



BOARD OF ZONING APPEALS MEETING

Tuesday, December 06, 2022 at 5:00 PM

AGENDA

CALL TO ORDER.

DETERMINATION OF A QUORUM.

- [1.](#) Draft Minutes - November 1, 2022

PUBLIC HEARING.

- [2.](#) Application for a Variance pursuant to Articles 2-18 and 3-4.2.4, lot and yard regulations of the Town of Warrenton Zoning Ordinance. The request is for a variance to reduce the required front/rear yard setbacks to allow for the construction of a single-family detached home on the property. GPIN 6984-55-1596-000.

UPDATES.

ADJOURN.



**BOARD OF ZONING APPEALS OF THE TOWN OF WARRENTON
TOWN HALL
21 MAIN STREET
WARRENTON, VIRGINIA 20186**

MINUTES

**A REGULAR MEETING OF THE BOARD OF ZONING APPEALS WAS HELD ON
NOVEMBER 1, 2022 AT 5:00 P.M. IN WARRENTON, VIRGINIA**

PRESENT Mr. Larry Kovalik; Ms. Melea Maybach; Ms. Betsy Sullivan; Mr. Amos
Crosgrove; Mr. Rob Walton, Director of Community Development; Ms.
Kelly Machen, Zoning Administrator;

PRESENT VIA ZOOM Mr. Martin Crim, Town Attorney

ABSENT

CALL TO ORDER AND DETERMINATION OF A QUORUM

The meeting was called to order at 5:00pm. There was a quorum of members present.

ELECTION OF OFFICERS

The Board briefly discussed the election of officers, no changes were made.

APPROVAL OF MINUTES

Draft Minutes- July 5, 2022

Ms. Melea Maybach motioned to approve the minutes for July 5, 2022, as presented. Ms. Betsy Sullivan Seconded. All in favor.

Ayes: *Mr. Larry Kovalik, Chair; Ms. Melea Maybach, Ms. Betsy
Sullivan, Mr. Amos Crosgrove*

Nays:
Absent During Vote:

PUBLIC HEARING

BZA 2022-3- Zoning Determination Appeal for 61 Winchester Street

Ms. Machen gives a detailed presentation on the appeal application and provides the board with the opportunity to view the Town Zoning Maps laid out before them.

Mr. Crim notified staff he was unable to hear majority of the presentation due to audio issues.

Audio issues are resolved.

Mr. Crim speaks on the nature of the request and advises the Board of prior disruptive behavior from the Applicant.

Mr. Kovalik asks if there are any questions from the Board. No questions.

Mr. Kovalik asks the applicant if they would like to speak.

Mr. Keith Macdonald, applicant, addressed the board on the appeal request. He also provided the board with additional justification documents on the appeal.

The Board and Mr. Macdonald briefly discuss the additional documentation provided.

Mr. Macdonald presents his research and reasoning for the proposed zoning change for the property.

Mr. Kovalik asks the Board for questions for the Applicant.

Mr. Kovalik asks Mr. Macdonald to clarify aspects of the provided amended zoning map.

Mr. Macdonald provides his reasoning for the proposed adjustments, and advised he had previous conversations with staff on the zoning map errors.

Mr. Kovalik asks Mr. Macdonald about the zoning at time of purchase and if written supporting evidence of the staff conversations can be provided.

Mr. Macdonald reiterates his arguments for the proposed changes and states there is no written document, only verbal conversations with staff.

Mr. Kovalik asks the Board for any further questions. The Board has no questions.

Mr. Kovalik opens the Public Hearing at 5:30pm.

Mr. Robert Lawrence, the property owner, provides a brief history of the property and neighborhood and expresses his desire that the property maintain its residential zoning.

Mr. Kovalik asks for any further speakers.

With no further speakers the Public Hearing was closed at 5:51pm.

Mr. Kovalik asks the Board for comments. The Board has no comments.

Mr. Kovalik thanks Staff and the Applicant and speaks briefly on the evidence provided to the Board. Asking the Board for further discussion or a motion.

Mr. Amos Cosgrove Motions to affirm the Zoning Determination, Seconded by Ms. Maybach. All in favor, no discussion.

The vote was as follows:

Ayes: *Mr. Larry Kovalik, Chair; Ms. Melea Maybach, Vice Chair;
Mr. Amos Cosgrove; Ms. Betsy Sullivan*

Nays:

Abstention:

Absent During Vote:

Mr. Kovalik advises the applicant of his right to appeal the board's decision to the Circuit Court.

Mr. MacDonald stated it was likely he would do so.

UPDATES

Ms. Machen advised the board they would have a December meeting to discuss a variance request.

ADJOURNMENT

Mr. Kovalik motioned to adjourn. Ms. Maybach seconded, all in favor. No discussion.

The meeting was adjourned at 5:57pm.



TOWN OF WARRENTON

Community Development Department

PO BOX 341
WARRENTON, VIRGINIA 20188
<http://www.warrentonva.gov>
Landdevelopment@warrentonva.gov
(540) 347-2405

STAFF REPORT

December 6, 2022

| | |
|--|---|
| Property Owner(s) / Applicant: | Kent Capital Ventures, LLC |
| Application # | BZA #2022-2 |
| Location: | Intersection of Alexandria Pike and Moorhead Drive |
| PIN: | 6984-55-1596-000 |
| Acreage: | 0.1114 (4,855 Square Feet) |
| Zoning | Residential R-10 |
| Comprehensive Plan Designation: | Medium-Density Residential |
| Land Use: | Vacant |
| Request: | The Applicant is seeking approval of a Variance from Zoning Ordinance Articles 2-18 and 3-4.2.4 to allow a reduction of setback requirements for a single-family detached dwelling to be built on the property. |
| Recommendation: | Staff recommends the Board of Zoning Appeals (BZA) approve BZA #2022-2 per the pattern motion for approval dated November 15, 2022. |

REQUEST

The Applicant requests a variance from Articles 2-18 and 3-4.1.4 of the Zoning Ordinance to reduce front/rear setback requirements for a 1,538-square-foot home to be built on the property. The proposed location of the house currently meets the required 10' side setback per the Zoning Ordinance. However, the lot area is less than the 10,000 square feet minimum required and will have difficulty meeting the front/rear setback requirement. The front setback variance is requested to allow the proposed front porch stairs to encroach within the required 25' setback. The front porch is proposed to meet the setback requirement per Article 2-18.7 of the Zoning Ordinance.

"2-18.7 Front porches may project into any required front yard by not more than six feet into the required yard setback, not more than three feet into required side yard setback and into not more than ten feet into the required rear yard setback."

The rear setback variance is requested to allow the home, deck, and rear staircase to encroach within the required 20' rear setback. The house and deck are approximately 5.8' from the property line, well outside the required setback. Upon discussion with staff, the Applicant has

moved the rear staircase towards the side property line to align with the proposed 5.8' rear setback. Relocating the stairs eliminates the Applicant's request for a 2.5' setback from the rear property line for the deck stairs (see plats submitted November 2nd and 10th for a comparison of the proposed stair location). The relocated staircase meets the permissible setback encroachment noted under Article 2-18.4 of the Zoning Ordinance.

"2-18.4 An outside stairway, unenclosed above and below its steps, may extend four (4) feet into any required side or rear setback, but not nearer to any side lot line than a distance of six (6) feet."

The Applicant states the request is to build a home they will reside in after completion. The Applicant says the Zoning Ordinance is too restrictive in that it unreasonably restricts the utilization of the property because of the lot's size.

BACKGROUND

The subject property was subdivided on July 2, 1956, under Fauquier County jurisdiction, and then boundary line adjusted into the Town in 1960, making the lot legally non-conforming to the Town's Zoning Ordinance. According to Fauquier County Real Estate records, the Applicant acquired the lot in March of 2022. Adjacent uses are single-family detached dwellings and a senior living facility.

The property is zoned Residential (R-10) and has remained R-10 since at least 1976 (prior zoning maps are unavailable). The lot is 0.1114 acres (approximately 4,855 square feet), which does not meet the district's minimum required lot size of 10,000 square feet. This property is therefore considered a legal non-conforming lot, which may be used by right when setbacks are met per Article 11-4.5.1 of the Zoning Ordinance. This variance is requested as the Applicant does not feel they can meet the setback requirements for the R-10 Zoning District. The home is proposed to meet front and side yard setbacks, except for the front porch stairs, but is unable to meet the rear yard setback.

"11-4.5 Non-Conforming Lots

11-4.5.1 Use. Any lot of record at the time of the adoption of this Ordinance which is less in area or width than the minimum required by this Ordinance may be used when the requirements regarding setbacks, side, and rear yards are met."

ANALYSIS

The Town staff has reviewed the requested variance against the Virginia State Code and the Town of Warrenton Zoning Ordinance to determine if the request meets the criteria required to grant the variance. Below are the variance criteria with the staff's opinion on how the application meets each criterion. The BZA will need to determine if the application has sufficient provided proof that the request meets the standards for a variance as defined by Virginia State Code. Virginia State Code and the Zoning Ordinance define a variance as:

"Variance – In the application of a zoning ordinance, a reasonable deviation from those provisions regulating the shape, size, or area of a lot or parcel of land or the size, height, area, bulk, or location of a building or structure when the strict application of the Ordinance would unreasonably restrict the utilization of the property, and such need for a variance would not be shared generally by other properties, and provided such variance is not

contrary to the purpose of the Ordinance. It shall not include a change in use, which change shall be accomplished by a rezoning or by a conditional zoning."

In granting a variance, the BZA may impose such conditions regarding a proposed structure's location, character, and other features or use as it may deem necessary in the public interest. The BZA may require a guarantee or bond to ensure compliance with the imposed conditions. The property upon which a property owner has been granted a variance shall be treated as conforming for all purposes under state law and local ordinances. Per the Virginia State Code,

"Notwithstanding any other provision of law, general or special, a variance shall be granted if the evidence shows that the strict application of the terms of the Ordinance would:

1. Unreasonably restrict utilization of the property, or

The use of the property is severely impacted due to the size of the lot. The lot is less than half the required size (10,000 sq. ft.). Any proposed use would likely have challenges meeting the setback requirements for the R-10 District.

OR

2. that granting the variance would alleviate a hardship due to a physical condition relating to the property or improvements thereon at the time of the effective date of the Ordinance, or

There are significant topographical challenges at the front of the lot along Alexandria Pike. The lot has a gradual declining slope towards the intersection of Alexandria Pike and Moorhead Drive. A variance would allow the property owner to utilize the flatter portion of the lot for the single-family home, a by-right permitted use in the R-10 Zoning District.

OR

3. alleviate a hardship by granting a reasonable modification to a property or improvements thereon requested by, or on behalf of, a person with a disability."

The application's justification does not include a request for the variance to alleviate hardship for a person with a disability.

In addition to the three points above, no variance shall be authorized by the BZA unless it is determined that the request meets all five of the following criteria:

4. The property interest for which the variance is being requested was acquired in good faith, and any hardship was not created by the Applicant for the variance.

The property was purchased in good faith by the owners in 2022. The hardship would not be considered as created by the Applicant, due to the age of the subdivision of the property.

5. The granting of the variance will not be of substantial detriment to adjacent property and nearby properties in the proximity of that geographical area.

The proposed single-family dwelling will be located across the street from existing detached single-family homes and in front of an existing assisted living facility. The impact on neighbors would be limited.

