

BOARD OF APPEALS

March 13, 2024

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

AGENDA

AP2024-009: An appeal was filed by Thomas & Paulette Hagan for a variance from the required 15 ft. setback to 3 ft. from the rear yard and 5 ft. from the right-side yard for proposed detached storage building on the property owned by the appellants and located at 19512 Elk Ridge Drive, Keedysville, Zoned Preservation. - **GRANTED**

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 March 4, 2024. Any person desiring a stenographic transcript shall be responsible for supplying a competent stenographer.

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

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

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

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

Jay Miller, Chairman

Board of Zoning Appeals



WASHINGTON COUNTY BOARD OF ZONING APPEALS

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

ZONING APPEAL

Property Owner: Thomas & Paulette Hagan
 19512 Elk Ridge Drive
 Keedysville MD 21756

Appellant: Thomas & Paulette Hagan
 19512 Elk Ridge Drive
 Keedysville MD 21756

Property Location: 19512 Elk Ridge Drive
 Keedysville, MD 21756

Description Of Appeal: Variance from the required 15 ft. setback to 3 ft. from the rear yard and 5 ft. from the right side yard for proposed detached storage building.

Docket No: AP2024-009
Tax ID No: 08003254
Zoning: P
RB Overlay: No
Zoning Overlay:
Filed Date: 02/21/2024
Hearing Date: 03/13/2024

Appellant's Legal Interest In Above Property:

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

Previous Petition/Appeal Docket No(s): AP96-052
Applicable Ordinance Sections: Washington County Zoning Ordinance Section 5C.5

Reason For Hardship:
If Appeal of Ruling, Date Of Ruling:
Ruling Official/Agency:

Existing Use: Residential
Proposed Use: Detached Storage Building

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

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

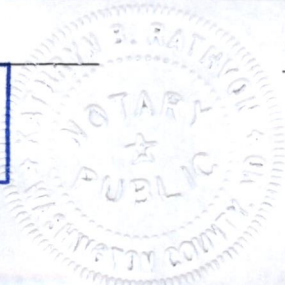
I hereby affirm that all of the statements and information contained in or filed with this appeal are true and correct.

Appellant Signature

State Of Maryland, Washington County to-wit:

Sworn and subscribed before me this 21 day of Feb., 2024.

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



Notary Public



WASHINGTON COUNTY BOARD OF ZONING APPEALS

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AFFIDAVIT IN COMPLIANCE WITH SECTION 25.51(C)

Docket No: AP2024-009

State of Maryland Washington County, To Wit:

On 2/21/2024, before me the subscriber, a Notary of the public of the State and County aforesaid, personally appeared Paulette Hagan and made oath in due form of law as follows:

Paulette Hagan 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 03/13/2024, and that said sign(s) will be erected on the subject property in accordance with the required distances and positioning as set out in the attached posting instructions.

Sign(s) will be posted on 02/27/2024 and will remain until after the above hearing date.

Paulette Hagan

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

Notary Public

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

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

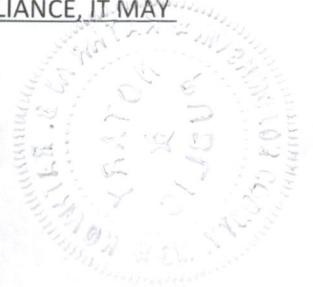
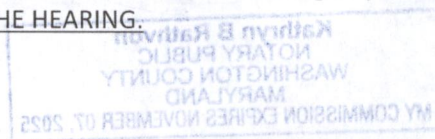
ATTENTION!

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.



February 19, 2024

Thomas and Paulette Hagan
19512 Elkridge Drive
Keedysville, MD. 21756

(301) 432-7755 (home)
(240) 818-3556 (cell)

To Whom It May Concern,

We would like to have a storage pole building constructed by Timberline Buildings. We would also like it to be a 22'x30'x10' building with set backs of 3' in the rear and 5' on the side.

