



City of
Salisbury
Jacob R. Day, Mayor

AGENDA

REGULAR MEETING

October 6, 2022

Government Office Building
Route 50 & N. Division Street
Council Chambers, Room 301, Third Floor

6:00 P.M. - Call to Order – Darrell Walker

Board Members: Darrell Walker, Shawn Jester, and Melissa Drew

MINUTES – September 1, 2022.

PUBLIC HEARINGS:

Case #SA-22-1003 Anderson Fence Company, Inc., on behalf of Devreco, LLC – 2 ft. Fence Height Variance to Erect a 6 ft. Tall Fence Within the Required 50 ft. Front Yard Setback – 2120 Windsor Drive – Light Industrial District.

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MINUTES

The Salisbury Board of Zoning Appeals met in regular session on September 1, 2022, in Room 301, the Council Chambers, at 6:00 p.m. with attendance as follows:

BOARD MEMBERS:

Darrell Walker, Chairman
Melissa Drew
Shawn Jester

CITY STAFF:

Henry Eure, Project Manager
Beverly Tull, Recording Secretary
Heather Konyar, City Solicitor

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Mrs. Konyar called the meeting to order at 6:02 p.m.

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MINUTES:

Upon a motion by Mr. Jester, seconded by Mrs. Drew, and duly carried, the minutes of the November 4, 2021 meeting were approved as submitted.

Upon a motion by Mr. Jester, seconded by Mrs. Drew, and duly carried, the minutes of the April 7, 2022 meeting were approved as submitted.

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Mrs. Konyar explained the public hearing procedure and requested Mr. Eure administer the oath. Mr. Eure requested anyone wishing to testify in any matters before the Board stand and be sworn, and administered the oath.



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

Mr. Henry Eure presented the extension request.

Mr. Jester questioned if the Board was just approving the extension with the conditions from the original approval. Mr. Eure responded in the affirmative. Mr. Jester questioned if the Board could add conditions. Mrs. Konyar responded that in order to add more conditions, the Board would have to rehear the case. The request was for a 12-month extension to exercise the approval.

Mr. Brock Parker came forward as the engineer for the project. He explained that this is a corner lot with setback issues. The variance was granted to keep the home in line with the neighborhood. The owner has not picked out a house plan yet and the 12-month extension will allow him to pick the final house plan and the builder.

Mrs. Drew stated that lumber prices should not be an issue as prices have dropped. Mr. Parker responded that it would take about a year to exercise the variance and this should be the last time an extension is requested.

Mr. Jester stated that he believed there was a reasonable explanation for the request and agreed with the Staff on granting a 12-month extension.

Mrs. Konyar reminded the Board that they would need to adopt the Findings of Fact in the Staff memo along with the motion to approve the extension.

Upon a motion by Mr. Jester, seconded by Mrs. Drew, and duly carried the Board **APPROVED** the 12-month extension of time to exercise the approval of a 10 ft. front yard setback variance to construct a single family dwelling within the required 25 ft. front yard setback at property located at 423 Druid Hill Avenue.

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Case # SA-22-725 Maurice Ngwaba, PhD, AID, on behalf of The Great Commission of Jesus – Enlarge a Legal Nonconforming Structure by Constructing a 4,050 sq. ft. Addition to the Building – 234 Lake Street – General Commercial District.

Mr. Maurice Ngwaba and Mr. Angliche Petion came forward. Mr. Henry Eure presented and entered the Staff report and all accompanying



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documentation into the record. He summarized the report explaining that the applicant requested permission to construct a 4,050 sq. ft. addition to the existing nonconforming building. The building is nonconforming, as it does not meet the minimum required front yard setback of 25 ft. from Burton Street. Board approval to enlarge an existing nonconforming building is requested.

Mr. Ngwaba thanked Mr. Eure and the Staff for working on this. Members of the Church have worked hard to raise the funds needed to enlarge the existing building.

Mrs. Drew questioned Mr. Eure about the FEMA regulations. Mr. Eure responded that they would have to comply with the FEMA standards and have it inspected for verification. Mr. Eure added that this was in a flood zone where it would have to be elevated one (1) foot above flood level.

