



AGENDA

Regular Zoom Videoconference

July 2, 2020

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, Brian Soper and Shawn Jester.

MINUTES – May 7, 2020

PUBLIC HEARINGS:

Case #SA-20-517 Richard Debenedetto – 4 ft. Side Yard Setback Variance to Construct a 20 ft. x 25 ft. Garage – 615 Ridge Road – R-10 Residential District.

Join Zoom Meeting

<https://us02web.zoom.us/j/84110586848?pwd=c0txcVMwZVBCbkFkS1ZUb1pJMFJiUT09>

Meeting ID: 841 1058 6848

Password: 566534

Dial by your location

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Please note that you will be asked to consent to the meeting being recorded.

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City of
Salisbury
Jacob R. Day, Mayor

MINUTES

The Salisbury Board of Zoning Appeals met in regular session on May 7, 2020, via Zoom at 6:00 p.m. with attendance as follows:

BOARD MEMBERS:

Albert G. Allen, III, Chairman
Jordan Gilmore, Vice Chairman
Shawn Jester (Absent)
Brian Soper

CITY STAFF:

Henry Eure, Project Manager
Beverly Tull, Recording Secretary

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

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Mr. Allen explained that this was the first meeting that the Board of Zoning Appeals had done by Zoom. He requested that each applicant introduce themselves for the record and that Mr. Eure would then administer the oath. Mr. Eure requested that anyone wishing to testify in the cases before the Salisbury Board of Zoning Appeals raise their right hands and he administered the oath. Mr. Allen explained the procedure for the public hearing.

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MINUTES:

Upon a motion by Mr. Gilmore, seconded by Mr. Allen, and duly carried, the Board **APPROVED** the March 5, 2020 minutes as submitted.



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#SA-20-226 Simpson's Towing, Inc. – 2 ft. Fence Height Variance to Install a 6 ft. Fence within the Required 50 ft. Front Yard Setback – 2100-2108 Windsor Drive and 2101-2109 Shipley Drive – Light Industrial District.

Mr. Josh Spears was present. Mr. Henry Eure presented and entered the Staff Report and all accompanying documentation into the record. He summarized the report explaining that the applicants request permission to erect a 6 ft. tall fence within the front yard setback along both Harford Road and Shipley Drive.

Mr. Spear explained that it would be a high quality fence with green privacy slats. The front will be on Windsor Drive with two (2) sliding gate that will be 20 ft. wide and the rear gate will be on Shipley Drive. There is an existing fence on the neighboring property owned by the Gilkerson's that the rear fence will align with.

Mr. Eure noted for the record that this would be a storage yard for vehicles that had been wrecked but it would not be a junk yard. Once the insurance adjusters were done, the vehicles would be removed.

Mr. Allen questioned Mr. Spears if he had any objections to the conditions of approval listed in the Staff Report. Mr. Spears verified the setbacks and acknowledged agreement to the conditions.

Mr. Soper questioned if the Gilkerson property had an existing fence. Mr. Spear responded it the affirmative. Mr. Soper questioned if they had any issues with this request. Mr. Spears responded in the negative, adding that they had represented the sale of the property. Mr. Eure added that Mr. Dwight Miller, President of Gilkerson, had called in about the request and offered his support.

Upon a motion by Mr. Soper, seconded by Mr. Gilmore, and duly carried, the Board **APPROVED** the 2 ft. fence height variance, based on the criteria listed in the Staff Report, particularly the criteria listed in Section 17.232.020B, and subject to the following Conditions of Approval:

CONDITIONS:

1. The fence shall be provided with privacy slats for screening.
2. A 10 ft. wide landscaped area (trees and shrubs) shall be provided on the exterior side of the fence as required by Section 17.220.040 of the Zoning Code.
3. The properties shall be consolidated/resubdivided into one (1) parcel.

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#SA-20-303 D.R. Horton America's Builder – 4 ft. 4-inch Front Yard Setback Variance to Retain a Porch that was Constructed within the 30 ft. Front Yard Setback – 417 Birchwood Drive – Aydelotte Farm PRD #7.

Mr. Brian McManus was present. Mr. Henry Eure presented and entered the Staff Report and all accompanying documentation into the record. He summarized the report explaining that the applicant is requesting a front yard setback variance for a portion of the dwelling that is located within the required minimum 30 ft. setback.

Mr. McManus explained that the construction drawings must have changed before the final recordation of the plat as the house was built exactly where it was proposed.

Mr. Soper questioned if the building permit was issued before the subdivision was recorded. Mr. Eure responded that he didn't have access to that but the permit was issued based on the Site Plan that was submitted.

Upon a motion by Mr. Gilmore, seconded by Mr. Soper, and duly carried, the Board **APPROVED** the 4.4 ft. front yard setback variance, based on the criteria listed in the Staff Report, particularly the criteria listed in Section 17.232.020B.

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ADJOURNMENT

With no further business, the meeting was adjourned at 6:18 p.m.

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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 City of Salisbury Department of Infrastructure and Development Department.

Albert G. Allen, III, Chairman

Amanda Pollack, Secretary to the Board

Beverly R. Tull, Recording Secretary

STAFF REPORT

MEETING OF JULY 2, 2020

Case No. 202000517
Applicant: Richard DeBenedetto
Property Owner: Richard & Susannah DeBenedetto
Location: 615 Ridge Road
State City Tax Map: #111
Parcel #1089, Lot #12, Grid #13
Zoning: R-10 Residential District
Request: Side yard setback variance of 4 ft. to construct a garage.

