject property is zoned Agricultural, Rural.
2. The subject property consists of approximately 1.34 acres situated along the north side of Fairview Road and improved by a single-family dwelling. There is a septic system and septic reserve to the rear of the home.
3. There is a 40-foot dedicated future right-of-way for Fairview Road which reduces the setback areas.
4. Appellant proposes to construct a deck on the front of the home that will be 16 feet by 24 feet. The home currently has an 8-foot by 24-foot deck which is deteriorated

and in need of repair.

5. Appellant's elderly mother resides in the home, and he is worried about her falling due to the condition of the existing deck.

6. There was no opposition presented to this appeal.

Rationale

The Board has authority to grant a variance upon a showing of practical difficulty or undue hardship. §§ 25.2(c) and 25.56.¹ "Practical Difficulty" may be found by the Board when: (1) strict compliance would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome; and (2) denying the variance would do substantial injustice to the applicant and a lesser relaxation than that applied for would not give substantial relief; and (3) granting the variance would observe the spirit of the Ordinance and secure public safety and welfare. § 25.56(A).

Practical difficulty and undue hardship are the result of a property being unique. "'Uniqueness' of a property for zoning purposes requires that the subject property have an inherent characteristic not shared by other properties in the area, i.e., its shape, topography, subsurface condition, environmental factors, historical significance, access or non-access to navigable waters, practical restrictions imposed by abutting properties (such as obstructions) or other similar restrictions." *North v. St. Mary's Cnty.*, 99 Md. App. 502, 514 (1994).)

Pursuant to Section 5A of the Zoning Ordinance, the required front yard setback for the subject property is forty (40) feet. In this case, the setback is measured from the dedicated, future right-of-way line which is another forty (40) feet from the roadway. Appellant is requesting to reduce the setback to twenty (20) feet so that he can construct a reasonably-sized deck on the front of his home. He asserts practical difficulty based on

¹ "When the terms unnecessary hardship (or one of its synonyms) and practical difficulties are framed in the disjunctive ("or"), Maryland courts generally have applied the more restrictive hardship standard to use variances, while applying the less restrictive practical difficulties standard to area variances because use variances are viewed as more drastic departures from zoning requirements." *Belvoir Farms Homeowners Ass'n, Inc. v. North*, 355 Md. 259, 276 n.10 (1999) (citations omitted).

the additional setback related to the right-of-way and that there no other location for the deck.

Appellant acknowledged that he could request a modification without coming before the Board but pointed out that it would allow for a 12-foot by 24-foot deck which is atypical and relatively small. The Board finds that the subject property is certainly unique in its shape and layout, as well as in the effect of the right-of-way on the use therein. Based on the location of the house and layout of the subject property, the front of the home is only place that the deck could be located. Appellant's request is both reasonable and the minimum necessary to afford relief from the effect of the setback requirements. The Board finds that Appellant has satisfied the criteria for a variance and the request should be granted.

Accordingly, the requested variance to reduce the required front yard setback from 40 feet to 20 feet for a replacement front deck at the subject property is GRANTED, by a vote of 5-0. The variance is granted upon the general condition that the use is consistent with the testimony and evidence presented.

BOARD OF APPEALS

By: Jay Miller, Chair²

Date Issued: June 20, 2024

Notice of Appeal Rights

Any party aggrieved by a final order of the Authority in a contested case, whether such decision is affirmative or negative in form, is entitled to file a petition for judicial review of that order to the Circuit Court for Washington County within thirty (30) days of the date of the order.

² Mr. Miller was a Board member and served as Chair at the time of the hearing and decision in this matter. His term has since expired, and he is no longer a member of the Board of Appeals.



WASHINGTON COUNTY BOARD OF ZONING APPEALS

747 Northern Avenue | Hagerstown, MD 21742-2723 | P.240.313.2430 | F.240.313.2431 | Hearing Impaired: 7-1-1

ZONING APPEAL

Property Owner: Gregory & Deborah Keller
17204 Carty Lane
Hagerstown MD 21740

Appellant: Gregory Keller
17204 Carty Lane
Hagerstown MD 21740

Property Location: 17204 Carty Lane
Hagerstown, MD 21740

Description Of Appeal: Variance from the required 15 ft. setback to 8 ft. for the side and rear yard for the proposed detached garage

Appellant's Legal Interest In Above Property:

Owner: Yes

Lessee: No

Other:

Docket No: AP2024-018

Tax ID No: 02018454

Zoning: A(R)

RB Overlay: No

Zoning Overlay:

Filed Date: 04/30/2024

Hearing Date: 05/22/2024

Contract to Rent/Lease: No

Contract to Purchase: No

Previous Petition/Appeal Docket No(s):

Applicable Ordinance Sections:

Washington County Zoning Ordinance Section 5A.5

Reason For Hardship:

Location of the well and septic reserve area limits location and would like it further back from the rear patio of the house.

If Appeal of Ruling, Date Of Ruling:

Ruling Official/Agency:

Existing Use: Single Family Dwelling

Proposed Use:

Detached Garage

Previous Use Ceased For At Least 6 Months:

Date Ceased:

Area Devoted To Non-Conforming Use -

Existing:

Proposed:

I hereby affirm that all of the statements and information contained in or filed with this appeal are true and correct.

Appellant Signature

State Of Maryland, Washington County to-wit:

Sworn and subscribed before me this

30

day of

April

2024.

My Commission Expires

NOVEMBER 07, 2025

Kathryn B Rathvon
NOTARY PUBLIC

WASHINGTON COUNTY

My Commission Expires

NOVEMBER 07, 2025

Notary Public



WASHINGTON COUNTY BOARD OF ZONING APPEALS

747 Northern Avenue | Hagerstown, MD 21742-2723 | P: 240.313.2430 | F: 240.313.2431 | Hearing Impaired: 7-1-1

AFFIDAVIT IN COMPLIANCE WITH SECTION 25.51(C)

Docket No: AP2024-018

State of Maryland Washington County, To Wit:

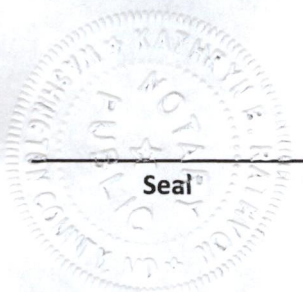
On 4/30/2024, before me the subscriber, a Notary of the public of the State and County aforesaid, personally appeared Gregory & Deborah Keller and made oath in due form of law as follows:

Gregory & Deborah Keller will post the zoning notice sign(s) given to me by the Zoning Administrator in accordance with Section 25.51(c) of the Washington County Zoning Ordinance for the above captioned Board of Appeals case, scheduled for public hearing on 05/22/2024, and that said sign(s) will be erected on the subject property in accordance with the required distances and positioning as set out in the attached posting instructions.

Sign(s) will be posted on 05/07/2024 and will remain until after the above hearing date.

Gregory & Deborah Keller

Sworn and subscribed before me the day and year first above written.



Seal

Kathryn B Rathvon
NOTARY PUBLIC
WASHINGTON COUNTY
MARYLAND
MY COMMISSION EXPIRES NOVEMBER 07, 2025

Notary Public

My Commission Expires



WASHINGTON COUNTY BOARD OF ZONING APPEALS

747 Northern Avenue | Hagerstown, MD 21742-2723 | P: 240.313.2430 | F: 240.313.2431 | Hearing Impaired: 7-1-1

BOARD OF ZONING APPEALS

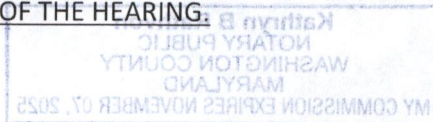
ATTENTION!

Posting Instructions

The premises **MUST** be posted in accordance with the following rules:

1. The sign must be posted a minimum of fourteen (14) days prior to the public hearing. Section 25.51(c) Property upon which the application or appeal is concerned shall be posted conspicuously by a zoning notice no less in size than twenty-two (22) inches by twenty-eight (28) inches at least fourteen (14) days before the date of the hearing.
2. The sign must be placed on the property within ten (10) feet of the property line which abuts the most traveled public road.
3. The sign must be posted in a conspicuous manner not over six (6) feet above the ground level, and affixed to a sturdy frame where it will be clearly visible and legible to the public.
4. The sign shall be maintained at all times by the applicant until after the public hearing. If a new sign is needed or required, please contact the Plan Review Department at 240-313-2460.
5. An affidavit certifying the property will be posted for the minimum of fourteen (14) days prior to the public hearing date.

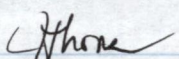
Proper posting of the sign will be spot checked by the Zoning Inspector. IF SIGN IS NOT IN COMPLIANCE, IT MAY RESULT IN RESCHEDULING OF THE HEARING.

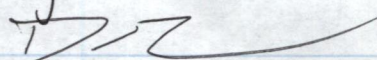


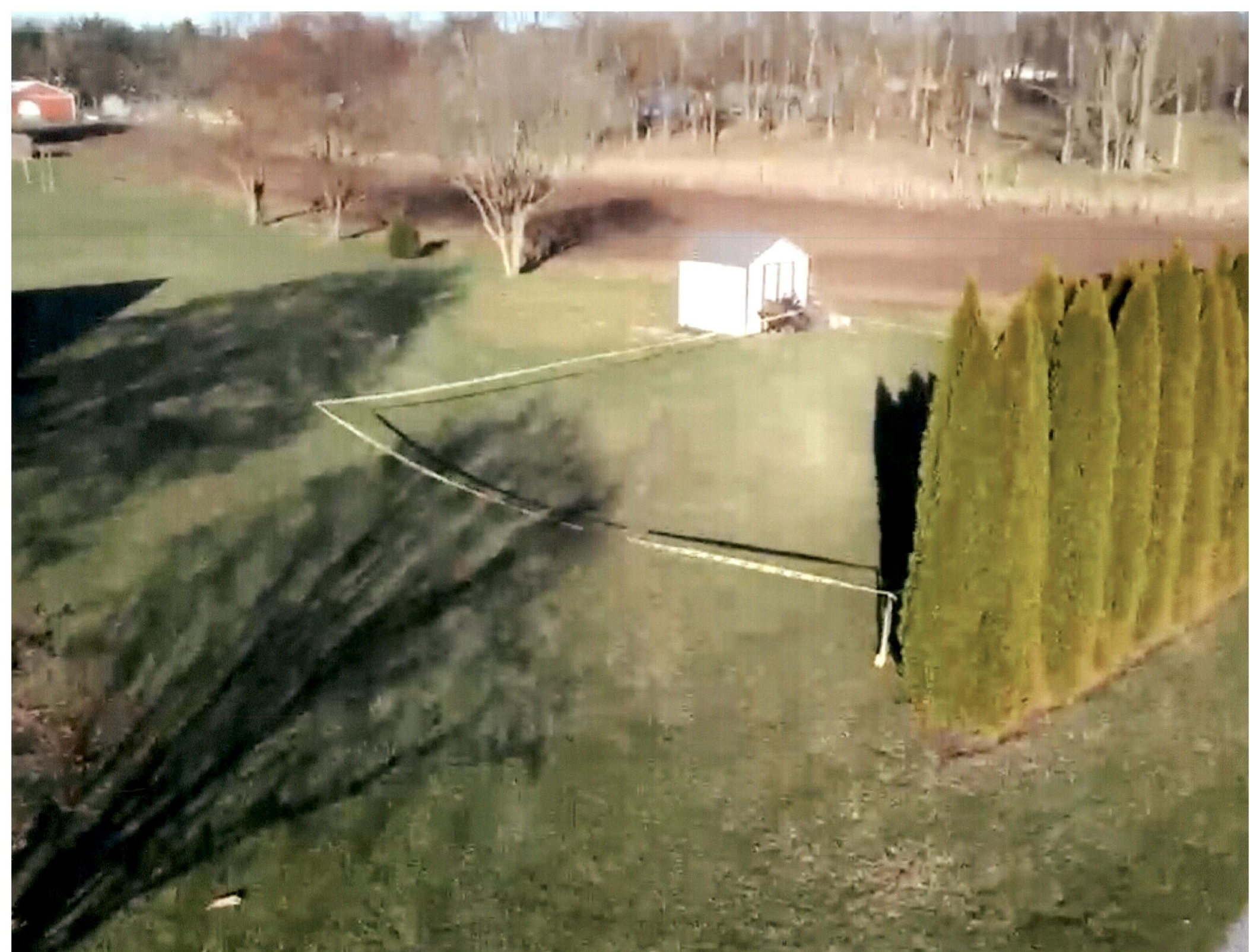
The reason for the variance is to set the garage as far back to properly line as possible. I would like to keep garage away from patio, well and house.

I cannot put the garage in the back yard to the left side due to well and in the front yard I have the septic sys. I would like to keep the garage back so I can access garage from concrete pad beside of garage, I would like ample distance from pad to garage to have better access to enter garage with a trailer.

We are OK with Debbie & Greg Keller
building a garage on their property


Jackie Thomas

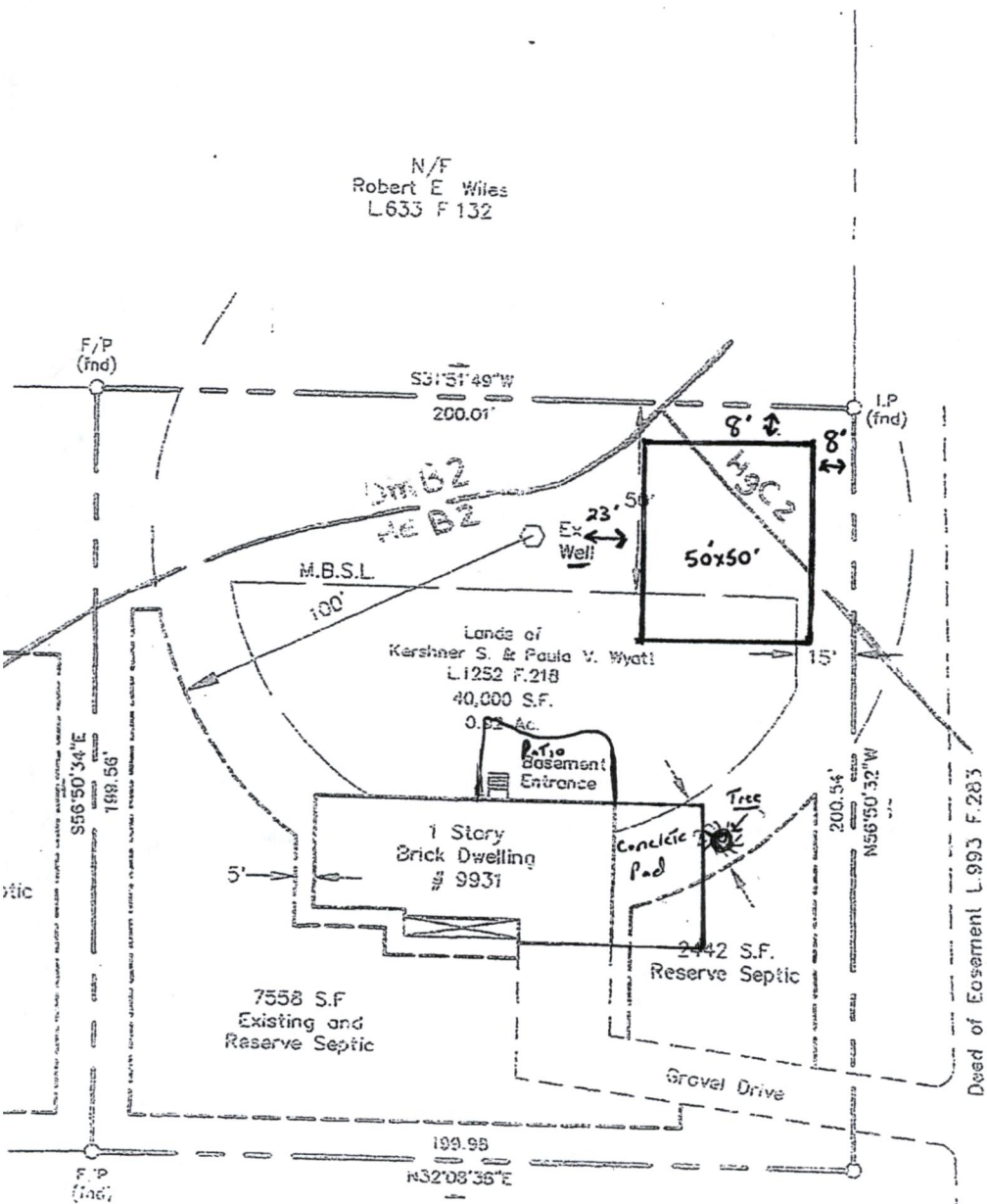

Donald Thomas







N/F
Robert E. Wiles
L633 F 132



Deed of Easement L.993 F.283

24' Road Width

DOWNSVILLE PIKE

**BEFORE THE BOARD OF APPEALS
FOR WASHINGTON COUNTY, MARYLAND**

GREGORY KELLER
Appellant

Appeal No.: AP2024-018

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OPINION

Gregory Keller (hereinafter "Appellant") requests variances to reduce the required side yard setback from 15 feet to 8 feet, the required rear yard setback from 15 feet to 8 feet for a proposed detached garage at the subject property. The subject property is located at 17204 Carty Lane, Hagerstown, Maryland and is zoned Agricultural, Rural. The Board held a public hearing in this matter on May 22, 2024.

This appeal was heard pursuant to Article 25 of the Zoning Ordinance for Washington County and upon proper notice to the parties and general public as required.

Findings of Fact

Based upon the testimony given, all information and evidence presented, and upon a study of the specific property involved and the neighborhood in which it is located, the Board makes the following findings of fact:

1. Appellant, along with his wife, are the owners of the subject property located at 17204 Carty Lane, Hagerstown, Maryland. The subject property is zoned Agricultural, Rural.
2. The subject property consists of rectangular lot totaling approximately .92 acres, improved by a one-story single-family dwelling.
3. The well is located in the center of the property, to the rear of the residence. The septic area is in the front of the home, near the driveway.
4. Appellant proposes to construct a 50-foot by 50-foot detached garage for storage of his camper, vehicles, tools and equipment. The size of the garage was dictated

by the size of the camper, which is approximately thirty-seven (37) feet. The proposed location for the garage is in the southeast corner of the subject property.

5. Appellant consulted with his neighbors and there were no objections to the project.

6. There was no opposition presented to this appeal.

Rationale

The Board has authority to grant a variance upon a showing of practical difficulty or undue hardship. §§ 25.2(c) and 25.56.¹ “Practical Difficulty” may be found by the Board when: (1) strict compliance would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome; and (2) denying the variance would do substantial injustice to the applicant and a lesser relaxation than that applied for would not give substantial relief; and (3) granting the variance would observe the spirit of the Ordinance and secure public safety and welfare. § 25.56(A).

Practical difficulty and undue hardship are the result of a property being unique. “‘Uniqueness’ of a property for zoning purposes requires that the subject property have an inherent characteristic not shared by other properties in the area, i.e., its shape, topography, subsurface condition, environmental factors, historical significance, access or non-access to navigable waters, practical restrictions imposed by abutting properties (such as obstructions) or other similar restrictions.” *North v. St. Mary’s Cnty.*, 99 Md. App. 502, 514 (1994).)

Pursuant to Section 5A.5 of the Zoning Ordinance, the rear yard setback and side yard setback are 15 feet for the subject property. Appellant requested a reduction to eight (8) feet for both the side and rear yard to accommodate the proposed detached garage.

¹ “When the terms unnecessary hardship (or one of its synonyms) and practical difficulties are framed in the disjunctive (“or”), Maryland courts generally have applied the more restrictive hardship standard to use variances, while applying the less restrictive practical difficulties standard to area variances because use variances are viewed as more drastic departures from zoning requirements.” *Belvoir Farms Homeowners Ass’n, Inc. v. North*, 355 Md. 259, 276 n.10 (1999) (citations omitted).

During the hearing, the Board questioned what was unique about the subject property. It appears to be a typical rectangular lot with a house constructed in the middle of the lot, adequate area to the rear. Appellant testified about the features he believed to be unique, none of which supported a relaxation of the setback requirements. Appellant acknowledged that he could reduce the size of the garage slightly and could also move it further from the property lines. If moved, the detached garage would likely not require a variance, or the variance necessary would be the minimal compared to what is requested herein. The Board finds there is insufficient evidence to support a finding of uniqueness and that Appellant has failed to demonstrate practical difficulty that would necessitate the variance requests.

Accordingly, the requested variances to reduce the required side yard setback from 15 feet to 8 feet and the required rear yard setback from 15 feet to 8 feet for a proposed detached garage at the subject property are DENIED, by a vote of 4-1.

BOARD OF APPEALS

By: Jay Miller, Chair²

Date Issued: June 20, 2024

Notice of Appeal Rights

Any party aggrieved by a final order of the Authority in a contested case, whether such decision is affirmative or negative in form, is entitled to file a petition for judicial review of that order to the Circuit Court for Washington County within thirty (30) days of the date of the order.

² Mr. Miller was a Board member and served as Chair at the time of the hearing and decision in this matter. His term has since expired, and he is no longer a member of the Board of Appeals.



WASHINGTON COUNTY BOARD OF ZONING APPEALS

747 Northern Avenue | Hagerstown, MD 21742-2723 | P:240.313.2430 | F:240.313.2431 | Hearing Impaired: 7-1-1

ZONING APPEAL

Property Owner: VA Ave LLC
17827 Virginia Avenue
Hagerstown MD 21740

Appellant: NewCold Reading LLC
500 West Madison Street
Suite 1500
Chicago IL 60661

Property Location: 16965 Virginia Avenue
Williamsport, MD 21795

Description Of Appeal: Variance from the parking requirement of 350 spaces to 115 spaces and a variance from the 75 ft. maximum height to 150 ft. for proposed high-bay cold storage warehouse.

Docket No: AP2024-019
Tax ID No: 26001870
Zoning: IR
RB Overlay: No
Zoning Overlay:
Filed Date: 05/01/2024
Hearing Date: 05/22/2024

Appellant's Legal Interest In Above Property:

Owner:	No	Contract to Rent/Lease:	No
Lessee:	No	Contract to Purchase:	Yes
Other:			

Previous Petition/Appeal Docket No(s): RZ-16-003

Applicable Ordinance Sections: Washington County Zoning Ordinance Section 22.12 and Section 13.4

Reason For Hardship: See justification statement

If Appeal of Ruling, Date Of Ruling:

Ruling Official/Agency:

Existing Use: Vacant Lot

Proposed Use: High-bay Cold Storage Warehouse

Previous Use Ceased For At Least 6 Months:


Date Ceased:

Area Devoted To Non-Conforming Use -

Existing:

Proposed:

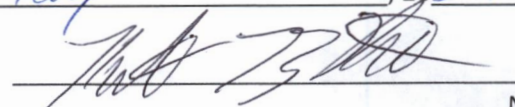
I hearby affirm that all of the statements and information contained in or filed with this appeal are true and correct.


Appellant Signature

State Of Maryland, Washington County to-wit:

Sworn and subscribed before me this 2 day of May, 2024.

My Commission Expires
Kathryn B Rathvon
NOTARY PUBLIC
WASHINGTON COUNTY
MARYLAND
MY COMMISSION EXPIRES NOVEMBER 07, 2025


Notary Public



WASHINGTON COUNTY BOARD OF ZONING APPEALS

747 Northern Avenue | Hagerstown, MD 21742-2723 | P:240.313.2430 | F:240.313.2431 | Hearing Impaired: 7-1-1

AFFIDAVIT IN COMPLIANCE WITH SECTION 25.51(C)

Docket No: AP2024-019

State of Maryland Washington County, To Wit:

On 5/1/2024, before me the subscriber, a Notary of the public of the State and County aforesaid, personally appeared JD Law Company Inc and made oath in due form of law as follows:

JD Law Company Inc will post the zoning notice sign(s) given to me by the Zoning Administrator in accordance with Section 25.51(c) of the Washington County Zoning Ordinance for the above captioned Board of Appeals case, scheduled for public hearing on 05/22/2024, and that said sign(s) will be erected on the subject property in accordance with the required distances and positioning as set out in the attached posting instructions.

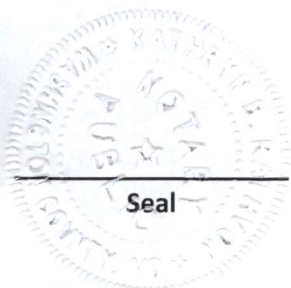
Sign(s) will be posted on 05/07/2024 and will remain until after the above hearing date.

JD Law Company Inc

Sworn and subscribed before me the day and year first above written.

Kathryn B Rathvon
NOTARY PUBLIC
WASHINGTON COUNTY
MARYLAND
MY COMMISSION EXPIRES NOVEMBER 07, 2025

Notary Public



Seal

My Commission Expires



WASHINGTON COUNTY BOARD OF ZONING APPEALS

747 Northern Avenue | Hagerstown, MD 21742-2723 | P:240.313.2430 | F:240.313.2431 | Hearing Impaired: 7-1-1

BOARD OF ZONING APPEALS

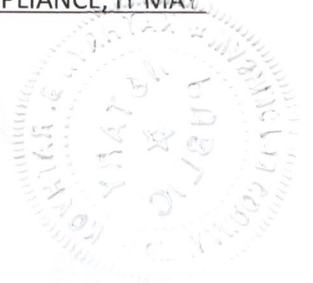
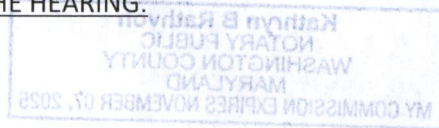
ATTENTION!

Posting Instructions

The premises **MUST** be posted in accordance with the following rules:

1. The sign must be posted a minimum of fourteen (14) days prior to the public hearing
Section 25.51(c) Property upon which the application or appeal is concerned shall be posted conspicuously by a zoning notice no less in size than twenty-two (22) inches by twenty-eight (28) inches at least fourteen (14) days before the date of the hearing.
2. The sign must be placed on the property within ten (10) feet of the property line which abuts the most traveled public road.
3. The sign must be posted in a conspicuous manner not over six (6) feet above the ground level, and affixed to a sturdy frame where it will be clearly visible and legible to the public.
4. The sign shall be maintained at all times by the applicant until after the public hearing. If a new sign is needed or required, please contact the Plan Review Department at 240-313-2460.
5. An affidavit certifying the property will be posted for the minimum of fourteen (14) days prior to the public hearing date.

Proper posting of the sign will be spot checked by the Zoning Inspector. IF SIGN IS NOT IN COMPLIANCE, IT MAY RESULT IN RESCHEDULING OF THE HEARING.





BOARD OF ZONING APPEALS

747 Northern Avenue | Hagerstown, MD 21742 | P: 240.313.2430 | F: 240.313.2461 | Hearing Impaired:

7-1-1 WWW.WASHCO-MD.NET

Appeal for Variance

Appeal is hereby made for a variance from a requirement of the Washington County Zoning Ordinance as follows:

Location s/s Virginia Avenue adjacent to 1-70

Appellant's present legal interest in above property: (Check One)

☐ Owner (Including Joint Ownership) ☐ Lessee ☐ Contract to rent/lease

☒ Contract to Purchase ☐ Other _____

Specify the Ordinance section and subsection from which the variance is desired:

Section 22.12 (off street parking) Section 13.4 (Max height)

Specify the particular requirement(s) from which a variance is desired in that section or subsection:

Section 22.12 - From 350 spaces required to 115 spaces.

