

BOARD OF APPEALS

September 18, 2024

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

AGENDA

AP2024-039: An appeal was filed by Milestone Tower Limited Partnership for a special exception for proposed monopole-style commercial communications facility on property owned by Cool Brook Lands Inc and located at 20026 Lehmans Mill Road, Hagerstown, Zoned Agricultural Rural. **(MOVED TO THE OCTOBER 16TH HEARING DATE)**

AP2024-041: An appeal was filed by Kyle & Jessica Wagner for a variance from the 100 ft. setback requirement for animal husbandry structures to 6 ft. from the rear property line, 0 ft. from the left-side property line, and 44 ft. from the right-side property line for existing structures on property owned by the appellants and located at 22412 Goose Street, Smithsburg, Zoned Residential Transition. - **DENIED**

AP2024-042: An appeal was filed by M & J Martz Properties LLC for a variance from the lot area and lot width requirements for proposed subdivision of property with two existing single-family dwellings: 22429 Goose Street-reduce the required lot area of 15,000 sq. ft. to 13,768 sq. ft. 22420 Old Georgetown Road-reduce the required lot area of 15,000 sq. ft. to 10,639 sq. ft. and reduce the required lot width of 85 ft. to 66 ft. on property owned by the appellant and located at the above mentioned addresses, Cavetown, Zoned Residential Transition. - **GRANTED**

AP2024-043: An appeal was filed by R. Lee Downey for a variance from the required 30 ft. front yard setback to 20 ft. for proposed single-family dwelling on property owned by the appellant and located at 10822 Hershey Drive, Williamsport, Zoned Residential Transition. - **GRANTED**

AP2024-044: An appeal was filed by William & Carli Thompson for a variance from the required 30 ft. front yard setback to 20 ft. for proposed single-family dwelling on property owned by the appellants and located at 10832 Hershey Drive, Williamsport, Zoned Residential Transition. - **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 September 9, 2024. Any person desiring a stenographic transcript shall be responsible for supplying a competent stenographer.

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

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

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

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

Tracie Felker, Chairman

Board of Zoning Appeals



WASHINGTON COUNTY BOARD OF ZONING APPEALS

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

ZONING APPEAL

Property Owner: Kyle & Jessica Wagner
22412 Goose Street
Smithsburg MD 21783

Docket No: AP2024-041
Tax ID No: 07007035
Zoning: RT
RB Overlay: No
Zoning Overlay:
Filed Date: 08/27/2024
Hearing Date: 09/18/2024

Appellant: Kyle & Jessica Wagner
22412 Goose Street
Smithsburg MD 21783

Property Location: 22412 Goose Street
Smithsburg, MD 21783

Description Of Appeal: Variance from the 100 ft. setback requirement for animal husbandry structures to 6 ft. from the rear property line, 0 ft. from the left-side property line, and 44 ft. from the right-side property line for existing structures.

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)

Reason For Hardship:

If Appeal of Ruling, Date Of Ruling:

Ruling Official/Agency:

Existing Use: Animal Husbandry Structures Proposed Use: Animal Husbandry Structures

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 27 day of August, 2024.

[Handwritten Signature]
Notary Public

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





WASHINGTON COUNTY BOARD OF ZONING APPEALS

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

AFFIDAVIT IN COMPLIANCE WITH SECTION 25.51(C)

Docket No: AP2024-041

State of Maryland Washington County, To Wit:

On 8/27/2024, before me the subscriber, a Notary of the public of the State and County aforesaid, personally appeared Kyle Wagner and made oath in due form of law as follows:

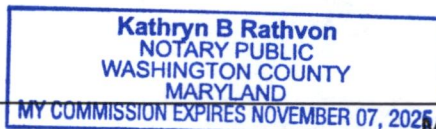
Kyle Wagner will post the zoning notice sign(s) given to me by the Zoning Administrator in accordance with Section 25.51(c) of the Washington County Zoning Ordinance for the above captioned Board of Appeals case, scheduled for public hearing on 09/18/2024, and that said sign(s) will be erected on the subject property in accordance with the required distances and positioning as set out in the attached posting instructions.

Sign(s) will be posted on 09/03/2024 and will remain until after the above hearing date.

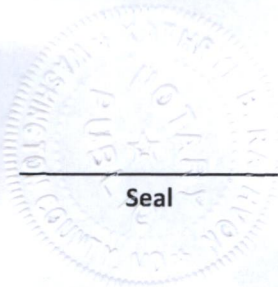
Kyle Wagner

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

Notary Public



My Commission Expires



Seal



WASHINGTON COUNTY BOARD OF ZONING APPEALS

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

BOARD OF ZONING APPEALS

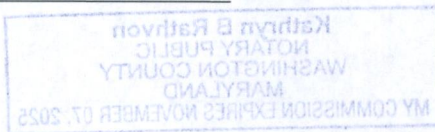
ATTENTION!

Posting Instructions

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

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

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



Kyle Wagner
22412 Goose St
Smithsburg, MD 21783
August 3, 2024

Ref: Hearing request for animal husbandry permit

To whom it may concern:

I reside at 22412 Goose St, Smithsburg, MD 21783, which is a single-family home on a .375-acre property. My family and I have lived at this residence since October 2018, and currently own a miniature pot-bellied pig, six (6) ducks, and seven (7) chickens that live outside in the backyard.

Over the last couple of years several neighboring residents, who also own numerous livestock/poulties, have allowed their birds to free-range. Many of those birds have found their way into my yard, where they have remained. I have never kept any of those birds from leaving my property or returning to their owners.

I work as police officer in Leesburg, VA, and my wife, Jessica Wagner, is a veterinary technician at NorthPaws Animal Hospital. As any animal lover would do, we provided necessary care to these animals, whether they are ours or not, and have worked toward providing them food and safety, which includes constructing a 14-foot by 17-foot (238 sqft) enclosure in the Northeast corner of the property which includes roofing and a partition to create two separate 14'x8' enclosures.

The property does provide space to meet the required 100-foot setback from the property line, so included in this letter is a diagram of the property that illustrates the location and setback distance from the property boundaries. I chose the Northeast corner of the property due to the ample shading provided by the trees, and the clustering of trees on both my property and the adjacent property at 22416 Goose St. This corner, and the adjacent corner of the neighboring property, are heavily unused due to the debris and overgrowth of trees. Additionally, since moving in to the property, the adjacent property has been left unoccupied and abandoned until recently when it was purchased. Behind the rear fence line is an additional 6-foot of my property before Gander Alley, which separates my property and the neighbors property behind me. I felt that the location of the structure was best suited for my property as it away from the roadway, physical residences, and provides the best natural shelter from seasonal weather.

In June 2023, I received the first notice of complaint and went through the proper channel to address the complaint. I contacted Mark Kendle, from the Washington County Soil Conservation District, and Jeff

Semler, from the UMD Co-op Extension for Agriculture and Natural Resources. A packet was put together which outlined the animals present on my property, which at the time included a total of 21 animals as opposed to the current 14 animals. The concerns of soil management, manure handling, and rain runoff had all been addressed and the packet was provided to the staff at the Washington County division of Planning and Zoning.

As of July 2024, an additional complaint has since been filed and I would like to formally request a public hearing to request a permit for animal husbandry and an exemption from the setback requirements of the shelter/enclosure constructed on the property.

Sincerely,

A handwritten signature in black ink, appearing to read 'KW', with a long horizontal line extending to the right.

Kyle Wagner

Addendum 1:





WASHINGTON COUNTY SOIL CONSERVATION DISTRICT

1260 Maryland Avenue, Suite 101 • Hagerstown, MD 21740
(301)797-6821, Ext. 3

[facebook.com/wcscd](https://www.facebook.com/wcscd)
www.conservationplace.com

TO: Washington County Division of Planning and Zoning

FROM: Mark Kendle
Programs Technician / Office Coordinator

DATE: July 31, 2023

SUBJECT: Waste Management and Nutrient Management Plans

The operator listed below has an approved waste management plan and a nutrient management plan and we have discussed the need to properly store and manage manure to prevent water quality problems:

Kyle Wagner
22412 Goose Street
Smithsburg, MD 21783

The manure production from all sources on the farm is less than 6,000 tons.

The farm is not in the urban growth area.

If you have any questions or need additional information, please give me a call.

