

**BOARD OF APPEALS**

**June 7, 2023**

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

**AGENDA**

**AP2023-022:** Appeal rescheduled for the June 21<sup>st</sup> agenda.

**AP2023-024:** An appeal was filed by Shannon Cantrill for a special exception to establish a banquet/reception facility in accordance with justification statement with new banquet facility to be constructed on property owned by Shannon Cantrill and Edward Evans and located at 15542 Broadfording Road, Hagerstown, Zoned Agricultural Rural. - **DENIED**

**AP2023-025:** An appeal was filed by Alfredo Alvarado & Roxana Navida Diaz for a variance from the required 100 ft. setback requirement for animal husbandry structure to 0 ft. from the right side yard and rear yard property line and 50 ft. for the left side yard for chicken coop on property owned by the appellant and located at 11004 Lincoln Avenue, Hagerstown, Zoned Residential Urban. - **GRANTED WITH CONDITIONS**

**AP2023-026:** An appeal was filed by Robert & Patricia Ford for a variance from the 100 ft. setback requirement for animal husbandry structure to 60 ft. from the North property line, 80 ft. from the South property line, and 43 ft. from the West property line for a chicken coop on property owned by the appellant and located at 19016 Longmeadow Drive, Hagerstown, Zoned Residential Suburban. -**GRANTED WITH CONDITIONS**

**Closed Session**

\*\*\*\*\*

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 29, 2023. 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: Shannon Cantrill & Edward Evans
15542 Broadfording Road
Clear Spring MD 21722
Appellant: Shannon Cantrill
15542 Broadfording Road
Clear Spring MD 21722
Property Location: 15542 Broadfording Road
Clear Spring, MD 21722
Description Of Appeal: Special exception to establish banquet/reception facility in accordance with justification statement with new banquet facility to be constructed.

Docket No: AP2023-024
Tax ID No: 23011069
Zoning: A(R)
RB Overlay: No
Zoning Overlay:
Filed Date: 05/08/2023
Hearing Date: 06/07/2023

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: 3.3(1) B and 28A
Reason For Hardship:
If Appeal of Ruling, Date Of Ruling:
Ruling Official/Agency:
Existing Use: Residential
Proposed Use: Banquet/Reception Facility
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.

Shannon Cantrill (handwritten signature)

Appellant Signature

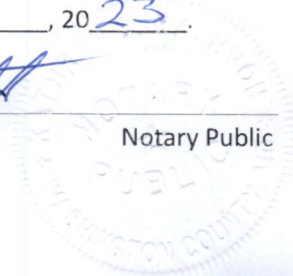
State Of Maryland, Washington County to-wit:

Sworn and subscribed before me this 8 day of May, 2023.

Kathryn B Rathvon
NOTARY PUBLIC
WASHINGTON COUNTY
MARYLAND
My Commission Expires November 07, 2025

(Handwritten signature of 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: AP2023-024

### State of Maryland Washington County, To Wit:

On 5/8/2023, before me the subscriber, a Notary of the public of the State and County aforesaid, personally appeared Shannon Cantrill and made oath in due form of law as follows:

Shannon Cantrill 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 06/07/2023, 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 05/23/2023 and will remain until after the above hearing date.

*Shannon Cantrill*

Shannon Cantrill

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

*Kathryn B Rathvon*

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

Notary Public

Seal

My Commission Expires



BOARD OF ZONING APPEALS

OWNER REPRESENTATIVE AFFIDAVIT

This is to certify that Shannon Cantrill is authorized to file an appeal with the Washington County Board of Appeals for a special exception to establish banquet/reception facility on property located 15542 Broadforbing Road Clear Spring Maryland 21722. The said work is authorized by Edward Evans the property owner in fee.

PROPERTY OWNER

Edward Evans
Name
15542 Broadforbing Road
Address
Clear Spring, Maryland 21722
City, State, Zip Code
E.E.
Owner's Signature

Sworn and subscribed before me this 8 day of May, 2023.

[Signature]
Notary Public

My Commission Expires:

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

AUTHORIZED REPRESENTATIVE

Shannon Cantrill
Name
15542 Broad forbing Rd
Address
Clear Spring Md 21720
City, State, Zip Code
Shannon Cantrill
Authorized Representative's Signature

Sworn and subscribed before me this 8 day of May, 2023.

[Signature]
Notary Public

My Commission Expires:

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

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

BOARD OF APPEALS OF WASHINGTON COUNTY

Application of: \* Case No. AP2023-024  
Shannon Cantrill \*  
Applicant \*

JUSTIFICATION STATEMENT

Shannon Cantrill, Applicant, by William C. Wantz, her attorney, submits this Justification Statement supporting her application for a special exception to establish a banquet/reception facility.

*The Property*

The Applicant and Edward Evans own a parcel of land comprised of approximately 38.83 acres situate along the north side of Broadfording Road. Mr. Evans has provided an affidavit authorizing the Applicant to apply for the special exception. The property is occupied by Cory Hemp and his family, who will manage the proposed use. The land is currently zoned A(R) (Agricultural, Rural) under §3.3(1)(b) of the Washington County Zoning Ordinance.

*The Proposal*

If approved, the Applicant and Mr. Hemp intend to design, construct and establish and manage a newly constructed banquet and reception venue and accessory pavilion.

No existing structures are expected to remain in single-family residential use.

Construction will be new and subject to compliance with applicable building codes. Fire protection and adequate access via a newly constructed access lane extending to the use from the existing gravel driveway will be integral to the site plan.

The proposed use is expected to be in accordance with the purpose of the Agricultural Rural zoning district and the Washington County Zoning Ordinance generally:

"Section 5A.0 Purpose

The purpose of this district is to provide for continued farming activity and the many uses that do not require public water and sewerage facilities and which may be more suitably located outside of the urban-type growth of the larger communities of the County. The Agricultural zoning district has been purposely drawn to enclose large blocks of the best soils for intensive agricultural production as well as gently rolling topography for farming. Most of the operating farms as well as the largest block of farmland preserved through the Agricultural Preservation Program is located in this area."  
Ordinance, §5A.0

The property is not well-suited to agricultural production. Soil data submitted confirms that over 90% of the parcel is quite rocky with extensive outcrops.

The proposed use does not require public water or sewerage.

The use is well-positioned in a rural-agricultural setting to contribute to Washington County's rural commerce.