6. *The condition or situation of the property is not of so general or recurring of a nature as to be adopted as an amendment to the Ordinance.*

This property is unique as new subdivisions must meet the minimum lot size of 10,000 square feet in the Residential R-10 Zoning District. This property was subdivided in 1956 while still within Fauquier County's jurisdiction, making the lot legally non-conforming to lot size for the district. Legal non-conforming lots may be developed without a variance if the permitted use can meet setbacks. However, the lot depth for this property is such that any structure would need to be approximately 19' deep or less, providing a limited buildable area. The topography along the front of the lot also creates a unique challenge for building on the property.

7. *The granting of the variance does not result in a use that is not otherwise permitted on such property or a change in the zoning classification of the property.*

Single-family dwellings are a by-right permitted use in the district and would not affect the current Zoning designation for the property.

8. *The relief or remedy sought by the variance application is not available through a special use permit process that is authorized in the Ordinance or the process for modification to the Zoning Ordinance at the time of the filing of the variance application.*

A Special Use Permit cannot provide relief from the setback requirements, nor are any waivers available for homes unable to meet setback requirements.

STAFF RECOMMENDATION

To grant a variance, the BZA must find that the application meets one of the first three criteria listed above regarding unreasonable utilization, alleviating a hardship, or accommodating a person with a disability. In addition, the variance must meet all five of the remaining criteria noted above regarding good faith acquisition, no substantial detriment, not generally recurring, does not allow an unpermitted use, and is not available by other means.

Staff feels that the variance application should be granted due to the property's legal non-conforming status and topographical challenges. The lot size limits the use of the property, and current setback requirements will be challenging to meet. Staff recommends approving the request with the rear staircase relocated to the side of the rear deck to reduce the variance request as shown on the plat submitted November 10, 2022.

ATTACHMENTS

- A. Proposed Conditions of Approval / Proposed Motion for Denial
- B. Maps
- C. Variance Application Materials
- D. 1956 Recorded Deed of Subdivision

PATTERN MOTION TO APPROVE VARIANCE VARIANCE

**BZA #2022-2 KENT
CAPITAL VENTURES LLC**

**BZA MEETING DATE:
DECEMBER 6, 2022**

In Application BZA #2022-2, I move to grant the Variance, after due notice and hearing as required by Code of Virginia §15.2-2204 and Article 11-3.11 of the Town of Warrenton Zoning Ordinance, based on upon the following Board findings:

1. The strict application of the Ordinance would unreasonably restrict the utilization of the property, the need for the variance will not be shared generally by other properties, and the variance is not contrary to the purpose of the ordinance.
2. The property interest for which the variance is being requested was acquired in good faith and any hardship was not created by the applicant for the variance; and
3. The granting of the variance will not be of substantial detriment to the adjacent property and nearby properties in the proximity of that geographical area; and
4. The condition or situation of the property concerned is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the Ordinance; and
5. The granting of the variance does not result in a use that is not otherwise permitted on such property or a change in the zoning classification of the property; and
6. The relief or remedy sought by the variance application is not available through a Special Exception or Special Permit process that is authorized in the Ordinance or the process for a modification from a provision of the Zoning Ordinance at the time of the filing of the variance application.

The Variance is granted subject to the following conditions, safeguards, and restrictions upon the proposed uses, as are deemed necessary in the public interest to secure compliance with the provisions of this Ordinance:

1. The site shall be in substantial conformance with the information and drawings submitted with the variance application except as specifically modified by the conditions below or as necessary to meet Zoning Ordinance requirements.
2. The rear deck stairs shall be relocated to the side of the house, per the plat submitted on November 10, 2022.

PATTERN MOTION FOR DENIAL

**VARIANCE
KENT CAPITAL VENTURES
LLC
BZA #2022-2**

**BZA MEETING DATE:
DECEMBER 6, 2022**

In Application BZA #2022-2, I move to deny the Variance, after due notice and hearing, as required by Code of Virginia §15.2-2204 and Article 11-3.11 of the Town of Warrenton Zoning Ordinance, based on upon the following Board findings:








1. The strict application of the Ordinance inconveniences the Applicant but does not unreasonably restrict the utilization of the property.
2. The strict application of the Ordinance does not alleviate a hardship due to a physical condition relating to the property or improvements thereon at the time of the effective date of the Ordinance.
3. The strict application of the Ordinance does not alleviate a hardship by granting a reasonable modification to a property or improvements thereon requested by, or on behalf of, a person with a disability.
4. The variance would be contrary to the intent and purpose of the Zoning Ordinance.
5. The granting of the variance would not result in substantial justice being done.
6. The relief requested can be granted only through modification of the zoning ordinance.
7. _____
8. _____

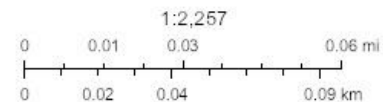
Aerial/Contours

Town of Warrenton Map



11/18/2022, 12:44:39 PM

-  Address Points
-  Five Foot Contour
-  Municipal Boundary
-  Parcels
-  Sidewalk
-  Building Footprints
-  Roads

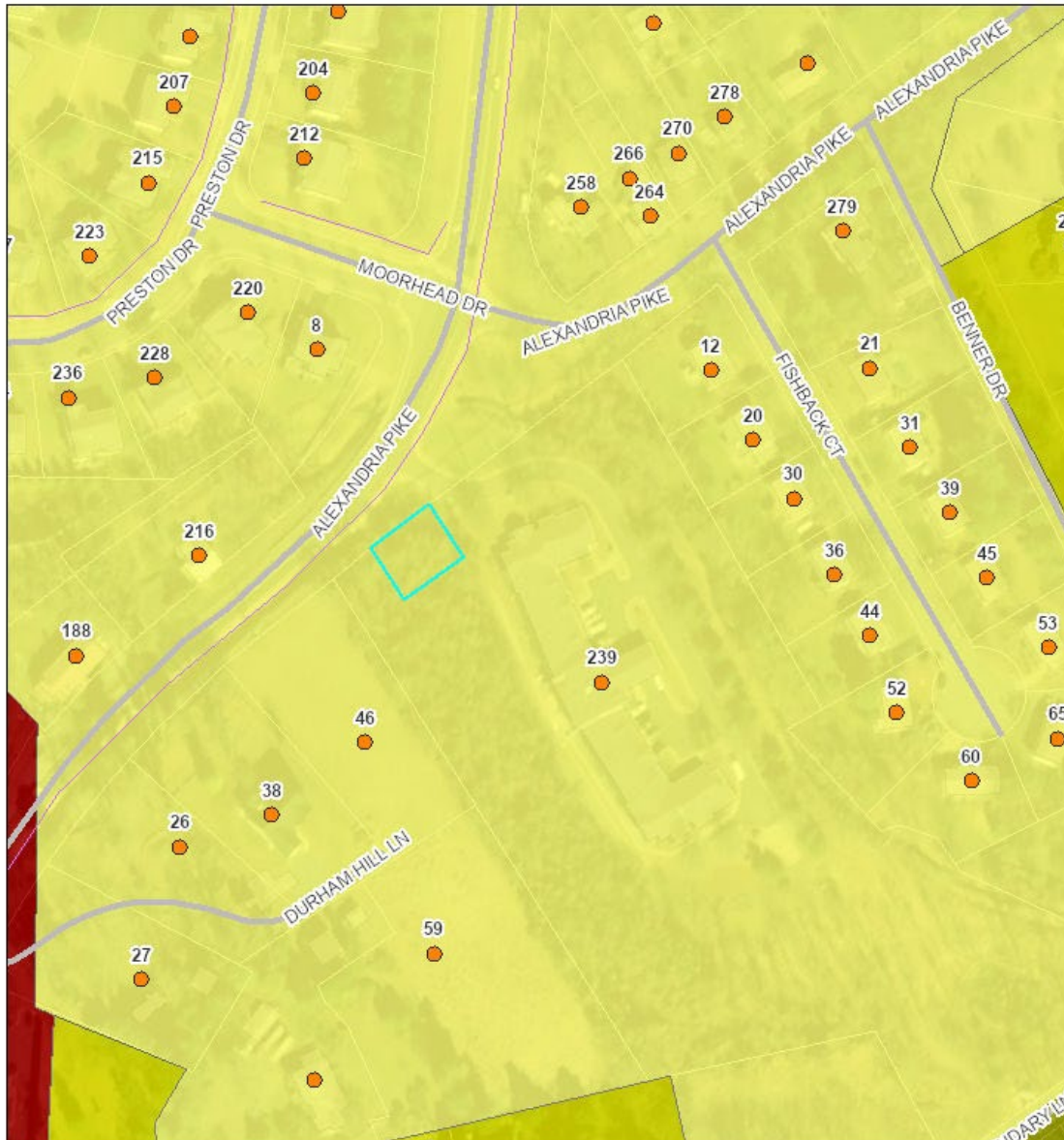


Fauquier County GIS, Maxar, Microsoft

Town of Warrenton Web Map
Maxar, Microsoft | Fauquier County GIS | Funding for the Watershed Boundary Dataset (WBD) was provided by the USDA-NRCS, USGS and EPA along with other federal, state and local

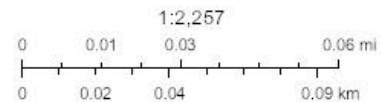
Zoning

Zoning Map



11/18/2022, 12:50:26 PM

- Address Points
- R-6
- RT
- CBD
- Sidewalk
- Roads
- Parcels
- Building Footprints
- Zoning Districts
- R-10