Section 13.4 - From 75ft. maximum to 150ft. maximum.

Describe the nature and extent of the desired variance from Ordinance requirements: listed above:

See attached.

Describe reason(s) why the Ordinance requirement(s) in question would result in peculiar and/or unusual practical difficulties to or would impose exceptional or undue hardship upon the owner of the property if the requested variance were not granted:

Provide Detailed Explanation on Separate Sheet

Has any previous petition or appeal involving this property been made to the Board?

☒ Yes ☐ No

If yes, list docket number(s): RZ-16-003

I hereby certify that I have, to the best of my knowledge, accurately supplied the information required for the above referenced appeal.

Signature of Appellant

Athy For NewCold

Email of Appellant

jdine1131@chudbros.com Ready

Address and of Appellant

11125 Bemisden Fr Rd

Phone Number of Appellant

(717) 593-7200

This appeal form is to be used to assist the customer in gathering the information necessary to submit an application. However, the application shall be processed in person.



Department of Plan Review & Permitting Owner's Representative Affidavit

This is to certify that NewCold and Jason Divelbiss, Esq. as its representative, is authorized to file with the Washington County Department of Plan Review & Permitting, an application with the Board of Zoning Appeals for (i) a variance from the parking requirement in Section 22.12 of the Zoning Ordinance for "Warehouse or Wholesale Establishments"; and (ii) a variance from the maximum height limit of 75' in Section 13.4 of the Zoning Ordinance, as applied to that certain property consisting of +/- 32.108 acres (TM 48, Parcel 282) located adjacent to Interstate 70 on the southeast side of Virginia Avenue. The variance application is authorized by VA AVE, LLC, a Maryland limited liability company, the property owner in fee.

PROPERTY OWNER

VA AVE, LLC, a Maryland limited liability company
17827 Virginia Avenue, Hagerstown, MD 21740

By: THEODORE A. SHANK
Name: THEODORE A. SHANK
Title: AUTH. MEMBER

Sworn and subscribed before me this 16th day of April 2024.

JENNIFER L SHIFLER
Notary Public


My Commission Expires: April 6, 2026

Commonwealth of Pennsylvania - Notary Seal
JENNIFER L SHIFLER - Notary Public
Franklin County
My Commission Expires April 6, 2026
Commission Number 1328515

[SIGNATURES CONTINUE ON FOLLOWING PAGE]

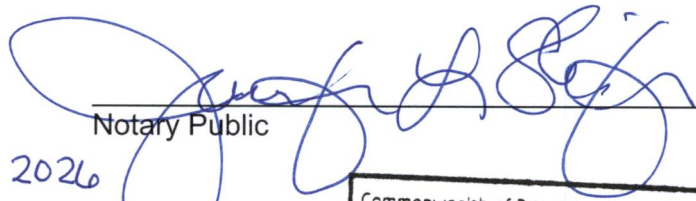
AUTHORIZED REPRESENTATIVE

Jason Divelbiss, Esq.
JD Law Co., Inc.
11125 Bemisderfer Road
Greencastle, PA 17225



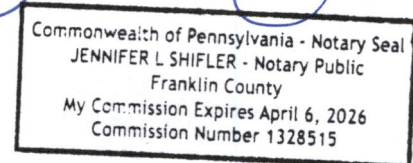
Authorized Representative's Signature

Sworn and subscribed before me this 16th day of April 2024.



Notary Public

My Commission Expires: April 6, 2026



ADJACENT PROPERTY OWNERS					
	NAME	PREMISES ADDRESS	LIBER/FOLIO	MAILING ADDRESS	TAX MAP/PARCEL
1	MASSEY JERRY E	VIRGINIA AVE, WILLIAMSPORT, MD 21795	852/504	17026 VIRGINIA AVE, WILLIAMSPORT, MD 21795	48/822
2	MASSEY DANIEL S & MASSEY ODEZA A	17028 VIRGINIA AVE, WILLIAMSPORT, MD 21795	4360/23	17028 VIRGINIA AVE, WILLIAMSPORT, MD 21795	48/726
3	MASSEY JERRY E & MASSEY DAWN C	16926 VIRGINIA AVE, WILLIAMSPORT, MD 21795	976/6	17026 VIRGINIA AVE, WILLIAMSPORT, MD 21795	48/54
4	JTJ SCOOP LLC	16904 VIRGINIA AVE, WILLIAMSPORT, MD 21795	7164/49	14633 FALLING WATERS ROAD, WILLIAMSPORT, MD 21795	48/83
5	WASH CO COMMISSIONERS BOARD OF	VIRGINIA AVE, WILLIAMSPORT, MD 21795	696/251	C/O DIV OF PUBLIC WORKS 100 W WASHINGTON ST, HAGERSTOWN, MD	48/788
6	LEEL LLC	10843 ANDERSON DR, WILLIAMSPORT, MD 21795	1629/54	C/O LEON & MARGARET CATLETT 16746 SPIELMAN RD, FAIRPLAY, MD 21733	48/880
7	LEEL LLC	10841 ANDERSON DR, WILLIAMSPORT, MD 21795	1629/54	C/O LEON & MARGARET CATLETT 16746 SPIELMAN RD, FAIRPLAY, MD 21733	48/880
8	COURTEMANCHE ANNE K TRUST	10837 ANDERSON DR, WILLIAMSPORT, MD 21795	3422/557	17616 BURNSIDE AVE, HAGERSTOWN, MD 21740	48/880
9	COURTEMANCHE ANNE K TRUST	10835 ANDERSON DR, WILLIAMSPORT, MD 21795	3422/557	17616 BURNSIDE AVE, HAGERSTOWN, MD 21740	48/880
10	COURTEMANCHE ANNE K TRUST	10831 ANDERSON DR, WILLIAMSPORT, MD 21795	3422/553	17616 BURNSIDE AVE, HAGERSTOWN, MD 21740	48/880
11	COURTEMANCHE ANNE K TRUST	10829 ANDERSON DR, WILLIAMSPORT, MD 21795	3422/553	17616 BURNSIDE AVE, HAGERSTOWN, MD 21740	48/880
12	WEAVER SHAWN WEAVER APRIL	10825 ANDERSON DR, WILLIAMSPORT, MD 21795	6233/204	10825 ANDERSON DR, WILLIAMSPORT, MD 21795	48/880
13	GANJIAN ARASH	10821 ANDERSON DR, WILLIAMSPORT, MD 21795	1806/1045	67 ESSEX RD, GREAT NECK, NY 11023	48/880
14	DOAN NICHOLAS JOHN DOAN JENNIFER LEIGH	16909 VIRGINIA AVE, WILLIAMSPORT, MD 21795	6733/395	16909 VIRGINIA AVE, WILLIAMSPORT, MD 21795	56/898
15	JAKLIN PROPERTIES LLC	16907 VIRGINIA AVE, WILLIAMSPORT, MD 21795	4991/327	13530 MELLOTT LANE, WILLIAMSPORT, MD 21795	56/1046
16	MOWEN DONALD T JR ET AL	17023 ALLISON AVE, WILLIAMSPORT, MD 21795	3872/463	17023 ALLISON AVE, WILLIAMSPORT, MD 21795	56/263
17	POTOMAC EDISON CO	10802 BOWER AVE, WILLIAMSPORT, MD 21795	1000/1008	TAX DEPT 800 CABIN HILL DR, GREENSBURG, PA 15601	48/575
18	MAIN KENNETH M	16925 VIRGINIA AVE, WILLIAMSPORT, MD 21795	2504/559	16925 VIRGINIA AVE, WILLIAMSPORT, MD 21795	48/599
19	DENNIS BRADLEY	17025 VIRGINIA AVE, WILLIAMSPORT, MD 21795	7167/150	17025 VIRGINIA AVE, WILLIAMSPORT, MD 21795	48/344
20	HOLDCRAFT MEREDITH	17031 VIRGINIA AVE, WILLIAMSPORT, MD 21795	6103/195	17031 VIRGINIA AVE, WILLIAMSPORT, MD 21795	48/571
21	WILLIAMSPORT PROPERTY LLC	VIRGINIA AVE, WILLIAMSPORT, MD 21795	4913/289	C/O AARON SHRADER SR 16425 SHINHAM RD, HAGERSTOWN, MD 21740	48/627
22	BEAVER CREEK SELF STORAGE LLC	17119 VIRGINIA AVE, WILLIAMSPORT, MD 21795	6869/421	19941 BEAVER CREEK RD, HAGERSTOWN, MD 21740	48/309
23	CUNNINGHAM RUTH ANN DOMER	MINER AVE	3069/290	17101 MINER AVE, WILLIAMSPORT, MD 21795	48/618

May 1, 2024

Washington County Board of Appeals
80 West Baltimore Street
Hagerstown, Maryland 21740

Re: NewCold Reading LLC – Proposed High-Bay Cold Storage Warehouse

+/- 32.108 acres (TM 48, Parcel 282) located adjacent to Interstate 70 on the southeast side of Virginia Avenue (US Rte. 11)

Request for Variance from (i) Off Street Parking Requirement; and (ii) Maximum Structure Height

Dear Board Members:

My client, NewCold Reading LLC ("**Applicant**"), is the contract purchaser and potential developer of a proposed Warehouse / Distribution Facility on that certain property consisting of +/- 32.108 acres (TM 48, Parcel 282) located adjacent to Interstate 70 on the southeast side of Virginia Avenue (US Rte. 11) and currently owned by VA AVE, LLC, a Maryland limited liability company (the "**Property**").

In 2017, at the request of the property owner, the Property was rezoned by the Board of County Commissioners from ORT (Office, Research and Technology) to IR (Industrial, Restricted). A copy of that rezoning case (RZ-16-003) is attached hereto along with the current parcel and zoning map.

As recited in the Findings of Fact and Decision in the 2017 rezoning case, the Property: "is a vacant parcel located along the south side of Virginia Avenue (US Rt. 11), just east of where it passes under Interstate 70. It has 418' of frontage on Virginia Avenue and 1,400' of common boundary on the east side of Interstate 70. The parcel's southeastern boundary is approximately 1,480' along the CSX railroad line. The Potomac Edison Company offices and materials storage facility are located on the opposite side of this rail line." (p. 1)

With regard to the area surrounding the Property, the Findings of Fact and Decision in the 2017 rezoning case provided the following description:

[The Property] is surrounded by major transportation corridors, including a railroad line, Route 11, and Interstate 70. It abuts Business General and Business

Local zones to the east and at its westernmost point, and an Industrial, General zone to the south. Residential Transition zoning is found to the west and north. Residential Urban and Residential Suburban uses are found in the more distant extremities of the neighborhood.

Thus, the neighborhood is mixed-use, and transitional in the immediate environs of this property, with commercial areas to the east, an industrial area to the south, and residential uses, mostly, to the north and west. The residential zones are distinctly severed from the subject property by Route 11 and Interstate 70. The presence of the existing IG zone to the south and BL and BG zones to the east supports the reclassification of the property to the requested Industrial Restricted zone. (p. 7)

Off-Street Parking Requirement

The Applicant is requesting a variance from the Off-Street Parking Requirement for "Warehouse or Wholesale Establishments" which, pursuant to § 22.12 of the Zoning Ordinance, is:

1 space per 1.5 employees on the main shift or 1 space per 1,500 sq. ft GFA, whichever is greater, plus 1 space per 350 sq. ft. GFA of sales and/or office space

As shown and depicted on the attached (i) concept plan; and (ii) four (4) building elevations, the Applicant is currently working on plans for a +/- 480,450 sf. automated frozen high-bay warehouse building (the "**Project**"). It is anticipated that the Project will consist of approximately 467,150 sf. of warehouse space and 13,300 sf. of office space to support the warehouse use.

As applied to the Project, the applicable Off-Street Parking Requirement would require a total of 350 parking spaces; 312 spaces for the warehouse portion of the Project and 38 spaces for the office portion.

As reflected on the current Concept Plan for the Project, a total of 115 parking spaces are proposed.

As also reflected on the Concept Plan for the Project, in addition to the 115 parking spaces there are 185 trailer drops spaces which are essential to the efficient operation of the site.

To require the additional parking spaces necessary to comply with the currently applicable Off-Street Parking Requirement would require the Applicant to either lose a portion of the more important trailer stalls; or construct, at a minimum, an additional

42,300 square feet (+/- .98 ac.)¹ of paved area (not counting additional drive aisles). Both of which would impose an undue burden on the Applicant.

The requested parking space variance is consistent with the operational requirements of this type of use and thus granting the variance would observe the spirit of the Ordinance and secure public safety and welfare. This fact is demonstrated by the Board's approval of similar variances for other projects.

Maximum Height

The Applicant is requesting a variance to Maximum Height restriction in the IR (Industrial, Restricted) zoning district (§ 13.4) from a maximum of 75' to a maximum of 150'.

This variance is only needed for the +/- 255,000 sf. portion of the Project that will be the high-bay storage area which, subject to final engineering and design, will be between 135' - 150' in height. The remaining, supporting elements of the building will have respective heights from 26' - 53' all well within the current 75' limit.

Unique and Unusual

As described in the seminal case of *Cromwell v. Ward*, 102 Md.App. 691, 694-95 (1995): "The first step requires a finding that the property whereon structures are to be placed (or uses conducted) is, in and of itself, unique and unusual in a manner different from the nature or surrounding properties such that the uniqueness and peculiarity of the subject property causes the zoning provision to impact disproportionately upon the property."

In this case the tapered, pie-shaped configuration of the Property, with the narrow section fronting Virginia Avenue and wider section abutting the Interstate, Railroad Tracks and adjacent IG (Industrial, General) property, is unique and unusual in a manner different from the nature of the surrounding properties. Moreover, that uniqueness makes horizontal construction, rather than vertical, impractical.

Practical Difficulty

As a dimensional rather than use variance, it is the "practical difficulty" standard which is applicable to this request for a height variance and Section 25.56(A) of the Zoning Ordinance sets forth the criteria for finding practical difficulty:

1. Strict compliance would unreasonably prevent use of the property for a permitted purpose or render conformance unnecessarily burdensome;

¹ Based upon the standard stall dimension of 9' x 20' (180 sf.)

2. Denying the variance would do substantial injustice to the applicant and a lesser relaxation than that applied for would not give substantial relief; and
3. Granting the variance would observe the spirit of the Ordinance and secure public safety and welfare.

In this case, requiring strict compliance with the 75' maximum height requirement would render conformance unnecessarily burdensome.

Specifically, it would drastically reduce if not eliminate the operational efficiency sought to be achieved by the Applicant's proposed fully automated, high-bay building the benefits of which include the elimination of expensive manual errors in the handling of product; up to +/- 50% reduction in energy consumption; and a +/- 60% reduction in the building footprint.

Moreover, a lesser relaxation than the requested maximum height of 150' (for only a 53% of the building) would prevent the realization of the Project's designed efficiencies and thus not give substantial relief and would do substantial injustice to the Applicant.

As seen from the conceptual renderings attached hereto showing the proposed building from the perspective of (i) Virginia Avenue to the north; (ii) the Potomac Edison to the southwest; and (iii) Anderson Drive to the southeast (across I-70), the modulation in height for different sections of the proposed building, the property's natural topography and buffering, and the building's location on the property, all mitigate the visual impact of the requested height variance for the high-bay portion of the building.


As such, granting the requested variance would not violate the spirit of the Zoning Ordinance or jeopardize public safety or welfare.

Simply put, the current 75' limitation is prohibitive to a fully automated, high-bay cold-storage facility focused on efficiency such as the one proposed by Applicant. This Project is designed and intended to do more with less land and energy consumption. Objectives very much consistent with the spirit and intent of the Zoning Ordinance.

In light of the foregoing, Applicant believes it's request for a variance from § 22.12 and § 13.4 are both justified and should be granted on the basis of practical difficulty pursuant to §25.56 of the Zoning Ordinance.

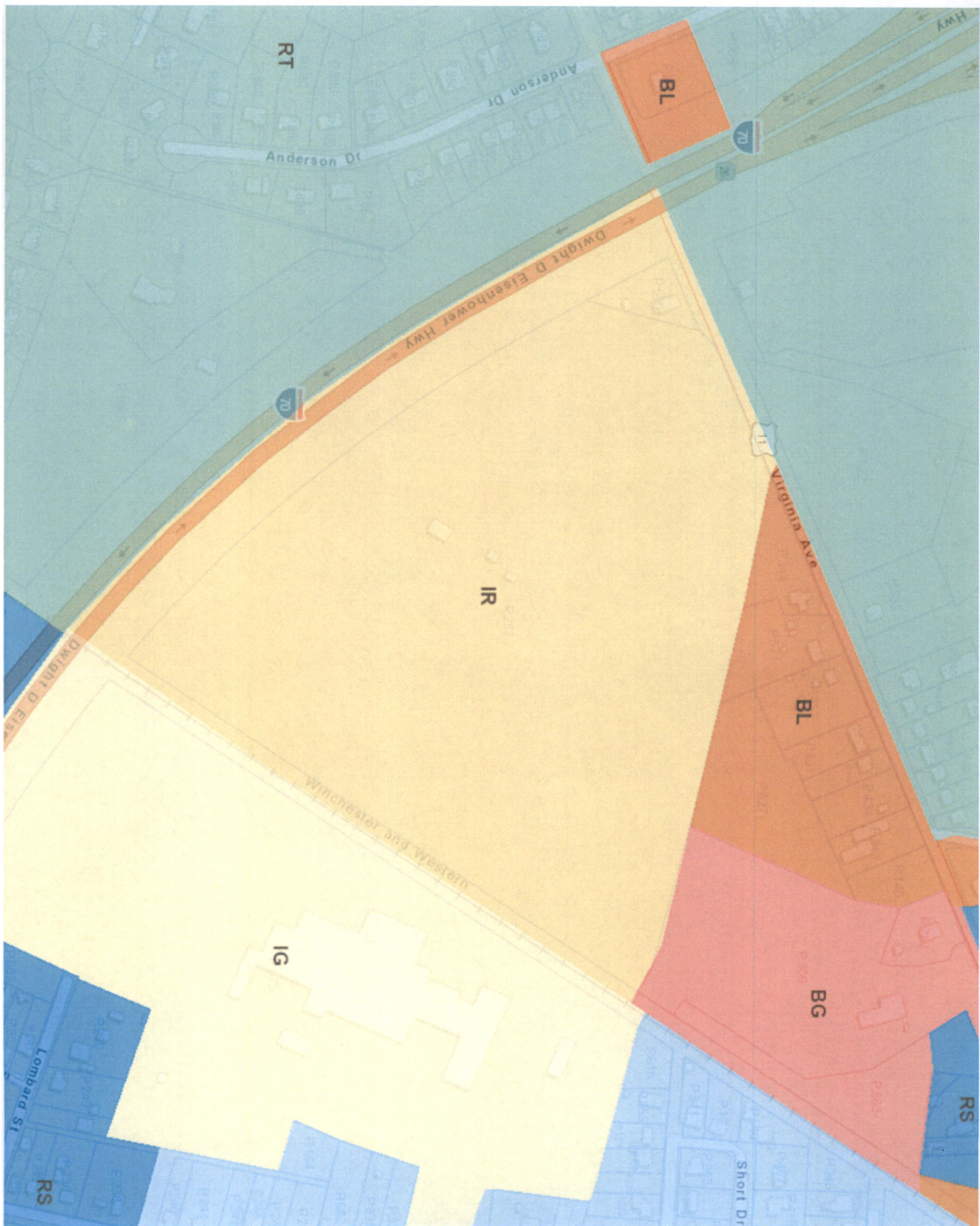
I look forward to discussing the Applicant's Project and the details of the within variance request at the Board's next available meeting.

Very truly yours,
JD LAW COMPANY, INC.



Jason M. Divelbiss
Attorney at Law

Email: divelbiss@divelbisslaw.com



CONCEPT DATA

PROPOSED LOT:	33.7 ACRES ±
ZONING:	IN
BUILDING HEIGHT:	75' MAXIMUM
	135' - 150' PROPOSED (VARIANCE REQUIRED)
SETBACKS:	
FRONT	50'
SIDE	25' (100' WHEN ABUTS RR, RT, RS, RU OR RM DISTRICT)
REAR	25' (100' WHEN ABUTS RR, RT, RS, RU OR RM DISTRICT)
	0' WHEN ADJOINING A RAIL
REQUIRED PARKING:	1 SPACE PER 1.5 EMPLOYEES ON THE MAIN SHIFT OR 1 SPACE PER 1,500 SF GFA OR WHICHEVER IS GREATER, PLUS 1 SPACE PER 350 GFA OF SALES AND/OR OFFICE SPACE
PROPOSED PARKING:	350 SPACES REQUIRED
	115 AUTO SPACES PROPOSED (VARIANCE REQUIRED)
	185 TRAILER SPACES PROPOSED

VIRGINIA AVENUE
ROUTE 11

100' MBSL

DEDICATED MD SHA ROW

50' MBSL

OFFICE
32'
Height

52'
Height

26'
Height

53'
Height

PROPOSED BUILDING
480,450 SF ±

135' - 150'
Height

26'
Ht.

PROPOSED RAIL
SPUR

RAILROAD

CONCEPT NOTES

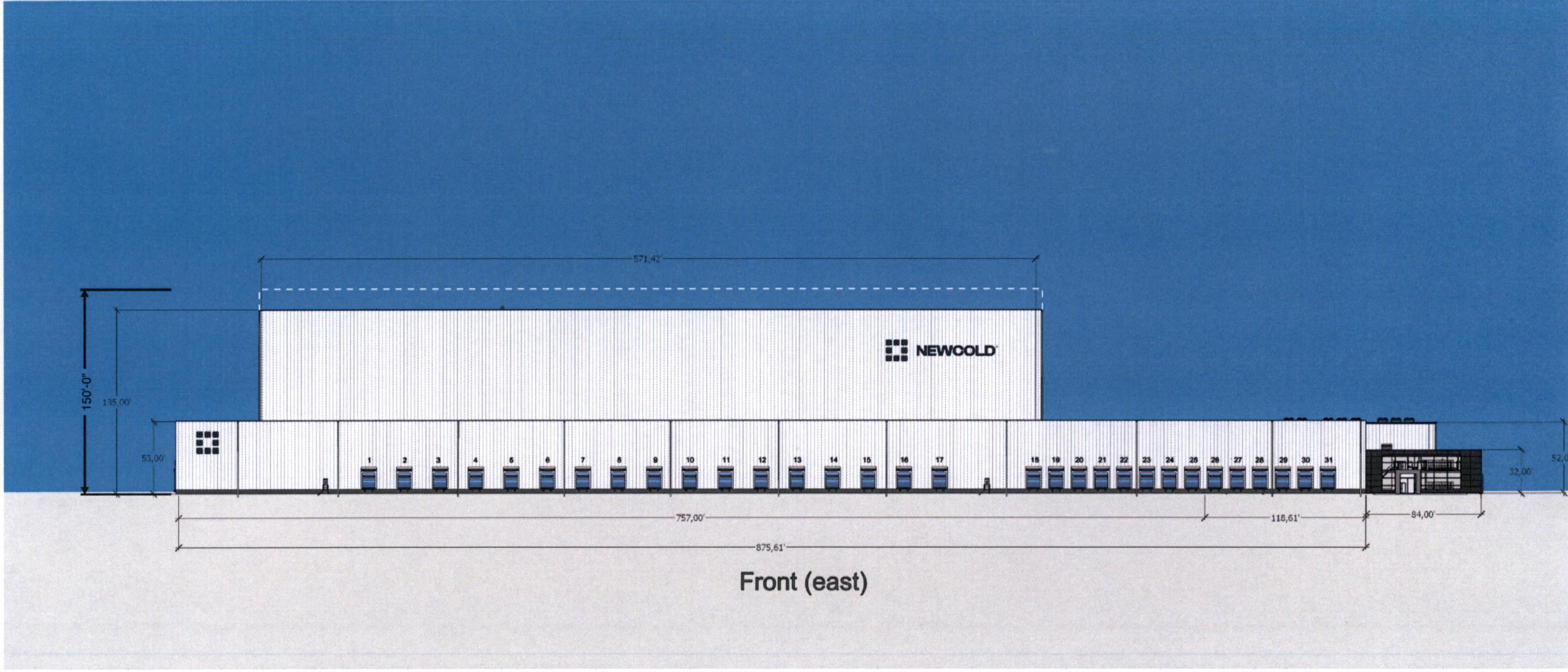
1. THIS PLAN IS CONCEPTUAL. ADDITIONAL DUE DILIGENCE MUST BE COMPLETED TO ASSURE THAT THIS PROPERTY CAN BE DEVELOPED AS SHOWN.
2. STORMWATER MANAGEMENT HAS NOT BEEN DESIGNED AS PART OF THIS STUDY.
3. NO RAIL SPUR DESIGN HAS BEEN COMPLETED FOR THIS PLAN.
4. NO UTILITY STUDIES HAVE BEEN COMPLETED FOR THIS PLAN.
5. NO GRADING STUDIES HAVE BEEN COMPLETED FOR THIS PLAN.
6. ALL PROPOSED ENTRANCES AND/OR ROAD IMPROVEMENTS ARE CONCEPTUAL. ADDITIONAL DUE DILIGENCE MUST BE COMPLETED TO DETERMINE THE FEASIBILITY OF THE SHOWN ENTRANCES.



