



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

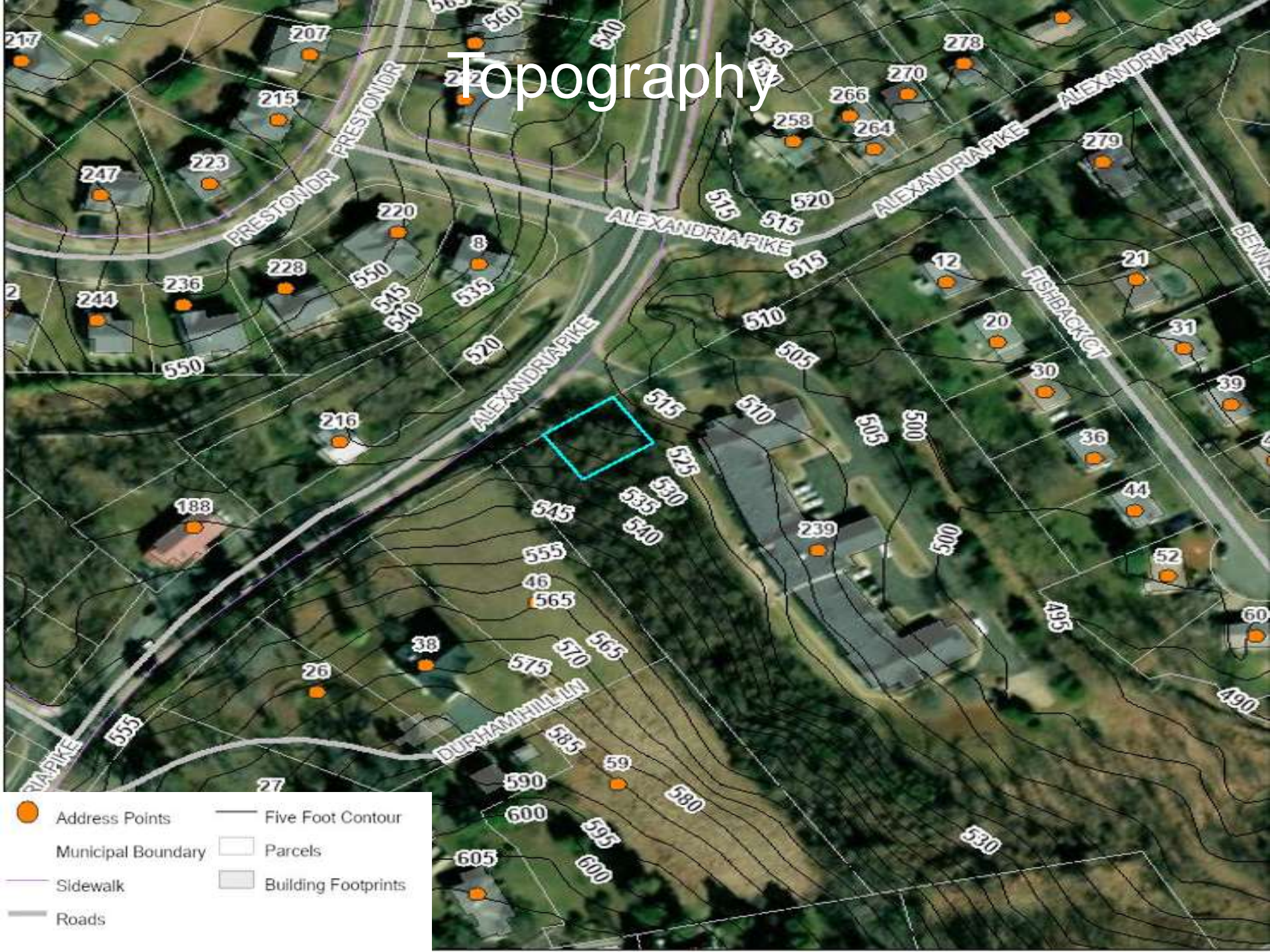
Property Information

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

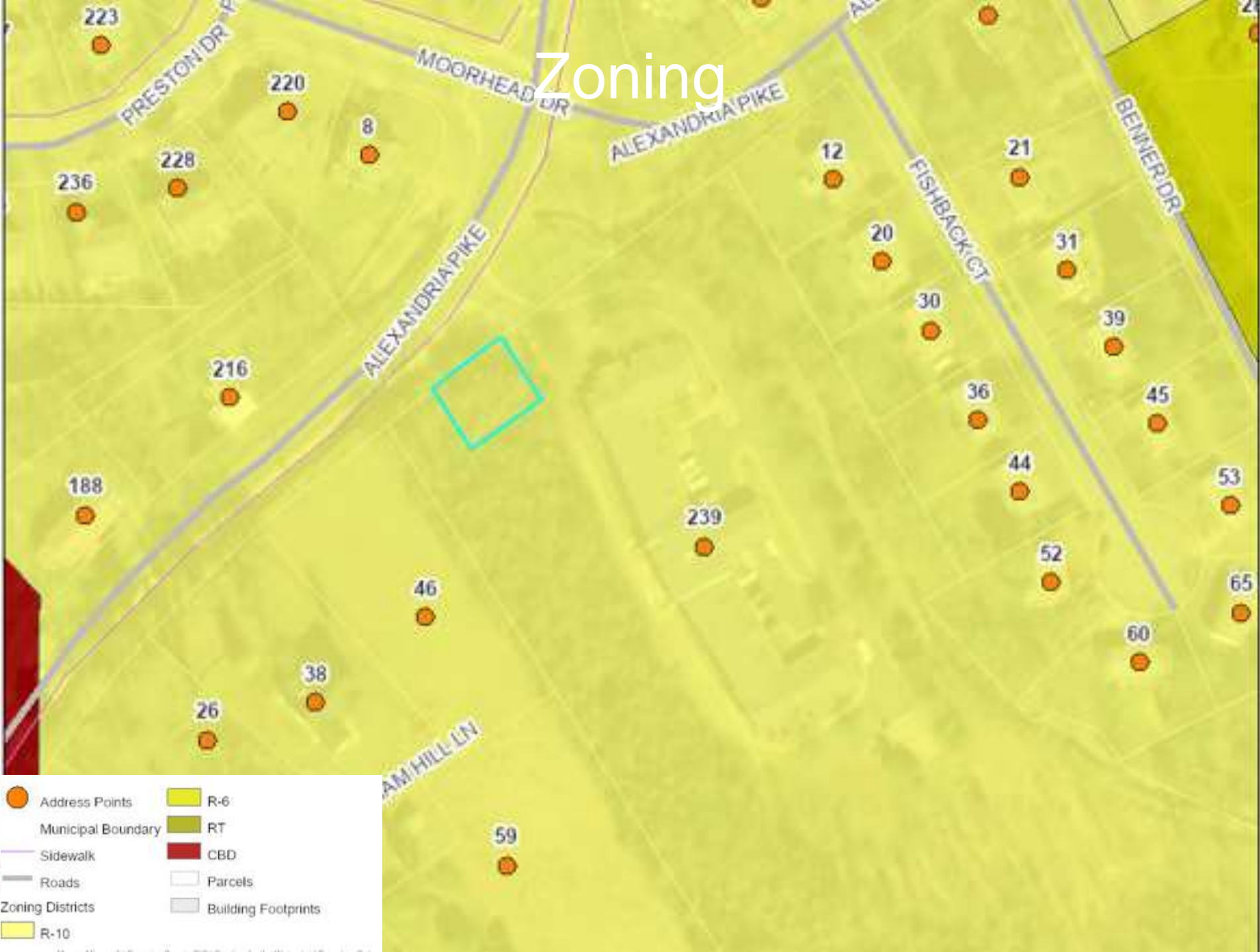
Aerial



Topography



Zoning



Background

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

Request

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

Analysis

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

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

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

Analysis Cont.

