

## AGENDA

### **Regular Zoom Videoconference**

February 4, 2021

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** – December 3, 2020.

### **PUBLIC HEARINGS:**

Case #SA-21-026      Darron Whitehead – Enlargement of a Legal Nonconforming Use to Add a First-floor Apartment to an Existing Building – 1023 Eastern Shore Drive – Neighborhood Business Zoning District.

Join Zoom Meeting

<https://us02web.zoom.us/j/83364800830?pwd=WkY3dVFVeFFuN1MrVytmdlo4d3R6UT09>

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

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125 N. Division St., #202 Salisbury, MD 21801  
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**MINUTES**

The Salisbury Board of Zoning Appeals met in regular session on December 3, 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  
Brian Soper

**CITY STAFF:**

Henry Eure, Project Manager  
Beverly Tull, Recording Secretary  
Pete Golba, City Solicitor

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

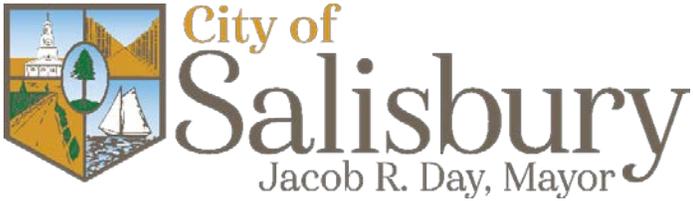
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Mr. Allen explained that this meeting was being held via Zoom. He requested that each applicant introduce themselves and give their address for the record and that Mr. Eure would then administer the oath. Mr. Eure requested that anyone wishing to testify 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.

\* \* \* \* \*

**MINUTES:**

Upon a motion by Mr. Jester, seconded by Mr. Soper, and duly carried, the Board **APPROVED** the November 5, 2020 minutes as submitted.



\* \* \* \* \*

**Case # SA-20-1093 Emmanuel Wesleyan Church, represented by Selby Sign Company – 74.9 sq. ft. Wall Sign Variance to Erect Two (2) 124.9 sq. ft. Wall Signs on the Church – 217 Beaglin Park Drive – Light Business & Institutional District.**

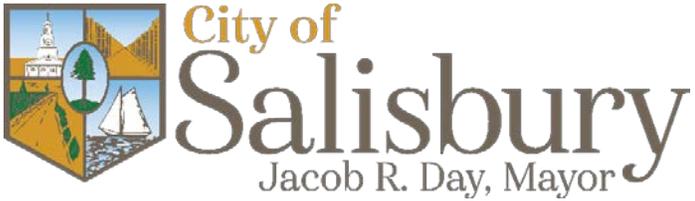
Mr. Jamie Covington and Pastor Mark Bunting were present. Mr. Henry Eure presented and entered the Staff Report and all accompanying documentation into the record. He summarized the report explaining that the applicant, on behalf of Emmanuel Wesleyan Church, wishes to install wall signs on the southwest and southeast elevations of the Church.

Mr. Allen questioned what was used for a basis on criteria #2 in regards to the property not having any unique characteristics. Mr. Eure responded that properties in the zoning district all have similar setbacks.

Mr. Covington acknowledged that the Code allows for 50 sq. ft. of signage per wall. The property is over six (6) acres in size and the proposed signage will have minimal impact on the property. The Church building is one of the largest buildings in Salisbury. Mr. Covington stated that Woodbrooke Medical and East Park Professional Center are in residential areas but have signage along Route 50. The Woodbrooke sign is similar in size to what is being proposed. A 50 sq. ft. sign is not large enough to be visible by a vehicle traveling 55 mph on Route 50. The cone of vision is very limited and there are trees obstructing the view. Mr. Covington explained that 3 ft. letters are necessary for visibility as you have a very limited amount of time to see a sign when traveling on Route 50. A large amount of signs could be placed but the Church wishes to have two (2) larger wall signs facing Route 50. He added that Oak Ridge Baptist Church has 379 sq. ft. of signage along Route 50 and were granted approval without a variance. Mr. Covington displayed photos of similar sized signs that were in the City limits but in different zoning districts. The proximity of the road and the building should be considered when reviewing the variance request. The signage is needed to advertise and market the new logo for the Church. The signs will complement the architecture of the building. Mr. Covington stated that he believed that the Code was written for doctor's offices and not the Church as there are no other properties like this one.