MJK

District Board of Supervisors

Harry E. Strite
Chair

J.D. Rinehart
Vice Chair

J. Scott Shank, III
Treasurer

Janet Stiles Fulton
Supervisor

Edward C. Wurmb, D.V.M.
Supervisor

Boyd Michael
Associate

J. Tyler Harp
Associate

Kirk E. Winders
Associate

WASTE MANAGEMENT PLAN

OPERATOR: Kyle Wagner

DATE: 07/31/2023

ADDRESS: 22412 Goose Street
Smithsburg, MD 21783

PHONE: 480-318-8087

PREPARED BY: Mark Kendle
Washington County Soil Conservation District
1260 Maryland Avenue, Suite 101
Hagerstown, MD 21740

ANIMAL WASTE MANAGEMENT GUIDELINES

Proper management of animal wastes will prevent potential problems regarding surface and groundwater pollution, as well as, reducing perceived and actual negative effects to neighbors. The animal husbandry operation on your property may be relatively small, in terms of animal numbers, wastes produced, and acres of land affected, but the responsibility to properly manage the animal wastes produced remains with you. We offer these guidelines in lieu of a formal Waste Management Plan due to the limited scope of your operation.

We expect you will follow the guidelines that apply to your particular operation.

CRITICAL FACTORS TO CONSIDER

1. **Housing animals:** Sufficient space must be provided for not only the current numbers of animals but any potential additional animals.
2. **Social and legal concerns:** We recommend you contact adjacent property owners to discuss the proposed construction of your animal husbandry facility. We have found by taking this one simple step, you can avoid many future problems. Please observe all setback requirements related to buildings, property lines, wells, etc.
3. **Drainage control:** Excessive drainage of water through your building and adjacent heavy traffic areas should be minimized through proper grading during construction of your facility. Do not locate buildings in natural or manmade drainage swales or drainage easements.
4. **Roof runoff control:** Runoff of rainwater from roofs should be collected in rain gutters (spouting) and directed away from areas where animal waste is deposited or stored. Gutter outlets need to be protected from erosion by proper placement of rocks or commercially available splash blocks.
5. **Nutrient management:** The Washington County University of Maryland Extension has provided you with an abbreviated Nutrient Management Plan. The recommendations in the plan need to be followed to be sure animal wastes are applied to the land in a manner that does not cause excess nutrients to runoff into nearby drainage ways, streams, rivers, or ponds.
6. **Stocking:** Land can easily be over-grazed when the stocking rate exceeds the capacity of pasture ground. A simple rule of thumb is not to exceed one animal unit (1000 lbs. of animal) per acre to maintain forage quality and quantity. Consult with the County Extension Agent or the Soil Conservation District personnel to determine if adequate pasture is available.

WASHINGTON COUNTY SOIL CONSERVATION DISTRICT MANURE PRODUCTION WORKSHEET

TYPE: URBAN GROWTH: No

DAILY PRODUCTION OF MANURE PER ANIMAL UNIT (1000 POUNDS LIVE WEIGHT)

SWINE

Grower (40-220#)...63.4#
 Replace. Gilt.....32.8#
 Gestating Sow.....27.2#
 Lactating Sow.....60.0#
 Boar.....20.5 #
 Nurs. Pig (1-40#)...106.0#

DAIRY

Lact. Cow...80.0#
 Dry Cow.....82.0#
 Heifer.....85.0#

SHEEP...40.0#

HORSE...50.0#

POULTRY

Layer.....60.5#
 Turkey...43.6#

BEEF

Hi-energy diet...51.2#
 Hi-forage diet....59.1#
 Cow.....63.0#

No./Type	X	<u>Ave. Wt.</u> 1000#	X	<u>Manure Produced</u> See above	=	Lbs. Daily
Chickens - 13	X	.007	X	60.5#	=	5.51
Potbelly Pig - 1	X	.1	X	63.4#	=	6.34
Ducks - 7	X	.007	X	60.5#	=	2.96
	X		X		=	
	X		X		=	
	X		X		=	
				TOTAL	=	14.81 Lbs. Daily

365 days/year X 14.81 lbs. Divided by 2000#/Ton = **2.7 Tons/ Year** Manure Production

Operation is below the 6000 ton per year threshold set by the Washington County ordinance, therefore, does not require a more formal review procedure.

SITUATION:

A. Location: 22412 Goose Street, Smithsburg, MD 21783

B. Operation: Chickens, Ducks, Pig

1. Type of facility to be constructed: 14' x 17' Chicken / Duck Coop

2. Current manure handling: Used on garden. Some is composted.
Excess is given to local farmer in form of compost.

3. Proposed manure handling: Used on garden. Some is composted.
Excess is given to local farmer in form of compost.

C. Animal Numbers: 21

D. Acreage available for manure application: .375 Acres

I. SPECIAL CONCERNS IDENTIFIED BY DISTRICT PERSONNEL: (to include all areas which are contributing to water quality concerns)

Animals should always be confined to the property. Keep animals off disturbed lawn areas until grass can be reestablished.

II. RECOMMENDATIONS:

- Compost to reduce volume and to stabilize nutrients
- If volume becomes a problem, move off-site to neighbors and local farmers
- Avoid stacking waste in areas of water run-off (i.e. roof run-off, drainage swales, etc.)
- Keep records of nutrient production and use
- Gutter shed and outlet water to a clean area away from waste
- Rotationally graze animals to preserve vegetation and prevent water quality/erosion potential

NUTRIENT MANAGEMENT:

- A. The Water Quality Improvement Act of 1998 requires most farmers in Maryland to develop and implement a nutrient management plan by specific deadlines over the next several years. All agricultural operations grossing \$2500.00 or more annually, or livestock operations with more than eight animal units (one animal unit = 1,000 pounds live weight) are required to develop and implement a plan. Please review the information provided with this plan to determine if you are subject to the Water Quality Improvement Act.
- B. Test all manure for nutrient value. Use all manure sources before commercial fertilizer. Soil test regularly and follow test results.
- C. Follow the Nutrient Management Plan developed by the University of Maryland Extension, attached to this plan.
- D. Labs available for testing manure:
 1. Spectrum Analytic Inc
PO Box 639
Washington Court House, OH 43160 Phone 1-800-321-1562
 2. A&L Eastern Agriculture Labs, Inc.
7621 Whitepine Road Richmond, VA. 23234 Phone (804)743-9401
 3. Waters Agricultural Laboratories
2101 Calhoun Road
Highway 81
Owensboro, KY 42301 Phone (270)-685-4039

A. Application:

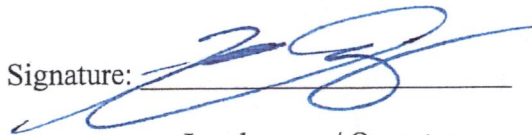
1. Rate of manure application should be based on realistic yield goals and not exceed the nutrient recommendations from the Nutrient Management Plan provided by the University of Maryland Extension. Application rates should be reduced on ground where incorporation is not feasible.
2. Application equipment should be calibrated annually. This service can be provided by The University of Maryland Extension.
 - A. Do not spread manure on snow covered or frozen ground.
 - B. Do not spread manure within 100 feet of a flowing stream and within 5 feet of a drainage way.

I have reviewed the Animal Waste Management Plan and the information contained in this document is true and accurate to the best of my knowledge:

Signature: 

Soil Conservation Representative

Date: 8/4/2023

Signature: 

Landowner / Operator

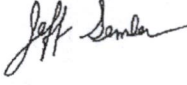
Date: 8/10/2023

- ◆ All calculations contained in this document are based on information provided to the Washington County Soil Conservation District by the Landowner/Operator
- ◆ The Washington County Division of Planning and Zoning require permits for the construction of Animal Husbandry Facilities. They may be contacted at (240) 313-2461.

UNIVERSITY OF
MARYLAND
EXTENSION

Washington County Office
7303 Sharpsburg Pike
Boonsboro, Maryland 21713
TEL 301-791-1304
FAX 301-791-1048
jsemler@umd.edu

TO: Kyle Wagner
22412 Goose Street
Smithsburg, MD 21783

FROM: Jeff Semler 
Extension Educator
Agriculture and Natural Resources

DATE: July 10, 2023

SUBJECT: Nutrient Management Plan

In accordance with county zoning regulations concerning animal husbandry facilities, a nutrient management "plan" is required for construction of livestock facilities.

Obviously, your twelve chickens will not produce a large amount of manure, but some manure will accumulate and will need to be disposed of.

Most of the manure can be recycled on your 0.375-acre property as fresh or composted material. However, you should plan to move some of the manure to other fields or gardens.

Manure or compost may be applied to dormant grass at a rate of 10 tons per acre (50 pounds per 100 square feet). Fields or gardens to be plowed down may receive up to 20 tons of manure per acre (100 pounds per 100 square feet) but will require little to no fertilizer supplementation.

