



City of
Salisbury
Jacob R. Day, Mayor

AGENDA

REGULAR MEETING

September 2, 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, and Shawn Jester.

MINUTES – July 1, 2021.

PUBLIC HEARINGS:

Case #SA-21-756 **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 – 712 Howard Street – R-5A Residential District.**

Case #SA-21-757 **Fisher Architecture, LLC, on behalf of Riverside Investment Company, Inc. – Special Exception to Increase Density to 21 units per acre – 216 South Boulevard – R-5A Residential District.**

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MINUTES

The Salisbury Board of Zoning Appeals met in regular session on July 1, 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
Laura Hay, City Solicitor

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

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MINUTES:

Upon a motion by Mr. Soper, seconded by Mr. Jester, and duly carried, the Board **APPROVED** the April 7, 2021 minutes as submitted.

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Mr. Allen explained that this meeting was being held via Zoom. He requested that applicants 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.

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Case # SA-20-773 Value Enterprises, LLC – 12-Month Extension of Time to Exercise the Approval for a 10 ft. Front Yard Setback Variance to Construct a

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**Single Family Dwelling within the Required 25 ft. Front Yard Setback –
423 Druid Hill Avenue – R-10 Residential District.**

Mr. Henry Eure presented and entered the extension request, summarizing that the applicant had requested a 12-month extension of time to exercise the approved 10 ft. front yard setback variance for 423 Druid Hill Avenue.

Mr. Gilmore explained the request.

Upon a motion by Mr. Jester, seconded by Mr. Gilmore, and duly carried the Board **APPROVED** the 12-month extension of time to exercise the 10 ft. front yard setback variance to construct a single family dwelling within the required 25 ft. front yard setback. This extension will expire on July 1, 2022.

* * * * *

**Case # SA-21-572 Shiv Patel, on behalf of NEOS Corporation – 10 ft. Landscaping Area
Variance to Erect a 6 ft. Tall Fence within the Required 10 ft. wide
Landscaping Area– 2130 Windsor Drive – Light Industrial District.**

Mr. Shiv Patel 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 were requesting permission to erect a 6 ft. tall chain-link fence within the side yard setback. Board approval of a 10 ft. landscaping area variance was requested.

Mr. Shiv Patel explained that the setback would cause a loss of revenue due to the size of the lot. There is not any income on the lot currently. The potential client needs a fence and there will be a loss without a fence. The required 10 ft. setback for the fence leaves a lot of unused space on the property.

Mr. Allen explained that loss of income/financial hardship is not a reason for granting a variance. He questioned if there was anything unique about the property. Mr. Raj Patel responded that he understood that the loss of income is not an allowed reason based on the criteria but without the fence variance, they will lose their client. A fence variance will have no impact the surrounding properties and will be costly to maintain.

Mr. Shiv Patel stated that the uniqueness is the land. The property does not have a structure on it currently and if they are able to build on the land then there will be an increase in revenue.

Mr. Jester questioned Mr. Eure what was permissible for fencing. Mr. Eure responded that a 10 ft. landscaping area is required by the Code. Some properties may have fences to the property line but they were existing prior to 1983 when the Code

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was adopted or they have received variances. The Board has granted variances with reduced landscape areas.

Mr. Jester questioned Mr. Shiv Patel on why they needed to have no landscape buffer. Mr. Shiv Patel responded that they were trying to use the maximum amount of the property and build a fence as a barrier from the neighbors.

Mr. Edgar Cisnero explained that within a block of the property is the exact type fence that they want to construct to maximize the use of the property.

Due to lack of a motion, the Board **DENIED** the requested 10 ft. Landscaping Area Variance request as submitted to erect/install a 6 ft. tall fence within the side yard setback/landscaping area along the west and south property lines.

* * * * *

Case # SA-21-573 Tyler Building Company, on behalf of Robert K. Morse – 4 ft. 9-inch Side Yard Setback Variance to Erect a 480 sq. ft. Garage Addition within the 10 ft. Side Yard Setback – 1408 E. Upland Drive – Harbor Pointe PRD #3.

Mr. Will Tyler 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 permission to construct a 20 ft. x 24 ft. garage addition within the side yard setback.

Mr. Tyler explained that the shape of the lot and the setbacks prohibit construction of the garage anywhere else on the property.

Mr. Soper questioned Mr. Eure if the 10 ft. setback was a Code requirement. Mr. Eure responded in the affirmative, adding that a freestanding garage could be constructed within the 5 ft. setback but it would not be in the best interest of the property owner.

Mr. Soper questioned Mr. Eure if there was a setback from the utility easement. Mr. Eure responded in the negative.

Upon a motion by Mr. Gilmore, seconded by Mr. Jester, and duly carried, the Board **APPROVED** the 5 ft. Side Yard Setback Variance to erect a 480 sq. ft. garage addition within the side yard setback, in order to give the applicant a margin of error during construction of the addition, based on the Criteria listed in Section V(c) of the Staff Report.



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Case # SA-21-574 First Move Properties, LLC – Special Exception to Increase Density and Height for a Proposed Apartment Building – 130-132 E. Main Street – Central Business District.

Case # SA-21-575 First Move Properties, LLC – Special Exception to Increase Density and Height for a Proposed Apartment Building – 144 E. Main Street – Central Business District.

