

WHITEMARSH TOWNSHIP
ZONING HEARING BOARD AGENDA
February 11, 2026
6:30 PM

___ Behr ___ Doran ___ Nester (Chair) ___ Tone ___ Weinstein (Vice-Chair)

1. CALL TO ORDER

2. ANNOUNCEMENTS & CORRESPONDENCE

- *Applicants are requested not to remove signs after the hearing at this time; Township staff will remove them once the hearing is completed.*

3. ZONING HEARING BOARD APPLICATIONS

- **ZHB #2025-38:** Cadence Development Partners, LLC; 318 Whitemarsh Valley Road, Fort Washington, PA 19034; Parcel #65-00-12916-00-6; Block 049D, Unit 009; AAA-Residential District; The Applicant is proposing to construct a new single-family home and related improvements on this vacant lot approved as a building lot by agreement between record owner and Whitemarsh Township in 1997. The following relief is requested: **Special Exceptions pursuant to Sections 116-31.1.A. and 116-31.1.B.** to allow a portion of the proposed detention/retention facility between the front lot line and front principal building plane and a portion of said facility within a required side yard; **Special Exception pursuant to Section 116-166.B.** to allow a detention basin (rain garden) to be located in the Floodplain Conservation District or Riparian Corridor Conservation District; **Variance from Section 116-259.A.** to allow required front yards, side yards and rear yards within the Riparian Conservation District and to permit the proposed single family home and related accessory improvements (as shown on the plans) to be located within the Riparian Corridor Conservation District; **Variance from Section 116-259.C.** to permit the proposed residential dwelling use to be located within Zone 2 of the Riparian Corridor Conservation District; **Variance from Section 116-259.C.(4)** to permit residential accessory structures (as shown on the plans) greater than 200 square feet to be located within Zone 2 of the Riparian Corridor Conservation District; **Variance from Section 116-260.A.** to permit the applicant to not show all of the existing vegetation in the area to be cleared for the proposed single family home development and to allow clearing as proposed on the plans; **Variance from Section 116-260.I.** which prohibits stormwater basins, berms and outfall structures in Zone 2 of the Riparian Corridor Conservation District to permit the stormwater basin, berms and outfall structures to be designed and installed as proposed on the plans. *[Please Note: At the meeting on January 14, 2026, a continuance to February 11, 2026 was announced.]*
- **ZHB #2025-47:** BHC Northwest Psychiatric Hospital; attn: Jessica Becker, CEO; 7170 Lafayette Avenue, Fort Washington, PA 19034; Parcel # 65-00-00868-50-7; Block 055, Unit 048; B – Residential District; Institutional Overlay District; Floodplain Conservation Overlay District; Riparian Corridor Conservation Overlay District (RCCD); The Applicant is proposing to install some flood mitigation improvements on the site of the Brooke Glen Behavioral Hospital at the Property Location. The following relief is requested: **Variance from Section 116-165.B.** in order to construct the proposed improvements and floodproof the existing building to meet the provisions set forth in Sections 116-204.A. & B.; **Variance from Section 116-176.** as the dimensional requirements are not met by the existing building structure and the proposed improvements are restricted to the existing building structure and/or the existing courtyard fence locations.; **Variance from Sections 116-259.** and 116-260. since the existing building and proposed improvement are located within the Riparian Corridor Conservation Overlay District.; **Variance from Section 116-259.A.** since the existing building and proposed improvement do not meet the RCCD setback requirements. *{Please note: this was to be a rescheduled hearing; originally scheduled for December 10, 2025. By email dated December 24, 2025, the applicant’s attorney has requested a further continuance to February 11, 2026}*
- **ZHB #2025-53:** OnSite Ventures LLC c/o Edmund J. Campbell, Esq.; 29 Germantown Pike, Plymouth Meeting, PA 19462; Parcel # 65-00-04474-00-6; Block 041, Unit 008; VC-2 – Village Commercial District Sub-district 2;

The Applicant is proposing to change an existing legal nonconforming use to another nonconforming use. The following relief is requested: **Special Exception under Section 116-192.** to change an existing nonconforming full-service automotive repair business to an automobile detailing business with a reduced and limited scope of automobile repair services. *[Please Note: At the meeting on January 7, 2026, a continuance to February 11, 2026 was announced.]*

- **ZHB #2025-54:** Dennis Lojeski; 5174 Butler Pike, Plymouth Meeting, PA 19462; Parcel # 65-00-01330-00-9; Block 045, Unit 040; CLI – Campus-Type Limited Industrial District; Institutional Overlay District; The Applicant is proposing to subdivide his property by creating a rear (flag) lot, construct a single- family dwelling on the rear lot, and convert the existing residence to a future CLI use. The following relief is requested: **Variance from Section 116-11.** with respect to the definition of ‘Building Setback Line’ so as to permit the rear lot configuration of Lot ‘B’. The proposed building setback line will be measured from the newly established rear lot line of Lot ‘A’ instead of it being measured at the minimum front yard setback (from the ultimate right-of-way line); **Variance from Section 116-31.** to allow a minimum lot frontage at the street line of 15.78’ for Lot ‘B’, whereas a 50’ minimum width is required; **Variance from Section 116-120.** to allow a (single-family) residential use in the CLI District on Lot ‘B’ whereas such use is not listed as an allowed use in said section; **Variance from Section 116-121.B.** to allow proposed Lots ‘A’ and ‘B’ to contain approximately 7,050 and 24,825 square feet, respectively, whereas the minimum lot size of 10 acres is required in the CLI District; **Variance from Section 116-121.D.** to allow the proposed side and rear setbacks on Lot ‘A’ and the proposed side setbacks on Lot ‘B’ to be less than 50’, which is the minimum required distance for all setbacks on both lots; **Variance from Section 116-122.** to allow all yards which are less than 50’ in width to be landscaped to the width available wherein this section requires all yard setbacks to be landscaped to a depth of 50’ for the entire length thereof; Special Exception under Section 116-123.B. to allow parking in the front yard on Lot ‘B’ and a **Variance from Section 116-123.B.** to allow said parking to be less than 50’ from Lot ‘A’, as this lot may be residentially used which would require a minimum setback of 50’.

4. ADJOURNMENT

PUBLIC PARTICIPATION

It is the practice of the Zoning Hearing Board to hear public comment and entertain questions on each application at the public meeting. However, any person or entity who wishes to obtain formal party status in any application before the Zoning Hearing Board shall fill out a ‘Request for Entry of Appearance as a Party’ form, available on the Township website or at the public meeting. The completed form should be presented to the Board when the application is called by the Chair for consideration at the public hearing. A determination will be made at the public hearing as to whether party status will be granted. Party status will be generally explained at the public meeting, but those who have more specific questions regarding party status should consult with an attorney.

WHITEMARSH TOWNSHIP ZONING HEARING BOARD
REQUEST FOR ENTRY OF APPEARANCE AS A PARTY

I request to be granted party status in Application No. _____

Applicant: _____

Please print name, address, phone number, and email address below:

Name: _____

Address: _____

Phone Number: _____

Email Address: _____

Please sign below:

ZHB APPEAL #2025-54
SUMMARY

APPLICANT: Dennis Lojeski

PROPERTY LOCATION: Parcel # 65-00-01330-00-9
Block 045, Unit 040
5174 Butler Pike
Plymouth Meeting, PA 19462

ZONING DISTRICTS: CLI – Campus-Type Limited Industrial District
Institutional Overlay District

SUMMARY OF RELIEF REQUEST:

The Applicant is proposing to subdivide his property by creating a rear (flag) lot, construct a single-family dwelling on the rear lot, and convert the existing residence to a future CLI use. The following relief is requested:

1. **Variance from Section 116-11.** with respect to the definition of 'Building Setback Line' so as to permit the rear lot configuration of Lot 'B'. The proposed building setback line will be measured from the newly established rear lot line of Lot 'A' instead of it being measured at the minimum front yard setback (from the ultimate right-of-way line).
2. **Variance from Section 116-31.** to allow a minimum lot frontage at the street line of 15.78' for Lot 'B', whereas a 50' minimum width is required.
3. **Variance from Section 116-120.** to allow a (single-family) residential use in the CLI District on Lot 'B' whereas such use is not listed as an allowed use in said section.
4. **Variance from Section 116-121.B.** to allow proposed Lots 'A' and 'B' to contain approximately 7,050 and 24,825 square feet, respectively, whereas the minimum lot size of 10 acres is required in the CLI District.
5. **Variance from Section 116-121.D.** to allow the proposed side and rear setbacks on Lot 'A' and the proposed side setbacks on Lot 'B' to be less than 50', which is the minimum required distance for all setbacks on both lots.
6. **Variance from Section 116-122.** to allow all yards which are less than 50' in width to be landscaped to the width available wherein this section requires all yard setbacks to be landscaped to a depth of 50' for the entire length thereof.
7. **Special Exception under Section 116-123.B.** to allow parking in the front yard on Lot 'B' and a **Variance from Section 116-123.B.** to allow said parking to be less than 50' from Lot 'A', as this lot may be residentially used which would require a minimum setback of 50'.

PRIOR DECISION:

ZHB 2016-10: Variances for front yard porch encroachment; extension/alteration of nonconforming use.

Respectfully Submitted,

Charles L. Guttenplan, AICP
Director of Planning and Zoning/Zoning Officer

APPEAL TO ZONING HEARING BOARD
WHITEMARSH TOWNSHIP
COMMONWEALTH OF PENNSYLVANIA

APPEAL NO: _____

Applicant/Appellant: DENNIS LOJESKI

Address: 5174 Butler Pike Plymouth Meeting PA 19462
Phone #: _____ Cell Number: 215-512-1566 E-Mail: _____

Owner: DENNIS LOJESKI

DLojeski@MADISONMASONRY.NET

Address: _____
Phone #: _____ Cell Number: _____ E-Mail: _____

Location of the Property Involved:

Block #: 045 Unit #: 040 Parcel #: 65-00-01330-00-9

NATURE OF APPLICATION (Describe proposed use and/or construction: type of appeal requested and specific section(s) of Whitemarsh Township Zoning Code which is (are) relied upon):

See attached

GROUND(S) FOR APPEAL (State reasons for appeal and nature of hardship, if claimed):
**Attach additional sheets if necessary

I'd like to use the C1F zoned property as my office space and build my new home behind the front house; also my lot is undersized to have two lots.

Legal Counsel (if represented): _____
Address: _____
Phone #: _____ E-Mail: _____

My (Our) signature(s) authorize(s) permission to pose my (our) property and permission to the Zoning Hearing Board and their representative to enter thereon for inspection purposes.

I (We) certify the information provided on this application and supporting documentation and plans are true and correct to the best of my (our) knowledge, information, and belief. You are required to submit proof that you are one of the following:

- I am (We are) Owner(s) of Legal Title
- Owner(s) of Equitable Title
- Tenant(s) with permission of Owner(s) of Title (Enclose letter attesting to same)

Date: 12/23/25

At least one application has a wet, original signature

Signature of Applicant/Appellant:

Signature of Applicant/Appellant:

12

Zoning Hearing Board Letter

Dear Charles,

Thank you for your review and for requesting that the items noted with check marks be addressed. Please find below responses to those items, prepared in a format suitable for Zoning Hearing Board review.

1. **Variance from Section 116-11.** with respect to the definition of 'Building Setback Line' so as to permit the rear lot configuration of Lot 'B'. The proposed building setback line will be measured from the newly established rear lot line of Lot 'A' instead of it being measured at the minimum front yard setback (from the ultimate right-of-way line).
2. **Variance from Section 116-31.** to allow a minimum lot frontage at the street line of 15.78' for Lot 'B', whereas a 50' minimum width is required.
3. **Variance from Section 116-120.** to allow a (single-family) residential use in the CLI District on Lot 'B' whereas such use is not listed as an allowed use in said section.
4. **Variance from Section 116-121.B.** to allow proposed Lots 'A' and 'B' to contain approximately 7,050 and 24,825 square feet, respectively, whereas the minimum lot size of 10 acres is required in the CLI District.
5. **Variance from Section 116-121.D.** to allow the proposed side and rear setbacks on Lot 'A' and the proposed side setbacks on Lot 'B' to be less than 50', which is the minimum required distance for all setbacks on both lots.
6. **Variance from Section 116-122.** to allow all yards which are less than 50' in width to be landscaped to the width available wherein this section requires all yard setbacks to be landscaped to a depth of 50' for the entire length thereof.
7. **Special Exception under Section 116-123.B.** to allow parking in the front yard on Lot 'B' and a **Variance from Section 116-123.B.** to allow said parking to be less than 50' from Lot 'A', as this lot may be residentially used which would require a minimum setback of 50'.

Address Search Parcel Search

Parcel Search

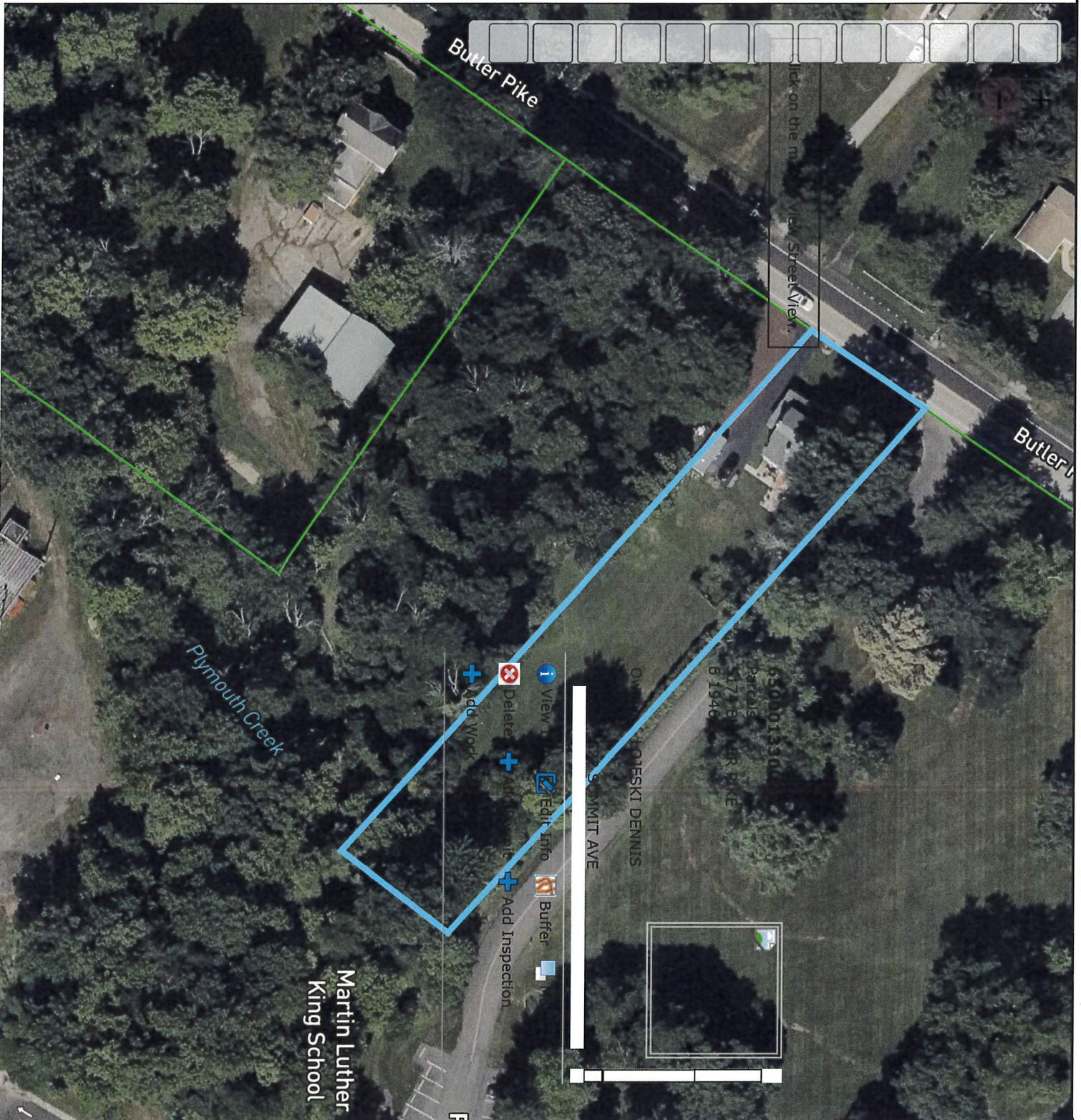
5174 BUTLER PIKE

Clear Location

ASSET CENTRAL

Add | Search | Reports

- Parcels & Supporting
- HOA Developments
- Parcels Hide Labels
- Historic District
- Zoning 2022
- Whitemarsh Buildings
- 5 Foot Contours
- Labels / Lot Measurement
- Boundary Point
- Surrounding Municipalities
- Conshohocken Parcels
- Lower Merion Parcels
- Plymouth Parcels
- Upper Dublin Parcels
- Whitpain Parcels
- Transportation
 - Under Ground Electric
 - Junction Box
- Railroad
- Gate
- Under Ground Communica
- Streets
- Traffic Signals
- Street Lights
- School Crossing Lights
- Signs





490012046505
49030 055

49030 043

490001201001
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490001195007
49030 024

490001198004
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490001204007
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49030 020

490001210001
49030 005

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49030 006

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65045 028

650001327003
65045 045

650001330009
65045 040

650001333006
65045 027

650001336003
65045 001

Butler Pike



5174 Butler Pike



AD

DICKINSON
LANE (PVT.)

TEXAS

EASTERN

CLI

MONTICELLO

LANE

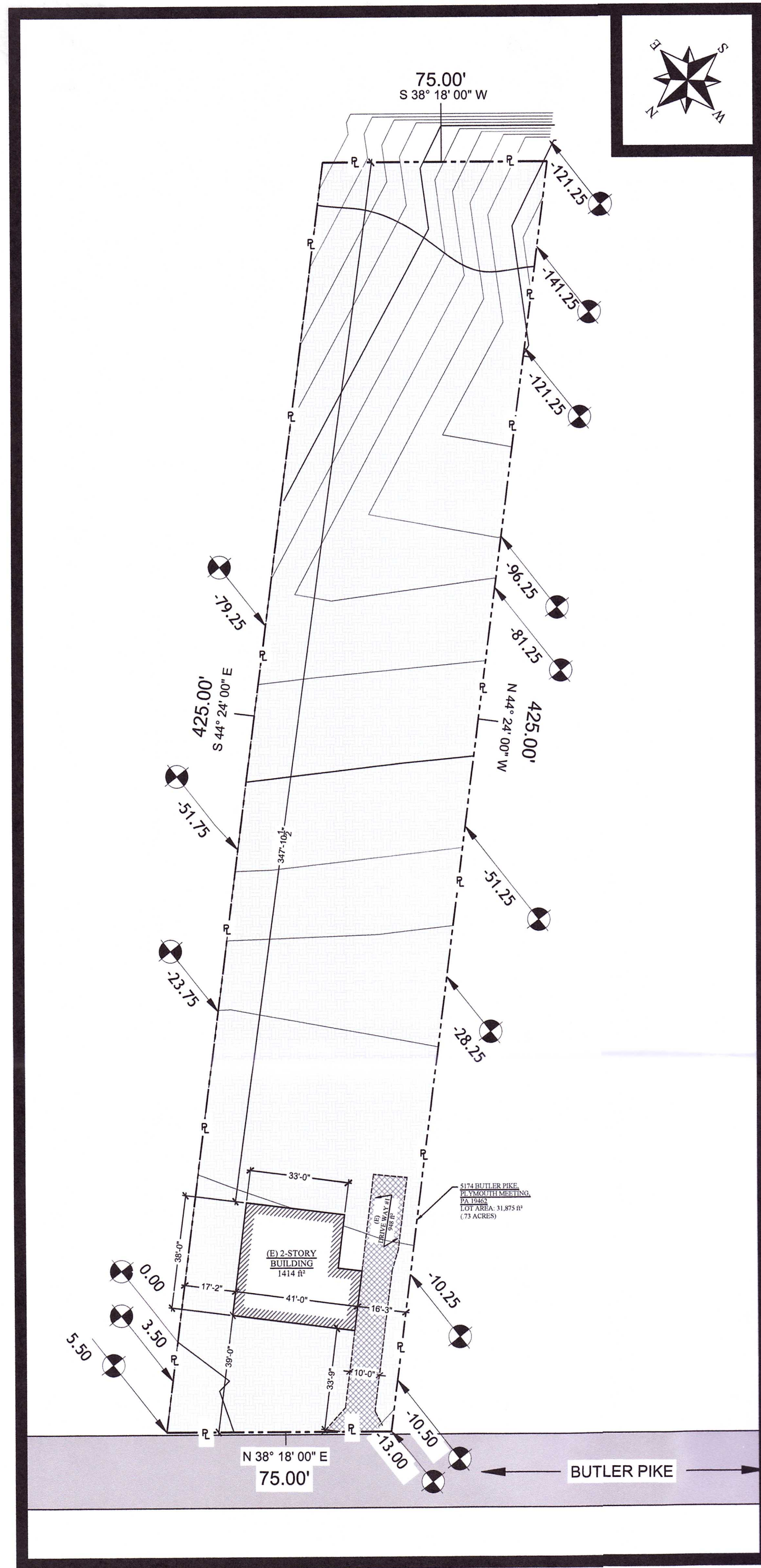
TOWNSHIP
LINE RD.

BUTLER PIKE

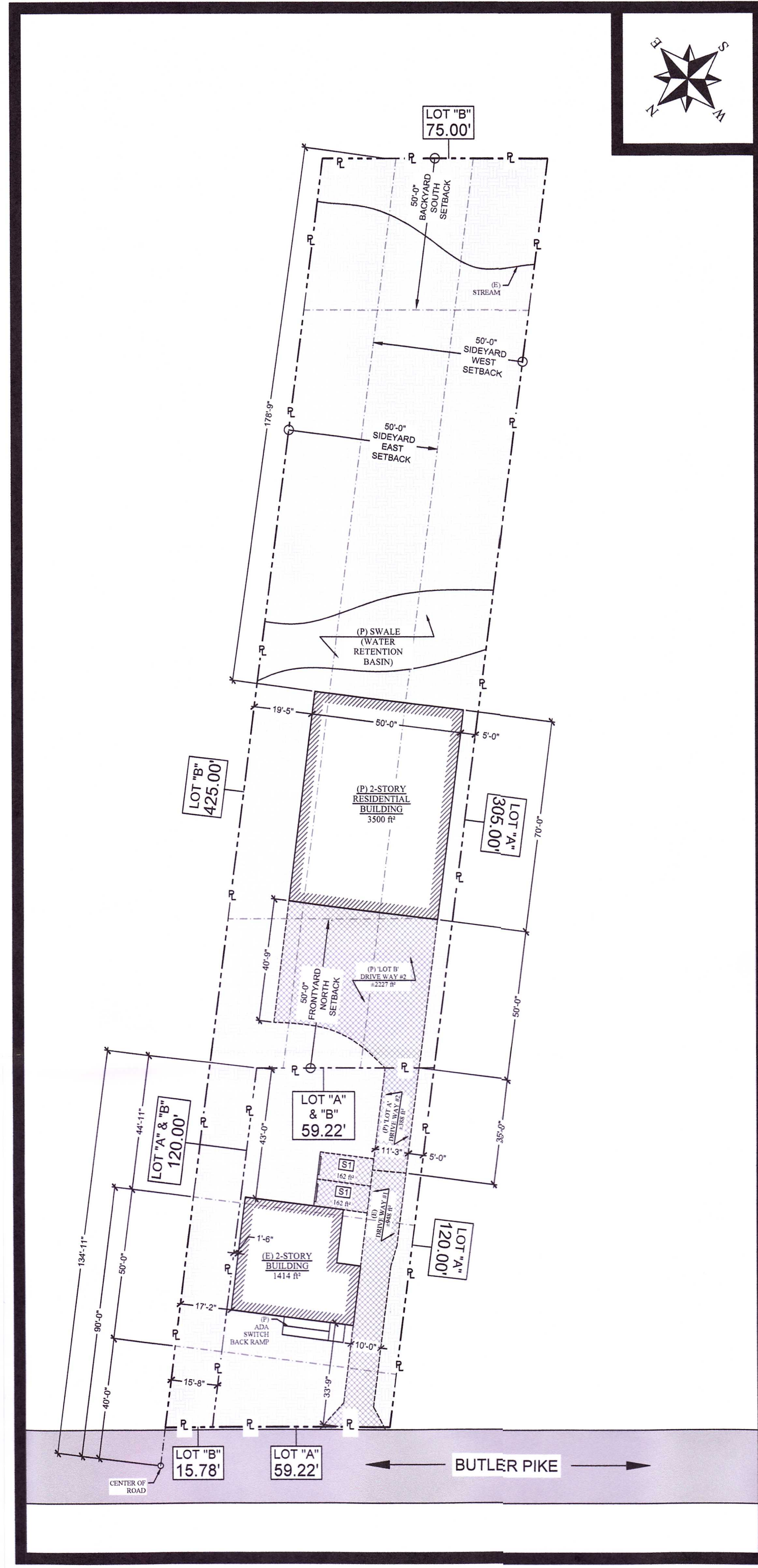
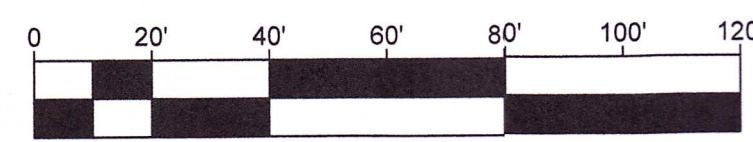
MILITIA
DR.

CLI-X

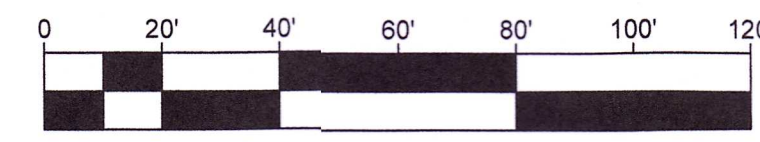
CLI



1
Z-1 EXISTING '5174 BUTLER PIKE' PLOT PLAN
SCALE: 1/32"=1'-0"



2
Z-1 PROPOSED '5174 BUTLER PIKE' PLOT PLAN
SCALE: 1/32"=1'-0"



LEGEND

- EXTENTS LEASABLE SPACE
- SETBACK/REFERENCE LINE
- DRIVEWAY/PARKING/IMPERVIOUS GROUND COVER
- EARTH/GREEN SPACE
- BUILDING
- EXISTING STREET

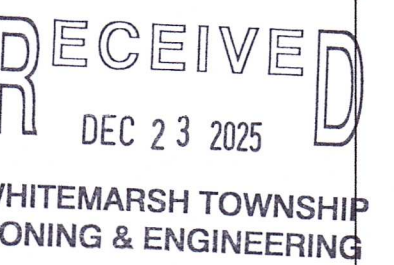


3
Z-1 AREA OF LOCATION
SCALE: 1/64"=1'-0"

PARKING SCHEDULE

S1	STANDARD PARKING	9'-0" x 18'-0"	
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DIMENSIONAL STANDARDS	PROPOSED '5174 BUTLER PIKE' PLOT PLAN TOTAL LOT AREA: 31,875 ft ² (0.73 ACRES) MIN. REQUIRED = 10 ACRES			
	LOT "A" (PROPOSED CLI) LOT AREA: 7,050 ft ²		LOT "B" (PROPOSED RESIDENTIAL) LOT AREA: 24,825	
	REQUIRED	EXISTING 2-STORY BUILDING	REQUIRED	PROPOSED 2-STORY RESIDENTIAL BUILDING
BUILDING COVERAGE:	25% MAX.	1,414 ft ² / 20.06%	25% MAX.	3,500 ft ² / 14.10%
FRONT YARD:	50 ft MIN.	33.75 ft	50 ft MIN.	50 ft
HEIGHT REGULATIONS:	40 ft MAX.	±35 ft	40 ft MAX.	±35 ft
IMPERVIOUS GROUND COVER:	50% MAX.	3,074 ft ² / 43.60%	50% MAX.	5,727 ft ² / 23.07%
GREEN SPACE AREA	50% MIN.	56.40%	50% MIN.	76.93%
REAR YARD	50 ft MIN.	43 ft	50 ft MIN.	178.75 ft
SIDE YARD	50 ft MIN.	East SIDE: 1.75' West SIDE: 16.25'	50 ft MIN.	East SIDE: 19.42' West SIDE: 5.00'



NOTES:
(E) = EXISTING
(P) = PROPOSED

REV.	DATE	DESCRIPTION

DRAWN BY: AJM
APPROVED BY:
SCALE: AS NOTED
DRAWING TITLE:
EXISTING & PROPOSED ZONING PLAN
DRAWING NO:











WHITEMARSH TOWNSHIP ZONING HEARING BOARD

DECISION AND ORDER

APPLICATION NO.: 2016-10

HEARING DATE: 06/01/16

APPLICANT: Dennis Lojeski

VOTE: 06/01/16

Block 045, Unit 040

WRITTEN DECISION: 06/03/16

5174 Butler Pike

COPY MAILED: 06/03/16

Plymouth Meeting, PA 19462

CLI – Campus Type Limited Industrial District

Institutional Overlay District

The Applicant proposes to add a front porch measuring 10 feet in depth.

After completion of a public hearing on the above-referenced Application, pursuant to public notice as required by law, the Zoning Hearing Board of Whitemarsh Township decided and orders as follows:

1. A variance from Section 116-33.C(2), to permit the porch to encroach 20 feet into the required front yard and be located 30 feet from the ultimate right-of-way line, is **GRANTED**.
2. A variance from Section 116-194B(2), for the extension/alteration of the non-conforming residential use on the property, is **GRANTED**.

THIS DECISION IS SUBJECT TO THE FOLLOWING CONDITIONS:

1. All use and development permitted by this Decision shall conform to the exhibits and testimony presented by the Applicant, unless inconsistent with any specific conditions imposed by this Board, in which case these specific conditions shall take precedence.
2. The Applicant shall apply for and obtain all permits required by the Township Codes in a timely manner.

This Decision and Order of the Board is final and any appeal of it must be filed with the Court of Common Pleas of Montgomery County within thirty (30) days following the copy mailing date set out above.


Section 116-223 of the Zoning Ordinance provides as follows:


Expiration of granted appeals. Unless otherwise specified by the Board, all approvals granted by the Zoning Hearing Board shall automatically expire 365 days after the date of the decision unless: (1) the applicant has acted upon the approval by obtaining the required permit(s) and paying the prescribed fees for same, or (2) the Zoning Hearing Board decision is on appeal to the courts, at which point, the approval, if upheld on appeal, shall expire 365 days after final determination on appeal.

The Zoning Hearing Board may extend the expiration date of approvals for a 180 day period upon request by the applicant, provided that the applicant is, in the opinion of the Zoning Hearing Board, diligently pursuing governmental and/or regulatory approvals as required. Requests for extensions shall be in writing and submitted to the Zoning Hearing Board at least 30 days before any applicable expiration date. Only one (1) extension may be provided for any application.

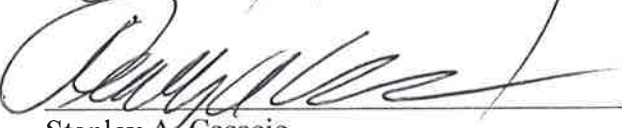
WHITEMARSH TOWNSHIP ZONING HEARING BOARD:


Robert A. Bacine, Chair


Marc Weinstein


James Behr


William E. Kramer, Vice Chair


Stanley A. Casacio

Alternate

Randi Rubin

ZHB APPEAL #2025-38
SUMMARY

APPLICANT: Cadence Development Partners, LLC

PROPERTY LOCATION: Parcel #65-00-12916-00-6
Block 049D, Unit 009
318 Whitemarsh Valley Road
Fort Washington, PA 19034

ZONING DISTRICT: AAA-Residential District

SUMMARY OF RELIEF REQUEST:

The Applicant is proposing to construct a new single-family home and related improvements on this vacant lot approved as a building lot by agreement between record owner and Whitemarsh Township in 1997. The following relief is requested:


- (1) **Special Exceptions pursuant to Sections 116-31.1.A. and 116-31.1.B.** to allow a portion of the proposed detention/retention facility between the front lot line and front principal building plane and a portion of said facility within a required side yard.
- (2) **Special Exception pursuant to Section 116-166.B.** to allow a detention basin (rain garden) to be located in the Floodplain Conservation District or Riparian Corridor Conservation District.
- (3) **Variance from Section 116-259.A.** to allow required front yards, side yards and rear yards within the Riparian Conservation District and to permit the proposed single family home and related accessory improvements (as shown on the plans) to be located within the Riparian Corridor Conservation District.
- (4) **Variance from Section 116-259.C.** to permit the proposed residential dwelling use to be located within Zone 2 of the Riparian Corridor Conservation District.
- (5) **Variance from Section 116-259.C.(4)** to permit residential accessory structures (as shown on the plans) greater than 200 square feet to be located within Zone 2 of the Riparian Corridor Conservation District.
- (6) **Variance from Section 116-260.A.** to permit the applicant to not show all of the existing vegetation in the area to be cleared for the proposed single family home development and to allow clearing as proposed on the plans.
- (7) **Variance from Section 116-260.I.** which prohibits stormwater basins, berms and outfall structures in Zone 2 of the Riparian Corridor Conservation District to permit the stormwater basin, berms and outfall structures to be designed and installed as proposed on the plans.

PRIOR DECISIONS:

ZHB#2021-02: Variance to continue validity of zoning approvals granted in ZHB #2017-22.

ZHB#2017-22: Special exception & variances to allow single family dwelling.

Respectfully Submitted,



Charles L. Guttenplan, AICP
Director of Planning and Zoning/Zoning Officer

APPEAL TO ZONING HEARING BOARD
WHITEMARSH TOWNSHIP
COMMONWEALTH OF PENNSYLVANIA

APPEAL NO: 2025-38

Applicant/Appellant: Cadence Development Partners, LLC

Address: c/o Eric F. Wert, Esq., Dischell Bartle Dooley, 1800 Pennbrook Parkway, Suite 200, Lansdale, PA 19446

Phone #: (215) 362-2474 Cell Number: _____ E-Mail: ewert@dbdlaw.com

Owner: Pat Sparango, Inc.

Address: 508 Bethlehem Pike, Fort Washington, PA 19034

Phone #: _____ Cell Number: _____ E-Mail: _____

Location of the Property Involved: 318 Whitemarsh Valley Road

Block #: 49D Unit #: 9 Parcel #: 65-00-12916-00-6

NATURE OF APPLICATION (Describe proposed use and/or construction: type of appeal requested and specific section(s) of Whitemarsh Township Zoning Code which is (are) relied upon):

single family home on vacant 3.7 acre tract

see attached

GROUND(S) FOR APPEAL (State reasons for appeal and nature of hardship, if claimed):

****Attach additional sheets if necessary**

see attached

Legal Counsel (if represented): Eric F. Wert

Address: 1800 Pennbrook Parkway, Suite 200, Lansdale, PA 19446

Phone #: 215-362-2474 E-Mail: ewert@dbdlaw.com

My (Our) signature(s) authorize(s) permission to pose my (our) property and permission to the Zoning Hearing Board and their representative to enter thereon for inspection purposes.

I (We) certify the information provided on this application and supporting documentation and plans are true and correct to the best of my (our) knowledge, information, and belief. You are required to submit proof that you are one of the following:

RECEIVED
AUG 21 2025

I am (We are)

- Owner(s) of Legal Title
- Owner(s) of Equitable Title
- Tenant(s) with permission of Owner(s) of Title (Enclose letter attesting to same)

WHITEMARSH TOWNSHIP
ZONING & ENGINEERING

Date: 8/21/25



Signature of Applicant/Appellant:

Signature of Applicant/Appellant:

CADENCE DEVELOPMENT PARTNERS, LLC – 318 WHITEMARSH VALLEY ROAD
WHITEMARSH TOWNSHIP, MONTGOMERY COUNTY, PENNSYLVANIA

ZONING SUMMARY

Equitable Owner and Applicant: Cadence Development Partners, LLC
c/o Eric F. Wert, Esq.
Dischell Bartle Dooley
1800 Pennbrook Parkway, Suite 200
Lansdale, PA 19446

RECEIVED
AUG 21 2025

Property: 318 Whitemarsh Valley Road

WHITEMARSH TOWNSHIP
ZONING & ENGINEERING

Zoning District: AAA

Proposal: The construction of a single family home on the vacant property which was approved as a building lot by agreement between the Applicant and Whitemarsh Township in 1997.

Requested Relief: Relief is requested as follows:

(1) a special exception pursuant to Zoning Ordinance Section 116-31.1.A. and .B to permit a portion of the proposed detention/retention facility between the front lot line and front principal building plane and a portion of said facility within a required side yard;

(2) a special exception pursuant to Zoning Ordinance Section 116-166.B. to allow a detention basin (rain garden) to be located in the Floodplain Conservation District or Riparian Corridor Conservation District;

(3) a variance from Zoning Ordinance Section 16-259.A to allow required front yards, side yards and rear yards within the Riparian Conservation District and to permit the proposed single family home and related accessory improvements (as shown on the attached plans) to be located within the Riparian Corridor Conservation District;

(4) a variance from Zoning Ordinance Section 16-259.C to permit the proposed residential dwelling use to be located within Zone 2 of the Riparian Corridor Conservation District;

(5) a variance from Zoning Ordinance Section 116-259.C(4) to permit residential accessory structures (as shown on the attached Plans) greater than 200 square feet to be located within Zone 2 of the Riparian Corridor Conservation District;

(6) a variance from Zoning Ordinance Section 116-260.A to permit applicant to not show all of the existing vegetation in the area to be cleared for the proposed single

family home development and to allow clearing as shown on the attached plans; and

(7) a variance from Zoning Ordinance Section 116-260.I which prohibits stormwater basins, berms and outfall structures in Zone 2 of the Riparian Corridor Conservation District to permit the stormwater basin, berms and outfall structures to be designed and installed as shown on the attached plans.

Reason for Relief:

The Subject Property has existed as a building lot since 1997. Applicant proposes a single family home which is permitted by the Zoning Ordinance – no use relief is necessary.

Recent changes to the Township's Zoning Ordinance would prohibit any use or development of the Subject Property. As shown on the attached plans, the Zone 1 and Zone 2 Riparian Corridor Conservation District takes up almost the entirety of the Subject Property. The Subject Property contains the hardships of being an oddly shaped lot which contains Floodways drainage channel, and a sewer easement. Given the requirements of the Zoning Ordinance it cannot be developed for any use other than as an open field without the granting of zoning relief. The development of the Subject Property with a single family home is consistent with the surrounding properties and will not detrimentally effect the general public or that of the adjacent and surrounding properties/neighborhood.

The Single family home has been designed to be in keeping with the surrounding properties and has been located to have the least impact on the Subject Property and surrounding neighbors. The relief requested represents the minimum relief necessary for the reasonable use of the Subject Property.

The Property was the subject of a 2017 application to this Zoning Hearing Board for relief that is identical to what is currently requested. In Application No. 2017-22, this Zoning Hearing Board granted the necessary relief to construct the proposed single family home. In Application No. 2021-02, then applicant Pat Sparango, Inc. applied for and received the necessary relief to extend the relief received in 2017. Copies of the Decisions and Orders for these matters is included with this Application.

Because of the financial conditions in the global economy that existed at the time, the previous applicant was unable to move forward with the project and allowed the zoning relief to expire. Current applicants, Cadence Development Partners, LLC, now seek the relief necessary to construct a similar single family home in essentially the same location as was permitted by this Zoning Hearing Board in the previous applications.



STANDARD AGREEMENT FOR THE SALE OF VACANT LAND

This form recommended and approved for, but not restricted to use by, the members of the Pennsylvania Association of Realtors® (PAR)

ASVL
WHITEMARSH TOWNSHIP
ZONING & ENGINEERING

RECEIVED
AUG 21 2025

PARTIES

BUYER(S): Cadence Development Partners LLC
or Assignee

SELLER(S): Pat Sparango Inc.

BUYER'S MAILING ADDRESS:

SELLER'S MAILING ADDRESS:

PROPERTY

See Property Description Addendum

ADDRESS (including postal city) 318 whitemarsh valley rd
Fort washington PA ZIP 19034
in the municipality of _____, County of Montgomery
in the School District of COLONIAL, in the Commonwealth of Pennsylvania.
Tax ID #(s): 65-00-12916-00-6 and/or
Identification (e.g., Parcel #; Lot, Block; Deed Book, Page, Recording Date; Control #): _____

BUYER'S RELATIONSHIP WITH PA LICENSED BROKER

No Business Relationship (Buyer is not represented by a broker)

Broker (Company) KW Empower
Company License # RB069820
Company Address 728 S Broad Street
Philadelphia PA 19146
Company Phone (215) 627-3500
Company Fax _____

Licensee(s) (Name) Sean Killen
State License # _____
Direct Phone(s) (610) 505-2281
Cell Phone(s) _____
Email seankillen@kw.com

Broker is (check only one):
 Buyer Agent (Broker represents Buyer only)
 Dual Agent (See Dual and/or Designated Agent box below)

Licensee(s) is (check only one):
 Buyer Agent (all company licensees represent Buyer)
 Buyer Agent with Designated Agency (only Licensee(s) named above represent Buyer)
 Dual Agent (See Dual and/or Designated Agent box below)

Transaction Licensee (Broker and Licensee(s) provide real estate services but do not represent Buyer)

SELLER'S RELATIONSHIP WITH PA LICENSED BROKER

No Business Relationship (Seller is not represented by a broker)

Broker (Company) Isbell Enterprises
Company License # _____
Company Address _____
Company Phone _____
Company Fax _____

Licensee(s) (Name) Jim Isbell
State License # RS345283
Direct Phone(s) (610) 731-5724
Cell Phone(s) _____
Email _____

Broker is (check only one):
 Seller Agent (Broker represents Seller only)
 Dual Agent (See Dual and/or Designated Agent box below)

Licensee(s) is (check only one):
 Seller Agent (all company licensees represent Seller)
 Seller Agent with Designated Agency (only Licensee(s) named above represent Seller)
 Dual Agent (See Dual and/or Designated Agent box below)

Transaction Licensee (Broker and Licensee(s) provide real estate services but do not represent Seller)

DUAL AND/OR DESIGNATED AGENCY

A Broker is a Dual Agent when a Broker represents both Buyer and Seller in the same transaction. A Licensee is a Dual Agent when a Licensee represents Buyer and Seller in the same transaction. All of Broker's licensees are also Dual Agents UNLESS there are separate Designated Agents for Buyer and Seller. If the same Licensee is designated for Buyer and Seller, the Licensee is a Dual Agent.

By signing this Agreement, Buyer and Seller each acknowledge having been previously informed of, and consented to, dual agency, if applicable.

Buyer Initials: CDPL

Seller Initials: [Signature]

1. By this Agreement, dated 06/25/2025,
Seller hereby agrees to sell and convey to Buyer, who agrees to purchase, the identified Property.

2. PURCHASE PRICE AND DEPOSITS (1-16)

(A)



(B) All funds paid by Buyer, including deposits, will be paid by check, cashier's check or wired funds. All funds paid by Buyer within 30 DAYS of settlement, including funds paid at settlement, will be by cashier's check or wired funds, but not by personal check.

(C) Deposits, regardless of the form of payment and person designated as payee, will be paid in U.S. Dollars to Broker for Seller (unless otherwise stated here: _____), who will retain deposits in an escrow account in conformity with all applicable laws and regulations until consummation or termination of this Agreement. Only real estate brokers are required to hold deposits in accordance with the rules and regulations of the State Real Estate Commission. Checks tendered as deposit monies may be held uncashed pending the execution of this Agreement.

3. SELLER CONCESSIONS (8-24)

(A) Buyer Broker Fee

In addition to any cooperating compensation negotiated between the brokers using the Cooperating Broker Compensation Agreement (PAR Form CBC) or via some other agreement, Seller will pay the following fee to Broker for Buyer on behalf of Buyer at settlement. \$ _____ or _____ % of Purchase Price (0 if not specified)

(B) Closing Cost Assistance

Seller will pay the following amount towards Buyer's closing costs other than a brokerage fee payable to Broker for Buyer, as permitted by the mortgage lender, if any. Seller is only obligated to pay up to the amount or percentage which is approved by mortgage lender. \$ _____ or _____ % of Purchase Price (0 if not specified)

4. SETTLEMENT AND POSSESSION (1-16)

(A) Settlement Date is 9/29/25, or before if Buyer and Seller agree.

(B) Settlement will occur in the county where the Property is located or in an adjacent county, during normal business hours, unless Buyer and Seller agree otherwise.

(C) At time of settlement, the following will be pro-rated on a daily basis between Buyer and Seller, reimbursing where applicable: current taxes; rents; interest on mortgage assumptions; water and/or sewer fees, together with any other lienable municipal service fees. All charges will be pro-rated for the period(s) covered. Seller will pay up to and including the date of settlement and Buyer will pay for all days following settlement, unless otherwise stated here: _____

(D) For purposes of prorating real estate taxes, the "periods covered" are as follows:

- 1. Municipal tax bills for all counties and municipalities in Pennsylvania are for the period from January 1 to December 31.
- 2. School tax bills for the Philadelphia, Pittsburgh and Scranton School Districts are for the period from January 1 to December 31.
- School tax bills for all other school districts are for the period from July 1 to June 30.

(E) Conveyance from Seller will be by fee simple deed of special warranty unless otherwise stated here: _____

(F) Payment of transfer taxes will be divided equally between Buyer and Seller unless otherwise stated here: _____

(G) Possession is to be delivered by deed, existing keys and physical possession to a vacant Property free of debris, with all structures broom-clean, at day and time of settlement, unless Seller, before signing this Agreement, has identified in writing that the Property is subject to a lease.

(H) If Seller has identified in writing that the Property is subject to a lease, possession is to be delivered by deed, existing keys and assignment of existing leases for the Property, together with security deposits and interest, if any, at day and time of settlement. Seller will not enter into any new leases, nor extend existing leases, for the Property without the written consent of Buyer. Buyer will acknowledge existing lease(s) by initialing the lease(s) at the execution of this Agreement, unless otherwise stated in this Agreement.

5. DATES/TIME IS OF THE ESSENCE (2-12)

(A) Written acceptance of all parties will be on or before: 06/27/2025

(B) The Settlement Date and all other dates and times identified for the performance of any obligations of this Agreement are of the essence and are binding.

(C) The Execution Date of this Agreement is the date when Buyer and Seller have indicated full acceptance of this Agreement by signing and/or initialing it. For purposes of this Agreement, the number of days will be counted from the Execution Date, excluding the day this Agreement was executed and including the last day of the time period. All changes to this Agreement should be initialed and dated.

Buyer Initials: CDPL

Seller Initials: [Signature]

32. HEADINGS (1-16)

The section and paragraph headings in this Agreement are for convenience only and are not intended to indicate all of the matter in the sections which follow them. They shall have no effect whatsoever in determining the rights, obligations or intent of the parties.

33. SPECIAL CLAUSES (2-12)

(A) The following are part of this Agreement if checked:

- Sale & Settlement of Other Property Contingency Addendum (PAR Form SSP)
- Sale & Settlement of Other Property Contingency with Right to Continue Marketing Addendum (PAR Form SSPCM)
- Sale & Settlement of Other Property Contingency with Timed Kickout Addendum (PAR Form SSPTKO)
- Settlement of Other Property Contingency Addendum (PAR Form SOP)
- Short Sale Addendum to Agreement of Sale (PAR Form SHS)
- Appraisal Contingency Addendum (PAR Form ACA)
- _____
- _____
- _____

(B) Additional Terms:

60-day due diligence period begins on 6/30/25.

All deposit monies are fully refundable during due diligence period.

All documentation with regard to Township zoning approval, and subsequent permit approvals must be released to buyer with 2 days of contract execution.

Seller will provide full site access to buyer during due diligence period

Buyer and Seller acknowledge receipt of a copy of this Agreement at the time of signing.

This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original and which counterparts together shall constitute one and the same Agreement of the Parties.

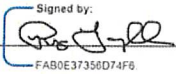
NOTICE TO PARTIES: WHEN SIGNED, THIS AGREEMENT IS A BINDING CONTRACT. Parties to this transaction are advised to consult a Pennsylvania real estate attorney before signing if they desire legal advice.

Return of this Agreement, and any addenda and amendments, including return by electronic transmission, bearing the signatures of all parties, constitutes acceptance by the parties.

CDPL Buyer has received the Consumer Notice as adopted by the State Real Estate Commission at 49 Pa. Code §35.336.

CDPL Buyer has received a statement of Buyer's estimated closing costs before signing this Agreement.

CDPL Buyer has received the Deposit Money Notice (for cooperative sales when Broker for Seller is holding deposit money) before signing this Agreement.

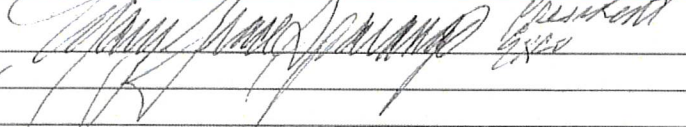
BUYER  DATE 6/25/2025 | 11:13 PDT

BUYER _____ DATE _____

BUYER _____ DATE _____

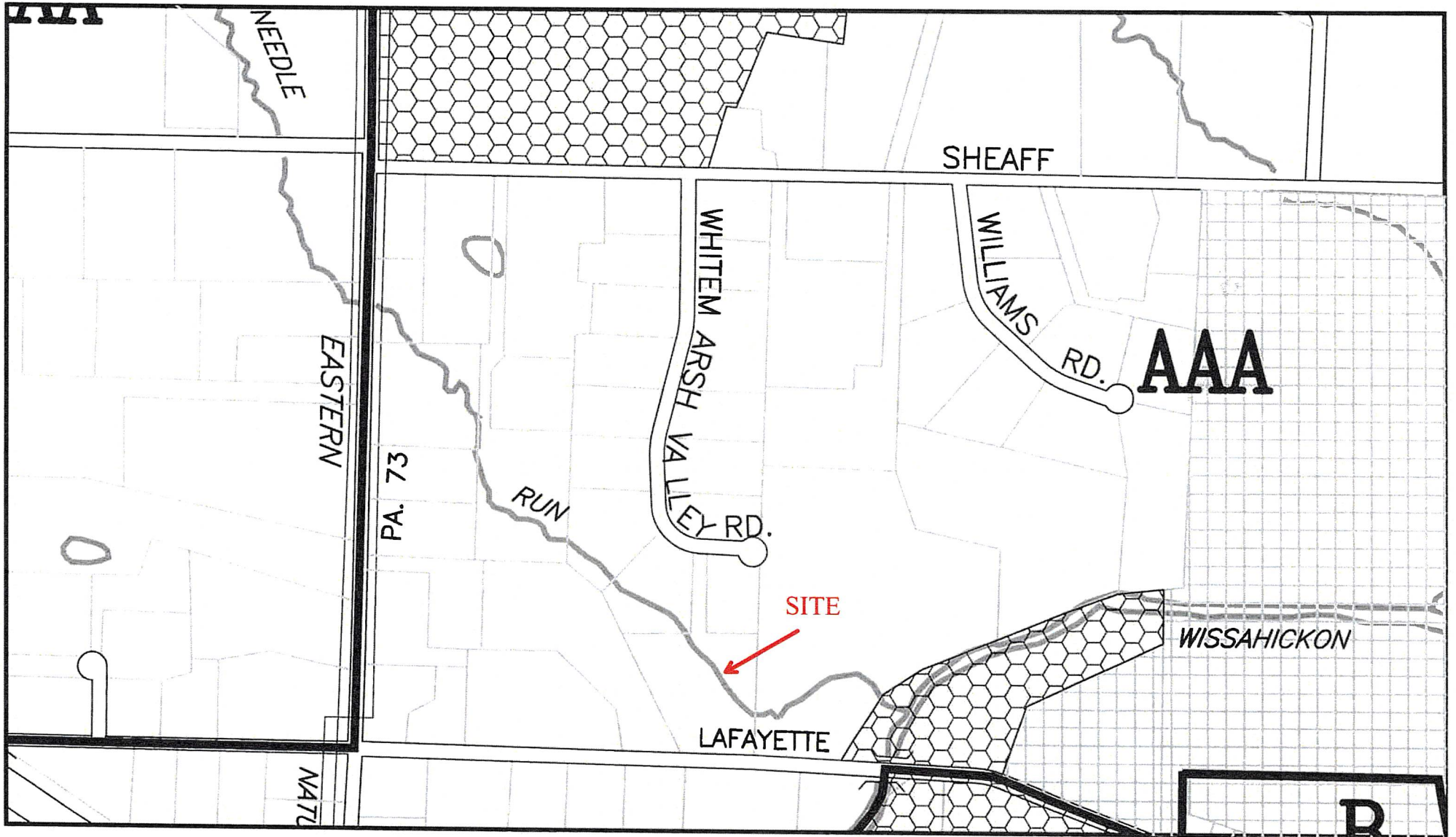
Seller has received the Consumer Notice as adopted by the State Real Estate Commission at 49 Pa. Code § 35.336.

