

BOARD OF APPEALS

May 28, 2025

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

AGENDA

AP2025-008: An appeal was filed by Sharpsburg Pike Holding LLC for a variance from the required 25 ft. setback from the road right-of-way to 22.34 ft. for installed freestanding sign on property owned by the appellant and located at 10301 Ezra Drive, Hagerstown, Zoned Highway Interchange. - **DENIED**

AP2025-009: An appeal was filed by Rigoberto Hernandez for a variance from the required 40 ft. rear yard setback to 27 ft. for proposed rear covered deck on property owned by the appellant and located at 132 Stanford Road, Hagerstown, Zoned Residential Suburban. - **GRANTED**

AP2025-010: An appeal was filed by Obidi Holding LLC for a variance from the required 25 ft. setback for a sign supporting structure from the road right-of-way to 2 ft. and a variance from the requirement of no part of the sign closer than 5 ft. to the road right-of-way to 0 ft. for proposed freestanding sign and located at 13316 Marsh Pike, Hagerstown, Zoned Residential Suburban. - **APPEAL CONTINUED TO JUNE 25 AGEANDA**

AP2025-011: An appeal for charging administrator error of the Zoning Administrator's determination of Section 4.3d for the legal non-conforming use of a bar & grill on vacant lot owned by the appellant, Kehoe Realty LLC and located at 1221 & 1225 Security Road, Hagerstown, Zoned Residential Suburban. **POSTPONED TO THE JUNE 11TH AGENDA**

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 19, 2025. 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.

Tracie Felker, 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: Sharpsburg Pike Holding, LLC
1741 Dual Highway
Suite B
Hagerstown MD 21740

Appellant: Sharpsburg Pike Holding LLC
1741 Dual Highway
Suite B
Hagerstown MD 21740

Property Location: 10301 Ezra Drive
Hagerstown, MD 21740

Description Of Appeal: Variance from the required 25 ft. setback from the road right-of-way to 22.34 ft. for installed freestanding sign.

Docket No: AP2025-008
Tax ID No: 10067468

Zoning: HI
RB Overlay: No
Zoning Overlay:

Filed Date: 05/07/2025
Hearing Date: 05/28/2025

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): AP2020-011

Applicable Ordinance Sections: Washington County Zoning Ordinance Section 22.23 (e)

Reason For Hardship: See justification statement

If Appeal of Ruling, Date Of Ruling:

Ruling Official/Agency:

Existing Use:

Proposed Use:

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 7 day of May, 2025.

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

Notary Public



WASHINGTON COUNTY BOARD OF ZONING APPEALS

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AFFIDAVIT IN COMPLIANCE WITH SECTION 25.51(C)

Docket No: AP2025-008

State of Maryland Washington County, To Wit:

On 5/7/2025, before me the subscriber, a Notary of the public of the State and County aforesaid, personally appeared Gary Brent and made oath in due form of law as follows:

Gary Brent 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 05/28/2025, 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 05/13/2025 and will remain until after the above hearing date.

Gary Brent

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

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BOARD OF ZONING APPEALS

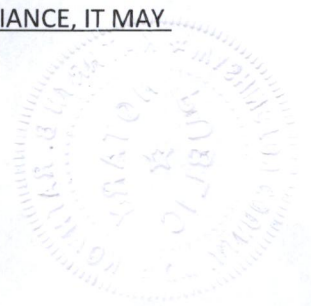
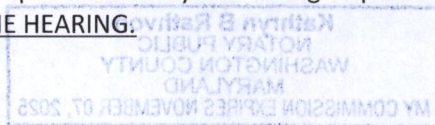
ATTENTION!

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 10301 Ezra Drive

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

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

☐ Contract to Purchase ☒ Other Authorized Rep

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

Section 22.23 "Use on the Premises" Signs, on Buildings (e)

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

The freestanding sign shall be located in such a manner that no part of the supporting structure is less than twenty-five (25) feet from the street right-of-way, and that no part of the sign is closer than five (5) feet to the right-of-way.

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

Requesting a variance for a setback of 22.3 feet for AutoZone freestanding sign; difference of 2.7 feet from the requirement of a 25 ft setback per code.

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): _____

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

[Signature]
Signature of Appellant

17187 Foggy Bottom Rd, Blenheim, VA 22135
Address and of Appellant

gary.brest@affordable.com
Email of Appellant

440 507 0053
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 Jones Sign Company and MG Permits - Gary Brent is authorized to file an appeal with the Washington County Board of Appeals for AutoZone - #6200 Hagerstown, MD on property located 10301 Ezra Drive (PSP-21-002 10301 Ezra Drive, Lot 5) The said work is authorized by Sharpsburg Pike Holding, LLC the property owner in fee.

PROPERTY OWNER

Sharpsburg Pike Holding, LLC

Name

1741 Dual Highway, Suite B

Address

Hagerstown, MD 21740

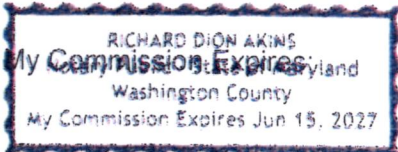
City, State, Zip Code

Owner's Signature

Adam SHADD

Sworn and subscribed before me this 1st day of May, 2025

Notary Public



AUTHORIZED REPRESENTATIVE

Gary Brent - MG Permits

Name

19187 Foggy Bottom Road

Address

Bluemont, VA 20135

City, State, Zip Code

Authorized Representative's Signature

County/City of Loudoun Commonwealth/State of Virginia The foregoing instrument was acknowledged before me this 05 day of May 2025, by GARY B. BRENT JR. (name of person seeking acknowledgement)

Notary Public

My Commission Expires: March 31, 2029

Sworn and subscribed before me this 05 day of May, 2025

Notary Public

My Commission Expires: March 31, 2029



Romelia Anastacio Tayag Commonwealth of Virginia Notary Public Commission No. 00354795 My Commission Expires 03/31/2025

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AutoZone
10301 EZRA Drive

Undue Hardship

1. Strict compliance with the Ordinance would prevent the applicant from securing a reasonable return from or to make reasonable use of the property; and

The sign setback is only off by a few feet per the code requirement and in the current location, it will not cause any visibility issues and conversations were had with the Department of Transportation and as long as the sign is not within the state right of way, which it is not, they were ok with the location of the sign as is.

2. The difficulties or hardships are peculiar to the property and contrast with those of other property owners in the same district; and

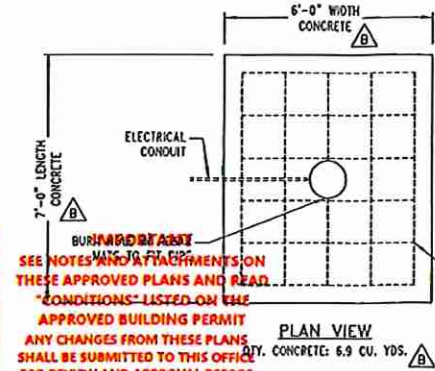
The ground condition in the area where the sign was to be installed was not known until digging in the area started. This made the pouring of the foundation much more difficult as it took days to dig to a reasonable depth. This required digging of a larger hole and revision of the footer to a spread footing since the installer could not dig any deeper due to the rocky conditions of the ground. A revision to the permit was reviewed and approved to change the footer to a spread footing.

3. The hardship is not the result of the applicant's own actions.

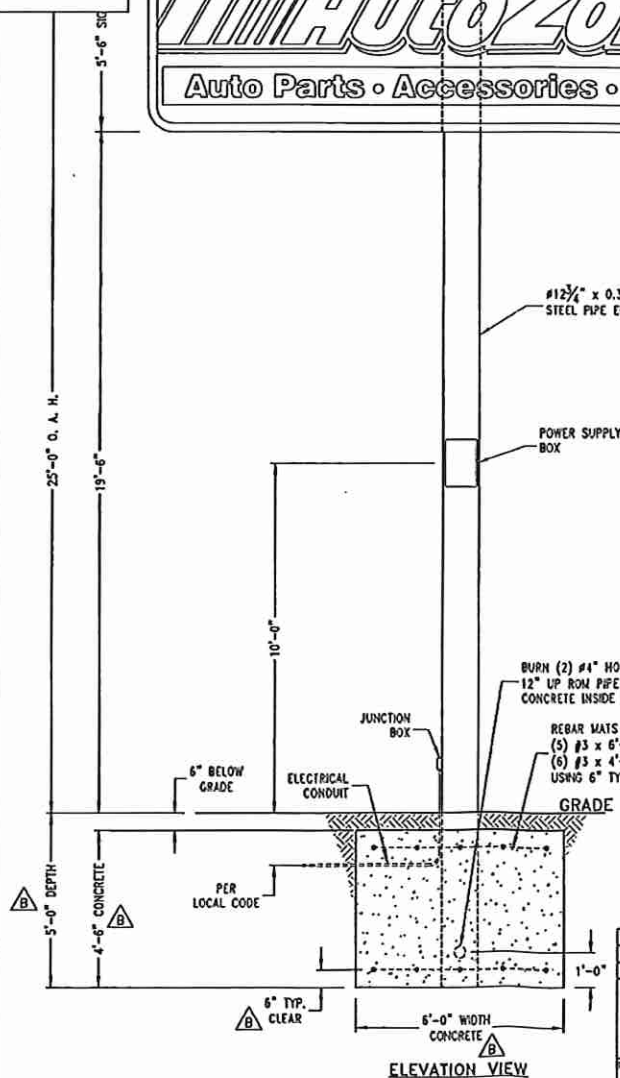
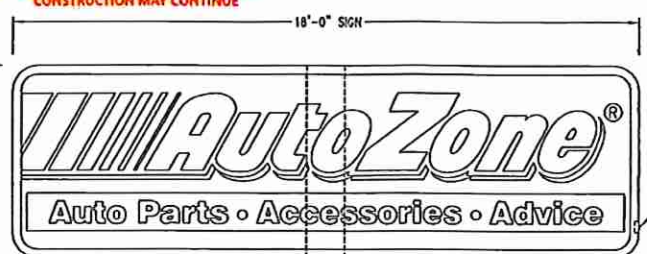
When the installer was digging, they were running into issues with hitting large rocks in the area and had to dig a bigger hole and the sign got shifted a little bit to accommodate the footing as they were having a hard time digging in the area. Having to do the larger hole and setting the footing, it led to the sign being shifted to where it is about 2.66 feet off of the 25 ft setback requirement.

Construction Plans
PLAN APPROVAL
 These plans have been reviewed for minimum compliance and the approved set must exist on the job site at all times.
 Design: [blank] DATE: 2-18-2023
 Washington County Division of Permits & Inspections
 7177 Northern Avenue, Hagerstown, MD 21740

Washington County Permits & Inspections
REVISED
 [blank] DATE: [blank]
 [blank] [blank] [blank] [blank]



FOUNDATION DESIGN NOTES:
 1. Concrete shall have a minimum compressive strength of 3000 PSI at 28 days.
 2. Reinforcing steel shall be ASTM A-615 Gr. 60.
 3. Spread footing designed using soil bearing forces of 1800 PSF Static, 2400 PSF Dynamic and 225 PSF per foot lateral based on soil conditions found in Geotek Engineering, Inc. Project No. 112101279 geotechnical report dated April 9, 2021.



#12 1/4" x 0.375" WALL ASTM A-252 Gr. 3
 STEEL PIPE EMBEDDED IN FOUNDATION.

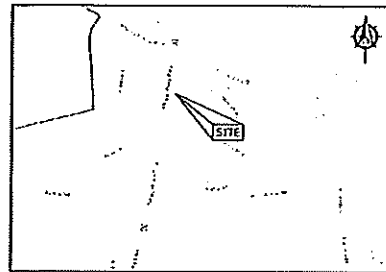
PROFESSIONAL CERTIFICATION. I HEREBY CERTIFY THAT THESE DOCUMENTS WERE PREPARED OR APPROVED BY ME, AND THAT I AM A DULY LICENSED PROFESSIONAL ENGINEER UNDER THE LAWS OF THE STATE OF MARYLAND.
 LICENSE NO. 61229
 EXPIRATION DATE: 6-11-25

DESIGN WIND LOAD:
 Based on the Maryland Building Performance Standards (2218 IRC) using Risk Category II, Exposure C and 115 mph wind speed.



SITE: AutoZone
 Store No. 6200
 Sharpsburg Pike
 Hagerstown, Maryland 21740

REV	DATE	DESCRIPTION	APPROVED
B	15 Jan 23	REVISED FOOTING FROM A CAISSON	J. HOGAN
A	20 Apr 23	RELEASED FOR PERMITTING	J. HOGAN
BY	DATE	DESCRIPTION	APPROVED
Robert-James & Associates, Inc.			
12255 West 187th Street, Mokena Illinois 60448-9737			
phone: 708-479-8385 fax: 708-479-8395 email: rja37@comcast.net			
25'-0" OAH DIRECT BURY SINGLE POLE FOR 5'-6" x 18'-0" AUTOZONE ID SIGN			
DESIGNED BY	A. WLODZKE	DATE	20 Apr 23
CHECKED BY	J. HOGAN	DATE	20 Apr 23
SCALE	NONE	DRAWING NUMBER	2304150
SHEET	SN-1	REV.	B



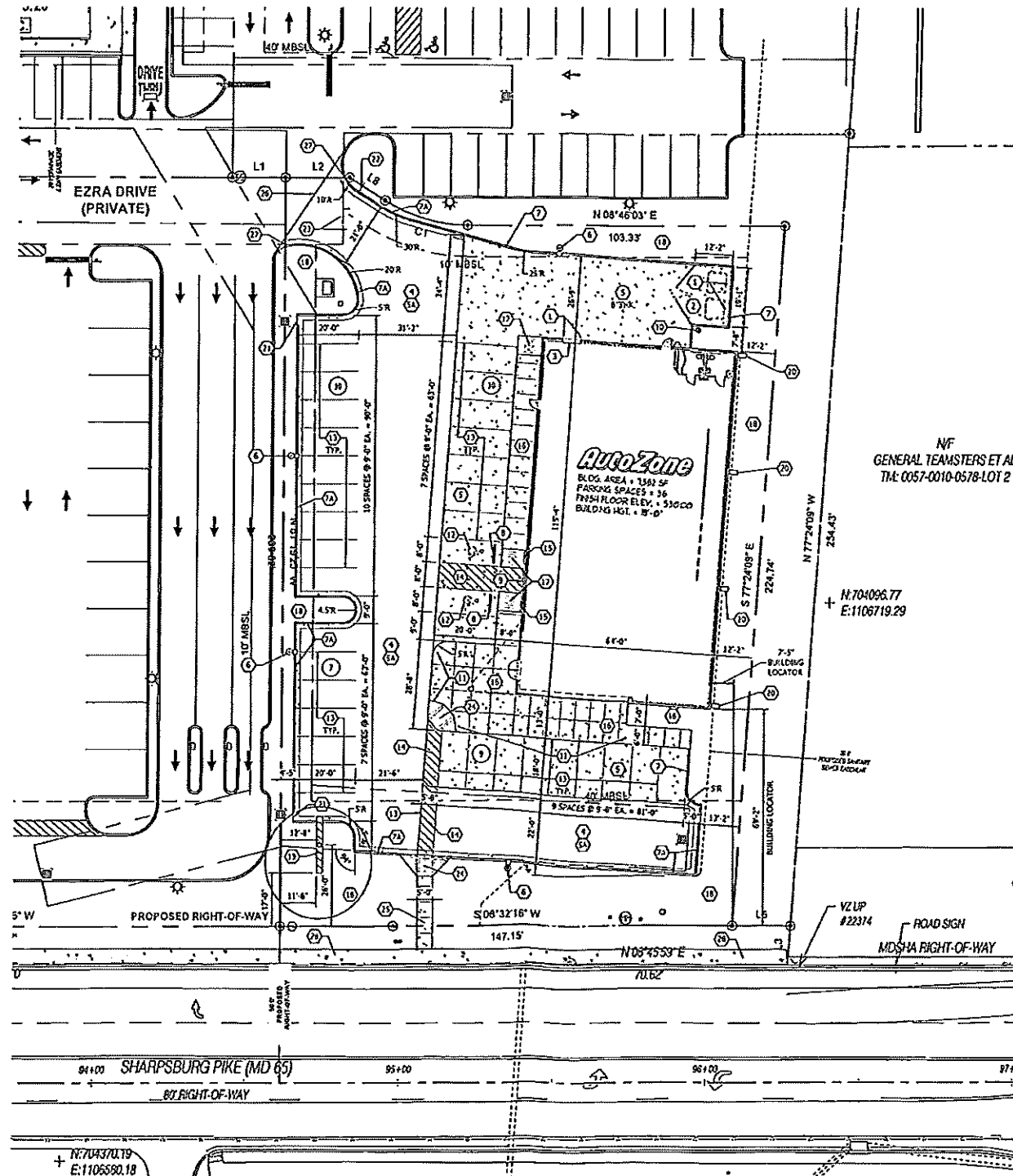
SITE LOCATION MAP
SCALE: 1" = 1.500'

