



**AGENDA**

**Regular Zoom Videoconference**

**April 7, 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** – February 4, 2021.

**PUBLIC HEARINGS:**

**Case #SA-21-214** Shiv Patel, on behalf of NEOS Corporation – 2 ft. Fence Height Variance to Erect a 6 ft. Fence within the 50 ft. Front Yard Setback – 2130 Windsor Drive – Light Industrial District.

**Case #SA-21-237** Joey Gilkerson, on behalf of Windsor Development, LLC – 15 ft. Side Yard Setback Variance – To Erect a 4,200 sq. ft. Warehouse within the 25 ft. Side yard Setback – 2113 Shipley Drive – Light Industrial District.

**Case #SA-21-246** Paulino Hernandez Rios – 2 ft. Fence Height Variance – To Erect Multiple Fences up to 6 ft. Tall within the 25 ft. Front Yard Setback – 112 Brooklyn Avenue – R-8 Residential District.

**Case #SA-21-248** Parker & Associates, Inc., on behalf of Amber Ridge, LLC – Two (2) 5 ft. Side Yard Setback Variances to Erect a Two-Story Single Family Dwelling within the 10 ft. Side Yard Setback – 714 Howard Street – R-5A Residential District.



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

Join Zoom Meeting

<https://us02web.zoom.us/j/88571786441?pwd=dmRkS2hLb2kyRXorcZBNeUpFbWxiUT09>

Meeting ID: 885 7178 6441

Passcode: 244653

One tap mobile

+13017158592,,88571786441#,,,,\*244653# US (Washington DC)

+19292056099,,88571786441#,,,,\*244653# US (New York)

Dial by your location

+1 301 715 8592 US (Washington DC)

+1 929 205 6099 US (New York)

+1 312 626 6799 US (Chicago)

+1 346 248 7799 US (Houston)

+1 669 900 6833 US (San Jose)

+1 253 215 8782 US (Tacoma)

Meeting ID: 885 7178 6441

Passcode: 244653

Find your local number: <https://us02web.zoom.us/u/kzY9vF4kS>

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

\* \* \* \* \*



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

**MINUTES**

The Salisbury Board of Zoning Appeals met in regular session on February 4, 2021, 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

\* \* \* \* \*

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

\* \* \* \* \*

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. Soper, seconded by Mr. Gilmore, and duly carried, the Board **APPROVED** the December 3, 2020 minutes as submitted.



\* \* \* \* \*

**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.**

Mr. Darron Whitehead 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 was seeking permission to add a first-floor apartment to an existing mixed-use building. Board approval to enlarge a legal nonconforming use was requested.

Mr. Whitehead thanked the Board for their time. He explained that he purchased the building in January 2021 and it contains three (3) apartments. The current tenants use five (5) of the parking spaces so parking will not be an issue adding an additional apartment. Mr. Whitehead stated that he would install a sprinkler system and discussed other upgrades to the building such as HVAC, Rinnai water heaters, washer/dryers, painting the building and repairing the sidewalk and parking spaces.

Mr. Allen questioned when the barbershop closed. Mr. Whitehead responded that the barbershop closed six (6) to eight (8) months ago.

Mr. Soper questioned the signage. Mr. Eure stated that the sign for the business needs to be removed. Mr. Whitehead added that he was removing the sign.

Upon a motion by Mr. Soper, seconded by Mr. Jester, and duly carried, the Board **APPROVED** the request to alter a legal nonconforming use by adding a second first-floor apartment, subject to the following Condition of Approval:

1. Provide an automatic sprinkler system throughout the building.

\* \* \* \* \*

**ADJOURNMENT**

With no further business, the meeting was adjourned at 6:13 p.m.



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

\* \* \* \* \*

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 APRIL 7, 2021**

**Case No.** 202100214  
**Applicant:** Shiv Patel  
**Property Owner:** NEOS Corporation  
**Location:** 2130 Windsor Drive  
**Tax Map:** #102  
**Grid #10, Parcel #2579, Lot 16A**  
**Zoning:** Light Industrial  
**Request:** Fence Height Variance

**I. SUMMARY OF REQUEST:**

The applicants request permission to erect a 6 ft. tall chain-link fence within the front yard setback along both Windsor Drive and Marvel Road. **(Attachment 1)**

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

The site has frontage along Windsor Drive and Marvel Road, with a proposed access on Windsor Drive. **(Attachments 2 & 3)**

**III. DESCRIPTION OF PROPERTY:**

This site consists of an unimproved corner lot that is 1.12 acres in size.

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

Surrounding properties are a mixture of light industrial uses including contractor's offices and storage, warehouses, manufacturing and unimproved properties. The neighborhood is primarily zoned Light Industrial, although the Industrial Park zoning district is further to the west and northwest.

**V. EVALUATION:**

- (a) Discussion:** The applicants wish to utilize the site for contractor's storage, and wish to utilize as much property as possible for this purpose. In order to maximize the site as well as properly protect the property, a 6 ft. tall chain link fence is proposed within the front yard setback along both Marvel Road and Windsor



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

Drive. **(Attachment 4)** Within the Light Industrial District, the minimum front yard setback is 50 ft. from the curbline/edge of the street. Fences may not be taller than 4 ft. within the front yard setback, according to Section 17.04.190B of the Salisbury Zoning Code. The applicants intend to place the proposed fence 4 ft. from both Windsor Drive and Harford Road. The applicant has not indicated if any screening is proposed for the fence. Section 17.220.040 of the Zoning Code requires that storage areas be screened with either a solid fence or wire fence with slat inserts, and a minimum 10 ft. wide landscaped area. The fence is also proposed to be located along the west and south property lines where adjoining other properties.

- (b) **Impact:** Staff believes the proposed fence will have a moderate impact on neighboring properties. A fence that is only 4 ft. from Marvel Road may make navigation difficult for motorists exiting Windsor Drive. However, both streets are lightly traveled with little traffic. In addition, the lack of screening and landscaping may cause the property to appear unsightly.
- (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 property does not appear to have any unique conditions that create a practical difficulty or hardship.

- [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.**

Again, there is no unique condition that the property possesses.

- [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 practical difficulty was created by the Zoning Code. Storage yards are permitted within this district, and may extend beyond



building setback standards. Fences that provide screening are required around storage yards within the Light Industrial District, and such fences must be a minimum of 6 ft. tall. Fences within front yards are limited to 4 ft. in height. The Zoning Code appears to be contradictory.

- [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 a variance should not be detrimental to the public health, security and general welfare of the neighborhood. However, staff feels that providing the required screening and landscaping will aid in maintaining the appearance of the property.

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

The variance request is based simply on the applicant's desire to utilize additional land space.