JS/jws

cc: Soil Conservation District

**KYLE WAGNER
22412 GOOSE ST
SMITHSBURG, MD 21783**

Existing 14' x 17' building with no setbacks



MD MAP, DoT



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

KYLE & JESSICA WAGNER

Appellants

Appeal No.: AP2024-041

* * * * *

OPINION

Kyle and Jessica Wagner (hereinafter “Appellants”) request variances from the required setback for an animal husbandry structure from 100 feet to 6 feet on the rear property line, 0 feet from the left side property line and 44 feet from the right-side property line for the existing structures at the subject property. The subject property is located at 22412 Goose Street, Smithsburg, Maryland and is zoned Residential, Transition. The Board held a public hearing in this matter on September 18, 2024.¹

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 22412 Goose Street, Smithsburg, Maryland. The subject property is zoned Residential, Transition.
2. The subject property consists of approximately .375 acres improved by a single-family dwelling and a separate workshop building. The property is widest at the

¹ Due to scheduling conflicts, the Board consisted of three (3) members for this hearing.

front property line along Goose Street but tapers back and narrows to the rear property line.

3. Appellants have fifteen animals at the subject property which includes two (2) miniature goats, one (1) rooster, five (5) chickens, six (6) ducks, and one (1) miniature pig. There is a plan to send the goats to a relative's property where there is a pasture and more space for them.

4. Appellants have consulted with the County and formulated a Waste Management Plan and Nutrient Management plan for the subject property.

5. Appellants constructed a 14-foot by 17-foot structure in the northeast corner of the subject property, using the fence as part of the side walls of the structure. It is located 6 feet from the rear property line, 44.85 feet from the left side property line and 0 feet from the right-side property line.

6. Appellants have been the subject of complaints regarding their animals including a complaint made in 2023 and another made in July 2024.

There was opposition presented to this appeal by several witnesses.

Rationale

The Board has authority to grant a variance upon a showing of practical difficulty or undue hardship as set forth in Section 25.2 and 25.56 of the Ordinance.² "Practical Difficulty" may be found by the Board when: (1) strict compliance would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome; and (2) denying the variance would do substantial injustice to the applicant and a lesser relaxation than that applied for would not give substantial

² "When the terms unnecessary hardship (or one of its synonyms) and practical difficulty are framed in the disjunctive ("or"), Maryland courts generally have applied the more restrictive hardship standard to use variances, while applying the less restrictive practical difficulty standard to area variances because use variances are viewed as more drastic departures from zoning requirements." *Belvoir Farms Homeowners Ass'n, Inc. v North*, 355 Md. 259, 276 n. 10 (1999) (citations omitted)

relief; and (3) granting the variance would observe the spirit of the Ordinance and secure public safety and welfare. Section 25.56(A).

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

Appellants request variance relief to maintain the existing animal husbandry structure located in the northeast corner of the subject property. Section 22.94 of the Zoning Ordinance provides that “[a]nimal waste storage and management systems associated with an animal husbandry facility and/or structure housing animals shall have a minimum building setback of 100 feet from the property line or public road right-of-way unless exempted under Section 22.92(b).” The noted exemption does not apply to the subject property and therefore the 100-foot setback is required for Appellants’ animal husbandry structure.

The Board heard testimony from two (2) witnesses in opposition to the variance requests. Both witnesses expressed concern for the constant noise coming from Appellants’ property, animals getting loose and roaming on neighboring properties, and a concern about growth and expansion on such a small property.

Appellants testified that they have addressed the concerns raised in the complaints by creating a waste management and nutrient management plan, and by seeking the variances herein. Mr. Wagner also testified that he fixed the area of the fence where the goats had been escaping. Appellants point out that other properties in the surrounding area have animals including at least one that has a pig and another that has a duck. The contend that they are not asking for any special privilege, just the ability to maintain their

animals just as some of the neighbors are permitted to do. Even so, the Board is concerned about the small size of the property and the need for variance relief on all sides of the existing structure. While it is true that no matter where the structure would be placed, variances would be necessary, there are certainly locations that are less problematic than the northeast corner. It seems possible that the variance relief may be less extreme if located somewhere else on the property. Therefore, the Board finds that there are other alternatives and that the relief requested is not the minimum necessary. Moreover, reducing the setbacks on two sides of a .375-acre property is an extreme relaxation of the otherwise prudent setback requirements for animal husbandry operations. Appellants' request is not consistent with the intent of those limitations or the general spirit of the Ordinance.

Accordingly, the request for variances from the required setback for an animal husbandry structure from 100 feet to 6 feet on the rear property line, 0 feet from the left side property line and 44 feet from the right-side property line for the existing structures at the subject property is hereby DENIED, by a vote of 3 to 0.

BOARD OF APPEALS

By: Tracie Felker, Chair

Date Issued: October 17, 2024

Notice of Appeal Rights

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



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: M & J Martz Properties LLC
8923 Mapleville Road
Boonsboro MD 21713

Docket No: AP2024-042
Tax ID No: 07003765

Appellant: M & J Martz Properties LLC
8923 Mapleville Road
Boonsboro MD 21713

Zoning: RT
RB Overlay: No

Zoning Overlay:
Filed Date: 08/28/2024
Hearing Date: 09/18/2024

Property Location: 22429 Goose Street & 22420 Old Georgetown Road
Cavetown, MD 21720

Description Of Appeal: Variance from the lot area and lot width requirements for proposed subdivision of property with two existing single-family dwellings. 22429 Goose Street-reduce the required lot area of 15,000 sq. ft. to 13,768 sq. ft. 22420 Old Georgetown Road-reduce the required lot area of 15,000 sq. ft. to 10,639 sq. ft. and reduce lot width of 85 ft. to 66 ft.

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 7A.5 (a)

Reason For Hardship: Dwellings were established before zoning was adopted.

If Appeal of Ruling, Date Of Ruling:

Ruling Official/Agency:

Existing Use: Two Single Family Dwellings on One Lot Proposed Use: Subdivision Into Two Residential Lots

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 29 day of Aug, 2024.

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: AP2024-042

State of Maryland Washington County, To Wit:

On 8/28/2024, before me the subscriber, a Notary of the public of the State and County aforesaid, personally appeared Frederick Seibert & Associates Inc and made oath in due form of law as follows:

Frederick Seibert & Associates Inc will post the zoning notice sign(s) given to me by the Zoning Administrator in accordance with Section 25.51(c) of the Washington County Zoning Ordinance for the above captioned Board of Appeals case, scheduled for public hearing on 09/18/2024, and that said sign(s) will be erected on the subject property in accordance with the required distances and positioning as set out in the attached posting instructions.

Sign(s) will be posted on 09/03/2024 and will remain until after the above hearing date.

Frederick Seibert & Associates Inc

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

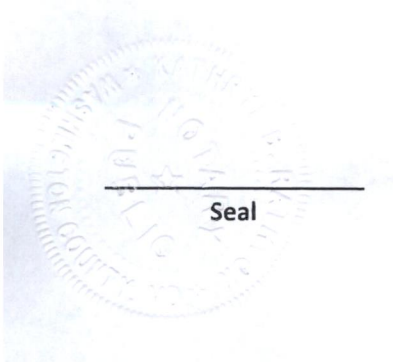
Notary Public

Kathryn B Rathvon
NOTARY PUBLIC
WASHINGTON COUNTY
MARYLAND

MY COMMISSION EXPIRES NOVEMBER 07, 2025

My Commission Expires

Seal





WASHINGTON COUNTY BOARD OF ZONING APPEALS

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

BOARD OF ZONING APPEALS

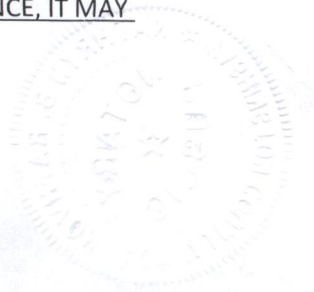
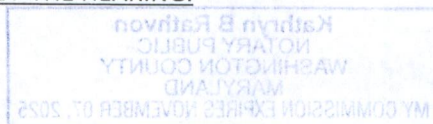
ATTENTION!

Posting Instructions

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

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

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



Project Name: M & J Properties, 22429 Goose St, Cavetown MD

Owner/Applicant: M & J Properties

Project Address: 22429 Goose St, Cavetown MD

Tax Map 51 Grid 5 Parcel 370

Account # 07003765

Zoning: RT, Residential Transition

Variance request:

This individual property has double road frontage on Goose Street and Old Georgetown Road. The property is currently improved with two dwellings, a traditional single family detached home known as 22429 Goose Street and a mobile home dwelling with addition and detached garage at 22420 Old Georgetown Road. The applicant would like to subdivide the property, remove the mobile home and replace it with a more traditional style single family detached home.