Mr. Allen questioned Mrs. Hay if they could consolidate the two (2) requests. Mrs. Hay responded that they could consolidate the Staff Reports but would need to have separate motions and Findings of Fact. Mr. Simpson agreed to consolidate the cases. Mr. Eure questioned how the Board wanted the cases presented. Mr. Allen responded that he would call both cases and have Mr. Eure itemize each request for each property but when they reached the criteria to present one (1) case at a time.

Mr. Nicholas Simpson was present. Mr. Henry Eure presented and entered the Staff Report and all accompanying documentation into the record. He summarized the report for 130-132 E. Main Street explaining that the applicant proposes to redevelop the site of two formerly adjoining three and four-story office buildings to a twelve-story building with a commercial retail first floor and the remaining eleven stories as luxury apartments. Board approval of a Special Exception for the height and density is requested. Mr. Eure summarized the report for 144 E. Main Street explaining that the applicant proposes to construct a new eight-story apartment building on the former Chamber of Commerce site. Board approval of a Special Exception for the density and height is requested.

Mr. Eure presented a brief description of each property followed by the criteria for each property. Once this was complete, he provided Staff's recommendation for each property.

Mr. Allen questioned if the recommendation from the Planning Commission for approval of the site plan from 2019 had anything to do with the height of the buildings. Mr. Eure responded that the Planning Commission does not look at the height and only approved the Certificate of Design and Site Plan. Mr. Allen stated that it seems odd that the Planning Commission does not make a recommendation. Mr. Eure responded that by approving the Certificate of Design approval is granted for height.

Mr. Eure administered the oath to Mr. Nicholas Simpson and Mr. Brendan Frederick.

Mr. Simpson explained that the project was delayed by COVID so that is the reason the cases are before the Board again for approval. The changes being presented are important to Downtown vitality. He added that he concurs with the Staff

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Report and Staff's recommendation. Mr. Frederick added that he also concurred with Staff's recommendation.

Mr. Allen questioned if the prior approval for 130-132 E. Main Street was height up to 120 ft. and density of 240 units per acre. Mr. Simpson responded that the height was at 165 ft. but now would be 185 ft. He added that for 144 E. Main Street the height has been increased.

Mr. Soper questioned if there was any reason that Mr. Simpson had not requested an extension. Mr. Simpson responded that due to the increase in height the case had to come back to the Board for approval. Mr. Soper questioned the increase in height for 144 E. Main Street. Mr. Simpson responded that 130-132 E. Main Street would be 185 ft. in height and 144 E. Main Street would be 120 ft. in height. He added that the majority of 144 E. Main Street will be 97 ft. in height but the remainder of the height would cover the elevator extensions.

Mr. Bob Taylor thanked Staff for sending him the requested materials. He voiced his opposition to the cases and summarized his comments, which were submitted to the Board and Staff in regards to the Board's inability to act on the requests as they do not comply with State law and are self-imposed hardships. Mr. Taylor contended that the requests should be for variances and not special exceptions. He also questioned the City Attorney weighing in on these requests as they have represented the client in the past. Mr. Allen noted for the record that the Board is required to adhere to the City Zoning Code as it is written. Mr. Soper questioned Mrs. Hay on the validity of the statement about the City Attorney having a conflict of interest. Mrs. Hay responded that the partners of the firm had met regarding this case and found no conflict of interest, as they are not representing Mr. Simpson in any of these requests. Mr. Soper questioned the Board's ability to hear the case. Mrs. Hay responded that the Board could hear the case as presented as explained by the Code in Section 17.12.100.

Mr. Soper questioned if the Certificate of Design by the Planning Commission approves the construction of the buildings. Mr. Eure responded in the affirmative.

Mr. Simpson explained that he was working on the Master Plan and thanked the Board for hearing his applications.



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Upon a motion by Mr. Soper, seconded by Mr. Gilmore, and duly carried, the Board **APPROVED** the Special Exception requested on 130-132 E. Main Street to increase the density to 340 units per acre and the height to 185 ft., based on the criteria listed in the Staff Report, particularly the criteria listed in Section 17.232.020B, and subject to the following Condition of Approval:

CONDITION:

1. Obtain final approvals from the Salisbury Historic District Commission.
2. Consolidate the properties located at 130, 132, and 144 East Main Street into one (1) parcel. (The resubdivision will increase the overall density to 144.36 units per acre.)

Upon a motion by Mr. Gilmore, seconded by Mr. Jester, and duly carried, the Board **APPROVED** the Special Exception requested on 144 E. Main Street to increase the density to 80 units per acre and the height to 120 ft., based on the criteria listed in the Staff Report, particularly the criteria listed in Section 17.232.020B, and subject to the following Condition of Approval:

CONDITION:

1. Obtain final approvals from the Salisbury Historic District Commission.
2. Consolidate the properties located at 130, 132, and 144 East Main Street into one (1) parcel. (The resubdivision will increase the overall density to 144.36 units per acre.)