We do have written approval from all surrounding lots with a letter signed by all parties stating as such. Since our lots are only 100'x150' it makes it very difficult to put the building any where else on the property and meet the set backs that Washington County requires. This building will be on the right side, rear of the property where we previously had a storage building. It will be used to store mowers, our boat, ladders and other gardening equipment and supplies. This way they can be stored safely and neatly without being ruined by the elements. Thank you for your consideration. Should you have any questions please feel free to call.

Thank you,

Thomas and Paulette Hagan

To Whom It May Concern,

This letter is signed by the residents who's property are connected to the property of: Mr. and Mrs. Thomas Hagan at 19512 Elkridge Drive, Keedysville, MD 21756. It shows that these residents have given their approval for a storage building we are having built with set backs of 3' to the rear and 5' on the right side of the property.

Jerry and/or Mary Howard - 3726 Trego Mt. Road
Keedysville, MD. 21756

Jerry Howard 2-20-24
Date

Rick and/or Meldina Dietz - 19517 Elkridge Drive
Keedysville, MD. 21756

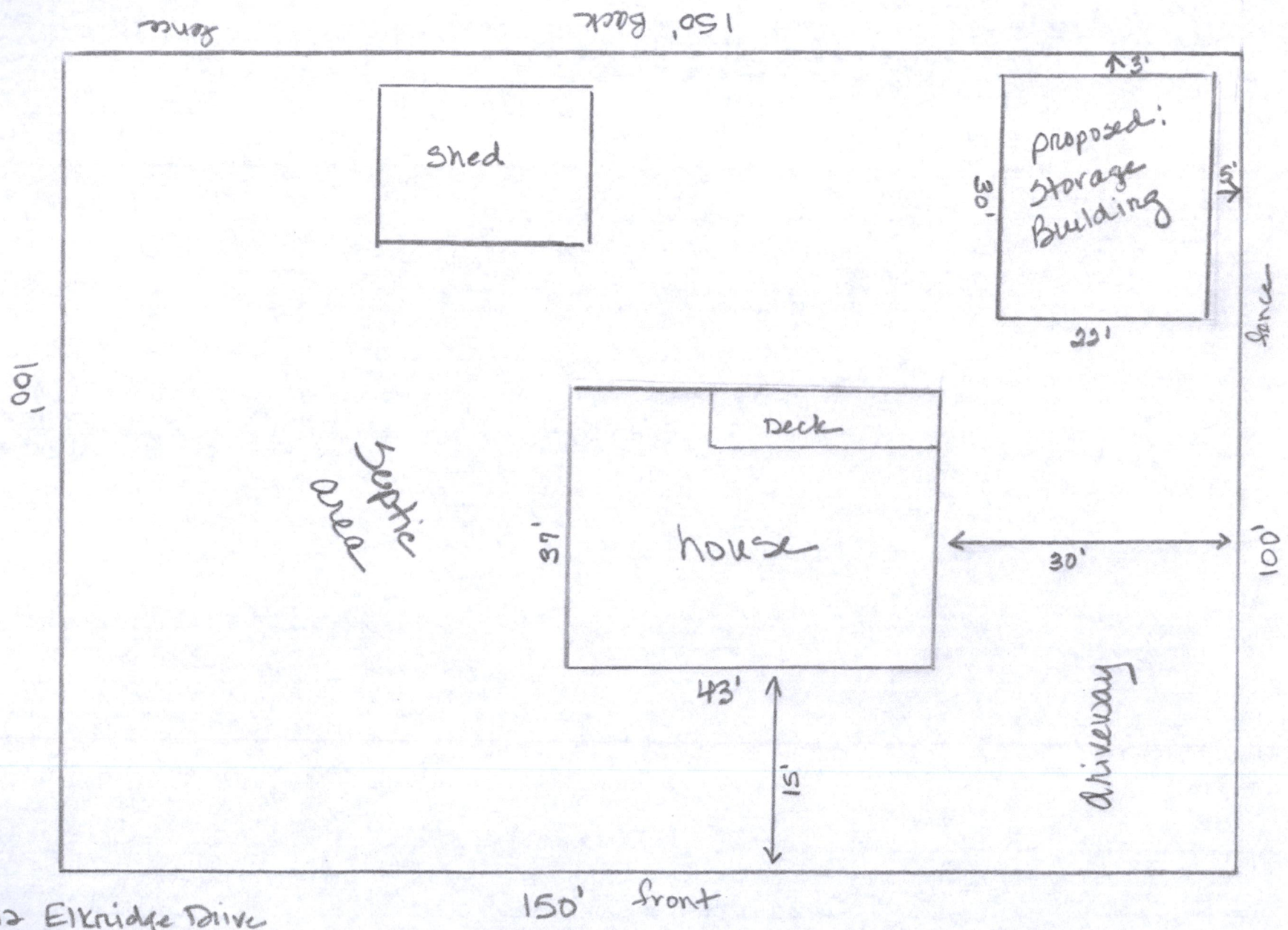
Rick Dietz 2/19/2024
Date

Kyle and/or Amanda Phillips - 19511 Elkridge Drive
Keedysville, MD. 21756

Amanda Phillips 2/19/24
Date

Tyler and/or Grace Green - 19518 Elkridge Drive
Keedysville, MD. 21756

Tyler Green 2/19/24
Date



19512 Elkridge Drive
 Keedysville, Md
 21756

TIMBERLINE POLE BLDG POLE BUILDINGS

1735 Rock Cliff Dr, Martinsburg, WV 25401 304-901-4903 Fax: 304-596-2070

2/19/2024

Paulette Hagen
Keedysville, MD
304-432-7755

22'x30'x10'4"

- 1- 16'x9' white insulated overhead door
- 1- 3068 entry door with 9light window
- 2- 3040 single hung windows
- 12" white vinyl vented overhang on the eaves
- Flush gables
- 4/12 pitch trusses 4ft o.c.
- Hurricane ties on trusses
- Load bearing screws on all headers
- 3ply Glu-lam post
- Engineered drawings
- Ridgevent
- 28 gauge metal roof & sides (40 year warranty)

Total Erected Price \$18,524

Options:

- Vapor barrier double bubble on the roof: \$784

Note: Price does *not* include any excavation, prep work, stone base, concrete, plumbing, HVAC, electric, dumpster fees/trash removal, permit fees, and/or any changes due to your grade, local building department, HOA, or equivalent that are above and beyond contract details.