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

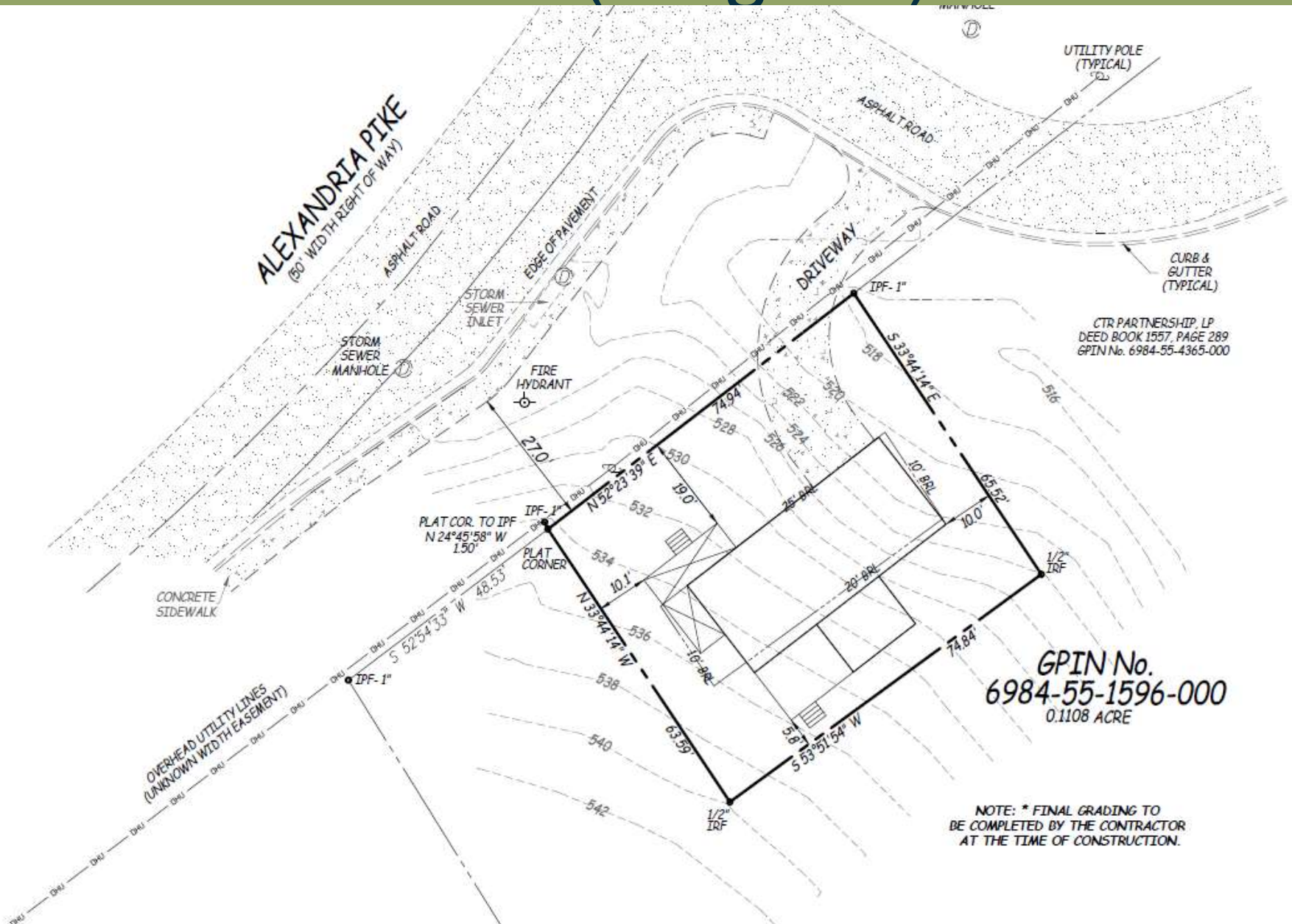
- Decks are permitted to encroach within the rear yard setback:

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

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

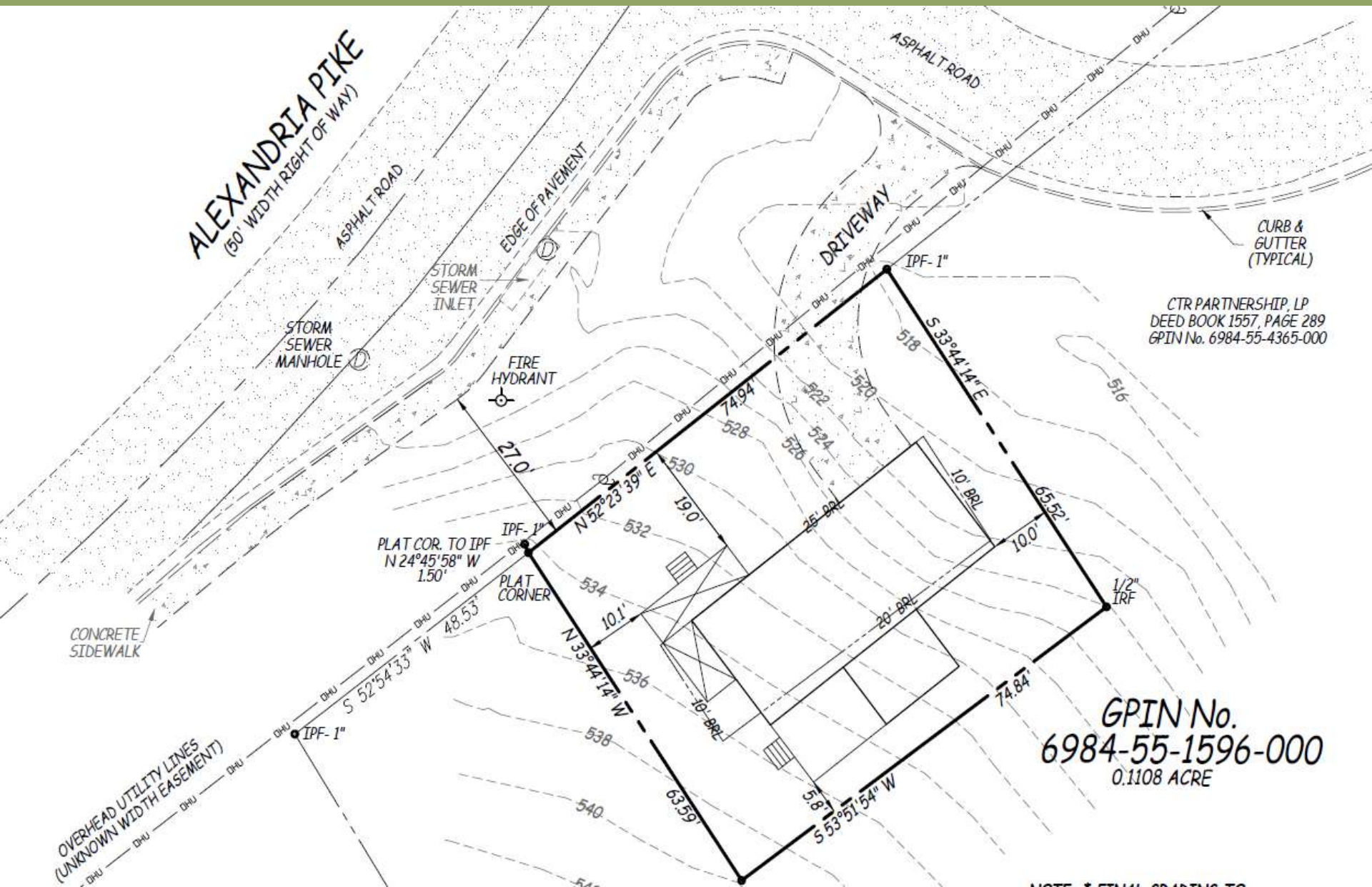
“2-18.4 An outside stairway, unenclosed above and below its steps, may extend four (4) feet into any required side or rear setback, but not nearer to any side lot line than a distance of six (6) feet.”