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ADJOURNMENT

With no further business, the meeting was adjourned at 7:51 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 2, 2021

Case No. 202100756
Applicant: Parker & Associates, Inc.
Property Owner: Amber Ridge II, LLC
Location: 712 Howard Street
Tax Map: #111
Grid #15, Parcel #1444
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 712 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, 5,076 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 32 ft. two story single-family dwelling on the site. **(Attachments 3 - 5)** Within the R-5A District, the minimum side yard setback is 10 ft. from the property line. An 8 ft. side yard

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 slight 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 a slight 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 may 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.)**

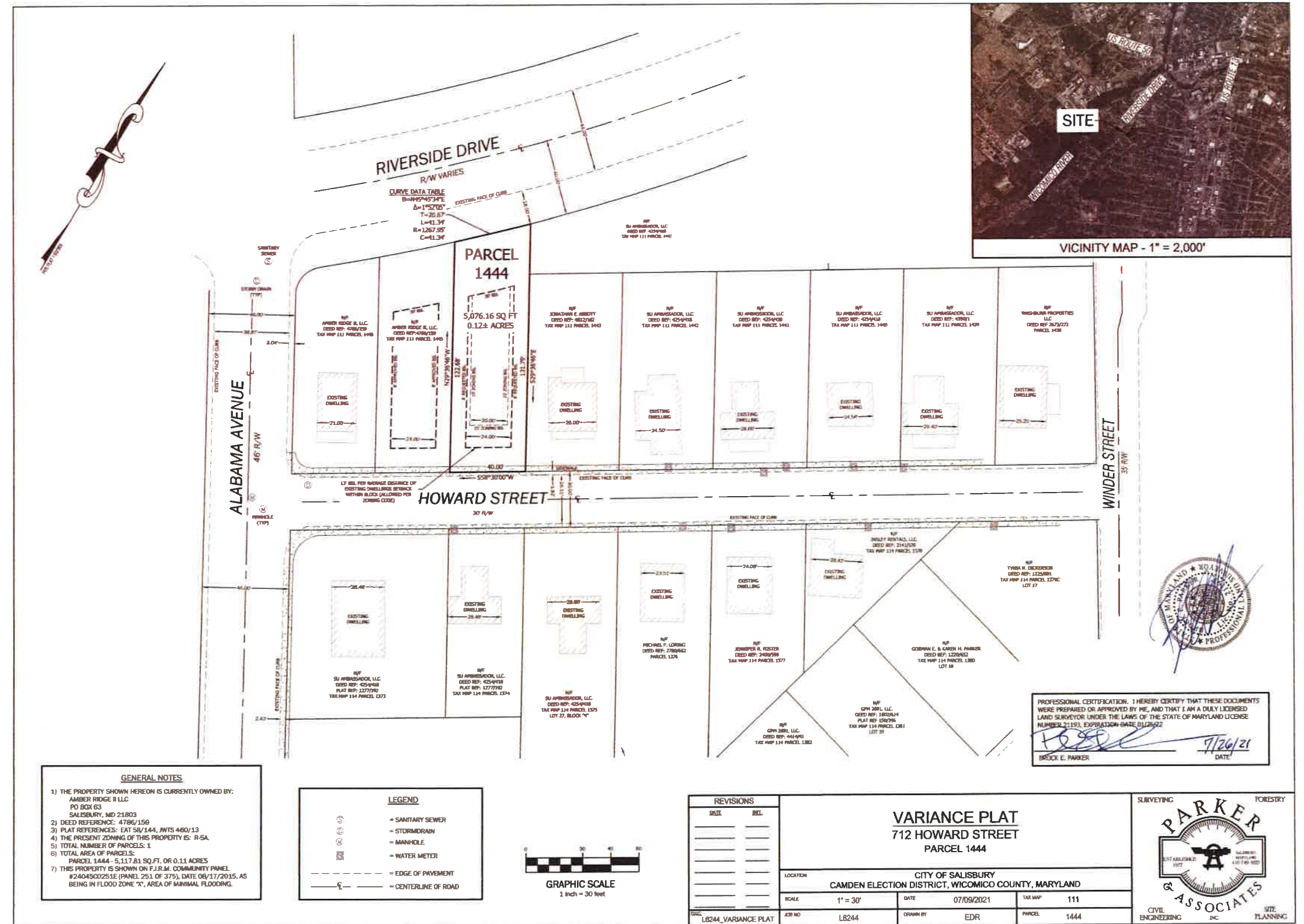
Staff believes that the setback variance requests are the minimum necessary to afford relief from the Code requirements while allowing the applicant to construct a functional single-family dwelling that would not be out of keeping with other dwellings in the neighborhood. However, the Board has the discretion 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. The proposed dwelling appears to be a reasonable compromise that will afford the applicant an opportunity to construct a more attractive and desirable dwelling while also minimizing impacts on neighboring properties.