In order to move forward with subdivision the bulk dimension and area requirements as indicated in table 7A.5 of the Washington County Zoning Ordinance are being requested to be reduced as follows:

22429 Goose Street-

1. Reduce minimum required lot area of 15,000 SF to 13,768 SF for the existing single family detached home.

22420 Old Georgetown Road-

1. Reduce the minimum required lot area of 15,000 SF to 10,639 SF for a future new subdivision lot around an existing mobile home, said mobile home is to be removed and replaced with a more traditional style single family dwelling.
2. Reduce the minimum required lot width of 85 feet to 66 feet for new subdivision lot.

Rational

The existing traditional single family home addressed as 22429 Goose St was constructed in 1890 according to State Tax records. There is no date or age indicated for the mobile home at 22420 Old Georgetown Road however it looks to be from the 1960's. All improvements appear to predate the adoption of Zoning Regulations in Washington County in April 1973. Subdividing and separating the individual dwellings will only promote homeownership and the construction of a new dwelling will improve and enhance the existing neighborhood.



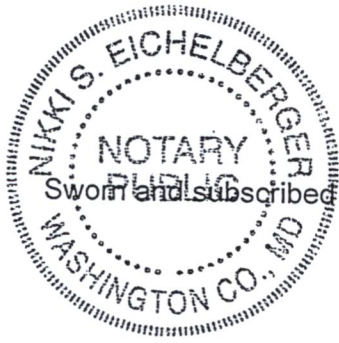
Washington County Board of Zoning Appeals Owner's Representative Affidavit

This is to certify that Frederick, Seibert and Associates, Inc.
is authorized to file an appeal with the Washington County Board of Appeals for a lot
area and side yard setback reduction
on property located 22429 Goose Street, Cavetown, MD
The said work is authorized by Mike Martz
the property owner in fee.

PROPERTY OWNER

Michael Martz
Name
8923 Mapleville Road
Address
Boonsboro, MD 21713
City, State, Zip Code

[Signature]
Owner's Signature



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

[Signature]
Notary Public

My Commission Expires: 9/15/2024

AUTHORIZED REPRESENTATIVE Frederick, Seibert and Associates, Inc. Frederic M. Frederick or Ed Schreiber

Name
128 S. Potomac Street
Address
Hagerstown, MD 21740
City, State, Zip Code

[Signature]
Authorized Representative's Signature

Sworn and subscribed before me this 30th day of July, 2024.

[Signature]
Notary Public

My Commission Expires: 9/15/2024

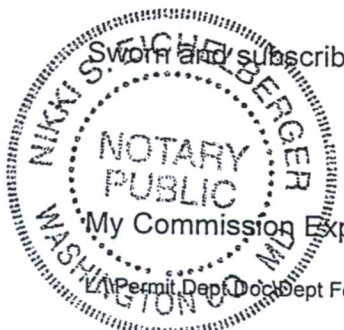


TABLE 7A.5

	Lot Area	Lot Width	Lot Area Per Family	Front Yard Depth	Side Yard (Width Each Side Yard)	Rear Yard Depth
Dwelling Single-Family*	15,000 sq. ft.	85 ft.	15,000 sq. ft.	30 ft.	10 ft.	40 ft.
Dwelling, Two-Family*	20,000 sq. ft.	100 ft.	10,000 sq. ft.	40 ft.	12 ft.	50 ft.
Dwelling, Semi-Detached*	7,500 sq. ft.	45 ft.	7,500 sq. ft.	30 ft.	10 ft. (exterior side only)	40 ft.
Places of Worship	2 acres	200 ft.		100 ft.	50 ft.	50 ft.
Schools, Elementary	12 acres	400 ft.		150 ft.	100 ft.	50 ft.
Schools, Middle	25 acres	500 ft.		150 ft.	100 ft.	50 ft.
Schools, High	35 acres	500 ft.		150 ft.	100 ft.	50 ft.
Colleges	15 acres	500 ft.		150 ft.	100 ft.	50 ft.
Convalescent or Nursing Homes, Medical or Dental Clinics	1 acre	150 ft.		40 ft.	30 ft.	50 ft.
Banquet/Reception Facilities	5 acres	300 ft.		50 ft.	100 ft.	50 ft.
Other Principal Permitted or Conditional Uses	20,000 sq. ft.	100 ft.		40 ft.	25 ft.	50 ft.

*A corner lot shall maintain the specified front yard setback along both street frontages. Setbacks from the remaining property lines shall be measured as if they were side yard setbacks.

(b) The following minimum requirements shall apply where the Planning Commission has determined that the use of a public water and sewer system is not required according to the guidelines contained in Section 7A.6.

	Lot Area	Lot Width	Lot Area Per Family	Front Yard Depth	Side Yard (Width Each Side Yard)	Rear Yard Depth
Dwelling Single-Family*	20,000 sq. ft.	100 ft.	20,000 sq. ft.	40 ft.	12 ft.	50 ft.
Dwelling, Two-Family*	20,000 sq. ft.	100 ft.	10,000 sq. ft.	40 ft.	12 ft.	50 ft.
Dwelling, Semi-Detached*	10,000 sq. ft.	50 ft.	10,000 sq. ft.	40 ft.	12 ft. (exterior side only)	50 ft.

*A corner lot shall maintain the specified front yard setback along both street frontages. Setbacks from the remaining property lines shall be measured as if they were side yard setbacks.

Frederick Seibert & Associates, Inc.

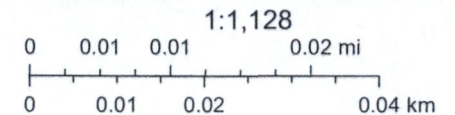


8/28/2024, 10:29:56 AM

World Transportation

Parcels Washington County

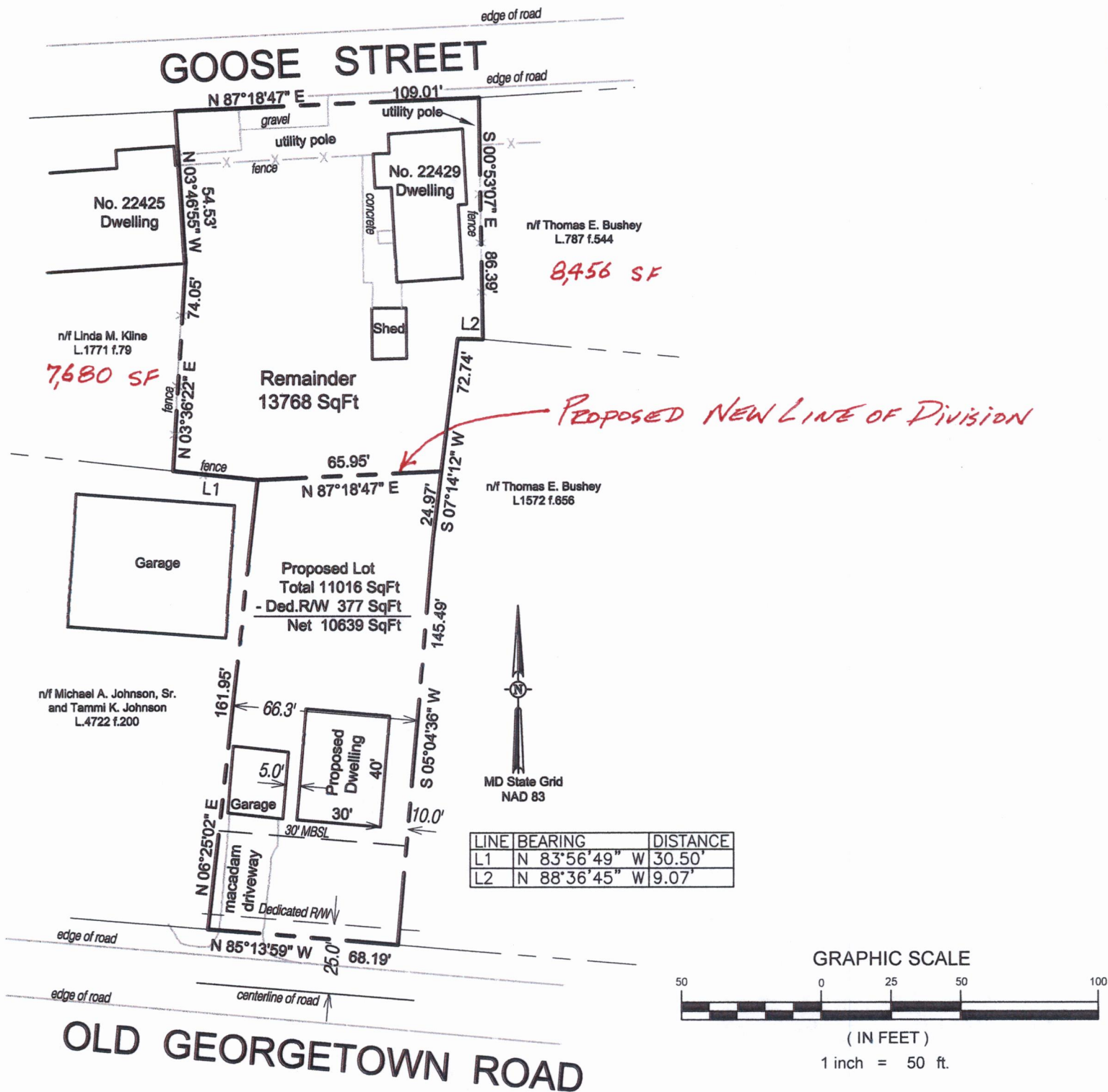
MD_SixInchImagery



Maxar, Microsoft, Esri, HERE, IPC, MD IMAP, DoIT, Esri Community Maps Contributors, Frederick County MD Government, WashCo MD, ©

