



FREDERICK COUNTY BOARD OF APPEALS

July 28th, 2022

TITLE: **Keith Henry-Variance**

CASE NUMBER: **B-22-23 (B273259)**

REQUEST: **Requesting a 2 ft. variance to a 40 ft. front building restriction line in order to construct a covered front 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 38 ft. front building restriction line.**

PROJECT INFORMATION:

ADDRESS/LOCATION: 7203 Jasper Ct.
TAX MAP/PARCEL: Tax Map 65, Parcel 0136
ZONE: Low Density Residential (R3)
REGION: Myersville
WATER/SEWER: W-3/S-1
COMP. PLAN/LAND USE: Low Density Residential

APPLICANT/REPRESENTATIVES:

APPLICANT: Keith Henry
OWNER: Keith Henry
ENGINEER: N/A
ARCHITECT: N/A
ATTORNEY: N/A

STAFF: Mike Paone, Zoning Planner

RECOMMENDATION: Based on the findings and conclusions in the staff report and the evidence presented at this meeting, Staff finds that the proposed 2 ft. variance to a 40 ft. front building restriction line in order to construct a covered front porch, complies with Section 1-19-3.220 (Variance) and Section 1-19-6.100 (Design Standards) of the Frederick County Zoning Code.

ATTACHMENTS:

Attachments 1-2: Site Plan, Front View
Attachment 3: GIS Aerial of site
Attachment 4: Comprehensive Plan designation
Attachment 5: Environmental Features
Attachment 6: Zoning

Background

The required setbacks for this Low Density Residential (R3) zoned property are front – 40', side – 10', rear – 30'. The subject lot fronts on a cul-de-sac.

The Applicant is requesting a 2 ft. variance to a 40 ft. front building restriction line in order to construct a covered 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 38 ft. front building restriction line.

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 them to file with the Board of Appeals.

- (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 July 28, 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 due to the unique shape of their property, the 40 foot BRL encroaches in the majority of the property. The placement of the dwelling in conjunction with the radius of the cul-de-sac bring the BRL within 5 feet of the front of the house and 7 feet from the corners.

- (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 design of the lot and the extensive front BRL that limits the addition of a roof over the front porch.

- (b) The literal interpretation of the provisions of Chapter 1-19 of the Frederick County Codewould 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; and

The Applicant States that there are many other homes with covered porches in his community.

- (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 many other homes in the community have covered porches on their property.

- (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 granting will be in harmony with Chapter 1-19 of the Frederick County Code, and would have no detrimental effect on any adjoining properties. Adding a small covered porch will have no negative impact on the surrounding community or public welfare.

- (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.

The Applicant states that they understand 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 in said zone.

The Applicant states that the requested use is permitted, and not prohibited, under the terms of Chapter 1-19 of the Frederick County Code.

(F) Except as specified in § [1-19-4.220\(C\)](#), the Board of Appeals shall not grant a variance to a nonconforming structure for the portion of structure determined by the Zoning Administrator to be nonconforming.

The Applicant states that they are not asking for a variance to a nonconforming structure.

(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.

Staff finds the application meets the requirements of Section 1-19-3.220 (Variance) and Section 1-19-6.100 (Design and complies with the Frederick County Zoning Ordinance. Staff has no objections to the approval.