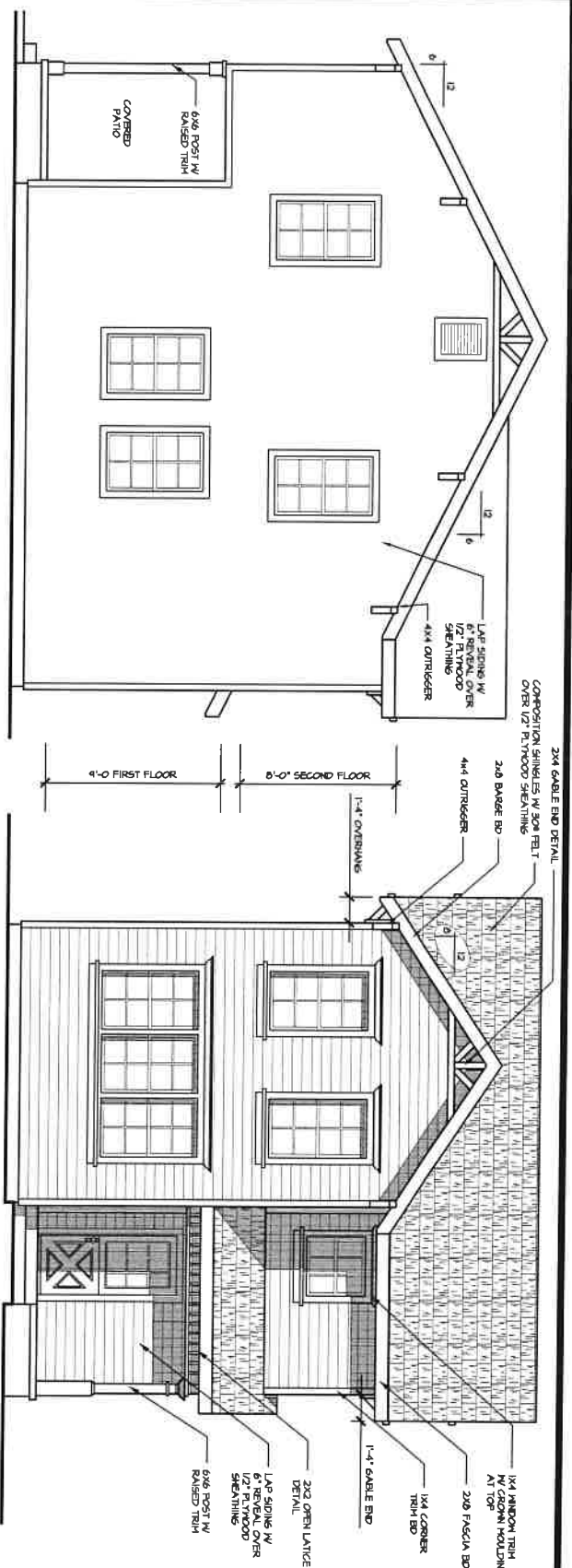
VII. RECOMMENDATION:

Based on criteria for approval as outlined in Section V (c) of the Staff Report, it is recommended to **Approve** the applicant's request as submitted.



