

John D. Miller
Burgess



Middletown

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Thomas S. Catania
Richard L. Dietrick
Jennifer J. Falcinelli
Christopher I. Goodman

September 20, 2020

To: Middletown Board of Appeals Members

RE: **MIDDLETOWN BOARD OF APPEALS**
CASE MT-B-20-4

Dear Member:

Enclosed are copies of materials for your review that will be discussed at the Middletown Board of Appeals (BoA) meeting scheduled for September 30, 2020 at 7:00 PM, held Virtually at the Middletown Municipal Center, at 31 West Main Street:

1. Copy of staff report that addresses applicant's request
2. Copy of variance appeal submitted by the applicant
3. Copy of Notice to adjacent property owners
4. Copy of Notice of Public Hearing
5. Copy of all applicable Sections of the Code
6. Copy of all other pertinent Case materials
7. Copy of previous hearing minutes for approval

If you have any questions, please contact me at your earliest convenience via phone, 301-371-6171, and/or email me at: zoning@ci.middletown.md.us.

Sincerely,

Mark Hinkle
Zoning Administrator

Enclosures

MIDDLETOWN BOARD OF APPEALS

September 19, 2020

ZONING ADMINISTRATOR
STAFF REPORT

MT-B-20-4

Applicant: Verdant Development Group, LLC

Location: Southwest corner of Broad Street and Franklin Street, Middletown, MD 21769

Request: Variance from the Section 17.16.050 - Building height regulations and unit limitations for structures in residential districts of the Middletown Municipal Code for the proposed construction of eighteen (18) multi-family units. Project is Chesterbrook Phase 2.

Zoning: R-3 Residential District

Section(s) of the Code that Apply:

17.16.050 - Building height regulations and unit limitations for structures in residential districts,

17.44.050 – Variances (see attachment)

17.44.070 - Public Hearings (see attachment)

Staff Recommendation:

The applicant is filing for variance from a section of the Middletown Municipal Code.

Section 17.16.050 - Building height regulations and unit limitations for structures in residential districts requires that *“No building will exceed two and one-half stories or thirty-five (35) feet in height.”* ***The Applicant is requesting a variance that allows a height of three (3) stories, with a maximum height of forty (40) feet. This variance allows the applicant to use design features that facilitate a reduction in the amount of impervious surface (due to less parking spaces). The small lot size and the new storm water management regulations necessitate reducing the impervious surface area.***

Staff notes that the originally conceived “Chesterbrook Manor” was approved for seven (7) multi-family dwelling unit apartment buildings on two lots, Lots 1 and 2, and that these site improvements were approved under Zoning Ordinances in effect in 1969. The original concept for Chesterbrook Manor has changed so the applicant is attempting to put Lot 1 to its highest and best use after Lot 2 has already been approved under provisions of Zoning Ordinances that have changed or no longer exist. The applicant submits that the practical difficulties created by applying current Zoning Ordinance provisions to essentially “phase 2” of a project previous planned are numerous. Due to these practical difficulties, the applicant is faced with unnecessary hardship requiring the requested variance for this property to be developed as outlined. It is also noted that a change in the approved planned use of Phase 2 requires the applicant to make infrastructure improvements in order to comply with Zoning Ordinances currently in effect to include storm water management facilities, road and pedestrian improvements, water/sewer infrastructure, etc.

Staff notes that the lot is irregular in shape and that this provides some challenges for the Applicant in developing the property and building garage-loaded, multi-family units versus apartment buildings based on new and stricter storm water management requirements, etc. The Applicant’s position is that the physical circumstances or conditions of the property – its size and shape - preclude the possibility that the property can be developed in strict conformity with the provisions of the zoning ordinance and that the authorization of a variance is necessary to enable the reasonable use of the property. The Applicant states a variance is required to Sections 17.16.050 – Building height regulations. The rationale is that a variance is needed “in order to provide for the most orderly and efficient development of the Property, while also providing desired and necessary infrastructure improvements (including but not limited to road and pedestrian improvements, water/sewer infrastructure and storm water management facilities), the Applicant encounters practical difficulties in planning and design, when constrained by the building height.” For these reasons, the variance from Section 17.16.050 is requested. Staff also notes that there are few existing properties in Middletown that can support the development of this type of multi-family residential project. Additionally, the existing topography of the surrounding structures should allow these garaged-loaded, multi-family residential units to fit in seamlessly within the character of the surrounding neighborhood.

Staff notes that if the variance requested is granted, it will not alter the essential character of the neighborhood or district in which the property is located at the intersection of Broad Street and Franklin Street, nor substantially impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare. ***Staff finds the variance as presented by the applicant as reasonable to afford them relief from Section 17.16.050 of the Code while representing a reasonable modification of the regulation in use.***



Mark Hinkle
Middletown Zoning Administrator



Noel S. Manalo
301.698.2321
nmanalo@milesstockbridge.com

July 23, 2020

Middletown Board of Appeals
c/o Mark Hinkle, Middletown Zoning Administrator
31 West Main Street
Middletown, MD 21769

Re: Chesterbrook – Appeal for Variance

Honorable Board Members:

I am writing on behalf of Verdant Development Group, LLC (“Applicant”), the applicant for the above-referenced project (the “Project”) to request another re-affirmance of the variance you granted for the Project, pursuant to Middletown Zoning Ordinance (“Zoning Ordinance”) Section 17.44.050.

You granted the original variance in 2015, in Case # MT-B-15-1.

In the course of developing the Project subsequent to its original approvals, the Project’s timeline required re-approval of the Project’s site plan. The Middletown Planning Commission granted re-approval of the Project’s site plan May 21, 2018 (copies of the re-approved site plan are enclosed as Exhibit A).

Along with the Planning Commission’s re-approval of the site plan in 2018, you re-affirmed the original variance in Case # MT-B-18-1.

Due to the Project timelines and the pandemic conditions, we once more respectfully request your re-affirmance of the variance. Again, there are no substantive changes to the Project plan. Attached for your reference please find the original justification statement and supporting exhibits (Exhibit B attached hereto), which you considered when granting the original approval.

Thank you once again for your consideration, and we look forward to discussing this re-approval with you at your meeting.

Sincerely,



NOEL S. MANALO

Enclosures (as stated)

cc: Verdant Development Group, LLC

Board of Appeals
Town of Middletown, Maryland

Date Filed: _____
Map/Grid/Parcel/Lot: _____
Zoned: _____

APPEAL FOR VARIANCE UNDER ZONING ORDINANCE

Appeal is hereby made for a variance from a requirement of the Zoning Ordinance, as follows:

Subdivision: Franklin Commons (Formerly Chesterbrook Ph. 2) Lot: _____ Block: _____

Location: Southwest corner of Broad Street & Franklin Street
N S E W side of road; distance N S E W from nearest intersecting road

Appellant's present legal interest in above property: (Check one)

x Owner/Joint Owner _____ Lessee _____ Contract to lease or rent
_____ Contract to purchase _____ Other: (Please Describe) _____

Ordinance section, and subsection if any, containing a requirement(s) from which variance is desired:

Section 17.16.050
Specify the particular requirement(s) from which a variant is desired, in that section or subsection:

see attached
Describe the nature and extent of the desired variance from such Ordinance requirement(s):

see attached
Check reason(s) why the Ordinance requirement(s) in question would result in peculiar & unusual practical difficulties to/or exceptional or undue hardship upon the owner of the property due to exceptional:

_____ Narrowness
_____ Shallowness of the property, existing now and on the date of enactment
_____ Shape of the requirement(s) in question
_____ Extraordinary situation of the property. Describe briefly (or attach documentation):

see attached
If exceptional narrowness, shallowness or shape of the property is claimed, give the date of recording of plot of present subdivision if any: see attached; or if property is unsubdivided, give the date on which a deed conveying the identically-bounded tract was first recorded: see attached.

Briefly describe the difficulty or hardship upon the owner by reason of the above narrowness, shallowness, shape, condition or situation of the property, if the requested varaince is not granted (or attach documentation):
see attached

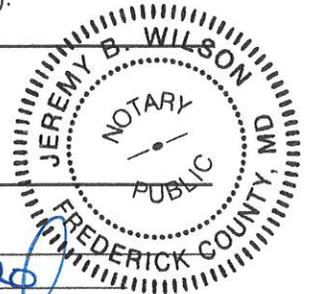
Has any previous petition or appeal involving this property been made to the Board: If so, give Case Number(s):
BOA Case # MT-B-15-1, MT-B-18-1

I hereby affirm that all of the statements and information contained in or filed with this appeal are true and correct.
[Signature]
Signature of Appellant(s)

5301 Spectrum Drive, Frederick, MD 21703
Address of Appellants

Sworn to and subscribed before me this 26 Day of July, 2020

My Commission expires 7/5/22
Notary Public



September 8, 2020

NOTICE TO ADJACENT PROPERTY OWNERS

**Board of Appeals Case Number
MT-B-20-4**

An appeal has been received from Verdant Development Group, LLC Located at southwest corner of Broad Street and Franklin Street, Middletown, MD 21769. The applicant has requested a Variance from the Section 17.16.050 - Building height regulations and unit limitations for structures in residential districts of the Middletown Municipal Code for the proposed construction of eighteen (18) multi-family units. Project is Chesterbrook Phase 2.

The applicant was referred to the Middletown Board of Appeals (BoA) because only the BoA may grant variances to the Middletown Municipal Code. The public meeting to hear this variance request will be held on **September 30, 2020** at **7:00 p.m.** the meeting will be held virtually, directions can be found here.

Topic: BoA Meeting

Time: Sep 30, 2020 07:00 PM Eastern Time (US and Canada)

Join Zoom Meeting

<https://us02web.zoom.us/j/83481347899?pwd=cVBoMW1FMFEzNmFZaHIPVVZuSVJFUT09>

Meeting ID: 834 8134 7899

Passcode: 737934

One tap mobile

+13017158592,,83481347899#,,,,,0#,,737934# US (Germantown)

+19292056099,,83481347899#,,,,,0#,,737934# US (New York)

Dial by your location

+1 301 715 8592 US (Germantown)

+1 929 205 6099 US (New York)

+1 312 626 6799 US (Chicago)

+1 669 900 6833 US (San Jose)

+1 253 215 8782 US (Tacoma)

+1 346 248 7799 US (Houston)

Meeting ID: 834 8134 7899

Passcode: 737934

Find your local number: <https://us02web.zoom.us/u/k5y16kTFS>

Citizens are welcome to attend the public meeting at which time those citizens wishing to be heard will be recognized by the BoA chairperson to present their comments. The public meeting is not limited to only those citizens receiving copies of this notice. If you are aware of property owners who, for any reason failed to receive a copy of this notice, and who you believe have an interest this public meeting, it is requested that you inform them of this public meeting.

For further information, contact the Middletown Town Office at your earliest convenience. Individuals requiring special accommodations are requested to contact Andrew Bowen, Town Administrator at (301) 371-6171, so that proper accommodations can be made.

Mark Hinkle
Zoning Administrator

**Town of
MIDDLETOWN, MARYLAND**

LIST OF ADJOINING AND CONFRONTING PROPERTY OWNERS

Case Number.....

Appellant Verdant Development Group

Proceedings under the Zoning Ordinance require that notice of public hearing be given.

It is the responsibility of the appellants and petitioners to supply ACCURATE names and CORRECT addresses (must have house numbers or P.O. Box numbers) of all adjacent and confronting property owners on this form, as shown in current County Land Records.

Court decisions indicate that compliance with notice requirements is essential to jurisdiction of the approving body and therefore to the validity of its decision.

<u>NAME</u>	<u>ADDRESS</u>
Lillian V. Burriss	311 Broad Street, Middletown, MD 21769
David Edward & Jennifer Lynn Zeltwanger	318 S. Church Street, Middletown, MD 21769
Kristi A. Hawley & Kyra E. Rodgers, Trustees	P.O. Box 196, Myersville, MD 21773
Ian Bramson & Gretchen Von Iderstein	8138 E. 28 th Place, Denver, CO 80238
Thomas J. & Meggan L. Manson	114 Franklin Street, Middletown, MD 21769
Willard K Rudy, Sharon M. Rudy and Virginia Rudy	215 Broad Street, Middletown, MD 21769
Courtneyleigh Ware Moran	203 Franklin Street, Middletown, MD 21769
Homer J. Remsberg, Jr. & Marcia Remsberg	205 Franklin Street, Middletown, MD 21769
Van Meter Chesterbrook Apartments, LLC	9900 Main Street, Suite 500, Fairfax, VA 22031
Marc R. & Annette M. Clayton	13 Walnut Pond Court, Middletown, MD 21769
James S. & Frances Johnson	15 Walnut Pond Court, Middletown, MD 21769
Lance & Amy Camarote	226 Broad Street, Middletown, MD 21769
David Glenn, Jr. & Amanda Glenn	305 Broad Street, Middletown, MD 21769

NOTICE OF PUBLIC HEARING

TOWN OF MIDDLETOWN

Notice is hereby given that the Board of Appeals of Middletown will hold a Virtual Public Hearing on Wednesday September 30, 2020 beginning at the hour of 7:00 PM, to hear two separate cases.

The first case is an application for a variance request from Verdant Development Group, LLC located at the southwest corner of Broad Street and Franklin Street in Middletown, MD 21769. The applicant has requested a variance from Section 17.16.050 Building height regulations and unit limitations for structures in residential districts of the Middletown Municipal Code for the proposed construction of eighteen (18) multi-family units. Project is Chesterbrook Phase 2.

The second case is an application for a variance appeal from the applicant at 716 Glenbrook Drive, Middletown Maryland. The variance requested is from Town Code 17.32.130 that states that *"all private swimming pools shall be located no closer than thirty (30) feet from the nearest interior living space of a neighboring property (garages not included), nor closer than eighteen (18) feet to any property line (measured from the edge of the pool)."*

This meeting will be held virtually, no public attendance will occur. Please follow the attached link to join.

Topic: BoA Meeting

Time: Sep 30, 2020 07:00 PM Eastern Time (US and Canada)

Join Zoom Meeting

<https://us02web.zoom.us/j/83481347899?pwd=cVBoMW1FMFEzNmFZaHIPVVZuSVJFUT09>

Meeting ID: 834 8134 7899

Passcode: 737934

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+1 253 215 8782 US (Tacoma)

+1 346 248 7799 US (Houston)

Meeting ID: 834 8134 7899

Passcode: 737934

Find your local number: <https://us02web.zoom.us/j/k5y16kTFS>

Copies of the proposed Appeal for Variance are available at the Middletown Municipal Center for any citizens wishing to receive a copy of the proposed appeal materials for review.

All citizens wishing to be heard will be recognized at this hearing. Any person desiring a stenographic transcript shall be responsible for supplying a competent stenographer.

Individuals requiring special accommodations are requested to contact Andrew Bowen, Town of Middletown at 301-371-6171 at least 48 hours prior to the Public Hearing.

17.16.050 - Building height regulations and unit limitations for structures in residential districts.

No building will exceed two and one-half stories or thirty-five (35) feet in height. No one structure in any residential district may contain or include more than twelve (12) individual and separate dwelling units within the structure.

(Ord. 06-02-02 § 1, 2006; Ord. 05-09-01 § 1 (part), 2005; Ord. 182 § 5.3, 1976)

17.44.050 - Variances.

- A. Filing of Variance. An application may be made to the board of appeals for a variance where it is alleged that the provisions of the zoning ordinance inflict unnecessary hardship upon the applicant. The application must be on a form provided for that purpose by the town. The applicant must provide all the information requested on the form, together with any other information and data that may be required to advise the board on the variance, whether such information is called for by the official form or not.
- B. Standards for Variances. Where there is unnecessary hardship, the board may grant a variance in the application of the provisions of this title provided that the following findings are made where relevant in a given case:
1. That there are unique physical circumstances or conditions including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property, and that the unnecessary hardship is due to such conditions, and not the circumstances or conditions generally created by the provisions of the zoning ordinance in the neighborhood or district in which the property is located;
 2. That because of such physical circumstances or conditions, the property cannot be developed in strict conformity with the provisions of the zoning ordinance without unnecessary hardship and that the authorization of a variance is therefore necessary to enable the reasonable use of the property;
 3. That such unnecessary hardship has not been created by the applicant;
 4. That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare;
 5. That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible of the regulation in issue.
- C. No grant of a variance shall be authorized unless the board specifically finds that the condition or situation of the specific piece of property or intended use of such property, for which the variance is sought, is not of so general or recurrent a nature as to make reasonably practicable the formulation of a general regulation for such conditions or situation.
- D. Conditions. In granting any variance, the board may attach such reasonable conditions and safeguards as it considers necessary to implement purposes of this zoning ordinance.

