

**BOARD OF APPEALS**

**July 19, 2023**

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

**AGENDA**

**AP2023-028:** An appeal was filed by Game Envy Creations LLC for a change of non-conforming use from commercial professional office, job training, and disability therapy to low impact light manufacturing, product assembly, storage, and office use on property owned by ARC of Washington County Inc and located at 22911 Cavetown Church Road, Smithsburg, Zoned Residential Transition. - **APPEAL WITHDRAWN**

**AP2023-029:** Appeal to be heard during the August 2nd hearing.

**AP2023-030:** An appeal was filed by Sydney Worth for a variance from the required 40 ft. rear yard setback to 29 ft. for future rear patio with roof on property owned by the appellant and located at 19518 Cosmos Street, Hagerstown, Zoned Residential Suburban. - **GRANTED**

**AP2023-031:** An appeal was filed by Brady Doyle & Molly Ryan for a special exception for second dwelling on parcel currently improved with a single-family dwelling and a variance from the density requirement of one dwelling unit per 30 acres to two dwelling units on 7.99 acres on property owned by the appellants and located at 4930 Churchey Road, Sharpsburg, Zoned Preservation. - **DENIED**

**AP2023-032:** An appeal was filed by Earl Canfield for a variance from the required 15 ft. side yard setback to 1.6 ft. and 4.6 ft. for constructed detached garage on property owned by Lucille Canfield and located at 18422 Mansfield Road, Keedysville, Zoned Preservation. - **GRANTED**

**AP2023-033:** An appeal was filed by Knoedler Jefferson LLC for a change in non-conforming use from retail pet food and supply store to DG Market retail store on property owned by the appellant and located at 19918 Jefferson Boulevard, Hagerstown, Zoned Residential Suburban. - **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 July 10, 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: ARC of Washington County INC
820 Florida Avenue
Hagerstown MD 21740
Appellant: Game Envy Creations LLC
22 North Mulberry Street
Suite 010
Hagerstown MD 21740
Docket No: AP2023-028
Tax ID No: 07019130
Zoning: RT
RB Overlay: No
Zoning Overlay:
Filed Date: 06/14/2023
Hearing Date: 07/19/2023
Property Location: 22911 Cavetown Church Road
Smithsburg, MD 21783
Description Of Appeal: Change of non-conforming use from commercial professional office, job training, and disability therapy to low impact light manufacturing, product assembly, storage, and office use.

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

Previous Petition/Appeal Docket No(s):

Applicable Ordinance Sections: Washington County Zoning Ordinance Section 4.3

Reason For Hardship:

If Appeal of Ruling, Date Of Ruling:

Ruling Official/Agency:

Existing Use: Office/Job
Training/Disability Therapy
Proposed Use: Low Impact Manufacturing, Product Assembly, Office

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

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

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

[Handwritten signature]

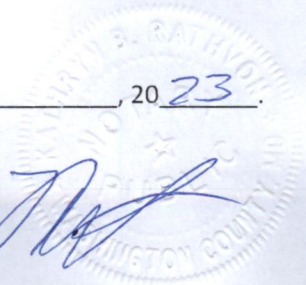
Appellant Signature

State Of Maryland, Washington County to-wit:

Sworn and subscribed before me this 14 day of June, 2023.

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

[Handwritten signature]





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: AP2023-028

State of Maryland Washington County, To Wit:

On 6/14/2023, before me the subscriber, a Notary of the public of the State and County aforesaid, personally appeared Chrispother Petezranecz and made oath in due form of law as follows:

Chrispother Petezranecz will post the zoning notice sign(s) given to me by the Zoning Administrator in accordance with Section 25.51(c) of the Washington County Zoning Ordinance for the above captioned Board of Appeals case, scheduled for public hearing on 07/19/2023, 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.

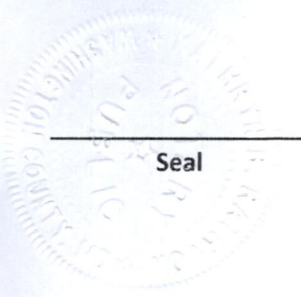
Sign(s) will be posted on 07/04/2023 and will remain until after the above hearing date.

Chrispother Petezranecz

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

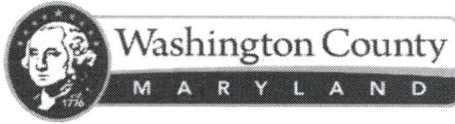
**Kathryn B Rathvon**  
NOTARY PUBLIC  
WASHINGTON COUNTY  
MARYLAND  
MY COMMISSION EXPIRES NOVEMBER 07, 2025

Notary Public



Seal

My Commission Expires



**BOARD OF ZONING APPEALS**

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

**Appeal for Change of Non-Conforming Use**

Appeal is hereby made for permission to change a non-conforming use in accordance with the provisions of Section 4.3 of the Washington County Zoning Ordinance as follows:

Location 22911 Cavetown Church Rd, Smithsburg 21783 and Adjoining Parking Lot and Drive (Parcel 371, Map 40, Lots 10, 11 &12)

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

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

Present or previous non-conforming use: Commercial / Professional Offices / Job Training Center / Disability Therapy

Has previous use ceased for six (6) months or more?  Yes     No

Date of cessation: March 31, 2023

Describe the nature and extent of the proposed change: **Provide Explanation on Separate Sheet**

Reason for requested change: **Provide Explanation on Separate Sheet**

Has any previous request for change of this property been made to the Board?  
 Yes     No

If yes, give docket number(s): \_\_\_\_\_

**Additional comments, if any:**

My business, Game Envy Creations, LLC is a local small business that runs a website to make inventions for artists and hobbyists. Game Envy mainly functions as a professional office with some low impact light manufacturing and product assembly and storage. We currently have 2 full-time and 2 part-time employees with the possible growth to 8 total over the next few years. We have a stellar reputation as a company, tenant and with the community.

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

  
Signature of Appellant

kit@gameenvy.net  
Email of Appellant

22 North Mulberry St., Suite 010, Hagerstown, MD 21740

Address of Appellant

3014017474

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

M A R Y L A N D

DIVISION OF  
PERMITS AND INSPECTIONS

## OWNER'S REPRESENTATIVE AFFIDAVIT

This is to certify that Christopher Peteranecz is authorized to make application for the work described as Change of Non-Conforming Use, and located at 22911 Cavetown Church Road, Smithsburg, MD 21783 and Associated Adjoining Lots.

The said work is authorized by ARC of Washington County, the owner in fee, as required by the International Residential Code and the International Building Code.

This office does not enforce covenants or deed restrictions and it is the owner's, builder's and/or developer's responsibility to make sure the covenants and/or deed restrictions are not being violated as a result of the issuance of this permit.

### PROPERTY OWNER:

ARC of Washington County, INC

Name

820 Florida Ave.

Address

Hagerstown, MD 21740

City, State, Zip Code

[Signature]  
Property Owner's Signature

### AUTHORIZED REPRESENTATIVE:

Christopher Peteranecz

Name

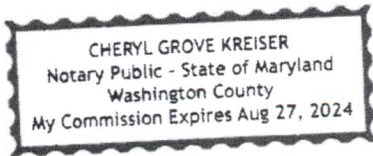
22 North Mulberry St., Suite 010

Address

Hagerstown, MD 21740

City, State, Zip Code

[Signature]  
Authorized Representative's Signature

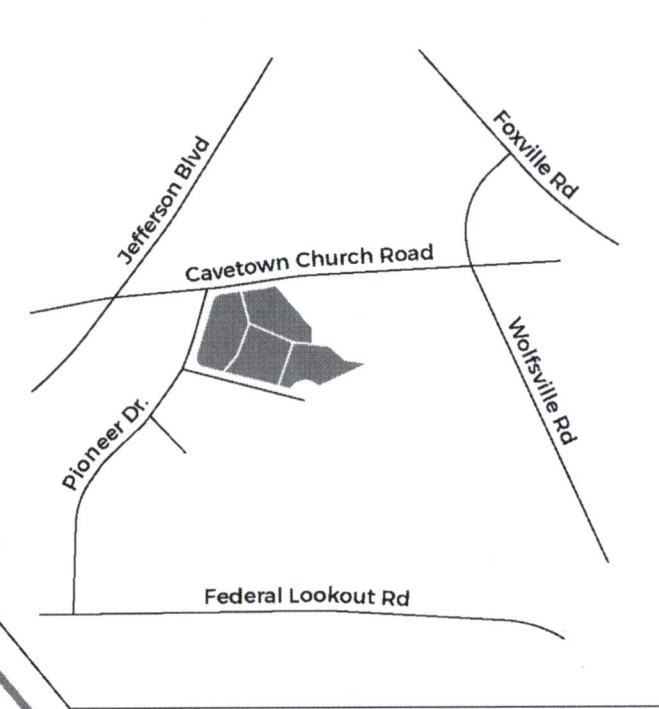
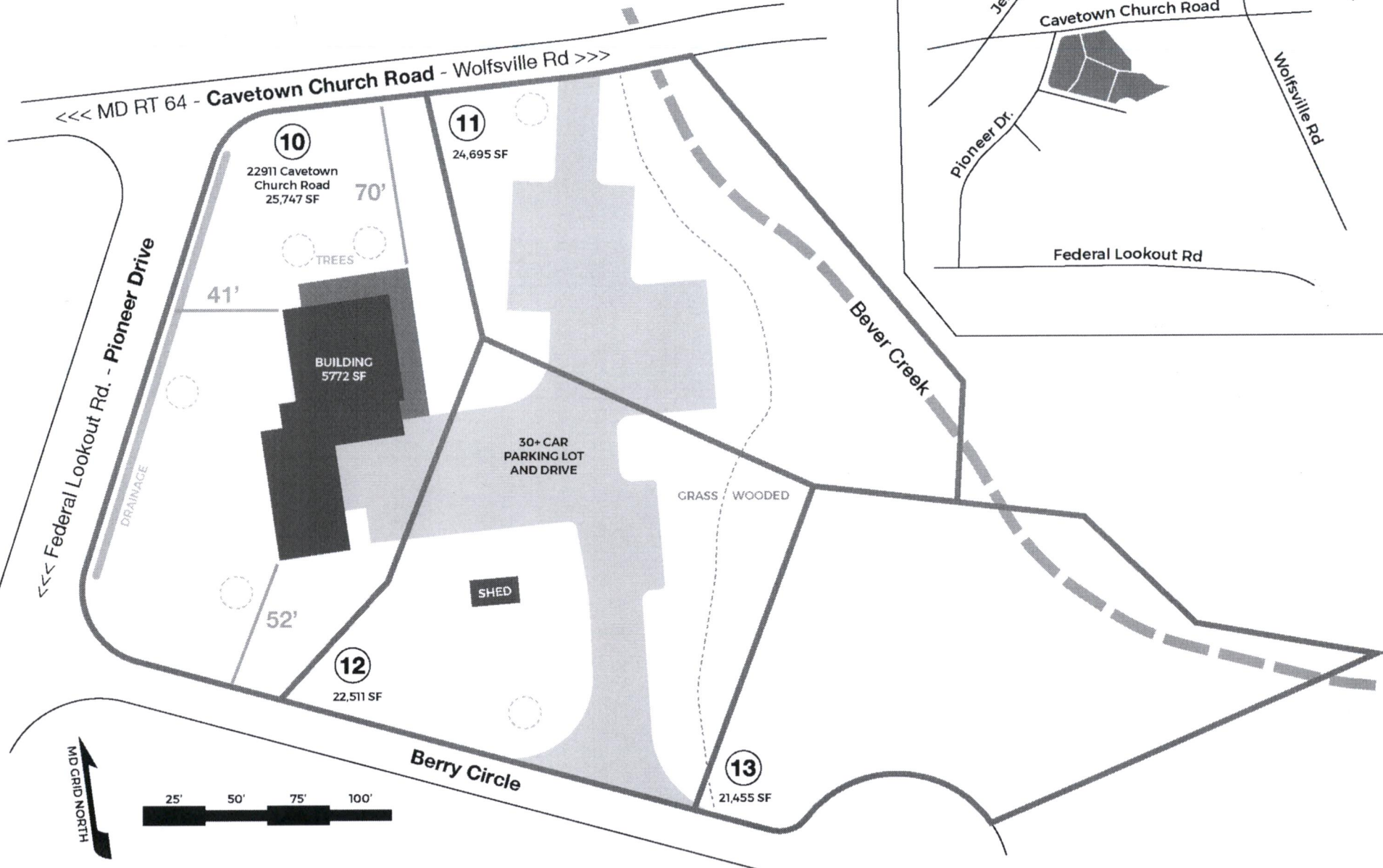


