

AGENDA

Regular Meeting

October 5, 2017

Government Office Building
Route 50 & N. Division Street
Council Chambers, Room 301, Third Floor

6:00 P.M. - Call to Order – Gil Allen

Board Members: Gil Allen, Jordan Gilmore, Chad Brown, Brian Soper and Shawn Jester.

MINUTES – July 11, 2017 meeting.

PUBLIC HEARINGS:

#SA-1707 **Robert Hudson** – Appeal of Building Official's Decision – Continued use of Residential Structure – 1505 Mt. Hermon Road - Light Business and Institutional District.

* * * * *



JACOB R. DAY
MAYOR

JULIA GLANZ
CITY ADMINISTRATOR

City of Salisbury – Wicomico County

DEPARTMENT OF PLANNING, ZONING AND COMMUNITY DEVELOPMENT

P.O. BOX 870

125 NORTH DIVISION STREET, ROOMS 203 & 201

SALISBURY, MARYLAND 21803-4860

410-548-4860

FAX: 410-548-4955



BOB CULVER
COUNTY EXECUTIVE

R. WAYNE STRAUSBURG
DIRECTOR OF ADMINISTRATION

MINUTES

The Salisbury Board of Zoning Appeals met in regular session on July 11, 2017, in Room 301, Government Office Building at 7:00 p.m. with attendance as follows:

BOARD MEMBERS:

Albert G. Allen, III, Chairman
Jordan Gilmore, Absent
Chad Brown, Absent
Shawn Jester
Brian Soper

PLANNING STAFF:

Gloria Smith, Planner



Mr. Allen, Chairman, called the meeting to order at 6:00 p.m.



MINUTES:

The minutes of the June 1, 2017 meeting were approved as submitted.



#SA-1705

Lida A. Caceres – 6.6 ft. Rear Yard Setback Variance to enclose an existing porch – 403 East Vine Street – R-5A Residential District.

Ms. Lida Caceres and Ms. Fiorella Garcia came forward. Mrs. Gloria Smith presented and entered the Staff Report and all accompanying documentation into the record. She summarized the report explaining that the applicant requests permission to enclose an existing porch on a single-family dwelling with a rear yard setback of 23.4 ft. The Code requires a 30 ft. rear yard setback. Board approval of a 6.6 ft. rear yard setback variance is requested.

Ms. Caceres added that her two grandsons live with her and need a covered place to play.

Mr. Allen asked if the lot was irregular compared to neighboring lots. Ms. Caceres responded yes.

Mr. Soper asked if the area was being enclosed for living space, not just storage. Ms. Caceres responded it was a place for the kids to play.

Mr. Jester asked when the porch was constructed. Ms. Caceres responded that she bought the house that way.

Upon a motion by Mr. Jester, seconded by Mr. Soper, and duly carried, the Board **APPROVED** the requested 6.6 ft. rear yard setback variance for enclosure of the existing porch as submitted, based on the criteria in Section V(c) of the Staff Report.



#SA-1706

Barbara K. Morris – 4 ft. 11 inch Rear Yard Setback Variance to construct a sunroom – 303 South Clairmont Drive – R-10 Residential District.

Ms. Barbara K. Morris came forward. Mrs. Gloria Smith presented and entered the Staff Report and all accompanying documentation into the record. She summarized the report explaining that the applicant requests permission to construct a 15 ft. x 15 ft. sunroom addition to a single-family dwelling with a rear yard setback of 25 ft. 1 inch. The Code requires a 30 ft. rear yard setback. Board approval of a 4 ft. 11 inch rear yard setback variance is requested.

Ms. Morris explained that there is a stockade fence at the rear of her property. She submitted as Applicant's Exhibit 1 a letter that her neighbors had signed indicating

that they did not object to the proposed sunroom. She added that she owns the adjoining lot and is leaving it vacant.

Mr. Allen asked if her lot was smaller. Ms. Morris noted that the lots in the area are all different sizes.

Mr. Soper asked about rounding the variance to 5 ft. Mrs. Smith explained that the round-up had been suggested by the Development division.

Upon a motion by Mr. Soper, seconded by Mr. Jester, and duly carried, the Board approved the 5 ft. rear yard setback variance for a 15 ft. x 15 ft. sunroom as submitted, based on the criteria in Section V(c) of the Staff report.



ADJOURNMENT

With no further business, the meeting was adjourned at 6:20 p.m.



This is a summary of the proceedings of this meeting. Detailed information is in the permanent files of each case as presented and filed in the Salisbury-Wicomico County Department of Planning, Zoning and Community Development.

Chairman

John F. Lenox, Secretary to the Board

Recording Secretary

STAFF REPORT

MEETING OF OCTOBER 5, 2017

Case No. SA-1707
Applicant: Robert Hudson
58 Lookout Point
Ocean Pines, MD 21811
Property Owner: Same
Location: 1505 Mt. Hermon Road
State City Tax Map: #109
Parcel #2580, Grid #6
Zoning: Light Business and Institutional
Requests: Appeal of Department of Infrastructure and Development's Determination that a Single Family Dwelling is a Nonconforming Use in the Light Business and Institutional Zone.

I. SUMMARY OF REQUEST:

The Applicant owns a residential property at 1505 Mt. Hermon Road. The property is zoned Light Business and Institutional, which does not allow residential uses, which makes this a nonconforming land use. The structure has been vacant in excess of one year.

The Building Official of the Department of Infrastructure and Development notified the Applicant by letter dated August 25, 2017, that the residential use was in violation of the City Zoning Code citing the section pertaining to this issue. (See Attachment #1)

II. ACCESS TO THE SITE AREA:

The site has frontage and access on Mt. Hermon Road.

III. DESCRIPTION OF PROPERTY:

The property is 1.5 acres with a 2,656-sq. ft. home constructed in 1945. (See Attachment #2)

IV. DESCRIPTION OF SURROUNDING AREA/NEIGHBORHOOD:

The surrounding area is a mixture of City and County properties and zoning districts. The property surrounding the property on northeast side of Mt. Herman Road is zoned Business and Institutional. The property on the southwest side of Mt. Herman Road is in the County and is zoned R-8 Residential. **(See Attachment #3)**

V. EVALUATION:

In December 2016, the Department of Building, Permits & Inspections (now known as the Department of Infrastructure and Development) issued a permit to repair the roof on the structure located at the referenced address. This structure was most recently used as a single family dwelling, but has been unoccupied for some time. Subsequent inspections of the structure revealed that additional construction beyond the scope of the initial permit was occurring. These actions resulted in a "Stop Work" order being issued by the department. **(See Attachment #4)** Throughout the inspection process, Staff identified the structure as being unoccupied.

The structure is located in the Light Business and Institutional zoning district, where single family dwellings are prohibited according to sections 17.04.050 and 17.28.020, 17.28.030 and 17.28.040 of the Salisbury Zoning Code. **(See Attachment #5)** However, as the use of the property for a single family dwelling existed prior to the adoption of the current Zoning Code, the use was considered a legal nonconforming use, and was permitted under Section 17.16 of the Zoning Code. The applicant is appealing the City's position that the property has lost its legal nonconforming status, and may continue to be used as a single family dwelling.

Section 17.04.050 of the Zoning Code states, "Where it is not clear from the provisions of this title that a proposed use is intended to be prohibited in a district, the provisions of that section setting forth the uses permitted in that district shall prevail; and if the proposed use is not one in the list of those permitted, it shall be prohibited." Sections 17.28.020, 17.28.030 and 17.28.040 list all the uses permitted in the Light Business and Institutional zoning district, and a single family dwelling is not listed as a permitted use. Therefore, a single family dwelling is prohibited in this zoning district.