(Ord. No. 15-12-02, § I, 12-14-2015; Ord. 182 § 10.4, 1976)

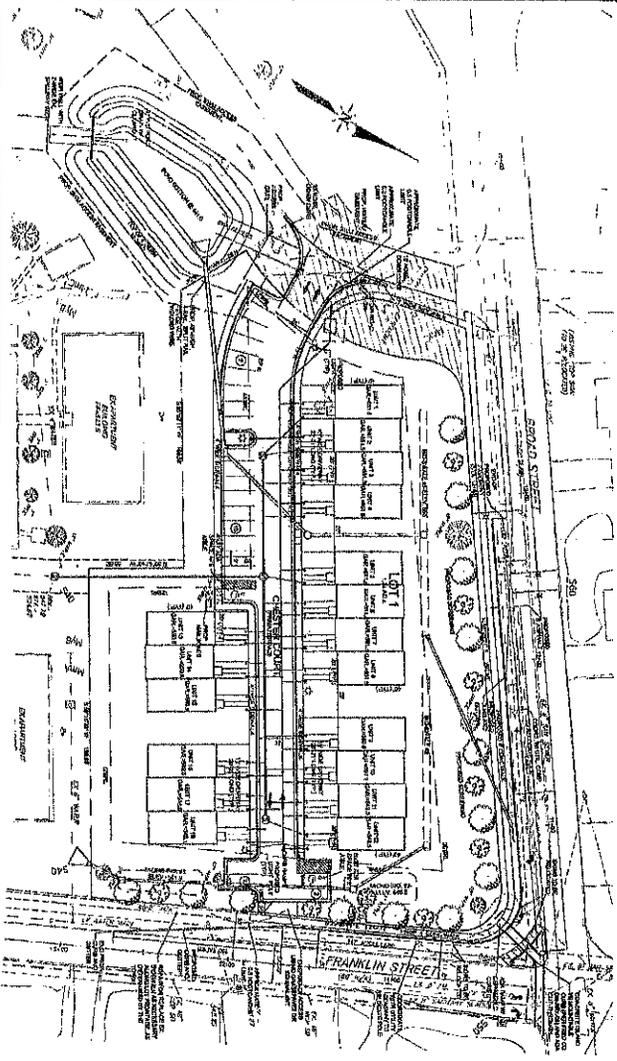
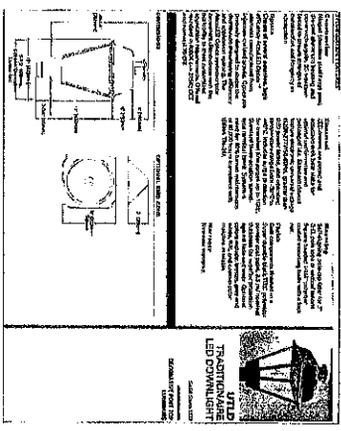
17.44.070 - Public hearings.

All appeals and applications for variance and special exceptions shall be heard and considered in a public hearing. The board shall schedule the hearing at a reasonable time and shall give not less than ten (10) days' public notice thereof by the posting in a conspicuous place on or near the property of at least one sign of at least three square feet in area stating the date, time, location and purpose of the hearing. The zoning administrator or agents may require additional posting in a place of common use or entrance to the community if in the judgment of the zoning administrator such posting is needed to adequately notify interested parties. All public hearings to be held by the board of appeals shall be advertised in a weekly or daily newspaper of general circulation in the town. Due notice shall also be given to the parties in interest including all adjoining and adjacent property owners. The board shall render its decision within thirty (30) days of the public hearing. It shall be the responsibility of the applicant to provide the names and addresses of all adjacent and adjoining property owners.

At the hearing, any party may appear in person, by agent or by attorney. The concurring vote of two members of the board shall be necessary to render any decision on the issues raised in the appeal or application.

(Ord. No. 15-12-02, § I, 12-14-2015; Ord. 182 § 10.6, 1976)

- PERMITS & RESOLVE NOTES**
1. The applicant shall obtain all necessary permits from the appropriate agencies prior to construction.
 2. The applicant shall obtain all necessary permits from the appropriate agencies prior to construction.
 3. The applicant shall obtain all necessary permits from the appropriate agencies prior to construction.
 4. The applicant shall obtain all necessary permits from the appropriate agencies prior to construction.
 5. The applicant shall obtain all necessary permits from the appropriate agencies prior to construction.
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 10. The applicant shall obtain all necessary permits from the appropriate agencies prior to construction.
 11. The applicant shall obtain all necessary permits from the appropriate agencies prior to construction.
 12. The applicant shall obtain all necessary permits from the appropriate agencies prior to construction.



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LANDSCAPING SCHEDULE

SYMBOL	SCIENTIFIC NAME	COMMON NAME	SIZE	QUANTITY	NOTES	PLANTING DATE
○	CRAB APPLE	WALNUT	8" x 8" x 6"	12		2"
○	CRAB APPLE	CRABAPPLE	8" x 8" x 6"	8		2"

LANDSCAPING SHALL BE MAINTAINED IN A LIVING CONDITION

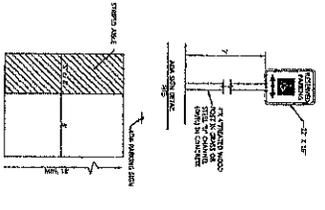
ADA PARKING SPACE DETAIL

1. THE PARKING SPACE SHALL BE 9'6" WIDE BY 18' LONG.

2. THE PARKING SPACE SHALL BE 18' LONG BY 9'6" WIDE.

3. THE PARKING SPACE SHALL BE 9'6" WIDE BY 18' LONG.

4. THE PARKING SPACE SHALL BE 18' LONG BY 9'6" WIDE.



Terra Relatons Engineering, LLC
 CONSULTING ENGINEERS AND ARCHITECTS
 5318 BROADWAY DRIVE
 FREDERICK, MD 21702
 PHONE: 301-714-7400
 FAX: 301-714-7401
 WWW.TERRARELATONS.COM

John S. Williams, P.E.
 PROJECT MANAGER

U.E. Brennan III & Associates, Inc.
 CONSULTING ELECTRICAL ENGINEERS
 5318 BROADWAY DRIVE
 FREDERICK, MD 21702
 PHONE: 301-714-7400
 FAX: 301-714-7401
 WWW.UEBRENNAN.COM

John S. Williams, P.E.
 PROJECT MANAGER

Terra Relatons Engineering, LLC
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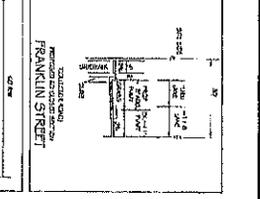
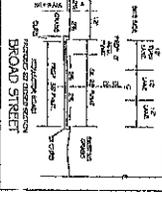
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 WWW.TERRARELATONS.COM

John S. Williams, P.E.
 PROJECT MANAGER



NOT FOR CONSTRUCTION

PROJECT NO. 0383
 DATE: DECEMBER 2014
 TIME: 1:43P

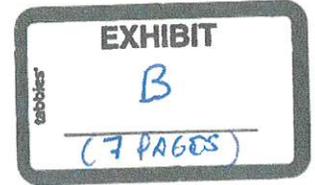
Terra Relatons Engineering, LLC
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 FREDERICK, MD 21702
 PHONE: 301-714-7400
 FAX: 301-714-7401
 WWW.TERRARELATONS.COM

John S. Williams, P.E.
 PROJECT MANAGER

CHESTERBROOK - PHASE 2
 Situated at Broad Street and Franklin Street
 MIDDLETOWN ELECTION DISTRICT No. 3
 TOWN OF MIDDLETOWN
 FREDERICK COUNTY, MARYLAND

SITE PLAN - LANDSCAPING AND LIGHTING

NO.	DATE	REVISION	DESCRIPTION	BY
1	12/28/14		REV. PER MIDDLETOWN & COUNTY CODES	216



Noel S. Manalo
301.698.2321
nmanalo@milesstockbridge.com

December 16, 2014

Middletown Board of Appeals
c/o Ron Forrester, Middletown Zoning Administrator
31 West Main Street
Middletown, MD 21769

Re: Chesterbrook – Appeal for Variance

Honorable Board Members:

I am writing on behalf of Verdant Development Group, LLC (“Applicant”), the applicant for the above-referenced project (the “Project”), to request the following variance, pursuant to Middletown Zoning Ordinance (“Zoning Ordinance”) Section 17.44.050:

Building Height (Sec. 17.16.050).

Zoning Ordinance Section 17.16.050 sets a maximum building height of “*two and one-half stories or thirty-five (35) feet in height*”. The Applicant respectfully requests that the Board of Appeals grant a variance from this Section, to allow for a height of three (3) stories, with a maximum height of forty feet (40’).

The small lot size and the new stormwater management regulations necessitate reducing impervious surface area. The variance will allow the Applicant to utilize the garage-multifamily product, which facilitates a reduction in the amount of impervious surface (due to less surface parking spaces). For example, under the applicable regulations, if the Applicant proposed 18 units for the Project, the Zoning Ordinance would require 54 parking spaces. With the ability to utilize 18 garage spaces, as would be possible with the requested height variance, the Project would then only require 36 street parking spaces, thereby resulting in a reduction of the impervious surface area.

Justification for Variance

Pursuant to Section 17.44.050 of the Zoning Ordinance, the Applicant offers the following justifications to the Board of Appeals in support of the variance request:

Client Documents:4832-3769-2961v2|RW0187-000001|12/16/2014

A. Filing of Variance. An application may be made to the board of appeals for a variance where it is alleged that the provisions of the zoning ordinance inflict unnecessary hardship upon the applicant. The application must be on a form provided for that purpose by the town. The applicant must provide all the information requested on the form, together with any other information and data that may be required to advise the board on the variance, whether such information is called for by the official form or not.

Unless otherwise specified or extended by the board, a variance authorized by it expires if the applicant fails to obtain a building permit or use certificate within twelve (12) months from the date of authorization of the variance.

Applicant is seeking variance from the following section of the Zoning Ordinance: 17.60.050 (Building Height). This provision inflicts unnecessary hardship on the Applicant, due to the unique and unusual nature of the Property and the unreasonable hardship and practical difficulty caused by the application of this provision of the Zoning Ordinance.

The Project is planned for "Lot 1" as shown and described on a plat entitled "Plat of Subdivision, CHESTERBROOK MANOR SUBDIVISION, Lots 1 & 2, Section I", recorded among the Plat Records of Frederick County, Maryland in Plat Book 67, page 198 (copy enclosed) (the "Property" or "Lot 1"). Lot 1 is a corner lot, at the intersection of Broad Street and Franklin Street, proximate to MD Route 17 (inaccessible from the dead-end at the western terminus of Broad Street). In order to provide for the most orderly and efficient development of the Property, while also providing desired and necessary infrastructure improvements (including, but not limited to road and pedestrian improvements, water/sewer infrastructure and stormwater management facilities) the Applicant encounters practical difficulties in planning and design, when constrained by the building height.

As the Property is part of the originally conceived "Chesterbrook Manor", it is relevant to the uniqueness of the Property that it should be examined in combination with "Lot 2" (as shown and described in the above-referenced Plat Book 67, page 198), which is currently improved with seven (7) multi-family dwelling unit apartment buildings. Chesterbrook Manor was historically identified on an original record plat entitled "Section 1, CHESTERBROOK MANOR" from August 1, 1966, recorded among the aforesaid Plat Records in Plat Book 5, page 66 (copy enclosed), and subsequently on a "site plan" plat entitled "CHESTERBROOK MANOR APARTMENTS, Site Plan, Unit No. 1", dated September 17, 1969, recorded among the aforesaid Plat Records in Plat Book 6, page 33 (copy enclosed).

The original conception of Chesterbrook Manor was a series of multi-family residential apartment buildings sited on both Lots 1 and 2. As such, the plans for Lots 1 and 2 were originally conceived under the Zoning Ordinance provisions in effect over 45 years ago. The Applicant is attempting to put Lot 1 to its highest and best use after Lot 2 has already been improved, partially under provisions of the Zoning Ordinance that are no longer in effect. The

practical difficulties created by applying current Zoning Ordinance provisions to essentially “phase 2” of a project planned under previous provisions are numerous. Due to such practical difficulties, the Applicant is faced with unnecessary hardship requiring the requested variance.

B. Standards for Variances. Where [there] is unnecessary hardship, the board may grant a variance in the application of the provisions of this title provided that the following findings are made where relevant in a given case:

1. That there are unique physical circumstances or conditions including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property, and that the unnecessary hardship is due to such conditions, and not the circumstances or conditions generally created by the provisions of the zoning ordinance in the neighborhood or district in which the property is located;

As stated above, Lot 1 is a corner lot; access is planned over adjacent Lot 2. Because of the uniqueness of the lot shape of Lot 1 relative to Lot 2, many of the improvements necessary to serve the development of Lot 1 must be placed on Lot 2, including the entrance road, the SWM pond and the sewerage outfall.

2. That because of such physical circumstances or conditions, there is not [a] possibility that the property can be developed in strict conformity with the provisions of the zoning ordinance and that the authorization of a variance is therefore necessary to enable the reasonable use of the property;

In order to develop Lot 1 to its highest and best use while providing the necessary infrastructure improvements, it is not possible to strictly conform to the Building Height requirement of the Zoning Ordinance. To develop the Property with attractive, garage-loaded multifamily product supporting the necessary road improvements benefiting the Town as a whole requires the requested variance.

3. That such unnecessary hardship has not been created by the applicant;

The Applicant is not responsible for the shape of Lot 1, nor for the development and improvement of Lot 2 under the previous Zoning Ordinance regulations.

4. That the variance, if authorized will not alter the essential character of the neighborhood or district in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare;

Three-story building heights, if authorized, will not alter the essential character of the neighborhood or district in which the property is located. The Project will take advantage of the

Board of Appeals
December 16, 2014
Page 4

existing topography and fit seamlessly within the character of the neighborhood. As Lot 2 is currently improved with multi-family dwelling units, and Lot 1 has historically been planned for residential use, the proposed building height is in keeping with the essential character of the neighborhood, as has been conceived since the late 1960's. The Project will not substantially or permanently impair the appropriate use or development of adjacent property, as this is the last parcel if infill development in the immediate area, and the surrounding uses were all developed in contemplation of the Chesterbrook Manor development. The Project will not be detrimental to the public welfare, as it will comply with all applicable regulations pertaining to public facilities.

5. That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible of the regulation in issue.

For the reasons stated above, the building height variance allows for Lot 1 to be developed to its highest and best use, more in line with the original conception of Chesterbrook Manor. The requested variance is marginally above the current requirements. Therefore, the requested variance represent the minimum that will afford relief and represent the least modification possible.