GENERAL CONSTRUCTION NOTES

1. ALL CONSTRUCTION SHALL COMPLY WITH LOCAL MUNICIPALITY AND COUNTY CODES AND STANDARDS. ALL CONSTRUCTION SHALL BE PERFORMED IN ACCORDANCE WITH ALL APPLICABLE OSHA, FEDERAL, STATE AND LOCAL REGULATIONS.
2. THE CONTRACTOR SHALL OBTAIN ALL NECESSARY CONSTRUCTION PERMITS REQUIRED TO PERFORM ALL THE WORK. THE CONTRACTOR SHALL POST ALL BONDS, PAY ALL FEES, PROVIDE PROOF OF INSURANCE AND PROVIDE TRAFFIC CONTROL, NECESSARY FOR THIS WORK.
3. THE CONTRACTOR SHALL NOTIFY ALL SITE CONDITIONS IN THE FIELD AND CONTACT THE OWNER IF THERE ARE ANY QUESTIONS OR CONFLICTS REGARDING THE CONSTRUCTION DOCUMENTS AND/OR FIELD CONDITIONS SO THAT APPROPRIATE ADJUSTMENTS CAN BE MADE PRIOR TO CONSTRUCTION. ANY CONFLICT BETWEEN DRAWINGS AND THE SPECIFICATIONS SHALL BE CORRELATED WITH THE CONSTRUCTION MANAGER PRIOR TO BEGINNING.
4. SHOULD ANY UNCHARTED, OR INCORRECTLY CHARTED, EXISTING PIPING OR OTHER UTILITY BE UNCOVERED DURING EXCAVATION, CONTACT THE ENGINEER AND THE ARCHITECT IMMEDIATELY BEFORE PROCEEDING FURTHER WITH THE WORK IN THIS AREA.
5. DO NOT INTERRUPT EXISTING UTILITIES SERVING FACILITIES OCCUPIED AND USED BY THE OWNER OR OTHERS DURING OCCUPIED HOURS EXCEPT WHEN SUCH INTERRUPTED WORK HAVE BEEN AUTHORIZED BY THE OWNER, LOCAL MUNICIPALITY AND/OR UTILITY COMPANY. INTERRUPTIONS SHALL ONLY OCCUR AFTER ACCEPTABLE TEMPORARY OR PERMANENT SERVICE HAS BEEN PROVIDED.
6. THE CONTRACTOR SHALL ABIDE BY ALL OSHA, FEDERAL, STATE AND LOCAL REGULATIONS WHEN OPERATING CRANES, BOOMS, HOISTS, ETC. IN CLOSE PROXIMITY TO OVERHEAD ELECTRIC LINES. IF CONTRACTOR MUST OPERATE EQUIPMENT CLOSE TO ELECTRIC LINES, CONTACT THE POWER COMPANY TO MAKE ARRANGEMENTS FOR PROPER SAFEGUARDS.
7. THE CONTRACTOR SHALL RESTORE ANY STRUCTURES, PIPE, UTILITY, PAVEMENT, CURBS, SIDEWALKS, LANDSCAPED AREAS, ETC. WITHIN THE SITE OR ADJACENT PROPERTIES DISTURBED DURING CONSTRUCTION OR CONSTRUCTION TO THEIR ORIGINAL CONDITION OR BETTER, AND TO THE SATISFACTION OF THE OWNER AND LOCAL MUNICIPALITY. ALL COSTS TO COMPLETE THIS WORK SHALL BE INCLUDED IN THE BASE BID FOR THIS PROJECT.
8. THE CONTRACTOR SHALL BE RESPONSIBLE TO INSTALL AND MAINTAIN TRAFFIC DEVICES FOR PROTECTION OF PEDESTRIANS AND VEHICLES CONSISTING OF CONES, BARRIERS, SIGNS, LIGHTS, FENCES AND UNIFORM TRAFFIC CONTROL DEVICES IN ACCORDANCE WITH THE STATE DEPARTMENT OF TRANSPORTATION OR AS REQUIRED OR DIRECTED BY THE SITE ENGINEER OR CONSTRUCTION MANAGER OR LOCAL GOVERNING AUTHORITIES. CONTRACTOR SHALL MAINTAIN ALL TRAFFIC LANES AND PEDESTRIAN WALKWAYS AT ALL TIMES UNLESS WRITTEN APPROVAL FROM THE DEPARTMENT OF TRANSPORTATION, LOCAL MUNICIPALITY, COUNTY, OR OTHER GOVERNING AUTHORITY IS RECEIVED.
9. THE CONTRACTOR SHALL NOTIFY THE ENGINEER SHOULD ANY DISCREPANCY INCLUDING THE PROPOSED WORK OR UNDESIRABLE CONDITIONS ARISE PRIOR TO PROCEEDING FURTHER WITH THE AFFECTED WORK.
10. THE CONTRACTOR SHALL PROVIDE AS-BUILT RECORDS OF ALL CONSTRUCTION (INCLUDING UNDERGROUND UTILITIES) TO THE OWNER AND THE ARCHITECT FOLLOWING COMPLETION OF CONSTRUCTION ACTIVITIES.
11. REFER TO DETAIL SHEETS FOR EROSION AND SEDIMENT CONTROL, STORM DRAINAGE, UTILITY, PAVING, CURBING, SHOWING, AND RETAINING WALL DETAILS AS APPLICABLE.
12. PAVEMENT MARKINGS SHALL BE IN ACCORDANCE WITH DEPARTMENT OF TRANSPORTATION GUIDELINES AND SHALL BE PAINTED AS DESIGNATED ON THE PLANS OR PAVEMENT MARKING DETAILS.
13. THE CONTRACTOR SHALL REMOVE EXISTING PAVEMENT MARKINGS IN A METHOD APPROVED BY THE OWNER.
14. SITE DIMENSIONS ARE REFERENCED TO THE FACE OF CURBS OR EDGE OF PAVING UNLESS OTHERWISE NOTED. ALL BUILDING DIMENSIONS ARE REFERENCED TO THE OUTSIDE FACE OF THE STRUCTURE UNLESS OTHERWISE NOTED.
15. ALL PAVING MATERIALS FURNISHED AND WORK COMPLETED SHALL BE IN STRICT ACCORDANCE WITH THE STATE DEPARTMENT OF TRANSPORTATION GUIDELINES UNLESS OTHERWISE SPECIFIED.
16. THE CONTRACTOR IS RESPONSIBLE FOR THE REMOVAL AND DISPOSAL OF ALL RUBBISH, TRASH, DEBRIS, AND ORGANIC MATERIAL IN A LAWFUL MANNER.
17. THE CONTRACTOR SHALL BE RESPONSIBLE FOR VERIFYING ALL DIMENSIONS FOR BUILDING, WALLS, CONCRETE SLABS, AND UTILITY SERVICE POINT COORDINATES AND NOTIFYING THE OWNER AND ENGINEER OF ANY CONFLICTS OR DISCREPANCIES PRIOR TO CONSTRUCTION. THE CONTRACTOR SHALL REFERENCE BUILDING CONSTRUCTION PLANS FOR EXACT LOCATIONS OF ALL UTILITY CONNECTIONS TO BUILDINGS AND DOOR STEP LOCATIONS.
18. PIPE BOLLARDS SHALL BE INSTALLED IN TRAFFIC AND LOADING AREAS AS REQUIRED TO PROTECT BUILDING CORNERS, RECEIVING AREAS, HYDRANTS, TRANSFORMERS, METERS, COXATIONS, COXATIONS, STEPS, AND RAILINGS, AS NECESSARY.
19. ALL SITE CONSTRUCTION TESTING AND CERTIFICATIONS, AS REQUIRED BY MUNICIPALITIES HAVING JURISDICTION AND/OR THIRD PARTY INSPECTION AGENCIES, ARE THE RESPONSIBILITY OF THE GENERAL CONTRACTOR.
20. THE CONTRACTOR SHALL SUBMIT SHOP DRAWINGS OF ALL PRODUCTS, MATERIALS AND PLAN SPECIFICATIONS TO THE ARCHITECT AS REQUIRED FOR REVIEW AND APPROVAL PRIOR TO FABRICATION OR DELIVERY TO THE SITE. ALLOW A MINIMUM OF 14 WORKING DAYS FOR REVIEW.
21. THE CONTRACTOR SHALL REFERENCE ARCHITECTURAL PLANS FOR EXACT DIMENSIONS AND CONSTRUCTION DETAILS OF BUILDING ADDITIONS, ROOF CHANGES, RAISED CONCRETE SIDEWALKS, AND RAMP.
22. TRAFFIC CONTROL SIGNS SHALL COMPLY TO THE STATE DEPARTMENT OF TRANSPORTATION STANDARD DETAIL SHEETS AND THE MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES. SIGNS SHALL BE INSTALLED PRIOR.
23. INFORMATION ON EXISTING UTILITIES HAS BEEN OBTAINED FROM AVAILABLE INFORMATION INCLUDING UTILITY COMPANY AND PUBLIC RECORD MAPS AND FIELD SURVEY. PRIOR TO DEMOLITION OR CONSTRUCTION, THE CONTRACTOR SHALL CONTACT MISS UTILITY OF MARYLAND, P.C. WITHIN THREE (3) WORKING DAYS BEFORE COMMENCEMENT OF WORK AT 1-800-257-7777.
24. NO PART OF THE LOT IS LOCATED WITHIN ANY FLOODPLAIN AREAS.
25. FIRE LINES SHALL BE ESTABLISHED AND PROPERLY DESIGNED IN ACCORDANCE WITH THE LOCAL MUNICIPALITY AND LOCAL FIRE DEPARTMENT REQUIREMENTS.

LINE	DESCRIPTION	LENGTH	BEARING
1	1.50' 0" 0" 0"	1.50	N 0° 0' 0" E
2	1.50' 0" 0" 0"	1.50	N 0° 0' 0" E
3	1.50' 0" 0" 0"	1.50	N 0° 0' 0" E
4	1.50' 0" 0" 0"	1.50	N 0° 0' 0" E
5	1.50' 0" 0" 0"	1.50	N 0° 0' 0" E
6	1.50' 0" 0" 0"	1.50	N 0° 0' 0" E

LINE	DESCRIPTION	LENGTH	BEARING
1	1.50' 0" 0" 0"	1.50	N 0° 0' 0" E
2	1.50' 0" 0" 0"	1.50	N 0° 0' 0" E
3	1.50' 0" 0" 0"	1.50	N 0° 0' 0" E
4	1.50' 0" 0" 0"	1.50	N 0° 0' 0" E
5	1.50' 0" 0" 0"	1.50	N 0° 0' 0" E
6	1.50' 0" 0" 0"	1.50	N 0° 0' 0" E



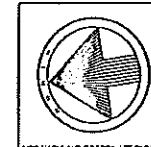
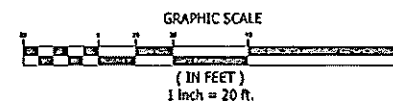
KEYNOTES

1. PIPE GUARD - SEE DETAIL 11/C1.A
2. DUMPSTER LAYOUT - SEE DETAILS 12, 14, 15 & 16/C1.A
3. SERVICE DOOR - SEE DETAIL 16/C1.A
4. ASPHALT PAVING - SEE DETAILS 2 & 4/C1.A
5. CONCRETE PAVING - SEE DETAIL 3/C1.A. EXPANSION AND CONTRACTION JOINTS - SEE DETAILS 11 & 12/C1.A. MAXIMUM SPACING FOR CONTRACTION JOINTS IS 15' O.C. EACH WAY.
6. G.C. TO PROVIDE ALTERNATE BID FOR CONCRETE PAVING, WHERE NOTED.
7. CONCRETE LIGHT POLE BASE - SEE DETAIL 12/C1.A. ALL LIGHT FIXTURE IN DIRECTION AS INDICATED.
8. ROLL-OVER CURB @ CONCRETE PAVING - SEE DETAIL 12/C1.A
9. ROLL-OVER CURB @ ASPHALT PAVING - SEE DETAIL 2/C1.A
10. WHEEL STOP - SEE DETAIL 24/C1.A
11. CONSTRUCT 6" WIDE CONCRETE CURB AGAINST BUILDING AT ACCESSIBLE RAMP.
12. FROST-PROOF YARD HYDRANT - SEE DETAILS ON SHEET P1.
13. BOLLARD PLAN - SEE DETAIL 9/C1.A
14. BARRIER-FREE PARKING SYMBOL - SEE DETAIL 3/C1.A
15. 4" WIDE PARKING STRIPE PAINTED WHITE (TYP.)
16. 4" WIDE DIAGONAL STRIPE PAINTED WHITE AT 2 FT. O.C. STRIPE AT ACCESSIBLE PARKING TO BE BLUE - SEE DETAIL 6/C1.A
17. ACCESSIBLE PARKING SIGN - SEE DETAIL 16/C1.A. G.C. TO PROVIDE ONE VAN ACCESSIBLE SIGN.
18. CONCRETE SIDEWALK - SEE DETAILS 20 & 21/C1.A FOR SIDEWALKS AROUND BUILDING.
19. ACCESSIBLE RAMP - SEE DETAILS 5 & 6/C1.A. MAX. SLOPE 1:12 (8.33%), MAX. CROSS SLOPE 1:50 (2.00%). TRANSITION RAMP TO BE A CONTRASTING COLOR.
20. NEW LAMINATE AREA - PROVIDE 3" THICK, 8'00". SEE SHEET 11.B FOR ADDITIONAL INFORMATION.
21. 5'0" X 17'0" X 2'0" O.A.M. PAVEMENT SIGN, READER SEPARATE PERMIT. ALL SIGNS SHALL BE PERMITTED IN ACCORDANCE WITH CITY REGULATIONS.
22. CONCRETE SPLASH BLOCK AT ROOF DOWNSPOUTS - SEE DETAIL 17/C1.A
23. 3'-0" WIDE CURB CUT ON DRIVE FOR STOP-PAINTED.
24. 8'-1" "STOP" SIGN (30" X 30") MOUNTED ON GALVANIZED STEEL POLE, PER FOOT SHA REQUIRED-40'S.
25. PAINTED THERMOPLASTIC 24" WIDE STOP BAR & DOUBLE YELLOW LINES, PER FOOT SHA REQUIRED-40'S.
26. ACCESSIBLE WING RAMP WITH MAXIMUM 8.33% SLOPE, PER FOOT SHA SPECIFICATIONS. SEE DETAIL 26/C1.A
27. 4" WIDE CONCRETE SIDEWALK WITH MAXIMUM 2.0% CROSS SLOPE, AND MAXIMUM 5.0% RAMPING SLOPE.
28. LIMITS OF NEW PAVEMENT.
29. TRANSITION ROLL-OVER CURB & CUTTER TO FULL DEPTH CONCRETE CURB (BY OTHERS).
30. PUBLIC SIDEWALK BY DEVELOPER.

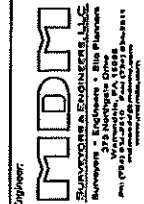
GENERAL NOTES

1. PROOF ROLL BUILDING AND ALL PARKING AREAS. NOTIFY THE ARCHITECT OF ANY UNACCEPTABLE AREAS.
2. EDGE OF NEW PAVEMENT TO BE FINISH WITH EXISTING PAVEMENT.
3. ALL SIDEWALK CURB AND OUTER STREET PAVING, CURB CUTS, EXISTENT APPROACHES, HANDICAP RAMP, ETC. TO BE CONSTRUCTED OUTSIDE THE PROPERTY LINE IN THE RIGHT-OF-WAY SHALL CONFORM TO ALL MUNICIPAL, ADOPTED STATE SPECIFICATIONS AND REQUIREMENTS.
4. FOR AREAS OUTSIDE THE PROPERTY LINES, REPAIR AND/OR REPLACE ALL DAMAGE DONE TO EXISTING BLENDMENTS (SIDEWALKS, PAVING, LANDSCAPING, ETC.) AS REQUIRED BY OWNER AND/OR GOVERNING AUTHORITY.
5. FOR PROPOSED UTILITY LOCATIONS, SEE THE SITE UTILITY PLAN.
6. FOR ANY LANDSCAPE AREA SO DESIGNATED TO REMAIN, WHETHER ON OR OFF SITE, NO TIE-INS, ROOTS, CONSTRUCTION ITEMS, ETC., THEN SECURITY AREA, REESED AND FILL WITH 12" O.C. OF W-11 CURB AND CUTTERS ARE TO BE CLEARED OF DEBRIS.

CALL BEFORE YOU DIG!
MISS UTILITY PARTICIPANTS REQUEST
3 WORKING DAYS NOTICE BEFORE YOU DIG,
DRILL, OR BLAST - STOP CALL
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1-800-257-7777



AutoZone Development, LLC
123 South Front Street, 3rd Floor
Memphis, Tennessee 38103
Tel: (901) 455-8795 Fax: (901) 455-8889
For Bidding & Contractor Information Contact:
F.W. Dodge Plan Room Tel: (615) 884-1017



Engineer: **AutoZone STORE DEVELOPMENT**
Prepared for: **AutoZone STORE DEVELOPMENT**
Site No.: **0200**
SHARPSBURG PIKE (MD 65)
CITY OF HAGERSTOWN, COUNTY OF WASHINGTON
STATE OF MARYLAND
SITE PLAN

SCALE: 1"=20'-0"

REVISIONS

NO.	DESCRIPTION
1.	
2.	
3.	
4.	
5.	
6.	
7.	
8.	