Web AppBuilder for ArcGIS

Subdivision Concept
 22429 Goose Street, Cavetown, Maryland
 for
 Michael Martz



Tax Map 51-5-370	
DWN BY DHH	DATE 08-27-24
PROJECT MANAGER F. Frederick	EMAIL ffrederick@fsa-inc.com
SCALE 1" = 50'	
SHEET 1 OF 1	

FSA
 FREDERICK, SEIBERT & ASSOCIATES, INC. © 2024 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 717.597.1007	505 SOUTH HANOVER STREET CARLISLE, PA 17013 717.701.8111	15 EAST MAIN STREET NEW BLOOMFIELD, PA 17068 717.275.7531
--	---	--	---

PROJECT NO.
2024-0165.1

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

M & J MARTZ PROPERTIES, LLC

Appellant

Appeal No.: AP2024-042

* * * * *

OPINION

M & J Martz Properties, LLC (hereinafter “Appellant”) requests a variance to reduce the required lot area from 15,000 square feet to 13,768 square feet and to reduce the required lot area from 15,000 square feet to 10,639 square feet, and a variance to reduce the required lot width from 85 feet to 66 feet at the subject property. The subject property collectively is known as 22429 Goose Street and 22420 Old Georgetown Road, Cavetown, Maryland is zoned Residential, Transition. The Board held a public hearing in this matter on September 18, 2024.¹

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 22429 Goose Street, Cavetown, Maryland and 22420 Old Georgetown Road, Cavetown, Maryland. The subject property is zoned Residential, Transition.
2. The subject property has double road frontage which consists of a dwelling

¹ Due to scheduling conflicts, the Board consisted of three (3) members for this hearing.

that faces Goose Street and a mobile home that faces Old Georgetown Road. A portion of the subject property is only 66 feet wide.

3. The original home was constructed on the property circa 1890. Both dwellings predate the adoption of the Zoning Ordinance.

4. There are several other small lots in the surrounding neighborhood including Parcel 367 which is 10,075 square feet, Parcel 368 which is 8,456 square feet and Parcel 369 which is 7,680 square feet.

5. Appellant intends to eliminate the mobile home and construct a new dwelling in its place.

6. There was no opposition presented to this appeal.

Rationale

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

Practical difficulty and undue hardship are typically the result of a property being unique. “‘Uniqueness’ of a property for zoning purposes requires that the subject property have an inherent characteristic not shared by other properties in the area, i.e., its shape, topography, subsurface condition, environmental factors, historical

² “When the terms unnecessary hardship (or one of its synonyms) and practical difficulty are framed in the disjunctive (“or”), Maryland courts generally have applied the more restrictive hardship standard to use variances, while applying the less restrictive practical difficulty standard to area variances because use variances are viewed as more drastic departures from zoning requirements.” *Belvoir Farms Homeowners Ass’n, Inc. v North*, 355 Md. 259, 276 n. 10 (1999) (citations omitted)

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).

Appellant requests the variance relief pursuant to Section 7A.5(a) of the Zoning Ordinance. Appellant seeks to subdivide the property and construct a new dwelling on the smaller remaining lot fronting on Old Georgetown Road. Currently, the subject property has two (2) dwellings which renders it nonconforming. Appellant’s plan is to create a new line of subdivision resulting in two (2) lots, both of which would have a dwelling. The resulting lots would still be larger than many of the surrounding properties and would allow for improvement of the existing mobile home to a new dwelling. The Board is persuaded that without the relief, conformance would be unnecessarily burdensome, if not impossible. Consequently, the Board finds that practical difficulty exists and that the variances should be granted.

Accordingly, the request for a variance to reduce the required lot area from 15,000 square feet to 13,768 square feet for 22429 Goose Street is GRANTED, by a vote of 3 to 0. The request for a variance to reduce the required lot area from 15,000 square feet to 10,639 square feet for 22420 Old Georgetown Road is GRANTED, by a vote of 3 to 0. The request for a variance to reduce the required lot width from 85 feet to 66 feet for 22420 Old Georgetown Road is GRANTED, by a vote of 3 to 0. The relief granted herein is granted subject to the standard condition that it is consistent with the testimony and evidence presented at the hearing.

BOARD OF APPEALS

By: Tracie Felker, Chair

Date Issued: October 17, 2024

Notice of Appeal Rights

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



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: Richmond Lee Downey
10818 Hershey Drive
Williamsport MD 21795
Appellant: R. Lee Downey
10818 Hershey Drive
Williamsport MD 21795
Property Location: 10822 Hershey Drive
Williamsport, MD 21795
Description Of Appeal: Variance from the required 30 ft. front yard setback to 20 ft. for proposed single-family dwelling.

Docket No: AP2024-043
Tax ID No: 26065543
Zoning: RT
RB Overlay: No
Zoning Overlay:
Filed Date: 08/29/2024
Hearing Date: 09/18/2024

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

Previous Petition/Appeal Docket No(s):
Applicable Ordinance Sections: Washington County Zoning Ordinance Section 7A.5 (a)

Reason For Hardship: See justification statement

If Appeal of Ruling, Date Of Ruling:

Ruling Official/Agency:

Existing Use: Residential Lot Proposed Use: Single Family Dwelling

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.

Richmond Lee Downey
Appellant Signature

State Of Maryland, Washington County to-wit:

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

Notary Public Signature

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





WASHINGTON COUNTY BOARD OF ZONING APPEALS

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

AFFIDAVIT IN COMPLIANCE WITH SECTION 25.51(C)

Docket No: AP2024-043

State of Maryland Washington County, To Wit:

On 8/29/2024, before me the subscriber, a Notary of the public of the State and County aforesaid, personally appeared R. Lee Downey and made oath in due form of law as follows:

R. Lee Downey 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 09/18/2024, and that said sign(s) will be erected on the subject property in accordance with the required distances and positioning as set out in the attached posting instructions.

Sign(s) will be posted on 09/03/2024 and will remain until after the above hearing date.

R Lee Downey

R. Lee Downey

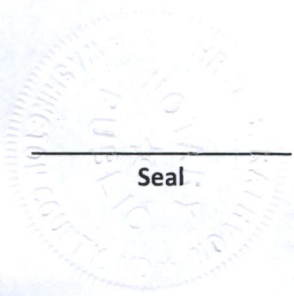
Sworn and subscribed before me the day and year first above written.

Kathryn B Rathvon

Notary Public

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

My Commission Expires



Seal



WASHINGTON COUNTY BOARD OF ZONING APPEALS

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

BOARD OF ZONING APPEALS

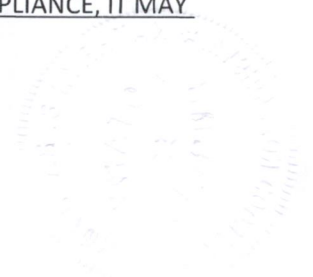
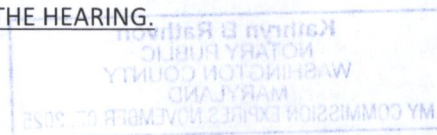
ATTENTION!

Posting Instructions

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

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

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





BOARD OF ZONING APPEALS

80 West Baltimore Street | Hagerstown, MD 21740 | P: 240.313.2460 | 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 10822 Hershey Drive, Williamsport, MD 21795 (Lot 576 Van Lear Manor)

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 7A.5 Lot Area, Lot Width, and Yard Setback Requirements.

Specify the particular requirement(s) from which a variance is desired in that section or subsection:
30 foot Front Yard Depth Setback.

Describe the nature and extent of the desired variance from Ordinance requirements: listed above:
Desired variance is to reduce the 30 foot front yard setback requirement to a 20 foot front 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.

