

FREDERICK COUNTY BOARD OF APPEALS
STAFF REPORT MEETING ON JUNE 23, 2022 @ 7pm

Case Number: B267835 (B-22-21)

Applicant: Kirk Coleman

Appeal: Requesting a 36 ft. variance to a 40 ft. front building restriction line in order to construct a garage, 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 4 ft. building restriction line along the Lackey Road frontage.

Location: The Property is described as 11713 Bunker Hill Ct. Union Bridge, Md 21791 Tax Map 0035, Parcel 0171, Zoning, Agricultural (A), Size 1.23 Acres.

Planning Region: Walkersville

Zoning District: Agricultural (A)

Comp. Plan Designation: Rural Residential

Applicable Ordinances: Sec. 1-19-3.220 Variances
Sec. 1-19-6.100 Design Requirements

Background

The required setbacks for this (A) zoned property are front – 40', side – 10', rear – 30'.

This lot is a through lot per the below definition and contains two front yards. The main house access is off Bunker Hill Court, this parcel (Lot 31) also has frontage along Lackey Road, **see Attachment 1**. The Lackey Road frontage for Lots 30-37 is labeled as "Denied Access" per the plat. Therefore, the Lackey Road frontage functions as a Rear Yard.

1-19-11.100 **THROUGH LOT.** A lot (other than a corner lot) with frontage of more than 1 street other than an alley.

Proposal:

The Applicant is requesting a 36 ft. variance to a 40 ft. front building restriction line in order to construct a garage, 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 4 ft. front building restriction line. **See Attachment #2.**

Sec. 1-19-3.220 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.
- (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 County Zoning Administrator directed him to file with the Board of Appeals.

- **Please note this structure was built without proper permits or approvals.**

- (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 Hearing is scheduled June 23, 2022

- (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 property slopes sharply from the front to the rear of the property. In addition, due to the location of the septic area, this location is the only place that he can place this structure.

- **Please note this structure was built without proper permits or approvals.**

- (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 the request is based on the topography of the land, not based on any action taken by the Applicant.

- **Please note this structure was built without proper permits or approvals.**

- (b) The literal interpretation of the provisions of this chapter would result in unreasonable hardship and deprive the applicant of rights commonly enjoyed by other properties in the same district under terms of this chapter; and

The Applicant states that this is the best location for our garage given the topography and related matters. Most homes come with or have had garages constructed in our community.

- (c) That granting the variance will not confer on the applicant any special privilege that is denied by this chapter to other lands or structures in the same district; and

Many other homes in the community have garages on their property.

- (d) That the granting of the variance will be in harmony with the general purpose and intent of this chapter and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

The granting of this variance will have no impact on the surrounding community and therefore will be in harmony with the existing community.

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

The Applicant states that he 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 this chapter in the zone involved, or any use expressly or by implication prohibited by the terms of this chapter in said zone.

The Applicant states that he 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 he 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 he 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 36" variance from the 40 ft. required building restriction line along Lackey Road in order to construct a detached garage at the front of their lot.

**** Staff further requests that if the Application is approved, that the BOA condition any approval on the Applicant removing the illegally created driveway used to access Lackey Road, which is a Denied Access Road.***

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

Attachment 1

OWNER'S CERTIFICATION & DEDICATION

We, RAYMOND & JO ANN HOUCK, owners of the property above and described herein, consent to and adopt this plan of subdivision and in consideration of the approval of this Final Plat by the Planning Commission establish the minimum building restriction lines, and dedicate the streets, walkways, and other easements, to public use, unless otherwise noted on this plat.

We certify that there are no suits, actions or law, leases, liens, mortgages, trusts, or rights of way affecting the property included in this plan of subdivision, except as herein indicated, **NONE AND THAT THE REQUIREMENTS OF THE ANNEXED CODE OF MARYLAND, PLANNING COMMISSION, TITLE 3, SUBTITLE 1, SECTION 3-105, 1974 EDITION AND AS ENACTED OR AMENDED SO FAR AS IT MAY CONCERN THE MAKING OF THIS PLAT AND THE SETTING OF MONUMENTS AND MARKERS HAVE BEEN COMPLIED WITH.**

RAYMOND HOUCK DATE JO ANN HOUCK
The owners have sworn to and subscribed before me this day of November 29, 1976.