Seller has received a statement of Seller's estimated closing costs before signing this Agreement.

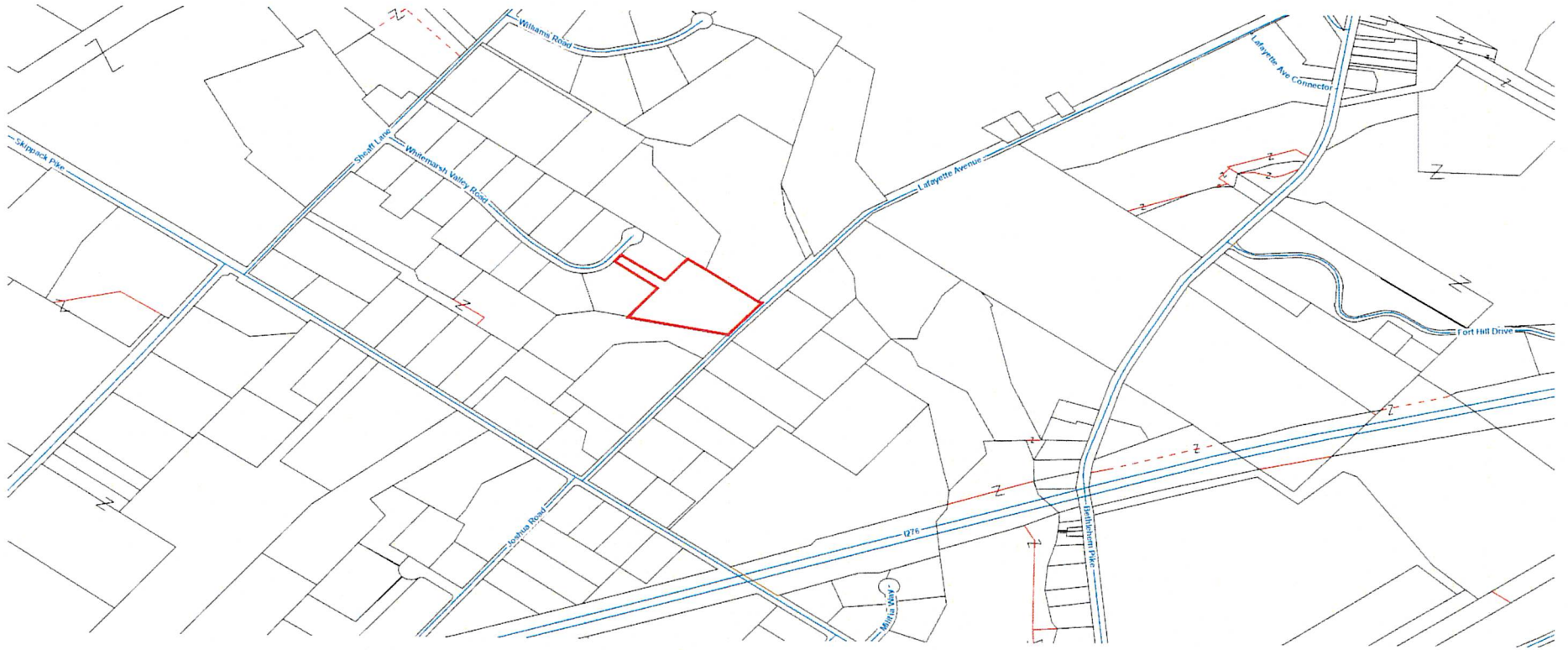
SELLER  DATE 6/25/2025 4:45 pm

SELLER _____ DATE _____

SELLER _____ DATE _____



Tax Map - 318 Whitemarsh Valley Road - 65-00-12916-00-6





GILMORE & ASSOCIATES, INC.
ENGINEERING & CONSULTING SERVICES

401 Plymouth Road, Suite 150
Plymouth Meeting, PA 19462
610.489.4949
Fax 610.489.8447
www.gilmore-assoc.com

MEMORANDUM

Date: October 3, 2025
To: Charles L. Guttenplan, AICP - Director of Planning and Zoning
From: Krista Heinrich, P.E., Township Engineer
Reference: 318 Whitemarsh Valley Road
ZHB #2025-38
G&A Project No. 2021-01088

In reference to the above-mentioned property, we have reviewed the application prepared by the applicant and offer the following comments for your consideration.

The granting of any relief should be conditioned that:

1. Any structures, including fencing and mechanical equipment, shall be elevated and/or adequately anchored to prevent flotation, collapse, or lateral movement.
2. Any new construction must be in full compliance with 44 CFR 60.3(a) through (d) of the National Flood Insurance Program regulations.
3. Any new construction must be in full compliance with Chapter 101 'Floodplain Management' of the Whitemarsh Township Code.
4. Within any floodway area, no encroachments, including fill, new construction, substantial improvements, or other development shall be permitted unless it has been demonstrated through hydrologic and hydraulic analysis performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the community during the occurrence of the base flood discharge.
5. Within any floodway area, no new construction or development shall be allowed, unless the appropriate approvals are obtained from the Army Corps of Engineers, Federal Emergency Management Agency, Pennsylvania Department of Environmental Protection and approved by the Township.
6. Within any identified floodplain area, no new construction or development shall be located within the area measured 50 feet landward from the top-of-bank of any watercourse, unless the appropriate permit is obtained from the Department of Environmental Protection regional office.
7. In accordance with Section 101-32(F) of the Township Code, the applicant is hereby notified that (1) The granting of any variance may result in increased premium rates for flood insurance. (2) Such variances may increase the risks to life and property.

Please note, the applicant will require an Earth Disturbance Permit as required by Ordinance Section 58-13(A)(4), since the increase in impervious surfaces would exceed 1,000 square feet. These comments are only in reference to impacts of the proposed features within the Floodplain and Riparian Corridor Conservation Districts and do not reflect engineering considerations related to the Subdivision and Land Development, Chapter 58 and or any other aspect of the Township Code.

Should you have any questions or need further information regarding this matter, please do not hesitate to contact me at this office.

LEGEND

- CENTERLINE
- TRACT BOUNDARY
- PROPERTY LINE
- LEGAL R.O.W., EASEMENTS
- REQUIRED R.O.W.
- EXISTING CONTOUR
- PROPOSED CONTOUR
- EXISTING WATER LINE
- EXISTING SAN. SEWER LINE
- EXISTING TELEPHONE LINE
- EXISTING GAS LINE
- EXISTING ELECTRIC LINE
- EXISTING STORM SEWER/INLET
- PROPOSED STORM SEWER/INLET
- PROPOSED WATER LINE
- PROPOSED SAN. SEWER LINE
- PROPOSED ELECTRIC LINE
- PROPOSED TELEPHONE LINE
- PROPOSED GAS LINE
- EXISTING MANHOLE
- PROPOSED MANHOLE
- EXISTING CURBLINE
- PROPOSED CURBLINE
- UTILITY POLE
- EXISTING VALVE, VENT. CO.
- PROPOSED HOUSE
- IMPERVIOUS PAVING DRIVEWAY
- POROUS PAVING DRIVEWAY
- GRASS PAVER SHOULDER
- PROPOSED CONCRETE WALK

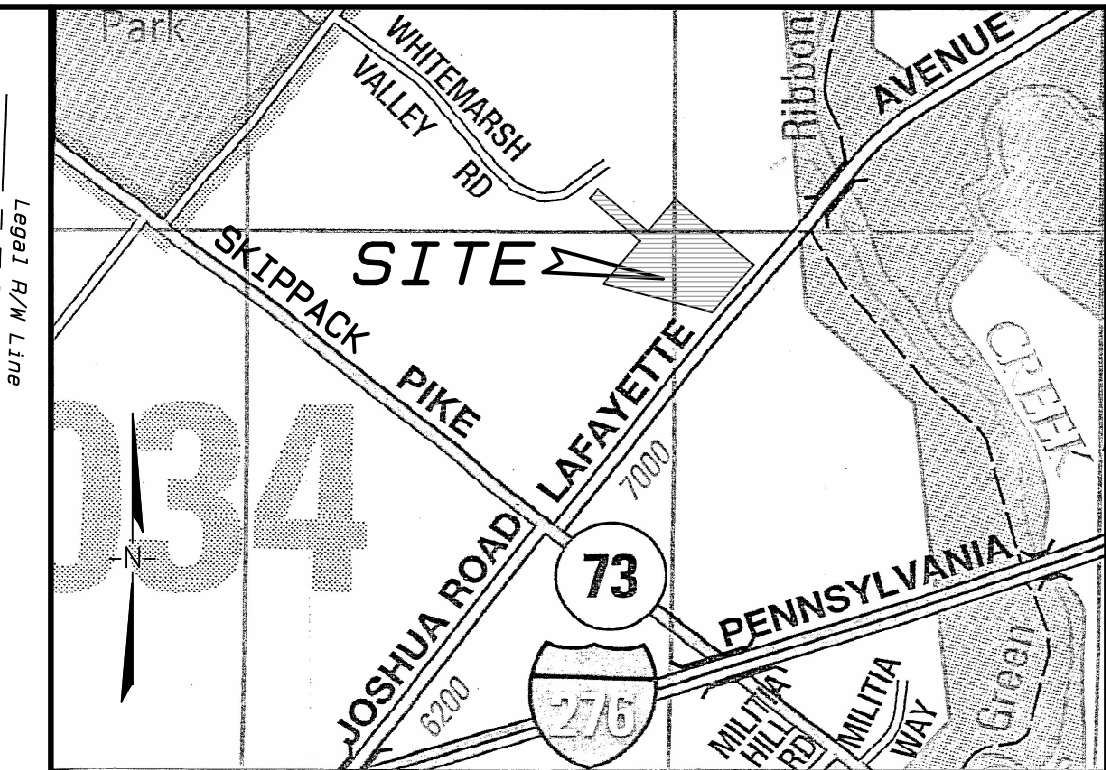
STEEP SLOPE LEGEND

- 8-15% SLOPES (176 SF)
- 15-25% SLOPES (225 SF)
- + 25% SLOPES (4,702 SF)

STEEP SLOPE RATIO:
TOTAL STEEP SLOPE AREA= 5,103 SF
LOT AREA= 154,712 SF = 3.3 %

STEEP SLOPE AREAS TO BE DISTURBED:
STEEP SLOPE AREAS DISTURBED= 0 SF = 0%

FLOODPLAIN CONSERVATION OVERLAY DISTRICT BOUNDARY



ZONING DATA

DISTRICT: AAA RESIDENTIAL
USE: SINGLE-FAMILY DETACHED

REQUIREMENTS:

REQUIRED	PROVIDED
LOT AREA: 1,00 AC (MIN)	3,5517 AC
LOT WIDTH @ B.S.B.L.: 175 FT (MIN)	300.6 FT
FRONT YARD: 50 FT (MIN)	233.8 FT
SIDE YARD: 50 FT (MIN)	50.00 FT
REAR YARD: 50 FT (MIN)	60.00 FT
BUILDING HEIGHT: 35 FT (MAX)	35 FT
BUILDING COVERAGE: 15 % (MAX)	3 %

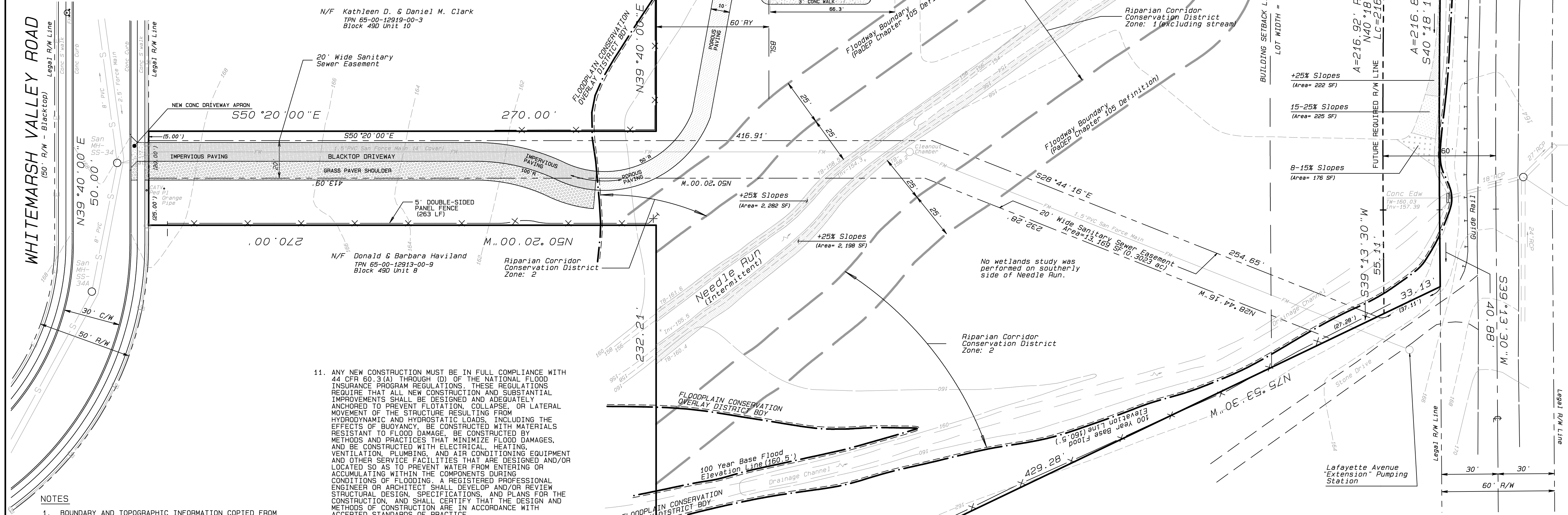
SITE DATA

OWNER OF RECORD: PAT SPARANGO, INC.
508 BETHLEHEM PIKE
FORT WASHINGTON, PA 19034
(215) 643-1298

PREMISES: TAX MAP BLOCK 490 UNIT 9
PARCEL NO. 65-00-12916-00-6
DEED BOOK 3367 PAGE 952

LOT AREA: 3.7341 ACRES (GROSS)
3.5517 ACRES (NET)

EQUITABLE OWNER: CADENCE DEVELOPMENT PARTNERS, LLC
ATTN: SEAN KILLEEN
13 SPRINGHOUSE LANE
HAVERTOWN, PA 19083
(610) 505-2281
SEAN@CADENCEDP.COM



11. ANY NEW CONSTRUCTION MUST BE IN FULL COMPLIANCE WITH 44 CFR 60.3(A) THROUGH (D) OF THE NATIONAL FLOOD INSURANCE PROGRAM REGULATIONS. THESE REGULATIONS REQUIRE THAT ALL NEW CONSTRUCTION AND SUBSTANTIAL IMPROVEMENTS SHALL BE DESIGNED AND ADEQUATELY ANCHORED TO PREVENT FLOTATION, COLLAPSE, OR LATERAL MOVEMENT OF THE STRUCTURE RESULTING FROM HYDRODYNAMIC AND HYDROSTATIC LOADS, INCLUDING THE EFFECTS OF BUOYANCY. BE CONSTRUCTED WITH MATERIALS RESISTANT TO FLOOD DAMAGE. BE CONSTRUCTED BY METHODS AND PRACTICES THAT MINIMIZE FLOOD DAMAGES, AND BE CONSTRUCTED WITH ELECTRICAL, HEATING, VENTILATION, PLUMBING AND AIR CONDITIONING EQUIPMENT AND OTHER SERVICE FACILITIES THAT ARE DESIGNED AND/OR LOCATED SO AS TO PREVENT WATER FROM ENTERING OR ACCUMULATING WITHIN THE COMPONENTS DURING CONDITIONS OF FLOODING. A REGISTERED PROFESSIONAL ENGINEER OR ARCHITECT SHALL DEVELOP AND/OR APPROVE STRUCTURAL DESIGN, SPECIFICATIONS, AND PLANS FOR THE CONSTRUCTION, AND SHALL CERTIFY THAT THE DESIGN AND METHODS OF CONSTRUCTION ARE IN ACCORDANCE WITH ACCEPTED STANDARDS OF PRACTICE.

12. STORMWATER FACILITIES SHALL BE OWNED AND MAINTAINED BY THE PROPERTY OWNER IN PERPETUITY. THE PROPERTY OWNER SHALL PROVIDE A BLANKET STORMWATER ACCESS EASEMENT TO THE TOWNSHIP FOR THE PURPOSE OF ACCESS TO THE STORMWATER FACILITIES. IF, IN THE JUDGMENT OF THE TOWNSHIP ENGINEER THE OWNER HAS FAILED TO MAINTAIN THE STORMWATER FACILITIES IN SUCH A MANNER AS TO ENSURE THEIR PROPER FUNCTIONING, THE TOWNSHIP AFTER PROVIDING A WRITTEN NOTICE, SHALL HAVE THE RIGHT TO ENTER UPON THE LANDS OF THE OWNER AND TO MAKE ANY REPAIRS AS MAY BE NECESSARY TO THE STORMWATER FACILITIES TO ENSURE THAT SUCH FACILITIES FUNCTION AND PERFORM IN ACCORDANCE WITH THE DESIGN SPECIFICATIONS. ANY AND ALL COSTS INCURRED BY THE TOWNSHIP FOR SUCH REPAIRS AND/OR MAINTENANCE SHALL BE PAID IN FULL BY THE OWNER. A LIEN OR LIENS MAY BE PLACED AGAINST THE PROPERTY IF THE OWNER FAILS TO REMIT PAYMENT WITHIN SIXTY (60) DAYS.

13. THE STORMWATER PERMIT HOLDER WILL NOTIFY THE TOWNSHIP ENGINEER IN ORDER TO BEAD INSPECTIONS AT LEAST 48 HOURS BEFORE THE INSPECTIONS IS TO BE MADE FOR INITIAL INSPECTION, ROUGH GRADING, DRAINAGE FACILITIES, BMPs, SPECIAL STRUCTURES AND FINAL INSPECTION.

14. I CERTIFY THAT THE PROPOSED FACILITY IS NOT UNDERLAIN BY LIMESTONE.

15. FIRE PROTECTION NOTES

A. WHITEMARSH TOWNSHIP HAS ADOPTED AND ENFORCES THE 2015 INTERNATIONAL CODES, IN THE 2015 INTERNATIONAL FIRE CODE, CHAPTER 5, FIRE SERVICE FEATURES, SECTION 503, FIRE APPARATUS ACCESS ROADS, SUBSECTION 503.2.1 DIMENSIONS, STATES: FIRE APPARATUS ACCESS ROADS SHALL HAVE AN UNOBSTRUCTED WIDTH OF NOT LESS THAN 20 FEET EXCLUSIVE OF SHOULDERS, EXCEPT FOR APPROVED SECURITY GATES IN ACCORDANCE WITH SECTION 503.6, AND AN UNOBSTRUCTED VERTICAL CLEARANCE OF NOT LESS THAN 13'-6".

B. IN THE 2009 INTERNATIONAL FIRE CODE, APPENDIX D, FIRE APPARATUS ACCESS ROADS, SECTION D102 REQUIRED ACCESS, SUBSECTION D102.1 ACCESS AND LOADING, STATES: FACILITIES, BUILDINGS OR PORTIONS OF BUILDINGS HEREAFTER CONSTRUCTED SHALL BE ACCESSIBLE TO FIRE DEPARTMENT APPARATUS BY WAY OF AN APPROVED FIRE APPARATUS ACCESS ROAD WITH ASPHALT, CONCRETE, OR OTHER APPROVED DRIVING SURFACE CAPABLE OF SUPPORTING THE IMPOSED LOADS OF FIRE APPARATUS WEIGHING AT LEAST 75,000 POUNDS.

- NOTES**
- BOUNDARY AND TOPOGRAPHIC INFORMATION COPIED FROM A PLAN ENTITLED "PAT SPARANGO - WHITEMARSH VALLEY ROAD - SITE PLAN" PREPARED BY JOSEPH M. ESTOCK, P.E., PLS., DATED 12-23-94 AND LAST REVISED 08-20-96.
 - A WETLANDS STUDY WAS PERFORMED BY NOVA CONSULTANTS, LTD FOR THE AREA ALONG THE NORTHERLY SIDE OF NEEDLE RUN AND A REPORT WAS ISSUED ON JUNE 29, 2015.
 - SANITARY SEWER FACILITIES PLOTTED FROM TOWNSHIP MAPS. THESE FACILITIES WERE NOT FIELD SURVEYED.
 - PURSUANT TO ZONING ORDINANCE §116-258 A.2 OTHER THAN ZONE 1 AND THE STREAM, THE ENTIRE FLOODPLAIN AREA IS DEFINED AS A RIPARIAN CORRIDOR CONSERVATION DISTRICT ZONE 2.
 - FLOODPLAIN DATA OBTAINED FROM THE FEMA FIRB PANEL 288 OF 451 MAP REVISED MARCH 2, 2016 AND WAS CONVERTED TO NGVD-29 DATUM.
 - ELEVATIONS REFER TO NGVD-29 DATUM BASED UPON FEMA BENCHMARK KV-1994.
ELEV=175.51 NGVD-29
ELEV=174.55 NAVD-88
 - THE PERMANENT REMOVAL OF TOPSOIL FROM LAND WITHIN THE TOWNSHIP IS PROHIBITED.
 - THE APPLICANT SHALL PROVIDE A LETTER OF AVAILABILITY AND SUPPLY OF WATER FOR THE SITE FROM THE APPROPRIATE WATER AUTHORITY.
 - THE APPLICANT MUST OBTAIN APPROVAL OF THE WHITEMARSH TOWNSHIP AUTHORITY WITH REGARD TO THE PROPOSED CONNECTION TO THE SANITARY SEWER, THE LOCATION OF PROPOSED FEATURES WITHIN THE EXISTING SANITARY SEWER EASEMENT AND THE AVAILABILITY AND CAPACITY TO SERVE THE PROPOSED NEW RESIDENTIAL BUILDING.
 - ALL PUBLIC SANITARY SEWERS SHALL BE DESIGNED AND CONSTRUCTED IN ACCORDANCE WITH WHITEMARSH TOWNSHIP AUTHORITY SPECIFICATIONS. SUCH SEWERS SHALL BE LOCATED OR CONSTRUCTED SO AS TO ELIMINATE POSSIBILITY OF FLOOD DAMAGE.
 - NO USE, ACTIVITY OR DEVELOPMENT SHALL ADVERSELY AFFECT THE CAPACITY OF THE CHANNELS OR THE FLOODWAY OF ANY WATER COURSE.

VARIANCES GRANTED

THE FOLLOWING RELIEF WAS GRANTED BY THE ZONING HEARING BOARD IN ZHB #2017-22.

- SPECIAL EXCEPTIONS PURSUANT TO SECTIONS 116-91.1.A. AND 116-91.1.B. TO ALLOW THE PROPOSED DETENTION/RETENTION FACILITY BETWEEN THE FRONT LOT LINE AND FRONT PRINCIPAL BUILDING PLANE AND A PORTION OF SAID FACILITY WITHIN A REQUIRED SIDE YARD.
- SPECIAL EXCEPTION PURSUANT TO SECTION 116-166.B. TO PERMIT A BASIN FACILITY WITHIN THE TOWNSHIP'S FLOODPLAIN CONSERVATION DISTRICT.
- VARIANCE FROM SECTION 116-259.A. TO ALLOW REQUIRED FRONT YARDS, SIDE YARDS AND REAR YARDS WITHIN THE RIPARIAN CONSERVATION DISTRICT AND TO PERMIT THE PROPOSED SINGLE FAMILY HOME AND RELATED ACCESSORY IMPROVEMENTS TO BE LOCATED WITHIN THE RIPARIAN CORRIDOR CONSERVATION DISTRICT.
- VARIANCE FROM SECTION 116-259.C. TO PERMIT THE PROPOSED RESIDENTIAL DWELLING USE TO BE LOCATED WITHIN ZONE 20F OF THE RIPARIAN CORRIDOR CONSERVATION DISTRICT.
- VARIANCE FROM SECTION 116-259.C. (4) TO PERMIT RESIDENTIAL ACCESSORY STRUCTURES GREATER THAN 200 SQUARE FEET TO BE LOCATED WITHIN ZONE 2 OF THE RIPARIAN CORRIDOR CONSERVATION DISTRICT.
- VARIANCE FROM SECTION 116-260.A. TO PERMIT THE APPLICANT TO NOT SHOW ALL OF THE EXISTING VEGETATION IN THE AREA TO BE CLEARED FOR THE PROPOSED SINGLE FAMILY HOME DEVELOPMENT AND TO ALLOW CLEARING AS PROPOSED.

DATE	REVISIONS	REVISION NO.
08-15-25	REVISE BUILDING FOOTPRINT	
03-29-22	REV NOTES	
02-15-22	PER 01-13-21 GILMORE LETTER	
05-22-17	REV PER TWP. REVIEW-2HB APPLICATION	
03-17-17	ADD RAIN GARDEN	

GRAPHIC SCALE 1"=30'

0 30 60 90

UNDERGROUND UTILITIES
PA. ACT 187 OF 1996-ONE CALL NOTIFICATION (1-800-242-1776)
DATE: 02-15-2022 SERIAL NO.: 20220461891

ALL LOCATIONS OF EXISTING UTILITIES SHOWN ON THE PLAN HAVE BEEN DEVELOPED FROM EXISTING UTILITY CO. RECORDS AND/OR ABOVE GROUND EXAMINATION OF THE SITE. TOP SOILS, UNDERGROUND UTILITIES AND LOCATION AND DEPTH OF UNDERGROUND EXISTING UTILITIES ARE SHOWN. THE CONTRACTOR SHALL BE RESPONSIBLE FOR IDENTIFYING AT LEAST THREE (3) WORKING DAYS PRIOR TO THE START OF CONSTRUCTION TO VERIFY LOCATION AND DEPTH OF SAME.

PROJECT TITLE:
318 WHITEMARSH VALLEY ROAD
WHITEMARSH TOWNSHIP - MONTGOMERY COUNTY - PENNSYLVANIA

DRAWING TITLE:
SITE PLAN

PREPARED BY:
JOSEPH M. ESTOCK
Consulting Engineers & Land Surveyors

933 Mystic Lane
Eagleville, PA 19403-3614
(610) 666-0257
joe@josephmestock.com

SCALE: 1" = 30'
DATE: 08 MARCH 2017
FILE NO.: 93089
FIELD BOOK: 251, 260, 342
SHT. NO.: 1 of 7

LEGEND

[Symbol]	CENTERLINE
[Symbol]	TRACT BOUNDARY
[Symbol]	PROPERTY LINE
[Symbol]	LEGAL R.O.W. EASEMENTS
[Symbol]	REQUIRED R.O.W.
[Symbol]	EXISTING CONTOUR
[Symbol]	PROPOSED CONTOUR
[Symbol]	EXISTING WATER LINE
[Symbol]	EXISTING SAN. SEWER LINE
[Symbol]	EXISTING TELEPHONE LINE
[Symbol]	EXISTING GAS LINE
[Symbol]	EXISTING ELECTRIC LINE
[Symbol]	EXISTING STORM SEWER/INLET
[Symbol]	PROPOSED STORM SEWER/INLET
[Symbol]	PROPOSED WATER LINE
[Symbol]	PROPOSED SAN. SEWER LINE
[Symbol]	PROPOSED ELECTRIC LINE
[Symbol]	PROPOSED TELEPHONE LINE
[Symbol]	PROPOSED GAS LINE
[Symbol]	EXISTING MANHOLE
[Symbol]	PROPOSED MANHOLE
[Symbol]	EXISTING CURBLINE
[Symbol]	PROPOSED CURBLINE
[Symbol]	UTILITY POLE
[Symbol]	EXISTING VALVE, VENT, CO.

[Symbol]	PROPOSED HOUSE
[Symbol]	IMPERVIOUS PAVING DRIVEWAY
[Symbol]	POROUS PAVING DRIVEWAY
[Symbol]	GRASS SHOULDER
[Symbol]	PROPOSED CONCRETE WALK
[Symbol]	RIPRAP APRON
[Symbol]	GRINDER PUMP UNIT
[Symbol]	TO BE REMOVED

EROSION & SEDIMENT CONTROL LEGEND

[Symbol]	RCE	ROCK CONSTRUCTION ENTRANCE
[Symbol]	IP	INLET PROTECTION
[Symbol]	[Symbol]	TOPSOIL STOCKPILE
[Symbol]	FF18	FILTER FABRIC FENCE (18" HIGH)
[Symbol]	FF30	FILTER FABRIC FENCE (30" HIGH)
[Symbol]	SFFF	SUPER FILTER FABRIC FENCE
[Symbol]	TPF	TREE PROTECTION FENCE
[Symbol]	8" CFS	COMPOST FILTER SOCK (SIZE)
[Symbol]	LOD	LIMIT OF DISTURBANCE LINE

SOILS LEGEND

SYMBOL	DESCRIPTION
Bo	Bowmansville-Knauers Silt Loams Depth to Bedrock: 72-99 Inches Depth to Water Table: 0-18 Inches
CIA	Chalfont Silt Loam, 3-8 % Slopes Depth to Bedrock: 15-30 Inches Depth to Water Table: 6-18 Inches
LAB	Lansdale Silt Loam, 3-8 % Slopes Depth to Bedrock: 42-60 Inches Depth to Water Table: More than 80 Inches
RM	Rowland Silt Loam, Terrace Depth to Bedrock: 60-99 Inches Depth to Water Table: 12-36 Inches

SOIL TYPE BOUNDARY LINE

Soil Type Boundary Line: Bo, CIA

STEEP SLOPE LEGEND

[Symbol]	8-15% SLOPES (176 SF)
[Symbol]	15-25% SLOPES (225 SF)
[Symbol]	+25% SLOPES (4,702 SF)

STEEP SLOPE RATIO:

TOTAL STEEP SLOPE AREA= 5,103 SF
LOT AREA= 154,712 SF = 3.3 %

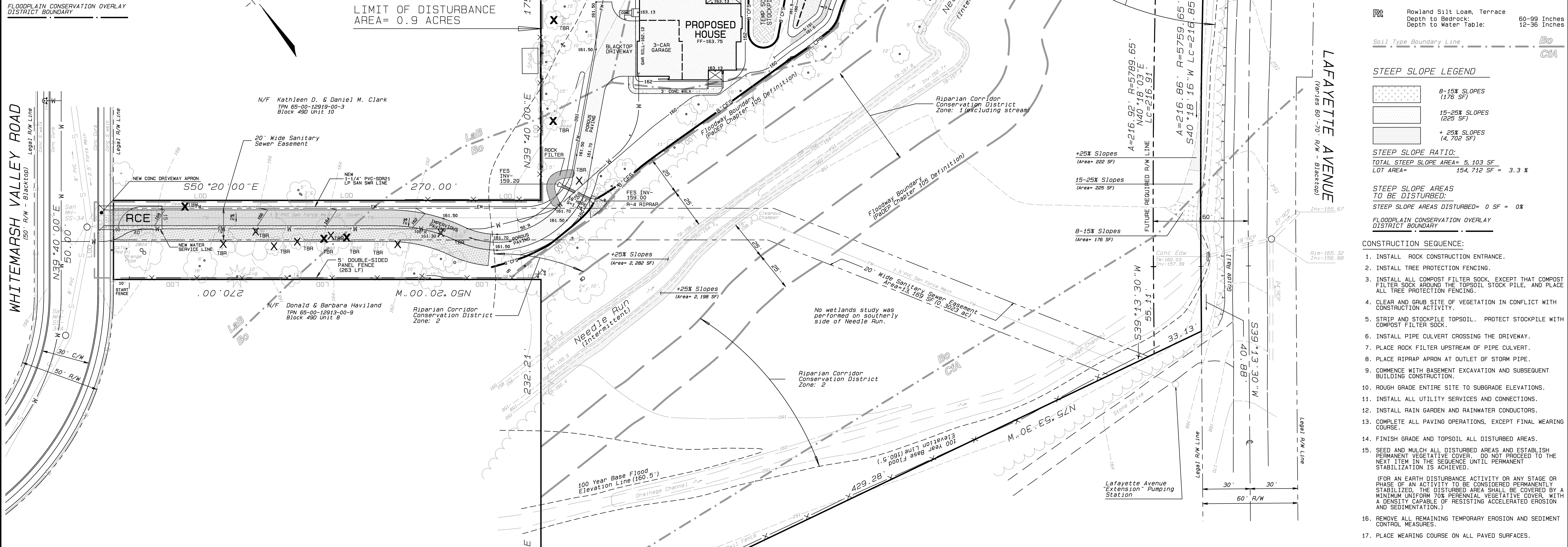
STEEP SLOPE AREAS TO BE DISTURBED:

STEEP SLOPE AREAS DISTURBED= 0 SF = 0 %

FLOODPLAIN CONSERVATION OVERLAY DISTRICT BOUNDARY

CONSTRUCTION SEQUENCE:

- INSTALL ROCK CONSTRUCTION ENTRANCE.
- INSTALL TREE PROTECTION FENCING.
- INSTALL ALL COMPOST FILTER SOCK, EXCEPT THAT COMPOST FILTER SOCK AROUND THE TOPSOIL STOCKPILE, AND PLACE ALL TREE PROTECTION FENCING.
- CLEAR AND GRUB SITE OF VEGETATION IN CONFLICT WITH CONSTRUCTION ACTIVITY.
- STRIP AND STOCKPILE TOPSOIL. PROTECT STOCKPILE WITH COMPOST FILTER SOCK.
- INSTALL PIPE CULVERT CROSSING THE DRIVEWAY.
- PLACE RIPRAP APRON AT OUTLET OF STORM PIPE.
- COMMENCE WITH BASEMENT EXCAVATION AND SUBSEQUENT BUILDING CONSTRUCTION.
- ROUGH GRADE ENTIRE SITE TO SUBGRADE ELEVATIONS.
- INSTALL ALL UTILITY SERVICES AND CONNECTIONS.
- INSTALL RAIN GARDEN AND RAINWATER CONDUCTORS.
- COMPLETE ALL PAVING OPERATIONS, EXCEPT FINAL WEARING COURSE.
- FINISH GRADE AND TOPSOIL ALL DISTURBED AREAS.
- SEED AND MULCH ALL DISTURBED AREAS AND ESTABLISH PERMANENT VEGETATIVE COVER. DO NOT PROCEED TO THE NEXT ITEM IN THE SEQUENCE UNTIL PERMANENT STABILIZATION IS ACHIEVED.
- (FOR AN EARTH DISTURBANCE ACTIVITY OR ANY STAGE OR PHASE OF AN ACTIVITY TO BE CONSIDERED PERMANENTLY STABILIZED, THE DISTURBED AREA SHALL BE COVERED BY A MINIMUM UNIFORM 70% PERENNIAL VEGETATIVE COVER, WITH A DENSITY CAPABLE OF RESISTING ACCELERATED EROSION AND SEDIMENTATION.)
- REMOVE ALL REMAINING TEMPORARY EROSION AND SEDIMENT CONTROL MEASURES.
- PLACE WEARING COURSE ON ALL PAVED SURFACES.



EGS OWNERSHIP, OPERATIONS AND MAINTENANCE PROCEDURES

I. GENERAL STATEMENT

THIS PROJECT IS KNOWN AS 318 WHITEMARSH VALLEY ROAD IN WHITEMARSH TOWNSHIP, MONTGOMERY COUNTY, PENNSYLVANIA. THE PROJECT CONSISTS OF A SINGLE FAMILY DETACHED DWELLING, A DRIVEWAY AND ACCESSORY USES.

THE EXISTING CONDITION AND PRESENT LAND USE OF THIS SITE AN UNDEVELOPED LOT, BEING WOODED AND TRAVERSED BY AN INTERMITTENT STREAM KNOWN NEEDLE RUN.

THE PROPERTY CONTAINS 3.7341 ACRES OF LAND.

THE LANDOWNER OF RECORD IS PAT SPARANGO, INC. C/O MARY GRACE SPARANGO, 506 BETHLEHEM PIKE, FORT WASHINGTON, PA 19034. THIS PLAN HAS BEEN PREPARED BY JOSEPH M. ESTOCK, P.E., PLS., 395 S. HENDERSON ROAD, KING OF PRUSSIA, PA 19406.

II. TEMPORARY BMP OPERATION & MAINTENANCE PROGRAM

TEMPORARY BMPs MUST BE ADEQUATELY MAINTAINED BY THE CONTRACTOR DURING CONSTRUCTION AND UNTIL PERMANENT UNIFORM VEGETATIVE COVER IS ESTABLISHED ON THE ENTIRE SITE. THESE TEMPORARY BMPs, SUCH AS, ALL SILT FENCING, ALL COMPOST FILTER SOCKS, TREE PROTECTION FENCING, THE ROCK CONSTRUCTION ENTRANCE, INLET PROTECTION, TOPSOIL STOCKPILE, TEMPORARY SEEDING, ETC. THE TEMPORARY BMPs MUST BE INSPECTED AFTER EACH STORM EVENT OF MEASURABLE PRECIPITATION AND MUST FUNCTION IN A MANNER AS ORIGINALLY INTENDED BY THE APPROVED EROSION & SEDIMENT CONTROL PLAN.

THE CONTRACTOR MUST PROVIDE A WRITTEN REPORT DOCUMENTING EACH INSPECTION. SAID REPORT MUST INCLUDE THE DATE OF SAID INSPECTION AND A LIST OF THOSE BMPs INSPECTED ALONG WITH AN INDICATION OF ANY BMP FAILURES AND CORRECTIVE MEASURES TAKEN TO REMEDIATE FAILURE.

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DATE	REVISIONS	REVISION NO.
08-15-25	REVISE BUILDING FOOTPRINT	
03-29-22	REV SANITARY SEWER	
02-15-22	PER 01-13-21 GILMORE LETTER	
03-17-17	ADD RAIN GARDEN	

GRAPHIC SCALE 1"=30'

0 30 60 90

UNDERGROUND UTILITIES
PA. ACT 187 OF 1996-ONE CALL NOTIFICATION(1-800-242-1776)
DATE: 02-15-2022 SERIAL NO.: 20220461891

ALL LOCATIONS OF EXISTING UTILITIES SHOWN ON THE PLAN HAVE BEEN DEVELOPED FROM EXISTING UTILITY CO. RECORDS AND/OR ABOVE GROUND EXAMINATION OF THE SITE. THE USER OF THESE RECORDS OR ANY OTHER PARTY LOCATING AND/OR VERIFYING ALL EXISTING UTILITIES AND/OR DEPTHS, THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING AT LEAST THREE (3) WORKING DAYS PRIOR TO THE START OF CONSTRUCTION TO VERIFY LOCATION AND DEPTH OF SAME.

PROJECT TITLE :

318 WHITEMARSH VALLEY ROAD

WHITEMARSH TOWNSHIP - MONTGOMERY COUNTY - PENNSYLVANIA

DRAWING TITLE :

EROSION AND SEDIMENT CONTROL PLAN

PREPARED BY :

JOSEPH M. ESTOCK
Consulting Engineers & Land Surveyors

933 Mystic Lane
Eagleville, PA 19403-3514
(610) 666-0257
joe@josephmestock.com

SCALE 1" = 30'
DATE 08 MARCH 2017
FILE NO. 93089
FIELD BOOK 251, 260, 342
SHT. NO. 2 of 7

LEGEND

---	CENTERLINE	---	PROPOSED HOUSE
---	TRACT BOUNDARY	---	IMPERVIOUS PAVING DRIVEWAY
---	PROPERTY LINE	---	POROUS PAVING DRIVEWAY
---	LEGAL R.O.W. EASEMENTS	---	GRASS PAVER DRIVEWAY
---	REQUIRED R.O.W.	---	PROPOSED CONCRETE WALK
---	EXISTING CONTOUR	---	RIPRAP APRON
---	PROPOSED CONTOUR	---	GRINDER PUMP UNIT
---	EXISTING WATER LINE	---	TO BE REMOVED
---	EXISTING SAN. SEWER LINE	---	
---	EXISTING TELEPHONE LINE	---	
---	EXISTING GAS LINE	---	
---	EXISTING ELECTRIC LINE	---	
---	EXISTING STORM SEWER/INLET	---	
---	PROPOSED WATER LINE	---	
---	PROPOSED SAN. SEWER LINE	---	
---	PROPOSED ELECTRIC LINE	---	
---	PROPOSED TELEPHONE LINE	---	
---	PROPOSED GAS LINE	---	
---	EXISTING MANHOLE	---	
---	PROPOSED MANHOLE	---	
---	EXISTING CURBLINE	---	
---	PROPOSED CURBLINE	---	
---	UTILITY POLE	---	
---	EXISTING VALVE, VENT, CO.	---	

FLOODPLAIN CONSERVATION OVERLAY DISTRICT BOUNDARY

GENERAL SANITARY SEWER NOTE:
 ALL PUBLIC SANITARY SEWERS SHALL BE DESIGNED AND CONSTRUCTED IN ACCORDANCE WITH WHITEMARSH TOWNSHIP AUTHORITY SPECIFICATIONS. SUCH SEWERS SHALL BE LOCATED OR CONSTRUCTED SO AS TO ELIMINATE POSSIBILITY OF FLOOD DAMAGE.

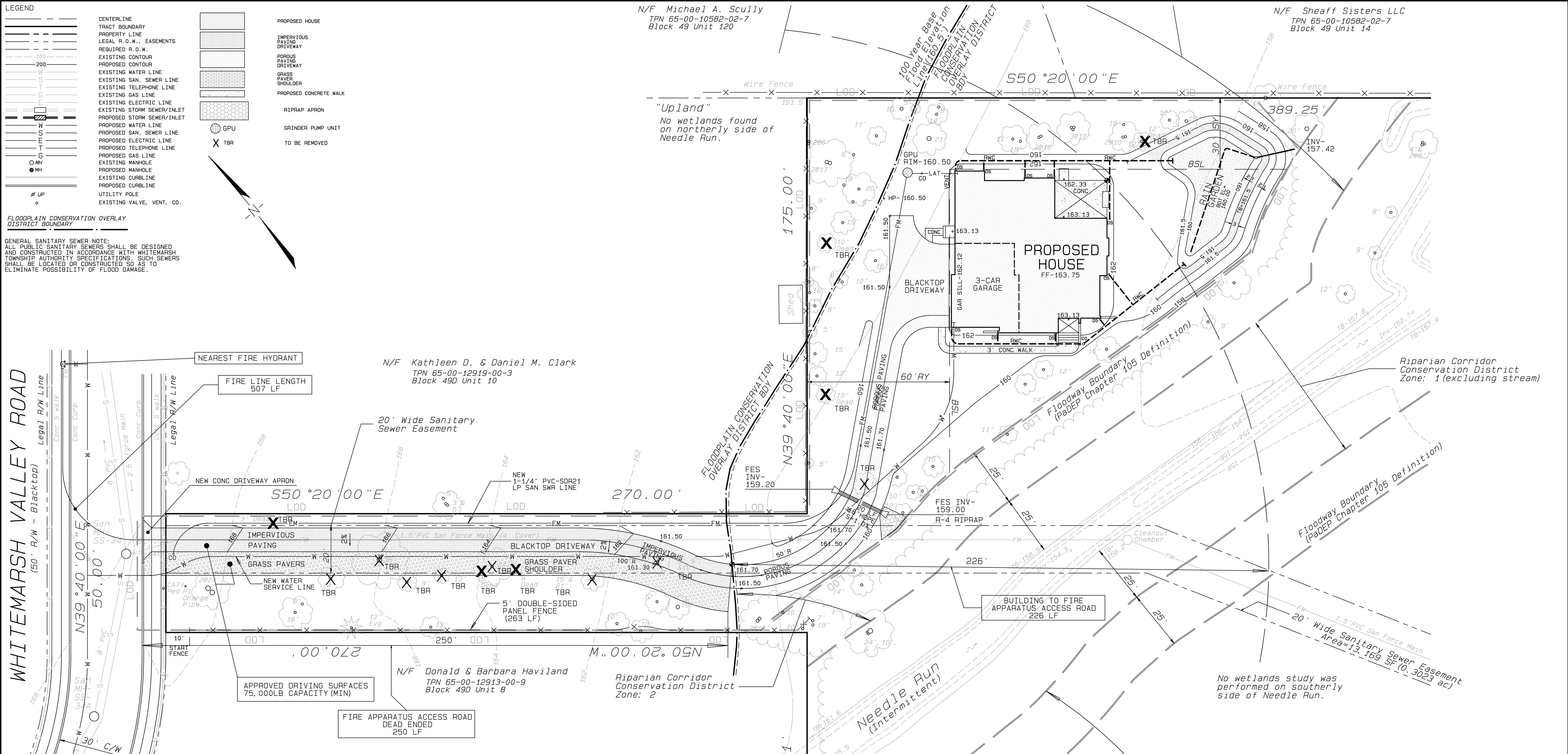
N/F Michael A. Scully
 TPN 65-00-10582-02-7
 Block 49 Unit 120

N/F Sheaff Sisters LLC
 TPN 65-00-10582-02-7
 Block 49 Unit 14

N/F Kathleen D. & Daniel M. Clark
 TPN 65-00-12919-00-3
 Block 49D Unit 10

N/F Donald & Barbara Haviland
 TPN 65-00-12913-00-9
 Block 49D Unit 8

WHITEMARSH VALLEY ROAD
 (50' R/W - Blacktop)



LONG-TERM OWNERSHIP, OPERATIONS AND MAINTENANCE SCHEDULE:

I. GENERAL STATEMENT
 THIS PROJECT IS KNOWN AS 318 WHITEMARSH VALLEY ROAD IN WHITEMARSH TOWNSHIP, MONTGOMERY COUNTY, PENNSYLVANIA. THE PROJECT CONSISTS OF A SINGLE FAMILY DETACHED DWELLING, A DRIVEWAY AND ACCESSORY USES.

THE EXISTING CONDITION AND PRESENT LAND USE OF THIS SITE AN UNDEVELOPED LOT, BEING WOODED AND TRAVERSED BY AN INTERMITTENT STREAM KNOWN NEEDLE RUN. THE PROPERTY CONTAINS 3.7341 ACRES OF LAND.

THE LANDOWNER OF RECORD IS PAT SPARANZO, INC. C/O MARY GRACE SPARANZO, 806 BETHLEHEM PIKE, FORT WASHINGTON, PA 19034. THIS PLAN HAS BEEN PREPARED BY JOSEPH M. ESTOCK, PE, PLS. 395 S. HENDERSON ROAD, KING OF PRUSSIA, PA 19406.

II. OWNERSHIP
 THE PROPERTY OWNER OF SUBJECT PARCEL IS RESPONSIBLE FOR THE PERPETUAL OWNERSHIP, OPERATION AND MAINTENANCE OF ALL POST CONSTRUCTION STORMWATER FACILITIES ON SITE.

THE PROPERTY OWNER SHALL HAVE THE RESPONSIBILITY FOR THE PERPETUAL MAINTENANCE OF THE PERMANENT STORMWATER MANAGEMENT FACILITIES. NO CHANGES SHALL BE MADE TO THE STORMWATER MANAGEMENT FACILITIES OR FINISH GRADING WITHOUT PRIOR WRITTEN APPROVAL FROM THE MUNICIPALITY. THE MUNICIPALITY HAS THE RIGHT, BUT NOT THE OBLIGATION, TO ENTER THE PROPERTY TO PERFORM ANY REQUIRED MAINTENANCE WHICH HAS NOT BEEN PROPERLY PERFORMED IN A TIMELY MANNER. THE PROPERTY OWNER SHALL BE RESPONSIBLE FOR THE COST OF ANY MAINTENANCE WHICH IS PERFORMED BY THE MUNICIPALITY. THE MUNICIPALITY SHALL LIEN THE PROPERTY FOR SAID COSTS UNTIL THE MUNICIPALITY HAS BEEN REIMBURSED IN FULL.

IT IS UNLAWFUL TO ALTER OR REMOVE ANY PERMANENT STORMWATER BMP REQUIRED BY AN APPROVED BMP OPERATIONS AND MAINTENANCE PLAN (OPSM PLAN), OR TO ALLOW THE PROPERTY TO REMAIN IN A CONDITION WHICH DOES NOT

CONFORM TO AN APPROVED BMP OPERATIONS AND MAINTENANCE PLAN, UNLESS AN EXCEPTION IS GRANTED IN WRITING BY THE MUNICIPALITY.

THE APPLICANT MUST SIGN A BMP OPERATIONS AND MAINTENANCE AGREEMENT WITH THE MUNICIPALITY TO COVER ALL STORMWATER BMP'S THAT ARE TO BE PRIVATELY OWNED.

THE BMP OPERATIONS AND MAINTENANCE PLAN AND RELATED AGREEMENTS MUST BE RECORDED IN THE OFFICE OF THE RECORDER OF DEEDS FOR COUNTY WITH THE OPERATIONS AND MAINTENANCE PLAN, BMP OPERATIONS AND MAINTENANCE AGREEMENT AND EASEMENTS.

III. STORMWATER MANAGEMENT EASEMENTS
 A BLANKET STORMWATER MANAGEMENT EASEMENT SHALL BE PROVIDED OVER THE ENTIRE PROPERTY GRANTING THE MUNICIPALITY THE RIGHT, BUT NOT THE OBLIGATION, TO ENTER AND IMPROVE STORMWATER FACILITIES. THIS EASEMENT SHALL PROVIDE THE MUNICIPALITY ACCESS FOR INSPECTION AND MAINTENANCE AND/OR PRESERVATION OF THE STORMWATER MANAGEMENT BMP FACILITIES, INCLUDING, BUT NOT LIMITED TO, THE UNDERGROUND STORMWATER DETENTION SYSTEM, ALL STORM SEWER PIPING AND THE RELATED STRUCTURES AND BMP'S.

IV. LONG-TERM BMP OPERATION & MAINTENANCE PROGRAM
 THE POST CONSTRUCTION STORMWATER MANAGEMENT CONTROLS/DEVICES AND OTHER BMP'S MUST BE ADEQUATELY MAINTAINED BY THE PROPERTY OWNER IN PERPETUITY. THESE BMP'S MUST FUNCTION IN A MANNER AS ORIGINALLY INTENDED BY THE APPROVED "POST CONSTRUCTION STORMWATER MANAGEMENT PLAN".

