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# FREDERICK COUNTY BOARD OF APPEALS

## JANUARY 25, 2024

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**TITLE:** Justin Culler

**CASE NUMBER:** B-24-01 (B275809)

**REQUEST:** Requesting approval of a variance to reduce the required 30 ft. rear Building Restriction Line (BRL) by 10 ft., in accordance with Frederick County Code<sup>1</sup> Sections 1-19-3.220 Variances, and 1-19-6.100 Design Requirements. The purpose of the variance is to allow for the construction of an addition to the rear of a single-family residence. Approval of this application would leave a rear BRL of 20 ft.

**PROJECT INFORMATION:**

ADDRESS/LOCATION: 5643 Jefferson Pike, Frederick MD, 21703  
TAX MAP/PARCEL: Tax Map 76, Parcel 0129, Size .92 Acres  
ZONE: (A) Agricultural  
REGION: Frederick  
WATER/SEWER: NPS/NPS  
COMP. PLAN/LAND USE: Agricultural/Rural

**APPLICANT/REPRESENTATIVES <sup>2</sup>:**

APPLICANT: Justin Culler  
OWNER: Justin Culler  
ENGINEER: VanMar and Associates  
ARCHITECT: N/A  
ATTORNEY: N/A

**STAFF:** Michael Paone, Zoning Planner

**RECOMMENDATION:** Based on the findings and conclusions in the staff report, Staff finds that the proposed 10 ft. variance to a 30 ft. rear building restriction line in order to construct an addition to a single-family residence, complies with Section 1-19-3.220 (Variance), and Section 1-19-6.100 (Design Standards) of the Frederick County Code.

**ATTACHMENTS:**

**Attachment 1: Aerial Location Map**  
**Attachment 2: Variance Map**  
**Attachment 3: Comprehensive Plan Map**  
**Attachment 4: Environmental Map**  
**Attachment 5: Zoning Map**

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<sup>1</sup> Unless otherwise specified, all statutory references in this document are to the Frederick County Code.

<sup>2</sup> The term Applicant refers to both the Representative and Property Owners.

## **Background**

The property zoning is Agricultural (A), and the required setbacks for this property are front – 40', side – 10', rear – 30'. The lot is approximately 114 ft., front to back and the existing dwelling is approximately 30 ft. long, front to back.

The Applicant is requesting a 10 ft. variance to a 30 ft. rear building restriction line to construct an addition to a single-family residence, in accordance with Section 1-19-3.220 Variances, and Section 1-19-6.100 Design Standards. If approved, the variance would result in a 20 ft. rear building restriction line.

### **Sec. 1-19-3.220 General Criteria - Variance:**

- (A) The Board of Appeals may authorize a variance in height, lot area and yard regulations.

**The Applicant states that they understand this requirement. The Applicant is requesting a variance to the rear Building Restriction Line (BRL), in order to construct an addition to a single-family dwelling.**

- (B) An application for a variance shall be filed with the Board of Appeals only after refusal of zoning approval or an adverse determination has been issued by the Zoning Administrator.

**The Applicant states that the County Zoning staff directed him to file with the Board of Appeals. Zoning staff met with the Applicant and stated that a variance through the BOA was the only way to obtain approval for their request.**

- (C) The Board of Appeals shall not grant a variance unless and until a public hearing is held and all of the following criteria are met:

**The hearing is scheduled for January 25, 2023.**

- (1) First, the Board of Appeals shall find that special conditions and circumstances exist which are unique to the land or structure involved and which are not applicable to other lands or structures in the same district.
- (2) Upon making this finding the Board of Appeals shall also find that the following criteria are met
  - (a) That the special conditions and circumstances do not result from the actions of the applicant; and

**The Applicant states that the conditions and circumstances are not the result of actions taken by the property owner. The conditions are the narrow lot and the house located so close to the rear BRL. This lot is very narrow, front to back. The house as situated, is only 6 ft., from the rear building restriction line and allows for no addition without a variance.**

- (b) The literal interpretation of the provisions of Chapter 1-19 of the Frederick County Code would result in unreasonable hardship and deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of Chapter 1-19; and

**The Applicant states that literal interpretation of Chapter 1-19 would not allow for any addition that meets the family's need. Adding on to the left or right, does not fit based on the existing design of the home.**

- (c) That granting the variance will not confer on the applicant any special privilege that is denied by Chapter 1-19 of the Frederick County Code to other lands or structures in the same district; and

**The Applicant states that the granting of this variance would not confer any special privilege for them. This lot is unique in that it is very narrow, front to back, and does not allow for any addition to the back of the existing dwelling.**

- (d) That the granting of the variance will be in harmony with the general purpose and intent of Chapter 1-19 of the Frederick County Code and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

**The Applicant states that the granting of this variance is in harmony with the general purpose and intent of the Section 1-19-3.220. The granting of the variance will not be injurious to others or detrimental to the public. This variance will have no adverse impact on the surrounding community.**

- (D) In granting the variance, the Board of Appeals may prescribe appropriate conditions and safeguards in conformity with Chapter 1-19 of the Frederick County Code. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, is a violation of Chapter 1-19.