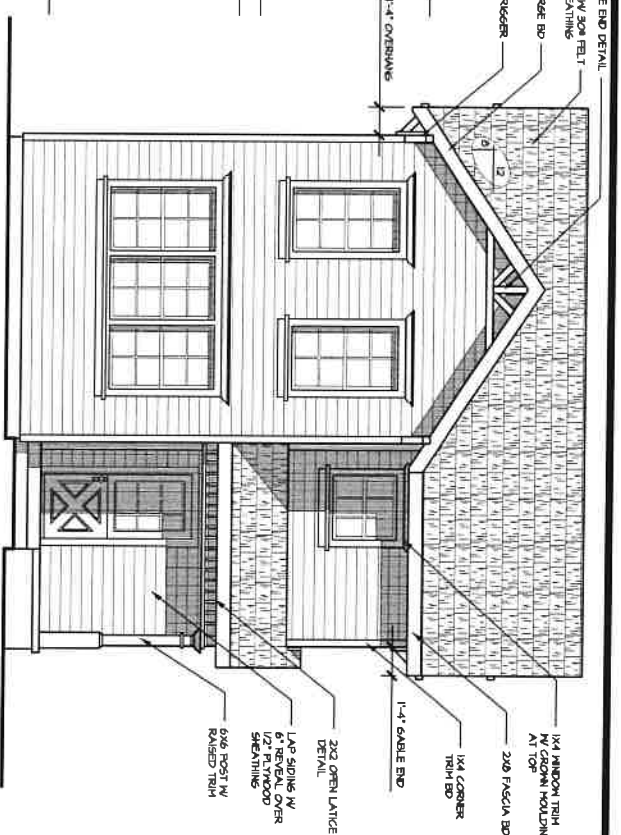


Attachment 2



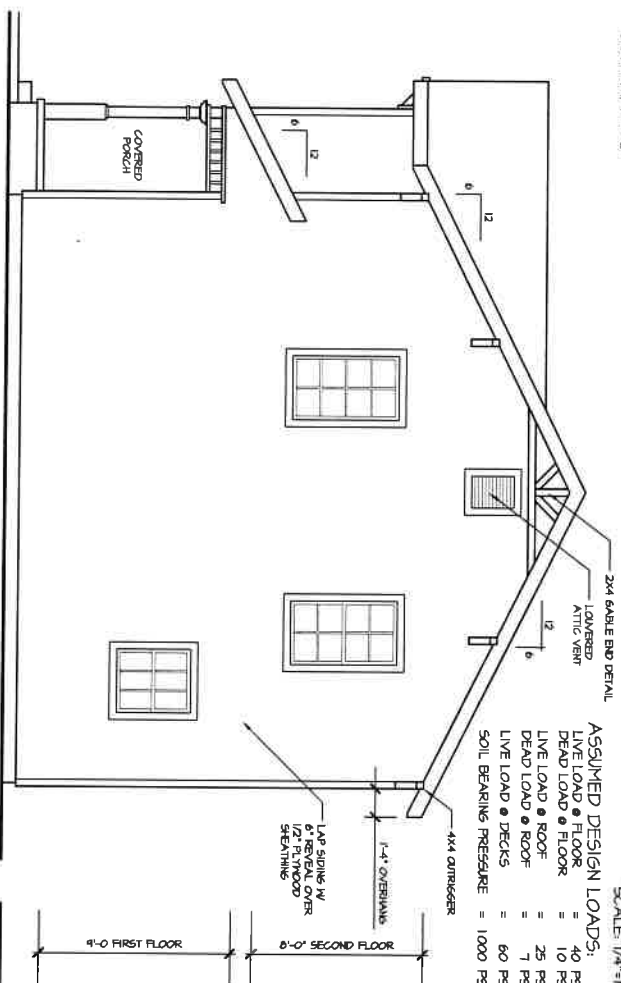
LEFT ELEVATION

SCALE: 1/4"=1'-0"



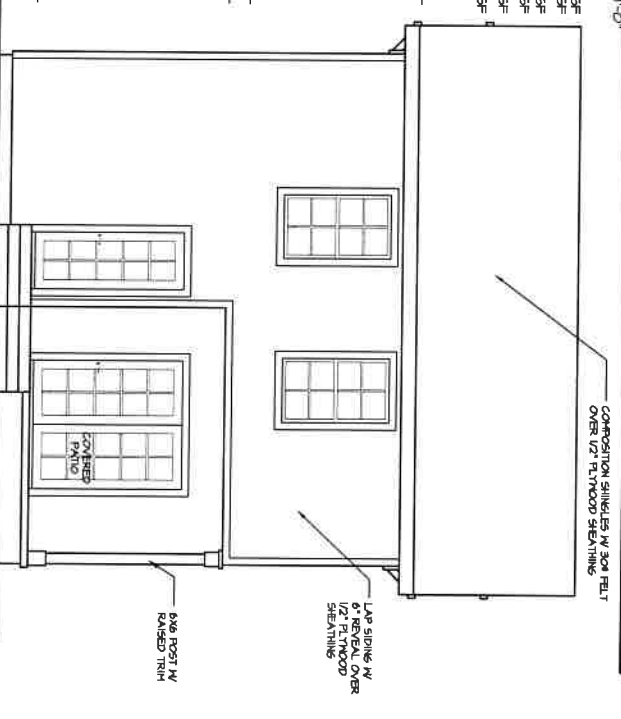
FRONT ELEVATION

SCALE: 1/4"=1'-0"



RIGHT ELEVATION

SCALE: 1/4"=1'-0"



REAR ELEVATION

SCALE: 1/4"=1'-0"

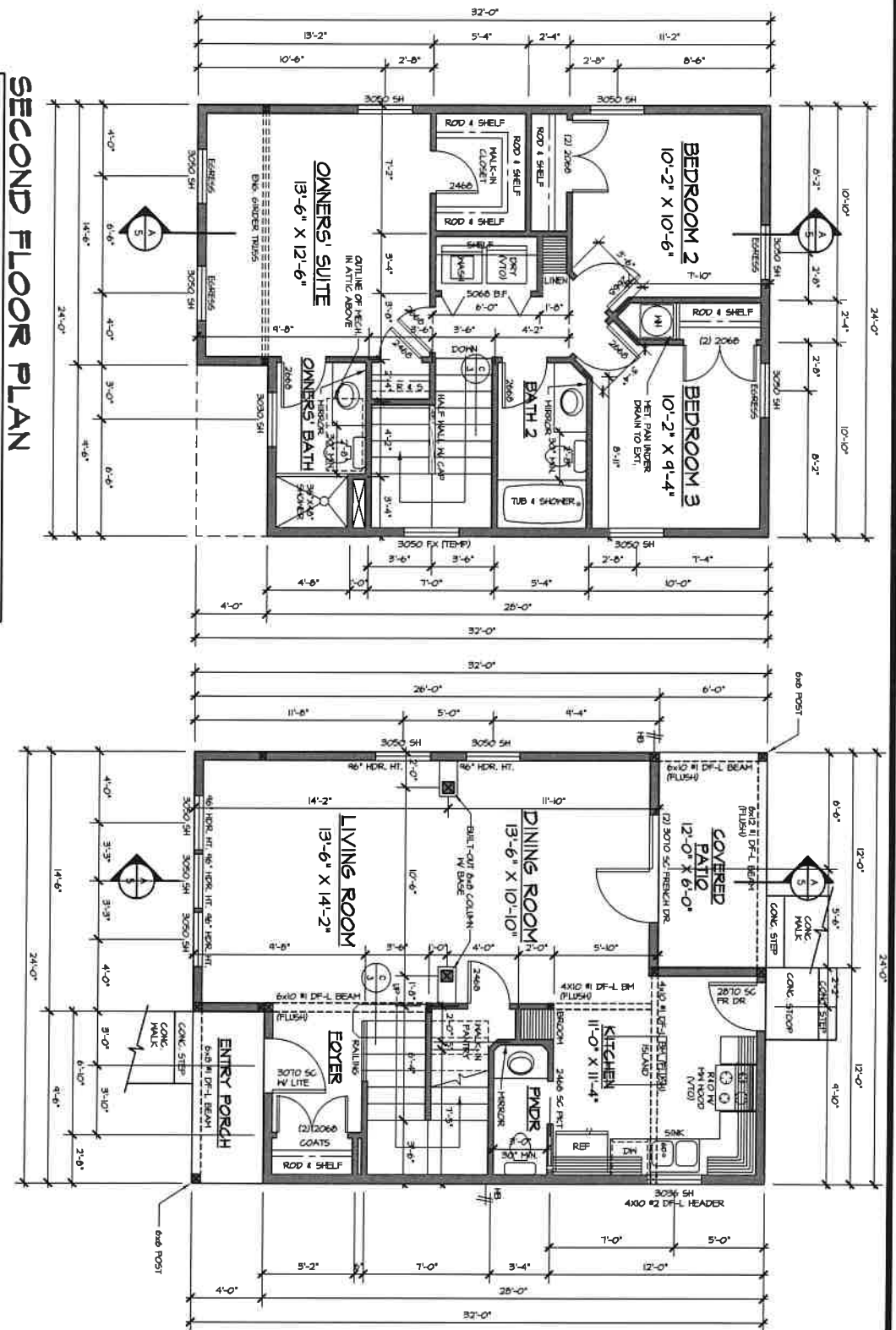
ASSUMED DESIGN LOADS:
 LIVE LOAD • FLOOR = 40 PSF
 DEAD LOAD • FLOOR = 10 PSF
 LIVE LOAD • ROOF = 25 PSF
 DEAD LOAD • ROOF = 7 PSF
 LIVE LOAD • DECKS = 60 PSF
 SOIL BEARING PRESSURE = 1000 PSF