RECOMMENDATION

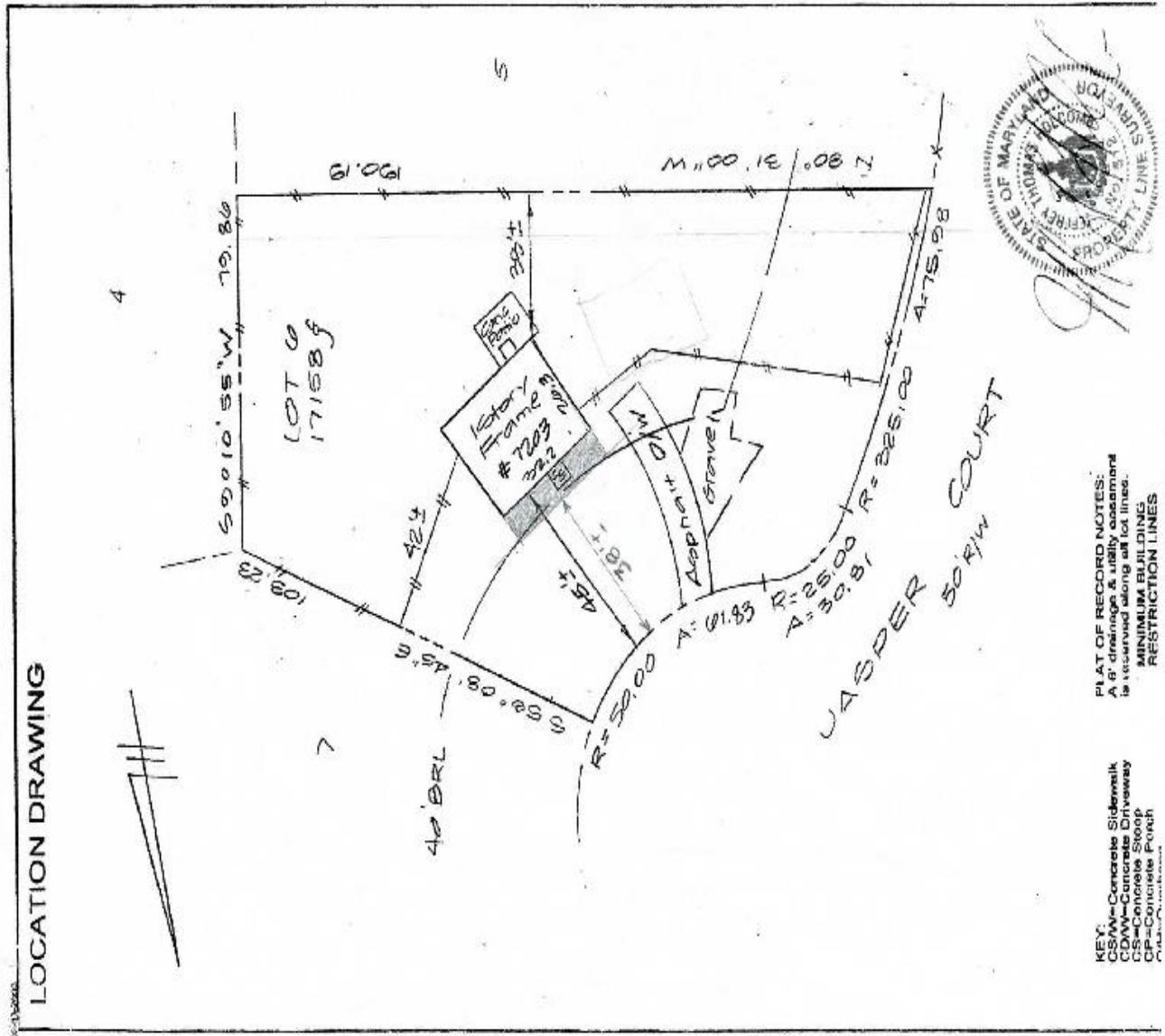
Based on the findings and conclusions in the staff report and the evidence presented at this meeting, Staff finds that the proposed 2 ft. variance to a 40 ft. front building restriction line in order to construct a covered front porch, complies with Section 1-19-3.220 (Variance) and Section 1-19-6.100 (Design Standards) of the Frederick County Zoning Code.

The Board shall consider approval of a Variance in accordance with Section 1-19-3.220 and Section 1-19-6-100 of the Frederick County Zoning Code.

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.