Mr. Allen questioned Mr. Covington if there was a lesser variance that would accomplish the goals of the Church. Mr. Covington responded that 100 sq. ft. wall sign would be deemed appropriate but in order for the sign to be effective it needed to be the size that was proposed.

Mr. Soper questioned if the Church was in the County Light Business and Institutional District when it was annexed into the City in 2003. Mr. Eure responded that he wasn't sure of what zoning district the Church was when it was in the County but



would assume that it was similar as that is the process when properties are annexed. Mr. Soper noted that the County Light Business and Institutional District allows for one (1) wall sign not to exceed 60 sq. ft. He questioned if there had ever been a sign on the building. Mr. Covington responded in the negative. Mr. Soper questioned if a sign variance had been requested before. Pastor Bunting responded in the negative.

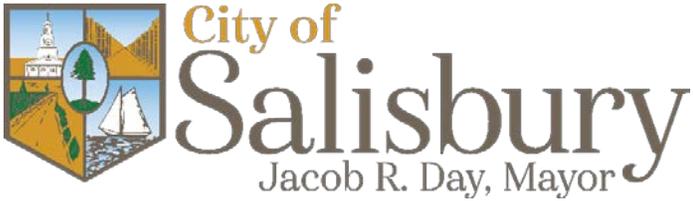
Pastor Bunting thanked the Board for their time. He briefed the Board on the Church's history, explaining that he had been in the community since 1903 and on this property since the 1970's. The Church saw a lot of growth in the late 1980's and early 1990's. In the late 1990's the larger facility was built. The larger facility was built to be the Church of the City where larger functions could be accommodated. He discussed programs that the Church provides that offer outreach to the community such as the Adopt-A-Block program which happens every other week. Pastor Bunting added that he believes that the facility is the gateway to the City from Route 50. He discussed how there is a lack of signage on the building that is needed for people to recognize the Church. Pastor Bunting stated that the 50 sq. ft. of wall signage that the Code allows will not be visible from Route 50. The shape of the building is unique so it makes it difficult to position the sign. The requested 124 sq. ft. gives the accurate size for the sign to be visible from Route 50.

Mr. Allen questioned Pastor Bunting if there was a lesser variance that would meet the needs of the Church. Pastor Bunting responded that the 124 sq. ft. sign keeps the desired design and completes the sign. A smaller sign would require the logo and sign to be broken up.

Mr. Jester requested more detail on how the sign came to be. Pastor Bunting responded that the logo is in the best position on the building. There is no flat surface to position. The sign location is key to the maximum exposure along Route 50. Mr. Jester questioned if they had looked at any smaller designs that may meet granting a lesser variance of resulting in having a 100 sq. ft. sign. Pastor Bunting reiterated that the 100 sq. ft. sign wouldn't give the visibility that is desired.

Mr. Soper questioned Pastor Bunting if he was made aware of the 50 sq. ft. Code requirement when he first met with Selby Sign. Pastor Bunting responded in the affirmative, explaining that a 50 sq. ft. sign isn't visible so they were requesting the variance for the larger sign.

Mr. Jester questioned the size of the monument sign that is located along Route 50. Mr. Eure responded that the monument sign is approximately 50 sq. ft. Mr. Covington responded that the monument sign is 4 ft. by 8 ft. Mr. Jester questioned if there were any complaints from people who can't locate the building. Pastor Bunting responded in the affirmative, especially from people who are not local and people trying to locate the Church at night.



Mr. Gilmore questioned if any other designs of the sign had ever been considered, perhaps a smaller sign with the letters closer together. Pastor Bunting responded that the sign that is being proposed is what has been considered because they don't want to break up the logo.

Mr. Justin Barnes, member of Emmanuel Wesleyan Church, spoke in favor of the requested sign. He voiced his concern that Oak Ridge Baptist Church has a sign installed that is three (3) times the size of the sign being requested by Emmanuel Wesleyan and it had no opposition. It was noted later in the meeting that the signs could not be compared as they were in different zoning districts with different sign standards.