Upon a motion by Mrs. Drew, seconded by Mr. Jester, and duly carried the Board **APPROVED** the Enlargement of a Legal Nonconforming Use at 234 Lake Street, based on the criteria listed in the Staff Report, particularly the criteria listed in Section 17.232.020B, and subject to the following Conditions of Approval:

CONDITIONS:

1. Provide an "Agreement to Submit an Elevation Certificate" form prior to development and an "Elevation Certificate" prior to occupancy to in comply with FEMA regulations for development within the flood plain.
2. Subject to further review and approval by the Salisbury Department of Infrastructure and Development and the Salisbury Fire Department.

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Case # SA-22-872 Daniel Moreno-Holt/Design Matters, LLC, on behalf of G and Bros. Roofing – Enlarge a Nonconforming Structure located within the 10 ft. Side Yard Setback – 109 Clark Street – Office Service Highway #1 District.

Mr. Daniel Moreno and Ms. Melissa Molina came forward. Mr. Henry Eure presented and entered the Staff report and all accompanying documentation into the record. He summarized the report explaining that the applicant requested permission to construct an addition to the existing building, which is nonconforming as it does not meet the minimum required side yard setback of 10 ft. Board approval to enlarge an existing nonconforming building is requested.



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Mr. Jester questioned what business occupied this address. Mr. Moreno responded that a roofing contractor occupied this lot. He explained that the front expansion was for a showroom and the rear expansion is for offices. Mr. Jester questioned the open lot. Mr. Eure responded that the open lot was under the same ownership.

Mr. Jester questioned Mr. Eure about the landscaping plan. Mr. Eure responded that if the landscaping plan were not complied with, they would have to come back. The landscaping plan could be added as a condition of approval.

Mrs. Drew questioned if there would be any trucks doing deliveries to the site. Ms. Molina responded that the enlargement is for office use only. Mr. Moreno added that the warehouse is in Fruitland.

Mrs. Drew questioned if there was any opportunity to get rid of the exterior stairs. Mr. Eure responded that the stairs were recently constructed and are allowed to extend into the setback.

Upon a motion by Mr. Jester, seconded by Mrs. Drew, and duly carried the Board **APPROVED** the enlargement of the nonconforming structure located within the 10 ft. Side Yard Setback at 109 Clark Street, based on the criteria listed in the Staff Report, particularly the criteria listed in Section 17.232.020B, and subject to the following Conditions of Approval:

CONDITIONS:

1. Provide a minimum of three (3) bicycle parking/storage spaces.
2. Landscaping shall be required at the ends of the parking rows, including one (1) tree at each end.
3. Subject to further review and approval by the Salisbury Department of Infrastructure and Development and the Salisbury Fire Department.

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Case # SA-22-727 Ayres, Jenkins, Gordy & Almand, P.A., on behalf of Snowfield, LLC – Special Exception to Utilize the Entire Property for Residential use to Construct 195 Residential Units – Northeast Corner of Toadvine Road and Snow Hill Road – R-8 Residential and General Commercial District.

Mr. Mark Cropper, Mr. Brock Parker, and Mr. Jason Malone came forward. Mr. Henry Eure presented and entered the Staff report and all accompanying



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documentation into the record. He summarized the report explaining that the applicant requested permission to construct a 195 unit residential subdivision to be known as the Village at Snowfield. The site is located within the R-8A Residential and General Commercial zoning districts. A special exception is being requested to construct residential units in the General Commercial district pursuant to Zoning Code standards.

Mr. Cropper had several witnesses and requested that they confirm the City's Staff Report. Mr. Parker and Mr. Malone confirmed the Staff Report.

Mr. Cropper explained that this process avoids the developer from having to have the property rezoned. This is a consistent use for the neighborhood as the property will be completely residential.

Mr. Parker stated that they are working on the stormwater management and it will be 10 months to a year when shovels are ready to go in the ground. He added that they are working with the developer of Summersgate on the road.