- [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.**

Increasing the fence height to 6 ft. within the front yard 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.**

Provided that the fence is not located within the site visibility triangle as specified by section 17.04.160 of the Zoning Code, the requested fence height increase will not create any hazardous traffic conditions, nor otherwise impact public safety. The standards are as follows:

**17.04.160 - Vision obstructions at intersections.**

*A. As an aid to freer, safe movement of vehicles at and near street intersections and in order to promote more adequate protection of the safety of children, pedestrians, operators of vehicles and property:*





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

1. *There shall be limitations on the height of fences, walls, gateways, ornamental structures, hedges, shrubbery and other fixtures, construction and planting in all districts where front yards are required on corner lots;*
2. *Such barriers to clear unobstructed vision at corners of intersecting streets shall be limited to a height of not over two and one-half (2½) feet above the established elevation of the nearest curb for a distance of thirty-five (35) feet along both the front and side lot lines, measured from the point of intersection of said intersecting lot lines;*
3. *Within the isosceles triangle formed as required in subsection (A)(2) of this section by connecting the ends of the respective thirty-five-foot distances, all the fixtures, construction, hedges, shrubbery and other plantings shall be limited to a height not over two and one-half (2½) feet above the elevation of the curb level at said intersecting streets;*
4. *Within the triangle, the ground elevation of such front yards shall not exceed two and one-half (2½) feet above established curb elevation at said intersecting streets;*
5. *Parking is prohibited within the triangle.*

**[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. Staff does not believe 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 fence height variance request will not have an impact on the City's Comprehensive 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 fence height variance request 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:**

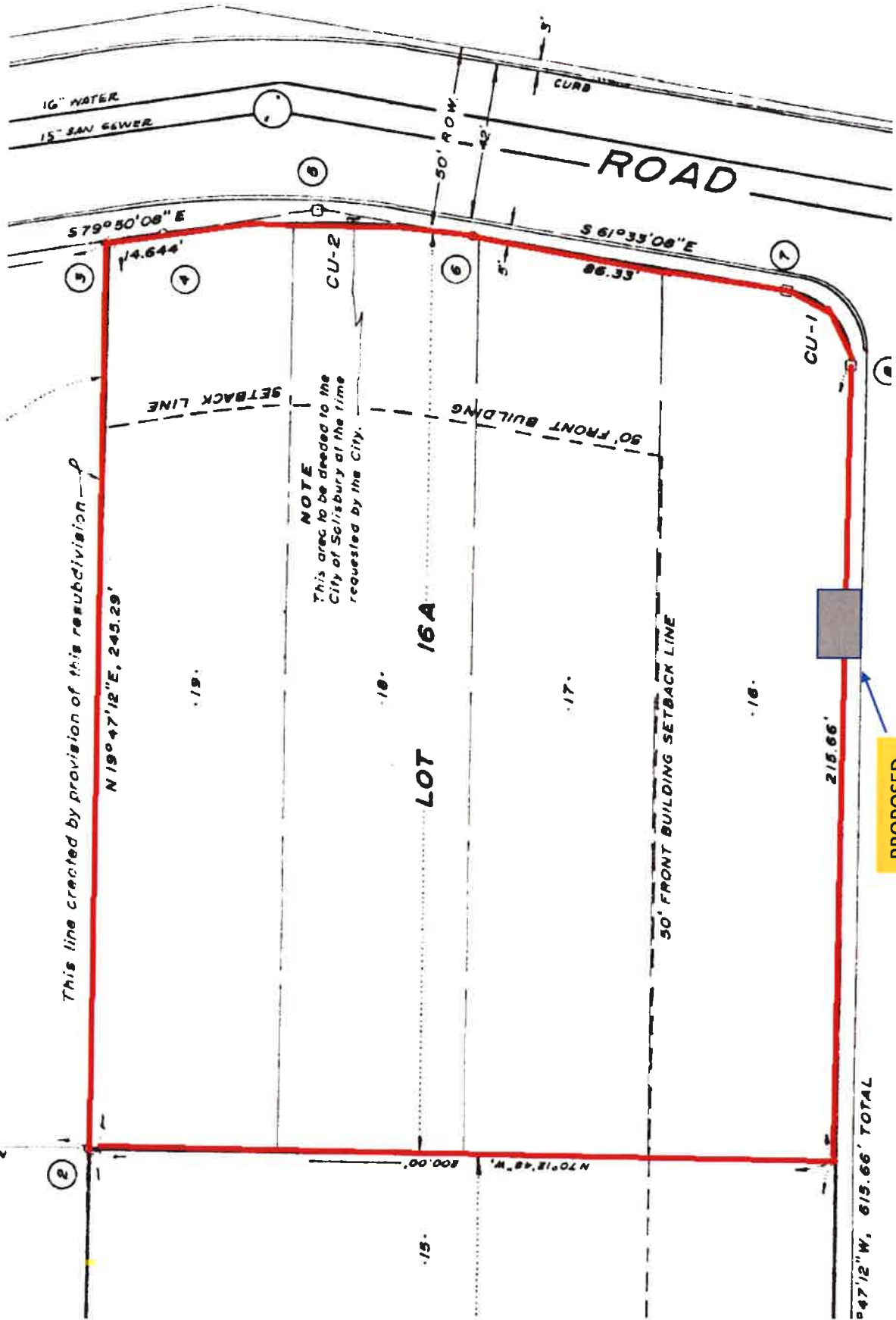
As previously indicated, it appears that the Zoning Code is somewhat contradictory regarding screening and fences when located with the front yard. In addition, having a 50 ft. front yard setback along two (2) street frontages would severely limit the usable land area for storage. However, Staff is of the opinion that there should not be a visual obstruction at the intersection, and that screening and landscaping should be provided around the entire property to protect adjoining properties.

**VII. RECOMMENDATION:**

Based on criteria for approval as outlined in Section V (c) of the Staff Report, **Approval** of the variance request as submitted is recommended to erect/install a 6 ft. tall fence within the front yard setback along Windsor Drive and Marvel Road, with the following 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. The screening/landscaping shall extend for the entire perimeter of the property.

