

**FREDERICK COUNTY BOARD OF APPEALS**  
**STAFF REPORT VIRTUAL MEETING ON OCTOBER 22, 2020 @ 7pm**

<u>Case Number:</u>	B-20-16, (B260359)
<u>Applicant:</u>	Michael Skinner
<u>Appeal:</u>	Variances of 9 feet from the 25 ft. rear yard setback in accordance with Section 1-19-3.220 Variances and Section 1-19-6.100 Design Requirements of the Frederick County Zoning Ordinance. The Applicant is requesting the variance to construct a screened-in deck.
<u>Location:</u>	The property is described as 5344 Sovereign Place, Frederick MD 21703, Tax Map 0086, Parcel 0229, and Tax ID #28566786, Zoning PUD, Size .247 Acres.
<u>Planning Region:</u>	Frederick
<u>Zoning District:</u>	Planned Unit Development (PUD)
<u>Comp. Plan Designation:</u>	Medium Density Residential
<u>Applicable Ordinances:</u>	Sec. 1-19-3.220 Variances Sec. 1-19-6.100 Design Requirements
<u>Background:</u>	

The Applicant's property is zoned Planned Unit Development (PUD) and is .247 acres in size. The required setbacks for this community are front, 25 ft., side 8 ft. and rear 25 ft.

**Proposal:**

The Applicant is proposing to construct an enclosed rear porch that will extend 9 ft. into the rear Building restriction line. This will leave a setback of 16 ft. from the rear property line. (Attachment1) The dimensions of the rear porch are provided in (Attachment 2)

**General Criteria - §1-19-3.220 - Variances:**

Under the provisions of Section 1-19-3.220(C) of the County Zoning Ordinance, the Board of Appeals shall not grant a variance unless and until a public hearing is held and all of the following criteria are met:

(A) The Board of Appeals may authorize a variance in height, lot area and yard regulations.

The Applicant states that they are requesting a variance from the 'yard' regulations as listed under Section 1-19-6.100.

(B) An application for a variance shall be filed with the Board of Appeals only after refusal of zoning approval or an adverse determination has been issued by the Zoning Administrator.

The Applicant states that the Zoning Administrator determined that the Applicant's proposed subdivision did not meet minimum building setback requirements as per Ordinance Section 1-19-6.100, and could not be approved in its proposed location.

(C) The Board of Appeals shall not grant a variance unless and until a public hearing is held and all of the following criteria are met:

The Applicant states that the public hearing is scheduled for October 22, 2020 and may be held as a Public Virtual Hearing Online.

(1) First, the Board of Appeals shall find that special conditions and circumstances exist which are unique to the land or structure involved and which are not applicable to other lands or structures in the same district.

The Applicant states that, due to the orientation of the house on a pie shaped property, the area to locate the structure is limited, thus making for a unique hardship for constructing any accessory structure.

(2) Upon making this finding the Board of Appeals shall also find that the following criteria are met:

(a) That the special conditions and circumstances do not result from the actions of the applicant.

The Applicant states that due to his parcel being pie shaped, the lot is non-conforming in area, width or depth and the BRL connects to the rear of the main structure, which limits construction of any addition to the rear of the property. Staff response: The shape of this lot does not make it non-conforming. It is a legal lot of record in the Kingsbrook PUD, and meets all subdivision requirements. See Lot 49 on the plat attached as (Attachment 3)

(b) The literal interpretation of the provisions of Chapter 1-19 of the County Code would result in unreasonable hardship and deprive the Applicant of rights commonly enjoyed by other properties in the same district under the terms of Chapter 1-19.

The Applicant states that should no variance be granted there is no other reasonable location to place the screened deck on this property. The triangular shape of the property also limits where this structure can be located.

(c) That granting the variance will not confer on the applicant any special privilege that is denied by Chapter 1-19 to other lands or structures in the same district.

The Applicant states that a screened deck located in the Residential zone is not an unreasonable or a special request and therefore is not granting him a special privilege.

(d) That the granting of the variance will be in harmony with the general purpose and Intent of Chapter 1-19 and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

The Applicant states that the request is consistent with the Residential zoned properties and will not impact or be injurious to the neighborhood or detrimental to the public welfare.

**(D)** In granting the variance, the Board of Appeals may prescribe appropriate conditions and safeguards in conformity with Chapter 1-19. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, is a violation of Chapter 1-19.