*City of Hagerstown  
State of Maryland*

*Cheryl G. Kreiser  
6/17/23*

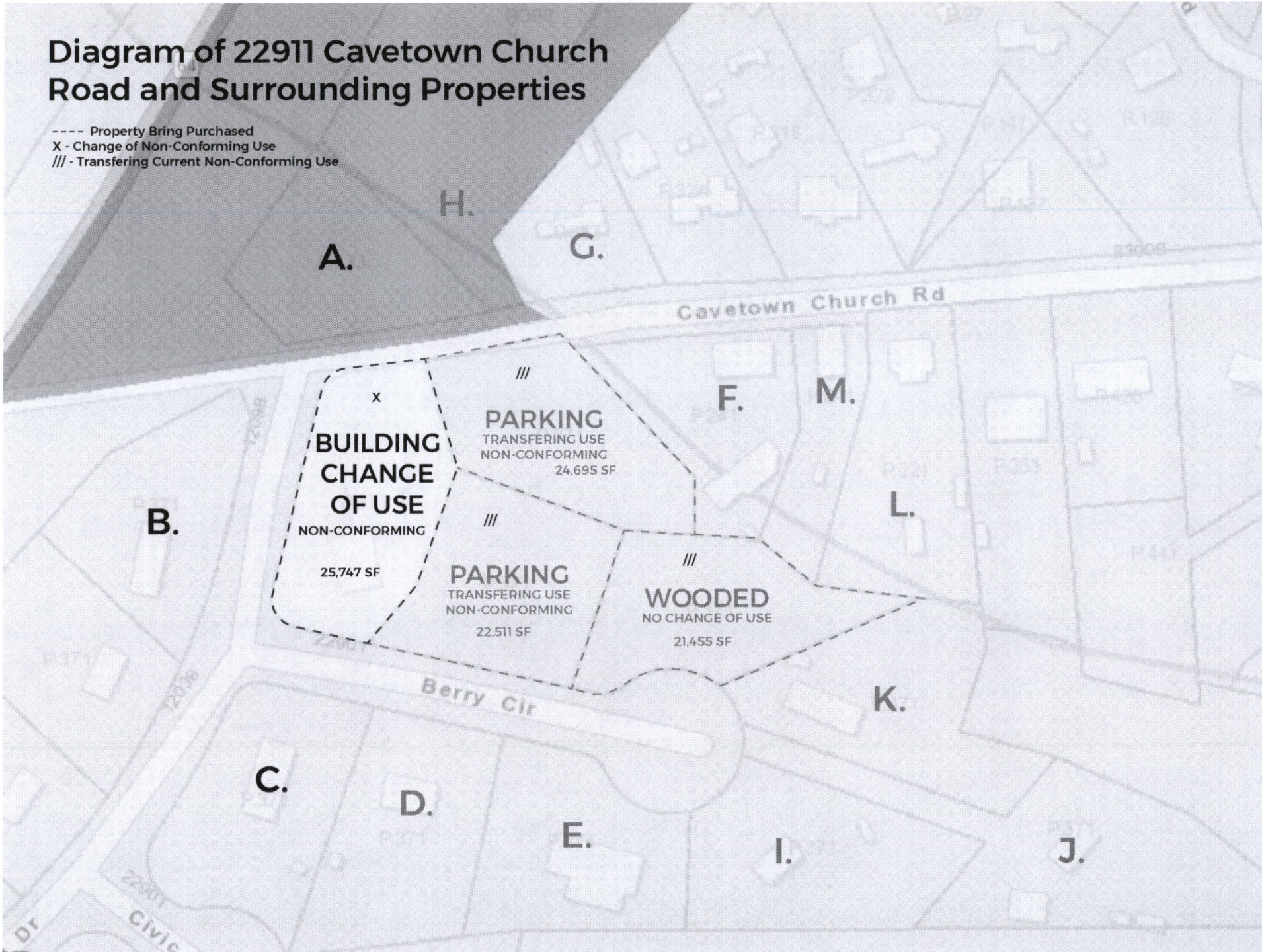
# Plot Plan for 22911 Cavetown Church Road, Smithsburg, MD 21783 and Associated Lots

Plan Prepared for the Appeal to Change Non-Conforming Use



# Diagram of 22911 Cavetown Church Road and Surrounding Properties

----- Property Being Purchased  
X - Change of Non-Conforming Use  
/// - Transferring Current Non-Conforming Use





**22911 Cavetown Church Rd (P 371, M 40, Lot 10) - Change of Non-Conforming Use (Building)**

- A. WIVELL WILLIAM J  
49 E WATER ST  
SMITHSBURG MD 21783-1605  
-Property-  
0 JEFFERSON BLVD  
SMITHSBURG 21783-0000
  
- B. MORALES JERRY LEE & SHERI  
12035 PIONEER DR  
SMITHSBURG MD 21783-9428
  
- C. MITCHELL TIMOTHY A & SHEILA J  
12044 PIONEER DR  
SMITHSBURG MD 21783-9422

**Parcel 0371, Map 040, Lots 11 and 12 - Transferring Non-Conforming Use (Parking/Drive)?**

- D. CHRISP JOSEPH D JR & JUDITH A  
22907 BERRY CIR  
SMITHSBURG MD 21783-9400
- E. ARC OF WASHINGTON COUNTY INC  
22913 BERRY CIR  
SMITHSBURG 21783-0000
- F. WILES LINDA & WILES LARRY  
22919 CAVETOWN CHURCH RD  
SMITHSBURG MD 21783-1624
- G. MCDOWELL KENNETH L  
22916 CAVETOWN CHURCH RD  
SMITHSBURG MD 21783-1623
- H. ROSIE PEARL REAL ESTATE LLC  
807 NATHAN HALE DR  
WESTCHESTER PA 19382  
-Property-  
22911 JEFFERSON BLVD  
SMITHSBURG 21783

**Parcel 0371, Map 040, Lots 13 - Transferring Non-Conforming Use (Drive/Wooded)?**

- I. KERN KEITH W & KERN FRANCES K  
22917 BERRY CIR  
SMITHSBURG MD 21783-9400
- J. HEISTON KYLER M & HEISTON REBECCA L  
22920 BERRY CIR  
SMITHSBURG MD 21783-9400
- K. WARFIELD NEAL K & WARFIELD TAMARA S  
22918 BERRY CIR  
SMITHSBURG 21783-0000
- L. GANTZ RICHARD G  
22927 CAVETOWN CHURCH RD  
SMITHSBURG MD 21783-0000
- M. CANTEWELL BRENDA J & GASSARD RALPH M III  
22921 CAVETOWN CHURCH ROAD

## **Nature and Extent of Proposed Change of Non-Conforming Use for 22911 Cavetown Church Rd, Smithsburg 21783 and Adjoining Parking Lot and Drive (Current and Proposed)**

### **Historical Non-Conforming Use**

The property at 22911 Cavetown Church Rd and its adjoining parking lot and drive has been used for commercial purposes for more than 60 years and predates the development built next to it by more than 25 years. Since 1959 it has been used as a program facility for children and elderly living with autism, medical day service, and a vocational training facility among other things. Daily traffic included 15+ employees and volunteers in addition to the long-term and daily clients and their vehicle. During this time, the current owner has reported no complaints of the traffic or commercial use from the neighbors.

The property has been remodeled and expanded over the last 60 years, expanding its commercial use. Changes include main floor office and administrative spaces, a commercial kitchen with a full exhaust system and walk in freezer and training rooms and a +/- 2500 sqft cinderblock extension. Due to the mixed-use nature of the property, it has been completely sprinklered and has 3 fire escapes and a full fire alarm system installed. The nature and extent of these alterations prevent the property from being reasonably converted to a residential property.

In addition to the building itself, the property has a 30+ car parking lot and drive that connects Cavetown Church Road and Berry Circle. This parking lot and drive spans the adjoining lots. The total current non-conforming commercial use is approximately 2 acres.

### **Proposed Non-Conforming Use**

Our company, Game Envy Creations, LLC, is a local small business that invents and makes tools and accessories for art painters and hobbyists. Our business mainly is conducted through our website where we sell our products and offer custom crafting services.

While nearly all of our business is conducted in a professional office capacity, we are submitting this appeal to add some low-impact light manufacturing to the current non-conforming commercial use in the form of several small crafting areas within the current building. We would also like to use a portion of the building as storage for our products.

We need to be able to run our “prosumer” filtered Class 1 laser cutters (*Class 1 defines a laser cutting machine as being of the lowest risk and not requiring eye protection. A Class 1 laser machine can be operated in almost any environment suitable for an electronic device and emits no harmful laser radiation whatsoever.*), contained FDM and SLA 3D printers, a single head heat press for making our custom t-shirts and a small woodworking area to finish some of our laser cut products. Additionally, we would need an area to pack our products into bags.

Currently our company has two full-time employees including myself and two part-time employees with the goal of bringing this number to around 8 in the next few years creating some local job opportunities. Since the company is mainly online, granting the appeal would likely lower the traffic and impact on the surrounding neighborhood.

## **Reason for Requested Change of Non-Conforming Use for 22911 Cavetown Church Rd, Smithsburg 21783 and Adjoining Parking Lot and Drive**

We are requesting the change of non-conforming use to allow our business to be able to purchase the property and use it as our headquarters. In order to purchase the property, we need to be able to add some low impact light manufacturing in addition to the professional office non-conforming use. While our company mainly runs as professional offices, we use a unique range of tools such as laser cutters and 3d printers to be able to prototype inventions and test viability of them on the market. We also need space to be able to assemble and pack the products.

Due to this nature of the business, we need ample and varied spaces for our different projects and capabilities in a more traditional office layout. Since our business does not rely on walk-in traffic we do not require or rely on walk-in traffic. The property fits these needs perfectly and because of its non-traditional layout and rural location the price for the property is very reasonable for our company to purchase.

Unlike turning the property into a multi-family rental or investment property we would be occupying it as the owner and would be aware and knowledgeable about the condition of the building. We would be restoring the exterior and maintaining the grounds, both of which would help maintain and boost the property values in the area. Our equipment produces minimal environmental impact. In comparison to its current use by the present owner, we anticipate our intended use of the property to produce an improved impact on the environment, traffic and surrounding properties. In the future, we also hope to create local job opportunities as we add a small number of employees.

We respectfully request that the Board grant this change of non-conforming use so that we can purchase, restore and use this property for our local small business. For the reasons stated above, we truly feel granting the change of non-conforming use would cause the least impact and greatest good for the neighborhood and surrounding area when compared to the previous use and other possible uses for the property.

### **Business Information**

Game Envy Creations, LLC

4-8 Employees

8:30am – 6pm M-F

Christopher Peteranecz, Owner

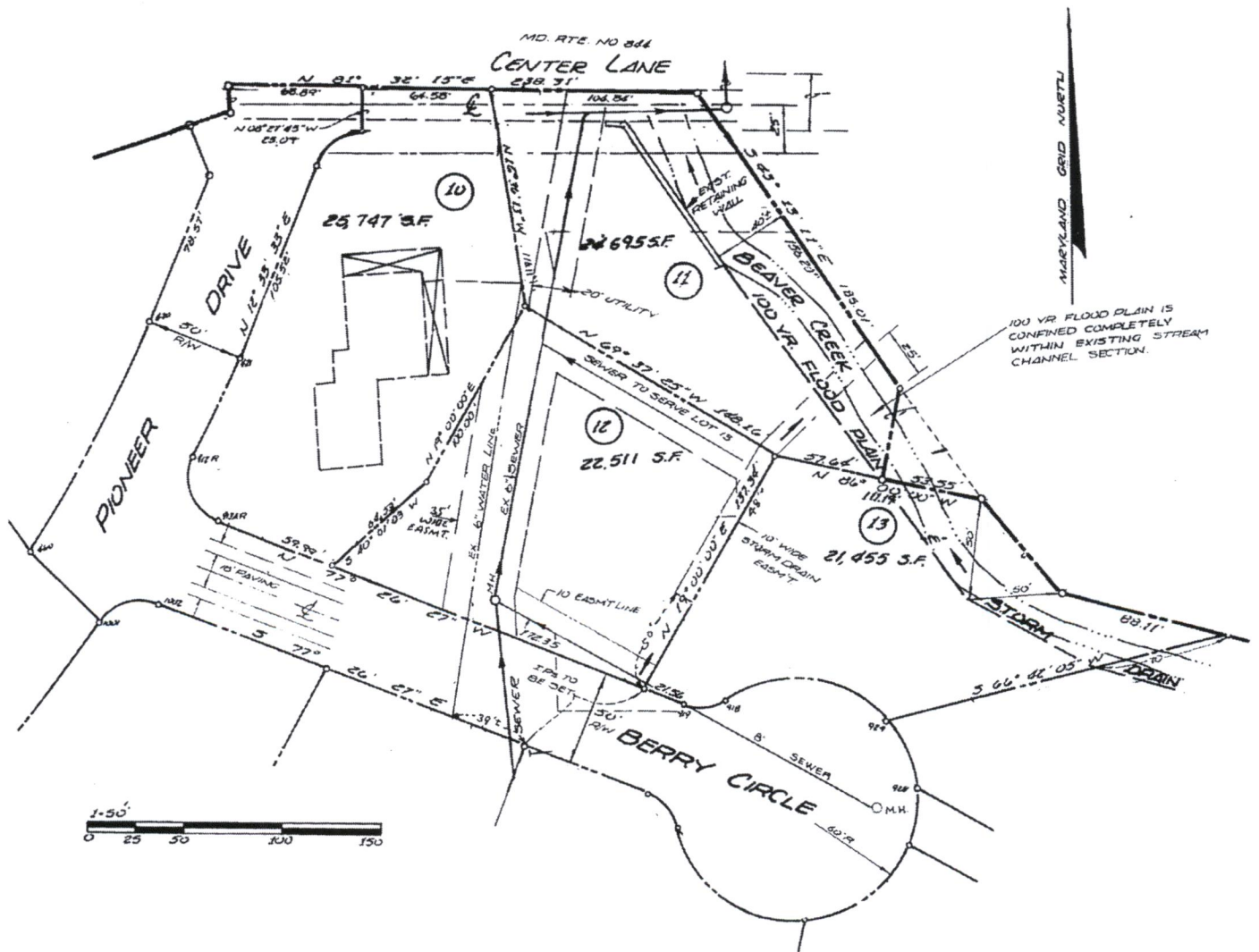
kit@gameenvy.net

3014017474

# Street View Previous Use Traffic at Site



# Parcel Subdivision Plot circa 1985



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your next order at [GameEnvy.net](https://gameenvy.net)  
with the discount code **AMAZING**



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Paint Desk Organizers

Brush Care Accessories

Scenic Miniature Bases

Hobby & Modeling Supplies

Tabletop Game Accessories

**AND MORE!**

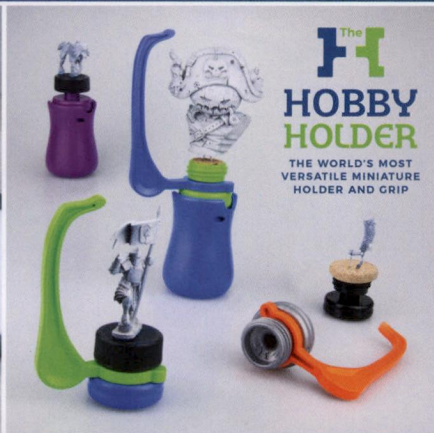
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 [gameenvy.net](https://gameenvy.net)  [@hobbyholder](https://twitter.com/hobbyholder)

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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: Sydney Worth
19518 Cosmos Street
Hagerstown MD 21742

Docket No: AP2023-030
Tax ID No: 18066502

Appellant: Sydney Worth
19518 Cosmos Street
Hagerstown MD 21742

Zoning: RS
RB Overlay: No
Zoning Overlay:
Filed Date: 06/16/2023
Hearing Date: 07/19/2023

Property Location: 19518 Cosmos Street
Hagerstown, MD 21742

Description Of Appeal: Variance from the required 40 ft. rear yard setback to 29 ft. for future rear patio with roof.

