

FREDERICK COUNTY BOARD OF APPEALS
STAFF REPORT VIRTUAL MEETING ON OCTOBER 28, 2021 @ 7pm

Case Number: B-21-20, B266494

Applicant: Deck and Shed Pros (Representing Suzanne Herdman)

Appeal: Requesting a 7-foot variance from the required 20 ft. rear Building Restriction Line requirement for screened in porch, in accordance with Section 1-19-3.220 Variances and Section 1-19-6.100 Design Requirements of the Frederick County Zoning Ordinance. If approved, the variance would create a 13' rear building restriction line.

Location: The property is described as 9419 Bridgewater Court W., Frederick, Maryland 21701 Tax Map 78, Parcel 0712, Tax ID #09297340, Zoned Planned Unit Development (PUD), Size .091 Acres

Planning Region: Frederick

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 .091 acres in size. The required setbacks for this community are, Front Yard, 25 ft., Side Yard, 3 ft. and Rear Yard, 20 ft.

Proposal:

The Applicants are requesting a variance of 7 feet from the required 20-foot rear building restriction line, in accordance with Section 1-19-3.220 Variances and Section 1-19-6.100 Design Requirements of the Frederick County Zoning Ordinance. If approved, this would create a 13' rear building restriction line and allow for the enclosure of a deck. The Applicant is proposing to enclose an existing 11 x 11 deck with a screened in porch. (Attachment 1)

General Criteria - Variance:

Under the provisions of Section 1-19-3.220(C) of the Frederick 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 she understands the process

- (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 she was directed to the Board of Appeals process by the Frederick County Division of Planning.

- (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 she understands this requirement.

- (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 she understands this and believes that she is highly allergic to mosquitoes and mosquito bites, and that bug spray causes her to have a skin irritation. These health circumstances warrant a hardship and make this Application eligible for approval.

There are no significant lot characteristics other than the fact that the rear of the house does not back up to any residential property.

- (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 her health conditions and circumstances are not the result of actions by the Applicant. She states that she is highly allergic to mosquitoes and that she is highly allergic to mosquito bites, which makes sitting on her deck nearly impossible. Bug spray irritates her skin. Therefore, she cannot enjoy her deck as other neighbors seem to enjoy theirs.

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

The Applicant states that she believes that her health issues are a hardship and this request is a reasonable way to allow her the same outdoor enjoyment on her deck that others in the community enjoy.

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

The Applicant states that the approval of the variance would not confer any special privilege on the applicant. The Applicant would like to enjoy her back yard with protection from the elements. The Applicant further states that the neighboring properties (9665 and 9667 Fleetwood Ct.) have received BOA approval for the same variance request. (B-99-17, and B-01-25)

Staff Note: B-99-17 was approved as a 12.5 ft. Variance from the required 25 ft. front Building Restriction Line. The request was based on the shape of the lot. B-01-25 was approved as a 12.5 ft. Variance from the rear yard setback, in order to enclose an existing deck.

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

The Applicant states that the variance will be in harmony with the neighborhood and will not be detrimental to the public welfare. Enclosing the deck with a screened in porch will have no impact on the surrounding community. As previously stated, there are no homes behind us and neighboring properties (9665 and 9667 Fleetwood Ct.) have received BOA approval for the same variance request. (B-99-17, and B-01-25)

- (D) In granting the variance, the Board of Appeals may prescribe appropriate conditions and safeguards in conformity with Chapter 1-19 of the Frederick County Code. 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 of the Frederick County Code.

The Applicant states that she 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 of the Frederick County Code in the zone involved, or any use expressly or by implication prohibited by the terms of Chapter 1-19 of the Frederick County Code in said zone.