2130 Windsor Drive. Salisbury, MD 21801



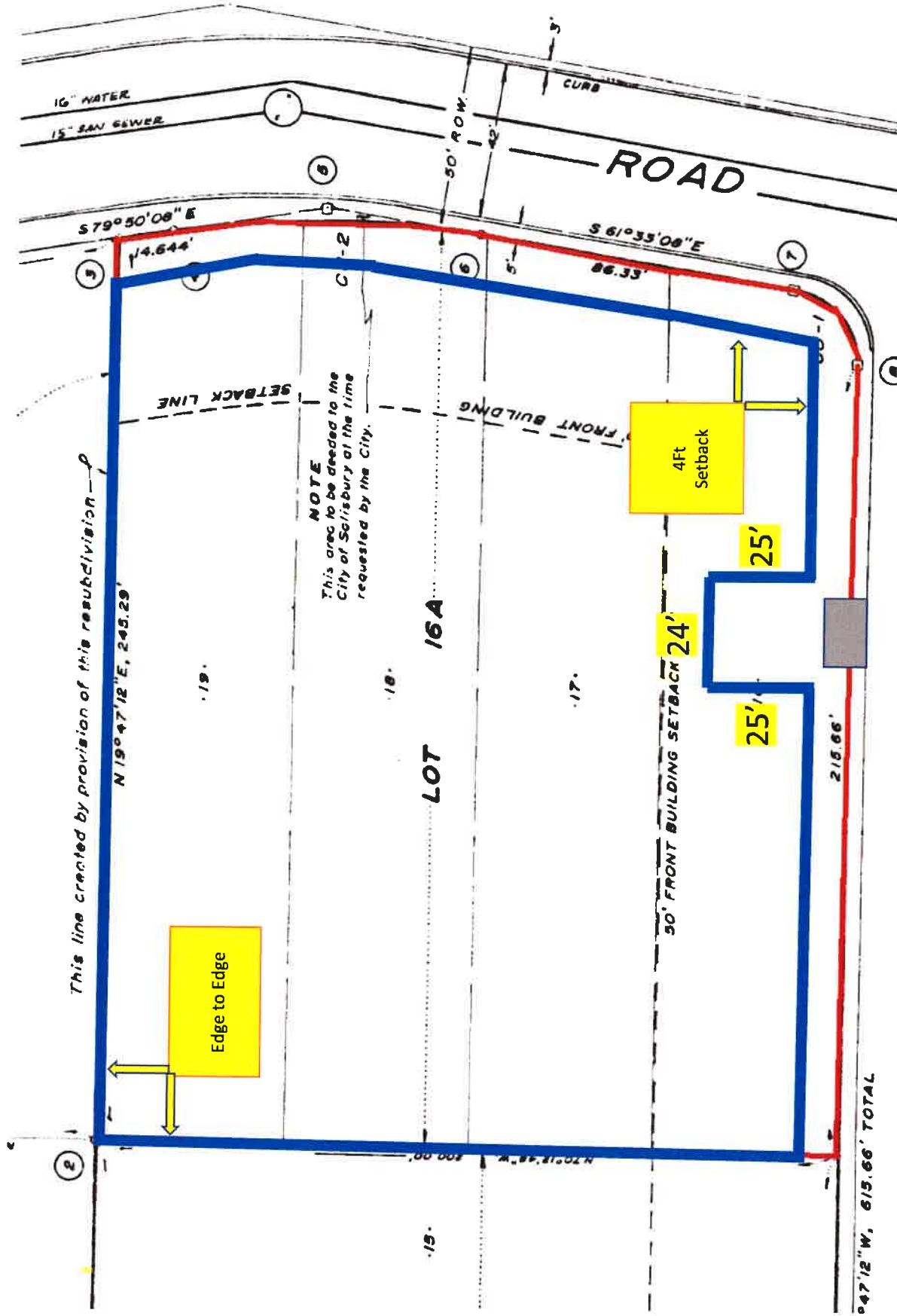






6' Fence Outline

2130 Windsor Drive. Salisbury, MD 21801



WINDSOR DRIVE



## **STAFF REPORT**

### **MEETING OF APRIL 7, 2021**

**Case No.** 202100237  
**Applicant:** Windsor Development, LLC  
c/o Joey Gilkerson  
**Property Owner:** Windsor Development, LLC  
**Location:** 2113 Shipley Drive  
Tax Map: #102  
Grid #15, Parcel #159, Lot 35 36  
**Zoning:** Light Industrial  
**Request:** Side Yard Setback Variance

#### **I. SUMMARY OF REQUEST:**

The applicant requests permission to construct a 42 ft. x 100 ft. warehouse within the side yard setback.

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

The site has frontage and access along Shipley Drive. **(Attachment 1)**

#### **III. DESCRIPTION OF PROPERTY:**

This site is a 27,800 sq. ft. parcel that has been improved with a 4,200 sq. ft. Quonset hut style warehouse. Other accessory structures are at the rear (east side) of the property. **(Attachment 2)**

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

Surrounding properties are a mixture of light industrial uses, and unimproved sites. The neighborhood is primarily zoned Light Industrial, although the Industrial Park zoning district is further to the west.

#### **V. EVALUATION:**

- (a) **Discussion:** The applicant proposes to replace the existing 4,200 sq. ft. Quonset hut style warehouse with a new 4,200 sq. ft. warehouse. The new building will utilize the existing footprint. **(Attachments 3 & 4)** Within the Light Industrial

Department of Infrastructure & Development

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

410-548-3170 (fax) 410-548-3107

[www.salisbury.md](http://www.salisbury.md)



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

District, the minimum side yard setback is 25 ft, while the proposed setback will maintain the same 10 ft. setback that currently exists for the existing building.

- (b) **Impact:** Staff believes the proposed warehouse will have minimal impact on neighboring properties. At the closest point, the warehouse will still be approximately 250 ft. from the building on the neighboring property to the north (520 Marvel Road), which is the property that is most affected by the variance request.
- (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 property is rather small and narrow for a lot within the Light Industrial Zoning District, but there are many lots in the area that are similar in size or smaller. There do not appear to be any unique conditions specific to this property that create a practical difficulty or hardship.

- [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 no unique conditions that this property possesses.

- [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 practical difficulty was created by the Zoning Code. As pointed out earlier, there are many properties within this zoning district that are small, some as small as 50 ft. in width. A 25 ft. side yard setback would eliminate any building envelope on such a lot, and a variance would be required for any type of construction. **(Attachment 5)**



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

- [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 building that sits on the property that is impacted the most by the request is approximately 250 ft. away from the property line.

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

The variance request is based simply on the applicant's desire to replace an old warehouse with a new structure while still maintaining the accessibility to the rear of the property that is currently afforded by the location of the existing structure.

- [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.**

Reducing/maintaining the side yard setback to 10 ft. 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 variance will not create any hazardous traffic conditions, nor otherwise impact public safety.

- [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. Staff does not believe 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.

- [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 15 ft. side yard variance request 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:**

As previously indicated, it appears that the Zoning Code is somewhat contradictory or restrictive regarding side yard setbacks for properties located within the Light Industrial Zoning District. If the applicant were to locate the new warehouse at the required 25 ft. side yard setback, usage of the rear third of the property would essentially be lost. Larger vehicles would have difficulty accessing the storage area and accessory building located to the east of the proposed warehouse.

#### **VII. RECOMMENDATION:**

Based on criteria for approval as outlined in Section V (c) of the Staff Report, **Approval** of the 15 ft. side yard setback variance request as submitted is recommended to construct a 42 ft. x 100 ft. warehouse within the side yard setback, with the following conditions:

1. The fence and gate along Shipley Drive 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 along Shipley Drive as required by Section 17.220.040 of the Zoning Code.