NOTES:
 OWNER & BUILDER/ CONTRACTOR(S) TO REVIEW PLAN FOR COMPLETENESS AND ACCURACY PRIOR TO CONSTRUCTION. NOTIFY ASSOCIATED DESIGNS, INC. OF ANY ERRORS OR OMISSIONS PRIOR TO THE START OF CONSTRUCTION.

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	TITLE: ELEVATIONS		
	DATE: 12/24/06	SCALE: NOTED	

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SECOND FLOOR PLAN

SCALE: 1/4"=1'-0"

NOTES:

- EXTERIOR WALL HEADERS TO BE 2-2X10 W/ 2" RIGID INSULATION BETWEEN, UNLESS NOTED OTHERWISE.
- INTERIOR BEARING WALL HEADERS TO BE 4X6, UNLESS NOTED OTHERWISE.
- COORDINATE PREMIERE FOR TV, STEREO, TELEPHONE AND SECURITY SYSTEM WITH OWNER.
- MECHANICAL SYSTEM TO BE DESIGNED BY MECHANICAL CONTRACTOR TO MEET OWNER'S NEEDS AND COMPLY WITH LOCAL CODES.
- CONTRACTOR TO VERIFY ALL DIMENSIONS PRIOR TO CONSTRUCTION.
- TYPICAL ANGLE IS 45° UNLESS NOTED OTHERWISE.
- ALL WALLS TO BE IN COMPLIANCE W/ IRC TABLE R602.3(1) OR IRC TABLE 25-1-G.
- LOCAL PROFESSIONAL TO VERIFY STRUCTURAL MEMBERS CAPACITY TO SUPPORT LOADS AS REQUIRED BY SITE CONDITIONS AND LOCATION PRIOR TO CONSTRUCTION.

FIRST FLOOR PLAN

SCALE: 1/4"=1'-0"

SQUARE FOOTAGE:

FIRST FLOOR	658 SQ. FT.
SECOND FLOOR	673 SQ. FT.
LIVING AREA	1331 SQ. FT.

REVIEWED BY: DWG/SC/TT, TT CHECK: KA UPDATED: 10/20/06

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ASSOCIATED DESIGNS 100 ACORN DRIVE EUGENE, OREGON 97402-1808 FAX: (503) 461-1274	TITLE: FLOOR PLANS	DATE: 12/24/06	SCALE: NOTED	DRAWN BY: TT	CHECK BY: KA	THE EMERSON 1000 SERIES
	PROJECT: 30-108					

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STAFF REPORT

MEETING OF SEPTEMBER 2, 2021

Case No. 202000133
Applicant: Fisher Architecture for Riverside Investment Company, Inc.
Property Owner: Riverside Investment Company, Inc.
Location: 216 South Boulevard
Map: #115, Parcel #572, Grid #7
Zoning: R-5A Residential
Requests: Permission to enlarge a legal nonconforming use and special exception request to increase density to 21 units per acre

I. SUMMARY OF REQUEST:

The Applicant requests permission to construct a 12-unit apartment building within the existing apartment complex. The existing complex is a legal nonconforming use as it did not receive a Comprehensive Development Plan approval prior to construction. The proposed expansion will increase the density to 21.5 units per acre. A special exception is required to increase density beyond 12 units per acre. Board approval to enlarge an existing nonconforming use and a special exception to increase density to 21.5 units per acre is requested. **(Attachment 1)**

II. ACCESS TO THE SITE:

The property has frontage and access along South Boulevard. Frontage is also provided along Hanover Street, Monticello Avenue and Smith Street. **(Attachment 2)**

III. DESCRIPTION OF PROPERTY:

The site consists of an entire block that totals 2.79 acres, and has been improved with four (4) existing apartment buildings. The two-story buildings, which were constructed in 1949, each contain 12 units, and are symmetrical in style. Each building has frontage along one (1) street. **(Attachment 2)**

IV. DESCRIPTION OF SURROUNDING AREA/NEIGHBORHOOD:

The surrounding properties are primarily single-family dwellings. Other nearby uses include churches and commercial-type uses.