I. SUMMARY OF REQUEST:

The Applicant requests permission to construct a 20 ft. x 25 ft. garage addition. The addition will extend 4 ft. into the required 10 ft. side yard setback. Board approval of a 4 ft. side yard setback variance is requested. **(Attachments 1 & 2)**

II. ACCESS TO THE SITE:

The property is located and has access along the northwesterly side of Ridge Road. **(Attachment 3)**

III. DESCRIPTION OF PROPERTY:

This property consists of 26,700 sq. ft. of land area, and has been improved with a 2,957 sq. ft. single family dwelling, which was constructed in 1964. The property has frontage along the Wicomico River, and is located within the Intensely Developed Area (IDA) of the Chesapeake Bay Critical Area (CBCA).

IV. DESCRIPTION OF SURROUNDING AREA/NEIGHBORHOOD:

The surrounding area is developed primarily with other single family homes, and also borders the Wicomico River. **(Attachment 4)**



V. EVALUATION:

- (a) **Discussion:** The Applicant proposes to construct a 20 ft. x 25 ft. garage addition with a 6 ft. side yard setback along the northeasterly property line. **(Attachments 5 & 6)** Section 17.156.060B.3. of the Zoning Code indicates that a minimum side yard setback of 10 ft. be provided. Board approval of a 4 ft. side yard setback variance is requested. The existing dwelling and garage maintain a 10 ft. side yard setback from this same line. The purpose of the addition is to provide a protected parking environment and accessible entrance for the applicant's mother. **(Attachment 7)**

As this property is located within the Chesapeake Bay Critical Area, any proposed development is expected to foster more sensitive development activity for shoreline areas and minimize adverse impacts on water quality and natural habitats. To this end, the applicant has researched various alternatives for the garage addition that would be in compliance with the required minimum side yard setback. However, each of the proposed alternatives demonstrates that more site disturbance would occur with the alternative methods. In addition, a minimum of five (5) mature trees would be lost if the any of the alternative methods were followed. The proposed garage will be subject to Chesapeake Bay Critical Area Commission approval prior to a building permit being issued by the Department of Infrastructure and Development. **(Attachments 8 - 10)**

- (b) **Impact:** Staff does not believe the setback variance request will have any adverse impact on the surrounding area or neighboring properties. Additionally, the proposed request has the least impact and smallest effect on the Chesapeake Bay Critical Area.
- (c) **Relationship to Criteria:** Section 17.236.020 of the Salisbury Municipal Code contains the criteria the Board should consider when approving Variances. Staff has noted how this request complies with the Variance criteria as follows:

- [1] **Because of the particular physical surroundings, shape or topographical conditions of the specific structure or land involved, a practical difficulty or unnecessary hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of the regulations were to be carried out.**

The proposed request minimizes effect on the Chesapeake Bay Critical Area. The physical surroundings – primarily large existing trees which would need to be removed to construct a garage that is compliant with

setback requirements – preclude the Zoning Code’s standard of maintaining a minimum 10 ft. side yard setback. Removal of these trees, as well as creating a greater area of disturbance on the site would have a larger negative impact on the Critical Area.

- [2] The conditions upon which an application for a variance is based are unique to the property for which the variance is sought and are not applicable, generally, to the property within the same zoning classification.**

There are a number of properties in the neighborhood that have both large established trees and are within the Chesapeake Bay Critical Area. However, overall, there are relatively few properties within the R-10 Residential zoning district that have both of these qualities.

- [3] The practical difficulty or unnecessary hardship is caused by this Title and has not been created by intentional action of any person presently having an interest in the property.**

Staff believes the practical difficulty is created by the property being located within the CBCA, and the standards that require limited property disturbance.

- [4] The granting of the variance will not be detrimental to or endanger the public health, security, or general welfare or morals.**

The granting of the requested variance should not be detrimental to the public health, security and general welfare of the neighborhood. In fact, it will minimize environmental impacts.

- [5] The granting of the variance is not based exclusively upon a desire to increase the value or income potential of the property.**

Although the granting of the setback variance request may increase the value of the property once developed, the requested variance allows the applicant to provide a protected accessible entrance, while also minimizing environment impacts.

- [6] The variance will not be injurious to the use and enjoyment of other property in the immediate vicinity nor substantially diminish and impair property values in the neighborhood.**

The proposed 6 ft. side yard setback will not be detrimental to other properties and will not adversely impact nearby property values.

- [7] **The granting of the variance will not impair an adequate supply of light and air to adjacent property or overcrowd the land or create an undue concentration of population or substantially increase any congestion of the streets or create hazardous traffic conditions or increase the danger of fire or otherwise endanger the public safety.**

The requested setback variance will not create any hazardous traffic conditions or undue concentration of population. The proposed garage addition will be in excess of 5 ft. from the side property line, and therefore will not be required to be constructed with fire-resistance rated construction. In a residential setting, the City's current building code only requires fire-resistant rated construction for building which are less than 5 ft. from adjoining property lines.

- [8] **The variance will not adversely affect transportation or unduly burden water, sewer, school, park, or other public facilities.**

The requested variance will have no impact on transportation, water, sewer, school, park or other public facilities.

- [9] **The granting of the variance will not adversely affect the implementation of the Comprehensive Plan for the City of Salisbury approved by the Planning Commission and the City Council or any other plan approved by the Planning Commission or City Council for development of the area in which the variance is requested.**

The Salisbury Comprehensive Plan adopted by the Salisbury City Council designates this area for residential development, as shown on the adopted Land Use Map. This request will have no impact on the Plan.

- [10] **Within the intent and purpose of this Title, the variance, if granted, is the minimum necessary to afford relief. (To this end, the Board may permit a lesser variance than that applied for.)**

Staff believes that the variance requested is the minimum necessary to afford relief from the Code requirements. However, the Board has the discretion to grant a lesser variance.