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: Location of the dwelling only leave 5 ft. of workable area to meet the setback.

If Appeal of Ruling, Date Of Ruling:

Ruling Official/Agency:

Existing Use: Semi-Detached Dwelling Proposed Use: Rear Patio with Roof

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.

Handwritten signature of Sydney Worth

Appellant Signature

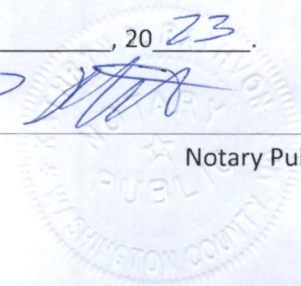
State Of Maryland, Washington County to-wit:

Sworn and subscribed before me this 16 day of June, 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: AP2023-030

State of Maryland Washington County, To Wit:

On 6/16/2023, before me the subscriber, a Notary of the public of the State and County aforesaid, personally appeared Sydney Worth and made oath in due form of law as follows:

Sydney Worth will post the zoning notice sign(s) given to me by the Zoning Administrator in accordance with Section 25.51(c) of the Washington County Zoning Ordinance for the above captioned Board of Appeals case, scheduled for public hearing on 07/19/2023, 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 07/04/2023 and will remain until after the above hearing date.

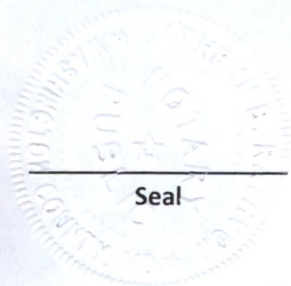
Sydney Worth

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

## **Board of Zoning Appeal for Building Permit**

### **19518 Cosmos St. Hagerstown, MD**

I am applying for a variance of the 40' setback rule based on practical difficulty. My home is located on a small piece of land in Rose Hill Manor, a subdivision with similar homes & lot sizes. I am asking permission to build a concrete patio with a roof that partially covers it in my back yard. The issue is that my home is built 45' from the back property line leaving me very little room (5') to build. The plan is to build a roof structure that is 16x16, leaving 29' from the roof to the back property line. This structure will not impose in anyway on any neighbor, right of way or roads. It will not adversely affect public health, safety, security, morals, or general welfare of the citizens. In addition, it would increase property value and add an enjoyable area for relaxation. I have spoken with my neighbors and the HOA manager, and no one has any concern with what I am proposing, including the size.

I have attached photos of a neighboring community (Emerald Point) where the porches are very similar to what I propose to build, and they do not appear to be 40' from their back property line.

- Please see the attached plot plan and building plans for my proposal.
  - There is not a well or septic located on this property.
  
- Names and addresses of landowners adjoining my property:
  - Deatrice R. S. Lowe - 19516 Cosmos St. Hagerstown, MD 21742
  - DRB (Dan Ryan Builders) - 10212 Governor Lane Blvd #1006 Williamsport, MD 21795

# BACK VIEW

30'

HOUSE ROOF

12  
5

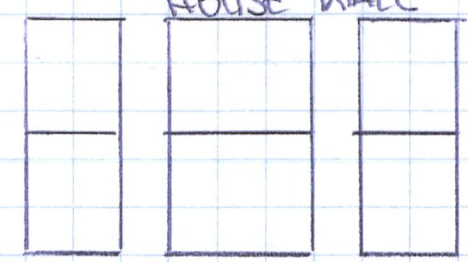
2- 1 3/4 x 9 3/4 LVL

LVL

HOUSE WALL

12" COLUMN

12" COLUMN



COVERED CONCRETE SLAB

OPEN CONCRETE SLAB

18'

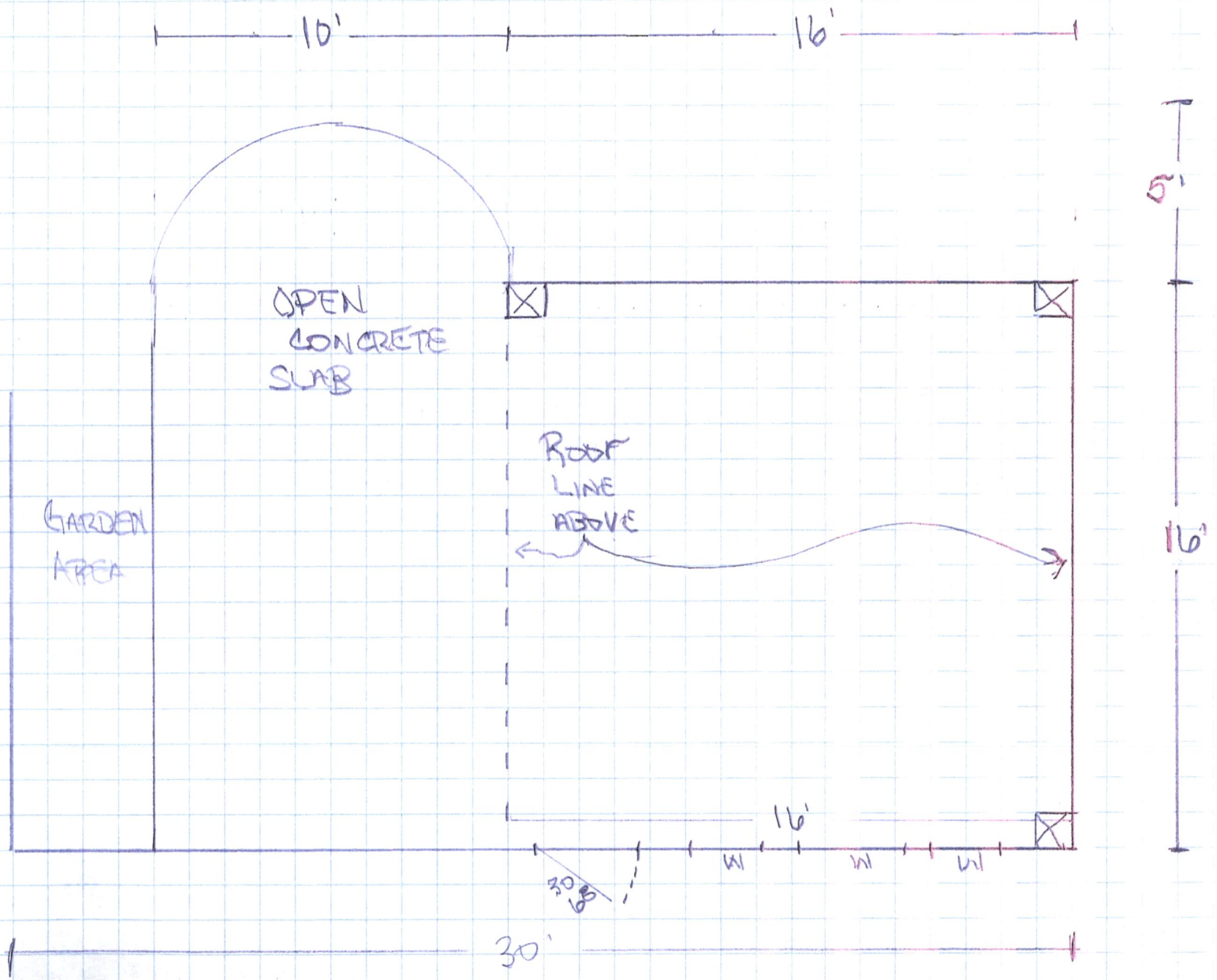
1/4" = 1'

18 x 30 CONCRETE FORMER

GARDEN AREA

16' 10' 9'

{ TOP VIEW }



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

OPEN  
CONCRETE  
SLAB

GARDEN  
AREA

ROOF  
LINE  
ABOVE

30'

16'

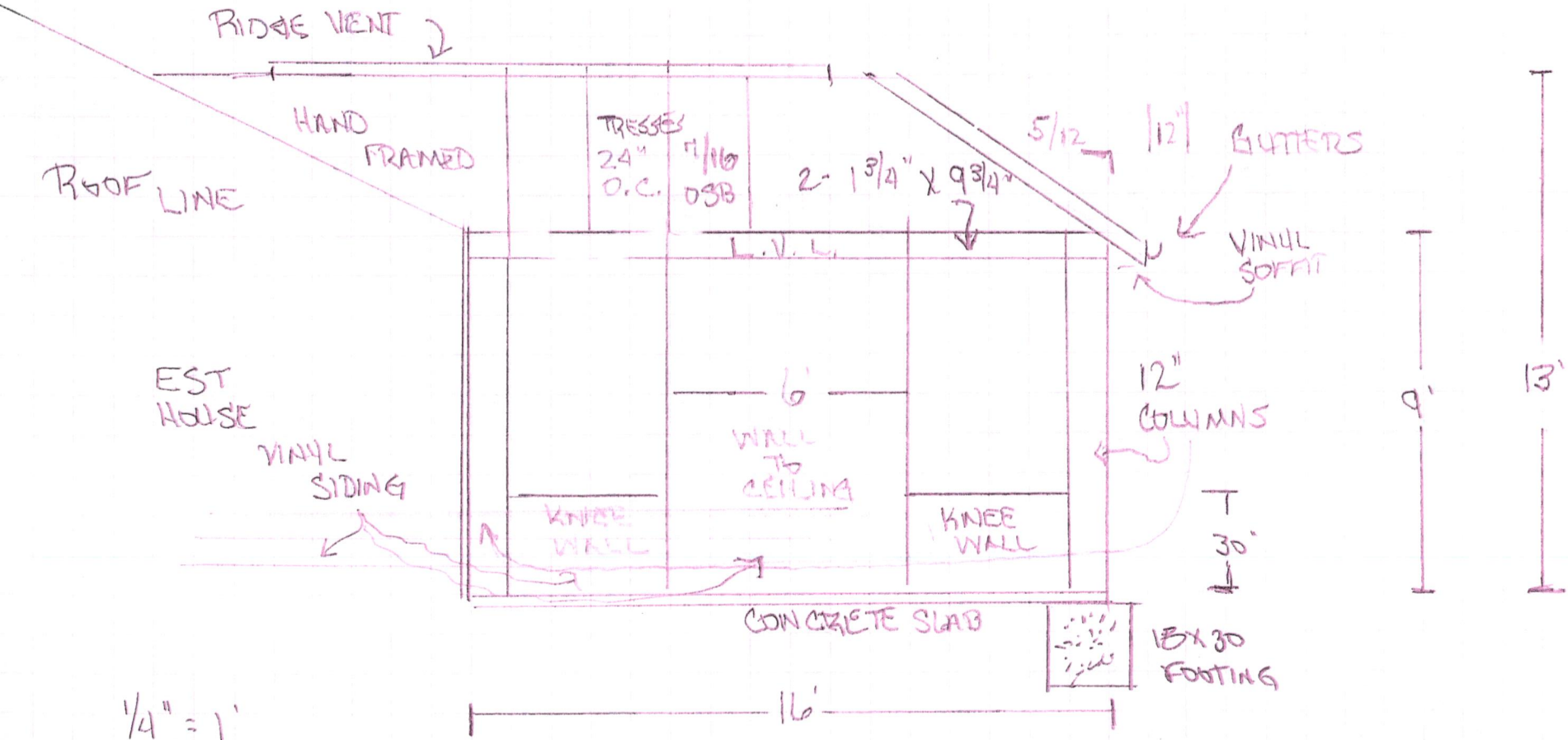
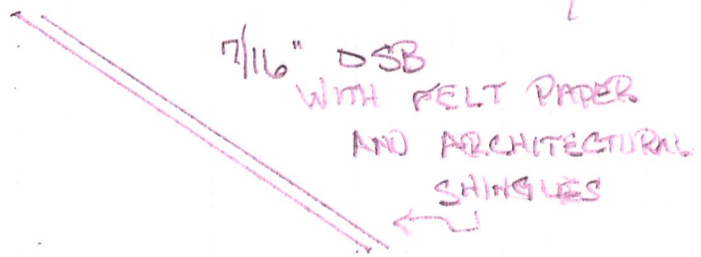
5'  
16'

10'

16'

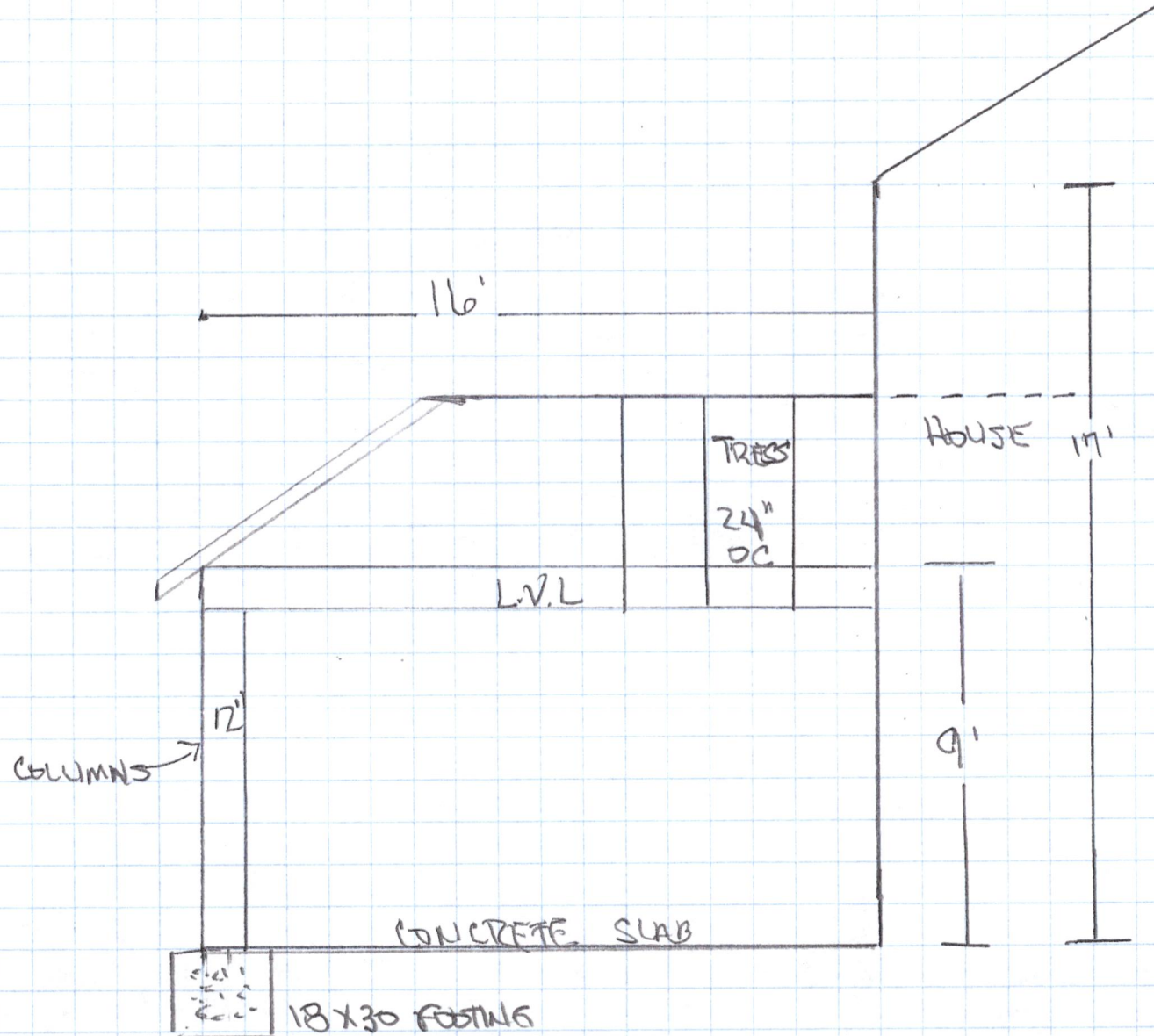
30°

{ LEFT SIDE }  
VIEW



1/4" = 1'

