

FREDERICK COUNTY BOARD OF APPEALS
STAFF REPORT for November 19, 2020 @ 7pm

Case Number:

B-20-17 (B260468)

Applicant:

Eco Developers

Appeal:

Variances of 12.5 feet from the 25 ft. front yard setback in accordance with Section 1-19-3.220 and Section 1-19-6.100 of the Frederick County Zoning Ordinance.

Location:

The property identified as 6600 Accipiter Drive, New Market, MD, 21774, Tax Map 0068, Parcel 0154, and Tax ID # 27525806, Zoning PUD, Size .26 Acres

Planning Region:

New Market

Zoning District:

Planned Unit Development (PUD).

Comp. Plan Designation:

Low Density Residential

Applicable Ordinances:

**Sec. 1-19-3.220 Variances
Sec. 1-19-6.100 Design Requirements**

Background:

The Applicant's property is zoned Planned Unit Development (PUD) and is approximately .26 acres. The property is unique due to the topography of the lot. (Attachment 1 Topography Map)

Proposal:

The Applicant seeks a Variance under Ordinance Section 1-19-3.220, of 12.5.0 feet from the required 25-foot front yard setback in order to construct a single-family dwelling. (Attachment 2 House Location Map)

General Criteria - Variance:

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 is requesting a variance from the required front yard setback.

(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 advised that a variance is required.

(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:

(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 the combination of the provisions set forth in the zoning code, the challenging nature of the slope of the lot, and the minimum size requirements of the residence set by the neighborhood's covenants make the lot unbuildable in its current state. (Attachments 1 Topography Map & 2 House Location Map)

(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; and

The Applicant states that no special condition and circumstances are a result of its actions. The topography of the lot is creating the need for this request.

(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; and

The Applicant states that the combination of the provisions set forth in the zoning code, the challenging nature of the slope of the lot, and the minimum size requirements of the residence set by the neighborhood's covenants make the lot unbuildable in its current state. (Attachment 1 & 2)

(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; and

The Applicant states that the granting the variance will allow the construction of a residential dwelling similar to those in the surrounding neighborhood and does not grant them any special privilege denied to other lands or structures in the same district.

(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 granting of the variance will allow the property to be used in a way that is in harmony with the surrounding neighborhood, and to contain a residential dwelling.

(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.

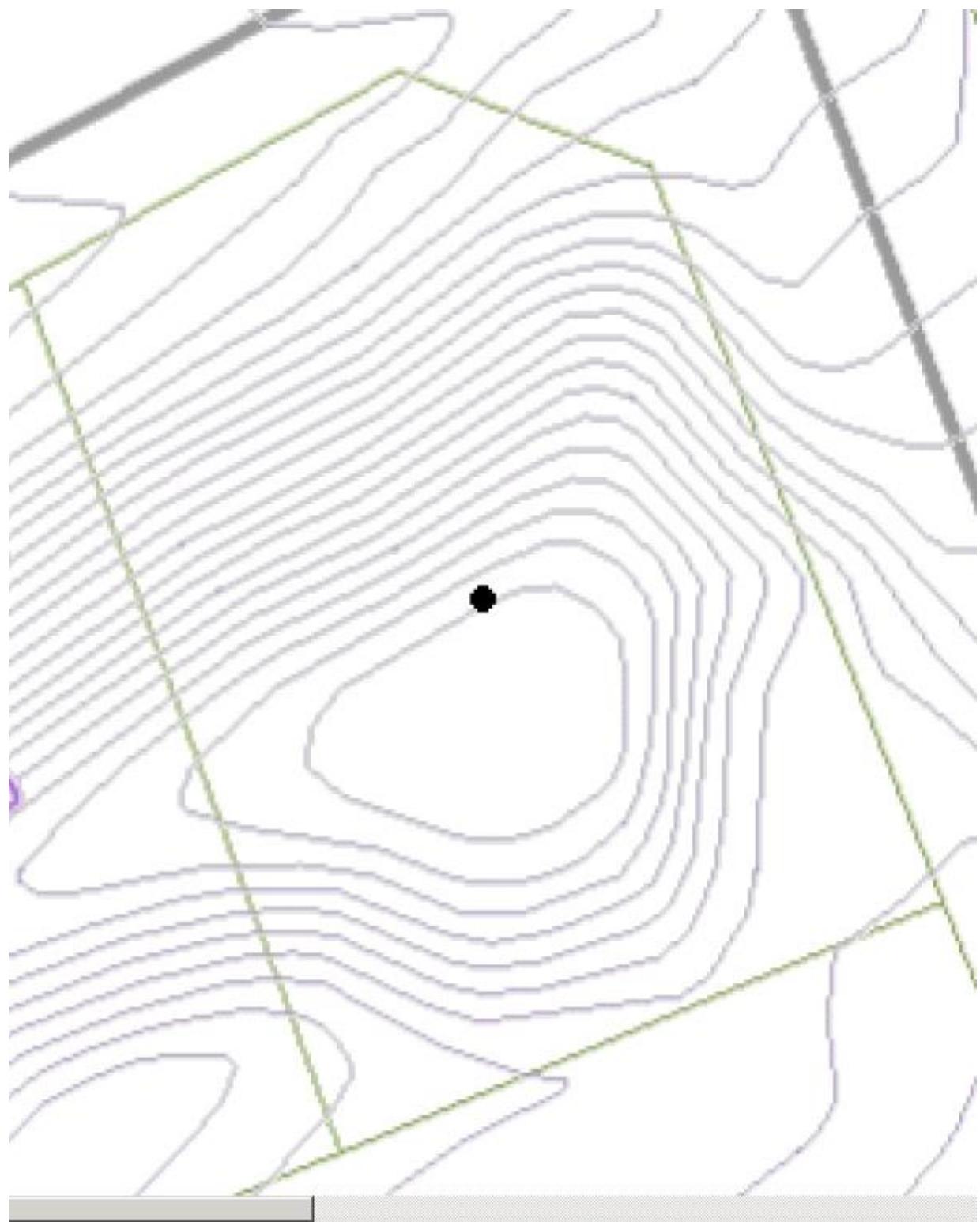
(G) A decision of the Board of Appeals granting a variance will be void 2 years from date of approval by the Board of Appeals unless the use is established, a building permit is issued, construction has begun, or final site development plan approval has been received in accordance with the terms of the 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.