Delegate Carl Anderton, Jr., member of Emmanuel Wesleyan Church, spoke in favor of the sign, referencing that he repeatedly gets requests for directions to the Church from his constituents.

Mr. Ted Young, member of Emmanuel Wesleyan Church, spoke in favor of the sign, referencing the size and shape of the building as reasons why the sign was needed.

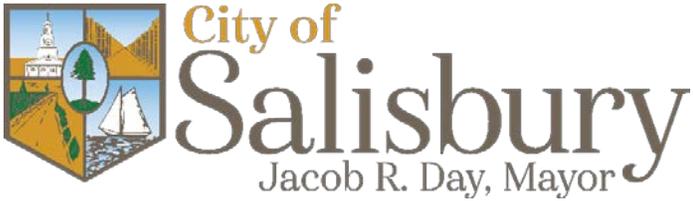
Mr. Anthony Moore, member of Emmanuel Wesleyan Church, spoke in favor of the sign by explaining that most people don't know the name of the Church and refer to it as the big Church.

Mr. Gilmore questioned Mr. Eure if Oak Ridge was in the same zoning district. Mr. Eure responded in the negative, explaining that Oak Ridge is in the Regional Commercial District and is part of a shopping center. Their signage was approved as part of a Comprehensive Development Plan by the Planning Commission as part of a shopping center.

Mr. Jester questioned Mr. Eure if he knew the rules for signage in the County. Mr. Eure responded that he didn't know the County sign requirements. Mr. Soper stated that the County Zoning Code in the LB-1 District would allow for one (1) wall sign that could be a maximum of 60 sq. ft. Mr. Eure added that the City allows for a 50 sq. ft. wall sign on each wall. Mr. Jester questioned if there were any properties with similar setbacks as Emmanuel Wesleyan. Mr. Eure responded that there are other properties in the zoning district with similar setbacks but they aren't as large of a building as Emmanuel Wesleyan. He added that all of Woodbrooke combined may be as large but their signage was approved as part of a Comprehensive Development Plan by the Planning Commission.

Mr. Soper questioned if there had been a sign variance in this zoning district granted. Mr. Eure responded that there may have been a variance granted in the past in this zoning district however it would not have been for a sign this size. Although the sign is attractive, the concern is granting a variance of this size which would set a

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precedent for the entire zoning district. Mr. Eure offered up an alternative suggestion of exploring a text amendment, which based on the size of the building, the Planning Commission and the City Council would probably approve. If the requested variance is approved as submitted, any building in this zoning district could request a sign variance for a sign this big. Mr. Allen questioned Mr. Eure if there was a lesser variance that the City would find appropriate. Mr. Eure suggested condensing the letters together on a reduced logo to shrink the size of the sign. Mr. Allen reiterated that Mr. Covington had stated that 100 sq. ft. sign may work. Mr. Allen questioned if a 50 sq. ft. variance may be more in lines with being an acceptable request. Mr. Eure responded that the granting of a lesser variance was at the discretion of the Board.

Mr. Jester stated that the frustration is that a 50 sq. ft. is acceptable for every other building in the City except Emmanuel Wesleyan. He stated that it was hard to picture any other building in the City requesting a sign this large. Mr. Eure reiterated that other zoning districts in the City have sign standards that are written differently, such as the General Commercial district. If the Church was in the General Commercial district, the sign would be allowed. Mr. Eure added that exploring a Text Amendment may be the better route.

Mr. Allen questioned Mr. Covington if the text amendment had been explored. Mr. Covington responded in the negative, explaining that this was the first he had heard of pursuing a text amendment. Mr. Covington stated that no one in the community would know that the Board had granted the requested variance and approved the sign as submitted. He added that he didn't believe that a precedent was being set. The Church wants to keep their logo and letters together on the sign which is appropriate in size for the building.

Mr. Soper thanked Mr. Covington for his expert testimony but disagreed with the notion that people wouldn't know that a precedent had been set by approving the sign. The Code was written for the entire zoning district, not a single property.