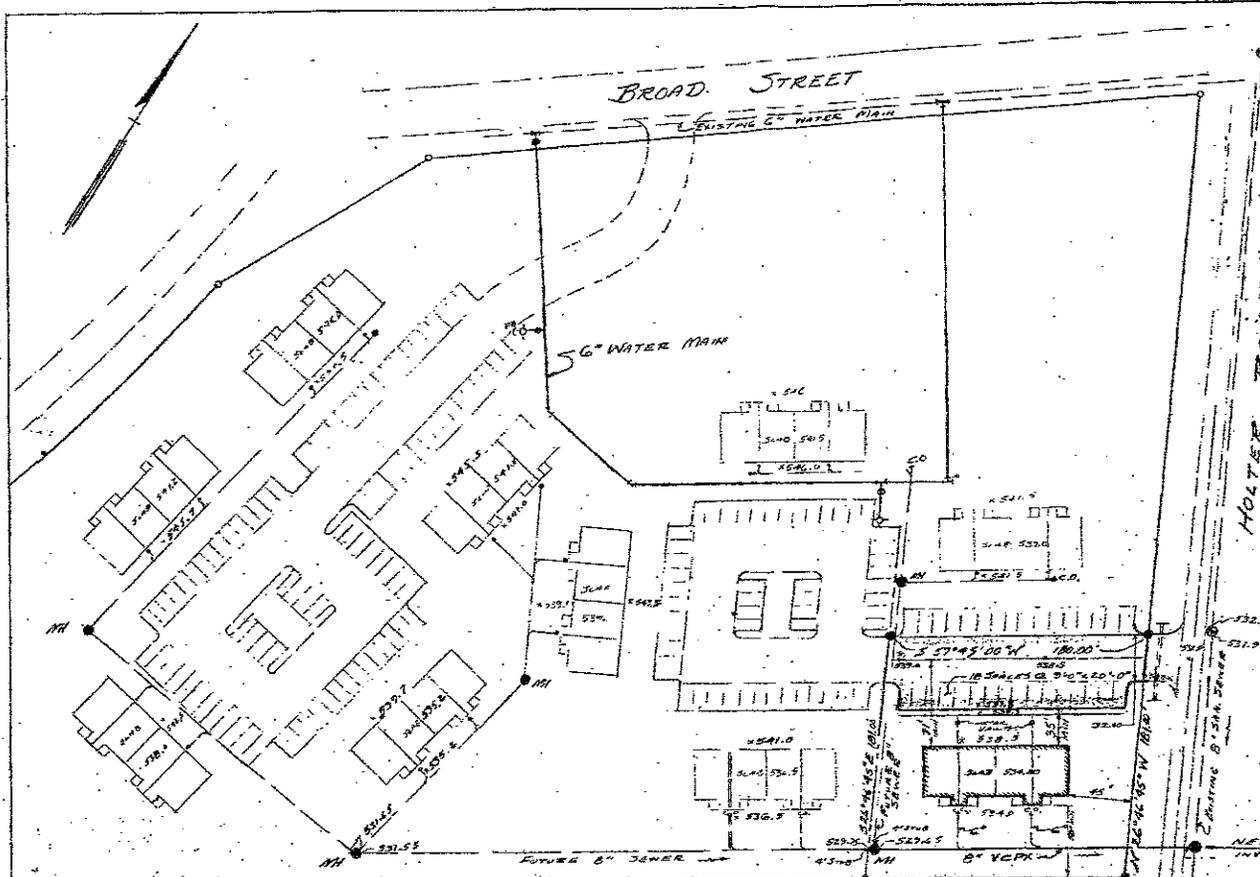
We look forward to discussing the above with you in more detail at your hearing, and we respectfully reserve the right to offer additional evidence and testimony as may be required. Thank you for your attention to this matter.

Sincerely,



NOEL S. MANALO

cc: Verdant Development Group, LLC



APPROVED FOR CONSTRUCTION:
 [Signature]
 CHAIRMAN OF THE PLANNING COMMISSION
 [Signature]
 BUSINESS OF ELDERSBURG, MARYLAND

ENGINEER'S CERTIFICATE:
 I HEREBY CERTIFY THAT THE PLANS SHOWN HERETO IS CORRECT AND THAT MONUMENTS MARKED THUS AND IRON PIPES PLACED THIS HAVE BEEN PLACED AS INDICATED.



ROTHENDECKER ENGINEERS
 102 WEST Church STREET
 FREDERICK, MARYLAND

OWNER'S STATEMENT:
 WE, THE UNDERSIGNED OWNERS OF THE PROPERTY SHOWN HERETO HEREBY ADOPT THIS PLAN OF SUBDIVISION AND DETACH THE ROAD TO PUBLIC USE.
 THERE ARE NO EASES.

THE REQUIREMENTS OF CHAPTER 1014, ACTS OF 1965 AS FAR AS IT CONCERNS THE MAKING OF THIS SUBDIVISION PLAN AND THE SETTLING OF BOUNDARIES SAID BEING COMPLIED WITH.

[Signatures and names of owners]

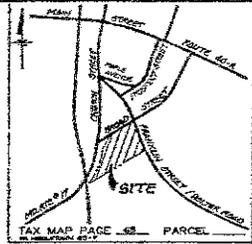
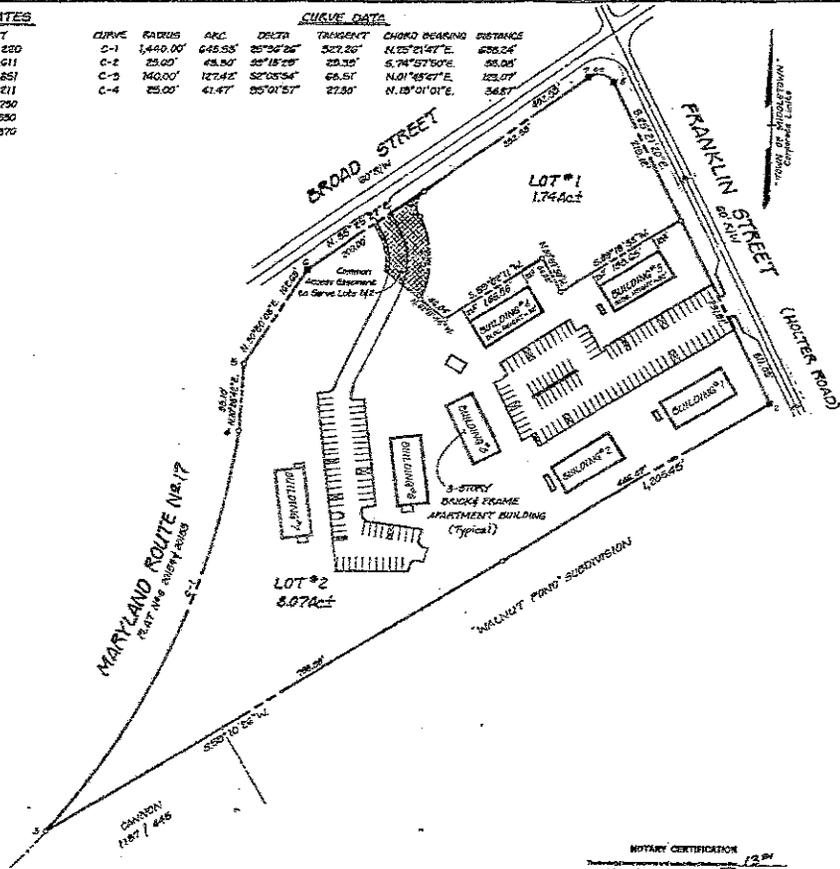
CHESTERBROOK MANOR
 APARTMENTS
 WROUETOWN, MARYLAND
 SITE PLAN, UNIT NO. 1
 MORGAN-KELLER, INC.
 R.F.D. NO. 1 SHUTTSBURG, MARYLAND
 SCALE 1"=50' SEPTEMBER 17, 1969

OUTLINE COORDINATES

POINT#	NORTH	EAST
5	9,356.950	6,928.230
4	9,355.971	5,105.611
3	10,027.001	3,212.651
2	10,106.731	3,216.211
7	10,446.240	3,701.790
8	10,436.360	3,738.390
1	9,974.590	3,997.370

CURVE DATA

CURVE	RADIUS	ARC	DELTA	TANGENT	CHORD BEARING	DISTANCE
C-1	1,440.00'	645.53'	25°02'26"	527.26'	N.105°01'47"E	695.24'
C-2	23.00'	49.90'	22°15'29"	23.30'	S.74°57'06"E	38.08'
C-3	140.00'	127.42'	32°05'34"	66.51'	N.01°45'47"E	123.07'
C-4	25.00'	41.47'	25°01'57"	27.50'	N.18°01'01"E	36.87'



VICINITY MAP
SCALE: 1" = 1,000'

SURVEYORS CERTIFICATION

I hereby certify that the Final Plat shown hereto is correct; that it is a subdivision of the lands surveyed by Chesterbrook Associates, Inc. to E. Meade Bell McAuley Park, LLLP by deed dated March 21, 2000 and recorded in the Land Records of Frederick County, in Liber 7560 and has the requirements of the Annotated Code of Maryland, Real Property Book, Title 3, Subtitle 1, Section 2-106, 1974 Edition, and the requirements of the Frederick County Code Section 2-16-106, 1979 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.

ROBERT J. ROTHENHOEFER

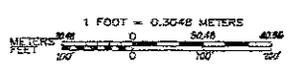
 Notary Public, State of Maryland
 Commission No. 9485

OWNER'S CERTIFICATION AND DEDICATION

E. Meade Bell McAuley Park, LLLP
 (owner(s) of the property shown and described hereon, hereby adopt this plan of sub-division, 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 do certify that there are no sales, actions of law, leases, liens, mortgages, trusts, easements or rights-of-way affecting the property included in this plan of sub-division, except as herein indicated.
 and that the requirements of the Annotated Code of Maryland, Real Property Book, Title 3, Subtitle 1, Section 2-106, 1974 Edition, and the requirements of the Frederick County Code Section 2-16-106, 1979 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.
 Plans for community water and sewerage systems and for a point of discharge have been approved by the Maryland Department Of The Environment. All lots to be served by public water and sewer.

March 13 2000
 Date
 E. Meade Bell McAuley Park, LLLP
 Name And Title Of Signer

TOTAL AREA OF LOTS	4.81Ac±
TOTAL DEDICATED AREA	
TOTAL AREA OTHER	
TOTAL AREA OF SUBDIVISION	4.81Ac±
TOTAL NO. OF LOTS	2



NOTARY CERTIFICATION
 March 2000
 My Commission Expires 03/31/05

APPROVED MIDDLETOWN PLANNING COMMISSION
 E. Meade Bell McAuley Park, LLLP
 DATE: 3/24/00

NOTES:
 1. CURRENT ZONING: "R-5"
 2. A SIX FOOT DRAINAGE AND UTILITY EASEMENT IS RESERVED ALONG ALL LOT LINES.
 3. THE OWNERS OF THE LOTS SHOWN ON THIS PLAT WILL BE REQUIRED TO MAKE FRONTAGE IMPROVEMENTS ALONG BROAD STREET IN ACCORDANCE WITH THE MIDDLETOWN PLANNING COMMISSION ACTION ON JANUARY 17, 2000.

MINIMUM BUILDING RESTRICTION LINES
 FRONT: 30'
 REAR: 20'
 SIDE: 25'

SYMBOLS:
 ● PROPOSED WELL
 □ SEPTIC AREA
 ■ MONUMENT
 ○ STEEL BAR & CAP

PLAT OF SUBDIVISION
CHESTERBROOK MANOR SUBDIVISION
 LOTS 1 & 2 - SECTION I
 SITUATED ON BROAD STREET AND FRANKLIN STREET (HOLTER ROAD)
 ELECTION DISTRICT: MIDDLETOWN # 5
 FREDERICK COUNTY, MARYLAND

APPROVED FREDERICK COUNTY DEPARTMENT OF HEALTH
 THE USE OF COMMUNITY WATER AND SEWER CONSERVED TO THE FREDERICK COUNTY MASTER WATER AND SEWER PLAN
 DATE: 3/24/00

OWNER:
 E. MEADE BELL MCAULEY PARK, LLLP
 5301 BUCKEYSTOWN PIKE
 FREDERICK, MARYLAND 21703
 301-698-3636

ROTHENHOEFER ENGINEERS INC.
 3 COLLEGE AVENUE - SUITE NO. 4
 FREDERICK, MARYLAND 21701

DWG. NO. 59-05-02
 SCALE: 1" = 100'
 301-652-0202
 DATE: OCTOBER 09, 1999



RECEIVED

JUL 27 2020

Town of Middletown

Noel S. Manalo
301.698.2321
nmanalo@milesstockbridge.com

May 29, 2018

Middletown Board of Appeals
c/o Ron Forrester, Middletown Zoning Administrator
31 West Main Street
Middletown, MD 21769

Re: Chesterbrook – Appeal for Variance

Honorable Board Members:

I am writing on behalf of Verdant Development Group, LLC (“Applicant”), the applicant for the above-referenced project (the “Project”) to request a re-affirmance of the variance you granted for the Project, pursuant to Middletown Zoning Ordinance (“Zoning Ordinance”) Section 17.44.050.

In the course of developing the Project subsequent to its original approvals, the Project’s timeline has been such that it was necessary for the Applicant to seek re-approval of the Project’s site plan. The Middletown Planning Commission granted such re-approval on May 21, 2018 (copies of the re-approved site plan are enclosed as Exhibit A). As discussed in that case, there has been no substantive change to the original approvals granted by the Town in the 2014-15 timeframe.

As with the site plan at Planning Commission, here we respectfully request your re-affirmance of the variance you granted in Case # MT-B-15-1. Again, there are no substantive changes to the Project plan. Attached for your reference please find the original justification statement and supporting exhibits (Exhibit B attached hereto), which you considered when granting the original approval.

Thank you for your consideration, and we look forward to discussing this re-approval with you at your meeting.

Sincerely,

A handwritten signature in blue ink that reads 'Noel S. Manalo'.

NOEL S. MANALO

Enclosures (as stated)

cc: Verdant Development Group, LLC

Client Documents 4835-4636-0934v1|RW0187-00000115/24/2018

*Paid
Ch-2055*

RECEIVED

JUL 27 2020

Board of Appeals **Town of Middletown**
Town of Middletown, Maryland

Date Filed _____
Map/Grid/Parcel/Lot _____
Zoned _____

APPEAL FOR VARIANCE UNDER ZONING ORDINANCE

Appeal is hereby made for a variance from a requirement of the Zoning Ordinance, as follows:

Subdivision Chesterbrook Lot _____ Block _____
Location Southwest corner of Broad Street and Franklin Street
N S E W side of road; distance N S E W from nearest intersecting road

Appellant's present legal interest in above property: (Check one)

Owner (including joint ownership) Lessee Contract to lease or rent
 Contract to purchase Other (describe) _____

Ordinance section, and subsection if any, containing the requirement(s) from which variance is desired:

Section 17.16.050

Specify the particular requirement(s) from which a variance is desired, in that section or subsection:

See attached

Describe the nature and extent of the desired variance from such Ordinance requirement(s):

See attached

Check reason(s) why the Ordinance requirement(s) in question would result in peculiar and unusual practical difficulties to or exceptional or undue hardship upon the owner of the property due to exceptional:

Narrowness
 Shallowness of the property, existing now and on the date of enactment
 Shape of the requirement(s) in question
 Extraordinary situation of the property. Describe briefly (or attach documentation):

See attached

If exceptional narrowness, shallowness or shape of the property is claimed, give date of recording of plot of present subdivision if any: see attached; or if property is unsubdivided, give the date on which a deed conveying the identically-bounded tract was first recorded see attached

Briefly describe the difficulty or hardship upon the owner by reason of the above narrowness, shallowness, shape, condition or situation of the property, if the requested variance is not granted (or attached documentation): See attached

Has any previous petition or appeal involving this property been made to the Board: If so, give Case Number(s):

BOA Case # MT-B-15-1

I hereby affirm that all of the statements and information contained in or filed with this appeal are true and correct.

[Signature]

5310 Spectrum Drive, Frederick, MD. 21703

Signature of Appellant(s)

Address of Appellant(s)

T. Wesley Poss

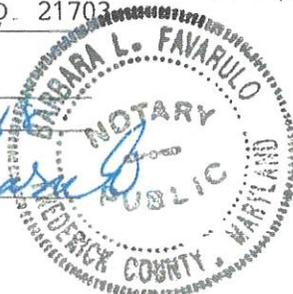
Phone # _____

Verdant Development Group, LLC

Sworn to and subscribed before me this 29th Day of May, 2020

My Commission expires 7/13/2022

[Signature]
Notary Public



9/18/2020

Public Notices

quest an interpreter at the informational meeting by contacting Mr. Cheng at (410) 537-3363 or 1-800-633-6101, or at the above address, at least ten working days prior to the scheduled meeting. Any person wishing to review the application should contact Mr. Cheng at the above telephone number to schedule an appointment. Copies may be obtained at a cost of \$0.36 per page. Sept. 11, 18, 2020

**NOTICE OF PUBLIC HEARING
TOWN OF MIDDLETOWN**

Notice is hereby given that the Board of Appeals of Middletown will hold a Virtual Public Hearing on **Wednesday September 30, 2020 beginning at the hour of 7:00 PM**, to hear two separate cases. The first case is an application for a variance request from Verdant Development Group, LLC located at the southwest corner of Broad Street and Franklin Street in Middletown, MD 21769. The applicant has requested a variance from Section 17.16.050 Building height regulations and unit limitations for structures in residential districts of the Middletown Municipal Code for the proposed construction of eighteen (18) multi-family units. Project is

Public Notices

Chesterbrook Phase 2. The second case is an application for a variance appeal from the applicant at 716 Glenbrook Drive, Middletown Maryland. The variance requested is from Town Code 17.32.130 that states that "all private swimming pools shall be located no closer than thirty (30) feet from the nearest interior living space of a neighboring property (garages not included), nor closer than eighteen (18) feet to any property line (measured from the edge of the pool)."