VI. RECOMMENDATION:

Based on the findings contained in this Staff Report, Staff recommends **Approval** of a 4 ft. side yard setback variance for the proposed garage addition, subject to the following condition:

1. Obtain approval from the Chesapeake Bay Critical Area Commission.

Dear Members of the Board,

I am seeking a variance for the side lot set back of 4 feet. The purpose of the request is to build a 2 car garage. A new 2 car garage will allow for me to create an environment that accommodates wheelchair access. My mother is currently living with us and we moved into a single story house that we have completely redone to ensure minimal floor transitions to ensure accessibility. Her stroke following a knee replacement has left her much less mobile due to inadequate ability to rehab. We intend to create a ramp to provide wheelchair access to my mother's living area. This ramp inside the existing garage will eliminate much of the area. We desire a 2 car garage to allow for parking and adequate transitions into and out of a wheelchair. The garage will need a variance of 4 feet to allow for the preservation of the light source to my mother's living room. The aesthetic of building will be adversely affected by having a garage in front of the window. This window is the only window in my mother's living room and eliminating it would greatly reduce the natural light in her living space.

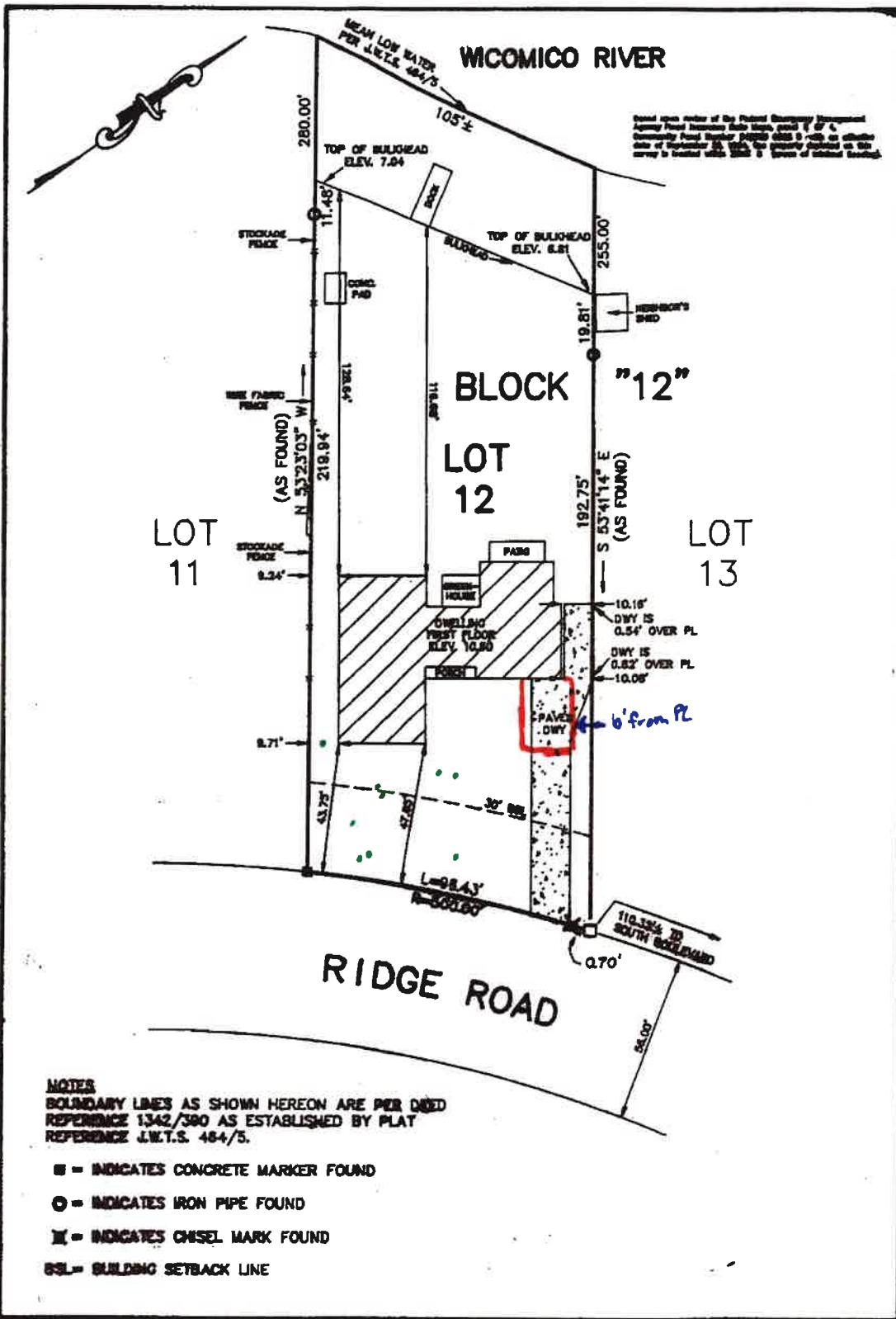
Having the garage built in front of the existing garage structure is not the first option that was evaluated. Initial thoughts were to place on the opposite side of the house, but that would require removal of 5-7 large old growth pine trees. Additional thoughts of bringing a driveway in at an angle and having the garage at an angle from the building was dismissed as it would require the removal of 5 old growth pines. In this critical area, building towards the property line allows for us to keep more of trees and green planted area, with only slight removal of shrubs and grassy area.

We have confirmed with our neighbors that they would have no problem with the addition of a garage that strays into the normal setback area.