V. STORM SEWER SYSTEM
 THE DRIVEWAY CULVERT SHALL BE INSPECTED ONCE A YEAR AND AFTER EACH STORM EVENT GREATER THAN 1 YEAR TO ENSURE THE PIPE IS NOT CLOGGED. THE CULVERT SHALL BE FLUSHED EVERY YEAR TO PREVENT BUILDUP OF DEBRIS AND SEDIMENT. THIS SEDIMENT SHALL BE DISPOSED OF AT AN APPROVED SITE.

VI. RAIN GARDEN MAINTENANCE NOTES
 THE PROPOSED RAIN GARDEN HAS BEEN DESIGNED TO FUNCTION AS A STORMWATER BEST MANAGEMENT PRACTICE TO IMPROVE WATER QUALITY OF THE RUNOFF GENERATED BY THE PROPOSED LAND DEVELOPMENT. THIS DESIGN HAS BEEN INCORPORATED TO THE STORMWATER MANAGEMENT PLAN TO SATISFY REQUIREMENTS SET FORTH BY THE

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1. WHILE VEGETATION IS BEING ESTABLISHED, PRUNING AND WEEDING MAY BE REQUIRED. WEEDS SHOULD BE REMOVED THEREAFTER BY HAND.
2. DEBRIS MAY ALSO NEED TO BE REMOVED APPROXIMATELY TWICE PER YEAR. PERENNIAL PLANTINGS MAY BE CUT DOWN AT THE END OF THE GROWING SEASON.
3. MULCH SHOULD BE RE-SPREAD WHEN EROSION IS EVIDENT AND BE REPLISHED ANNUALLY. ONCE EVERY 2 TO 3 YEARS THE ENTIRE AREA MAY REQUIRE MULCH REPLACEMENT.
4. BIO-RETENTION AREAS SHOULD BE INSPECTED AT LEAST 2 TIMES PER YEAR FOR SEDIMENT BUILD-UP, EROSION, VEGETATIVE CONDITIONS, ETC.
5. DURING PERIODS OF EXTENDED DROUGHT, BIO-RETENTION AREAS MAY REQUIRE WATERING.
6. BIO-RETENTION AREAS SHOULD NOT BE MOWED ON A REGULAR BASIS.
7. TREES AND SHRUBS SHOULD BE INSPECTED TWICE PER YEAR TO EVALUATE HEALTH.

VII. PERMEABLE PAVING OPERATIONS & MAINTENANCE NOTES

1. PROTECTION
 - a. PROTECT COMPLETED WORK FROM DAMAGE DUE TO SUBSEQUENT CONSTRUCTION ACTIVITY ON THE SITE.
2. PERMEABLE JOINT AGGREGATE MATERIAL REFILLING
 - a. REMOVE ALL DEBRIS FROM JOINT AND PROVIDE ADDITIONAL PERMEABLE JOINT AGGREGATE MATERIAL AFTER 120 DAYS AND BEFORE 150 DAYS AFTER DATE OF SUBSTANTIAL COMPLETION/PROVISIONAL ACCEPTANCE.

(LANDOWNER)

1. FILL PERMEABLE JOINT AGGREGATE MATERIAL FULL TO THE LIP OF THE PAVEMENT.
 - (NOTE: THIS PREVENTATIVE MAINTENANCE REQUIREMENT IS VERY IMPORTANT TO INCLUDE IN YOUR SPECIFICATION TO HELP INCREASE THE LONG TERM FUNCTION OF THE SYSTEM. THIS IS A GOOD ITEM TO MENTION DURING THE PREBID MEETING.)
 3. LIFE CYCLE ACTIVITIES
 - a. PAVEMENT CLEANING: CLEAN PERMEABLE CONCRETE PAVERS AS NEEDED TO REMOVE STAINING, DIRT, DEBRIS, ETC.
 4. MAINTENANCE: PERMEABLE JOINT AGGREGATE MATERIAL.
 - a. ANNUALLY INSPECT PERMEABLE JOINT AGGREGATE MATERIAL FOR AREAS CLOGGED WITH DEBRIS.
 - b. VACUUM OR SWEEP AS NECESSARY TO RESTORE SURFACE INFILTRATION.
 - c. REMOVE DEBRIS BY VACUUMING OR SWEEPING PERMEABLE JOINT AGGREGATE
 - d. REPLENISH REMOVED PERMEABLE JOINT AGGREGATE MATERIAL WITH CLEAN AGGREGATE MATERIAL FLUSH TO PAVEMENT LIP.
 - e. SWEEP EXCESS MATERIAL FROM PAVEMENT SURFACE.
- VIII. LANDOWNER'S CERTIFICATION**
 THE STORMWATER MANAGEMENT FACILITIES AND BMP'S ARE FIXTURES THAT CAN BE ALTERED OR REMOVED ONLY AFTER APPROVAL BY THE MUNICIPALITY.

DATE	REVISIONS	REVISION NO.
08-15-25	REVISE BUILDING FOOTPRINT	
03-29-22	REV SANITARY SEWER, ADD NOTE	
02-15-22	PER 01-13-21 GILMORE LETTER	
05-22-17	REV PER TWP. REVIEW-2ND APPLICATION	
03-17-17	ADD RAIN GARDEN	

GRAPHIC SCALE 1"=20'

0 20 40 60

UNDERGROUND UTILITIES
 PA. ACT 187 OF 1996-ONE CALL NOTIFICATION (1-800-242-1776)
 DATE: 02-15-2022 SERIAL NO.: 20220461891

ALL LOCATIONS OF EXISTING UTILITIES SHOWN ON THE PLAN HAVE BEEN DEVELOPED FROM EXISTING UTILITY CO. RECORDS AND/OR ABOVE GROUND EXAMINATION OF THE SITE. THE USER OF THIS PLAN SHOULD OBTAIN LOCATION AND DEPTH OF UNDERGROUND UTILITIES AND/OR OTHER UTILITIES AND/OR NOTES FROM THE UTILITY COMPANIES AT LEAST THREE (3) WORKING DAYS PRIOR TO THE START OF CONSTRUCTION TO VERIFY LOCATION AND DEPTH OF SAME.

PROJECT TITLE:
318 WHITEMARSH VALLEY ROAD
 WHITEMARSH TOWNSHIP - MONTGOMERY COUNTY - PENNSYLVANIA

DRAWING TITLE:
POST CONSTRUCTION STORMWATER MANAGEMENT PLAN

PREPARED BY:
JOSEPH M. ESTOCK
 Consulting Engineers & Land Surveyors

SCALE: 1" = 20'

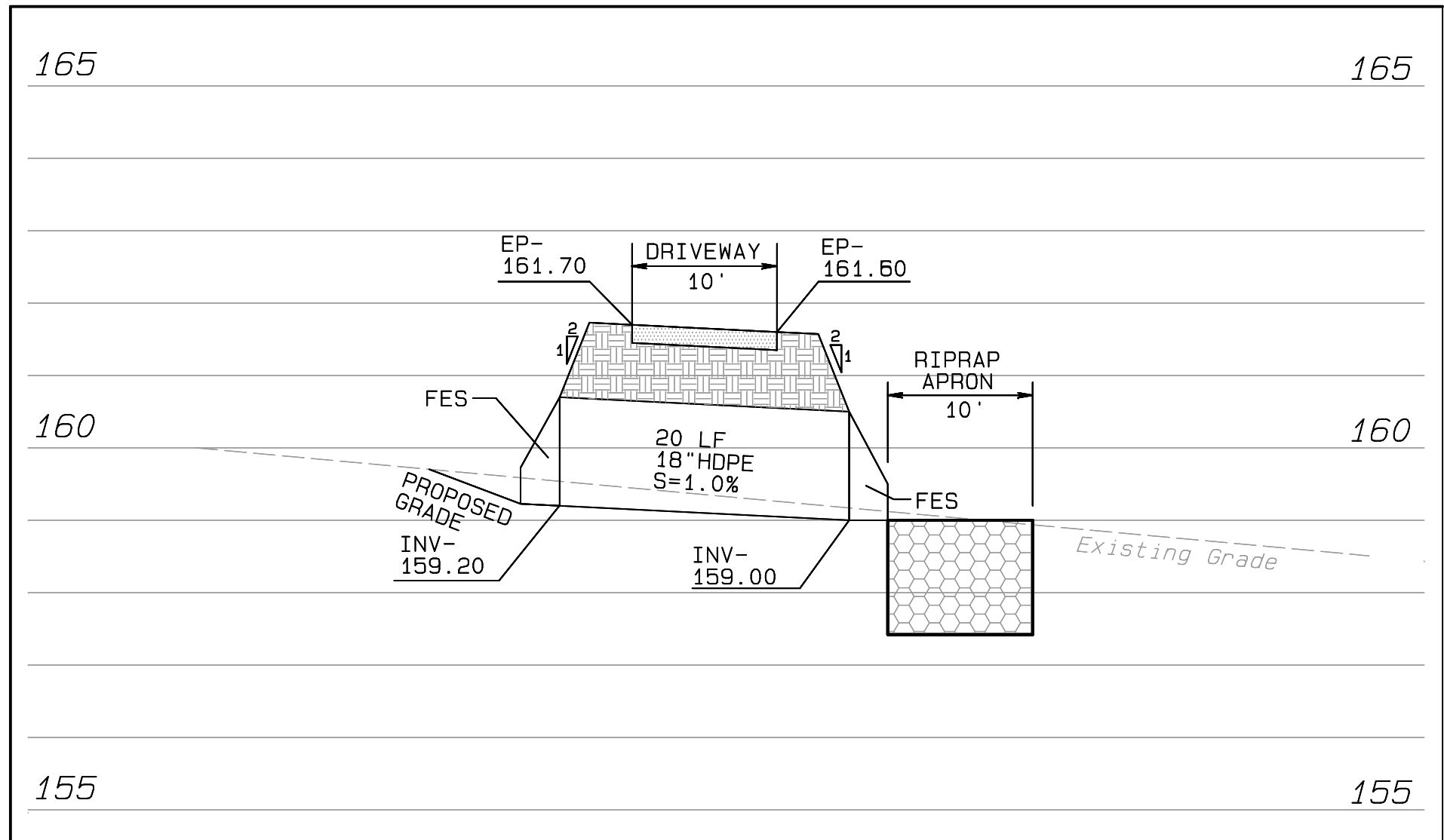
DATE: 08 MARCH 2017

FILE NO.: 93089

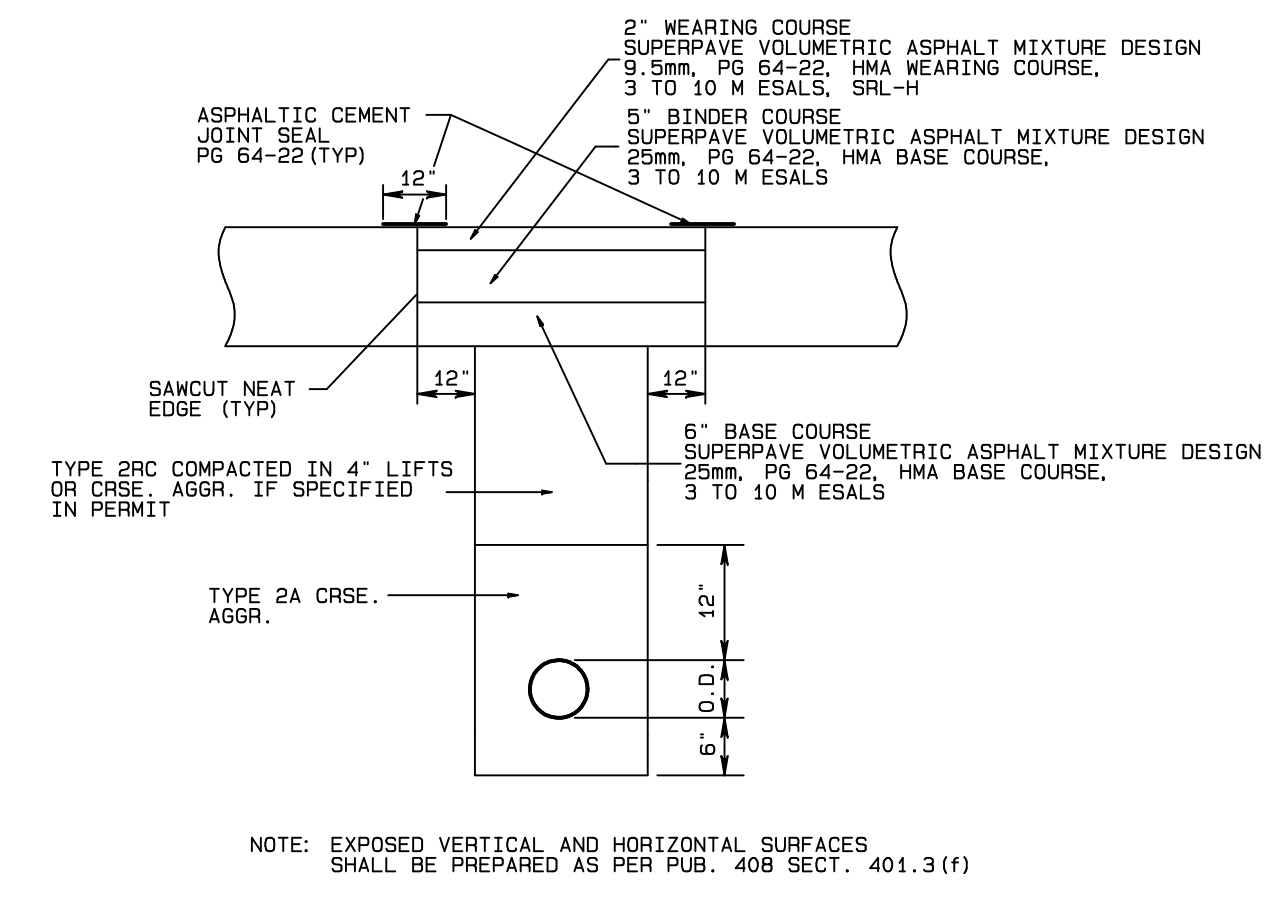
FIELD BOOK: 251, 260, 342

SHT. NO.: 4 of 7

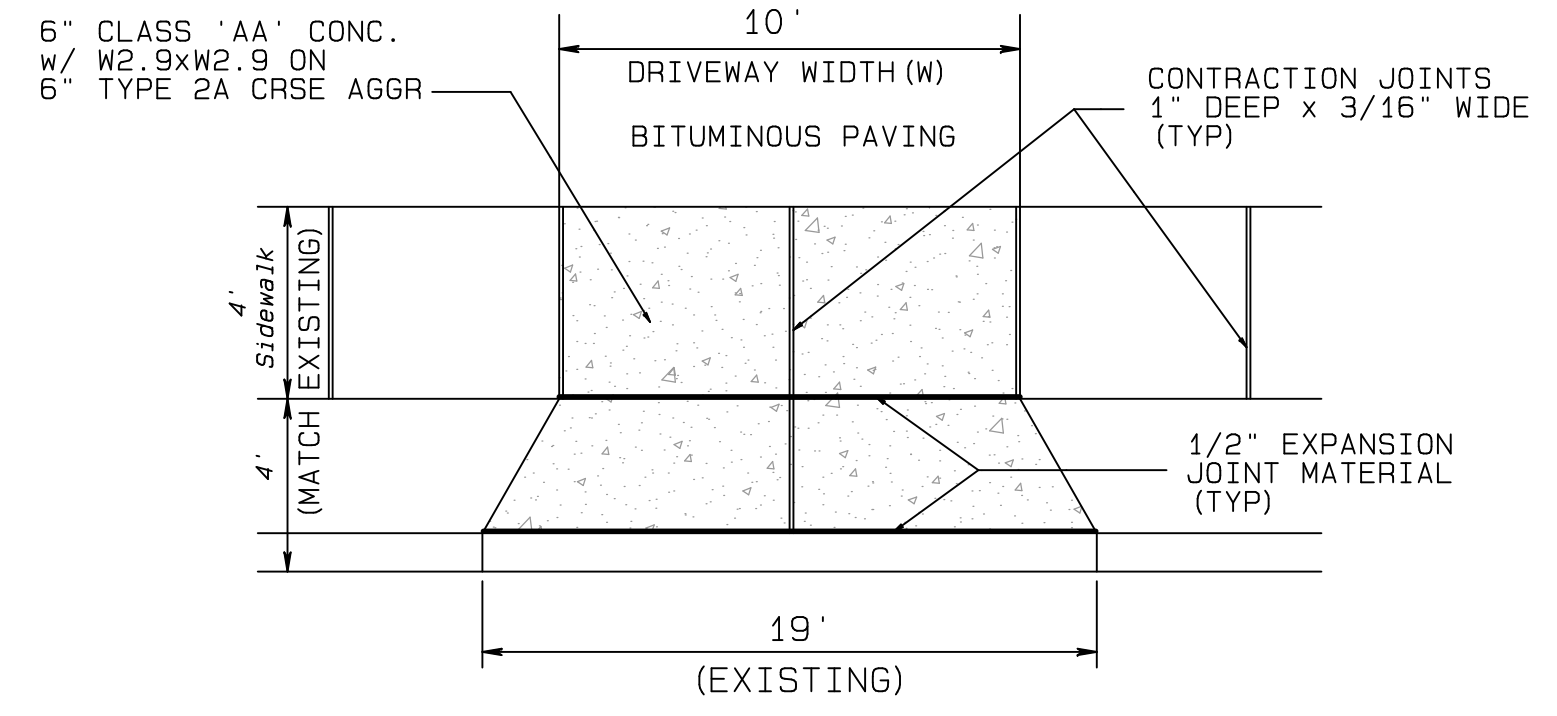
933 Mystic Lane
 Eagleville, PA 19403-3614
 (610) 666-0257
 joe@josephmestock.com



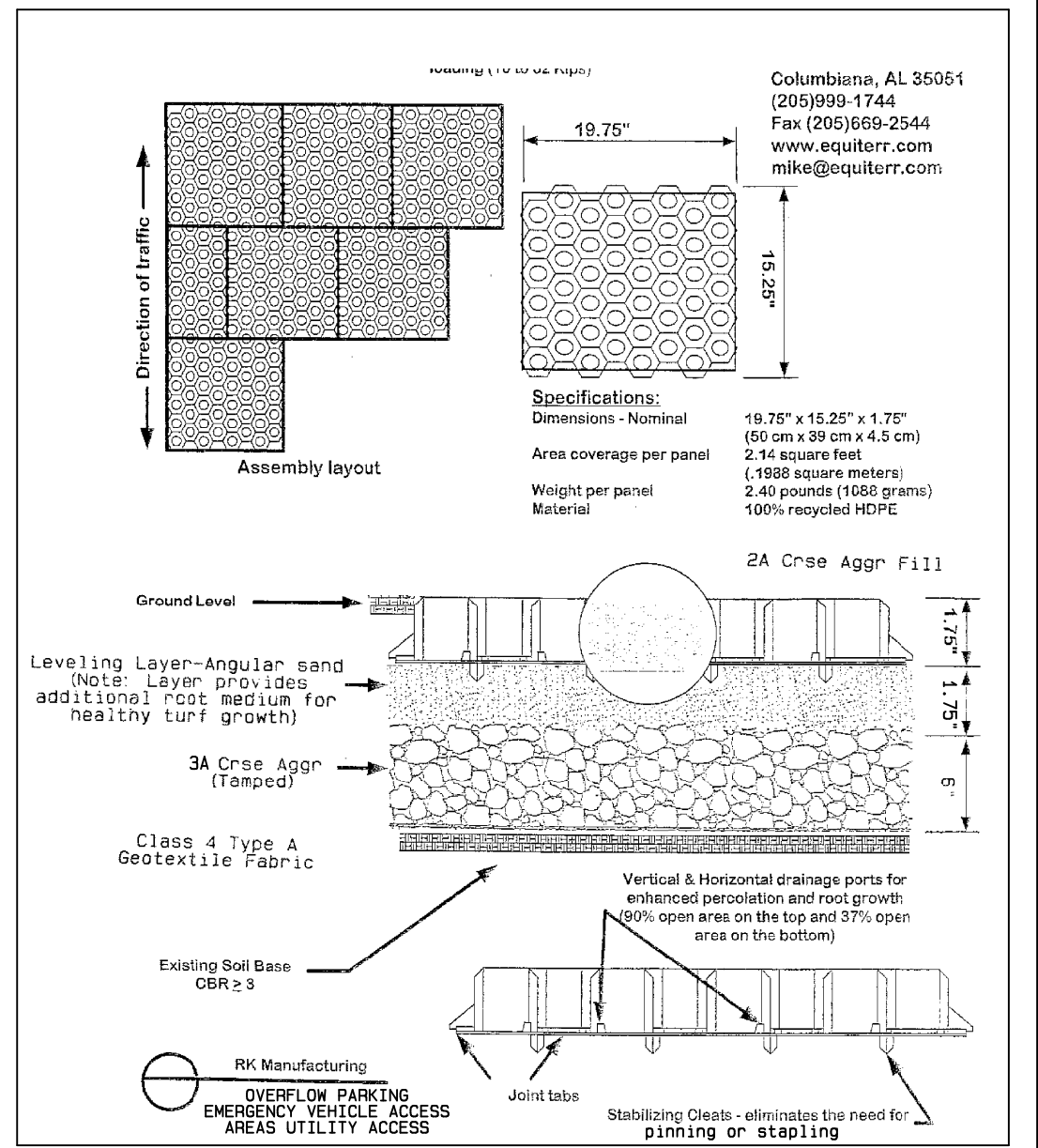
CULVERT PROFILE
SCALE: 1" = 10' HORIZ
1" = 2' VERT



FLEXIBLE PAVEMENT RESTORATION
(NTS)



CONCRETE DRIVEWAY APRON
(NTS)

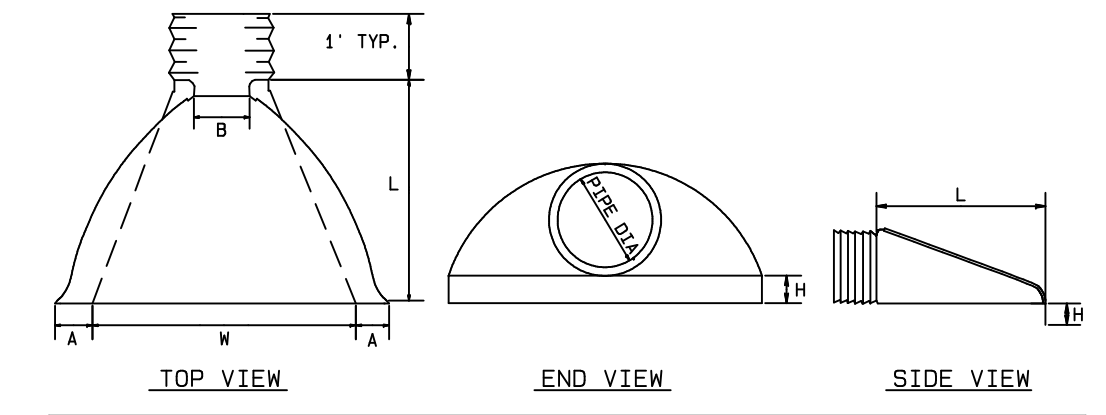


CONCRETE SIDEWALK
(NTS)

NDS 6" ATRIUM GRATE DETAIL

Part No.	Description	Color	Qty	Vol. (cu. ft.)	Product Class	Specifications
80	6" Atrium Grate	Green	10	0.82	10KMG	Flat-Top Structural Foam Polyethylene Atrium Grate with UV inhibitor. Open surface area 23.80 square inches, 60.56 GPM.
81	6" Atrium Grate	Grey	10	0.82	10KMG	
90	6" Atrium Grate	Black	10	0.82	10KMG	
90S	6" Atrium Grate	Sand	10	0.82	10KMG	

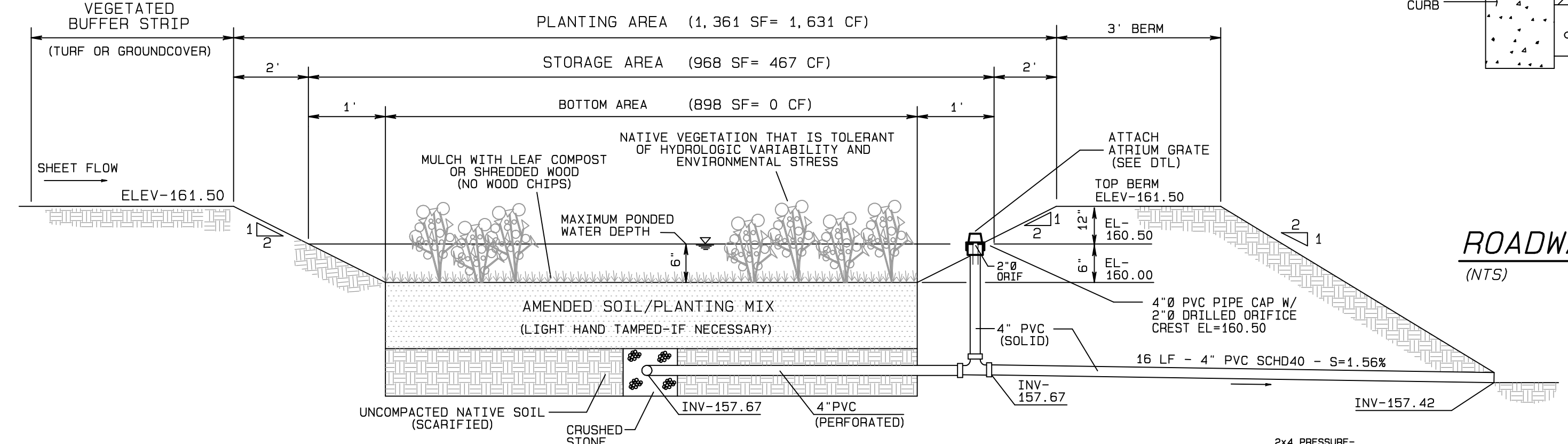
File Specs: 1/2" Beam, 6" Spacer and Drain Pipe & Fittings, 6" Corrugated Pipe.



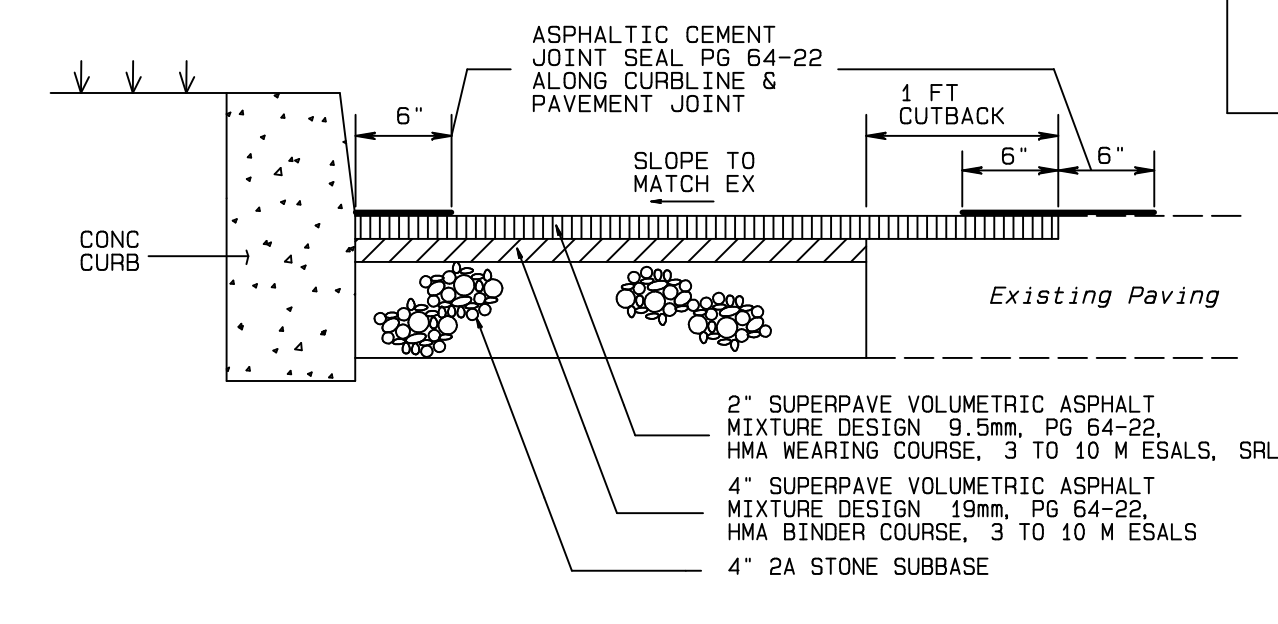
DIMENSIONS (INCHES)

PIPE DIAMETER	PART NUMBER	A (1 +/-)	B MAX	H (1 +/-)	L (1/2 +/-)	M (2 +/-)
18"	1810 NP	7.5	15	6.5	30	35

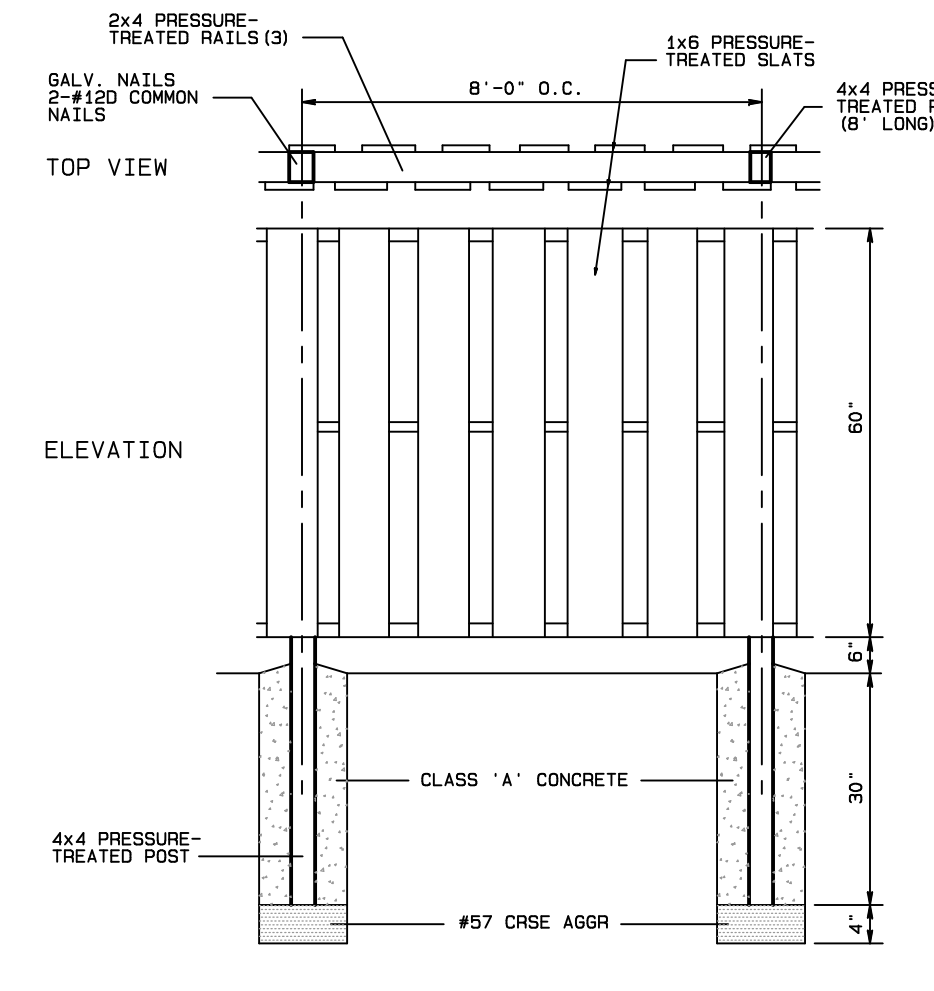
FLARED END SECTION HIGH DENSITY POLYETHYLENE PIPE (HDPE)
(NTS)



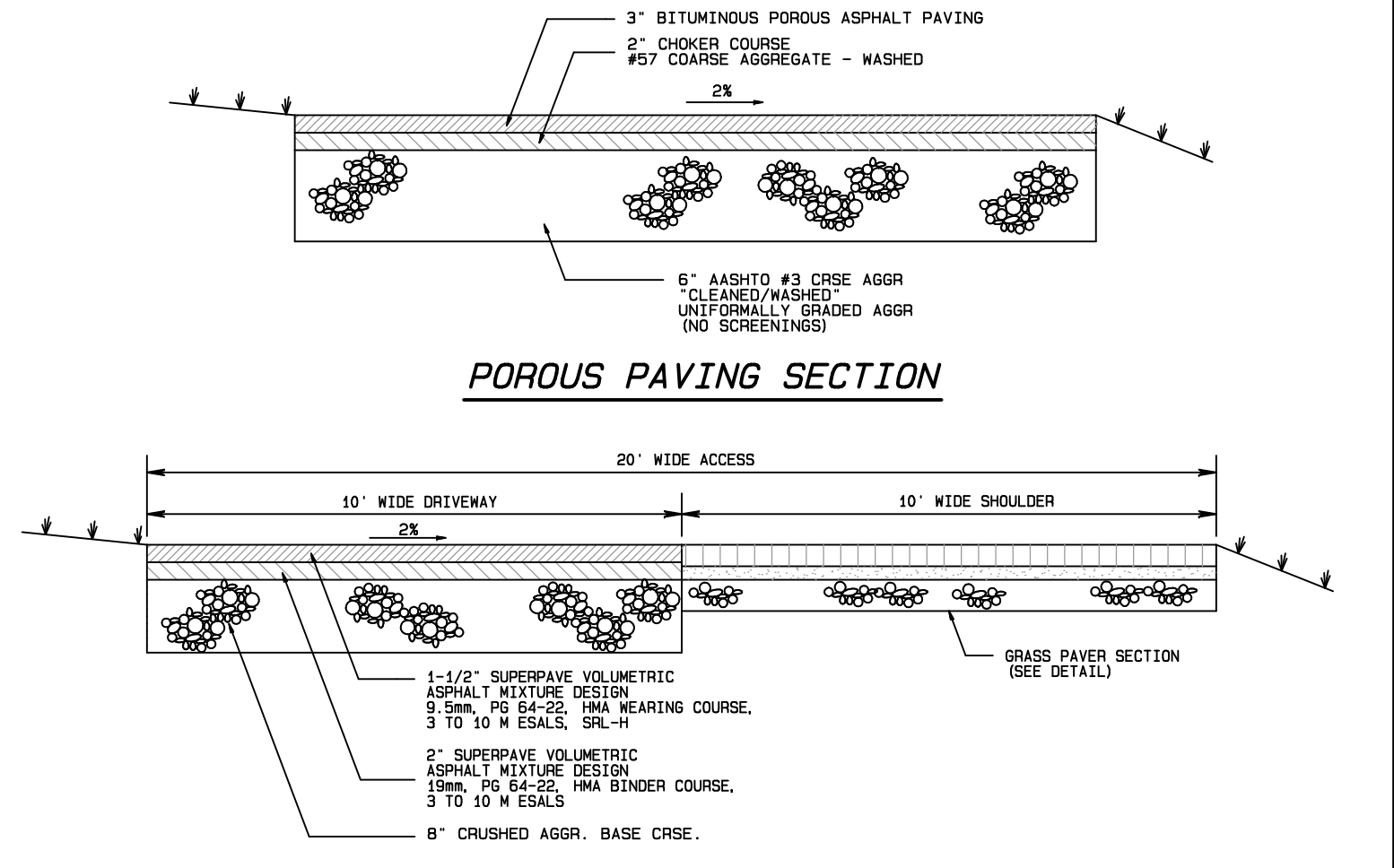
RAIN GARDEN/BIORETENTION DETAIL
(NTS)



ROADWAY RESTORATION DETAIL
(NTS)



DOUBLE-SIDED PANEL FENCE
(NTS)



DRIVEWAY PAVING DETAILS
(NTS)

DATE	REVISIONS	REVISION NO.
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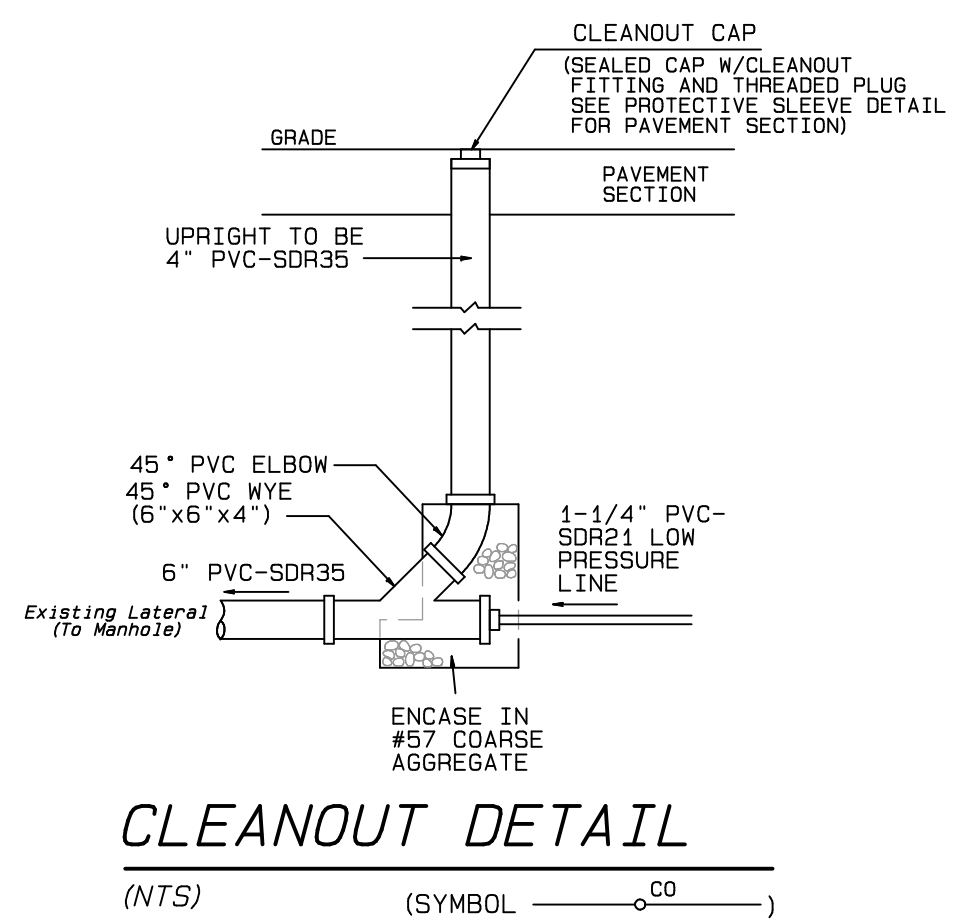
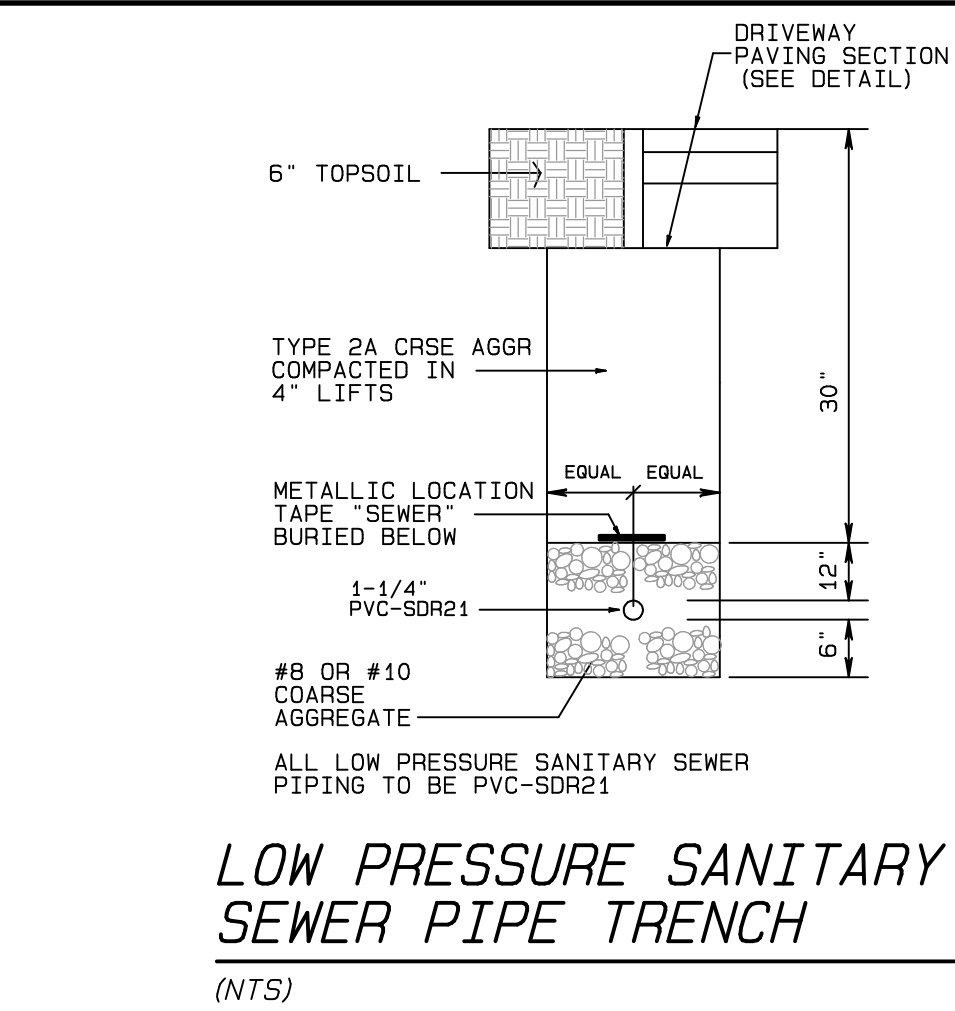
PROJECT TITLE :
318 WHITEMARSH VALLEY ROAD
WHITEMARSH TOWNSHIP - MONTGOMERY COUNTY - PENNSYLVANIA

DRAWING TITLE :
CONSTRUCTION DETAILS

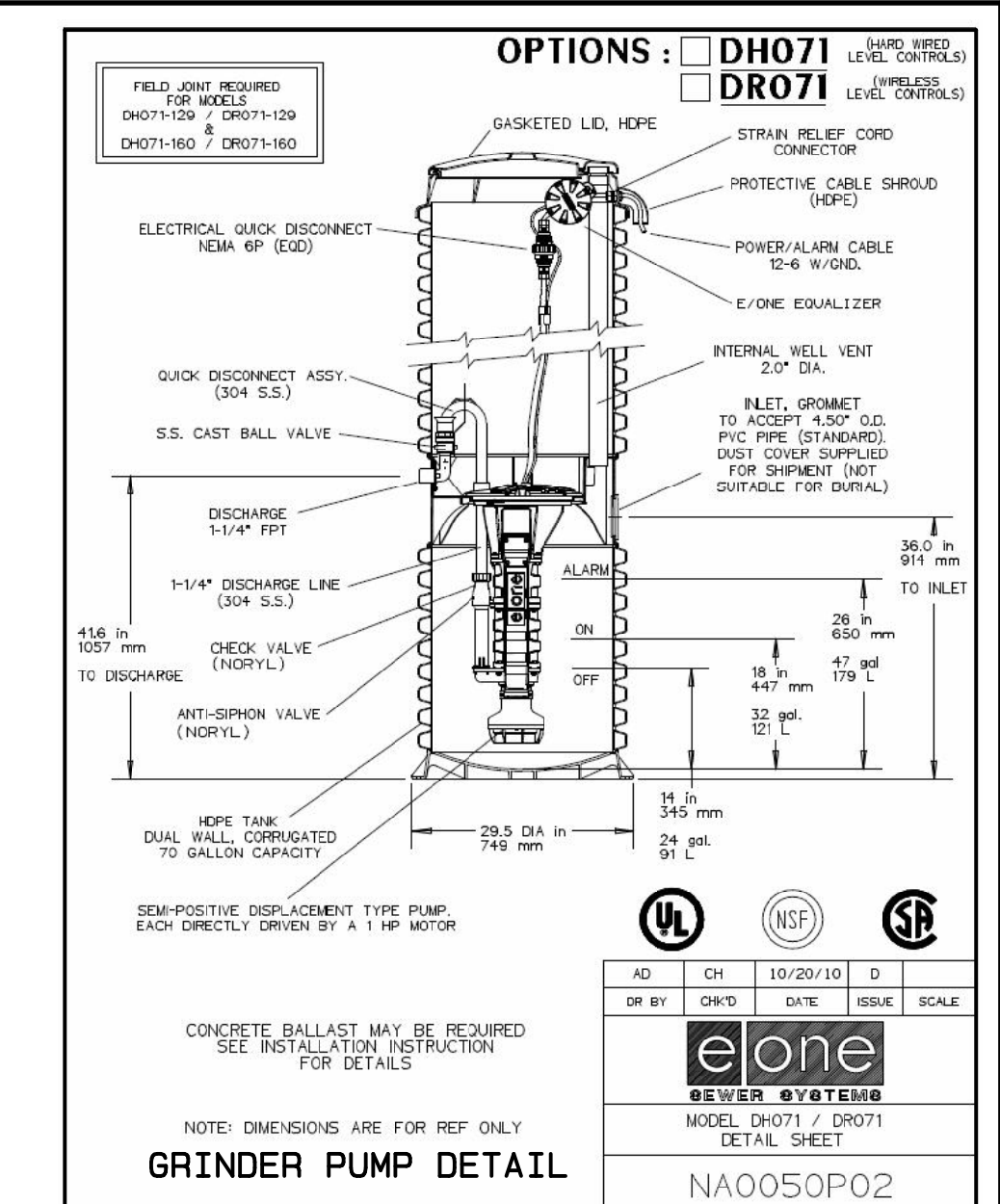
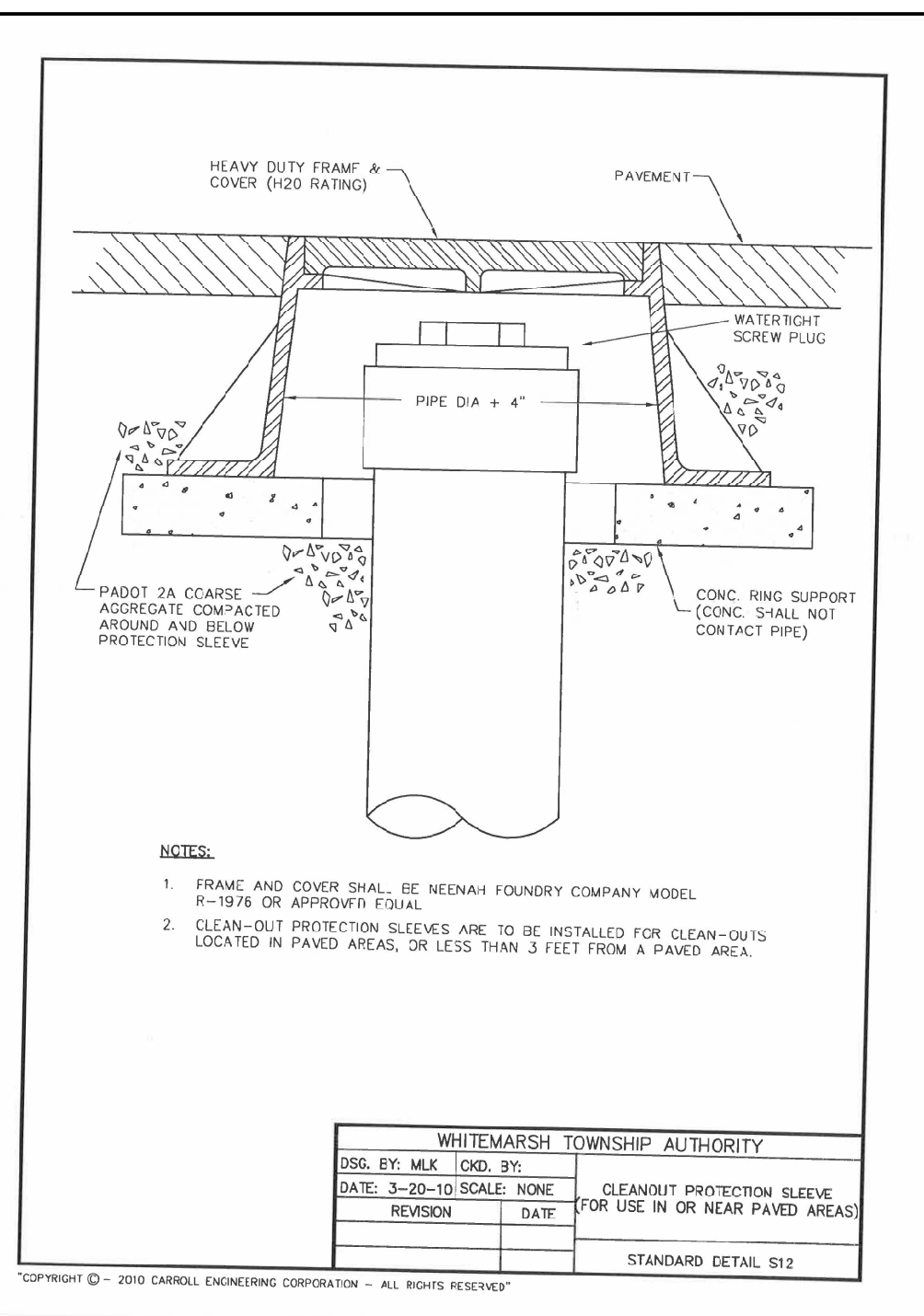
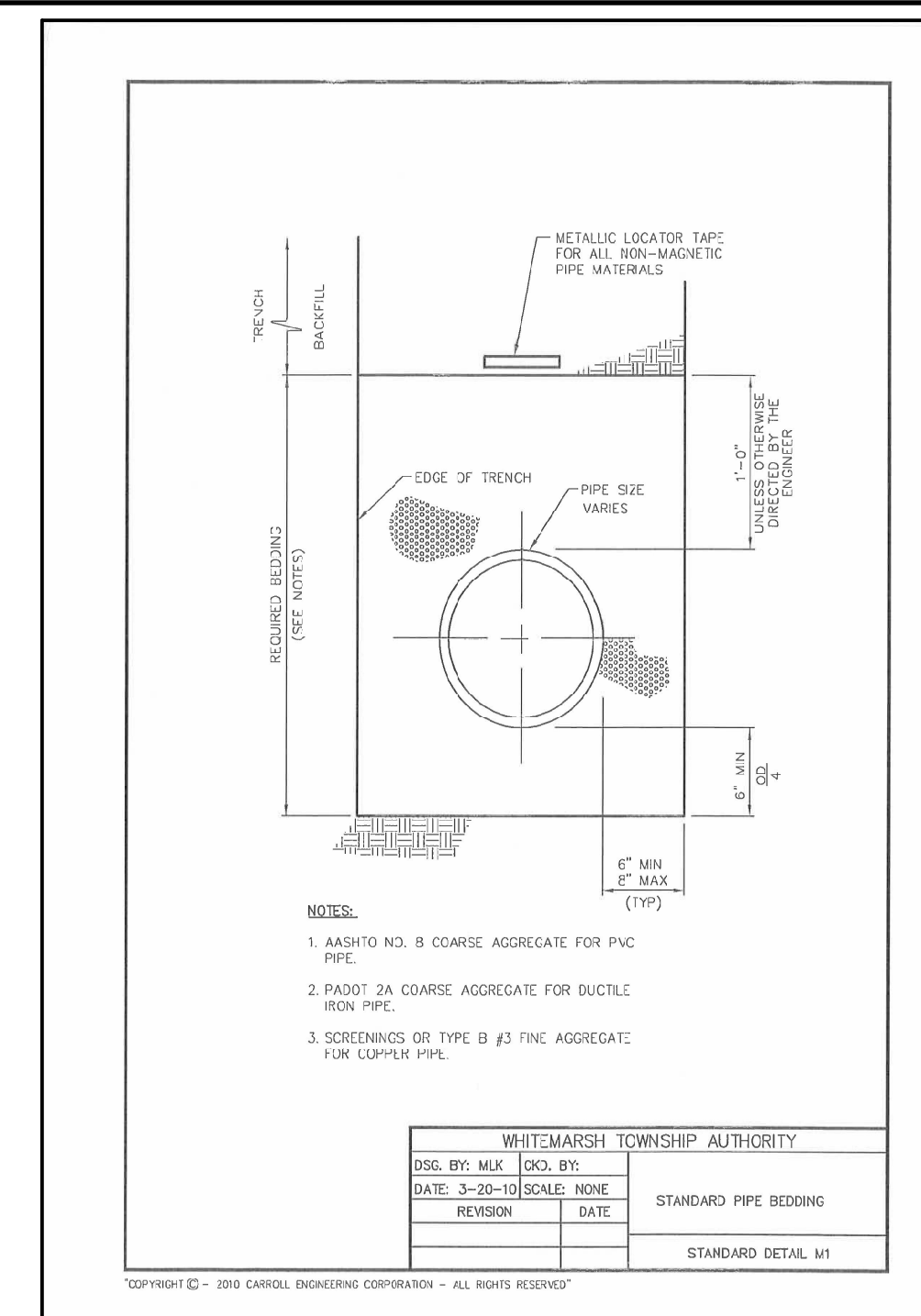
PREPARED BY :
JOSEPH M. ESTOCK
Consulting Engineers & Land Surveyors

933 Mystic Lane
Eagleville, PA 19403-3614
(610) 666-0257
joe@johmestock.com

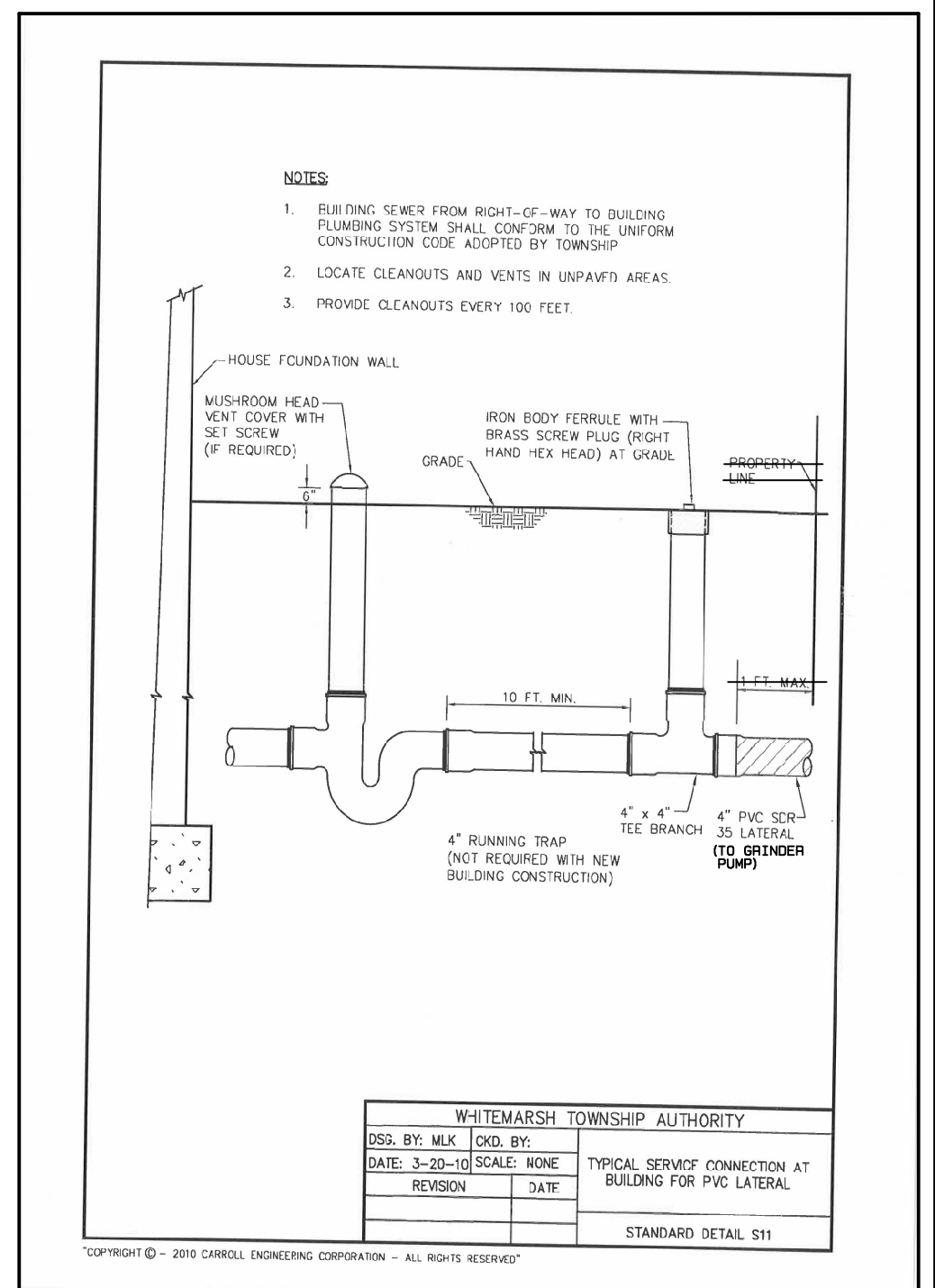
SCALE AS NOTED DATE 08 MARCH 2017 FILE NO. 93089 FIELD BOOK 251, 260, 342 SHT. NO. 5 of 7



GENERAL SANITARY SEWER NOTE:
ALL PUBLIC SANITARY SEWERS SHALL BE DESIGNED AND CONSTRUCTED IN ACCORDANCE WITH WHITEMARSH TOWNSHIP AUTHORITY SPECIFICATIONS. SUCH SEWERS SHALL BE LOCATED OR CONSTRUCTED SO AS TO ELIMINATE POSSIBILITY OF FLOOD DAMAGE.