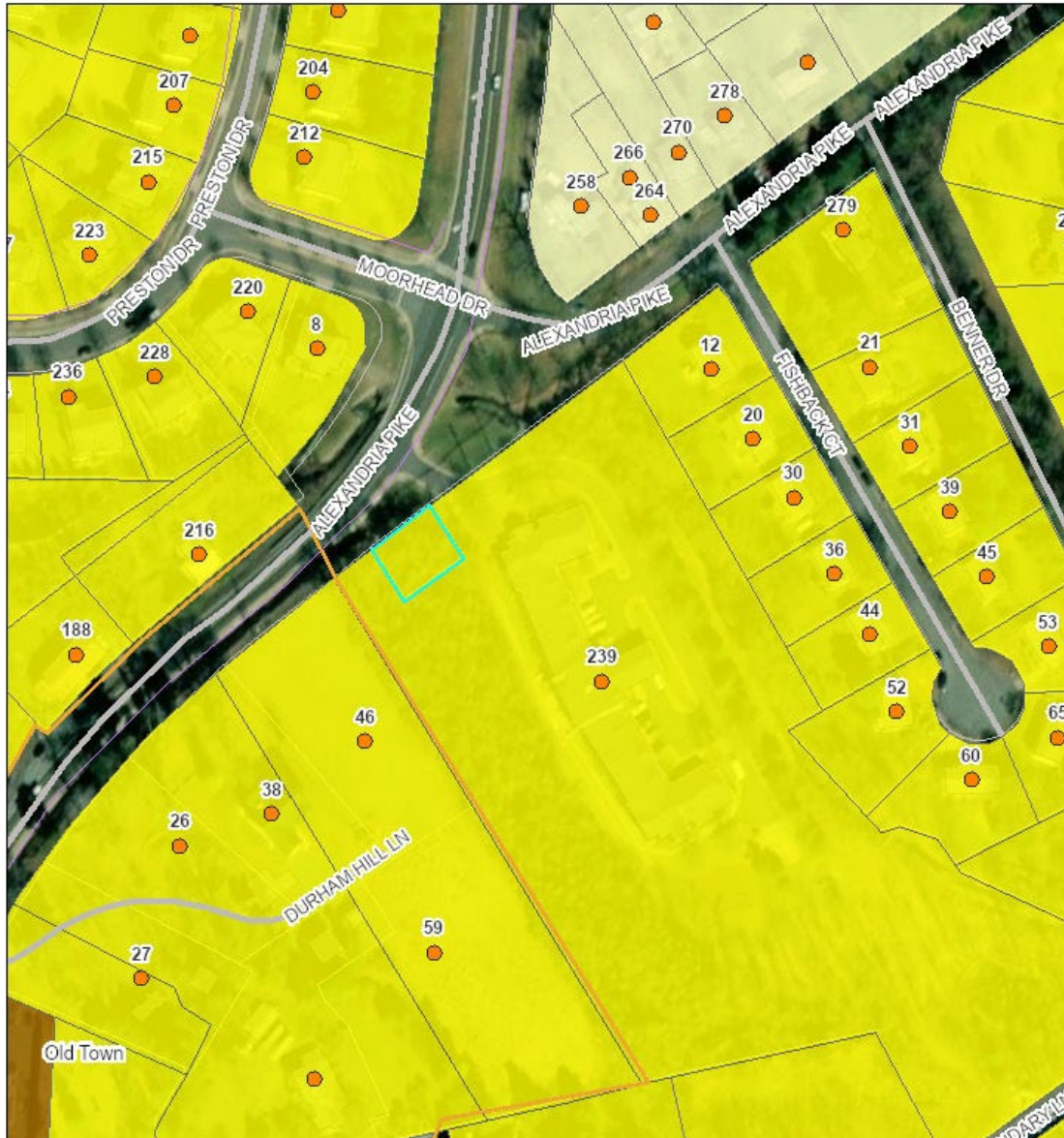


Fauquier County GIS, Maxar, Microsoft

Town of Warrenton Web Map
Maxar, Microsoft | Fauquier County GIS | Funding for the Watershed Boundary Dataset (WBD) was provided by the USDA-NRCS, USGS and EPA along with other federal, state and local

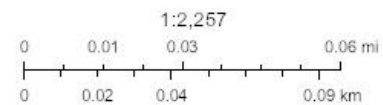
Future Land Use

Future Land Use



11/18/2022, 12:52:41 PM

- | | | | |
|--|-------------------------|--|----------------------------|
| | Address Points | | Old Town Mixed Use |
| | Municipal Boundary | | Low Density Residential |
| | Sidewalk | | Medium Density Residential |
| | Roads | | Parcels |
| | Future Land Use Overlay | | Building Footprints |
| | Old Town District | | |



Fauquier County GIS, Maxar, Microsoft

Maxar, Microsoft | Fauquier County GIS | Funding for the Watershed Boundary Dataset (WBD) was provided by the USDA-NRCS, USGS and EPA along with other federal, state and local

Town of Warrenton Web Map

KENT ALBERTO BAEZ
 KENT CAPITAL VENTURES LLC
 1510 CLARENDON BLVD, APT 1213
 ARLINGTON, VA 22209
 +12029939068

TOWNSHIP OF WARRENTON
 ATTN: COMMUNITY DEVELOPMENT DEPARTMENT
 21 MAIN STREET
 WARRENTON, VA 20186
 +15403471101 EXT 310

LETTER OF JUSTIFICATION FOR WARRENTON, VA 20186

- THE PROPERTY INTEREST IN TM #6984-55-1596 LOCATED ON THE INTERSECTION OF ALEXANDRIA PIKE AND ALEXANDRIA PLACE WAS ACQUIRED BY KENT ALBERTO BAEZ THROUGH HIS VIRGINIA-BASED LIMITED LIABILITY COMPANY - KENT CAPITAL VENTURES LLC - FOR THE PURPOSE OF CONSTRUCTING A SINGLE-FAMILY RESIDENCE THAT HE WILL RESIDE IN AFTER COMPLETION. THIS VARIANCE IS BEING REQUESTED IN GOOD FAITH WITHOUT ANY ADVERSE HARDSHIP IMPOSED ON THE PROPERTY OWNER.
- THE TOTAL SIZE OF THE PLAT IS 0.2088 AC, THE TOTAL IMPACTED SIZE OF THE PLAT WILL BE 0.04 AC OR LESS (2,000 SQ FEET OR LESS - 0.027 AC TO BE EXACT) FOR THE DWELLING STRUCTURE. THEREFORE, THERE WILL BE NO SUBSTANTIAL DETRIMENT TO ADJACENT OR NEARBY PROPERTIES.
- DUE TO THE SIZE OF THIS PLAT, I AM REQUIRED TO APPLY FOR A VARIANCE BECAUSE THIS PLAT IS UNABLE TO MEET THE MINIMUM SETBACKS DESIGNATED WITHIN 3-4.2.4 LOT AND YARD REGULATIONS.
- THE GRANTING OF THIS VARIANCE DOES NOT RESULT IN A USE THAT IS OTHERWISE PERMITTED FOR R-10 RESIDENTIAL ZONING. THIS STRUCTURE WILL BE A SINGLE-FAMILY RESIDENCE.
- DUE TO THE SIZE OF THIS PLAT, I AM REQUIRED TO APPLY FOR A VARIANCE BECAUSE THIS PLAT IS UNABLE TO MEET THE MINIMUM SETBACKS DESIGNATED WITHIN 3-4.2.4 LOT AND YARD REGULATIONS. THEREFORE, A SPECIAL USE PERMIT PROCESS IS NOT APPLICABLE.
- STRUCTURAL DIMENSIONS - SINGLE-FAMILY RESIDENCE

- Depth : 33' 8"
- Height : 28' 6"
- Width : 47'
- Main Ceiling : 8'
- Upper Ceiling Ft : 8'
- Area Total : 1188 sq/ft
- Basement : 843 sq/ft
- Garage : 348 sq/ft
- Main Floor : 843 sq/ft
- Upper Floor : 345 sq/ft

// SIGNED //

Kent Baez
KENT ALBERTO BAEZ

Date Stamp

TOWN OF WARRENTON

P.O. Drawer 341
 Warrenton, VA 20188
 (540) 347-1101 x106
 Permittech@warrentonva.gov

**LAND USE APPLICATION:****AFFIDAVIT**

NO. _____

This affidavit certifies that the party listed, who is listed as the Applicant's Representative on a land use application, has been granted authorization to make an application and act on behalf of a property owner. It must be filled out completely by the property owner if another party is submitting an application(s) on the owner's behalf. This form must be notarized and must be submitted prior to issuance. Copies of affidavits are unacceptable.

I, Kent Alberto Baez / Kent Capital Ventures LLC am the owner of the property listed below and I certify that I have granted, Bethel Builders LLC as my duly authorized agent and give permission to make a land use application and act on my behalf for the following address:

Alexandria Pike and Alexandria Place, Warrenton, VA

for the land use application of TM #6984-55-1596 - Single-Family Residence

Signature of Property Owner: [Signature] Date: 30 JUN 2022

(FOR NOTARY USE ONLY)

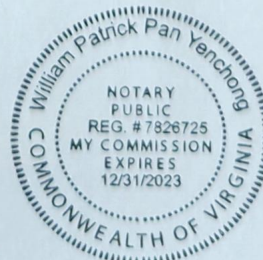
State/District of Virginia City/Town/County of Arlington
 a Notary Public in and for the aforesaid hereby certify that the following person:

Kent Alberto Baez

appeared before me in the State/District and City/Town/County aforesaid and executed this affidavit on the following date (month, day, and year):