Plat (Original)



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

Plat (Revised)





Front of Property





Side View





Slope





View from adjacent property service drive



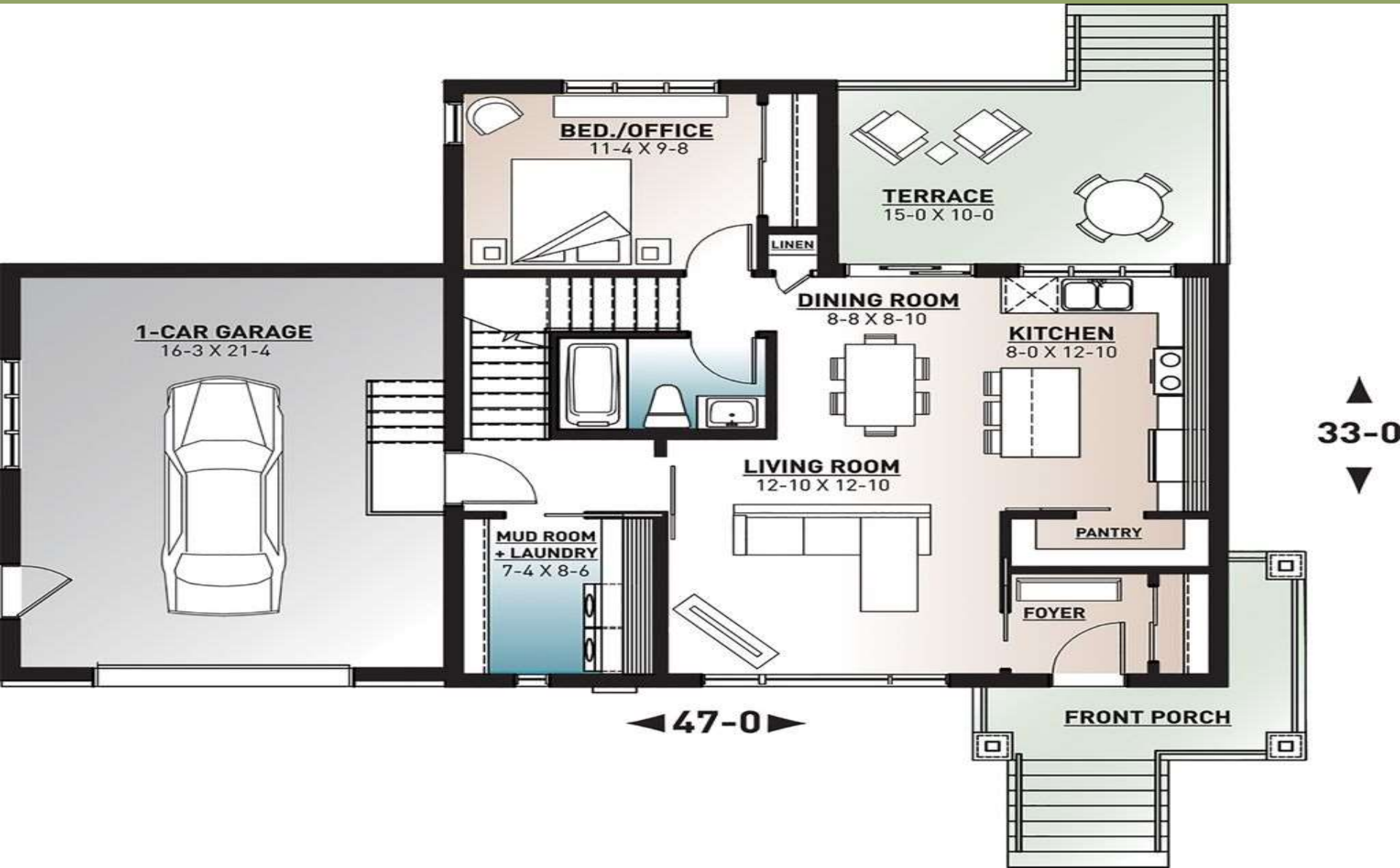
Elevations



Elevations



Floor Plan

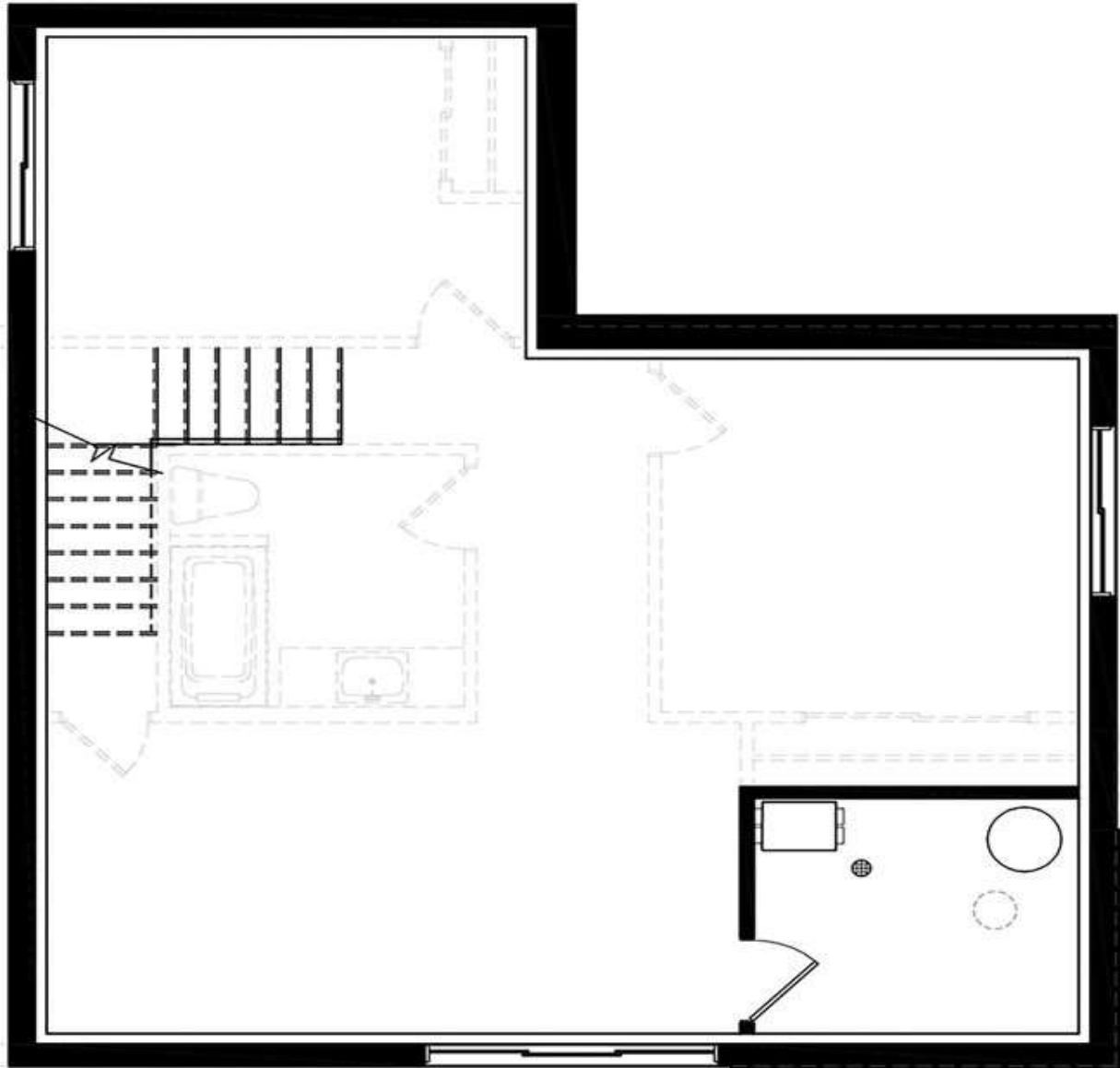


Floor Plan



Floor Plan

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



Definition

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

Criteria

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

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

Criteria

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

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

BZA Concurring Vote

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

Pattern Motion of Approval

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

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

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

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

Pattern Motion of Denial

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

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

Questions.....



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