Site Plan

Attachment 1: Location of Porch

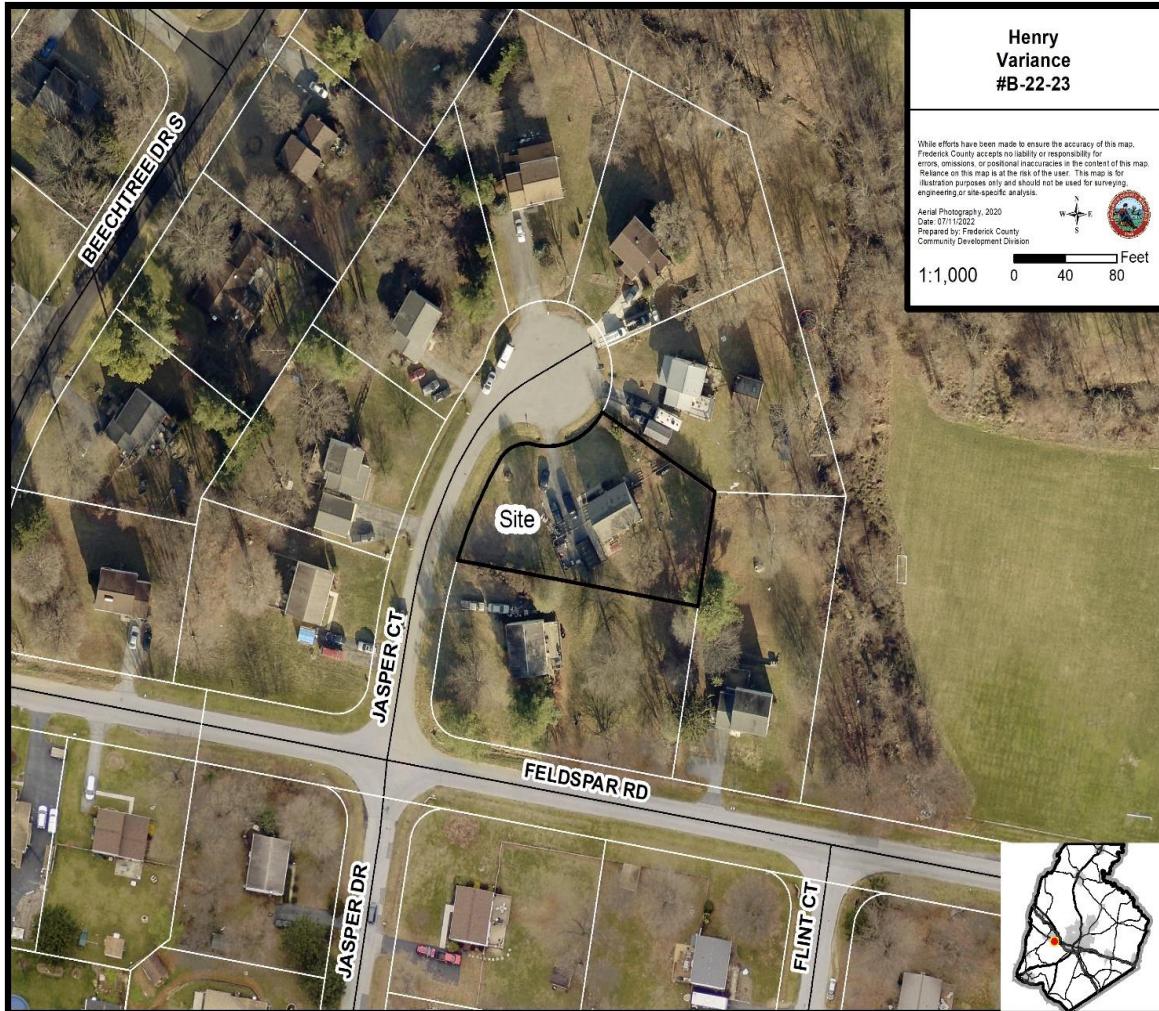


Attachment 2: Front View of Porch

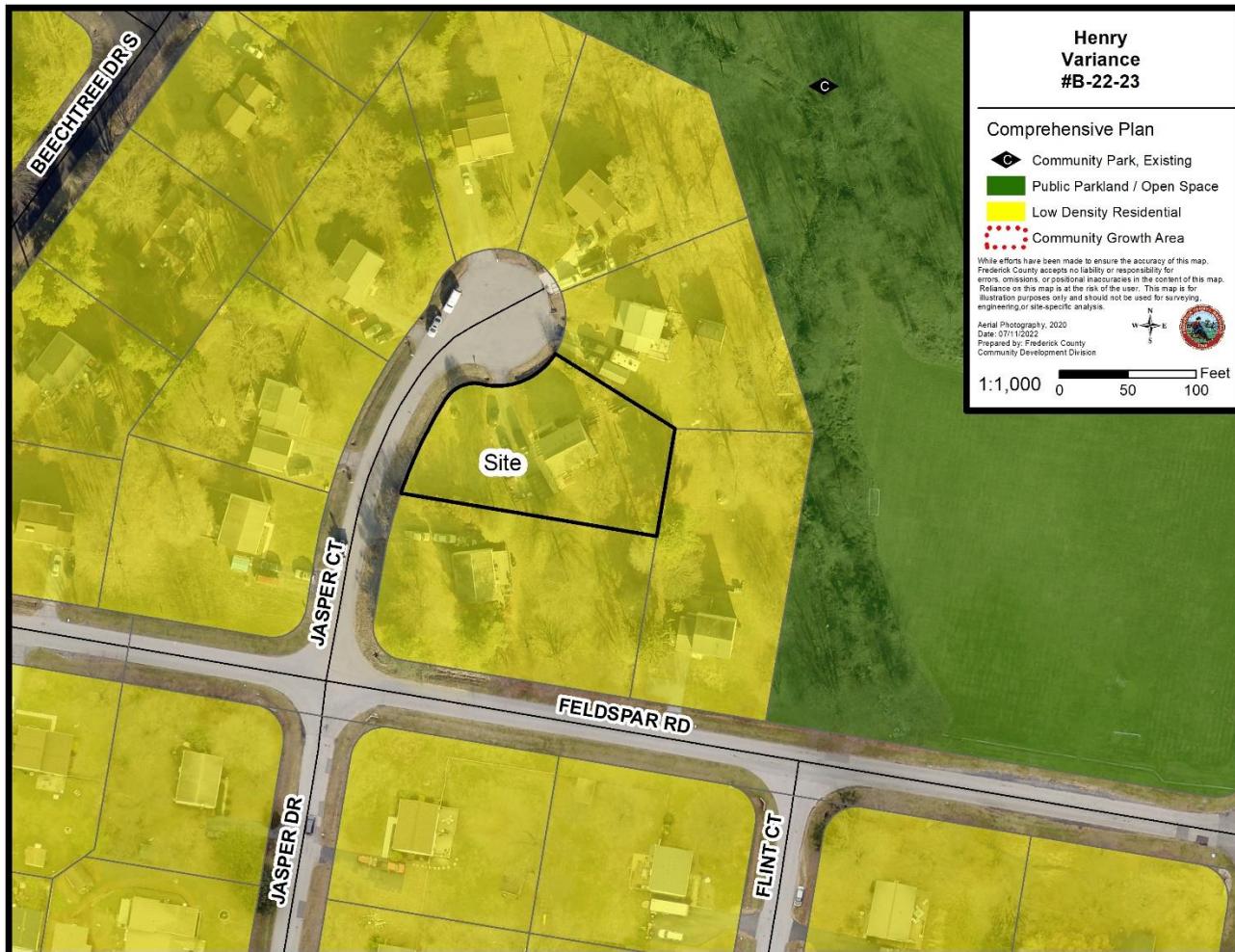