The use of the property as a single family dwelling was considered a legal nonconforming use, as it existed prior to the adoption of the city's current Zoning Code, provided that the use is continued. Section 17.16.040D. of the Zoning Code indicates, "No building, structure or lot where a nonconforming use has substantially ceased for a continuous period of one year, whether or not fixture or equipment are removed, shall again be put to a nonconforming use." The State of Maryland Department of Assessment and Taxation indicate that on February 19, 2016, the Wells Fargo Bank took possession of this property, which was then conveyed to the applicant in late 2016. Records from the City's Department of Housing and Community Development indicate that the property has never been registered with the city as a rental property during this period. The applicant maintains that during late December 2016 and early January 2017 the structure was

occupied with a tenant who resided there free of rent. The Applicant has not produced any documentation supporting this claim. The interpretation of the Department of Infrastructure and Development is that the applicant has failed to meet the burden of proof necessary to allow the nonconforming use to continue.

The Applicant had an opportunity to extend the one year time limit by requesting an extension to the Board prior to February 19, 2017, as is permitted by section 17.16.040G. of the Zoning Code. However this option was not exercised.

III. RECOMMENDATION:

It is recommended that the Board uphold the decision of the Department of Infrastructure and Development and deny the use of the property as a single family dwelling.

COORDINATOR: Anne Roane, Planner

DATE: September 28, 2017

City of Salisbury
Department of Building, Permits & Inspections
125 N. Division Street
Salisbury, MD 21803-4118
(410) 548-3130 · FAX (410) 548-3183

TO: Jack Lenox, Director
Secretary to the Board of Zoning Appeals

SUBJECT: 1505 Mt. Hermon Road

☐ Special Exception ☐ Variance
☐ Nonconforming (☐ Use ☐ Lot ☐ Structure)

☒ Administrative Appeal
☐ Other

A. **APPLICANT:** Robert Hudson
58 Lookout Point
Ocean Pines, MD 21811

PHONE: (410) 603-3468

FEE PAID: \$50. - City; \$100. - County

B. **LOCATION OF PROPERTY INVOLVED:** 1505 Mt. Hermon Road

C. **PROPERTY OWNER:** Robert Hudson
58 Lookout Point
Ocean Pines, MD 21811

D. **EXPLANATION OF REQUEST:** Appeal decision of the city that the existing structure has lost its legal nonconforming status as a single-family dwelling.

Code Requires: Single-family dwellings are not permitted in the Light Business & Institutional District.

Proposed: Continued use of two-family dwelling on property.

Action Required: Determination from board as to whether the existing structure is still a legal nonconforming use as a single family dwelling.

E. **APPLICABLE SECTIONS OF ZONING CODE:** 17.04.050; 17.12.110; 17.16.040; 17.28

F. **CERTIFICATION:** I hereby certify I denied issuance of a Building Permit on _____ based upon the above information, and that the applicant desires to have his case heard by the Salisbury Board of Zoning Appeals.



Henry Eure
Project Manager



City of
Salisbury
Jacob R. Day, Mayor

FILE COPY

August 25, 2017

Robert Hudson
58 Lookout Point
Ocean Pines, MD 21811

Re: 1505 Mt Hermon Road

Dear Mr. Hudson:

This notice is to inform you that the referenced property is located in a Light Business and Institutional zoning district which prohibits the use of one-and-two family dwellings. Furthermore, the structure has been vacant for a period exceeding one year, which classifies the use of the property as an illegal nonconforming use.

Section 17.16.040(D) specifically states: *No building, structure or lot where a nonconforming use has substantially ceased for a continuous period of one year, whether or not fixtures or equipment are removed, shall again be put to a nonconforming use.*

With this in mind, this serves notice that the referenced property/structure is in direct violation of the city's zoning code. Unless you can provide legitimate documentation that the property has been used as a single-family dwelling within the past one year from the date of this notice, a Stop Work will stay in effect. Failure to comply with this notice may result in municipal infractions not to exceed one thousand dollars (\$1,000.00) per day that the violation continues. We hope this will not be the case as your voluntary cooperation will be most appreciated.

If you wish, you may contact the Planning & Zoning Department and request a text change to the city's zoning code to permit the use of a nonconforming use.

Sincerely,

William T. Holland, Building Official

Real Property Data Search

Search Result for WICOMICO COUNTY

View Map			View GroundRent Redemption			View GroundRent Registration			
Account Identifier:			District - 05 Account Number - 065887						
Owner Information									
Owner Name:		HUDSON ROBERT			Use: Principal Residence:		RESIDENTIAL NO		
Mailing Address:		58 LOOKOUT POINT OCEAN PINES MD 21811-			Deed Reference:		/04093/ 00096		
Location & Structure Information									
Premises Address:		1505 MT HERMON RD SALISBURY 21804-0000			Legal Description:		L-1.15 AC 1505 MT HERMON ROAD CITY OF SALISBURY		
Map:	Grid:	Parcel:	Sub District:	Subdivision:	Section:	Block:	Lot:	Assessment Year:	Plat No:
0109	0006	2580		0000				2016	Plat Ref:
Special Tax Areas:				Town:		SALISBURY			
				Ad Valorem:					
				Tax Class:					
Primary Structure Built		Above Grade Living Area		Finished Basement Area		Property Land Area		County Use	
1945		2,656 SF				1.1500 AC			
Stories	Basement	Type		Exterior	Full/Half Bath	Garage	Last Major Renovation		
1 1/2	YES	STANDARD UNIT		BRICK	1 full/ 2 half	1 Attached			
Value Information									
			Base Value	Value		Phase-in Assessments			
				As of 01/01/2016		As of 07/01/2017		As of 07/01/2018	
Land:			50,200	40,200					
Improvements			98,600	102,400					
Total:			148,800	142,600		142,600		142,600	
Preferential Land:			0					0	
Transfer Information									
Seller: WELLS FARGO BANK NA				Date: 11/30/2016			Price: \$37,500		
Type: NON-ARMS LENGTH OTHER				Deed1: /04093/ 00096			Deed2:		
Seller: LARGENT ROGER L				Date: 02/19/2016			Price: \$151,144		
Type: NON-ARMS LENGTH OTHER				Deed1: /03965/ 00353			Deed2:		
Seller: FULTON, SAMUEL & MYRNA R				Date: 12/15/2005			Price: \$127,700		
Type: NON-ARMS LENGTH OTHER				Deed1: /02524/ 00068			Deed2:		
Exemption Information									
Partial Exempt Assessments:		Class		07/01/2017			07/01/2018		
County:		000		0.00					
State:		000		0.00					
Municipal:		000		0.00 0.00			0.00 0.00		
Tax Exempt:		Special Tax Recapture:							
Exempt Class:		NONE							
Homestead Application Information									



Children's Medical Group

Delmarva Pharmacy

Phillip Morris Dr

Second National
Fed Savings

Phillip Morris Dr

Gillis Ct 350

M&T Bank

COastal Hospice
volunteer Services

Phillip Morris Dr

350

350

Mt Hermon Rd

Cape Cod Packing

Viewfield Dr

350

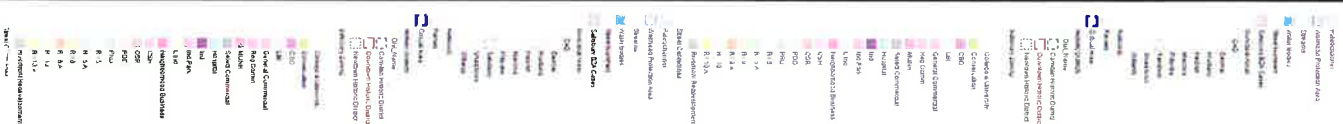
BUS
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BUS
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Salisbury Zoning



1505 Mt. Hermon Rd.





City of
Salisbury
Jacob R. Day, Mayor

FILE COPY
#16-1004

August 24, 2017

Robert Hudson
58 Lookout Point
Ocean Pines, MD 21811

Re: 1505 Mt. Hermon Rd.

Dear Mr. Hudson:

This notice is to advise you that the City has received a building permit application for the referenced address. After reviewing the issues leading to the requirement of a building permit, there are presently many building code violations as a result of the work that has been performed and you will need a Maryland licensed home improvement contractor (MHIC) to rectify such violations.

Section 114.1 of the International Building Code (2015 Edition) specifically states: *It shall be unlawful for any person, firm or corporation to erect, construct, alter, extend, repair, move, remove, demolish or occupy any building, structure or equipment regulated by this code, or cause same to be done, in conflict with or in violation of any of the provisions of this code.*

With this in mind, a "Stop Work" order will remain in effect until a licensed MHIC provides a plan to repair and rectify all building code violations. Additionally, all tradesmen are required to be licensed in the state of Maryland.