THE GRINDER PUMP UNITS TO BE INSTALLED IN ACCORDANCE WITH THE FOLLOWING DOCUMENTS:
 ● E/ONE EXTREME DHO71 - TYPICAL INSTALLATION INSTRUCTIONS
 ● E/ONE EXTREME TYPICAL SPECIFICATIONS



DATE	REVISIONS	REVISION NO.
08-15-25	REVISE BUILDING FOOTPRINT	
02-15-22	PER 01-13-21 GILMORE LETTER	
03-17-17	ADD RAIN GARDEN	

PROJECT TITLE :
318 WHITEMARSH VALLEY ROAD
 WHITEMARSH TOWNSHIP - MONTGOMERY COUNTY - PENNSYLVANIA

DRAWING TITLE :
SANITARY SEWER CONSTRUCTION DETAILS

PREPARED BY :
JOSEPH M. ESTOCK
 Consulting Engineers & Land Surveyors

SCALE : AS NOTED
DATE : 08 MARCH 2017
FILE NO. : 93089
FIELD BOOK : 251, 260, 342
SHT. NO. : 6 of 7

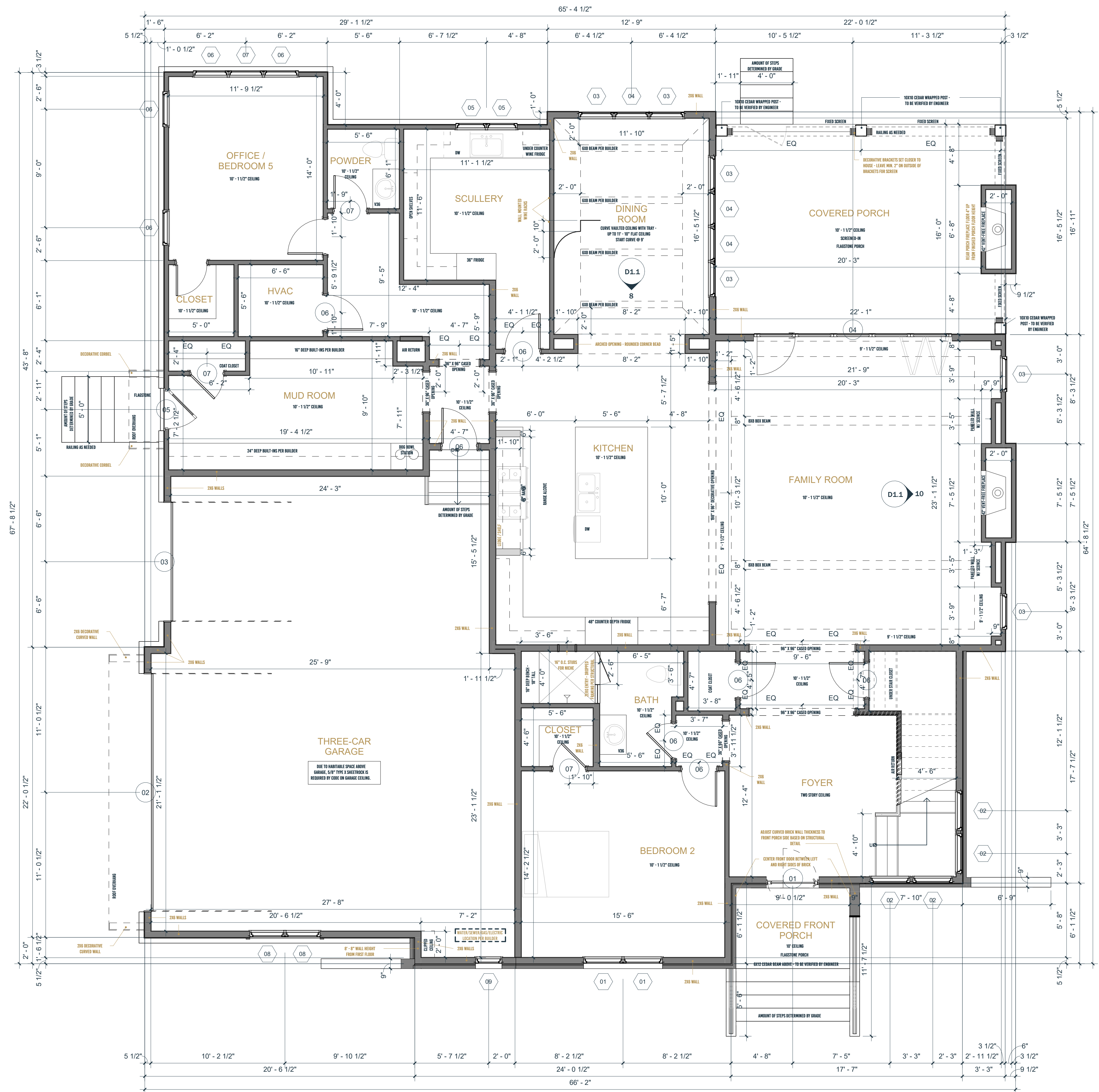
UNDERGROUND UTILITIES
 PA. ACT 187 OF 1996-ONE CALL NOTIFICATION (1-800-242-1776)
 DATE: 02-15-2022 SERIAL NO.: 20220461891

ALL LOCATIONS OF EXISTING UTILITIES SHOWN ON THE PLAN HAVE BEEN DEVELOPED FROM EXISTING UTILITY CO. RECORDS AND/OR ABOVE GROUND EXAMINATION OF THE SITE. THE EXISTENCE OR DEPTH OF UTILITIES AND DEPTH OF UNDERGROUND UTILITIES ARE SHOWN. THE CONTRACTOR SHALL BE RESPONSIBLE FOR DETERMINING THE EXISTENCE OF UTILITIES AND FOR NOTIFYING THE UTILITY COMPANIES AT LEAST THREE (3) WORKING DAYS PRIOR TO THE START OF CONSTRUCTION TO VERIFY LOCATION AND DEPTH OF SAME.

DOOR SCHEDULE				
MARK	COUNT	WIDTH	HEIGHT	COMMENTS
01	1	4'-0"	8'-0"	PIVOT FRONT DOOR
02	1	18'-0"	8'-0"	DOUBLE GARAGE DOOR
03	1	9'-0"	8'-0"	SINGLE GARAGE DOOR
04	1	15'-0"	8'-0"	5 PANEL FOLDING DOOR
05	1	3'-0"	8'-0"	SIDE ENTRY
06	14	2'-8"	8'-0"	SINGLE - PANELED
07	9	2'-6"	8'-0"	SINGLE - PANELED
08	2	2'-4"	8'-0"	SINGLE - PANELED
09	1	2'-8"	8'-0"	SINGLE - PANELED
10	1	2'-4"	8'-0"	SINGLE - PANELED
11	1	2'-8"	8'-0"	SINGLE - PANELED

SAFETY GLAZING SHALL BE INSTALLED IN HAZARDOUS LOCATIONS AND SHALL MEET THE REQUIREMENTS OF NRCR 9308.

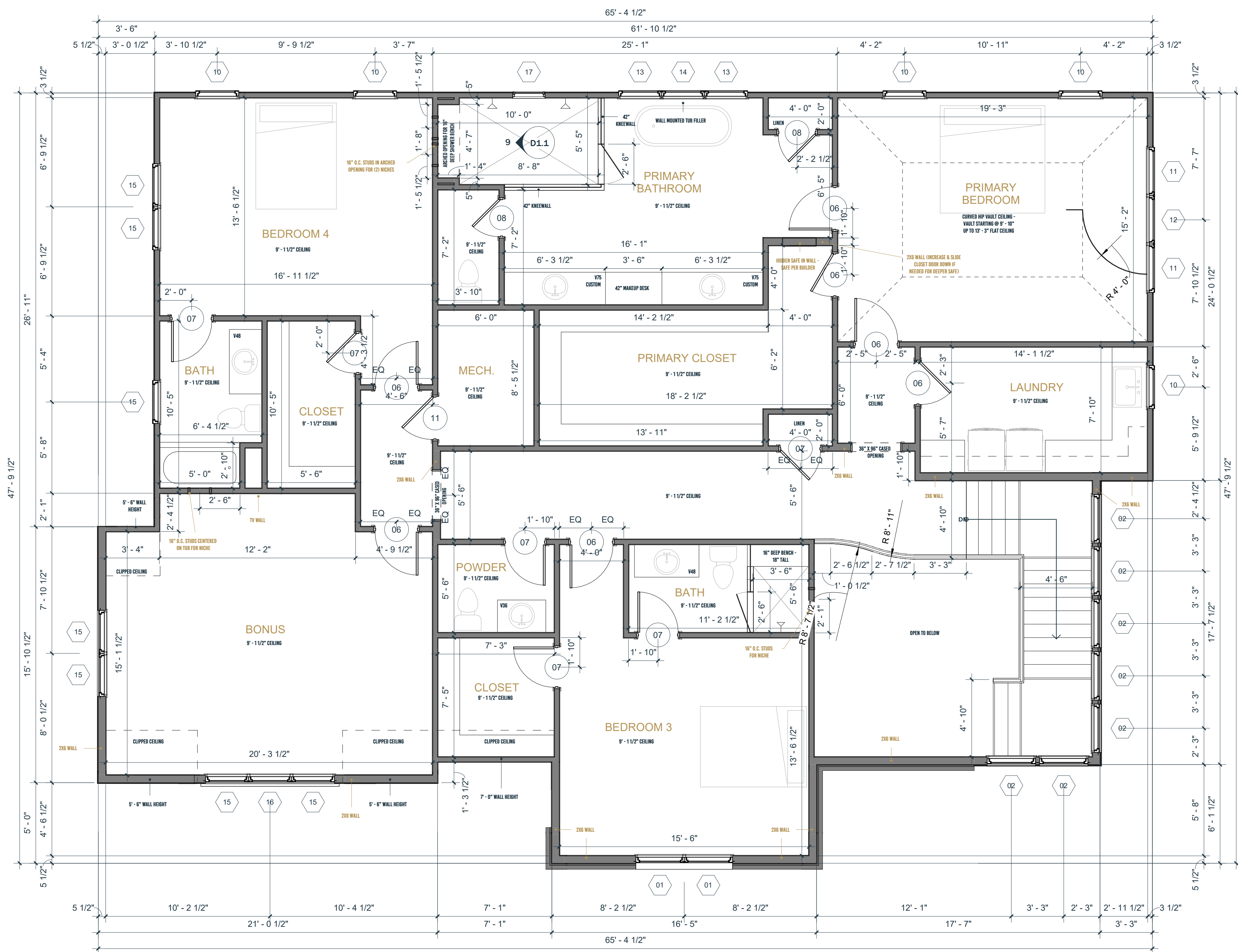
WINDOW SCHEDULE				
MARK	COUNT	WIDTH	HEIGHT	COMMENTS
01	4	3'-0"	7'-0"	CASEMENT
02	11	3'-0"	7'-0"	FIXED
03	6	2'-8"	8'-0"	CASEMENT
04	3	2'-8"	8'-0"	FIXED
05	2	2'-4"	4'-6"	CASEMENT
06	4	2'-8"	7'-0"	<varies>
07	1	2'-8"	7'-0"	FIXED
08	2	2'-8"	5'-6"	CASEMENT
09	1	2'-0"	4'-6"	CASEMENT
10	5	2'-8"	4'-6"	CASEMENT
11	2	3'-0"	6'-0"	CASEMENT
12	1	3'-0"	6'-0"	FIXED
13	2	2'-8"	4'-0"	CASEMENT
14	1	2'-8"	4'-0"	FIXED
15	7	2'-8"	5'-0"	CASEMENT
16	1	2'-8"	5'-0"	FIXED
17	1	2'-0"	2'-0"	FIXED - CIRCLE



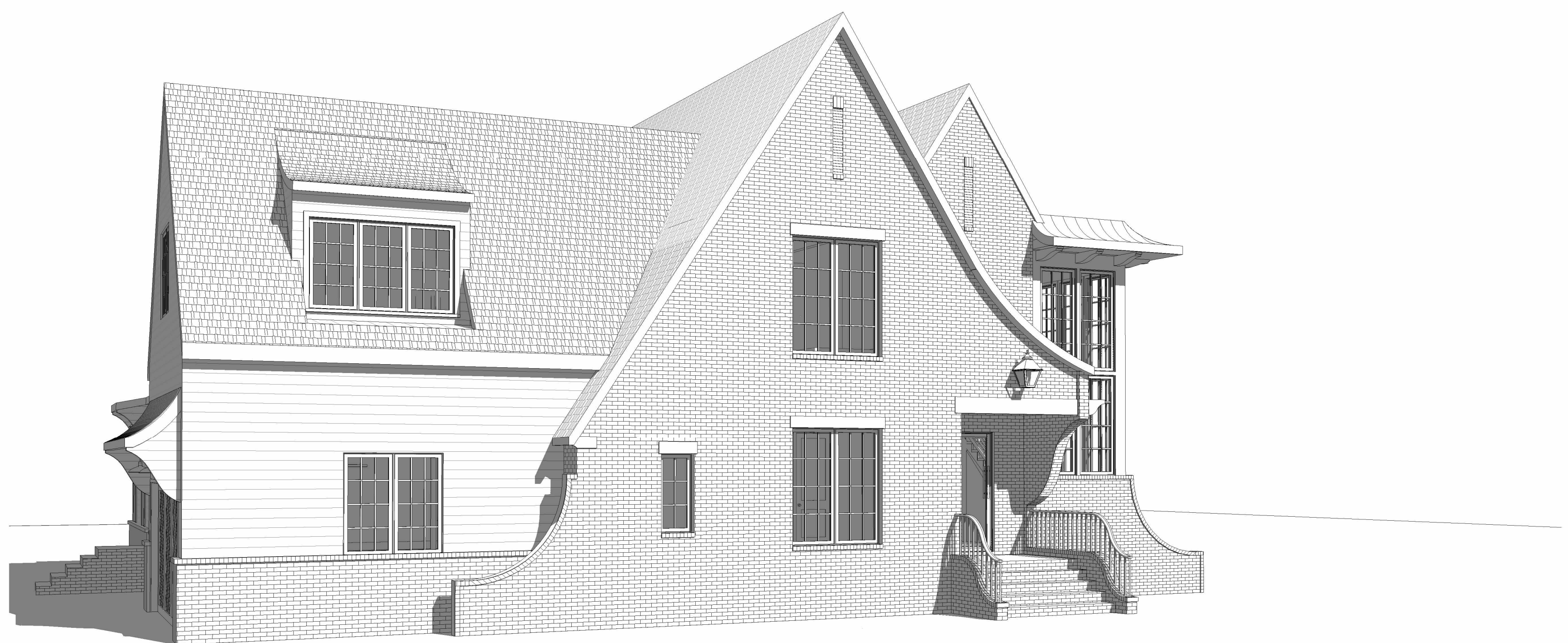
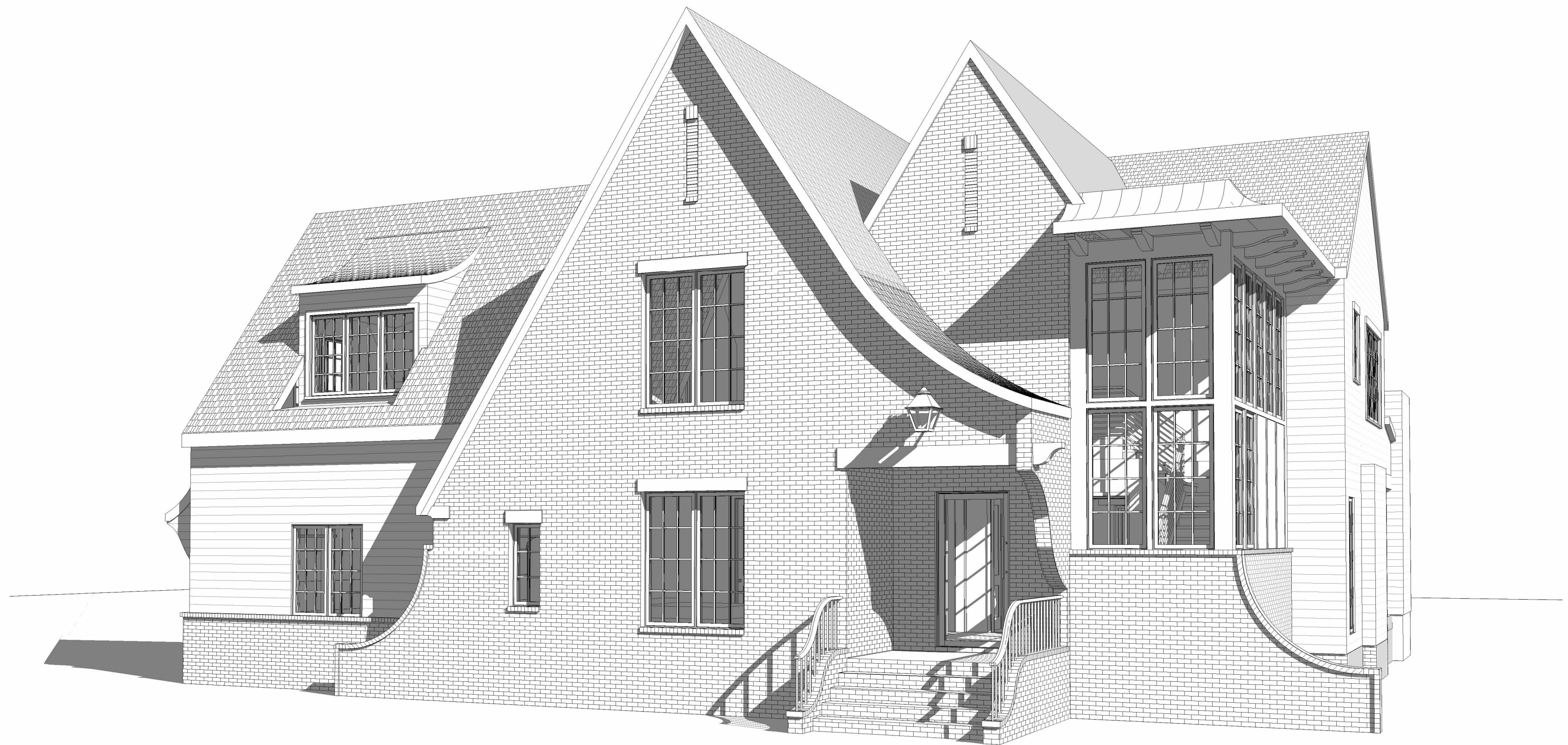
DOOR SCHEDULE				
MARK	COUNT	WIDTH	HEIGHT	COMMENTS
01	1	4' - 0"	8' - 0"	PIVOT FRONT DOOR
02	1	18' - 0"	8' - 0"	DOUBLE GARAGE DOOR
03	1	9' - 0"	8' - 0"	SINGLE GARAGE DOOR
04	1	15' - 0"	8' - 0"	5 PANEL FOLDING DOOR
05	1	3' - 0"	8' - 0"	SIDE ENTRY
06	14	2' - 8"	8' - 0"	SINGLE - PANELED
07	9	2' - 6"	8' - 0"	SINGLE - PANELED
08	2	2' - 4"	8' - 0"	SINGLE - PANELED
09	1	2' - 8"	8' - 0"	SINGLE - PANELED
10	1	2' - 4"	8' - 0"	SINGLE - PANELED
11	1	2' - 8"	8' - 0"	SINGLE - PANELED

SAFETY GLAZING SHALL BE INSTALLED IN HAZARDOUS LOCATIONS AND SHALL MEET THE REQUIREMENTS OF NRC R308.

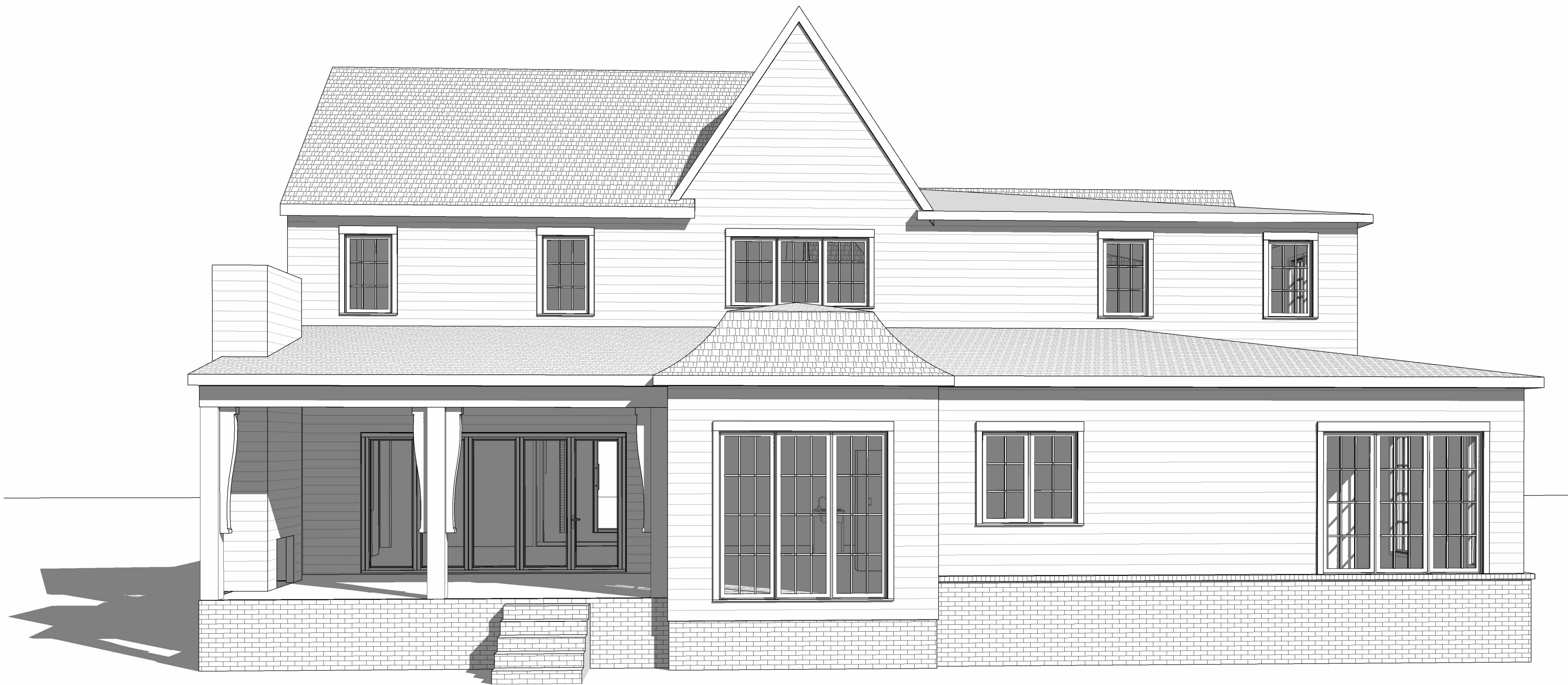
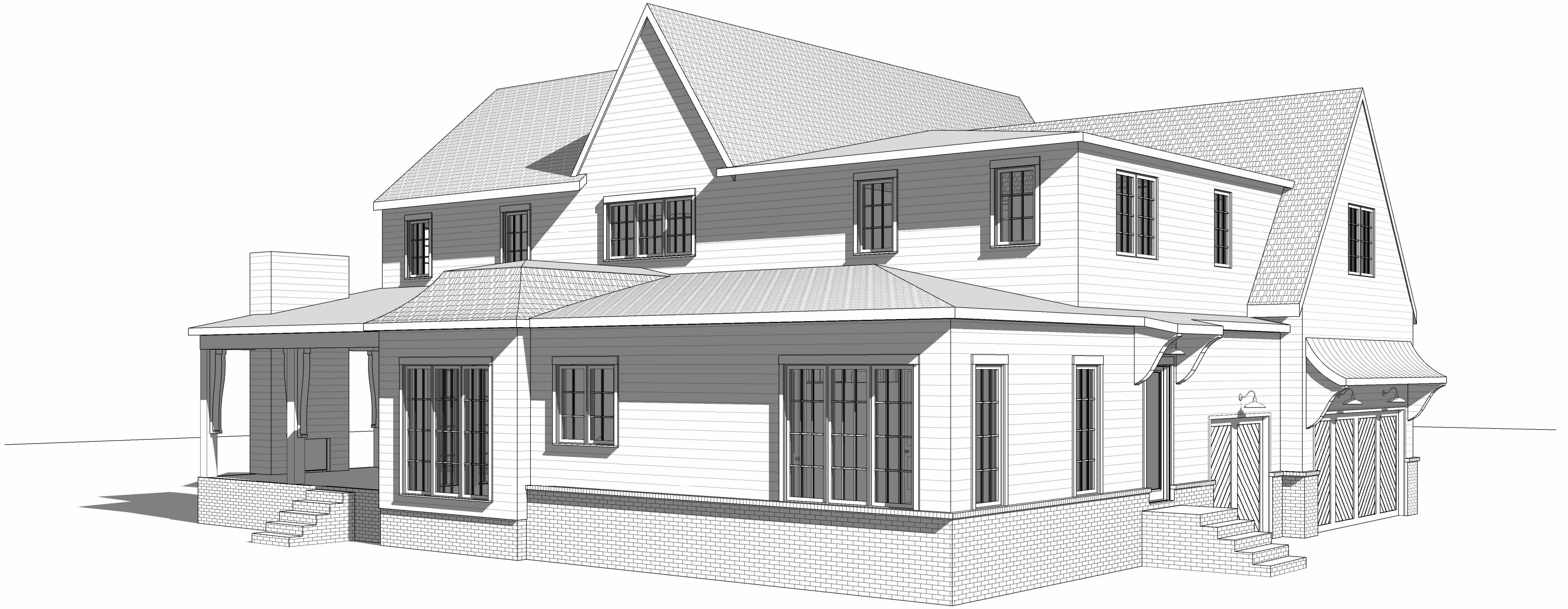
WINDOW SCHEDULE				
MARK	COUNT	WIDTH	HEIGHT	COMMENTS
01	4	3' - 0"	7' - 0"	CASEMENT
02	11	3' - 0"	7' - 0"	FIXED
03	6	2' - 8"	8' - 0"	CASEMENT
04	3	2' - 8"	8' - 0"	FIXED
05	2	2' - 4"	4' - 6"	CASEMENT
06	4	2' - 8"	7' - 0"	<varies>
07	1	2' - 8"	7' - 0"	FIXED
08	2	2' - 8"	5' - 6"	CASEMENT
09	1	2' - 0"	4' - 6"	CASEMENT
10	5	2' - 8"	4' - 6"	CASEMENT
11	2	3' - 0"	6' - 0"	CASEMENT
12	1	3' - 0"	6' - 0"	FIXED
13	2	2' - 8"	4' - 0"	CASEMENT
14	1	2' - 8"	4' - 0"	FIXED
15	7	2' - 8"	5' - 0"	CASEMENT
16	1	2' - 8"	5' - 0"	FIXED
17	1	2' - 0"	2' - 0"	FIXED - CIRCLE



3D VIEWS



3D VIEWS



318 Whitemarsh Road

Parcel No. 65-00-12916-00-6

Photographs of Existing Conditions

RECEIVED
AUG 21 2025

WHITEMARSH TOWNSHIP
ZONING & ENGINEERING



WHITEMARSH TOWNSHIP
ZONING & ENGINEERING

BEFORE THE ZONING HEARING BOARD OF WHITEMARSH TOWNSHIP
MONTGOMERY COUNTY, PENNSYLVANIA

IN RE: APPLICATION OF PAT SPARANGO, INC.

NO. 2021-02

DECISION

I. BACKGROUND

The Applicant, Pat Sparango, Inc. (“Applicant”) filed an application with the Whitemarsh Township Zoning Hearing Board (“Board”) regarding the continued validity of the zoning relief received from the Board in Application No. 2017-22, related to the planned construction a single-family home and related improvements on an approximately 3.7 acre vacant lot located at 318 Whitemarsh Valley Road, Whitemarsh Township, Montgomery County, Pennsylvania, in the AAA-Residential District. The property is impacted by the Floodplain Conservation Overlay District and the Riparian Corridor Conservation Overlay District. Public hearings were conducted on March 10, 2021, March 18, 2021 and May 12, 2021. The Board engaged in public discussion and conducted a vote in this matter on June 2, 2021.

In Application No. 2017-22, after hearings conducted on July 12, 2017 and September 27, 2017, the Board voted on September 27, 2017, and issued Findings of Fact, Conclusions of Law, Decision and Order on November 2, 2017. In the Decision and Order for Application No. 2017-22, Board granted the Applicant the following zoning approvals and relief:

1. Special exceptions under Sections 116-31.1.A and 116-31.1.B, so as to permit a stormwater detention/retention facility to be located between the front lot line and front principal building plane, and a portion of said facility within a required side yard.
2. A special exception under Section 116-166.B, so as to permit a basin facility to be located within the Township’s Floodplain Conservation District.
3. A variance from Section 116-259.A, so as to permit required front yards, side yards and rear yards, and the proposed single-family home and related accessory improvements, to be located within the Riparian Corridor Conservation District.

4. A variance from Section 116-259.C, so as to permit the proposed residential dwelling use to be located within Zone 2 of the Riparian Corridor Conservation District.
5. A variance from Section 116-259.C(4), so as to permit residential accessory structures greater than 200 square feet to be located within Zone 2 of the Riparian Corridor Conservation District.
6. A variance from Section 116-260.A, so as to permit the Applicant to not show on a plan all of the existing vegetation in the area to be cleared for the proposed single-family home development, and to allow the clearing as proposed, provided that the Applicant provides mitigation as required by the Township.
7. A variance from Section 116-260.I, so as to permit the stormwater basin, berms and outfall structures to be located in Zone 2 of the Riparian Corridor Conservation.

In the Decision and Order for Application No. 2017-22, the Board imposed the following conditions:

1. All use and development permitted by this Decision shall conform to the exhibits and testimony presented by the Applicant, unless inconsistent with any specific conditions imposed by this Board, in which case these specific conditions shall take precedence.
2. The Applicant shall apply for and obtain all permits required by the Township Codes in a timely manner.
3. The Applicant shall comply with all requirements of the Township Engineer's Letter dated June 29, 2017, and any other requirements of the Township Engineer with respect to storm water controls.
4. The Applicant shall provide for vegetation mitigation as directed by the Township.
5. The Applicant shall provide to the objectors herein copies of the plans submitted to the Township in relation to the Application for the Earth Disturbance Permit.
6. All construction shall be in compliance with the National Flood Insurance Program regulations.

In the Decision and Order in Application No. 2017-22, the Board noted the following provisions from the Zoning Code:

As required by Section 116-227. D of the Zoning Ordinance, the Applicant is on notice that:
Certain relief from floodplain requirements may result in increased premium rates for flood insurance and/or may increase the risks to life and property.

Section 116-223 of the Zoning Ordinance provides as follows:

Expiration of granted appeals. Unless otherwise specified by the Board, all approvals granted by the Zoning Hearing Board shall automatically expire 365 days after the date of the decision unless: (1) the applicant has acted upon the approval by obtaining the required permit(s) and paying the prescribed fees for same, or (2) the Zoning Hearing Board decision is on appeal to the courts, at which point, the approval, if upheld on appeal, shall expire 365 days after final determination on appeal.

The Zoning Hearing Board may extend the expiration date of approvals for a 180 day period upon request by the applicant, provided that the applicant is, in the opinion of the Zoning Hearing Board, diligently pursuing governmental and/or regulatory approvals as required. Requests for extensions shall be in writing and submitted to the Zoning Hearing Board at least 30 days before any applicable expiration date. Only one (1) extension may be provided for any application.

The Applicant takes the position that the approvals and relief have not expired as determined by the Zoning Officer, however, in an abundance of caution, has requested a variance from Section 116-223 for relief from the expiration provisions of the Zoning Ordinance reflected in the Decision and Order for Application No. 2017-22, so that the approvals and relief shall not expire until December 31, 2021. In the alternative, the Applicant requests a determination that the Applicant has a vested right, is entitled to a variance by estoppel, or is entitled to the application of the doctrine of equitable estoppel, in support of a determination that the relief granted in Application No. 2017-22 remains valid and has not expired.

The Zoning Hearing Board members participating in the hearings were Robert A. Bacine, who served as Chair, James Behr, Stanley A. Casacio, William E. Kramer, and Marc Weinstein. The Applicant was represented by Eric Wert, Esquire. The following neighboring property owners elected to enter appearance as parties: Donald E. Haviland, Esquire, an attorney representing himself, Christine Vlahos, pro se, and Donald Leatherwood, pro se, and John Weber, pro se.

The witnesses were duly sworn or affirmed and Notes of Testimony for the hearings were transcribed and are hereby made a part of this record. After the hearings and public discussion, on

June 2, 2021, the Board voted to grant the Application in part, and deny the Application in part, as reflected in the Decision and Order attached. The Board hereby issues Findings of Fact and Conclusions of Law in support of the Decision and Order.

II. FINDINGS OF FACT

1. The Applicant is Pat Sparango, Inc. ("Applicant"), the legal owner of the property in question located at 318 Whitmarsh Valley Road, Block 049D, Unit 009, Whitmarsh Township, Montgomery County, Pennsylvania. (Exhibit A-1)

2. The following Exhibits were marked and duly admitted into evidence:

Township Exhibits:

T-1A	Proof of Publication
T-1B	Meeting Notification
T-1C	Posting of Notice
T-2	Zoning Map
T-3	Tax Map
T-4	Prior Decision: ZHB Decision 2017-22

Applicant's Exhibits:

A-1	Zoning Application
A-2	2017 Plan
A-3	ZHB Decision 2017-22
A-4	Montgomery County Court of Common Pleas Dockets No. 2017-28033
A-5	PA Commonwealth Court Dockets Nos. 615 CD 2018 and 616 CD 2018
A-6	Emails -- Applicant and Zoning Officer
A-7	ZHB Solicitor Letter dated May 18, 2020
A-8	Emails -- Applicant and Zoning Officer
A-9	Earth Disturbance Permit Application
A-10	Applicant Letter to Neighbors with Permit Application
A-11	Emails -- Applicant and Zoning Officer

Objectors' Exhibits:

Haviland-1	Emails -- Applicant and Zoning Officer
Haviland-2	Subdivision Plan of Pat Sparango, 1965

Haviland-3	Whitemarsh Township Comprehensive Plan, November 2020
Haviland-4	Historical Views - Whitemarsh Valley Road and Lafayette Avenue, 1965, 1970, 2005
Haviland-5	Montgomery County Parcel Information - Parcel on Lafayette Avenue
Haviland-6	Photo 318 Whitemarsh Valley Road, August 2020
Haviland-7	Photo 318 Whitemarsh Valley Road, August 2020
Haviland-8	Photo 318 Whitemarsh Valley Road, August 2020
Haviland-9	Excerpt from Transcript, September 27, 2017 with Objector Exhibits

3. As reflected in Decision No. 2017-22, the Applicant proposes to construct a single-family house and accessory improvements on a vacant lot located at 318 Whitemarsh Valley Road, Whitemarsh Township, Montgomery County, PA, which lot was created by subdivision in the 1960's, and measures approximately 3.7 acres. (Exhibit T-4).

4. The 1965 subdivision plan designated the lot as "Possible Future Recreation Area", which note did not specifically restrict the lot to open space or recreational use. (Exhibit T-4).

5. The Applicant had originally planned to hold the lot as an unimproved lot, but in October 1997, after negotiations, the Applicant and the Township entered into an agreement whereby the Applicant granted to the Township a sanitary sewer easement, after which the lot was assessed for public sewer service. (Exhibit T-4)

6. On May 14, 1998, the Township amended the Floodplain Conservation District Ordinance to permit dwellings in the floodway fringe area of the District and, in a letter dated May 27, 1998, the Township acknowledged that the lot could be developed for a single-family dwelling. (Exhibit T-4)

7. In March of 2003, the Township adopted the Riparian Corridor Conservation District Ordinance which prohibited single-family dwellings in the Riparian Corridor.

8. At the hearings in 2017, the Applicant presented the testimony of a licensed civil

engineer, Joseph M. Estock, P.E., P.L.S., who holds a Master's Degree in Civil Engineering, with a specialty in water resources engineering, and who was qualified as an expert in civil engineering and land surveying ("Engineer"). (Exhibit T-4)

9. The Engineer had calculated the base flood elevation and also received a certification that there are no wetlands in the portion of the lot where the house will be located. (Exhibit T-4)

10. The lot has a 50-foot wide fee simple strip of land leading out to Whitemarsh Valley Road, with a driveway curb cut located on Whitemarsh Valley Road. (Exhibit T-4)

11. The house was proposed to be located on the lot so as to minimize encroachment into both the Floodplain and the Riparian Corridor, on an elevated portion on the lot, above the base flood elevation. (Exhibit T-4)

12. Based on the testimony of the Engineer, the Board determined that it is not possible to build a single-family dwelling on this lot in any area outside the Riparian Corridor, and that the Engineer designed the location of the house and improvements so as to not have any adverse impact on the Floodplain Conservation District or the Riparian Corridor. (Exhibit T-4)

13. At the time, the Township Engineer provided a letter approving of the development and stating no objections to construction of the proposed improvements within the Floodplain Conservation District, as long as the Applicant demonstrated compliance with all floodplain regulations and obtains an Earth Disturbance Permit. (Exhibit T-4)

14. The Board found that the Township had recognized the lot as a building lot for a single-family residence, but there is no buildable area on the lot on which to place the house without a variance, and that the development was proposed to be in compliance with the National Flood Insurance Program. (Exhibit T-4)

15. The Board determined that the Applicant presented competent, and uncontroverted

expert testimony and evidence that the property cannot be used for the only reasonable and feasible permitted use of a single family residence without variance relief, that the criteria for variance relief had been established, that the development will not have an adverse impact on the floodplain, riparian corridor or the surrounding neighborhood, that the Applicant's proposal met the objective criteria of the Ordinance to be entitled to the special exception approvals requested, and finally that the proposed use would not be contrary to the health, safety and welfare of the community. (Exhibit T-4)

16. As a result of the testimony and evidence submitted by the Applicant at the hearings in 2017, the Board granted the approvals and relief noted above, over the objections of the Objectors, Donald E. Haviland, Esq. George Vlahos and Donald Leatherwood at the time. (Exhibit T-4)

17. On December 1, 2017, Objector Haviland filed a Notice of Appeal with the Montgomery County Court of Common Pleas, and then attempted to amend the Notice of Appeal by filing an Amended Notice of Appeal on December 4, 2017 to add the other Objectors; then after a Motion to Quash was filed by the Board, the Objectors attempted to file another Amended Notice of Appeal on January 5, 2018, all of which Notices were determined to be invalid by the Court, ultimately granting the Board's and Applicant's Motions to Quash the appeals on March 28, 2018. (Exhibit A-4)

18. With virtually no chance of success on appeal, the Objectors nevertheless filed appeals to the PA Commonwealth Court, which Honorable Court affirmed the Decision of the Montgomery County Court of Common Pleas on May 6, 2019. (Exhibit A-6)

19. In the meantime, the Applicant's buyer for the lot lost interest in pursuing the purchase of the lot and construction of the home. (N.T. 03/10/21, p. 40)

20. In accordance with Section 116-223 of the Whitemarsh Township Zoning Ordinance

quoted above, the Applicant had until May 5, 2020 to obtain whatever permit(s) the Township determined had to be obtained (the "required permit[s]"), or request a 180 day extension of the zoning approvals.

21. The Board takes notice that a global pandemic occurred in March of 2020, causing the issuance of Declarations of Disaster Emergency by state and local authorities, the unprecedented closure of businesses, the imposition of stay-at-home orders, and issuance of shut-down orders regarding construction activities in the Commonwealth of Pennsylvania; the Declarations of Disaster Emergency related to the pandemic are still in effect to this day.

22. By email dated March 26, 2020, as result of an inquiry from the Applicant regarding the impending expiration of the approvals, the Zoning Officer determined and so advised the Applicant that the Grading Permit (also known as an Earth Disturbance Permit) was the permit the Applicant was required to obtain in order to fulfill the requirements of Section 116-223, and that during the 180 day extension period from May 6, 2020: "You would then be advised to obtain your grading permit within that six-month period..." (Exhibit A-11)

23. In the midst of this global pandemic, and without knowing when such a pandemic may at any time subside, the Applicant requested the 180 day extension as anticipated by the Zoning Ordinance.

24. As a result of a timely request therefore, and citing the extraordinary situation regarding the pandemic, the Board met virtually on May 13, 2020 as authorized by Act 15 of 2020, and granted a 180-day extension of the approvals to November 1, 2020; such was confirmed by correspondence of the Zoning Hearing Board Solicitor. (Exhibit A-7)

25. As of late September of 2020, the Applicant had not yet applied for the Grading Permit/Earth Disturbance Permit as instructed by the Zoning Officer in the email exchange of March

26, 2020, and, by email dated September 25, 2020, the Applicant inquired of the Zoning Officer as to the requirements to further extend the 180 day extension granted by the Board in May of 2020. (Exhibits A-6, A-8, A-11, Haviland-1)

26. Consistent with the email exchange in March of 2020, and in response to the inquiry by the Applicant via emails in late September, 2020, the Zoning Officer advised the Applicant that an application to the Zoning Hearing Board would be required for further relief from the expiration of the zoning approvals if additional time is required with respect to the Permit. (Exhibits A-6, A-8, A-11, Haviland-1)

27. On April 20, 2020, Act 15 of 2020 was enacted, tolling the time limitations on approvals pending at the time of the Declaration of Disaster Emergency in Pennsylvania on March 6, 2020 through the date which was thirty (30) days after the effective date of Act 15, hence May 20, 2020.

28. For approvals, applications, plans, and submissions pending on March 6, 2020, such as the one under consideration, Act 15 tolled the running of time limitations for review, hearing and decision on such actions pending at the time of the Declaration of Disaster Emergency (March 6, 2020) through May 20, 2020 (30 days after the effective date of the Act), thus granting Townships and Zoning Hearing Boards an additional 76 days to review, hear and decide on applications for approvals.

29. The Board determines that since the Townships and Zoning Hearing Boards were granted, by statute, an additional 76 days to hear, decide and grant any approval as a result of the tolling provisions of Act 15, the landowners and applicants were afforded an additional 76 days to obtain such approvals.

30. During the email exchanges in late September of 2020 regarding the impending

expiration of the zoning approvals, the Applicant was advised by the Zoning Officer, after consultation with the Zoning Hearing Board Solicitor, of the operation of Act 15 of 2020 with respect to the approvals, thus extending the validity of same from November 1, 2020 to January 16, 2021 by operation of law. (Exhibits A-6, A-8, A-11, Haviland-1)

31. The Zoning Officer advised the Applicant in the email exchanges in September of 2020 to apply for the variance no later than November 25, 2020, so that a hearing on the variance request could be scheduled in early January of 2021, before the expiration of the extended deadline of January 16, 2021. (Exhibits A-6, A-8, A-11, Haviland-1)

32. In the email exchanges in September of 2020, there was no change to the instructions provided by the Zoning Officer in the emails of March of 2020 for the Applicant to apply for and obtain the Grading Permit/Earth Disturbance Permit – only that the Applicant had more time to do so, but if the Applicant needed more time, the Applicant should apply for a variance by November 25, 2020. (Exhibits A-6, A-8, A-11, Haviland-1)

33. The Applicant did not apply for the variance by November 25, 2020 as directed, but rather on December 8, 2020 again inquired of the Zoning Officer via email as to what action should be taken regarding the impending expiration of the zoning approvals. (Exhibits A-6, A-8, A-11, Haviland-1)

34. In a phone call with the Applicant, the Zoning Officer again advised the Applicant to apply for the Grading Permit/Earth Disturbance Permit (“Permit”), but by that point, and since no applications had been filed for the variance or the Permit, the Zoning Officer indicated that as long as the Applicant filed the application for the Permit and was diligently pursuing the Permit, the Zoning Officer would act consistently with reference to similar applications, and consider that action sufficient to maintain the validity of the zoning approvals. (N.T. 03/10/21, pp. 51-53)

35. The Applicant's representative testified that she relied on the Zoning Officer's indications, but, as of December 8, 2020, the Applicant had taken no different action based on those indications, and by that point, having not applied for the variance or the Permit, welcomed the Zoning Officer's interpretation regarding continued validity, eventually filing the application for the Permit on December 22, 2020, apparently hoping to have the permit issued by January 16, 2021.

36. When it was apparent that the Permit would not be issued by January 16, 2021 as often occurs as a result of the review process, the Applicant filed the instant application for the variance on January 14, 2021 – therefore, not actually relying on the Zoning Officer's interpretation regarding the continued validity of the zoning approvals.

37. The zoning approvals granted in Application No. 2017-22 all relate to the development of the lot and therefore, the Board adopts the determination of the Zoning Officer that the Grading Permit/Earth Disturbance Permit was the "required permit" to seek and obtain under Section 116-223 to maintain the validity of the zoning approvals; other outside agency approvals and the actual building permit for the house need not have been applied for or obtained prior to the expiration of the zoning approvals.