*The Applicant understands this requirement.*

**(E)** Under no circumstances shall the Board of Appeals grant a variance to allow a use not permissible under the terms of Chapter 1-19 in the zone involved, or any use expressly or by implication prohibited by the terms of Chapter 1-19 in said zone.

*The Applicant understands this requirement.*

**(F)** Under no circumstances shall the Board of Appeals grant a variance to a nonconforming structure for the portion of structure determined by the Zoning Administrator to be nonconforming.

*The Applicant understands this requirement.*

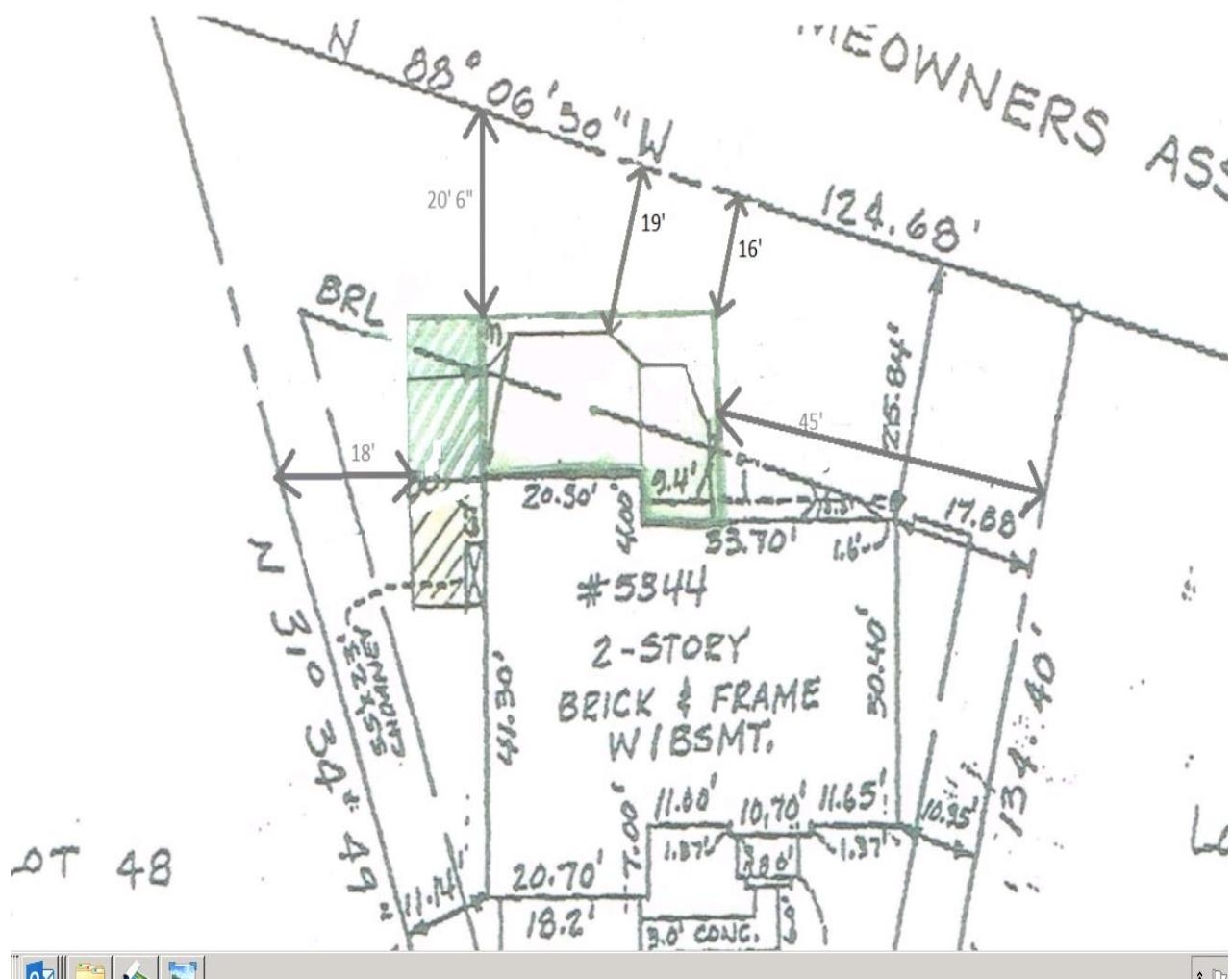
**(G)** A decision of the Board of Appeals granting a variance will be void 2 years from date of approval by the Board of Appeals unless the use is established, a building permit is issued, construction has begun, or final site development plan approval has been received in accordance with the terms of the decision. Upon written request submitted to the Zoning Administrator no later than 1 month prior to the expiration date and for good cause shown by the applicant, a 1 time extension may be granted by the Zoning Administrator for a period not to exceed 6 months.

