



City of
Salisbury
Jacob R. Day, Mayor

AGENDA

Regular Zoom Videoconference

September 3, 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, Jordan Gilmore, Brian Soper and Shawn Jester.

MINUTES - May 7, 2020 and July 2, 2020.

PUBLIC HEARINGS:

Case #SA-20-773 Value Enterprises, LLC - 10 ft. Front Yard Setback Variance to Construct a Single Family Dwelling within the Required 25 ft. Front Yard Setback – 423 Druid Hill Avenue – R-10 Residential District.

Join Zoom Meeting

<https://us02web.zoom.us/j/82256646089?pwd=dU51QnNoN1BmZndodDNSWUVsZ1VPQT09>

Meeting ID: 822 5664 6089

Passcode: 256676

One tap mobile

+13017158592,,82256646089# US (Germantown)

+19292056099,,82256646089# US (New York)

Dial by your location

+1 301 715 8592 US (Germantown)

+1 929 205 6099 US (New York)

+1 312 626 6799 US (Chicago)

+1 253 215 8782 US (Tacoma)

Meeting ID: 822 5664 6089

Find your local number: <https://us02web.zoom.us/j/82256646089>

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

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



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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 Spear 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. Spear if he had any objections to the conditions of approval listed in the Staff Report. Mr. Spear 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. Spear 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



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MINUTES

The Salisbury Board of Zoning Appeals met in regular session on July 2, 2020, via Zoom at 6:00 p.m. with attendance as follows:

BOARD MEMBERS:

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

CITY STAFF:

Henry Eure, Project Manager
Beverly Tull, Recording Secretary

* * * * *

Mr. Allen, Chairman, called the meeting to order at 5:55 p.m.

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Mr. Allen advised that a box would appear on the screen that would have to be checked authorizing consent to record the meeting. Mr. Allen 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:

The minutes will be added onto the next regular meeting due to lack of a quorum.



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#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.

Mr. Richard DeBenedetto and Mrs. Susannah DeBenedetto, as well as Mr. Tim Buckley, were 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 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.

Upon a motion to move by Mr. Allen, seconded by Mr. Soper, and duly carried, the Staff Report was moved into the record.

Mr. DeBenedetto explained that the biggest issues are the trees on the other side of the house which prohibits them from building on that side and meeting the required setbacks. He added that by adding on at the proposed location, the area is already disturbed with asphalt and it will limit the land disturbance as well as keep the existing trees on the other side of the property. Mr. DeBenedetto shared an email from his neighbors, the Dolan's, supporting his requested variance. This email was marked as Applicant's Exhibit #1 and entered into the record as such. He added that the other neighbor had verbalized to him that there was no opposition to his request.

Mr. Soper made note that the Critical Area Commission decision could impact the Board's decision and wanted to make sure all parties were aware of that. The majority of the development is taking place over existing asphalt. Mr. Eure added that the information has been sent to the Critical Area Commission but Staff has not received any information back from them to date.

Mr. Allen questioned Mr. Buckley if he had anything to add. Mr. Buckley questioned if the Critical Area Commission had all the information that they needed. Mr. Eure responded that if any further documentation was needed for the Critical Area Commission that Ms. Roane would contact them.

Mrs. Lisa Seldomridge, 629 Ridge Road, was on the Zoom meeting and advised through the Chat option that she supported the request but did question what the neighbors thought about the requested variance. Mr. Buckley responded that he had spoken with the neighbors who had no objections. Mr. DeBenedetto confirmed that the neighbors had no objections.



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Upon a motion by Mr. Soper, seconded by Mr. Jester and duly carried, the Board **APPROVED** the 4 ft. side yard setback variance for the proposed garage addition, based on the criteria listed in the Staff Report, particularly the criteria listed in Section 17.232.020B of the Zoning Code, and subject to the following Condition of Approval:

CONDITION:

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

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ADJOURNMENT

With no further business, the meeting was adjourned at 6:16 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 SEPTEMBER 3, 2020

Case No. 202000773
Applicant: Value Enterprises, LLC
Property Owner: Value Enterprises, LLC
Location: 423 Druid Hill Avenue
Tax Map: #114
Grid #22, Parcel #1403
Zoning: R-10 Residential District
Request: Front Yard Setback Variance

I. SUMMARY OF REQUEST:

The applicant is requesting permission to construct a single family dwelling within the front yard setback along Frederick Avenue.