Notary Signature: [Signature] Registration Number: 7826725

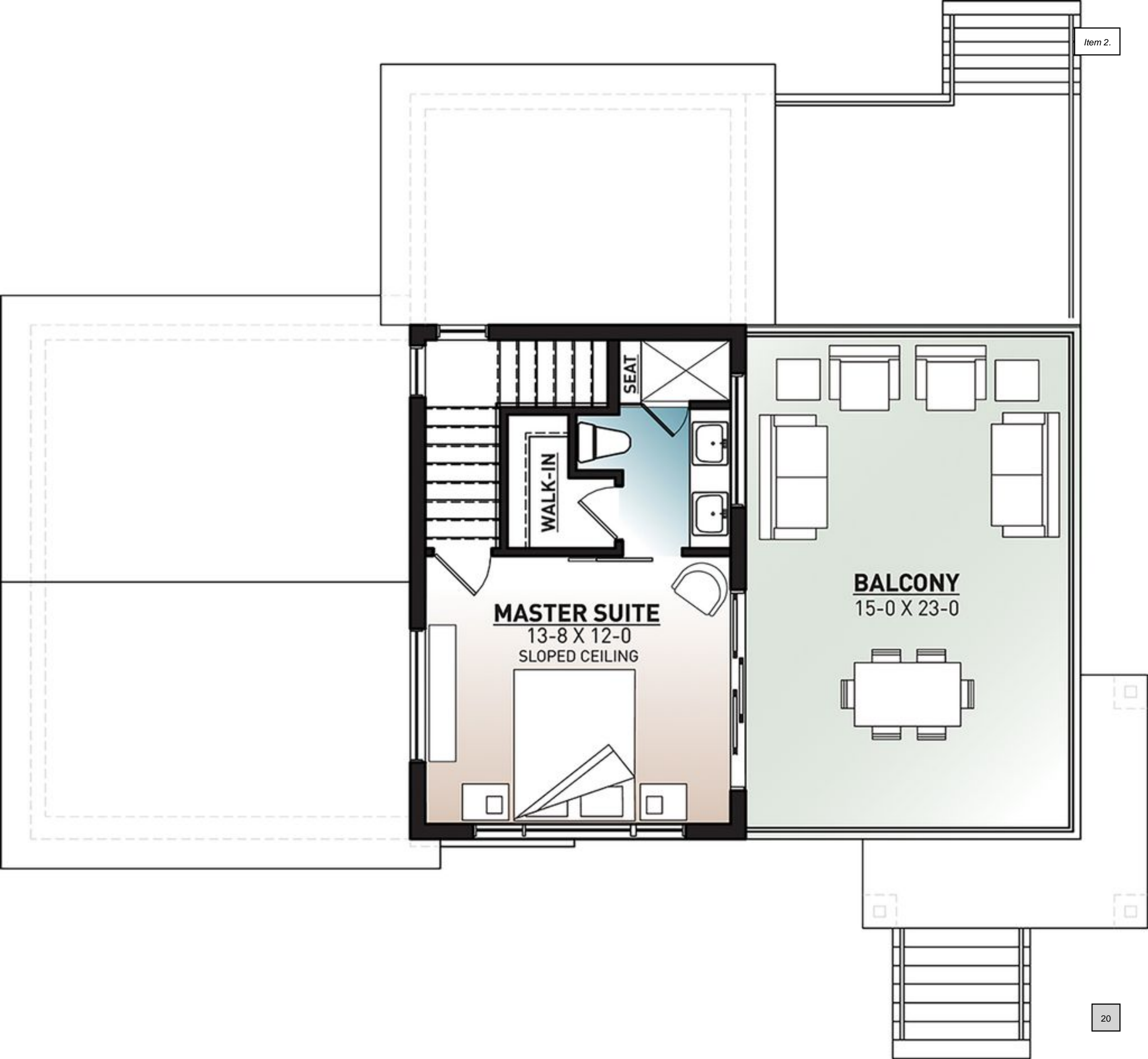
My Commission Expires: 12/31/2023



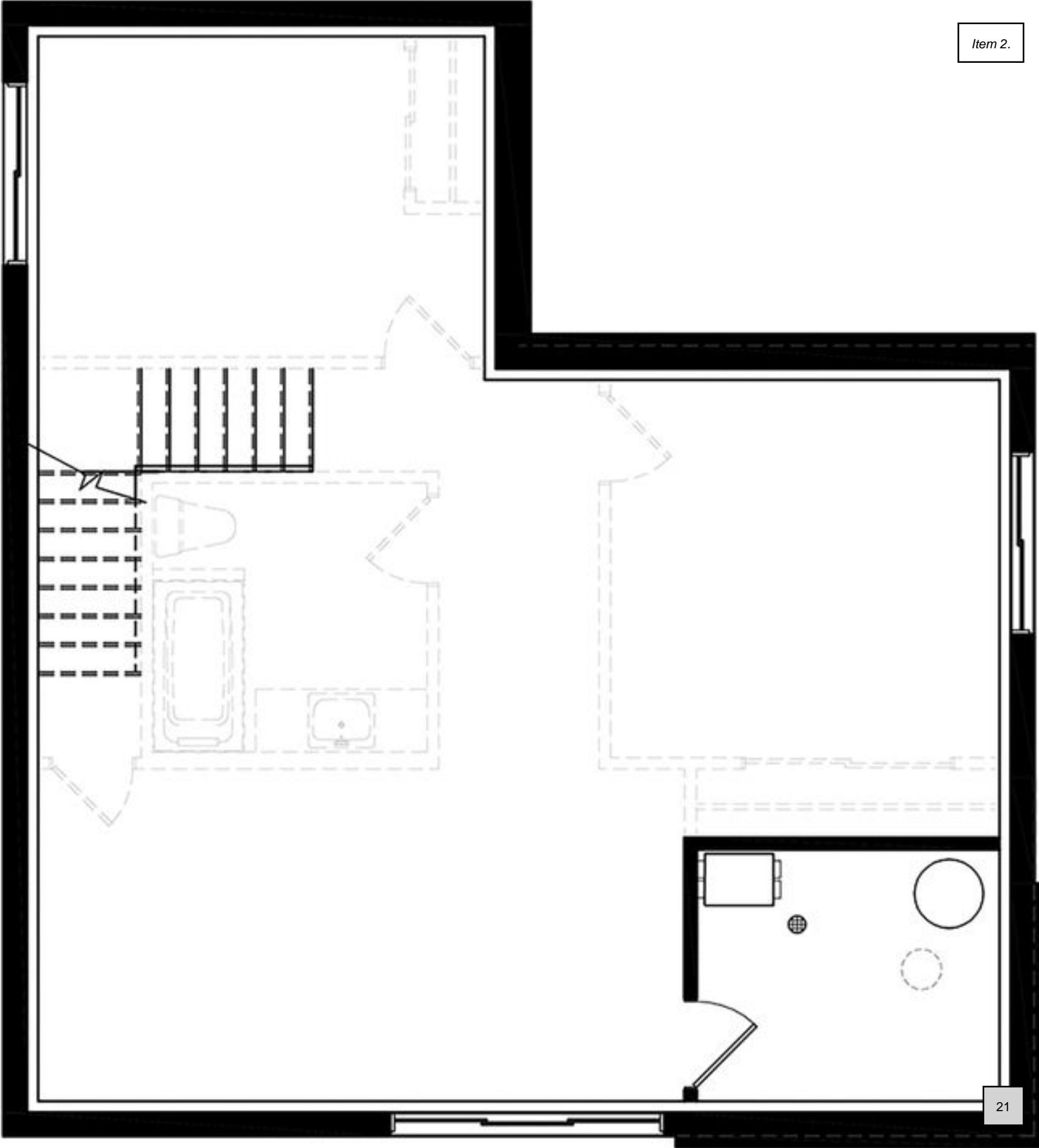


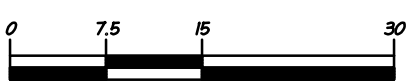






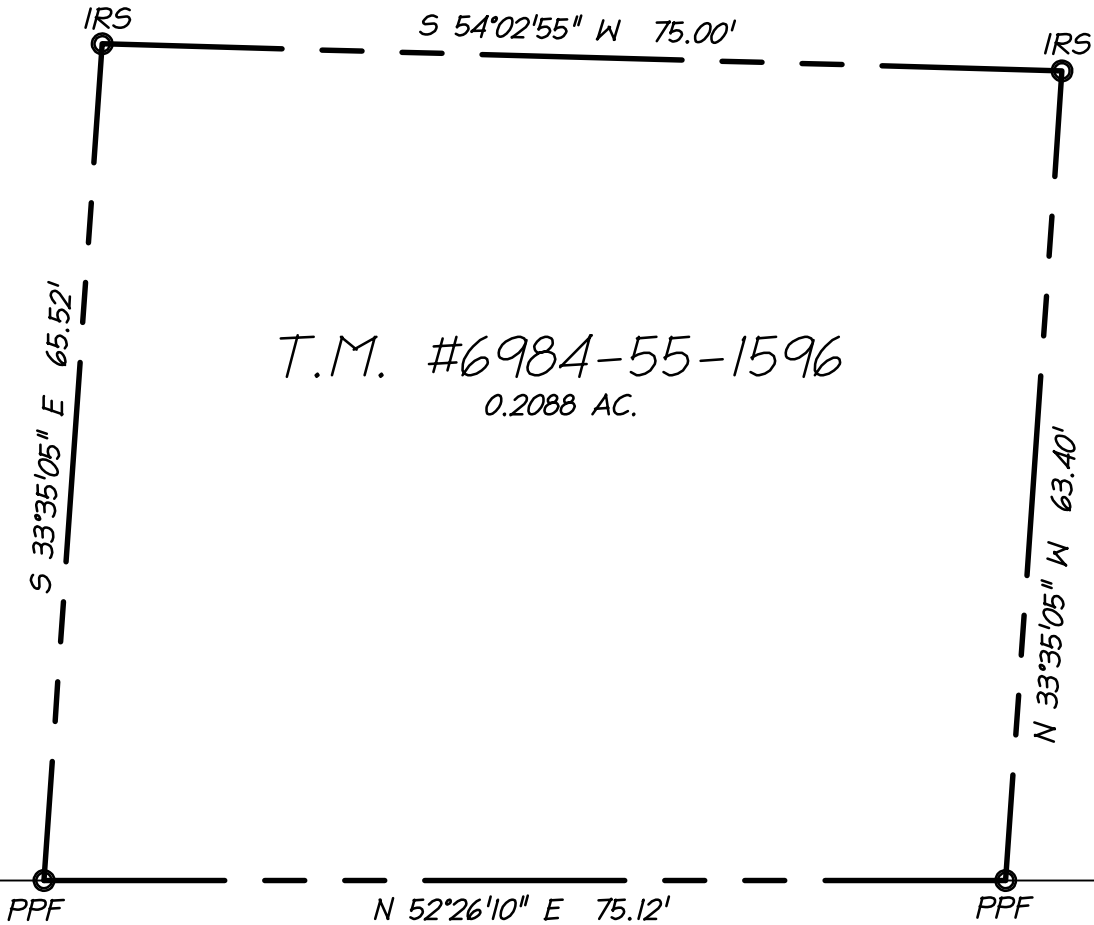
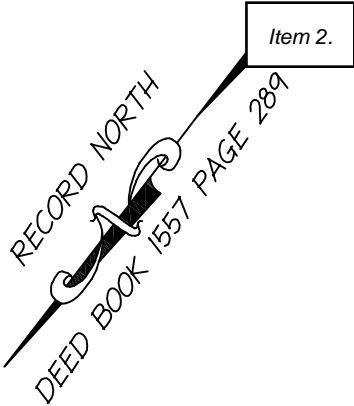
FUTURE FINISHED BASEMENT ADDS
843 SQ. FT. TO THE HEATED
SQUARE FOOTAGE





SCALE: 1" = 15'

N/F
CTR LP.
T.M. #6984-55-4365
DEED BOOK 1557 PAGE 289



CORNER DETAIL:
(N.T.S.)

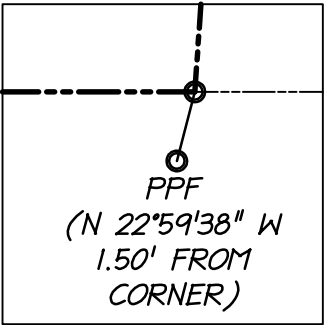
ALEXANDRIA PIKE
(50' R.O.W.)

LEGEND:

R.O.W. RIGHT OF WAY
IRS IRON ROD SET
PPF PINCH PIPE FOUND

NOTES:

1. THIS PLAT WAS PREPARED WITHOUT THE BENEFIT OF A CURRENT TITLE REPORT. THEREFORE, EASEMENTS, RIGHT-OF-WAYS, AND RESTRICTIVE COVENANTS OF RECORD MAY NOT NECESSARILY BE SHOWN. THIS SURVEY DOES NOT CONSTITUTE A BOUNDARY SURVEY.
2. THE PROPERTY SHOWN HEREON IS LOCATED ON THE FAUQUIER COUNTY, VIRGINIA TAX ASSESSMENT MAP AS PARCEL ID No. 6984-55-1596.
3. THE PROPERTY SHOWN HEREON IS NOW OR FORMERLY IN THE NAME OF FLETCHERVILLE LC. AS RECORDED AMONG THE LAND RECORDS OF FAUQUIER COUNTY, VIRGINIA IN DEED BOOK 1544 PAGE 92.
4. THE PROPERTY SHOWN HEREON HAS NOT YET BEEN ASSIGNED A PHYSICAL ADDRESS.