Failure to comply with this notice may result in municipal infractions not to exceed one thousand dollars (\$1,000.00) per day. We hope this will not be the case as your voluntary cooperation will be most appreciated.

You have a right to appeal this notice to the Building Board of Appeals. A formal application is available upon request.

Sincerely,

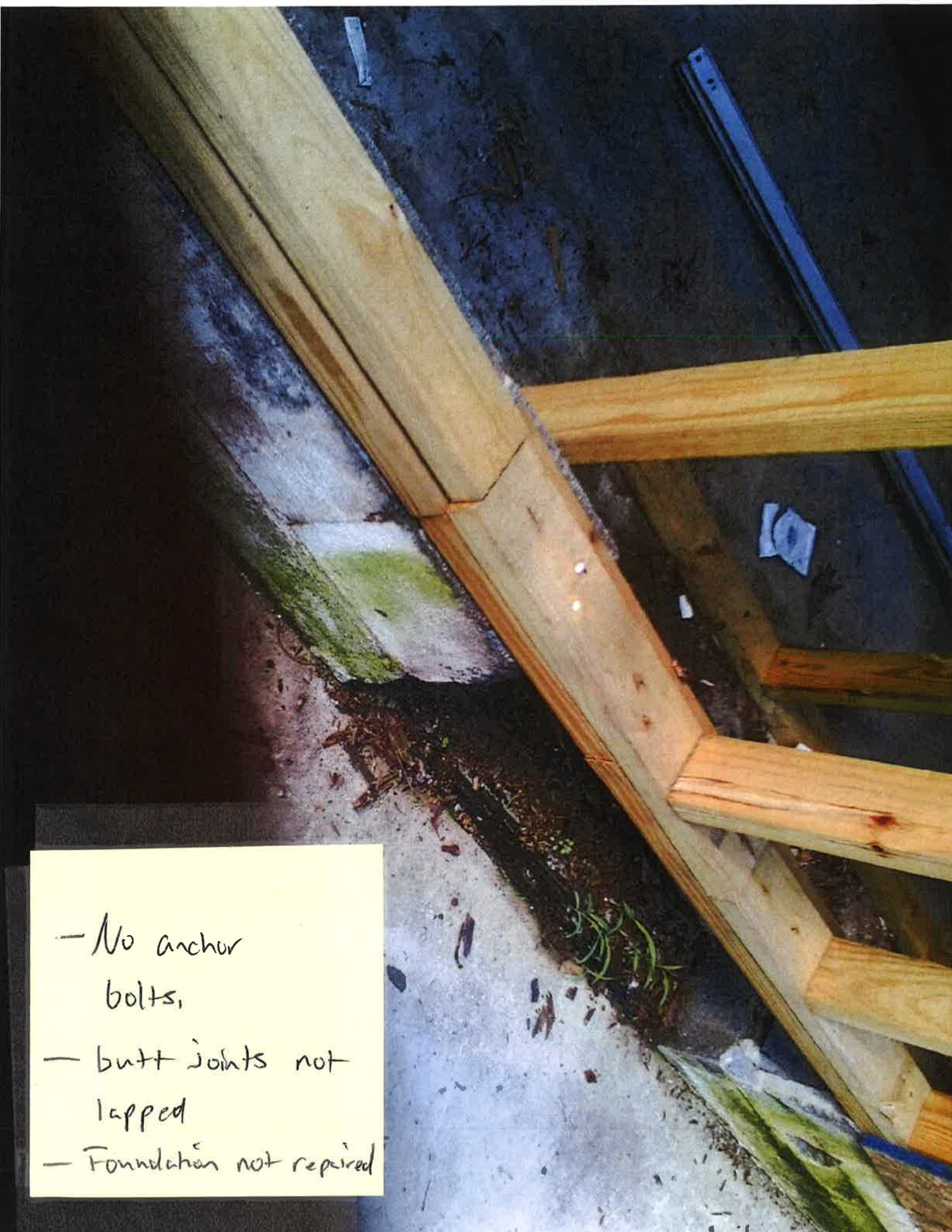


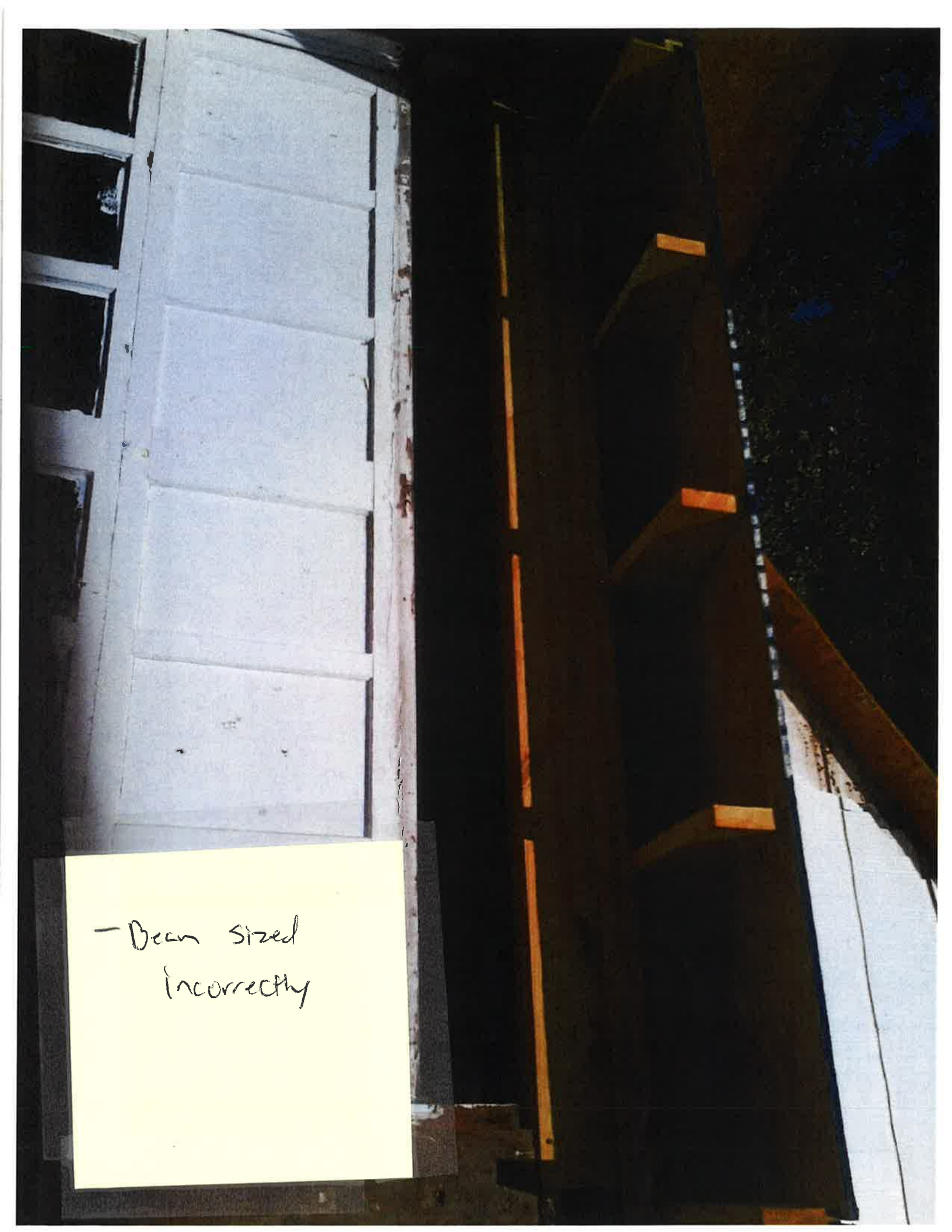
William T. Holland, Building Official

Department of Infrastructure & Development
125 N. Division St., #202 Salisbury, MD 21801
410-548-3170 (fax) 410-548-3107
www.salisbury.md