Mr. Jester questioned the last time that 195 units were built at one time in Salisbury. Mr. Eure responded that he could not give an exact time frame but this many units have been seen in other forms.

Mr. Jester questioned when the roundabout would be constructed. Mr. Parker responded that they are working with SHA on the roundabout. Robins Avenue will be signalized. The roundabout will slow traffic coming off the bypass. The Traffic Group has been hired to complete the traffic study.

Mr. Jester questioned if there had been any public comments. Mr. Eure responded that the office had received a few phone calls, with one (1) person being in favor and one (1) being against; however, there are no interested parties present at this meeting. He added that all property owners within a 200 ft. buffer were notified of the meeting. Mr. Parker added that the full plan was public at the Planning Commission meeting. Mr. Jester questioned if the residents of Sandy Acres Drive were included in the 200 ft. buffer. Mr. Eure responded in the negative.

Upon a motion by Mr. Jester, seconded by Mrs. Drew, and duly carried the Board **APPROVED** the Special Exception to utilize the entire property for residential use to construct 195 residential units on the property located at the northeast corner of Toadvine Road and Snow Hill Road, 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:



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CONDITIONS:

1. Subject to further review and approval by the Salisbury Department of Infrastructure and Development and the Salisbury Fire Department.

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ADJOURNMENT

With no further business, the meeting was adjourned at 7:08 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.

Darrell Walker, Chairman

Richard Baldwin, Secretary to the Board

Beverly R. Tull, Recording Secretary



STAFF REPORT

MEETING OF OCTOBER 6, 2022

Case No.: 202201003
Applicant: Anderson Fence Company
Property Owner: Devreco LLC
Location: 2120 Windsor Drive
Tax Map: #102
Grid #16, Parcel #2581, Lot 8C
Zoning: Light Industrial
Request: Fence Setback Variance

I. SUMMARY OF REQUEST:

The applicant requests permission to erect a 6 ft. tall chain-link fence within the front yard setback.

II. ACCESS TO THE SITE AREA:

The site has frontage and access along Windsor Drive.

III. DESCRIPTION OF PROPERTY:

This site consists of a 1.37 acre lot that has been improved with an office building and two (2) self-storage buildings. **(Attachment 1)**

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 propose to enclose the self-storage buildings and access aisle serving each building with a 6 ft. tall chain link fence, in order to properly protect the buildings and site. **(Attachments 2 & 3)** Within the Light Industrial District, the minimum front yard setback is 50 ft. from the curblineline/edge



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of the street. Fences may not be taller than 4 ft. within the front yard setback, according to Section 17.04.190B. The applicants intend to place the proposed fence 24 ft. from Windsor Drive. Section 17.220.040 of the Zoning Code requires that storage areas be screened with either a solid fence or wire fence with slats and are required to be between 6' and 8' in height.

- (b) **Impact:** Staff believes the proposed fence will have minimal impact on neighboring properties. Nearby properties have similar storage areas that are enclosed with similar fencing. Some of these same properties have also been granted similar variances from the Board of Zoning Appeals to erect 6 ft. tall fences within the front yard.
- (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 protection/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.

- [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 protect the storage buildings and drive area that serves the building.

- [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. Similar variance requests have been granted for a number of nearby 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 increase 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 transportation, water, sewer, school, park or other public facilities.

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



The 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, due to the Zoning Code's somewhat conflicting and contradictory standards. However, the Board has the discretion to approve the requested variance or grant a lesser variance.