**The Applicant states that they understand this requirement and will comply with any conditions prescribed by the Board.**

- (E) Under no circumstances shall the Board of Appeals grant a variance to allow a use not permissible under the terms of Chapter 1-19 of the Frederick County Code in the zone involved, or any use expressly or by implication prohibited by the terms of Chapter 1-19 in said zone.

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

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

**The Applicant states that they are not requesting the approval of a variance to a nonconforming structure.**

- (G) A decision of the Board of Appeals granting a variance will be void 2 years from date of approval by the Board of Appeals unless the use is established, a building permit is issued, construction has begun, or final site development plan approval has been received in accordance with the terms of the decision. Upon written request submitted to the Zoning Administrator no later than 1 month prior to the expiration date and for good cause shown by the applicant, a 1-time extension may be granted by the Zoning Administrator for a period not to exceed 6 months.

**The Applicant states that they understand this requirement and will comply.**

### **RECOMMENDATION**

Based on the findings and conclusions in the staff report, Staff finds that the proposed 10 ft. variance to a 30 ft. rear building restriction line in order to construct an addition to the existing single-family dwelling, complies with Section 1-19-3.220 (Variance), and Section 1-19-6.100 (Design Standards) of the Frederick County Zoning Code. Approval of this application would result in a 20 ft. rear building restriction line (BRL).

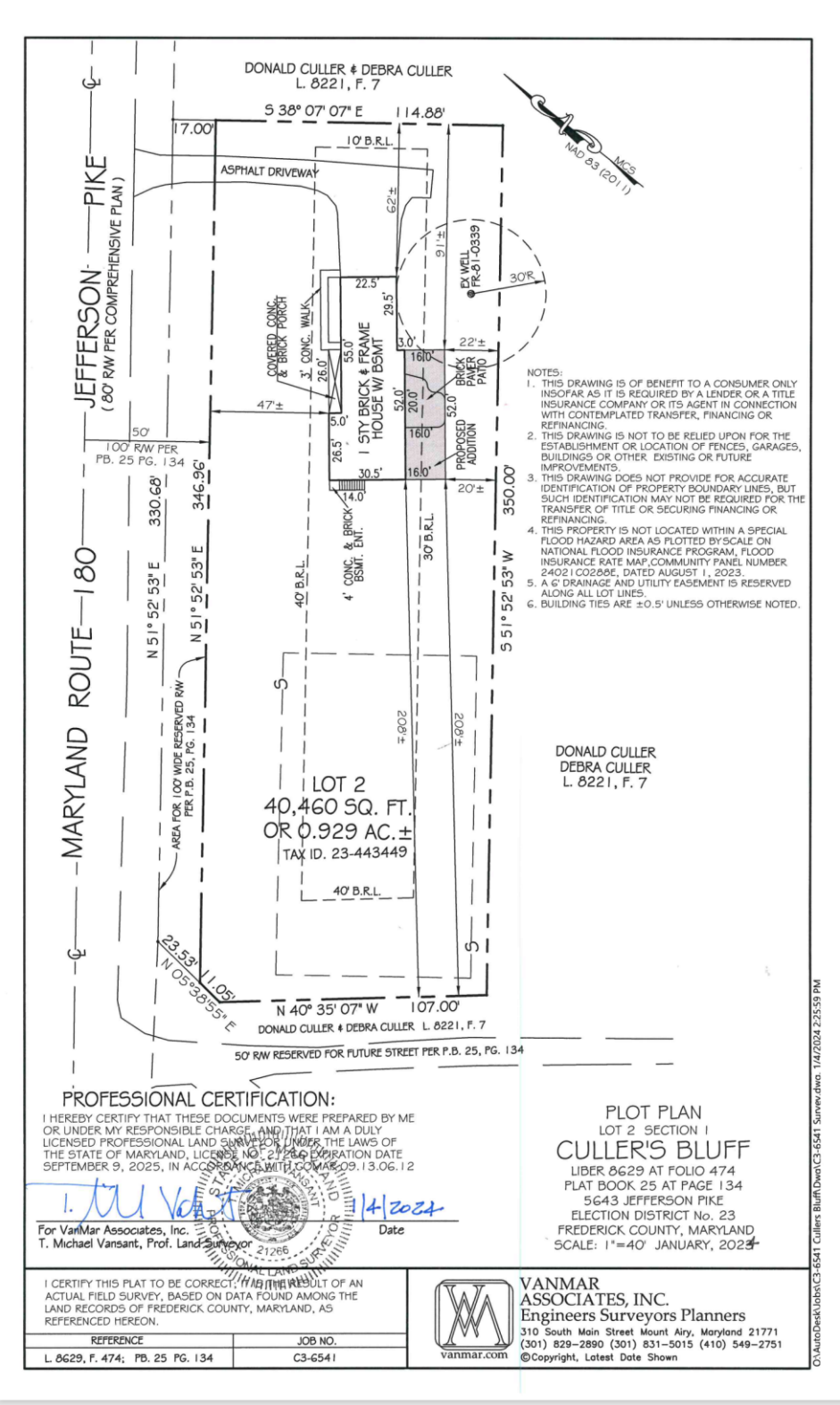
**The Board shall consider whether to grant approval of a variance in accordance with Section 1-19-3.220 and Section 1-19-6-100, of the Frederick County Code.**