Attachment #4

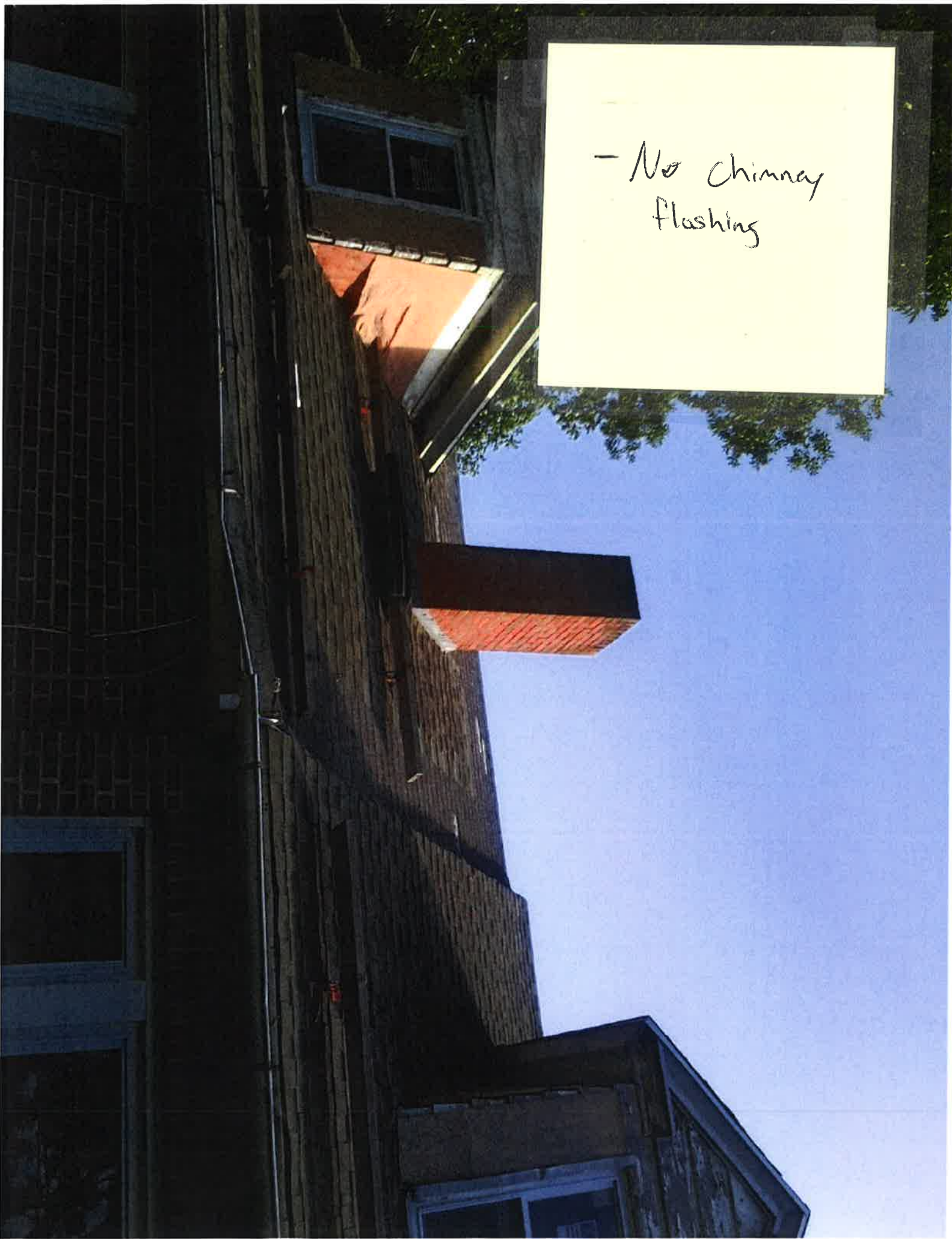
On August 15th, Mike and I went to 1505 Mt Herman Road to check the dwelling for possible city sewer hook-up. While on the property, we heard someone in the house. I went in the house to see who was working. I seen plumbing pipe in the house so I went to the bathroom and seen a new closet flange in the floor. The closet flange had been relocated and the lavatory was in the process of being rough-in so Mike and I left. Chad went back with me on the 17th of August. Chad and I found multiple things we notice that electrical box had been installed and new wiring being installed. We also seen someone started to do plumbing work in basement and running water lines. We also notice that the carpentry work was not being installed up to code. I also notice a lot of wood joist had termite and moisture damage which the new joist were attached to. In the process of looking at the termite damage I took a 2x6 which was laying on the ground and lifted the roof that is being put on over the porch at least two maybe 4 inches. Chad and I went back to office to check on permits found none on plumbing and nothing on electrical. I put a stop work order on door frame.