This meeting will be held virtually, no public attendance will occur. Please follow the attached link to join. **Topic: BoA Meeting
Time: Sep 30, 2020 07:00 PM Eastern Time (US and Canada)**

Join Zoom Meeting
<https://us02web.zoom.us/j/83481347899?pwd=cVBoMw1FMZFzNmFZaHIPVVZuSVJFUT09>

Meeting ID: 834 8134 7899
Passcode: 737934
One tap mobile
+13017158592,,83481347899#,,,,,0#,,737934# US (Germantown)
+19292056099,,83481347899#,,,,,0#,,737934# US (New York)

Dial by your location
+1 301 715 8592 US (Ger-

Public Notices

mantown)
+1 929 205 6099 US (New York)
+1 312 626 6799 US (Chicago)
+1 669 900 6833 US (San Jose)
+1 253 215 8782 US (Tacoma)
+1 346 248 7799 US (Houston)
Meeting ID: 834 8134 7899
Passcode: 737934
Find your local number: <https://us02web.zoom.us/j/83481347899>

Copies of the proposed Appeal for Variance are available at the Middletown Municipal Center for any citizens wishing to receive a copy of the proposed appeal materials for review. All citizens wishing to be heard will be recognized at this hearing. Any person desiring a stenographic transcript shall be responsible for supplying a competent stenographer.

Individuals requiring special accommodations are requested to contact Andrew Bowen, Town of Middletown at 301-371-6171 at least 48 hours prior to the Public Hearing.

24/7
browse.
buy. sell.
fnpClassifieds.com

John D. Miller
Burgess



Middletown

Founded in 1767

Commissioners
Larry K. Bussard
Thomas S. Catania
Richard L. Dietrick
Jennifer J. Falcinelli
Christopher I. Goodman

September 20, 2020

To: Middletown Board of Appeals Members

RE: **MIDDLETOWN BOARD OF APPEALS**
CASE MT-B-20-5

Dear Member:

Enclosed are copies of materials for your review that will be discussed at the Middletown Board of Appeals (BoA) meeting scheduled for September 30, 2020 at 7:00 PM, held Virtually at the Middletown Municipal Center, at 31 West Main Street:

1. Copy of staff report that addresses applicant's request
2. Copy of variance appeal submitted by the applicant
3. Copy of Notice to adjacent property owners
4. Copy of Notice of Public Hearing
5. Copy of all applicable Sections of the Code
6. Copy of all other pertinent Case materials
7. Copy of previous hearing minutes for approval

If you have any questions, please contact me at your earliest convenience via phone, 301-371-6171, and/or email me at: zoning@ci.middletown.md.us.

Sincerely,

Mark Hinkle
Zoning Administrator

Enclosures

MIDDLETOWN BOARD OF APPEALS

ZONING ADMINISTRATOR
STAFF REPORT

Case #: MT-B-20-5

Applicant: Kimberly Kloster
716 Glenbrook Drive
Middletown, MD 21769

Location: 716 Glenbrook Drive
Middletown, MD 21769

Request: Variance of approximately 5' from the 18' left side yard setback and 9' from the 18' rear yard setback to construct a swimming pool

Zoning: R-1 Residential

Section(s) of the Code that Apply:

- 17.32.130 – Swimming pools (see enclosure)
- 17.44.050 – Variances (see enclosure)
- 17.44.070 - Public Hearings (see enclosure)

Staff Findings and Recommendation:

The applicant is filing for a variance of approximately 5' from the 18' left side yard setback and 9' from the 18' rear yard setback for the placement of an inground pool to the rear of the existing principal dwelling located at 716 Glenbrook Drive. The lot is in the Glenbrook subdivision. The property in question is .24 acres and the proposed pool is 16'x37'.

Based on the application, the applicant states that the yard is both narrow and shallow. The property is 75' wide and with appropriate setbacks that would only allow 39' for a swimming pool, there is also a drop in elevation that would cause retaining walls to be built. The lot is 30' deep from the footers for an attached deck. There would be no potential for flooding of adjacent lots or properties.

Variances are granted based on Section 17.44.050 found in Town Code and copied here.

17.44.050 - Variances.

- A. Filing of Variance. An application may be made to the board of appeals for a variance where it is alleged that the provisions of the zoning ordinance inflict unnecessary hardship upon the applicant. The application must be on a form provided for that purpose by the town. The applicant must provide all the information requested on the form, together with any other information and data that may be required to advise the board on the variance, whether such information is called for by the official form or not.
- B. Standards for Variances. Where there is unnecessary hardship, the board may grant a variance in the application of the provisions of this title provided that the following findings are made where relevant in a given case:
 - 1. That there are unique physical circumstances or conditions including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property, and that the unnecessary hardship is due to such conditions, and not the circumstances or conditions generally created by the provisions of the zoning ordinance in the neighborhood or district in which the property is located;
 - 2. That because of such physical circumstances or conditions, the property cannot be developed in strict conformity with the provisions of the zoning ordinance without unnecessary hardship and that the authorization of a variance is therefore necessary to enable the reasonable use of the property;
 - 3. That such unnecessary hardship has not been created by the applicant;
 - 4. That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare;
 - 5. That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible of the regulation in issue.
- C. No grant of a variance shall be authorized unless the board specifically finds that the condition or situation of the specific piece of property or intended use of such property, for which the variance is sought, is not of so general or recurrent a nature as to make reasonably practicable the formulation of a general regulation for such conditions or situation.
- D. Conditions. In granting any variance, the board may attach such reasonable conditions and safeguards as it considers necessary to implement purposes of this zoning ordinance.

(Ord. No. 15-12-02, § I, 12-14-2015; Ord. 182 § 10.4, 1976)

The setback requirements could be met for this project with a re-design of pool size and location. The deck, which was constructed on the property by the applicant, has created the hardship and exacerbated the conditions noted. The deck was built by the applicant under Frederick County permit #138047 which received Town approval on December 22, 2015.

Staff recommends that the application for variance be ***DENIED based on Section 17.44.050 B3*** found in Town Code. The applicant re-submit acceptable plans if they wish to move forward with the project.

If the variance applied for and requested is granted, staff notes that it will not alter the essential character of the neighborhood or district in which the property is located, nor substantially impair the appropriate use or development of adjacent property and/or confronting properties, nor be detrimental to the public welfare.



Mark Hinkle
Zoning Administrator
zoning@ci.middlestown.md.us

Enclosures

Kimberly. Kloster @small.com

Date Filed: 5/19/20

Board of Appeals
Town of Middletown, Maryland

Map/Grid/Parcel/Lot:
Zoned:

APPEAL FOR VARIANCE UNDER ZONING ORDINANCE

Appeal is hereby made for a variance from a requirement of the Zoning Ordinance, as follows:

Subdivision: GLENBROOK Lot: 63 Block:
Location: BACK YARD OF 716 GLENBROOK DRIVE
N S E W side of road; distance N S E W from nearest intersecting road

Appellant's present legal interest in above property: (Check one)

X Owner/Joint Owner Lessee Contract to lease or rent
Contract to purchase Other: (Please Describe)

Ordinance section, and subsection if any, containing a requirement(s) from which variance is desired:

17.32.130 A

Specify the particular requirement(s) from which a variant is desired, in that section or subsection:

16' POOL SETBACK FROM PROPERTY LINE

Describe the nature and extent of the desired variance from such Ordinance requirement(s):

13' SETBACK ON SE SIDE, AND 9' SETBACK ON BACK PROPERTY LINE ARE REQUIRED

Check reason(s) why the Ordinance requirement(s) in question would result in peculiar & unusual practical difficulties to/or exceptional or undue hardship upon the owner of the property due to exceptional:

X Narrowness of the property, existing now and on the date of enactment
X Shallowness of the requirement(s) in question
Shape of the requirement(s) in question
Extraordinary situation of the property. Describe briefly (or attach documentation):

If exceptional narrowness, shallowness or shape of the property is claimed, give the date of recording of plot of present subdivision if any: 10/1/2010; or if property is unsubdivided, give the date on which a deed conveying the identically-bounded tract was first recorded:

Briefly describe the difficulty or hardship upon the owner by reason of the above narrowness, shallowness, shape, condition or situation of the property, if the requested variance is not granted (or attach documentation):

PLEASE SEE ATTACHMENT

Has any previous petition or appeal involving this property been made to the Board: If so, give Case Number(s):

NO

I hereby affirm that all of the statements and information contained in or filed with this appeal are true and correct.

Signature of Appellant(s)

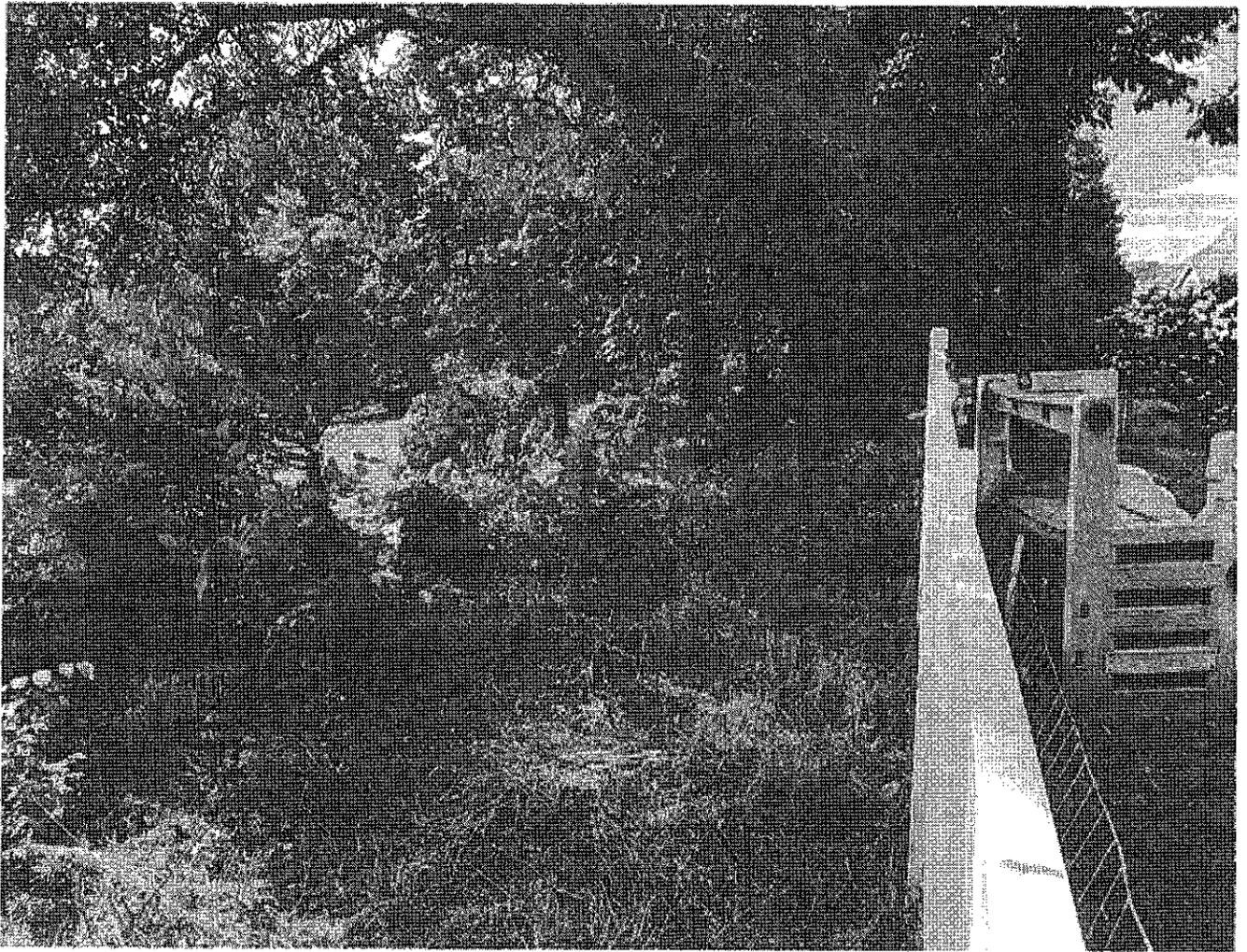
716 Glenbrook Dr. Middletown, MD 21
Address of Appellants

Sworn to and subscribed before me this 19TH Day of

Phone: 301-606-1662
AUGUST 2020

My Commission expires 3/6/24

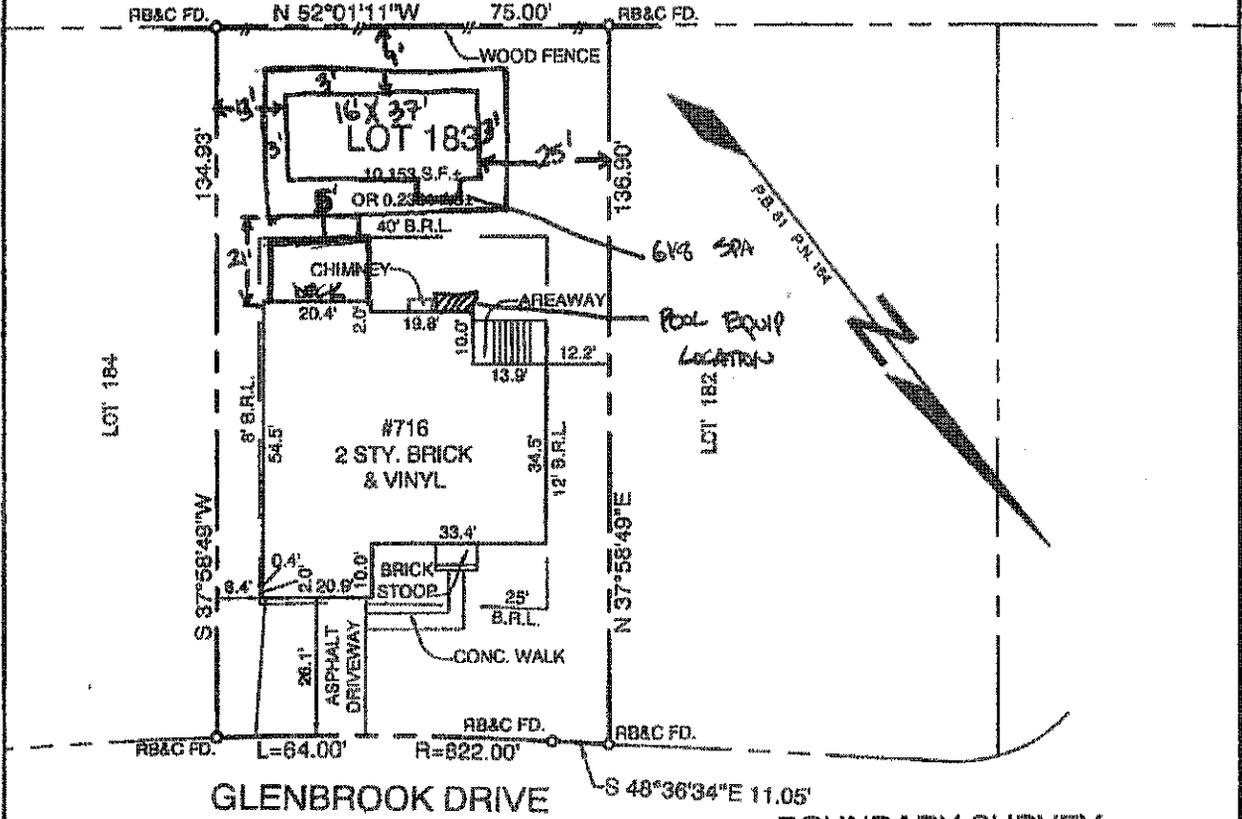
Notary Public



OTHER SIDE OF REAR PROPERTY LINE
30' OF WEEDS AND BUSHES

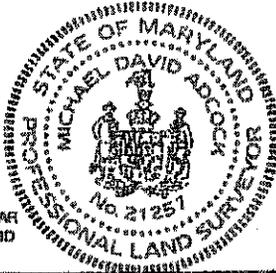
GLENBROOK
 OPEN SPACE PARCEL 1
 SECTION ONE, PLAT 3
 P.B. 71 P. 116 & 117

- NOTES:
 1. THE 4- BEZBACK ACCURACY IS 1 FOOT.
 2. THIS SURVEY WAS PERFORMED WITHOUT THE BENEFIT OF A TITLE REPORT AND IS NOT INTENDED TO SHOW ALL MATTERS RELATED TO THE PROPERTY SHOWN HEREON.