II. ACCESS TO THE SITE AREA:

The site has frontage along both Druid Hill Avenue and Frederick Avenue. **(Attachment 1)**

III. DESCRIPTION OF PROPERTY:

This site is a corner lot totaling 6,177 square feet in area, and is currently unimproved.

IV. DESCRIPTION OF SURROUNDING AREA/NEIGHBORHOOD:

Surrounding properties are single family homes, and are also located within the R-10 Residential zoning district. Properties further south are in the county, and are located within the R-20 Residential district.

V. EVALUATION:

- (a) **Discussion:** The applicant is requesting a 10 ft. front yard setback variance along Frederick Avenue. The purpose of the request is so the applicant can build a more aesthetically pleasing single family home. **(Attachments 2-4)** (The submitted building elevation and floor plan are an example of the proposed dwelling, but not an exact copy of the finished product.) The current building envelope only allows for a 23 ft. wide dwelling, which would be out of place with other homes in the neighborhood,

which are all wider. As this is a corner lot, two (2) 25 ft. front yard setbacks are required to be met, which reduces the building envelope considerably, and limits the width of any proposed dwelling.

Section 17.04.180A of the Zoning Code states, *“The depth of any required front yard in any district may be increased or decreased so the front yard will approximate the average depth of existing front yards of existing buildings on adjoining lots on each side or, if there are no adjoining buildings, shall approximate the average depth of the front yards of the nearest buildings on the same side of the street within two hundred (200) feet.”* The house located at 422 Druid Hill Avenue has a front yard setback of 22.71 ft. along Frederick Avenue. As it is within 200 ft. of the applicant’s property, the building envelope could actually be extended to construct an approximately 25 ft. wide house, which is still somewhat smaller than other homes in the neighborhood.

- (b) **Impact:** Staff believes the proposed building envelope will have minimal to no effect on the neighborhood. Neighboring properties should not be impacted by the proposed location of the house.
- (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 lot is a rather small lot compared to other lots in the neighborhood. This is coupled with the fact that as a corner lot, two (2) front yard setback requirements are required, which restricts the size/width of any dwelling that may be constructed on the lot. Although the request may not strictly be because of an unnecessary hardship, the proposed expanded building envelope would allow for a wider dwelling that is more in keeping with other homes in the 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.



Undersized residential lots are scattered throughout the City. Similar setback variance requests for corner lots are not uncommon.

- [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 that the hardship may have been caused by the Zoning Code's requirement to maintain two (2) front yard setbacks on corner lots. On smaller lots, such as the subject lot, complying with setback standards limits the type of dwelling that may be constructed.

- [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. The proposed encroachment would still be in excess of 100 ft. from the closest dwelling.

- [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 variance request may increase the value of the property, the applicant, who has ties to the neighborhood, is making the request to construct a dwelling that is in character with the other dwellings in the neighborhood.

- [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.**

Granting the setback request 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, nor otherwise impact public safety.



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- [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 water, sewer, school, park or other public facilities, nor will this request will affect transportation 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 setback variance request will not have an impact on the City's Comprehensive Plan. The proposed use will be a single family dwelling, which is permitted inherently in the R-10 Residential zoning district.

- [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 setback variance requested is the minimum necessary to afford relief from the Code requirements. However, the Board has the discretion to approve the requested variance or grant a lesser variance.