21113 SHIPLEY DRIVE - PROPOSED WAREHOUSE LOCATION

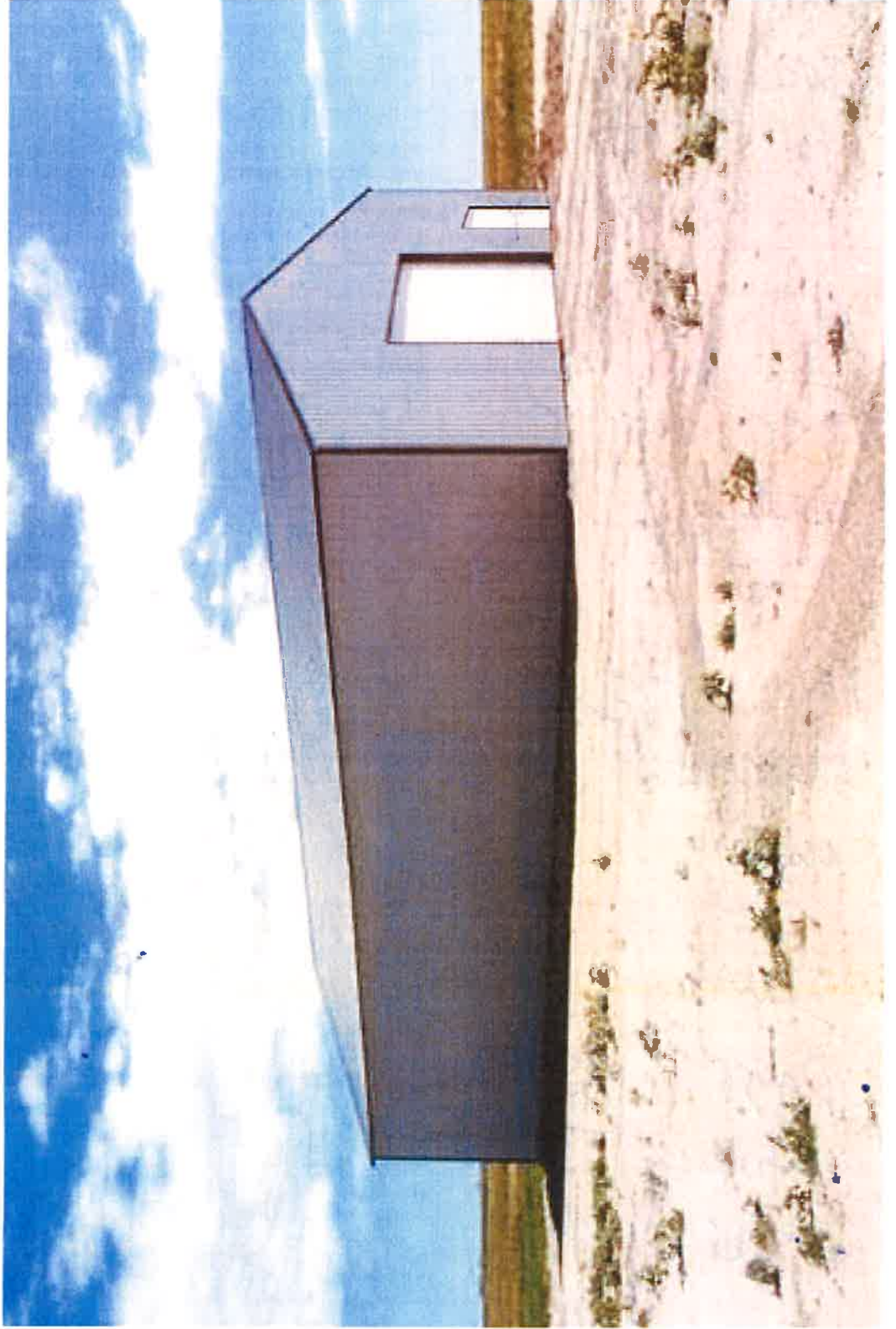


2113 SHIPLEY DRIVE - EXISTING WAREHOUSE LOCATION

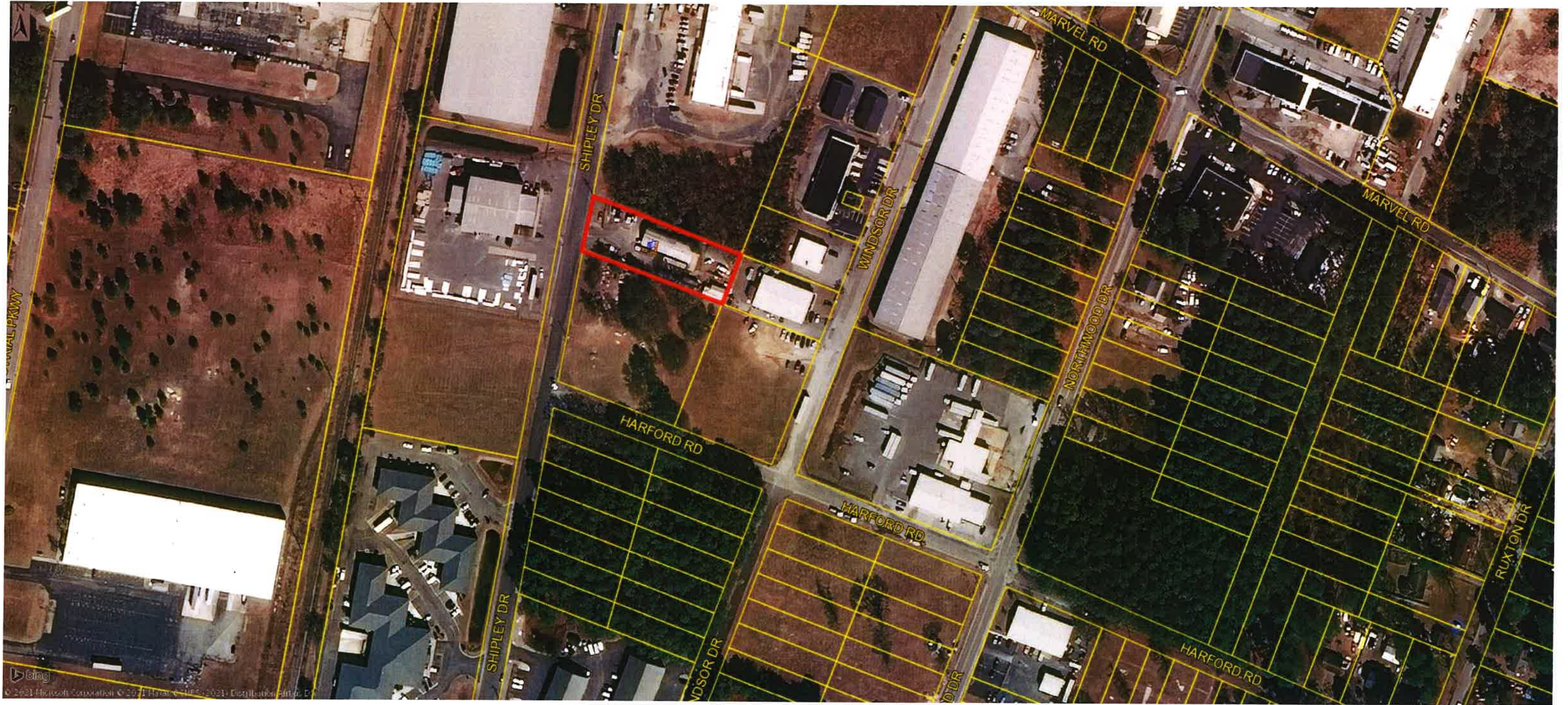




2113 SHIPLEY DRIVE - PROPOSED WAREHOUSE ELEVATION











---

---

**STAFF REPORT**

---

---

**MEETING OF APRIL 7, 2021**

**Case No.** 202100246  
**Applicant:** Paulino Hernandez Rios  
**Property Owner:** Paulino Hernandez Rios  
**Location:** 112 Brooklyn Avenue  
Tax Map: #104  
Grid #10, Parcel #734  
**Zoning:** R-8 Residential  
**Request:** Fence Height Variance

**I. SUMMARY OF REQUEST:**

The applicant requests permission to erect a 5ft. tall chain link fence and a 6 ft. tall vinyl fence within the front yard setback along both Brooklyn and Boston Avenues. **(Attachment 1)**

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

The site is located at the southeast corner of Brooklyn and Boston Avenues, and has frontage along both streets, but only has access along Boston Avenue. **(Attachment 2)**

**III. DESCRIPTION OF PROPERTY:**

The site is a 7,400 sq. ft. lot that has been improved with a 1,224 sq. ft. single-family dwelling which was constructed in 1950. A 12 ft. x 24 ft. shed is also located on the south side of the dwelling.

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

The property and neighborhood consist of single-family dwellings, all located in the R-8 Residential zoning district. Further south is Parsons Cemetery, which is also in the same zoning district, and to the north is North Salisbury Elementary School.

**V. EVALUATION:**

**(a) Discussion:** Section 17.04.190B. of the Salisbury Zoning Code indicates that fences located within the front yard shall be limited to a maximum of 4 ft. in height. The applicant



wishes to install a 5 ft. tall chain link fence around the north half of the property. It is proposed to extend from the southeast corner of the dwelling to the east property line, along the same property line, and then follow the sidewalk along both Brooklyn and Boston Avenues, terminating at a point even with the southwest corner of the house (northern half of the property). A portion of the fence, approximately 27 ft. along both streets and an existing tree, would also be located within the sight visibility triangle, where structures cannot exceed 30-inches in height, according to Section 17.04.160 of the City's Zoning Code. The standards are as follows:

**17.04.160 - Vision obstructions at intersections.**

*A. As an aid to freer, safe movement of vehicles at and near street intersections and in order to promote more adequate protection of the safety of children, pedestrians, operators of vehicles and property:*

- 1. There shall be limitations on the height of fences, walls, gateways, ornamental structures, hedges, shrubbery and other fixtures, construction and planting in all districts where front yards are required on corner lots;*
- 2. Such barriers to clear unobstructed vision at corners of intersecting streets shall be limited to a height of not over two and one-half (2½) feet above the established elevation of the nearest curb for a distance of thirty-five (35) feet along both the front and side lot lines, measured from the point of intersection of said intersecting lot lines;*
- 3. Within the isosceles triangle formed as required in subsection (A)(2) of this section by connecting the ends of the respective thirty-five-foot distances, all the fixtures, construction, hedges, shrubbery and other plantings shall be limited to a height not over two and one-half (2½) feet above the elevation of the curb level at said intersecting streets;*
- 4. Within the triangle, the ground elevation of such front yards shall not exceed two and one-half (2½) feet above established curb elevation at said intersecting streets;*
- 5. Parking is prohibited within the triangle.*