GLENBROOK DRIVE
 44' RW
 L=64.00' R=822.00'

BOUNDARY SURVEY
 716 GLENBROOK DRIVE
 LOT 183
 SECTION 4, PLAT 3
GLENBROOK
 ELECTION DISTRICT NO. 3
 FREDERICK COUNTY, MARYLAND



THIS LOT DOES NOT APPEAR TO LIE WITHIN THE 100 YEAR FLOOD PLAIN AS SHOWN ON THE F.E.M.A. FLOOD HAZARD MAP 24021C-0270-D AS REVISED SEPTEMBER 19, 2007.

SURVEYOR'S CERTIFICATION
 I HEREBY CERTIFY THAT I WAS IN RESPONSIBLE CHARGE OVER THE PREPARATION OF THIS BOUNDARY SURVEY AND THE SURVEY WORK REFLECTED IN IT, IN COMPLIANCE WITH REQUIREMENTS SET FORTH IN REGULATION .12 OF CHAPTER 06 OF THE MINIMUM STANDARDS OF PRACTICE (COMAR, SECTION 0.9), AND THAT TO THE BEST OF MY KNOWLEDGE AND BELIEF IS CORRECT.

Michael D. Adcock
 MICHAEL D. ADCOCK
 PROFESSIONAL LAND SURVEYOR, NO. 21257

Sill · Adcock & Associates · LLC
 Engineers · Surveyors · Planners
 3300 North Ridge Road, Suite 160
 Ellicott City, Maryland 21043
 Phone: 443.325.7682 Fax: 443.325.7685
 Email: mike@saaland.com

REFERENCE	PLAT BK. 81 PAGE 154
DATE	OCTOBER 11, 2010
SCALE	1"=30'
FILE NO.	95-998

TKK

September 8, 2020

NOTICE TO ADJACENT PROPERTY OWNERS

**Board of Appeals Case Number
MT-B-20-5**

An appeal has been received from an applicant located at 716 Glenbrook Drive Middletown, MD. The applicant has requested a variance of approximately 5' from the 18' left side yard setback and 9' from the 18' rear yard setback to construct a swimming pool. The setback requirements may be found in section 17.32.130 of Town Code.

The applicant was referred to the Middletown Board of Appeals (BoA) because only the BoA may grant variances to the Middletown Municipal Code. The public meeting to hear this variance request will be held on **September 30, 2020** at **7:00 p.m.** the meeting will be held virtually, directions can be found here.

Topic: BoA Meeting

Time: Sep 30, 2020 07:00 PM Eastern Time (US and Canada)

Join Zoom Meeting

<https://us02web.zoom.us/j/83481347899?pwd=cVBoMW1FMEMzNmFZaHIPVVZuSVJFUT09>

Meeting ID: 834 8134 7899

Passcode: 737934

One tap mobile

+13017158592,,83481347899#,,,,,0#,,737934# US (Germantown)

+19292056099,,83481347899#,,,,,0#,,737934# US (New York)

Dial by your location

+1 301 715 8592 US (Germantown)

+1 929 205 6099 US (New York)

+1 312 626 6799 US (Chicago)

+1 669 900 6833 US (San Jose)

+1 253 215 8782 US (Tacoma)

+1 346 248 7799 US (Houston)

Meeting ID: 834 8134 7899

Passcode: 737934

Find your local number: <https://us02web.zoom.us/j/83481347899>

Citizens are welcome to attend the public meeting at which time those citizens wishing to be heard will be recognized by the BoA chairperson to present their comments. The public meeting

is not limited to only those citizens receiving copies of this notice. If you are aware of property owners who, for any reason failed to receive a copy of this notice, and who you believe have an interest this public meeting, it is requested that you inform them of this public meeting.

For further information, contact the Middletown Town Office at your earliest convenience. Individuals requiring special accommodations are requested to contact Andrew Bowen, Town Administrator at (301) 371-6171, so that proper accommodations can be made.



Mark Hinkle
Zoning Administrator

Town of
MIDDLETOWN, MARYLAND

LIST OF ADJOINING AND CONFRONTING PROPERTY OWNERS

Case Number MT-B-20-5

Appellant VLOTER / 716 GLENBROOK DR

Proceedings under the Zoning Ordinance require that notice of public hearing be given.

It is the responsibility of the appellants and petitioners to supply ACCURATE names and CORRECT addresses (must have house numbers or P.O. Box numbers) of all adjacent and confronting property owners on this form, as shown in current County Land Records.

Court decisions indicate that compliance with notice requirements is essential to jurisdiction of the approving body and therefore to the validity of its decision.

NAME

ADDRESS

WAYNE + STEPHANIE SENKINS

716 GLENBROOK DRIVE
MIDDLETOWN, MD

BOB + AMY HELTEMES

714 GLENBROOK DRIVE
MIDDLETOWN, MD

RICHLAND GOLF COURSE
50 GLENBROOK DRIVE

, 15TH HOLE
MIDDLETOWN, MD

NOTICE OF PUBLIC HEARING
TOWN OF MIDDLETOWN

Notice is hereby given that the Board of Appeals of Middletown will hold a Virtual Public Hearing on Wednesday September 30, 2020 beginning at the hour of 7:00 PM, to hear two separate cases.

The first case is an application for a variance request from Verdant Development Group, LLC located at the southwest corner of Broad Street and Franklin Street in Middletown, MD 21769. The applicant has requested a variance from Section 17.16.050 Building height regulations and unit limitations for structures in residential districts of the Middletown Municipal Code for the proposed construction of eighteen (18) multi-family units. Project is Chesterbrook Phase 2.

The second case is an application for a variance appeal from the applicant at 716 Glenbrook Drive, Middletown Maryland. The variance requested is from Town Code 17.32.130 that states that *“all private swimming pools shall be located no closer than thirty (30) feet from the nearest interior living space of a neighboring property (garages not included), nor closer than eighteen (18) feet to any property line (measured from the edge of the pool).”*

This meeting will be held virtually, no public attendance will occur. Please follow the attached link to join.

Topic: BoA Meeting

Time: Sep 30, 2020 07:00 PM Eastern Time (US and Canada)

Join Zoom Meeting

<https://us02web.zoom.us/j/83481347899?pwd=cVBoMW1FMFEzNmFZaHIPVVZuSVJFUT09>

Meeting ID: 834 8134 7899

Passcode: 737934

One tap mobile

+13017158592,,83481347899#,,,,,0#,,737934# US (Germantown)

+19292056099,,83481347899#,,,,,0#,,737934# US (New York)

Dial by your location

+1 301 715 8592 US (Germantown)

+1 929 205 6099 US (New York)

+1 312 626 6799 US (Chicago)

+1 669 900 6833 US (San Jose)

+1 253 215 8782 US (Tacoma)

+1 346 248 7799 US (Houston)

Meeting ID: 834 8134 7899

Passcode: 737934

Find your local number: <https://us02web.zoom.us/j/k5y16kTFS>

Copies of the proposed Appeal for Variance are available at the Middletown Municipal Center for any citizens wishing to receive a copy of the proposed appeal materials for review.

All citizens wishing to be heard will be recognized at this hearing. Any person desiring a stenographic transcript shall be responsible for supplying a competent stenographer.

Individuals requiring special accommodations are requested to contact Andrew Bowen, Town of Middletown at 301-371-6171 at least 48 hours prior to the Public Hearing.

17.32.130 - Swimming pools.

- A. Setbacks. All private swimming pools shall be located no closer than thirty (30) feet from the nearest interior living space of a neighboring property (garages not included), nor closer than eighteen (18) feet to any property line (measured from the edge of the pool).
- B. Lighting. All lighting for pool and deck areas must be directed so as not to shine on adjacent and neighboring properties.
- C. Fencing. All fencing and screening shall be in compliance with town Ordinance 163, concerning the same, codified in Chapter 15.16 of this code.

(Ord. 182 § 8.3, 1976)

17.44.050 - Variances.

- A. Filing of Variance. An application may be made to the board of appeals for a variance where it is alleged that the provisions of the zoning ordinance inflict unnecessary hardship upon the applicant. The application must be on a form provided for that purpose by the town. The applicant must provide all the information requested on the form, together with any other information and data that may be required to advise the board on the variance, whether such information is called for by the official form or not.
- B. Standards for Variances. Where there is unnecessary hardship, the board may grant a variance in the application of the provisions of this title provided that the following findings are made where relevant in a given case:
1. That there are unique physical circumstances or conditions including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property, and that the unnecessary hardship is due to such conditions, and not the circumstances or conditions generally created by the provisions of the zoning ordinance in the neighborhood or district in which the property is located;
 2. That because of such physical circumstances or conditions, the property cannot be developed in strict conformity with the provisions of the zoning ordinance without unnecessary hardship and that the authorization of a variance is therefore necessary to enable the reasonable use of the property;
 3. That such unnecessary hardship has not been created by the applicant;
 4. That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare;
 5. That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible of the regulation in issue.
- C. No grant of a variance shall be authorized unless the board specifically finds that the condition or situation of the specific piece of property or intended use of such property, for which the variance is sought, is not of so general or recurrent a nature as to make reasonably practicable the formulation of a general regulation for such conditions or situation.
- D. Conditions. In granting any variance, the board may attach such reasonable conditions and safeguards as it considers necessary to implement purposes of this zoning ordinance.

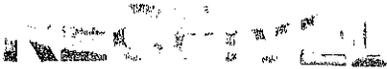
(Ord. No. 15-12-02, § I, 12-14-2015; Ord. 182 § 10.4, 1976)

17.44.070 - Public hearings.

All appeals and applications for variance and special exceptions shall be heard and considered in a public hearing. The board shall schedule the hearing at a reasonable time and shall give not less than ten (10) days' public notice thereof by the posting in a conspicuous place on or near the property of at least one sign of at least three square feet in area stating the date, time, location and purpose of the hearing. The zoning administrator or agents may require additional posting in a place of common use or entrance to the community if in the judgment of the zoning administrator such posting is needed to adequately notify interested parties. All public hearings to be held by the board of appeals shall be advertised in a weekly or daily newspaper of general circulation in the town. Due notice shall also be given to the parties in interest including all adjoining and adjacent property owners. The board shall render its decision within thirty (30) days of the public hearing. It shall be the responsibility of the applicant to provide the names and addresses of all adjacent and adjoining property owners.

At the hearing, any party may appear in person, by agent or by attorney. The concurring vote of two members of the board shall be necessary to render any decision on the issues raised in the appeal or application.

(Ord. No. 15-12-02, § I, 12-14-2015; Ord. 182 § 10.6, 1976)



DEC 15 2015



31 West Main Street
Middletown, MD 21769

Middletown Planning Department

Phone 301-371-6171 (fax: 6474)

Zoning Certificate

Elam Contracting

Owner: Kevin Kloster
Address: 716 Glenbrook dr
Middletown MD 21769
Phone: _____
Zoning District: R1 Lot #: 183
Subdivision: Glenbrook
Setbacks: Left 10' Right 44'
Front — Rear 34'

Applicant: 2846 Paffenberger rd
Address: Middletown MD 21769
Phone: 301-371-0222
Permit #: 138047
Outside Agency Review: _____ EH _____ SHA

Proposed Improvements/changes to property/new use of property: 16x20' Decks w/stairs to grade
on rear of the house

<u>Zoning Application Fee</u>	<u>Value - \$10,000</u>	<u>Please Check</u>
Residential Building Permits		
• Internal/External Improvements	\$25.00	<input checked="" type="checkbox"/>
• New Single Family Construction	\$200.00	<input type="checkbox"/>
• New Multi Unit	\$200.00+\$100.00 each unit	<input type="checkbox"/>
• Demolition	\$50.00	<input type="checkbox"/>
• Home Occupation	\$50.00	<input type="checkbox"/>
Commercial Building Permits		
• Internal/External Improvements	\$100.00	<input type="checkbox"/>
• Structure Conversion	\$100.00	<input type="checkbox"/>
• Demolition	\$100.00	<input type="checkbox"/>
• Change of Use/Owner/Tenant	\$50.00 + other applicable fees	<input type="checkbox"/>
• New Commercial	\$500.00	<input type="checkbox"/>
Water & Sewer Connection Fee		
Water Tap	\$7,000.00	<input type="checkbox"/>
Sewer Tap	\$7,000.00	<input type="checkbox"/>
Improvement	\$6,000.00	<input type="checkbox"/>
1" Meter (Foxfield - 3 lots remaining)	\$725.00	<input type="checkbox"/>
1" Outside Meters (New Homes w/vault installed)	\$500.00	<input type="checkbox"/>
1" Outside Meters (New homes w/out vault installed)	\$2,000.00	<input type="checkbox"/>
Total Fees		<u>25.00</u> <i>cash</i>

Submitted by: [Signature] Date: 12/15/15

After completing this form, and providing a plot plan, all applicants must apply for a building permit through the Frederick County Permits Department at 30 North Market Street, Frederick, MD 21702 (excluding fences and sheds under 150 sq. ft.). This information may be mailed to the address above or submitted to the Town of Middletown between the hours of 8:00 AM and 4:00 PM, Monday through Friday at the Middletown Municipal Center.

OFFICE USE ONLY

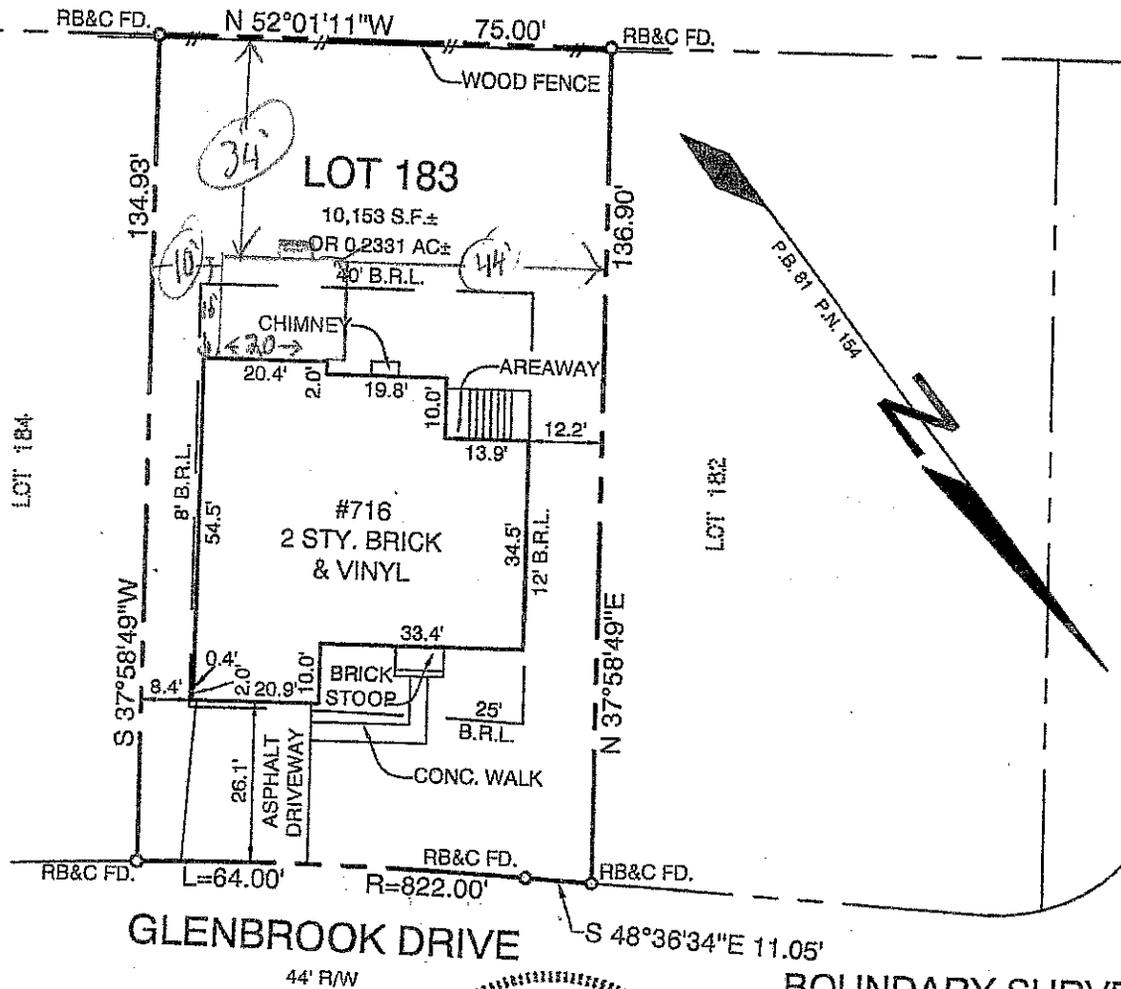
Plot Plan Drawing
Zoning Application Fee

Received by: [Signature] Date: 12/15/15
Finance Planner: [Signature] Date: 12-15-2015
Zoning Adm: C. Unangst Date: 12-22-2015
Acting Z.A. V

Notes: _____

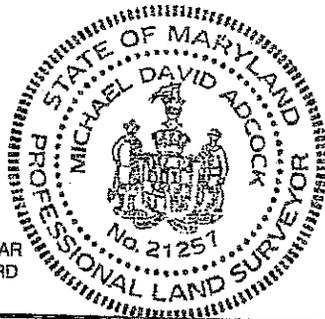
GLENBROOK
 OPEN SPACE PARCEL 1
 SECTION ONE, PLAT 3
 P.B. 71 P. 116 & 117

- NOTES:
 1. THE +/- SETBACK ACCURACY IS 1 FOOT.
 2. THIS SURVEY WAS PERFORMED WITHOUT THE BENEFIT OF A TITLE REPORT AND IS NOT INTENDED TO SHOW ALL MATTERS RELATED TO THE PROPERTY SHOWN HEREON.