DRAFTSMAN: CWT

CHECKED BY: ESD

DATE: 3/24/2023

PROJECT: C1.0

PROF: C1.0

PROF: C1.0

PROF: C1.0

PROF: C1.0

PROF: C1.0

PROF: C1.0

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PROF: C1.0

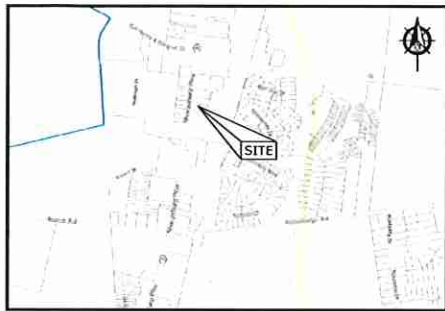
PROF: C1.0

PROF: C1.0

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PROF: C1.0



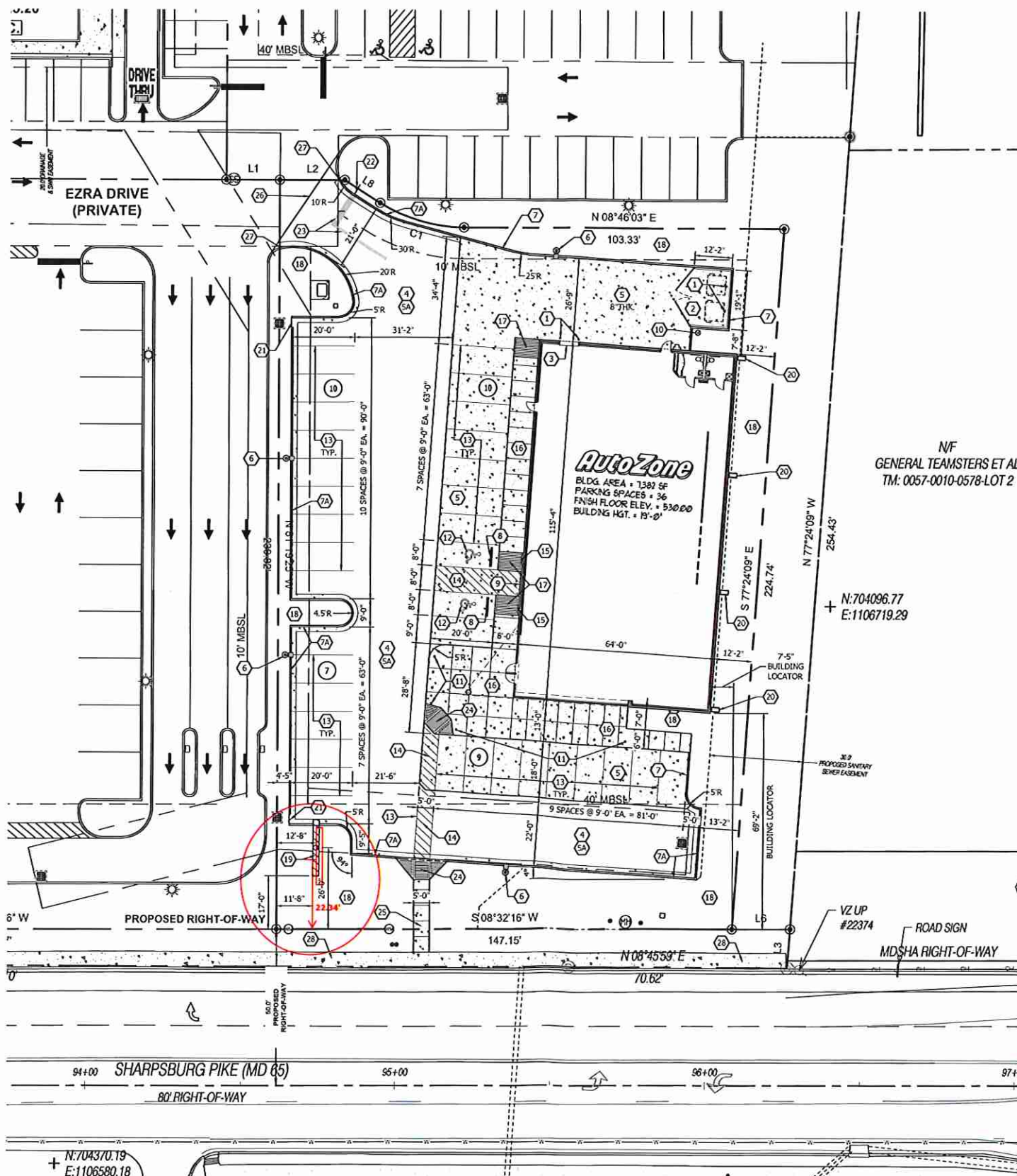
SITE LOCATION MAP
SCALE: 1" = 1,500'

GENERAL CONSTRUCTION NOTES

- ALL CONSTRUCTION SHALL COMPLY WITH LOCAL MUNICIPALITY AND COUNTY CODES AND STANDARDS. ALL CONSTRUCTION SHALL BE PERFORMED IN ACCORDANCE WITH ALL APPLICABLE OSHA, FEDERAL, STATE AND LOCAL REGULATIONS.
- THE CONTRACTOR SHALL OBTAIN ALL NECESSARY CONSTRUCTION PERMITS REQUIRED TO PERFORM ALL THE WORK. THE CONTRACTOR SHALL POST ALL BONDS, PAY ALL FEES, PROVIDE PROOF OF INSURANCE AND PROVIDE TRAFFIC CONTROL NECESSARY FOR THIS WORK.
- THE CONTRACTOR SHALL VERIFY ALL SITE CONDITIONS IN THE FIELD AND CONTACT THE OWNER IF THERE ARE ANY QUESTIONS OR CONFLICTS REGARDING THE CONSTRUCTION DOCUMENTS AND/OR FIELD CONDITIONS SO THAT APPROPRIATE REVISIONS CAN BE MADE PRIOR TO CONSTRUCTION. ANY CONFLICT BETWEEN DRAWINGS AND THE SPECIFICATIONS SHALL BE CONFIRMED WITH THE CONSTRUCTION MANAGER PRIOR TO BIDDING.
- SHOULD ANY UNCHARTED, OR INCORRECTLY CHARTED, EXISTING PIPING OR OTHER UTILITY BE UNCOVERED DURING EXCAVATION, CONSULT THE ENGINEER AND THE ARCHITECT IMMEDIATELY BEFORE PROCEEDING FURTHER WITH THE WORK IN THIS AREA.
- DO NOT INTERRUPT EXISTING UTILITIES SERVING FACILITIES OCCUPIED AND USED BY THE OWNER OR OTHERS DURING OCCUPIED HOURS EXCEPT WHEN SUCH INTERRUPTIONS HAVE BEEN AUTHORIZED IN WRITING BY THE OWNER, LOCAL MUNICIPALITY AND/OR UTILITY COMPANY. INTERRUPTIONS SHALL ONLY OCCUR AFTER ACCEPTABLE TEMPORARY OR PERMANENT SERVICE HAS BEEN PROVIDED.
- THE CONTRACTOR SHALL ABIDE BY ALL OSHA, FEDERAL, STATE AND LOCAL REGULATIONS WHEN OPERATING CRANES, BOOMS, HOISTS, ETC. IN CLOSE PROXIMITY TO OVERHEAD ELECTRIC LINES. IF CONTRACTOR MUST OPERATE EQUIPMENT CLOSE TO ELECTRIC LINES, CONTACT THE POWER COMPANY TO MAKE ARRANGEMENTS FOR PROPER SAFEGUARDS.
- THE CONTRACTOR SHALL RESTORE ANY STRUCTURES, PIPE, UTILITY, PAVEMENT, CURBS, SIDEWALKS, LANDSCAPED AREAS, ETC. WITHIN THE SITE OR ADJOINING PROPERTIES DISTURBED DURING DEMOLITION OR CONSTRUCTION TO THEIR ORIGINAL CONDITION OR BETTER, AND TO THE SATISFACTION OF THE OWNER AND LOCAL MUNICIPALITY. ALL COSTS TO COMPLETE THIS WORK SHALL BE INCLUDED IN THE BASE BID FOR THIS PROJECT.
- THE CONTRACTOR SHALL BE RESPONSIBLE TO INSTALL AND MAINTAIN TRAFFIC DEVICES FOR PROTECTION OF PEDESTRIANS AND VEHICLES CONSISTING OF DRUMS, BARRIERS, SIGNS, LIGHTS, FENCES AND UNIFORM TRAFFIC CONTROLLERS IN ACCORDANCE WITH THE STATE DEPARTMENT OF TRANSPORTATION OR AS REQUIRED OR DIRECTED BY THE SITE ENGINEER OR CONSTRUCTION MANAGER OR LOCAL GOVERNING AUTHORITIES. CONTRACTOR SHALL MAINTAIN ALL TRAFFIC LANES AND PEDESTRIAN WALKWAYS AT ALL TIMES UNLESS WRITTEN APPROVAL FROM THE DEPARTMENT OF TRANSPORTATION, LOCAL MUNICIPALITY, COUNTY, OR OTHER GOVERNING AUTHORITY IS RECEIVED.
- THE CONTRACTOR SHALL NOTIFY THE ENGINEER SHOULD ANY DISCREPANCY REGARDING THE PROPOSED WORK OR UNFORESEEN CONDITIONS ARISE PRIOR TO PROCEEDING FURTHER WITH THE AFFECTED WORK.
- THE CONTRACTOR SHALL PROVIDE AS-BUILT RECORDS OF ALL CONSTRUCTION (INCLUDING UNDERGROUND UTILITIES) TO THE OWNER AND THE ARCHITECT FOLLOWING COMPLETION OF CONSTRUCTION ACTIVITIES.
- REFER TO DETAIL SHEETS FOR EROSION AND SEDIMENT CONTROL, STORM DRAINAGE, UTILITY, PAVING, CURBS, SIGNAGE, AND RETAINING WALL DETAILS AS APPLICABLE.
- PAVEMENT MARKINGS SHALL BE IN ACCORDANCE WITH DEPARTMENT OF TRANSPORTATION GUIDELINES AND SHALL BE PAINTED AS DESIGNATED ON THE PLANS OR PAVEMENT MARKING DETAILS.
- THE CONTRACTOR SHALL REMOVE CONFLICTING PAVEMENT MARKINGS IN A METHOD APPROVED BY MDT SHA.
- SITE DIMENSIONS ARE REFERENCED TO THE FACE OF CURBS OR EDGE OF PAVING UNLESS OTHERWISE NOTED. ALL BUILDING DIMENSIONS ARE REFERENCED TO THE OUTSIDE FACE OF THE STRUCTURE UNLESS OTHERWISE NOTED.
- ALL PAVING MATERIALS FURNISHED AND WORK COMPLETED SHALL BE IN STRICT ACCORDANCE WITH THE STATE DEPARTMENT OF TRANSPORTATION GUIDELINES UNLESS OTHERWISE SPECIFIED.
- THE CONTRACTOR IS RESPONSIBLE FOR THE REMOVAL AND DISPOSAL OF ALL RUBBISH, TRASH, DEBRIS, AND ORGANIC MATERIAL IN A LAWFUL MANNER.
- THE CONTRACTOR SHALL BE RESPONSIBLE FOR VERIFYING ALL DIMENSIONS FOR BUILDING, WALLS, CONCRETE SLABS, AND UTILITY SERVICE POINT CONNECTIONS AND NOTIFYING THE OWNER AND ENGINEER OF ANY CONFLICTS OR DISCREPANCIES PRIOR TO CONSTRUCTION. THE CONTRACTOR SHALL REFERENCE BUILDING CONSTRUCTION PLANS FOR EXACT LOCATIONS OF ALL UTILITY CONNECTIONS TO BUILDINGS AND DOOR STEP LOCATIONS.
- FIRE BOLLARDS SHALL BE INSTALLED IN TRAFFIC AND LOADING AREAS AS REQUIRED TO PROTECT BUILDING CORNERS, RECEIVING AREAS, HYDRANTS, TRANSFORMERS, METERS, GENERATORS, COMPACTORS, STEPS, AND RAILINGS, AS NECESSARY.
- ALL SITE COMPACTION TESTING AND CERTIFICATIONS, AS REQUIRED BY MUNICIPALITIES HAVING JURISDICTION AND/OR THIRD PARTY INSPECTION AGENCIES, ARE THE RESPONSIBILITY OF THE GENERAL CONTRACTOR.
- THE CONTRACTOR SHALL SUBMIT SHOP DRAWINGS OF ALL PRODUCTS, MATERIALS AND PLAN SPECIFICATIONS TO THE ARCHITECT AS REQUIRED FOR REVIEW AND APPROVAL, PRIOR TO FABRICATION OR DELIVERY TO THE SITE. ALLOW A MINIMUM OF 14 WORKING DAYS FOR REVIEW.
- THE CONTRACTOR SHALL REFERENCE ARCHITECTURAL PLANS FOR EXACT DIMENSIONS AND CONSTRUCTION DETAILS OF BUILDING ADDITIONS, ROOF DRAINS, RAISED CONCRETE SIDEWALKS, AND RAMPS.
- TRAFFIC CONTROL SIGNAGE SHALL CONFORM TO THE STATE DEPARTMENT OF TRANSPORTATION STANDARD DETAIL SHEETS AND THE MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES. SIGNS SHALL BE INSTALLED PLUMB.
- INFORMATION ON EXISTING UTILITIES HAS BEEN COMPILED FROM AVAILABLE INFORMATION INCLUDING UTILITY COMPANY AND MUNICIPAL RECORD MAPS AND FIELD SURVEY. PRIOR TO DEMOLITION OR CONSTRUCTION, THE CONTRACTOR SHALL CONTACT MISS UTILITY OF MARYLAND, INC. WITHIN THREE (3) WORKING DAYS BEFORE COMMENCEMENT OF WORK AT 1-800-257-7777.
- NO PART OF THE LOT IS LOCATED WITHIN ANY FLOODPLAIN AREAS.
- FIRE LANES SHALL BE ESTABLISHED AND PROPERLY DESIGNATED IN ACCORDANCE WITH THE LOCAL MUNICIPALITY AND LOCAL FIRE DEPARTMENT REQUIREMENTS.

LINE	BEARING	DISTANCE
L1	S 08°46'03" W	17.31'
L2	S 08°46'03" W	20.88'
L3	S 77°24'09" E	12.41'
L4	S 08°32'16" W	25.00'
L5	S 08°32'16" W	28.00'
L6	S 08°32'16" W	18.00'
L7	N 41°31'05" E	11.30'
L8	N 41°01'00" E	13.85'

CURVE	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING	DELTA ANGLE
C1	50.00'	28.14'	27.77'	S 24°53'32" W	32°14'53"



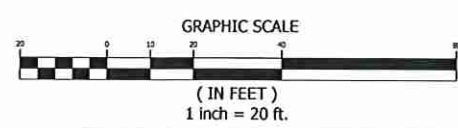
KEYNOTES

- PIPE GUARD - SEE DETAIL 11/C1.A.
- DUMPSTER LAYOUT - SEE DETAILS 13, 14, 15 & 16/C1.A.
- SERVICE DOOR - SEE DETAIL 10/C1.A.
- ASPHALT PAVING - SEE DETAILS 2 & 4/C1.A.
- CONCRETE PAVING - SEE DETAIL 3/C1.A. EXPANSION AND CONTROL JOINTS - SEE DETAILS 21 & 22/C1.A. MAXIMUM SPACING FOR CONTROL JOINTS IS 15' O.C. EACH WAY.
- G.C. TO PROVIDE ALTERNATE BID FOR CONCRETE PAVING, WHERE NOTED.
- CONCRETE LIGHT POLE BASE - SEE DETAIL 12/C1.A. AIM LIGHT FIXTURE IN DIRECTION AS INDICATED.
- ROLL-OVER CURB @ CONCRETE PAVING - SEE DETAIL 1/C1.A.
- ROLL-OVER CURB @ ASPHALT PAVING - SEE DETAIL 2/C1.A.
- WHEEL STOP - SEE DETAIL 24/C1.A.
- CONSTRUCT 6" WIDE CONCRETE CURB AGAINST BUILDING AT ACCESSIBLE RAMP.
- FROST-PROOF YARD HYDRANT - SEE DETAILS ON SHEET P1.
- BOLLARD PLAN - SEE DETAIL 9/C1.A.
- BARRIER-FREE PARKING SYMBOL - SEE DETAIL 7/C1.A.
- 4" WIDE PARKING STRIPE PAINTED WHITE (TYP.).
- 4" WIDE DIAGONAL STRIPES PAINTED WHITE AT 2 FT. O.C. STRIPES AT ACCESSIBLE PARKING TO BE BLUE - SEE DETAIL 6/C1.A.
- ACCESSIBLE PARKING SIGN - SEE DETAIL 8/C1.A. G.C. TO PROVIDE ONE VAN ACCESSIBLE SIGN.
- CONCRETE SIDEWALK - SEE DETAILS 20 & 23/C1.A. FOR SIDEWALKS AROUND BUILDING.
- ACCESSIBLE RAMP - SEE DETAILS 5 & 6/C1.A. MAX. SLOPE 1:12 (8.33%), MAX. CROSS SLOPE 1:50 (2.00%), TRUNCATED DOWNSLOPE TO A CONTRASTING COLOR.
- NEW LANDSCAPE AREA - PROVIDE 3" TOPSOIL & SOO. SEE SHEET L1.0 FOR ADDITIONAL INFORMATION.
- 5'-9"x17'-9"x25'-0" O.A.H. PYLON SIGN (UNDER SEPARATE PERMIT). ALL SIGNS SHALL BE PERMITTED IN ACCORDANCE WITH CITY REGULATIONS.
- CONCRETE SPLASH BLOCK AT ROOF DOWNSPOUTS - SEE DETAIL 17/C1.A.
- 3'-0" WIDE CURB CUT OPENING FOR STORMWATER.
- R1-1, "STOP" SIGN (30"x30") MOUNTED ON GALVANIZED STEEL POLE, PER MDT SHA REQUIREMENTS.
- PAINTED THERMOPLASTIC 24" WIDE STOP BAR & DOUBLE YELLOW LINES, PER MDT SHA REQUIREMENTS.
- ACCESSIBLE WING RAMP WITH MAXIMUM 8.33% SLOPE, PER MDT SHA SPECIFICATIONS. SEE DETAIL 26/C1.A.
- 4" THK. CONCRETE SIDEWALK WITH MAXIMUM 2.0% CROSS-SLOPE, AND MAXIMUM 5.0% RUNNING SLOPE.
- LIMITS OF NEW PAVEMENT.
- TRANSITION ROLL-OVER CURB & GUTTER TO FULL-DEPTH CONCRETE CURB (BY OTHERS).
- PUBLIC SIDEWALK BY DEVELOPER.