**Attachment 1: Aerial Location Map**

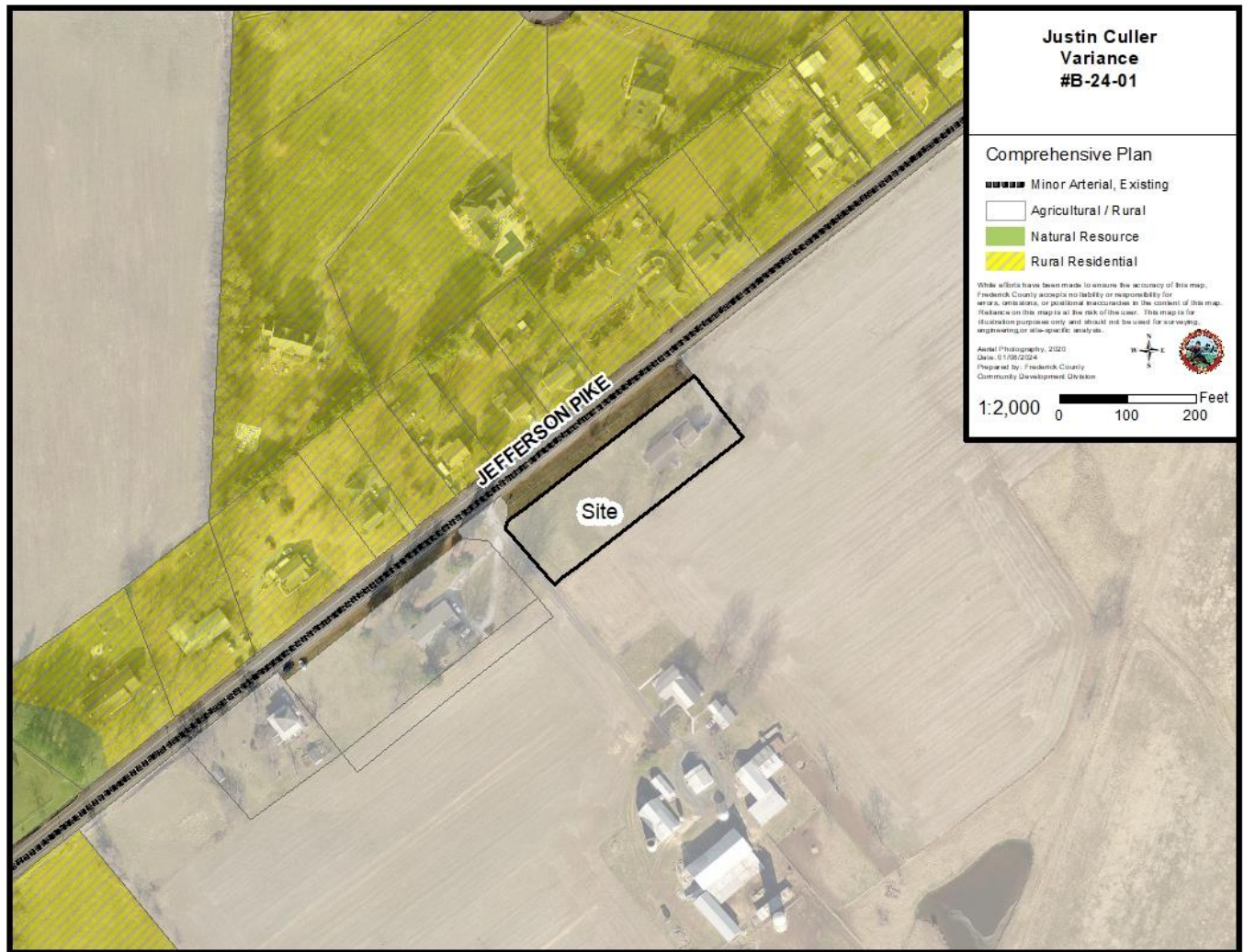




Attachment 2: Variance Map

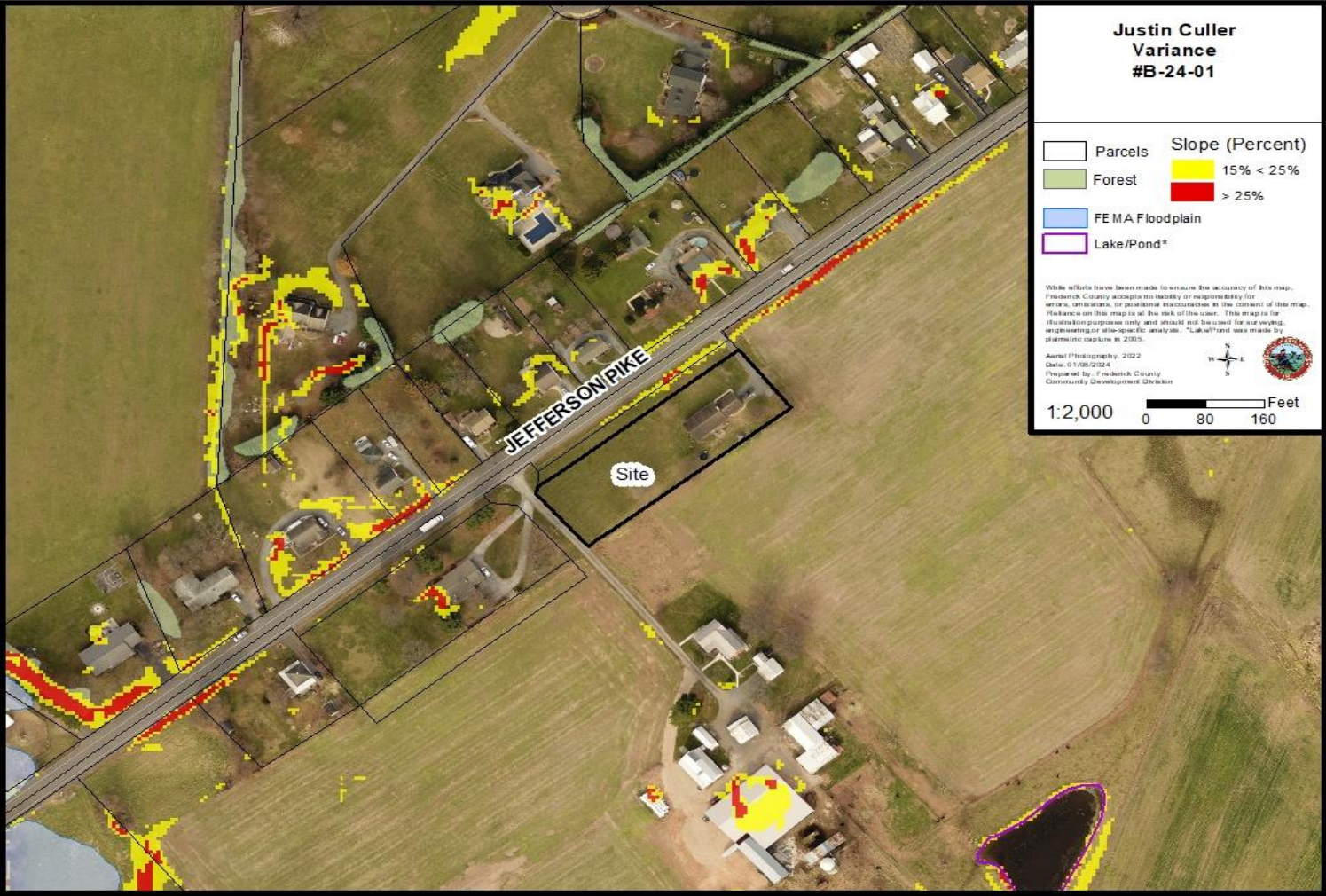


## Attachment 4: Comprehensive Plan Map





**Attachment 5: Environmental Features Map**





**Attachment 6: Zoning Map**