Sincerely,

Richard DeBenedetto

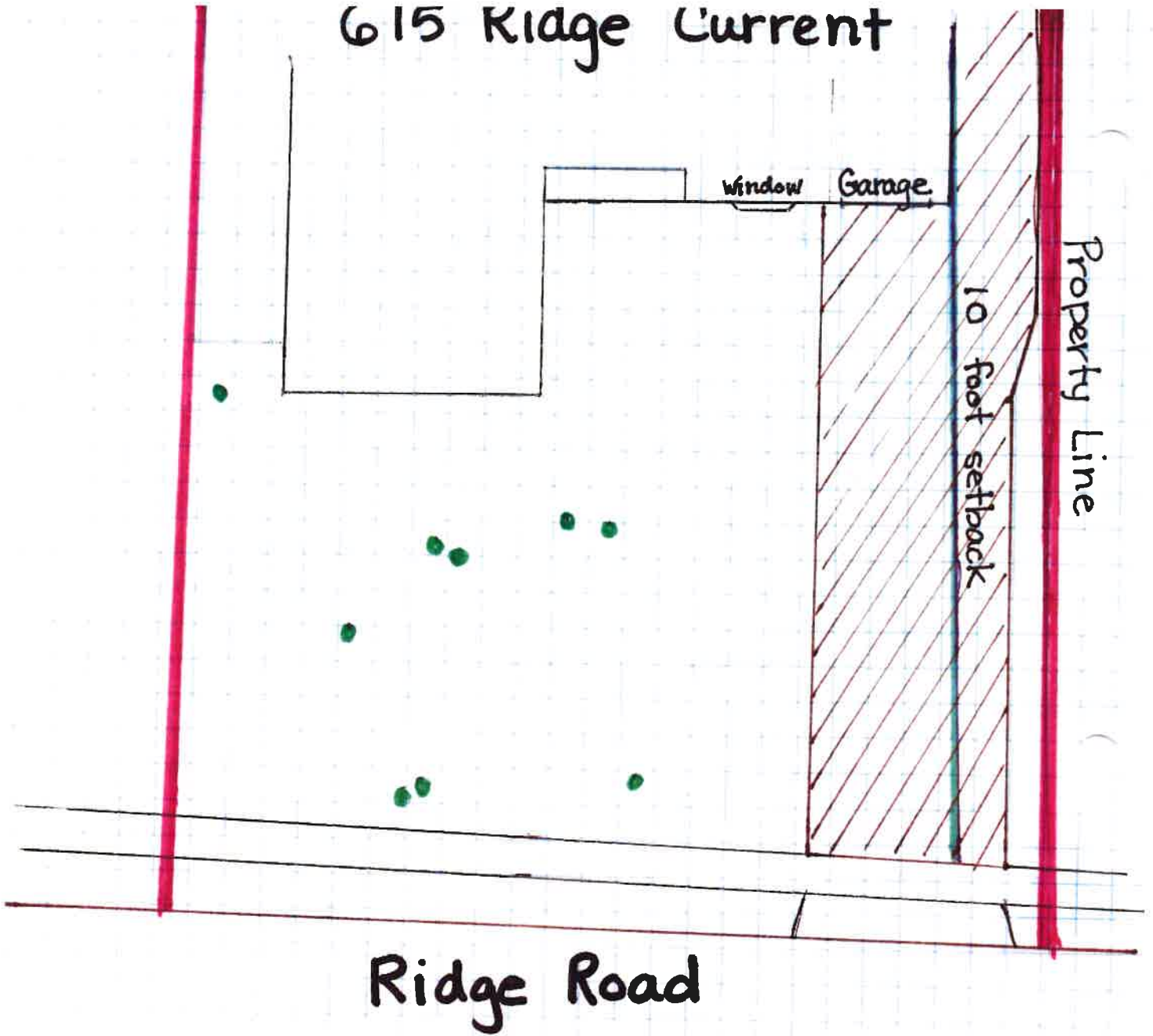
Attachment 1



PROPERTY SURVEY FOR ROY V. & RUTH P. BEAUCHAMP		
LOCATION CAMDEN ELECTION DISTRICT, WICOMICO COUNTY, MARYLAND		
SCALE 1" = 40'	DATE 09/09/93	TAX MAP 111
JOB NO. L3797	DRAWN BY R.D.S.	PARCEL 1089