- 
- No anchor bolts,
 - butt joints not lapped
 - Foundation not repaired

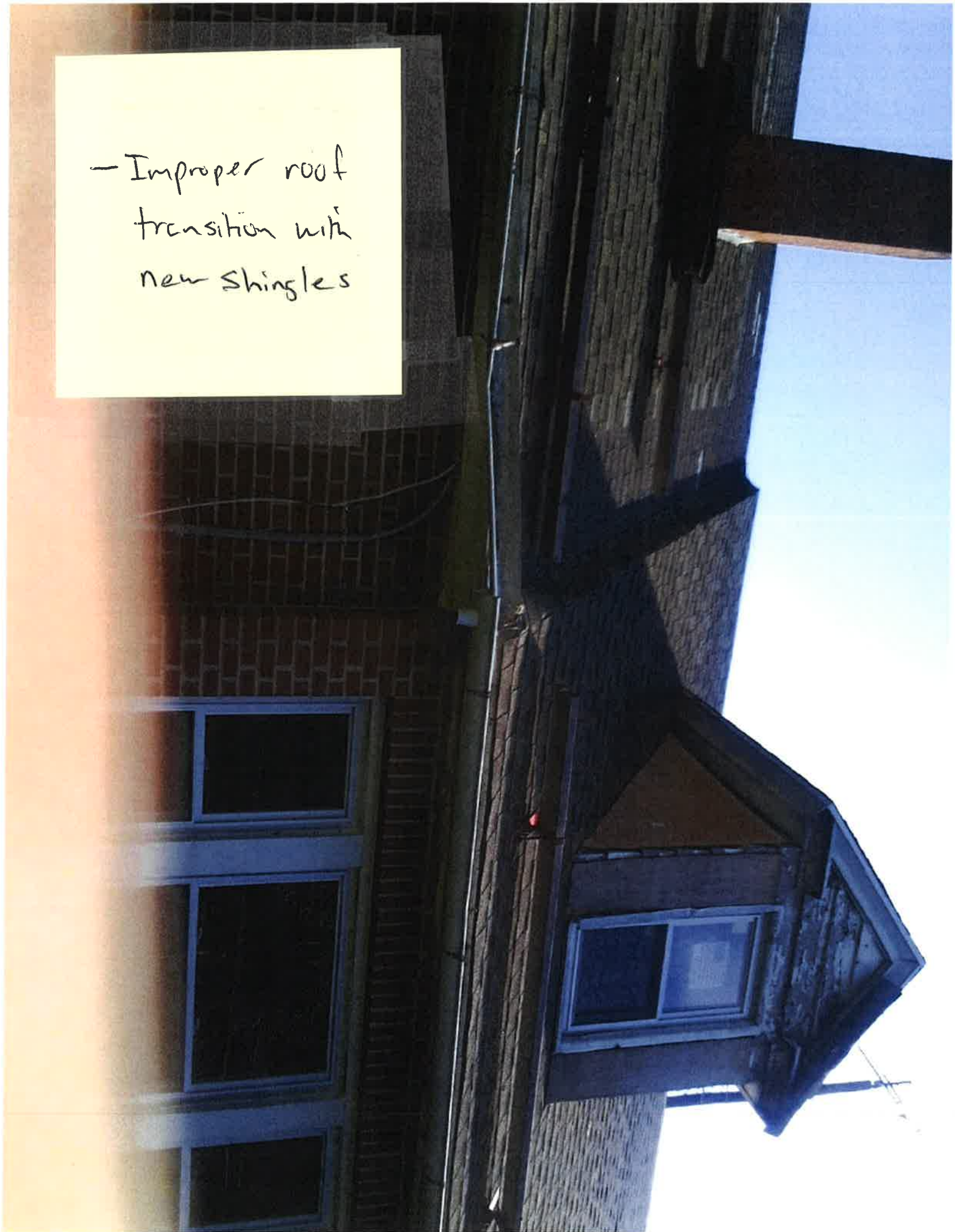


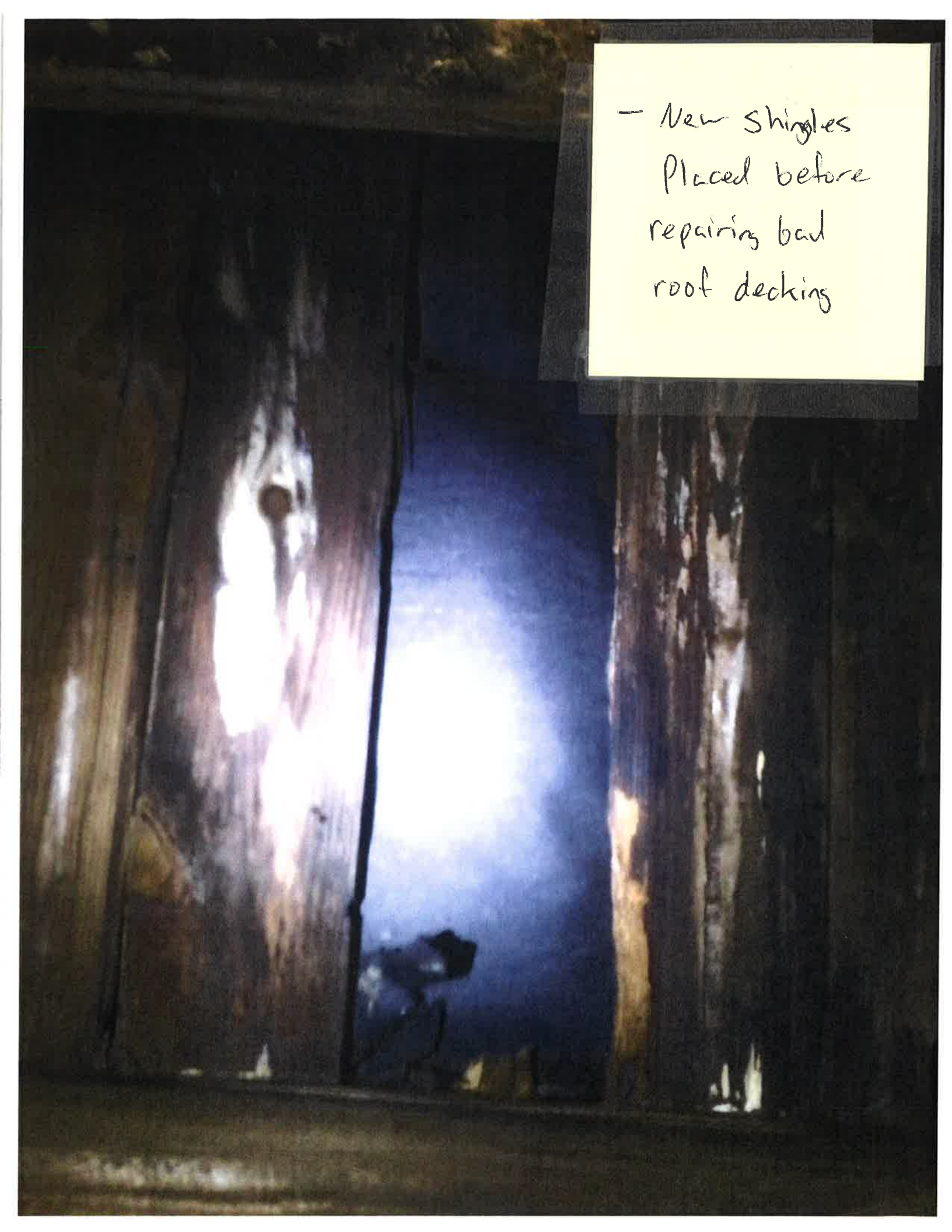
- Beam sized
incorrectly

- No chimney
flashing

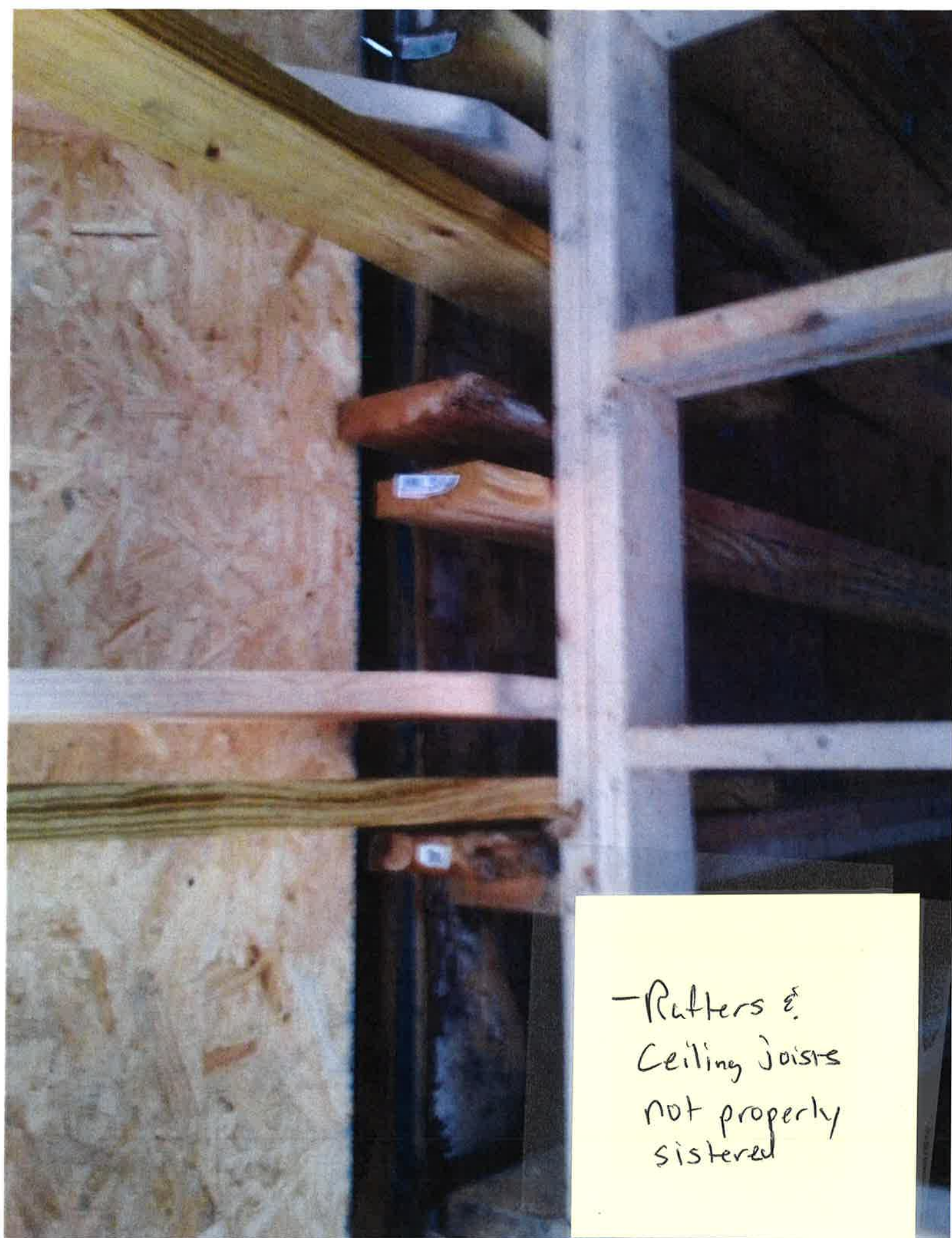


- Improper roof transition with new shingles



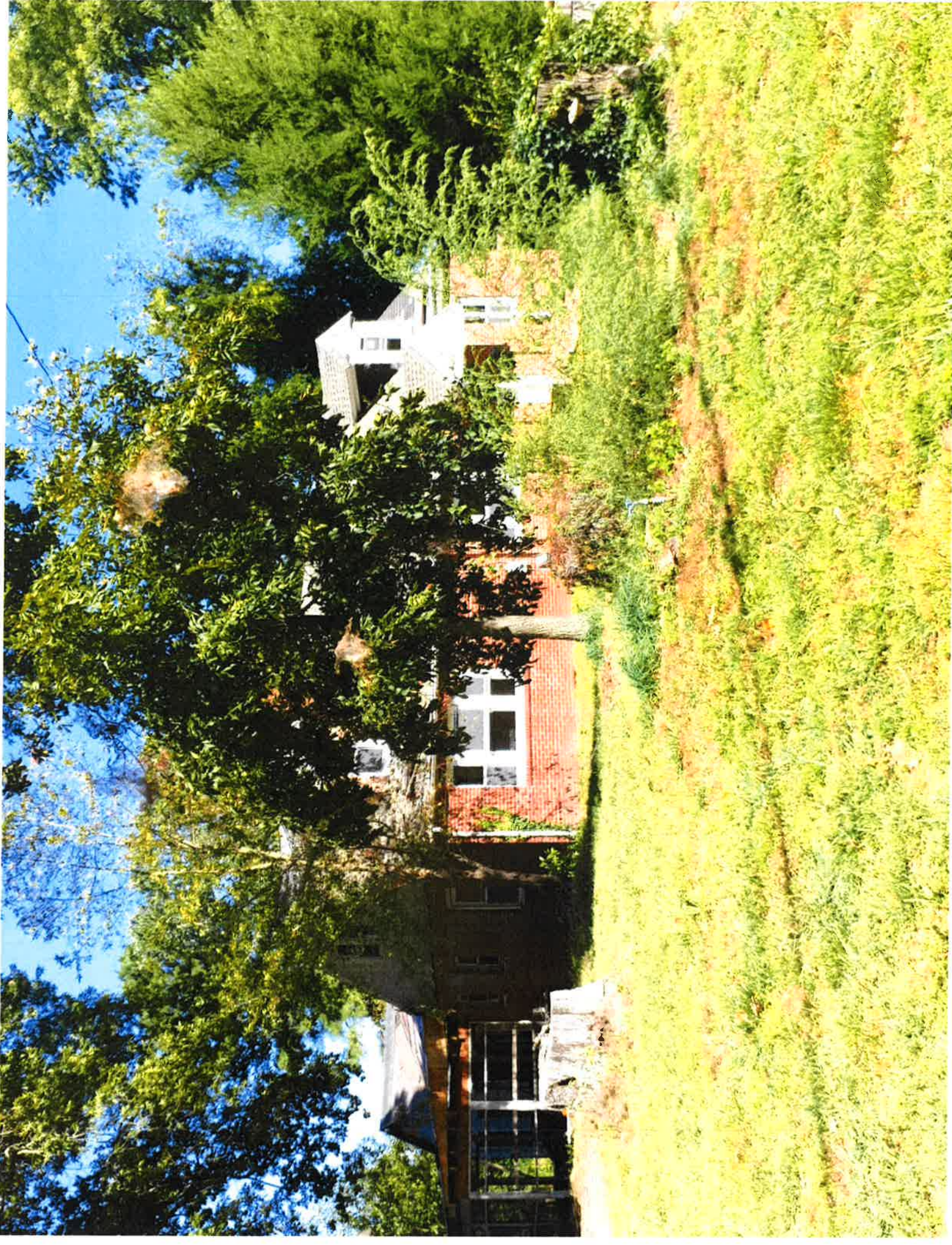


- New Shingles
Placed before
repairing bad
roof decking

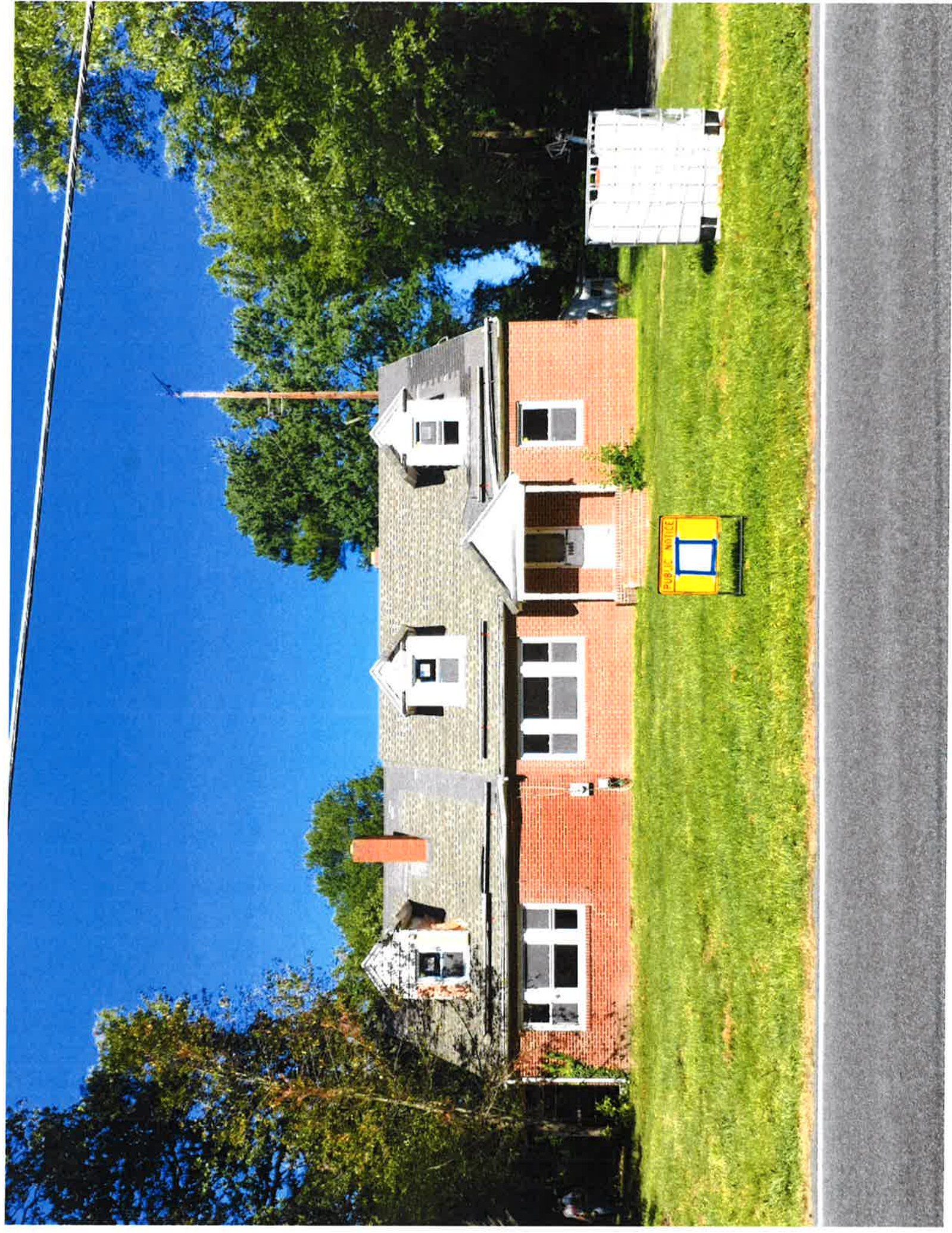


-Rafter &
Ceiling Joists
not properly
sistered









regulations shall be uniform for each class or kind of buildings throughout each district, but the regulations in one district may differ from those in other districts. The regulations herein are intended to carry out the mandate of the Acts and Articles expressed in the legislative authority above.

(Prior code § 150-4)

17.04.050 - Prohibitions.