10745 ST

HOFFMAN DR 94 E  
MA RTI N & SONS INC

OR S TR FR  
O CH IS AT SL  
O CH ER VI

Gossard Mill Rd

D MICHAEL J

ISHAM

POLLO...

CHARLES L SCHILL

BENDER ERIC M

SMITH LARRY T &

KEYTO N MICH AEL A &

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NELS  
VICTO

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J&k cakes

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NE CH P

DORSEY R


Google

MIRRA FR

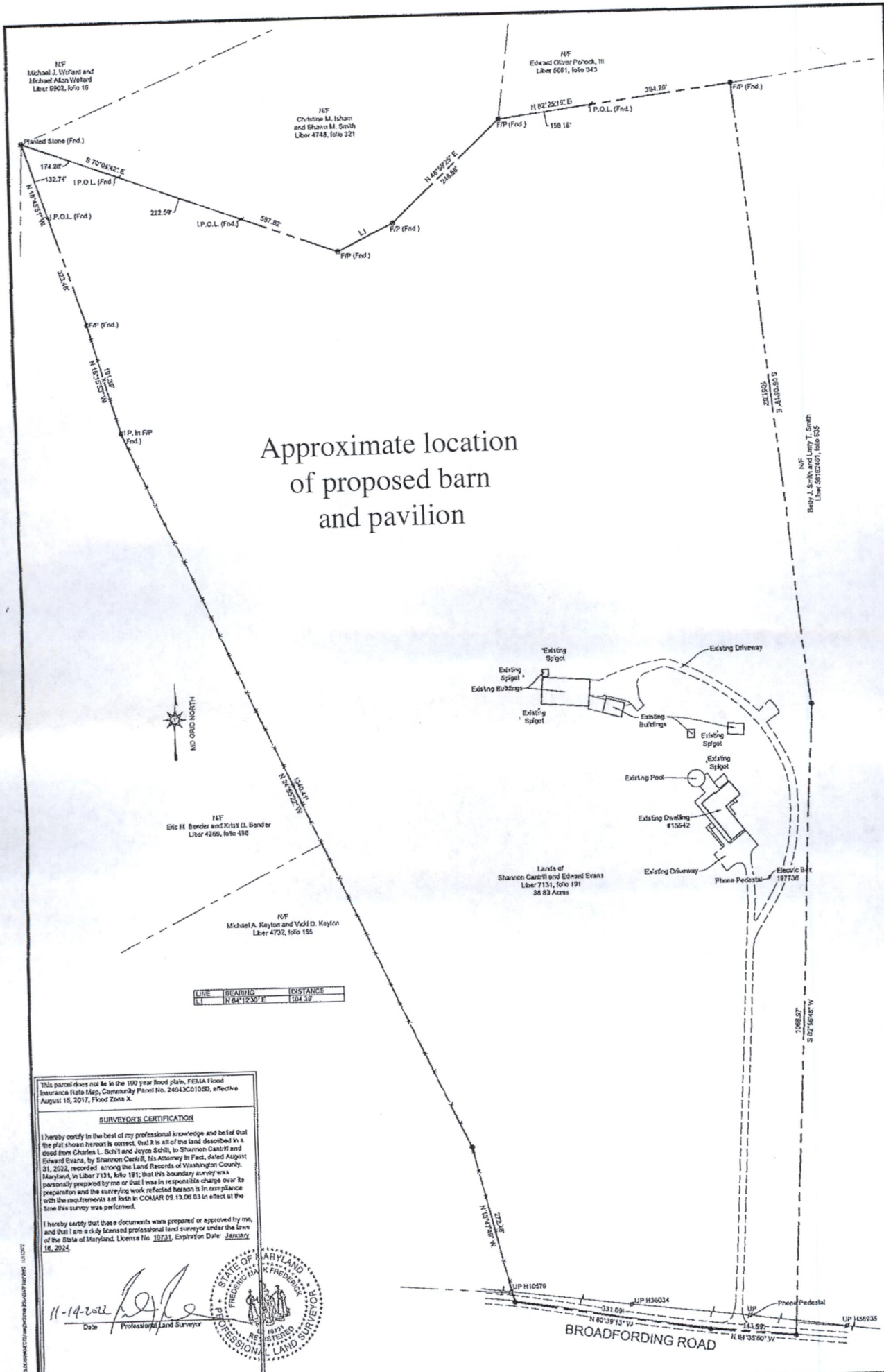




**Washington County, Maryland (MD043)**

Washington County, Maryland (MD043) 

<b>Map Unit Symbol</b>	<b>Map Unit Name</b>	<b>Acres in AOI</b>	<b>Percent of AOI</b>
Fa	Fairplay silt loam, 0 to 3 percent slopes	1.0	2.9%
OpB	Opequon silty clay loam, 3 to 8 percent slopes	0.7	1.9%
OpC	Opequon silty clay loam, 8 to 15 percent slopes	0.8	2.2%
OrB	Opequon-Rock outcrop complex, 3 to 8 percent slopes	10.3	29.0%
OrC	Opequon-Rock outcrop complex, 8 to 15 percent slopes	16.3	45.8%
OrD	Opequon-Rock outcrop complex, 15 to 25 percent slopes	5.6	15.8%
OrF	Opequon-Rock outcrop complex, 25 to 65 percent slopes	0.9	2.5%
<b>Totals for Area of Interest</b>		<b>35.7</b>	<b>100.0%</b>



Approximate location  
of proposed barn  
and pavilion



LINE	BEARING	DISTANCE
L1	N 64° 12' 30" E	104.57'

This parcel does not lie in the 100 year flood plain, FEMA Flood Insurance Rate Map, Community Plan No. 24543C0105D, effective August 15, 2017, Flood Zone X.

**SURVEYOR'S CERTIFICATION**

I hereby certify to the best of my professional knowledge and belief that the plat shown hereon is correct, that it is all of the land described in a deed from Charles L. Schell and Joyce Schell, to Shannon Caniff and Edward Evans, by Shannon Caniff, his Attorney in Fact, dated August 31, 2022, recorded among the Land Records of Washington County, Maryland, in Liber 7131, folio 181; that this boundary survey was personally prepared by me or that I was in responsible charge over its preparation and the surveying work reflected herein is in compliance with the requirements set forth in COMAR 09.13.06.03 in effect at the time this survey was performed.