*The Applicant understands this requirement.*

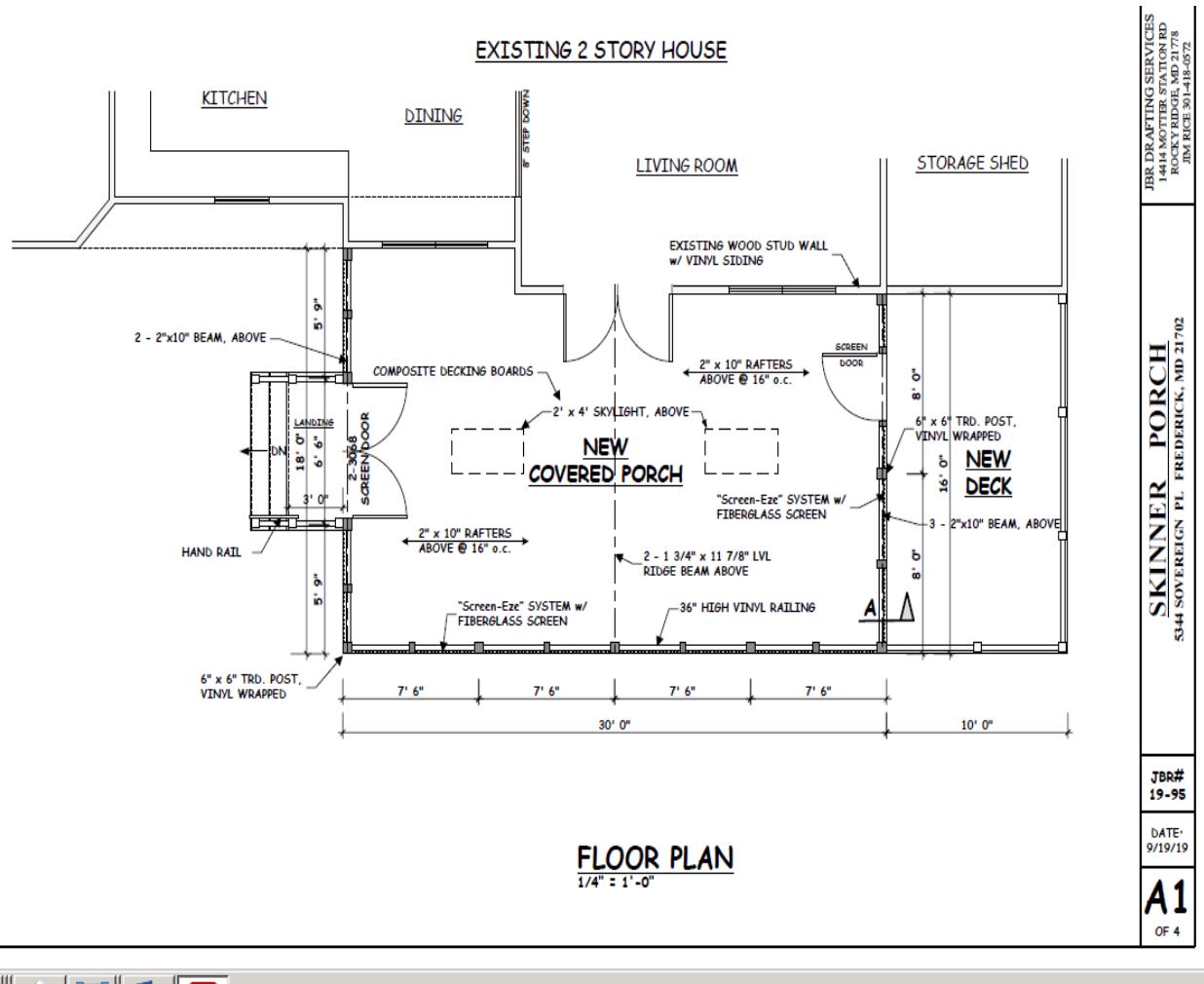
**Actions Needed:**

Staff requests that the Board review the general criteria for a Variance under Section 1-19-3.220 Variances and Section 1-19-6.100 Design Requirements and render a decision on the Applicant's request for a 9 ft. variance from the 25 ft. required rear building restriction line, to construct an enclosed porch 16 ft. from the rear property line.