GENERAL NOTES

- PROOF ROLL BUILDING AND ALL PARKING AREAS. NOTIFY THE ARCHITECT OF ANY UNACCEPTABLE AREAS.
- EDGE OF NEW PAVEMENT TO BE FLUSH WITH EXISTING PAVEMENT.
- ALL SIDEWALK CURB AND GUTTER STREET PAVING, CURB CUTS, DRIVEWAY APPROACHES, HANDICAP RAMPS, ETC. CONSTRUCTED OUTSIDE THE PROPERTY LINE IN THE RIGHT-OF-WAY SHALL CONFORM TO ALL MUNICIPAL AND/OR STATE SPECIFICATIONS AND REQUIREMENTS.
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- FOR PROPOSED UTILITY LOCATIONS, SEE THE SITE UTILITY PLAN.
- FOR ANY LANDSCAPE AREA SO DESIGNATED TO REMAIN, WHETHER ON OR OFF SITE, REMOVE WEEDS, ROOTS, CONSTRUCTION DEBRIS, ETC., THEN SCARIFY AREA, RESEED AND FERTILIZE. RIGHT-OF-WAY CURB AND GUTTERS ARE TO BE CLEANED OF DEBRIS.

CALL BEFORE YOU DIG!
MISS UTILITY PARTICIPANTS REQUEST
3 WORKING DAYS NOTICE BEFORE YOU DIG,
DRILL, OR BLAST - STOP CALL
Miss Utility of Maryland, Inc.
1-800-257-7777



APPLICANT/DEVELOPER/LESSOR:
AutoZone Development, LLC
123 South Front Street, 3rd Floor
Memphis, Tennessee 38103
Tel: (901) 495-8709 Fax: (901) 495-8969
For Bidding & Contractor Information Contact
F.W. Dodge Plan Room Tel: (615) 684-1017

ENGINEER:
MDM
SURVEYORS & ENGINEERS, LLC
Baltimore • Engineers • Site Planners
Baltimore, PA 21206
Tel: (410) 524-2810 Fax: (410) 524-2811
www.mdmllc.com

PREPARED FOR:
Store No.: 6200
AutoZone STORE DEVELOPMENT
SHARPSBURG PIKE (MD SR. 65)
CITY OF HAGERSTOWN, COUNTY OF WASHINGTON
STATE OF MARYLAND

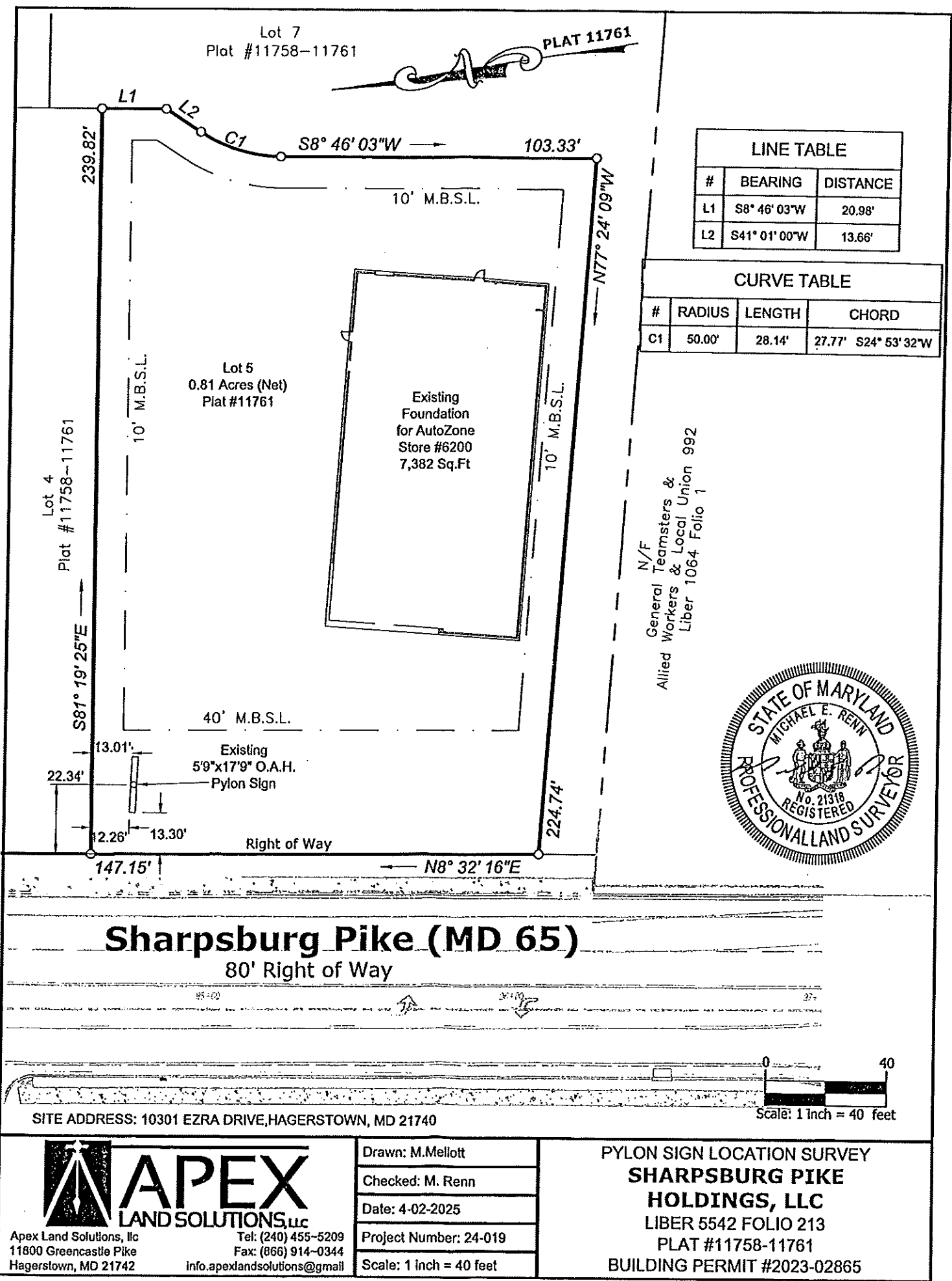
SCALE: 1"=20'-0"
REVISIONS

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DRAFTSMAN: CWT
CHECKED BY: ESD
DATE: 3-24-2023
PROTOTYPE SIZE: 7x2-R
PROFESSIONAL CERTIFICATION

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. 31082, EXP. DATE 11-21-24

C1.0

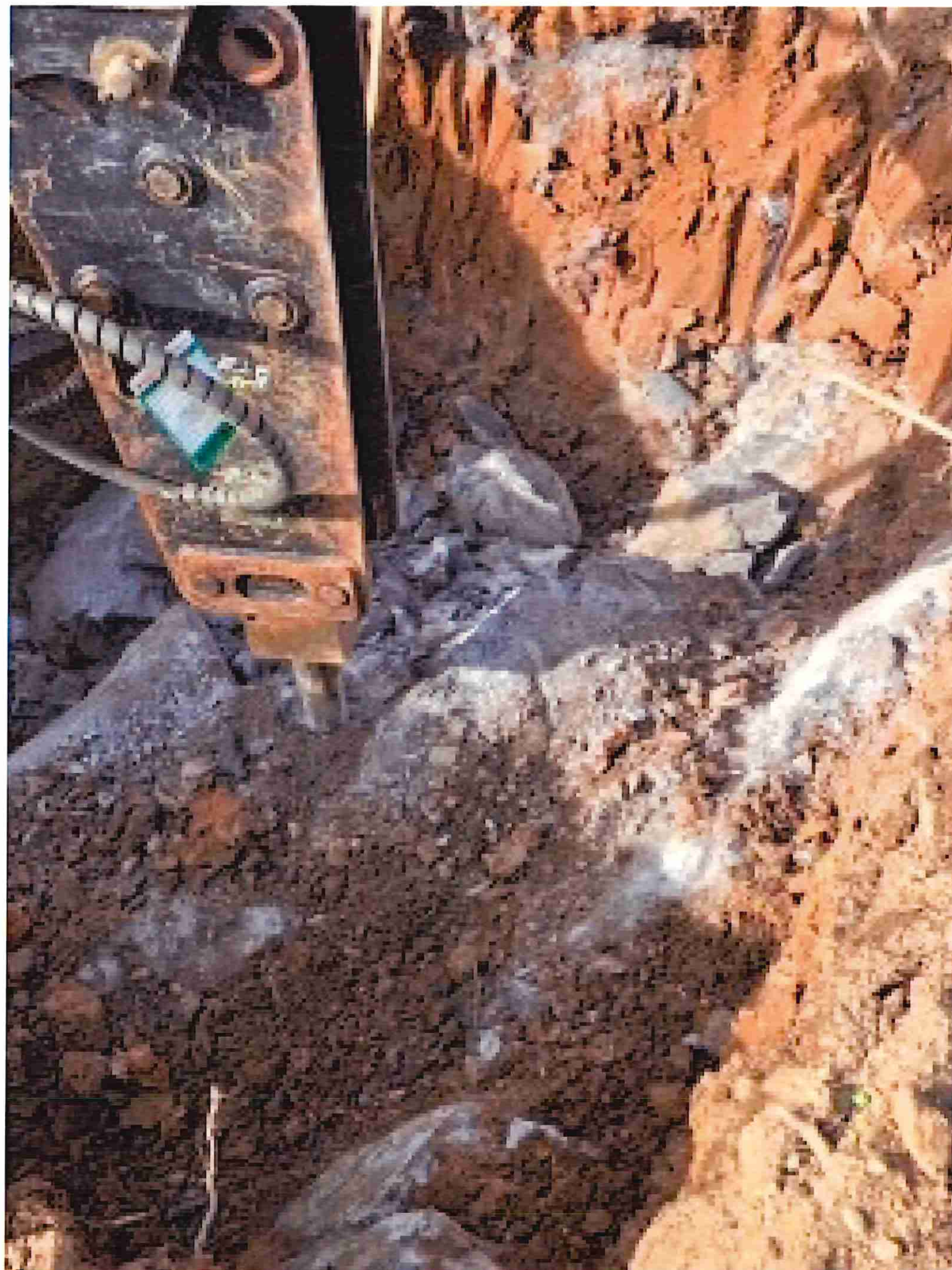














**BEFORE THE BOARD OF APPEALS
FOR WASHINGTON COUNTY, MARYLAND**

SHARPSBURG PIKE HOLDING, LLC

*

Appeal No.: AP2025-008

Appellant

*

*

* * * * *

OPINION

Sharpsburg Pike Holding, LLC, (hereinafter “Appellant”) requests a variance to reduce the required setback from the road right-of-way from 25 feet to 22.34 feet for an installed freestanding sign at the subject property. The subject property is located at 10301 Ezra Drive, Hagerstown, Maryland 21740 and is zoned Highway Interchange. The Board held a public hearing in this matter on May 28, 2025.

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 10301 Ezra Drive, Hagerstown, Maryland. The subject property is zoned Highway Interchange.
2. The subject property consists of a newly constructed Auto Zone retail store on approximately .81 acres improved by a 7,382 square-foot retail building for an AutoZone store along Sharpsburg Pike.
3. An initial survey was completed and the location of the freestanding sign for the business was planned to meet the setback requirements.
4. During construction, the contractor discovered significant rock and the footer location for the sign moved to accommodate the topography issues. Although the

center of the footer location moved, the contractor believed that it still complied with the setback requirements.

5. Once the footers were poured for the sign, the County conducted an inspection and discovered that the location had moved inside the setback area. By the time this was discovered, the freestanding sign was completely installed.

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 as set forth in Section 25.2 and 25.56 of the Ordinance.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. Section 25.56(A).

Practical difficulty and undue hardship are typically 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).

¹ “When the terms unnecessary hardship (or one of its synonyms) and practical difficulty 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 difficulty 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)

Appellant testified that the location of the sign inside the setback area was a complete accident due to movement of the footers during excavation. Although it acknowledged that the contractor should have known to check the measurements again, construction proceeded as is typical for freestanding signs. During her staff report, Ms. Rathvon noted that the County does not inspect for setback compliance until the footers are poured and typically the entire sign or structure is completed by the time any issue is discovered. That appears to be exactly what happened in this case.

However, the Board was not persuaded in this case. The Board raised concerns about the failure to re-measure once the contractor knew that the footer had floated and changed location. The Board considered the timeline of the process given by Ms. Rathvon, but there was still ample opportunity to confirm before proceeding with the remaining construction. Even though it was an honest mistake, it was preventable and self-created. On that basis, the Board is unable to find that a hardship or practical difficulty exists that is related to the inherent characteristics of the property and the application of the setback requirements thereto.

Accordingly, the request for A variance to reduce the required setback from the road right-of-way from 25 feet to 22.34 feet for an installed freestanding sign at the subject property is DENIED by a vote 3 to 2.

BOARD OF APPEALS

By: Tracie Felker, Chair

Date Issued: June 27, 2025

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 | P:240.313.2430 | F:240.313.2431 | Hearing Impaired: 7-1-1

ZONING APPEAL

Property Owner: Rigoberto Hernandez
132 Stanford Road
Hagerstown MD 21742

Appellant: Rigoberto Hernandez
132 Stanford Road
Hagerstown MD 21742

Property Location: 132 Stanford Road
Hagerstown, MD 21742

Description Of Appeal: Variance from the required 40 ft. rear yard setback to 27 ft for proposed rear covered deck.

Docket No: AP2025-009
Tax ID No: 10047056
Zoning: RS
RB Overlay: No
Zoning Overlay: IM
Filed Date: 05/07/2025
Hearing Date: 05/28/2025

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 8.5 (a)

Reason For Hardship: Changing design of the deck would cause deck to be next to bedroom window.

If Appeal of Ruling, Date Of Ruling:

Ruling Official/Agency:

Existing Use: Single-Family Dwelling **Proposed Use:** Rear Covered Deck

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.

Rigoberto Hernandez

Appellant Signature

State Of Maryland, Washington County to-wit:

Sworn and subscribed before me this 7 day of May, 2025.

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

My Commission Expires

Kathryn B Rathvon

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: AP2025-009

State of Maryland Washington County, To Wit:

On 5/7/2025, before me the subscriber, a Notary of the public of the State and County aforesaid, personally appeared Rigoberto Hernandez and made oath in due form of law as follows:

Rigoberto Hernandez 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 05/28/2025, 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 05/13/2025 and will remain until after the above hearing date.

Rigoberto Hernandez

Rigoberto Hernandez

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

Kathryn B Rathvon

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

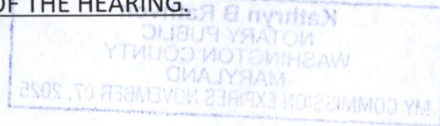
ATTENTION!