# RIGHT SIDE VIEW



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







**SURVEYOR'S CERTIFICATION**

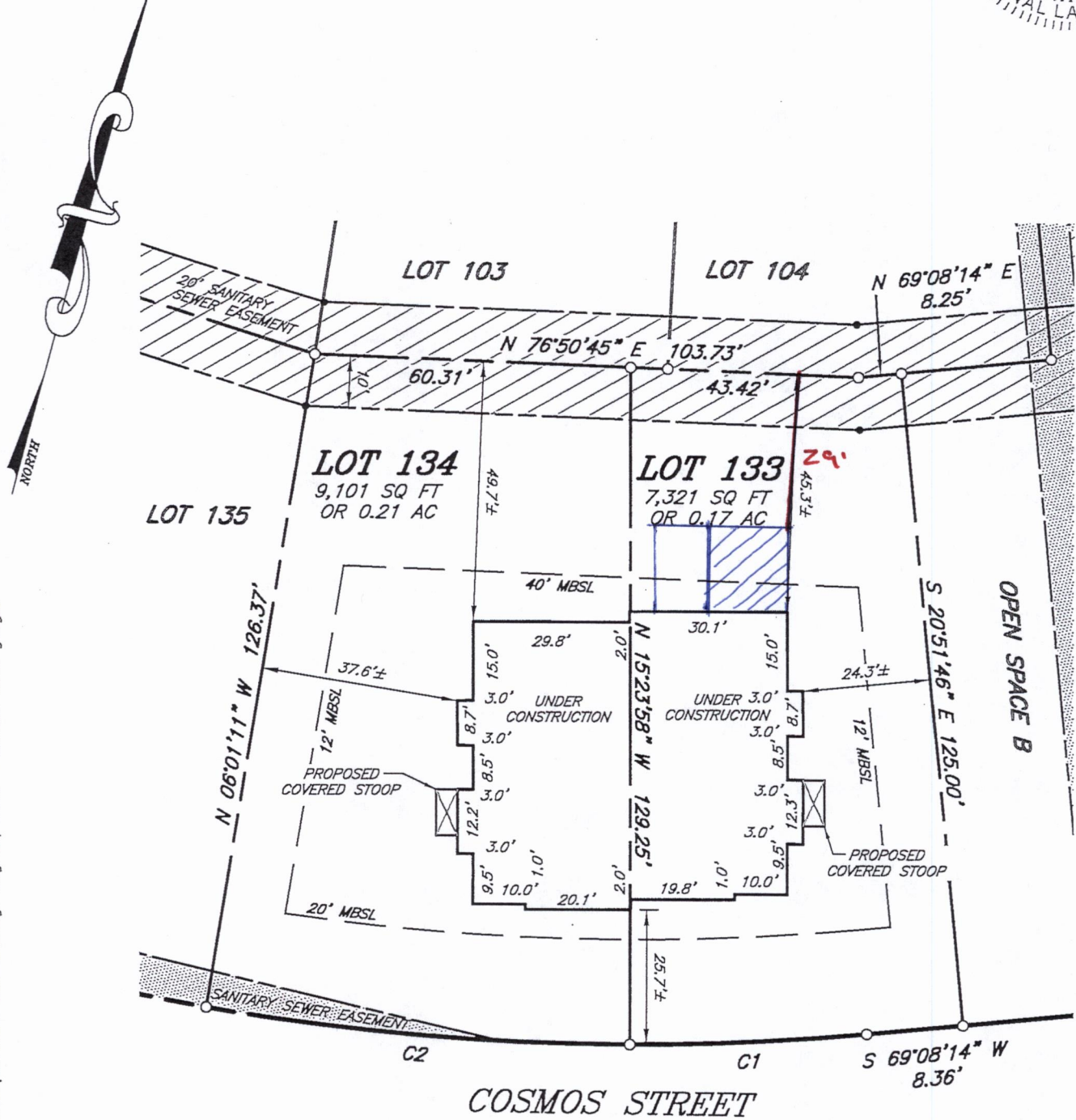
I, HEREBY CERTIFY THAT THE POSITION OF THE EXISTING IMPROVEMENTS SHOWN HEREON HAVE BEEN CAREFULLY ESTABLISHED BY ACCEPTABLE LAND SURVEYING PRACTICES AND THAT THIS PLAN WAS PERSONALLY PREPARED BY ME, OR THAT I WAS IN RESPONSIBLE CHARGE OVER ITS PREPARATION AND THE SURVEYING WORK REFLECTED HEREON, ALL IN COMPLIANCE WITH THE REQUIREMENTS SET FORTH IN COMAR 09.13.06.12 IN EFFECT AT THE TIME THAT THIS SURVEY WAS PERFORMED.

08/03/2022  
DATE

*[Signature]*  
MARYLAND PROFESSIONAL LAND SURVEYOR No. 21052  
(EXPIRES/RENEWAL DATE: 8/24/2022)



NOTE: IMPROVEMENTS SHOWN ON THIS SURVEY ARE AS OF 8/03/2022



CURVE	ARC LENGTH	RADIUS	DELTA ANGLE	CHORD BEARING	CHORD LENGTH	TANGENT
C1	45.29'	475.00'	5°27'48"	S 71°52'08" W	45.28'	22.66'
C2	81.25'	475.00'	9°48'04"	S 79°30'04" W	81.15'	40.73'

- NOTE:
- MBSL DENOTES MINIMUM BUILDING SETBACK LINES.
  - PARCEL SHOWN HEREON BEING ALL OF LOTS 133 & 134 AS SHOWN ON A PLAT OF ROSEHILL MANOR, PHASE 1 AND RECORDED AT PLAT NUMBERS 11,159-11,166 AMONG THE LAND RECORDS OF WASHINGTON COUNTY, MARYLAND.
  - THE PARCEL SHOWN HEREON IS NOT WITHIN THE 100 YEAR FLOODPLAIN AS SHOWN ON FEMA PANELS: 24043C0137D & 24043C0141D; EFFECTIVE DATE 08/15/2017.

**WALL CHECK  
ROSEHILL MANOR, PHASE 1  
LOTS 133 & 134**

SITUATE AT 19516 & 19518 COSMOS STREET  
WASHINGTON COUNTY, MARYLAND

20-31584

DRAWN BY: AMD	DATE: 8-04-22
CHECKED BY: GEN	DATE: 8-04-22
SCALE: 1" = 30'	

**FOX & ASSOCIATES, INC.**  
ENGINEERS • SURVEYORS • PLANNERS  
981 MT. AETNA ROAD, HAGERSTOWN, MARYLAND 21740  
PHONE: (301) 733-8503 FAX: (301) 733-1853

DISTRICT	10
TAX MAP No.	62
DWG. No.	A-24769

H:\OTHER\Rosehill Manor\17-50830 Duplex Redesign\RESITES\WC LOTS 133-134.dwg Aug 05, 2022 -- 8:05am User: gncgel

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

SYDNEY WORTH

**Appellant**

\*

\*

**Appeal No.: AP2023-030**

\*

\*

\* \* \* \* \*

**OPINION**

Sydney Worth (hereinafter “Appellant”) request a variance to reduce the required rear yard setback from 40 feet to 29 feet for construction of a rear patio with roof at the subject property. The subject property is located at 19518 Cosmos Street, Hagerstown, Maryland and is zoned Residential, Suburban. The Board held a public hearing in this matter on July 19, 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. Appellant is the owner of the subject property located at 19518 Cosmos Street, Hagerstown, Maryland. The subject property is zoned Residential, Suburban.
2. The subject property consists of a semi-detached dwelling situated on approximately .17 acres in Rose Hill Manor.
3. The dwelling is located approximately 45 feet from the rear property line. The required rear yard setback is 40 feet, leaving 5 feet of buildable area for a patio or addition to the rear of the home.

4. Appellant proposes to construct a concrete patio with roof to the rear of her home for outdoor living space.

5. Appellant modeled her design from several examples of rear patios in neighboring Emerald Pointe.

6. Appellant consulted with her neighbors and the Homeowner's Association, and there were no objections to her proposed plan.

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. §§ 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 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).

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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).

In the instant case, Appellant seeks to construct a covered patio for outdoor living space to the rear of her home. The design is modeled after nearby examples which were constructed for semi-detached dwellings with small rear yard areas like the subject property. Without variance relief, Appellant is left with a total of 5 feet of space in which to construct any structure to the rear of her home. Appellant asserts, and the Board agrees, that this is an unreasonable small area and is not practical for constructing a patio. Appellant has made a reasonable proposal to enhance her home and enjoy outdoor living just as others in the surrounding neighborhood. The existing setback requirements and the location of her home create a practical difficulty and prevents a use commonly enjoyed by others in the neighborhood. The variance request is the minimum necessary to afford Appellant relief and will not confer any special benefit to the property. The Board finds that Appellant has satisfied the criteria for a variance and the relief requested should be granted.

Accordingly, the variance request to reduce the required rear yard setback from 400 feet to 29 feet at the subject property is 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.

BOARD OF APPEALS

By: Jay Miller, Chair

**Date Issued: August 18, 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: Brady Doyle & Molly Ryan
4930 Churchey Road
Sharpsburg MD 21782

Docket No: AP2023-031
Tax ID No: 01005723
Zoning: P

Appellant: Brady Doyle & Molly Ryan
4930 Churchey Road
Sharpsburg MD 21782

RB Overlay: No
Zoning Overlay:
Filed Date: 06/22/2023
Hearing Date: 07/19/2023

Property Location: 4930 Churchey Road
Sharpsburg, MD 21782

Description Of Appeal: Special exception for second dwelling on parcel currently improved with a single-family dwelling and a variance from the density requirement of one dwelling unit per 30 acres to two dwelling units on 7.99 acres.

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 4.5 & 5C.3

Reason For Hardship: Cannot increase property size to meet density requirement.

If Appeal of Ruling, Date Of Ruling:

Ruling Official/Agency:

Existing Use: Single Family Dwelling Proposed Use: Two Single Family Dwellings

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.

Handwritten signature of Bob Thomas

Appellant Signature

State Of Maryland, Washington County to-wit:

Sworn and subscribed before me this 22 day of June, 2023.

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

Handwritten signature of Notary Public

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: AP2023-031

State of Maryland Washington County, To Wit:

On 6/22/2023, before me the subscriber, a Notary of the public of the State and County aforesaid, personally appeared Beth Thmoas and made oath in due form of law as follows:

Beth Thmoas will post the zoning notice sign(s) given to me by the Zoning Administrator in accordance with Section 25.51(c) of the Washington County Zoning Ordinance for the above captioned Board of Appeals case, scheduled for public hearing on 07/19/2023, 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 07/04/2023 and will remain until after the above hearing date.

Beth Thmoas

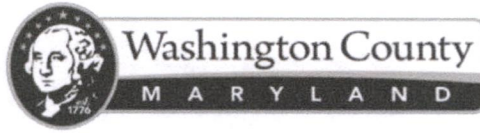
Sworn and subscribed before me the day and year first above written.

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 | 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 4930 Churchey Rd Sharpesburg, MD 21782

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:  
Article 5 section 5C.3

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

Describe the nature and extent of the desired variance from Ordinance requirements: listed above:  
Density exemption from 30 acres to 7.99 acres for two principle permitted uses.

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.

Brady D  
Signature of Appellant

4930 Churchey Rd; Sharpesburg, MD 21782  
Address and of Appellant

bradyd100@gmail.com  
Email of Appellant

240.675.9405  
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.

I am requesting approval for a special exception to build a second single-family dwelling on my property located at 4930 Churchey Rd; Sharpesburg, MD 21782. The existing house is a 1400 square foot cabin built on a slab. My grandmother is 83 years old living in Florida and needs to relocate to Maryland to be close to family. I want to build a new house on this property and have my grandmother live in the existing house so I can care for her.