The Applicant states that she 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 states that she 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

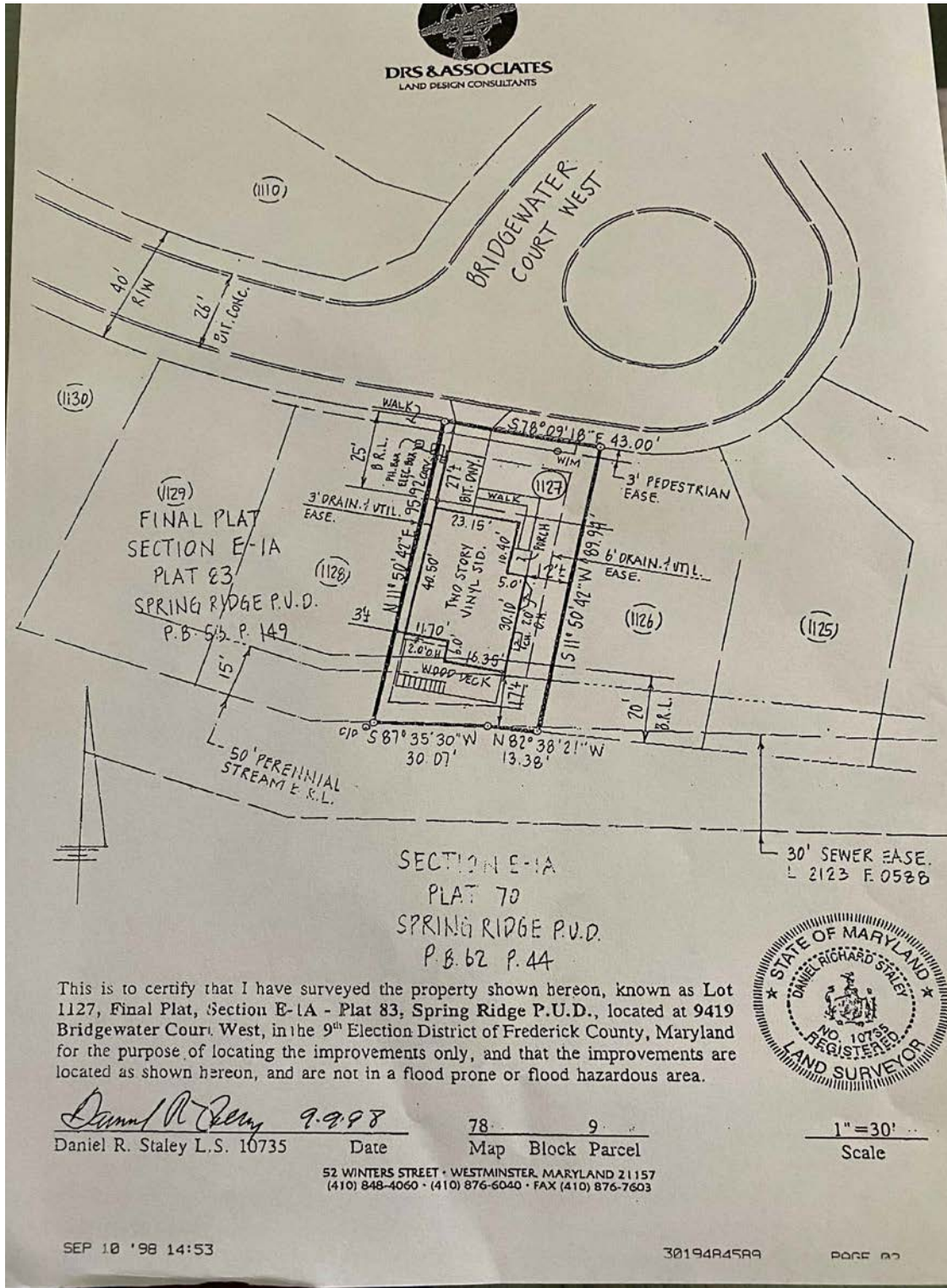
cause shown by the applicant, a 1 time extension may be granted by the Zoning Administrator for a period not to exceed 6 months.

The Applicant states that she 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 of the Frederick County Code and render a decision on the Applicant's request for a 7 ft. variance from the 20 ft. required rear building restriction line.

Attachment 1



GIS Maps