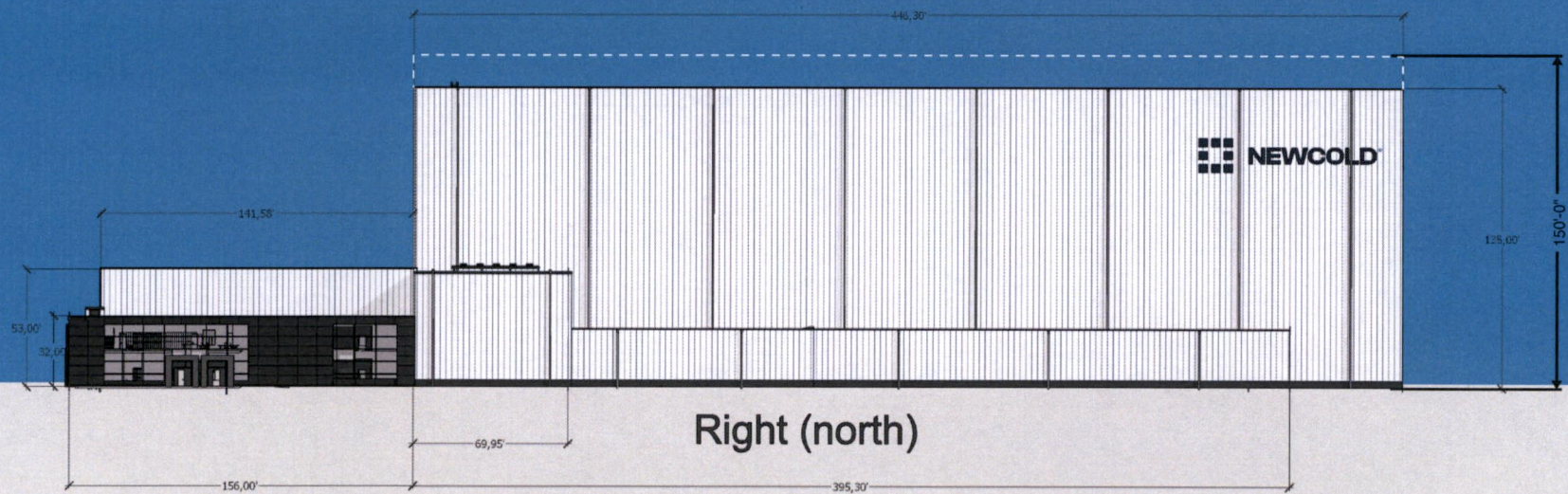




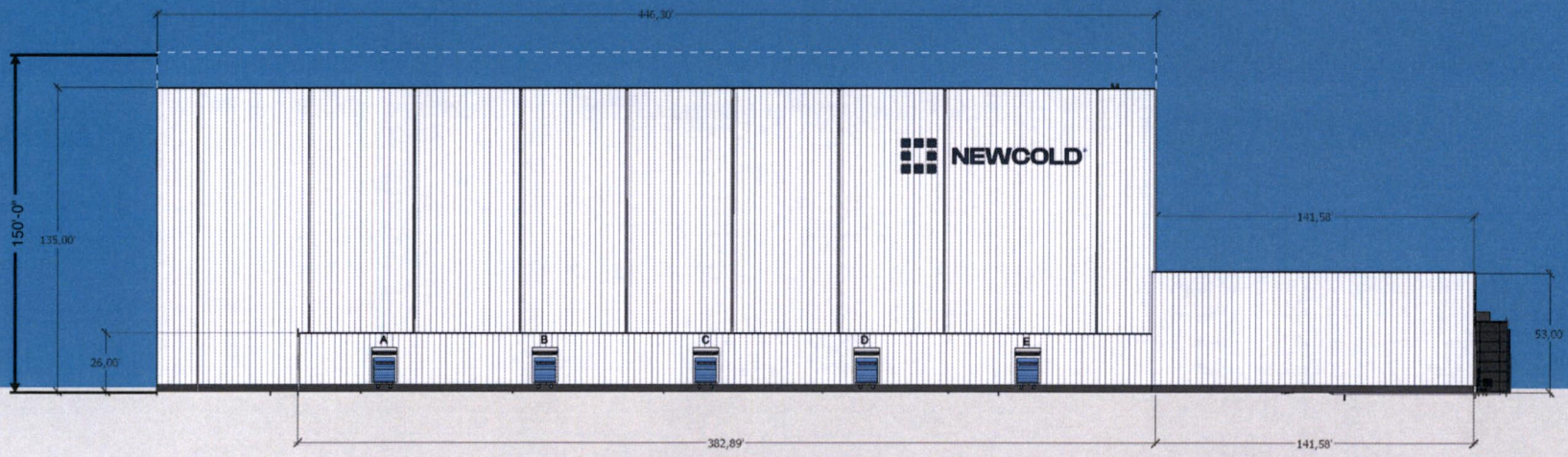




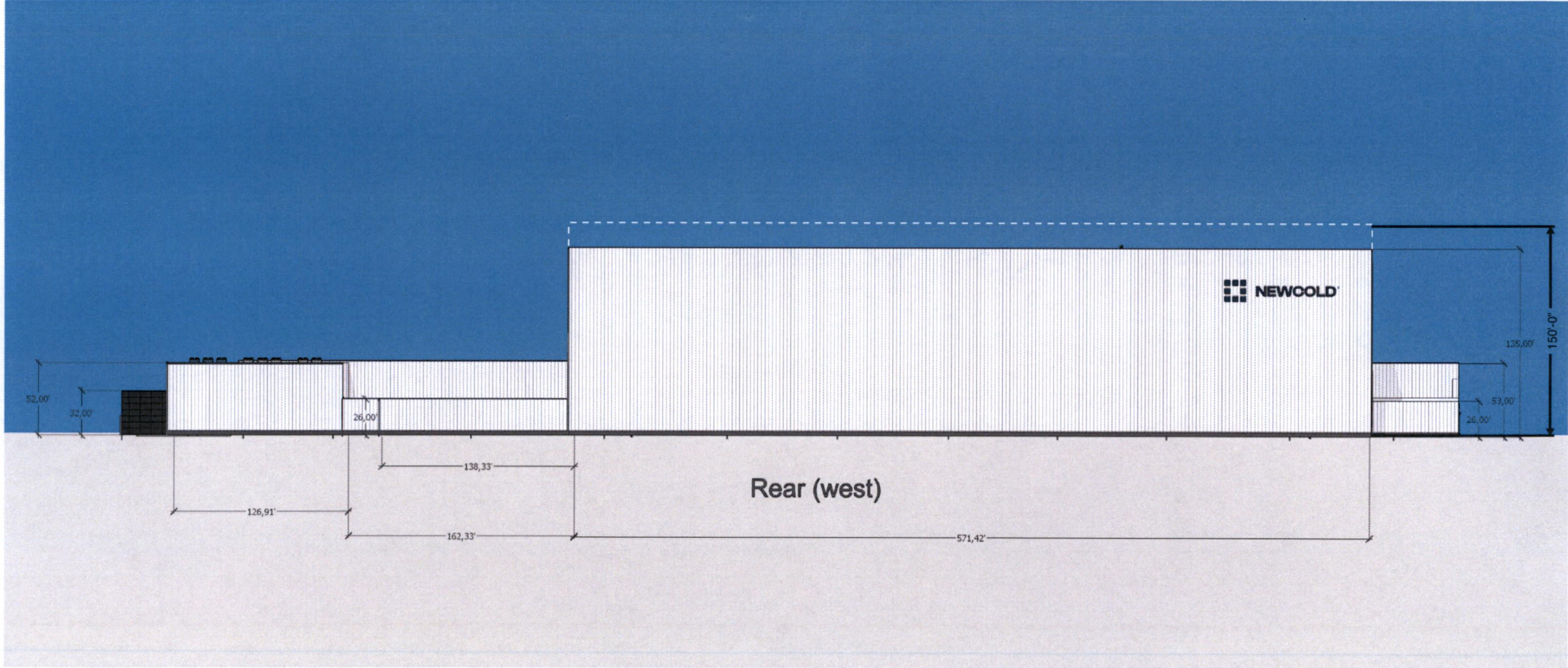
Front (east)



Right (north)



Left (south)



ORDINANCE NO. ORD-2017-11

**AN ORDINANCE TO AMEND THE ZONING MAP
FOR WASHINGTON COUNTY, MARYLAND
(RZ-16-003)**

Pursuant to the provisions of Section 27.1 of the Zoning Ordinance for Washington County, Maryland (*Zoning Ordinance*), VA AVE, LLC, the Applicant, has petitioned the Board of County Commissioners for Washington County, Maryland (*Board*), for a zoning reclassification and a zoning map amendment of property owned by the Applicant and consisting of 32.78 acres of land, more or less, situated on the south side of Virginia Avenue adjacent to Interstate 70, Hagerstown, Maryland, and more particularly identified in the Ordinance Amendment Application found in the record herein.

The matter has been designated as Case No. RZ-16-003.

A public hearing was held on the application pursuant to Section 27.2 of the Ordinance, where the Applicant and others presented evidence, testimony, and information relating to the zoning reclassification.

The Board has considered all information presented at the public hearing, the recommendation of the Planning Commission, and each of those factors set forth in Md. Code Ann., Land Use § 4-204 and Section 27.3 of the Zoning Ordinance.

The Board has made factual findings and conclusions of law that are set forth in the attached Decision. The findings of fact and conclusions of law are incorporated herein.

NOW, THEREFORE, BE IT ENACTED AND ORDAINED, by the Board of County Commissioners of Washington County, Maryland, that the property which is the subject of Case No. RZ-16-003 be, and hereby is, granted an Industrial Restricted (IR) zone classification.

IT IS FURTHER ENACTED AND ORDAINED that the official Zoning Map be, and hereby is, amended accordingly. The Director of Planning and Zoning shall cause the Zoning Map to be amended pursuant to this Ordinance.

Adopted and effective this 8th day of August, 2017.

ATTEST:

BOARD OF COUNTY COMMISSIONERS
OF WASHINGTON COUNTY, MARYLAND

Vicki C. Lumm
Vicki C. Lumm, Clerk

BY: Terry L. Baker
Terry L. Baker, President

Approved as to form and
legal sufficiency:

Kirk C. Downey
Kirk C. Downey
Deputy County Attorney

Mail to:
Office of the County Attorney
100 W. Washington Street, Room 202
Hagerstown, MD 21740

**BOARD OF COUNTY COMMISSIONERS
OF WASHINGTON COUNTY, MARYLAND**

DECISION

Rezoning Case RZ-16-003

Property Owner:	VA AVE, LLC
Applicant:	VA AVE, LLC
Requested Zoning Change:	ORT – Office, Research and Technology to IR – Industrial, Restricted
Property:	South side of Virginia Avenue, adjacent to the east side of I-70

Pursuant to Md. Code Ann., Land Use § 4-204 and Washington County Zoning Ordinance § 27.3, we make findings of fact with respect to the following matters: population change, availability of public facilities, present and future transportation patterns, and compatibility with existing and proposed development for the area. We also consider the recommendation of the Planning Commission and the relationship of the proposed reclassification to the Plan.

Findings of Fact

The property.

The parcel of land which is the subject of this rezoning request is a vacant parcel located along the south side of Virginia Avenue (US Rt. 11), just east of where it passes under Interstate 70. It has 418' of frontage on Virginia Avenue and 1,400' of common boundary on the east side of Interstate 70. The parcel's southeastern boundary is approximately 1,480' along the CSX railroad line. The Potomac Edison Company offices and materials storage facility are located on the opposite side of this rail line.

The report and recommendation of the Planning Commission.

The Planning Commission recommended approval of the requested reclassification.

Population change in the area of the proposed change.

The subject property is located in the Halfway Election District #26. Population data for the district and Washington County are provided in the chart below:

Population Trends 1980-2010

Year	Area	Population	% change from previous
1980	District	9489	
	County	113086	
1990	District	9418	-0.7%
	County	121393	7.3%
2000	District	9854	4.6%
	County	131932	8.7%
2010	District	10774	9.3%
	County	147430	11.7%

Source: U. S. Department of Commerce, Bureau of Census

The election district has shown a 13.5% increase over the 30-year period, but it has not been a steady or consistent increase. All of the district increases have been smaller than the growth in the County over the same period. The election district experienced a slight loss of population between 1980 and 1990.

Availability of public facilities in the area.**Water and Sewer**

The subject property is located in the City of Hagerstown's public water service area and classified as W-1 meaning service is existing.

The subject property is located in a Washington County public sewer service area where treatment is provided at the County's Conococheague wastewater treatment plant. It is classified as W-3 which means that service is programmed for the future. The agency had no objection to the property rezoning.

Emergency Services

The Halfway Volunteer Fire Company provides fire protection services for the subject parcel. The fire station is located at 1114 Lincoln Avenue, approximately one mile to the east. The Halfway Volunteer Fire Company is also the emergency responder for this location.

Public Transportation

The subject property is served by the Williamsport Route (441) of the Washington County Transit System. The route runs between the Transit Center in Hagerstown and Williamsport and the majority of the trip is run on Virginia Avenue. The trip is made 12 times per day on weekdays and 11 times per day on weekends. The bus passes the subject property twice on each run.

Schools

The subject property is located in the attendance districts of Hickory Elementary School, Springfield Middle School and Williamsport High School. There are no students generated from the subject property now because it is vacant. The current Office, Research and Technology zoning district would not generate any school students because residential development is not a permitted use. The requested Industrial Restricted zoning also does not allow residential development so there would be no change as a result of a rezoning on public school facilities.

Present and Future Transportation Patterns.

Traffic volumes on Virginia Avenue (US Rt. 11) have increased since 1985, but without a consistent pattern. Overall there has been a 28% increase over the past 30 years. However, there was also a 29% decrease in the period between 1990 and 1995.

Year	U.S. 11/Virginia Avenue – between Halfway Blvd and I-70
2015	11392
2010	12530
2005	12650
2000	14250
1995	10225
1990	14575
1985	8875

Source: Maryland State Highway Administration

The State Highway Administration did not comment on the application.

Virginia Avenue fronts the property and is classified as an Other Principal Arterial (Non-Interstate). It is a well-traveled route in the Urban Growth Area and provides a direct connection between Hagerstown and Williamsport and

points beyond to the north and south. Other Principal Arterials in urban settings are expected to experience traffic of 20,000 ADT or greater. In most places along its route between Hagerstown and Williamsport, including at the frontage of this property, Virginia Avenue is a two-lane road with varying shoulder widths on each side. At some street intersections, there are multiple turning and through lanes. Several intersections are signalized.

Highway Plan (2002) Comprehensive Plan

I-70 widening is identified conceptually on the Highway Plan in the 2002 Comprehensive Plan. Since it would be a State project, there are no locally budgeted funds or plans for design, acquisition or construction for this project. The identified projects on the highway plan are not prioritized. It is also listed in the Recommendations for Highway Network Improvements at the end of the Transportation chapter of the Comprehensive Plan. I-70 widening is identified in the Hagerstown-Eastern Panhandle Metropolitan Planning Organization (HEPMPO) Long Range Transportation as an unfunded need. It is also identified in Maryland's Highway Needs Inventory for Washington County as an unfunded and unprioritized project. The need is recognized but no definite plans or budget exist at this time.

The section of Virginia Avenue from Halfway Boulevard to Williamsport has been identified in the current Comprehensive Plan as a candidate for sidewalks to improve the urban sidewalk system. The road shoulders in the area can accommodate pedestrians and bicycles, but they are not designated for such use.

Compatibility with existing and proposed development in the area, including indication of neighboring sites identified by the Washington County Historic Sites Survey and subsequent revisions or updates; and the relationship of the proposed change to the Adopted Plan for the County, Development Analysis Plan Map, and Policies.

Surrounding properties contain a variety of uses and zoning districts. Virginia Avenue forms the northern boundary and frontage of the subject property. Across the street is some sparse older residential development, some of it on large parcels, and several large areas of forest. Immediately to the east of the subject property and south of Virginia Avenue is a concentration of Business, Local and Business, General zoning, comprising approximately 18 acres with a mixture of small commercial and residential uses. In this area and within 2,000 feet of the subject property is a car wash, a Dollar General store, and a small restaurant. Also to the east and on the north side of Virginia Avenue is a cluster

of single-family residences in Residential Suburban zoning and an area of Residential, Multi-family zoning. Hickory Elementary School is also located in this area. To the east and the southeast are the CSX railroad tracks and the Potomac Edison offices and storage yard in Industrial, General zoning, the only industrial zoning in the area. Further to the southeast is a large area of residential development in Residential, Suburban and Residential, Urban zoning. To the west, on the opposite side of I-70 is a substantial amount of residential development, including hundreds of dwelling units in the Tammy and Van Lear subdivisions in Residential, Transition zoning. A small Business, General zone containing an ice cream shop adjacent to the residential area and immediately adjacent to the west side of I-70.

Historic inventory sites within ½ mile of the subject property include:

- WA-I-382 – “Charlton Farm,” Mid-19th century, 2-story brick house, barn, outbuildings (.4 miles away).

Historic inventory sites with 1 mile of the subject property include:

- WA-I-356 – “Hopewell Hereford Farm,” 19th century, 2-story stone farmhouse, barn and outbuildings;
- WA-I-357 – “Salisbury,” National Register listed, 19th century, 2-story brick home, associated with Sprecher’s Mill (early 19th century grist mill);
- WA-I-414 – “Sterling House,” late 19th century, 2-story brick farmhouse; and
- WA-I-023 – “Tammany Manor,” National Register listed, late 18th Century brick dwelling with elaborate interior and exterior details, associated with Van Lear family, prominent early Washington County residents related to William Findley (Pennsylvania governor) and Benjamin Harrison (U.S. President).

All of the inventory sites noted are on opposite sides of the interstates from the subject property. Reclassification of the property will have no effect on the historic inventory sites.

The relationship of the proposed change to the Adopted Plan for the County, Development Analysis Plan Map, and Policies.

The Comprehensive Plan assigns a Commercial land use designation to the subject property. The property is within the Urban Growth Area (UDA). The UGA is the target area for policies and regulations, including zoning

designations, which promote future growth and development served by publicly provided and maintained infrastructure. The Rural/Agricultural Area designation applies to all other areas of Washington County, where opposite but complementary policies and programs are intended to preserve agriculture, sensitive environments, heritage areas, and open space. Large scale or intense land uses are discouraged in the rural areas.

The subject property is currently zoned Office, Research and Technology (ORT). That district was created in 2002 to effect the recommendations of the 2002 Comprehensive Plan and to assist the Potomac Edison Property in the development of land around its offices as a technology business park. The district is purposely selective in the uses permitted to insure compatibility and to "promote and maintain desirable development activities in a setting that is in harmony with the surrounding areas, preserve open space by creating a "campus-like" setting, and promote architecturally attractive buildings and structures." The district also has design guidelines for setbacks, landscaping, buffers, lighting, sign and architectural treatments to promote compatibility. It is designed to produce offices and other buildings to house high technology industry that would have a minimal effect outside of the structure in which it is found.

The ORT district was determined to be appropriate for this location, among the mix of uses noted above, by the Urban Growth Area Advisory Committee that recommended it during the Comprehensive Urban Growth Area rezoning approved in 2012.

The purpose of the Industrial, Restricted (IR) district is likewise to allow permitted uses that have a lesser effect on adjacent properties than traditional manufacturing uses normally would. There is Industrial, General zoning immediately adjacent to the subject property across the CSX railroad tracks. The mixture of uses in the neighborhood and the proximity of other IR property to the subject property supports a conclusion that an IR designation for the subject property would not run afoul of the policy provisions of the Plan.

Whether there has been a substantial change in the character of the neighborhood where the property is located.

This factor is not applicable as the applicant's request is premised upon a mistake in the existing zoning classification.

Whether there was a mistake in the existing zoning classification.

The applicant argues that the ORT zoning applied to the subject property in 2012 was a mistake because the zoning authority overlooked the property's proximity to railroad tracks and Interstate 70. The applicant also argues that the zoning authority over anticipated the need for ORT-zoned land.

We agree that a mistake has been demonstrated. The property has been marketed for years with no interest from perspective developers, and the property's bordering of a railroad line, an interstate, and an adjacent Industrial General zone probably will not result in the property's evolvement into a "campus like" setting. We conclude that the 2012 application of the ORT classification was a mistake.

Whether there has been a convincing demonstration that the proposed rezoning would be appropriate and logical for the subject property.

The subject property is undeveloped. It was zoned Business General before the 2012 application of the Office, Research and Technology zone. It is surrounded by major transportation corridors, including a railroad line, Route 11, and Interstate 70. It abuts Business General and Business Local zones to the east and at its westernmost point, and an Industrial, General zone to the south. Residential Transition zoning is found to the west and north. Residential Urban and Residential Suburban uses are found in the more distant extremities of the neighborhood.

Thus, the neighborhood is mixed-use, and transitional in the immediate environs of this property, with commercial areas to the east, an industrial area to the south, and residential uses, mostly, to the north and west. The residential zones are distinctly severed from the subject property by Route 11 and Interstate 70. The presence of the existing IG zone to the south and BL and BG zones to the east supports the reclassification of the property to the requested Industrial Restricted zone. The IR zone is less intense than the IG zone, but allows the uses found in the BL and BG zones. It will well serve as a transitional area, and its suitability for that purpose is far greater than its suitability as a site for a "campus-like" ORT development.

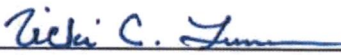
Conclusion


Having considered all of the testimony, evidence, and arguments presented, the facts and conclusions set forth in this Decision, and applying the Commissioners' "extensive local knowledge in determining zoning issues[.]" *Burgess v. 103-29 Ltd.*

Partnership, 123 Md. App. 293, 301 (1998), this application for a zoning district reclassification is hereby granted.

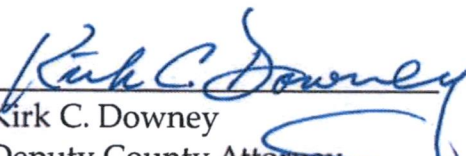
ATTEST:

BOARD OF COUNTY COMMISSIONERS
OF WASHINGTON COUNTY,
MARYLAND


Vicki C. Lumm, Clerk

BY: 
Terry L. Baker, President

Approved as to form and legal
sufficiency:


Kirk C. Downey
Deputy County Attorney

**BEFORE THE BOARD OF APPEALS
FOR WASHINGTON COUNTY, MARYLAND**

NEWCOLD READING, LLC

Appellant

Appeal No.: AP2024-019

* * * * *

OPINION

NewCold Reading, LLC (hereinafter “Appellant”) requests a variance to reduce the required parking spaces from 350 to 115 parking spaces and a variance to increased maximum height from 75 feet to 150 feet for a proposed high-bay cold storage warehouse at the subject property. The subject property is located at 16965 Virginia Avenue, Hagerstown, Maryland and is zoned Industrial, Restricted. The Board held a public hearing in this matter on May 22, 2024. Appellant was represented by Jason Divelbiss, Esq. at the hearing.

This appeal was heard pursuant to Article 25 of the Zoning Ordinance for Washington County and upon proper notice to the parties and general public as required.

Findings of Fact

Based upon the testimony given, all information and evidence presented, and upon a study of the specific property involved and the neighborhood in which it is located, the Board makes the following findings of fact:

1. VA Ave, LLC is the owner of the subject property located at 16965 Virginia Avenue, Hagerstown, Maryland. The subject property is zoned Industrial, Restricted.
2. Appellant is the contract purchase of the subject property and potential developer.
3. In 2017, the subject property was the subject of a rezoning, changing the zoning classification from Office, Research and Technology to Industrial, Restricted.
4. The subject property consists of approximately 32.108 acres located

adjacent to Interstate 70 on the southeast side of Virginia Avenue. The subject property has 481 feet of road frontage on Virginia Avenue and 1,400 of common boundary on the east side of Interstate 70. The southeastern boundary is approximately 1,480 feet along the CSX railroad line.

5. The subject property abuts the Business General and Business local zoning districts to the east and west, the Industrial General to the south and the Residential, Transition district to the west and north.

6. Appellant proposes to construct a 480,450 square-foot automated frozen high-bay warehouse building at the subject property. Approximately 467,150 square feet will be used for warehouse space and 13,300 square feet will office space to support the warehouse use. Approximately 255,000 square feet of the warehouse space will be high-bay storage area that will extend up to between 135 and 150 feet in height.

7. The proposed operation would have approximately 125 to 140 total employees with a maximum of 35-45 on any shift, with a total of 90 when shifts overlap. Employees will work on five (5) rolling shifts each day. Overlapping will occur approximately two (2) times per day.

8. Appellant has developed similar projects in at least three (3) other states as well as internationally. In each project, the high-bay storage was within the 135-to-150-foot range.

Rationale

The Board has authority to grant a variance upon a showing of practical difficulty or undue hardship. §§ 25.2(c) and 25.56.¹ “Practical Difficulty” may be found by the Board when: (1) strict compliance would unreasonably prevent the use of the property for a

¹ “When the terms unnecessary hardship (or one of its synonyms) and practical difficulties are framed in the disjunctive (“or”), Maryland courts generally have applied the more restrictive hardship standard to use variances, while applying the less restrictive practical difficulties standard to area variances because use variances are viewed as more drastic departures from zoning requirements.” *Belvoir Farms Homeowners Ass’n, Inc. v. North*, 355 Md. 259, 276 n.10 (1999) (citations omitted).

permitted purpose or render conformance unnecessarily burdensome; and (2) denying the variance would do substantial injustice to the applicant and a lesser relaxation than that applied for would not give substantial relief; and (3) granting the variance would observe the spirit of the Ordinance and secure public safety and welfare. § 25.56(A).

Practical difficulty and undue hardship are the result of a property being unique. "'Uniqueness' of a property for zoning purposes requires that the subject property have an inherent characteristic not shared by other properties in the area, i.e., its shape, topography, subsurface condition, environmental factors, historical significance, access or non-access to navigable waters, practical restrictions imposed by abutting properties (such as obstructions) or other similar restrictions." *North v. St. Mary's Cnty.*, 99 Md. App. 502, 514 (1994).)

Parking Variance

Pursuant to Section 22.12 of the Zoning Ordinance, warehouse or wholesale establishments require "1 space per 1.5 employees on the main shift or 1 space per 1,500 sq. ft. GFA, whichever is greater, plus 1 space per 350 sq. ft. GFA of sales and/or office space." As applied to the proposed project, Appellant would need a total of 350 parking spaces which includes 312 parking spaces for the warehouse and 38 parking spaces for the office. Appellant testified that based on the operation of the proposed facility, there would be a total of 125-150 total employees working in five (5) rolling shifts that overlap. Thus, the project would require far less than the mandated 350 parking spaces.

Appellant also testified that approximately 255,000 square feet of the total area is part of the high bay portion of the warehouse. That leaves approximately 212,000 square feet of actual gross floor area, for which the Ordinance would require 141 parking spaces. The request for 115 parking spaces is only a small departure from this number and therefore reasonable under the circumstances. If Appellant were to comply with the strict requirements for parking, it would need to reduce the number of trailer stalls or install almost one (1) additional acre of paved area for parking. Given the shape of the lot and

proposed use, practical difficulty does exist, and the parking variance should be granted to allow for the most appropriate and efficient design of the subject property.

Height Variance

Pursuant to Section 13.4 of the Zoning Ordinance, “[no] structure shall exceed seventy-five feet in height, except as provided in Section 23.4. Section 23.4 exempts building height limitations from high density warehousing; however such warehousing is not otherwise defined by the Ordinance. Thus, Appellant seeks a general variance from the height limitations for buildings in the Industrial, Restricted zoning district.

Appellant testified that the building would have a modular look so as to disguise the high-bay storage area from the outside view. The height is necessary to efficiently store frozen food items and reduce cooling and energy costs. If Appellant were to comply with the strict height requirements, it would likely eliminate the operational efficiency sought be achieved in this unique design. As such, the absence of variance relief would be prohibitive for the project. Appellant asserts that all of this supports a finding of practical difficulty that justifies the variance relief.

There was considerable opposition presented by many of the nearby residents and property owners. The express concerns for traffic and noise and asserted that the proposed project was inconsistent with the character of the neighborhood.² The Board heard testimony that the proposed building does not resemble anything in the immediate area and would result in a ten (10) story building that everyone can see from their homes. Many of the witnesses were concerned about the disruption to the environment and the negative effect on their property values.

Generally speaking, the Board finds that many of concerns raised are valid given the nature of the project and the surrounding neighborhood. The Board appreciates the

² The Board was reminded that this was a variance request for a height increase and not a special exception request. The proposed use is already permitted under the Industrial, Restricted zoning classification.

citizens taking time to engage in the process and voice their concerns for what is happening in the community. However, the issue presented is not whether Appellant is permitted to locate a frozen high-bay storage warehouse at the subject property. That has been resolved by the Zoning Ordinance which permits such a use in the Industrial, Restricted zoning district. Instead, it is whether there is justification to grant a variance from the maximum height restrictions for the proposed building.

Having considered all of the testimony and evidence, the Board is concerned that approximately ten (10) stories of warehouse building is to be located among nearby homes. Furthermore, the Board struggles to find the justification for doubling the maximum allowable height for this project in the absence of a showing of uniqueness. Appellant provided a thorough presentation in support of its request, but failed to demonstrate how the property was unique and furthermore, that any such uniqueness related to the need for additional height on the building. Consequently, the Board finds that Appellant has not satisfied the criteria for the height variance and the request should be denied.