*BodyText*





**BOARD OF ZONING APPEALS**

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

WWW.WASHCO-MD.NET

**Appeal for Special Exception**

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

Location 4930 Churchey Rd; Sharpesburg, MD 21782

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

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

Use Proposed: Second Single Family Dwelling

Zoning Ordinance section and subsection(s) providing for proposed use: Article 4, Section 4.5

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

**Provide Detailed Explanation on Separate Sheet**

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

Yes       No

If yes, give docket number(s): \_\_\_\_\_

Additional comments, if any: \_\_\_\_\_

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

Brady D. Brady  
Signature of Appellant

bradyd100@gmail.com  
Email of Appellant

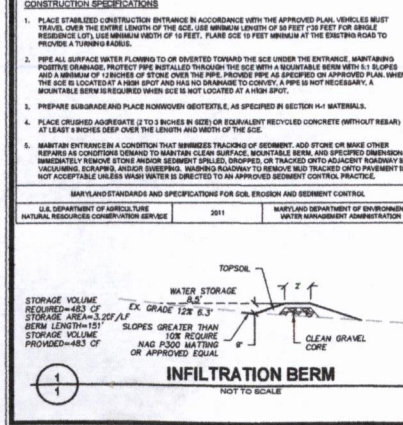
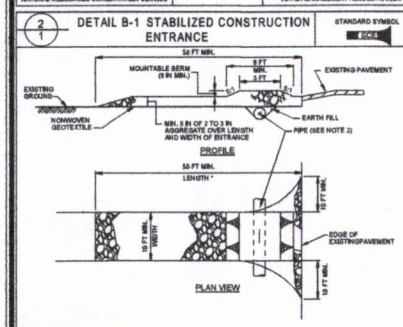
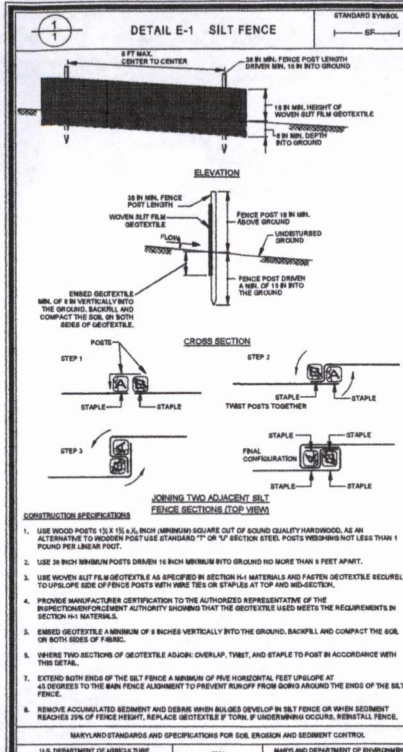
4930 Churchey Rd; Sharpesburg, MD 21782  
Address of Appellant

240.675.9405  
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.

I am requesting approval for a special exception to build a second single-family dwelling on my property located at 4930 Churchey Rd; Sharpesburg, MD 21782. The existing house is a 1400 square foot cabin built on a slab. My grandmother is 83 years old living in Florida and needs to relocate to Maryland to be close to family. I want to build a new house on this property and have my grandmother live in the existing house so I can care for her.

*Body Page*

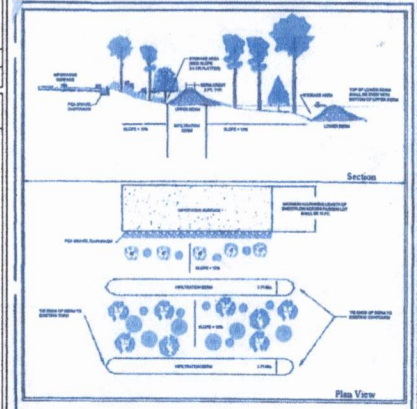


**SOIL EROSION, SEDIMENT CONTROL, & SEEDING NOTES**

- A PRECONSTRUCTION MEETING, INTERIM (WATER QUALITY) INSPECTION, AND A FINAL SITE CLOSE OUT REVIEW ARE REQUIRED FOR ALL PROJECTS WITH SOIL DISTURBANCES GREATER THAN 15,000 SQUARE FEET OR 500 CUBIC YARDS OF CUT OR FILL. CONTACT WASHINGTON COUNTY SOIL CONSERVATION DISTRICT AT 301-797-8211 EXT 3 TO SCHEDULE THE REQUIRED MEETING OR INSPECTION.
- ALL SOIL EROSION/SEDIMENT CONTROL MEASURES (GRADING, STABILIZATION, AND SOIL EROSION AND SEDIMENT CONTROL PRACTICES (BMP'S)) SHALL COMPLY WITH THE 2011 MARYLAND STANDARDS AND SPECIFICATIONS FOR SOIL EROSION AND SEDIMENT CONTROL, AND THE PROVISIONS OF THE APPROVED PLAN.
- FOR INITIAL SOIL DISTURBANCE OR RE-DISTURBANCE, TEMPORARY OR PERMANENT STABILIZATION MUST BE COMPLETED WITHIN:
  - THREE (3) CALENDAR DAYS AS TO THE SURFACE OF ALL PERIMETER DICES, BUNDLES, EXPOSURE PERIMETER SLOPES, AND ALL SLOPES STEEPER THAN 3 HORIZONTAL TO 1 VERTICAL (3:1); AND
  - SEVEN (7) CALENDAR DAYS AS TO ALL OTHER DISTURBED OR GRADED AREAS ON THE PROJECT SITE NOT UNDER ACTIVE GRADING.
- STOCKPILES MUST BE STABILIZED IN ACCORDANCE WITHIN THE 7 DAY STABILIZATION REQUIREMENT, AS WELL AS STANDARD B-4-1 INCREMENTAL STABILIZATION AND STANDARD B-4-4 TEMPORARY STABILIZATION (AS APPLICABLE).
- ALL STORM DRAIN AND SANITARY SEWER LINES NOT IN PAVED AREAS ARE TO BE MULCHED AND SEEDED WITHIN 3 DAYS OF INITIAL BACKFILL UNLESS OTHERWISE SPECIFIED ON PLANS.
- ELECTRIC POWER, TELEPHONE, AND GAS LINES ARE TO BE COMPACTED, SEEDED, AND MULCHED WITHIN 3 DAYS AFTER INITIAL BACKFILL UNLESS OTHERWISE SPECIFIED ON PLANS.
- NO SLOPE SHALL BE GREATER THAN 2:1.
- AS REQUIRED BY SECTION 8. OF THE MARYLAND STANDARDS AND SPECIFICATIONS FOR SOIL EROSION AND SEDIMENT CONTROL, "ADEQUATE VEGETATIVE STABILIZATION" IS DEFINED AS 95 PERCENT GROUND COVER. THE WASHINGTON COUNTY SOIL CONSERVATION DISTRICT REQUIRES THE PROJECT ADHERE TO THIS FOR SCHEDULING OF THE FINAL SITE CLOSEOUT REVIEW, AND/OR RELEASE OF THE SITE FOR SOIL EROSION AND SEDIMENT CONTROL.
- TEMPORARY SEEDING SHALL BE IN COMPLIANCE WITH SECTION B-4-4 STANDARDS AND SPECIFICATIONS FOR TEMPORARY STABILIZATION, OF THE 2011 MARYLAND STANDARDS FOR SOIL EROSION AND SEDIMENT CONTROL.
- PERMANENT SEEDING SHALL BE IN COMPLIANCE WITH SECTION B-4-5 STANDARDS AND SPECIFICATIONS FOR PERMANENT STABILIZATION, OF THE 2011 MARYLAND STANDARDS FOR SOIL EROSION AND SEDIMENT CONTROL.

NOTES:

- All grading on lot/parcel, either before or after the construction of a dwelling, or other structures, shall be the full responsibility of the lot/parcel owner.
- No permanent structures (fences, sheds, play equipment, retaining walls, etc.) shall be permitted within any storm drainage easement or drainage easement either shown or depicted on a plat or easement map.
- A public works agreement and performance security will be required for all improvements within the County right-of-way that are not otherwise regulated under a utility permit or easement permit.
- The purpose of this plan is to construct a single family dwelling.
- Discharge from down spouts are to be conveyed to a stable discharge point away from adjacent structures.
- Property is zoned P per Washington County Zoning Maps.
- Properly designated as Tax Map 70, Parcel 102 in Election District 01.
- Any modification of the approved construction shall be reviewed and approved by the Division and the District prior to construction.
- There are no utilities or easements within 200' of the lot of disturbance.
- Any fill leaving the site must go to a site having an approved and current Soil Erosion and Sediment Control Plan.
- Driveway is to be immediately stabilized with stone as soon as it is constructed.



NOTES:

- INSTALL BERM ALONG CONTOUR AT CONSTANT ELEVATION.
- MINIMUM CURB HEIGHT SHALL BE 2 FEET.
- PROVIDE CURB SIDE OF COMPACTED TOPSOIL OVER AGGREGATE.
- BERM SURFACE IS TO BE SEEDED AND MULCHED.
- BERM SIDE SLOPED 3:1 OR FLATTER.

Washington County, MD  
Division of Public Works

**RESIDENTIAL INFILTRATION BERMS**

DWG. # 850-DJW-4



**SEWERAGE AREA NOTICE**

The owner shall obtain from the applicable authority the requirements of the Washington County Subdivision Ordinance, Article 7, Section 40B, in which the owner or engineer shall verify the proposed sewer is proposed to qualify and transfer sewer service to the public sewer system under the management and control of the Washington County Sewerage and Sanitation District. The owner or engineer of construction shall provide the Washington County Planning Commission an easement with all applicable regulations, fees, and other requirements which shall be submitted with the application for sewer service to be installed within the public sewer system.

**NOTES:**

The lot owner is solely responsible for all on-lot grading to insure that the intent of the site grading as approved herein, is maintained in perpetuity.

Contractor to maintain a minimum of 2% slope, away from the houses for at least a distance of 10'.

SWH for this site is addressed by infiltration berm and non-roofed disconnection.

Contractor to contact Washington County Soil Conservation for a pre-construction and final close out inspection.

**FREDERICK SEIBERT & ASSOCIATES, INC.**  
 CIVIL ENGINEERS - SURVEYORS - LANDSCAPE ARCHITECTS - LAND PLANNERS  
 100 SOUTH HANOVER STREET, SUITE 200, BALTIMORE, MD 21201  
 410.528.1000 FAX 410.528.1001  
 www.fsa-inc.com

**BRADY DOYLE**  
 4832 CHURCHY RD  
 SHARPSBURG, MD 21772  
 WASHINGTON COUNTY, MARYLAND  
 BRADY DOYLE  
 CIVIL ENGINEER  
 4832 CHURCHY RD SHARPSBURG MD 21772  
 410.528.1000

PROJECT NO: 5052  
 CAD DWG FILE: 5052 STD.dwg  
 DATE: 05-20-2011  
 DWN BY: AGH  
 CHK BY: DATE:  
 TAX MAP: 70-24-192  
 ELECTION DIST: 01  
 SCALE: 1" = 50'  
 SHEET TITLE: STANDARD PLAN  
 SHEET 1 OF 1

**IMPERVIOUS AREA SUMMARY TABLE**

EX. IMPERVIOUS AREA, A <sub>EX</sub>	PROPOSED IMPERVIOUS AREA, A <sub>PROP</sub>	TOTAL NEW IMPERVIOUS AREA, A <sub>TOTAL</sub>
3.00	3.14	6.14

THE TOTAL AREA TO BE DISTURBED SHOWN ON THESE PLANS HAS BEEN DETERMINED TO BE APPROXIMATELY 3,500 SF. THE TOTAL AMOUNT OF EXCAVATION AND FILL AS SHOWN ON THESE PLANS HAS BEEN COMPUTED TO BE APPROXIMATELY 132 CU. YDS. OF EXCAVATION AND APPROXIMATELY 500 CU. YDS. OF FILL.

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

**BRADY DOYLE & MOLLY RYAN**

**Appellants**

**Appeal No.: AP2023-031**

\* \* \* \* \*

**OPINION**

Brady Doyle and Molly Ryan (hereinafter “Appellant”) requests a special exception to establish a second dwelling on parcel currently improved with a single-family dwelling, and a variance to reduce the lot density requirement from one (1) dwelling unit per 30 acres to two (2) dwelling units on 7.99 acres at the subject property. The subject property is located at 4930 Churchey Road, Sharpsburg, Maryland and is zoned Preservation. The Board held a public hearing on the matter on July 19, 2023.

**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 own the subject property located at 4930 Churchey Road, Sharpsburg, Maryland. The property is zoned Preservation.
2. The subject property consists of a 1400 square foot dwelling and a barn and various outbuildings, on 7.99 acres.
3. Appellants purchases the subject property in November 2022. The existing dwelling was constructed in 2002.
4. Appellant Brady Doyle has an elderly grandmother currently residing in

Florida who requires increasing assistance. Appellants plan to relocate Mr. Doyle's grandmother to the subject property to reside in the existing dwelling.

5. Appellants propose to construct a 2,400 square-foot Cape Cod-style home as the second dwelling on the subject property. Appellants would reside in the new home and care for Mr. Doyle's grandmother in the existing dwelling.

6. Appellants have completed a perc test and staked out the area for the new home. The plan is for the two (2) homes to share a well.

7. The wells in the surrounding area of the subject property are relatively shallow, which may limit or prohibit sharing.

8. The density requirement in the Preservation zoning district is one (1) dwelling unit per 30 acres.

### **Rationale**

#### ***Special Exception Request***

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

Where in these regulations certain powers are conferred upon the Board or the approval of the Board is required before a permit may be issued, or the Board is called upon to decide certain issues, the Board shall study the specific property involved, as well as the neighborhood, and consider all testimony and data submitted, and shall hear any person desiring to speak for or against the issuance of the permit. However, the application for a permit shall not be approved where the Board finds the proposed building, addition, extension of building or use, sign, use or change of use would adversely

affect the public health, safety, security, morals or general welfare, or would result in dangerous traffic conditions, or would jeopardize the lives or property of people living in the neighborhood. In deciding such matters, the Board shall consider any other information germane to the case and shall give consideration to the following, as applicable:

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

The Board finds no cause for concern with respect to the number of people residing or working in the area, traffic conditions, nearby public gatherings or the conservation of property values. The proposed project involves building a second home and contemplates extended family living on an almost eight (8) acre parcel of land. It is unlikely such a project would have any impact on roads, traffic, the neighboring properties and/or businesses, and public gatherings.

However, there is concern for whether this is the most appropriate use of the land and structure, and relatedly, whether it is consistent with the purpose of the Zoning Ordinance. The purpose of the Preservation zoning district is to “prescribe a zoning category for those areas where, because of natural geographic factors and existing land uses, it is considered feasible and desirable to conserve open spaces, water supply sources, woodland areas, wildlife and other natural resources.” See Section 5C.0 of the Zoning Ordinance. Appellants’ proposal to construct a second, larger home on the property is inconsistent with this purpose. There are already concerns about water

supply with surrounding residents having shallow wells. The fact that the proposed use also requires a drastic relaxation of the lot density requirements undermines any inherent appropriateness implied by its categorization as a special exception. It is reasonable to conclude that there are other properties that would not require or at least require a lesser relaxation of the density requirements.