GLENBROOK DRIVE
 44' R/W

BOUNDARY SURVEY
 716 GLENBROOK DRIVE
 LOT 183
 SECTION 4, PLAT 3
GLENBROOK
 ELECTION DISTRICT NO. 3
 FREDERICK COUNTY, MARYLAND



THIS LOT DOES NOT APPEAR TO LIE WITHIN THE 100 YEAR FLOOD PLAIN AS SHOWN ON THE F.E.M.A. FLOOD HAZARD MAP 24021C-0270-D AS REVISED SEPTEMBER 19, 2007.

SURVEYOR'S CERTIFICATION

I HEREBY CERTIFY THAT I WAS IN RESPONSIBLE CHARGE OVER THE PREPARATION OF THIS BOUNDARY SURVEY AND THE SURVEY WORK REFLECTED IN IT, IN COMPLIANCE WITH REQUIREMENTS SET FORTH IN REGULATION .12 OF CHAPTER 06 OF THE MINIMUM STANDARDS OF PRACTICE (COMAR, SECTION 0.9), AND THAT TO THE BEST OF MY KNOWLEDGE AND BELIEF IS CORRECT.

Michael D. Adcock
 MICHAEL D. ADCOCK
 PROFESSIONAL LAND SURVEYOR, NO. 21257

**Sill · Adcock &
 Associates · LLC**

Engineers · Surveyors · Planners
 3300 North Ridge Road, Suite 160
 Ellicott City, Maryland 21043
 Phone: 443.325.7682 Fax: 443.325.7685
 Email: mike@saaland.com

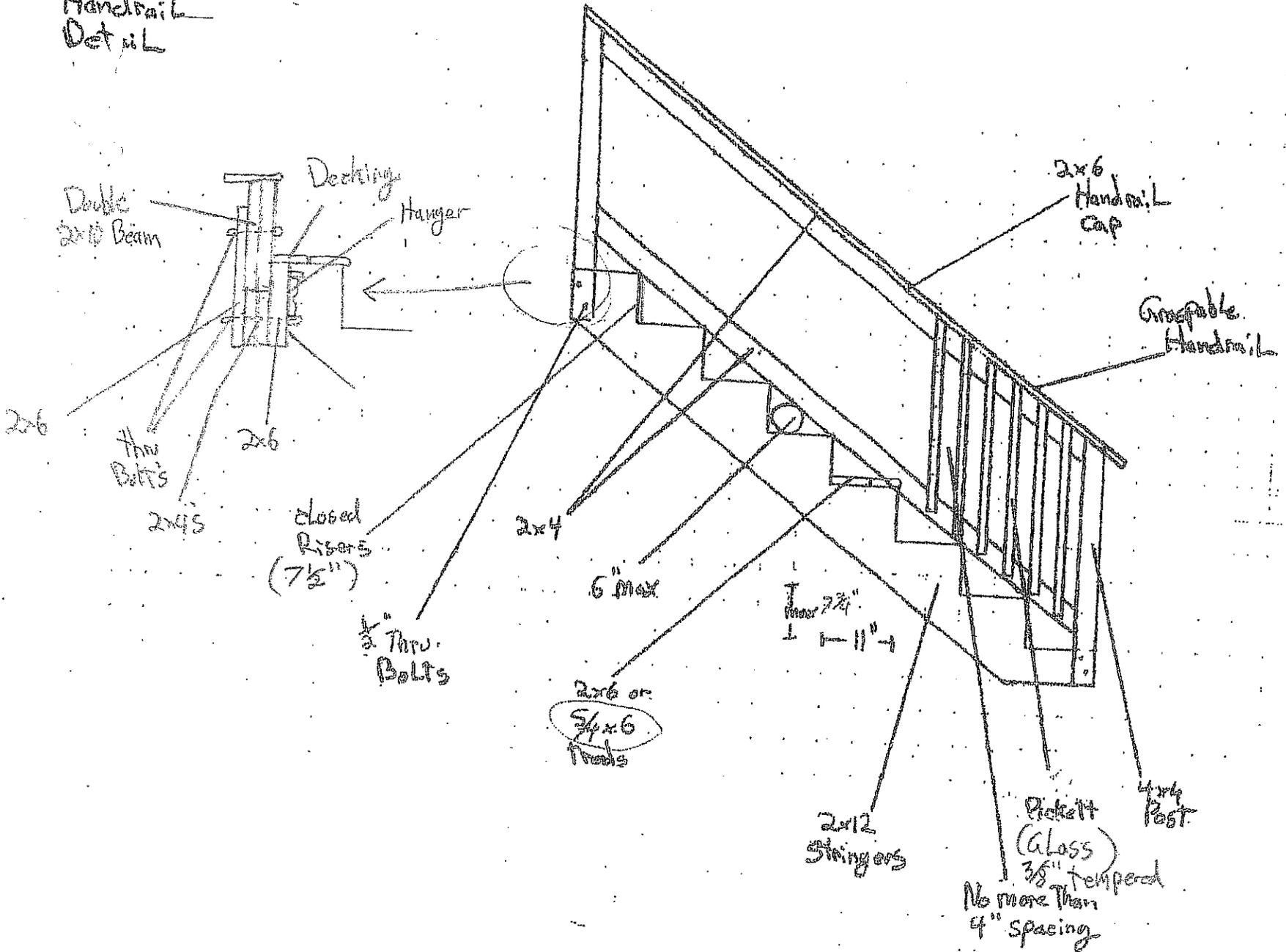
REFERENCE:	PLAT BK. 81 PAGE 154
DATE:	OCTOBER 11, 2010
SCALE:	1"=30'
FILE NO.:	95-998

TKK

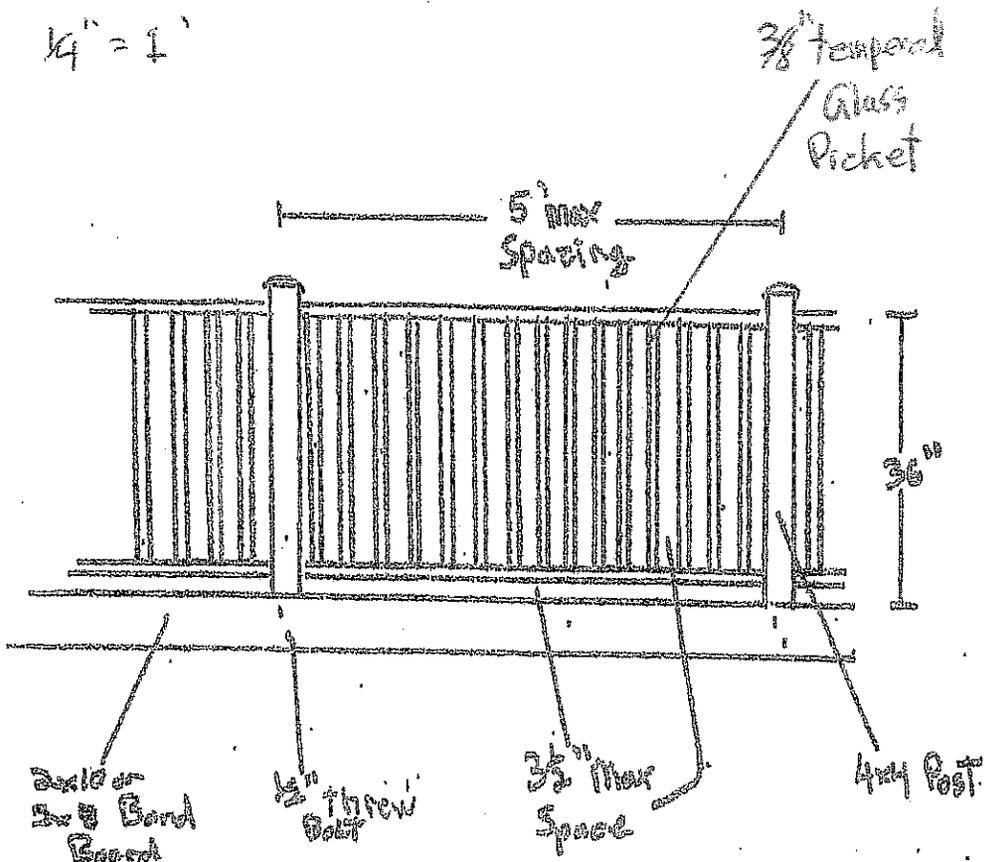
scale

6

Polyrail TRX Handrail Detail



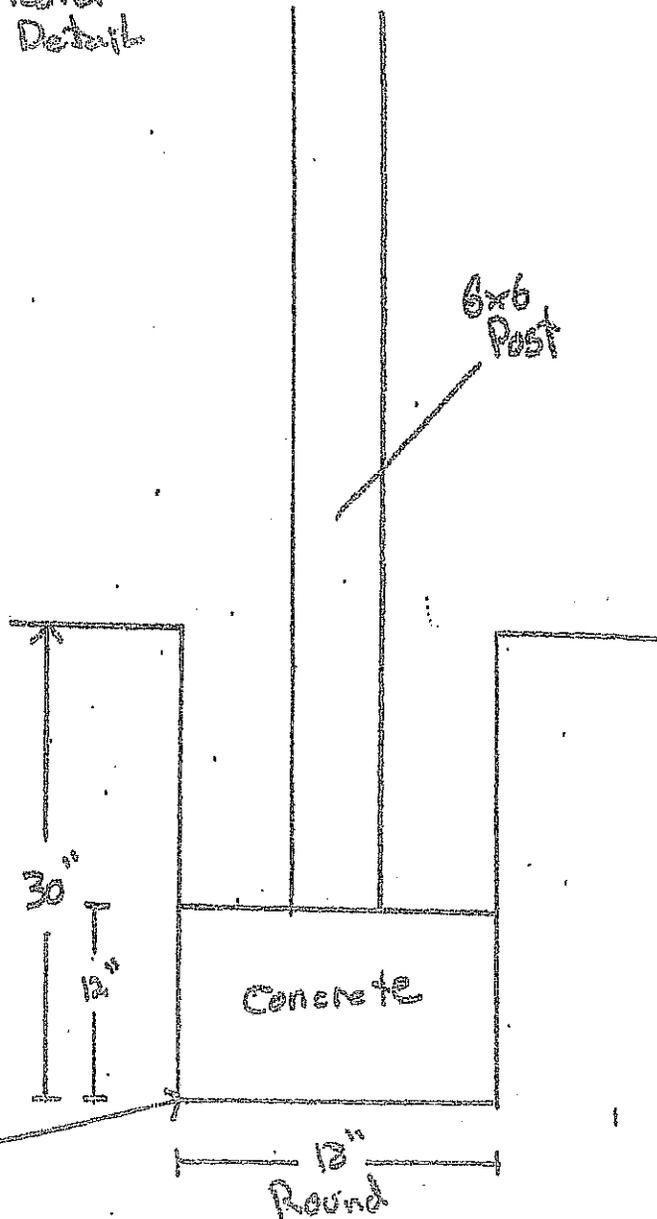
1/4" = 1'

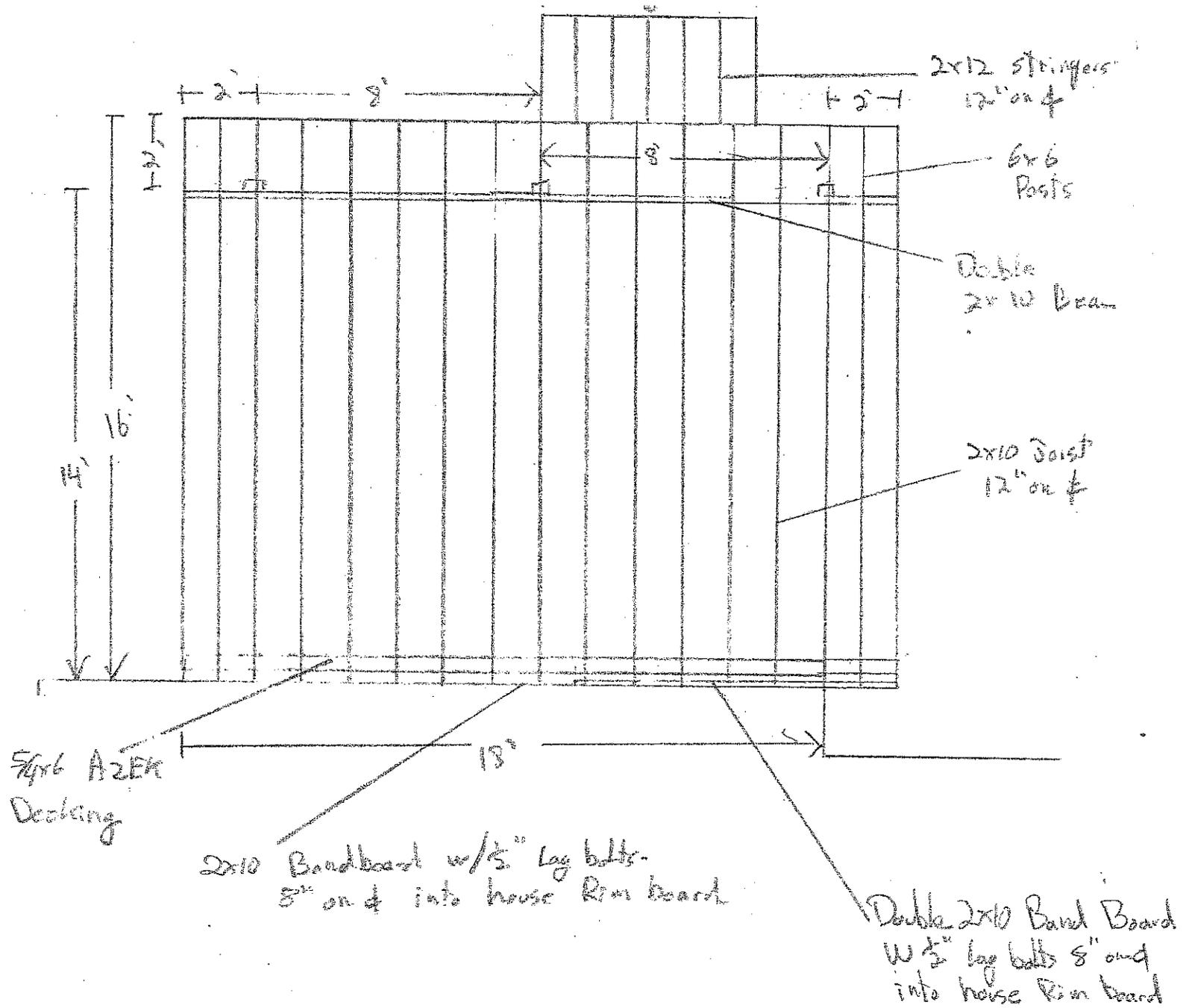


Handrail System
Plycraft TRX

Concrete
to Rest on
undisturbed
Soil

Footer
Detail





For optimal performance this site should be viewed using a desktop browser

Residential Use Permit (Addition, Alteration, Accessory) for existing dwellings

Public View ⓘ

138047

Withdraw Application Request

Added Date ⓘ

12/16/2015

Status ⓘ

Closed

Current Milestone ⓘ

Complete

Primary Site ⓘ

716 GLENBROOK DR
Middletown MD 21769

Primary Applicant ⓘ

ELAM CONTRACTING
Licensed Contact

Title ⓘ

GLENBROOK LOT 183

Work Type ⓘ

Addition

Occupancy Type ⓘ

RESIDENTIAL SINGLE FAMILY DWELLING

Square Footage ⓘ

320

Declared Valuation ⓘ

\$10,000.00

Calculated Valuation ⓘ

\$0.00

Processed Date ⓘ

12/21/2015

Temp COO Date ⓘ

Issued Date ⓘ

12/22/2015

COO Date ⓘ

01/21/2016

Final Date ⓘ

01/20/2016

Expire Date ⓘ

12/22/2016

Description ⓘ

20X16 DECK W/STEPS EXPIRED PERMIT #93384 FOR A WATER CONDITIONER

Location ⓘ

GLENBROOK LOT 183 SEC 4

Description

FRAMING INSPECTION

 [ID 684234 \(/INSPECTION-DETAILS/#INSPDETAILS/BUILDING/INSPID/684234\)](#)