GIS Maps

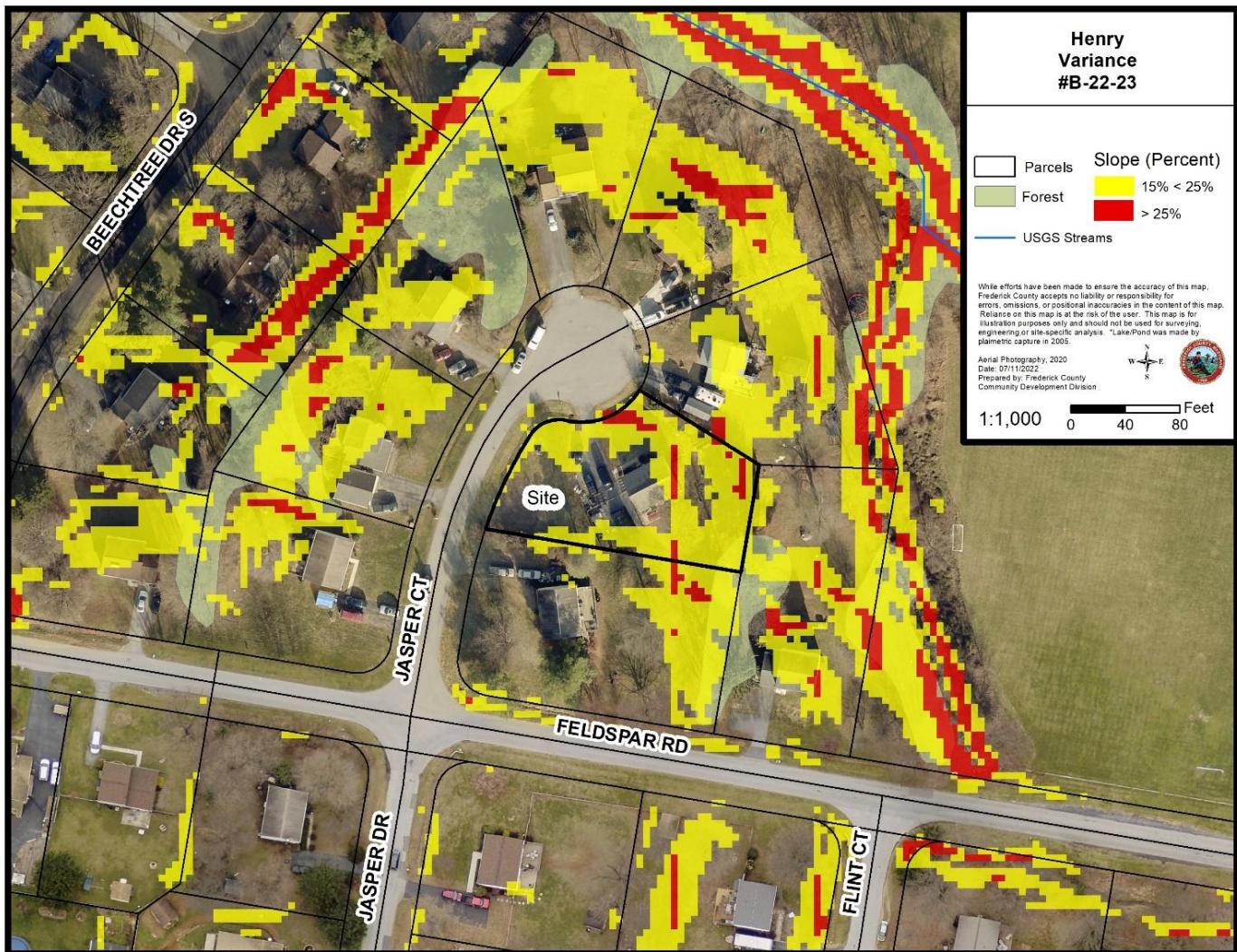
Attachment 3: Aerial Map of the site & surrounding community



Attachment 4: Comprehensive Plan designation is Low Density Residential (R3)



Attachment 5: Environmental Features



Attachment 6: Site Zoning: Agricultural (A)