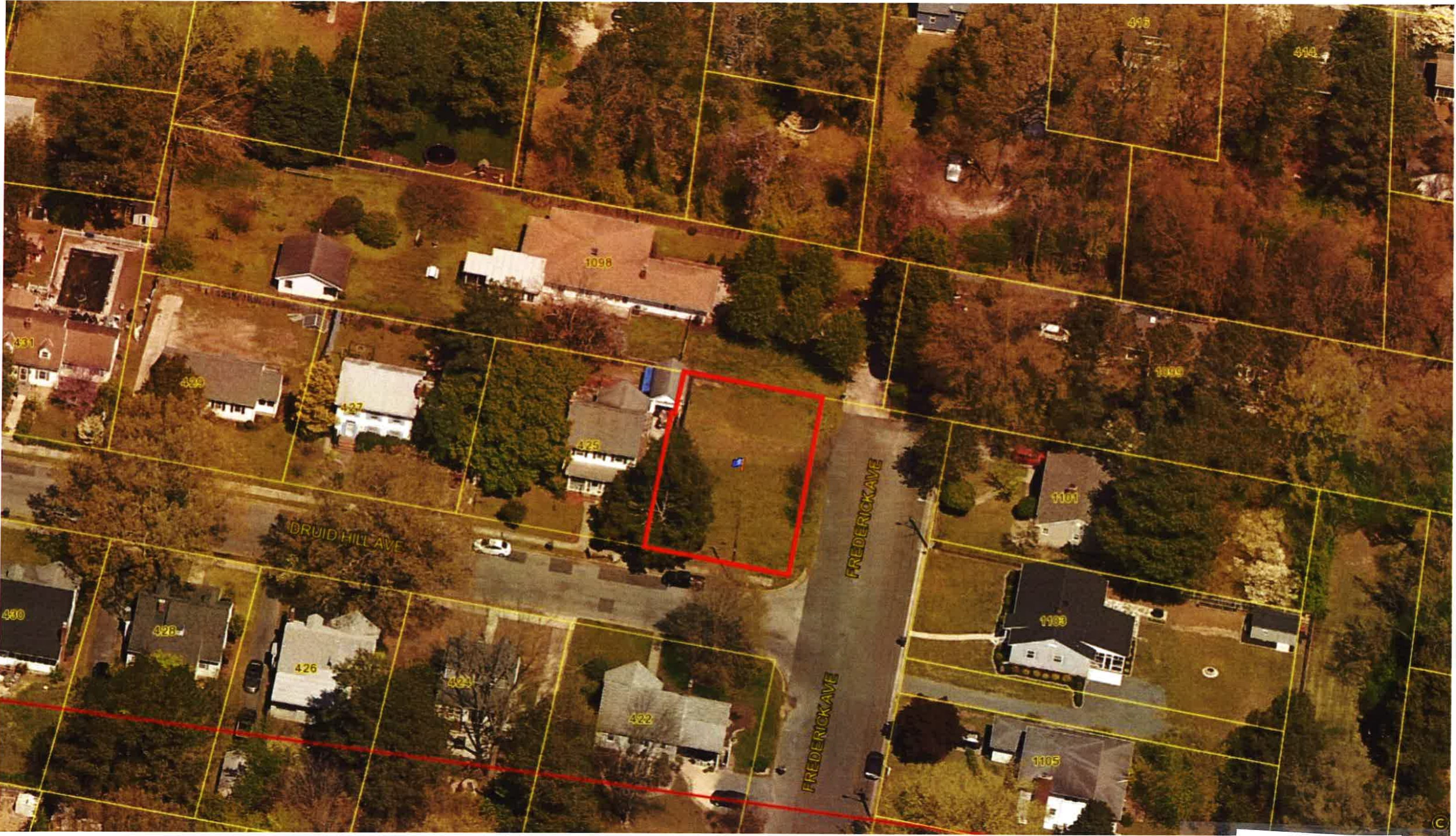
VI. STAFF COMMENTS:

The applicant has requested this variance in order to construct a single family home that will be an attractive addition to the neighborhood. A single family dwelling could be built on the site without the aid of a variance, but the house would be limited to a maximum width of approximately 25 ft., which is less than any of the other dwellings in the neighborhood. The proposed increased width will mirror the approximate width of several other dwellings in the area. Granting the variance will not impact other properties, as the dwellings that are closest to the reduced setback location are still in excess of 100 ft. from the proposed dwelling.

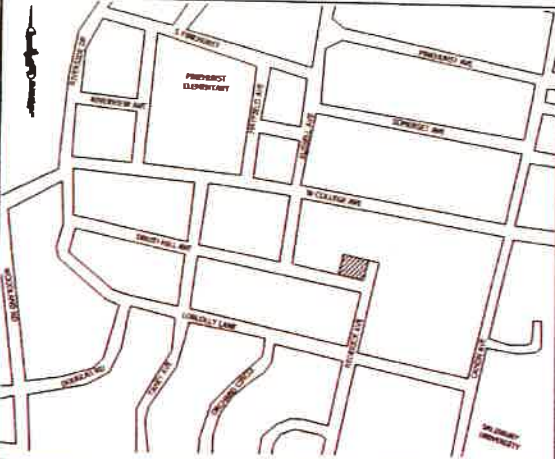
VII. RECOMMENDATION:

Based on criteria for approval as outlined in Section V (c) of the Staff Report, **Approval** of a 10 ft. front yard setback variance request along Frederick Avenue, as submitted, is recommended.