Accordingly, the variances to reduce the required parking spaces from 350 to 115 parking spaces for a proposed high-bay cold storage warehouse is GRANTED, by a vote 5 to 0. The variance to increase the maximum height from 75 feet to 150 feet for a proposed high-bay cold storage warehouse is DENIED, by a vote of 4 to 1.

BOARD OF APPEALS

By: Jay Miller, Chair³

Date Issued: June 21, 2024

Notice of Appeal Rights

Any party aggrieved by a final order of the Authority in a contested case, whether such decision is affirmative or negative in form, is entitled to file a petition for judicial review of that order to the Circuit Court for Washington County within thirty (30) days of the date of the order.

³ Mr. Miller was a Board member and served as Chair at the time of the hearing and decision in this matter. His term has since expired, and he is no longer a member of the Board of Appeals.



WASHINGTON COUNTY BOARD OF ZONING APPEALS

747 Northern Avenue | Hagerstown, MD 21742-2723 | P: 240.313.2430 | F: 240.313.2431 | Hearing Impaired: 7-1-1

ZONING APPEAL

Property Owner: Obidi Holdings LLC
303 Memorial Boulevard West
Hagerstown MD 21740

Appellant: Obidi Holdings LLC
303 Memorial Boulevard
Hagerstown MD 21740

Property Location: 13316 Marsh Pike, Unit#
Hagerstown, MD 21742

Description Of Appeal: Special exception to establish a full service physicians' office in a new commercial building.

Docket No: AP2024-020
Tax ID No: 27016243
Zoning: RS
RB Overlay: No
Zoning Overlay:
Filed Date: 05/02/2024
Hearing Date: 05/22/2024

Appellant's Legal Interest In Above Property:

Owner:	Yes	Contract to Rent/Lease:	No
Lessee:	No	Contract to Purchase:	No
Other:			

Previous Petition/Appeal Docket No(s): AP2021-026 & AP2022-029

Applicable Ordinance Sections: Washington County Zoning Ordinance Section 8.2 (e)

Reason For Hardship:

If Appeal of Ruling, Date Of Ruling:

Ruling Official/Agency:

Existing Use: Vacant Commerical Building **Proposed Use:** New Commerical Building for Physicians Office

Previous Use Ceased For At Least 6 Months: **Date Ceased:**

Area Devoted To Non-Conforming Use - **Existing:**

Proposed:

I hereby affirm that all of the statements and information contained in or filed with this appeal are true and correct.

Appellant Signature

State Of Maryland, Washington County to-wit:

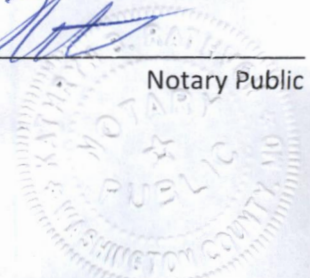
Sworn and subscribed before me this 2 day of May, 2024.

My Commission Expires

Kathryn B. Rathvon
NOTARY PUBLIC
WASHINGTON COUNTY
MARYLAND

MY COMMISSION EXPIRES NOVEMBER 07, 2025

Notary Public





WASHINGTON COUNTY BOARD OF ZONING APPEALS

747 Northern Avenue | Hagerstown, MD 21742-2723 | P:240.313.2430 | F:240.313.2431 | Hearing Impaired: 7-1-1

AFFIDAVIT IN COMPLIANCE WITH SECTION 25.51(C)

Docket No: AP2024-020

State of Maryland Washington County, To Wit:

On 5/2/2024, before me the subscriber, a Notary of the public of the State and County aforesaid, personally appeared The Clabaugh Law Firm and made oath in due form of law as follows:

The Clabaugh Law Firm will post the zoning notice sign(s) given to me by the Zoning Administrator in accordance with Section 25.51(c) of the Washington County Zoning Ordinance for the above captioned Board of Appeals case, scheduled for public hearing on 05/22/2024, and that said sign(s) will be erected on the subject property in accordance with the required distances and positioning as set out in the attached posting instructions.

Sign(s) will be posted on 05/07/2024 and will remain until after the above hearing date.

The Clabaugh Law Firm

Sworn and subscribed before me the day and year first above written.

Notary Public



My Commission Expires

Seal



BOARD OF ZONING APPEALS

OWNER REPRESENTATIVE AFFIDAVIT

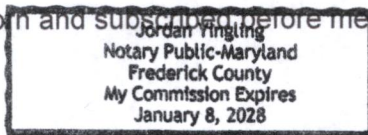
This is to certify that Tracie L. Clabaugh, Esq. with The Clabaugh Law Firm
is authorized to file an appeal with the Washington County Board of Appeals for
Obidi Holdings, LLC on property
located 13316 Marsh Pike, Hagerstown, Maryland 21742
The said work is authorized by Obidi Holdings, LLC
the property owner in fee.

PROPERTY OWNER

Obidi Holdings, LLC
Name
13316 Marsh Pike
Address
Hagerstown, Maryland 21742
City, State, Zip Code

Owner's Signature

Sworn and subscribed before me this 1st day of May, 20 24.



[Signature]
Notary Public

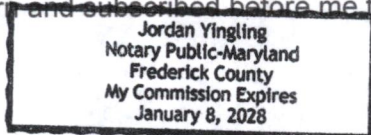
My Commission Expires: January 8, 2028

AUTHORIZED REPRESENTATIVE

Tracie L. Clabaugh, Esq. The Clabaugh Law Firm
Name
2 S. Wisner Street
Address
Frederick, Maryland 21701
City, State, Zip Code

Authorized Representative's Signature

Sworn and subscribed before me this 1st day of May, 20 24.



[Signature]
Notary Public

My Commission Expires: January 8, 2028

747 Northern Avenue | Hagerstown, MD 21742 | P: 240.313.2430 | F: 240.313.2461 | Hearing Impaired: 7-1-1



BOARD OF ZONING APPEALS

747 Northern Avenue | Hagerstown, MD 21742 | P: 240.313.2430 | F: 240.313.2461 | Hearing Impaired: 7-1-1

WWW.WASHCO-MD.NET

Appeal for Special Exception

Appeal is hereby made for a special exception under the Washington County Zoning Ordinance as follows:

Location 13316 Marsh Pike, Hagerstown, Maryland 21742

Appellant's present legal interest in above property: (Check One)

☒ Owner (Including Joint Ownership) ☐ Lessee ☐ Contract to rent/lease
☐ Contract to Purchase ☐ Other _____

Use Proposed: Doctor's Office

Zoning Ordinance section and subsection(s) providing for proposed use: Doctor's office - Section 8.2(e) of Zoning Ordinance.

If filing functionally similar to a principal permitted use or special exception use, please list the use and describe the use similarities: Doctor's office

Provide Detailed Explanation on Separate Sheet

Has any previous petition or appeal involving this property been made to the Board?

☒ Yes ☐ No

If yes, give docket number(s): AP 2022-029 (see attached)

Additional comments, if any: See Justification Statement to be submitted separately.

I hereby certify that I have, to the best of my knowledge, accurately supplied the information required for the above referenced appeal.

gjm
Signature of Appellant

tracie@theclabaughlawfirm.com
Email of Appellant

2 S. Wisner Street Frederick, MD 21701
Address of Appellant

240.439.3787
Phone Number of Appellant

This appeal form is to be used to assist the customer in gathering the information necessary to submit an application. However, the application shall be processed in person.



May 2, 2024

VIA HAND DELIVERY

Washington County, Maryland
Attn: Katie Rathvon
Zoning Coordinator, Division of Planning & Zoning
747 Northern Avenue
Hagerstown, Maryland 21742

RE: Appeal for Special Exception – Property located at 13316 Marsh Pike, Hagerstown, Maryland 21742 (the “**Property**”)

Dear Katie:

Please find enclosed the application for Appeal for Special Exception (and attachments) and the Owner Representative Affidavit for the Property.

As per email correspondence, I will submit the Justification Statement on or before Tuesday, May 7, 2024.

Please call with any questions you might have. Thank you.

Sincerely,

Tracie L. Clabaugh, Esq.

Enc: (as noted)



BOARD OF ZONING APPEALS

747 Northern Avenue | Hagerstown, MD 21742 | P: 240.313.2430 | F: 240.313.2461 | Hearing Impaired 7-1-1

WWW.WASHCO-MD.NET

Appeal for Special Exception

Appeal is hereby made for a special exception under the Washington County Zoning Ordinance as follows:

Location 13316 Marsh Pike, Hagerstown, Maryland 21742

Appellant's present legal interest in above property: (Check One)

☒ Owner (Including Joint Ownership) ☐ Lessee ☐ Contract to rent/lease
☐ Contract to Purchase ☐ Other _____

Use Proposed: Doctor's Office

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If filing functionally similar to a principal permitted use or special exception use, please list the use and describe the use similarities: Doctor's office

Provide Detailed Explanation on Separate Sheet

Has any previous petition or appeal involving this property been made to the Board?

☒ Yes ☐ No

If yes, give docket number(s): HP 2022-029 (see attached)

Additional comments, if any: See Justification Statement to be submitted separately.

I hereby certify that I have, to the best of my knowledge, accurately supplied the information required for the above referenced appeal.

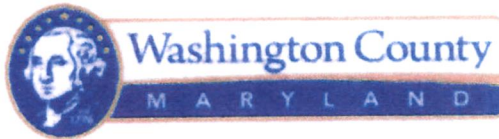
gm
Signature of Appellant

tracie@theCLabaughlawfirm.com
Email of Appellant

2 S. Wisner Street Frederick, MD 21701
Address of Appellant

240.439.3787
Phone Number of Appellant

This appeal form is to be used to assist the customer in gathering the information necessary to submit an application. However, the application shall be processed in person.



BOARD OF ZONING APPEALS

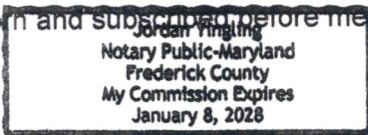
OWNER REPRESENTATIVE AFFIDAVIT

This is to certify that Tracie L. Clabaugh, Esq. with The Clabaugh Law Firm
is authorized to file an appeal with the Washington County Board of Appeals for
Obidi Holdings, LLC on property
located 13316 Marsh Pike, Hagerstown, Maryland 21742
The said work is authorized by Obidi Holdings, LLC
the property owner in fee.

PROPERTY OWNER

Obidi Holdings, LLC
Name
13316 Marsh Pike
Address
Hagerstown, Maryland 21742
City, State, Zip Code
[Signature]
Owner's Signature

Sworn and subscribed before me this 1st day of May, 2024.



[Signature]
Notary Public

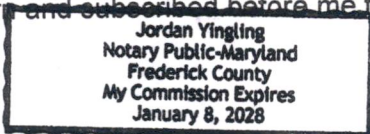
My Commission Expires: January 8, 2028

AUTHORIZED REPRESENTATIVE

Tracie L. Clabaugh, Esq. The Clabaugh Law Firm
Name
2 S. Wisner Street
Address
Frederick, Maryland 21701
City, State, Zip Code

[Signature]
Authorized Representative's Signature

Sworn and subscribed before me this 1st day of May, 2024.



[Signature]
Notary Public

My Commission Expires: January 8, 2028



WASHINGTON COUNTY BOARD OF ZONING APPEALS

747 N. Main Street, Hagerstown, MD 21740-1000 • 410-326-1240 • www.washingtoncountymd.gov

ZONING APPEAL

Property Owner: FHCPIV LLC
C/O Robert Baer
13316 Marsh Pike
Hagerstown MD 21740

Appellant: Obidi Holdings LLC
97 Lily Lane
Frankfort MA 04438

Property Location: 13316 Marsh Pike
Hagerstown MD 21740

Description Of Appeal: Special exception to establish a full service physical therapy office in existing commercial building

Appellant's Legal Interest In Above Property: Owner: ☒ No
Contract to Rent/Lease: ☐
Lessee: ☐ No
Contract to Purchase: ☐ Yes
Other: ☐

Previous Petition/Appeal Docket No(s): AP2021-026

Applicable Ordinance Sections: Washington County Zoning Ordinance Section 8.2.1

Reason For Hardship:

If Appeal of Ruling, Date Of Ruling:

Ruling Official/Agency:

Existing Use: Commercial Office Space
Proposed Use: Physical Therapy Office

Previous Use Ceased For At Least 6 Months: ☐
Date Ceased:

Area Devoted To Non-Conforming Use: Existing: ☐
Proposed: ☐

I hereby affirm that all of the statements and information contained in or filed with this appeal are true and correct.

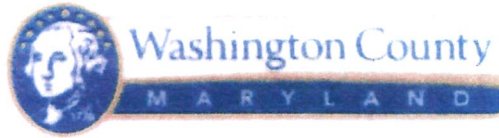
[Signature]
Appellant Signature

State Of Maryland, Washington County to-wit:

Sworn and subscribed before me this 14 day of June, 2022

[Signature]
My Commission Expires

[Signature]
Notary Public



BOARD OF ZONING APPEALS

OWNER REPRESENTATIVE AFFIDAVIT

This is to certify that Obidi Holdings LLC
is authorized to file an appeal with the Washington County Board of Appeals for
a special exception to operate a full service physician's office on property
located 13316 Marsh Pike Hagerstown, Maryland 21742
The said work is authorized by FHCPM LLC
the property owner in fee

PROPERTY OWNER

FHCPM LLC

Name

97 Lily Lane

Address

Frankfort, Maine 04438

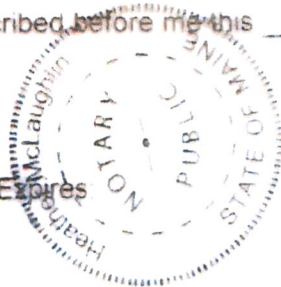
City, State, Zip Code

[Signature]

Owner's Signature

Sworn and subscribed before me this 8 day of June 2022

My Commission Expires



[Signature]
Notary Public

Heather McLaughlin

Notary Public, State of Maine

My Commission Expires Nov. 08, 20

AUTHORIZED REPRESENTATIVE

[Signature]

Name

30 West Bridge St. Suite 100

Address

Hagerstown, MD 21742

City, State, Zip Code

[Signature]
Authorized Representative's Signature

Sworn and subscribed before me this 1st day of June 2022

My Commission Expires

[Signature]
Notary Public



WASHINGTON COUNTY BOARD OF ZONING APPEALS

741 N. Market Street, Suite 200, Mount Airy, NC 27030-4400 | Phone: 704.435.4600 | Fax: 704.435.4601 | Email: zoning@washingtoncountync.gov

AFFIDAVIT IN COMPLIANCE WITH SECTION 25.51(C)

Docket No: AP2022-029

State of Maryland Washington County, To Wit:

On 6/14/2022, before me the subscriber, a Notary of the public of the State and County, after reading and being sworn, appeared Cody Weinberg and made oath in due form of law as follows:

Cody Weinberg will post the zoning notice sign(s) given to me by the Zoning Administrator in accordance with Section 25.51(c) of the Washington County Zoning Ordinance for the above captioned Board of Appeals case scheduled for public hearing on 07/06/2022, and that said sign(s) will be erected on the subject property in accordance with the required distances and positioning as set out in the attached posting instructions.

Sign(s) will be posted on 06/21/2022 and will remain until after the above hearing date.


Cody Weinberg

Sworn and subscribed before me the day and year first above written:


Notary Public

My Commission Expires
06/2025

Seal



WASHINGTON COUNTY DIVISION OF PERMITS & INSPECTIONS

747 Northern Avenue Hagerstown MD 21742 2723 240 313 2460 240 313 2461 Hearing Impaired 7 1 1

Receipt

PAYMENT RECEIPT: 266726

CASHIER: KRATHVON

DATE: 06/14/2022

Record Information

Record Number	Record Name	Site Address	Tax Acct ID
AP2022-029	Zoning Appeals Special Exception	13316 Marsh Pike	27016243

Fee Information

Description	Account Code	Invoice#	Amount
Board of Appeals	403030-10-10810	244024	\$500.00
Total Fee Amount:			\$500.00

Payment Information

Method	Reference No	Comments	Transaction Amount
Check	4297		\$500.00

Payor

Total Amount: \$500.00

DEJ Med Practice LLC
303 Memorial Boulevard West
Hagerstown MD 21740



WASHINGTON COUNTY BOARD OF ZONING APPEALS

747 Northern Avenue Hagerstown, MD 21742-2723; P: 240-313-2430 • 240-313-2431 Hearing Impaired: 7-1-1

June 14, 2022

Obidi Holdings LLC
97 Lily Lane
Frankfort MA 04438

RE: **Docket No:** AP2022-029
Zoning Dist: RS
Zoning Overlay: No
RB Overlay: No
Location: 13316 Marsh Pike
Hagerstown, MD 21742

Your appeal for the above referenced property has been made for a zoning permit which would authorize the following:

Special exception to establish a full service physicians' office in existing commercial building

The appeal is scheduled to be heard by the Board of Appeals on 07/06/2022, at 6:00 pm. This public hearing will be held in Public Meeting Room 2000, on the second floor of the County Administration Building, at 100 West Washington Street, Hagerstown, Maryland.

Individuals requiring special accommodations are requested to contact the Permitting Office at 240-313-2460 to make arrangements no later than 06/27/2022. Any person desiring a stenographic transcript shall be responsible for supplying a competent stenographer.

You are hereby requested to be present, either in person or represented by agent or counsel, to present your case.

Sincerely,

Katie Rathvon
Zoning Coordinator

JUSTIFICATION STATEMENT FOR SPECIAL EXCEPTION
DOCTOR/PHYSICIAN OFFICE IN “RS” RESIDENTIAL, SUBURBAN DISTRICT

I. INTRODUCTION

This application is made pursuant to Article 25.6 and Article 8 of the Washington County Zoning Ordinance (“**Zoning Ordinance**”).

Obidi Holdings, LLC, a Maryland limited liability company (the “**Applicant**”) requests the Board of Appeals (“**BOA**”) consideration and approval for a Special Exception for a Doctor’s Office in the “RS” Residential, Suburban District, together with the current residential tenant space on the second floor. The Applicant is the owner of the subject property, which is a ± 0.8260 acre commercial site, with an address of 13316 Marsh Pike, Hagerstown, Maryland 21742, and Tax Identification Number 27-016243, referred to collectively as the “**Subject Property**” or the “**Site**” or the “**Property**”.

The Subject Property is located within the vicinity of residential and commercial properties. The commercial properties consist of Hebron Mennonite Church, Paramount Baptist Church, Silhouette Salon, Middletown Valley Bank, and Paramount Elementary School. See **Exhibit A**, an aerial Google photo of the Subject Property and adjacent properties, attached hereto and incorporated herein by reference. See also **Exhibit B**, the Property and Zoning Web Map attached hereto and incorporated herein by reference.

Obidi Holdings appeared before the BOA in Appeal Docket Number AP 2022-029, a copy of the application is attached hereto as **Exhibit C** and incorporated herein by reference. The BOA approved Appeal Docket Number AP2022-029 (the “**Previously Approved SE**”). Since the BOA approval, the Applicant has been diligently working with its engineering and contracting team to plan and renovate the existing structure based on the testimony provided in the Previously Approved SE. However, after finding structural deficiencies in the current building, the Applicant and its team have come to the conclusion that the current building will need to be demolished in order to build the proposed doctor’s office as planned. The reasons for this decision include the following: (i) The current building is an older structure with at least two poorly constructed additions, which make it difficult, unsafe, and inefficient to “build out” patient examination rooms and other appurtenant areas for a doctor’s office; (ii) The additions that were constructed were not constructed well and the current building is not deemed physically stable enough per current building codes for the planned renovation. In order to renovate the current building, the Applicant would be required to structurally reinforce the current building, in order to comply with current building codes, at a significant cost; (iii) Sprinklers and other appurtenant equipment need to be installed to bring it to code; (iv) The current floor plan is not designed for a doctor’s office; and (v) The Applicant plans to install an elevator so that the second floor can be accessed. However, the structural deficiencies will not

permit the installation of an elevator in the current building. The Applicant respectfully requests as part of this Application for Special Exception that the current building located within the Subject Property be demolished and a new commercial building be constructed in its place for the proposed doctor's office and residential tenant space.

Information pertaining to the proposed use for a doctor's office:

Hours of Operation: Monday through Friday from 8 a.m. until 5:30 p.m. and Saturday from 9 a.m. until 12 p.m. Appointments would be encouraged.

Employees: 2 Providers, 4 – 5 in-office Staff, and 2 – 3 virtual Staff

Location of any freestanding signage: The location of the proposed freestanding sign will be located in the same location as the previous commercial signage. See Site Plan attached hereto as **Exhibit D** and incorporated herein by reference.

Proposed Landscaping and Lighting: See Site Plan attached hereto as **Exhibit D** and incorporated herein by reference.

As provided in the Previously Approved SE, this will be a second office location for this medical practice, and the Applicant would be creating more medical jobs for the County. The Subject Property will be served by public water and sewer facilities. The Applicant's proposed use fits within all required setbacks and meets the requirements of the Zoning Ordinance. See also **Exhibit C** and **Exhibit D**.

The Applicant has met with or plans to meet with the neighbors that live in close proximity to the Subject Property to discuss this intended use and the Special Exception Application.

II. **SPECIAL EXCEPTION STANDARD:**

The standard for the grant or denial of a special exception is whether there are facts and circumstances that show that the particular use proposed at the particular location would have any adverse effects above and beyond those inherently associated with such a special exception use irrespective of its location within the zoning district. *See also Schultz v. Pritts*, 291 Md. 1 (1981).

The BOA approved Applicant's previous application for Special Exception as provided above and on **Exhibit C**. The testimony provided with regard to the proposed use as a doctor's (or physician's) office and the Subject Property did not have any adverse effects above and beyond those inherently associated with a doctor's or physician's office irrespective of its location within the "RS" Residential, Suburban Zoning District. This information was provided in detail and testified to as part of Applicant's Previously Approved SE. The Subject Property has been used as a commercial property for many years. It is the Applicant's understanding that the Subject Property was once used as a gun shop and also a landscaping and garden equipment business, including a residential tenant space. The facts and circumstances as provided herein and as part of Applicant's Previously Approved SE show that this particular proposed use (as a doctor's office) and residential tenant space at the Subject Property would not have any adverse effects

above and beyond those inherently associated with such a special exception use irrespective of its location in the zoning district. See also the BOA Approval, which is part of Exhibit C.

III. SPECIAL EXCEPTION – ARTICLE 25.6 OF THE ZONING ORDINANCE (AS APPLICABLE):

Article 25.6 of the Zoning Ordinance provides, in pertinent part:

“In deciding such matters, the Board shall consider any other information germane to the case and shall give consideration to the following, as applicable:

(a) The number of people residing or working in the immediate area concerned.

Answer: The number of people residing or working in the immediate area of the Subject Property is comparable to a residential suburban community. There are residential properties and commercial properties near the Subject Property. As provided herein, the Subject Property is surrounded by residential properties and commercial properties, such as the Hebron Mennonite Church, Paramount Baptist Church, Silhouette Salon, Middletown Valley Bank, and Paramount Elementary School. See also Exhibit A and Exhibit B.

(b) The orderly growth of a community.

Answer: The Subject Property is located in an Urban and Town Growth Area. The Washington County, MD Comprehensive Plan 2040, on page 335, provides, in pertinent part: “[f]urthermore, it is clear that the County is maintaining its efforts to appropriately direct growth and that the greatest amount of development is taking place in the growth areas designated for development.” The Subject Property will continue to assist the County with its efforts of directing growth in this designated area of development. See also Exhibit B.

(c) Traffic conditions and facilities.

Answer: The traffic impact is negligible because the hours of operation and schedule of patients with limited providers will not substantially increase traffic for this commercial site. In addition, the footprint of the new building is no larger than the existing commercial building. See also Exhibit C for previous testimony and BOA approval of the Previously Approved SE.

(d) The effect of such use upon the peaceful enjoyment of people in their homes.

Answer: As provided above in paragraph III.c., and in the testimony of the Applicant’s Previously Approved SE, the surrounding residential uses will be able to continue to enjoy a peaceful environment in conjunction with the proposed use of the Subject Property. See also Exhibit C for previous testimony and BOA approval of the Previously Approved SE.

(e) The conservation of property values.

Answer: A newly constructed building will conserve (and possibly increase) property values in the community, and will serve and fit into the surrounding neighborhood. The current building has structural deficiencies, and a newly constructed building will be safer for the community.

(f) The effect of odors, dust, gas, smoke, fumes, vibrations, glare and noise upon the use of surrounding property values.

Answer: There will be no odors, dust, gas, smoke, fumes, vibrations, glare or noise upon the surrounding properties or property values with the proposed use of the Subject Property.

(g) The most appropriate use of land and structure.

Answer: Given the poor quality of the structure and structural deficiencies of the current building, the Applicant is respectfully requesting that the BOA permit the Applicant to demolish the current building located on the Subject Property and build a new commercial building for the proposed use. The Subject Property has been used as a commercial property for many years, and this is the most appropriate use for it.

(h) Decision of the courts.

Answer: As provided herein, the standard for the grant or denial of a special exception is whether there are facts and circumstances that show that the particular use proposed at the particular location proposed would have any adverse effects above and beyond those inherently associated with such a special exception use irrespective of its location within the zoning district. *See also Schultz v. Pritts*, 291 Md. 1 (1981). As provided herein, and in the Previously Approved SE, the proposed use would not have any adverse effects above and beyond those inherently associated with such a special exception use irrespective of its location within the zoning district. See the Previously Approved SE on **Exhibit C**.

(i) The purpose of these regulations as set forth herein.

Answer: The proposed use would not adversely impact the public health, safety, security, morals or general welfare, nor would it result in dangerous traffic conditions, nor would it jeopardize the lives or property of people living in the neighborhood. See the Previously Approved SE on **Exhibit C**.

(j) Type and kind of structures in the vicinity where public gatherings may be held, such as schools, churches and the like”.

Answer: As provided above, the Subject Property is surrounded by Hebron Mennonite Church, Paramount Baptist Church, Silhouette Salon, Middletown Valley Bank, and Paramount Elementary School. See also **Exhibit A** and **Exhibit B**.