Upon a motion by Mr. Jester, seconded by Mr. Gilmore, and duly carried, the Board **APPROVED** a 50 sq. ft. Sign Variance to install two (2) 100 sq. ft. wall signs on Emmanuel Wesleyan Church located at 217 Beaglin Park Drive, based on the criteria listed in Section V(c) of the Staff Report.

Mr. Jester, Mr. Gilmore, and Mr. Allen voted in favor of the motion. Mr. Soper voted against the motion.



City of  
**Salisbury**  
Jacob R. Day, Mayor

\* \* \* \* \*

**ADJOURNMENT**

With no further business, the meeting was adjourned at 7:21 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 City of Salisbury Department of Infrastructure and Development Department.

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Albert G. Allen, III, Chairman

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Amanda Pollack, Secretary to the Board

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Beverly R. Tull, Recording Secretary



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## STAFF REPORT

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### MEETING OF FEBRUARY 4, 2021

**Case No.** 202100026  
**Applicant:** Darron Whitehead  
**Property Owner:** Whitehead Properties, LLC  
**Location:** 1023 Eastern Shore Drive  
State City Tax Map: #115  
Parcel #2932, Grid #16  
**Zoning:** Neighborhood Business  
**Request:** Permission to enlarge a legal nonconforming use

#### I. SUMMARY OF REQUEST:

The Applicant seeks permission to add a first-floor apartment to an existing mixed-use building. Board approval to enlarge a legal nonconforming use is requested. **(Attachment 1)**

#### II. ACCESS TO THE SITE AREA:

The property is located near the northeast corner of East College Avenue and Eastern Shore Drive. Access to the property is available from Eastern Shore Drive. **(Attachment 1)**

#### III. DESCRIPTION OF PROPERTY:

This property is a 5,031 sq. ft. lot, and has been improved with the existing 2,440 sq. ft. building, which was constructed in 1959.

#### IV. DESCRIPTION OF SURROUNDING AREA/NEIGHBORHOOD:

The surrounding area to the east and northeast is developed primarily with residential uses, located in the City's R-8 Residential District. The north and west consist of a mixture of business and retail uses, including the College Square Shopping Center. The campus of James M. Bennett Middle School, and the former Dresser-Wayne site are to the south, and are zoned R-8 Residential and Industrial, respectively.

**V. EVALUATION:**

- (a) **Discussion:** The existing building has been used as a mixed-use building housing a first-floor barbershop, and three (3) apartments; two (2) on the second floor, and one (1) on the first floor. Section 17.32.020J. of the City's Zoning Code indicates that a hairdresser or barber shop is a permitted use within the Neighborhood Business Zoning District. In addition, Section 17.32.020S. of the Zoning Code lists that "Apartments above the first floor in accordance with a comprehensive site plan" are permitted within this district. The use of the building is considered to be a legal nonconforming use for two (2) reasons: 1. The first-floor apartment, which is not listed as a permitted use, existed prior to the adoption of the City's Zoning Code, and 2. A comprehensive site plan was not approved for the apartment uses as they also existed prior to the current Zoning Code standards.

The Applicant now proposes to convert the barbershop into a fourth apartment, and requests approval to enlarge a legal nonconforming use, as required by Section 17.16.040C. of the Salisbury Zoning Code. The apartment will be a one-bedroom unit. **(Attachment 3)**

A total of 9 parking spaces will be provided for the four (4) units, and is compliant with code standards. **(Attachment 2)**

- (b) **Impact:** Staff believes the conversion to an apartment building will have a negligible impact on surrounding properties, and should reduce traffic to the property, as a residential use is typically less intensive.
- (c) Section 17.16.080 of the Zoning Code identifies the criteria for approval of enlarging a nonconforming use when considering the following:

- [1] **The intensity of the existing use relative to the district in which it is located, the scale of the change or enlargement in relation to the intensity of the use and whether it will have serious negative effects on the surrounding area, depreciating property values.**

The change in use from a mixed-use building containing a barbershop and three (3) apartments to a four-unit apartment building should have no negative impacts on the neighborhood. The change in use is negligible.