The requested 6 ft. tall fence would begin at the southwest corner of the house, extend to the sidewalk along Boston Avenue, and follow the sidewalk to the southwest corner of the property, and enclose the remainder of the property, ending at the point where the proposed chain link fence meets the east property line (southern half of the property). **(Attachment 3)**

The purpose of all fencing is to protect neighbors from dogs belonging to the property owner, as well as provide a safe area for the owner's child to play. **(Attachment 1)**





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

- (b) **Impact:** Staff believes the proposed 6 ft. fence will have minimal impact on neighboring properties. Similar fences have been granted variances and erected along other secondary street frontages on corner lots in the neighborhood and throughout the city. The proposed 5 ft. fence would be slightly out of keeping with other chain link fences in the neighborhood. Properties located at the northeast and northwest corners of Brooklyn and Boston Avenues (113 and 201 Brooklyn Avenue, respectively) have been enclosed with 4 ft. tall chain link fences. Both fences, as well as a decorative feature located on the property at the southwest corner of both streets (200 Brooklyn Avenue) are all located within the sight visibility triangle. There are no variances that have been granted for these structures, so it is assumed that all are legal nonconforming structures. As both streets are relatively lightly traveled, the location of an open fence within the sight visibility triangle should have minimal effect on motorists entering the intersection from Boston Avenue.
- (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.**
- As the property is a corner lot, the City's Zoning Code indicates that there are two (2) front yards and two (2) side yards, with no rear yard, minimizing the area where a 6 ft. tall fence may be located. Otherwise, this is a typical residential lot that does not appear to have any unique conditions that create a practical difficulty or hardship.
- [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.**
- Again, there are no unique conditions that this property possesses, other than being a corner lot.
- [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 practical difficulty was created by the Zoning Code. Again, as the property is a corner lot, the City's Zoning Code indicates that there are two (2) front yards and two (2) side yards regardless of the orientation of a dwelling or structure, with no rear yard, minimizing the area where a 6 ft. tall fence may be located, which potentially limits the area where added protection and privacy may be provided. There does not appear to be any hardship created by the code for the proposed location of the 5 ft. tall fence.

**[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 for the 6 ft. tall fence should not be detrimental to the public health, security and general welfare of the neighborhood. The proposed 5 ft. fence which is to be located in what is typically considered the "front" yard, would be out of place with other front yards in the neighborhood. However, granting a variance to allow a structure over 30-inches in height in the sight visibility triangle will not be detrimental to the neighborhood.

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

The variance request is based simply on the applicant's desire to utilize additional land area for recreation and protection of the property and its occupants.

**[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.**

Increasing the fence height to 6 ft. within the front yard along Boston Avenue will not be detrimental to other properties and will not adversely impact nearby property values. However, the installation of a 5 ft. tall fence may have a somewhat negative impact on other property values, but shouldn't affect the use and enjoyment of these same properties.

- [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 fence height increases will not create any hazardous traffic conditions, nor otherwise impact public safety.

- [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. Staff does not believe 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 fence height variance request will not have an impact on the City's Comprehensive 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 fence height variance request for the 6 ft. tall fence, as well as granting a height variance in the sight visibility triangle 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:**

As previously indicated, it appears that the Zoning Code is somewhat restrictive regarding fences that are located in what is technically a front yard, but is widely regarded as a side yard, depending upon the orientation of a building. Historically, the Salisbury Board of Zoning Appeals has granted variance requests for fences located along secondary street frontages on corner lots.



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

**VII. RECOMMENDATION:**

Based on criteria for approval as outlined in Section V (c) of the Staff Report, **Approval** of the variance request as submitted is recommended to erect/install a 6 ft. tall fence within the front yard setback along Boston Avenue. **Approval** is also recommended to increase the height of the chain link fence located within the site visibility triangle to a maximum of 4 ft. However, Staff recommends **Denial** of the requested 5 ft. height request for the proposed chain link fence. This fence shall be limited to a maximum of 4 ft. in height.

**City of Salisbury**  
**Department of Infrastructure & Development**  
125 N. Division Street, Room 202  
Salisbury, MD 21801  
(410) 548-3130 · FAX (410) 548-3107

**TO: Amanda Pollack, Director**  
**Secretary to the Board of Zoning Appeals**

**SUBJECT:**

**DATE:**

**CERTIFICATION OF APPLICANT**

In accordance with Section 17.12.110, of the City's Zoning Code, I hereby request a hearing before the Salisbury Board of Zoning Appeals to:

I certify that I have paid all advertising fees necessary for the public hearing in this matter to a representative of the City of Salisbury Department of Infrastructure & Development. I also acknowledge that additional application fees will be assessed by the City of Salisbury Department of Infrastructure & Development prior to my case being scheduled for official action by the Board.

I certify that my interest in the property is as follows: To prevent my 120 pound dog from chasing children or possibly scaring them. Also, to keep my dogs from running into oncoming traffic. Another one of my interests is to keep my child from going out.  
It is my understanding that the property involved will be posted with a Public Notice and I agree to allow the posting and property inspection, if applicable.