R Lee Downey
Signature of Appellant

R. Lee Downey
10818 Hershey Drive, Williamsport, MD 21795

Address and of Appellant

leedowney42@gmail.com

Email of Appellant

240-329-5021

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.

August 27, 2024
R. Lee Downey, Owner
Section 17, Van Lear Manor
Lot 576 – 10822 Hershey Drive
Williamsport, MD 21795

BZA Variance Criteria

The subject Lot 576 is shown on plats entitled, “Final Plat, Lots 563 Thru 577, Section 17, Van Lear Manor” and recorded among the land records of Washington County, Maryland as plat numbers 10567 – 10569. The current Owner would like to construct a residential dwelling similar to the sizes existing in the neighborhood.

A. Practical Difficulty

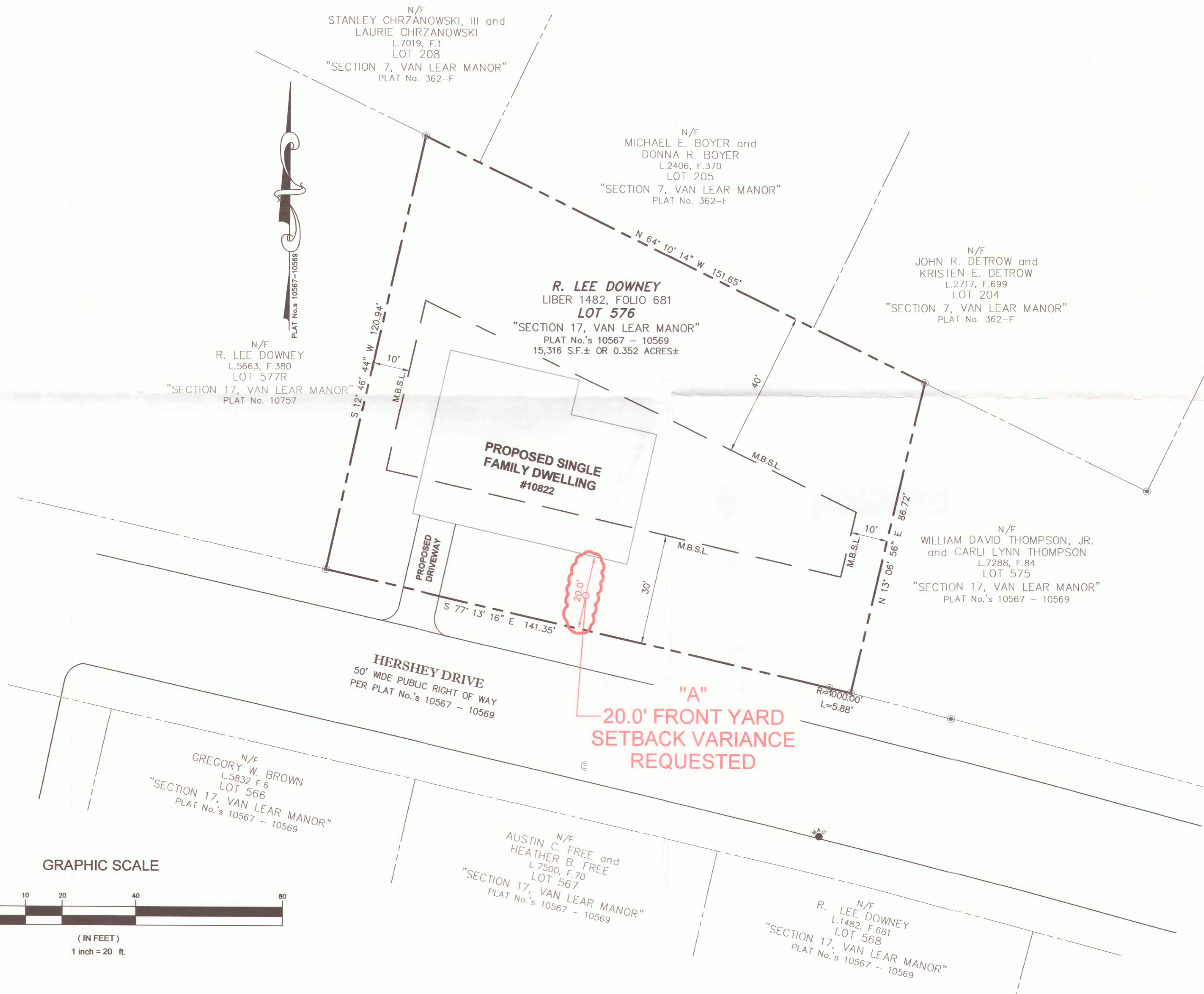
1. Due to size of the existing building envelopes, the depths of these lots will not allow for the construction of an average depth dwelling in this section of the development. The average depth of existing dwellings to date is approximately 46'. Strict compliance with the required front yard setback will render conformance unnecessarily burdensome and in the case of Lot 575, will only allow a shallow depth dwelling.

2. Considering the above information and the fact that five lots directly across the street were granted the same variance in 2022, denying the variances would do substantial injustice to the applicant and a relaxation lesser than the 20 foot front yard being applied for would not give substantial relief.

3. Granting the variance would observe the spirit of the Ordinance and not impede on public safety and welfare. A neighborhood approximately 900' to the East of Section 17 of this development is zoned “RS” Residential Suburban District, which has a 20' front yard setback requirement, the same variance being applied for on these lots.

VARIANCE REQUEST

DEPICTED VARIANCE	SECTION OF ZONING ORDINANCE	TYPE OF REGULATION	ORDINANCE REQUIREMENT	PROPOSED DIMENSION (VARIANCE REQUESTED)
"A"	SECTION 7A.5 "RT" RESIDENTIAL, TRANSITION DISTRICT	FRONT YARD SETBACK	MIN. WIDTH 30 FEET	20 FEET



TRIAD ENGINEERING, INC.

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

OFFICE LOCATIONS
MARYLAND • PENNSYLVANIA • VIRGINIA • WEST VIRGINIA

CADD FILE: 03240848-BZA-Lot575.dwg
DRAWN BY: R.D.B.
CHECKED BY: R.D.B.

DATE: 08/24/2024
SCALE: 1"=20'

OWNER/DEVELOPER:
R. LEE DOWNEY
10818 HERSHEY DRIVE
WILLIAMSPORT, MD 21795

ELECTION DISTRICT: 26
TAX MAP: 56 GRID: 0005 PARCEL: 1001

BOARD OF ZONING APPEALS EXHIBIT

FOR
R. LEE DOWNEY
LIBER 1482, FOLIO 681
LOT 576

"SECTION 17, VAN LEAR MANOR"
PLAT No.'s 10567 - 10569
SITUATED AT 10822 HERSHEY DRIVE IN WILLIAMSPORT
WASHINGTON COUNTY, MARYLAND

TRIAD
TRIAD ENGINEERING, INC.
www.triadeng.com

SHEET NUMBER:
1 OF 1

FILE NO.:
JOB NO.: 03-24-0848

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

R. LEE DOWNEY

Appellant

*
* **Appeal No.: AP2024-043**
*
*
*
*
*
*
*
*
*
*
*

OPINION

R. Lee Downey (hereinafter “Appellant”) requests a variance to reduce the required front yard setback from 30 feet to 20 feet for a proposed single-family dwelling at the subject property. The subject property is located at 10822 Hershey Drive, Williamsport, Maryland and is zoned Residential, Transition. The Board held a public hearing in this matter on September 18, 2024.¹

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

Findings of Fact

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

1. Appellant is the owner of the subject property, which is located at 10822 Hershey Drive, Williamsport, Maryland. The subject property is zoned Residential, Transition.

2. The subject property consists of approximately .352 acres of unimproved ground located in the subdivision of Van Lear Manor. The lot is wide, but has a shallow depth.

3. The subject property has a rocky soil and removal of said rock would

¹ Due to scheduling conflicts, the Board consisted of three (3) members for this hearing.

drastically increase construction costs.

4. Appellant proposes to construct a single-family dwelling consisting of approximately 1,800 to 2,000 square feet. The home design would be similar to the other homes in the surrounding area.

5. There are five (5) lots across the street which were previously granted similar variance relief in order to construct single family dwellings.