I hereby certify that these documents were prepared or approved by me, and that I am a duly licensed professional land surveyor under the laws of the State of Maryland, License No. 10733, Expiration Date January 16, 2024.

11-19-2022  
Date  
Professional Land Surveyor



**FSAO**  
 FREDERICK, SEIBERT & ASSOCIATES, INC. © 2022  
 CIVIL ENGINEERS • SURVEYORS • LANDSCAPE ARCHITECTS • LAND PLANNERS  
 25 EAST WALK STREET, SUITE 200  
 GREENBELT, MD 21740  
 410.426.1200  
 410.426.1201

**BOUNDARY SURVEY**  
 Jonathan Hemp  
 15542 Broadfording Road  
 Clear Spring  
 Maryland

PROJECT NO.	7189
DRAWN BY	LEJ
DATE	11.10.2022
PROJECT MANAGER	FHF
EMAIL	F.Fredrick@sa-ho.com
ELECTION DISTRICT NO.	22-12-115
RECORDING JURISDICTION	22-12-115
ACCOUNT NO.	22-011088
SCALE	1" = 100'
SHEET TITLE	

**BOUNDARY SURVEY**

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

SHANNON CANTRILL

**Appellant**

\*

\*

**Appeal No.: AP2023-024**

\*

\*

\* \* \* \* \*

**OPINION**

Shannon Cantrill (hereinafter “Appellant”) requests a special exception to establish a banquet/reception facility at the subject property. The subject property is known as 15542 Broadfording Road, Hagerstown, Maryland, and is zoned Agricultural Rural. The Board held a public hearing in this matter on June 7, 2023. Appellant was represented by counsel, William C. Wantz, Esq. at the hearing.

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

**Findings of Fact**

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

1. Appellant along with Edward Evans, are the owners of the subject property located at 15542 Broadfording Road, Hagerstown, Maryland. The subject property is zoned Agricultural, Rural.

2. The subject property consists of approximately 38.83 acres situated along the north side of Broadfording Road. It consists of an existing dwelling, a barn building and several small accessory buildings.

3. The subject property is currently occupied by Cory Hemp and his family.

4. Appellant proposes to establish a banquet/reception facility at the subject property to host events such as weddings and parties. Appellant will employ a wedding coordinator and other employees to work events. Appellant estimates from two (2) to ten (10) employees total.

5. Appellant proposes to construct a new barn-style building for receptions and gatherings, and an outdoor pavilion area where it is expected that wedding ceremonies would take place.

6. The proposed use would be available year-round, but weddings are typically seasonal, occurring from spring to fall each year. Appellant forecasts the average attendance for an event to be 125 people, with 80% of events occurring on Saturdays and 20% occurring on Sundays.

7. Appellant proposes that all amplified music will be indoors. Appellant tested the noise and could not hear music played indoors at the barn when standing at the property line, although some bass was noticeable.

8. Appellant proposes to construct a new gravel lane extending from the entrance back to the barn area. There will also be directional signage.

9. Broadfording Road is a narrow, county-maintained roadway which contains a one-lane bridge to the east of the property. The road is lined with residences and is heavily wooded to the west of the entrance of the subject property.

10. Appellant was willing to adopt the rules and conditions, including a maximum occupancy of 250 attendees, amplified music and vocals limited to 103 decibels at a distance of six (6) feet, and no amplified music after 10:30 p.m.<sup>1</sup>

11. The proposed use does not require water and sewer service. There is no need for bulk dimensional or setback variances for the proposed structures.

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<sup>1</sup> The rules and conditions were adopted from the Board's decision in AP2021-018.

## **Rationale**

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

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

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

For the reasons set forth herein, the Board concludes that the special exception should be granted.

The general nature of the immediate area is one of low density rural and agricultural uses, and residences. Many of the nearby residents attended the hearing to voice their opposition to the proposed use. In terms of the orderly growth of the community, the subject property is currently zoned Agricultural, Rural. There was no evidence presented that would demonstrate that the proposed use is incompatible or not consistent with the orderly growth of the community except for traffic and access concerns.

The traffic conditions at the subject property and along Broadfording Road raise serious concerns for the proposed project. Almost all of the opposition witnesses raised traffic concerns in their testimony before the Board. The Board heard testimony that the road is narrow at many points and there is often not room for vehicles to pass each other. There were concerns raised about traffic for an event with 200 attendees having to traverse the one-lane bridge and country roadways to get to the property. Perhaps most concerning was traffic exiting the property at night, on unfamiliar roadways and possibly after having consumed alcohol. The Board heard evidence of several nearby intersections which are dangerous given their rural nature, sight distances and narrow width. Based on the location of the subject property, attendees will have to travel these roadways to get to their destination and to leave following the events. The Board finds that their safety and the safety of nearby residents and local traffic is at greater risk if the proposed use is permitted to operate.

Despite the opposition testimony regarding noise, the Board is not persuaded that the resulting noise from Appellant's operation would disrupt the peaceful enjoyment of people in their homes any more than any other use could at the subject property. However, the Board is concerned about the disruption that increased traffic and insufficient roadways may pose to the peaceful enjoyment of people in their homes.

Although there was opposition testimony regarding a concern for property values, there was no actual evidence presented. Property values refer to market values which can be subjective in nature. The Board was not presented with any evidence to suggest that the proposed project would have a negative effect on property values.

The proposed use is not likely to create any odors, dust, gas, smoke, fumes, vibrations, or glare beyond what is already generated in the immediate area. There is likely to be some increase in noise and light from operation and from traffic, but only to the closest neighboring properties. Appellant provided testimony that adequate buffering and site enhancements could be utilized to minimize any such additional noise or light.

The Board finds that the proposed use is not an appropriate use of land and/or structure in light of the traffic and roadway safety concerns. The insufficient roadways and access to the property render the proposed use untenable at the subject property. Having 100 to 200 people converge on the property each weekend from May to October, with narrow, winding roads and a one-lane bridge does not promote the safety and general welfare of both the attendees and nearby residents. As a result, the proposed use is not consistent with the purpose and vision of the Ordinance.

Aside from the applicable appellate case law regarding special exceptions, there are no decisions of the courts specifically regarding this project.

Having considered the testimony and evidence presented and having further considered the criteria set forth in the Ordinance, the Board finds that the proposed use at the subject property will have greater "adverse effects above and beyond those inherently associated with such a special exception use irrespective of its location within the zone." *Schultz v. Pritts*, 291 Md. 1, 15 (1981), particularly related to traffic conditions, adequate roadways and access. For these reasons, we conclude that this appeal fails to meet the criteria for a special exception, and Appellant's request should be denied.