Where it is not clear from the provisions of this title that a proposed use is intended to be prohibited in a district, the provisions of that section setting forth the uses permitted in that district shall prevail; and if the proposed use is not one in the list of those permitted, it shall be prohibited.

(Prior code § 150-4.1)

17.04.060 - Severability.

Should any section or provision of this title be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the title as a whole or any part thereof other than the part so declared to be unconstitutional or invalid.

(Prior code § 150-5)

17.04.070 - Greater restrictions and abrogations.

It is not intended by this title to repeal, abrogate, impair or interfere with any existing easements, covenants, deed restrictions, agreements, ordinances, rules or regulations previously adopted or in effect pursuant to law. However, wherever this title imposes greater restrictions, the provisions of this title shall govern.

(Prior code § 150-6)

17.04.080 - Additional remedies.

In case any building or structure is constructed, extended, altered, repaired, changed, converted or maintained, or any building, structure or land is used in violation of this title, the council, in addition to other remedies, may institute any appropriate action or proceeding to prevent, restrain, correct or abate such violation and to prevent the occupancy of any building, structure or land in violation, or any act, conduct, business or use in violation, of this title.

(Prior code § 150-7)

17.04.090 - Complaints regarding violations.

Attachment #5

- The board of zoning appeals, hereinafter referred to as "the board," shall appoint such employees as may be authorized from time to time by the city council; however, the employees of the planning commission shall also serve as employees to the board.
- C. The board shall adopt rules necessary for carrying out the provisions of this chapter. The rules shall be approved by the city council. Meetings of the board shall be held at the call of the chairman and at such other times as the board may determine by general rule. Three members shall constitute a quorum. If a majority of the board does not approve the application or find in the favor of the appellant, the board's inability to reach a decision by majority vote shall result in denial of the application or appeal. The chairman or, in his absence, the acting chairman may administer oaths and compel the attendance of witnesses. All meetings of the board shall be open to the public. The board shall record and keep minutes of its proceedings, which show the vote of each member upon each question, or, if a member is absent or fails to vote, the minutes shall indicate such fact. The board shall keep records of its examinations and other official actions, all of which shall be filed immediately in the office of the board and shall be a public record open to inspection during the hours of normal operation of the office. Copies of the minutes shall be made available to interested parties. A party who requests a copy of the recording or its transcript shall pay the cost of the recording or transcript.

(Prior code § 150-288)

(Ord. No. 2208, 7-23-2012)

17.12.100 - Jurisdiction and authority.

Jurisdiction and authority of the board shall be as follows:

- A. To hear and decide applications for special exceptions in the manner prescribed by and subject to the standards established herein;
- B. To hear and decide applications for variances from the terms provided in this title in the manner prescribed by and subject to the standards established herein;
- C. To hear and decide appeals where it is alleged that there is an error in any order, requirement, decision or determination made by the director of the department of building, permitting and inspections or the department of neighborhood services and code compliance under this title;
- D. To hear and decide applications for the change, alteration or enlargement of nonconforming uses and enlargement of nonconforming dwellings, in accordance with Sections 17.16.040 and 17.16.050;
- E. To hear and decide all matters referred to it or upon which it is required to act under this title;
- F. To adopt and establish general rules for the conduct of its proceedings.

(Ord. 1976 (part), 2005; prior code § 150-288)

17.12.110 - Appeals.

- A. Appeals to the board may be taken by any person aggrieved or by any officer, department, board or bureau of the municipality affected by any decision of the building inspector. Such appeal shall be taken within a reasonable time, as approved by the rules of the board, by filing with the building inspector and with the board a notice of appeal, specifying the grounds thereof. The building inspector shall forthwith transmit to the board all of the papers constituting the record upon which the action appealed from was taken.
- B. An appeal stays all proceedings in furtherance of the action appealed from, unless the building inspector certifies to the board after the notice of appeal shall have been filed with him that, by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order, which may be granted by the board or by a court of record, on application, on notice to the building inspector and on due cause shown.

(Prior code § 150-290)

17.12.111 - Pre-hearing procedure.

- A. The applicant/appellant shall file two copies of a pre-hearing statement no later than twenty (20) days prior to the public hearing. The statement shall include the following information:
 - 1. Citation to the city code authorizing the board of zoning appeals to appear and decide the application.
 - 2. Citations to all ordinances, rules, regulations and cases upon which the applicant relies.
 - 3. All facts upon which the application/appeal is based.
 - 4. All documentary evidence upon which the applicant/appellant relies.
 - 5. The identity of any expert who will testify and a summary of all expert opinion to be offered.
 - 6. The area of expertise and qualifications of all expert witnesses.
 - 7. Identity of all other witnesses who will testify.
 - 8. Copies of all written affidavits upon which the applicant/appellant relies.
- B. Response. City departments or personnel intending to appear in opposition to an application/appeal shall file a similar pre-hearing statement no later than ten days prior to the date of the hearing.
- C. Public Participation. The public may present testimony during the hearing but written documents or affidavits must be submitted no later than ten days prior to the date of the hearing.
- D. Non-binding. The information submitted in compliance with this article shall be construed only as a statement of the party's intent to submit such information or to provide testimony from witnesses, but no parties are bound to introduce the same at a hearing.
- E. Non-compliance. The rebuttal evidence is not required to be submitted in advance. No evidence which is required to be submitted in advance under this article will be admitted as evidence unless the offering party has complied with this article. Failure to comply with the requirements of this article may

17.16.020 - Nonconforming lots.

- A. A "nonconforming lot" is a lot which was legally subdivided and recorded in the county land records prior to adoption or amendment of this title and which, after adoption or amendment of the zoning ordinance, does not comply with the dimensional requirements thereof.
- B. A nonconforming lot may be built upon only in accordance with the regulations set forth for the district in which it is located.

(Prior code § 150-11)

17.16.030 - Nonconforming structures.

- A. A "nonconforming structure" is a structure lawfully existing at the effective date of adoption or amendment of this title that could not be built under the terms of this title by reason of restrictions on area, lot coverage, height, yards or other characteristics of the structure or its location on the lot.
- B. A nonconforming structure may continue so long as it remains lawful and such structures may be maintained to assure compliance with other applicable city codes.
- C. A nonconforming structure shall not be structurally changed or enlarged without approval of the board of zoning appeals in accordance with Article II of this section.
- D. A nonconforming structure that is wholly or partially destroyed by fire, act of God or other casualty beyond the control of the owner may be reconstructed within one year afterward, as follows:
 - 1. More than fifty (50) percent destroyed—all such nonconforming structures may be reconstructed, provided that all provisions of this chapter are met for the zoning district in which the structure is located; or
 - 2. Less than fifty (50) percent destroyed—may be reconstructed exactly as existed prior to the structure being damaged.
- E. The board of zoning appeals may grant an extension to the one year time limitation upon application to the board showing that strict compliance with this one year period will result in either an unwarranted hardship or injustice to the owner, provided that such extension will not be contrary to the public interest.

(Ord. 1599 § 14 (part), 1995; prior code § 150-12)

17.16.040 - Nonconforming uses.

- A. A "nonconforming use" is a use which legally exists at the effective date of adoption or amendment of this title but that does not comply with the use regulations of the district in which it is located. Such nonconforming use may consist of a nonconforming use of land, a nonconforming use of a structure or a nonconforming use of land and a structure.
- B. A nonconforming use may continue so long as it otherwise remains lawful.
- C.

A nonconforming use may not be changed to another nonconforming use, extended or enlarged without approval of the board of zoning appeals in accordance with Article II of this chapter.

- D. No building, structure or lot where a nonconforming use has substantially ceased for a continuous period of one year, whether or not fixtures or equipment are removed, shall again be put to a nonconforming use.
- E. The casual, temporary or illegal use of land or structure does not establish the existence of a nonconforming use.
- F. A nonconforming use or structure housing a nonconforming use that is wholly or partially destroyed by fire, act of God or other casualty beyond the control of the owner may be reconstructed within one year afterward, as follows:
 - 1. More than fifty (50) percent destroyed—all such nonconforming uses or structures may be reconstructed only in conformance with all provisions of this chapter for the zoning districts in which the structure or use is located; or
 - 2. Less than fifty (50) percent destroyed—may be reconstructed and used exactly as existed prior to the structure being damaged.
- G. The board of zoning appeals may grant an extension to the one year time limitation upon application to the board showing that strict compliance with this one year period will result in either an unwarranted hardship or injustice to the owner, provided that such extension will not be contrary to the public interest.