The Board is unable to make the required finding that the proposed use at the subject property will have no greater “adverse effects above and beyond those inherently associated with such a special exception use irrespective of its location within the zone.” *Schultz v. Pritts*, 291 Md. 1, 15 (1981). For all these reasons, we conclude that this appeal does not meet the criteria for a special exception and therefore should be denied.

#### *Variance Request*

As the variance relief requested herein was predicated on the approval of a second dwelling unit, there is no need to undertake the variance analysis.

Accordingly, the request for a special exception to establish a second dwelling on parcel currently improved with a single-family dwelling at the subject property is hereby DENIED, by a vote of 4 to 1. As a result, the accompanying request variance relief to reduce the lot density requirements is moot and shall be DISMISSED.

BOARD OF APPEALS

By: Jay Miller, Chair

**Date Issued: August 18, 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:** Lucille Canfield  
18424 Mansfield Road  
Keedysville MD 21756

**Appellant:** Lucille Canfield  
18424 Mansfield Road  
Keedysville MD 21756

**Property Location:** 18422 Mansfield Road  
Keedysville, MD 21756

**Description Of Appeal:** Variance from the required 15 ft. side yard setback to 1.6 ft. and 4.6 ft. for constructed detached garage.

**Docket No:** AP2023-032  
**Tax ID No:** 19000702  
**Zoning:** P  
**RB Overlay:** No  
**Zoning Overlay:**  
**Filed Date:** 06/22/2023  
**Hearing Date:** 07/19/2023

**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 5C.5

**Reason For Hardship:** Rebuilt on previous location.

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

**Ruling Official/Agency:**

**Existing Use:** Residential Lot **Proposed Use:** Rebuilt Detached Garage

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

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

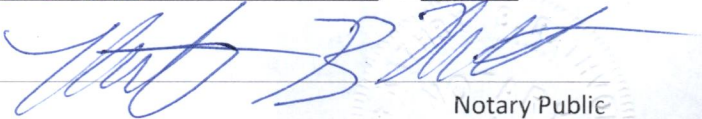
I hereby affirm that all of the statements and information contained in or filed with this appeal are true and correct.

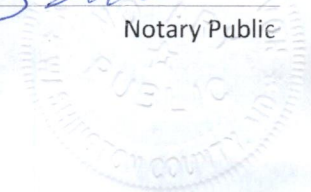
  
Appellant Signature

State Of Maryland, Washington County to-wit:

Sworn and subscribed before me this 22 day of June, 2023.

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

  
Notary Public







WASHINGTON COUNTY BOARD OF ZONING APPEALS

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

## AFFIDAVIT IN COMPLIANCE WITH SECTION 25.51(C)

Docket No: AP2023-032

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

On 6/22/2023, before me the subscriber, a Notary of the public of the State and County aforesaid, personally appeared Earl Canfied and made oath in due form of law as follows:

Earl Canfied will post the zoning notice sign(s) given to me by the Zoning Administrator in accordance with Section 25.51(c) of the Washington County Zoning Ordinance for the above captioned Board of Appeals case, scheduled for public hearing on 07/19/2023, 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 07/04/2023 and will remain until after the above hearing date.

Earl Canfied

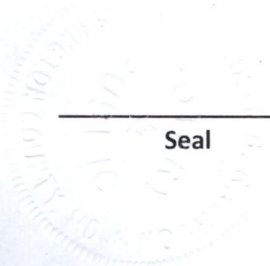
Sworn and subscribed before me the day and year first above written.

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

Notary Public

Seal

My Commission Expires





**BOARD OF ZONING APPEALS**

**OWNER REPRESENTATIVE AFFIDAVIT**

This is to certify that Earl Canfield  
is authorized to file an appeal with the Washington County Board of Appeals for  
a variance for detached garage on property  
located 18424 Mansfield Keedysville  
The said work is authorized by Lucille Canfield  
the property owner in fee.

PROPERTY OWNER

Earl Canfield  
Name  
18424 Mansfield Rd  
Address  
Keedysville Md 21756  
City, State, Zip Code

Earl Canfield  
Owner's Signature

Sworn and subscribed before me this 6-20 day of June, 2023

[Signature]  
Notary Public

My Commission Expires:

AUTHORIZED REPRESENTATIVE

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

Earl Canfield  
Name  
18422 Mansfield Rd  
Address  
Keedysville Md 21756  
City, State, Zip Code

Earl Canfield  
Authorized Representative's Signature

Sworn and subscribed before me this 22 day of June, 2023

[Signature]  
Notary Public

My Commission Expires:

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





**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 18424 Mansfield Road Keedysville

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 5C.5

Specify the particular requirement(s) from which a variance is desired in that section or subsection:  
Single Family Dwelling Side Yard Setback of 15 ft

Describe the nature and extent of the desired variance from Ordinance requirements: listed above:  
Reduce down to 1.6 ft. and 4.6 ft. for right side yard property line

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

18424 Mansfield Rd Keedysville Md  
Address and of Appellant 21750

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

301 992 3170  
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.

To the Washington county zoning board

The McCauley's have no issues with the building sitting in that spot as it has for the last 25 plus years this building should be grandfathered in as it's been over 25 plus years this building is replacing an existing building that has since burned down on 2/3/2023 and sitting in the same spot as the existing building was.

This building is sitting on a new slab of concert on top of the old concert and the new building is all steel put up by American steel. Tom Hover inspected the new stab of concert that was poured for this building and approved it. The building is sitting on 12in of concert reasoning why the building can't be moved it will block accesses to the back property, fields for our neighboring farmers and their property's also if the building is moved 15ft from the boundary line it will be sitting in the back of our house.

Seems like I have been fighting an uphill battle since this fire on 2/3/2023 and getting nowhere with these issues as I've provided a letter from my neighbors the McCulley's stating they are ok with the building being close to the boundary line.

We had the property surveyed as asked by the county the building is sitting on my property by 1.6ft from the boundary line.

I've lived on the property for 60 years and never had these kinds of issues with the county until this fire happened on 2/3/2023.

6/16/2023

To whom it may concern:

I Eddie and Thersea Mccauley have given Earl Canfield permission to put his garage that close to the property line. The existing garage had been there for 25 plus years. The existing garage should be grandfathered in. We have no issues with the new garage sitting that close to the property line as Mr. Canfield asked for our permission many years ago. The new garage is sitting in the existing place as the existing garage burned down on 2/3/2023 all Mr. Canfield did was rebuild his garage in the existing place. Earl Canfield had the ground surveyed as asked the garage is 1.6ft and 4.6ft from the property line. The garage is not on our property it's on Mr. Canfields.

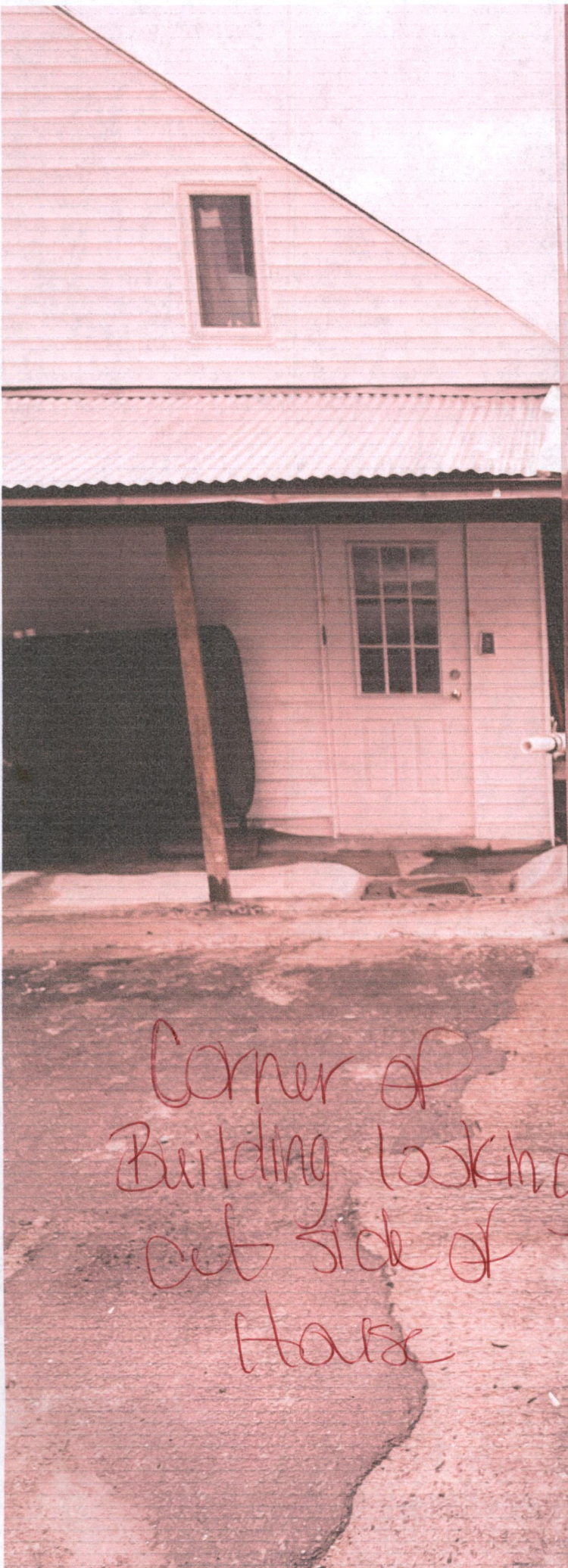
Paul Edward McCauley

Theresa M McCauley


6-19-2023

Deborah H. Bay, Notary  
My Commission  
Expires 10/18/24





Corner of  
Building looking  
out side of  
House

A photograph of a rural property. On the left, a portion of a light-colored wooden building is visible. The foreground and middle ground are dominated by tall, dry, golden-brown grasses. A dirt path or driveway leads from the bottom center towards the background. On the right side, a wooden fence post and a horizontal rail are visible. The background shows a dense line of trees with green and yellow foliage. A large, hand-drawn red circle is drawn around the central part of the image, encompassing the dirt path and the handwritten text. The text is written in red ink in a cursive style.

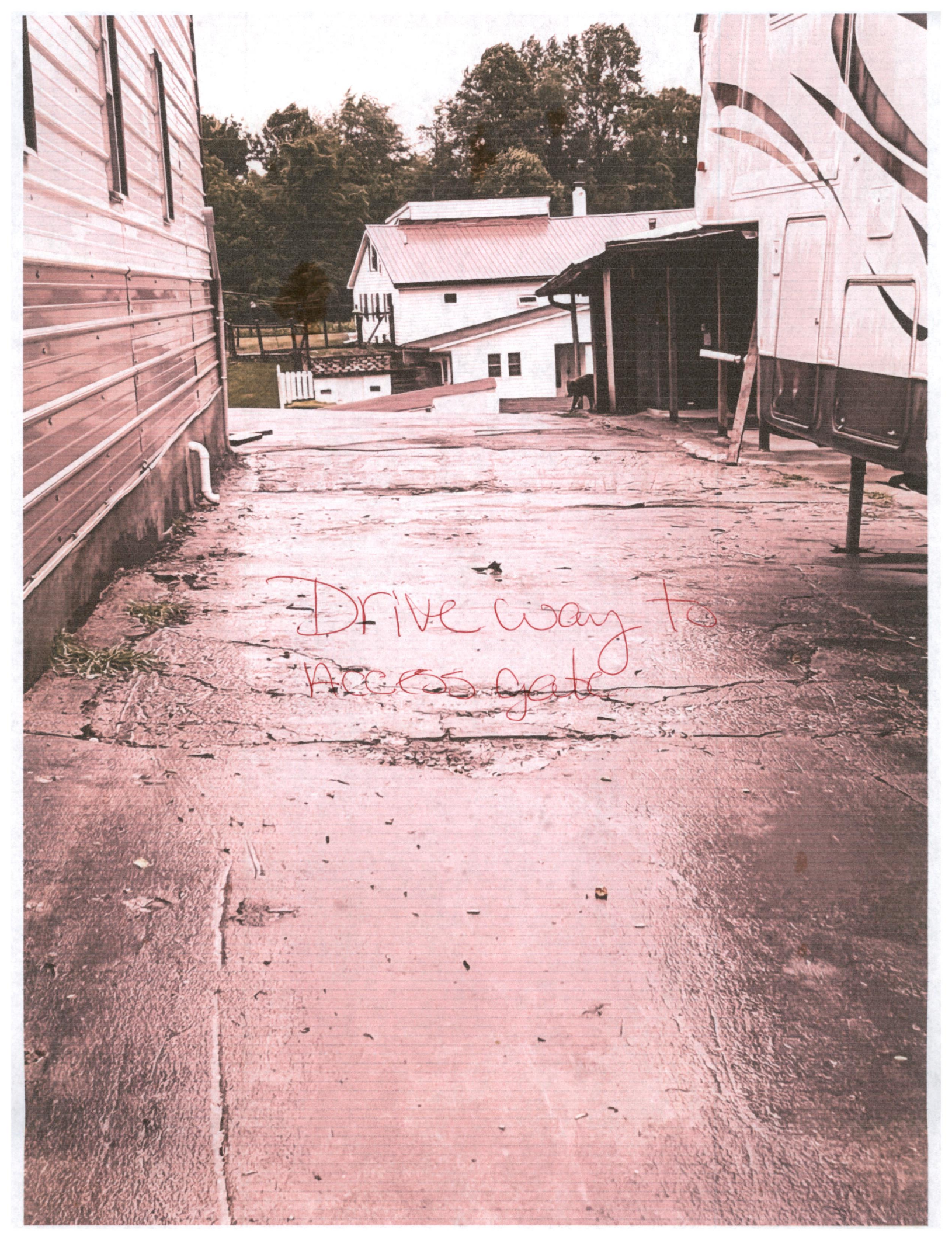
Access gate for  
neighboring farmers &  
Properties



Drive way  
to Access gate.

Side of building & back of  
house ~~but~~  
building would be  
in side our house if moved  
over 15<sup>th</sup> feet.