Very Truly Yours,

**WITHDRAWAL NOTICE**

I hereby:  Cancel       Withdraw       Postpone

my application for: 6' and 5' fence

Paulina Hernandez Rio S  
Name

02/18/2021  
Date





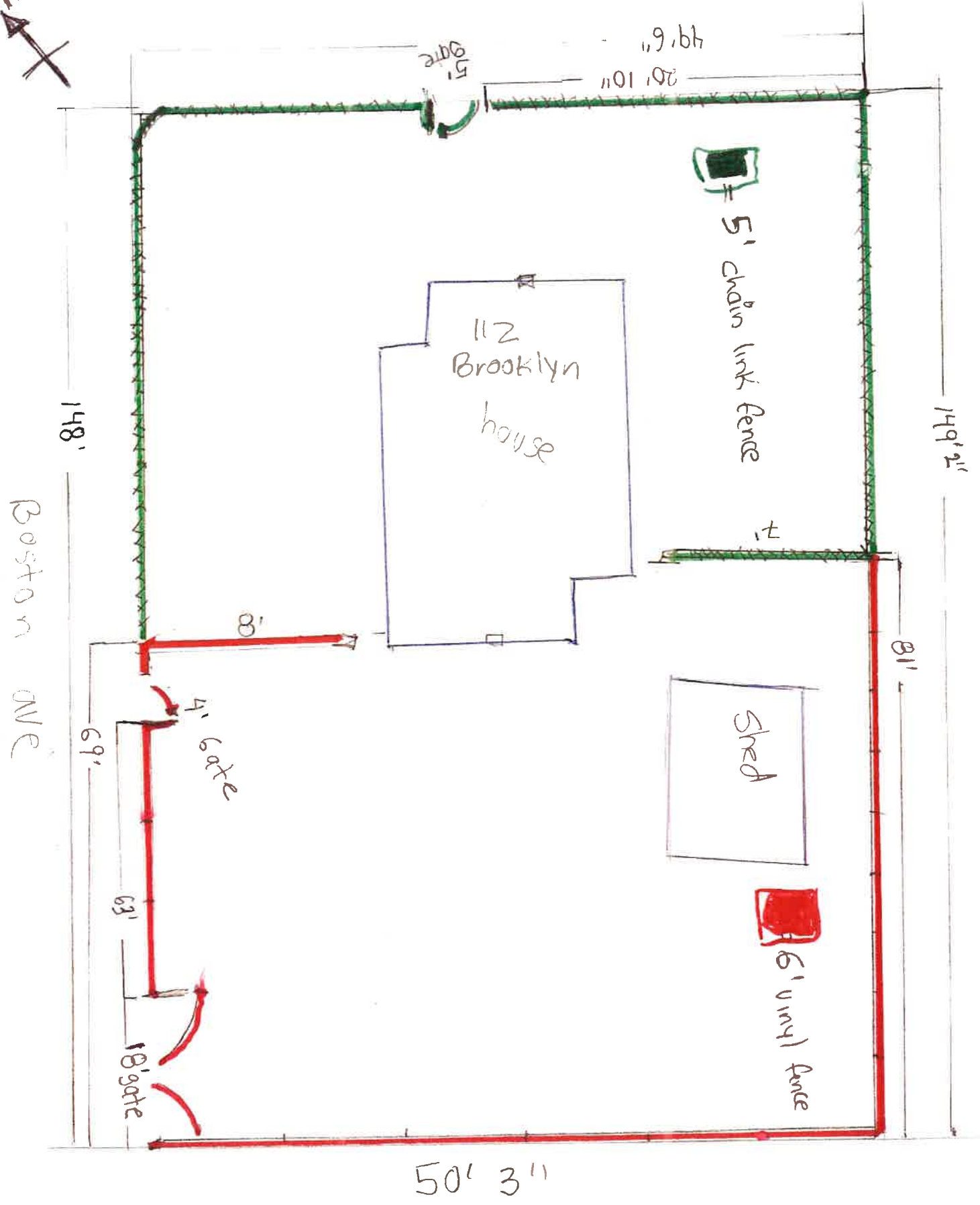
04/14/2020

© All Pictometry





Brooklyn ave





**STAFF REPORT**

**MEETING OF APRIL 7, 2021**

**Case No.** 202100248  
**Applicant:** Parker & Associates, Inc.  
**Property Owner:** Amber Ridge II, LLC  
**Location:** 714 Howard Street  
**Tax Map:** #111  
**Grid #15, Parcel #1445**  
**Zoning:** R-5A Residential  
**Request:** Side Yard Setback Variance

**I. SUMMARY OF REQUEST:**

The applicant, on behalf of the owners, requests permission to construct a single-family dwelling within the both side yard setbacks on a property located at 714 Howard Street. **(Attachment 1)**

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

The site has frontage along both Howard Street and Riverside Drive but only access from Riverside Drive. **(Attachment 2)**

**III. DESCRIPTION OF PROPERTY:**

This site is a narrow, 40 ft. wide, 4,789 sq. ft. property, located within the R-5A Residential Zoning District.

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

Surrounding properties are a mixture of single-family homes and apartment complexes located within the same zoning district. The R-8 and R-10 Residential Zoning Districts are nearby.

**V. EVALUATION:**

- (a) **Discussion:** The applicant is proposing to construct a 24 ft. x 30 ft. Cape Cod style single-family dwelling on the site. **(Attachment 3)** Within the R-5A District, the minimum side yard setback is 10 ft. from the property line. A 5 ft. side yard





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

setback is proposed for both property lines. The dwelling will be oriented to face Howard Street, although the property also fronts along Riverside Drive.

- (b) **Impact:** Staff believes the proposed site plan has the potential to have a moderate impact on privacy for both the occupants of the proposed dwelling and adjoining properties due to the proximity of house to both property lines.
- (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.**

Due to the narrowness of the lot, there is some difficulty in finding a dwelling that will properly fit within the building envelope. However, there are other building plans that may be more compliant with current Zoning Code standards.

- [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.**

Although this lot is substandard in width, there are a number of properties throughout the City that are similar in width.

- [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 there has been no practical difficulty that was created by the Zoning Code. In the past, the City has issued building permits for dwellings that have displayed a narrower footprint.



- [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. Privacy may be reduced for the subject property, and the adjoining properties.

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

The variance request is based simply on the desire to construct an attractive dwelling on a narrow lot.

- [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.**

Again, there is the potential for diminished privacy, due to the proximity of the dwelling to the property lines.

- [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 variances will not create any hazardous traffic conditions, nor otherwise impact public safety. The danger for fire, which in the past would have been an issue, has been diminished by the requirement for the dwelling to now be provided with an automatic sprinkler system.

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

The requested variances will have no impact on water, sewer, school, park or other public facilities. Staff does not believe 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.

- [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.)**

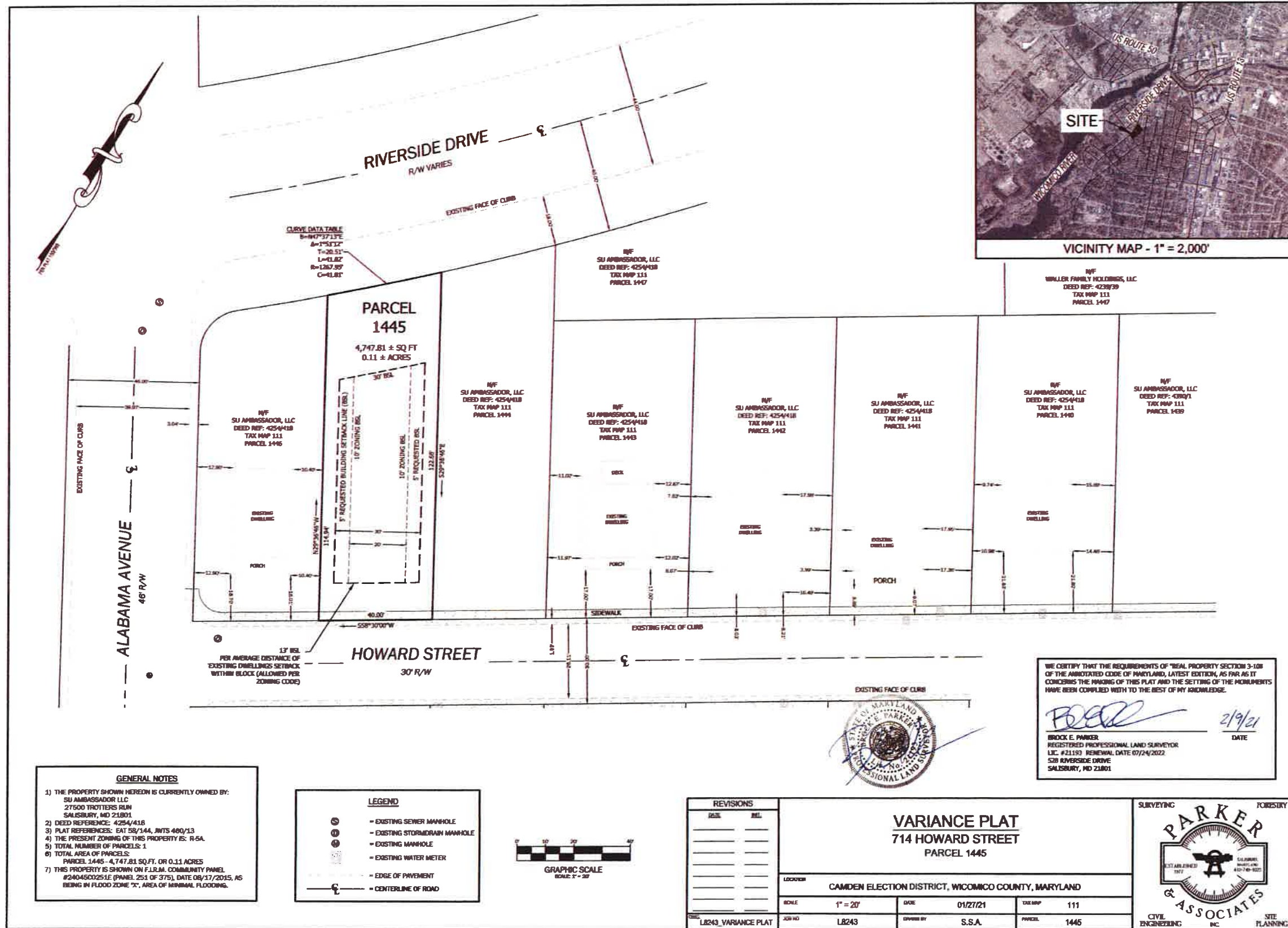
Staff believes that the setback variance requests are not the minimum necessary to afford relief from the Code requirements. The City has historically issued permits for dwellings that were not as wide as the proposed dwelling. However, the Board has the discretion to approve the requested variance or grant a lesser variance.