Posting Instructions

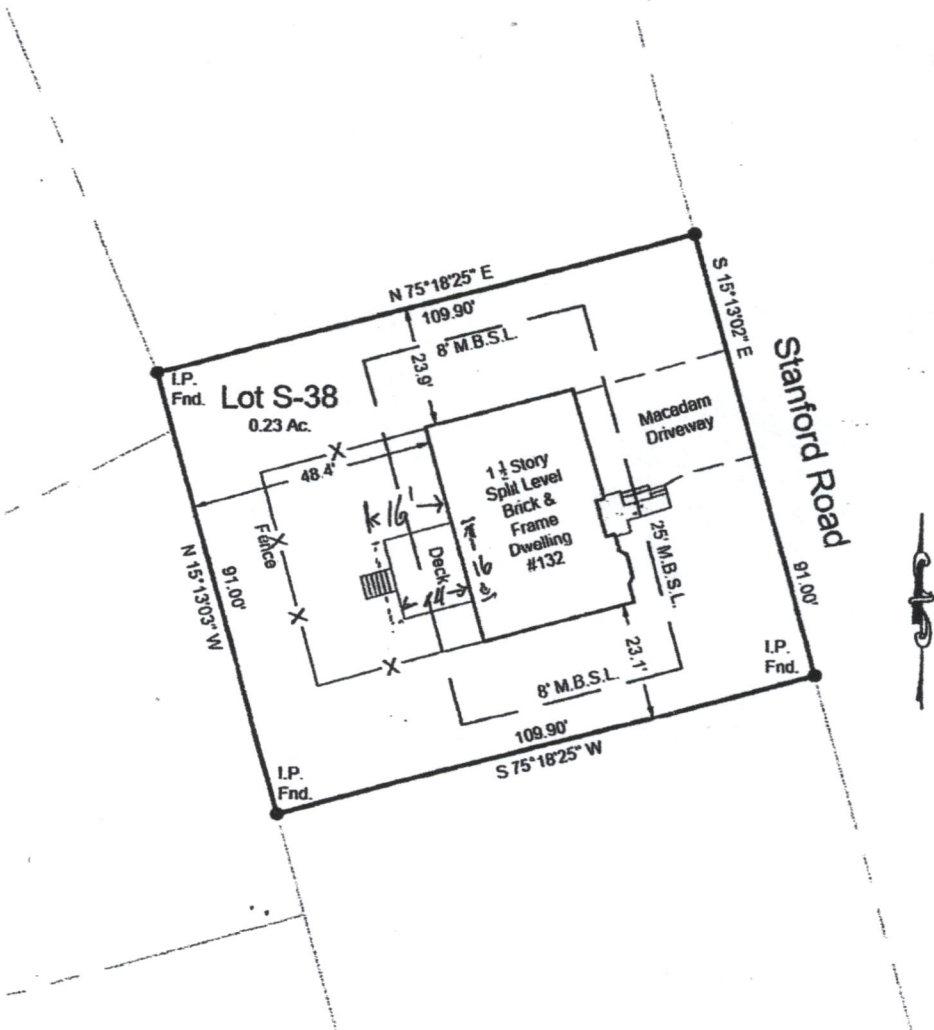
The premises MUST be posted in accordance with the following rules:

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.



Plot Plan
for
Daniel Gonzalez
132 Stanford Road
Hagerstown, MD



*
Proposed
16'x16'
with Steps
And Roof Cover



Professional Certification

I hereby certify that these documents were prepared by me or under my responsible charge, and that I am a duly licensed Professional Land Surveyor under the Laws of the State of Maryland, License No. 10731, Expiration Date 1/16/2026.

PROPERTY INFORMATION

50-8-1715

DRAWN BY
JTK

DATE
4/10/2025

PROJECT MANAGER
FMF

EMAIL
fredrick@fsa-inc.com

SCALE

1" = 30'

SHEET 1 OF 1



FREDERICK, SEIBERT & ASSOCIATES, INC.

© 2025

fsa-inc.com

128 SOUTH POTOMAC STREET
HAGERSTOWN, MD 21740
301.791.3650

20 WEST BALTIMORE STREET
GREENCASTLE, PA 17225
717.597.1007

525 SOUTH HANOVER STREET
CARLISLE, PA 17015
717.701.8111

15 EAST MARK STREET
NEW BLOOMFIELD, PA 17068
717.275.7331

PROJECT NO.
HL-13571.1

Rigoberto Hernandez
132 Stanford Rd
Hagerstown md 21742
Rigobertoherandez1992@yahoo.com
240-452-2676
4/29/2025

Dear Board of Zoning Appeals

I am writing to request approval for my home improvement project. My project would consist of the reconstruction of an existing deck and the addition of a roof to cover this deck. The proposed deck and roof structure are intended to improve the usability and safety of my home. It will provide a sheltered outdoor space that accommodates year-round use and enhances the overall property value and aesthetic. I am working with a licensed contractor to ensure the safety of these structures. The proposed structure encroaches on the rear setback. While we could change the layout of the back porch and make it skinnier and longer, that would make the porch beside the main bedroom window. We do not want anything covering that window to allow privacy for that bedroom. We could consider moving the steps to the side of the porch and saving a few feet. We are open to making reasonable modifications to the plan within reason. I am requesting a variance to allow this project to begin. I do not believe this will negatively impact neighboring properties or the character of the community.

We have lived in this home since 2004, and over the past 21 years, the seasonal changes have deteriorated the back deck. While we do our best to take care of this deck, it is simply not enough to keep painting it. Over the many years in this neighborhood, several homes on our street or the street behind our home have redone their back deck and added a roof to their back deck. While this will be an investment for me, it will also be a life change for my family. I would like to provide a safe, comfortable space for my family to gather, and for my small grandchildren to be able to play and enjoy.

I fully understand the importance of adhering to building codes and community standards, and I am committed to making any reasonable modifications necessary to move this project forward. I kindly request the opportunity to present my case and discuss any concerns in more detail at a hearing or meeting when necessary.

I have gathered the following information to present details of my house and the existing deck. I have also included a layout of the project I am requesting approval for. My contractor is also working diligently with me and is available if more information about my project is needed.

Thank you for your consideration.

Sincerely, Rigoberto Hernandez

Real Property Data Search ()
Search Result for WASHINGTON COUNTY

View Map

View GroundRent Redemption

View GroundRent Registration

Special Tax Recapture: None

Account Number: District - 10 Account Identifier - 047056

Owner Information

Owner Name: HERNANDEZ RIGOBERTO Use: RESIDENTIAL
Principal Residence: YES
Mailing Address: 132 STANFORD RD Deed Reference: /02358/ 00610
HAGERSTOWN MD 21742-4523

Location & Structure Information

Premises Address: 132 STANFORD RD Legal Description: LOT S38 SE D 0.23 AC
HAGERSTOWN 21742-0000 132 STANFORD RD
COLONIAL PARK EAST

Map: Grid: Parcel: Neighborhood: Subdivision: Section: Block: Lot: Assessment Year: Plat No: 5769
0050 0008 1715 10010151.22 0107 D S38 2025 Plat Ref:

Town: None

Primary Structure Built Above Grade Living Area Finished Basement Area Property Land Area County Use
2002 1,304 SF 10,000 SF 000000

Stories: BasementType ExteriorQualityFull/Half BathGarage Last Notice of Major Improvements
Split FoyerYES SPLIT FOYERSIDING/4 2 full/ 1 half 1 Attached

Value Information

	Base Value	Value As of 01/01/2025	Phase-In Assessments As of 07/01/2024 As of 07/01/2025	
Land:	65,000	65,000		
Improvements	207,100	241,700		
Total:	272,100	306,700	272,100	283,633
Preferential Land:	0	0		

Transfer Information

Seller: WALKLEY GENE N & EDITH L	Date: 06/16/2004	Price: \$230,000
Type: ARMS LENGTH IMPROVED	Deed1: /02358/ 00610	Deed2:
Seller: HOME CONSTRUCTION CORPORATION	Date: 02/05/2002	Price: \$147,375
Type: ARMS LENGTH IMPROVED	Deed1: /01747/ 00833	Deed2:
Seller:	Date:	Price:
Type:	Deed1:	Deed2:

Exemption Information

Partial Exempt Assessments: Class	07/01/2024	07/01/2025
County: 000	0.00	
State: 000	0.00	
Municipal: 000	0.00 0.00	0.00 0.00

Special Tax Recapture: None

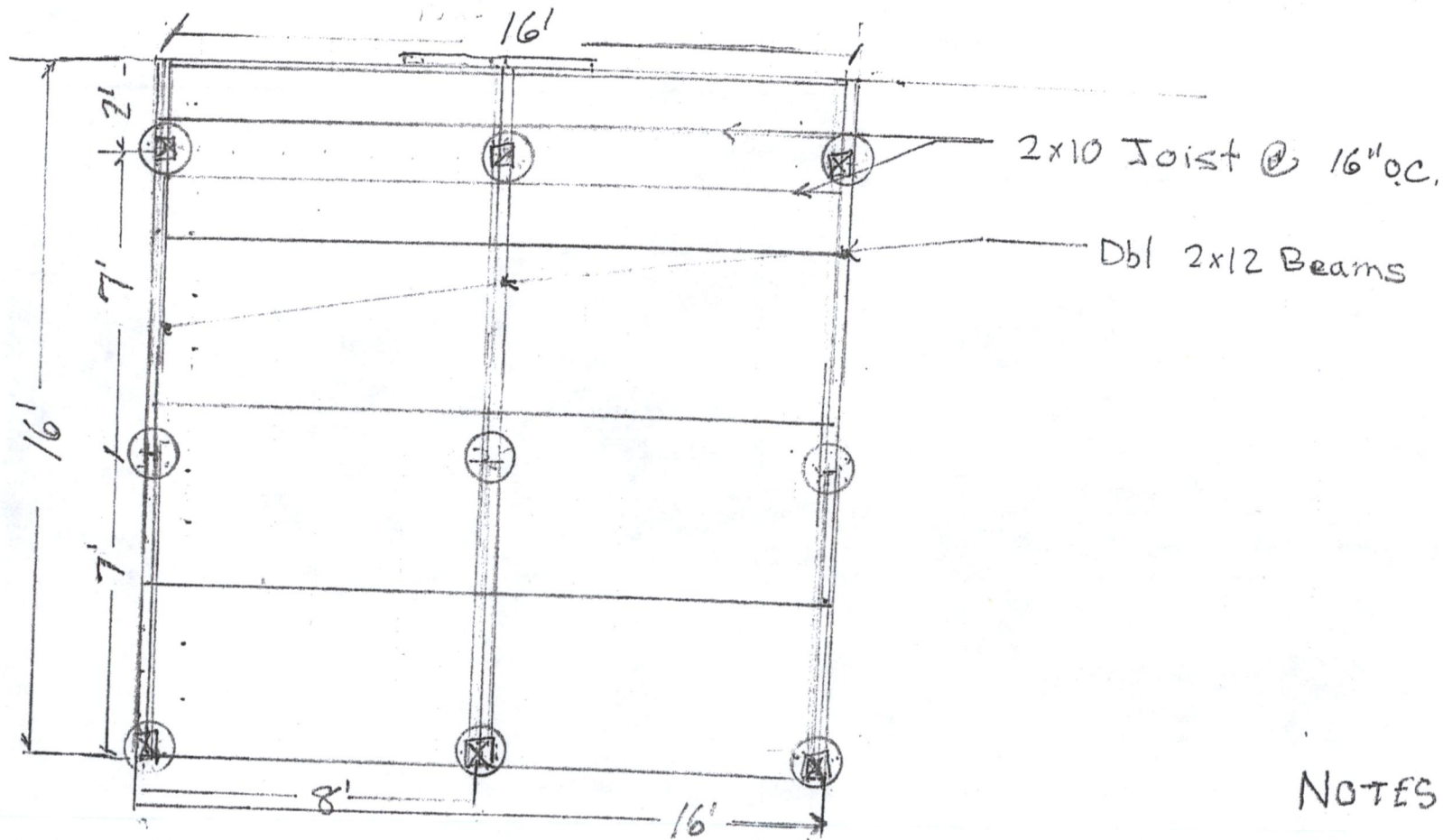
Homestead Application Information

Homestead Application Status: No Application

Homeowners' Tax Credit Application Information

Homeowners' Tax Credit Application Status: No Application Date:

House



NOTES:

⊗ - Footer

⊠ - P.T. 6x6 Post

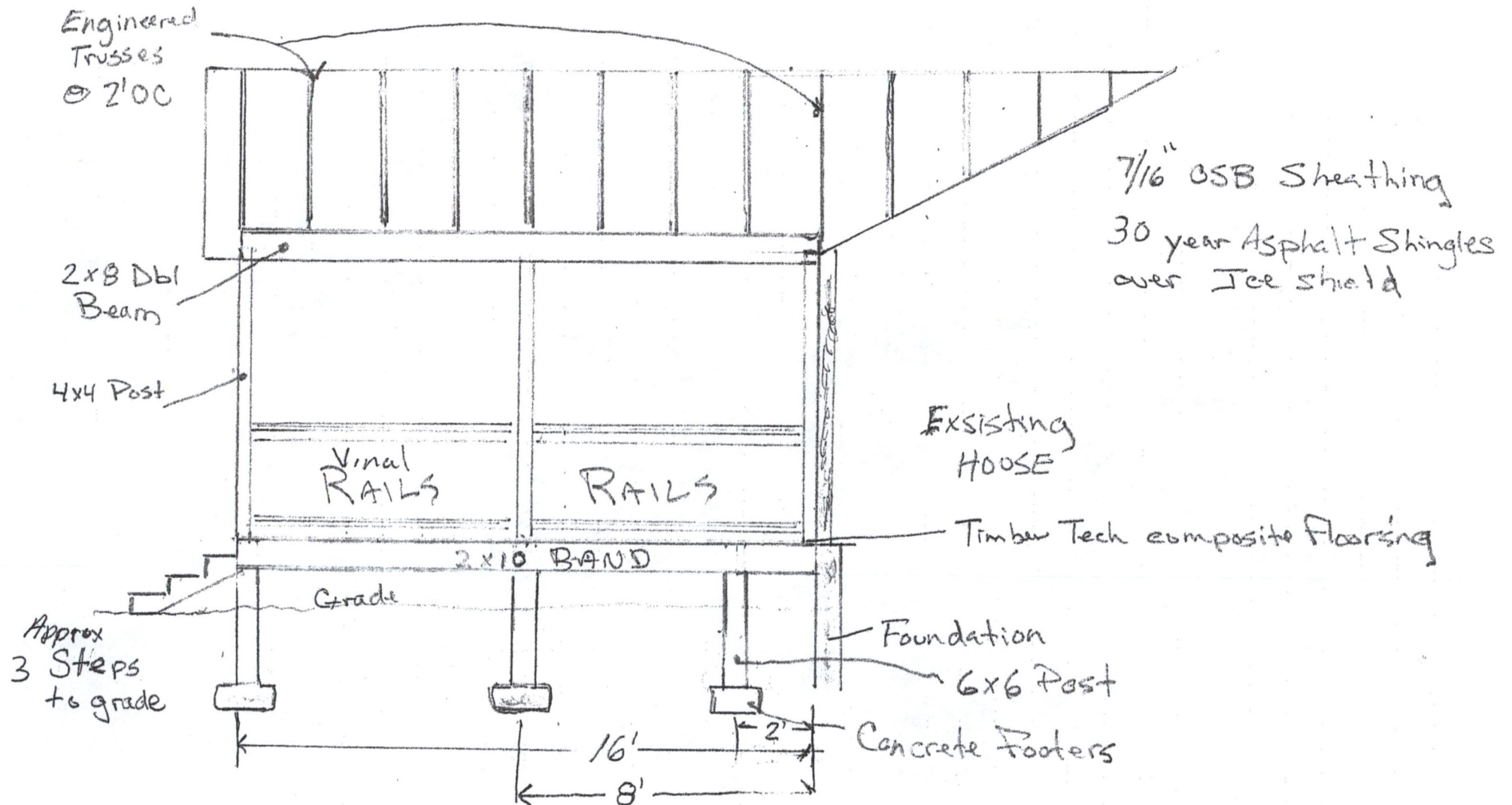
$\frac{1}{4}" = 1'$ SCALE

Hernandez

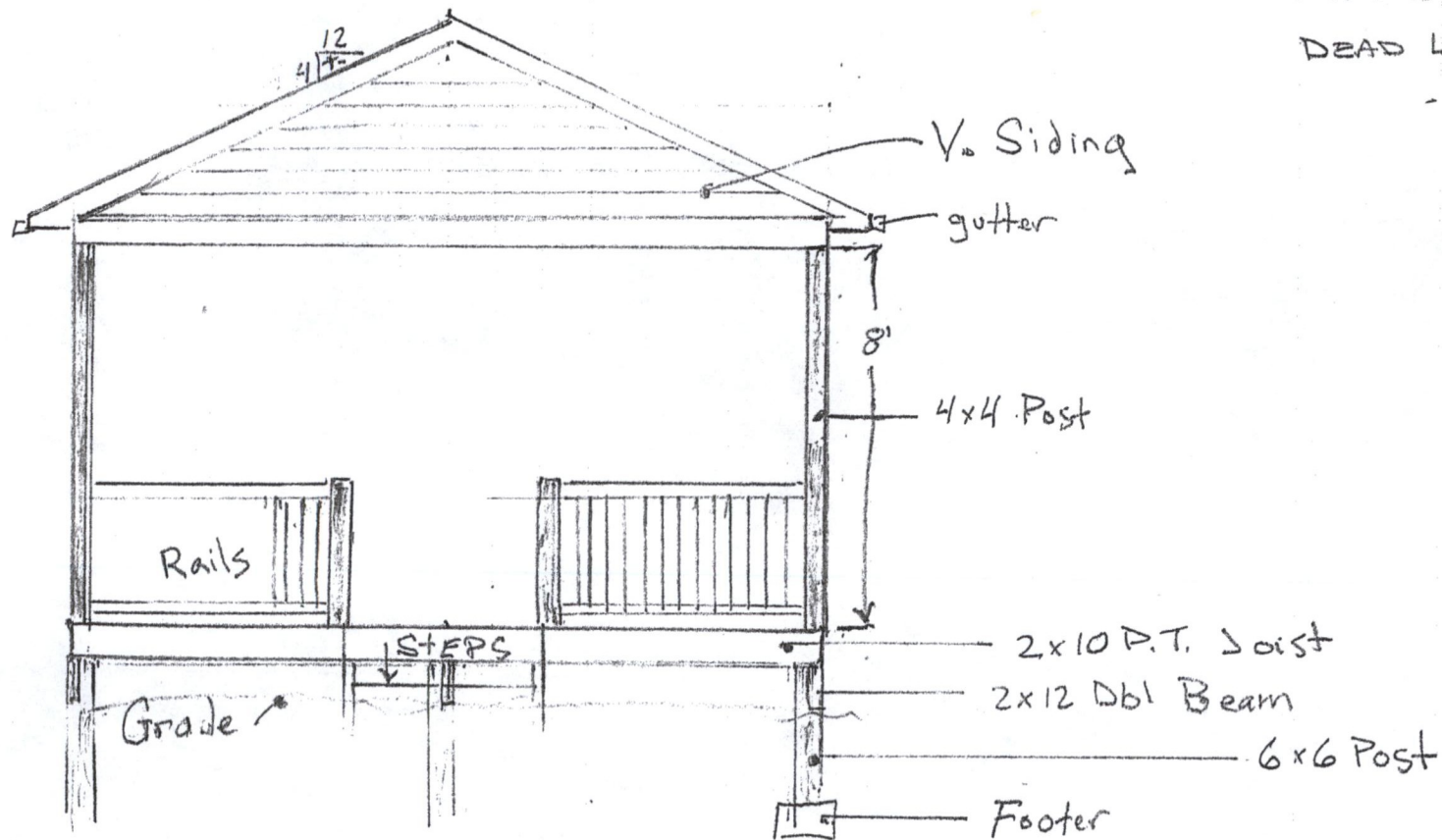
132 Stanford Rd

Hagerstown Md 21742

Hernandez



HERNANDEZ



Front View

Roof

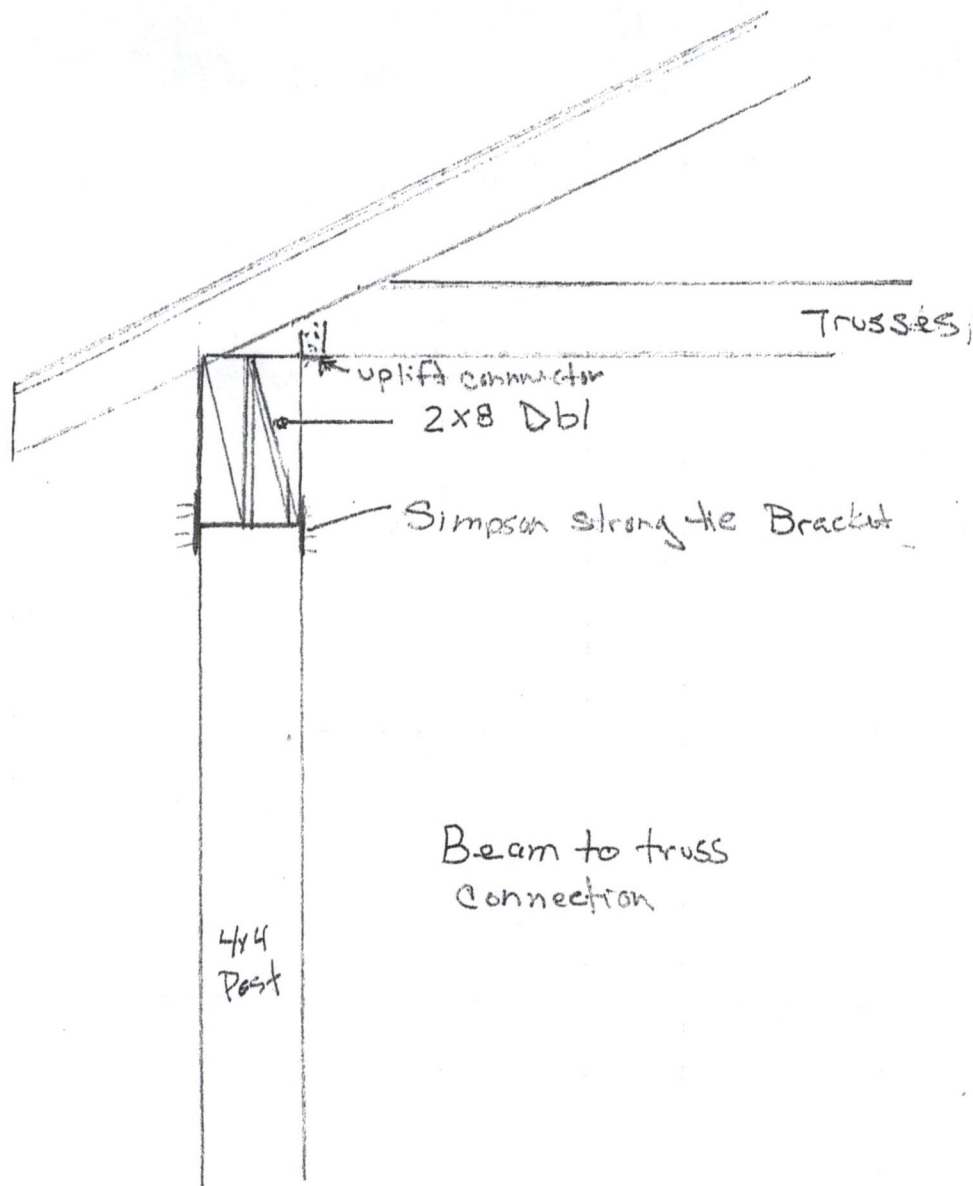
Snow load 30 PSF

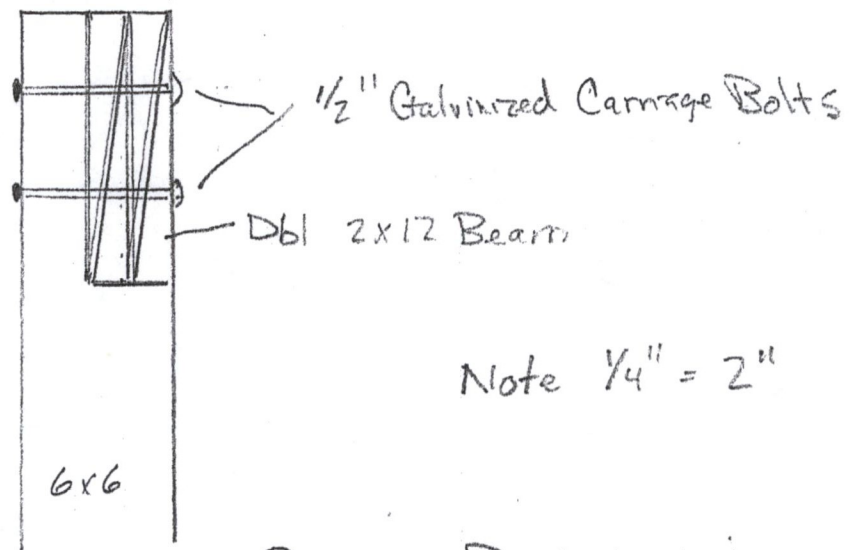
DEAD load 20 PSF

Floor -

Live load 40 PSF

DEAD Load 12 PSF





Note $\frac{1}{4}" = 2"$

BEAM Post
Connection Detail

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

RIGOBERTO HERNANDEZ

*

Appeal No.: AP2025-009

Appellant

*

*

* * * * *

OPINION

Rigoberto Hernandez, (hereinafter “Appellant”) requests a variance to reduce the required rear yard setback from 40 feet to 27 feet for a proposed rear covered deck at the subject property. The subject property is located at 132 Stanford Road, Hagerstown, Maryland 21742 and is zoned Residential, Suburban. The Board held a public hearing in this matter on May 28, 2025.

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 132 Stanford Road, Hagerstown, Maryland. The subject property is zoned Residential, Suburban.
2. Appellant purchases the subject property in 2004 as his principal residence.
3. The subject property consists of .23 acres improved by a single-family dwelling. The property has an existing 16-foot by 14-foot deck.
4. The subject property is only 109 feet deep and 91 feet wide. With the dwelling and the setbacks, the building envelope for any add-ons such as a porch or deck, is almost non-existent.
5. The existing deck is over twenty (20) years old and needs to be replaced.

6. Appellant proposes to construct a 16-foot by 16-foot covered deck in the same location as the existing deck.

7. 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 as set forth in Section 25.2 and 25.56 of the Ordinance.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. Section 25.56(A).

Practical difficulty and undue hardship are typically 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 8.5 of the Zoning Ordinance, the rear yard setback requirement for a single-family dwelling is 40 feet. Section 23.3(d) also permits a one-story deck that is open to extend up to thirty percent (30%) into the setback area. In this case, Appellant proposes to construct a covered deck which is not permitted to extend without specific

¹ “When the terms unnecessary hardship (or one of its synonyms) and practical difficulty 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 difficulty 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)

variance relief. Appellant's request is to relax the setback thirteen (13) feet in order to construct the covered deck.

Appellant testified that in order to construct the deck it would have to extend to the rear of the property rather than across the width of the home. Otherwise, it would encroach upon windows to the bedroom and dining room, creating privacy and aesthetics issues. Appellant is adding a roof to increase the utility of the deck and provide a safe space for his family to gather and enjoy the property. His proposal is for a 2-foot extension from where the existing deck is currently located. Appellant also testified that there are other homes in the neighborhood that have covered decks which were recently constructed.

The Board finds that practical difficulty would result from strict compliance with the rear yard setback. Appellant has not asked for any special privilege and in fact, is requesting a benefit that other properties in the surrounding area currently enjoy. Under the circumstances, it appears that Appellants' requests are the minimum necessary to facilitate a common use of the property. The Board finds that relaxation of the rear yard setback requirements is necessary and remains consistent with the spirit and intent of the Ordinance.

Accordingly, the request for a variance to reduce the required rear yard setback from 40 feet to 27 feet for a proposed rear covered deck at the subject property is GRANTED by a vote of 5 to 0. The variance relief is granted subject to the standard condition that the use is consistent with the testimony and evidence presented during the hearing before the Board.

BOARD OF APPEALS

By: Tracie Felker, Chair

Date Issued: June 27, 2025

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 | P:240.313.2430 | F:240.313.2431 | Hearing Impaired: 7-1-1

ZONING APPEAL

Property Owner: Obidi Holding LLC
303 Memorial Boulevard W
Hagerstown MD 21740

Appellant: Obidi Holdings LLC
303 Memorial Boulevard W
Hagerstown MD 21740

Property Location: 13316 Marsh Pike, Unit# 100
Hagerstown, MD 21742

Description Of Appeal: Variance from the 25 ft. setback for a sign supporting structure from the road right-of-way to 2 ft. and a variance from the requirement of no part of the sign closer than 5 ft. to the right-of-way to 0 ft. for proposed freestanding sign.

Docket No: AP2025-010
Tax ID No: 27016243
Zoning: RS
RB Overlay: No
Zoning Overlay:
Filed Date: 05/07/2025
Hearing Date: 05/28/2025

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 22.23 (e)

Reason For Hardship: Extraordinarily wide road right-of-way makes visibility for the sign difficult.

If Appeal of Ruling, Date Of Ruling:

Ruling Official/Agency:

Existing Use: Physician Office

Proposed Use: Freestanding Sign

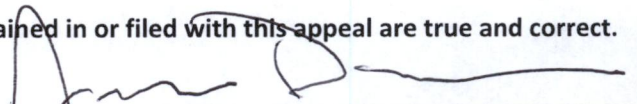
Previous Use Ceased For At Least 6 Months:

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 8 day of May, 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: AP2025-010

State of Maryland Washington County, To Wit:

On 5/7/2025, before me the subscriber, a Notary of the public of the State and County aforesaid, personally appeared Jason Divelbiss and made oath in due form of law as follows:


Jason Divelbiss 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 05/28/2025, 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 05/13/2025 and will remain until after the above hearing date.

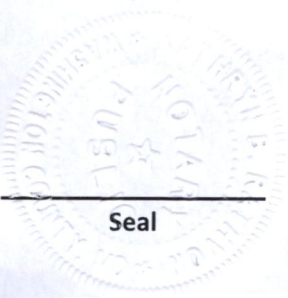


Jason Divelbiss

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

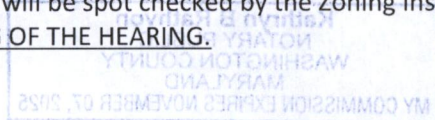
ATTENTION!

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 13316 Marsh Pike, Hagerstown, MD

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:

§ 22.23(e)

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

25' setback requirement for supporting sign structure ?
5' setback requirement for sign face

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

Proposed 25' setback for supporting sign structure
Proposed 0' setback for sign face

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): AP2022-029 / AP2024-032 / AP2024-040

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

[Signature]
Signature of Appellant

Obidi Holdings, LLC
Address and of Appellant

jdivelbiss@divelbisslaw.com
Email of Appellant

301-791-7060
Phone Number of Appellant

303 Memorial Blvd.
Hagerstown, MD
21740

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.

ADJACENT PROPERTY OWNERS					
	<u>NAME</u>	<u>PREMISES ADDRESS</u>	<u>LIBER/FOLIO</u>	<u>MAILING ADDRESS</u>	<u>TAX MAP/PARCEL</u>
1	Church Hebron Mennonite Inc	13315 Highline St.	691/519	13315 Highlane St., Hagerstown, MD 21741	25/740
2	Howe, Cecil H & Robin L	13308 Marsh Pike	6721/152	13308 Marsh Pike, Hagerstown, MD 21742	25/507
3	Grossnickle, John W & Sandra R	13312 Marsh Pike	1397/1028	13312 Marsh Pike, Hagerstown, MD 21742	25/818
4	Skaggs, John E & Catherine A	13322 Marsh Pike	1051/425	13322 Marsh Pike, Hagerstown, MD 21742	25/796
5	Maddox, Brianna A	13306 Marsh Pike	6451/290	13306 Marsh Pike, Hagerstown, MD 21742	25/245
6	Livingspace Inc	13324 Marsh Pike	1520/729	19707 Bluebell Ct., Hagerstown, MD 21740	25/130
7	Damore, Anthony J & Kelly A	13368 Marquise Dr	6425/292	13368 Marquise Dr., Hagerstown, MD 21742	25/832
8	Mellow, Bernadette	13366 Marquise Dr	6573/11	13366 Marquise Dr., Hagerstown, MD 21742	25/832
9	Bauroth, Alan & Judy	13362 Marquise Dr	6276/111	19629 Maddelena Cir., Estero, FL 33967	25/832
10	Melby, Catherine S	13356 Marquise Dr	6080/379	13356 Marquise Dr., Hagerstown, MD 21742	25/832
11	Ridgley Richard F & Geraldine G	13354 Marquise Dr	6098/219	13354 Marquise Dr., Hagerstown, MD 21742	25/832
12	Albowicz, Julianna M	13350 Marquise Dr	6980/53	13350 Marquise Dr., Hagerstown, MD 21742	25/832
13	Messer, Theresa M & Larry R	13348 Marquise Dr	5634/304	13348 Marquise Dr., Hagerstown, MD 21742	25/832
14	Nichols, Thomas E & Knoll Shawn	13344 Marquise Dr	5316/449	13344 Marquise Dr., Hagerstown, MD 21742	25/832
15	Elliot, William D & Juanita B	13342 Marquise Dr	5147/475	13342 Marquise Dr., Hagerstown, MD 21742	25/832
16	Gosnell Wayne S & Antoinette P	13338 Marquise Dr	4799/87	13338 Marquise Dr., Hagerstown, MD 21742	25/832

May 7, 2025

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

Re: Obidi Holdings, LLC - Request for Variance - Free-Standing Business Sign

Dear Board Members:

My client, Dr. Emeka Obidi of Partners in Pediatrics & Family Health and Obidi Holdings, LLC, a Maryland limited liability company (the "**Applicant**"), is the owner of the property located at 13316 Marsh Pike, Hagerstown, Maryland consisting of +/- 0.826 acres (TM 25, Parcel 128) (the "**Property**").