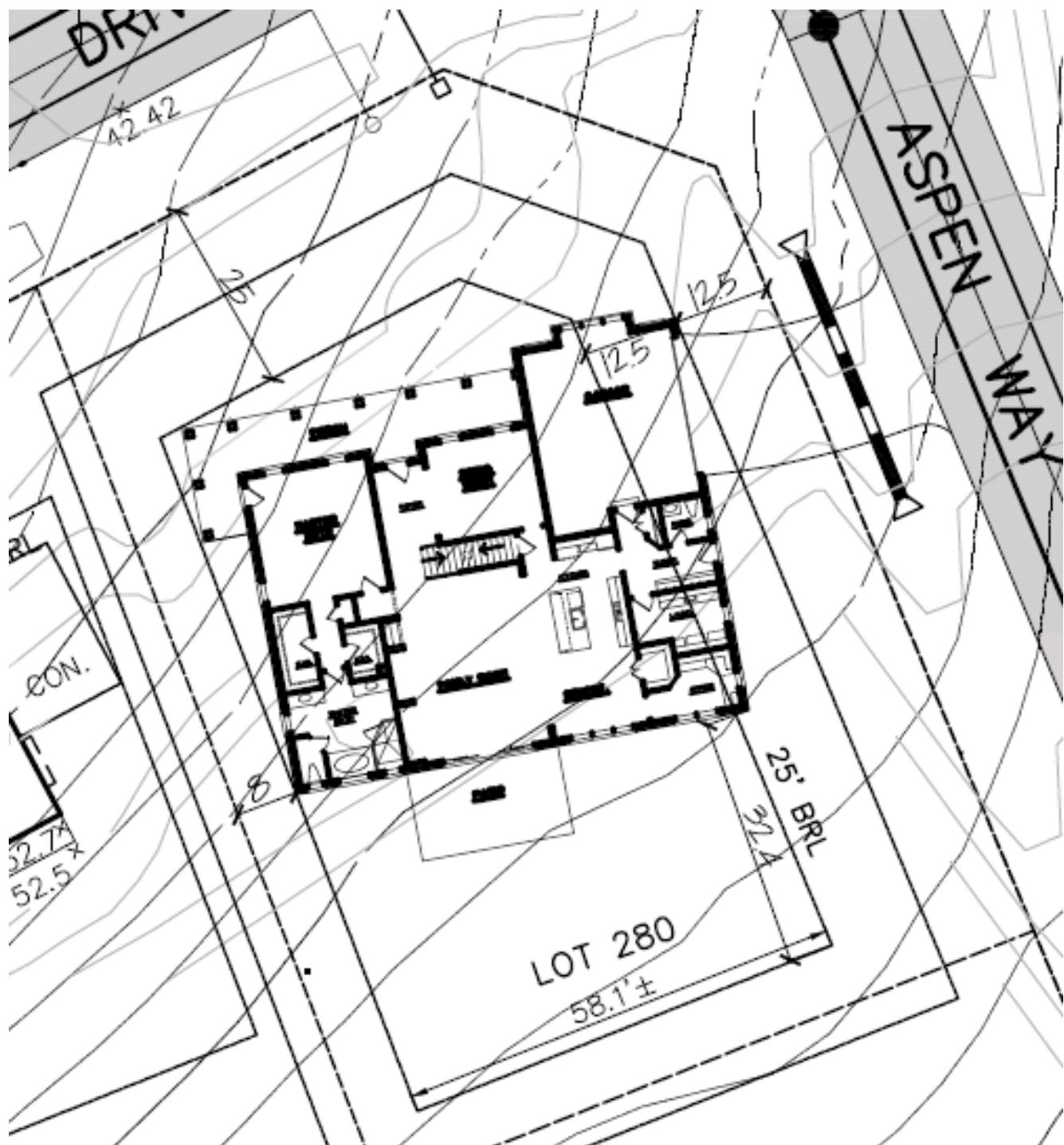
Actions Needed:

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 Variances of 15 feet from the 25 ft. front yard setback in order to construct a single family house.

Attachment 1 Topography Map



Attachment 2 House Location Survey



GIS Maps