III. ARTICLE 8 – “RS” RESIDENTIAL, SUBURBAN DISTRICT:

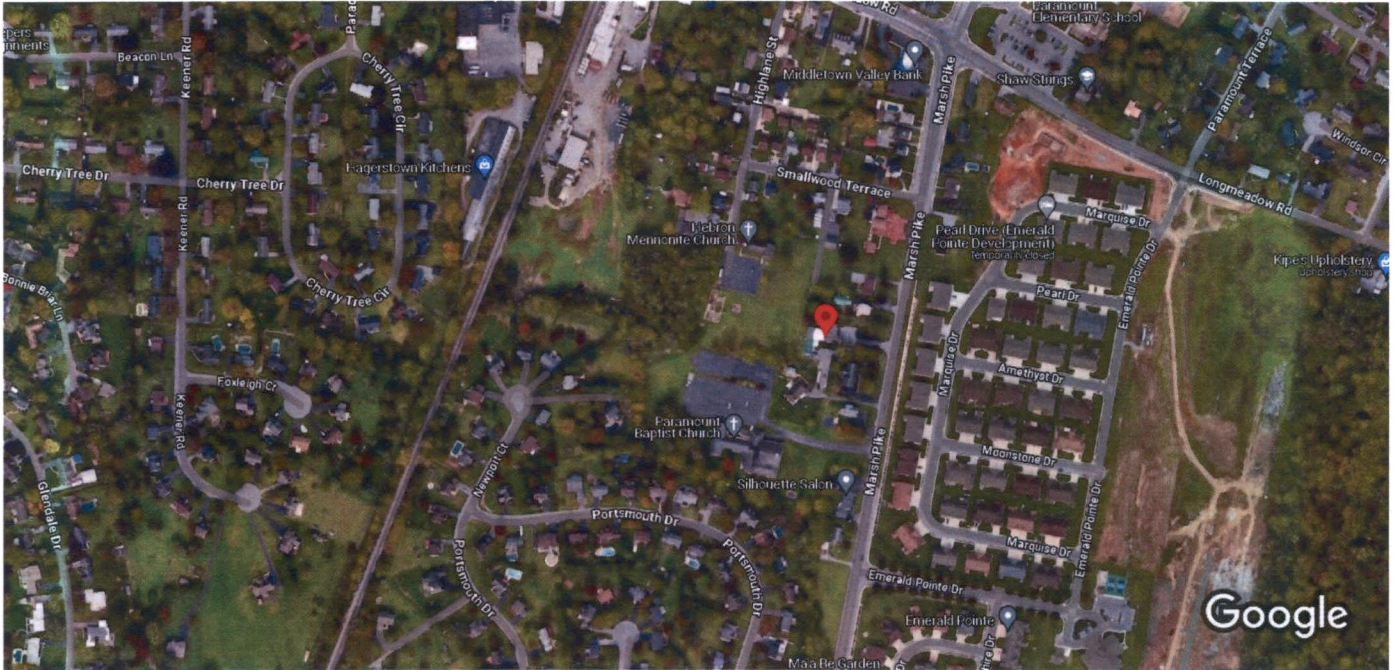
According to Section 8.0 of the Zoning Ordinance, the purpose of the Residential, Suburban District is to provide appropriate locations in the Urban and Town Growth Areas for single and two-family dwellings on moderately sized lots and *limited community service type uses*. Article 8.2 (e) of the Zoning Ordinance provides that “medical or dental clinics, **doctors’ offices**, and hospitals” are special exception uses (requiring Board Authorization after Public Hearing) in the “RS” Residential, Suburban zoning district. A Doctor Office is a limited community service type use that is permitted by Special Exception in the “RS” Residential, Suburban district. As provided in the Previously Approved SE and on Exhibit C, the BOA stated, “The use certainly serves the community and fits into the surrounding neighborhood. The Board finds that the proposed use will have no greater ‘adverse effects above and beyond those inherently associated with such a special exception use irrespective of its location within the zone’”. *See also Schultz v. Pritts*, 291 Md. 1 (1981).

IV. CONCLUSION:

For the reasons set forth herein, the Applicant respectfully requests approval from the Board of Appeals to demolish the current building and construct a new commercial building (and keep the residential tenant space) for a Doctor’s (Physician’s) Office pursuant to Article 25 and Article 8 of the Zoning Ordinance. As evidenced in this Justification Statement, the Special Exception is consistent with the Comprehensive Plan, the general purpose and intent of the Zoning Ordinance for a Doctor’s (Physician’s) Office in the “RS” Residential, Suburban Zoning District, and the proposed use will have no greater “adverse effects above and beyond those inherently associated with such a special exception use irrespective of its location within the zone”. *Schultz v. Pritts*, 291 Md. 1 (1981).



13316 Marsh Pike



Imagery ©2024 Airbus, Maxar Technologies, U.S. Geological Survey, Map data ©2024 200 ft



13316 Marsh Pike

Building



Directions



Save



Nearby



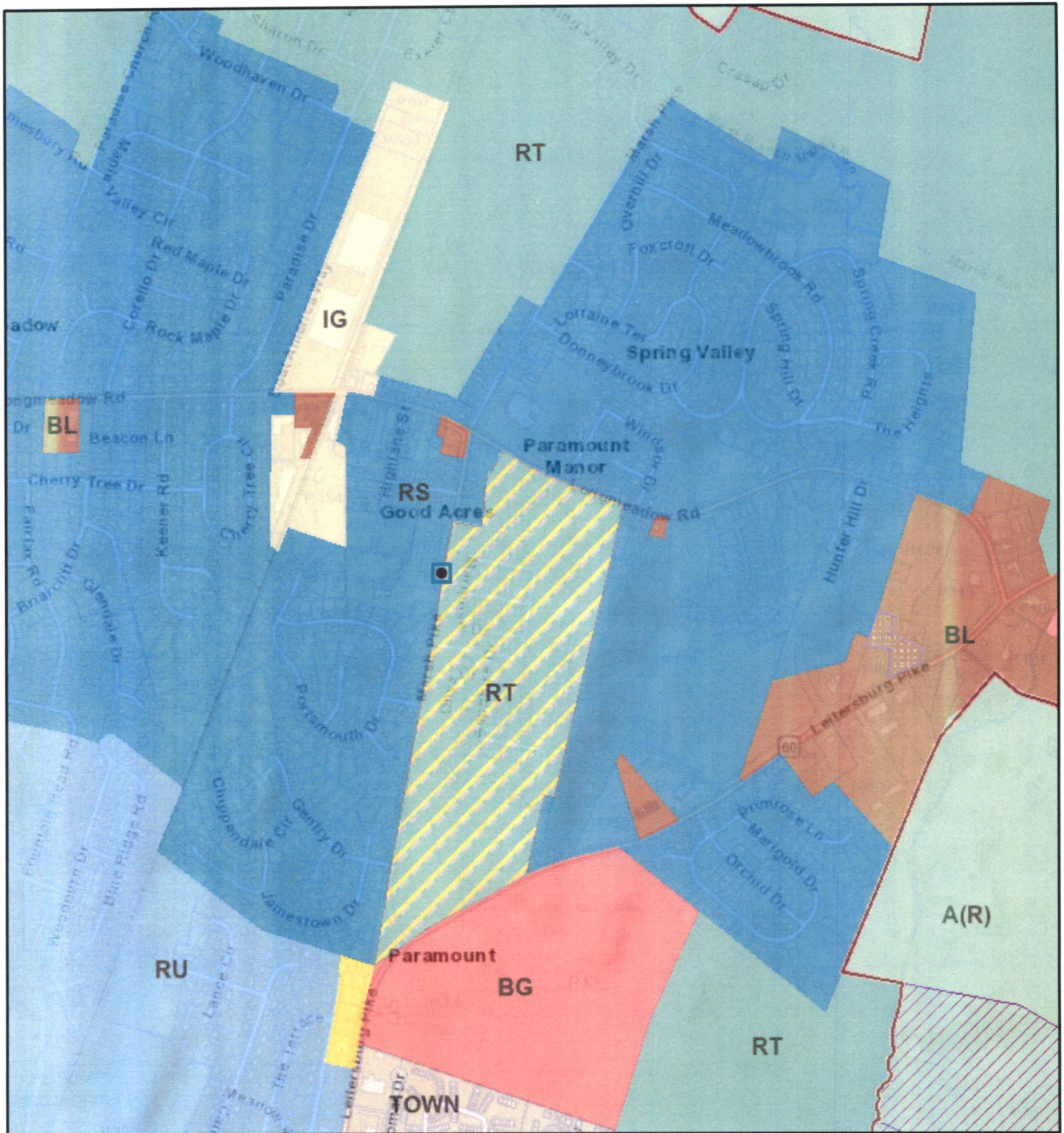
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Share

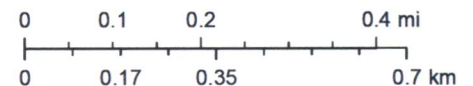
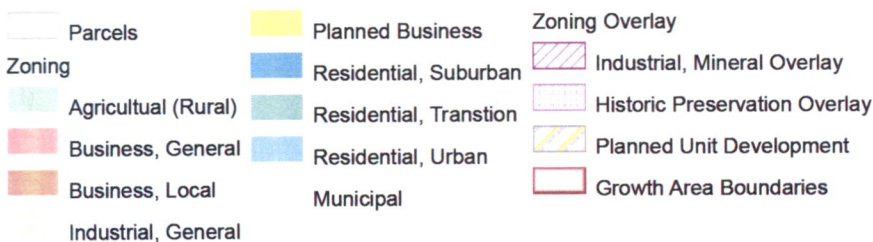
Exhibit B

Property and Zoning Web Map



5/6/2024, 4:36:54 PM

1:18,056



Washington County Planning Department, WashCo MD, Esri, HERE, Garmin, INCREMENT P, NGA, USGS

Washington County, MD GIS

This map is provided for informational purposes ONLY. Data are not guaranteed by Washington County Maryland to be free of errors. Data should be verified through appropriate sources.

Exhibit C

BOARD OF APPEALS

July 6, 2022

County Administration Building, 100 W. Washington St., Meeting Room 2000, Hagerstown, at 6:00 p.m.

AGENDA

DOCKET NO. AP2022-027: An appeal was made by Keir Lynn & Christopher Jordan for a special exception to establish a guest house in a future accessory building on property owned by appellant and located at 9616 Blooming Meadows Court, Hagerstown, Zoned Agricultural Rural.-**WITHDRAWN**

DOCKET NO. AP2022-028: An appeal was made by Elvin Eby for a special exception to establish a machine shop facility to make and repair items for agricultural equipment on provided owned by Glenn & Brenda Eby and located at the property adject to 14603 Fairview Road, Clear Spring, Zoned Agricultural Rural and Rural Village.- **GRANTED WITH CONDITIONS**

DOCKET NO. AP2022-029: An appeal was made by Obidi Holdings LLC for a special exception to establish a full-service physicians' office in existing commercial building on property owned by FHCPM LLC and located at 13316 Marsh Pike, Hagerstown, Zoned Residential Suburban. - **GRANTED WITH CONDITIONS**

DOCKET NO. AP2022-030: An appeal was made by William Bryd for a variance from the required 15 ft. side yard setback to 5 ft. for proposed detached garage on property owned by the appellant and located at 17323 Spielman Road, Fairplay, Zoned Agricultural Rural.- **GRANTED**

DOCKET NO. AP2022-031: An appeal was made by David & Heather Heitzer for a variance from 50 ft. rear setback to 9 ft. for construction of a rear deck/three season room on property owned by the appellants and located at 9402 Musket Court, Hagerstown, Zoned Agricultural Rural.- **GRANED**

Pursuant to the Maryland Open Meetings Law, notice is hereby given that the deliberations of the Board of Zoning Appeals are open to the public. Furthermore, the Board, at its discretion, may render a decision as to some or all of the cases at the hearing described above or at a subsequent hearing, the date and time of which will be announced prior to the conclusion of the public hearing. Individuals requiring special accommodations are requested to contact Katie Rathvon at 240-313-2464 Voice, 240-313-2130 Voice/TDD no later than June 27, 2022. Any person desiring a stenographic transcript shall be responsible for supplying a competent stenographer.

The Board of Appeals reserves the right to vary the order in which the cases are called. Please take note of the Amended Rules of Procedure (Adopted July 5, 2006), Public Hearing, Section 4(d) which states:

Applicants shall have ten (10) minutes in which to present their request and may, upon request to and permission of the Board, receive an additional twenty (20) minutes for their presentation. Following the Applicant's case in chief, other individuals may receive three (3) minutes to testify, except in the circumstance where an individual is representing a group, in which case said individual shall be given eight (8) minutes to testify.

Those Applicants requesting the additional twenty (20) minutes shall have their case automatically moved to the end of the docket.

For extraordinary cause, the Board may extend any time period set forth herein, or otherwise modify or suspend these Rules, to uphold the spirit of the Ordinance and to do substantial justice.

Jay Miller, Chairman
Board of Zoning Appeals

**BEFORE THE BOARD OF APPEALS
FOR WASHINGTON COUNTY, MARYLAND**

OBIDI HOLDINGS, LLC

Appellant

Appeal No.: AP2022-029

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* * * * *

OPINION

Obidi Holdings, LLC (hereinafter "Appellant") requests a special exception to establish a full-service physicians' office in a commercial building at the subject property. The subject property is located at 13316 Marsh Pike, Hagerstown, Maryland and is zoned Residential Suburban. The Board held a public hearing in this matter on July 6, 2022.

This appeal was heard pursuant to Article 25 of the Zoning Ordinance for Washington County and upon proper notice to the parties and general public as required.

Findings of Fact

Based upon the testimony given, all information and evidence presented, and upon a study of the specific property involved and the neighborhood in which it is located, the Board makes the following findings of fact:

1. The subject property is located at 13316 Marsh Pike, Hagerstown, Maryland and is owned by FHCPM, LLC. The subject property is zoned Residential Suburban.
2. FHCPM, LLC has given its authorization for Appellant to make this special exception request for the subject property. Appellant is the contract purchaser of the subject property.
3. Appellant currently operates a family medical practice on Memorial Boulevard in Hagerstown, Maryland. The proposed office would be a second location for the practice.

4. The proposed medical practice would be open Monday through Friday from 8:00 a.m. to 5:00 p.m. and 9:00 a.m. to 1:00 p.m. on Saturday.

5. Appellant plans to have between three (3) and six (6) providers plus staff at the proposed second office. In the beginning there may be between four (4) and six (6) total people working at the practice.

6. The proposed medical practice is by appointment only and at any given time, it is expected there would be a maximum of nine (9) to ten (10) cars in the parking lot. Appellant expects a maximum of eight (8) to nine (9) patients in any given hour.

7. Aside from asbestos remediation, there are no major changes planned for the building at the subject property. Appellant intends to maintain the residence on the second floor of the building.

8. The subject property currently has ten (10) parking spaces and Appellant will have to create more to accommodate the proposed medical practice.

9. There was no opposition presented to this appeal.

Rationale

The Board has authority to grant a special exception pursuant to Section 25.2(b) of the Zoning Ordinance for Washington County, Maryland. A special exception is defined as "a grant of a specific use that would not be appropriate generally or without restriction; and shall be based upon a finding that the use conforms to the plan and is compatible with the existing neighborhood." Article 28A.

Appellant is seeking the Board's approval to establish a second office for its family medical practice in a commercial building at the subject property. Appellant testified that they would need additional parking as part of the site plan review process, but that there are no other material changes proposed for the existing building. Any additional parking requirements would be handled at the site plan review stage, and if necessary, would

have to come before this Board in another appeal. The medical practice will serve as a second location and plans to be operate fully during normal business hours each week. The proposed use will not produce any noise, odor, gas, dust, or light that would adversely impact neighboring properties. Other than the coming and going of patient traffic, there will be no outward impact of the medical practice's operation. The use certainly serves the community and fits into the surrounding neighborhood. The Board finds that the proposed use at the subject property will have no greater "adverse effects above and beyond those inherently associated with such a special exception use irrespective of its location within the zone." *Schultz v. Pritts*, 291 Md. 1, 15 (1981). For all these reasons, we conclude that this appeal meets the criteria for a special exception, secures public safety and welfare and upholds the spirit of the Ordinance.

Accordingly, the request for a special exception to establish a machine shop facility to make and repair items for agricultural equipment at the subject property is GRANTED, by a vote of 4-1. The application is granted upon the condition that the proposed use be consistent with the testimony and evidence presented herein, and that Appellant utilize downward facing lighting subject to site plan design requirements.

BOARD OF APPEALS

By: Jay Miller, Chair

Date Issued: August 4, 2022

Notice of Appeal Rights

Any party aggrieved by a final order of the Authority in a contested case, whether such decision is affirmative or negative in form, is entitled to file a petition for judicial review of that order to the Circuit Court for Washington County within thirty (30) days of the date of the order.

OBIDI HOLDINGS, LLC
Appellant

AMENDED OPINION

Obidi Holdings, LLC (hereinafter “Appellant”) requests a special exception to establish a full-service physicians’ office in a commercial building at the subject property. The subject property is located at 13316 Marsh Pike, Hagerstown, Maryland and is zoned Residential Suburban. The Board held a public hearing in this matter on July 6, 2022. The Board subsequently held a public hearing on November 16, 2022 and voted unanimously that this Amended Opinion be issued to correct a typographical error in the original Opinion.

This appeal was heard pursuant to Article 25 of the Zoning Ordinance for Washington County and upon proper notice to the parties and general public as required.

Findings of Fact

Based upon the testimony given, all information and evidence presented, and upon a study of the specific property involved and the neighborhood in which it is located, the Board makes the following findings of fact:

1. The subject property is located at 13316 Marsh Pike, Hagerstown, Maryland and is owned by FHCPM, LLC. The subject property is zoned Residential Suburban.
2. FHCPM, LLC has given its authorization for Appellant to make this special exception request for the subject property. Appellant is the contract purchaser of the subject property.

3. Appellant currently operates a family medical practice on Memorial Boulevard in Hagerstown, Maryland. The proposed office would be a second location for the practice.

4. The proposed medical practice would be open Monday through Friday from 8:00 a.m. to 5:00 p.m. and 9:00 a.m. to 1:00 p.m. on Saturday.

5. Appellant plans to have between three (3) and six (6) providers plus staff at the proposed second office. In the beginning there may be between four (4) and six (6) total people working at the practice.

6. The proposed medical practice is by appointment only and at any given time, it is expected there would be a maximum of nine (9) to ten (10) cars in the parking lot. Appellant expects a maximum of eight (8) to nine (9) patients in any given hour.

7. Aside from asbestos remediation, there are no major changes planned for the building at the subject property. Appellant intends to maintain the residence on the second floor of the building.

8. The subject property currently has ten (10) parking spaces and Appellant will have to create more to accommodate the proposed medical practice.

9. There was no opposition presented to this appeal.

Rationale

The Board has authority to grant a special exception pursuant to Section 25.2(b) of the Zoning Ordinance for Washington County, Maryland. A special exception is defined as "a grant of a specific use that would not be appropriate generally or without restriction; and shall be based upon a finding that the use conforms to the plan and is compatible with the existing neighborhood." Article 28A.

Appellant is seeking the Board's approval to establish a second office for its family medical practice in a commercial building at the subject property. Appellant testified that

they would need additional parking as part of the site plan review process, but that there are no other material changes proposed for the existing building. Any additional parking requirements would be handled at the site plan review stage, and if necessary, would have to come before this Board in another appeal. The medical practice will serve as a second location and plans to be operate fully during normal business hours each week. The proposed use will not produce any noise, odor, gas, dust, or light that would adversely impact neighboring properties. Other than the coming and going of patient traffic, there will be no outward impact of the medical practice's operation. The use certainly serves the community and fits into the surrounding neighborhood. The Board finds that the proposed use at the subject property will have no greater "adverse effects above and beyond those inherently associated with such a special exception use irrespective of its location within the zone." *Schultz v. Pritts*, 291 Md. 1, 15 (1981). For all these reasons, we conclude that this appeal meets the criteria for a special exception, secures public safety and welfare and upholds the spirit of the Ordinance.

Accordingly, the request for a special exception to establish a to establish a full-service physicians' office in a commercial building at the subject property is GRANTED, by a vote of 4-1. The application is granted upon the condition that the proposed use be consistent with the testimony and evidence presented herein, and that Appellant utilize downward facing lighting subject to site plan design requirements.

BOARD OF APPEALS

By: Jay Miller, Chair

Date Issued: December 22, 2022

Notice of Appeal Rights

Any party aggrieved by a final order of the Authority in a contested case, whether such decision is affirmative or negative in form, is entitled to file a petition for judicial review of that order to the Circuit Court for Washington County within thirty (30) days of the date of the order.



WASHINGTON COUNTY BOARD OF ZONING APPEALS

747 Northern Avenue Hagerstown, MD 21742-2723 F 240 313 2430 - 240 313 2431 Hearing Impaired: 7 1 1

ZONING APPEAL

Property Owner: FHCPM LLC
C/O Robert Baer
13316 Marsh Pike
Hagerstown MD 21742

Appellant: Obidi Holdings LLC
97 Lily Lane
Frankfort MA 04438

Property Location: 13316 Marsh Pike
Hagerstown, MD 21742

Description Of Appeal: Special exception to establish a full service physicians' office in existing commercial building

Appellant's Legal Interest In Above Property: Owner: No

Lessee: No

Other:

Previous Petition/Appeal Docket No(s):

Applicable Ordinance Sections:

Reason For Hardship:

If Appeal of Ruling, Date Of Ruling:

Ruling Official/Agency:

Existing Use: Commercial Office Space

Previous Use Ceased For At Least 6 Months:

Area Devoted To Non-Conforming Use -

Proposed Use:

Existing:

Proposed:

Docket No: AP2022-029

Tax ID No: 27016243

Zoning: RS

RB Overlay: No

Zoning Overlay:

Filed Date: 06/14/2022

Hearing Date: 07/06/2022

Contract to

Rent/Lease:

Contract to

Purchase:

No

Yes

I hereby affirm that all of the statements and information contained in or filed with this appeal are true and correct.

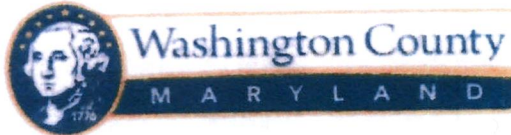
Appellant Signature

State Of Maryland, Washington County to-wit:

Sworn and subscribed before me this 14 day of June, 20 22.

Nov. 7, 2025
My Commission Expires

Notary Public



BOARD OF ZONING APPEALS

OWNER REPRESENTATIVE AFFIDAVIT

This is to certify that Obidi Holdings, LLC
is authorized to file an appeal with the Washington County Board of Appeals for
a special exception to operate a full service physician's office. _____ on property
located 13316 Marsh Pike, Hagerstown, Maryland 21742
The said work is authorized by FHCPM, LLC
the property owner in fee.

PROPERTY OWNER

FHCPM, LLC

Name

97 Lily Lane

Address

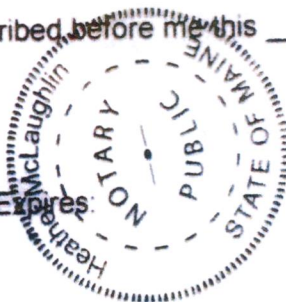
Frankfort, Maine 04438

City, State, Zip Code

[Signature]
Owner's Signature

Sworn and subscribed before me this 8 day of June, 2022

My Commission Expires:



[Signature]
Notary Public

Heather McLaughlin
Notary Public, State of Maine
My Commission Expires Nov. 08, 20

AUTHORIZED REPRESENTATIVE

Cody Weinberg
Name

30 West Rock St Suite 600
Address

Frederick, MD 21701
City, State, Zip Code

[Signature]
Authorized Representative's Signature

Sworn and subscribed before me this 14 day of June, 2022

[Signature]
Notary Public

My Commission Expires: Nov 7, 2025

747 Northern Avenue Hagerstown, MD 21742 | P: 240.313.2460 | F: 240.313.2461 | Hearing Impaired: 7-1-1



WASHINGTON COUNTY BOARD OF ZONING APPEALS

747 Northern Avenue Hagerstown, MD 21742 2723 • 240.313.2430 • 240.313.2431 Hearing Impaired: 711

AFFIDAVIT IN COMPLIANCE WITH SECTION 25.51(C)

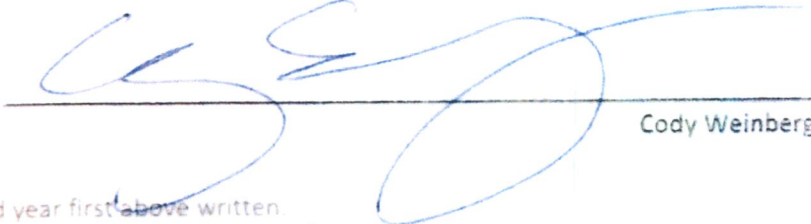
Docket No: AP2022-029

State of Maryland Washington County, To Wit:

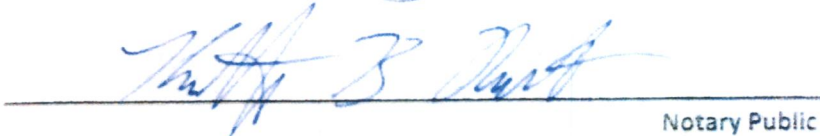
On 6/14/2022, before me the subscriber, a Notary of the public of the State and County aforesaid, personally appeared Cody Weinberg and made oath in due form of law as follows:

Cody Weinberg will post the zoning notice sign(s) given to me by the Zoning Administrator in accordance with Section 25.51(c) of the Washington County Zoning Ordinance for the above captioned Board of Appeals case, scheduled for public hearing on 07/06/2022, and that said sign(s) will be erected on the subject property in accordance with the required distances and positioning as set out in the attached posting instructions

Sign(s) will be posted on 06/21/2022 and will remain until after the above hearing date


Cody Weinberg

Sworn and subscribed before me the day and year first above written.


Notary Public



Seal

My Commission Expires



WASHINGTON COUNTY DIVISION OF PERMITS & INSPECTIONS

747 Northern Avenue | Hagerstown, MD 21742-2723 | P 240.313.2460 | F 240.313.2461 | Hearing Impaired: 7-1-1

Receipt

PAYMENT RECEIPT: 266726
CASHIER: KRATHVON
DATE: 06/14/2022

Record Information

Record Number	Record Name	Site Address	Tax Acct ID
AP2022-029	Zoning Appeals Special Exception	13316 Marsh Pike	27016243

Fee Information

Description	Account Code	Invoice#	Amount
Board of Appeals	403030-10-10810	244024	\$500.00
Total Fee Amount:			\$500.00

Payment Information

Method	Reference No	Comments	Transaction Amount
Check	4297		\$500.00

Payor

DEJ Med Practice LLC
303 Memorial Boulevard West
Hagerstown MD 21740

Total Amount: \$500.00



WASHINGTON COUNTY BOARD OF ZONING APPEALS

747 Northern Avenue | Hagerstown, MD 21742-2723 | P 240.313.2430 | F 240.313.2431 | Hearing Impaired: 7-1-1

BOARD OF ZONING APPEALS

ATTENTION!

Posting Instructions

The premises **MUST** be posted in accordance with the following rules:

1. The sign must be posted a minimum of fourteen (14) days prior to the public hearing. Section 25.51(c) Property upon which the application or appeal is concerned shall be posted conspicuously by a zoning notice no less in size than twenty-two (22) inches by twenty-eight (28) inches at least fourteen (14) days before the date of the hearing.
2. The sign must be placed on the property within ten (10) feet of the property line which abuts the most traveled public road.
3. The sign must be posted in a conspicuous manner not over six (6) feet above the ground level, and affixed to a sturdy frame where it will be clearly visible and legible to the public.
4. The sign shall be maintained at all times by the applicant until after the public hearing. If a new sign is needed or required, please contact the Plan Review Department at 240-313-2460.
5. An affidavit certifying the property will be posted for the minimum of fourteen (14) days prior to the public hearing date.

Proper posting of the sign will be spot checked by the Zoning Inspector. IF SIGN IS NOT IN COMPLIANCE, IT MAY RESULT IN RESCHEDULING OF THE HEARING.



WASHINGTON COUNTY BOARD OF ZONING APPEALS

747 Northern Avenue | Hagerstown, MD 21742-2723 | P. 240.313.2430 | F. 240.313.2431 | Hearing Impaired: 7-1-1

June 14, 2022

Obidi Holdings LLC
97 Lily Lane
Frankfort MA 04438

RE: **Docket No:** AP2022-029
Zoning Dist: RS
Zoning Overlay: No
RB Overlay: No
Location: 13316 Marsh Pike
Hagerstown, MD 21742

Your appeal for the above referenced property has been made for a zoning permit which would authorize the following:

Special exception to establish a full service physicians' office in existing commercial building

The appeal is scheduled to be heard by the Board of Appeals on 07/06/2022, at 6:00 pm. This public hearing will be held in Public Meeting Room 2000, on the second floor of the County Administration Building, at 100 West Washington Street, Hagerstown, Maryland.