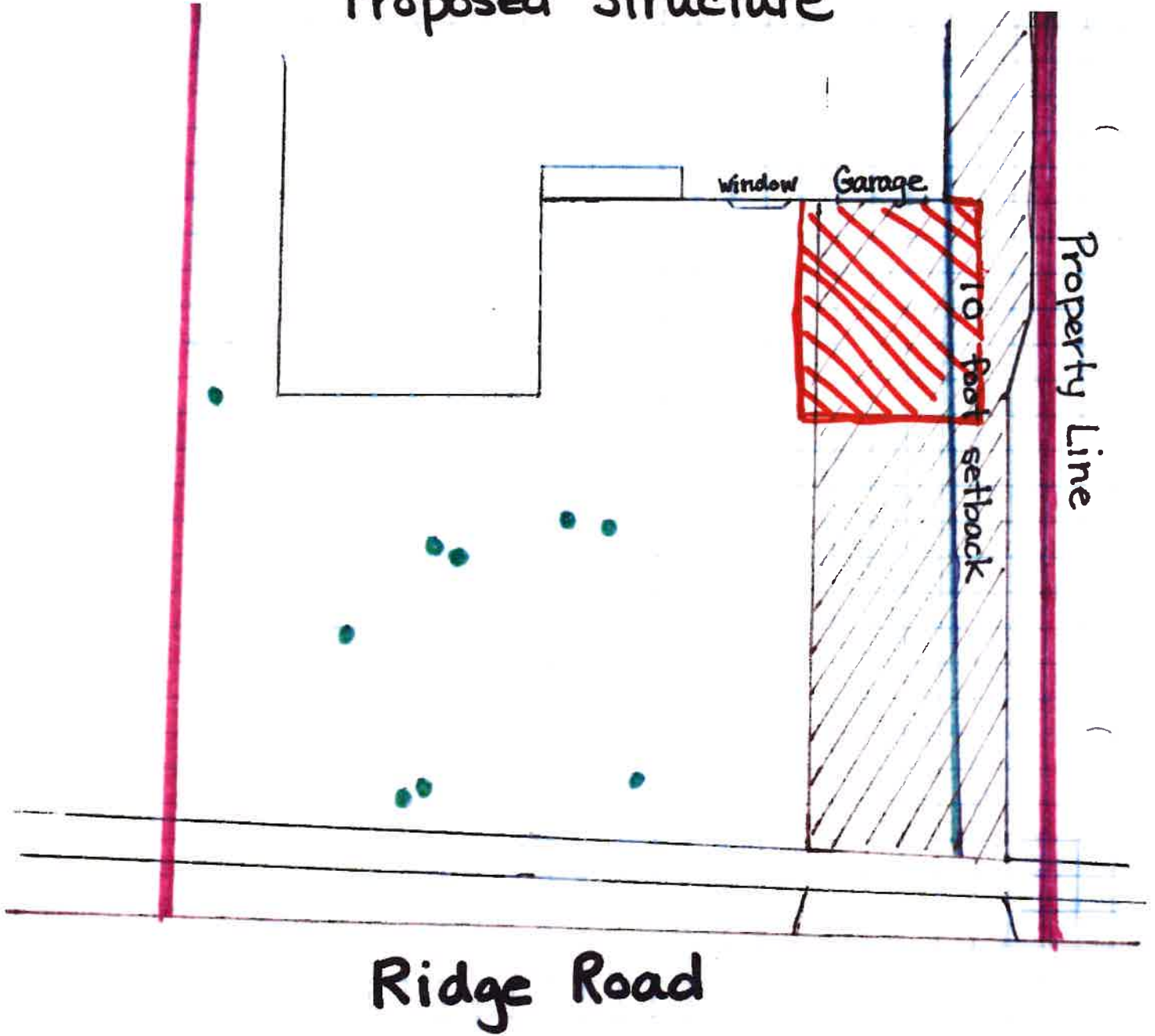
615 Ridge Current



- - Tree
- - Property Line
- - 10 foot setback
- ▨ - Paved Driveway



Proposed Structure



● - Tree

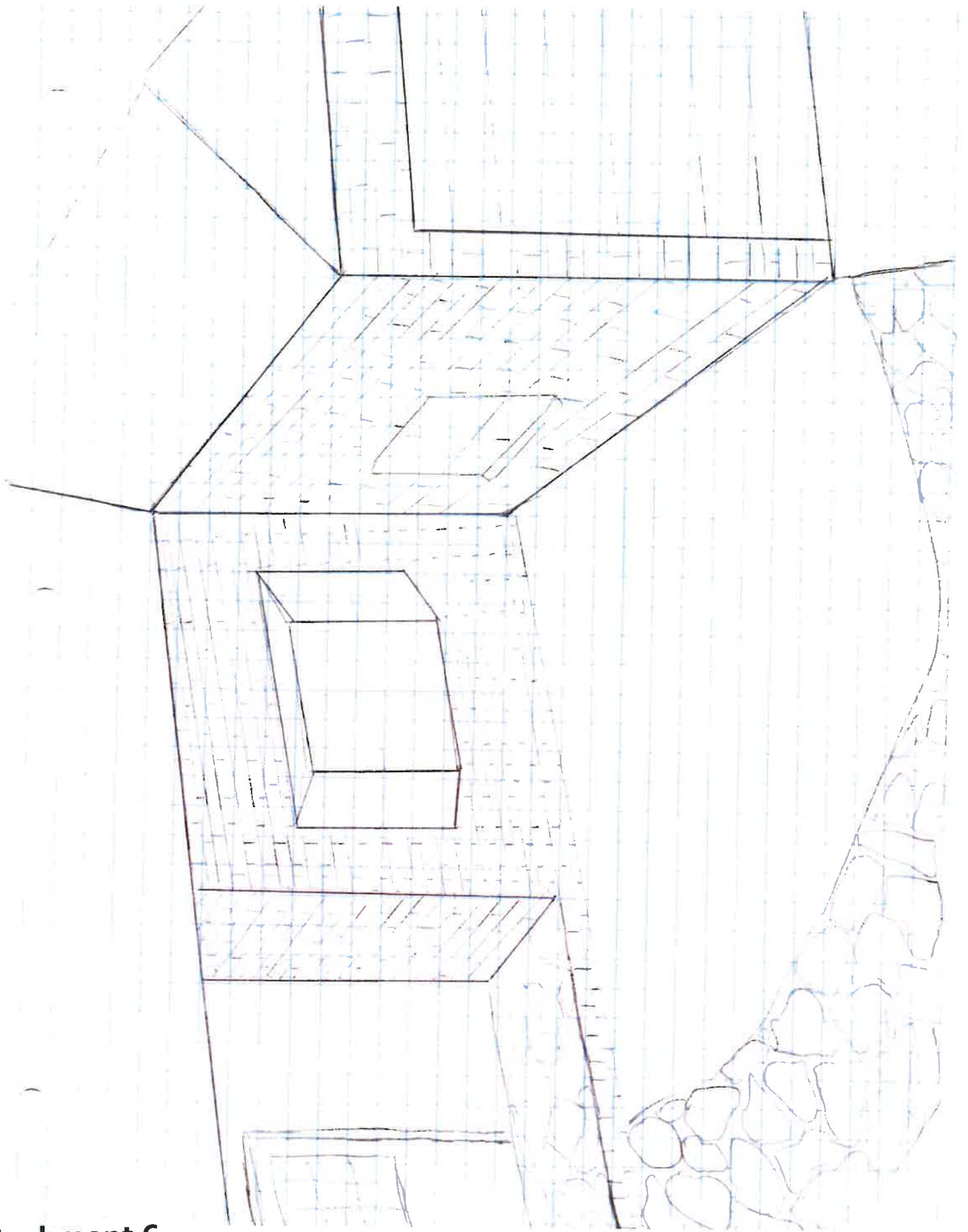
■ - Property Line

■ - 10 foot setback

■ - Paved Driveway

□ = 16 ft² (4' x 4')