Drive way to  
Access gate

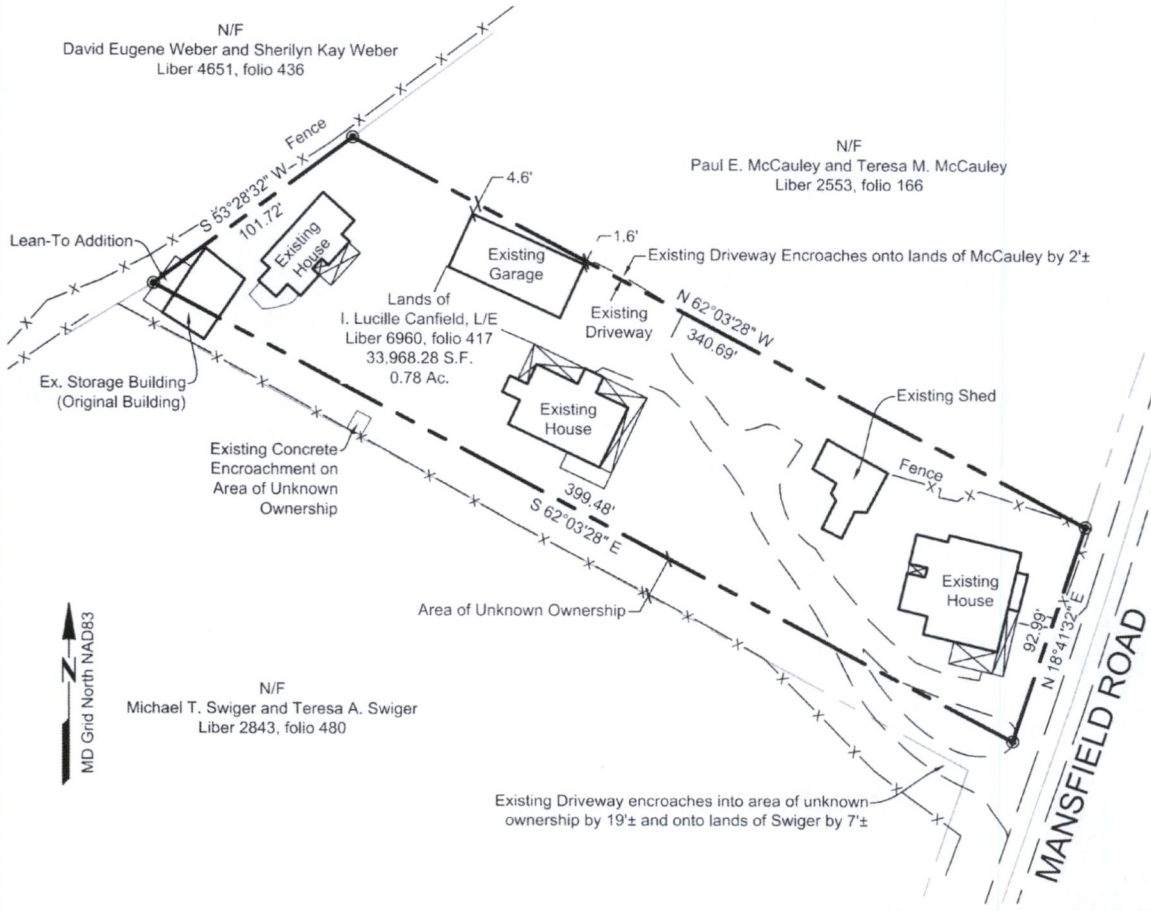
**BOUNDARY SURVEY**  
**18424 Mansfield Road, Keedysville, Maryland**  
**for**  
**Earl Canfield**

This parcel does not lie in the 100 year flood plain, FEMA Flood Insurance Rate Map,  
 Community Panel No. 24043C0376D, 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 I. Lucille Canfield, to Bernard Earl Canfield and Terry Lee Canfield, Jr., as Joint Tenants With The Right Of Survivorship unto I. Lucille Canfield, dated March 18, 2022, recorded among the Land Records of Washington County, Maryland, in Liber 6960, folio 417; that this boundary survey was personally prepared by me or that I was in responsible charge over its preparation and the surveying work reflected hereon 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. 10731, Expiration Date: January 16, 2024.



PROPERTY INFORMATION	
72-22-123	
DWN BY	DATE
LEJ	5.22.2023
PROJECT MANAGER	EMAIL
FMF	FFrederick@fsa-inc.com
SCALE	1" = 60'
SHEET 01 OF 01	



**FREDERICK, SEIBERT & ASSOCIATES, INC.** © 2023 fsa-inc.com  
**CIVIL ENGINEERS • SURVEYORS • LANDSCAPE ARCHITECTS • LAND PLANNERS**

128 SOUTH POTOMAC STREET HAGERSTOWN, MD 21740 301.791.3650	20 WEST BALTIMORE STREET GREENCASTLE, PA 17225 717.697.1007	505 SOUTH HANOVER STREET CARLSLE, PA 17013 717.701.8111	6201 SPRING ROAD SHERMANS DALE, PA 17090 717.567.3680
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PROJECT NO.  
2023-0115

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

LUCILLE CANFIELD

**Appellant**

\*

\*

**Appeal No.: AP2023-032**

\*

\*

\* \* \* \* \*

**OPINION**

Lucille Canfield (hereinafter "Appellant") requests a variance to reduce the required side yard setbacks from 15 feet to 1.6 feet and from 15 feet to 4.6 feet for a constructed detached garage at the subject property. The subject property is located at 18422 Mansfield Road, Keedysville, Maryland and is zoned Preservation. The Board held a public hearing in this matter on July 19, 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. Appellant is the owner of the subject property located at 18422 Mansfield Road, Keedysville, Maryland. The subject property is zoned Preservation.
2. The subject property consists of a narrow, .78-acre lot with multiple dwellings and accessory buildings, including a garage building located along the right side yard.
3. Appellant had a garage in this location for approximately thirty (30) years until February 2023, when a fire destroyed the previous structure.

4. Appellant constructed a new garage building in the same location, with a new concrete slab. The building occupies the same footprint as the previous garage, which encroaches into the side yard setback. The northwest corner of the new building is 4.6 feet from the side yard property line and the northeast corner is 1.6 feet from the side yard property line.

5. The garage building has been completed but was done without conforming to the permit process.

6. The most affected neighbors are Paul and Teresa McCauley who own the property immediately adjacent to the garage building. They provided a letter in support of the variance relief.

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. §§ 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 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

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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).

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 instant case, Appellant has already constructed the garage building that requires variance relief. Typically, rebuilds for damage on the same footprint would not require an owner to seek relief under the Zoning Ordinance. However, in this case, Mr. Canfield created a new footprint by pouring a concrete slab for the new garage. Appellant is not seeking to gain anything in the reconstruction of the garage, just to restore what was there prior to the fire damage. The subject property is narrow and has existing buildings and an established drive which snakes between the buildings. The garage is in the same place it has been for thirty (30) years and the relief requested would not confer any special benefits on Appellant. The lot size and narrowness create practical difficulty in moving the building to comply with the side yard setback requirements. The variance relief is necessary to put Appellant in the position she would have been in had there been no fire. The Board finds that Appellant has satisfied the criteria for a variance and the relief requested should be granted.

Accordingly, the variance request to reduce the required rear yard setback from 400 feet to 29 feet at the subject property is 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.

BOARD OF APPEALS

By: Jay Miller, Chair

**Date Issued: August 18, 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: Knoedler Jefferson LLC
1020 Hawlings Road
Brookeville MD 20833
Appellant: J. Chris Knoedler
1020 Hawlings Road
Brookeville MD 20833
Property Location: 19918 Jefferson Boulevard
Hagerstown, MD 21742
Description Of Appeal: Change in non-conforming use from retail pet food and supply store to DG Market retail store.

Docket No: AP2023-033
Tax ID No: 18018497
Zoning: RS
RB Overlay: No
Zoning Overlay:
Filed Date: 06/23/2023
Hearing Date: 07/19/2023

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): AP93-016, AP2008-050, AP2011-031, AP2021-034, AP2011-035

Applicable Ordinance Sections: Washington County Zoning Ordinance section 4.3 (b)

Reason For Hardship:

If Appeal of Ruling, Date Of Ruling:

Ruling Official/Agency:

Existing Use: Commerical Proposed Use: Commerical
Previous Use Ceased For At Least 6 Months: No Date Ceased: 03/20/2023
Area Devoted To Non-Conforming Use - Existing: Parcel Proposed: No Increase to Existing Area

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

[Handwritten signature]

Appellant Signature

State Of Maryland, Washington County to-wit:

Sworn and subscribed before me this 23 day of June, 2023.

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

[Handwritten 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: AP2023-033

State of Maryland Washington County, To Wit:

On 6/23/2023, before me the subscriber, a Notary of the public of the State and County aforesaid, personally appeared J. Chris Knoedler and made oath in due form of law as follows:

J. Chris Knoedler will post the zoning notice sign(s) given to me by the Zoning Administrator in accordance with Section 25.51(c) of the Washington County Zoning Ordinance for the above captioned Board of Appeals case, scheduled for public hearing on 07/19/2023, 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 07/04/2023 and will remain until after the above hearing date.

J. Chris Knoedler

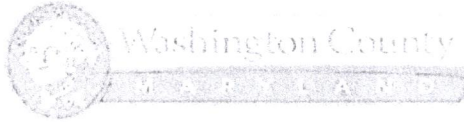
Sworn and subscribed before me the day and year first above written.

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

Notary Public

Seal

My Commission Expires



BOARD OF ZONING APPEALS

Board Office: 10000 Green Valley Rd., P.O. Box 20000, P.O. 20000 | Hearing Impaired: 800.368.7093

Appeal for Change of Non-Conforming Use

Appeal is hereby made for permission to change a non-conforming use in accordance with the provisions of Section 4.3 of the Washington County Zoning Ordinance as follows:

Location 19918 JEFFERSON BLVD HABERSTOWN, MD 21742

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

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

Present or previous non-conforming use: RETAIL PET FOOD AND SUPPLIES

Has previous use ceased for six (6) months or more? Yes No

Date of cessation: MARCH 20, 2023

Describe the nature and extent of the proposed change: Provide Explanation on Separate Sheet

Reason for requested change: Provide Explanation on Separate Sheet

Has any previous request for change of this property been made to the Board?

Yes No

If yes, give docket number(s):

Additional comments, if any:

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

Signature of Appellant

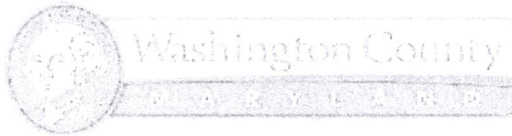
1020 HAWKINGS ROAD BROOKVILLE, MD 20833 Address of Appellant

CHRIS.KNOEDLER@VERIZON.NET Email of Appellant

301.518.1308 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.






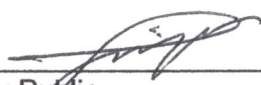
BOARD OF ZONING APPEALS

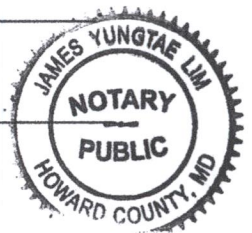
**OWNER REPRESENTATIVE AFFIDAVIT**

This is to certify that JOHN C. KNOEDLER  
is authorized to file an appeal with the Washington County Board of Appeals for  
KNOEDLER JEFFERSON LLC on property  
located 19918 JEFFERSON BLVD HAGERSTON, MD 21442  
The said work is authorized by JOHN C. KNOEDLER  
the property owner in fee.

PROPERTY OWNER  
KNOEDLER JEFFERSON, LLC  
JOHN C. KNOEDLER, SOLE MEMBER  
Name  
1020 HAWKINGS RD  
Address  
FRIDLEYVILLE, MD 20833  
City, State, Zip Code  
  
Owner's Signature

Sworn and subscribed before me this 16<sup>th</sup> day of Jun, 2023

My Commission Expires: 03/09/2024  
  
Notary Public



AUTHORIZED REPRESENTATIVE  
Name  
Address  
City, State, Zip Code  
Authorized Representative's Signature

Sworn and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

My Commission Expires: \_\_\_\_\_  
Notary Public

## **Reason for Appeal**

To increase retail space square footage from 1000 sq. feet to 9600 sq. feet.

Type of merchandise to change from pet food and related items to:

Groceries

Health and Beauty

Housewares, glassware, dinnerware

Household cleaning supplies

Toys

Teaching supplies

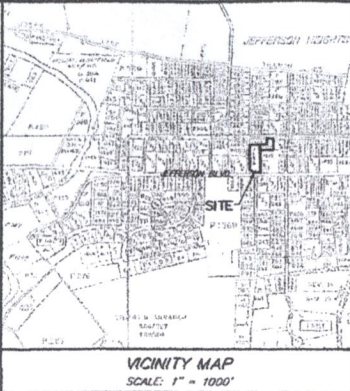
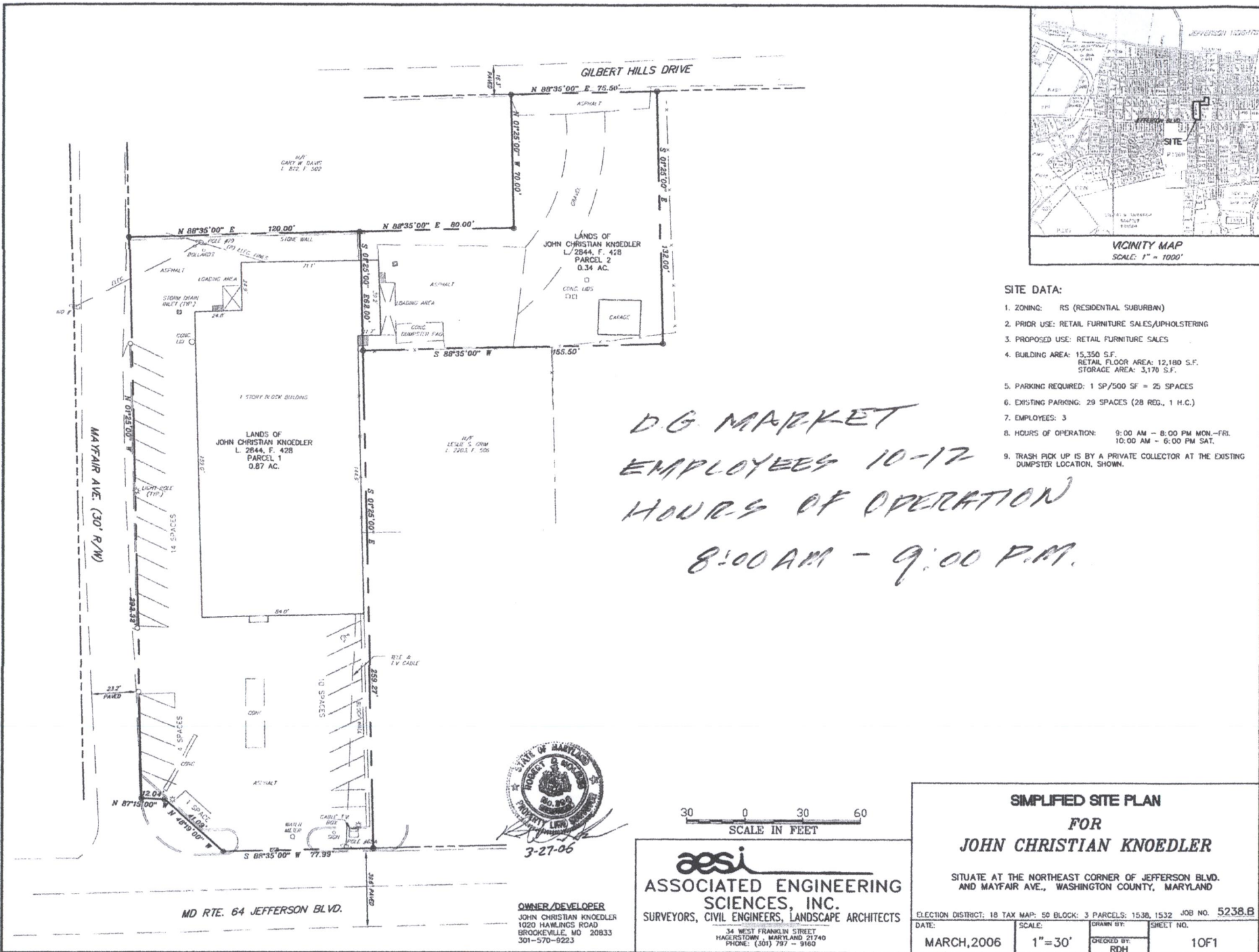
Pet Supplies

The building was originally erected as a grocery store and is the building's best use. We have had difficulty sustaining other industry tenants. DG Market is different and higher end than Dollar General in that it will carry groceries.