Individuals requiring special accommodations are requested to contact the Permitting Office at 240-313-2460 to make arrangements no later than 06/27/2022. Any person desiring a stenographic transcript shall be responsible for supplying a competent stenographer.

You are hereby requested to be present, either in person or represented by agent or counsel, to present your case.

Sincerely,

Katie Rathvon
Zoning Coordinator

Attachment
Appeal For Special Exception
13316 Marsh Pike
Hagerstown, Maryland

Owner: FHCPM, LLC

Applicant/Contract Buyer: Obidi Holdings, LLC

Description: Currently the property is a mixed use kind of property in transition. There is an apartment on the top floor for rental, there is retail space (Red Hill Tactical), storage space and garage space being used by occupants, including especially B&E Services. B&E Services, an HVAC company that performs heating and air conditioning service and installations in a four state area, operates its company offices at this location.

The Applicant is in the process of acquiring this Property, contingent upon the decision of the Board for the requested Special Exception. It is the intent of the Applicant over time to convert the Property almost totally into a facility to hold a Physician's Family Practice operated by Dr. Chukwuemeka Obidi. This would be a second location with the other location being located at 303 Memorial Blvd. W, Hagerstown, Maryland. The practice located at the Property would provide for both pediatric services as well as medical services for adults. The apartment would probably be kept, at least for the foreseeable future, as an apartment.

At this time, there are no plans to demolish the building. It is likely that asbestos siding will be removed and replaced with another type façade, but no other work currently planned, other than to generally improve and maintain it. It is expected over time that the parking facilities and open space will be expanded and improved as needed for the use of the building and practice growth.

At first, it is anticipated that there will be in the near term approximately three to four medical providers (doctors, physician assistants and nurse practitioners) with perhaps three additional personnel (receptionist, nurse, administrative). Appointments would be by appointment (walk-ins would be discouraged), and so it would be expected, at first, there would be eight to nine patients at any time. Once again, the request is to eventually occupy the Property, other than the apartment, for this medical office only, and be allowed to fully utilize the building, improvements and parking as the Family Practice grows, keeping in mind, of course, that there will be practical and physical constraints on how large it can grow in existing footprint. Any further change would need governmental approvals.

The hours of operation are expected to be 8:00 a.m. to 5:00 p.m., with limited hours on Saturdays of 9:00 a.m. to 1:00 p.m., and Sunday hours are not expected.

The hope is that this would be a good location, not only for the Applicant, but also for this part of Hagerstown, as there are not many Family Practice offices in this part of town – adding to convenience for the neighborhood. Given past uses of the Property, any disturbance from operation of the practice should not be materially different from what has existed, and over time more compatible to the uses around the Property. With various uses over the years, and location and frontage along the major

thoroughfare, this request and use, planned for over a long term, should serve to stabilize the Property as far as the neighboring properties are concerned as well.

Past uses such as a lawn and garden center for sales and service, retail gun sales and service, electrician's office with trucks and storage of needed equipment have all generated various levels of traffic, including trucks for delivery and transport of equipment and other items. The traffic created by professionals and patients would not be more disruptive. Approval of this request will hopefully prevent a litany of other requests such as this and the last one over time providing more peace of mind for all involved.

This proposal for use at the Property as a medical office facility will not adversely affect the public health, safety, security, morals or general welfare, nor will it create dangerous traffic conditions or jeopardize the lives or property living in the neighborhood of the Property.

Given the history of the Property, its use for the requested purpose is more compatible and appropriate for the Property than as a residential property any longer. Access to the Property is off of the main road and does not disrupt residential traffic in the area. There is nothing about the Property that would cause the use herein for which the Special Exception is being requested to have adverse effects above those inherently associated with the Special Exception at any other location in the zoning district.

Thank you for your consideration.

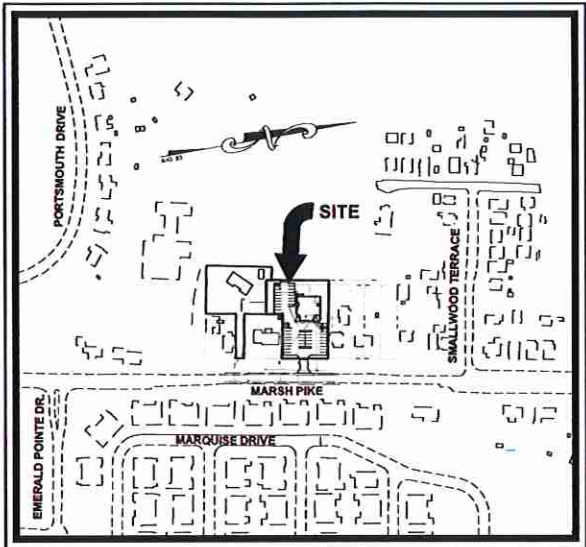
Obidi Holdings, LLC

By: _____
Chukwuemeka Obidi, M.D.

OBIDI HOLDINGS, L.L.C.

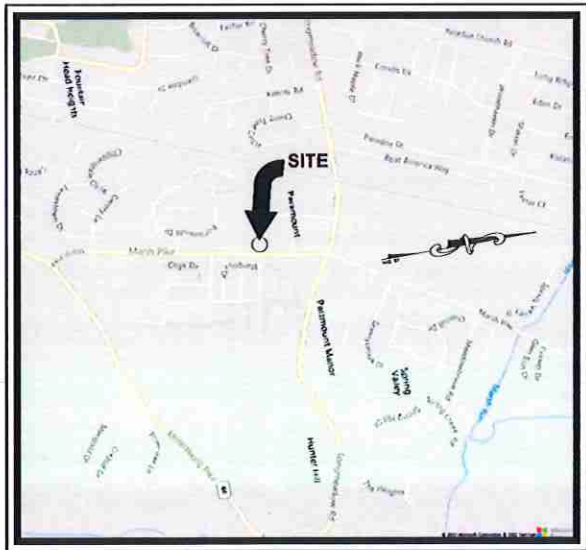
Exhibit D

LOCATION MAP:



SCALE: 1" = 200'

VICINITY MAP:



ADC MAP No. 10
GRID H 11
SCALE: 1" = 1,000'

SITE DATA:

TYPE OF USAGE: COMMERCIAL
ACREAGE PER TAX ASSESSMENT OFFICE: 0.826 ACRES
ZONING: RS - RESIDENTIAL SUBURBAN DISTRICT
PHYSICAL ADDRESS: 13316 MARSH PIKE
HAGERSTOWN, MD 21742
PURPOSE OF PLAN: USAGE CHANGE
STORMWATER QUALITY: PROVIDED BY ESD PRACTICES
STORMWATER QUANTITY: ESD PRACTICES

PROJECT CONTACTS:

DEVELOPER: OBIDI HOLDINGS, LLC
ADDRESS: 303 MEMORIAL BLVD W
HAGERSTOWN, MD 21740
PHONE NUMBER: 301-758-5009
CONTACT: CHUKWUEMEKA OBIDI

SHEET INDEX:

1. COVER SHEET	C-1.0
2. LEGEND, PROJECT NOTES AND EXISTING CONDITIONS	C-1.1
3. SITE PLAN	C-2.0
4. SITE DETAILS	C-2.1
5. GRADING PLAN AND EROSION AND SEDIMENT CONTROL PLAN	C-3.0
6. EROSION AND SEDIMENT CONTROL NOTES AND DETAILS	C-3.1
7. STORMWATER MANAGEMENT PLAN, NOTES AND DETAILS	C-4.0
8. STORMWATER PLAN AND PROFILE, NOTES AND DETAILS	C-4.1
9. LANDSCAPE PLAN, NOTES AND DETAILS	C-5.0
10. TURNING PLAN	C-6.0
11. LIGHTING PLAN	C-7.0

PROJECT NAME: OBIDI HOLDINGS, LLC
COUNTY PROJECT NO. (SP, PP, GP) SP-23-005

STORMWATER MANAGEMENT SUMMARY TABLE

TYPE	No.	DA (ACRES) (TO STRUCTURE)	IMPERVIOUS DA (SQFT) (TO STRUCTURE)	RCN	ESDv (c.f. / ac-ft)	WQv(ac-ft)	CPv(ac-ft)	CPv(cfs) PICKED IN-TSE	Rev (ac-ft)	Rev (cfs) PICKED IN-TSE
BIORETENTION M-6	1	0.34	0.2	82	7.17	862				

TOTAL DA (SITE): 0.85 ACRES
CONSTRUCTION TYPE (CIRCLE ONE): NEW (REDEVELOPMENT) RESTORATION

CERTIFICATIONS:

OWNER/DEVELOPER'S CERTIFICATION I/WE HEREBY CERTIFY THAT ALL CLEARING, GRADING, CONSTRUCTION AND/OR DEVELOPMENT WILL BE DONE PURSUANT TO THIS PLAN AND IN ACCORDANCE WITH THE STORMWATER MANAGEMENT ORDINANCE OF WASHINGTON COUNTY AND THE POLICY ON CONSTRUCTION OF SUBDIVISION INFRASTRUCTURE FOR ACCEPTANCE AND OWNERSHIP BY WASHINGTON COUNTY (9-3). DATE: 02/14/2023 PRINTED NAME: CHUKWUEMEKA OBIDI SIGNATURE: [Signature] ENGINEER/ARCHITECT DESIGN CERTIFICATION I/WE HEREBY CERTIFY THIS PLAN FOR SOIL EROSION AND SEDIMENT CONTROL HAS BEEN DESIGNED IN ACCORDANCE WITH LOCAL ORDINANCES, COMAR 26.12.01 OF MARYLAND STANDARDS AND SPECIFICATIONS FOR SOIL EROSION AND SEDIMENT CONTROL. DATE: 02-14-2023 REG. NO.: 59438 SIGNATURE: [Signature] WASHINGTON COUNTY DEPARTMENT OF WATER QUALITY ALLOCATION CERTIFICATION THIS PLAN/PLAN HAS BEEN REVIEWED BY THE WASHINGTON COUNTY DEPARTMENT OF WATER QUALITY FOR INCLUSION INTO THE COUNTY CAPACITY MANAGEMENT PLAN FOR THE SYSTEM THAT SERVES THIS PROJECT. ALLOCATION GRANTED FOR CONSTRUCTION SHOWN ON THIS PLAN/PLAN SHALL BE IN ACCORDANCE WITH THE CAPACITY MANAGEMENT PLAN DEVELOPED FOR THIS SYSTEM BASED ON AVAILABILITY OF ALLOCATION REMAINING IN THE FACILITY. WASHINGTON COUNTY DEPARTMENT OF WATER QUALITY	OWNER/DEVELOPER'S CERTIFICATION I/WE HEREBY CERTIFY THAT ALL CLEARING, GRADING, CONSTRUCTION AND/OR DEVELOPMENT WILL BE DONE PURSUANT TO THIS PLAN AND IN ACCORDANCE WITH THE STORMWATER MANAGEMENT ORDINANCE OF WASHINGTON COUNTY AND THE POLICY ON CONSTRUCTION OF SUBDIVISION INFRASTRUCTURE FOR ACCEPTANCE AND OWNERSHIP BY WASHINGTON COUNTY (9-3). DATE: 02/14/2023 PRINTED NAME: CHUKWUEMEKA OBIDI SIGNATURE: [Signature] DISTURBED AREA QUANTITIES THE TOTAL AREA TO BE DISTURBED SHOWN ON THESE PLANS HAS BEEN DETERMINED TO BE APPROXIMATELY 1.85 AC. AND THE TOTAL AMOUNT OF EXCAVATION AND FILL AS SHOWN ON THESE PLANS HAS BEEN COMPUTED TO BE APPROXIMATELY 822,151 CU. YD. OF EXCAVATION AND 233,151 CU. YD. OF FILL. NOTE: THE QUANTITIES SHOWN ARE APPROXIMATE AND SHOULD NOT BE USED BY THE CONTRACTOR FOR BIDDING PURPOSES. UTILITY NOTIFICATION THE SOIL CONSERVATION DISTRICT MAKES NO REPRESENTATION AS TO THE EXISTENCE OR NONEXISTENCE OF ANY UTILITIES AT THE CONSTRUCTION SITE. SHOWN ON THESE CONSTRUCTION DRAWINGS ARE THOSE UTILITIES WHICH HAVE BEEN IDENTIFIED. IT IS THE RESPONSIBILITY OF THE LANDOWNERS OR OPERATORS AND CONTRACTORS TO ASSURE THEMSELVES THAT NO HAZARDOUS EXISTENCE OF DAMAGE WILL OCCUR TO UTILITIES. THE LAW REQUIRES PRIOR TO EXCAVATION THAT MISS UTILITY BE CONTACTED AT PHONE NO. 1-800-252-7777
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STANDARD NOTES:

WASHINGTON COUNTY STANDARD GENERAL NOTES FOR SITE PLANS

- IN CONFORMANCE WITH THE STORMWATER MANAGEMENT ORDINANCE OF WASHINGTON COUNTY, A PERFORMANCE SECURITY AND EXISTING MAINTENANCE AGREEMENT SHALL BE REQUIRED FROM THE DEVELOPER PRIOR TO ISSUANCE OF ANY BUILDING OR GRADING PERMIT FOR CONSTRUCTION PER THESE PLANS.
- A PUBLIC WORKS AGREEMENT AND PERFORMANCE SECURITY WILL BE REQUIRED FOR ANY IMPROVEMENTS WITHIN THE COUNTY RIGHT OF WAY THAT ARE NOT OTHERWISE REGULATED UNDER A UTILITY OR ENTRANCE PERMIT.
- PLEASE BE ADVISED THAT ANY PROJECT WHICH CREATES A DISTURBANCE OF ONE (1) ACRE OR MORE WILL REQUIRE A "NOTICE OF INTENT TO COMPLY WITH THE GENERAL PERMIT FOR STORMWATER DISCHARGES ASSOCIATED WITH CONSTRUCTION ACTIVITY" (N.O.I.). THE N.O.I. IS REQUIRED UNDER THE CLEAN WATER ACT AS STATED IN 40 CFR 122.26 AND CODE OF MARYLAND REGULATIONS COMAR 26.12.01 AND IS REQUIRED BY THE MARYLAND DEPARTMENT OF ENVIRONMENT (M.D.E.). THE N.O.I. IS TO BE SUBMITTED WITH THE APPROPRIATE FEES DIRECTLY TO M.D.E. PRIOR TO COMMENCEMENT OF CONSTRUCTION ACTIVITY. NO LAND DISTURBING ACTIVITY THAT REQUIRES A GRADING PERMIT FROM WASHINGTON COUNTY CAN PROCEED UNTIL THE GENERAL PERMIT FOR STORMWATER DISCHARGES ASSOCIATED WITH CONSTRUCTION ACTIVITY (N.O.I.) HAS BEEN ISSUED BY M.D.E.
- THIS PROJECT WILL REQUIRE A THIRD PARTY QUALIFIED PROFESSIONAL TO BE PRESENT AT THE PRE-CONSTRUCTION MEETING SCHEDULED WITH WASHINGTON COUNTY DEPARTMENT OF PERMITS AND INSPECTIONS AND THE WASHINGTON COUNTY SOIL CONSERVATION DISTRICT. CONSTRUCTION INSPECTION WILL BE REQUIRED FOR THIS PROJECT FOR THE ROADWAY AND STORMWATER MANAGEMENT CONSTRUCTION VERIFICATION PROCEDURES DATED OCTOBER 14, 2008.
- A COMPLETE SET OF APPROVED PLANS AND A COPY OF THE GRADING PERMIT MUST BE ON SITE AND AVAILABLE FOR USE BY THE INSPECTOR, OR OTHER REPRESENTATIVE OF WASHINGTON COUNTY.

FIRE DEPARTMENT NOTICE

- CONSTRUCTION OCCURRING ON THIS SITE SHALL COMPLY WITH N.F.P.A. 241 - STANDARD FOR SAFEGUARDING CONSTRUCTION, ALTERATION AND DEMOLITION OPERATIONS, AND CHAPTER 15 OF N.F.P.A. 1, UNIFORM FIRE CODE.
- NO OPEN AIR BURNING IS PERMITTED.
- A PERMIT IS REQUIRED FROM THE HAGERSTOWN FIRE MARSHALL'S OFFICE, 25 WEST CHURCH STREET, HAGERSTOWN, BEFORE PERFORMING BLASTING OPERATIONS.
- FIRE DEPARTMENT ACCESS SHALL BE MAINTAINED TO ALL BUILDINGS.
- A FIRE DEPARTMENT RAPID ENTRY ACCESS BOX (KNOX BOX) SHALL BE INSTALLED AT THE MAIN ENTRANCE OF DOCTOR'S OFFICE. KEYS TO THE NEW AREA SHALL BE PROVIDED AT THE TIME OF FINAL INSPECTION FOR INSTALLATION INTO THE KNOX BOX.

TRIAD ENGINEERING, INC.
1075 D. SHERMAN AVENUE
HAGERSTOWN, MD 21740
PH: 301.757.8400 FAX: 301.757.2424
OFFICE LOCATION:
MARYLAND - PENNSYLVANIA - VIRGINIA - WEST VIRGINIA

CADD FILE:	CHECKED BY: BUS	SCALE: AS SHOWN
DRAWN BY: STAFF	DATE: 01-05-2023	REV. 4

I/WE HEREBY CERTIFY THAT THESE DOCUMENTS HAVE BEEN PREPARED OR APPROVED BY ME AND THAT I AM A DULY LICENSED PROFESSIONAL ENGINEER UNDER THE LAWS OF THE STATE OF MARYLAND LICENSE NO. 15112003
DATE: 02-14-2023



SITE PLAN FOR OBIDI HOLDINGS, LLC. 13316 MARSH PIKE HAGERSTOWN, MD 21742	SITE PLAN WATERFORD CODE: 02140002 PARCEL: 0128 GRID: 0019 ZONING: RS TAX MAP: 0025
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TRIAD
TRIAD ENGINEERING, INC.
www.triadeng.com
SHEET NUMBER
C-1.0
JOB NO.: 03-22-0877

COUNTY REFERENCE NO. SP-23-005

NO GEOTECHNICAL EXPLORATION RECORD HAS BEEN PERFORMED BY TRADD ENGINEERING, INC. FOR THIS PROJECT.

THE INFORMATION SHOWN HEREON IS FROM NUMEROUS SOURCES INCLUDING, BUT NOT LIMITED TO PROPERTY OWNER, UTILITY OWNER, PAST SITE PLANS AND DRAWINGS AND LOCATION OF SURFACE FEATURES. EXACT LOCATIONS SHALL BE DETERMINED IN THE FIELD BEFORE BEGINNING WORK FROM THE INFORMATION SHOWN HEREON. THE CONTRACTOR SHALL NOTIFY ANY AND ALL OTHER UTILITY AND SURFACE INVESTIGATIVE SERVICES AT (1-800-257-7777) A MINIMUM OF 48 HOURS BEFORE BEGINNING ANY WORK SHOWN ON THESE DRAWINGS ANY DAMAGE TO UTILITIES BY THE CONTRACTOR SHALL BE REPAIRED BY THE CONTRACTOR AT HIS/HER OWN EXPENSE. IT IS THE RESPONSIBILITY OF THE UTILITY OWNER AND NOT THE CONTRACTOR TO PROVIDE THE REQUIRED INFORMATION TO THE CONTRACTOR TO AVOID EXISTING UNDERGROUND UTILITIES.

THE CONTRACTOR SHALL NOTIFY THE APPROPRIATE MUNICIPAL, COUNTY AND/OR STATE AUTHORITIES AT LEAST 72 HOURS BEFORE BEGINNING ANY WORK WITHIN PUBLIC RIGHT-OF-WAY.

THE CONTRACTOR SHALL VERIFY ALL SURFACE AND SUBSURFACE CONDITIONS (LOCATIONS AND ELEVATIONS) PRIOR TO BEGINS AND START OF CONSTRUCTION. ANY DISCREPANCIES BETWEEN THE INFORMATION SHOWN HEREON AND ACTUAL FIELD CONDITIONS SHALL BE REPORTED TO THE ENGINEER BEFORE PROCEEDING IF THEY AFFECT THE DESIGN FEASIBILITY OF THIS PROJECT. ANY DAMAGE TO FACILITIES, STRUCTURES, PAVEMENT OR OTHER MAN-MADE ITEMS ON OR ADJACENT TO THE SITE OR NOT SHOWN HEREON SHALL BE REPAIRED OR REPLACED AT CONTRACTOR'S EXPENSE AND TO THE SATISFACTION OF THE OWNER.

THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND FOR COMPLYING WITH ALL APPLICABLE FEDERAL, STATE AND LOCAL LEGISLATION AND REGULATIONS. THE CONTRACTOR SHALL OBTAIN ANY BONDS REQUIRED BY COUNTY/STATE FOR WORK WITHIN COUNTY/STATE RIGHT-OF-WAY.

TEMPORARY EROSION CONTROL MEASURES WILL BE USED TO CORRECT CONDITIONS THAT DEVELOP DURING CONSTRUCTION. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE DESIGN AND CONSTRUCTION OF TEMPORARY CONTROL EROSION THAT DEVELOPS DURING NORMAL CONSTRUCTION PRACTICES.

TRADD ENGINEERING, INC. WILL NOT BE RESPONSIBLE FOR ANYTHING TO DO WITH CONSTRUCTION UNLESS CONTRACTED BY THE OWNER OR CONTRACTOR TO PERFORM A SPECIFIC SERVICE.

THE CONTRACTOR SHALL BE THE SOLE RESPONSIBILITY FOR THE PROJECT.

NO TITLE REPORT HAS BEEN PROVIDED TO TRADD ENGINEERING FOR THE PROJECT.

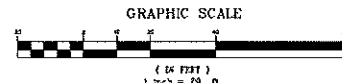
IT SHALL BE THE SOLE RESPONSIBILITY OF THE OWNER AND/OR DEVELOPER TO OBTAIN ALL NECESSARY PERMITS AND ENDORSEMENTS FROM THE APPROPRIATE AGENCIES FOR THE PROJECT SHOWN ON THESE PLANS. TRADD ENGINEERING, INC. WILL ASSUME NO RESPONSIBILITY OR LIABILITY ASSOCIATED WITH THE ACQUIRING OF OFF-SITE EASEMENTS AND RIGHT-OF-WAY.






















THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY STATE, CONSTRUCTION INSPECTION AND ASBUILT CERTIFICATION OF THIS STRUCTURE OR STRUCTURES BY A REGISTERED PROFESSIONAL ENGINEER WILL BE REQUIRED. IT SHALL BE THE RESPONSIBILITY OF THE CONTRACTOR TO NOTIFY THE ENGINEER WHEN THE STRUCTURE HAS BEEN COMPLETED AND STABILIZED IN ORDER THAT THE ENGINEER MAY SURVEY AND CERTIFY THE STRUCTURE AS HAVING A STAND OF GRASS OR OTHER SUITABLE VEGETATIVE COVER AS SPECIFIED ON THESE PLANS.

FINAL APPROVAL OF A STORMWATER MANAGEMENT STRUCTURE MUST BE GRANTED BY THE APPROPRIATE GOVERNING AGENCY. APPROVAL OF THE STRUCTURE DOES NOT IMPLY THAT THE ENGINEER OR CONTRACTOR HAS ANY LIABILITY. APPROVAL OF THE STRUCTURE DOES NOT IMPLY THAT ADDITIONAL WORK WILL NOT HAVE TO BE PERFORMED ON A STORMWATER MANAGEMENT STRUCTURE IN ORDER FOR IT TO COMPLY WITH THE STANDARDS OF THE GOVERNMENT AGENCY OR AGENCIES THAT ARE RESPONSIBLE FOR APPROVING THE STRUCTURE. TRADD ENGINEERING, INC. AND/OR ENGINEER WILL NOT BE RESPONSIBLE FOR ANY ADDITIONAL WORK REQUIRED TO BE ASSOCIATED WITH A STORMWATER MANAGEMENT STRUCTURE IN ORDER TO HAVE IT CONFORM TO NECESSARY STANDARDS.

MAINTENANCE OF THE STRUCTURE HEREIN SHALL BE USED AND LOCAL, STATE AND FEDERAL SPECIFICATIONS SHALL BE MINIMUM STANDARD.

IF SITE THIRD PARTY CONSTRUCTION INSPECTIONS ARE REQUIRED BY WASHINGTON COUNTY, THE CONTRACTOR SHALL EMPLOY A REGISTERED PROFESSIONAL ENGINEER SHOULD BE CONTACTED ONE (1) WEEK IN ADVANCE TO PART OF WORK.