- [2] **Whether the change, alteration or enlargement is of benefit to or in the best interest of the community or surrounding area, such a providing**



**additional employment or housing for the community or services to a neighborhood.**

The proposed change will have minimal impact on the surrounding area, although the addition of one (1) apartment offers the ability to potentially provide housing for an additional student due to its proximity to Salisbury University.

- [3] Existing or possible traffic and parking problems and how they can be reduced or minimized.**

Parking is, and will be, compliant with Zoning Code standards.

- [4] Screening, buffering or architectural improvements which may make the use more compatible with the surrounding area.**

Revised building elevations have not been provided for the change in use, but it is expected that new construction would match, or be compatible with existing construction. No landscaping/screening changes are proposed

- [5] Whether the change, alteration or enlargement will upgrade or improve the existing nonconforming use, such as change to a less-intensive use, change in operation, structural changes or redesign of the site relative to parking areas, entrances, exits, loading or unloading and traffic flow.**

The proposed change to an apartment building has the potential to make the use of the property less intensive, as a residential use typically has less traffic than a commercial use. In addition, if the applicant's request is approved by the Board of Zoning Appeals, the City has the opportunity to make the existing apartments safer, as an automatic sprinkler system will now be required to be installed throughout the building to be compliant with current building code standards. This is a rare opportunity to bring an existing apartment building into compliance with current life safety and building code standards.

**VI. RECOMMENDATION:**

Based on the findings contained in this Staff Report, Staff recommends **Approval** of the applicant's request to alter a legal nonconforming use by adding a second first-floor apartment with the following condition:

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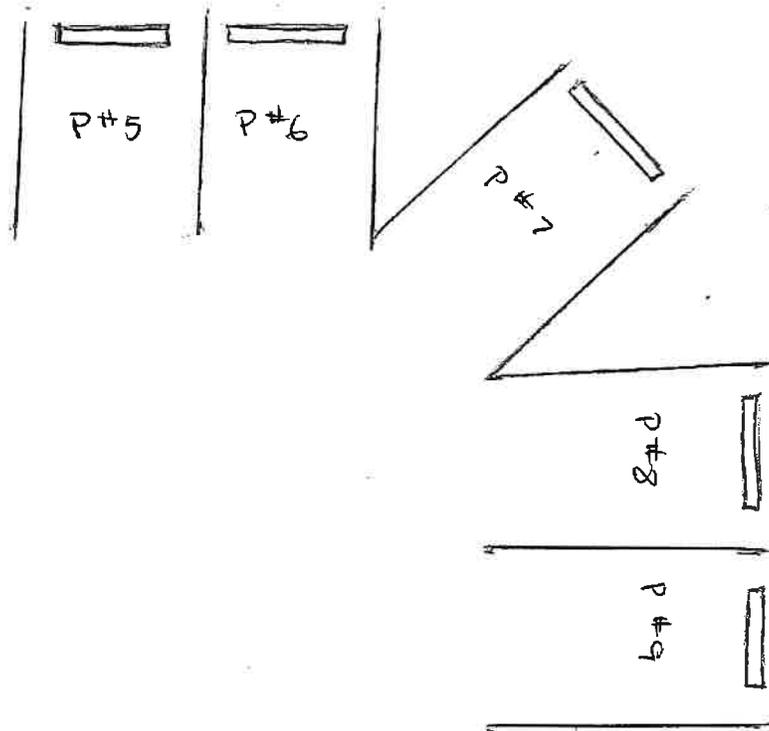
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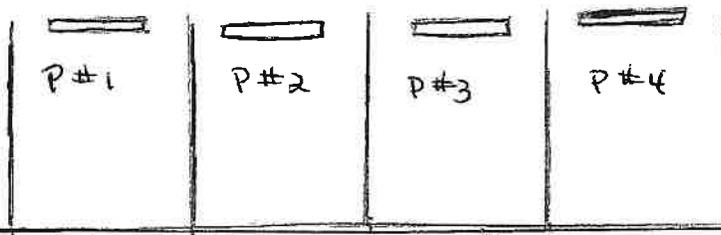
City of  
**Salisbury**  
Jacob R. Day, Mayor