**VI. STAFF COMMENTS:**

Staff understands that the applicants are somewhat restricted due to the narrowness of the lot. Staff is also sympathetic to the applicant's desire to construct an attractive dwelling. However, alternative options are available that should lessen or eliminate the need for the current requests.

**VII. RECOMMENDATION:**

Based on criteria for approval as outlined in Section V (c) of the Staff Report, it is recommended to **Table** the applicant's request until alternative option/plans have been explored.



VICINITY MAP - 1" = 2,000'

WE CERTIFY THAT THE REQUIREMENTS OF "REAL PROPERTY SECTION 3-108 OF THE ANNOTATED CODE OF MARYLAND, LATEST EDITION, AS FAR AS IT CONCERNS THE MAKING OF THIS PLAT AND THE SETTING OF THE MONUMENTS HAVE BEEN COMPLIED WITH TO THE BEST OF MY KNOWLEDGE.

*(Signature)* 2/9/21  
DATE

BRICK E. PARKER  
REGISTERED PROFESSIONAL LAND SURVEYOR  
LIC. #21153 RENEWAL DATE 07/24/2022  
528 RIVERSIDE DRIVE  
SALISBURY, MD 21801



**GENERAL NOTES**

- THE PROPERTY SHOWN HEREON IS CURRENTLY OWNED BY:  
SU AMBASSADOR LLC  
27500 TROTTERS RUN  
SALISBURY, MD 21801
- DEED REFERENCE: 4254/418
- PLAT REFERENCES: EAT 58/144, JWTS 480/13
- THE PRESENT ZONING OF THIS PROPERTY IS: R-5A
- TOTAL NUMBER OF PARCELS: 1
- TOTAL AREA OF PARCELS:  
PARCEL 1445 - 4,747.81 SQ.FT. OR 0.11 ACRES
- THIS PROPERTY IS SHOWN ON F.L.R.M. COMMUNITY PANEL  
#240450251E (PANEL 253 OF 375), DATE 08/17/2015, AS  
BEING IN FLOOD ZONE "X", AREA OF MINIMAL FLOODING.

**LEGEND**

- EXISTING SEWER MANHOLE
- EXISTING STORMDRAIN MANHOLE
- EXISTING MANHOLE
- EXISTING WATER METER
- EDGE OF PAVEMENT
- CENTERLINE OF ROAD



**REVISIONS**

NO.	DATE	BY	DESCRIPTION

<b>VARIANCE PLAT</b>			
714 HOWARD STREET PARCEL 1445			
LOCATION:	CAMDEN ELECTION DISTRICT, WICOMICO COUNTY, MARYLAND		
SCALE:	1" = 20'	DATE:	01/27/21
TAX MAP:	111	PARCEL:	1445
JOB NO:	L8243	OWNER BY:	S.S.A.



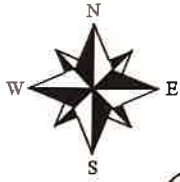




Attachment 2



**NOT FOR RECORDATION**



RIVERSIDE DRIVE  
 $R=1267.95$   $L=41.02$   
 $N 47^{\circ}37'13" E 41.01'$

SU AMBASSADOR, LLC  
 DEED REF 4254/418  
 TM 111, PARCEL 1444

SU AMBASSADOR, LLC  
 DEED REF 4254/418  
 TM 111, PARCEL 1446

PARCEL 1445

PROPOSED DWELLING

HOWARD STREET

I HEREBY CERTIFY THAT I HAVE MADE THIS PROPOSED SITE PLAN FOR THE PURPOSE OF CONSTRUCTING THE IMPROVEMENTS AS SHOWN. THIS IS NOT A BOUNDARY SURVEY AND IS NOT INTENDED FOR THE USE IN ESTABLISHING THE BOUNDARY LINES.

1. NO ABSTRACT TITLE WAS PROVIDED PRIOR TO THIS SURVEY.
2. PROPERTY IS NOT IN A FLOOD ZONE
3. ALL DISTANCES SHOWN ARE TO THE PROPOSED FOUNDATION AND NOT AN AS-BUILT SURVEY.
4. LOT MAY BE SUBJECT TO EASEMENTS, RIGHT OF WAYS PER RECORD PLAT AND DEED RESTRICTIONS.



SIGNATURE  
 02/25/2021

**TITLE**

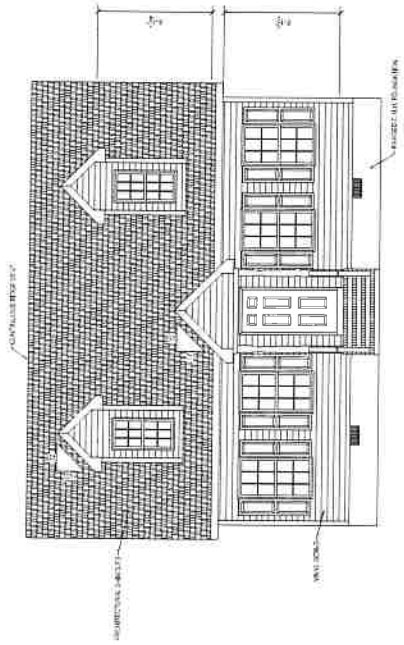
**SITE PLAN  
 714 HOWARD STREET**

COUNTY	WICOMICO	STATE	MD
TAX DISTRICT	CAMDEN		
TAX MAP	GRID	PARCEL	
111		1445	
DEED REF.			
PLAT REF	150/396		
DATE	02/25/2021		

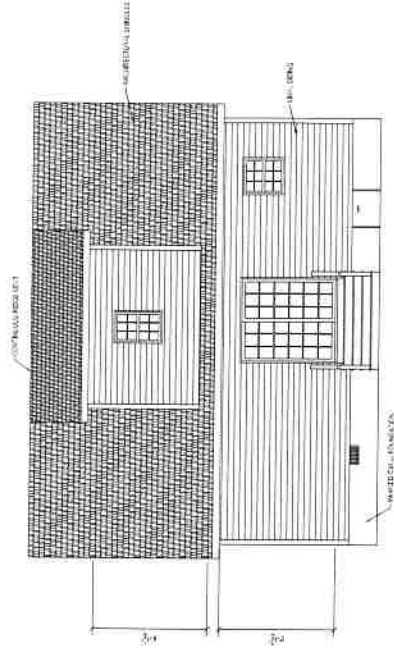
SCALE 1" = 30'

- IRON PIPE FD
- IRON PIPE SET
- CONC. MONU FD.
- ▣ CONC MONU TO BE SET

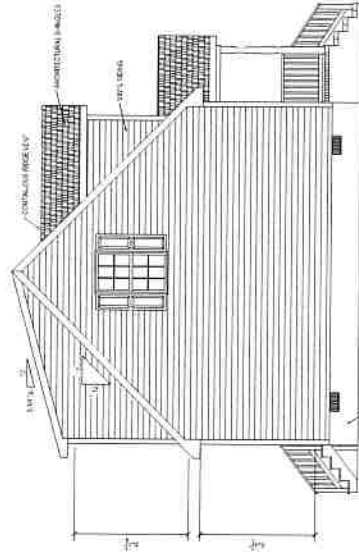
**CHRIS CUSTIS**  
**SURVEYING**  
 410.726.3576  
 P.O. BOX 786  
 PRINCESS ANNE, MD 21853  
 Surveying, Topography, Flood Elevations  
 Construction Layout, Terrain Modeling, Consulting  
 cdcsurveying@gmail.com



