

**FREDERICK COUNTY BOARD OF APPEALS**  
**STAFF REPORT VIRTUAL MEETING ON January 28, 2020 @ 7pm**

<u>Case Number:</u>	B-20-24, (B260574)
<u>Applicant:</u>	Jeff Williford
<u>Appeal:</u>	<p>The Applicant is requesting variance of 9 feet from the 30 ft. required rear Building Restriction Line in accordance with Sections 1-19-3.220 and 1-19-6.100 of the Frederick County Code. The Applicant's home was constructed 9 feet beyond the Rear Building Restriction Line.</p>
<u>Location:</u>	<p>The property is identified as, 8711 Water Street Road, Walkersville, MD 21793, Tax Map 68, Parcel 341, Tax ID# 13589040, Zoning, Agricultural (A). Size 1.18 Acres.</p>
<u>Planning Region:</u>	Walkersville
<u>Zoning District:</u>	Agricultural (A)
<u>Comp. Plan Designation:</u>	Agricultural
<u>Applicable Ordinances:</u>	<b>Sec. 1-19-3.220 Variances</b> <b>Sec. 1-19-6.100 Design Requirements</b>
<u>Background:</u>	<p>The Applicant's property is zoned Agricultural (A) and is 1.18 acres in size. (Attachment 1) The required setbacks for this community are front, 40 ft., side 10 ft. and rear 30 ft. The Applicant has stated that the home was constructed 9 ft. beyond the 30 ft. rear building restriction line. (Attachment 2) The Applicant is attempting to resolve this issue through the Frederick County BOA Variance process.</p>

**Proposal:**

The Applicant is requesting a Variance of 9 ft. in order to bring the property into compliance with the County Zoning Code and avoid any problems when selling the property in the future.

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

Under the provisions of Section 1-19-3.220(C) of the County Zoning Code, 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 house location did not meet minimum building setback requirements as per Ordinance Section 1-19-6.100.

(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, due to an error by the builder, the home was located 9 ft. into the 30 ft. rear building restriction line. (Attachment 2)

(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 the hardship is based on the fact that the Applicant no control over the siting of the home on the property.

(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 option other than to remove a portion of the home.

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

The Applicant states that granting of this variance conveys no special privileges that are not shared by all surrounding property owners.

(d) That the granting of the variance will be in harmony with the general purpose and Intent of Chapter 1-19 of the County Code 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 neighboring 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.

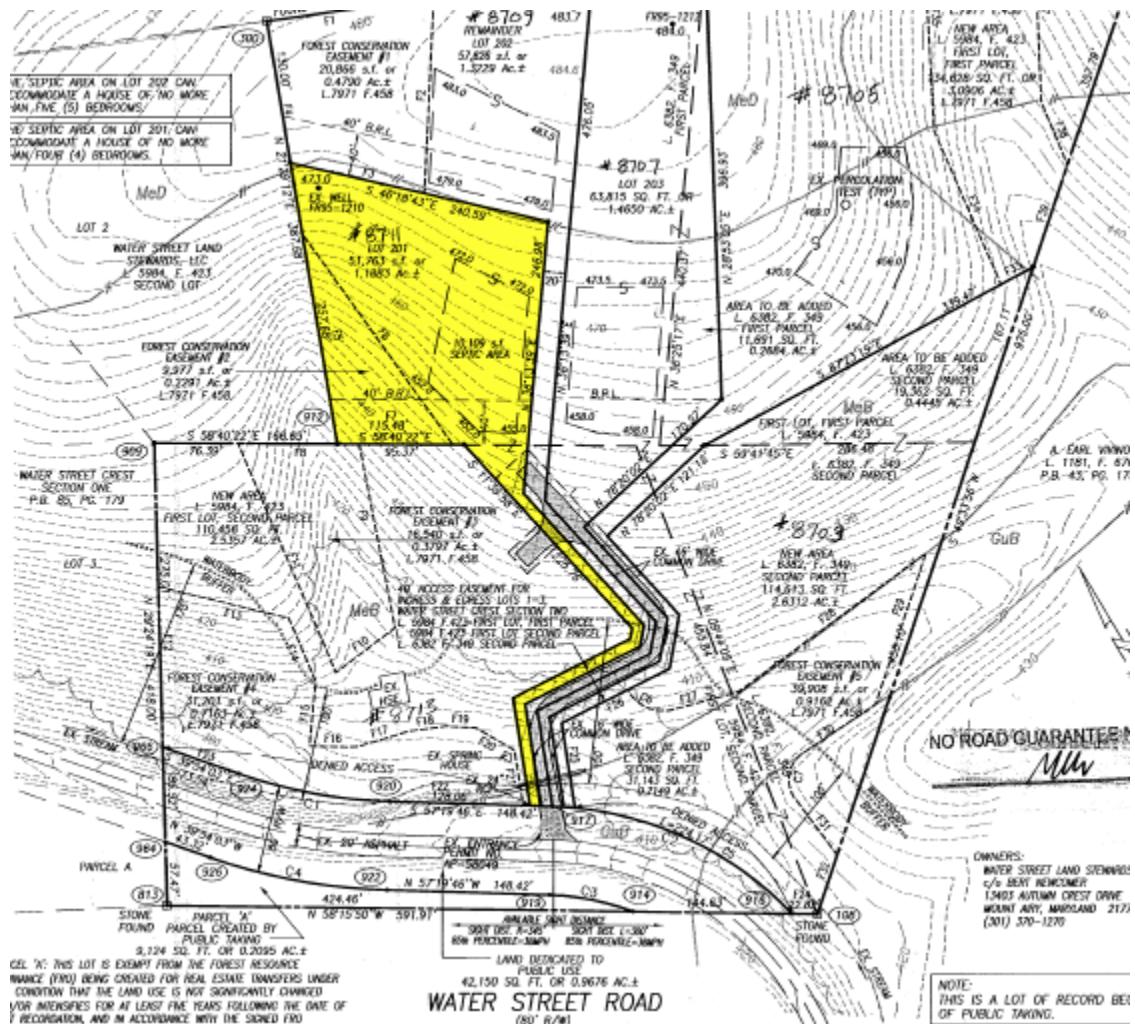
(G) A decision of the Board of Appeals granting a variance will be void 2 years from date of approval by the Board of Appeals unless the use is established, a building permit is issued, construction has begun, or final site development plan approval has been received in accordance with the terms of the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