	PROPERTY LINE
	EXISTING WATER VALVE
	EXISTING HYDRANT
	EXISTING GAS LINE
	EXISTING WATERLINE
	EXISTING FENCELINE
	EXISTING EDGE OF PAVEMENT
	EXISTING EDGE OF GRAVEL
	EXISTING EDGE OF CONCRETE
	EXISTING BUILDING STRUCTURE
	EXISTING TREE LINE
	TYPICAL SOIL TYPE DESIGNATION
	SOIL TYPE BOUNDARY
	EXISTING UTILITY POLE
	EXISTING OVERHEAD UTILITY
	PROPOSED EDGE OF PAVEMENT
	PROPOSED PAVEMENT AREA
	LIMITS OF DISTURBANCE
	LIMITS OF DISTURBANCE/SUPER SILT FENCE
	SILT FENCE
	STONE CONSTRUCTION ENTRANCE

OFFICE LOCATIONS
MARYLAND • PENNSYLVANIA • VIRGINIA • WEST VIRGINIA

[illegible]

CADD FILE:	DRAWN BY:	CHECKED BY:	SCALE:
	STAFF	BJS	1"=20'
DATE:		01-06-2023	

HEREBY CERTIFY THAT THESE
DOCUMENTS WERE PREPARED OR
APPROVED BY ME, AND THAT I AM A
DULY LICENSED PROFESSIONAL
ENGINEER UNDER THE LAWS OF THE
STATE OF MINNESOTA, LICENSE NO.
58263, EXPIRATION DATE 06-20-2004



02-14-2023

13316 MARSH PIKE
HAGERSTOWN, MD. 21742

LEGEND, NOTES & EXISTING CONDITIONS

ZONING: R6	WATERBUSH CODE: Q2149502	
TAX MAP: 0026	GRID: 0010	PARCEL: 0128
		ELEC. DIST: 27



COUNTY REFERENCE NO. 2P-23-006

[illegible]

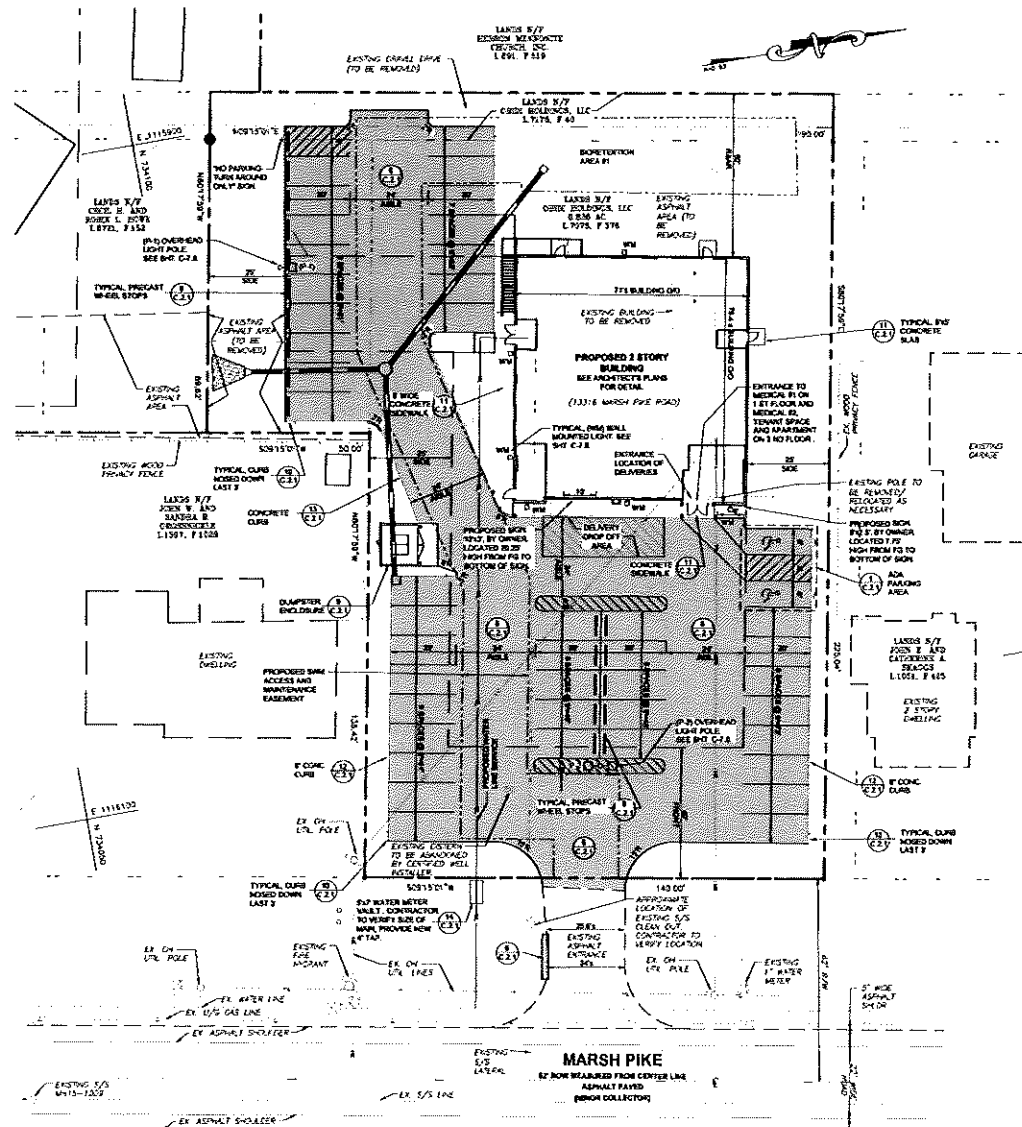
LOT AREA	LOT WIDTH	FRONT YARD	SIDE YARD	REAR YARD
20,000 S.F.	100 FEET	40 FEET	25 FEET	50 FEET

14. HOURS OF OPERATIONS: MONDAY THRU FRIDAY 8:30 AM TO 4:30 PM, SATURDAY 8 AM TO 12 PM
15. NUMBER OF EMPLOYEES: 3 PER HOUR SHIFT
16. PARKING REQUIREMENTS: PER SECTION 22.123A OF THE WASHINGTON COUNTY ZONING ORDINANCE:
- MEDICAL #1 - 5 SPACES REQUIRED / 300 SQ. FT. OF (R)FA 2ND FLOOR TENANT:
4,517 SF (250-35 SPACES)
- MEDICAL #2 - 5 SPACES REQUIRED / 300 SQ. FT. OF (R)FA 2ND FLOOR TENANT:
757 SF (250-35 SPACES)
- MEDICAL #3 - 5 SPACES REQUIRED / 300 SQ. FT. OF (R)FA 3RD FLOOR (FUTURE) TENANT:
1,058 SF (250-35 - 5 SPACES)
- 5 DWELLING UNIT TENANT - 2 SPACES PER UNIT

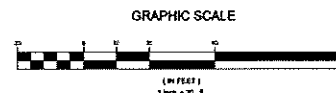
- [illegible]

CURRENT WATER ALLOCATION (1" METER)	= 400 G
PROPOSED ADDITIONAL WATER ALLOCATION	= 1100 G
TOTAL=	= 1500 G
CURRENT SEWER ALLOCATION	= 400 G
PROPOSED ADDITIONAL SEWER ALLOCATION	= 1100 G
TOTAL=	= 1500 G

CURRENT SEWER ALLOCATION	= 400 G
PROPOSED ADDITIONAL SEWER ALLOCATION	= 1100 G
<u>TOTAL</u>	<u>= 1500 G</u>



WASHINGTON COUNTY DEPARTMENT OF WATER QUALITY



A 13316 MARSH PkE - SUITE 103	MEDICAL #1 (FIRST FLOOR)
B 13316 MARSH PkE - SUITE 200	APARTMENT (SECOND FLOOR)
C 13316 MARSH PkE - SUITE 201	TENANT SPACE (SECOND FLOOR)
D 13316 MARSH PkE - SUITE 202	MEDICAL #2 (SECOND FLOOR)



FIRST FLOOR



SECOND FLOOR

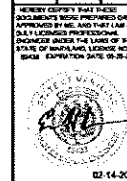
TRIAD ENGINEERING, INC.

1075-D SHERMAN AVENUE
HAGERSTOWN, MD 21740
PH: 301.797.6400 FAX: 301.797.2424

OFFICE LOCATIONS

[illegible]

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	STAFF	BUS
	DATE:	SCALE:



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**SITE PLAN FOR
ORIDI HOLDINGS LLC**

13010 MARSH PIKE
HAGERSTOWN MD 21742

SITE PLAN

ZONING

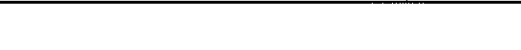
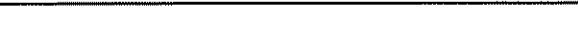
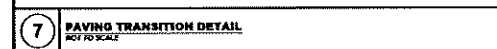
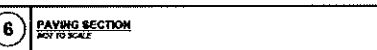
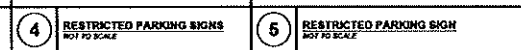
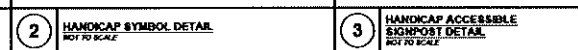
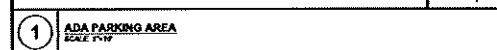
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TRIAD ENGINEERING, INC.
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SHEET NUMBER


C-2.0
JOE NO.: 03-22-087

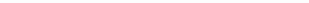
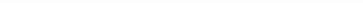
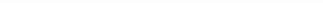
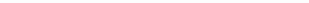
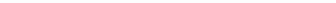
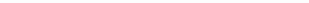
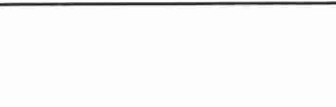
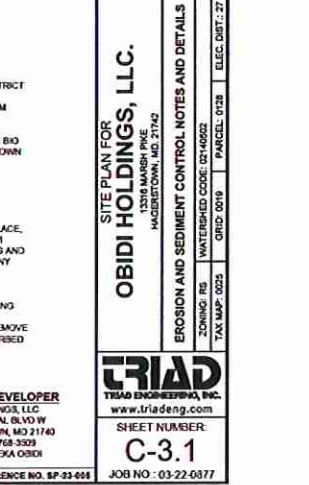
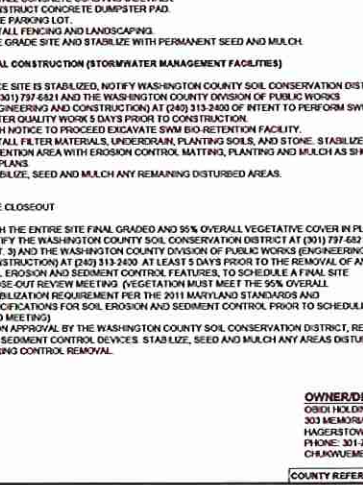
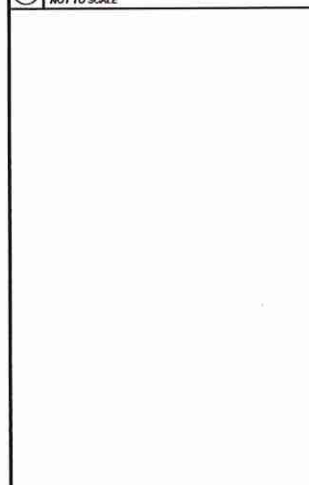
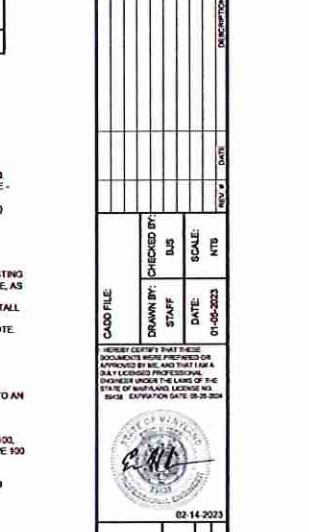
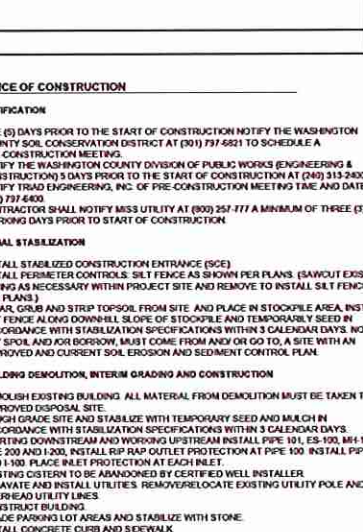
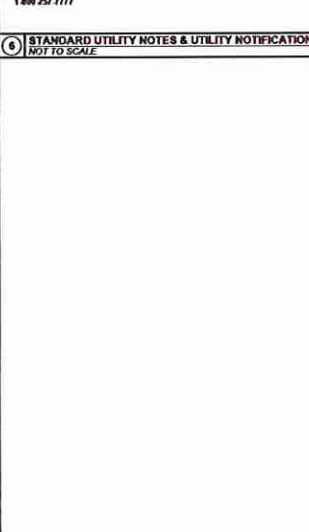
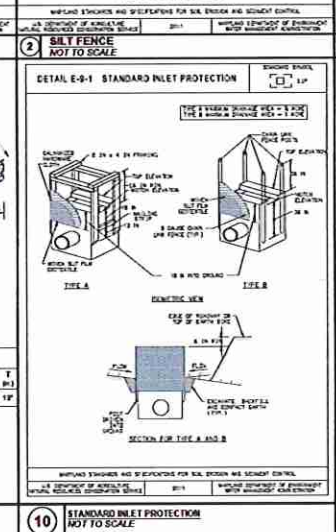
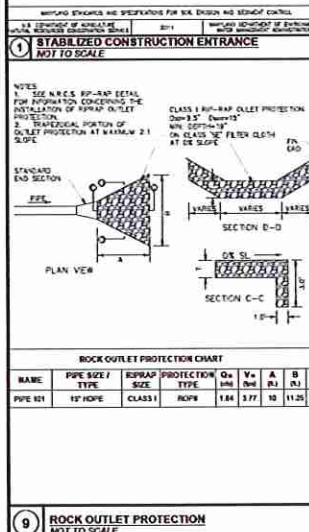
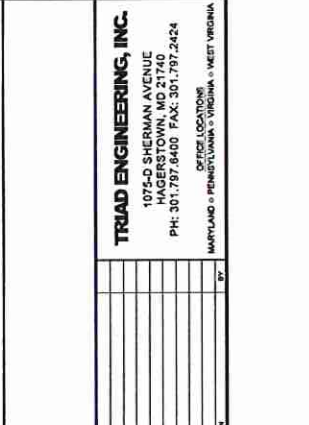
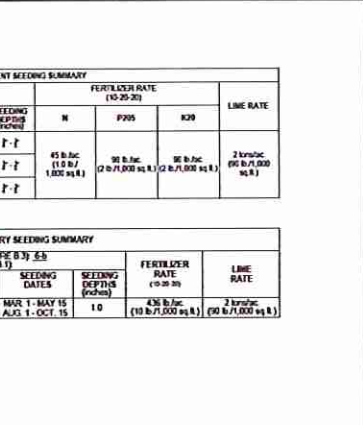
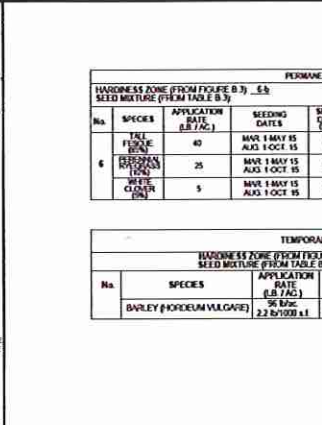
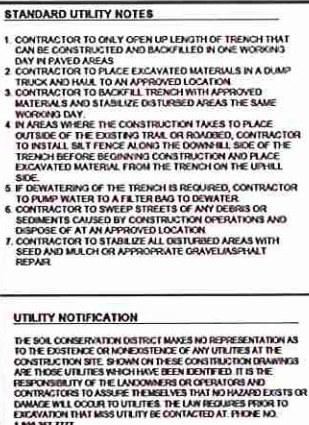
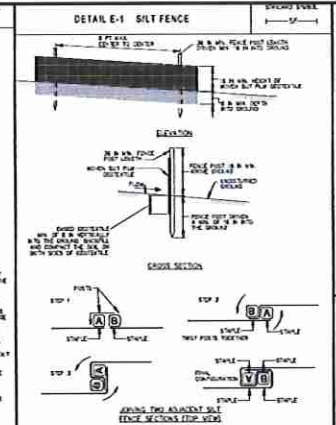
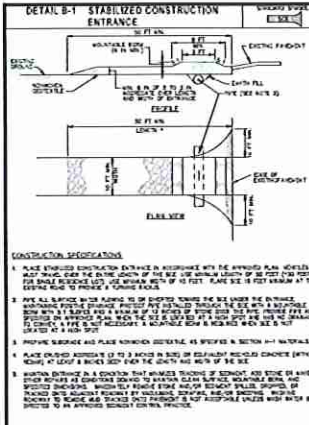
JOE NO.: 03-22-087

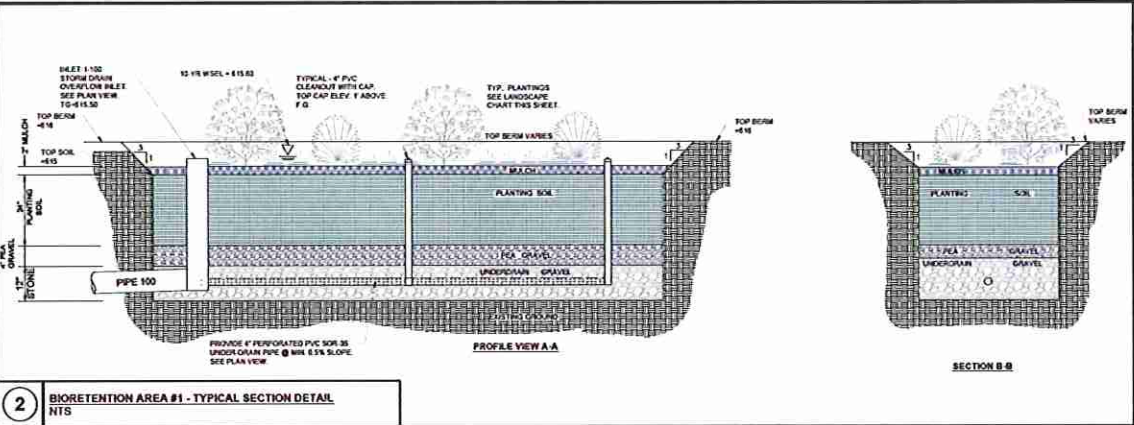
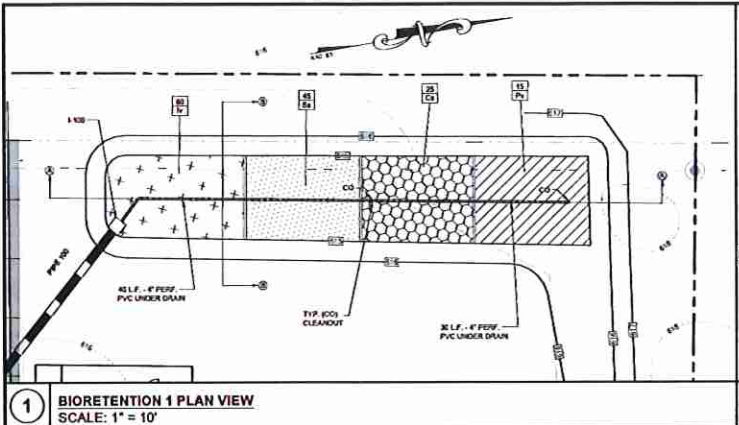
OWNER/DEVELOPER
OBIDI HOLDINGS, LLC
303 MEMORIAL BLVD W
HAGERSTOWN, MD 21740
PHONE: 301-764-3509
CHUKWUEMEKA OBIDI

COUNTY REFERENCE NO. EP-73-40



		TRIAD ENGINEERING, INC. 1075-D SHERMAN AVENUE HAGERSTOWN, MD 21740 PH: 301.787.8400 FAX: 301.787.2424	
SITE PLAN FOR OBIDI HOLDINGS, LLC. HAGERSTOWN, MD 21743		SITE DETAILS	
ZONING: RS TAX MAP: 0025 TRAP: 0025	WATERSHED CODE: 03/0602 DATE: 09/10 PAGE: 02	ELEC. DIST: 27	OFFICE LOCATION: INYLAND • FERNLEIGH • VIRGINIA • WEST VIRGINIA
TRAD TRIAD ENGINEERING, INC. www.triadeng.com		SHEET NUMBER: C-2.1 JOB NO: 03-222.087	





NOTE: CONTRACTOR MUST MINIMIZE COMPACTION WITHIN BIORETENTION AREAS. WHEN POSSIBLE, USE EXCAVATION HOES TO REMOVE ORIGINAL SOIL AND TO PLACE REQUIRED MATERIAL TO CONSTRUCT BIORETENTION AREAS.

BMP NUMBER	PROVIDED		AS-BUILT	
	ESD Vol. (cf)	AF (sf)	ESD Vol. (cf)	AF (sf)
BIO-1	2,256	1,350		

LANDSCAPE SCHEDULE BMP M-4 MICRO BIORETENTION NO. BIO-5						
	SYMBOL	COMMON NAME	BOTANICAL NAME	SIZE	QUANTITY	SPACING
HERBACEOUS PLANTS		TURFGRASS	CAREX STRICTA	1"	25	3% Slo. 0/1"
		BLUE FLAG	IRIS VERMIGOLR	1"	60	2% Slo. 0/1"
		BLUE SWITCHGRASS	Panicum capillare "Heavy Mats"	1"	15	4% Slo. 0/1"
		GOLDENROD	Solidago speciosa	1"	45	2% Slo. 0/1"

B.A.C. Specifications for Micro-Bioretentation, Rain Gardens, Landscape Infiltration & Infiltration Berms

- Material Specifications**
 - The allowable materials to be used in these practices are detailed in Table B.4.1.
 - Filtering Media or Planting Soil**
 - The soil shall be a uniform mix, free of stones, clumps, roots or other similar objects larger than two inches. No other materials or substances shall be mixed or dumped within the micro-bioretentation practice that may be harmful to plant growth, or prove a hindrance to the planting or maintenance operations. The planting soil shall be free of harmful salts, herbicides, pesticides, or other noxious waste as specified under COMAR 15.08.01.05.
 - The planting soil shall be tested and meet the following criteria:
 - Soil Component - Loamy Sand or Sandy Loam (USDA Soil Federal Classification)
 - Organic Content - Minimum 10% by dry weight (ASTM D 2554). In general, this can be met with a mixture of loamy sand (60% 65%) and compost (35% to 40%) or sandy loam (50%), coarse sand (20%), and compost (40%).
 - Clay Content - Must contain less than 10% clay content of less than 2%.
 - pH Range - Should be between 5.5 - 7.0 (Amendments (e.g., lime, iron sulfate plus sulfur) may be mixed into the soil to increase or decrease pH).
 - There shall be at least one soil test per project. Each test shall consist of both the standard soil test for pH, and additional tests of organic matter, and soluble salts. A laboratory analysis is required from the site developed topsoil. If tested is important, then a future analysis shall be performed for each location where the topsoil was estimated.
 - Compaction**
 - It is very important to minimize compaction of both the base of bioretention practices and the required backfill. When possible, use excavation hoses to remove original soil. If practical, use equipment with narrow tracks or narrow tires, rubber tires with large lugs, or high-pressure tires with narrow excessive compaction resulting in reduced infiltration rates and is not acceptable. Compaction will significantly contribute to design failure. Compaction can be alleviated at the base of the bioretention facility by using a primary tillage operation such as a chisel plow, ripper, or subsoiler. These tillage operations are to reflect the soil profile through the 12 inch compaction zone. Subsoiler methods must be approved by the engineer. Tillage operations that do not dig enough to reduce the effects of compaction from heavy equipment.
 - Table B.2 to 3 inches of sand into the base of the bioretention facility before backfilling the optional sand layer. Pump any ponded water before preparing infiltration holes.
 - When backfilling the bioretention area, place soil in lifts 12 to 18\"/>
 - Plant Material**
 - Recommended plant material for micro-bioretentation practices can be found in Appendix A, Section A.2.3.
 - Plant Installation**
 - Compost is a better organic material source to use than straw or hay, and should be placed in the lower and outer low green. Mulch should be placed in accordance to a uniform thickness of 2\"/>
 - Randomness of the plant material shall be kept until during transport and on-site storage. The plant root ball should be planted at 1/3 of the ball to above root grade surface. The diameter of the planting pit shall be at least 12 inches larger than the diameter of the planting ball. Soil and mulch shall be placed on the pit during the entire planting process. Thoroughly water ground but cover after installation.
 - There shall be brand using 1/2\"/>
 - Grasses and legume seed should be added into the soil to a depth of at least one inch. Grass and legume plants shall be planted following the non-grass ground cover planting specifications.
 - The typical specifications provide enough organic material to adequately supply nutrients from natural cycling. The primary function of the bioretention structure is to improve water quality. Adding fertilizers, herbicides, or at a minimum, insecticides is not the goal. Only add fertilizer if weed chips or mulch are used to amend the soil. Fertilizer use further at a rate of 2 pounds per 1000 square feet.
 - Underdrains**
 - Underdrains should meet the following criteria:
 - Pipe - Should be 4\"/>
 - Performance - If perforated pipe is used, perforations should be 3/8\"/>
 - General - The gravel layer (12\"/>
 - The main collector pipe shall be at a minimum 6.5% slope.
 - A 4\"/>
 - A 4\"/>
 - Manholes**
 - These practices may not be constructed until all contributing drainage areas have been stabilized.

APPENDIX B.4. CONSTRUCTION SPECIFICATIONS FOR ENVIRONMENTAL SITE DESIGN PRACTICES

TABLE B.4.1 MATERIAL SPECIFICATIONS FOR MICRO-BIORETENTION, RAIN GARDENS & LANDSCAPE INFILTRATION

Material	Specification	Use	Notes
Plantings	see Appendix A, Table A.4	as specified	Plantings are site specific.
Planting soil (2' or less)	heavy sand (70% & less) & gravel (30%)	as specified	OSHA and OSHA approved sand & gravel, heavy sand, clay content < 1%
Planting soil (2' or less)	heavy sand (70% & less) & gravel (30%)	as specified	OSHA and OSHA approved sand & gravel, heavy sand, clay content < 1%
Organic content	Min. 10% by dry weight (ASTM D 2000)		light if erosion, retention, no plants or weed plants
Mulch	shredded hardwood		
Fill ground	max grade ASTM D-848	Min. 10' or less, 10' or less, 10' or less	
1' Cellular structural polyethylene	ASTM D-1543	Min. 10' or less, 10' or less, 10' or less	
2' Cellular structural polyethylene	ASTM D-1543	Min. 10' or less, 10' or less, 10' or less	
Geotextile	ASTM D-1543	Min. 10' or less, 10' or less, 10' or less	10' Type 1 membrane
Ground jointing and surface bonding	ASTM D-1543	Min. 10' or less, 10' or less, 10' or less	
Underlayment	1" Filler, 1/2" Filler, 1		

* Reprinted from Washington County Land Development Engineering

MAINTENANCE SCHEDULE

INSPECTION ITEM	FREQUENCY
Inspect and Repair Erosion Damage	Once a Month
Inspect and Repair Root-related Damage	Once a Month
Inspect, Repair and Remove Obstructed Areas	As Required
Inspect Outlet Pipe and Rear Structure/Inlet	Twice Yearly
Water Grass	Once a Day for the First 14 Days
Remove Invasive Plants/Weeds/Grass	As Needed
Mow Lawn and Infiltration Area	Minimum Once a Month During Season

NOTICE OF REQUIRED STORMWATER MANAGEMENT INSPECTIONS SAND FILTERS, BIORETENTION AND RAIN GARDEN FACILITIES (FOR ALL BIORETENTION AREAS AND MICRO-BIORETENTION AREAS)

The following inspections are required to be performed by the Qualified Professional for the construction of any Sand Filter, Bioretention or Rain Garden Facility. Additional inspections may be required based on professional engineering judgment. Each inspection is required at the start of each step.

EXCAVATION OF FACILITY - Prior to excavation, verify sediment and erosion control features are in place to prevent sediment inflow. Verify all staging required in the area of sensitive area protection. Verify grading is accurately staked out and is staked as needed. Facility dimensions shall be verified and staked checked for infiltration. Verify contributing area is permanently established. Verify that water is not present. Ensure roughening of side walls if required and verified by heavy equipment. Verify that construction of facility begins in accordance.

PLACEMENT OF FILTER CLOTH (Geotextile) - Ensure filter fabric is overlapping by 6 inches between sheets of cloth. Ensure free ends or other obstacles are removed from facility walls to allow water to prevent flowing. Verify that filter fabric not overlaps less than 2 feet over down-slope side.

PLACEMENT OF UNDERDRAINS AND OBSERVATION WELLS - Location, size, and material of under drain and observation wells shall be verified prior to stone placement. Verify pipe ends support. Verify 3\"/>

OPERATION AND MAINTENANCE PLAN - BIORETENTION

INSPECTION ITEM	INSPECTION REQUIREMENTS	REMEDIATION ACTION
Malfunction Access		
General	Check for accessibility to facility, excessive vegetation, surface stability	Regular erosion and maintain access surface in good condition
Pre-treatment		
Grass filter strip or sand layer	Check for sediment accumulation	Remove sediment as needed
Optional sand layer	Check sand for staining and sediment accumulation	If contaminated, replace first three inches of sand layer
Gravel discharge	Check for sediment accumulation and evidence of erosion	Remove sediment and replace gravel as needed
Mulch layer	Check for a (2 to 3) inch mulch layer	Remove mulch and replace as needed
Filter Bed		
Overlapping	Check for overlapping within 48 hours of rainfall, water stains on the filter surface or the outlet, presence of algae or aquatic vegetation	Remove mulch and the top (3-6) inches of soil/sediment and replace with suitable materials per plan specifications. Follow up inspections shall confirm adequate overlapping. Contact the plan approval authority if the facility does not function as intended.
Sediment	Check for sediment accumulation	Remove sediment as needed
Mulch layer	Check for adequate cover, sediment accumulation, discoloration	Remove and replace mulch and excess sediment as needed
Vegetation		
Plant composition and health	Check for plant composition according to approved plan, invasive species, weeds and dead or dying vegetation	Remove and replace plants as necessary
Vegetative cover/biomass	Check for erosion, runoff channeling or bare spots	Revegetate and stabilize as needed
Outlet		
Underdrain system	Check outlet end to ensure that discharge is not obstructed, check for erosion	Remove any flow obstructions, grade and stabilize any eroded areas to provide stable conveyance
Overflow spillway	Check for displacement of piping, stable conveyance and erosion below the outlet	Repair and replace as needed
Conveyance Systems		
General	Check for erosion, flow blockages or by-passes and debris management	Revegetate and stabilize as needed
Flow direction	Check flow spillway for proper functioning	Repair as necessary
Trash and Debris	Check for trash and debris accumulation	Trash and debris shall be disposed of in an appropriate manner
Structural Components	Check for structural deterioration, spalling or cracking	Repair according to specifications or the approved plans

Field conditions may require a modification to the original approval in order to achieve the intended design function. The plan approval authority should be contacted for review and approval of all proposed modifications. Inspection and maintenance should occur after any major rain event (e.g., meeting or exceeding the design rainfall depth for the facility).