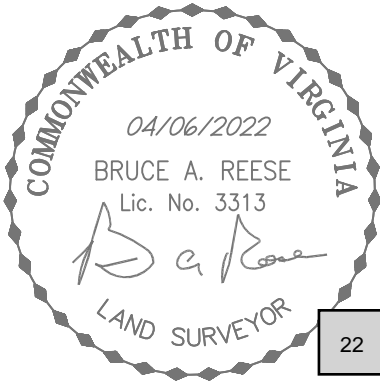
PLAT OF SURVEY

THE LAND OF
FLETCHERVILLE LC
T.M. #6984-55-1596

DEED BOOK 196 PAGE 313
DEED BOOK 1557 PAGE 289
MARSHAL MAGISTERIAL DISTRICT
FAUQUIER COUNTY, VIRGINIA



419 CHATHAM SQUARE
OFFICE PARK
FREDERICKSBURG, VA 22405
WWW.LEGACY-ENG.COM
540.373.8350 (p) 540.369.4499 (f)
DATE: 04/06/22 SCALE: 1" = 15'



- NOTES:
1. NO TITLE REPORT FURNISHED.
 2. PROPERTY SUBJECT TO ALL COVENANTS, EASEMENTS, RESTRICTIONS, RESERVATIONS, CONDITIONS, AND RIGHT OF WAYS OF PUBLIC RECORD.
 3. ALL CONSTRUCTION SHALL CONFORM TO VDOT AND FAUQUIER COUNTY STANDARDS AND SPECIFICATIONS.
 4. SITE IS 100% WOODED.
 5. TOPOGRAPHIC SURVEY PERFORMED BY THE UNDERSIGNED BASED ON COUNTY GIS DATUM.
 6. VA NORTH: SURVEY REFERENCE TO THE VIRGINIA NORTH COORDINATE SYSTEM.
 7. THE CONTRACTOR IS TO NOTIFY MISS UTILITY PRIOR TO ANY CONSTRUCTION FOR THE COMPLETE AND EXACT LOCATION OF ALL UNDERGROUND UTILITIES. 1-800-552-7001
 8. THERE ARE NO EXISTING BUILDINGS ON THE LOT.
 9. PROPERTY IS ZONED R-10 (TOWN OF WARRENTON) THE SETBACKS ARE:
FRONT: 25' (FROM R/W)
SIDE: 10'
REAR: 20'
 10. ADDITIONAL SILT FENCE TO BE PLACED BY CONTRACTOR AS NECESSARY.
 11. THE BOUNDARY DATA SHOWN HEREON IS BASED ON A CURRENT FIELD SURVEY AND PLATS OF RECORD.
 12. PROPERTY SHOWN ON FAUQUIER COUNTY GPIN No. 6984-55-1596-000.
 13. LOT IS TO BE SERVICED BY PUBLIC SEWER & PUBLIC WATER.
 13. PROPERTY APPEARS TO LIE WITHIN F.E.M.A. DEFINED FLOOD ZONE "X" (AREA DETERMINED TO BE OUTSIDE 0.2% ANNUAL CHANCE FLOODPLAIN) AS SHOWN ON FLOOD INSURANCE RATE MAPS NUMBER 51061C 0306C & 51061C 0308C , EFFECTIVE DATE: FEBRUARY 6, 2008.
 14. THE EROSION AND SEDIMENT CONTROL/STORM WATER MEASURES WILL CONFORM TO THE REQUIREMENTS IN THE AGREEMENT IN LIEU AND STATE THE APPLICABLE REQUIREMENTS.

APPLICANT:
OWNER: KENT CAPITAL VENTURES, LLC
DEED BOOK 1721, PAGE 1974

PARCEL ID No. 6984-55-1596-000
PARCEL ZONING: R-10
OVERLAY DISTRICT: CHESAPEAKE BAY
PROPOSED USE: SINGLE FAMILY DWELLING
SITE AREA: 0.1108 ACRE OR 4,826 Sq.Ft.

IMPERVIOUS AREA:
PROPOSED HOUSE: 1,180 Sq.Ft.
PROPOSED DRIVEWAY: 297 Sq.Ft.
WALKS, PORCH, ETC.: 358 Sq.Ft.
TOTAL: 1,835 Sq.Ft.

IMPERVIOUS SURFACE RATIO: $\frac{1,835 \text{ Sq.Ft.}}{4,826 \text{ Sq.Ft.}} = 38.0\%$

DRAINFIELD PERMIT No.: _____
WETLANDS PERMITS REQUIRED: NO
WETLANDS WITHIN 100' OF SITE: NO

| NO. | DATE | REVISION |
|-----|------|----------|
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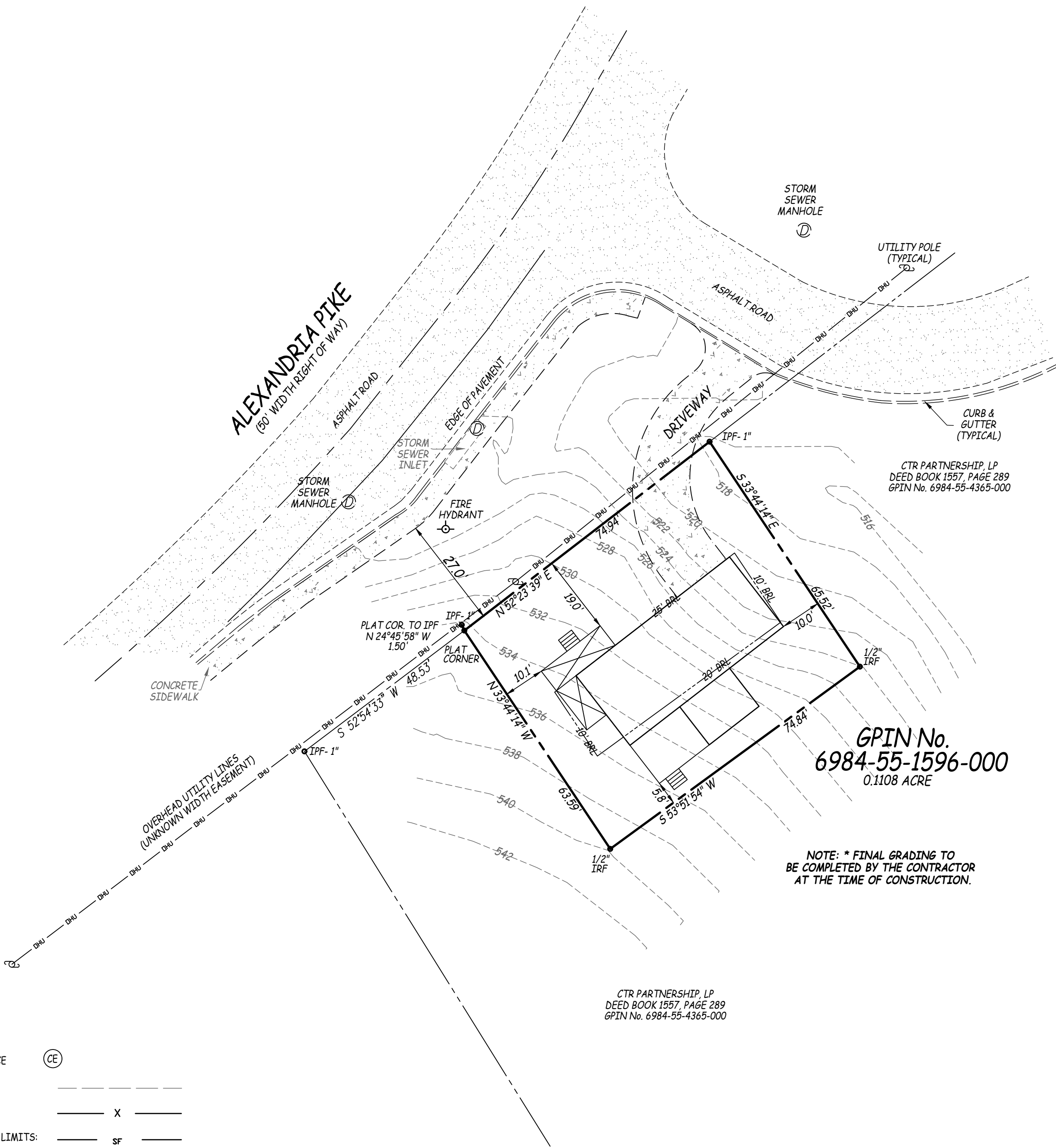
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|----------|------------|----------|----------|---------------|
| MANAGER: | CHKD BY: | CHKD BY: | DATE | FIELDBOOK NO. |
| RLO | DESIGN BY: | MCP | 10-25-22 | N/A |

| | |
|--------|--------------------------------------|
| CLIENT | SCALE 1" = 20' 10' 20' 40' 60' |
|--------|--------------------------------------|

AXIS
LAND SURVEYING, INC.
5753 COURTHOUSE ROAD
SPOTSYLVANIA, VA 22551
(540) 895-5011 (540) 842-7089
AXISLANDSURVEY@AOL.COM

PLAT SHOWING SITE PLAN
GPIN No. 6984-55-1596-000
KENT CAPITAL VENTURES, LLC
PROPERTY
TOWN OF WARRENTON
FAUQUIER COUNTY, VIRGINIA

| | | | |
|-----------|--------|----|---|
| SHEET NO. | 1 | OF | 1 |
| JOB NO. | 22-351 | | |



- LEGEND
- CONSTRUCTION ENTRANCE (CE)
- EXISTING 5' CONTOUR: _____
- DISTURBED LIMITS: _____ X _____
- SILT FENCE & DISTURBED LIMITS: _____ SF _____
- IRON PIPE FOUND: IPF
- BUILDING RESTRICTION LINE: BRL

REGISTERED LAND DISTURBER

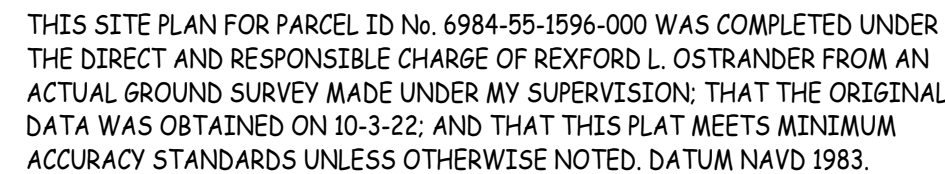
NAME: _____

RLD ID No. _____

EXPIRATION DATE: _____

THIS SITE PLAN FOR PARCEL ID No. 6984-55-1596-000 WAS COMPLETED UNDER THE DIRECT AND RESPONSIBLE CHARGE OF REXFORD L. OSTRANDER FROM AN ACTUAL GROUND SURVEY MADE UNDER MY SUPERVISION; THAT THE ORIGINAL DATA WAS OBTAINED ON 10-3-22; AND THAT THIS PLAT MEETS MINIMUM ACCURACY STANDARDS UNLESS OTHERWISE NOTED. DATUM NAVD 1983.

PRELIMINARY DRAWING
(NOT TO BE RECORDED)



EXPIRATION DATE: _____

WETLANDS WITHIN 100' OF SITE: NO

CTR PARTNERSHIP, LP
DEED BOOK 1557, PAGE 289
GPIN No. 6984-55-4365-000

PRELIMINARY DRAWING
(NOT TO BE RECORDED)

PLAT SHOWING SITE PLAN
GPIN No.
6984-55-1596-000
KENT CAPITAL
VENTURES, LLC
PROPERTY
TOWN OF WARRENTON
FAUQUIER COUNTY, VIRGINIA

TOP NO 22-351

and that he will execute such further assurance of the said land as may be requisite.

The said grantor covenants and agrees for himself, his heirs and assigns and successors, that the considerations hereinabove mentioned and paid to him shall be in lieu of any and all claims to compensation and damages by reason of the location, construction, and maintenance of said highway, including such drainage facilities as may be necessary.

WITNESS the following signatures and seals:

Blanche Laur [SEAL]

STATE OF VIRGINIA,

County of FAVOUR To-wit:

I, Lucy H. Olinger, a Notary Public in and for
the County aforesaid, in the State of Virginia, do certify that Blanche Laws
and _____, whose names are signed to the foregoing writing,
bearing date on the 17th day of April, 1956, have each
acknowledged the same before me in my County aforesaid.

My term of office expires.

Glean under my hand this 10 day of

Notary Public.
Clerk's Office of Fauquier Circuit Court. 10 Aug 1916
This deed of plat was this day received in said
Office and with certificate admitted to record at 2:57 PM
Teste: H. L. Pearson Dep. Clerk

THIS DEED made and entered into this the 2nd day of July, 1956, by and between Elizabeth Anne Wells and Homer Browne Wells, her husband, parties of the first part, and Keith N. Fletcher, party of the second part.