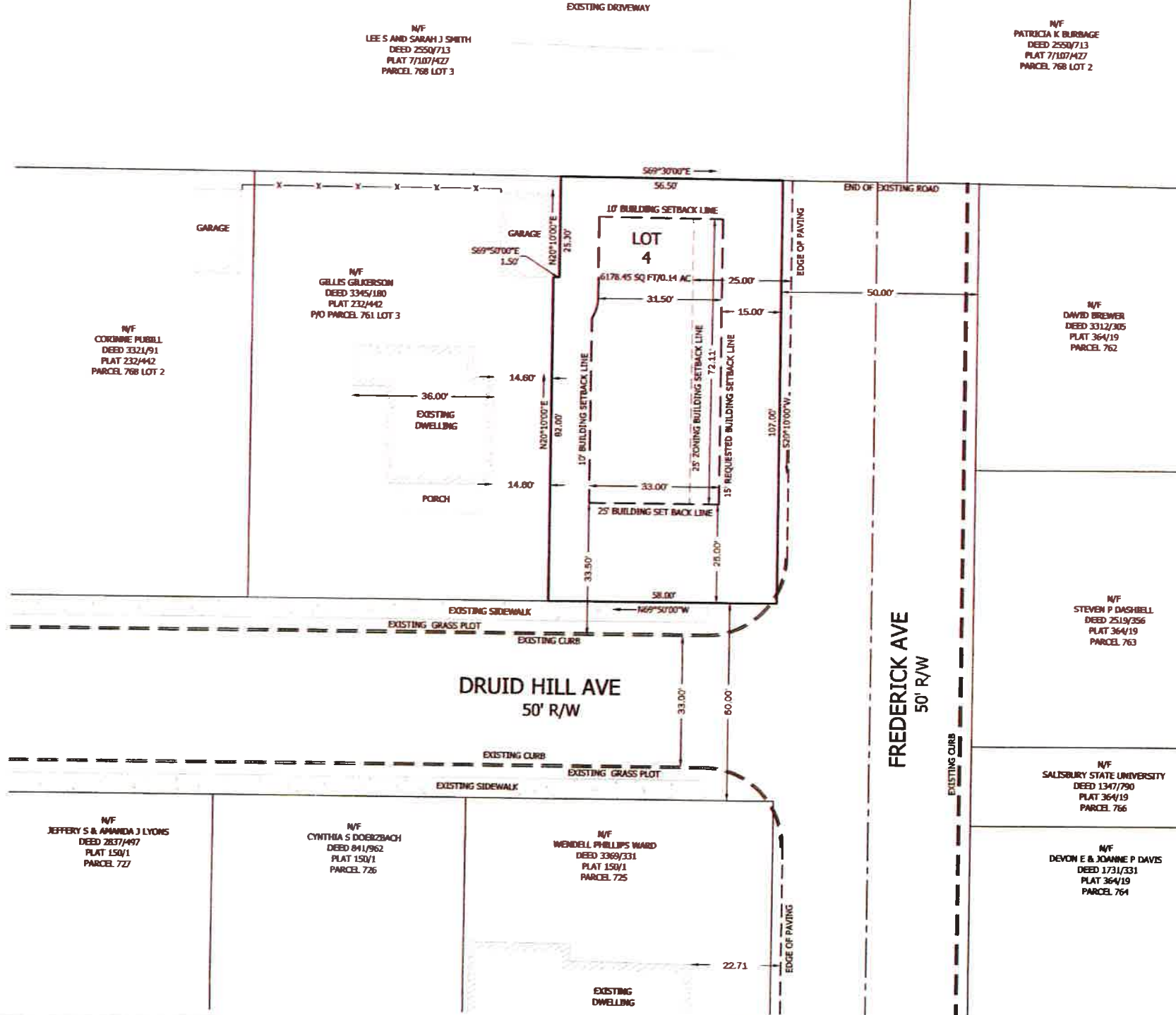
COORDINATOR: Henry Eure, Project Manager



Attachment 1



VICINITY MAP - 1" = 1000'



GENERAL NOTES

- 1) The property shown herein is currently owned by:
Vafac Enterprises, L.L.C. c/o Chris Adams
PO Box 4600, Ocean City Maryland, 21843
- 2) Deed reference: 4061/74
- 3) Plat reference: 232/442
- 4) The present zoning of this property is: R-10.
- 5) No boundary survey has been performed. Existing locations of structures as represented herein are pursuant to recorded instruments and aerial plots.