V. EVALUATION:

- (a) **Discussion:** The existing apartment complex is considered to be a legal nonconforming use, as it was built in 1949, prior to the adoption of current Zoning Code standards, which requires a Comprehensive Development Plan for apartments. A Comprehensive Development Plan was not approved for this project. The complex is also nonconforming in density, as it exceeds the inherently allowed density of 12 units per acre. The current density is 17.2 units per acre. Section 17.16.040C of the Zoning Code states that a nonconforming use may be enlarged by approval from the Board of Zoning Appeals. In addition, Section 17.168.040A. of the Zoning Code indicates that an apartment development may increase density up to 30 units per acre by special exception from the Board of Zoning Appeals. A density of 21.5 units per acre is proposed.

The applicant proposes to construct a 16,392 sq. ft., three-story, 12-unit apartment building in the interior courtyard of the existing site. The building's exterior materials will consist of a mixture of siding and brick, whereas the existing buildings are brick throughout. Parking for 38 vehicles will also be provided on site, contrasting with the current configuration, where no on-site parking is provided. Currently, all residents must park along nearby streets. For an apartment building of this size, a total of 22 spaces would typically be required, according to Sections 17.168.050E.1.a. and 17.196.030 of the Zoning Code. In addition, four (4) van accessible parking spaces will be provided. **(Attachments 3 & 4)**

- (b) **Impact:** The proposed enlargement of a legal nonconforming use will have a slight impact on surrounding properties, as the overall density will increase. However, the impact should be minimized as some parking for the entire development will be provided where none exists currently, thereby potentially reducing the use of on-street parking.
- (c) **Relationship to Criteria:** 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 proposed expansion has the slight potential for minor negative effects on surrounding properties, due to the increased density. However, providing additional parking that may be used by residents of the existing buildings could help reduce on-street parking congestion around the site.

- [2] Whether the change, alteration or enlargement is of benefit to or in the best interest of the community or surrounding area, such as providing additional employment or housing for the community or services to a neighborhood.**

Due to the apartment's proximity to Salisbury University, additional housing could be provided for students and staff of the college.

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

As previously mentioned, providing additional parking that can be utilized by residents of the existing units offers the potential to reduce on-street parking, and make the site more compliant with current parking standards.

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

Building elevation renderings indicate that the proposed apartment building will not match the existing buildings, as the majority of the building will be provided with siding, as opposed to brick. Window treatments appear to differ as well. A three-story building will be somewhat taller than most buildings in the neighborhood, but should still be compliant with the Zoning Code's height limit of 40 ft. A landscaping plan has not been provided, but the site will be expected to be provided with landscaping that is compliant with Zoning Code standards. The project will be subject to a Comprehensive Development Plan approval by the Planning Commission, who will address items such as building elevations and materials, as well as landscaping plans.



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- [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.**

Again, the proposed enlargement will potentially provide additional housing for students and staff of Salisbury University. In addition, providing a paved parking area will bring the existing project closer to compliance, as no current parking exists.

In addition to the criteria discussed above pertaining to enlarging a nonconforming use, Section 17.232.020B. of the Salisbury Municipal Code contains the criteria the Board should consider when approving special exceptions. Staff finds that this request complies with the Special Exception criteria as follows:

- [1] The proposal will be consistent with the Metro Core Plan, the objectives of the Zoning Ordinance and any other applicable policy or plan adopted by the Planning Commission or City Council for development of the area affected.**

The site is located in the R-5A Residential zoning district, which inherently allows apartments buildings, with a maximum density of 12 units per acre. Density may be increased up to 30 units per acre by special exception.

- [2] The location, size, design and operating characteristics under the proposal will have minimal adverse impact on the livability, value or appropriate development of abutting properties and the surrounding area.**

The proposed expansion will increase the housing market in the neighborhood, potentially lending the opportunity to some single-family dwellings to return to owner occupied homes, as opposed to being rental units.

- [3] The design of the site and structures for the proposal will be as attractive as the nature of the use and its setting warrants.**

The proposed building is attractive by current standards, but is completely different architecturally from the existing apartment buildings. However, the building will be subject to the Planning



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Commission's review, as part of a Comprehensive Development Plan. If the requested special exception is approved by the Board, the building's exterior materials may be considerably different than currently presented after comprehensive development plan review.

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

Staff does not find that the proposed use will have a negative effect on any of these items.

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

Although the height of the proposed building will cast some shadows on the neighboring apartment buildings, other negative impacts will be negligible. Traffic/parking should not be impacted, as residents will be provided with parking that currently is not available.

- [6] The proposal will not adversely affect transportation or unduly burden water, sewer, school, park, stormwater management or other public facilities.**

The proposal should have minimal impacts on transportation, water, sewer, stormwater management or other public facilities.

- [7] The proposal will preserve or protect environmental or historical assets of particular interest to the community.**

The proposal will not impact environment or historical assets either negatively or positively.