State of Maryland, County of Frederick *Lois Marie Willard*
Notary Public

SURVEYOR'S CERTIFICATE

I hereby certify that the Final Plat shown herein is correct; it is a subdivision of part of the land conveyed by C.L. MARYLAND CORPORATION TO RAYMOND & JO ANN HOUCK by Deed dated 11/1/76, and recorded in the Land Records of Frederick County, in Liber 321, folio 768, and the requirements of the Annotated Code of Maryland, Real Property Book, Title 3, Subtitle 1, Section 3-105, 1974 Edition, and as enacted or amended so far as it may concern the making of this plat and the setting of monuments and markers have been complied with.

12-21-76 Date *Clarendon*
Elwood L. Renn
R.P.L.S. Md. #3383

CURVE DATA

LET.	RAD.	DELTA	ARC	BEARING	CHORD	TAN
A.	175.00	21-49-05	66.64	862-35-28E	66.24	53.78
B.	225.00	21-49-05	85.68	862-35-28E	85.11	43.36
C.	175.00	78-00-00	238.2	867-30-00E	220.26	141.71
D.	225.00	78-00-00	308.31	867-30-00E	283.19	182.20
E.	25.00	11-11-20	21.03	852-35-40E	20.41	11.18
F.	20.00	49-24-20	21.03	844-24-30E	20.41	11.18
G.	50.00	278-24-20	24.11	844-24-30E	66.31	33.78
H.	200.00	43-18-05	151.81	N 70° 35' 30" W	217.17	79.42
I.	200.00	85-45-00	229.51	N 70° 35' 30" W	227.07	129.26
J.	175.00	72-23-00	221.08	N 70° 35' 30" W	288.97	126.04
K.	73.62	82-59-00	106.70	N 70° 35' 30" W	71.47	59.00

COORDINATES

NO.	NORTH	EAST
1.	4549.338	3434.003
2.	4206.341	3198.057
3.	5970.791	3217.803
4.	3170.095	3434.111
5.	3663.379	3908.405
6.	3691.911	4003.205
7.	2292.262	4220.986
8.	4055.536	4258.424
9.	4933.492	4537.991
10.	5013.102	4530.111
11.	5155.557	4113.809
12.	8715.170	3955.568
13.	4762.786	3816.430
14.	4416.855	3698.056
15.	4410.132	3698.481
16.	4223.722	3470.725
17.	7984.423	4244.247
18.	2277.469	4244.246

OWNERS:
RAYMOND HOUCK
RT. I. HOUCK RD.
UNION BRIDGE, MD.

TOTAL AREA OF LOTS - 22.92 AC.
TOTAL DEDICATED AREA - 2.27G AC.
TOTAL AREA OF SUBDIVISION - 24.668 AC.
TOTAL NUMBER OF LOTS - 19

NOTES:
A SLOPE AND DRAINAGE EASEMENT 30" WIDE AND ADJACENT AND CONGLOMERATE TO LOT 26 AND 27 IS ESTABLISHED. SAID EASEMENT SHALL BE EXTINGUISHED WHEN THE PROPERTY IMPROVEMENTS HAVE BEEN LAWFULLY COMPLETED AND ACCEPTED FOR MAINTENANCE BY FREDERICK COUNTY, MARYLAND.

PLAT I SECTION-5 LOTS 19-26 & 27-37 BUNKER HILL ESTATES JOHNSTON ELECTION DISTRICT #7 SITUATED ON BUNKER HILL ROAD FREDERICK COUNTY, MARYLAND SCALE: 1"=100' 10/21/76

RENN SURVEYS, INC.
BOX 55 DAMASCUS, MD. 20750
PHONE: 253-3591

APPROVED:
11/21/77 *Elwood L. Renn*
RAYMOND & JO ANN HOUCK
FREDERICK COUNTY HEALTH DEPARTMENT
11/21/77 *Markie J. Schaefer*
APPROVING AUTHORITY

NOTES:
1. There must be gravity flow of sewerage to the entire septic area.
2. No buildings, roads or wells are allowed in the 10,000 square feet septic reserve area.
3. A 100' front driveway and utility easement is now reserved along both sides of all lot lines.
4. The Frederick County Health Department reserves the right to require that water wells be drilled on a lot and Well Completion Certificate issued by the County Health Department which notes a water yield suitable for domestic purposes, prior to approval of sewage disposal and building permits.
5. No Mobile Homes allowed.