TRIAD ENGINEERING, INC.
1075-D SHERMAN AVENUE
HAGERSTOWN, MD 21740
PH: 301.797.6400 FAX: 301.797.2424
OFFICE LOCATION: MARYLAND • PENNSYLVANIA • VIRGINIA • WEST VIRGINIA

CADD FILE:
CHECKED BY:
DRAWN BY:
DATE:
SCALE:
AS SHOWN

I HEREBY CERTIFY THAT THESE DOCUMENTS WERE PREPARED OR APPROVED BY ME, AND THAT I AM A duly Licensed Professional Engineer under the laws of the State of Maryland, License No. 15418. EXPIRATION DATE: 09-20-2024



02-14-2023

OBIDI HOLDINGS, LLC.
13318 MARCH PHIC
HAGERSTOWN, MD 21742

STORMWATER MANAGEMENT PLAN, NOTES AND DETAILS

WATERFURNISH CODE: 01-60302
PARCEL: 0128
ELEC. DIST: 27

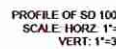
TRIAD
ENGINEERING, INC.
www.triadeng.com

SHEET NUMBER: C-4.0

OWNER/DEVELOPER
OBIDI HOLDINGS, LLC
303 MEMORIAL BLVD NW
HAGERSTOWN, MD 21740
PHONE: 301.768.3309
CHIKWUEMEKHA OBIDI

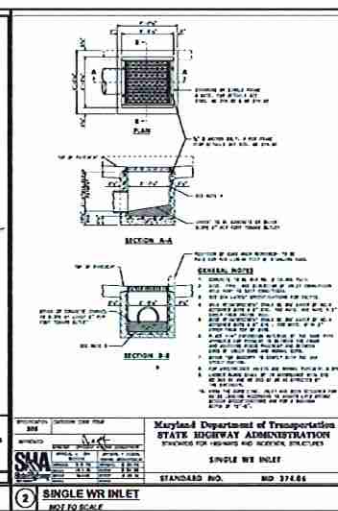
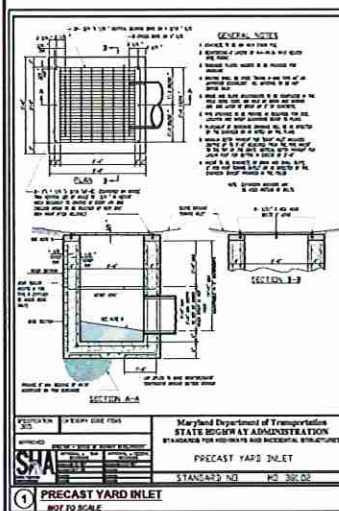
COUNTY REFERENCE NO. SP-23-646

JOB NO. 03-22-0377



STRUCTURE TABLE				
STRUCTURE NAME	DETAILS	RIM	INV IN	INV OUT
ES-102	HOPE PLATED End Section	612.34	Pipe - 102-612.36	
1-100	YARD INLET	615.50		Pipe - 100-611.85
M4-102	40" DIA. PRECAST MH	614.11	Pipe - 102-611.20 Pipe - 230-611.20	Pipe - 101-611.52
1-200	SINKHOLE W/IN INLET	614.48		Pipe - 200-611.85

NAME	SIZE	LENGTH	SLOPE	INV. IN	INV. OUT
Pipe - 100	Corrugated HDPE Pipe Corrugated HDPE Pipe	73.15'	0.51%	611.60	611.20
Pipe - 121	Corrugated HDPE Pipe Corrugated HDPE Pipe	38.53'	0.51%	611.19	610.90
Pipe - 200	Corrugated HDPE Pipe Corrugated HDPE Pipe	64.65'	0.70%	611.65	611.20



GENERAL NOTES FOR CONSTRUCTION OF ENCLOSED STORMDRAIN SYSTEMS AND CURBS:

THE ENCLOSED STORMDRAIN SYSTEM AND JOINTS SHALL BE MANUFACTURED IN ACCORDANCE WITH THE STANDARD SPECIFICATIONS FOR STORMDRAIN CONTRACTOR SHALL VERIFY ALL DIMENSIONS AND ELEVATIONS PRIOR TO THE START OF CONSTRUCTION. IF DISCREPANCIES OR INCONSISTENCIES ARE FOUND, THE CONTRACTOR SHALL CONTACT THE ENGINEER FOR INFORMATION ON HOW TO PROCEED.

1. ALL JOINTS SHALL BE WATER-TIGHT.

2. ALL PIPES SHALL HAVE BEDDING AND/OR BACKFILL PROVIDED IN ACCORDANCE WITH DETAILS SHOWN ON THESE PLANS.

3. ALL INLET AND/or MANHOLE SHALLS HAVE A FLOW CHANNEL OF POURED CONCRETE THAT IS FLUSH WITH ALL BEDDING AND OUTSLOPES PLUS, FLOW CHANNEL SHALL HAVE A SMOOTH THREOLITE OR BRUSHED PIPES.

4. ALL JOINTS BETWEEN PIPES AND INLET OR MANHOLE MANIFOLD SHALL BE GROUTED WITH NONSHRINKING GROUT SO AS TO PROVIDE A WATER-TIGHT JOINT ALL PRECAST REINFORCED MANIFOLDS SHALL BE MANUFACTURED IN ACCORDANCE WITH THE SPECIFICATIONS LISTED ON THESE PLANS.

5. ALL ORATE FRAME AND/OR MANHOLE LID FRAMES SHALL BE SECURELY FASTENED TO THE TOP OF THE INLET OR MANHOLE WITH 1/2" DIA. BOLTS AND WELDED METAL ANCHORS.

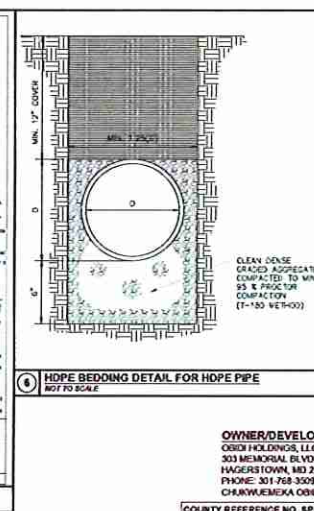
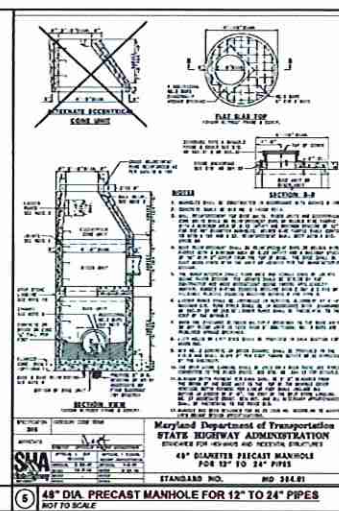
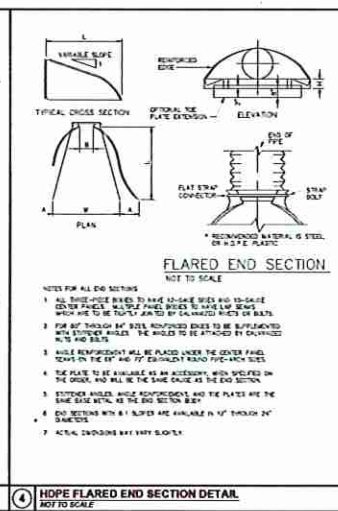
6. ALL INLET AND/or MANHOLE LIDS AND THEIR RESPECTIVE FRAMES SHALL BE TO BE PLACED IN PAVED OR TRAFFIC AREAS SHALL BE TRAFFIC BEARING AND SHALL BE TESTED TO THE MINIMUM REQUIREMENTS OF THE SYSTEM, WHENEVER ADVISED BY THE CONSULTING ENGINEER AND THE APPROPRIATE GOVERNMENT REVIEW AGENCY.

7. ALL JOINTS USED IN THE CONSTRUCTION OF ENCLOSED STORMDRAIN SYSTEM SHALL HAVE MIN 1/4" - 3/8" PIPES AT 24 GA. OR AS MANUFACTURED AT A MINIMUM OF 1/4" FOR A PARTICULAR COMPONENT OF THE SYSTEM, WHENEVER REQUIRED BY THE ENGINEER.

8. INSTALLATION OF HIGH DENSITY POLYETHYLENE (HDPE) PIPES SHALL BE IN ACCORDANCE WITH ASTM D-3511 WITH THE EXCEPTION THAT THE MINIMUM COVER SHALL BE 1.5 FT.

9. JOINTS BETWEEN SECTIONS OF HIGH DENSITY POLYETHYLENE (HDPE) PIPES SHALL BE AS PROVIDED BY THE MANUFACTURER. ALL JOINTS SHALL BE WATER-TIGHT.

10. ALL HIGH DENSITY POLYETHYLENE (HDPE) PIPES SHALL BE SMOOTHWALL AND SHALL BE ADAPTED MORE TO THE FOLLOWING:



TRIAD ENGINEERING, INC.
1075-D SHERMAN AVENUE
HAGERSTOWN, MD 21740
PH: 301.797.6400 FAX: 301.797.2424

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02-14-2

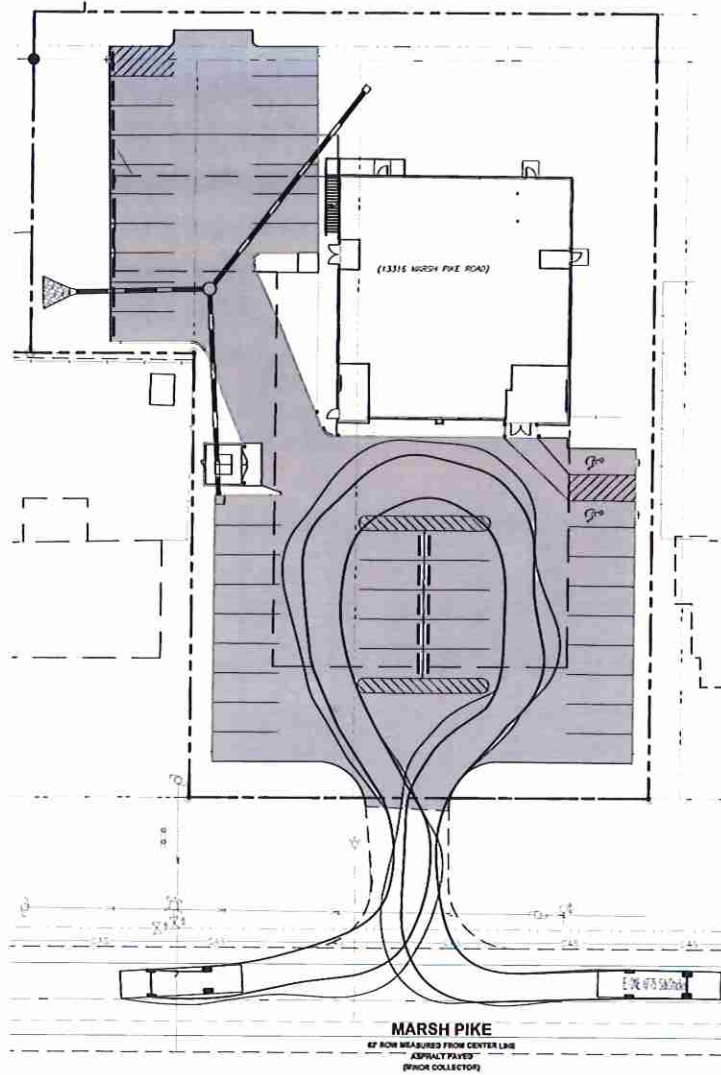
**SITE PLAN FOR
HOLDINGS, LLC.**
13316 MARSH PIKE
GACRIESTOWN, MD. 21742

OBIDI I	WATERING
STORMDRAIN PLANN	ZONING: RS

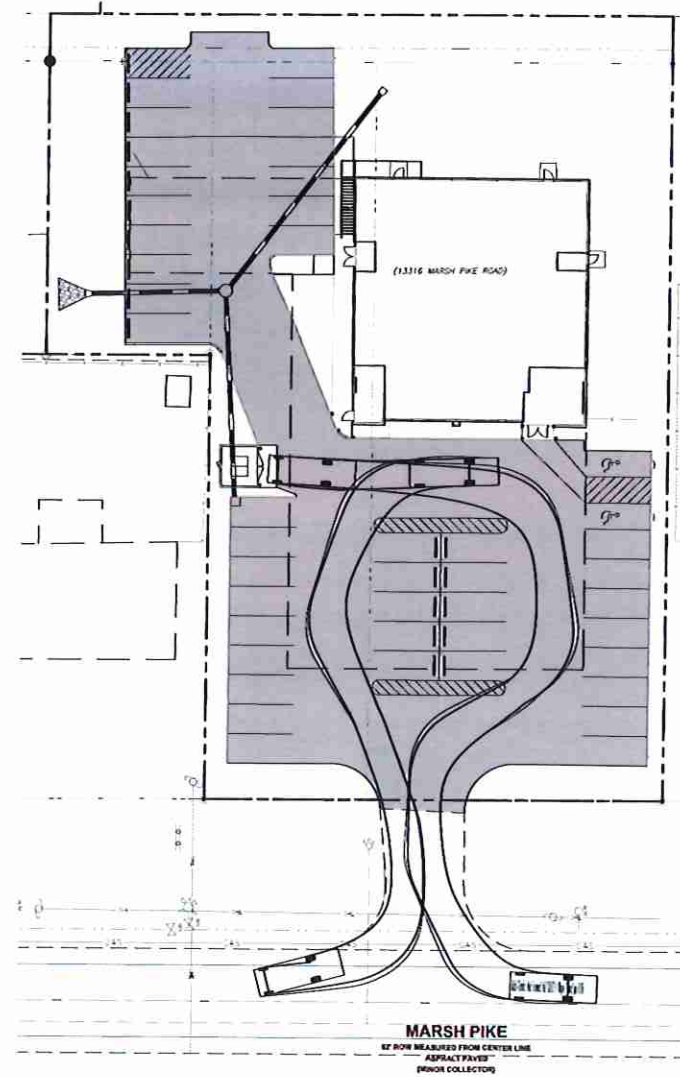
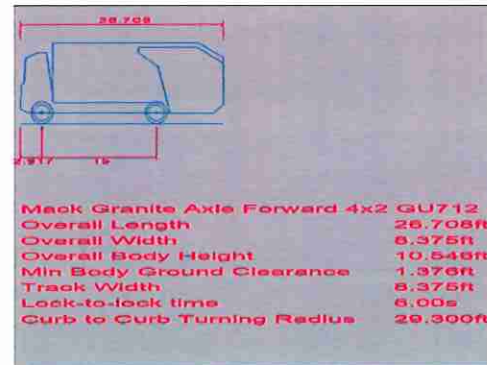
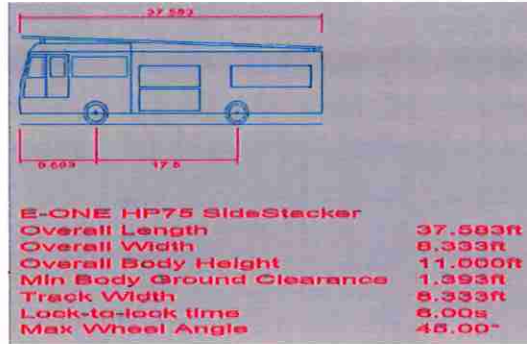
TRIAD
TRIAD ENGINEERING, INC.
www.triadeng.com

SHEET NUMBER:
C-4.1

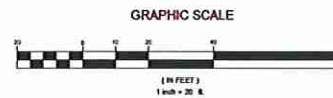
JOB NO. : 03.22.037



FIRE TRUCK TURNING PLAN VIEW
SCALE: 1"=20'



GARBAGE TRUCK TURNING PLAN VIEW
SCALE: 1"=20'



OWNER/DEVELOPER
 OBIDI HOLDINGS, LLC
 303 MEMORIAL BLVD W
 HAGERSTOWN, MD 21740
 PHONE: 301.768.5009
 CHUKWEMEKA OBIDI

COUNTY REFERENCE NO. SP-23-688

SITE PLAN FOR
OBIDI HOLDINGS, LLC.
 HAGERSTOWN, MD 21740

TURNING PLAN

WATERSHED CODE 02140602
 GRID: 0019 PARCEL: 0128 ELEC. DIST: 27

TRIAD
 TRIAD ENGINEERING, INC.
 www.triadeng.com

SHEET NUMBER
C-6.0

JOB NO: 03-22-0877



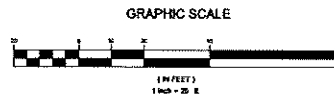
CADD FILE

DRAWN BY: BUS
 STAFF
 DATE: 01-05-2023
 SCALE: 1"=20'

TRIAD ENGINEERING, INC.
 1075-D SHERMAN AVENUE
 HAGERSTOWN, MD 21740
 PH: 301.797.8400 FAX: 301.797.2424
 OFFICE LOCATION
 MARYLAND • PENNSYLVANIA • VIRGINIA • WEST VIRGINIA

REV. # DATE DESCRIPTION

01



TRAD ENGINEERING, INC.
1075-D SHERMAN AVENUE
HAGERSTOWN, MD 21740
PH: 301.787.6400 FAX: 301.787.2424

OFFICE LOCATIONS
MARYLAND • PENNSYLVANIA • VIRGINIA • WEST VIRGINIA

[illegible]

CASE FILE:	DRAWN BY: STAFF	CHECKED BY: BUS	SCALE: 1"=20'
		DATE: 01-09-2023	



SITE PLAN FOR OBIDI HOLDINGS, LLC. 13018 MARSH PIKE HAGERSTOWN, MD 21742	
LIGHTING PLAN	
ZONING: RS	WATERBURY CODE: 07140502
TAX MAP: 0025	GRACE 2019 PARCELS 0126
	ELEC. DIST: 27



OWNER/DEVELOPER
OBORI HOLDINGS, LLC
303 MEMORIAL BLVD W
HAGERSTOWN, MD 21740
PHONE: 301-764-3509
CHUKWUEMEKA OBORI

COUNTY REFERENCE NO. SF-23-005

JOB NO : 03-22-0877

**BEFORE THE BOARD OF APPEALS
FOR WASHINGTON COUNTY, MARYLAND**

OBIDI HOLDINGS, LLC

Appellant

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Appeal No.: AP2024-020

* * * * *

OPINION

Obidi Holdings, LLC (hereinafter “Appellant”) requests a special exception to establish a full-service physicians’ office in a new commercial building at the subject property. The subject property is located at 13316 Marsh Pike, Hagerstown, Maryland and is zoned Residential Suburban. The Board held a public hearing in this matter on May 22, 2024. Appellant was represented by Tracie Clabaugh, Esq. at the hearing.

This appeal was heard pursuant to Article 25 of the Zoning Ordinance for Washington County and upon proper notice to the parties and general public as required.

Findings of Fact

Based upon the testimony given, all information and evidence presented, and upon a study of the specific property involved and the neighborhood in which it is located, the Board makes the following findings of fact:

1. Appellant is the owner of the subject property, which is located at 13316 Marsh Pike, Hagerstown, Maryland. The subject property is zoned Residential Suburban.

2. The subject property consists of approximately .82 acres improved by a commercial building and situated among a number of surrounding mixed uses including several residences, a senior living community, a salon, a bank, two (2) churches and an elementary school.

3. Appellant operates a family medical practice on Memorial Boulevard in Hagerstown, Maryland. Appellant proposes to construct another office at the subject property as a second location for the practice.

4. Appellant originally planned to renovate the existing building at the subject property and retain the residence on the second floor. The original plan included asbestos remediation but was otherwise to re-purpose the existing building elements. However, it was determined that certain portions of the building were not constructed sufficiently resulting in stability issues for the planned renovations. There are significantly increases costs to reinforce structural elements and bring the building into compliance with current code requirements.

5. Appellant proposes to demolish the existing building and construct a new building with a smaller footprint at the subject property. The building would have two (2) floors, with the medical practice on the first floor and a residence and tenant space on the second floor. The first floor would have twelve (12) patient exam rooms.

6. The proposed design has approximately forty-five (45) parking spaces assigned for the new building, pursuant to the Ordinance requirements. Appellant does not expect to need even half of those spaces for the proposed medical practice.

7. The proposed medical practice would be open Monday through Friday from 8:00 a.m. to 5:30 p.m. and 9:00 a.m. to 12:00 p.m. on Saturday.

8. Appellant plans to have two (2) providers, four (4) to five (5) in-office staff and two (2) to three (3) virtual staff at the proposed second office.

9. Patients will be seen by staggered appointment only and at any given time, it is expected there would be a maximum of nine (9) to ten (10) cars in the parking lot. Appellant expects a maximum of three (3) to four (4) patients in any given hour.

10. The Board approved Appellant's special exception request to establish a full-service physicians' office in an existing commercial building at the subject property in Case No. AP2022-029.¹

11. Appellant's neighbor John Skaggs, who lives immediately to the north testified that he was in support of the proposed project.

12. Appellant's neighbor, John Grossnickle testified that as long as there a buffer for his property, he supports the proposed project.

13. There was no opposition presented to this appeal.

Rationale

Procedural History

Appellant initially applied for special exception approval for the subject property in the summer of 2022. The matter came before the Board on July 6, 2022 and the special exception was granted pursuant to a written decision dated August 4, 2022. The Board subsequently voted to amend typographical errors in the original opinion on November 30, 2024 and the Amended Opinion was issued on December 22, 2022.

Appellant began the planning and development process and was ultimately issued a demolition permit in 2024. As demolition work was set to begin, County staff discovered that Appellant's plan had changed from a renovation project to a demolition and rebuild project. At that time, it was determined that Appellant would need a new special exception because the prior special exception use had been approved specifically for the existing building at the subject property. Appellant promptly filed this request for a special exception.

¹ AP2022-029 was originally heard on July 6, 2022 and issued a written opinion containing clerical errors. The Board subsequently approved corrections to the Opinion at a hearing on November 30, 2022 and the Amended Opinion was issued on December 22, 2022.

Special Exception Request

The Board has authority to grant a special exception pursuant to Section 25.2(b) of the Zoning Ordinance for Washington County, Maryland. A special exception is defined as “a grant of a specific use that would not be appropriate generally or without restriction; and shall be based upon a finding that the use conforms to the plan and is compatible with the existing neighborhood.” Article 28A. In addition, Section 25.6 sets forth the limitations, guides, and standards in exercise of the board’s duties and provides:

Where in these regulations certain powers are conferred upon the Board or the approval of the Board is required before a permit may be issued, or the Board is called upon to decide certain issues, the Board shall study the specific property involved, as well as the neighborhood, and consider all testimony and data submitted, and shall hear any person desiring to speak for or against the issuance of the permit. However, the application for a permit shall not be approved where the Board finds the proposed building, addition, extension of building or use, sign, use or change of use would adversely affect the public health, safety, security, morals or general welfare, or would result in dangerous traffic conditions, or would jeopardize the lives or property of people living in the neighborhood. In deciding such matters, the Board shall consider any other information germane to the case and shall give consideration to the following, as applicable:

- (a) The number of people residing or working in the immediate area concerned.
- (b) The orderly growth of a community.
- (c) Traffic conditions and facilities
- (d) The effect of such use upon the peaceful enjoyment of people in their homes.
- (e) The conservation of property values.
- (f) The effect of odors, dust, gas, smoke, fumes, vibrations, glare and noise upon the use of surrounding property values.
- (g) The most appropriate use of the land and structure.
- (h) Decision of the courts.
- (i) The purpose of these regulations as set forth herein.
- (j) Type and kind of structures in the vicinity where public gatherings may be held, such as schools, churches, and the like.

The Board finds no cause for concern with respect to the number of people residing or working in the area, traffic conditions, or the conservation of property values. There was also no evidence of any concern for dust, noise, odor, smoke, fumes, vibrations or glare

from the proposed use. Appellant provided testimony that outdoor lighting will be low height, designed to minimize spillage onto neighboring properties. Two of Appellant's immediate neighbors testified that they did not oppose the proposed project and thus, did not believe that the proposed medical office would disturb the peaceful enjoyment of their properties.

The Board expressed some concerns about the design and plan for the new building as it related to the orderly growth of the community. Appellant's proposed building appears to be completely different from any of the residences or other buildings in the immediate vicinity. During the hearing for the first special exception request, Appellant did not yet have a concept drawing to share with the Board. Now the project is well into the engineering and development phases and the design drawings seem different from the envisioned concept of the previous request. There is also tenant space on the second floor that was not part of the prior plan for this project. The Board was concerned that the proposed use would expand into a clinic or other mixed use which might impact the surrounding properties.

The plan calls for a large parking lot with approximately forty-five (45) parking spaces, despite the testimony that there would be limited staff and patients in any given hour at the practice. The Board considered imposing conditions to limit the parking, but ultimately noted that the proposed parking spaces were dictated by the Ordinance and a variance would be required to reduce the number of spaces required.

The Board discussed the possibility of imposing other conditions to address concerns with the design and possible expansion. However, the need for multiple conditions for a special exception use calls into question the appropriateness of such a use at the subject property. The Board's concerns culminate in a lingering uncertainty about the true impact of the use on the surrounding properties. Given this uncertainty, the Board cannot determine the degree to which any such impact may be adverse. For these reasons, the Board is unable to find that the proposed use at the subject property

will have no greater “adverse effects above and beyond those inherently associated with such a special exception use irrespective of its location within the zone.” *Schultz v. Pritts*, 291 Md. 1, 15 (1981). Appellant has not satisfied the criteria for a special exception and therefore the request must be denied.

Accordingly, the request for a special exception to establish a full-service physicians’ office in a new commercial building at the subject property is hereby DENIED, by a vote of 3 to 2.

BOARD OF APPEALS

By: Jay Miller, Chair²

Date Issued: June 18, 2024

Notice of Appeal Rights

Any party aggrieved by a final order of the Authority in a contested case, whether such decision is affirmative or negative in form, is entitled to file a petition for judicial review of that order to the Circuit Court for Washington County within thirty (30) days of the date of the order.

² Mr. Miller was a Board member and served as Chair at the time of the hearing and decision in this matter. His term has since expired, and he is no longer a member of the Board of Appeals.