Request Date

12/28/2015

Scheduled Date

12/29/2015

Result Code

PASSED

Description

BUILDING FINAL INSPECTION

 [ID 684235 \(/INSPECTION-DETAILS/#INSPDETAILS/BUILDING/INSPID/684235\)](#)

Request Date

01/19/2016

Scheduled Date

01/20/2016

Result Code

PASSED

Reviews ⓘ

1 ^

Description

PLAN REVIEW

 [ID 435746 \(/REVIEW-DETAILS/#REVDDETAILS/BUILDING/REVID/435746\)](#)

Scheduled Date

12/22/2015

Result Code

-

Conditions ⓘ

0 ^

There are no conditions to display here.

Planning Conditions ⓘ

0 ^

There are no planning conditions to display here.

Residential Uses Details



Building Details



Town Details



Attachments ⓘ

3



Download All Attachments

139045.PDF ()

Used as the default type for out-of-the-box functionality.

12/16/2015 1:41 PM

139045.PDF

APPLICATION

[**↓ Download**](#)

139492.PDF ()

Used as the default type for out-of-the-box functionality.

12/22/2015 10:18 AM

139492.PDF

EMAIL FROM CINDY UNANGST

[**↓ Download**](#)

139535.PDF ()

Used as the default type for out-of-the-box functionality.

12/22/2015 2:21 PM

139535.PDF

REQUEST FOR VOID #93384

[**↓ Download**](#)



Frederick County
Government

<https://planningandpermitting.frederickcountymd.gov/home>

30 N. Market St
Frederick MD 21701

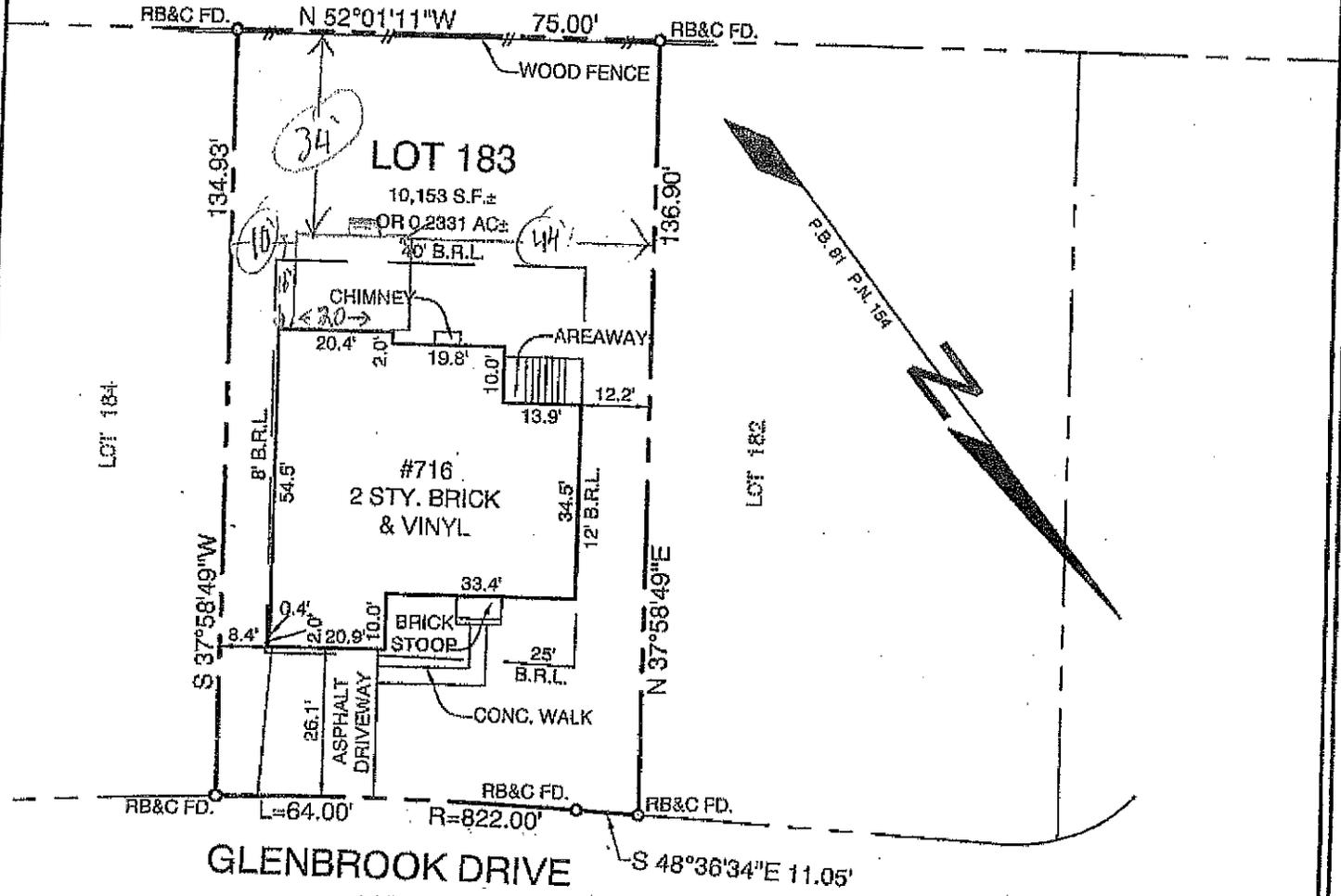
Permits and Inspection (301) 600-2313 Development Review and Planning (301) 600-1138 Website Support (301) 600-1010

Copyright 2020

GLENBROOK
 OPEN SPACE PARCEL 1
 SECTION ONE, PLAT 3
 P.B. 71 P. 116 & 117

NOTES:
 1. THE +/- SETBACK ACCURACY IS 1 FOOT.
 2. THIS SURVEY WAS PERFORMED WITHOUT THE BENEFIT OF A TITLE REPORT AND IS NOT INTENDED TO SHOW ALL MATTERS RELATED TO THE PROPERTY SHOWN HEREON.

138047



GLENBROOK DRIVE
 44' R/W
 S 48°36'34"E 11.05'

BOUNDARY SURVEY
 716 GLENBROOK DRIVE
 LOT 183
 SECTION 4, PLAT 3
GLENBROOK
 ELECTION DISTRICT NO. 3
 FREDERICK COUNTY, MARYLAND



THIS LOT DOES NOT APPEAR TO LIE WITHIN THE 100 YEAR FLOOD PLAIN AS SHOWN ON THE F.E.M.A. FLOOD HAZARD MAP 24021C-0270-D AS REVISED SEPTEMBER 19, 2007.

SURVEYOR'S CERTIFICATION

I HEREBY CERTIFY THAT I WAS IN RESPONSIBLE CHARGE OVER THE PREPARATION OF THIS BOUNDARY SURVEY AND THE SURVEY WORK REFLECTED IN IT, IN COMPLIANCE WITH REQUIREMENTS SET FORTH IN REGULATION 12 OF CHAPTER 08 OF THE MINIMUM STANDARDS OF PRACTICE (COMAR, SECTION 0.9), AND THAT TO THE BEST OF MY KNOWLEDGE AND BELIEF IS CORRECT.

Michael D. Adcock
 MICHAEL D. ADCOCK
 PROFESSIONAL LAND SURVEYOR, NO. 21257

Sill · Adcock & Associates · LLC

Engineers · Surveyors · Planners
 3300 North Ridge Road, Suite 160
 Ellicott City, Maryland 21043
 Phone: 443.325.7682 Fax: 443.325.7685
 Email: mike@saaland.com

REFERENCE:	PLAT BK. 01 PAGE 154
DATE:	OCTOBER 11, 2010
SCALE:	1"=30'
FILE NO.:	95-998

TKK

DIVISION OF PLANNING AND PERMITTING
DEPARTMENT OF PERMITS AND INSPECTIONS
30 NORTH MARKET STREET
FREDERICK, MARYLAND 21701
301-600-2313 INFORMATION

A/P #	138047
Process	
Date:	
Application Reviewed By (initials):	

Building Permit Application for DECK

SECTION I: CONTACT INFORMATION

Property Owner			Home Improvement Contractor		
Name(s) of person (s) deck is being constructed for: Kevin Kloster			Contractor must apply when contracted to do work. Elam Contrachy		
Current street address for above person(s): 716 Glenbrook dr			MHIC license number: 76744		Exp Date:
Town: Middleton	State: MD	Zip: 21769	Current street (mailing) address for Contractor: 2866 Poffenbarger rd		
Owner telephone Number: (please give the best number to reach owner during the day)			Town: Middleton	State: MD	Zip: 21769
Permit Service			Contact Person for Contractor: Pat Elam		
Name of Permit Service when applicable:			Contractor Telephone Number: Fax # 301 371 - 0222		
Street (mailing address):			Contractor e-mail Address:		
Town:	State:	Zip:			
Contact Person for Permit Service (Applicant/Contact)					

SECTION II: PROPERTY INFORMATION

Current Property Owner(s): Kevin Kloster			Property Address Where Deck is to be Constructed: 716 Glenbrook dr		
Eight Digit Property Tax ID (account) #			Town: Middleton	State: MD	Zip: 21769
Acreage or Square Footage of Property:			Subdivision Name: Glenbrook		Lot # 183
Water Type:		Sewer Type:		Is Property Within an Incorporated Town?	
Well	<input type="checkbox"/>	Septic	<input type="checkbox"/>	Yes	<input checked="" type="checkbox"/>
Community	<input checked="" type="checkbox"/>	Community	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>

Is there a roadside tree that will be disturbed or removed due to the proposed construction?(A roadside tree is defined as a plant that has a woody stem or trunk that grows all, or in part, within the right-of-way of a public road.)

Yes No

Walk-Through Permits

When property is served by public water and sewer, and property is not within an incorporated town, application may be eligible to be processed as a walk-through permit. If you would like to process this application as a walk-through, please check here:

BUILDING PERMIT APPLICATION FOR DECK - PAGE TWO OF TWO

Cost of Construction: \$ 10,000⁰⁰
 includes electrical, plumbing, labor & materials

Dimensions of Deck (each level)

<u>20'</u> ft	X	<u>16'</u> ft
ft	X	ft
ft	X	ft

Steps to Grade? Y or N Y

Total square footage of deck: 320

Setbacks From Deck to Property Lines/or Nearest Structure in Each Direction (3 required):

Front	<u> </u>
Rear	<u>24'</u>
Left	<u>10'</u>
Right	<u>44'</u>

Any Electrical Work Involved Y or N N
 Any Plumbing Work Involved Y or N N

OTHER INFORMATION CONCERNING THE CONSTRUCTION THAT WILL ASSIST IN PROCESSING

EXPIRES PERMIT #93384

IMPORTANT - PLEASE READ CAREFULLY

The Applicant hereby certifies under the penalties of perjury, and agrees as follows: 1) That he/she is authorized to make this application, 2) that the information is correct, 3) that he/she will comply with all regulations of Frederick County which are applicable hereto, 4) that he/she will perform no work on the referenced property not specifically described in the application: 5) that he/she knows that this permit does not include electrical or plumbing work: electrical and plumbing work requires a separate permit. Any change without approval of the agencies concerned shall constitute sufficient grounds for the disapproval of a permit. The appropriate revision fee shall be charged.

Permit Application Extension:

The permit application is valid for 6 months. The fee to extend an application is the minimum fee. The request must be made in writing prior to the expiration date, with justification. Each extension for an application shall not exceed 6 months.

Properties Served by County Water and Sewer:

It is the applicant's responsibility to identify and disclose any water and/or sewer utilities or easements, in, on, or near the proposed improvements. Approval of this permit by DUSWM shall not, on behalf of the County Executive, be construed as a modification or amendment of any water or sewer easement nor constitute permission to encroach thereon. Should an encroachment be found in the future, the cost to remedy said encroachment shall be borne by the property owner.



Signature of Applicant

Patricia Elam

Please print name

Connection with application

Real Property Data Search (w3)

Guide to searching the database

Search Result for FREDERICK COUNTY

View Map		View GroundRent Redemption			View GroundRent Registration					
Account Identifier:		District - 03 Account Number - 169995								
Owner Information										
Owner Name:		KLOSTER THOMAS K			Use:		RESIDENTIAL			
Mailing Address:		716 GLENBROOK DR MIDDLETOWN MD 21769-7752			Principal Residence:		YES			
					Deed Reference:		/08064/ 00005			
Location & Structure Information										
Premises Address:		716 GLENBROOK DR 0-0000			Legal Description:		LOT 183 PL 3 SECT 4 10,153 SQ. FT. GLENBROOK			
Map:	Grid:	Parcel:	Sub District:	Subdivision:	Section:	Block:	Lot:	Assessment Year:	Plat No:	3
0065	0011	0223		0000	4		183	2015	Plat Ref:	0081/0154
Special Tax Areas:				Town:		MIDDLETOWN				
				Ad Valorem:		770				
				Tax Class:						
Primary Structure Built		Above Grade Enclosed Area		Finished Basement Area		Property Land Area		County Use		
2010		4,215 SF				10,153 SF		000000		
Stories	Basement	Type		Exterior	Full/Half Bath	Garage	Last Major Renovation			
2	YES	STANDARD UNIT		FRAME	2 full/ 1 half	1 Attached				
Value Information										
		Base Value		Value		Phase-in Assessments				
				As of		As of		As of		
				01/01/2015		07/01/2015		07/01/2016		
Land:		84,100		100,200						
Improvements		370,100		430,500						
Total:		454,200		530,700		479,700		505,200		
Preferential Land:		0						0		
Transfer Information										
Seller: GLENBROOK COMMUNITIES LLC				Date: 10/28/2010		Price: \$584,025				
Type: ARMS LENGTH IMPROVED				Deed1: /08064/ 00005		Deed2:				
Seller:				Date:		Price:				
Type:				Deed1:		Deed2:				
Seller:				Date:		Price:				
Type:				Deed1:		Deed2:				
Exemption Information										
Partial Exempt Assessments:		Class		07/01/2015		07/01/2016				
County:		000		0.00						
State:		000		0.00						
Municipal:		000		0.00 0.00		0.00 0.00				
Tax Exempt:				Special Tax Recapture:						
Exempt Class:				NONE						
Homestead Application Information										
Homestead Application Status: Approved 12/26/2014										

Hardship Attachment For 716 Glenbrook Drive, Middletown, MD 21769

Narrowness of Property: The property is only 75' wide. The 36' total setback only leaves 39' for the swimming pool. The NW side property line has a severe drop in elevation that would make the placement of the pool in the center of the property an engineering mistake. There is greater than a 5' elevation difference between the two side property lines, and with the Frederick County requirement for retaining wall setbacks taken into consideration it makes this 18' setback to both property lines impossible. The pool water line was therefore designed to be 13' from the SE property line and 25' from the NW property line. A visit to the property would clearly show this topographical challenge, thereby illustrating the need for approval for these setbacks as designed.