WITNESSETH: That for and in consideration of the sum of TEN DOLLARS (\$10.00), and other valuable consideration moving between the parties hereto, and paid by the party of the second part, to the parties of the first part, the receipt whereof at and before the sealing and delivery of this deed is hereby acknowledged, the said parties of the first part have bargained and sold, and by this deed do hereby bargain, sell, grant and convey with GENERAL WARRANTY OF TITLE unto him, the said party of the second part, the following described real estate, to-wit:

All that certain lot or parcel of land lying and being near the corporate limits of the Town of Warrenton, Fauquier County, Virginia, on the Alexandria Pike and containing 4853 Square Feet and more particularly described by plat and survey hereto attached, made by Fred Bartenstein, S. F. C., dated July 18 1956, and made a part hereof; it being the same and identical land conveyed to John T. Beatty and James B. Beatty (who was one and the same person as James Downing Beatty) jointly by deed from E. W. Brown and Mary S. Brown, his wife, dated February 15th 1927, and recorded in the Office of the Clerk of the Circuit Court of Fauquier County, Virginia, in Deed Book No. 129 at Page 537; it also being the same and identical land as to the one-half undivided interest of which John T. Beatty died seized and possessed, intestate, which was conveyed to the said James Downing Beatty by Walter H. Robertson, Special Commissioner, by deed dated the 7th day of April, 1931, and recorded in the Clerk's Office aforesaid in Deed Book No. 136 at Page 119; it also being the same land of which the said James Downing Beatty died seized and possessed, testate, on the 31st day of March 1956, and which passed under his last Will and Testament, recorded in the Clerk's Office aforesaid, in Will Book No. 68 at Page 339, to his daughter, the said Elizabeth Anne Wells; LESS AND EXCEPTING HOWEVER, from the lot or parcel of land conveyed to the said John T. Beatty and James B. Beatty by E. W. Brown, et ux, as aforesaid, a strip conveyed to the Commonwealth of Virginia by Downing Beatty and Kathleen Beatty, his wife, by deed dated the 6th day of June, 1931, and recorded in the Clerk's Office aforesaid, in Deed Book No. 136 at Page 246, and to which said deeds, will and intestacy reference is hereby had for a more particular description of the property herein conveyed.

TO HAVE TO HOLD the above granted lot or parcel of land,
together with all rights, ways, easements and appurtenances thereto

Item 2.

E A WELLS
& AL

TO (E & S)

K N FLETCHER

[illegible]



Board of Zoning Appeals (BZA)
BZA 2022-2
Alexandria Pike
December 6, 2022

Property Information

Item 2.

- Applied for Variance on August 31, 2022
- Applicant: Kent Baez
- Owner: Kent Capital Ventures, LLC
- Location: Intersection of Alexandria Pike and Moorhead Drive (In front of Noble Senior Living)
- Property: 0.1114 acres (4,855 sq. ft.)
- Zoning: Residential R-10
- Surrounded by single-family detached dwellings and a senior living facility

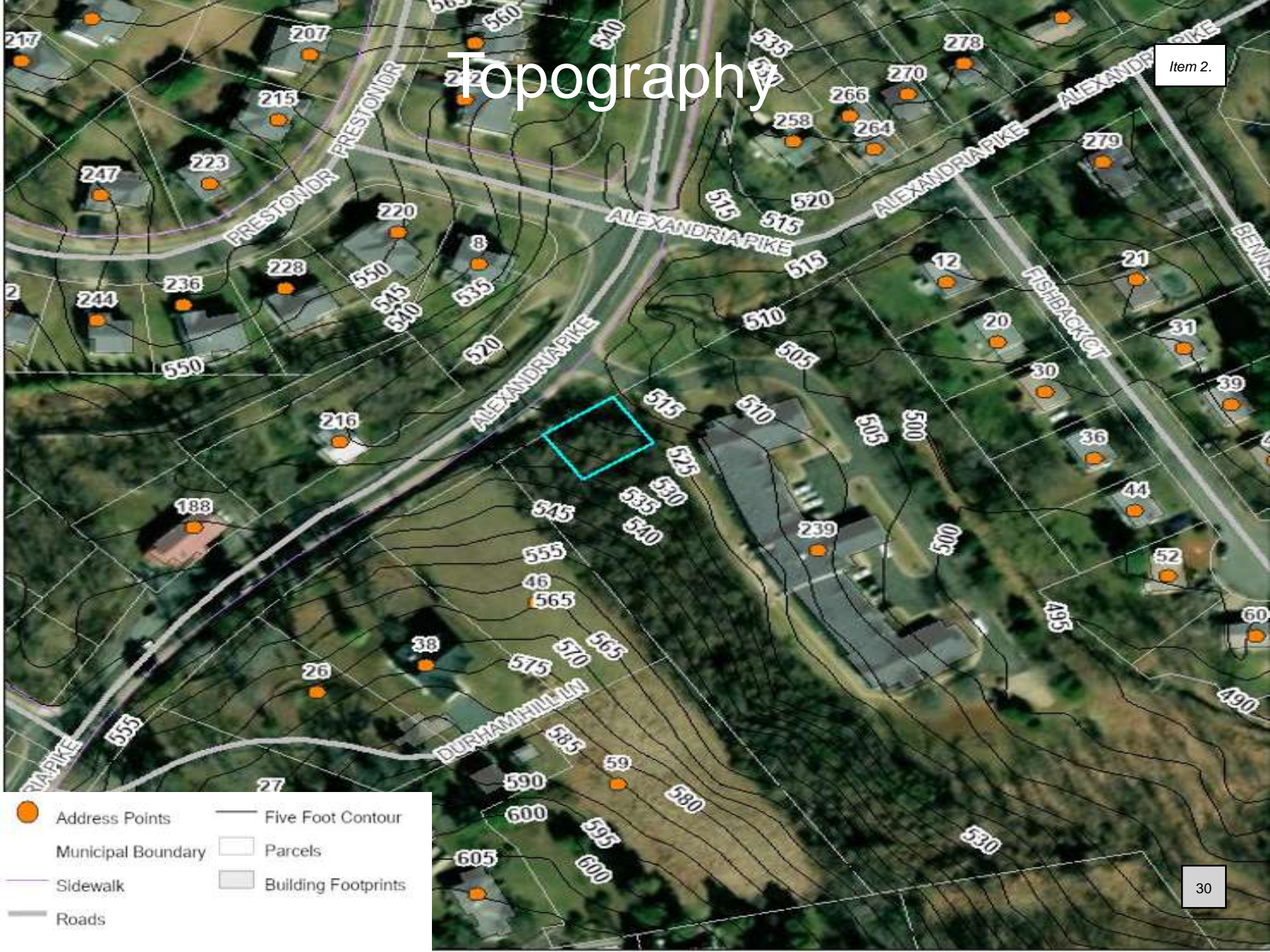
Aerial

Item 2.



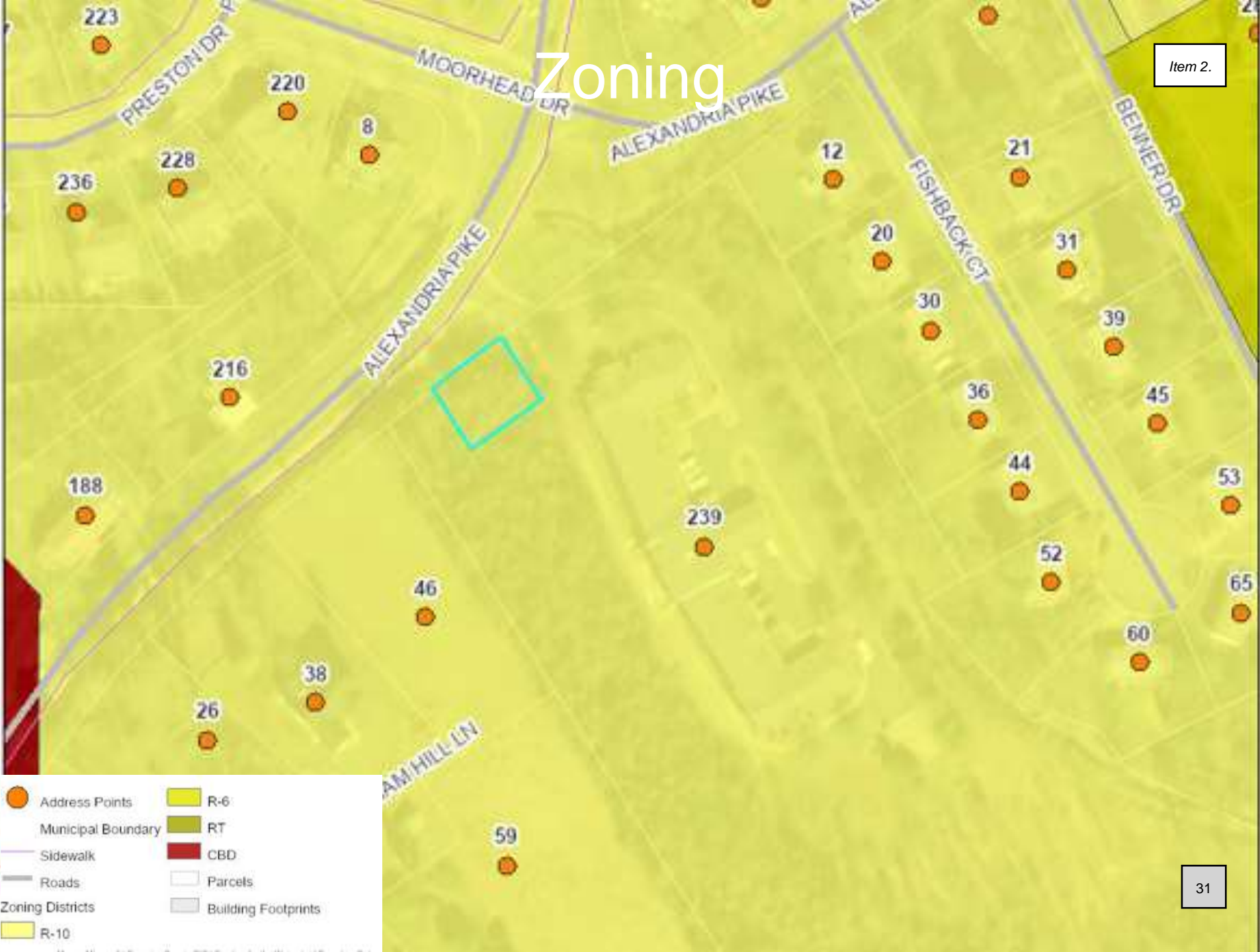
Topography

Item 2.



Zoning

Item 2.



Background

- Within R-10 Zoning District (Legal non-conforming)
 - 4,855 square foot lot (10,000 square foot minimum)
- Subdivision of the property was approved in 1956 prior to being boundary line adjusted into the Town's jurisdiction
- Applicant purchased the property in 2022.

Request

Item 2.