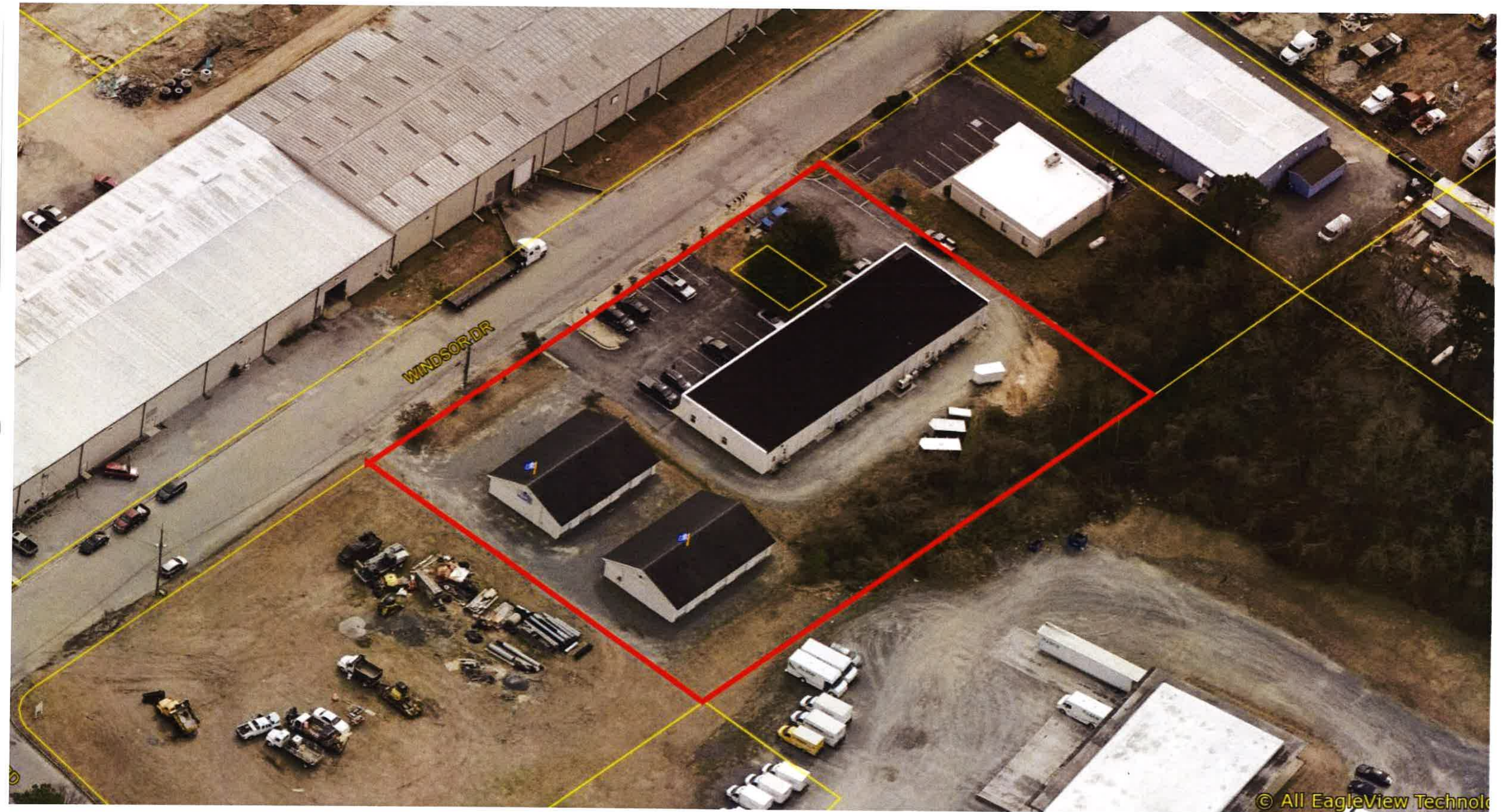
VI. STAFF COMMENTS:

As previously indicated, it appears that the Zoning Code is somewhat contradictory regarding screening and fences when located with the front yard.