Due to prices on LUMBER, steel/aluminum, prices are valid for 1 days

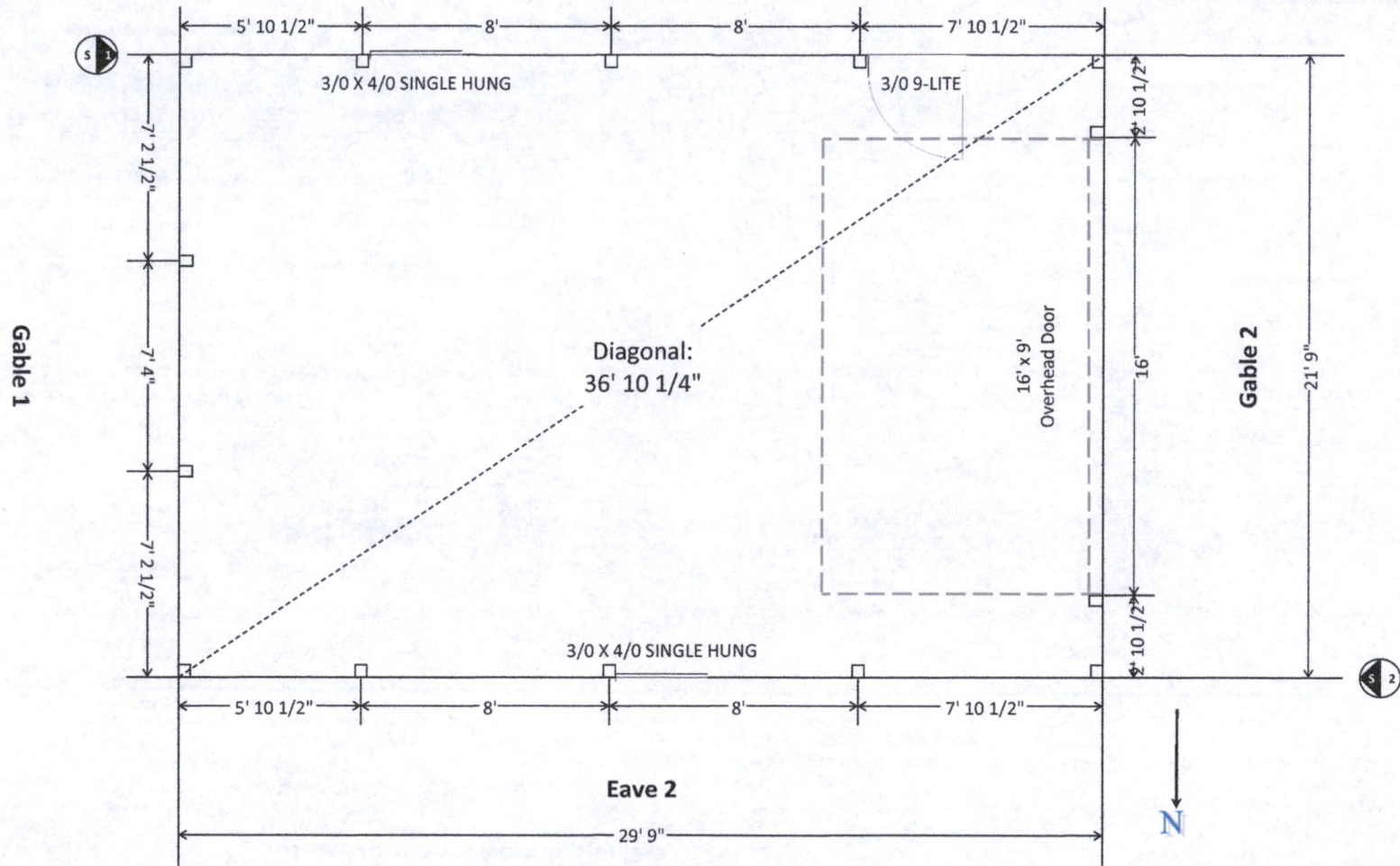


POLE LAYOUT

Residential Use, 660 sq. ft.