Accordingly, the request for a special exception to establish a banquet/reception facility at the subject property is DENIED, by a vote of 5-0.

BOARD OF APPEALS

By: Jay Miller, Chair

**Date Issued: July 6, 2023**

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

MY COMMISSION EXPIRES NOVEMBER 07, 2025

### ZONING APPEAL

**Property Owner:** Roxana Y Navida Diaz  
Alfredo Lainez Alvarado  
11004 Lincoln Avneue  
Hagerstown MD 21740

**Docket No:** AP2023-025  
**Tax ID No:** 26030242

**Appellant:** Roxana Diaz  
11004 Lincoln Avenue  
Hagerstown MD 21740

**Zoning:** RU  
**RB Overlay:** No  
**Zoning Overlay:**  
**Filed Date:** 05/11/2023  
**Hearing Date:** 06/07/2023

**Property Location:** 11004 Lincoln Avenue  
Hagerstown, MD 21740

**Description Of Appeal:** Variance from the required 100 ft. setback requirement for animal husbandry structure to 0 ft. for the right side yard and rear yard property line and 50 ft. for the left side yard for chicken coop.

**Appellant's Legal Interest In Above Property:**

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

**Previous Petition/Appeal Docket No(s):**

**Applicable Ordinance Sections:** Washington County Zoning Ordinance Section 22.94 (a) & 9.5 (a)

**Reason For Hardship:** Size of lot

**If Appeal of Ruling, Date Of Ruling:**


**Ruling Official/Agency:**

**Existing Use:** Single Family Dwelling      **Proposed Use:** Animal Husbandry (Chicken Coop)

**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 11 day of May, 2023.



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: AP2023-025

State of Maryland Washington County, To Wit:

On 5/11/2023, before me the subscriber, a Notary of the public of the State and County aforesaid, personally appeared Roxana Diaz and made oath in due form of law as follows:

Roxana Diaz 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 06/07/2023, 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.

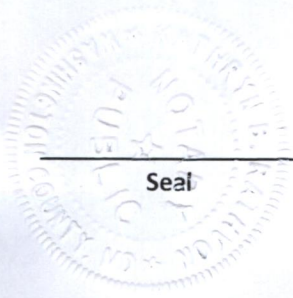
Sign(s) will be posted on 05/23/2023 and will remain until after the above hearing date.

Roxana Diaz

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

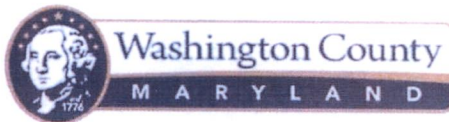
**Kathryn B Rathvon**  
NOTARY PUBLIC  
WASHINGTON COUNTY  
MARYLAND  
MY COMMISSION EXPIRES NOVEMBER 07, 2025

Notary Public



Seal

My Commission Expires



**BOARD OF ZONING APPEALS**

747 Northern Avenue | Hagerstown, MD 21742 | 240.313.2430 | 240.313.2461 | 7-1-1  
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 11004 Lincoln Avenue Hagerstown

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

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

Specify the Ordinance section and subsection from which the variance is desired:  
Section 22.94 (a)

Specify the particular requirement(s) from which a variance is desired in that section or subsection:  
Minimum building setback of 100 ft. from the property line or public road right-of-way

Describe the nature and extent of the desired variance from Ordinance requirements: listed above:  
Redution of rear and right side yard setback to 0ft. and to 50 ft. for the left side yard setback

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.