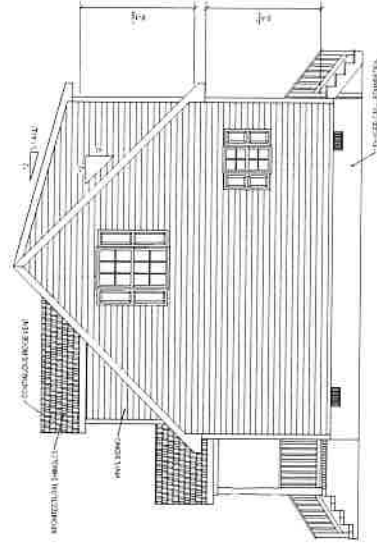
**FRONT ELEVATION**  
SCALE: 1/4" = 1'-0"



**REAR ELEVATION**  
SCALE: 1/4" = 1'-0"



**LEFT ELEVATION**  
SCALE: 1/4" = 1'-0"



**RIGHT ELEVATION**  
SCALE: 1/4" = 1'-0"

**A-1**

AMBER RIDGE LLC  
POCOMOKE  
PREMIUM DRAFTING & DESIGN  
PITTSVILLE, MD  
(410) 835-3660

SCALE: 1/4" = 1'-0"  
SHEET TITLE: ELEVATIONS

DESIGNER: J. CALDWELL | DATE: 02/20

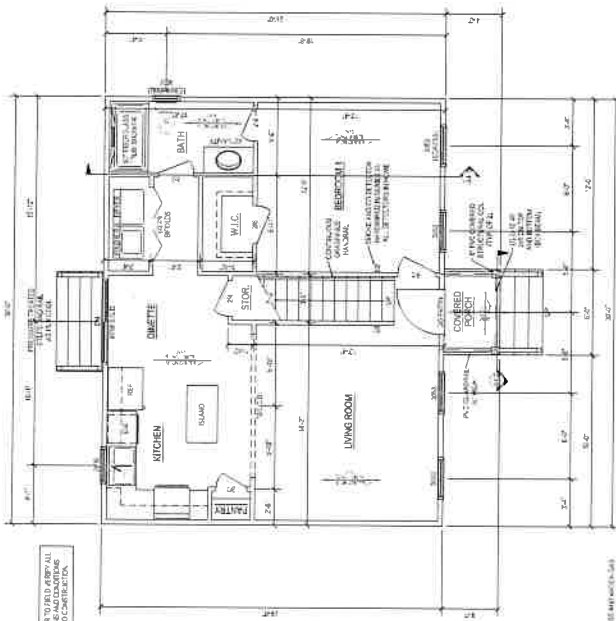
**GENERAL NOTES:**

1. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE NOTED.
2. ALL EXTERIOR WALLS TO BE FINISHED WITH BRICK.
3. ALL EXTERIOR WALLS TO BE FINISHED WITH BRICK.
4. EXTERIOR WALLS TO BE FINISHED WITH BRICK.
5. EXTERIOR WALLS TO BE FINISHED WITH BRICK.
6. EXTERIOR WALLS TO BE FINISHED WITH BRICK.
7. EXTERIOR WALLS TO BE FINISHED WITH BRICK.
8. EXTERIOR WALLS TO BE FINISHED WITH BRICK.
9. EXTERIOR WALLS TO BE FINISHED WITH BRICK.
10. EXTERIOR WALLS TO BE FINISHED WITH BRICK.

**GENERAL NOTES:**

1. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE NOTED.
2. ALL EXTERIOR WALLS TO BE FINISHED WITH BRICK.
3. ALL EXTERIOR WALLS TO BE FINISHED WITH BRICK.
4. EXTERIOR WALLS TO BE FINISHED WITH BRICK.
5. EXTERIOR WALLS TO BE FINISHED WITH BRICK.
6. EXTERIOR WALLS TO BE FINISHED WITH BRICK.
7. EXTERIOR WALLS TO BE FINISHED WITH BRICK.
8. EXTERIOR WALLS TO BE FINISHED WITH BRICK.
9. EXTERIOR WALLS TO BE FINISHED WITH BRICK.
10. EXTERIOR WALLS TO BE FINISHED WITH BRICK.

AMBER RIDGE LLC  
 1000 W. MARKET STREET, SUITE 100  
 PITTSVILLE, MD 21120  
 (410) 835-3660  
 WWW.AMBER-RIDGE.COM

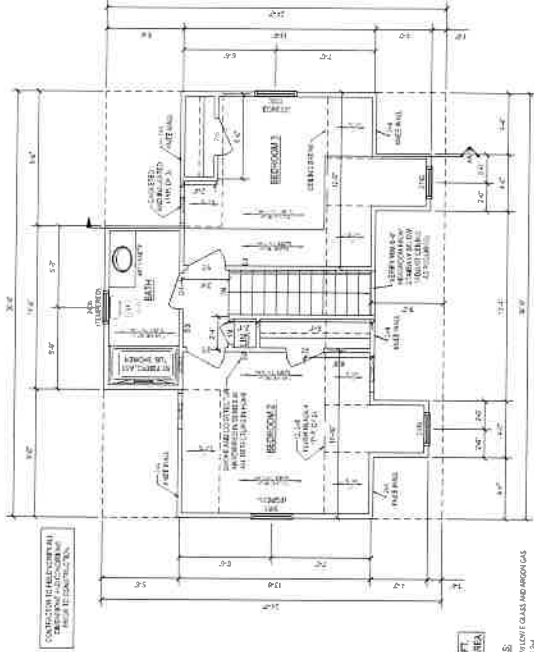


**FIRST FLOOR PLAN**  
 SCALE: 1/8" = 1'-0"

170 SQ. FT.  
 LIVING AREA

**NOTES:**

1. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE NOTED.
2. ALL EXTERIOR WALLS TO BE FINISHED WITH BRICK.
3. ALL EXTERIOR WALLS TO BE FINISHED WITH BRICK.
4. EXTERIOR WALLS TO BE FINISHED WITH BRICK.
5. EXTERIOR WALLS TO BE FINISHED WITH BRICK.
6. EXTERIOR WALLS TO BE FINISHED WITH BRICK.
7. EXTERIOR WALLS TO BE FINISHED WITH BRICK.
8. EXTERIOR WALLS TO BE FINISHED WITH BRICK.
9. EXTERIOR WALLS TO BE FINISHED WITH BRICK.
10. EXTERIOR WALLS TO BE FINISHED WITH BRICK.



**SECOND FLOOR PLAN**  
 SCALE: 1/8" = 1'-0"

170 SQ. FT.  
 LIVING AREA

**NOTES:**

1. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE NOTED.
2. ALL EXTERIOR WALLS TO BE FINISHED WITH BRICK.
3. ALL EXTERIOR WALLS TO BE FINISHED WITH BRICK.
4. EXTERIOR WALLS TO BE FINISHED WITH BRICK.
5. EXTERIOR WALLS TO BE FINISHED WITH BRICK.
6. EXTERIOR WALLS TO BE FINISHED WITH BRICK.
7. EXTERIOR WALLS TO BE FINISHED WITH BRICK.
8. EXTERIOR WALLS TO BE FINISHED WITH BRICK.
9. EXTERIOR WALLS TO BE FINISHED WITH BRICK.
10. EXTERIOR WALLS TO BE FINISHED WITH BRICK.

**A-3**

AMBER RIDGE LLC  
 POCOMOKE  
 PREMIUM DRAFTING & DESIGN  
 PITTSVILLE, MD  
 (410) 835-3660

SCALE: 1/8" = 1'-0"

SHEET TITLE: FIRST AND SECOND FLOOR PLANS

DRAWN BY: J. CALDWELL DATE: 02/20/20