38. The Board takes notice that the process of obtaining a Grading Permit/Earth Disturbance Permit is quite involved, and, at times, takes months to obtain, and therefore, it is understandable that the Township takes the position that submitting the application for the required Permit and diligently pursuing the same would be sufficient to maintain the validity of the zoning approvals.

39. The Applicant applied for the Grading Permit/Earth Disturbance Permit on December 22, 2020. (N.T. 03/10/21, pp. 53-54, Exhibit A-9)

40. The Decision and Order in Application No. 2017-22 required the Applicant to

provide copies of the Grading Permit/Earth Disturbance Permit plans to the Objectors. (Exhibit T-4)

41. The Applicant provided the copies of such plans on January 4, 2021, causing the Objectors to take the position that the zoning approvals had expired. (N.T. 03/10/21, pp. 53-56, Exhibit A-10)

42. The Township Engineer's review letter regarding the Grading Permit/Earth Disturbance Permit Application dated January 13, 2021 apparently made it clear to the Applicant that the Permit would not be issued before the expiration date of January 16, 2021, and no doubt as a result of the issues raised by the Objectors at that time, the Applicant decided to file the instant application for a variance from Section 116-223, which filing occurred on January 14, 2021, prior to the January 16, 2021 expiration date of the zoning approvals. (N.T. 03/10/21, pp. 56-57, Exhibits A-1 and Haviland-1)

43. The Objectors have been on notice of the determinations of the Zoning Officer noted above, and have not appealed the determinations under Section 909.1 of the PA Municipalities Planning Code within thirty (30) days from such notice, or when they knew or should have known that the determinations had been made, as provided by Section 914.1 of the PA Municipalities Planning Code.

44. Therefore, the determinations of the Zoning Officer are not subject to challenge and are binding.

45. The Board therefore adopts the Township's position supporting the Zoning Officer's determination that the zoning approvals did not expire because of the timely filing of the Application for the Grading Permit/Earth Disturbance Permit. (N.T. 05/12/21, pp. 57-58)

46. Zoning relief runs with the land, and only because of expiration provisions in the Zoning Ordinance does any particular relief expire.

47. But, Section 116-223 of the Whitemarsh Township Zoning Ordinance specifically authorizes the Board to “otherwise specif[y]” the expiration of any zoning approval.

48. When the hearings were held with respect to Application No. 2017-22, the Applicant could have requested, and the Board could have specified, for example, a five-year validity of the approvals as the Ordinance specifically authorizes the Board to do so.

49. If the Applicant had been able to anticipate that the matter would involve appeals to the Courts for a year and one-half, and then a Declaration of Disaster Emergency related to a global pandemic, the Applicant, no doubt, would have so requested an extended validity period.

50. The Objectors oppose the extension of the validity of the zoning approvals for “years”, while at the same time, the Objectors’ unsuccessful appeals were the cause of the delay for one and one-half of those years. (N.T. 05/12/21, pp. 40, 50)

51. Clearly, the Objectors are wishing to re-litigate the Board’s Decision at Application No. 2017-22, because the Objectors failed to file a valid and timely appeal of the Board’s Decision, and now view the pending application as a way to accomplish this goal. (N.T. 05/12/21, p. 22, 29)

52. The zoning approvals granted in Application No. 2017-22 are final and not subject to appeal on substantive grounds by the Objectors, and the Board finds that the testimony and evidence submitted by the Objectors regarding the underlying zoning approvals are not relevant to the current inquiry.

53. With reference to the Objectors’ argument that the Board lacks jurisdiction, because the 1965 subdivision plan requires amendment approval by the Board of Supervisors, the Board finds as follows:

A. As reflected in the Decision and Order for Application No. 2017-22, the note on the subdivision plan merely designated the lot as a possible future recreation area, there was no

covenant designating it as open space prohibiting future development, and there was no evidence produced that open space was even required in order to subdivide at the time. (Exhibit T-4)

B. As noted in the Decision and Order for Application No. 2017-22, the Board of Supervisors determined this lot to be a building lot for a single-family residence and confirmed same in writing to the Applicant, and therefore no amendment of the subdivision plan was required. (Exhibit T-4)

C. The relief requested relates to a Zoning Ordinance provision as it applies to the zoning approvals for this particular lot, not the subdivision as a whole, and therefore the Board has jurisdiction. (N.T. 05/12/21, pp. 59-60)

54. Section 116-223 of the Zoning Ordinance specifically permits the Board to “otherwise specif[y]” an expiration date regarding zoning approvals, and therefore the Board may grant relief from such a provision contained in the Zoning Ordinance.

55. After the appellate litigation concluded, and the Applicant had lost its buyer for the planned house on the lot, the pandemic which resulted in the declarations of disaster emergency, and the imposition of business and construction shut-down orders and stay-at-home orders, created an unprecedented and unnecessary hardship upon the Applicant with reference to the development of the lot.

56. As this inquiry is limited to relief from a time restriction in the Zoning Ordinance, and the fact that the use and dimensional approvals and relief have already been granted, not subject to appeal and therefore final, it would be appropriate for the Board to adopt a relaxed level of scrutiny in granting the variance on a hardship basis, as if considering a dimensional variance.

57. In reviewing the variance requested, and considering Section 910.2 of the Pennsylvania Municipalities Planning Code, the Board determines the following:

- A. There was, and still is, a unique condition affecting the timing of the development of the lot, particularly the unprecedented global pandemic impacting every aspect of the development process, all creating an unnecessary hardship which justifies the granting of the variance.
- B. The property cannot be reasonably developed without the minor variance relief now requested.
- C. The hardship created by the litigation pursued by the Objectors, causing the Applicant to lose its buyer for the lot, and then the effects of the pandemic, surely has not been created by the Applicant.
- D. The granting of the variance will not frustrate the intent of the Zoning Ordinance, adversely impact the development of adjoining properties, or alter the essential character of the neighborhood. This expiration provision of the Ordinance anticipated the litigation previously pursued by the Objectors, but never anticipated the unprecedented pandemic lasting now well in excess of an entire year. It is also not anticipated that neighbors would contest the grant of additional time to pursue governmental approvals; such concerns are usually raised by the municipality itself, which, in this case, has supported the decisions of the Zoning Officer, and has not stated an objection to the granting of relief.
- E. The variance requested is the minimum variance to afford relief. The Board is not granting an unlimited extension – only a reasonable extension recognizing the reality of the fairly involved, detailed and extended review and approval process related to obtaining a Grading Permit/Earth Disturbance Permit, in the midst of ongoing pandemic and under protest from the Objectors herein.

58. As a result, the Applicant sustained its burden of establishing a hardship in order to be granted a variance from the expiration provision of the Zoning Ordinance.

59. It is also clear from the record that the Objectors' goal is that the lot never be developed (N.T. 05/12/21, p. 34)

60. The Objector's position that the Applicant is required to apply for the same relief previously granted is undoubtedly rooted in the desire of the Objectors to once again appeal the relief, which would only delay, and cause additional expense, in order to discourage the ultimate development of the lot. (N.T. 05/12/21, p. 22, 29)

61. Indulging the Objectors in such an endeavor would create hardship upon hardship for the Applicant.

62. But, since the Ordinance permits the Board to “otherwise specif[y]” an expiration date other than as provided in the Ordinance, the Board also determines that the variance requested from the expiration provision in the Zoning Ordinance is a de minimis variance request, which the Board may grant without any showing of hardship, because rigid compliance is not required to protect the public policies of the Ordinance.

63. With reference to the Applicant’s request for a vested right, the Board finds as follows:

- A. The Township did not issue any permit in error, in fact, no permit was issued.
- B. The Objectors argue that the Applicant could have demonstrated a more urgent level of due diligence during the 180 day extension, but it is recognized that such diligence was made difficult by the pandemic having an adverse effect on all real estate activities, thus justifying the relief granted herein. (N.T. 03/10/21, pp. 45-46, 66-83). The uncertainty related to the pandemic, and the fact that the expenditures to obtain the Permit would be substantial, the Applicant desired a more definitive timeline prior to pursuing the Permit. So, although the level of due diligence by this Applicant does not rise to the level of entitlement to a finding of vested right, nevertheless, the extraordinary situation of the pandemic justifies the relief granted herein.
- C. The Applicant acted good faith in this matter.
- D. The Applicant spent a great deal of funds to obtain and maintain on appeal the zoning approvals granted (in excess of \$90,000), but, the funds expended to obtain the Grading Permit/Earth Disturbance Permit had to be expended, not just in reliance on anything that the Zoning Officer advised, unless the Applicant wished to abandon the zoning approvals, (which is clearly not

the case), and such expenditures were not substantial, only amounting to approximately \$6,000 by the time of the hearings in March of 2021 (\$225 permit application fee, \$3,000 Township escrow, and \$3,000 for engineering and legal costs). (N.T. 03/18/21, pp. 10-24) Furthermore, the Applicant did not just rely on the communications from the Zoning Officer, but rather, has now filed the instant application to confirm continued validity of the zoning approvals.

E. The criteria related to expiration of the applicable appeal period relates back to a permit issued in error, which, of course, did not occur in this situation, so is not relevant.

F. Confirming the validity of the zoning approvals, and granting an extension of the validity of the zoning approvals will cause no harm whatsoever to the public interest.

64. With reference to the Applicant's request for a variance by estoppel, the Board finds as follows:

A. There was no long period of municipal failure to enforce the law when the municipality knew or should have known of the Applicant's violation of the Township Code.

B. The Applicant acted good faith in this matter.

C. The Applicant believed that the use was permitted, and it was so permitted, but the expenditures in furtherance of obtaining the Grading Permit/Earth Disturbance Permit so far have not been substantial, as noted above. In addition, the Applicant did not just rely on the Zoning Officer's indications, but has filed the instant application so that the expenditure of substantial funds in the future would not be for naught.

D. Denial of the variance would impose an unnecessary hardship on the Applicant, but, as also noted, not only is the variance request for relief justified on the basis of a hardship analysis, the request is de minimis in nature.

65. With reference to the Applicant's request for relief based on equitable estoppel, the

Board finds as follows:

A. The criteria for vested right or variance by estoppel have not been established for multiple reasons as noted above.

B. The Township has clearly not acted improperly at all, nor is the Applicant seeking relief that goes beyond the protection of its use. The Applicant could have sought the advice of counsel and acted with an abundance of caution rather than relying on the interpretations communicated by the Township.

III. DISCUSSION

There are two types of variances, a "dimensional" variance and a "use" variance. Differing standards apply to use and dimensional variances. One who advances a dimensional variance seeks to adjust zoning regulations so that the property may be used in a manner consistent with the zoning regulations. In contrast, a use variance seeks to use the property in a way that is inconsistent with the zoning regulations. In Hertzberg v. Zoning Bd. of Adjustment of the City of Pittsburgh, 554 Pa. 249, 721 A.2d 43 (1998), the Supreme Court of Pennsylvania determined that, in evaluating a hardship for a dimensional variance, the Zoning Hearing Board should consider various factors, including economics, and the characteristics of the surrounding neighborhood, in determining whether a variance would be appropriate. The Court also held that, when considering a dimensional variance, a Zoning Hearing Board should adopt a somewhat more relaxed standard of scrutiny than when the Board is considering a use variance. Society Hill Civic Association v. Philadelphia Zoning Board of Adjustment, 42 A.3d 1178 (Pa. Cmwlth. 2012)

In Marshall v. City of Philadelphia and Zoning Board of Adjustment, 626 Pa. 385, 97 A.3d 323 (2014), the Supreme Court recognized that a property does not have to be valueless in order to

obtain a use variance. The Court further indicated that economic considerations may be considered in a use variance case, if the property can only be brought into conformance at a prohibitive expense. The Supreme Court reiterated in the Hertzberg and Marshall cases, that an Applicant need not prove that the property cannot be used for any other permitted use in order to be entitled to a variance.

It is recognized that an applicant seeking a variance on the basis of hardship must prove that unnecessary hardship will result if the variance is denied, and must also prove that the proposed use is not contrary to the public interest. Valley View Civic Association v. Zoning Board of Adjustment, 501 Pa. 550, 462 A.2d 637 (1983). “The burden on an applicant seeking a variance is a heavy one, and the reasons for granting the variance must be substantial, serious and compelling.” Singer v. Zoning Board of Adjustment, 29 A.3d 144, 149 (Pa. Cmwlth. 2011). In addition, even though economic considerations are now appropriate for variance cases under Hertzberg and Marshall, the applicable case law still holds that variances cannot be granted for solely economic reasons. Dunn v. Middletown Township Zoning Hearing Board, 143 A.3d 494 (Pa. Cmwlth. 2016).

A Zoning Hearing Board is the sole determiner of the credibility of witnesses. Taliaferro v. Darby Township Zoning Hearing Board, 873 A.2d 807 (Pa. Cmwlth. 2005), Tri-County Landfill, Inc. v. Pike Township Zoning Hearing Board, 83 A.3d 488 (Pa. Cmwlth. 2014). The Zoning Hearing Board has discretionary power to determine whether a party has met its burden of proof. Broussard v. Zoning Board of Adjustment, 831 A.2d 764 (Pa. Cmwlth. 2003), affirmed on appeal @ 589 Pa. 71, 907 A.2d 494 (2006), Cohen v. Zoning Board of Adjustment of the City of Philadelphia, 276 A.2d 352 (Pa. Cmwlth. 1971). The Zoning Hearing Board determines that the Applicant has carried the burden of proof so as to be entitled to the relief, and such determination must be afforded great weight in the event of an appeal.

Act 15 of 2020 provides as follows:

Action.—For an action required by law in consideration of any application, plat, plan or other submission for an approval or for an action on an appeal or curative amendment, the following shall apply:

- (1) Notwithstanding any provision of law, for an approval, application, plat, plan, submission, appeal or curative amendment received or pending as of the date of or during the Governor's declaration of a disaster emergency related to COVID-19, the number of days provided to satisfy statutory time limits in review, hearing and decision shall be suspended and tolled as of the date of the disaster or emergency declaration or as of the date received if received during the disaster or emergency declaration, and shall resume 30 days after the effective date of this section.

The Objectors argue that the zoning approvals granted in Application No. 2017-22 were not the type of approvals defined in and covered by the Development Permit Extension Act, and therefore not covered by Act 15 of 2020. This is inaccurate. The zoning approvals granted in Application No. 2017-22 were the type defined in and covered by the Development Permit Extension Act, and therefore covered by Act 15 of 2020. (53 P.S. §§ 11703.2; 35 Pa.C.S.A. §5741(g))

The zoning approvals granted in Application No. 2017-22 are final and not subject to appeal on substantive grounds by the Objectors, and the Board finds that the testimony and evidence submitted by the Objectors regarding the underlying zoning approvals are not relevant to the current inquiry.

The Objectors' argument that the Board lacks jurisdiction, because the 1965 subdivision plan requires amendment approval by the Board of Supervisors, is rejected for the following reasons:

- A. As reflected in the Decision and Order for Application No. 2017-22, the note on the subdivision plan merely designated the lot as a possible future recreation area, there was no covenant designating it as open space prohibiting future development, and there was no evidence produced that open space was even required in order to subdivide at the time.

B. As noted in the Decision and Order for Application No. 2017-22, the Board of Supervisors already determined this lot to be a building lot for a single-family residence and confirmed same in writing to the Applicant, and therefore no amendment of the subdivision plan was required.

C. The relief requested relates to a Zoning Ordinance provision as it applies to the zoning approvals for this particular lot, not the subdivision as a whole, and the Zoning Hearing Board is vested with jurisdiction to make such determinations.

Zoning relief runs with the land, and only because of expiration provisions in the Zoning Ordinance does any particular relief expire. But, Section 116-223 of the Whitemarsh Township Zoning Ordinance specifically authorizes the Board to “otherwise specif[y]” the expiration of any zoning approval. When the hearings were held with respect to Application No. 2017-22, the Applicant could have requested, and the Board could have specified, for example, a five-year validity of the approvals, without any showing of hardship or granting a variance, as the Ordinance specifically authorizes the Board to do so. Because Section 116-223 of the Zoning Ordinance specifically permits the Board to “otherwise specif[y]” an expiration date regarding zoning approvals, the expiration dates set by the Zoning Ordinance in this matter are subject to further relief granted by the Board.

After the litigation concluded, and the Applicant had lost its buyer for the planned house on the lot, the pandemic which resulted in the declarations of disaster emergency, and the imposition of business and construction shut-down orders and stay-at-home orders, created an unprecedented and unnecessary hardship upon the Applicant with reference to the timing of the development of the lot.

As this inquiry is limited to relief from a time restriction in the Zoning Ordinance, and the fact that the use and dimensional approvals and relief have already been granted, not subject to

appeal and therefore final, it would be appropriate for the Board to adopt a relaxed level of scrutiny in granting the variance on a hardship basis, as if considering a dimensional variance.

It is recognized that the criteria for the granting of a hardship variance under the PA Municipalities Planning Code do not necessarily anticipate that neighboring property owners would oppose the granting of additional time to develop a lot in accordance with previously granted and final zoning approvals; therefore, the analysis under such criteria for this purpose is unique. But, it is clear when reviewing the variance requested, and considering Section 910.2 of the Pennsylvania Municipalities Planning Code, the Board may determine the following:

- A. There was, and continuing to this day, a unique condition affecting the timing of the development of the lot, particularly the unprecedented global pandemic impacting every aspect of the development process, all creating an unnecessary hardship which justifies the granting of the variance.
- B. The property cannot be reasonably developed without the minor variance relief now requested.
- C. The hardship created by the litigation pursued by the Objectors, causing the Applicant to lose its buyer for the lot, and then the effects of the pandemic, surely has not been created by the Applicant.
- D. The granting of the variance will not frustrate the intent of the Zoning Ordinance, adversely impact the development of adjoining properties, or alter the essential character of the neighborhood. This expiration provision of the Ordinance anticipated the litigation previously pursued by the Objectors, but never anticipated the unprecedented pandemic lasting now well in excess of an entire year. It is also not anticipated that neighbors would contest the

grant of additional time to pursue governmental approvals; such concerns are usually raised by the municipality itself, which, in this case, has supported the decisions of the Zoning Officer, and has not stated an objection to the granting of relief.

- E. The variance requested is the minimum variance to afford relief. The Board is not granting an unlimited extension -- only a reasonable extension recognizing the reality of the fairly involved, detailed and extended review and approval process related to obtaining a Grading Permit/Earth Disturbance Permit, in the midst of ongoing pandemic and under protest from the Objectors herein.

As a result, the Applicant sustained its burden of establishing a hardship in order to be granted a variance from the expiration provision of the Zoning Ordinance.

It is also clear from the record that the Objectors' goal is that the lot never be developed. The Objector's position that the Applicant is required to apply for the same relief previously granted is undoubtedly rooted in the desire of the Objectors to once again appeal the relief, which would only delay, and make more expensive for the Applicant, the ultimate development of the lot. Indulging the Objectors in such an endeavor would create hardship upon hardship for the Applicant.

The pandemic has caused delay in every aspect of life over the last year. The Objectors cited the pandemic, and the virtual proceedings by the Board, for the reason that the unrepresented Objectors' Entry of Appearance forms were not submitted after requests were made for submission of the forms at the hearing on March 10, again at the hearing on May 12, 2021, and also in follow up emails. One Entry of Appearance form was submitted on May 29, 2021, and the other two Entry of Appearance forms were not submitted prior to the Board's vote on June 2, 2021 (N.T. 06/02/21)

The Board was understanding in this regard, recognizing all along that the Objectors should be granted party status, even though the current situation, and the virtual nature of the Board's proceedings to this day, resulted in their delay in submitting a single piece of paper to the Board to secure their positions as parties. It is therefore understandable that the Applicant has faced similar challenges in generating the substantial paperwork required in furtherance of its previously granted approvals.

The Board determines it appropriate to "otherwise specify]" an expiration date of the zoning approvals granted in Application No. 2017-22 of December 31, 2021, grant the variance requested by the Applicant on the basis of a hardship analysis, and extend the expiration date imposed in the original Decision and Order. Furthermore, since the Ordinance permits the Board to "otherwise specify]" an expiration date other than as provided in the Ordinance, the Board determines that the variance requested from the expiration provision in the Zoning Ordinance is a de minimis variance request, which the Board may grant without any showing of hardship, because rigid compliance is not required to protect the public policies of the Ordinance.

Because of the determinations noted herein, the Applicant's requests for relief on the theories of vested right, variance by estoppel, and equitable estoppel are moot, but the Board nevertheless disposes of such arguments and denies such determinations as set forth below.

The Board declines to determine that the Applicant has established a vested right, since all of the following criteria have not been met (See: Commonwealth of Pennsylvania, Department of Environmental Protection v. Flynn, 344 A.2d 720 (1975):

- A. Permit issued in error – the Township issued no permit, because the Applicant applied for the applicable required Permit on December 22, 2020.
- B. Due diligence by the Applicant – The Objectors argue that the Applicant

could have demonstrated a more urgent level of due diligence during the 180 day extension, but, it is recognized that such diligence was made difficult by the pandemic having an adverse effect on all real estate activities, thus justifying the relief granted herein. Objectors also point out that the plan submitted with the Grading Permit/Earth Disturbance Permit Application was the same 2017 plan, and the fact that the Applicant did not more timely submit the application for the Permit, so the level of effort was not substantial enough to justify a finding a vested right. But it is also understandable that, with the uncertainty related to the pandemic, and the fact that the expenditures to obtain the Permit would be substantial, the Applicant desired a more definitive timeline prior to pursuing the Permit. So, although the level of due diligence by this Applicant does not rise to the level of entitlement to a finding of vested right, nevertheless, the extraordinary situation of the pandemic justifies the relief granted herein.

C. **Good faith of the Applicant – the Board does not question the Applicant’s good faith in this matter.**

D. Expenditure of substantial unrecoverable funds in reliance on the governmental action. There is no question the Applicant spent a great deal of funds to obtain and maintain on appeal the zoning approvals granted (in excess of \$90,000), but the only governmental determinations which the Applicant relied upon were the Zoning Officer’s indication in the September 25, 2020 email that the zoning approvals did not expire on November 1, 2020, but rather expired on January 16, 2021 (but was also advised to file for a zoning application by the end of November, 2020, which the Applicant did not do), and then the verbal indication on December 8, 2020 that applying for the Grading Permit/Earth Disturbance Permit prior to January 16, 2021, and diligently pursuing same, would maintain the validity of the zoning approvals. What did the Applicant do differently as a result of the Zoning Officer’s indications? The answer is nothing. The

Applicant argues that the reliance resulted in not applying for the permit until December 22, 2020 since the zoning approvals did not expire until January 16, 2021. But, the Zoning Officer did not advise the Applicant in the email exchange of September of 2020 to not file the application for the Permit, only that the Applicant had additional time with respect to the Permit, and if additional time beyond January 16, 2021 would be required, then application to the Zoning Hearing Board should be filed by November 25, 2020. The Zoning Officer did not cause the Applicant to not file the permit application until December 22, 2020, or to not file the Zoning Hearing Board application until January 14, 2021 - in fact, the Zoning Officer had advised otherwise in emails of March and September of 2020. In any event, the funds expended in reliance on those indications from the Zoning Officer would have been incurred regardless, unless the Applicant wished to abandon the zoning approvals (clearly not the case). In addition, such expenditures only amounted to approximately \$6,000 by the time of the hearings in March of 2021 (\$225 permit application fee, \$3,000 Township escrow, and \$3,000 for engineering and legal costs). So, the funds expended in furtherance of obtaining the Grading Permit/Earth Disturbance Permit so far have not been substantial. The expenditure of funds, however, is likely to be substantial, and for that reason, the Applicant is not just relying on the communications from the Zoning Officer, but rather, has now filed the instant application to confirm continued validity of the zoning approvals. Borough of Dormont v. Zoning Hearing Board of the Borough of Dormont, 850 A.2d 826 (Pa. Cmwlth. 2004), B.B. & C. Construction v. Township of Benzinger, 437 A.2d 101 (Pa. Cmwlth. 1981)

E. Expiration of applicable appeal period -- this criteria relates back to a permit issued in error, which, of course, did not occur in this situation, so is not relevant.

F. Absence of injury to the public interest -- it is clear that confirming the validity of the zoning approvals, and granting an extension of the validity of the zoning approvals will cause

no harm whatsoever to the public interest. The Board weighed all of those issues during the hearings on the underlying application in 2017. The Objectors' desires to resurrect their arguments and relitigate these issues, seeing this proceeding as a way to do so (after they failed to properly preserve such issues for review on appeal, and then refused to terminate the challenge once the Court of Common Pleas quashed their appeals, basically causing the lot to be undevelopable for years), does not rise to the level of "injury to the public interest".

The Board declines to grant the Applicant a variance by estoppel, since all of the following criteria have not been met (See: Appeal of Kreider, 808 A.2d 340 (Pa. Cmwlth. 2002):

A. A long period of municipal failure to enforce the law when the municipality knew or should have known of the Applicant's violation of the Township Code – this criteria simply does not apply in this case.

B. Good faith of the Applicant – the Board does not question the Applicant's good faith in this matter.

C. Substantial expenditures by the Applicant in reliance on the belief that the use was permitted – there is no question that the Applicant believed that the use was permitted, and it was so permitted, but the expenditures in furtherance of obtaining the Grading Permit/Earth Disturbance Permit so far have not been substantial, as noted above. In addition, the Applicant did not just rely on the Zoning Officer's indications, but has filed the instant application so that the expenditure of substantial funds in the future would not be for naught.

D. Denial of the variance would impose an unnecessary hardship on the Applicant – it is clear that the denial of the variance would impose an unnecessary hardship on the Applicant, but this serves as a basis for granting the variance itself, not on any vested right or estoppel theory.

The Board declines to grant the Applicant relief based on the theory of equitable estoppel. Such a claim requires consideration of the criteria for vested right or variance by estoppel, but is based on an intentional or negligent misrepresentation by the municipality. (See: Cicchiello v. Bloomsburg Zoning Hearing Board, 617 A.2d 835 (Pa. Cmwlth. 1992) As noted in the treatise Pennsylvania Zoning Law and Practice in Section 8.3.7 (Robert S. Ryan, Esq. and George Asimos - George T. Bisel and Company, Inc.) granting relief on the basis of equitable estoppel involves a situation where the municipality has "...acted very badly and the landowner seeks relief that goes beyond the protection of its use.". None of that applies in this situation. The Zoning Officer clearly did not intentionally or negligently misrepresent anything to the Applicant. Once the Applicant made the decisions to not follow the advice of the Zoning Officer in the emails in March and September of 2020, the Zoning Officer extended to the Applicant the same interpretation extended to other applicants that applying for the required Permit and diligently pursuing same would maintain the validity of the zoning approvals. In addition, the Zoning Officer justifiably relied upon the interpretation of the Zoning Hearing Board Solicitor, in relaying to the Applicant the effect of Act 15 of 2020. The Applicant could have sought the advice of its knowledgeable and experienced counsel to confirm the interpretations. Only after not filing the application for the required Grading Permit/Earth Disturbance Permit as advised by the Zoning Officer in emails of March of 2020 and September of 2020 until December 22, 2020, did the Applicant consult with counsel, who undoubtedly advised the Applicant to file the instant application to the Zoning Hearing Board, in case such interpretations, with which the Applicant's counsel agrees, were in error. The Applicant indicates that it agrees with the Zoning Officer's determinations and advances this argument only in the event that its other arguments fail, but it is, nonetheless, an argument that cannot be sustained.

The concept of the application of estoppel anticipates that the Applicant would have done

something differently had it not been advised otherwise by the Township. In this case, the Applicant did nothing differently in reliance on the Township's instructions.

The case before the Board involves the request merely to extend the time frame for the validity of the previously granted use variances to construct a house and related improvements in Zone 2 of the Riparian Corridor Conservation District, special exceptions for the location of the detention basin facility, and related dimensional variances and plan-related variances. None of the improvements will be located in the floodway or Zone 1 of the Riparian Corridor, the most environmentally sensitive areas on the property. The house is a permitted use in the Floodplain Conservation District, and only special exceptions were required for the location of the detention basin. But because Zone 2 of the Riparian Corridor is co-extensive with the Floodplain Conservation District in this area, and the lot is impacted by both overlay districts, the Applicant required relief to place the house and related improvements anywhere on the lot.

The Objectors previously asked the Board to rule that, even though the Township specifically advised the Applicant that the property constituted a building lot for a single-family residence once assessed for public sewer, that such use should be denied, and that virtually no use may be made of the property, other than for open space. The Objectors' use of this proceeding to attempt to relitigate the underlying relief and challenging the jurisdiction of the Board is not cognizable in law, and must be disregarded. Section 116-223 is a Zoning Ordinance provision. The Board has the same authority to grant a variance from this Zoning Ordinance provision as any other, for example a setback variance. The Zoning Ordinance provision sets an expiration of a zoning approval, but since the zoning approvals had not expired, the Board can grant a variance from the provision and grant an extension of the validity of the approvals. The Commonwealth Court in Lucia v. Zoning Hearing Board of the Township of St. Clair, 437 A.2d 1294 (Pa. Cmwlth. 1981), dealt with the situation

where the applicant had received a conditional use permit and failed to act upon same as required by the ordinance, and by the terms of the ordinance, the permit expired. After the Township amended the ordinance to prohibit the applicant's use, the applicant applied for a time extension for the permit and the Court affirmed the denial of same, citing Chetwynd Associates v. Township of Radnor, 347 A.2d 320 (Pa. Cmwlth. 1975), and holding that the Board lacked the power to grant the "extension" of an expired permit. But the Lucia and Chetwynd cases did not address a timely-filed request to the Zoning Hearing Board for a variance from the expiration provision in the Zoning Ordinance.

Since the Section 116-223 of the Zoning Ordinance specifically allows the Board the discretion to "otherwise specify" a different expiration date, and the fact that the Applicant could have requested and been granted an extension at the time of the initial approvals (as zoning hearing boards often do with phased projects), then the granting of a variance from the expiration of the zoning approvals is, in fact, de minimis, and rigid compliance is not required to protect the public policies of the Ordinance.

The Board notes that the five (5) criteria for a hardship variance need not be shown when the variance is de minimis. West Bradford Township v. Evans, 384 A.2d 1382 (Pa. Cmwlth. 1978), Stewart v. Zoning Hearing Board of Radnor Township, 531 A.2d 1180 (Pa. Cmwlth. 1987), Middletown Township vs. Zoning Hearing Board of Middletown Township, 682 A.2d 900 (Pa. Cmwlth. 1996), Lench v. Zoning Board of Adjustment of the City of Pittsburgh, 13 A.3d 576 (Pa. Cmwlth. 2011), Appeal of Ressler Mill Foundation, 573 A.2d 675 (Pa. Cmwlth. 1990).

Objector Haviland seems to argue that the case of Omnivest v. Stewartstown Borough Zoning Hearing Board, 641 A.2d 648 (Pa. Cmwlth. 1994) stands for the proposition that a Zoning Hearing Board cannot rely at all on a prior decision for the same relief requested for the same land after the prior relief has expired. (N.T. 03/10/21, p. 108, N.T. 05/12/21, p. 49) The Omnivest case

does not stand for that proposition, but rather only that a Zoning Hearing Board is not bound by its prior expired decision, and can deny relief previously granted, but surely the Zoning Hearing Board is not precluded from granting the same relief again.

The Objectors have been on notice of the determinations of the Zoning Officer noted above, and have not appealed the determinations under Section 909.1 of the PA Municipalities Planning Code within thirty (30) days from such notice, or when they knew or should have known that the determinations had been made, as provided by Section 914.1 of the PA Municipalities Planning Code. Therefore, the determinations of the Zoning Officer are binding and not subject to challenge. The Board therefore adopts the Township's position supporting the Zoning Officer's determination that the zoning approvals did not expire because of the timely filing of the Application for the Grading Permit/Earth Disturbance Permit. (N.T. 05/12/21, pp. 57-58)

It should be reiterated from this Board's Decision in Application No. 2017-22, the Applicant had presented overwhelming uncontroverted evidence and expert testimony that the Applicant can make virtually no use of the property for the only reasonable use, that of a single-family residence, without the relief sought, and that the development would cause none of the adverse consequences as maintained by the Objectors. If the application had been brought now, it is difficult to believe that the outcome would have been any different, otherwise, the "dead hand of zoning" would preclude any use of this lot. McCarron v. Zoning Hearing Board of Borough of Lansdale, 416 A.2d 1150 (Pa. Cmwlth. 1980). Therefore, granting a variance to extend the validity of the approvals previously granted is completely justified under the circumstances.

IV. CONCLUSIONS OF LAW

1. The Zoning Hearing Board has jurisdiction over the subject matter of the application.
2. The Applicant is the legal owner of the property in question.

3. The Applicant and the subject matter are properly before the Board. The Applicant has standing to submit the application. The Objectors have standing to oppose the application.

4. Hearing notices were duly published and posted in accordance with law, by advertisement in the newspaper and posting on the property.

5. The zoning approvals granted in Application No. 2017-22 were the type defined in and covered by the Development Permit Extension Act, and therefore covered by Act 15 of 2020. (53 P.S. §11703.2; 35 Pa.C.S.A. §5741(g))

6. The zoning approvals granted in Application No. 2017-22 are final and not subject to appeal on substantive grounds by the Objectors, and the Board finds, as a matter of law, that the testimony and evidence submitted by the Objectors regarding the underlying zoning approvals are not relevant to the current inquiry.

7. The Objectors' argument that the Board lacks jurisdiction, because the 1965 subdivision plan requires amendment approval by the Board of Supervisors, is rejected, as a matter of law for the following reasons:

A. As reflected in the Decision and Order for Application No. 2017-22, the note on the subdivision plan merely designated the lot as a possible future recreation area, there was no covenant designating it as open space prohibiting future development, and there was no evidence produced that open space was even required in order to subdivide at the time.

B. The Board of Supervisors already determined this lot to be a building lot for a single-family residence and confirmed same in writing to the Applicant, and therefore no amendment of the subdivision plan was required.

C. The relief requested relates to a Zoning Ordinance provision as it applies to the zoning approvals for this particular lot, not the subdivision as a whole, and the Zoning Hearing

Board is vested with jurisdiction to make such determinations.

8. Because Section 116-223 of the Zoning Ordinance specifically permits the Board to “otherwise specif[y]” an expiration date regarding zoning approvals, the expiration dates set by the Zoning Ordinance (one year from approval or the conclusion of appeals, and the 180 day extension thereafter) can be altered by the Board upon application by the Applicant for a variance.

9. The Board determines it appropriate, as matter of law, to grant the variance requested by the Applicant to “otherwise specif[y]” an expiration date of the zoning approvals granted in Application No. 2017-22 and establish the expiration date of December 31, 2021.

10. After the appellate litigation in this matter concluded, and the Applicant had lost its buyer for the planned house on the lot, the pandemic which resulted in the declarations of disaster emergency, and the imposition of business and construction shut-down orders and stay-at-home orders, created an unprecedented and unnecessary hardship as a matter of law upon the Applicant with reference to the development of the lot.

11. As this inquiry is limited to relief from a time restriction in the Zoning Ordinance, and the fact that the use and dimensional approvals and relief have already been granted, not subject to appeal and therefore final, it would be appropriate for the Board to adopt a relaxed level of scrutiny in granting the variance on a hardship basis, as if considering a dimensional variance.

12. In reviewing the variance requested, and considering Section 910.2 of the Pennsylvania Municipalities Planning Code, the Board determines the following as matter of law:

- A. There was, and still is, a unique condition affecting the timing of the development of the lot, particularly the unprecedented global pandemic impacting every aspect of the development process, all creating an unnecessary hardship which justifies the granting of the variance.
- B. The property cannot be reasonably developed without the minor variance relief now requested.

- C. The hardship created by the litigation pursued by the Objectors, causing the Applicant to lose its buyer for the lot, and then the effects of the pandemic, surely has not been created by the Applicant.
- D. The granting of the variance will not frustrate the intent of the Zoning Ordinance, adversely impact the development of adjoining properties, or alter the essential character of the neighborhood. This expiration provision of the Ordinance anticipated the litigation previously pursued by the Objectors, but never anticipated the unprecedented pandemic lasting now well in excess of an entire year. It is also not anticipated that neighbors would contest the grant of additional time to pursue governmental approvals; such concerns are usually raised by the municipality itself, which, in this case, has supported the decisions of the Zoning Officer, and has not stated an objection to the granting of relief.
- E. The variance requested is the minimum variance to afford relief. The Board is not granting an unlimited extension – only a reasonable extension recognizing the reality of the fairly involved, detailed and extended review and approval process related to obtaining a Grading Permit/Earth Disturbance Permit, in the midst of ongoing pandemic and under protest from the Objectors herein.

13. As a result, the Applicant sustained its burden of establishing a hardship in order to be granted a variance from the expiration provision of the Zoning Ordinance, as a matter of law.

14. Since the Ordinance permits the Board to “otherwise specif[y]” an expiration date other than as provided in the Ordinance, the Board determines, as a matter of law, that the variance requested from the expiration provision in the Zoning Ordinance is a *de minimis* variance request, which the Board may grant without any showing of hardship, because rigid compliance is not required to protect the public policies of the Ordinance.

15. Because of the determinations noted above, the Applicant’s requests for relief on the theories of vested right, variance by estoppel, and equitable estoppel are moot, but the Board nevertheless disposes of such arguments and denies such determinations as set forth below.

16. The Board declines to determine that the Applicant has established a vested right,

since all of the following criteria have not been met as a matter of law (See: Commonwealth of Pennsylvania, Department of Environmental Protection v. Flynn, 344 A.2d 720 (Pa. Cmwlth. 1975):

A. Permit issued in error - the Township issued no permit.

B. Due diligence by the Applicant – Due diligence was made difficult by the pandemic having an adverse effect on all real estate activities, thus justifying the relief granted herein. Although the level of diligence by this Applicant does not rise to the level of entitlement to a finding of vested right, nevertheless, the extraordinary situation of the pandemic justifies the relief granted herein.

C. Good faith of the Applicant – the Applicant acted in good faith in this matter.

D. Expenditure of substantial unrecoverable funds in reliance on the governmental action – the Applicant expended no funds which would not have been expended regardless of any governmental action, and the funds expended in furtherance of obtaining the Grading Permit/Earth Disturbance Permit so far have not been substantial.

E. Expiration of applicable appeal period – this criteria relates back to a permit issued in error, which did not occur in this situation, so is not relevant.

F. Absence of injury to the public interest – there will be no injury to the public interest.

17. The Board declines to grant the Applicant a variance by estoppel, since all of the following criteria have not been met as a matter of law (See: Appeal of Kreider, 808 A.2d 340 (Pa. Cmwlth. 2002):

A. A long period of municipal failure to enforce the law when the municipality knew or should have known of the Applicant's violation of the Township Code – this criteria does not apply in this case.

B. Good faith of the Applicant – the Applicant acted in good faith in this matter.

C. Substantial expenditures by the Applicant in reliance on the belief that the use was permitted – there is no question that the Applicant believed that the use was permitted, and it was so permitted, but the expenditures in furtherance of obtaining the Grading Permit/Earth Disturbance Permit so far have not been substantial. In addition, the Applicant did not just rely on the Zoning Officer's indications, but has filed the instant application so that the expenditure of substantial funds in the future would not be for naught.

D. Denial of the variance would impose an unnecessary hardship on the Applicant –the denial of the variance would impose an unnecessary hardship on the Applicant, but, that is the basis for the variance relief granted, not a variance by estoppel.

18. The Board declines to grant the Applicant relief based on the theory of equitable estoppel. Such a claim requires consideration of the criteria for vested right or variance by estoppel, but is based on an intentional or negligent misrepresentation by the municipality. (See: Cicchiello v. Bloomsburg Zoning Hearing Board, 617 A.2d 835 (Pa. Cmwlth. 1992) The Zoning Officer did not intentionally or negligently misrepresent anything to the Applicant, and so this argument that cannot be sustained as a matter of law.

19. The Objectors have been on notice of the determinations of the Zoning Officer noted above, and have not appealed the determinations under Section 909.1 of the PA Municipalities Planning Code within thirty (30) days from such notice, or when they knew or should have known that the determinations had been made, as provided by Section 914.1 of the PA Municipalities Planning Code.

20. The determinations of the Zoning Officer are binding and not subject to challenge as a matter of law.

21. The Township's position supporting the Zoning Officer's determination that the zoning approvals did not expire because of the timely filing of the Application for the Grading Permit/Earth Disturbance Permit, is correct as a matter of law.

22. Zoning relief runs with the land, and only because of expiration provisions in the Zoning Ordinance does any particular relief expire.

23. When the hearings were held with respect to Application No. 2017-22, the Applicant could have requested, and the Board could have specified, for example, a five-year validity of the approvals, without any showing of hardship, and without granting a variance, as the Ordinance specifically authorizes the Board to do so.

24. Section 116-223 of the Whitemarsh Township Zoning Ordinance specifically authorizes the Board to "otherwise specif[y]" the expiration of any zoning approval, and therefore, the Board has the authority to grant the relief requested herein.

V. OPINION

Upon consideration of the Findings of Fact and Conclusions of Law, the Board hereby determines that the application should be granted in part and denied in part, as set forth hereinafter in the Decision and Order.

WHITEMARSH TOWNSHIP ZONING HEARING BOARD

DECISION AND ORDER

APPLICATION NO.:	2021-02	FIRST HEARING DATE:	03/10/21
APPLICANT:	Pat Sparango, Inc.	CONT'D HEARING DATES:	03/18/21
	Block 049D, Unit 009		05/12/21, 06/02/21
	318 Whitemarsh Valley Road	VOTE:	06/02/21
	Fort Washington, PA 19034	WRITTEN DECISION:	06/09/21
	AAA – Residential District	COPY MAILED:	06/10/21
	Floodplain Conservation Overlay District		
	Riparian Corridor Conservation Overlay District		

After completion of public hearings on the above-referenced Application, pursuant to public notice as required by law, the Zoning Hearing Board of Whitemarsh Township decided and orders as follows:

1. The zoning approvals and relief granted in Decision and Order No. 2017-22 have not expired.
2. A variance from Section 116-223, so as to continue the validity of the zoning approvals and relief granted in Decision and Order No. 2017-22 (subject to Conditions 1 through 6 imposed therein, and the Floodplain Notices contained therein) until December 31, 2021, is **GRANTED**.
3. The request for a determination that the Applicant has a vested right to the extension of the validity of the zoning approvals granted in Application No. 2017-22, is **DENIED**.
4. The request for a determination that the Applicant is entitled to a variance by estoppel, with reference to the extension of the validity of the zoning approvals granted in Application No. 2017-22, is **DENIED**.
5. The request for a determination that the Applicant is entitled to a determination that equitable estoppel applies with reference to the extension of the validity of the zoning approvals granted in Application No. 2017-22, is **DENIED**.

THIS DECISION IS SUBJECT TO THE FOLLOWING CONDITIONS:

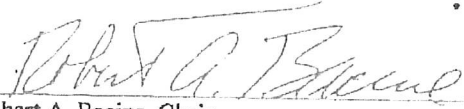
The Applicant shall obtain the Grading Permit/Earth Disturbance Permit no later than December 31, 2021, and if the Applicant does so obtain such Permit by such date, the zoning approvals and relief granted in Decision and Order No. 2017-22 shall not be subject to the expiration provisions of Section 116-223 of the Zoning Ordinance.

If appeals are filed with respect to this Decision and Order, the deadline of December 31, 2021 shall not apply, and if the Board's Decision and Order is upheld on appeal, the Applicant shall have 180 days after the final termination of all appeals to obtain the Grading Permit/Earth Disturbance Permit.

This Decision and Order of the Board is final and any appeal of it must be filed with the Court of Common Pleas of Montgomery County within thirty (30) days following the copy mailing date set out above. The Board reserves the right to supplement the Findings of Fact and Conclusions of Law set forth herein in the event of an appeal.

No. 2021-02

WHITEMARSH TOWNSHIP ZONING HEARING BOARD:



Robert A. Bacine, Chair

William E. Kramer, Vice Chair

Marc Weinstein

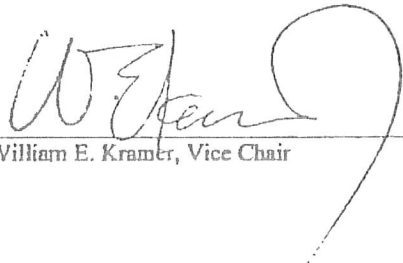
Stanley A. Casacio

James Behr

Randi Rubin

No. 2021-02
WHITEMARSH TOWNSHIP ZONING HEARING BOARD:

Robert A. Bacine, Chair



William E. Kramer, Vice Chair

Marc Weinstein

Stanley A. Casacio

James Behr

Randi Rubin

No. 2021-02

WHITEMARSH TOWNSHIP ZONING HEARING BOARD:

Robert A. Bacine, Chair

William E. Kramer, Vice Chair

Marc Weinstein

Stanley A. Casacio

James Behr

Randi Rubin

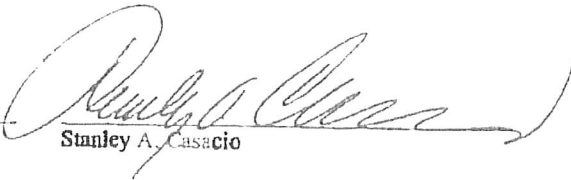
No. 2021-02

WHITEMARSH TOWNSHIP ZONING HEARING BOARD:

Robert A. Bacine, Chair

William E. Kramer, Vice Chair

Marc Weinstein


Stanley A. Casacio

James Behr

Randi Rubin

No. 2021-02

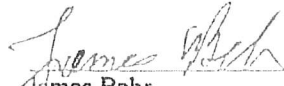
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Randi Rubin

WHITEMARSH TOWNSHIP
ZONING & ENGINEERING

BEFORE THE ZONING HEARING BOARD OF WHITEMARSH TOWNSHIP
MONTGOMERY COUNTY, PENNSYLVANIA

IN RE: APPLICATION OF PAT SPARANGO, INC.

NO. 2017-22

DECISION

I. BACKGROUND

The Applicant, Pat Sparango, Inc. filed an application with the Zoning Hearing Board to construct a single-family home and related improvements on a vacant lot located at 318 Whitemarsh Valley Road, Whitemarsh Township, Montgomery County, Pennsylvania, in the AAA-Residential District. The property is impacted by the Floodplain Conservation Overlay District and the Riparian Corridor Conservation Overlay District. Public hearings were scheduled on this matter on July 12, 2017, August 23, 2017, and September 27, 2017, and hearings were conducted on July 12, 2017 and September 27, 2017.

The Applicant requested the following relief, as amended, and summarized as follows:

1. Special exceptions under Sections 116-31.1.A and 116-31.1.B, so as to permit a stormwater detention/retention facility to be located between the front lot line and front principal building plane, and a portion of said facility within a required side yard.
2. A special exception under Section 116-166.B, so as to permit a basin facility to be located within the Township's Floodplain Conservation District.
3. A variance from Section 116-259.A, so as to permit required front yards, side yards and rear yards, and the proposed single-family home and related accessory improvements to be located within the Riparian Corridor Conservation District.
4. A variance from Section 116-259.C, so as to permit the proposed residential dwelling use to be located within Zone 2 of the Riparian Corridor Conservation District.
5. A variance from Section 116-259.C(4), so as to permit residential accessory structures greater than 200 square feet to be located within Zone 2 of the Riparian Corridor Conservation District.
6. A variance from Section 116-260.A, so as to permit the Applicant to not show on a plan

all of the existing vegetation in the area to be cleared for the proposed single-family home development, and to allow the clearing as proposed.

7. A variance from Section 116-260.I, so as to permit the stormwater basin, berms and outfall structures to be located in Zone 2 of the Riparian Corridor Conservation District.

The Zoning Hearing Board members participating in the hearings were William E. Kramer, who served as Chair, Robert A. Bacine, Marc Weinstein, James Behr and Stanley A. Casacio. The Applicant was represented by Frank R. Bartle, Esquire. The following neighboring property owners elected to enter appearance as parties: Donald E. Haviland, Esquire, an attorney representing himself, George Vlahos, pro se, and Donald Leatherwood, pro se.

The witnesses were duly sworn or affirmed and Notes of Testimony for the hearings were transcribed and are hereby made a part of this record. After the hearings and public discussion, on September 27, 2017, the Board voted 4:1 with Mr. Weinstein dissenting, to grant the application. The Board hereby issues Findings of Fact and Conclusions of Law in support of the Decision and Order.

II. FINDINGS OF FACT

1. The Applicant is Pat Sparango, Inc. ("Applicant"), the legal owner of the property in question located at 318 Whitemarsh Valley Road, Block 049D, Unit 009, Whitemarsh Township, Montgomery County, Pennsylvania.

2. The following Exhibits were marked and duly admitted into evidence:

Township Exhibits:

T-1A	Proofs of Publication
T-1B	Meeting Notifications
T-1C	Postings of Notice
T-2	Zoning Map
T-3	Tax Map
T-4	Zoning Officer Letter – April 6, 2017

T-5 Township Engineer Letter – June 29, 2017

Applicant's Exhibits:

A-1	Zoning Application
A-2	Deeds
A-3	Plan Set
A-4	March 6, 1998 Letter from Township with Sewer Assessment May 15, 1998 Letter from Township May 27, 1998 Letter from Township
A-5	November 5, 1997 Letter with Township Agreement and Easements
A-6	MLS for Property
A-7	Curriculum Vitae of Joseph M. Estock, P.E., P.L.S.
A-8	Memorandum from Township Engineer dated June 29, 2017
A-9	Subdivision Plan with enlargement (2 pages)

Objectors' Exhibits:

H-1	Aerial Photo
H-2	Grading and Utility Plan
H-3	Grading Permit Plan (Sheet No. 1)
H-4	Grading Permit Plan (Sheet No. 3)
H-5	Grading Permit Plan (Sheet No. 4)
H-6	Soil Resource Report
H-7	(Not marked)
H-8	(Not marked)
H-9	(Not marked)
H-10 to H-20	Photos
H-21	Subdivision Plan

Leatherwood -1 - Map

3. The Applicant proposes to construct a single-family house and accessory improvements on the vacant lot. (N.T. 07/12/17, pp. 6-7).
4. The lot was created by subdivision in the 1960's. (N.T. 07/12/17, p. 6, Exhibit A-9)
5. The lot measures approximately 3.7 acres. (Exhibits T-3 and A-3)
6. The subdivision plan designated the lot as "Possible Future Recreation Area", which

note did not specifically restrict the lot to open space or recreational use. (N.T. 09/27/17, p. 8, Exhibit A-9)

7. The Applicant had originally planned to hold the lot as an unimproved lot. (N.T. 07/12/17, pp. 23-24)

8. In October 1997, after negotiations, the Applicant and the Township entered into an agreement whereby the Applicant granted to the Township a sanitary sewer easement. (Exhibit A-5)

9. In March 1998, the lot was assessed for public sewer service. (Exhibit A-4)

10. On May 14, 1998, the Township amended the Floodplain Conservation District Ordinance to permit dwellings in the floodway fringe area of the District. (Exhibit A-4)

11. In a letter dated May 27, 1998, The Township acknowledged that the lot could be developed for a single-family dwelling. (N.T. 07/12/17, pp. 26-27, Exhibit A-4)

12. After the property was assessed for sewer in the sum of \$22,328.00, the Applicant commenced to market the property as a building lot. (N.T. 07/12/17, p. 24, Exhibit A-4)

13. Mary Grace Sparango, Vice President of the Applicant, testified that the lot has been listed for sale seven (7) times in the last seventeen (17) years, and has not sold, until the Applicant recently procured a potential purchaser. (N.T. 07/12/17, pp. 10, 18, 29-31, 64, Exhibit A-6)

14. In March of 2003, the Township adopted the Riparian Corridor Conservation District Ordinance which prohibited single-family dwellings in the Riparian Corridor.