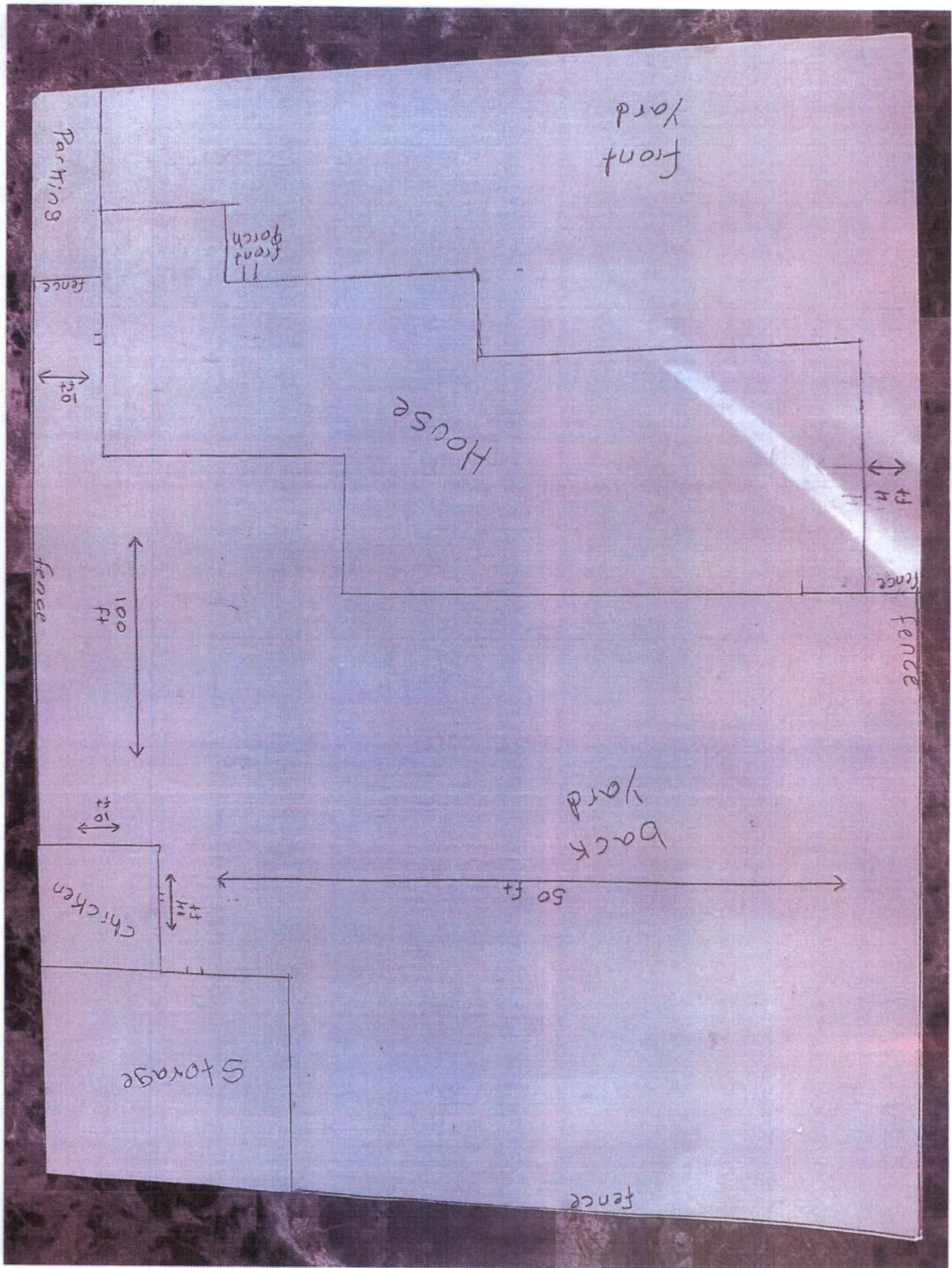
[Signature]  
Signature of Appellant

11004 Lincoln Ave  
Address and of Appellant

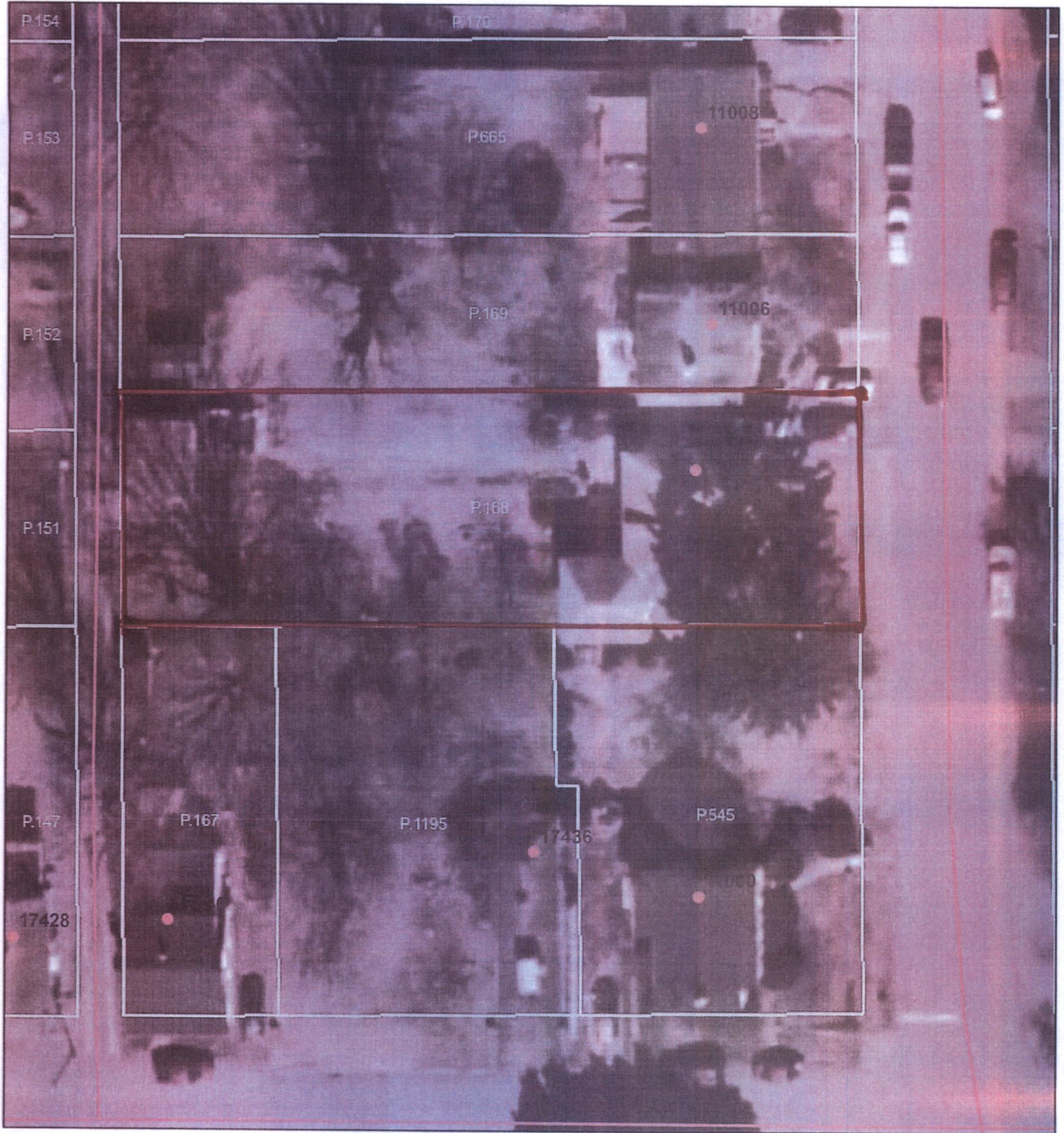
\_\_\_\_\_  
Email of Appellant

\_\_\_\_\_  
Phone Number of Appellant

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



# Washington County Zoning Review Map



4/14/2023, 10:57:51 AM

1:564

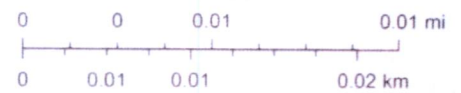
Streets

— County Road

Address

● Single Family

□ Parcels



MD iMAP, DoIT

Washington County, Maryland

This map is provided for informational purposes only. All data should be verified with respective agencies.