| REVISIONS | |
|------------|-----|
| DATE | BY |
| 05/28/2020 | RDS |
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VARIANCE PLAT

LOT 4

"PROPERTY SUBDIVISION FOR HENRY ROBERTS"

DRUID HILL & FREDERICK AVE SALISBURY, MD

CAMDEN ELECTION DISTRICT, WICOMICO COUNTY, MARYLAND

| | | | | | |
|---------|----------|----------|---------|---------|---------|
| SCALE | 1" = 20' | DATE | 7/12/16 | TAX MAP | 114 |
| JOB NO. | L0824 | OWNER BY | H.M.H. | PARCEL | P/O 761 |



SURVEYING FORESTRY

PARKER

ESTABLISHED 1917

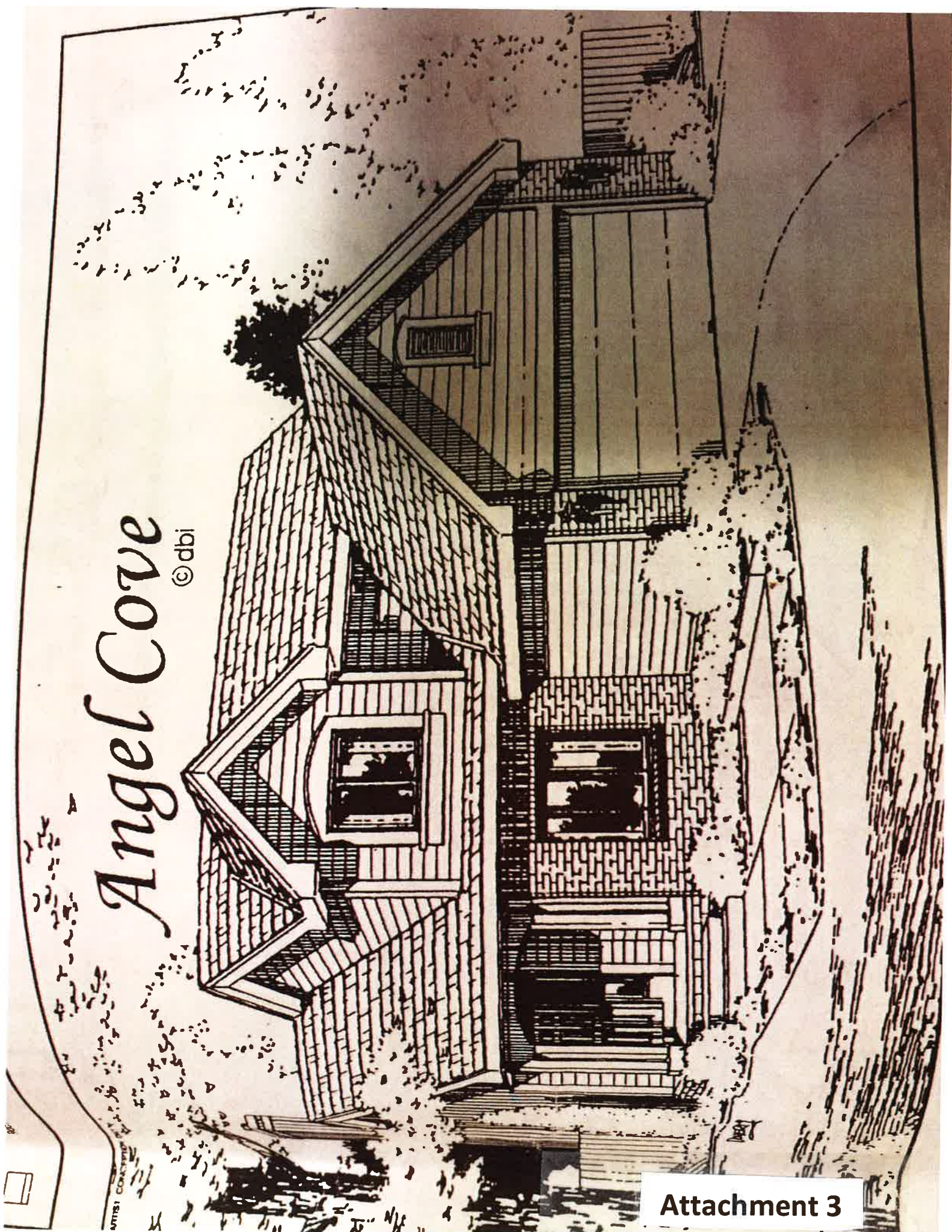
SALISBURY, MARYLAND
410-745-1822

& ASSOCIATES

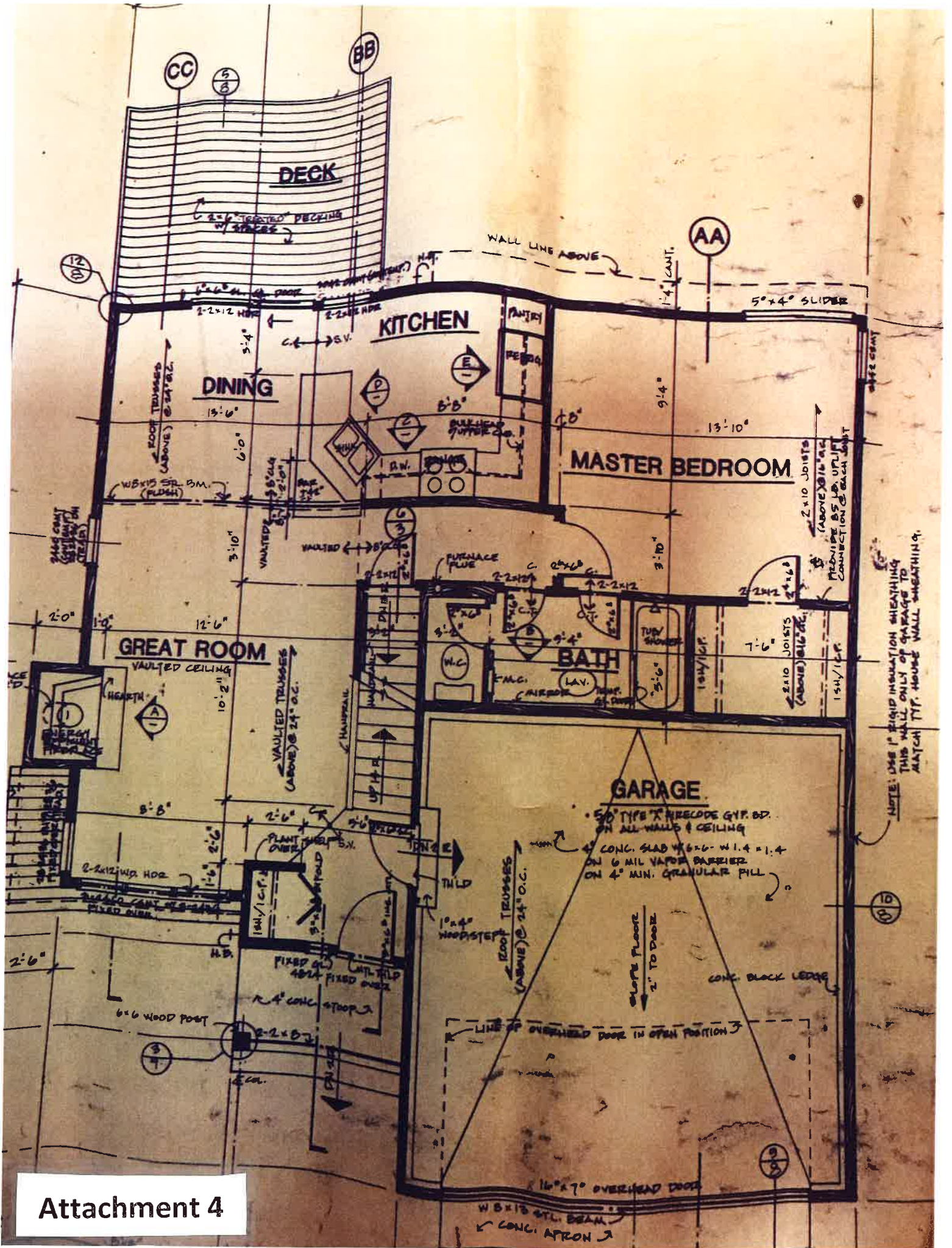
CIVIL ENGINEERING INC. SITE PLANNING

Angel Cove

© dbi



Attachment 3



Attachment 4