- [8] The applicant has a bona fide intent and capability to develop and use the land as proposed and has no inappropriate purpose for submitting the proposal, such as to artificially alter property value for speculative purposes.**

The owner has in the past demonstrated an interest in maintaining the vitality, appearance and economic growth of Salisbury by investing in other residential properties and improving the appearance and value of the same.



Additionally, Section 17.168.040A. of the Salisbury Municipal Code contains the criteria the Board should consider when approving special exceptions for density increases. Staff finds that this request complies with the Special Exception criteria as follows:

- [1] The additional ten-foot setback required for each story above three is provided in any combination to provided distance and separation from lower profile residential development.**

The proposed building does not exceed three (3) stories, and meets the minimum building separation requirement of 30 ft.

- [2] Open space is increased to forty (40) percent of the net project area.**

The applicant has not provided open space calculations.

- [3] Arrangement of buildings on the site can be designed to minimize the effects of shadows, interference with light and air and intrusion on privacy of adjoining residential yards.**

As the proposed additional building is located on the property's interior, any impacts regarding light and air will be on site. The buildings will maintain the minimum 30 ft. distancing as required by the Zoning Code.

- [4] Additional landscaping and screening is provided around parking areas, where the board deems necessary, and adjoining residential development.**

A landscaping plan was not submitted, but will be subject to review by the Planning Commission as part of the Comprehensive Development Plan.

Furthermore, Section 17.168.040B. of the Zoning Code indicates that when determining whether an increase in height or density should be approved, the Board shall consider factors such as:

- [1] The topography of the site and whether it can be used to soften the impact of any increased building height in relation to the surrounding area.**

An increase in height is not being requested. The maximum building height within the R-5A zoning district is 40 ft. Although building elevations were not submitted, it is expected that the proposed building will not exceed the permitted maximum height.

- [2] Existing and proposed streets and traffic patterns relative to the amount of traffic to be generated by increased density and whether it can easily be accommodated without being detrimental to surrounding residential area.**

There will be no changes to existing streets and traffic patterns. Additionally, there is no onsite parking provided for the existing buildings. The proposed plan indicates that 16 additional spaces will be provided, which can be utilized by tenants of the existing units, reducing the need for on-street parking.

- [3] Whether the site is further separated from residential areas by streets or nonresidential uses or the site adjoins or is immediately across the street from a public pond, lake or park.**

The site covers the entire block, and is bordered by South Boulevard, Hanover Street, Monticello Avenue, and Smith Street.

- [4] Provision of recreational facilities in relation to maximum density of people to be served.**

Outdoor grills and a pavilion are proposed to be provided, and a portion of the existing courtyard will be retained for recreational purposes.

- [5] How the criteria have been used in designing the site to achieve the maximum results in integration of greater building height and density without harsh contrast in relation to surrounding development.**

All redevelopment is inward, reducing the impact on neighboring properties.

VI. RECOMMENDATION:

Based on the findings contained in this Staff Report, Staff recommends **Approval** of the applicant's request to enlarge a legal nonconforming use and increase density to 21.5 units per acre is recommended with the following conditions:

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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1. Obtain a Comprehensive Development Plan approval from the Salisbury-Wicomico Planning Commission in accordance with Section 17.180 of the Salisbury Zoning Code.
2. A minimum of 40% of the net project area shall be devoted to open space, as required by Section 17.168.040A.2. of the Zoning Code.
3. Subject to further review and approval by the Salisbury Department of Infrastructure and Development and the Salisbury Fire Department.



8/2/2021

Henry Eure, Zoning Administrator
Board of Zoning Appeals
125 N. division Street, Room 202
Salisbury, Md 21801

Dear Mr. Eure,

This letter is in reference to the proposed Boulevard Apartments building to be located at 220 South Boulevard. This location currently has 48 apartment units spread throughout four two-story buildings. The proposed building would be a 12-unit apartment building placed within the existing courtyard with a new parking lot and access roads coming off of South Blvd. This new building will be 16,392 SF across three floors.

Our site is located in the R-5A residential District. According to Section 17.168.030 the permitted density in this zone would be 12 Units per Acre. The existing arrangement sits at 18 units per acre; our proposed building would bring the site density to 21 units per acre. We are requesting an increase in as allowed by section 17.168.040.

According to section 17.196.030 of the Salisbury Municipal Code Apartment developments require 1 ½ spaces for each dwelling unit. Section 17.168.050-E.1.a requires an additional twenty (20) percent of the total for guest parking. Our proposed 12-unit building would require 22 parking spaces; we are proposing a new parking layout that would add 38 new parking spaces for the property.

Section 17.196.020-H.2.a requires parking spaces to measure nine (9) feet wide by twenty (20) feet in length. Our site plan demonstrates the proposed parking spaces as nine (9) feet wide by nineteen (19) feet in length with an additional 5' of landscape overhang. We would like to request these alternative parking space dimensions in accordance with Section 17.196.020-H.2.b. Section 17.196.020-I.1.a requires a 24 ft aisle width for a Two-Way drive aisle, which has been provided as presented on the site plan.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Keith P. Fisher', is written over a faint, light blue circular stamp or watermark.

Keith P. Fisher AIA LEED AP
Principal
Fisher Architecture, LLC

542 Riverside Drive
Salisbury, MD 21801
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