[View Map](#)      [View GroundRent Redemption](#)      [View GroundRent Registration](#)

**Special Tax Recapture:** None

**Account Identifier:** District - 26 Account Number - 030242

**Owner Information**

**Owner Name:** NAVIDAD ROXANA Y DIAZ DE ALVARADO ALFREDO LAINEZ      **Use:** RESIDENTIAL  
**Mailing Address:** 11004 LINCOLN AVE      **Principal Residence:** YES  
 HAGERSTOWN MD 21740-7718      **Deed Reference:** /06772/ 00338

**Location & Structure Information**

**Premises Address:** 11004 LINCOLN AVE      **Legal Description:** LOT 91 PT 92 60X190  
 HAGERSTOWN 21740-0000      11004 LINCOLN AVE

**Map:** Grid: 0049    Parcel: 0019    Neighborhood: 0168    Subdivision: 26010518 22    Section: 0000    Block:    Lot:    Assessment Year: 2023    Plat No:  
 Town: None      Plat Ref:

**Primary Structure Built:** 1940    **Above Grade Living Area:** 1,219 SF    **Finished Basement Area:**    **Property Land Area:** 11,400 SF    **County Use:**

**StoriesBasementType:** 1    **NO**    **ExteriorQualityFull/Half BathGarage:** STANDARD UNITBLOCK/3    2 full    1 Detached    **Last Notice of Major Improvements:**

**Value Information**

	Base Value	Value	Phase-in Assessments	
			As of	As of
Land:	55,700	55,700	01/01/2023	07/01/2022
Improvements	68,700	147,700		07/01/2023
Total:	124,400	203,400	124,400	150,733
Preferential Land:	0	0		

**Transfer Information**

**Seller:** SEAL BEVERLY      **Date:** 09/28/2021      **Price:** \$217,000  
**Type:** ARMS LENGTH IMPROVED      **Deed1:** /06772/ 00338      **Deed2:**  
**Seller:** WAGNER ERNA G      **Date:** 03/30/2016      **Price:** \$140,500  
**Type:** NON-ARMS LENGTH OTHER      **Deed1:** /05191/ 00154      **Deed2:**  
**Seller:**      **Date:**      **Price:** \$0  
**Type:** NON-ARMS LENGTH OTHER      **Deed1:** /00272/ 00703      **Deed2:**

**Exemption Information**

**Partial Exempt Assessments:** Class      07/01/2022      07/01/2023  
**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:**

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

**ALFREDO ALVARADO &  
ROSANA NAVIDA DIAZ  
Appellants**

\*  
\*  
\*  
\*  
\*

**Appeal No.: AP2023-025**

\*   \*   \*   \*   \*   \*   \*   \*   \*   \*   \*   \*

**OPINION**

Alfredo Alvarado and Rosana Navida Diaz (hereinafter “Appellants”) request a variance to reduce the right side yard setback from 100 feet to 0 feet and to reduce the left side yard from 100 feet to 50 feet for an animal husbandry structure at the subject property. The subject property is located at 11004 Lincoln Avenue, Hagerstown, Maryland and is zoned Residential, Urban. The Board held a public hearing in this matter on June 7, 2023.

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 11004 Lincoln Avenue, Hagerstown, Maryland. The subject property is zoned Residential, Urban.
2. The subject property is a rectangular-shaped lot, approximately 60 feet wide and consists of a residence, a storage building located in the right rear corner and



the chicken coop located just in front of the storage building. The lot is bounded on both sides by similar rectangular-shaped, residential lots.

3. Appellants have constructed a 10-foot by 14-foot chicken coop along the right side yard property line. The coop is situated on the property line and is 50 feet from the left side yard property line.

4. The County received a complaint that Appellants were keeping chickens without a proper animal husbandry permit. Upon inspection, it was discovered that they required both the permit and a variance for the location of the existing chicken coop on the subject property.

5. Appellants have twenty-one (21) chickens, which are all hens. They previously had roosters but have since removed them.

6. Appellants have resided at the subject property for approximately two (2) years.

7. There are several other properties in the immediate neighborhood which have chicken coops and maintain chickens.

### **Rationale**

The Board has authority to grant a variance upon a showing of practical difficulty or undue hardship. §§ 25.2(c) and 25.56.<sup>1</sup> “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

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<sup>1</sup> “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).

observe the spirit of the Ordinance and secure public safety and welfare. § 25.56(A).

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

The instant case began as a complaint for chickens on Appellants’ property. Appellants acknowledge that they previously had a rooster, which is one of the concerns raised by the opposition. They have since removed the rooster and agreed during their testimony that they would not have any roosters going forward. They were also willing to agree to any conditions on the number of chickens in order to move forward. Given the small dimensions of the lot, there was no way to fully meet the setback requirements for the chicken coop, regardless of its location. Thus, the size and shape of the lot create a practical difficulty for a use that other neighboring properties enjoy.

The most notable opposition to the variance requests was a neighbor that also has a chicken coop on her property. The Board was not persuaded by her testimony, given that her concerns were all conditions that would exist on her own property. The Board finds that the variance relief will not confer any special benefit upon Appellants, is the minimum necessary to facilitate an optimal location for the chicken coop and is consistent with the spirit and intent of the Zoning Ordinance. The variances to reduce the side yard setbacks should be granted.

Accordingly, the variance request to reduce the required side yard setback from 100 feet to 0 feet and to reduce the left side yard from 100 feet to 50 feet for an animal husbandry structure at the subject property are GRANTED, by a vote of 5-0. Said

variance requests are granted upon the condition that the proposed use be consistent with the testimony and evidence presented herein and the specific conditions that there is a maximum of fifteen (15) chickens and there be no roosters kept at the property.

BOARD OF APPEALS

By: Jay Miller, Chair

**Date Issued: July 6, 2023**

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: Robert & Patricia Ford
19016 Longmeadow Road
Hagerstown MD 21742
Appellant: Robert Ford
19016 Longmeadow Road
Hagerstown MD 21742
Property Location: 19016 Longmeadow Road
Hagerstown, MD 21742
Description Of Appeal: Variance from the 100 ft. setback requirement for animal husbandry structure to 60 ft. from the North property line, 80 ft. from the South property line, and 43 ft. from the West property line for a chicken coop.
Docket No: AP2023-026
Tax ID No: 27009980
Zoning: RS
RB Overlay: No
Zoning Overlay:
Filed Date: 05/18/2023
Hearing Date: 06/07/2023

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: 22.94(a) & 8.5 (a)
Reason For Hardship: Due to size and shape of property
If Appeal of Ruling, Date Of Ruling:

Ruling Official/Agency:
Existing Use: Single Family Dwelling
Proposed Use: Animal Husbandry (Chicken Coop)
Previous Use Ceased For At Least 6 Months:
Date Ceased:
Area Devoted To Non-Conforming Use - Existing:
Proposed:

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

[Signature]
Appellant Signature

State Of Maryland, Washington County to-wit:

Sworn and subscribed before me this 18 day of May, 2023.