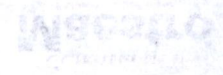
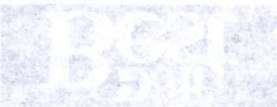
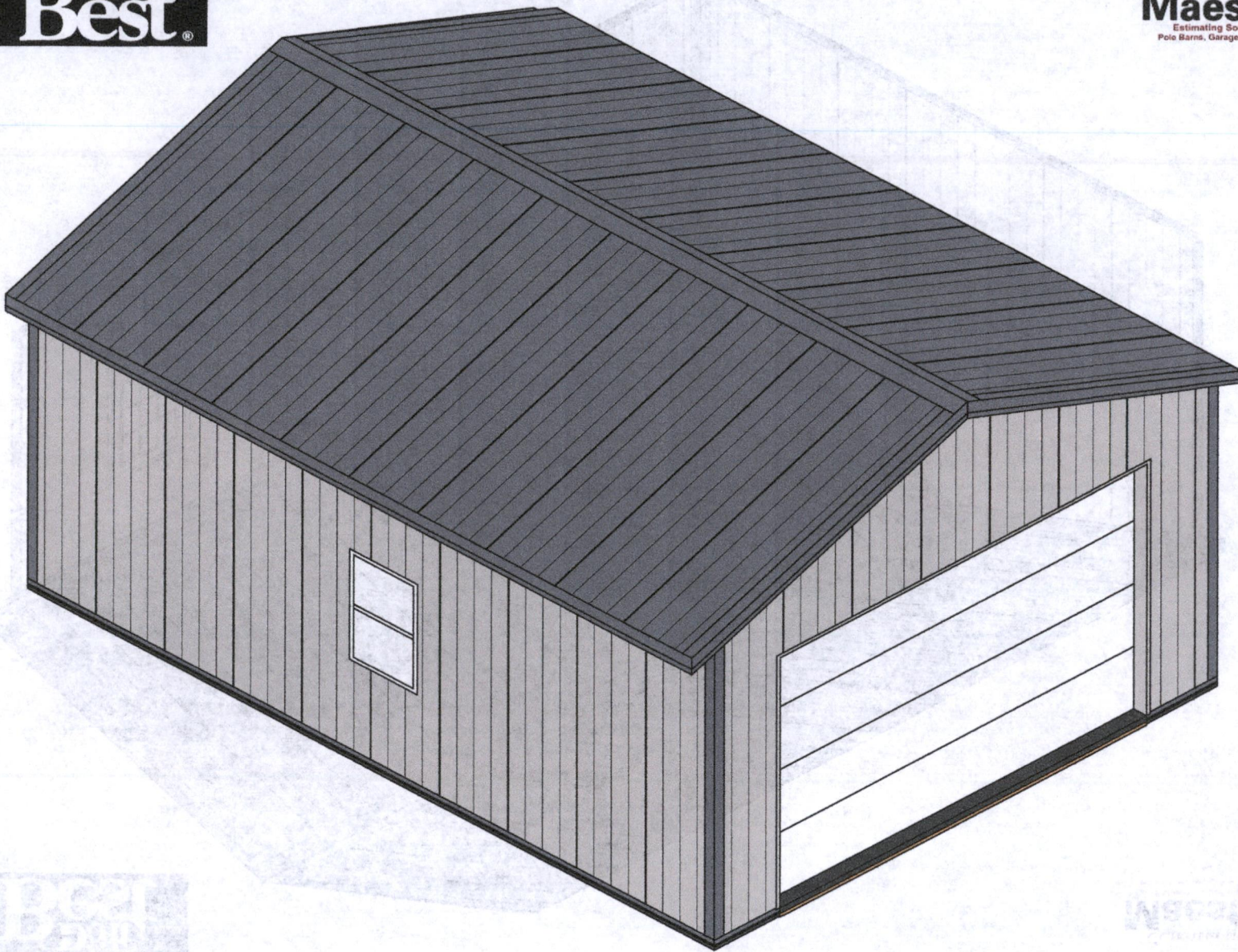
Eave 1