15. The Applicant proposes to build a single-family detached residential home on the vacant lot with a footprint of approximately 3,200 square feet, and a second floor of approximately 1,500 square feet, with a two-car garage and a carport. (N.T. 07/12/17, p. 28)

16. The other homes in the neighborhood are large single-family homes, most of which

have 5 bedrooms and 3½ baths. (N.T. 07/12/17, p. 31)

17. The Applicant presented the testimony of a licensed civil engineer, Joseph M. Estock, P.E., P.L.S., who holds a Master's Degree in Civil Engineering, with a specialty in water resources engineering, and who was qualified as an expert in civil engineering and land surveying ("Engineer"). (N.T. 07/12/17, pp.78-81)

18. The Engineer prepared the plans marked as Exhibit A-3. (N.T. 07/12/17, p. 82)

19. The Engineer calculated the base flood elevation and also received a certification that there are no wetlands in the portion of the lot where the house will be located. (N.T. 07/12/17, pp. 69, 82)

20. The lot has a 50-foot wide fee simple strip of land leading out to Whitemarsh Valley Road, and also fronts on Lafayette Avenue. (N.T. 07/12/17, p. 84)

21. The lot has a driveway curb cut located on Whitemarsh Valley Road. (N.T. 07/12/17, pp. 77, 85-86)

22. A small tributary of the Wissahickon Creek known as Needle Run traverses the lot. (N.T. 07/12/17, p. 84)

23. The house is proposed to be located on the lot so as to minimize encroachment into both the Floodplain and the Riparian Corridor, therefore, taking access off of Whitemarsh Valley Road, rather than Lafayette Avenue. (N.T. 07/12/17, p. 85)

24. The house will be located on an elevated portion on the lot, above the base flood elevation. (N.T. 07/12/17, p. 85)

25. Lafayette Avenue has a higher level of traffic than Whitemarsh Valley Road. (N.T. 07/12/17, p. 85)

26. Needle Run traverses the property, and on the southerly side of Needle Run, the Township extended the sanitary sewer, therefore the Applicant decided to locate the proposed house on the northern side of Needle Run. (N.T. 07/12/17, pp. 85-88)

27. The Engineer testified that it is not possible to build a single-family dwelling on this lot in any area outside the Riparian Corridor. (N.T. 07/12/17, p. 91)

28. The Engineer designed the location of the house so as to not have any adverse impact on the Floodplain Conservation District or the Riparian Corridor. (N.T. 07/12/17, pp. 94-95)

29. The grade of the soil around the house would be at elevation 162 and the base flood elevation is at 160.5. (N.T. 07/12/17, p. 95)

30. The first floor of the house will be 3.25 feet above the base flood elevation. (N.T. 07/12/17, pp. 95-96)

31. The Township Engineer provided a letter approving of the development and stating no objections to construction of the proposed improvements within the Floodplain Conservation District, as long as the Applicant demonstrates compliance with all floodplain regulations and obtains an Earth Disturbance Permit. (N.T. 07/12/17, pp. 97-98, Exhibits T-5 and A-8)

32. There are no improvements proposed for the portion of the lot located in Zone 1 of the Riparian Corridor Conservation District. (N.T. 07/12/17, p. 98)

33. The improvements are planned to be located in Zone 2 of the Riparian Corridor Conservation District. (N.T. 07/12/17, p. 98)

34. The Engineer testified that there will be no detrimental effect on the health, safety and welfare of the community by the construction of the stormwater retention rain garden facility in the location as shown on the plan. (N.T. 07/12/17, p. 100)

35. The proposed rain garden area will not increase the elevation of the one-hundred-year-frequency recurrent interval flood by more than one (1) foot. (N.T. 07/12/17, p. 101)

36. The proposed development is proposed to be in compliance with the National Flood Insurance Program regulations. (N.T. 07/12/17, p. 102)

37. The Engineer testified that the Applicant's proposal meets all criteria as set forth in Section 116-227 of the Zoning Ordinance. (N.T. 07/12/17, p. 102)

38. There is no buildable area on the lot on which to place the house without a variance. (N.T. 07/12/17, p. 113)

39. The basis of the floodplain is the backwater effect of the Wissahickon Creek, along with the combination of Needle Run cutting through the property. (N.T. 07/12/17, p. 113)

40. The house will be located in conformity with the building setbacks as prescribed by the AAA-Residential Zoning District. (N.T. 07/12/17, pp. 115-116)

41. It is not possible for the property to be developed in strict conformity with the Township Zoning Ordinance because of the hardships presented by the physical characteristics of the lot, which is impacted by the tributary, the floodplain, the riparian corridor, and the sewer easement. (N.T. 07/12/17, p. 117)

42. The Engineer confirmed that, other than the zoning relief requested, the Applicant will comply with all other Zoning Ordinance requirements. (N.T. 07/12/17, p. 121)

43. Although the AAA-Residential District provides for other by-right uses such as agriculture and horticulture, and special exception uses of public utility facilities and public transportation passenger stations, the only reasonable and feasible use of the property is for a single-family residence. (N.T. 07/12/17, pp. 126-127)

44. The Engineer verified that the dwelling, as permitted in the AAA-Residential District is located in the floodway fringe, and that the construction of the house and related improvements would cause no increase in the elevation of the one-hundred-year-frequency recurrent interval flood by more than one (1) foot at any one point. (N.T. 07/12/17, pp. 128-129)

45. The Engineer verified that whether a house is built on the property or not, the water line resulting from a 100-year flood event would be in the same location, because of the design of the development. (N.T. 07/12/17, p. 189)

46. As a result of the stormwater measures designed by the Engineer, there will be no additional impact on the flood waters of the Wissahickon Creek. (N.T. 07/12/17, pp. 194-195)

47. The objector, Donald E. Haviland, Esq. presented evidence of the substantial amount of storm water controls he installed on his property. (N.T. 09/27/17, pp. 70, 73-74, Exhibits H-2-thru H-6)

48. The objectors, Donald E. Haviland, Esq. and George Vlahos presented evidence of the water issues on the subject property, as well as the objectors' properties. (N.T. 09/27/17, pp. 45-81, Exhibits H-10-thru H-20)

49. The objector, Donald Leatherwood presented testimony regarding his concerns related to storm water issues in the area. (N.T. 09/27/17, pp.129-135)

50. Mr. Haviland raised questions about the accuracy of the floodplain delineation for the subject property, but his testimony was not supported by expert testimony. (N.T. 09/27/17, pp.67-81, Exhibits H-2 thru H-6)

51. The testimony of Mr. Haviland was effectively rebutted by the testimony of the Applicant's Engineer, in that: (a) Mr. Haviland was inaccurately extrapolating a designation on the

plan for his lot onto the plan for the adjacent Sparango lot, and (b) the designation of the floodplain line on the Sparango lot was not accurately shown on the Haviland lot plan. (N.T, 09/27/17, pp. 100-110)

52. The Board is cognizant of the concerns related to storm water controls, and the importance of the protections afforded by regulations of the Floodplain Conservation District and the Riparian Corridor Conservation District.

53. The Applicant presented competent, and uncontroverted expert testimony and evidence that the property cannot be used for the only reasonable and feasible permitted use of a single family residence without variance relief, and that the development will not have an adverse impact on the floodplain, riparian corridor or the surrounding neighborhood.

54. With reference to the special exceptions requested, upon consideration of Section 912.1 of the Pennsylvania Municipalities Planning Code and the record presented, the Board determines that the Applicant's proposal meets the objective criteria of the Ordinance and the proposed use will not be contrary to the health, safety and welfare of the community.

55. With reference to the variances requested, upon consideration of Section 910.2 of the Pennsylvania Municipalities Planning Code, the Board determines the following:

- A. There are unique physical characteristics or conditions peculiar to this property, including the flag lot nature of the property surrounded by single-family residences, the tributary crossing the property, the floodplain and riparian corridor impacting the property, and the sewer easement traversing the property, creating an unnecessary hardship which justifies the granting of the variances to permit the construction of the house and related improvements.
- B. The Applicant presented sufficient credible evidence for the Board to conclude that the use variances, permitting the house and related improvements in the Riparian Corridor, are required for the reasonable use of the property, and that the dimensional variances are required for the

reasonable development of the property.

- C. The hardship has not been created by the Applicant.
- D. The granting of the variances will not frustrate the intent of the Zoning Ordinance, adversely impact the development of adjoining properties, or alter the essential character of the neighborhood.
- E. The variances requested are the minimum variances to afford relief.

56. Under Section 116-217 of the Zoning Ordinance, the Board determines the following:

- A. The use will not substantially injure or detract from the use of neighboring property or from the character of the neighborhood, and the use of property adjacent to the area of the proposed use would be adequately safeguarded.
- B. The proposed use will not have a harmful effect on local vehicular and pedestrian traffic.
- C. The proposed use is consistent with the legislative intent of the AAA- District and the Floodplain Conservation District.
- D. The surrounding neighborhood will not be subjected to objectionable noise, lighting, and glare, heat, ventilation, smoke, fumes, vapors, dust, dirt, gases or radioactive or electrical disturbances by the proposed use.
- E. The proposed use will not unduly burden sanitary, school, police, fire, park or other public facilities.

57. The record supports the following findings and conclusions under Section 116-227 of the Zoning Ordinance:

- A. The proposed development will not present danger to life and property due to increased flood heights or velocities caused by encroachments, because the development is not located in the floodway, and the development in the floodplain fringe will not cause any increase in the flood elevation of the one-hundred-year-frequency recurrent interval flood by more than one foot at any point.
- B. The proposed development does not present the danger that materials will be swept onto other lands or downstream to the injury of others.

- C. The proposed water supply and sanitation systems will be designed to perform properly and to prevent disease, contamination and unsanitary conditions.
- D. Because of the extensive storm water controls planned for the property, the proposed development will not be susceptible to flood damage, and will not damage the properties of other individual owners.
- E. The Applicant will provide for the safety, availability and means of access to the property for emergency services and vehicles in time of flooding.
- F. The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters expected at the site will not be adverse to the neighborhood.
- G. There will be no impermissible increases in flood heights, additional threats to public safety, additional public expense, the creation of nuisances, fraud or victimization of the public, or conflict with local laws or ordinances.

58. The provisions of the Zoning Ordinance, strictly applied, impose an unnecessary hardship on the land and the Applicant, the use is not contrary to the health, safety and welfare of the community, and therefore, the following special exceptions and variances should be granted:

1. Special exceptions under Sections 116-31.1.A and 116-31.1.B, so as to permit a stormwater detention/retention facility to be located between the front lot line and front principal building plane, and a portion of said facility within a required side yard.

2. A special exception under Section 116-166.B, so as to permit a basin facility to be located within the Township's Floodplain Conservation District.

3. A variance from Section 116-259.A, so as to permit required front yards, side yards and rear yards, and the proposed single-family home and related accessory improvements, to be located within the Riparian Corridor Conservation District.

4. A variance from Section 116-259.C, so as to permit the proposed residential dwelling use to be located within Zone 2 of the Riparian Corridor Conservation District.

5. A variance from Section 116-259.C(4), so as to permit residential accessory structures greater than 200 square feet to be located within Zone 2 of the Riparian Corridor Conservation District.

6. A variance from Section 116-260.A, so as to permit the Applicant to not show on a plan all of the existing vegetation in the area to be cleared for the proposed single-family home development, and to allow the clearing as proposed, provided that the Applicant provides mitigation

as required by the Township.

7. A variance from Section 116-260.I, so as to permit the stormwater basin, berms and outfall structures to be located in Zone 2 of the Riparian Corridor Conservation District.

III. DISCUSSION

In Hertzberg v. Zoning Board of Adjustment of the City of Philadelphia, 554 Pa. 249, 721 A.2d 43 (1998), the Supreme Court held that, in evaluating a hardship for a dimensional variance, a Zoning Hearing Board should consider various factors, including economics and the characteristics of the surrounding neighborhood, and should also adopt a somewhat more relaxed standard of scrutiny than when considering a use variance. In Marshall v. City of Philadelphia and Zoning Board of Adjustment, 626 Pa. 385, 97 A.3d 323 (2014), the Supreme Court recognized that a property does not have to be valueless in order to obtain a use variance, and economic considerations may be considered in a use variance case, if conformance could only be achieved at a prohibitive expense. The Supreme Court reiterated in the Hertzberg and Marshall cases, that an Applicant need not prove that the property cannot be used for any other permitted use in order to be entitled to a variance.

If granting a special exception, the Board is to determine that the Applicant's proposal complies with the general criteria of the Ordinance and that the use will not be detrimental to the health, safety and welfare of the community. Broussard v. Zoning Board of Adjustment, 831 A.2d 764 (Pa. Cmwlth. Ct. 2003, affirmed on appeal @ 589 Pa. 71, 907 A.2d 494 (2006)).

The case before the Board involves the request for use variances to construct a house and related improvements in Zone 2 of the Riparian Corridor Conservation District, special exceptions for the location of the detention basin facility, and related dimensional variances and plan-related variances. None of the improvements will be located in the floodway or Zone 1 of the Riparian Corridor, the most environmentally sensitive areas on the property. The house is a permitted use in

the Floodplain Conservation District, and only special exceptions are required for the location of the detention basin. But because Zone 2 of the Riparian Corridor is co-extensive with the Floodplain Conservation District, and the lot is impacted by both overlay districts, the Applicant requires relief to place the house and related improvements anywhere on the lot.

The Objectors would have the Board rule that, even though the Township specifically advised the Applicant that the property constituted a building lot for a single-family residence once assessed for public sewer, that such use should be denied, and that virtually no use may be made of the property, other than for open space.

Of the uses permitted for this lot in accordance with the underlying AAA-Residential District, the Floodplain Conservation Overlay District, and the Riparian Corridor Conservation Overlay District, a single-family residence is the only reasonable and feasible use. The Applicant presented overwhelming uncontroverted evidence and expert testimony that the Applicant can make virtually no use of the property for a single-family residence without the relief sought, and that the development would cause none of the adverse consequences as maintained by the Objectors.

IV. CONCLUSIONS OF LAW

1. The Zoning Hearing Board has jurisdiction over the subject matter of the application.
2. The Applicant is the legal owner of the property in question.
3. The Applicant and the subject matter are properly before the Board. The Applicant has standing to submit the application. The Objectors have standing to oppose the application.
4. Hearing notices were duly published and posted in accordance with law, by advertisement in the newspaper and posting on the property.
5. With reference to the special exceptions requested, upon consideration of Section

912.1 of the Pennsylvania Municipalities Planning Code, the Board determines that the Applicant's proposal meets the objective criteria of the Ordinance and the proposed use will not be contrary to the health, safety and welfare of the community.

6. With reference to the variances requested, upon consideration of Section 910.2 of the Pennsylvania Municipalities Planning Code, the Board determines the following as a matter of law:

- A. There are unique physical characteristics or conditions peculiar to this property, including the flag lot nature of the property surrounded by single-family residences, the tributary crossing the property, the floodplain and riparian corridor impacting the property, and the sewer easement traversing the property, creating an unnecessary hardship which justifies the granting of the variances to permit the construction of the house and related improvements.
- B. The Applicant presented sufficient credible evidence for the Board to conclude that the use variances, permitting the house and related structures in the Riparian Corridor, are required for the reasonable use of the property, and that the dimensional variances are required for the reasonable development of the property.
- C. The hardship has not been created by the Applicant.
- D. The granting of the variances will not frustrate the intent of the Zoning Ordinance, adversely impact the development of adjoining properties, or alter the essential character of the neighborhood.
- E. The variances requested are the minimum variances to afford relief.

7. Under Section 116-217 of the Zoning Ordinance, the Board determines the following, as a matter of law:

- A. The use will not substantially injure or detract from the use of neighboring property or from the character of the neighborhood, and the use of property adjacent to the area of the proposed use would be adequately safeguarded.
- B. The proposed use will not have a harmful effect on local vehicular and pedestrian traffic.
- C. The proposed use is consistent with the legislative intent of the AAA-

Residential District and the Floodplain Conservation District.

- D. The surrounding neighborhood will not be subjected to objectionable noise, lighting, and glare, heat, ventilation, smoke, fumes, vapors, dust, dirt, gases or radioactive or electrical disturbances by the proposed use.
- E. The proposed use will not unduly burden sanitary, school, police, fire, park or other public facilities.

8. The record supports the following findings and conclusions under Section 116-227 of the Zoning Ordinance, as a matter of law:

- A. The proposed development will not present danger to life and property due to increased flood heights or velocities caused by encroachments, because the development is not located in the floodway, and the development in the floodplain fringe will not cause any increase in the flood elevation of the one-hundred-year-frequency recurrent interval flood by more than one foot at any point.
- B. The proposed development does not present the danger that materials will be swept onto other lands or downstream to the injury of others.
- C. The proposed water supply and sanitation systems will be designed to perform properly and to prevent disease, contamination and unsanitary conditions.
- D. Because of the extensive storm water controls planned for the property, the proposed development will not be susceptible to flood damage, and will not damage the properties of other individual owners.
- E. The Applicant will provide for the safety, availability and means of access to the property for emergency services and vehicles in time of flooding.
- F. The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters expected at the site will not be adverse to the neighborhood.
- G. There will be no impermissible increases in flood heights, additional threats to public safety, additional public expense, the creation of nuisances, fraud on or victimization of the public, or conflict with local laws or ordinances.

9. The provisions of the Zoning Ordinance, strictly applied, impose an unnecessary

hardship on the land and the Applicant, the use is not contrary to the health, safety and welfare of the community, and therefore, the following special exceptions and variances should be granted:

1. Special exceptions under Sections 116-31.1.A and 116-31.1.B, so as to permit a stormwater detention/retention facility to be located between the front lot line and front principal building plane, and a portion of said facility within a required side yard.

2. A special exception under Section 116-166.B, so as to permit a basin facility to be located within the Township's Floodplain Conservation District.

3. A variance from Section 116-259.A, so as to permit required front yards, side yards and rear yards, and the proposed single-family home and related accessory improvements, to be located within the Riparian Corridor Conservation District.

4. A variance from Section 116-259.C, so as to permit the proposed residential dwelling use to be located within Zone 2 of the Riparian Corridor Conservation District.

5. A variance from Section 116-259.C(4), so as to permit residential accessory structures greater than 200 square feet to be located within Zone 2 of the Riparian Corridor Conservation District.

6. A variance from Section 116-260.A, so as to permit the Applicant to not show on a plan all of the existing vegetation in the area to be cleared for the proposed single-family home development, and to allow the clearing as proposed, provided that the Applicant provides mitigation as required by the Township.

7. A variance from Section 116-260.I, so as to permit the stormwater basin, berms and outfall structures to be located in Zone 2 of the Riparian Corridor Conservation District.

V. OPINION

Upon consideration of the Findings of Fact and Conclusions of Law, the Board hereby determines that the application should be granted as set forth hereinafter in the Decision and Order.

RECEIVED
AUG 21 2025

WHITEMARSH TOWNSHIP
ZONING & ENGINEERING
WHITEMARSH TOWNSHIP ZONING HEARING BOARD

DECISION AND ORDER

APPLICATION NO.:	2017-22	FIRST HEARING DATE:	07/12/17
APPLICANT:	Pat Sparango, Inc.	CONT'D HEARING DATES:	08/23/17
	Block 049D, Unit 009		09/27/17
	318 Whitemarsh Valley Road	VOTE:	09/27/17
	Fort Washington, PA 19034	WRITTEN DECISION:	11/02/17
	AAA – Residential District	COPY MAILED:	11/02/17
	Floodplain Conservation Overlay District		
	Riparian Corridor Conservation Overlay District		

After completion of public hearings on the above-referenced Application, pursuant to public notice as required by law, the Zoning Hearing Board of Whitemarsh Township decided and orders as follows:

1. Special exceptions under Sections 116-31.1.A and 116-31.1.B, so as to permit a stormwater detention/retention facility to be located between the front lot line and front principal building plane, and a portion of said facility within a required side yard, are **GRANTED**.

2. A special exception under Section 116-166.B, so as to permit a basin facility to be located within the Township's Floodplain Conservation District, is **GRANTED**.

3. A variance from Section 116-259.A, so as to permit required front yards, side yards and rear yards, and the proposed single-family home and related accessory improvements to be located within the Riparian Corridor Conservation District, is **GRANTED**.

4. A variance from Section 116-259.C, so as to permit the proposed residential dwelling use to be located within Zone 2 of the Riparian Corridor Conservation District, is **GRANTED**.

5. A variance from Section 116-259.C(4), so as to permit residential accessory structures greater than 200 square feet to be located within Zone 2 of the Riparian Corridor Conservation District, is **GRANTED**.

6. A variance from Section 116-260.A, so as to permit the Applicant to not show on a plan all of the existing vegetation in the area to be cleared for the proposed single-family home development, and to allow the clearing as proposed, provided that the Applicant provides for mitigation as required by the Township, is **GRANTED**.

7. A variance from Section 116-260.I, so as to permit the stormwater basin, berms and outfall structures to be located in Zone 2 of the Riparian Corridor Conservation District, is **GRANTED**.

THIS DECISION IS SUBJECT TO THE FOLLOWING CONDITIONS:

1. All use and development permitted by this Decision shall conform to the exhibits and testimony presented by the Applicant, unless inconsistent with any specific conditions imposed by this Board, in which case these specific conditions shall take precedence.
2. The Applicant shall apply for and obtain all permits required by the Township Codes in a timely manner.
3. The Applicant shall comply with all requirements of the Township Engineer's Letter dated June 29, 2017, and any other requirements of the Township Engineer with respect to storm water controls.
4. The Applicant shall provide for vegetation mitigation as directed by the Township.
5. The Applicant shall provide to the objectors herein copies of the plans submitted to the Township in relation to the Application for the Earth Disturbance Permit.
6. All construction shall be in compliance with the National Flood Insurance Program regulations.

As required by Section 116-227. D of the Zoning Ordinance, the Applicant is on notice that:

Certain relief from floodplain requirements may result in increased premium rates for flood insurance and/or may increase the risks to life and property.

The development of the property in the floodplain is entirely at the risk of the Applicant.

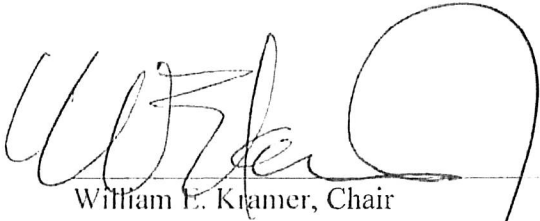
This Decision and Order of the Board is final and any appeal of it must be filed with the Court of Common Pleas of Montgomery County within thirty (30) days following the copy mailing date set out above.

Section 116-223 of the Zoning Ordinance provides as follows:

Expiration of granted appeals. Unless otherwise specified by the Board, all approvals granted by the Zoning Hearing Board shall automatically expire 365 days after the date of the decision unless: (1) the applicant has acted upon the approval by obtaining the required permit(s) and paying the prescribed fees for same, or (2) the Zoning Hearing Board decision is on appeal to the courts, at which point, the approval, if upheld on appeal, shall expire 365 days after final determination on appeal.

The Zoning Hearing Board may extend the expiration date of approvals for a 180 day period upon request by the applicant, provided that the applicant is, in the opinion of the Zoning Hearing Board, diligently pursuing governmental and/or regulatory approvals as required. Requests for extensions shall be in writing and submitted to the Zoning Hearing Board at least 30 days before any applicable expiration date. Only one (1) extension may be provided for any application.

WHITEMARSH TOWNSHIP ZONING HEARING BOARD:

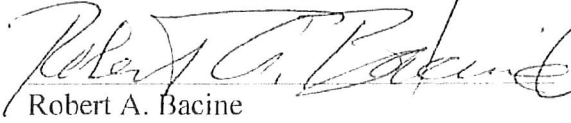


William E. Kramer, Chair



DISSENT

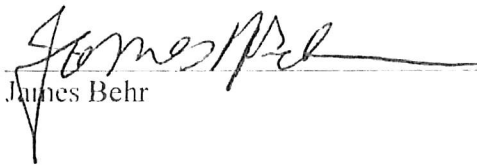
Marc Weinstein, Vice Chair



Robert A. Bacine



Stanley A. Casacio



James Behr

ALTERNATE

Randi Rubin

ZHB APPEAL #2025-47
SUMMARY

APPLICANT: BHC Northwest Psychiatric Hospital; attn: Jessica Becker, CEO

PROPERTY LOCATION: Parcel # 65-00-00868-50-7
Block 055, Unit 048
7170 Lafayette Avenue
Fort Washington, PA 19034

ZONING DISTRICTS: B – Residential District
Institutional Overlay District
Floodplain Conservation Overlay District
Riparian Corridor Conservation Overlay District (RCCD)

SUMMARY OF RELIEF REQUEST:

The Applicant is proposing to install some flood mitigation improvements on the site of the Brooke Glen Behavioral Hospital at the Property Location. The following relief is requested:

1. **Variance from Section 116-165.B.** in order to construct the proposed improvements and floodproof the existing building to meet the provisions set forth in Sections 116-204.A. & B.
2. **Variance from Section 116-176.** as the dimensional requirements are not met by the existing building structure and the proposed improvements are restricted to the existing building structure and/or the existing courtyard fence locations.
3. **Variance from Sections 116-259. and 116-260.** since the existing building and proposed improvement are located within the Riparian Corridor Conservation Overlay District.
4. **Variance from Section 116-259.A.** since the existing building and proposed improvement do not meet the RCCD setback requirements.

PRIOR DECISIONS:

ZHB 2009-11: Variances to allow second floor extensions.

ZHB 2000-44: Withdrawn; relief requested unknown.

ZHB 1986-28: Special exception to add mechanical room and variance to construct in the floodplain.

ZHB 1971-12: Special exception to build a psychiatric hospital.

ZHB 1961-01: Variances to allow construction of garden apartments and related improvements; denied.

ZHB 1959-03: Special Exception to allow construction of a swim club; denied.

Respectfully Submitted,



Charles L. Guttenplan, AICP
Director of Planning and Zoning/Zoning Officer

October 8, 2025

Mr. Charlie L. Guttenplan, AICP
Director of Planning and Zoning/Zoning Officer
Whitemarsh Township
616 Germantown Pike
Lafayette Hill, PA 19444-1821

Re: Appeal to Zoning Hearing Board Application
Universal Health Services, Inc., Brooke Glen Behavioral Hospital
Brooke Glen Hospital Flood Mitigation Project
7170 Lafayette Avenue, Fort Washington, PA 19034

Dear Mr. Guttenplan:

Geosyntec Consultants, Inc. is pleased to submit an Appeal to Zoning Hearing Board Application on behalf of Universal Health Services, Inc. (UHS) for the proposed flood mitigation improvements at 7170 Lafayette Avenue, Fort Washington, PA in Whitemarsh Township (Township) and Montgomery County. This project was previously approved for a Land Development Waiver for Grading Permit by the Whitemarsh Township Planning Commission at the 4 December 2024 meeting (SLD #04-24). As part of this application, Geosyntec has prepared this letter in response to provision comments received on the Zoning Ordinance Compliance Review Letter dated 25 November 2024. The property is located within the B-Residential District and is subject to an Institutional Overlay District, which governs its permitted uses). Portions of the property and the proposed project improvements are also within the Floodplain Conservation Overlay District and the Riparian Corridor Conservation Overlay District (RCCD).

The property has experienced multiple flooding events in the recent years and is in the Federal Emergency Management Agency (FEMA) Region 3 located in Zone AE and along Sandy Run, upstream of the confluence of Wissahickon Creek and Sandy Run and downstream from any lettered cross-section for Sandy Run (i.e., outside of the permitted floodway). The proposed flood mitigation solution will not alter current land-use or the existing buildings and will include a floodplain obstruction wall and building floodproofing elements in the vicinity of the existing development. The proposed floodplain obstruction wall is sited to be constructed at the location of an existing fence on-site and the building floodproofing elements will consist of waterproofed flood barriers to be installed along the existing building to protect the structure from flooding. The anticipated limits of disturbance during construction is less than one acre. A letter of map revision (LOMR) application was submitted to FEMA and approved on 24 June 2025 (Case No. 24-03-0912P), effective 7 November 2025.

Six (6) complete sets of all application materials are submitted with payment of \$1,200.00 for Appeal to Zoning Hearing Board to the Township Building. An electronic copy has been sent to Mr. Guttenplan and Ms. Samantha Zrillo.

RESPONSE TO PROVISION COMMENTS AND REQUESTS FOR VARIANCES

Provision comments are presented in *italicized type*, with the Applicant's response immediately following in regular type; requested variances are presented in **bold type**.

Comment 1: §116-33.D. Structures shall not be permitted in the Ultimate Right-of-Way except where a property owner executes, and the Board of Supervisors approves, a Hold-Harmless Agreement and it is recorded against the property. The Ultimate Right-of-Way must be clearly shown on the plan to determine if any part of the proposed improvements are within said area.

Response 1: Proposed improvements are restricted to the existing building structures and courtyard fence locations currently at the property. Therefore, proposed structures associated with the project are not within the Ultimate Right-of-Way and a variance from this provision will not be needed. See revised Site Plans depicting the Ultimate Right-of-Way. A variance is not requested for §116-33.D.

Comment 2: §116-164.C. In the Floodplain Conservation District, no development shall be permitted except where the effect of such development on flood heights is fully offset by accompanying improvements which have been approved by all appropriate local, state and federal authorities as required. Additionally, compliance is required with Chapter 101 of the Whitmarsh Township Code, 'Floodplain Management'.

Response 2: A post-project hydraulic analysis has been completed and no impacts to flood elevations has been calculated. The analysis will be submitted to the Township in the form of a "No-Rise" report package which will include an Engineering "No-Rise" Certification statement following the Federal Emergency Management Agency's (FEMA's) *Procedures for "No-Rise" Certification for Proposed Developments in the Regulatory Floodway* guidance. Therefore, a variance is not requested for §116-164.C.

Comment 3: §116-165.B. This section allows certain uses in the Floodplain Conservation District provided they do not require structures. We understand that the applicant will seek a variance to allow the construction of structures within the Floodplain Conservation District.

Response 3: **The Applicant requests a variance from provision §116-165.B. in order to construct the proposed improvements and floodproof the existing building to meet the provisions set forth in §116-204.A. & B.**

Comment 4: §116-176. This section lists the dimensional requirements in the Institutional Overlay District. A zoning compliance chart shall be added to the plans to show these requirements and what the existing conditions are.

Response 4: **The Applicant requests a variance from provision §116-176 as the dimensional requirements are not met by the existing building structure and the proposed improvements are restricted to the existing building structure and/or the existing courtyard fence locations.**

Comment 5: §116-204.A. & B. These sections discuss how floodproofing requirements apply depending upon what percentage the improvements are of the market value of the property. The appropriate requirements shall be met for the proposed improvements, including if applicable, the provisions of Chapter 101, Floodplain Management.

Response 5: The project's proposed improvements (i.e., floodproofing measures) meet the requirements set forth in §116-204.A. & B. As noted above, no impacts to flood elevations were calculated in the post-project hydraulic analysis which will be submitted to the Township in a "No-Rise" report package. A variance is not requested for §116-204.A. & B.

Comment 6: § 116-258.A.(1). The Riparian Corridor Conservation District is an overlay district that applies to the streams, wetlands, and water bodies, and the land adjacent to them. The plan should be revised to clearly outline the outer edge of Zone 1 and Zone 2 as described below:

Water Feature Surface

Perennial streams. All perennial streams identified in the Soil Survey (Perennial streams are shown as solid lines on the Soil Survey maps.)

Minimum Corridor Width

Zone 1: Minimum width of 25 feet from each defined edge of the watercourse at bank full flow, measured perpendicular to the edge of the watercourse. Zone 2: Minimum width of 50 feet from the outer edge of Zone 1, measured perpendicular to the edge of Zone 1, or equal to the extent of the one-hundred-year- floodplain, or 25 feet beyond the outer edge of a wetland along the stream, whichever is greater. (Total minimum width of Zones 1 and 2 = 150 feet plus the width of the stream.)

Response 6: The revised Site Plans depict the Zone 2 boundary based on the corrected effective 100-year floodplain which has been approved by FEMA and will be effective on 7 November 2025. The Zone 1 boundary is not shown on the Site Plans because the project is located outside of Zone 1. A variance is not requested for §116-258.A.(1).

Comment 7: §116-259. / §116-260. Any use or activity not authorized within § 116-259. is prohibited within the Riparian Corridor Conservation District. A variance is required for the proposed improvements.

Response 7: **The Applicant requests a variance from provisions §116-259 and §116-260 since the existing building and proposed improvement are located within the floodplain.**

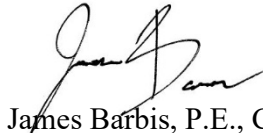
Comment 8: §116-259.A. This section requires a setback equal to at least ½ of the setback applicable on the specific portion on the lot on which it's located. Verification shall be provided that this setback has been met for all proposed improvements.

Response 8: **The Applicant requests a variance from provision §116-259.A. since the existing building and proposed improvement do not meet the setback requirements.**

CLOSING

Geosyntec trusts that this response to comments letter provides the necessary information requested by the Township and the requested variances. If you have any questions regarding the information presented in this letter, please do not hesitate to contact James Barbis at (215) 407-2726 or James.Barbis@Geosyntec.com. Additionally, the necessary Application contact information is provided below as well, for your reference.

Sincerely,



James Barbis, P.E., CFM
Principal Engineer
Geosyntec Consultants, Inc.

Applicant contact information:

Jessica Becker, CEO
Brooke Glen Hospital
Universal Health Services, Inc.
7170 Lafayette Avenue
Fort Washington, PA 19034
Office: 215-641-5353
Cell: 832-995-6240
Email: Jessica.Becker@uhsinc.com

cc: Samantha Zrillo, Township Planner
Krista Heinrich, Township Engineer

**Appeal to Zoning Hearing Board
Application**

APPEAL TO ZONING HEARING BOARD
WHITEMARSH TOWNSHIP
COMMONWEALTH OF PENNSYLVANIA

APPEAL NO: _____

Applicant/Appellant: BHC Northwest Psychiatric Hospital, attn: Jessica Becker, CEO
Address: 14400 Metcalf Avenue, Overland Park, KS 66223
Phone #: 215-641-5353 **Cell Number:** 832-995-6240 **E-Mail:** jessica.becker@uhsinc.com

Owner: Universal Health Services, Inc.
Address: 367 South Gulph Road, King of Prussia, PA 19406
Phone #: 215-641-5353 **Cell Number:** 832-995-6240 **E-Mail:** jessica.becker@uhsinc.com

Location of the Property Involved: 7170 Lafayette Avenue, Fort Washington, PA 19034
Block #: 055 **Unit #:** 048 **Parcel #:** 65-00-00868-50-7

NATURE OF APPLICATION (Describe proposed use and/or construction: type of appeal requested and specific section(s) of Whitemarsh Township Zoning Code which is (are) relied upon):

The property has experienced recent flooding, and a proposed flood mitigation solution will be constructed which will not alter current land-use or the existing buildings. A floodplain obstruction wall will be constructed at the location of an existing fence and building floodproofing elements will consist of waterproofed flood barriers to be installed along the existing building to protect the structure from flooding.

GROUND(S) FOR APPEAL (State reasons for appeal and nature of hardship, if claimed):
****Attach additional sheets if necessary**

See attached cover letter describing the reasons for the following requested variances:
i) Chapter 116-165B, ii) Chapter 116-176, iii) Chapter 116-259 / 116-260, and iv)
Chapter 116-259.A.

Legal Counsel (if represented): George H. Brunner, Jr., Deputy General Counsel
Address: 367 South Gulph Road, King of Prussia, PA 19406-0958
Phone #: 610-768-3480 **E-Mail:** george.brunner@uhsinc.com

My (Our) signature(s) authorize(s) permission to pose my (our) property and permission to the Zoning Hearing Board and their representative to enter thereon for inspection purposes.

I (We) certify the information provided on this application and supporting documentation and plans are true and correct to the best of my (our) knowledge, information, and belief. You are required to submit proof that you are one of the following:

I am (We are)

- Owner(s) of Legal Title
- Owner(s) of Equitable Title
- Tenant(s) with permission of Owner(s) of Title (Enclose letter attesting to same)

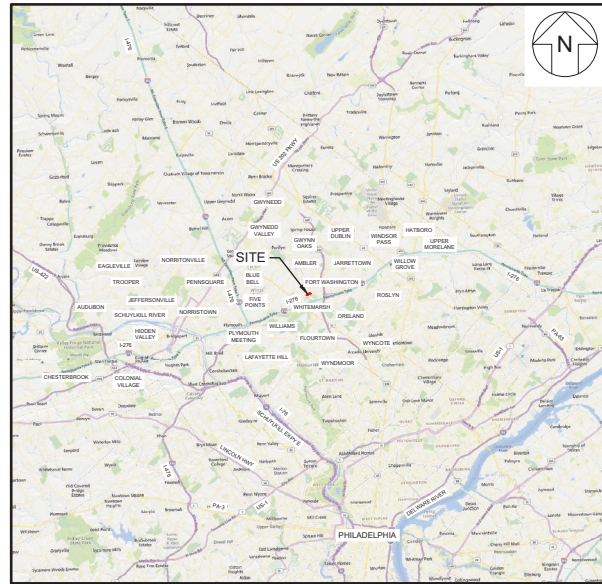
Date: 10/23/2025


Signature of Applicant/Appellant:

Signature of Applicant/Appellant:

Site Plan

BROOKE GLEN BEHAVIORAL HOSPITAL UNIVERSAL HEALTH SERVICES FLOOD MITIGATION 7170 LAFAYETTE AVE FORT WASHINGTON, PENNSYLVANIA PROJECT NO. TXW9793A JULY 2024

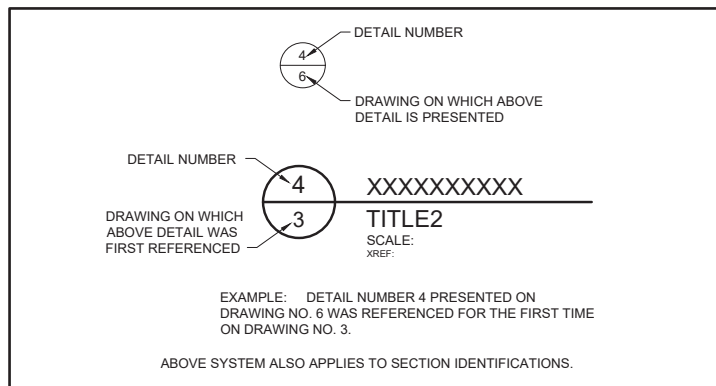


VICINITY MAP
SCALE IN MILES
0 5 10

DRAWING LIST TABLE			
DRAWING NUMBER	DRAWING TITLE	LATEST REVISION	DATE
1	COVER SHEET	1	9/29/2025
2	EXISTING CONDITIONS	1	9/29/2025
3	PROPOSED CONDITIONS	1	9/29/2025
4	EROSION AND SEDIMENT CONTROL PLAN	0	7/17/2024
5	DETAILS (SHEET 1 OF 2)	0	7/17/2024
6	DETAILS (SHEET 2 OF 2)	0	7/17/2024



LOCATION MAP
SCALE IN FEET
0 1000 2000



PREPARED FOR:



UNIVERSAL HEALTH SERVICES, INC.
367 SOUTH GULPH ROAD,
KING OF PRUSSIA
PENNSYLVANIA, 19406, USA

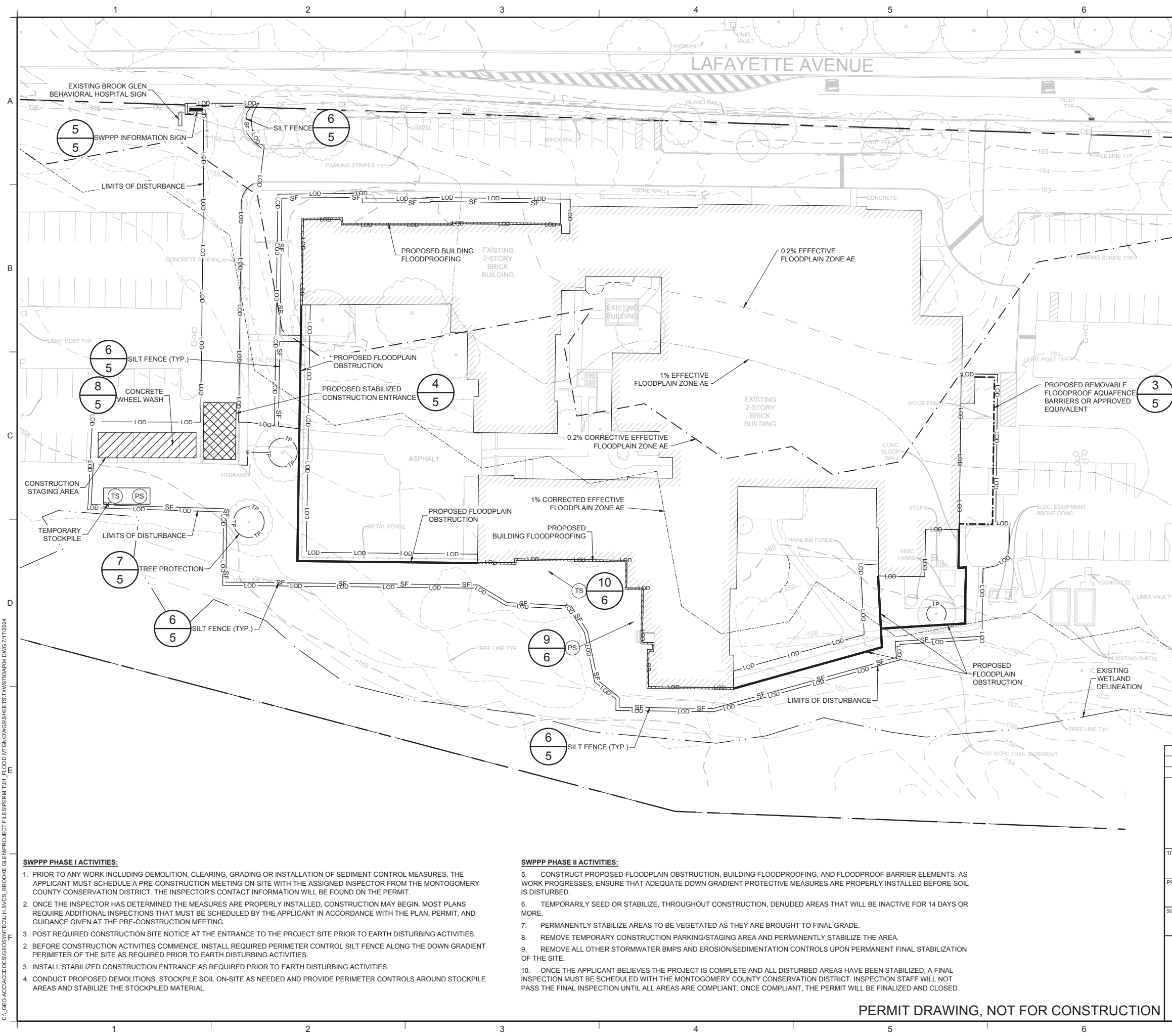
PREPARED BY:



GEOSYNTEC CONSULTANTS, INC.
930 HARVEST DRIVE, SUITE 220
BLUE BELL, PENNSYLVANIA, 19422
PHONE: 512.451.4003

△	09/29/2025	DRAWING REVISIONS TO DRAWINGS 1, 2, AND 3	JJV	JB
REV	DATE	DESCRIPTION	DRN	APP
UNIVERSAL HEALTH SERVICES, INC. 367 SOUTH GULPH ROAD, KING OF PRUSSIA, PENNSYLVANIA, 19406, USA		GEOSYNTEC CONSULTANTS, INC. 930 HARVEST DRIVE, SUITE 220 BLUE BELL, PENNSYLVANIA, 19422 PHONE: 512.451.4003		
TITLE: COVER SHEET				
PROJECT: UNIVERSAL HEALTH SERVICES FLOOD MITIGATION				
SITE: BROOKE GLEN BEHAVIORAL HOSPITAL				
THIS DRAWING MAY NOT BE ISSUED FOR PROJECT TENDER OR CONSTRUCTION, UNLESS SEALED.		DESIGN BY: NH/OB		DATE: JULY 2024
James D. Barbis 2025.09.29 16:13:16 -04'00'		DRAWN BY: AM		PROJECT NO.: TXW9793A
SIGNATURE		CHECKED BY: BK		FILE: TXW9793AP01
09/29/2025		REVIEWED BY: JB		DRAWING NO.:
DATE		APPROVED BY: JB		1 OF 6

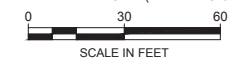
PERMIT DRAWING, NOT FOR CONSTRUCTION



LEGEND	
---	EXISTING GROUND MAJOR CONTOUR (5') (NOTE 1)
---	EXISTING GROUND MINOR CONTOUR (1') (NOTE 1)
---	PROPERTY BOUNDARY
---	EXISTING SITE ACCESS ROAD
---	EXISTING FENCE
---	LIMITS OF DISTURBANCE
---	SILT FENCE
---	0.2% EFFECTIVE FLOODPLAIN ZONE AE (NOTE 3)
---	1% EFFECTIVE FLOODPLAIN ZONE AE (NOTE 3)
---	0.2% CORRECTED EFFECTIVE FLOODPLAIN ZONE AE (NOTE 3)
---	1% CORRECTED EFFECTIVE FLOODPLAIN ZONE AE (NOTE 3)
---	SWPPP INFORMATION SIGN
(PS)	PERMANENT STABILIZATION
(TS)	TEMPORARY STABILIZATION
(Tree)	EXISTING TREE

- NOTES:
- EXISTING CONTOURS ARE BASED ON AN ON-SITE TOPOGRAPHICAL FIELD SURVEY PERFORMED BY PENNON ASSOCIATES INC. IN SEPTEMBER 2023.
 - THE STUDY AREA IS ENTIRELY LOCATED WITHIN THE CITY LIMITS OF FORT WASHINGTON, PENNSYLVANIA AND MONTGOMERY COUNTY.
 - THE 1% ANNUAL CHANCE (1%) AND 0.2% ANNUAL CHANCE (0.2%) EFFECTIVE ZONE AE BOUNDARIES WERE OBTAINED FROM THE CURRENT FIS (REVISED: MARCH 2, 2016) BASED ON THE TOPOGRAPHY USED IN THE EFFECTIVE MODEL LAST UPDATED IN NOVEMBER 2012. THE 1% AND 0.2% CORRECTED EFFECTIVE ZONE AE BOUNDARIES INCORPORATE THE USE OF MORE RECENT TOPOGRAPHIC DATA AND OTHER REVISIONS INCORPORATED IN THE CORRECTED EFFECTIVE MODEL. ALTHOUGH THE WATER SURFACE ELEVATIONS FOR THE 1% AND 0.2% CORRECTED EFFECTIVE ZONE AE ARE GENERALLY HIGHER THAN THE EFFECTIVE ZONE AE, THE SPATIAL EXTENT OF THE ZONE AE BOUNDARIES DECREASES COMPARED TO THOSE USED IN THE EFFECTIVE FIS (FEMA, 2016) DUE TO THE CHANGE IN TOPOGRAPHIC DATA SOURCES.
 - THE REFERENCED VERTICAL DATUM IS NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVD88).
 - WETLAND DELINEATION BASED ON SITE INVESTIGATION CONDUCTED BY GEOSYNTEC CONSULTANTS, INC ON 27 JULY 2023.

- EROSION AND SEDIMENT CONTROL NOTES:
- THE IMPLEMENTATION OF THIS ESC PLAN AND THE CONSTRUCTION, MAINTENANCE, REPLACEMENT, AND UPGRADING OF THESE ESC BMPs IS THE RESPONSIBILITY OF THE APPLICANT UNTIL ALL CONSTRUCTION IS COMPLETED AND APPROVED AND VEGETATION/LANDSCAPING IS ESTABLISHED.
 - CLEARLY FLAG THE BOUNDARIES OF THE LIMITS OF DISTURBANCE SHOWN ON THIS PLAN IN THE FIELD PRIOR TO CONSTRUCTION. DURING THE CONSTRUCTION PERIOD, NO DISTURBANCE BEYOND THE FLAGGED CLEARING LIMITS SHALL BE PERMITTED. THE FLAGGING SHALL BE MAINTAINED BY THE APPLICANT FOR THE DURATION OF CONSTRUCTION.
 - CONSTRUCTION ENTRANCE AS WELL AS CONTRACTOR'S FACILITIES, MATERIAL STOCKPILES AND LAYDOWN, AND STAGING AREAS ARE CONCEPTUAL AND SHALL BE LOCATED ONLY IN AREAS APPROVED BY THE OWNER.
 - CONTRACTOR IS RESPONSIBLE FOR MAINTAINING ALL AREAS DURING CONSTRUCTION AND FOR CLEANUP/RESTORATION OF ALL SUCH AREAS TO THEIR ORIGINAL CONDITION AFTER CONSTRUCTION.
 - CONSTRUCTION VEHICLES SHALL ENTER AND EXIT THE SITE VIA THE CONSTRUCTION EXIT. TRUCKS SHALL BE PROPERLY DECONTAMINATED (E.G., TIRE WASHOUT INSPECTION) PRIOR TO LEAVING THE SITE.
 - TOTAL COMBINED DISTURBED AREA AT THE SITE (I.E. LIMITS OF DISTURBANCE) IS 0.84 ACRES.