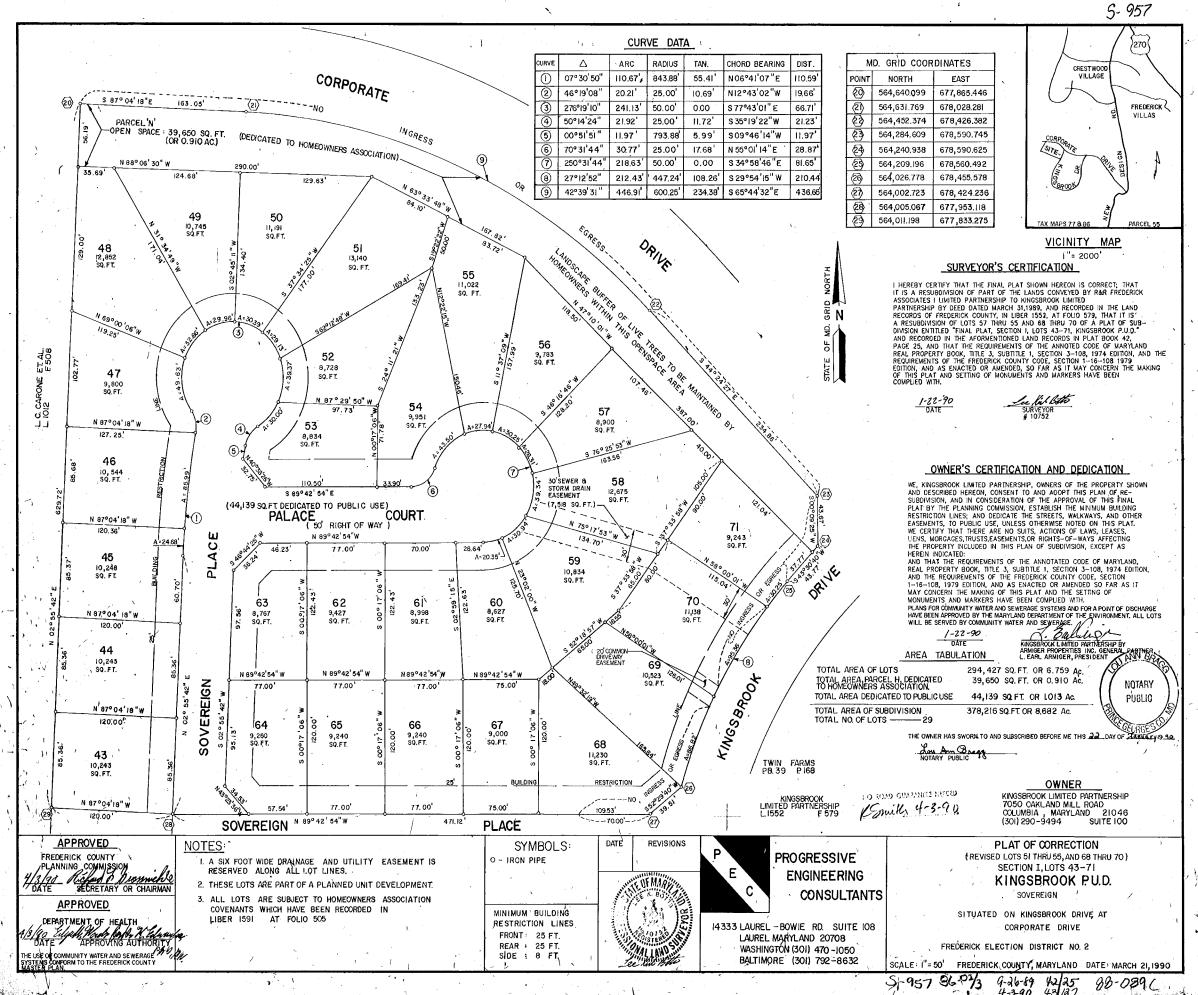
Attachment 1



## **Attachment 2**



### Attachment 3



## Maps