- Variance to build a single-family home within the required front and rear yard setbacks.
 - Required setbacks in the R-10 District:
 - Front: 25'
 - Side: 10'
 - Rear: 20'
 - Requested setbacks:
 - Front: 15'
 - Side: 10'
 - Rear: 5.8' (Home)
2.5' (Deck Stairs)

Analysis

- Use of lot severely impacted due to size (4,855 square feet)
- Significant topography challenges along Alexandria Pike.
- Variance grants ability to utilize the flatter portion of the lot for a Single-family home, a by-right permitted use.
- Legal non-conforming lots may be developed without a variance if permitted use meets setbacks. The lot depth for this property provides a limited buildable area.
- The proposed front porch meets current setback requirements under Article 2-18.7 of the ZO.

“2-18.7 Front porches may project into any required front yard by not more than six feet into the required yard setback, not more than three feet into required side yard setback and into not more than ten feet into the required rear yard setback.”

- The porch is shown at 19', meeting this requirement. (25'-6'=19')
Variance is requested due to the front staircase extending beyond allowable encroachment.

Analysis Cont.

Item 2.

- A portion of the home, the entire rear deck, and the staircase currently encroach within the required 20' rear setback. (Currently shown at 5.8' from the property line)

- Decks are permitted to encroach within the rear yard setback:

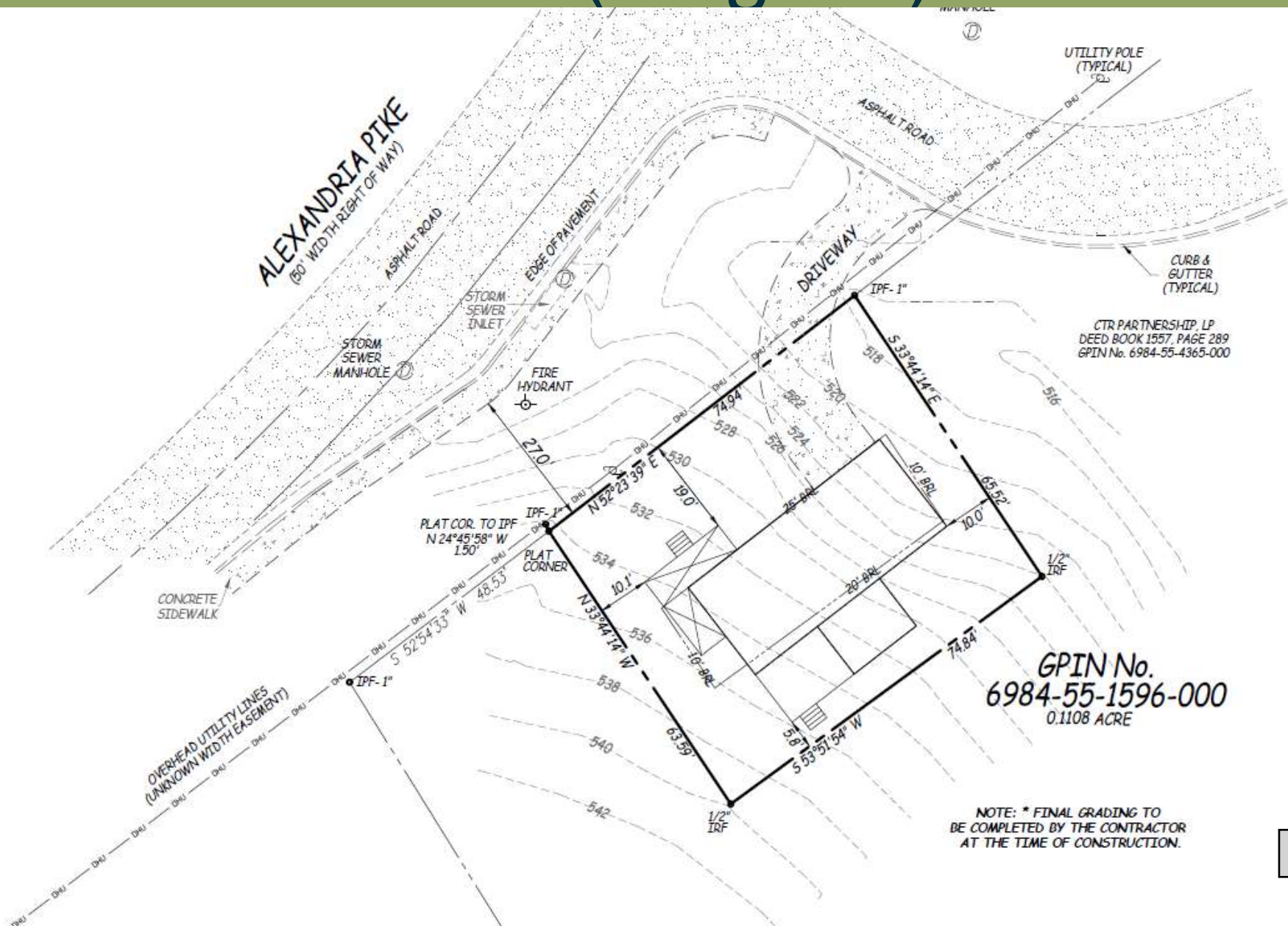
"2-18.5 Decks may not project into any required front yard, or side yard but may project into rear yards by not more than one-half of the required rear yard setback, provided that no deck extends closer than 10 feet to any rear property line. Decks built within such encroachments may not be covered or enclosed."

- Staff suggested the applicant move the rear staircase to the side of the deck. The Zoning Ordinance allows encroachment of up to 4' into any required side or rear setback. Moving the staircase location lessens the variance request and makes the staircase conform to setbacks.

"2-18.4 An outside stairway, unenclosed above and below its steps, may extend four (4) feet into any required side or rear setback, but not nearer to any side lot line than a distance of six (6) feet."

Plat (Original)

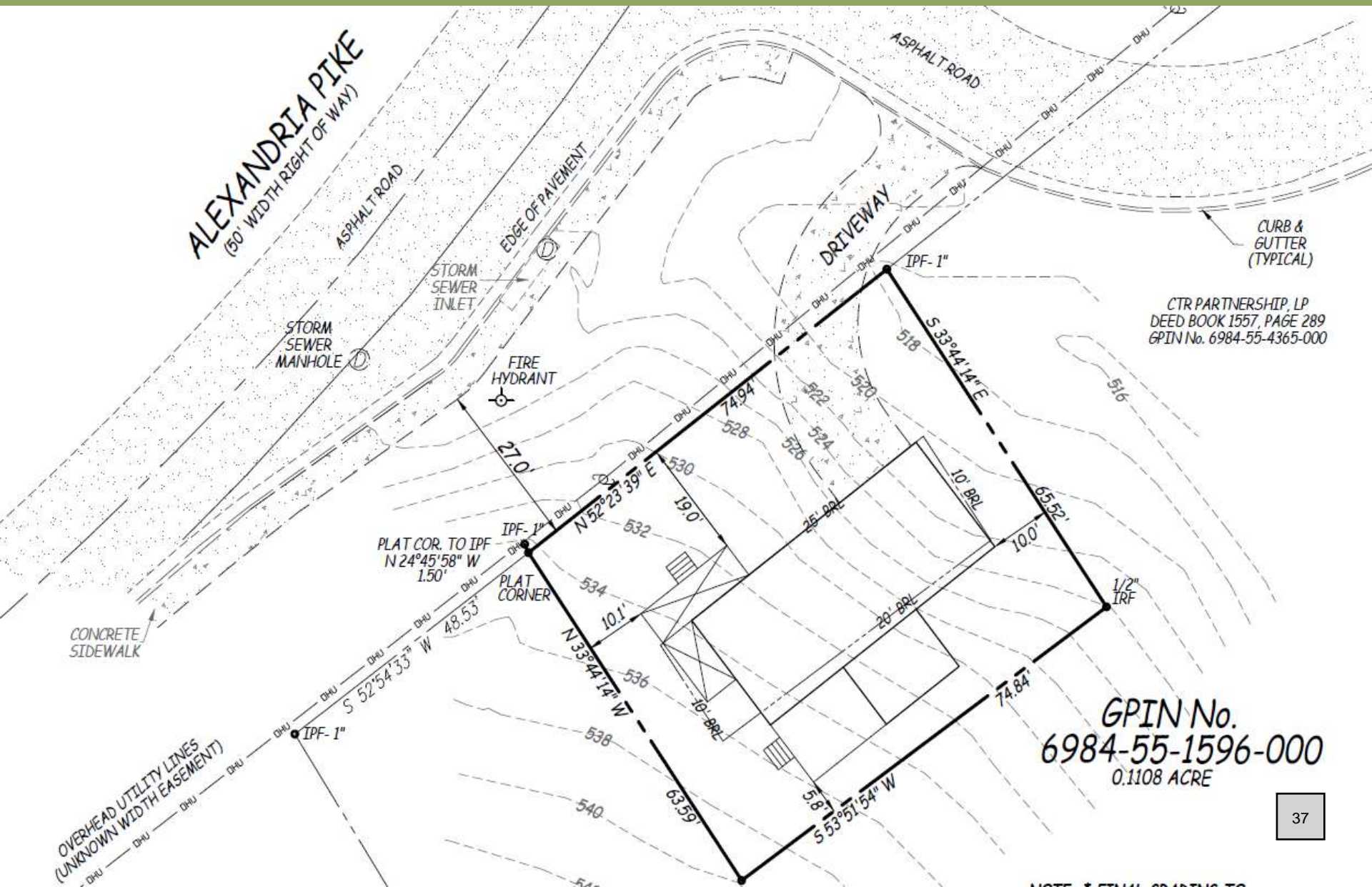
Item 2.



8. THE
9. PRO
- FROM
- SIDE
- REA
10. ADJ
11. THE
- ANI
12. PRO
13. LOT
13. PRO
- DET
- FLO
- DA
14. THE
- CON
- APP

Plat (Revised)

Item 2.





Front of Property





Side View





Slope





View from adjacent property service drive



Elevations

Item 2.