Pursuant to the Board's decision in October 2024 (AP2024-040), the Applicant was permitted to proceed with the construction of a new commercial building to be used as a full-service physicians' office which project is currently underway.

Unlike the prior request related to the modification of a previously approved Special Exception, the within request is simply a variance request to modify the setback requirements for a free-standing business sign as prescribed by § 22.23(e) of the Zoning Ordinance which states as follows:

no part of the supporting structure is less than twenty-five (25) feet from the street right of way, and that no part of the sign is closer than five (5) feet to the right of way

As shown on the sign rendering prepared by Sign Here and the Sign Variance Exhibit prepared by Triad Engineering, both of which are attached hereto, the Applicant has proposed a "V" shaped, two sign configuration which places the support structures at five feet (5') from the right of way for Marsh Pike and the closest part of the sign face itself at three feet (3') from the right of way line.

However, in the event the sign location needs to move closer to the road right of way in order to achieve sufficient sign visibility from Marsh Pike once on-site construction and landscaping is complete, the within request is for a variance from the applicable 25' (supporting structures) and 5' (sign face) setbacks to 2' and 0' respectively.

As can be seen on the site exhibit, the primary motivating factor for the within request is the extraordinarily wide road right of way on the west side of Marsh Pike which is sixty-two feet (62') from the center line of the existing roadway. By comparison, the roadway itself is only twenty-two feet (22') wide plus an additional +/- 6' of shoulder area. Thus, even at the requested minimum setback location i.e. 2' for the supporting structures and 0' for the sign face, there would remain nearly 50' of distance between the edge of pavement and the proposed signage.

Additionally, given the Applicant's motivation to re-build the new building essentially on the same footprint as the prior building which was significantly setback into the Property, visibility of the proposed signage along Marsh Pike is critical.

Strict compliance with § 22.23(e), specifically the requirement that the sign supporting structure be at least 25' from the street right of way, would place the proposed sign in the middle of the Applicant's parking lot, as shown on the site exhibit, thus rendering conformance unnecessarily burdensome and imposing substantial injustice to the Applicant.

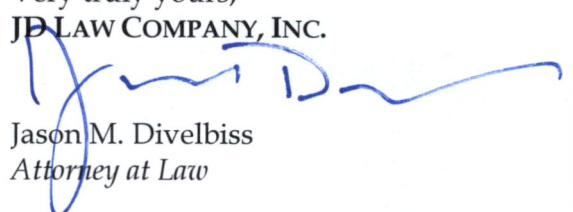
Notwithstanding the within requested variance, the Applicant's proposed sign location satisfies the following, arguably more essential, criteria in § 22.23:

- The signage shall be located in such a manner that traffic visibility is not impaired (§ 22.23(b)) which in this case has been satisfied;
- The subject property shall have at least 40' of lot frontage which in this case is 140';
- The Total surface area of the signage shall not exceed 300 sf. In this case the aggregate square footage of both signs is +/- 146 sf. less than 50% of the maximum permitted;
- Total height of sign shall not exceed 35'. In this case the signs are only 12' high only 35% of the maximum permitted; and
- Where the property adjoins any lots zoned RT, RS, RU, RM or RV, the proposed sign shall not face the adjoining, residentially zoned lot. In this case, because the Property itself as well as all adjoining properties are all zoned RS this criteria creates a particular challenge. The proposed solution is a "V-shape" sign configuration which will not directly face any residential property but instead be angled so as to face in the north and southbound directions of Marsh Pike. Attached hereto are photographs showing street level perspectives of and from the proposed sign location.

As such, granting the variance would not be inconsistent with the spirit of the Zoning Ordinance nor would it jeopardize general public safety and welfare.

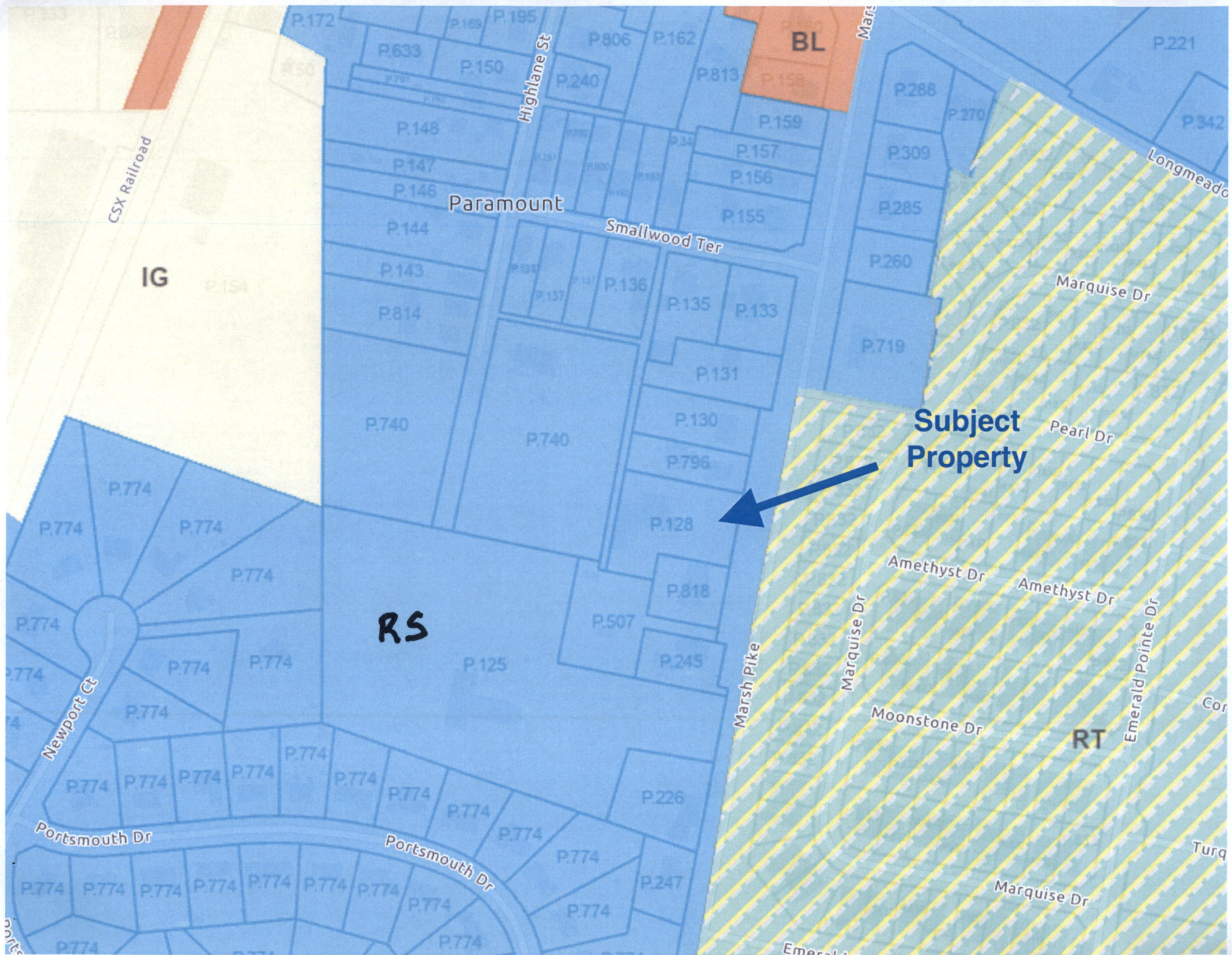
I look forward to discussing the Applicant's project and the details of the within request at the Board's next available meeting.

Very truly yours,
JD LAW COMPANY, INC.



Jason M. Divelbiss
Attorney at Law

Email: jdivelbiss@divelbisslaw.com



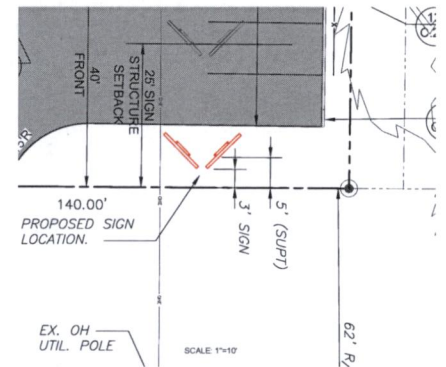
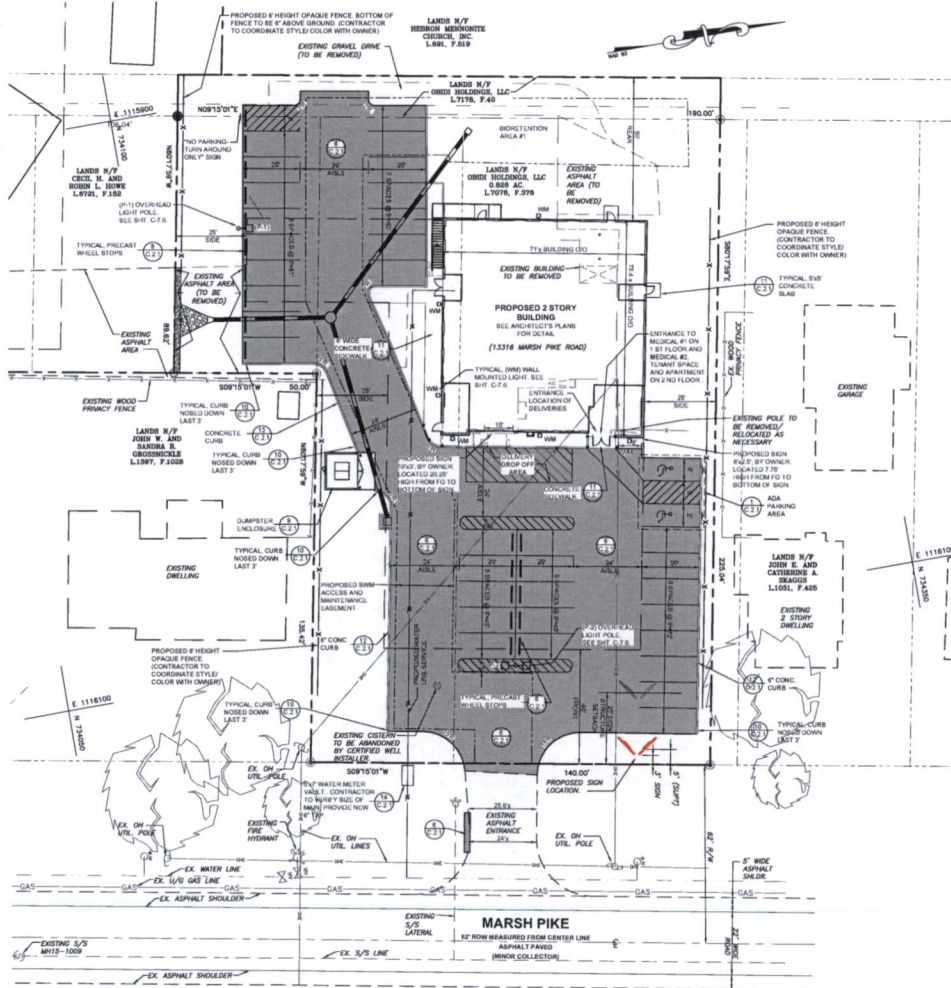
GENERAL NOTES

- TAX MAP NO. 000 019, PARCEL 019
- ELECTION DISTRICT 27
- TOTAL SITE AREA = 8.88 ACRES
- DEED REFERENCE
- RECORDS OF THE LANDS CONVEYED BY PHCM, LLC INTO OBIDI HOLDINGS, LLC BY DEED DATED AUGUST 2, 2022 AND RECORDED AMONG THE LAND RECORDS OF WASHINGTON COUNTY, MARYLAND AT LIBER 105 FOLD 374 AND BEING ALL THAT PORTION OF AN UNIMPROVED 15 FOOT WIDE ALLEY AS INDICATED IN A DEED. THE LANDS CONVEYED BY PHCM, LLC INTO OBIDI HOLDINGS, LLC AND RECORDED AMONG THE LAND RECORDS OF WASHINGTON COUNTY, MARYLAND AT LIBER 178 FOLD 46
- PLAT REFERENCE: THE PROPERTY BEING SHOWN AS WESTERN BRAD FORD LOT 3, ALL OF LOT 4, ALL OF LOT 5 AND THE SOUTHERN 40 FEET OF LOT 6 ON A PLAT OF SUBDIVISION TITLED "PLAN OF SUBDIVISION, PARANAM, MD," RECORDED AMONG THE LAND RECORDS OF WASHINGTON COUNTY, MARYLAND AS PLAT NUMBER 84
- THE PROPERTY LINES SHOWN HEREON ARE FROM DEEDS/DEEDS OF RECORD. BOUNDARY SURVEY HAS BEEN PERFORMED BY GERALD CUMPTON AND ASSOCIATES
- TOPOGRAPHIC FEATURES SHOWN HEREON ARE FROM 2015 WASHINGTON COUNTY PLANNING G.I.S. DATA AND SUPPLEMENTED WITH A TOPOGRAPHIC SURVEY PERFORMED BY GERALD CUMPTON AND ASSOCIATES WITH THE LAST DATE OF FIELD WORK COMPLETION BEING JUNE 15, 2018
- SITE IS ZONED "R-1" RESIDENTIAL SUBURBAN DISTRICT
- EXISTING USE IS A GUN SHOP WHICH IS A PRINCIPAL PERMITTED USE WITHIN THE "R-1" DISTRICT PER ARTICLE 8 SECTION 8.1 OF THE WASHINGTON COUNTY ZONING ORDINANCE
- PROPOSED USE IS A DWELLING UNIT MEDICAL OFFICE WHICH IS SPECIAL EXCEPTION USE WITHIN THE "R-1" DISTRICT PER ARTICLE 8 SECTION 8.2 OF THE WASHINGTON COUNTY ZONING ORDINANCE. EXISTING USE WAS PREVIOUSLY A GUN SHOP AND A DWELLING UNIT
- PURPOSE OF THIS SITE PLAN IS FOR A CHANGE OF USE TO BE USED AS MEDICAL OFFICES AND DWELLING UNIT. REFERENCE IS HEREBY MADE TO THE BOARD OF ZONING APPEALS FOR THE FOLLOWING: COUNCIL RESOLUTION APPROVING SPECIAL EXCEPTION FOR PROPERTY USE AND A VARIANCE FROM A REAR YARD DEPTH OF 25 FEET TO 15 FEET DOCKET NUMBER 20-0246 GRANTING A VARIANCE FROM A REAR YARD DEPTH OF 25 FEET TO 15 FEET PER RZA CASE NO. 2020-046 WAS A MODIFICATION TO RZA CASE NO. 2020-024. ALL CONSTRUCTION OF NEW BUILDING RATHER THAN REUSE OF EXISTING BUILDING INCLUSION OF +1,100 SF TENANT SPACE FOR PROFESSIONAL OFFICES OR MEDICAL OR DENTAL CLINIC OFFICE. ADDITIONAL WORK CHANGES TO HOURS OF OPERATION REQUESTING A VARIANCE FROM THE OFF STREET PARKING SPACE REQUIREMENT FOR MEDICAL OFFICES FROM THE 18 SPACES TO 12 SPACES
- MINIMUM LOT REQUIREMENTS PER SECTION 8.5(a) OF THE WASHINGTON COUNTY ZONING ORDINANCE

LOT AREA	LOT WIDTH	FRONT YARD	SIDE YARD	REAR YARD
20,000 S.F.	100 FEET	40 FEET	25 FEET	50 FEET
- HOURS OF OPERATIONS: MONDAY THRU FRIDAY 8:30 AM TO 4:30 PM, SATURDAY 9 AM TO 12 PM
- NUMBER OF EMPLOYEES: 7 PER HOUR SHIFT
- PARKING REQUIREMENTS PER SECTION 22.23(b) OF THE WASHINGTON COUNTY ZONING ORDINANCE