Shallowness of Property: The rear property line is only 30' away from load bearing footers for the existing elevated deck. The pool is 16' wide and placing the pool closer to the deck would most likely result in a cracked pool wall in the future. The pool placement therefore needed to be a minimum distance from these footers so the weight displacement would extend under the pool foundation instead of into the side of the pool. It is for this reason that a 9' setback to the rear property line is a necessary distance to protect the integrity of the pool structure. In addition there is nothing but 30' of unmanaged trees and weeds on the other side of the rear property line.

The property conditions (severe slop on NW side of property) create an unnecessary hardship for us. We have not created these property conditions. The conditions for the property only permit a swimming pool to be installed at a specific location on the SE side of the property. The approval of the variances requested are reasonable to enable the installation of an in-ground swimming pool with the dimensions submitted with the applicant's zoning certificate submitted to the town. These variances will not alter the essential character of the neighborhood, nor substantially impair the appropriate use or development of adjacent property and/or confronting properties, nor be detrimental to the public welfare. The adjacent property owners have no objections to the pool's location.

9/29/2020

Join Zoom Meeting
<https://us02web.zoom.us/j/83481347899?pwd=cVBoMw1FMZFZNM-FZaHIPVVZuSVJFU09>

Meeting ID: 834 8134 7899
Passcode: 737934
One tap mobile
+13017158592,83481347899#0# 737934# US (Germantown)
+19292056099,83481347899#0# 737934# US (New York)

Dial by your location
+1 301 715 8592 US (Germantown)
+1 929 205 6099 US (New York)
+1 312 626 6799 US (Chicago)
+1 669 900 6833 US (San Jose)
+1 253 215 8782 US (Tacoma)
+1 346 248 7799 US (Houston)

Meeting ID: 834 8134 7899
Passcode: 737934
Find your local number: <https://us02web.zoom.us/j/83481347899?pwd=cVBoMw1FMZFZNM-FZaHIPVVZuSVJFU09>

Copies of the proposed Appeal for Variance are available at the Middletown Municipal Center for any citizens wishing to receive a copy of the proposed appeal materials for review. All citizens wishing to be heard will be recognized at this hearing. Any person desiring a stenographic transcript shall be responsible for supplying a competent stenographer. Individuals requiring special accommodations are requested to contact Andrew Bowen, Town of Middletown at 301-371-6171 at least 48 hours prior to the Public Hearing.

Public Notices

**NOTICE OF PUBLIC HEARING
TOWN OF MIDDLETOWN**

Notice is hereby given that the Board of Appeals of Middletown will hold a Virtual Public Hearing on **Wednesday September 30, 2020 beginning at the hour of 7:00 PM**, to hear two separate cases.

The first case is an application for a variance request from Verdant Development Group, LLC located at the southwest corner of Broad Street and Franklin Street in Middletown, MD 21769. The applicant has requested a variance from Section 17.16.050 Building height regulations and unit limitations for structures in residential districts of the Middletown Municipal Code for the proposed construction of eighteen (18) multi-family units. Project is Chesterbrook Phase 2. The second case is an application for a variance appeal from the applicant at 716 Glenbrook Drive, Middletown Maryland. The variance requested is from Town Code 17.32.130 that states that "all private swimming pools shall be located no closer than thirty (30) feet from the nearest interior living space of a neighboring property (garages not included), nor closer than eighteen (18) feet to any property line (measured from the edge of the pool)."

This meeting will be held virtually, no public attendance will occur. Please follow the attached link to join
Topic: BoA Meeting
Time: Sep 30, 2020 07:00 PM Eastern Time (US and Canada)



**MIDDLETOWN BOARD OF APPEALS
Middletown, Maryland 21769**

Meeting Minutes for August 31, 2020

Case #MT-B-20-2 and #MT-B-20-3

The Middletown Board of Appeals (BoA) met on Monday, August 31, 2020 at 7:00 p.m. via Zoom meeting. Present were BoA members Daphne Gabb (Chairwoman), Alex Kundrick, Sean Mahar, and Jonathan Minchoff (alternate), Mark Hinkle (Zoning Administrator) and Patty Guyton (recording secretary).

Others present: Farhad (Memar), Stephanie and Robert Lowe (resident - 212 Layla Drive), Dave Albertson (Browning Pools), David and Danielle Tomlin (residents - 7780 Coblenz road), Charlie and Trish Goodie (residents - 7786 Coblenz road) Cheryl Dougher (resident), Harald Thornberry (resident - 7798 Coblenz road), and Bruce Dzeilinski (resident - 7769 Coblenz road).

Minutes – Chairwoman Gabb asked if there were any corrections to the February 26, 2020 BoA meeting minutes as submitted. Hearing no comments, the minutes were approved.

Case MT-B-20-2 (Memar Corporation – West side of Coblenz Road and north of Middletown County park) The applicant is filing for a special exception approval to allow an active adult community in the R-20 residential district.

Staff Report: Zoning: R-20 Residential. This district permits single-family dwellings along with accessory buildings and uses and home occupations, as well as parks, playgrounds, and residential cluster developments. Numerous special exceptions uses with Board of Appeals approval are also permitted which includes active adult communities. The intent of the district is to encourage and promote the development of single-family residential neighborhoods on large lots free from land usage which might adversely affect such development; except in the case of cluster developments in which dwellings are grouped together on a site, thus saving the remaining land area for common open space, conservation, recreation, and public and semipublic uses.

Present Use: vacant

Section(s) of the Code that Apply:

17.16.010	R-20 District Special Exceptions
17.44.060	Board of Appeals Special Exceptions
17.48.015	Active Adult Community Special Exception Standards

Active adult community special exception standards were added to the Municipal Code in the year

2000. More recently the specific standards were amended to allow active adult communities on parcels of land less than one hundred acres in size in accordance with the cluster development concept. The specific standards are as follows:

17.48.15 Active adult community.

An adult active community in the R-20 residential district is subject to the requirements of that district except as modified and provided in this section:

- A. An active adult community in the R-20 district may be developed as an integral component of a larger R-20 zoned subdivision consisting of at least one hundred (100) acres in which even the active adult community portion of the development may constitute no more than fifteen (15) percent of the total acreage in the subdivision.
- B. On parcels less than one hundred (100) acres but more than thirty (30) acres, the entire parcel may be used for an active adult community in accordance with the cluster development concept and regulations in Section 17.42.
- C. Minimum lot area per dwelling: three thousand two hundred (3,200) square feet; minimum average lot area per dwelling, five thousand five hundred (5,500) square feet; provided that no more than twenty-five (25) percent of the total number of lots may be less than four thousand (4,000) square feet.
- D. The planning commission, at its discretion, may approve reduced yards, subject to the following limitations:
 1. The front, rear, or side yard setback from any lot fronting on a major town street (arterial or collector) shall be thirty-five (35) feet.
 2. Minimum setbacks for lots fronting on interior public or private subdivision streets shall be as follows:
 - a. Front: ten (10) feet;
 - b. Rear: fifteen (15) feet;
 - c. Side: five feet.
 3. Driveways must have a minimum length of twenty (20) feet from a public or local street.
- E. Any individual dead-end private drive or street may be used to serve no more than ten (10) dwelling units.
- F. Pavers or other alternative materials which meet the standards approved by the town engineer may be used in the construction of private drives or streets.
- G. A homeowners' association shall be established to maintain all open spaces, common areas, stormwater management facilities, and private streets and to arrange for private waste removal services, if required, and snow removal services for private streets and drives. The homeowners' association shall have the responsibility to enforce all covenants and special conditions required of residents and property owners in the active adult community.
- H. The planning commission shall review and make recommendations regarding a concept plan for the active adult community.
- I. If the special exception is granted, the planning commission shall review and comment on the homeowners' association declaration of covenants for the purpose of approval by the burgess and commissioners prior to final plat approval. The planning commission shall also have architectural review authority for the dwelling units to be constructed within the community.

Section 17.16.01O(C) lists the special exceptions allowed in the R-20 District and states "the board of appeals may authorize the following principal uses as special exceptions in accordance with the provisions of Section 17.44.060". Number 5 on that list is: Active adult community.

All applications for a special exception shall be referred to the planning commission for a recommendation to the board of appeals. Based on staff review and site inspection, staff would offer the following:

- A. The subject property is zoned R-20 per the annexation agreement which was approved by the Burgess and Commissioners in 2018 which specifically requires the site to be developed as an Active Adult Community.
- B. The parcel is 94± acres and is proposed to be developed in accordance with the cluster development regulations. The plan shows 148 active adult lots with the remainder of the property reserved for open space and forest conservation retention.
- C. The minimum lot area per dwelling according to the concept plan is 7,800 square feet which exceeds the requirement of 3,200 square feet. The average lot area per dwelling according to the concept plan is 9,059 square feet which exceeds the minimum requirement of 5,500 square feet. None of the lots depicted on the concept plan are less than 4,000 square feet in size.
- D. The front yard setbacks are proposed to be 10 feet or 35 feet if fronting a major town street (arterial or collector); the side yard setbacks are proposed to be 5 feet or 35 feet if fronting a major town street (arterial or collector); and the rear yard setbacks are proposed to be 15 feet or 35 feet if fronting a major town street (arterial or collector). There is no indication on the concept plan that driveways must have a minimum length of 20 feet from a public or local street.
- E. The concept plan does not propose any private drives or streets.
- F. The Planning Commission will require the review and comment on the homeowners' association declaration of covenants for the purpose of approval by the burgess and commissioners prior to final plat approval.
- G. A concept plan has been provided to the Planning Commission for review.

In addition to those specific requirements, the general requirements to be used by the Board of Appeals are as follows:

17.44.060 General Standards. A special exception may be granted when the Board of Appeals finds from a preponderance of the evidence produced at the hearing that:

1. The proposed use, including its nature, intensity and location, is in harmony with the intent of the district;
2. That adequate water supply, sewage disposal, storm drainage and fire and police protection are or can be provided for the use;
3. That the use of adjacent land and buildings will not be discouraged and the value of adjacent land and buildings will not be impaired by the location, nature and height of buildings, walls and fences;
4. That the use will have proper location with respect to existing or future streets giving access to it, and will not create traffic congestion or cause industrial or commercial traffic to use residential streets;
5. That the specific standards (Chapter 17.48) set forth for each particular use for which a special exception may be granted have been met.

The Staff has reviewed the above standards and the subject property and makes the following findings:

- A. The subject property is zoned R-20 Residential and is adjoined to the north and west by agricultural land outside of town limits, to the south by Open Space-zoned land with a public park, and to the east by large-lot residential dwellings outside of the town limits. Given that the R-20 district allows for cluster developments in which dwellings are grouped together on a site with the remainder of the property reserved for open space and conservation, staff feels the intensity of the proposed use is in harmony with the intent of the district and is compatible with the surrounding area. The clustering of the lots will also provide for the protection of the existing sensitive areas including streams, stream buffers, wetlands, wetland buffers, forest, and steep slopes.
- B. Wells have been drilled on the property and sufficient quantities of water have been established by the Maryland Department of the Environment. It has also been established that sewage facilities within the Town are adequate to provide for the new development. The applicant will need to continue working with the Town's Engineer on supplying water and sewage disposal to the subject property. Fire service is just over a mile away, and there are deputy sheriffs assigned to the Town for police protection. Stormwater management will need to be reviewed and approved by Frederick County if this use is approved.
- C. Given the intensity and scale of development is as proposed, and the clustering of the residential lots on the property, the value of adjacent land and buildings should not be impaired.
- D. A traffic study for this proposed use has been done and was approved by the Burgess and Commissioners. The use will not cause industrial or commercial traffic to use residential streets.
- E. The applicant has proposed the use in accordance with the specific standards as discussed above.

Staff Recommendation: Given that most of the specific standards for the proposed use are being met or will be met upon review and approval by the planning commission during the appropriate assessment stage, and the general standards for special exception uses are or will be met, staff would recommend the Special exception *APPROVAL*, to allow an active adult community in the R-20 residential district with the condition that the Middletown Planning Commission will review plans going forward which will include architectural drawings and elevations.

Discussions: Danielle Tomlin (resident – 7780 Coblenz road) asked if the water testing for the wells have been completed yet and Farhad stated that they have and passed. David and Danielle Tomlin are concerned about the construction timeline, how long this is going to take, and what impacts this is going to have on their property. Chairwoman Gabb stated that these questions are more for when the project moves to the Planning Commission stage.

Charlie and Trish Goodie (resident – 7786 Coblenz road) How is this going to affect their wells? Since water has been an issue for a while in Middletown. Chairwoman Gabb stated that Maryland Department of the Environment would determine if the new community would affect the current wells and if they did, residents could be moved to public water.

Bruce Dzielinski (resident – 7769 Coblenz road) wanted to know why all adjacent properties were not notified by letter. Mark Hinkle stated that all adjoining properties were notified by letter and that there was a Public Hearing advertised, twice in the Newspaper for all other residents.

Action: Motioned by Board member Kundrick to approve the special exception for an Active Adult Community and move forward to the Planning Commission. Seconded by Board member Mahar. Motion carried (3-0)

Case MT-B-20-3 (Richard Lowe - 212 Layla Drive) The applicant is filing for a variance of approximately 8' from the required 18' setback for placement of an inground pool to the rear of the existing principal dwelling located at 212 Layla Drive. The lot is in the Foxfield subdivision.

Staff Report: The Zoning Administrator reported that the property in question is .46 acres and the proposed pool is 16'x34'. Variances are typically granted based on unnecessary hardship or that the property lot characteristics do not allow for reasonable use of the property. The setback requirements could be met for this project with a re-design of pool size and location. Any unwillingness to make this change does not constitute a hardship nor does it restrict reasonable use of the property in question.

Staff recommends that the application for variance be DENIED and that the applicant re-submit acceptable plans if they wish to move forward with the project.

If the variance applied for and requested is granted, staff notes that it will not alter the essential character of the neighborhood or district in which the property is located on Layla Dr., nor substantially impair the appropriate use or development of adjacent property and/or confronting properties, nor be detrimental to the public welfare.

Discussions: Board members asked Zoning Administrator why does he recommend this variance be denied? Zoning Administrator stated because it is an unnecessary hardship caused by the size of the pool, most hardships are caused by narrow yards

Board members asked if the pool could be moved to another location, possibly to the side yard, where there is more space. Dave Albertson (Browning Pools) stated that it is a safety issue to place the pool in the side yard because the pool would not be visible from the house. He also stated that due to the unique slopes and lay out of the yard, the location they presented is the best place for the pool.

Board members asked what the impacts would be if they did decide to approve the 8' setback over the 18' variance? Robert Lowe stated that the property backs up the Foxfield Walking Trail easement and that they have no neighbors on the back side of their property.

Dave Albertson, Robert and Stephanie Lowe stated that they thought of every way possible to meet the requirements but due to the unique lay out of the yard, safety issues with side yard, storm water runoff issues, and the County set back of 10' from the foundations. This location is the best scenario that works with everything besides the setbacks from the Middletown's code.

Board member Minchoff agrees with the property owners and pool developer. He does not feel it is necessary to have them submit different plans/drawings. What we are asking is creating a hardship in its own. He stated that we look at these case by case and every case is different.

Chairman Dabb stated that this case is very subjective on hardships. The property has easements, slope and storm water draining issues. The property is more unique than most.

Action:

Motion by Board member Kundrick to approve the variance to grant the 8’ setback instead of the required 18” setback. Seconded by Board member Mahar. Motion carried (3-0).

The meeting adjourned at 8:31 p.m.

Respectfully submitted,

Patty Guyton
Town Receptionist

DRAFT