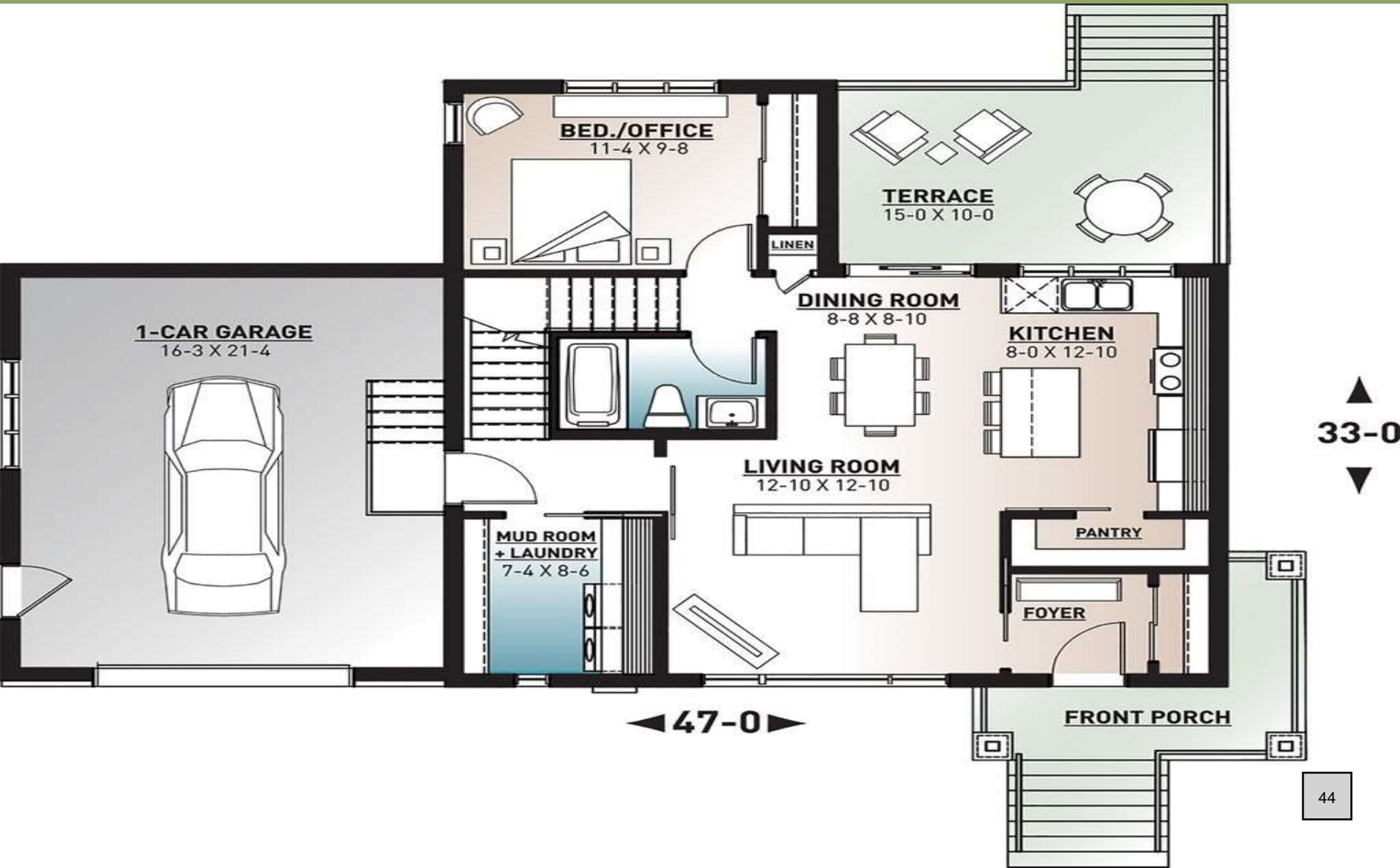


Elevations

Item 2.



Floor Plan

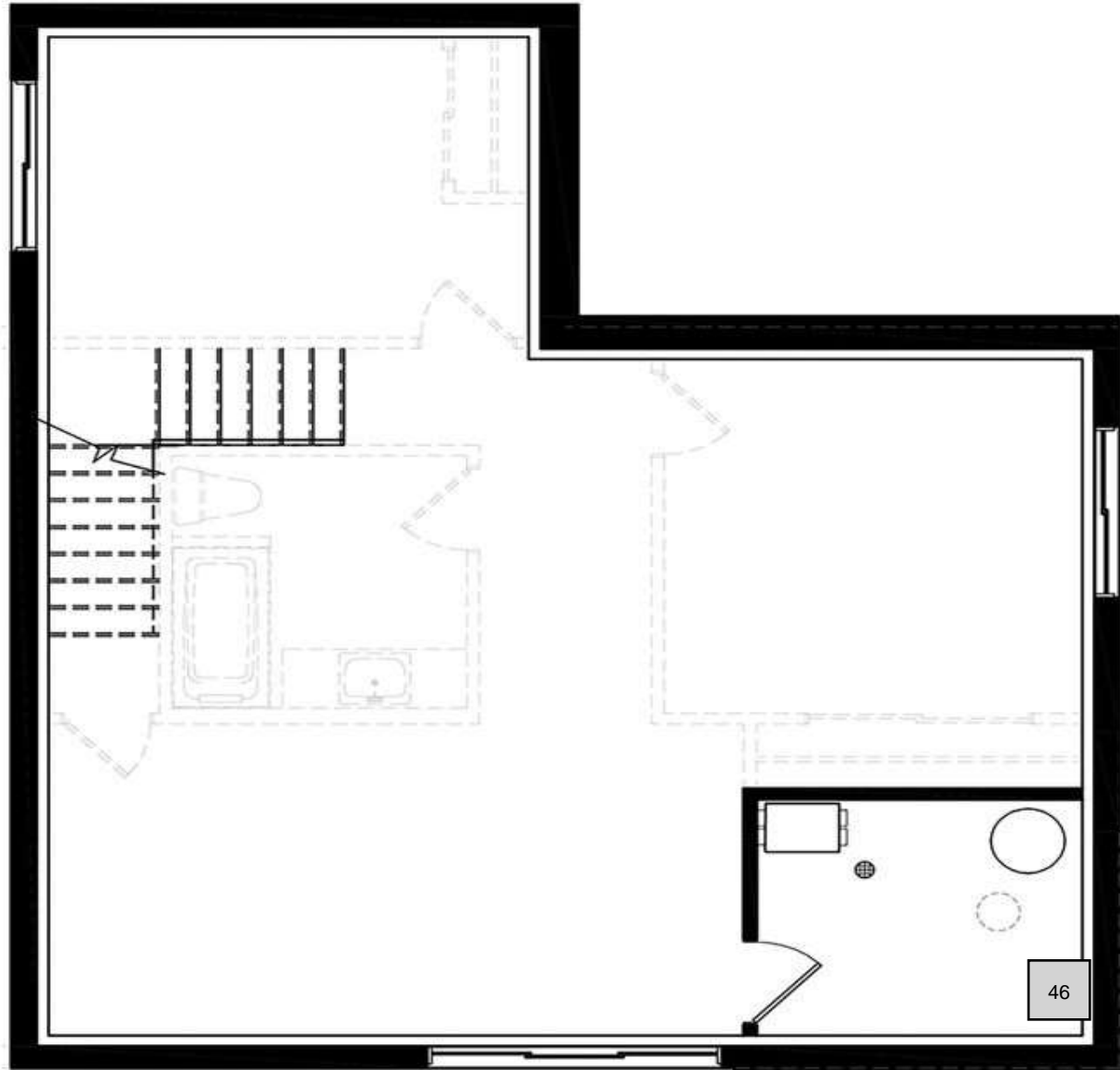


Floor Plan



Floor Plan

FUTURE FINISHED BASEMENT ADDS
843 SQ. FT. TO THE HEATED
SQUARE FOOTAGE



Definition

- A variance is defined by State Code and the Zoning Ordinance as:
 - *Variance – In the application of a zoning ordinance, a reasonable deviation from those provisions regulating the shape, size, or area of a lot or parcel of land or the size, height, area, bulk, or location of a building or structure when the strict application of the ordinance would unreasonably restrict the utilization of the property, and such need for a variance would not be shared generally by other properties, and provided such variance is not contrary to the purpose of the ordinance. It shall not include a change in use, which change shall be accomplished by a rezoning or by a conditional zoning.*
- The BZA may impose conditions regarding the locations, character, and other features of the proposed structure or use as it may deem necessary in the public interest

Criteria

Item 2.

➤ **Variances must meet one of three criteria:**

1. Unreasonably restrict utilization of the property
 - *Use of property is impacted by size and topography*
2. That granting the variance would alleviate a hardship due to a physical condition relating to the property or improvements thereon at the time of the effective date of the Ordinance
 - *Variance allows property owner to utilize the lot for a by-right SFD*
3. Alleviate a hardship by granting a reasonable modification to a property or improvements thereon requested by, or on behalf of, a person with a disability
 - *Applicant has not requested the variance due to a disability*

Criteria

Item 2.

➤ **AND all five of the following criteria:**

1. The property interest for which the variance is being requested was acquired in good faith, and any hardship was not created by the Applicant for the variance
 - *Applicant acquired the property in good faith in March of 2022*
2. The granting of the variance will not be of substantial detriment to adjacent property and nearby properties in the proximity of that geographical area
 - *Impact is limited; Property is located across the street from existing single-family homes and in front of an assisted living facility*
3. The condition or situation of the property is not of so general or recurring of a nature as to be adopted as an amendment to the Ordinance
 - *Property was subdivided before being BLA into Town limits and is under the minimum lot size. Lot is considered Legal non-conforming*
4. The granting of the variance does not result in a use that is not otherwise permitted on such property or a change in the zoning classification of the property
 - *SFD are by-right in the R-10 Zoning District*
5. The relief or remedy sought by the variance application is not available through a special use permit process that is authorized in the Ordinance or the process for modification to the Zoning Ordinance at the time of the filing of the variance application
 - *Special Use Permit cannot provide relief from setback requirements*

BZA Concurring Vote

Item 2.

- Variance must receive a vote of approval from the majority of the BZA to be granted
 - Majority for Warrenton = 3 votes
- If majority approval is not received, then the request is denied
- Appeals to a BZA decision must be made to the circuit court within thirty (30) days after the BZA decision

Pattern Motion of Approval

Item 2.

In Application BZA #2022-2, I move to grant the Variance, after due notice and hearing as required by Code of Virginia §15.2-2204 and Article 11-3.11 of the Town of Warrenton Zoning Ordinance, based on upon the following Board findings:

1. The strict application of the Ordinance would unreasonably restrict the utilization of the property the need for the variance will not be shared generally by other properties, and the variance is not contrary to the purpose of the ordinance.
2. The property interest for which the variance is being requested was acquired in good faith and any hardship was not created by the applicant for the variance; and
3. The granting of the variance will not be of substantial detriment to the adjacent property and nearby properties in the proximity of that geographical area; and
4. The condition or situation of the property concerned is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the Ordinance; and
5. The granting of the variance does not result in a use that is not otherwise permitted on such property or a change in the zoning classification of the property; and
6. The relief or remedy sought by the variance application is not available through a Special Exception or Special Permit process that is authorized in the Ordinance or the process for a modification from a provision of the Zoning Ordinance at the time of the filing of the variance application.

The Variance is granted subject to the following conditions, safeguards, and restrictions upon the proposed uses, as are deemed necessary in the public interest to secure compliance with the provisions of this Ordinance:

1. The site shall be in substantial conformance with the information and drawings submitted with the variance application except as specifically modified by the conditions below or as necessary to meet Zoning Ordinance requirements.
2. The rear deck stairs shall be relocated to the side of the house, per the plat submitted on November 10, 2022.

Pattern Motion of Denial

Item 2.

In Application BZA #2022-2, I move to deny the Variance, after due notice and hearing, as required by Code of Virginia §15.2-2204 and Article 11-3.11 of the Town of Warrenton Zoning Ordinance, based on upon the following Board findings:

1. The strict application of the Ordinance inconveniences the Applicant but does not unreasonably restrict the utilization of the property.
2. The strict application of the Ordinance does not alleviate a hardship due to a physical condition relating to the property or improvements thereon at the time of the effective date of the Ordinance.
3. The strict application of the Ordinance does not alleviate a hardship by granting a reasonable modification to a property or improvements thereon requested by, or on behalf of, a person with a disability.
4. The variance would be contrary to the intent and purpose of the Zoning Ordinance.
5. The granting of the variance would not result in substantial justice being done.
6. The relief requested can be granted only through modification of the zoning ordinance.
7. _____

Questions.....



Board of Zoning Appeals (BZA)
BZA 2022-2
Alexandria Pike
December 6, 2022