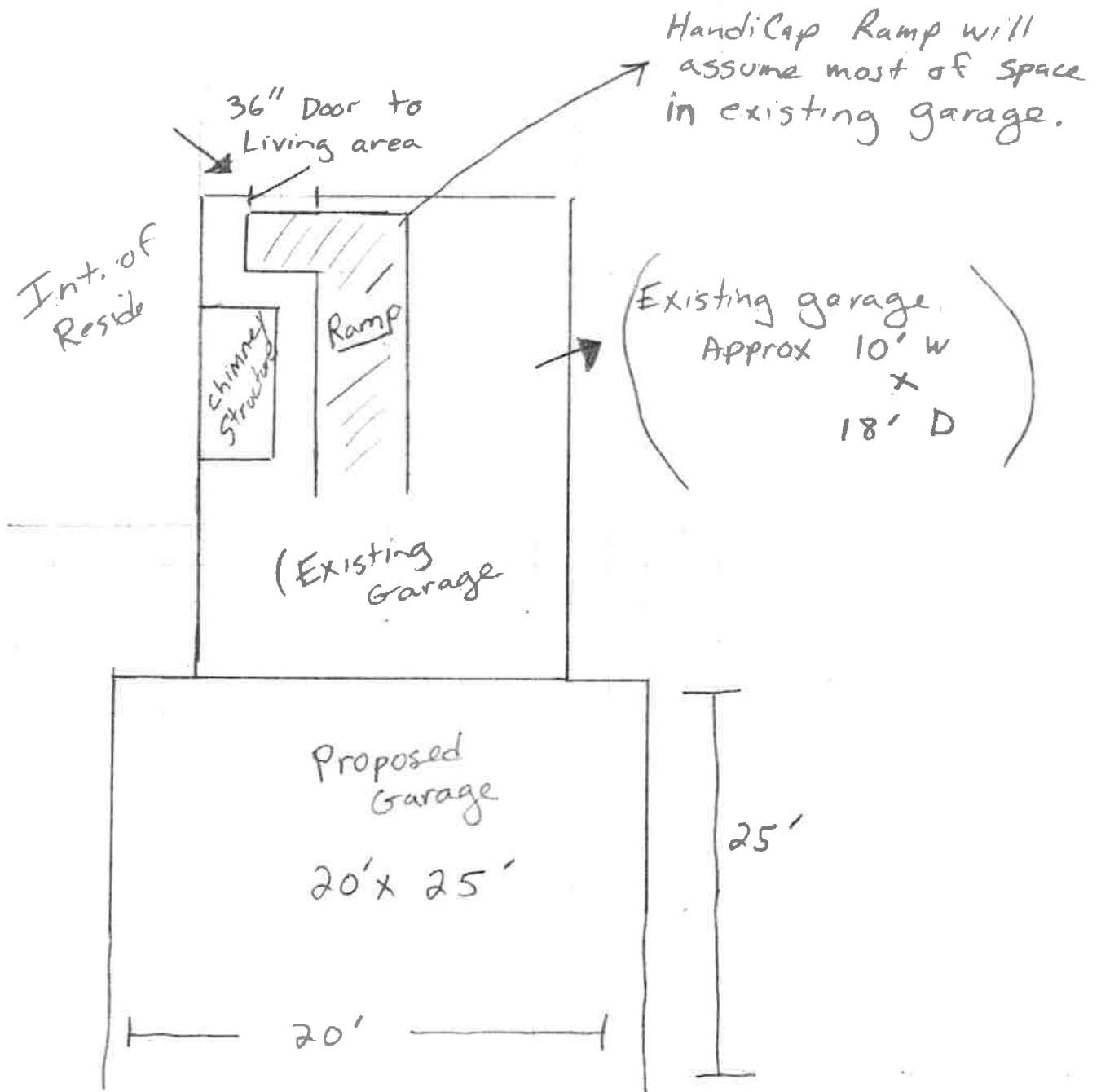
■ - Proposed Garage Addition



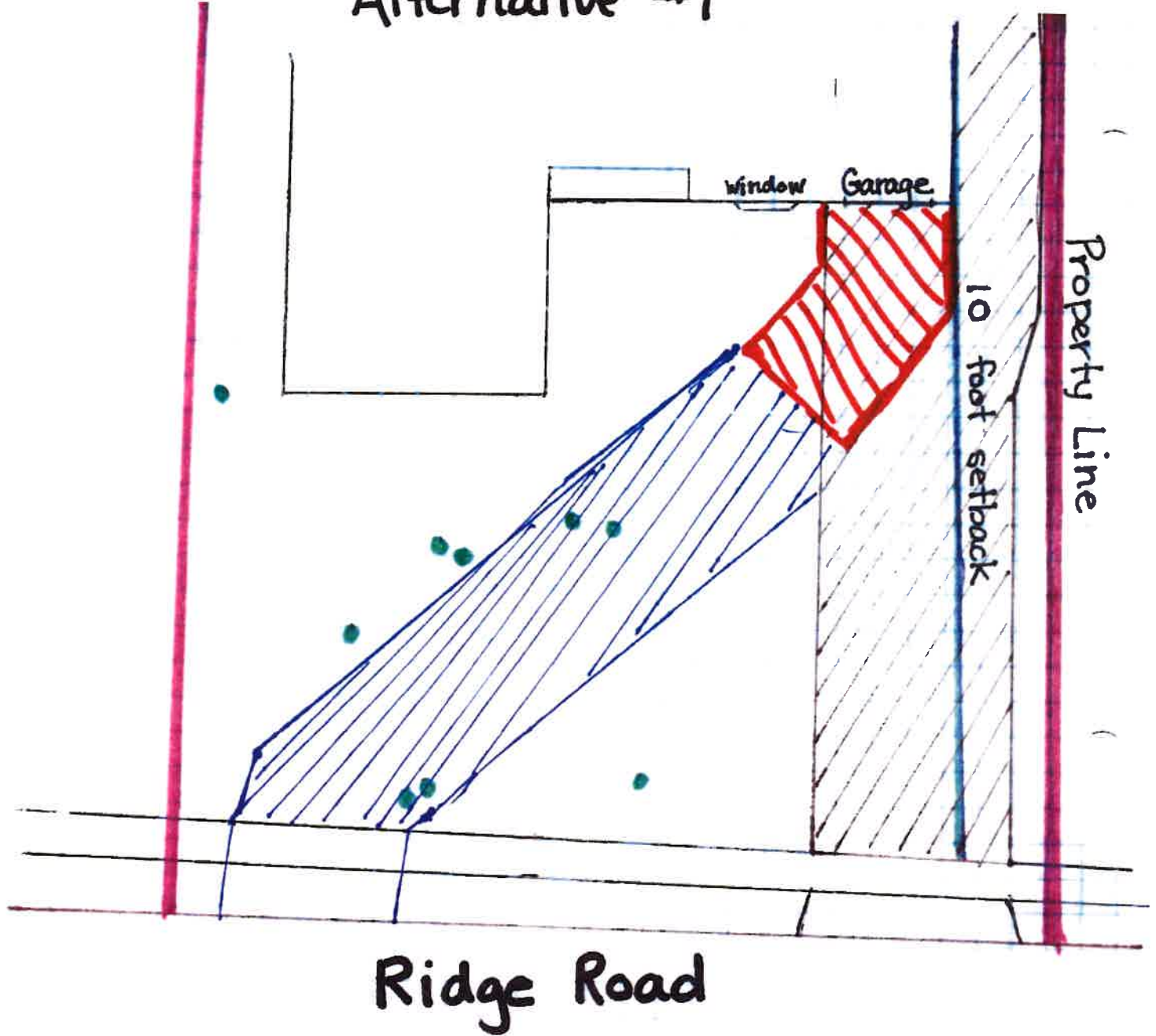
Attachment 6

615 Ridge Road
Salisbury MD

(Interior of Existing Garage)
(- Ramp structure - Proposed-)