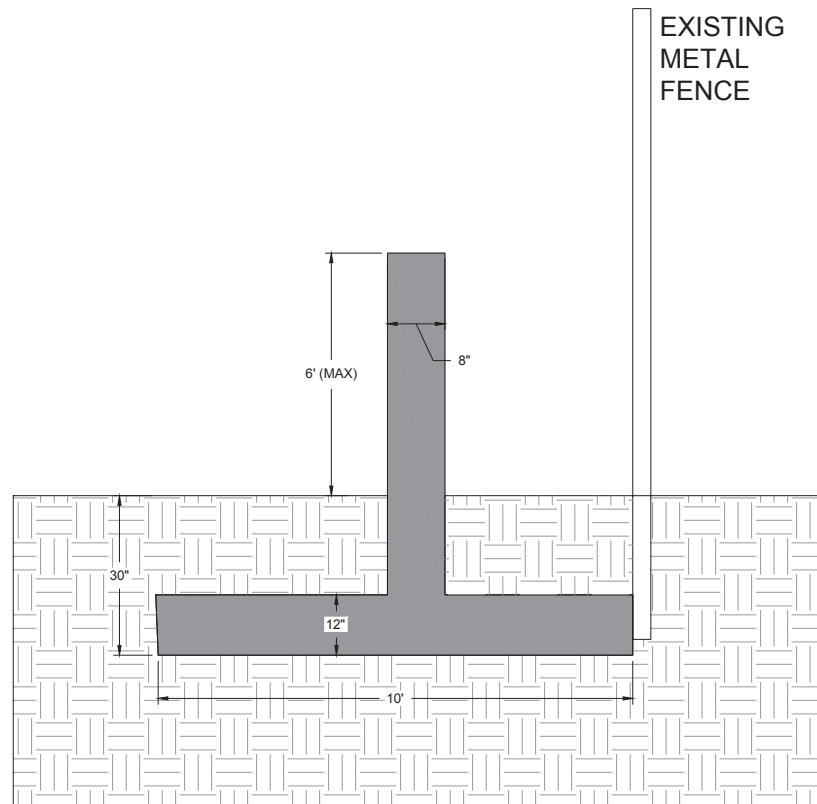
C:\GEO-ACC\DCS\GEO\SYNTEC\UHS_BROOKE_GLEN\PROJECT FILES\PERMIT\01_FLOOD_MITIGATION\SSS\HEETS\TXW9793AP04.DWG 7/17/2024

- SWPPP PHASE I ACTIVITIES:**
- PRIOR TO ANY WORK INCLUDING DEMOLITION, CLEARING, GRADING OR INSTALLATION OF SEDIMENT CONTROL MEASURES, THE APPLICANT MUST SCHEDULE A PRE-CONSTRUCTION MEETING ON-SITE WITH THE ASSIGNED INSPECTOR FROM THE MONTGOMERY COUNTY CONSERVATION DISTRICT. THE INSPECTOR'S CONTACT INFORMATION WILL BE FOUND ON THE PERMIT.
 - ONCE THE INSPECTOR HAS DETERMINED THE MEASURES ARE PROPERLY INSTALLED, CONSTRUCTION MAY BEGIN. MOST PLANS REQUIRE ADDITIONAL INSPECTIONS THAT MUST BE SCHEDULED BY THE APPLICANT IN ACCORDANCE WITH THE PLAN, PERMIT, AND GUIDANCE GIVEN AT THE PRE-CONSTRUCTION MEETING.
 - POST REQUIRED CONSTRUCTION SITE NOTICE AT THE ENTRANCE TO THE PROJECT SITE PRIOR TO EARTH DISTURBING ACTIVITIES.
 - BEFORE CONSTRUCTION ACTIVITIES COMMENCE, INSTALL REQUIRED PERIMETER CONTROL SILT FENCE ALONG THE DOWN GRADIENT PERIMETER OF THE SITE AS REQUIRED PRIOR TO EARTH DISTURBING ACTIVITIES.
 - INSTALL STABILIZED CONSTRUCTION ENTRANCE AS REQUIRED PRIOR TO EARTH DISTURBING ACTIVITIES.
 - CONDUCT PROPOSED DEMOLITIONS. STOCKPILE SOIL ON-SITE AS NEEDED AND PROVIDE PERIMETER CONTROLS AROUND STOCKPILE AREAS AND STABILIZE THE STOCKPILED MATERIAL.

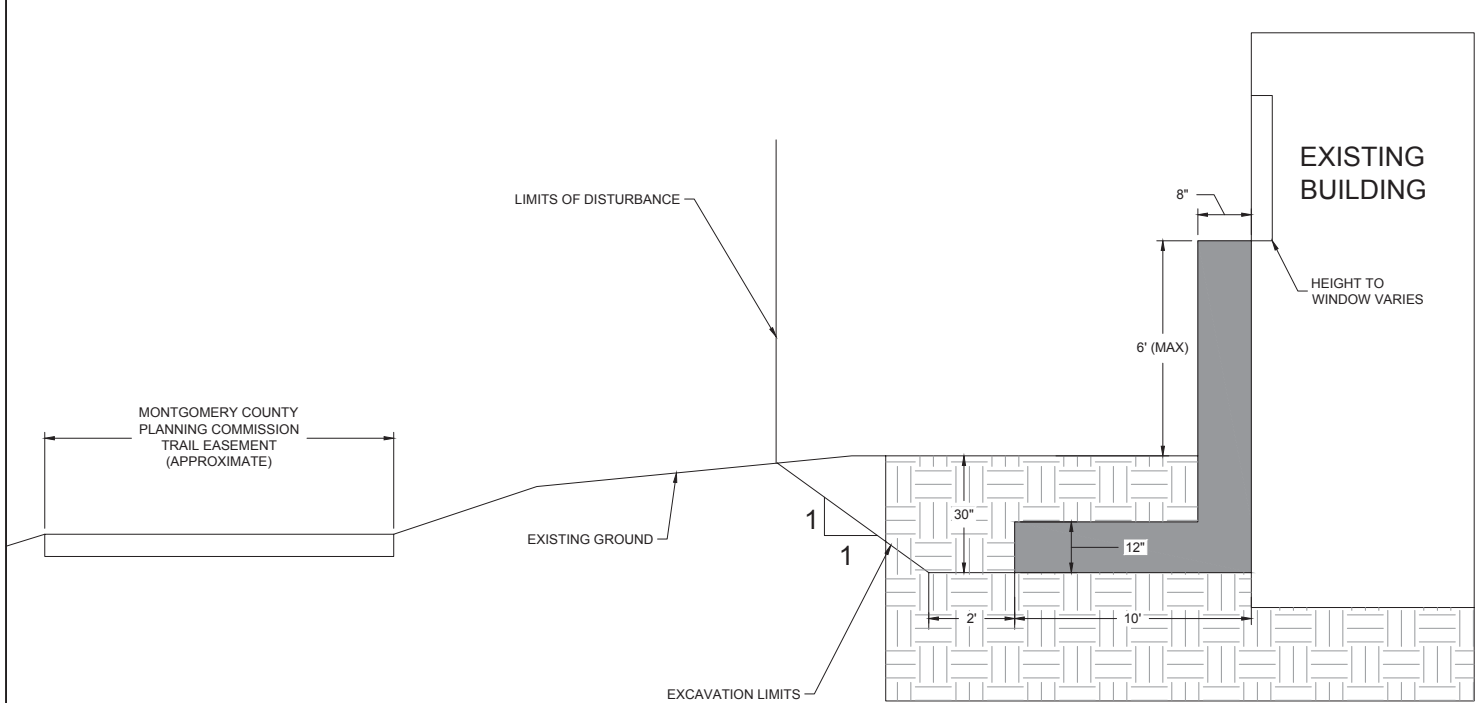
- SWPPP PHASE II ACTIVITIES:**
- CONSTRUCT PROPOSED FLOODPLAIN OBSTRUCTION, BUILDING FLOODPROOFING, AND FLOODPROOF BARRIER ELEMENTS. AS WORK PROGRESSES, ENSURE THAT ADEQUATE DOWN GRADIENT PROTECTIVE MEASURES ARE PROPERLY INSTALLED BEFORE SOIL IS DISTURBED.
 - TEMPORARILY SEED OR STABILIZE, THROUGHOUT CONSTRUCTION, DENUDED AREAS THAT WILL BE INACTIVE FOR 14 DAYS OR MORE.
 - PERMANENTLY STABILIZE AREAS TO BE VEGETATED AS THEY ARE BROUGHT TO FINAL GRADE.
 - REMOVE TEMPORARY CONSTRUCTION PARKING/STAGING AREA AND PERMANENTLY STABILIZE THE AREA.
 - REMOVE ALL OTHER STORMWATER BMPs AND EROSION/SEDIMENTATION CONTROLS UPON PERMANENT FINAL STABILIZATION OF THE SITE.
 - ONCE THE APPLICANT BELIEVES THE PROJECT IS COMPLETE AND ALL DISTURBED AREAS HAVE BEEN STABILIZED, A FINAL INSPECTION MUST BE SCHEDULED WITH THE MONTGOMERY COUNTY CONSERVATION DISTRICT. INSPECTION STAFF WILL NOT PASS THE FINAL INSPECTION UNTIL ALL AREAS ARE COMPLIANT. ONCE COMPLIANT, THE PERMIT WILL BE FINALIZED AND CLOSED.

REV	DATE	DESCRIPTION	DRN	APP
<p>UNIVERSAL HEALTH SERVICES, INC. 367 SOUTH GULPH ROAD KING OF PRUSSIA, PENNSYLVANIA, 19406, USA</p> <p>GEOSYNTEC CONSULTANTS, INC. 930 HARVEST DRIVE, SUITE 220 BLUE BELL, PENNSYLVANIA, 19422 PHONE: 512.451.4003</p>				
<p>TITLE: EROSION AND SEDIMENT CONTROL PLAN</p>				
<p>PROJECT: UNIVERSAL HEALTH SERVICES FLOOD MITIGATION</p>				
<p>SITE: BROOKE GLEN BEHAVIORAL HOSPITAL</p>				
<p>THIS DRAWING MAY NOT BE ISSUED FOR PROJECT TENDER OR CONSTRUCTION UNLESS SEALED.</p> <p>Digitally signed by James D. Barbis Date: 2024.07.25 11:48:36 -0400</p> <p>SIGNATURE: <i>James D. Barbis</i></p> <p>DATE: 07/17/2024</p>		<p>DESIGN BY: OB</p> <p>DRAWN BY: AM</p> <p>CHECKED BY: BK</p> <p>REVIEWED BY: JB</p> <p>APPROVED BY: JB</p>		<p>DATE: JULY 2024</p> <p>PROJECT NO.: TXW9793A</p> <p>FILE: TXW9793AP04</p> <p>DRAWING NO.: 4 OF 6</p>

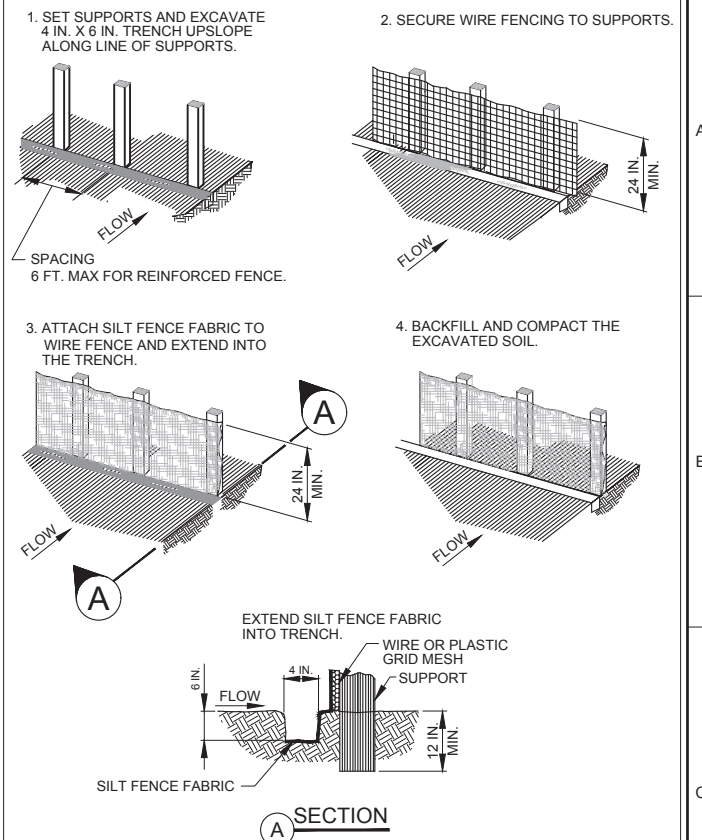
PERMIT DRAWING, NOT FOR CONSTRUCTION



1 DETAIL
3 FLOODPLAIN OBSTRUCTION



2 DETAIL
3 BUILDING FLOODPROOFING



NOTE:
1. SEE SPECIFICATION SECTION NO. 02361-SILT FENCES.

SF — SF — SILT FENCE
SYMBOL

6 DETAIL
4 SILT FENCE



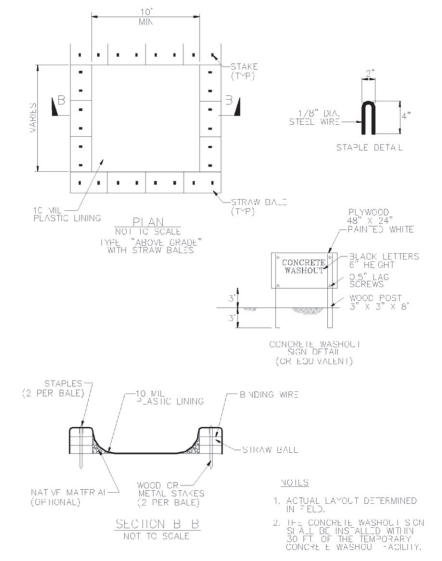
NOTE:
THE PROPOSED AQUAFENCE FLOOD BARRIER IS A FEMA COMPLIANT NON-RESIDENTIAL DRY FLOODPROOFING SOLUTION OPTION. APPROVED EQUIVALENT ALTERNATIVE MAY BE USED, IF NEEDED. APPROXIMATE HEIGHT OF 2.5 FT RECOMMENDED.

3 DETAIL
3 AQUAFENCE FLOOD BARRIER



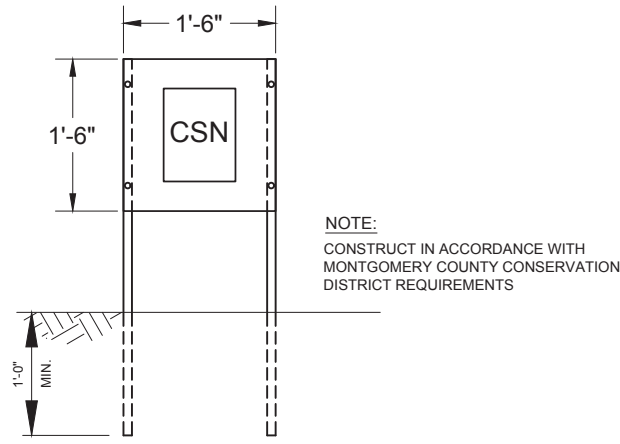
NOTE:
PRE-CONSTRUCTED RUMBLE PAD MUST BE INSTALLED IN ACCORDANCE WITH MANUFACTURER'S RECOMMENDATIONS. ACCUMULATED MATERIALS SHOULD BE CLEANED FROM THE PAD DAILY (OR MORE OFTEN, IF NECESSARY) AND PROPERLY DISPOSED.

4 DETAIL
4 PROPOSED CONSTRUCTION ENTRANCE



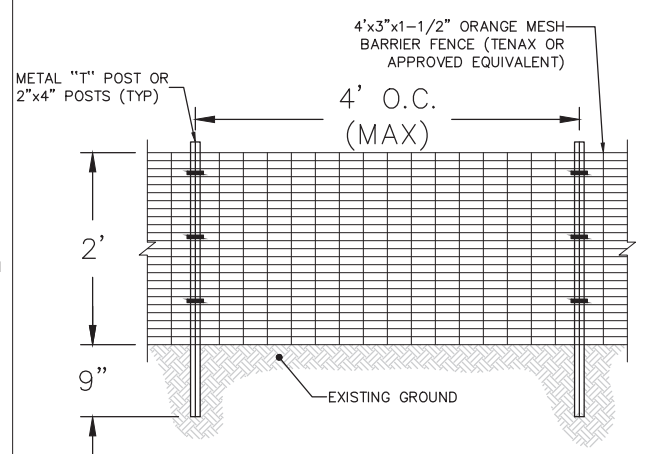
CONCRETE WASHOUT
Note: If portable concrete washout unit is used, manufacturer details will be added to the SWPPP.

8 DETAIL
4 CONCRETE WHEEL WASH



NOTE:
CONSTRUCT IN ACCORDANCE WITH MONTGOMERY COUNTY CONSERVATION DISTRICT REQUIREMENTS

5 DETAIL
4 SWPPP INFORMATION SIGN



7 DETAIL
4 TREE PROTECTION

PERMIT DRAWING, NOT FOR CONSTRUCTION

REV	DATE	DESCRIPTION	DRN	APP
UNIVERSAL HEALTH SERVICES, INC. 367 SOUTH GULPH ROAD KING OF PRUSSIA, PENNSYLVANIA, 19422 PHONE: 610.451.4003				
TITLE: DETAILS (SHEET 1 OF 2)				
PROJECT: UNIVERSAL HEALTH SERVICES FLOOD MITIGATION				
SITE: BROOKE GLEN BEHAVIORAL HOSPITAL				
THIS DRAWING MAY NOT BE ISSUED FOR PROJECT TENDER OR CONSTRUCTION, UNLESS SEALED.		DESIGN BY: OB DRAWN BY: AM CHECKED BY: BK REVIEWED BY: JB APPROVED BY: JB		DATE: JULY 2024 PROJECT NO.: TXW9793A FILE: TXW9793AP03 DRAWING NO.: 5 OF 6
Digitally signed by James D. Barbis Date: 2024.07.25 11:54:51 -0400 SIGNATURE 07/17/2024 DATE				

SEEDING/VEGETATION REQUIREMENTS NOTES:

1. CONSIDERATION MUST BE GIVEN TO ANTICIPATED CLIMATE AND SEASONAL CONDITIONS WHEN PLANTING SEED.
2. SEED SHALL BE FREE OF WEEDY SPECIES AND APPROPRIATE FOR SITE SOILS AND REGIONAL CLIMATE. SEED AND MULCH IMMEDIATELY AFTER TOPSOIL IS APPLIED AND FINAL GRADE IS REACHED.
3. THE SITE HAS ACHIEVED FINAL STABILIZATION ONCE ALL AREAS ARE COVERED WITH A STAND OF GRASS WITH A MINIMUM OF 70 PERCENT DENSITY OVER THE ENTIRE VEGETATED AREA, OR GREATER IN ACCORDANCE WITH THE GENERAL PERMIT REQUIREMENTS.
4. VEGETATED AREAS MUST BE WATERED, FERTILIZED, AND RESEEDED AS NEEDED TO ACHIEVE THIS REQUIREMENT.
5. THE VEGETATIVE DENSITY MUST BE MAINTAINED THROUGH PROJECT COMPLETION TO BE CONSIDERED STABILIZED. AREAS PROTECTED BY EROSION CONTROL BLANKETS ARE NOT PERMANENTLY STABILIZED UNTIL THE APPLICABLE GENERAL PERMIT REQUIREMENT FOR FINAL VEGETATIVE DENSITY IS ACHIEVED.
6. RIP-RAP, MULCH, GRAVEL, DECOMPOSED GRANITE OR OTHER EQUIVALENT PERMANENT STABILIZATION MEASURES MAY BE EMPLOYED IN LIEU OF VEGETATION BASED ON SITE-SPECIFIC CONDITIONS, DESIGN AND GOVERNING AUTHORITY APPROVAL.
7. ALL SEEDED AREAS SHALL BE INSPECTED REGULARLY TO CONFIRM THAT A HEALTHY STAND OF GRASS IS MAINTAINED.

PERMANENT SEEDING, SOD OR MULCHING NOTES:

1. PERMANENT STABILIZATION SHALL BE ACCOMPLISHED IN ALL DISTURBED AREAS BY COVERING THE SOIL WITH PAVEMENT, VEGETATION, OR OTHER FORMS OF SOIL STABILIZATION.
2. THE CONTRACTOR IS REQUIRED TO INITIATE PERMANENT SOIL STABILIZATION MEASURES IMMEDIATELY UPON REACHING FINAL GRADE. FOR THOSE AREAS NOT AT FINAL GRADE THAT WILL NOT BE DISTURBED FOR GREATER THAN 14 DAYS, THE CONTRACTOR SHOULD INITIATE TEMPORARY STABILIZATION PER THE TEMPORARY SEEDING OR STABILIZATION NOTES.
3. THE CONTRACTOR HAS 7 DAYS FROM INITIATION OF STABILIZATION TO COMPLETE SOIL PREPARATION, SEEDING, MULCHING, AND ANY OTHER REQUIRED ACTIVITIES RELATED TO THE PLANTING AND ESTABLISHMENT OF VEGETATION. THE CONTRACTOR ALSO HAS 7 DAYS FROM INITIATION OF STABILIZATION TO COMPLETELY INSTALL NON-VEGETATED MEASURES, IF UTILIZED.
4. SOILS MUST BE PREPARED BEFORE INSTALLATION OF SOD OR SEED.
5. AT THE COMPLETION OF GROUND-DISTURBING ACTIVITIES, THE ENTIRE SITE MUST HAVE PERMANENT VEGETATIVE COVER MEETING VEGETATIVE DENSITY REQUIREMENTS IN THE GENERAL PERMIT, IN ALL AREAS NOT COVERED BY HARDSCAPE (STONE, PAVEMENT, ETC.).
6. SEEDED AREAS SHALL BE PROTECTED WITH STRAW MULCH, HYDRAULIC MULCH OR A ROLLED EROSION CONTROL PRODUCT. STRAW MULCH MUST BE TACKIFIED OR CRIMPED BY DISC OR OTHER MACHINERY, AND ROLLED EROSION CONTROL PRODUCTS MUST BE INSTALLED PER MANUFACTURER RECOMMENDATIONS.
7. FINAL SITE STABILIZATION IS ACHIEVED WHEN PERENNIAL VEGETATIVE COVER PROVIDES PERMANENT STABILIZATION WITH A UNIFORM DENSITY GREATER THAN 70 PERCENT OVER THE ENTIRE AREA TO BE STABILIZED BY VEGETATIVE COVER. THIS AREA IS EXCLUSIVE OF AREAS THAT ARE COVERED WITH ROCK (CRUSHED GRANITE, GRAVEL, ETC.).

9
4

DETAIL
PERMANENT STABILIZATION (PS)



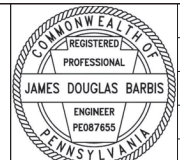

TEMPORARY SEEDING OR STABILIZATION NOTES:

1. THE CONTRACTOR IS REQUIRED TO, AT A MINIMUM, INITIATE SOIL STABILIZATION MEASURES IMMEDIATELY WHENEVER ANY CLEARING, GRADING, EXCAVATING OR OTHER EARTH DISTURBING ACTIVITIES HAVE PERMANENTLY CEASED ON ANY PORTION OF THE SITE, OR TEMPORARILY CEASED ON ANY PORTION OF THE SITE AND WILL NOT LIKELY RESUME FOR A PERIOD EXCEEDING 14 CALENDAR DAYS.
2. THE CONTRACTOR HAS 7 DAYS FROM INITIATION OF STABILIZATION TO COMPLETE SOIL PREPARATION, SEEDING, MULCHING, AND ANY OTHER REQUIRED ACTIVITIES RELATED TO THE PLANTING AND ESTABLISHMENT OF VEGETATION. THE CONTRACTOR ALSO HAS 7 DAYS FROM INITIATION OF STABILIZATION TO COMPLETELY INSTALL NON-VEGETATED MEASURES, IF UTILIZED.
3. ALL DISTURBED AREAS MUST BE STABILIZED TEMPORARILY WITH THE USE OF FAST-GERMINATING ANNUAL GRASS/GRAIN VARIETIES APPROPRIATE FOR SITE SOIL AND CLIMATE CONDITIONS. MULCH IS REQUIRED FOR ALL SEEDING APPLICATIONS AND MUST INCLUDE A SUITABLE FORM OF MULCH ANCHORING TO MINIMIZE MOVEMENT OF MULCH BY WIND OR WATER.
4. ALTERNATIVE STABILIZATION MEASURES TO SEEDING, SUCH AS ANCHORED MULCH APPLICATION (WITHOUT SEEDING), MAY BE UTILIZED DURING PERIODS WHEN VEGETATIVE GROWTH IS UNLIKELY (E.G. WINTER MONTHS).
5. IT IS NOT ACCEPTABLE TO ALLOW BARE SOIL TO REMAIN EXPOSED AT ANY TIME DURING THE YEAR, REGARDLESS OF WEATHER/TEMPERATURE/SITE CONDITIONS.
6. ALTERNATIVE STABILIZATION MEASURES INCLUDE, BUT ARE NOT LIMITED TO: ANCHORED STRAW/HAY MULCH, WOOD CELLULOSE FIBER MULCH, SPRAY-ON SOIL GLUES/BINDERS, AND ROLLED EROSION CONTROL PRODUCTS.
7. ROLLED EROSION CONTROL PRODUCTS (NETS, BLANKETS, TURF REINFORCED MATS) AND VEGETATED AREAS NOT MEETING REQUIRED VEGETATIVE DENSITIES FOR FINAL STABILIZATION MUST BE INSPECTED WEEKLY. RILING, RUTTING AND OTHER SIGNS OF EROSION INDICATE THE SPECIFIED EROSION CONTROL DEVICE IS NOT FUNCTIONING OR INSTALLED PROPERLY AND/OR ADDITIONAL EROSION CONTROL DEVICES ARE WARRANTED.

10
4

DETAIL
TEMPORARY STABILIZATION (TS)

PERMIT DRAWING, NOT FOR CONSTRUCTION

REV	DATE	DESCRIPTION	DRN	APP
 				
<small>UNIVERSAL HEALTH SERVICES, INC. 367 SOUTH GULPH ROAD KING OF PRUSSIA, PENNSYLVANIA, 19406, USA</small>				
<small>GEOSYNTEC CONSULTANTS, INC. 930 HARVEST DRIVE, SUITE 220 BLUE BELL, PENNSYLVANIA, 19422 PHONE: 610.451.4003</small>				
TITLE: DETAILS (SHEET 2 OF 2)				
PROJECT: UNIVERSAL HEALTH SERVICES FLOOD MITIGATION				
SITE: BROOKE GLEN BEHAVIORAL HOSPITAL				
<small>THIS DRAWING MAY NOT BE ISSUED FOR PROJECT TENDER OR CONSTRUCTION, UNLESS SEALED.</small>			DESIGN BY: OB	DATE: JULY 2024
 <small>Digitally signed by James D. Barbis Date: 2024.07.25 11:56:33 -0400</small> SIGNATURE 07/17/2024 DATE			DRAWN BY: AM	PROJECT NO.: TXW9793A
			CHECKED BY: BK	FILE: TXW9793AP03
			REVIEWED BY: JB	DRAWING NO.: 6 OF 6
			APPROVED BY: JB	

C:\GED-ACC\DCDC\GEO\SYNTEC\UHS\BROOKE_GLEN\PROJECT FILES\PERMIT\01_FLOOD_MITIGATION\SS\HETS\TXW9793A\PL03.DWG 7/17/2024

Photos



Western building perimeter at beginning of main courtyard fence looking southeast.



Southwestern corner of main courtyard fence looking northwest.



Southern building perimeter looking northwest at end of main courtyard fence.

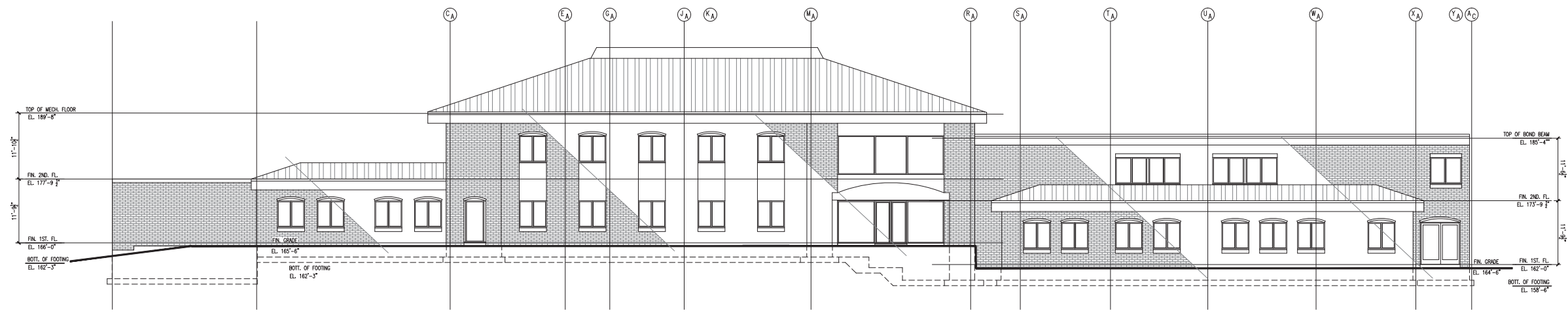


Southern building perimeter at beginning of small courtyard fence looking northeast.

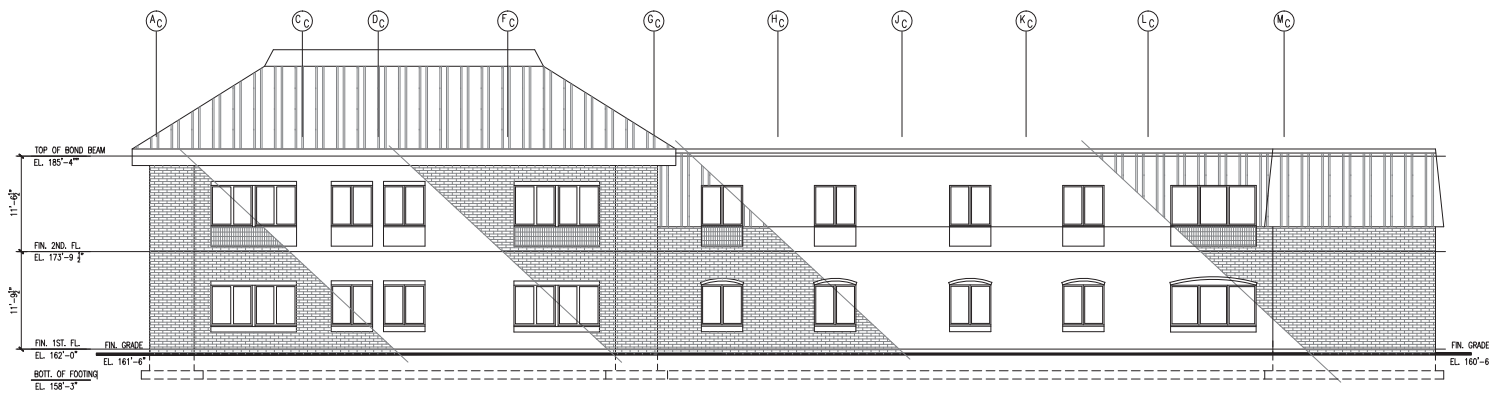


Southeastern corner of small courtyard fence looking southwest.

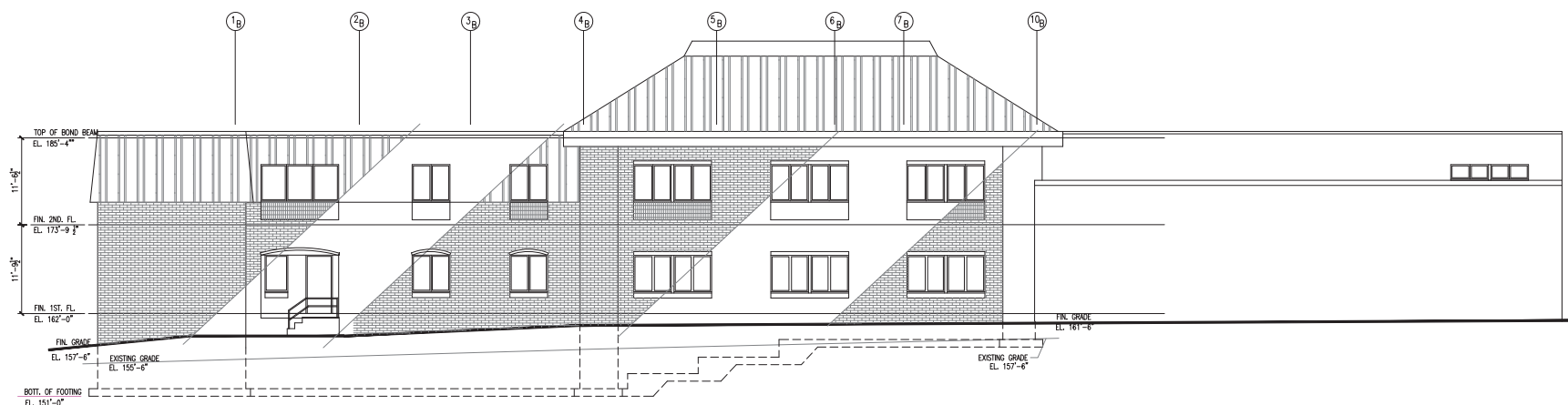
Elevation Drawing



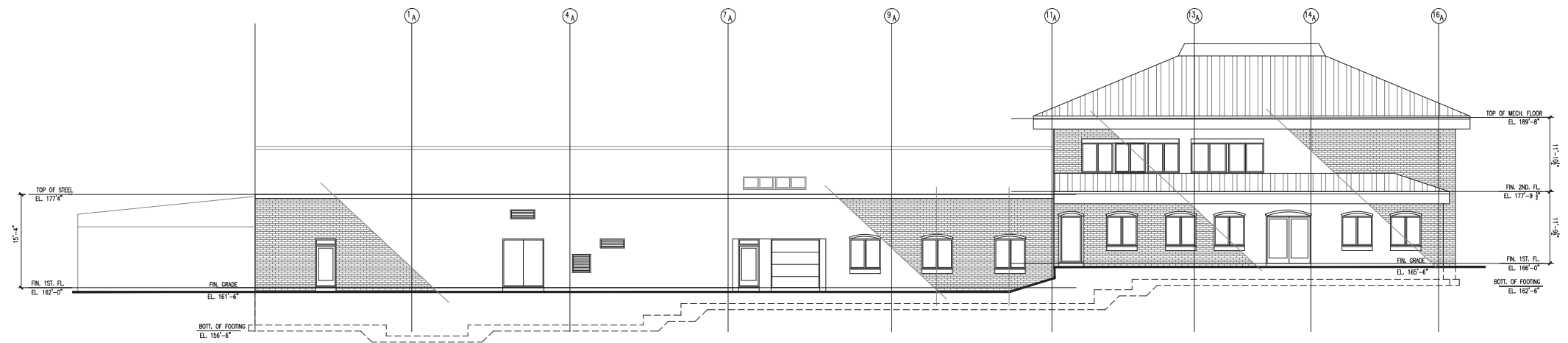
NORTH ELEVATION - BUILDING A



NORTH ELEVATION - BUILDING C



EAST ELEVATION - BUILDING B



EAST ELEVATION - BUILDING A

Checked By: _____
 Drawing Title: _____

AH Adams & Company
 Architects | Interiors Design | Planning | Management Consulting
 210 N. 5th St., Suite 1000
 Fort Washington, PA 19053
 Phone: 610.688.8877
 Fax: 610.688.8878
 www.AHAdams.com

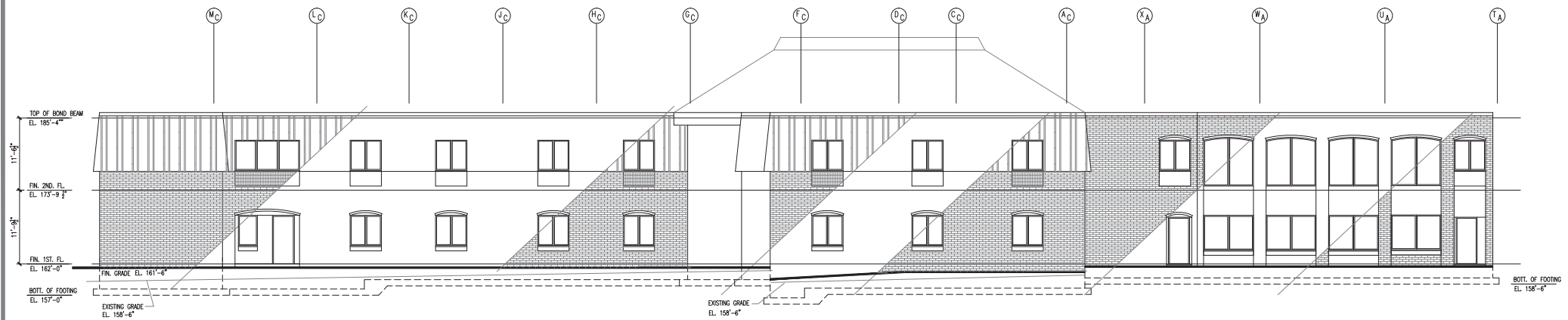
Issued for Construction: _____
 Issued for the: _____
 Issued for Loan: _____
 Issued for Permit: _____
 Project Title: _____

Additional/Revisions/Systems Upgrades:
Brooke Glen Behavioral Hospital
 Montgomery County
 Whittemore Township
 7170 Lafayette Avenue
 Fort Washington, Pennsylvania 19034

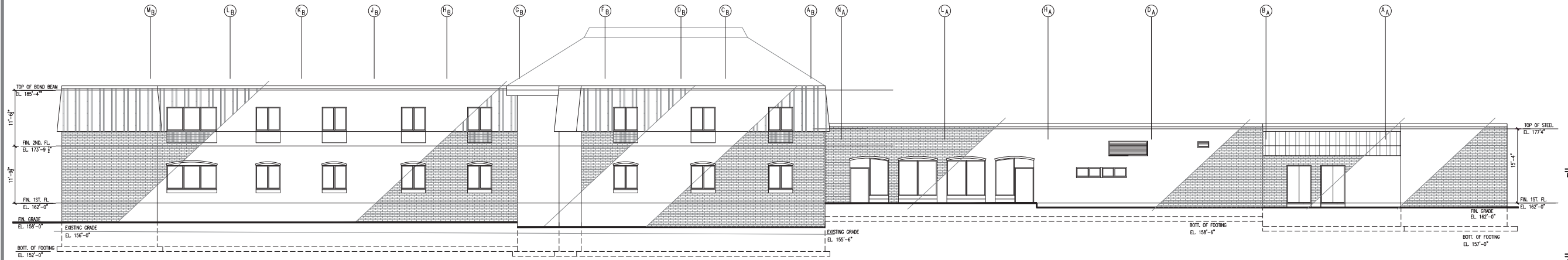
Project No: 202001
 Checked By: _____
 Drawing Title: _____

Existing Building Elevations
 Buildings A, B & C

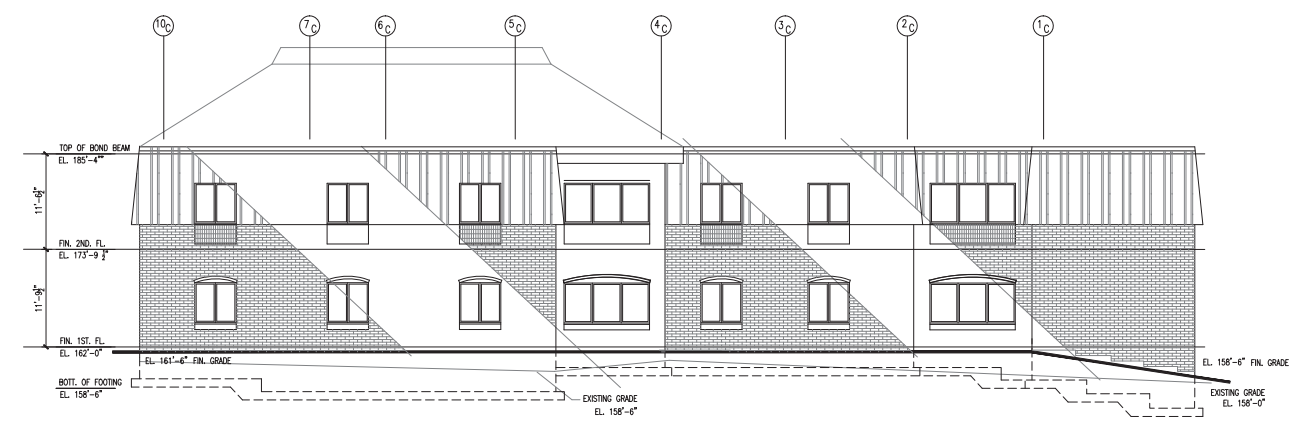
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AE201



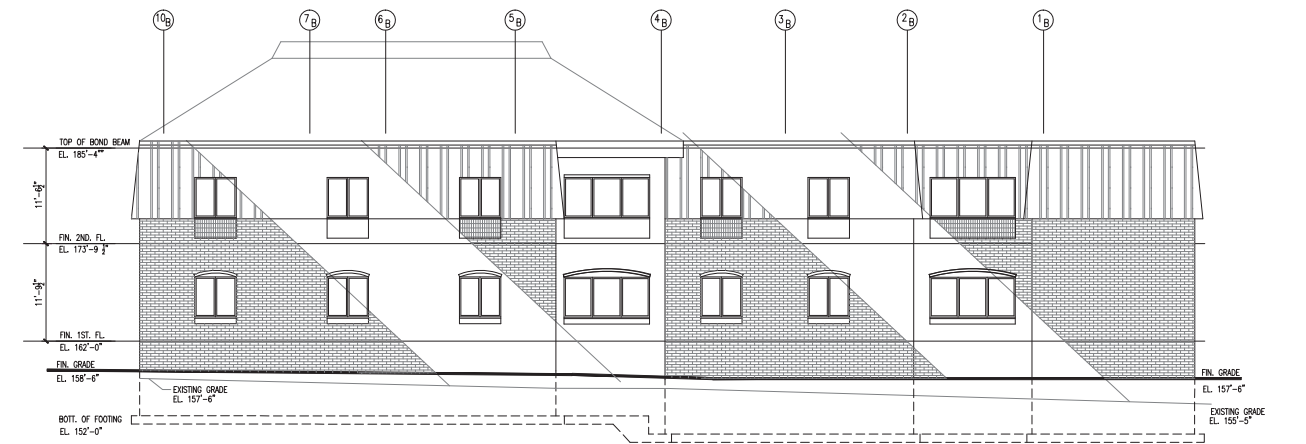
SOUTH ELEVATION - BUILDING A & C



SOUTH ELEVATION - BUILDING B



WEST ELEVATION - BUILDING C



WEST ELEVATION - BUILDING B

0' 1'

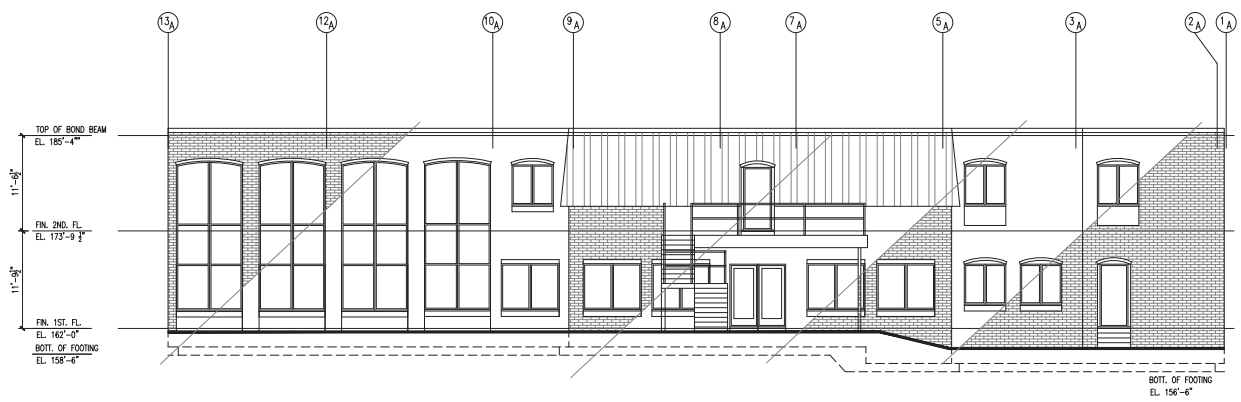
AH Adams & Company
 Architects | Interiors Design | Planning | Management Consulting
 200 N. 15th St., Suite 1000
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 www.AHAdams.com

Issued for Construction:	
Issued for the:	
Issued for Large:	
Issued for Permit:	
Project Title:	

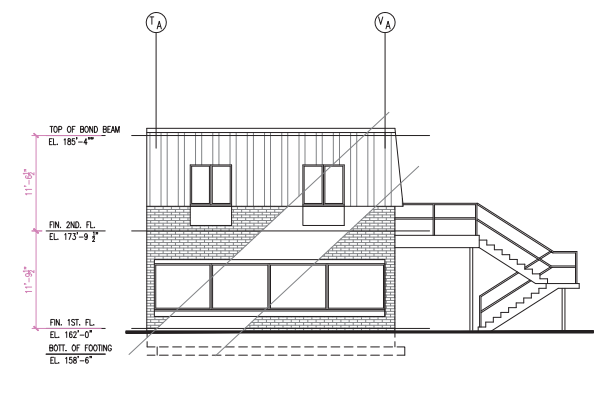
Additional/Revisions/Systems Upgrades:
 Brooke Glen Behavioral Hospital
 Montgomery County
 Williamsport Township
 7170 Lafayette Avenue
 Fort Washington, Pennsylvania 19034

Project No.:	202001
Checked By:	
Drawing Title:	

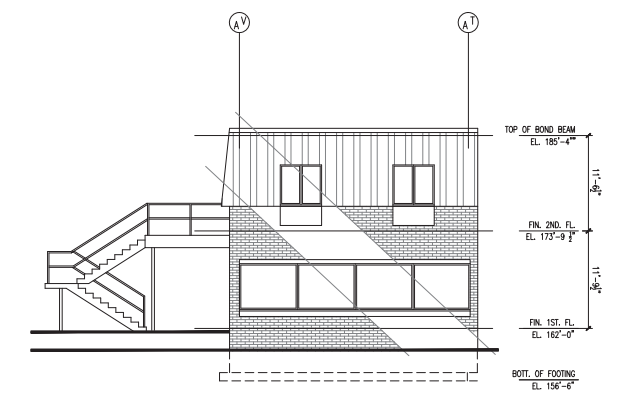
Existing Building Elevations
 Buildings A, B & C



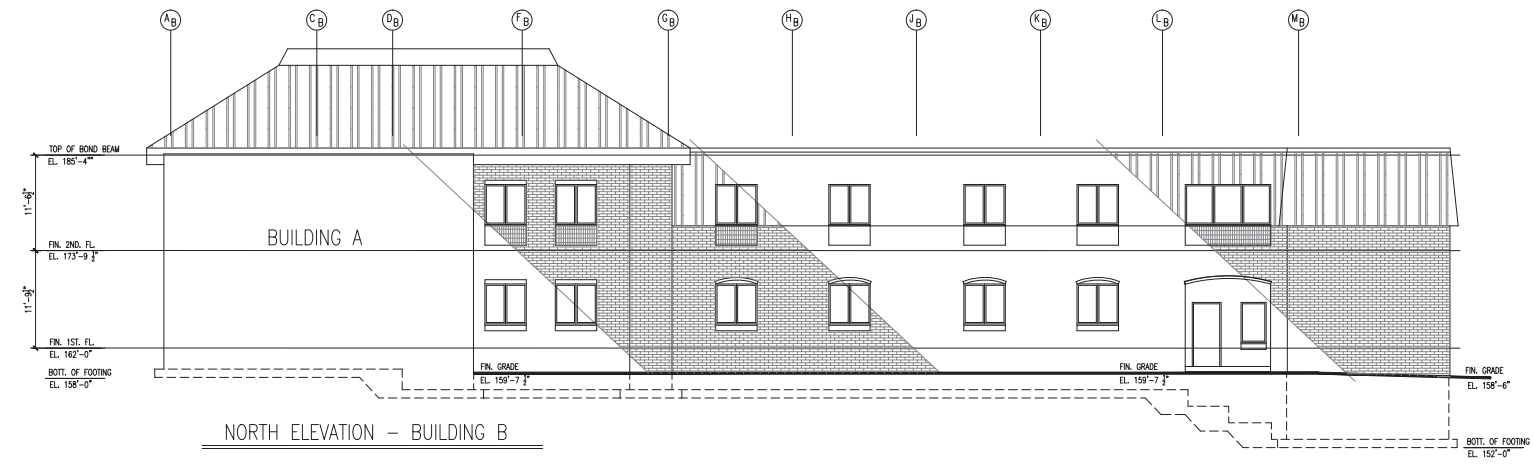
WEST ELEVATION – BUILDING A



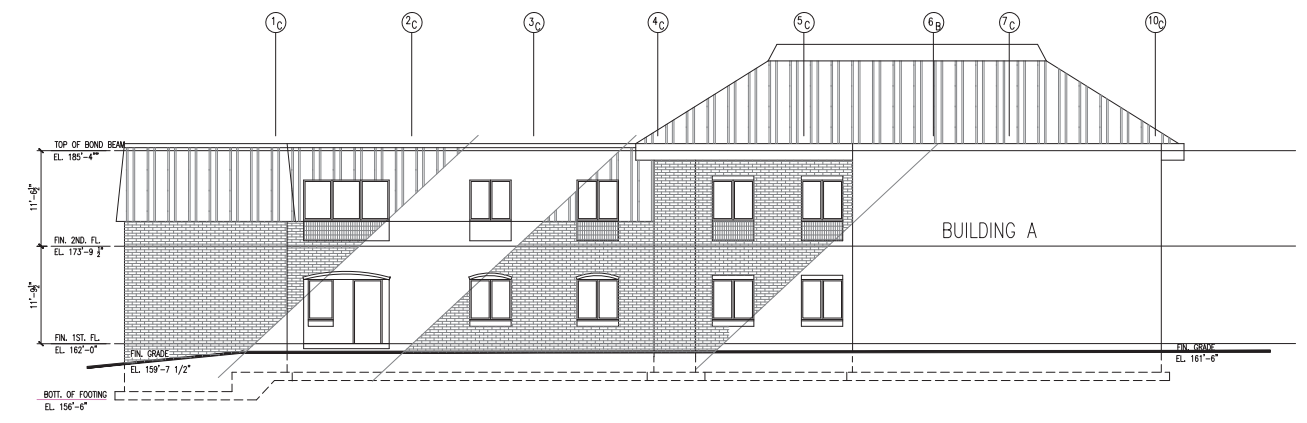
NORTH ELEVATION – BUILDING A



SOUTH ELEVATION – BUILDING A



NORTH ELEVATION – BUILDING B



EAST ELEVATION – BUILDING C

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 Fort Washington, PA 19053
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 Fax: 610.688.8878
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Issued for Construction	
Issued for Sale	
Issued for Loan	
Issued for Permit	
Project Title	

Adaptive/Renovations/Systems Upgrades:
 Brooke Glen Behavioral Hospital
 Montgomery County
 Williamsport Township
 7170 Lafayette Avenue
 Fort Washington, Pennsylvania 19004

Project No.	202301
Checked By	
Drawing Title	

Existing Building Elevations
 Buildings A, B & C

Zoning Map

TOWNSHIP

PENNSYLVANIA

VC-1
CR-H

B

7170 Lafayette Ave.

HOLLYWOOD
PD.

SUMMIT AVE.

CREEK

B

AVE.