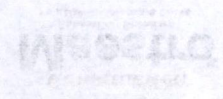
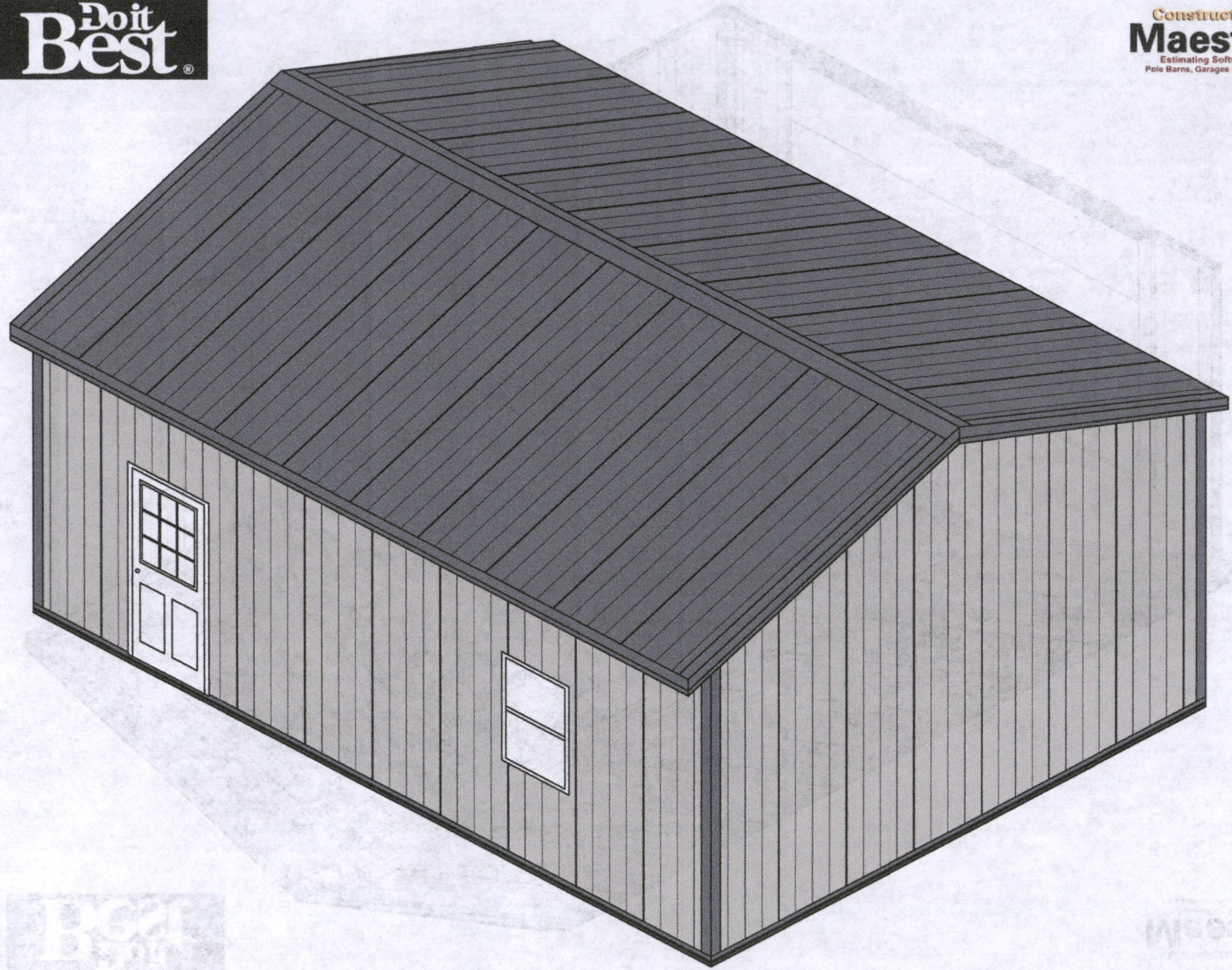
814-593-
CONTACT US TODAY!



Construction
Maestro[®]
Estimating Software
Pole Barns, Garages & Decks



"Estimate Number: 1156
2/19/2024"



"Estimate Number: 1156
2/19/2024"

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

THOMAS AND PAULETTE HAGAN
Appellants

Appeal No.: AP2024-009

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OPINION

Thomas and Paulette Hagan (hereinafter “Appellants”) request variances to reduce the required rear yard setback from 15 feet to 3 feet¹ and the right side yard setback from 15 feet to 5 feet for a proposed detached storage building at the subject property. The subject property is located at 19512 Elk Ridge Drive, Keedysville, Maryland and is zoned Preservation. The Board held a public hearing in this matter on March 13, 2024.

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

Findings of Fact

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

1. Appellants are the owners of the subject property located at 19512 Elk Ridge Drive, Keedysville, Maryland. The subject property is zoned Preservation.
2. The subject property consists of 100-foot by 150-foot lot improved with a single-family dwelling and a shed. It is situated on a bend in the road such that the subject property becomes a corner lot.
3. Appellants had a storage building on the subject property, but it fell into disrepair, was dilapidated and needed to be replaced. The building is now removed, and

¹ At the outset of the hearing, Appellants amended their request to reduce the rear yard setback to five (5) feet.