(Ord. 1599 § 14 (part), 1995; prior code § 150-13)

17.16.050 - Nonconforming single-family dwellings.

- A. A single-family dwelling lawfully existing on the effective date of this title but which could no longer be constructed in the district in which it is located because of a restriction of use may be enlarged or altered without permission of the board of zoning appeals.
- B. A single-family dwelling lawfully existing on the effective date of this title but nonconforming in setback with the regulations for the district in which it is located may be enlarged in line with the existing nonconforming setback without permission of the board of zoning appeals; except, that on a corner lot no enlargement shall be made extending toward the intersecting street corner without permission of the board of zoning appeals upon a finding that the enlargement will not be detrimental to the use or further development of the intersecting streets or create a safety hazard to motorists thereon.

(Prior code § 150-14)

17.16.060 - Special exceptions.

Any use legally established as either a permitted use or as a special exception prior to May 23, 1983, or by subsequent amendment, which under the provisions of this title is now permitted as a special exception, shall, without further action, be deemed a conforming use in the district in which the special exception is

- D. 'Parking. Parking shall be provided in accordance with Chapter 17.196, except where governed by established parking tax district regulations.
- E. Building and Development Restrictions.
1. Drive-in window service uses shall provide a reservoir of five spaces on site for each drive-in window or stall.
 2. Access driveways crossing sidewalks to private parking areas shall be reduced or eliminated where it is determined that alternative or unified points of access are available resulting in less traffic congestion and pedestrian interference.
 3. Common loading and unloading areas serving more than one business shall be encouraged where possible.
 4. Entrance to loading and unloading areas shall be located at the rear of the building where possible. Where a business abuts more than one street, this entrance shall be on the street with the least amount of traffic.
 5. Outside storage of materials or parts shall be prohibited, except that outside storage of service and delivery vehicles used in operation of a business within the CBD shall be permitted.
- E. Signs. Signs shall be in accordance with Chapter 17.216.
- (Ord. 1647 § 4, 1997; prior code § 150-91)

Chapter 17.28 - LIGHT BUSINESS AND INSTITUTIONAL DISTRICT

Sections:

17.28.010 - Purpose.

The purpose of the light business and institutional district is to recognize that lands located along major limited access highways running through Salisbury are exposed to large volumes of traffic and high degrees of visibility and to provide for their development while protecting adjoining residential areas. These lands are generally located between the major highways and parallel streets which border adjoining residential areas. Access to these lands is obtainable only from access roads to the major highways and streets bordering the residential areas. Because of their location and exposure to the highways, these lands are unlikely to develop as residential and are subject to pressure for development with uses that benefit from the high degree of visibility and volumes of traffic. To provide for development of these lands and to afford some protection to adjoining residential areas, the uses permitted in this district are those which may benefit from this exposure but which primarily do not generate continuous heavy volumes of traffic, noise, dust or odor, do not primarily have late evening or weekend hours and do not have the detrimental effects that intensive commercial development may have on the property values of nearby residential neighborhoods. Those uses which may generate noise, odor and have evening or weekend hours are encouraged to locate adjacent to the major access highways at the intersection of access roads to be as far

from neighboring residential areas as possible. The following uses, standards and area regulations have been developed based upon this purpose, which is in accord with findings and recommendations of the city's adopted land use element of the metro core comprehensive plan.

(Prior code § 150-59)

17.28.020 - Permitted uses.

Permitted uses shall be as follows:

- A. Apartment building and project in accordance with Chapter 17.168;
- B. Bank and other financial institution;
- C. Business, governmental, financial or professional office;
- D. Business center, in accordance with Chapter 17.172;
- E. Care home;
- F. Church or other place of worship, in accordance with Chapter 17.220, excluding bus storage and maintenance, cemetery and gymnasium as an accessory use;
- G. Cultivation of land;
- H. Cultural uses, such as museum, library or art gallery;
- I. Funeral home;
- J. Medical-care facility;
- K. Medical and dental office and clinic;
- L. Radio or television broadcasting station and studio;
- M. School of general instruction, in accordance with Chapter 17.220;
- N. Dry-cleaning pickup station;
- O. Florist;
- P. Office supplies and equipment;
- Q. Photographic studio;
- R. Travel agency;
- S. Group domiciliary care facility.
- T. Self storage.

(Ord. 1786 § 5, 2000; Ord. 1672 § 1, 1997; prior code § 150-60)

(Ord. No. 2339, 7-13-2015)

17.28.030 - Uses permitted by special exception.

Uses permitted by special exception shall be as follows:

- A. Restaurant, excluding all other types, with a minimum seating capacity of two hundred (200), located adjacent to a major limited access highway at an access road intersection;
- B. Hairdresser shop;
- C. Apartment units as accessory uses above the first floor;
- D. Pharmacy, free-standing;
- E. Day care facilities for the elderly and handicapped.

(Ord. 1690 § 1, 1998; Ord. 1672 § 2, 1997; prior code § 150-61)

17.28.040 - Uses permitted by ordinance permit.

Uses permitted by ordinance permit shall be as follows:

- A. Communication tower, in accordance with Chapter 17.220;
- B. Day-care center or nursery school, in accordance with Chapter 17.220;
- C. Utility substation, in accordance with Chapter 17.220.

(Prior code § 150-62)

17.28.050 - Accessory uses and structures.

Accessory uses and structures shall be as follows:

- A. Communication towers for broadcasting and receiving, not exceeding seventy-five (75) feet in height;
- B. Other accessory uses and structures clearly incidental to, customary to and associated with the permitted use;
- C. Family day-care home;
- D. Day-care services for employees or patrons of a permitted use;
- E. Pharmacy, hairdresser shop, florist and printing and reproduction shop, only as accessory uses to and located within the same building as the following permitted uses:
 - 1. Apartment building and project in accordance with Chapter 17.168,
 - 2. Business, governmental, financial or professional office,
 - 3. Business center in accordance with Chapter 17.172,
 - 4. Medical-care facility,
 - 5. Medical and dental office and clinic.

(Prior code § 150-63)

17.28.060 - Development standards.

Development standards for the light business and institutional district shall be as follows:

- A. Prior Approval Requirements. Prior to the development of a tract, lot, parcel or any part of the district, a comprehensive development plan, as defined in Section 17.04.120, shall be submitted to the planning commission for review and approval in accordance with Chapter 17.180.
- B. Minimum Lot Requirements. All lots hereafter established shall meet the following minimum requirements:
 - 1. Lot area: twenty-five thousand (25,000) square feet;
 - 2. Interior lot width: one hundred (100) feet;
 - 3. Corner lot width: one hundred twenty (120) feet.
- C. Minimum yard requirements shall be as follows:
 - 1. Front: forty-five (45) feet from property line;
 - 2. Side, interior: two required, ten feet each, except thirty (30) feet where adjacent to a residential district;
 - 3. Side, corner: forty-five (45) feet from property line;
 - 4. Rear: thirty (30) feet from property line.
- D. The height limitation shall be forty (40) feet.
- E. Parking, loading and unloading shall be in accordance with Chapter 17.196.
- F. Access. Direct access onto a street or highway shall be reduced or eliminated wherever the city department of public works determines that alternate or unified points of access are available to a site resulting in better traffic flow and less traffic congestion.
- G. Signs. See Chapter 17.216.
- H. Lighting. Lighting shall be designed so as not to throw glare onto surrounding properties. Flashing lights are prohibited.
- I. Landscaping and Screening. In addition to the requirements of Chapter 17.220, the following shall be required:
 - 1. All areas not devoted to building or required parking areas shall be landscaped as defined in Section 17.04.120 and maintained in accordance with Section 17.220.080.

(Prior code § 150-64)

Chapter 17.32 - NEIGHBORHOOD BUSINESS DISTRICT

Sections:

17.32.010 - Purpose.