VC-1

CR-H

FORT

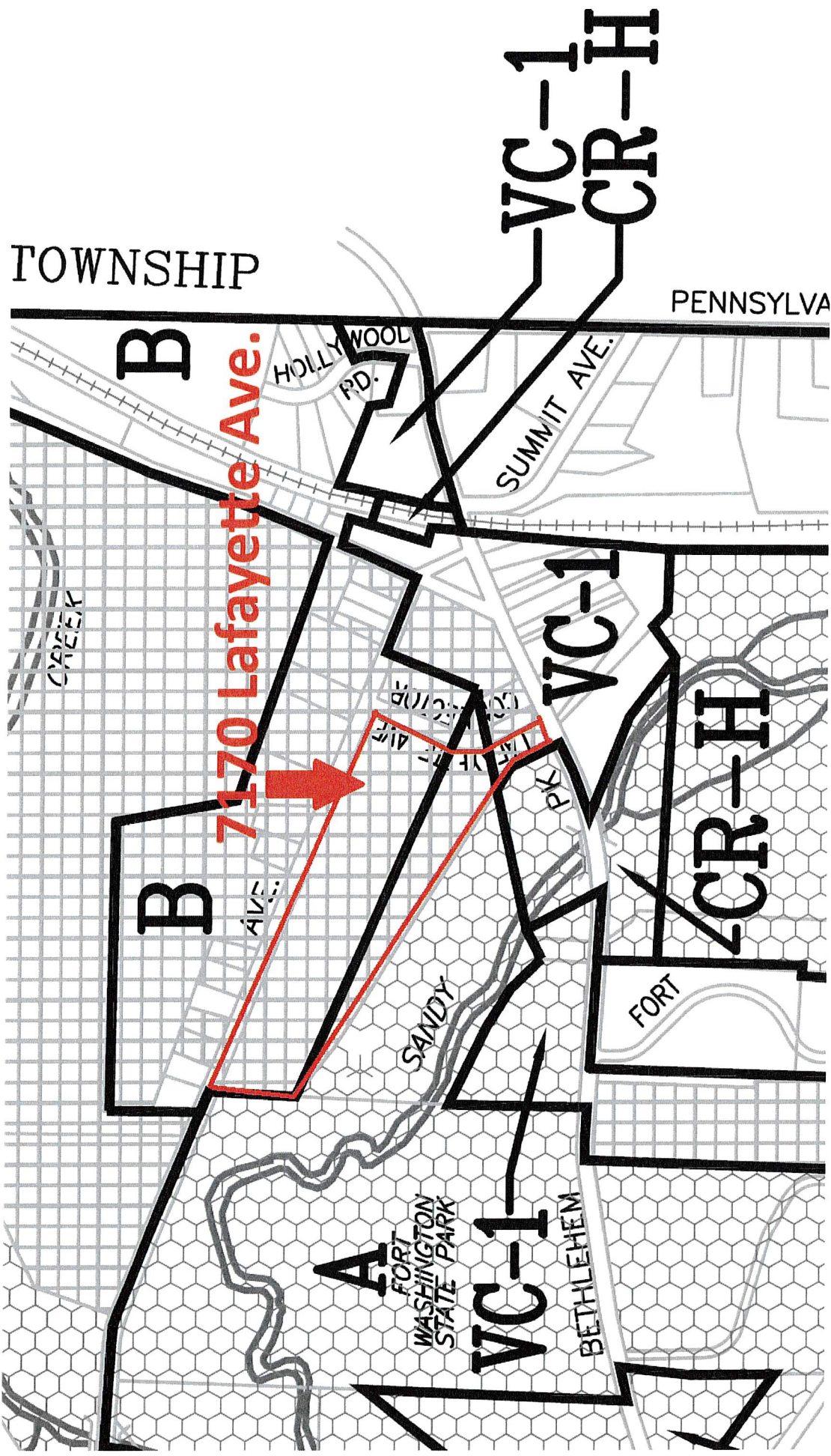
SANDY

A

FORT
WASHINGTON
STATE PARK

VC-1

BETHLEHEM



Tax Map

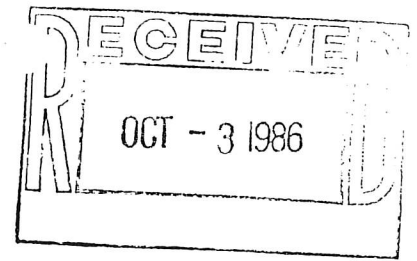
Prior Zoning Hearing Board Decisions

Description for Parcel: 0000868507

ZHB # 1959-03, SWIM CLUB, DENIED
ZHB # 1961-01, 2-STORY APT BLDNG, DENIED
ZHB # 1971-12, SPECIAL EXCEPTION NWSTRN
ZHB # 1986-28, ADDITION IN FLOOD PLAIN
ZHB # 2000-44, NORTHWESTERN, WITHDRAWN
ZHB # 2009-11, BHC ADDITION

DECISION

WHITEMARSH TOWNSHIP
ZONING HEARING BOARD



APPLICATION 86-28 of Northwestern Institute of Psychiatry

First Hearing Date 10/1/86 Date Decided 10/1/86 Copy Mailed 10/2/86

The Zoning Hearing Board decided the above application at a public hearing as follows:

1. The Special Exception required to allow construction of a mechanical room addition to the buildings located on the south side of Lafayette Avenue, west of Morris Road, in accordance with Section 116-175 of the Whitemarsh Township Code is hereby granted / ~~denied~~.

2. The Board determines that the proposed addition ~~is~~ is not an extension of a nonconforming use or building allowed by Section 116-194 so that the addition may be located in a Flood Plain Conservation district.

3. The Variance required to allow construction of the addition in a Flood Plain Conservation district, a use not allowed there by Section 116-165, is hereby granted / ~~denied~~.

THIS DECISION IS SUBJECT TO THE FOLLOWING CONDITIONS:

1. All use and development allowed by any granted application shall conform to the exhibits and testimony presented at the hearing unless inconsistent with these conditions in which case these conditions shall take precedence.

Note: The Board determines that the proposed modification from the 1 1/2 foot freeboard above the 100 year flood elevation is justified in accordance with the criteria set out by the Commonwealth of Pennsylvania

[Signature]

[Signature]

[Signature]

Richard Kline (abstains)

Henry M. Iler (absent)

Section 116-223 of the Whitemarsh Township Code provides that all applications granted by the Board shall automatically expire 180 days after the expiration of the last day to appeal to the Court of Common Pleas of Montgomery County or to an Appellate Court, if, during that time, the applicant has not acted upon the granted application by obtaining the granted permit and paying the required fee for same.



BY:.....

Appeal No. 12-71

Applicant: Northwestern Mental Health Center

Order

I. Findings of Fact

1. Applicant is the equitable owner of the 11.5 acre tract (known as the Dungan tract), having frontage on the north-westerly side of Bethlehem Pike and the southeasterly side of Lafayette Avenue. The subject tract lies in three zoning districts: A Residential, B Residential, and CR-H Commercial Retail.

2. Applicant proposes to construct and operate a psychiatric hospital to accommodate approximately 150 patients; the principal building would contain approximately 80,000 square feet of floor area in two stories, and provision is made for 108 parking spaces for employees and 87 parking spaces for visitors.

3. Although development of the subject tract has long been impeded by problems with surface water runoff, the applicant is prepared to build the proposed facilities in a manner which will sufficiently control the problem.

4. Applicant's proposal should not unduly burden or disrupt the existing traffic pattern on the highways in the area of the subject tract.

5. Applicant proposes an on-site sanitary sewage disposal plant to accommodate the facility to be built on the subject tract.

6. Applicant currently operates at another site a unique psychiatric hospital which has been severely criticized by state officials because the physical plant is in very poor condition; however, the state has been reluctant to terminate the operation because the hospital has performed an extremely useful purpose and is well staffed.

7. The patients in applicant's existing facility have proved no menace or nuisance to ^{the} neighborhood in which the hospital is located.

8. The testimony of the experts in mental health and various police officers made it clear that there is a genuine need

RECEIVED
APR 24 2009

BY:.....

for preservation of the facility of applicant and the community.

II. Discussion

Applicant is seeking a special exception to build the proposed psychiatric hospital under §33-501,C,3 of the Zoning Ordinance which provides that the following are permitted when authorized as a special exception:

"Medical and surgical hospital, medical centers, and sanitarium other than for contagious diseases, provided any such use is not prejudicial to the public health or welfare; rest or convalescent homes."

The bulk of the proposed facility will be located in the portion of the property which is zoned for residential use, making a special exception necessary.

For many years the owners of the subject tract have been frustrated in their efforts to develop it because of the serious problem that exists with storm water. The site is located on the periphery of a flood plain, and much of the soil on the subject tract was described by an expert as being "wet" or "saturated," because it absorbs very little surface water runoff. The Wissahickon Valley Water Shed Association which has made invaluable contributions to the Township over the years, relating to the flooding problem in the area of the subject site, has traditionally opposed the development of the tract because of the surface runoff problem. Applicant has worked very closely with the Association and has made a considerable effort to plan its facilities to be consistent with the recommendation of the Association.

Among the engineering features which applicant is proposing is to build the principal structure upon the land which is most saturated so that the impervious nature of the building will not seriously add to the runoff problem since the soil is virtually impervious in its present state; the parking areas have been divided by vegetation strips which the Association has recommended to curb the runoff; additionally, diversion trenches to retain the water within the property are also planned. The Sandy Run Creek is badly polluted, and since public sewers are not available at the site, sewage disposal has always presented a problem; the proposed sanitary sewage plant with tertiary treatment would solve this problem to the satisfaction of the Association since the plant's effluent would actually upgrade the quality of the creek. Considering the efforts made by the applicant, the Association, making it clear that it was not concerned with the use but only the effect on the water shed from the physical development, recommended approval of the plan.

Interestingly enough, the Association went beyond recommending approval of the present plan; its executive director testified that development as a purely residential site, which is possible

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APR 24 2009

with no zoning app ls required, would actually e less desirable than the proposed facility.

There was considerable testimony at the hearing concerning traffic problems in the general area. Perhaps the single largest contributor to the congestion is the movement of students to and from Germantown Academy which is nearby. In addition, there are normal difficulties with commuters at peak hours. While the traffic which will be generated by applicant's facility will be an additional factor, it is the judgment of the Board that it will not unreasonably burden the existing road network. The peak hours of traffic movement to and from the hospital do not coincide with either the peak commuter hours or the time when the movement of students to and from Germantown Academy is greatest. It has long been a principal in Pennsylvania that in determining whether a project is consistent with the general welfare of the community it is not any increase in traffic which creates a problem; in order to deny a special exception on this basis, the anticipated increase in traffic "...must be of such character that it bears a substantial relation to the health and safety of the community." Archbishop O'Hara's Appeal, 389 Pa. 35 (1957), at page 54.

In considering the other standards which are relevant to any application for a special exception, the Board has concluded that applicant's proposal has substantial merit, and the special exception should be granted. The highly laudatory comments of the state and county mental health officials, the comment on the remarkable assistance rendered to area communities by the police officers, and the comments of several area residents make it clear that this is a unique institution, providing an invaluable aid to not only Whitmarsh Township but a good portion of Montgomery County and surrounding communities. It was characterized as the only psychiatric hospital which will freely admit patients in the entire area; this it was explained means that in every other psychiatric institution (excepting, of course, the Norristown State Hospital which apparently is not well qualified to handle the type of patient using applicant's facilities) patients can come in only on physicians' referrals, but at Northwestern people who are in desperate states, often in the middle of the night, are admitted at the request of police who have no other place to turn. The hospital has given police officials extensive courses in treating people who are troubled.

Although the site is one which presents problems as above discussed and the Board acknowledges that the various concerns that were voiced at the hearing of the citizens relating to traffic, storm sewage, and sanitary sewage disposal are genuine, the applicant in its presentation proposed resolution of the various problems which are sufficient for the grant of a special exception. The Board feels that the general welfare of the community will be served and the interests of the immediate neighbors protected by the imposition of a number of conditions as a part of its order.

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APR 24 2009

BY:.....

Order

The special exception requested by applicant is hereby granted, under and subject to the following conditions:

1. The portion of land zoned CR-H Commercial Retail shall not at any time be used for any commercial development or otherwise than in conjunction with the proposal contained in the subject's application, and applicant will impose a deed restriction on this portion of the tract, satisfactory to the Township Solicitor to accomplish this purpose.

2. If as a result of the traffic generated by the proposed development a traffic signal is required at the intersection of Morris and Lafayette Roads, the expense of the installation of the signal shall be borne by applicant.

3. The following traffic provision shall be made:

(a) As shown on the plan, there shall be two driveways onto Lafayette Road, and both shall be adequate to handle two-way traffic.


(b) A deceleration lane shall be constructed on Lafayette Road along the entire border of the property or as the Township Engineer and Planning Commission shall direct.

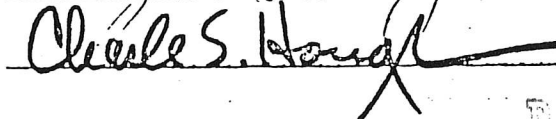
(c) A driveway to Bethlehem Pike should be provided, adequate to handle two-way traffic, with a deceleration lane along the Bethlehem Pike frontage, to be approved by the Township Engineer and the Planning Commission.

4. The property shall be developed in strict accordance with the plans and testimony presented at the hearing, especially in regard to all matters relating to surface water runoff, and at the time of application for a building permit evidence shall be submitted to the Building Inspector that the final plans have been reviewed by the Wissahickon Valley Water Shed Association and a professional engineer satisfactory to the Building Inspector/^{certifies} that the final plans relating to surface water runoff are adequate.

5. All setbacks from any public road shall be computed from the ultimate right-of-way adopted by the Township Supervisors.

Whitemarsh Township Zoning Hearing Board





Board member William H. Potterton, Jr. dissents.

Date: August 19, 1971



BY:.....

1961-01

NOTICE OF PUBLIC HEARING



Before Zoning Board of Adjustment
of Whitemarsh Twp., Montg. Co., Pa.

A hearing will be held on the application of.....

.....LEONARD POLIS, WARREN S. DUNGAN, & EMMA H. DUNGAN.....

The property involved is LAND FRONTING ON LAFAYETTE ROAD AND.....

.....BETHLEHEM PIKE IN FORT WASHINGTON, PA.....

The applicant requests A VARIANCE FROM THE REQUIREMENTS OF THE.....

.....WHITEMARSH TOWNSHIP ZONING ORDINANCE TO CONSTRUCT (14).....

.....TWO-STORY GARDEN-TYPE APARTMENTS WITH ON-SITE PARKING AND.....

.....SEWAGE FACILITIES, INCLUDING A SEWAGE TREATMENT PLANT.....

All interested persons may appear at such hearing.

PLACE WHITEMARSH TOWNSHIP BUILDING

TIME 8 P.M.

DATE JANUARY 31, 1961

By Order of Zoning Board of Adjustment,

2113# 1961-01

1961-01

December 7, 1961

Mr. Philip Dechert
c/o Philco Corporation
"C" & Tioga Streets
Philadelphia, Pa.

Re: Leonard Polis -
Warren S. Dungan -
Zoning Board of Adjustment.

Dear Phil:

Attached herewith is photocopy of the opinion and order of Judge Groshens, dated December 4, 1961, wherein the Court dismissed the appeal and affirmed the decision in favor of the Board of Adjustment, by its order dated March 2, 1961.

After you have read the contents of the order, would you be kind enough to mail same to the other two members of the Board; thereafter, it will be retained as part of the Board of Adjustment files on the subject case.

Very truly yours,

WILLARD E. HARGREAVES,
Secretary-Treasurer

WEH:mc
c.c. Lester Haines
~~James A. Talone~~
William E. Lightkep
Files.

2HB#
1961-01

1959-3

To Whom It May Concern:

May 1, 1958

The Whitemarsh Township Zoning Board of Adjustment will meet on Wednesday May 21, 1958, at 8:00 P.M. in the Township Building, Joshua Road and First Avenue, Lafayette Hill, Pa. to hear the following petitions:

ANDORRA NURSERIES, INC.
(Continuance of previous hearing)

An appeal on the decision of the Building Inspector on the denial of a building permit, which application did not conform to the Whitemarsh Township Zoning Ordinance. Lot #2 of Section 36 of plot plan filed, located at Spring Mill Road and Corson Road.

WARREN S. DUNGAN
(Continuance of previous hearing)

Special exception to erect a swimming pool, tennis courts and private club house for restaurant in residential zoning district, on property bound by Lafayette Avenue, Bethlehem Pike and Fort Washington Park

EDWARD W. HELLER

Special exception to convert a private residence into a nursing home at the Northwest corner of Bethlehem Pike and Mathers Road.

CHARLES A. WYNN, JR.

Special exception to erect car port with lesser side yard than minimum requirements at 432 Aspen Way.

All persons in interest and others may appear and be heard.

ZONING BOARD OF ADJUSTMENT

Philip Dechert, Chairman

Michael J. Laputka, Secretary

2HB
1959-03

1959-3

IN THE COURT OF COMMON PLEAS OF MONTGOMERY COUNTY, PENNSYLVANIA

WARREN S. DUNGAN : TERM, 1959

VS. :

WHITEMARSH TOWNSHIP ZONING : NO.
BOARD OF ADJUSTMENT :

RETURN OF THE BOARD OF ADJUSTMENT
OF WHITEMARSH TOWNSHIP

TO THE HONORABLE, THE JUDGES OF SAID COURT:

We, the members of the Board of Adjustment of White-
marsh Township, Montgomery County, Pennsylvania, do hereby
make a return of the proceedings in the above entitled matter
for a review of the decision of the Board of Adjustment relative
to the claim of the appellant for a variance or special
exception to the terms of the Zoning Ordinance in connection
with a tract of land located on Bethlehem Pike and Lafayette
Avenue, Whitemarsh Township, and we submit herewith the
following:

ZHB
1959-03

WHITEMARSH TOWNSHIP ZONING HEARING BOARD

DECISION AND ORDER

APPLICATION NO.: 2009-11

FIRST HEARING DATE: 06/03/09

APPLICANT: BHC Northwest
Psychiatric Hospital
Block 055, Unit 048

CONT'D HEARING DATE: 06/08/09

DECISION: 06/08/09

COPY MAILED: 06/09/09

7170 Lafayette Avenue
Fort Washington, PA 19034
A - Residential Zoning District
B - Residential Zoning District
INST - Institutional Overlay District
VC-I - Village Commercial Zoning District

After completion of a public hearing on the above-referenced Application, pursuant to public notice as required by law, the Zoning Hearing Board of Whitemarsh Township decided and orders as follows:

1. The request for special exception under §116-194 of the Zoning Ordinance to permit the construction of two (2) second floor extensions of the existing buildings on the property and install a concrete walkway connecting the structures is **NOT NECESSARY**.
2. A variance from §116-194 of the Zoning Ordinance to permit the construction of two (2) second floor extensions of the existing buildings on the property and install a concrete walkway connecting the structures is **GRANTED**.
3. A variance from §116-57(H) to permit the expansion of impervious coverage from the existing 40.21% to 41.95% is **GRANTED**.
4. A variance from §116-184 to permit parking as provided and proposed by the applicant of 160 spaces is **GRANTED**.
5. Variances from Sections 116-258, 116-259 and 116-260 to permit the piers supporting the proposed second floor additions to be located in the Riparian Corridor Conservation District are **GRANTED**.

THIS DECISION IS SUBJECT TO THE FOLLOWING CONDITIONS:

1. All use and development permitted by this Decision shall conform to the exhibits and testimony presented by the Applicant, unless inconsistent with any specific conditions imposed by this Board, in which case these specific conditions shall take precedence.
2. The Applicant shall apply for and obtain all permits required by the Township Codes in a timely manner.


This Decision and Order of the Board is final and any appeal of it must be filed with the Court of Common Pleas of Montgomery County within thirty (30) days following the copy mailing date set out above.

Section 116-223 of the Zoning Ordinance provides as follows:

Expiration of granted appeals. Unless otherwise specified by the Board, all approvals granted by the Zoning Hearing Board shall automatically expire 365 days after the date of the decision unless: (1) the applicant has acted upon the approval by obtaining the required permit(s) and paying the prescribed fees for same, or (2) the Zoning Hearing Board decision is on appeal to the courts, at which point, the approval, if upheld on appeal, shall expire 365 days after final determination on appeal.

The Zoning Hearing Board may extend the expiration date of approvals for a 180 day period upon request by the applicant, provided that the applicant is, in the opinion of the Zoning Hearing Board, diligently pursuing governmental and/or regulatory approvals as required. Requests for extensions shall be in writing and submitted to the Zoning Hearing Board at least 30 days before any applicable expiration date. Only one (1) extension may be provided for any application.


WHITEMARSH TOWNSHIP ZONING HEARING BOARD:



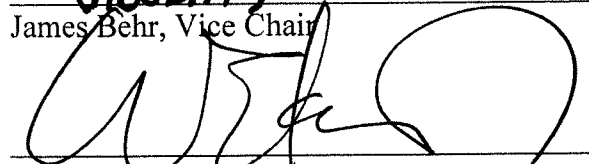
Jack Cohen, Chair

(ABSENT)

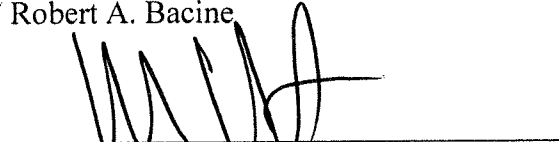
James Behr, Vice Chair




Robert A. Bacine



William E. Kramer



Marc Weinstein



Randi Rubin Goldstein



GILMORE & ASSOCIATES, INC.
ENGINEERING & CONSULTING SERVICES

65 E. Butler Avenue, Ste 100
New Britain, PA 18901
(215) 345-4330
Fax (215) 345-8606
www.gilmore-assoc.com

MEMORANDUM

Date: November 4, 2025
To: Charles L. Guttenplan, AICP - Director of Planning and Zoning
From: Krista Heinrich, P.E., Township Engineer
Reference: 7170 Lafayette Avenue
ZHB #2025-47
G&A Project No. 2021-01088

In reference to the above-mentioned property, we have reviewed the application prepared by the applicant and offer the following comments for your consideration.

There are no engineering objections to the location of the proposed floodproofing measures being constructed in the Floodplain or Riparian Corridor Conservation Districts.

The granting of any relief should be conditioned that:

1. Any new construction must be in full compliance with Chapter 101 'Floodplain Management' of the Whitemarsh Township Code.
2. In accordance with Section 101-32(F) of the Township Code, the applicant is hereby notified that (1) The granting of any variance may result in increased premium rates for flood insurance. (2) Such variances may increase the risks to life and property.

Please note, the applicant will require an Earth Disturbance Permit as required by Ordinance Section 58-13(A)(5), since the area of earthmoving will exceed 1,200 square feet. Additionally, the applicant was required to obtain an Earth Disturbance Permit as a condition of a waiver of the granting of a waiver of the Land Development process. These comments are only in reference to impacts of the proposed features within the Floodplain and Riparian Corridor Conservation Districts and do not reflect engineering considerations related to the Subdivision and Land Development, Chapter 58 and or any other aspect of the Township Code.

Should you have any questions or need further information regarding this matter, please do not hesitate to contact me at this office.

ZHB APPEAL #2025-53
SUMMARY

APPLICANT: OnSite Ventures LLC c/o Edmund J. Campbell, Esq.

PROPERTY LOCATION: Parcel # 65-00-04474-00-6
Block 041, Unit 008
29 Germantown Pike
Plymouth Meeting, PA 19462

ZONING DISTRICTS: VC-2 – Village Commercial District Sub-district 2

SUMMARY OF RELIEF REQUEST:

The Applicant is proposing to change an existing legal nonconforming use to another nonconforming use. The following relief is requested:

Special Exception under Section 116-192. to change an existing nonconforming full-service automotive repair business to an automobile detailing business with a reduced and limited scope of automobile repair services.

PRIOR DECISIONS:

ZHB 85-47: Variance for expansion for office associated with auto repair service business (denied).
ZHB 79-21: Variances for garage expansion and building coverage.

Respectfully Submitted,



Charles L. Guttenplan, AICP
Director of Planning and Zoning/Zoning Officer

APPEAL TO ZONING HEARING BOARD
WHITEMARSH TOWNSHIP
COMMONWEALTH OF PENNSYLVANIA

APPEAL NO: _____

Applicant/Appellant: OnSite Ventures LLC

Address: 10 Meadows Lane, Wilmington, DE 19807

Phone #: 610-639-8126

Cell Number: _____

E-Mail: joe@onsitedetailing.net

Owner: George G. Lare

Address: 29 Germantown Pike, Plymouth Meeting, PA 19462

Phone #: 610-825-2936

Cell Number: _____

E-Mail: gregsauto1@verizon.net

Location of the Property Involved: 29 Germantown Pike

Block #: 65041

Unit #: 008

Parcel #: 65-00-04474-00-6

NATURE OF APPLICATION (Describe proposed use and/or construction: type of appeal requested and specific section(s) of Whitemarsh Township Zoning Code which is (are) relied upon):

See attached addendum.

GROUND(S) FOR APPEAL (State reasons for appeal and nature of hardship, if claimed):

**Attach additional sheets if necessary

See attached addendum.

Legal Counsel (if represented): Edmund J. Campbell, Jr.

Address: 2201 Renaissance Blvd., Third Floor, King of Prussia, PA 19406

Phone #: 610-992-5885

E-Mail: ecampbell@campbellroccolaw.com

My (Our) signature(s) authorize(s) permission to pose my (our) property and permission to the Zoning Hearing Board and their representative to enter thereon for inspection purposes.

I (We) certify the information provided on this application and supporting documentation and plans are true and correct to the best of my (our) knowledge, information, and belief. You are required to submit proof that you are one of the following:

I am (We are)

Owner(s) of Legal Title

Owner(s) of Equitable Title

Tenant(s) with permission of Owner(s) of Title
(Enclose letter attesting to same)

Date: 12/4/25

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DEC 05 2025


Signature of Applicant/Appellant:
Edmund J. Campbell, Jr., Esquire

Authorized Representative

Signature of Applicant/Appellant:

WHITEMARSH TOWNSHIP
ZONING & ENGINEERING

ADDENDUM TO SPECIAL EXCEPTION APPLICATION

of

OnSite Ventures LLC

c/o

Edmund J. Campbell, Jr., Esquire
Campbell Rocco Law
2201 Renaissance Blvd., Third Floor
King of Prussia, PA 19406
(610) 992-5885

I. Overview

The Applicant, OnSite Ventures LLC (“OnSite”), is in the automotive detailing business. OnSite is the equitable owner of property located at 29. E. Germantown Pike in the Plymouth Meeting section of Whitemarsh Township (the “Property”) pursuant to an agreement of sale (the “Agreement of Sale”) with the current owner, George Lare. A redacted copy of the Agreement of Sale is attached as an exhibit.

The Property is located in the Township’s VC-2 Village Commercial District 2 and in the Plymouth Meeting Historic District. The Property’s current owner, George Lare operates a full-service automotive repair business under the name “Greg’s Automotive Services”. Automotive repair is not permitted in the VC-2 zoning district, however the existing auto-repair is pre-existing and a lawfully permitted non-conforming use. OnSite requests a special exception pursuant to §116-192 of the Township’s Zoning Ordinance to permit a change from one nonconforming use to another nonconforming use. As described in more detail below, OnSite’s proposed use will be less intense than the existing full service auto-repair use.

II. Current Non-Conforming Use

The Property’s current owner operates “Greg’s Automotive Services” at the Property. The Property is comprised of approximately 11,800 square feet. The automotive repair services are provided in a small building, approximately 2,100 square feet in size (the “Building”). The Property has approximately 30 parking spaces. The Building has three automotive repair “bays”. A full range of repair services provided at the Property include, but are not limited to:

- Computer diagnostics
- Gas Engine Specialists
- Engine rebuilding and repair
- Transmission repair and rebuilds
- Brake services / new brakes
- Tune-ups
- Oil lubrication
- Shocks and struts
- Air conditioning and cooling systems
- Exhausts and mufflers
- Tire repair

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WHITEMARSH TOWNSHIP
ZONING & ENGINEERING

- Batteries
- Belts and hoses replacement
- State Inspections

III. Proposed Use

OnSite proposes to use the Property for automotive detailing and limited automotive repair services. Only one of the three automotive bays will be used for automotive repair and those automotive repair services will be more limited in nature than the existing services provided by Greg's Automotive Services. For example, OnSite will not rebuild engines and transmissions. The automotive repair services provided will be limited in nature to such things as oil changes, brakes and inspections. The scope of general automotive services to be provided will be more limited. The amount of general automotive repair services will be reduced by at least two thirds because only one of the three existing bays will continue to be used for such purposes.

OnSite will use the two other bays for automotive detailing. Automotive detailing is the core of OnSite's business. Automotive detailing primarily involves cleaning and restoration of the interior of a vehicle, including vacuuming and cleaning carpets, seats and mats. Leather features are cleaned and conditioned. Windows, vents and consoles are cleaned. In addition to these interior automotive detailing services, OnSite will polish and wax vehicle exteriors, clean wheels, tires and exterior trim.

OnSite does not paint vehicles. OnSite does not repair vehicle body damage.

OnSite will provide detailing services to any make and model automotive, however OnSite's business generally involves providing detailing services to "higher end" and "luxury" model automobiles.

Detailing each automotive takes between 2 to 5 hours depending on the detailing services required. OnSite anticipates providing detailing services to 3 to 5 vehicles per day. On average there will be 2 to 4 employees at the Property each day. Hours of operation will be 9 am to 5 pm, Monday through Friday, with more limited hours on weekends.

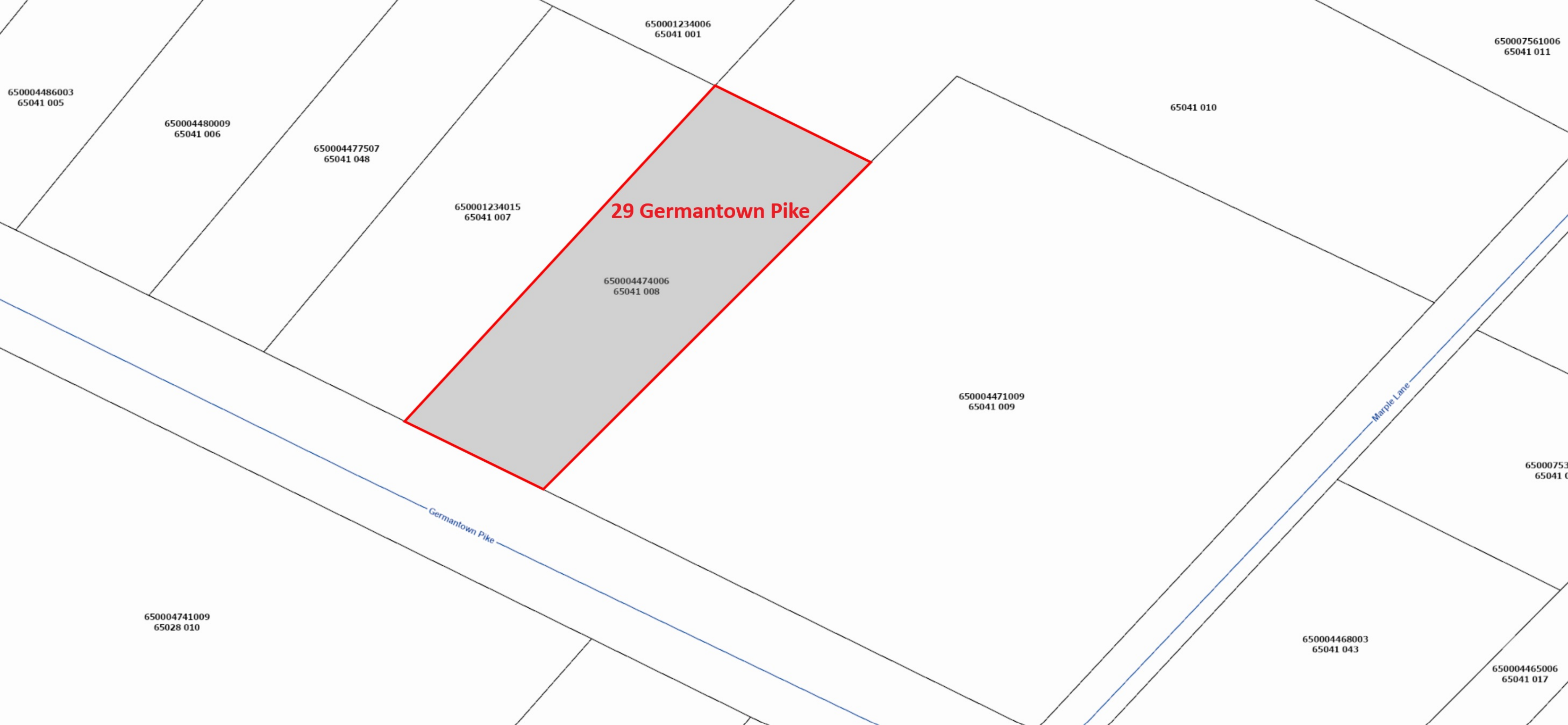
OnSite provides automotive dealerships across the Delaware Valley with automotive detailing personnel. OnSite has a fleet of six vans that are driven to customers to provide detailing services. These vans are typically parked/headquartered in Wilmington, Delaware and from that location provide mobile automotive detailing services across the Delaware Valley. One or two of these mobile automotive detailing vans may be parked at the Property to serve clients in the area. These vans will typically be housed inside the Building overnight.

Given the small number of employees on site and the length of time it takes to detail an automotive, OnSite's proposed detailing use will have no impact on traffic or vehicle congestion. The proposed use will likely have significantly less vehicular traffic than the existing full-service automotive repair business at the Property.

OnSite's business will not result in noise, smoke, dust, fumes gases, heat, odor, glare or vibration that will in anyway impact the immediate neighborhood.

OnSite detailing services will create limited trash and waste. Trash and waste will be picked up by a routine trash service. OnSite does not use hazardous materials or chemicals. There are no hazardous waste materials created as a result of the detailing services provided.

OnSite proposes no changes to the physical layout of the Property. The exiting Building's exterior will be updated. Attached please find a rendering of a concept showing the updated exterior. OnSite may add a side door to the Building as indicated on the rendering. The existing parking spaces provide more than adequate parking for the proposed use. The height of the building will not change. There is an existing "monument" sign along Germantown Pike. OnSite will update this sign consistent with Township's signage requirements. OnSite would like to place a wall sign on the front façade of the Building. A concept of this plan is shown on the renderings provided. This signage will also comply with the Township's signage requirements.



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29 Germantown Pike

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Marple Lane

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Germantown Pike

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AGREEMENT OF SALE

THIS AGREEMENT OF SALE (this “**Agreement**”) is made as of the 11th day of November, 2025 (the “**Effective Date**”) by and between GEORGE G. LARE, an individual, (“**Seller**”) and ONSITE VENTURES LLC, a Pennsylvania limited liability company, or its permitted assignee or nominee (“**Purchaser**”).

WITNESS:

1. **SALE OF PREMISES.** Seller agrees to sell and convey to Purchaser, and Purchaser agrees to purchase from Seller, all of Seller’s right, title and interest in and to that certain real property located at 29 Germantown Pike, being Tax Parcel # 65-00-04474-00-6, located in Whitemarsh Township (the “**Township**”), Montgomery County, Pennsylvania, and all improvements located there on and all easements, appurtenances and rights thereto (the “**Premises**”).

2. **PAYMENT TERMS.** The purchase price (the “**Purchase Price**”) for the Premises shall be [REDACTED] payable as follows:

(a) [REDACTED] (together with any and all interest accrued thereon, the “**Deposit**”) delivered by Purchaser to Commonwealth Land Title Insurance Company (the “**Title Company**”) within two (2) business days after the Effective Date.

(b) The balance of the Purchase Price, subject to adjustments pursuant to this Agreement, paid by wire transfer of immediately available funds, to Seller at Closing.


(c) Unless and until disbursed as provided herein, the Deposit shall be held in an interest bearing, escrow or trust account by the Title Company. Unless Purchaser has exercised its right to terminate this Agreement pursuant to **Section 8** below prior to the expiration of the Due Diligence Period (defined below), in which event the Deposit shall be refunded to Purchaser, the Deposit shall be non-refundable to Purchaser except in the event of a default by Seller (pursuant to Section 7(a) below) or unless any provision of this Agreement shall specifically permit the Deposit to be refunded to Purchaser, provided that the Deposit shall be credited to the Purchase Price if, as and when Closing occurs.

3. **CONDITION OF TITLE.** Seller shall convey fee simple title to the Premises to Purchaser in a condition which is good and marketable and free and clear of all mortgages, liens, judgments, assessments, restrictions, riparian and other ownership rights of the Commonwealth of Pennsylvania and/or the Township of Whitemarsh, encumbrances, easements, leases or tenancies, claims or rights of use or possession, and other title objections made by Purchaser in accordance with the terms set forth herein, including any lien or future claim for materials or labor supplied in improvement of the Premises, and insurable by the Title Company at regular rates, subject to the Permitted Exceptions (defined below).

(a) During the Due Diligence Period, Purchaser shall obtain a title commitment to issue an owner’s policy from the Title Company, in such form and with such endorsements as Purchaser may require (the “**Title Commitment**”). Purchaser shall be solely

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement as of the day and year first-above written.

SELLER:

 11-11-25

GEORGE G. LARE

PURCHASER:

ONSITE VENTURES LLC, a Pennsylvania
limited liability company

By: _____
Name: Demetri Kyranakis
Title: Authorized Signatory

By: _____
Name: Joseph Narke
Title: Authorized Signatory


IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement as of the day and year first-above written.

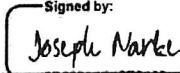
SELLER:

GEORGE G. LARE

PURCHASER:

ONSITE VENTURES LLC, a Pennsylvania limited liability company

Signed by: 
By: _____
Name: Demetri Kyranakis
Title: Authorized Signatory

Signed by: 
By: _____
Name: Joseph Narke
Title: Authorized Signatory

29 E Germantown Pike
Plymouth Meeting, Pennsylvania
Google Street View
May 2025 See more dates

Share



Whitemarsh onary Cycles Plymouth Meeting
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← 29 E Germantown Pike
Plymouth Meeting, Pennsylvania
Google Street View
May 2025 See more dates

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OF

JOSEPH R. PELLIZZERI, ET AL

We, the members of the Whitemarsh Township Zoning Hearing Board, do hereby make the following findings of fact, conclusions and decision based upon the testimony and exhibits presented at the public hearings of this appeal:

I. FINDINGS OF FACT

1. Applicants are and have been since 1973 the legal owners of the subject property located at 29 Germantown Pike, Plymouth Meeting, Pennsylvania.
2. On May 26, 1941, Whitemarsh Township adopted its first zoning ordinance which zoned as B Residential the district in which the subject property is located. This property has remained zoned B Residential since that time.
3. The property contains a house fronting on Germantown Pike and built in approximately 1840.
4. The house was used as a residence until March or April of 1973.
5. The property also contains a building to the rear of the lot used by Applicants for automobile body repairs since May, 1973 (hereinafter referred to as the "garage").
6. The garage was used for automobile body repairs as far back as 1941 and has been continuously so used until the present with only a two or three month interruption in 1973.
7. Around September, 1972, Whitemarsh Township issued a certificate certifying that the property was a legal non-conforming use.

8. For some period beginning after 1943 and until 1973, the house was used in varying degrees for storage of some auto parts and business records as well as for residential purposes. After 1973, some auto parts continued to be stored in the house.
9. The first floor of the garage has an area of 1584 square feet with a useful second floor area of 308 square feet.
10. The house, with a first floor area of 748 square feet, and the garage together cover 19.8% of the lot.
11. The existing garage touches the lot lines on the east and west sides of the property.
12. The lot is non-conforming in being only 59 feet wide since Section 33-1002 requires lots in a B Residential District to be 80 feet wide.

II. CONCLUSIONS

The Board is satisfied that Applicants' auto body repair shop located in the garage at the rear of the subject property is a legal non-conforming use. The Board has before it a sworn affidavit of a prior owner of the property that such use existed in 1941, a certificate from the Township confirming its non-conforming status and unrebutted testimony that such use of the garage has been continuous to date with only one interruption of two or three months.

On the other hand, the Board remains unconvinced that the house has ever achieved the legal non-conforming status of the garage. The record contains no testimony at all with respect to any non-residential use of the property which predates 1943, two years following the date in which the property was zoned B Residential. Further, the only testimony concerning the 1943 date was that of William Riker, who had been told by his father that the latter began operating an automobile repair shop on the premises in 1943. Nothing was said about

the use of the house in or prior to that year. Mr. Riker further testified that a few car parts had been kept in the house along with car inspection records and some personal tools. However, there was no testimony as to when such storage began. The storage could not have predated May, 1941 since Mr. Riker's father was not in the auto body repair business on the property prior to 1943. Finally, the Board does not feel that the incidental use made of the house as described by Mr. Riker would have constituted a non-conforming use of any part of the house.

Section 33-2105.B.1 of the Whitemarsh Zoning Code allows the extension of a non-conforming use provided:

"That the area of the structure housing such use shall not be increased by more than a total of twenty-five (25) percent of the area of said structure existing on the date the use first became non-conforming."

The Code obviously allows only the structure housing the non-conforming use to be used in calculating the 25%. Since the house is not part of the legal non-conforming use, its area cannot be used in the calculation of the allowable expansion.

Applicants have requested the Board to allow the combination of the areas of both floors of the garage in determining the allowable expansion of the use. One portion of the garage has a small second floor or storage area which contains some 308 square feet. If this is added to the first floor area, the expansion of the building can be 77 square feet larger than if the area of the first floor alone is used. To this end, Applicants argue that the words "area of said structure" quoted in Section 33-2105.B.1 above mean the total of the areas of all floors of the structure excluding the basement.

This interpretation by Applicants is based upon Section 33-200 of the Code which first states that the word "building" includes the word "structure" and then, in subsection "F", defines "Building Area" as follows:

"Building Area. The aggregate of the maximum horizontal cross-section areas of all buildings on a lot above ground level ..."

While this definition does speak of an "aggregate" of "areas", the Board does not understand the definition to mean total areas of all floors in one building. What is being totaled is the areas of more than one building rather than the areas of more than one floor. In the sense in which the Board sees it, "Building Area" is that portion of a lot's area covered by all buildings on the lot. Here, Section 33-210 5.B limits our examinations to only the building containing the non-conforming use, i.e., the garage.

Normally, the maximum horizontal cross-section area of a building would be that of its first floor. Certainly, that is true of the garage in this case. Only if another floor were cantilevered out from the first floor would the other floor be considered in determining "Building Area" and then only the area of that floor would be used, not the total areas of all floors.

If the Board's interpretation of the above definition were intended by the Code, Applicants argue, the term "Building Coverage" would be used since this term is used in that sense as the title of Code Sections specifying percent of allowable lot coverage for many of the Township's zoning districts. See, e.g., Section 33-602. However, Applicants ignore Code Sections such as 33-103.B and 33-1104.B where "Building Area" is used as a section title for the same kind of limiting clause. Finally, and completely refuting Applicants' argument, Section 33-1108.A reads:

"Building Area. The maximum building coverage shall be 20% of the area being developed hereunder." (Emphasis supplied)

It is clear from this language that the Whitemarsh Code uses the terms "Building Coverage" and "Building Area" interchangeably and as interpreted by the Board.

In summary, the Board feels that "area of said structure" as used in Section 33-2105.B means the maximum area of the lot covered by the structure in which the non-conforming use exists. In this case, the area would be that of the first floor of the garage which is 1584 square feet. The maximum expansion allowed is 25% of 1584 or 396 square feet.

Nothing in the Code precludes the Applicants from razing the entire garage and rebuilding it 396 square feet larger except that Section 33-2105 requires the new building to meet the setback and coverage requirements of Section 33-1002 for a B Residential District. The garage is already non-conforming in that it does not meet the side yard setback requirement of a minimum of 12 feet on each side with an aggregate of 30 feet nor the rear yard requirement of 30 feet. Indeed, the existing garage touches the lot lines on both sides and is only 12 feet from the rear of the lot. If the Board required the newly expanded building of almost 2,000 square feet to meet the setback requirement, the garage would reach about 60 feet further toward the front of the lot than at present. In the interest of keeping this commercial use more toward the rear of the lot, the Board will grant the necessary variance so that the expanded building can parallel the side lot lines at a distance no closer than one foot on each side with the rear wall of the building parallel to the rear lot line at a distance of 12 feet.

The Board also notes that the existing house and garage already cover 19.8% of the lot so that any expansion of the garage must necessarily exceed the 20% lot coverage limitation of Section 33-1002. The Applicants must either tear down the house or receive a variance in order to expand the garage at all. If Applicants tear down the house as seems to be their intention, no variance is necessary. However, should the Applicants be precluded by law or act of any agency or governmental entity from removing the house, the Board grants to Applicants a variance in order to allow a total lot coverage by house and expanded garage of 23%.

The Board feels that the variances granted provide the minimal relief necessary to allow Applicants' non-conforming use to expand by 25% yet still keep this commercial use in a less conspicuous position at the rear of the property. There was no evidence presented that this would in any way be detrimental to the health, welfare or safety of the citizens of Whitemarsh Township.

Finally, Applicants have asked the Board to review the refusal by the Board of Historic Architectural Review (HAR Board) to recommend to the Township supervisors that a certificate of appropriateness be issued which would allow the razing of the house located on Applicants' property. Applicants base their request for review by this Board upon Section 9-107 of the Whitemarsh Township Historic District Ordinance which faithfully echos Section 4(d) of the Pennsylvania Historic Districts Act (53 P.S. 8004(d)). Section 9-107 reads as follows:

"Any person aggrieved by failure of the agency charged by law or by local ordinance to issue a permit for such building changes by reason of the disapproval of the Board of Supervisors may appeal therefrom in the same manner as appeals from decisions of the agency charged by law or by local ordinance with the issuance of permits for such building changes."

It is apparent from the above language and from Section 9-104 of the Whitemarsh Ordinance and provisions of the Pennsylvania Act found at 53 P.S. 8003 and 8004(a), (b), and (c) that the HAR Board has only an advisory role in determining whether or not a certificate of appropriateness shall be issued. It is obvious that the actual decision as to whether such a certificate should be issued is reserved for the Board of Supervisors who consider the advice of the HAR Board. Since the Zoning Hearing Board has no testimony before it that the Whitemarsh Board of Supervisors has yet made this decision, it is clear that a review by any body is not yet appropriate.

Further, we direct the Applicants' attention to First Presbyterian Church of York v. City Council of York, 25 Pa C 154,360A.2d 257

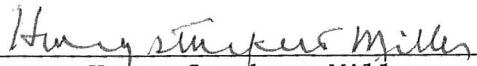
(1976) where it is clear that the procedure in trying to get a certificate of appropriateness would include a hearing before the HAR Board followed by appropriate action of the Board of Supervisors with any appeal then being made to the Court of Common Pleas and not the the local Zoning Hearing Board. As a result, this Board cannot decide nor review Applicants' application for a certificate of appropriateness to raze the house.

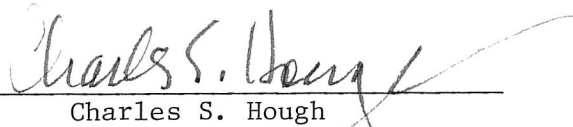
III. DECISION

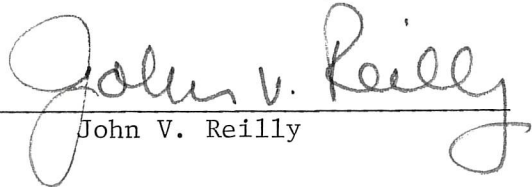
In view of the above facts and conclusions, the decision of this Board is as follows:

1. The house located on Applicants' property does not have the status of a legal non-conforming use for any part of an automobile body repair operation.
2. The garage at the rear of Applicants' property does have the status of a legal non-conforming use for the purposes of automobile body repairs.
3. The areas of the first and second floors of the garage cannot be combined in order to determine the expansion of the non-conforming use allowed by law.
4. The garage may be expanded by 396 square feet which is 25% of the first floor area of the garage.
5. The existing garage may be razed and rebuilt in an expanded form subject to the conditions set out in this Decision.
6. A variance is granted to allow the expanded garage to be built with its sides parallel to and no closer than one foot from the side lot lines of the subject property.

7. The rear wall of the expanded garage shall be parallel to and 12 feet from the rear lot line of the subject property.
8. A variance is granted to allow 23% of the lot area to be covered by the existing house and the garage as expanded.
9. No parking shall be allowed within 50 feet of the legal right-of-way of Germantown Pike.
10. The parking area shall be covered with crushed stone with any grading to be first approved by the Township Engineer.
11. A fence and/or dense shrubbery sufficient to screen the parking area and as approved by the Shade Tree Commission shall be installed along the east and west lot lines of the property.
12. The existing sign shall be redesigned subject to the approval of the Board of Historic Architectural Review.


Henry Stuckert Miller


Charles S. Hough


John V. Reilly

DATE January 23, 1980

WHITEMARSH ZONING HEARING BOARD

IN RE: JOSEPH PELLIZZERI
Application 85-47

FINDINGS OF FACT

1. Applicant operates an automobile body shop on a lot in the Township zoned B Residential.
2. The body shop operation is a legal nonconforming use.
3. Applicant began his body shop operation thirteen years ago with the capacity to service three-four cars in a building which also contained an office.
4. Five months prior to the hearing on this matter, Applicant completed the demolition of the original building and its replacement with a building that can accommodate six cars but contains no office.
5. The new 2,000 square feet building is 25% larger than the prior building, the maximum expansion of a legal nonconforming use allowed by the Whitemarsh Township Code.
6. Applicant's proposed office addition would be a 15% expansion of the existing 2,000 square feet building.
7. The proposed expansion complies with all requirements of the Code except the 25% limit on expansion of nonconforming uses set out in Section 116-194.

DISCUSSION

Applicant admits that Section 116-194 of the Whitemarsh Township Code does not allow an expansion of its legal nonconforming use beyond 25%. Applicant also admits that he has expanded his nonconforming use the full 25% prior to this application. Applicant requests a variance to allow yet another expansion amounting to 15% of the already expanded building. The proposed expansion would house administrative offices of the operation. Applicant seemingly admits that he cannot meet the normal standard of hardship required for a variance because, in fact, he is "operating a business that is presently viable on the site". To

avoid this flaw in his variance argument, Applicant relies on Jenkintown Towing Service v. Zoning Hearing Board of Upper Moreland Township, 67 Commonwealth Ct. 183 (1982).

That case provides three criteria which must be met before there can be a variance from the maximum allowed expansion of a legal nonconforming use. They are:

1. The expansion must involve a modernization essential to the continued viability of the business.
2. The expansion must not be detrimental to the public welfare.
3. The expansion must be the minimum variance required to accomplish Applicant's goal.

The last two criteria would have to be met for any variance. The first, even if different from the normal hardship requirement, is fatal to Applicant's request.

The entirety of Applicant's proof in support of meeting that first criterion consists of the following testimony from Applicant.

As to whether the present size of the building causes him problems in operating: "It makes it a little tight. It could be more efficient if it was larger, naturally." NT - 8

As to what it is like to meet customers in the present building: "It would be noisy, dusty, very aggravating, very unbusinesslike. It's a very unprofessional look to have to meet your clients that way." NT - 9

As to why he wants the office addition: "I want it to be safe for my customers, more of a professional atmosphere so that I can conduct business in a professional way." NT - 9

As to why the office can't be placed within the existing building: "Because it would cut down on square footage of what I was allowed to do as far as working space and equipment and that would just definitely defeat the whole purpose of the original construction." NT - 9, 10 "... it's a very poor environment to have an office. It would cut down on working space and defeat the whole purpose of the construction of the auto operation itself. It

would take up at least one bay, if not more, and it would be like defeating the whole purpose of the construction." NT - 26, 27

Nothing in this testimony convinces this Board that the office expansion is a modernization essential to the continued viability of the business. The words emphasized are determinative. The office addition might be more efficient, comfortable and "professional" but hardly required to allow this business to survive.

This is clear from the fact that Applicant used to have an office but chose to delete it when he recently expanded the building to its maximum legal extent. It is impossible to believe that office space would have been neglected if it were essential to the body shop's viability.

It seems probable that Applicant could take the space along an outside wall devoted to one service bay, isolate it from the dust and noise of the rest of the operation and use it as an office. True, he might be able to service only five cars at a time rather than the existing six, but even five cars is a 25-67% increase over the three-four cars he could service formerly. Thus, even if the office were an absolute necessity for his business, Applicant could maintain it within the existing building and still have a substantial increase in its ability to work on cars.

CONCLUSION

For the reasons set out above, the expansion is neither necessary for Applicant's business nor justified by law. The request for variance is denied.