1. Provide an automatic sprinkler system throughout the building.



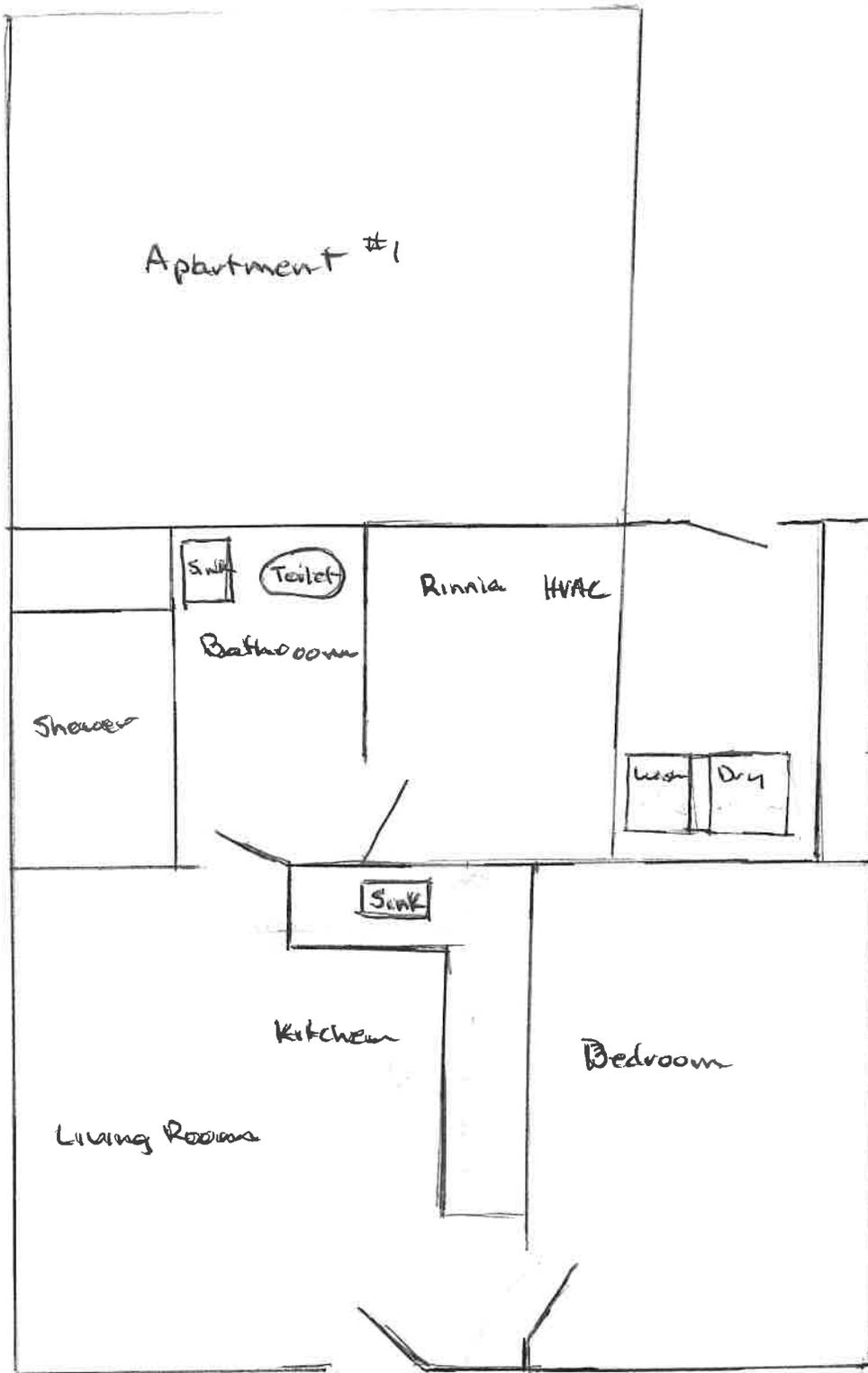


Darvon Whitehead  
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1023 Eastern Shore Dr.  
Salisbury, MD  
4 = Apartments



Sidewalk

Eastern Shore Dr.



Potential - Apartment #4  
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Salisbury, MD  
Darron Whitehead  
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