VII. RECOMMENDATION:

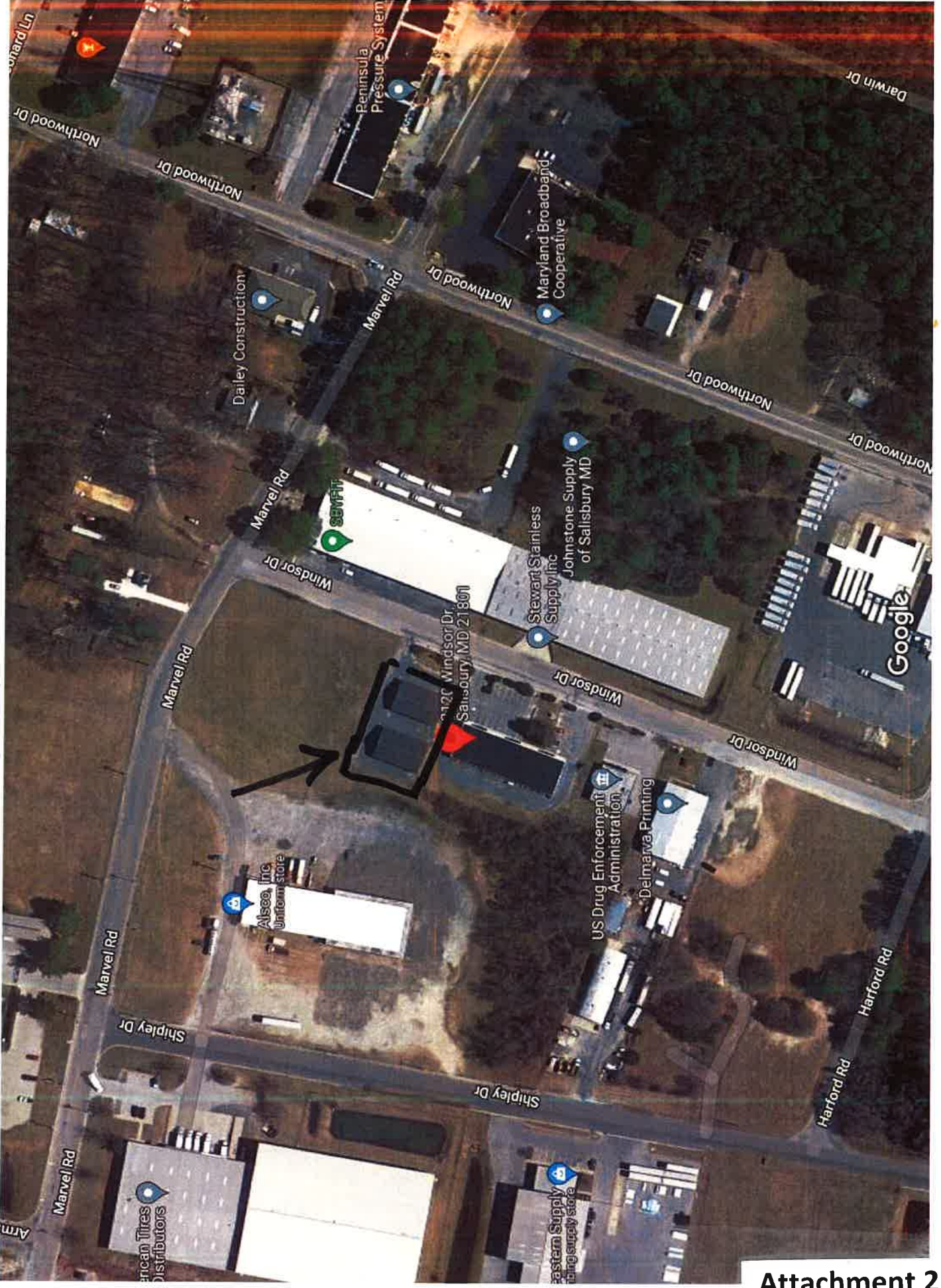
Based on criteria for approval as outlined in Section V (c) of the Staff Report, **Approval** of the variance request as submitted is recommended to erect/install a 6 ft. tall fence within the front yard setback along Harford Road and Shipley Drive, with the following conditions:

1. The fence shall be provided with privacy slats for screening, as required by the Zoning Code.



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8/31/22, 12:45 PM 2120 Windsor Dr - Google Maps



Attachment 2

Imagery ©2022 Maxar Technologies, U.S. Geological Survey, USDA/FPAC/GEO, Map data ©2022 100 ft

2120 Windsor Drive – Self-Storage Facility

6'H Chain Link Fence - 105' x 176'