SYMBOLS

•	Septic test hole
□	Drainage cell
△	Conc. mon.
○	Iron pipe
□	Septic area
—	Building restriction lines

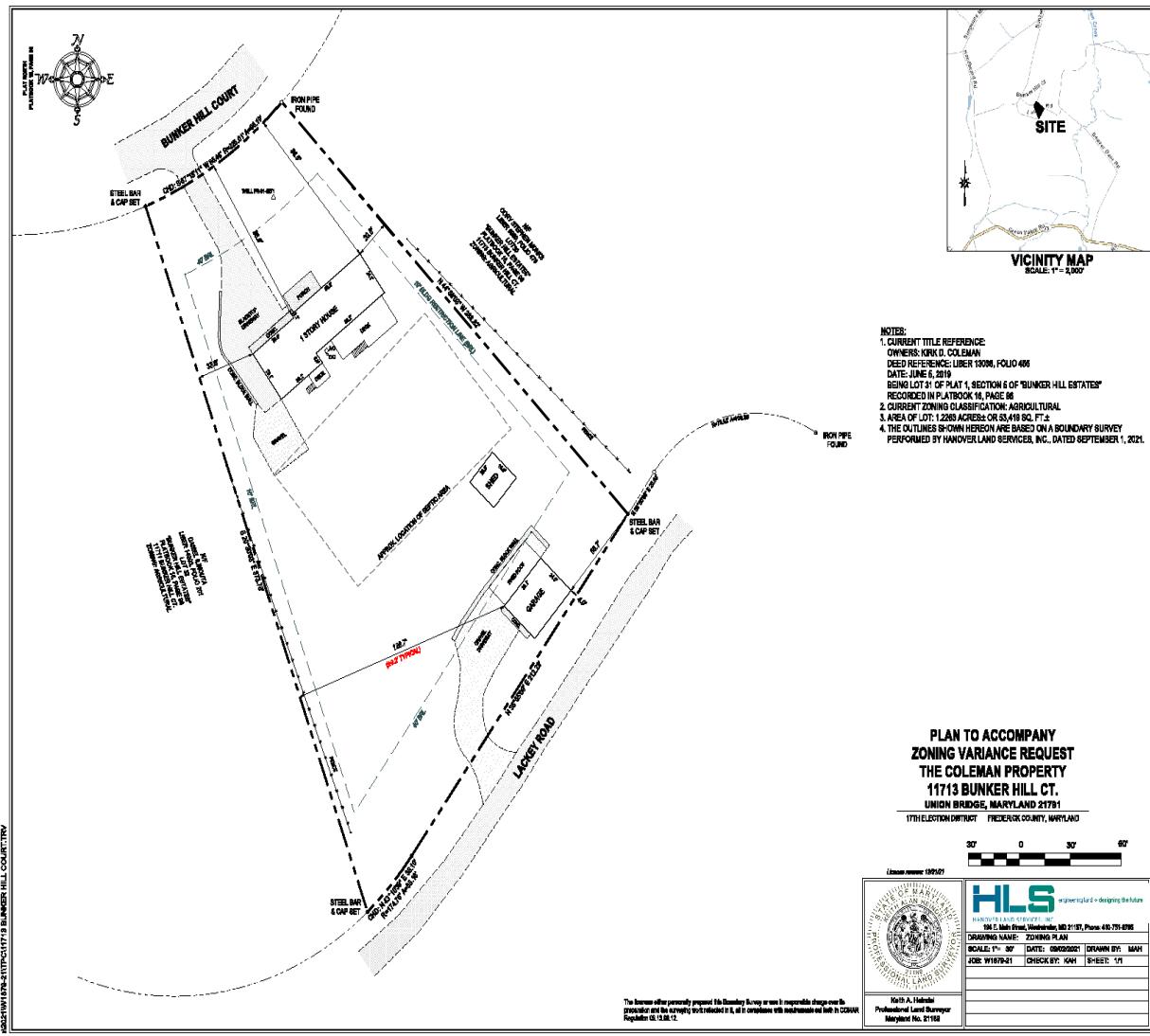
DATE **REVISION**

11-07-77	SECOND
11-10-77	FIRST

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Attachment 2



GIS MAPS