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

[Signature]
Notary Public



WASHINGTON COUNTY BOARD OF ZONING APPEALS

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

## AFFIDAVIT IN COMPLIANCE WITH SECTION 25.51(C)

Docket No: AP2023-026

State of Maryland Washington County, To Wit:

On 5/18/2023, before me the subscriber, a Notary of the public of the State and County aforesaid, personally appeared Robert Ford and made oath in due form of law as follows:

Robert Ford 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 06/07/2023, 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 05/23/2023 and will remain until after the above hearing date.

Robert Ford

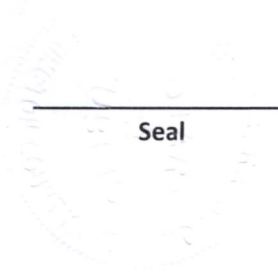
Sworn and subscribed before me the day and year first above written.

Notary Public

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

My Commission Expires

Seal



April 24, 2023

Kathryn B. Rathvon  
Division of Planning & Zoning  
747 Northern Avenue  
Hagerstown, MD 21742

Dear Ms. Rathvon,

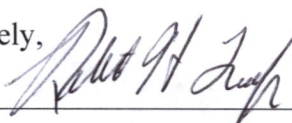
We are writing you to discuss the zoning requirements and requesting approval for variances needed for maintaining no more than twelve laying chickens on the property at 19016 Longmeadow Road in Hagerstown (parcels #27009980 and #27009999).

We plan to place the chicken coop on the West side of the house. This placement meets or exceeds the 100ft setback requirement to the East property line, is approximately 60ft from Longmeadow Road to the North, and 80ft from the property line to the South. To the West, the placement will be 43ft to parcel #27009999 and an additional 60ft to the neighboring property line. This parcel, while under our ownership, will never be developed as it is too small and sits too low. We are unable to meet the required setback on the North (road), West, and South portions of the property due to the size and shape of the property as it is wide from East to West but narrow from North to South. Our desired placement of the chicken coop, while unable to fully meet the setback requirements to each property line, is substantially farther from any residential structure. We are requesting your approval of these variances as we believe this placement is reasonable in effectively mitigating any issues with neighboring properties.

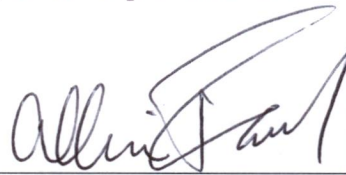
Our reasons for wishing to maintain chickens on the property are two-fold. The first of which is that we enjoy fresh and homegrown foods and recent increases in egg prices make this a more cost-effective alternative for our family. More importantly, my granddaughter Abby suffers from Autism Spectrum Disorder (ASD). Caring for and nurturing animals is an effective calming mechanism for Abby as well as a tool for her to continue to develop and grow as an individual. Allowing Abby the capability to work with her mother, Allison, to care for the chickens would provide significant therapeutic benefits as well as valuable occupational skills to an amazing young individual. Should you have any questions surrounding Abby's diagnosis or special needs, please feel free to contact her services coordinator Carrie Keebaugh (Service Access & Management Inc) at 717-977-7615.

We respectfully request your consideration to approve the setback variances in order to allow for the maintenance of chickens on the property based upon our explanation above.

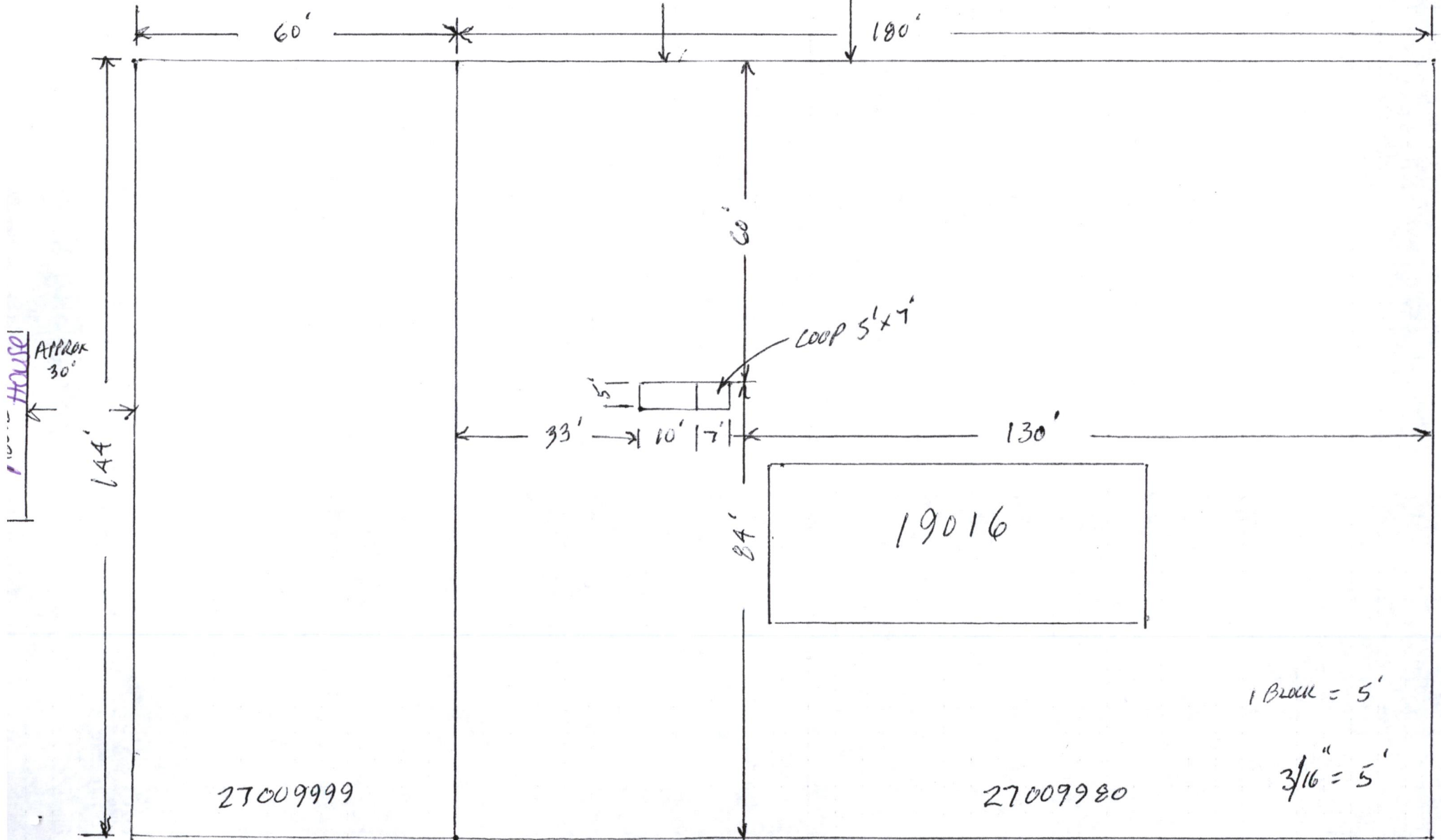
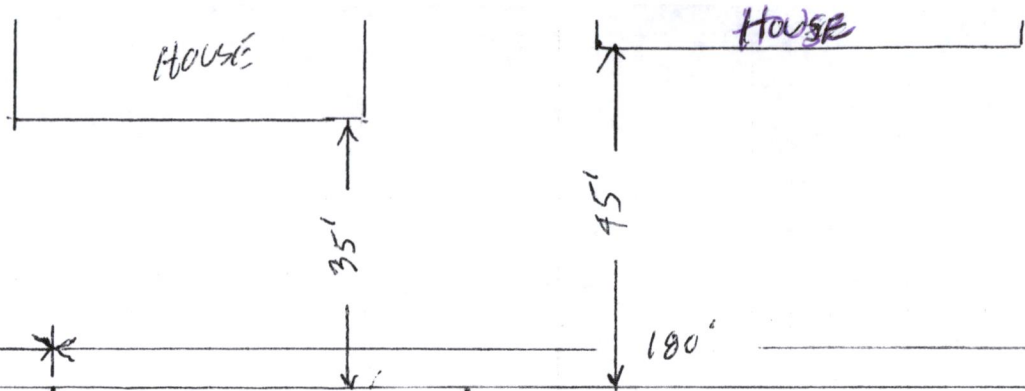
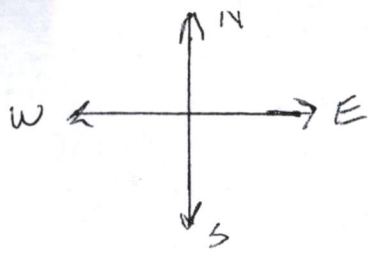
Sincerely,