Alternative #1



Ridge Road

Property Line

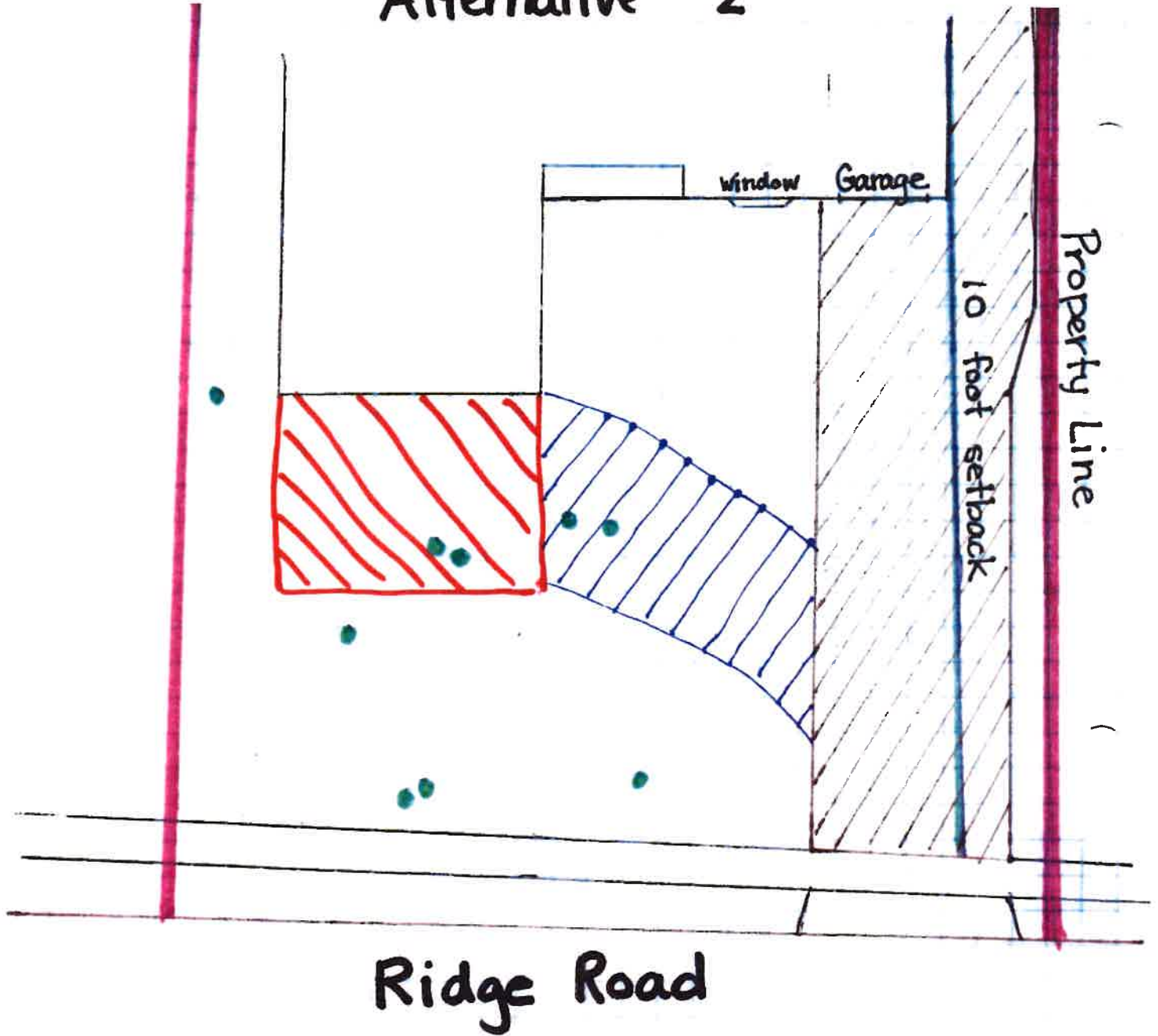
10 foot setback

Window Garage

- - Tree
- - Property Line
- - 10 foot setback
- ▨ - Paved Driveway

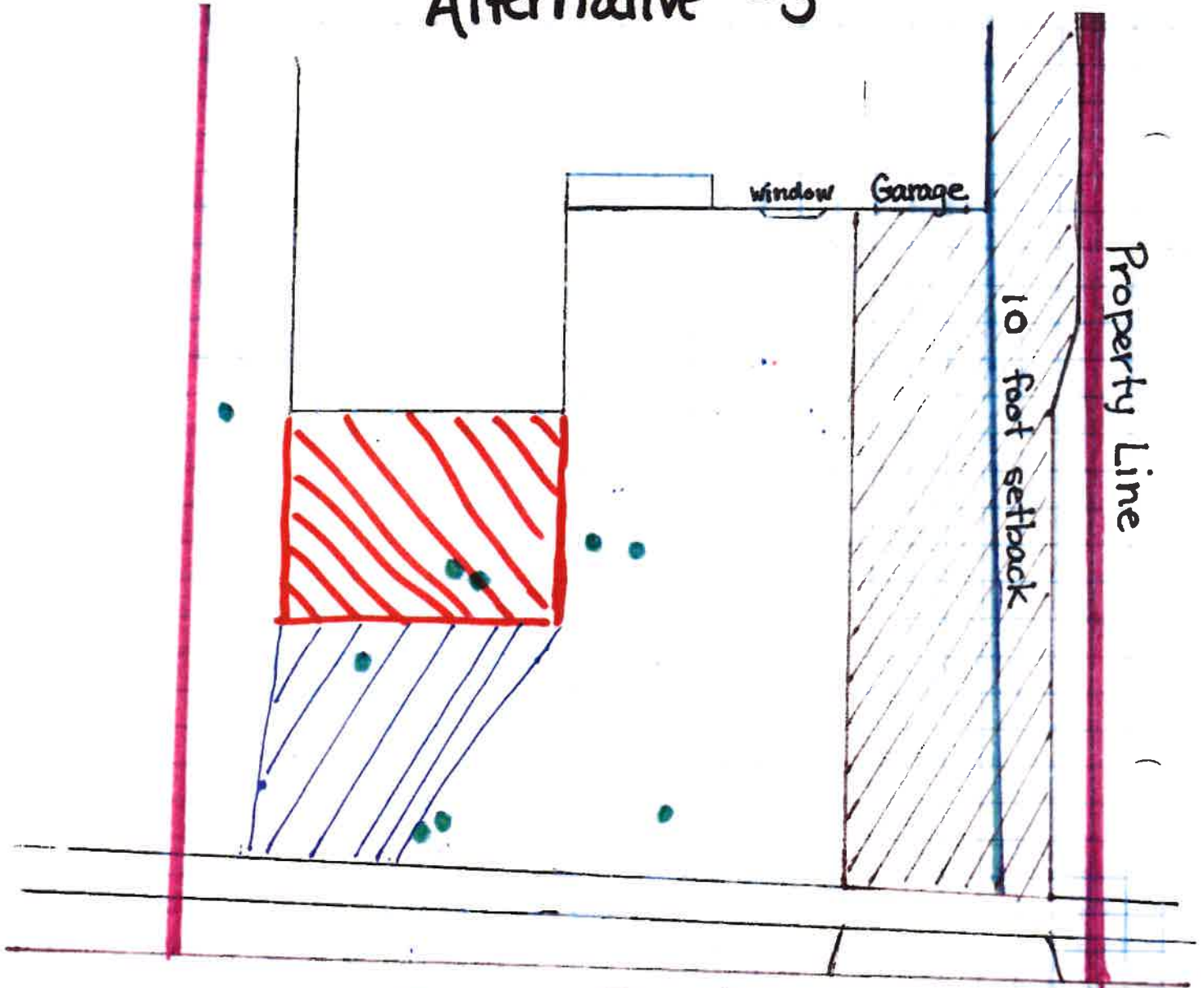
- = 16 ft² (4' x 4')
- ▨ - Necessary Driveway Addition
- ▨ - Alt. #1 Garage Addition

Alternative #2



- - Tree
- - Property Line
- - 10 foot setback
- ▨ - Paved Driveway
- = 16ft² (4'x4')
- ▨ - Necessary Driveway Addition
- ▨ - Alt #2 Garage Addition

Alternative #3



Ridge Road

- - Tree
- - Property Line
- - 10 foot setback
- - Paved Driveway
- = $16ft^2$ (4'x4')
- - Necessary Driveway Addition
- - Alt #3 Garage Addition