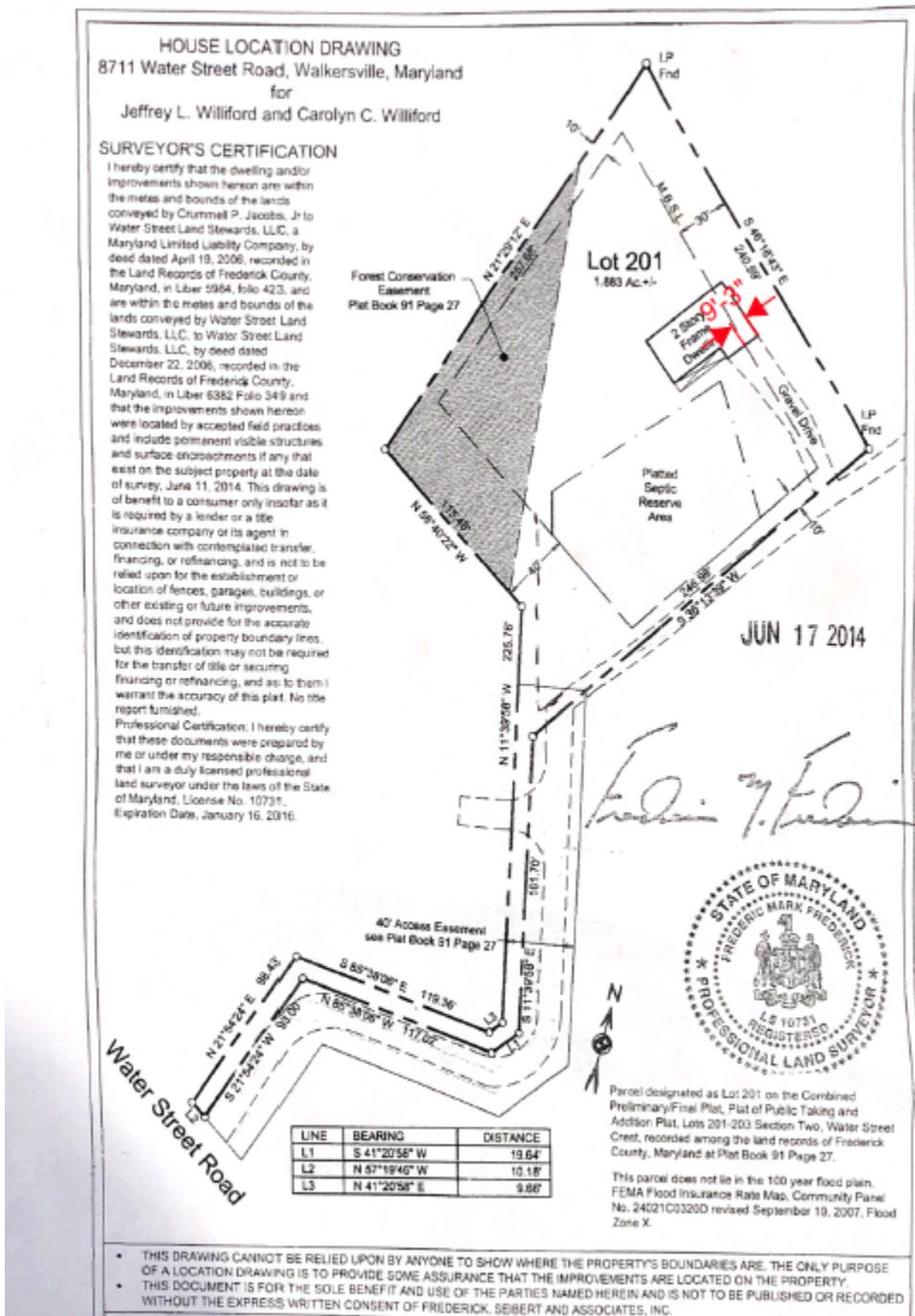
**Actions Needed:**

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 30 ft. required rear building restriction line, due to the Applicants home being constructed 9 feet beyond the Rear Building Restriction Line.

## **Attachment 1**



## **Attachment 2**



## GIS Maps