Appellants proposed to construct a new storage building in the same location.

4. Appellants propose to construct a 22-foot by 30-foot storage building in the corner of the property and situated at the end of the existing driveway.

5. Appellants have two (2) neighbors with similar sized properties that have 24-foot by 30-foot storage buildings.

6. The subject property has a swale through the rear yard and a septic field in the northern portion of the property.

7. The subject property was the subject of a previous appeal in AP96-052 for a variance to construct the existing storage building. In that case, Appellants sought and obtained variance relief to reduce the required rear yard setback to five (5) feet and the side yard setback to ten (10) feet. The decision was issued in that case on June 19, 1996.

8. Appellants amended their request to five (5) feet for the rear yard setback.

9. Appellants' neighbor, Ralph Blank presented opposition to this appeal.

Rationale

The Board has authority to grant a variance upon a showing of practical difficulty or undue hardship. §§ 25.2(c) and 25.56.² "Practical Difficulty" may be found by the Board when: (1) strict compliance would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome; and (2) denying the variance would do substantial injustice to the applicant and a lesser relaxation than that applied for would not give substantial relief; and (3) granting the variance would observe the spirit of the Ordinance and secure public safety and welfare. § 25.56(A).

Practical difficulty and undue hardship are the result of a property being unique. "'Uniqueness' of a property for zoning purposes requires that the subject property have

²² "When the terms unnecessary hardship (or one of its synonyms) and practical difficulties are framed in the disjunctive ("or"), Maryland courts generally have applied the more restrictive hardship standard to use variances, while applying the less restrictive practical difficulties standard to area variances because use variances are viewed as more drastic departures from zoning requirements." *Belvoir Farms Homeowners Ass'n, Inc. v. North*, 355 Md. 259, 276 n.10 (1999) (citations omitted).

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 5C.5 of the Zoning Ordinance, the required setback for the subject property is fifteen (15) feet for both rear and side yards. Appellants amended their request for the rear yard setback to be five (5) feet rather than the stated three (3) feet. Appellants testified that proposed storage building cannot be moved forward toward the house because it will disrupt the water flow and runoff through the swale. Appellants further noted that they were limited in location due to the septic area, the existing swale and the location of the dwelling located on the property. Appellants' intention is to replace a dilapidated old storage building with a new, more modern design that is useful and aesthetically pleasing.

Ralph Blank testified in opposition to the variance requests. Mr. Blank raised concerns about how the proposed project would affect the existing water runoff issues among the neighboring properties. He submitted pictures of trash and debris along the right-of-way that he claimed were attributable to Appellants. Mr. Blank threatened to build a fence across the right-of-way to cutoff access to Appellants. Lastly, Mr. Blank testified that in the past he tried to get approval for a building and was opposed by the neighbors. Much of the concerns raised were immaterial to the requested variances, but Appellant was asked about the runoff issue.

The Board finds this to be a reasonable request and one necessitated by the layout the topography and inherent characteristics of the subject property. The existing swale for water runoff in the rear yard impedes any ability to move the location of the proposed storage building forward. With Appellants' amendment of the rear yard, the requested setbacks appear to be the minimum necessary for the reconstruction of a storage building.

The record reveals that there are neighboring properties which also have the benefit of detached storage buildings and therefore, this will not confer any special benefit upon Appellants. Moreover, a similar storage building previously existed at the subject property, for which the approved rear yard setback was identical to that requested herein. The only change from the previous variance appeal is the reduction of the side yard setback five (5) additional feet. The Board finds that Appellants have met the criteria for the requested variance relief and the variances should be granted.

Accordingly, the requested variances to reduce the required rear yard setback from 15 feet to 5 feet and the right side yard setback from 15 feet to 5 feet for a proposed detached storage building at the subject property are GRANTED, by a vote of 4-1. Said variance requests are granted upon the condition that the proposed use be consistent with the testimony and evidence presented herein.

BOARD OF APPEALS

By: Jay Miller, Chair

Date Issued: April 12, 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.