Robert H. Ford Jr. (resident homeowner)



Allison A. Ford (non-resident caretaker)



1 Block = 5'

3/16" = 5'

LONGMEADOW ROAD



COOP





/ COOP /






North



South Front

A photograph of a residential backyard. The central area is a large, well-maintained green lawn. In the background, there is a red brick house with a white porch and a two-car garage. To the left of the house is a white fence and a row of manicured bushes. In the middle ground, there is a small, dark red shed with a white door and two windows. To the right, a concrete walkway leads to a brick house with a black metal railing. A silver pickup truck is parked near the house. A large tree is visible behind the shed. In the foreground on the right, there is a large black water tank and some purple flowers. The sky is overcast.

Back of House  
EAST



West

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

**ROBERT & PATRICIA FORD**  
**Appellants**

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**Appeal No.: AP2023-026**

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**OPINION**

Robert and Patricia Ford (hereinafter “Appellants”) request a variance to reduce the required setback from 100 feet to 60 feet for the north property line, from 100 feet to 80 feet for the south property line and from 100 feet to 43 feet for the west property line at the subject property. The subject property is located at 19016 Longmeadow Drive, Hagerstown, Maryland and is zoned Residential, Suburban. The Board held a public hearing in this matter on June 7, 2023.

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 19016 Longmeadow Drive, Hagerstown, Maryland. The subject property is zoned Residential, Suburban.
2. Appellants also the lot immediately adjacent to the west.

3. The subject property is square-shaped, having a width of approximately 180 feet and a depth of approximately 144 feet. The property consists of a residence situated in the middle of the lot and is bounded to the rear by residential lots.

4. The closest residence to the rear of the subject property is approximately 35 feet from the rear property line.

5. Appellants propose to construct a 5-foot by 7-foot chicken coop and attached run to the right rear of the residence. The chicken coop will be located approximately 60 feet from the rear property line, 43 feet from the west side yard property line, and 80 feet from the front yard property line.

6. Appellants propose to have a maximum of twelve (12) chickens, but will start out with six (6), all of which will be hens. They do not plan to have any roosters.

7. Appellants' granddaughter has autism and the chickens along with their care and maintenance will be serve as part of her occupational therapy.

8. Appellants contacted their adjoining neighbors about this project and there were no objections raised.

9. There was no opposition presented to this appeal.

### **Rationale**

The Board has authority to grant a variance upon a showing of practical difficulty or undue hardship. §§ 25.2(c) and 25.56.<sup>1</sup> "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

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<sup>1</sup> "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).



that applied for would not give substantial relief; and (3) granting the variance would observe the spirit of the Ordinance and secure public safety and welfare. § 25.56(A).

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

In the instate case, the size of the property would require variance relief no matter where the chicken coop was located. The dimensions just will not accommodate the required 100-foot setback for animal husbandry structures, which results in a practical difficulty in this case. Appellants have chosen a logical location to the right rear of their home and closer to the vacant lot they own which is the most affected property. Based on measurements, the chicken coop is approximately 95 feet away from the closest residence and the neighbors do not object to the project. Appellants’ plan to keep chickens is not only permitted, but has the added purpose of serving as a form of therapy for their granddaughter who has special needs. The variance relief will not confer any special benefit upon Appellants, is the minimum necessary to facilitate an optimal location for the chicken coop and is consistent with the spirit and intent of the Zoning Ordinance. The variance relief to reduce the north, south and west property line setbacks should be granted.

Accordingly, the variance request to reduce the required setback from 100 feet to 60 feet for the north property line, from 100 feet to 80 feet for the south property line and from 100 feet to 43 feet for the west property line at the subject property are GRANTED, by a vote of 5-0. Said variance requests are granted upon the condition that the proposed

use be consistent with the testimony and evidence presented herein and the specific condition that there be no roosters kept at the property.

BOARD OF APPEALS

By: Jay Miller, Chair

**Date Issued: July 6, 2023**

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.