MEDICAL #1 - 1 SPACE REQUIRED / 200 sq. ft. OF (GFA) 1st FLOOR TENANT: 4.87 SF (200+4 SPACES)
MEDICAL #2 - 1 SPACE REQUIRED / 200 sq. ft. OF (GFA) 2nd FLOOR TENANT: 797 SF (200+4 SPACES)
MEDICAL #3 - 1 SPACE REQUIRED / 200 sq. ft. OF (GFA) 3rd FLOOR (FUTURE) TENANT: 188 SF (200+4 SPACES)
1 DWELLING UNIT TENANT: 2 SPACES PER UNIT
TOTAL SPACES REQUIRED / TOTAL SPACES PROVIDED: 4 REGULAR AND 2 INC. PER RZA CASE NO. 2020-046 TOTAL REQUIRED MEDICAL SPACES TO BE 12
- SITE IS SERVED BY A PUBLIC SANITARY SEWER SYSTEM PROVIDED BY WASHINGTON COUNTY DEPARTMENT OF WATER QUALITY
- SITE IS SERVED BY PUBLIC WATER SYSTEM PROVIDED BY THE CITY OF HAGERSTOWN WATER AND SEWER DEPARTMENT
- SOIL TO BE PLACED UPON AT EXISTING SIGN LOCATION SHALL MEET THE REQUIREMENTS PER ARTICLE 22, DIVISION 5, SIGNS, OF THE WASHINGTON COUNTY ZONING ORDINANCE
- TRASH AND RECYCLABLES WILL BE COLLECTED AT THE PROPOSED DUMPER LOCATION, SHOWN, AND REMOVED FROM SITE BY A LICENSED COMMERCIAL HAULER AND TAKEN TO AN APPROVED DISPOSAL FACILITY
- NO NEW EXTERIOR LIGHTING IS PROPOSED PER THIS PLAN
- THERE ARE NO WETLANDS ON THE SITE PER MAPS BY THE U.S. DEPARTMENT OF THE INTERIOR, FISH AND WILDLIFE SERVICE, PER THE NATIONAL WETLANDS INVENTORY DATED JUNE 30, 2021
- THERE ARE NO THREATENED OR ENDANGERED SPECIES IDENTIFIED BY THE U.S. FISH AND WILDLIFE SERVICE PER CFR AS REQUIRED TO BE SHOWN BY SECTION 314 OF THE WASHINGTON COUNTY ZONING ORDINANCE AND SECTION 4.2.1 OF THE WASHINGTON COUNTY ZONING ORDINANCE
- THERE IS NO INTERMITTENT STREAM FYNBS ASSOCIATED WITHIN THE PROJECT LIMITS AS SHOWN ON SHEET NUMBER 24 OF 44 OF THE SOIL SURVEY OF WASHINGTON COUNTY, MARYLAND
- THERE ARE NO AREAS OF FREE FLOODING AS DEFINED BY ARTICLE 28.01 OF THE WASHINGTON COUNTY ZONING ORDINANCE ON THE LANDS SHOWN HEREON
- THIS SITE IS NOT WITHIN THE LIMITS OF THE APPLICATION TRAIL CORRIDOR OR THE WATERSHED OF THE EDGEWATER-SMITHS RESEERVOIR OR THE UPPER CREEK RESEERVOIR
- THIS SITE IS NOT AFFECTED BY THE 100-YEAR FLOOD PLAIN AS SHOWN ON F.E.M.A. COMBINATION FLOOD NO. 20020101 DATED AUGUST 19, 2017 IS IN ZONE X
- THIS SITE IS EXEMPT FROM THE WASHINGTON COUNTY FOREST CONSERVATION ORDINANCE BECAUSE THE AREA IS NOT A FORESTABLE ESTATE THAT 20,000+ S.F. DELIVERY REQUIREMENTS DELIVERIES WILL BE DONE BY ONE BOX TRUCK PER WEEK AND TWO GENERAL DELIVERIES PER DAY. DELIVERIES TO FRONT ENTRANCE AS SHOWN AND LABELED IN PLAN VIEW DELIVERY DROP OFF AREA AT FRONT OF BUILDING AS SHOWN PER PLAN
- SITE COVERAGE (IMPERVIOUS AREA) (GROSS SITE AREA): 8.88 AC / 18,770 S.F.
TOTAL AREA OF TAX ACCOUNT TO 400 (FEDS): 0.948 AC / 19,830 S.F.
TOTAL EX. IMPERVIOUS AREA (GROSS): 0.95 AC / 20,364 S.F.
PERCENT EX. IMP. AREA (GROSS) (0.95 AC / 20,364 AC) = 100%
TOTAL NEW IMPERVIOUS AREA (GROSS) = 0.95 AC / 20,364 S.F.
- PERCENT OVERALL IMP. AREA (GROSS) (0.95 AC / 20,364 AC) = 100%
85.5%
- EACH ADDRESS IS BASED ON ENTRANCE LOCATION. IF DRIVEWAYS ARE CONSTRUCTED AT A DIFFERENT LOCATION, THE ADDRESS FOR THAT LOT IS VOID, AND THE OWNER / DEVELOPER OF THE LOT MUST REAPPLY TO THIS OFFICE FOR A NEW ADDRESS ASSIGNMENT
- SITE PROPERTY IS IN A PFA PRIORITY FLOODING AREA
- THE OWNER, OBIDI HOLDINGS, LLC, WILL BE RESPONSIBLE FOR PROPERTY MAINTENANCE, INCLUDING THE ENTRANCE AND PARKING AREAS

EX. CURRENT WATER ALLOCATION (1" METER)	= 400 GPD
PROPOSED ADDITIONAL WATER ALLOCATION	= 400 GPD
TOTAL	= 800 GPD
CURRENT SEWER ALLOCATION	= 400 GPD
PROPOSED ADDITIONAL SEWER ALLOCATION	= 400 GPD
TOTAL	= 800 GPD



PROPOSED SIGN FOR ON PREMISE USE

PER WASHINGTON COUNTY ZONING ORDINANCE DIVISION II, SECTION 22.23(e)

SIGN DATA
 LOT FRONTAGE: 140' (40' MIN. REQ'D)
 SUPPORTING STRUCTURE: 5' FROM RW (25' MIN. REQ'D)
 ANY PART OF SIGN: 3' FROM RW (5' MIN. REQ'D)
 SIGN AREA: 146 SF (300 SF MAX. REQ'D)
 SIGN HEIGHT: 12' (35' MAX. REQ'D)

- VARIANCE OF THE 5' FROM RW LINE TO ANY PART OF THE SIGN AS SHOWN WE ARE REQUESTING THIS TO BE REDUCED TO 3'.
- VARIANCE OF THE NO PART OF THE SUPPORTING STRUCTURE WITHIN 25' OF THE RW LINE. AS SHOWN WE ARE REQUESTING THIS BE REDUCED TO 5'.

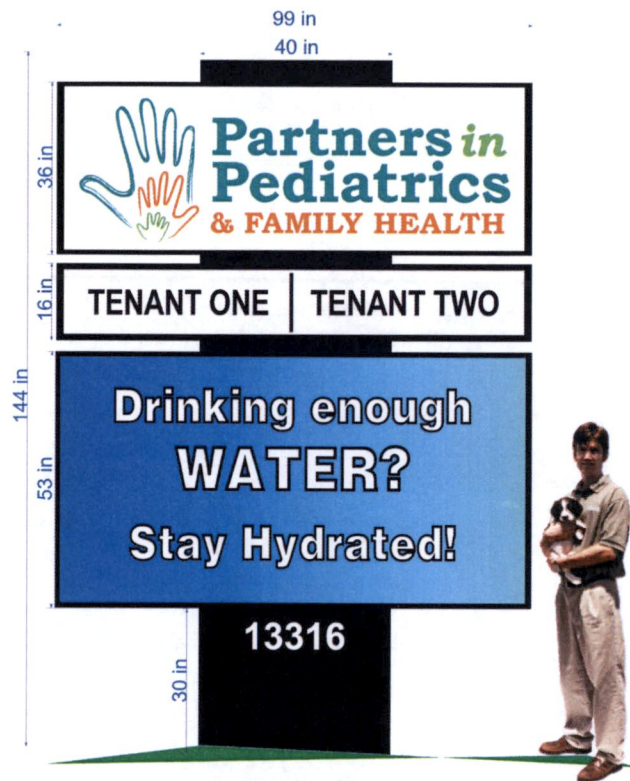
TRIAD ENGINEERING, INC.
 10750 SHERMAN AVENUE
 HAGERSTOWN, MD 21140
 PH: 301.787.4400 FAX: 301.787.2424

DATE	BY	REVISION
11-15-2023	OBIDI HOLDINGS, LLC	FOR REVIEW
11-15-2023	OBIDI HOLDINGS, LLC	FOR REVIEW
11-15-2023	OBIDI HOLDINGS, LLC	FOR REVIEW
11-15-2023	OBIDI HOLDINGS, LLC	FOR REVIEW
11-15-2023	OBIDI HOLDINGS, LLC	FOR REVIEW
11-15-2023	OBIDI HOLDINGS, LLC	FOR REVIEW
11-15-2023	OBIDI HOLDINGS, LLC	FOR REVIEW
11-15-2023	OBIDI HOLDINGS, LLC	FOR REVIEW
11-15-2023	OBIDI HOLDINGS, LLC	FOR REVIEW
11-15-2023	OBIDI HOLDINGS, LLC	FOR REVIEW



OBIDI HOLDINGS, LLC.
 13319 MARSH PIKE
 HAGERSTOWN, MD 21142
SIGN VARIANCE EXHIBIT
 ZONING: R-1
 TAX MAP: 0025
 GRID: 0019
 PARCEL: 0128
 ELEC. DIST: 27
 SHEET NUMBER: **EX-1.0**
 JOB NO: 03-22-0877





ROADSIDE SIGN

Two identical structures set in v-configuration
Center supports with girders per drawing

HEADER CABINETS 36" x 99" with practice name and logo
INTERMEDIATE CABINETS 16" x 99" with tenant names

ELECTRONIC MESSAGE CENTER

10mm Full Color LED RGB

Cabinet Size: 4ft 5in H x 8ft 3in L x 5in D

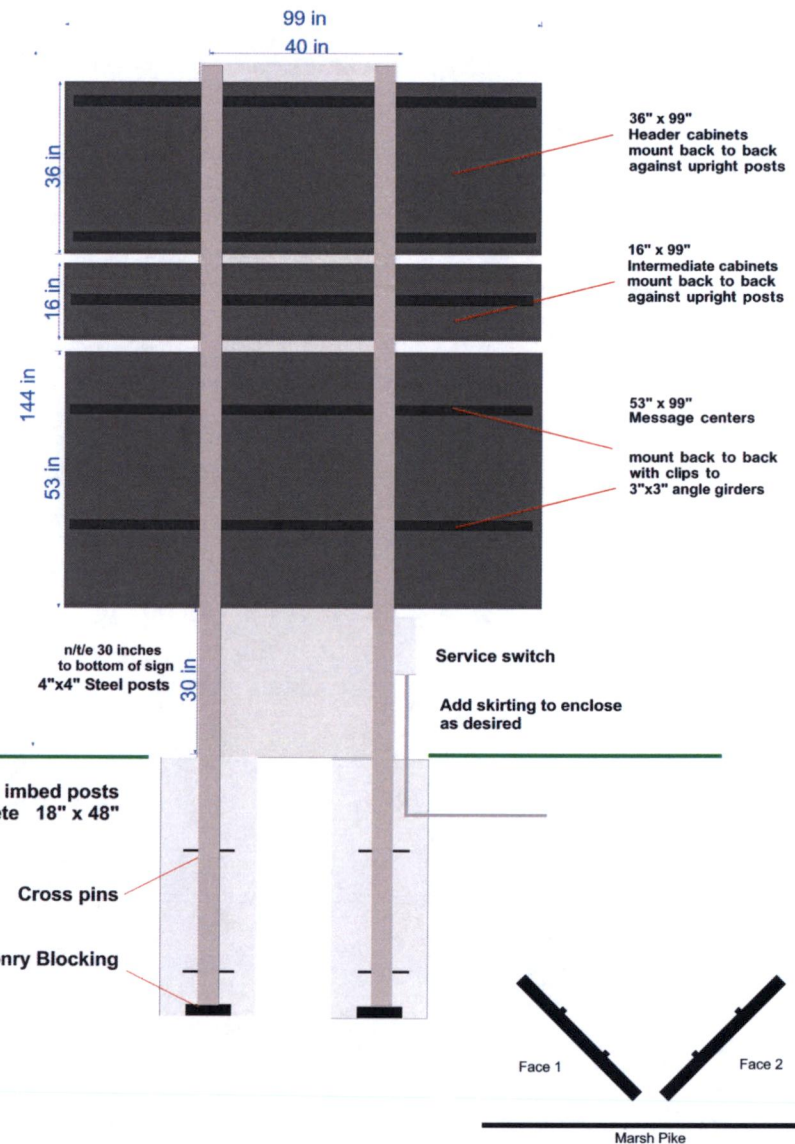
Viewing Area: 4ft H x 8ft L

Standard 5 Year Watchfire warranty applies.

Communications:

OPx - 4G Wireless with Watchfire Cellular Data Plan

Wireless Data Plan Life-of-sign Data Plan



Date: **April 28, 2025**

Description: **Roadside sign with Message Center**

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800-442-7654

thesignpro@signhere.net

345 E. Antietam Street, Hagerstown, Maryland 21740









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

OBIDI HOLDINGS, LLC

Appellant

Appeal No.: AP2024-040

* * * * *

OPINION

Obidi Holdings, LLC (hereinafter "Appellant") requests a modification of the previously approved special exception to establish a full-service physicians' office, to allow construction of a new building rather than re-use of the existing building at the subject property. Appellant also requests a variance to reduce the required parking spaces from 38 to 32 spaces 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 September 4, 2024. Jason Divelbiss, Esq. represented Appellant at the hearing before the Board.

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 multiple 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 original design had 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. The proposed design calls for 32 parking spaces, plus 2 spaces for the residence.

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 approximately 7 to 8 employees.

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 he supports the project but does not want a pain management clinic or similar use in the neighborhood.

13. Appellant's neighbor, Brianna Maddox testified that she supported the project and that Dr. Obidi has a great working relationship with the neighbors.

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 a request for a special exception. The hearing on the special exception request occurred on May 22, 2024

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.

and the Board issued its written decision denying the request on June 18, 2024.²

Appellant subsequently filed this request for a modification of the original special exception which was granted in Case No. AP2022-029. The hearing on the initial modification request occurred on July 24, 2024 and the Board issued its written decision denying the request on August 24, 2024. Appellant subsequently filed this new request for modification of the original special exception granted in Case No. AP2022-029.

Modification Request

In Case No. AP2022-029, the Board imposed its standard condition that the use be consistent with the testimony and evidence presented. In that case, Appellant testified that his plan was to renovate the existing structure for the proposed physician's office. However, during the process it was determined that demolition would be required, and the office would have to be constructed as new. As a practical matter there appears to be no way to proceed with renovation and reuse of the existing building.

Appellant asserts that the Board did not specifically require that the building had to be renovated and reused, but rather adopted his stated plan to do so. Appellant contends that a significant change in circumstances occurred when they determined they could not renovate and had to transition to demolition and new construction. Appellant's argument is that this change in circumstances justifies a relaxation of the previously imposed condition.

In an effort to address the Board's previous concerns, Appellant presented a significantly modified and improved concept plan and design for the new building. The new design incorporates brick accents and board and batten exterior which is more consistent with the buildings in the surrounding neighborhood and the residential nature of the area. Appellant also designated the tenant space on the second floor specifically

² Appellant filed a Petition for Judicial Review in the Circuit Court for Washington County, which is now pending in Case No. C-21-CV-24-000305.

for medical or professional offices and expressed a willingness to place conditions on the use of that space. Moreover, Appellant changed the hours of operation slightly during the week and has requested a formal reduction of the parking requirement. The Board is persuaded that this modification request is substantially different from the previous request.

As presented, the modification request simply changes the method by which Appellant is to construct and establish the previously approved use. The impact remains unchanged as it relates to the surrounding neighborhood. The Board previously found that the proposed use would not produce any adverse effects and the same remains true when simply changing the method of construction. Furthermore, the redesign improves the overall fit with the character of the neighborhood. Based on the changes presented, the Board is persuaded that a modification of the conditions imposed on the original special exception should be granted to allow for demolition and new construction.

Parking Variance

The Board has authority to grant a variance upon a showing of practical difficulty or undue hardship as set forth in Section 25.2 and 25.56 of the Ordinance.³ "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. Section 25.56(A).

³ "When the terms unnecessary hardship (or one of its synonyms) and practical difficulty 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 difficulty 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)

Practical difficulty and undue hardship are typically 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).

While a reduction in parking is not necessary for the special exception use to exist, it substantially improves the use and design of the subject property. Appellant has been clear through multiple hearings that the Ordinance requirements for off-street parking was far more than needed. Reducing the parking spaces will benefit the neighbor most affected, allow for more landscape design and aid in conforming better to the character and nature of the neighborhood. The Board finds that practical difficulty exists and that the parking variance request should be granted.

Accordingly, the request to modify the previously approved special exception to establish a full-service physicians’ office in a new commercial building at the subject property to remove the condition providing for renovation of the existing building is hereby GRANTED, by a vote of 5 to 0. The request to reduce the required off-street parking spaces from 38 to 32 spaces at the subject property is hereby GRANTED, by a vote of 5 to 0.

The relief granted herein is granted subject to the standard condition that it is consistent with the testimony and evidence presented at the hearing.

BOARD OF APPEALS

By: Tracie Felker, Chair

Date Issued: October 3, 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.