6. There was no opposition presented to this appeal.

Rationale

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

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

² “When the terms unnecessary hardship (or one of its synonyms) and practical difficulty are framed in the disjunctive (“or”), Maryland courts generally have applied the more restrictive hardship standard to use variances, while applying the less restrictive practical difficulty standard to area variances because use variances are viewed as more drastic departures from zoning requirements.” *Belvoir Farms Homeowners Ass’n, Inc. v North*, 355 Md. 259, 276 n. 10 (1999) (citations omitted)

Appellant requests the variance pursuant to Section 7A.5(a) of the Zoning Ordinance which requires the front yard setback to be 30 feet for a property with a single-family dwelling. The subject property is wide but shallow and the resulting building envelope would limit both the size of the home and the placement to one location. In addition, there is considerable rock in the soil and Appellant is attempting to minimize the effect of the topography by moving it forward approximately ten (10) feet. Appellants point out that the relief requested is the same relief granted to several properties across the street and therefore no special benefit or advantage is being conferred upon the subject property. The Board is convinced that strict conformance with the front yard setback would be unnecessarily burdensome and costly, not to mention potentially inconsistent with the layout of other homes in the neighborhood. The Board finds that practical difficulty exists and that the parking variance request should be granted.

Accordingly, the request for a variance to reduce the required front yard setback from 30 feet to 20 feet for a proposed single-family dwelling at the subject property is GRANTED, by a vote of 3 to 0.

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

BOARD OF APPEALS

By: Tracie Felker, Chair

Date Issued: October 17, 2024

Notice of Appeal Rights

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



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: William & Carli Thompson
11835 Pheasant Trail
Hagerstown MD 21742
Appellant: William & Carli Thompson
11835 Pheasant Trail
Hagerstown MD 21742
Property Location: 10832 Hershey Drive
Williamsport, MD 21795
Description Of Appeal: Variance from the required 30 ft. front yard setback to 20 ft. for proposed single-family dwelling.

Docket No: AP2024-044
Tax ID No: 26065542
Zoning: RT
RB Overlay: No
Zoning Overlay:
Filed Date: 08/29/2024
Hearing Date: 09/18/2024

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

Previous Petition/Appeal Docket No(s):
Applicable Ordinance Sections: Washington County Zoning Ordinance Section 7A.5 (a)

Reason For Hardship: See justification statement

If Appeal of Ruling, Date Of Ruling:

Ruling Official/Agency:

Existing Use: Residential Lot Proposed Use: Single Family Dwelling

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.

Richmond Lee O'Connell
Appellant Signature

State Of Maryland, Washington County to-wit:

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

Kathryn B Rathvon
Notary Public
WASHINGTON COUNTY
MARYLAND
MY COMMISSION EXPIRES NOVEMBER 07, 2025

Notary Public



WASHINGTON COUNTY BOARD OF ZONING APPEALS

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

AFFIDAVIT IN COMPLIANCE WITH SECTION 25.51(C)

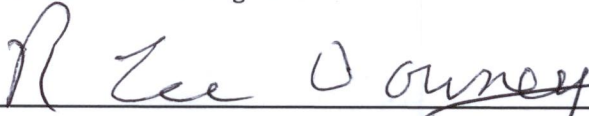
Docket No: AP2024-044

State of Maryland Washington County, To Wit:

On 8/29/2024, before me the subscriber, a Notary of the public of the State and County aforesaid, personally appeared R. Lee Downey and made oath in due form of law as follows:

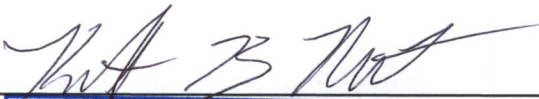
R. Lee Downey will post the zoning notice sign(s) given to me by the Zoning Administrator in accordance with Section 25.51(c) of the Washington County Zoning Ordinance for the above captioned Board of Appeals case, scheduled for public hearing on 09/18/2024, and that said sign(s) will be erected on the subject property in accordance with the required distances and positioning as set out in the attached posting instructions.

Sign(s) will be posted on 09/03/2024 and will remain until after the above hearing date.



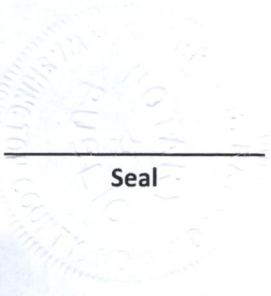
R. Lee Downey

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



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

Notary Public



Seal

My Commission Expires



WASHINGTON COUNTY BOARD OF ZONING APPEALS

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

BOARD OF ZONING APPEALS

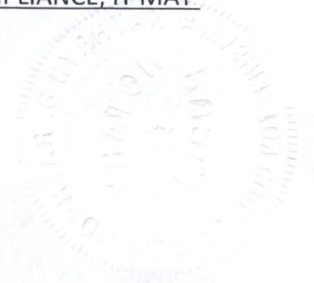
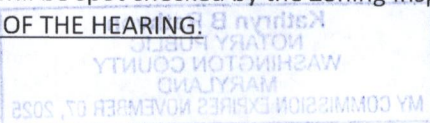
ATTENTION!

Posting Instructions

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

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

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





BOARD OF ZONING APPEALS

80 West Baltimore Street | Hagerstown, MD 21740 | P: 240.313.2460 | 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 10832 Hershey Drive, Williamsport, MD 21795 (Lot 575 Van Lear Manor)

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

Owner (Including Joint Ownership) Lessee Contract to rent/lease
 Contract to Purchase Other Owner representative by affidavit.

Specify the Ordinance section and subsection from which the variance is desired:
Section 7A.5 Lot Area, Lot Width, and Yard Setback Requirements.

Specify the particular requirement(s) from which a variance is desired in that section or subsection:
30 foot Front Yard Depth Setback.

Describe the nature and extent of the desired variance from Ordinance requirements: listed above:
Desired variance is to reduce the 30 foot front yard setback requirement to a 20 foot front 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.

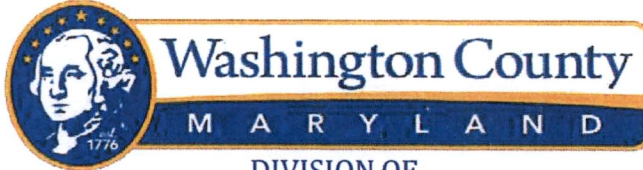
R Lee Downey
Signature of Appellant

R. Lee Downey
10818 Hershey Drive, Williamsport, MD 21795
Address and of Appellant

leedowney42@gmail.com
Email of Appellant

240-329-5021
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
ENGINEERING & CONSTRUCTION MANAGEMENT
PLAN REVIEW | PERMITTING | ENGINEERING | CONSTRUCTION

Washington County Building Code Board of Appeals
Owner's Representative Affidavit

This is to certify that R. Lee Downey is authorized to file an appeal with the Washington County Building Code Board of Appeals for a variance from front yard setback on property located at 10832 Hershey Drive, Williamsport, MD 21795 (Lot 575 Van Lear Manor).

The said work is authorized by William D. and Carli L. Thompson property owner in fee.

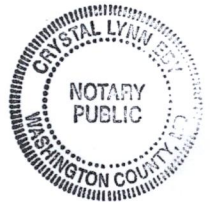
PROPERTY OWNER
William D. and Carli L. Thompson
Property Owner's Name
11835 Pheasant Trail
Property Owner's Address
Hagerstown, MD 21742
City, State, Zip Code

Carli L. Thompson
Property Owner's Signature

Sworn and subscribed before me this 28th day of August, 2024
Notary Public, State of Maryland
County of Washington
My Commission Expires 9/17/25

My Commission Expires:

Crystal Lynn Eby
Notary Public



AUTHORIZED REPRESENTATIVE

R. Lee Downey
Authorized Representative's Name
10818 Hershey Drive
Authorized Representative's Address
Williamsport, MD 21795
City, State, Zip Code

R. Lee Downey
Authorized Representative's Signature

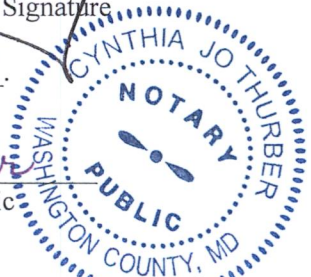
Sworn and subscribed before me this 29 day of August, 2024.