I do believe this store will serve the neighborhood as well, if not better than it did as a grocery store.

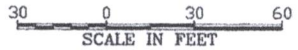
Dollar General plans to create new jobs in the Hagerstown community as the store is expected to employ approximately 10-12 people, depending on the individual needs of the store. Individuals interested in joining the DG team may review available positions and apply online at [www.dollargeneral.com/careers](http://www.dollargeneral.com/careers). The Company provides employees with competitive wages, world-class and award-winning training and development programs and benefits including day-one telemedicine eligibility and Dollar General's Employee Assistance Foundation – as well as health insurance coverage options, 401K savings and retirement plans, tuition reimbursement, paid parental leave and adoption assistance to eligible employees.

E:\Program Files\5238\dwg\propbase.dwg | Model



- SITE DATA:**
1. ZONING: RS (RESIDENTIAL SUBURBAN)
  2. PRIOR USE: RETAIL FURNITURE SALES/UPHOLSTERING
  3. PROPOSED USE: RETAIL FURNITURE SALES
  4. BUILDING AREA: 15,350 S.F.  
RETAIL FLOOR AREA: 12,180 S.F.  
STORAGE AREA: 3,170 S.F.
  5. PARKING REQUIRED: 1 SP/500 SF = 25 SPACES
  6. EXISTING PARKING: 29 SPACES (28 REG., 1 H.C.)
  7. EMPLOYEES: 3
  8. HOURS OF OPERATION: 9:00 AM - 8:00 PM MON.-FRI.  
10:00 AM - 6:00 PM SAT.
  9. TRASH PICK UP IS BY A PRIVATE COLLECTOR AT THE EXISTING DUMPSTER LOCATION, SHOWN.

*D.G. MARKET  
EMPLOYEES 10-17  
HOURS OF OPERATION  
8:00 AM - 9:00 P.M.*



**aesi**  
ASSOCIATED ENGINEERING  
SCIENCES, INC.  
SURVEYORS, CIVIL ENGINEERS, LANDSCAPE ARCHITECTS  
34 WEST FRANKLIN STREET  
HAGERSTOWN, MARYLAND 21740  
PHONE: (301) 797 - 9160

**SIMPLIFIED SITE PLAN  
FOR  
JOHN CHRISTIAN KNOEDLER**

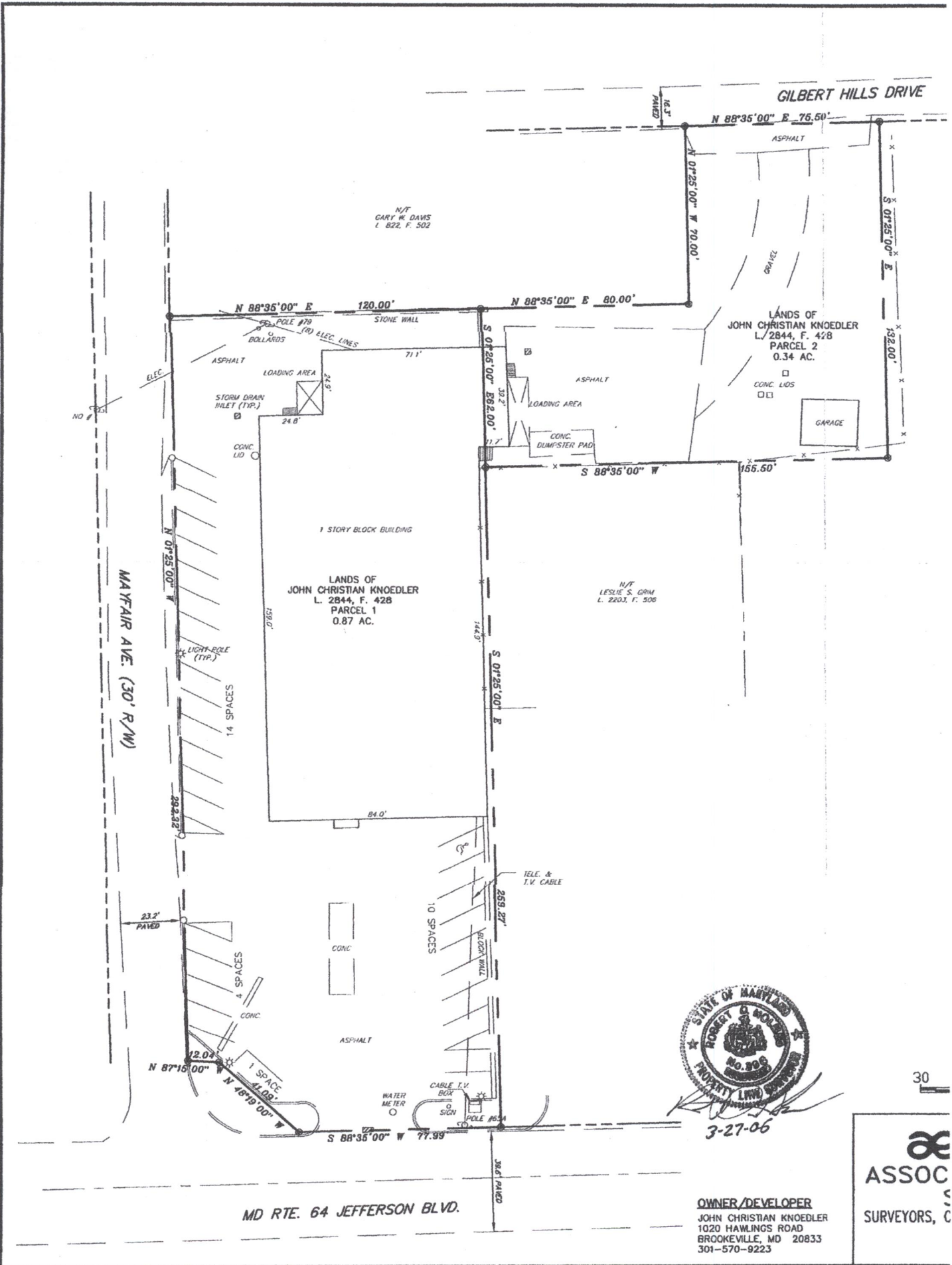
SITUATE AT THE NORTHEAST CORNER OF JEFFERSON BLVD.  
AND MAYFAIR AVE., WASHINGTON COUNTY, MARYLAND

ELECTION DISTRICT: 18 TAX MAP: 50 BLOCK: 3 PARCELS: 1536, 1532 JOB NO. 5238.B

DATE: MARCH, 2006	SCALE: 1" = 30'	DRAWN BY: RDH	SHEET NO. 10F1
----------------------	--------------------	------------------	-------------------

**OWNER/DEVELOPER**  
JOHN CHRISTIAN KNOEDLER  
1020 HAWLINGS ROAD  
BROOKVILLE, MD 20833  
301-570-9223

E:\Program Files\5238\dwg\propbase.dwg | Model



3-27-06

ASSOC  
SURVEYORS, C

**OWNER/DEVELOPER**  
 JOHN CHRISTIAN KNOEDLER  
 1020 HAWLINGS ROAD  
 BROOKVILLE, MD 20833  
 301-570-9223

MD RTE. 64 JEFFERSON BLVD.

**Owners of Land Adjoining Subject Property**

Ray Walter  
19912 Jefferson Blvd  
Hagerstown, MD 21742

Robert Stang  
12010 Mayfair Ave  
Hagerstown, MD 21742

Gary Davis  
12015 Mayfair Ave  
Hagerstown, MD 21742

Tiffany Foster  
12014 Sherwood Dr  
Hagerstown, MD 21742

L.S. Grim  
19922 Jefferson Blvd  
Hagerstown, MD 21742

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

**J. CHRIS KNOEDLER**  
**Appellant**

**Appeal No.: AP2023-033**

\*  
\*  
\*  
\*

\* \* \* \* \*

**OPINION**

J. Chris Knoedler (hereinafter “Appellant”) requests a change in nonconforming use from a retail pet food and supply store to a DG Market retail store at the subject property. The subject property is located at 19918 Jefferson Boulevard, Maryland and is zoned Residential, Suburban. The Board held a public hearing on the matter on July 19, 2023.

**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’s company, Knoedler Jefferson, LLC owns the subject property located at 19918 Jefferson Boulevard, Hagerstown, Maryland. The property is zoned Residential Suburban.
2. The subject property consists of approximately .87 acres with a 9,600 square-foot building and off-street parking areas in the front and along the side.
3. The property was the subject of an appeal for a change in nonconforming use in AP2012-034, wherein the establishment of retail sales and continuation of warehouse and office use were approved as a new nonconforming use.

4. In AP2011-035, Appellant successfully obtained approval for a change in nonconforming use from general office space to a non-store retailer of pet food including accessory administrative offices and warehouse space.

5. In AP2008-050, the property was the subject of a request to change a nonconforming use wherein the Board approved a change from an existing retail furniture sales and upholstering business to offices for Advantage Realty, LLC.

6. In AP93-016, the property was the subject of a request to change a nonconforming use wherein the Board approved a change from the Nibble Quik Convenience Store to Keller's Upholstering and Fabric Shop.

7. The subject property was once the site of a grocery store called Town & Country, and before that Foodland.

8. Appellant proposes to establish a DG Market in the existing building on the property. The focus would be on retail sales of grocery items, including some fresh produce, as well as other household necessities. Appellant proposes to utilize the Mayfair loading area for deliveries, which typically will take place in the early morning hours.

9. The proposed DG Market would be open from 8:00 a.m. to 9:00 p.m. daily and would employ between ten (10) and twelve (12) employees.

### **Rationale**

A request for a change in nonconforming use is governed by Section 4.3 of the Zoning Ordinance. In addition, Section 25.6 sets forth the limitations, guides, and standards in exercise of the board's duties and provides:

Where in these regulations certain powers are conferred upon the Board or the approval of the Board is required before a permit may be issued, or the Board is called upon to decide certain issues, the Board shall study the specific property involved, as well as the neighborhood, and consider all testimony and data submitted, and shall hear any person desiring to speak for or against the issuance of the permit. However, the application for a permit shall not be approved where the Board finds the proposed

building, addition, extension of building or use, sign, use or change of use would adversely affect the public health, safety, security, morals or general welfare, or would result in dangerous traffic conditions, or would jeopardize the lives or property of people living in the neighborhood. In deciding such matters, the Board shall consider any other information germane to the case and shall give consideration to the following, as applicable:

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

The Board heard testimony from Appellant and his witnesses about how the project is part of the rebranding by Dollar General to move towards small grocery and market-type retail and away from general neighborhood retail stores. Appellant testified that the plan was to utilize the existing footprint as the previous uses made good use of the property for mixed retail and warehouse uses. The loading dock on Mayfair Avenue will serve as the access for deliveries for the new DG Market. There are a number of mostly residences in the immediate vicinity of the subject property, all of which have experienced the evolution of retail uses over the years. The subject property has been part of the orderly growth of the community for decades, having been the focus of several nonconforming use requests for various businesses. The Board was not presented with any evidence that the use will create odors, dust, gas, smoke, fumes, vibrations, glare or noise and there was no mention of any affect on nearby public gatherings such as schools or churches.



The Board heard opposition testimony regarding traffic conditions and property values. Several witnesses testified that they were concerned about the effect of a DG Market on their property values, citing to a study from Clemson University about Dollar General and similar stores. However, there was no evidence of projected or actual devaluation to the properties surrounding the subject property. Given the location of the subject property, it is clear that a retail use will have an effect on traffic conditions. There will be some increase in traffic to and from the site, as well as the presence of delivery trucks at the loading dock. However, this would be true of the prior retail uses at the property, and of most any retail use at the property. The Board understands the concerns raised but is not persuaded that they manifest an adverse impact as opposed to another location in the Residential Suburban district. Moreover, the proposed DG Market is similar to a grocery store, which happen to be the original uses of the subject property. It

Based on the testimony and evidence presented, the Board finds that the request does not adversely affect the public health, safety, security, morals or general welfare, nor does it result in dangerous traffic conditions, or jeopardize the life and property of neighborhood residents. Accordingly, the request for a change in nonconforming use from a retail pet food and supply store to a DG Market retail store at the subject property is GRANTED, by a vote of 4 to 1.

BOARD OF APPEALS

By: Jay Miller, Chair

**Date Issued: August 18, 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.