My Commission Expires:

April 7, 2027

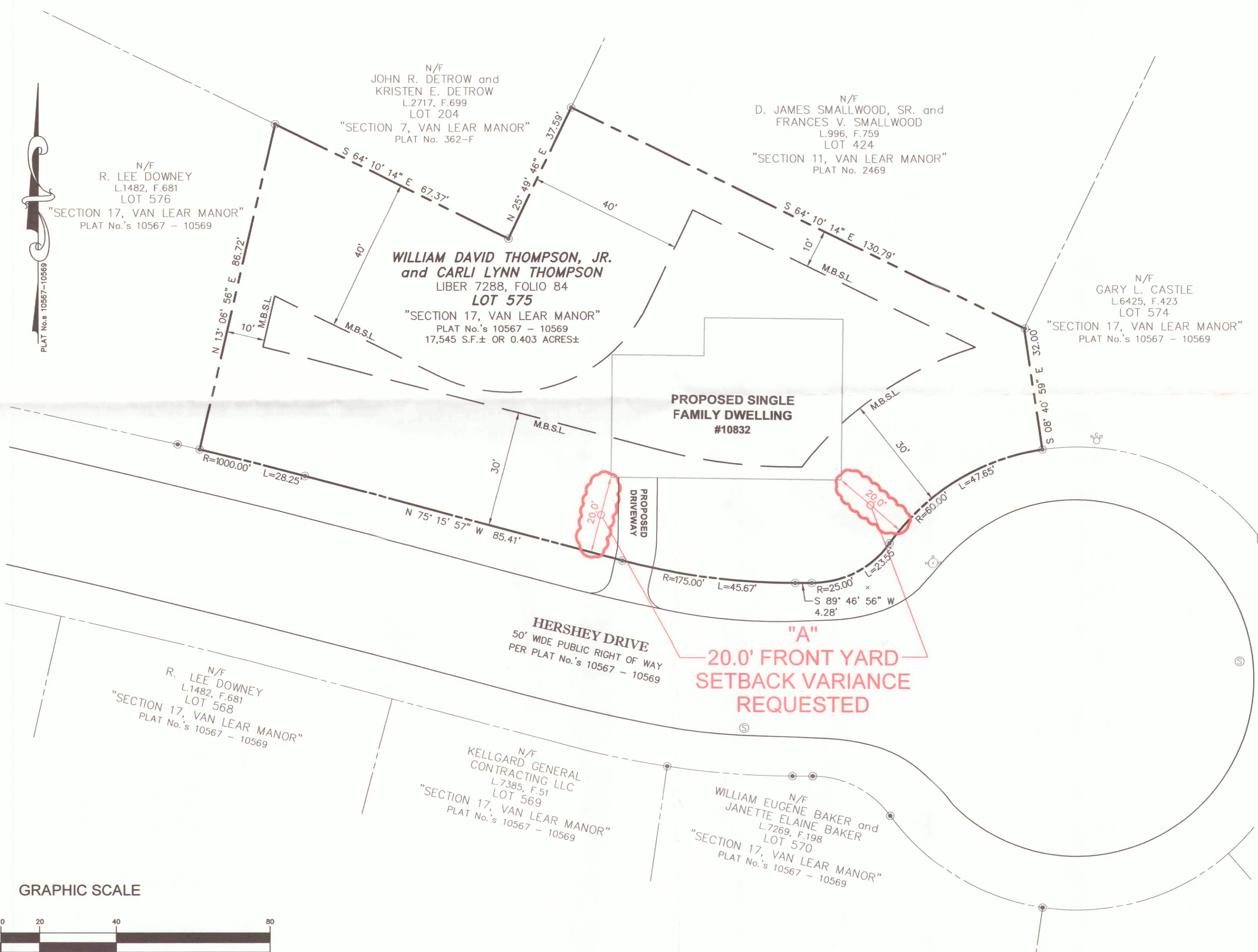
Revised: 7-30-15

Cynthia Jo Thurber
Notary Public

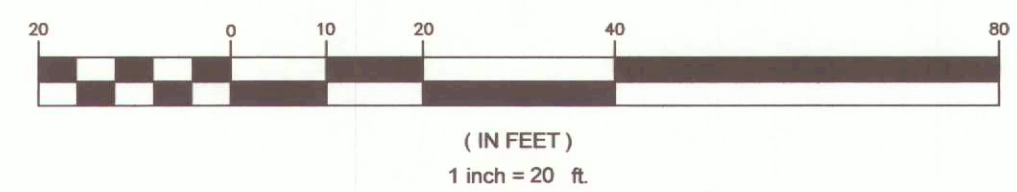


VARIANCE REQUEST

DEPICTED VARIANCE	SECTION OF ZONING ORDINANCE	TYPE OF REGULATION	ORDINANCE REQUIREMENT	PROPOSED DIMENSION (VARIANCE REQUESTED)
"A"	SECTION 7A.5 "RT" RESIDENTIAL, TRANSITION DISTRICT	FRONT YARD SETBACK	MIN. WIDTH 30 FEET	20 FEET



GRAPHIC SCALE



TRIAD ENGINEERING, INC.

1075-D SHERMAN AVENUE
 HAGERSTOWN, MD 21740
 PH: 301.797.6400 FAX: 301.797.2424
 OFFICE LOCATIONS
 MARYLAND • PENNSYLVANIA • VIRGINIA • WEST VIRGINIA

CADD FILE: 03240848-BZA-Lot575.dwg
 DRAWN BY: R.D.B.
 CHECKED BY: R.D.B.
 DATE: 08/24/2024
 SCALE: 1"=20'

OWNER/DEVELOPER:
 WILLIAM DAVID THOMPSON, JR.
 and CARLI LYNN THOMPSON
 11895 PHEASANT TRAIL
 HAGERSTOWN, MD 21742
 ELECTION DISTRICT: 26
 TAX MAP: 56 GRID: 0005 PARCEL: 1001

BOARD OF ZONING APPEALS EXHIBIT
 FOR
**WILLIAM DAVID THOMPSON, JR. and
 CARLI LYNN THOMPSON**
 LIBER 7288, FOLIO 84
 LOT 575
 "SECTION 17, VAN LEAR MANOR"
 PLAT No.'s 10567 - 10569
 SITUATED AT 10832 HERSHEY DRIVE IN WILLIAMSPORT
 WASHINGTON COUNTY, MARYLAND



SHEET NUMBER:
1 OF 1
 FILE NO.:
 JOB NO.: 03-24-0848

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

WILLIAM THOMPSON, JR. &

CARLI THOMPSON

Appellants

*

*

*

*

*

Appeal No.: AP2024-044

* * * * *

OPINION

William Thompson, Jr. and Carli Thompson (hereinafter “Appellants”) request a variance to reduce the required front yard setback from 30 feet to 20 feet for a proposed single-family dwelling at the subject property. The subject property is located at 10832 Hershey Drive, Williamsport, Maryland and is zoned Residential, Transition. The Board held a public hearing in this matter on September 18, 2024.¹

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, which is located at 10832 Hershey Drive, Williamsport, Maryland. The subject property is zoned Residential, Transition.
2. Appellants purchased the property from R. Lee Downey who has requested identical variance relief to construct a single-family dwelling on the neighboring property.

¹ Due to scheduling conflicts, the Board consisted of three (3) members for this hearing.

3. The subject property consists of approximately .403 acres located in the subdivision known as Van Lear Manor. The lot is wide but very shallow in depth which limits the building envelope.

4. The subject property has a rocky soil and removal of said rock would drastically increase construction costs.

5. Appellant proposes to construct a single-family dwelling similar in size and design as the homes in the subdivision.

6. There are five (5) lots across the street which were previously granted similar variance relief in order to construct single family dwellings.

7. There was no opposition presented to this appeal.

Rationale

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

Practical difficulty and undue hardship are typically the result of a property being unique. “‘Uniqueness’ of a property for zoning purposes requires that the subject property have an inherent characteristic not shared by other properties in the area, i.e., its shape, topography, subsurface condition, environmental factors, historical

² “When the terms unnecessary hardship (or one of its synonyms) and practical difficulty are framed in the disjunctive (“or”), Maryland courts generally have applied the more restrictive hardship standard to use variances, while applying the less restrictive practical difficulty standard to area variances because use variances are viewed as more drastic departures from zoning requirements.” *Belvoir Farms Homeowners Ass’n, Inc. v North*, 355 Md. 259, 276 n. 10 (1999) (citations omitted)

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).

Appellant requests the variance pursuant to Section 7A.5(a) of the Zoning Ordinance which requires the front yard setback to be 30 feet for a property with a single-family dwelling. The subject property is wide but shallow and the resulting building envelope would limit both the size of the home and the placement to one location. In addition, there is considerable rock in the soil and Appellant is attempting to minimize the effect of the topography by turning the home and moving it forward approximately ten (10) feet. The Board is convinced that strict conformance with the front yard setback would be unnecessarily burdensome and costly, not to mention potentially inconsistent with the layout of other homes in the neighborhood. Appellants point out that the relief requested is the same relief granted to several properties across the street and therefore no special benefit or advantage is being conferred upon the subject property. The Board finds that practical difficulty exists and that the variance request should be granted.

Accordingly, the request for a variance to reduce the required front yard setback from 30 feet to 20 feet for a proposed single-family dwelling at the subject property is GRANTED, by a vote of 3 to 0.

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

BOARD OF APPEALS

By: Tracie Felker, Chair

Date Issued: October 17, 2024

Notice of Appeal Rights

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