



FREDERICK COUNTY BOARD OF APPEALS

FEBRUARY 22, 2024

TITLE: 10400 Cook Brothers RD (Variance)

CASE NUMBER: B-24-03 (B276077)

REQUEST: Applicant is proposing a 11.1' variance to a 40 ft. front building restriction line (BRL) to construct a garage addition to a single-family residence in accordance with Frederick County Code Sections 1-19-3.220 Variances, and 1-19-6.100 Design requirements for specific districts. If approved, the variance would create a 28.9' front BRL, rather than the 40' BRL required by the County Code. The property address is 10400 Cook Brothers Road, Ijamsville, MD 21754, consisting of 1.29 acres.

PROJECT INFORMATION:

ADDRESS/LOCATION: 10400 Cook Brothers Road, Ijamsville, MD 21754
TAX MAP/PARCEL: Tax Map 97, Parcel 0239
ZONE: Agricultural (A)
REGION: Urbana
WATER/SEWER: NPS/NPS
COMP. PLAN/LAND USE: Agricultural/Rural

APPLICANT/REPRESENTATIVES¹:

APPLICANT: B&R Design Group
OWNER: Chelsea Onksen and Muise Kyle
ENGINEER: N/A
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 11.1' variance to a 40 ft. front BRL to construct a garage addition to a single-family residence is consistent with the requirements contained in Frederick County Code Sections 1-19-3.220 Variances, and 1-19-6.100 Design requirements for specific districts. If approved, the variance would create a 28.9' front BRL, rather than the 40' BRL required under the County Code.

ATTACHMENTS:

- Attachment 1: Property Plat
- Attachment 2: Variance Plan
- Attachment 3: Aerial
- Attachment 4: Comprehensive Plan
- Attachment 5: Environmental Features
- Attachment 6: Zoning

¹ The term Applicant refers to both the B&R Design Group and the Property Owner(s).

Note: All code references herein are to the Frederick County Code, unless otherwise specified.

Background

The property is zoned Agricultural (A). The required setbacks are front – 40 ft., side – 10 ft., and rear 30 ft. The Applicant is looking to increase storage room within the existing garage without taking away room for his automobiles.

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

Under the provisions of Section 1-19-3.220(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:

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

- (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 Applicant states that the hearing is scheduled for February 22, 2024.

- (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.

The Applicant states that special conditions and circumstances exist that are unique to the lot in that the lot is a corner lot, and therefore has two front setbacks, and the location of the existing septic area prevents the construction of the garage towards the rear of the lot. The Applicants do not have the option of detaching the garage and placing the structure towards Prices Distillery Road because Frederick County Code Section 1-19-4.300.1 (A) titled “Location”, states: “No accessory building will be erected within the required front yard...” .

- (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 special conditions and circumstances are not the result of any action taken by the Applicant, as the lot was legally created and recorded on May 27, 1994. Also, the owner of the lot was required to dedicate 0.32 acres of land to Frederick County for the realignment of Cooks Brothers Road in accordance with the record plat provided as part of this staff report.

(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 terms of Chapter 1-19; and

The Applicant states that without the variance from the BOA, they would not be able to build a garage addition to the existing house due to the location of the existing septic area and wells. The Owners have reviewed alternate locations which were not acceptable, because the County Code does not allow accessory structures in the front yard and due to impacts to the septic area.

(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 upon them any special privilege. They are requesting to be allowed to increase the size of the garage to size in a manner that will eliminate any impact on the existing well and septic area.

(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 will be in harmony with Chapter 1-19 of the Frederick County Code and would have no detrimental effect on any adjoining properties. Constructing an addition to the existing garage on this lot will have no negative impact on the surrounding community or public welfare. It will look like a normal garage in the 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 Applicants state that they understand this requirement and will comply.

(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 Applicants state 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) of the Frederick county Code, 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 Applicants state that they are not requesting 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.

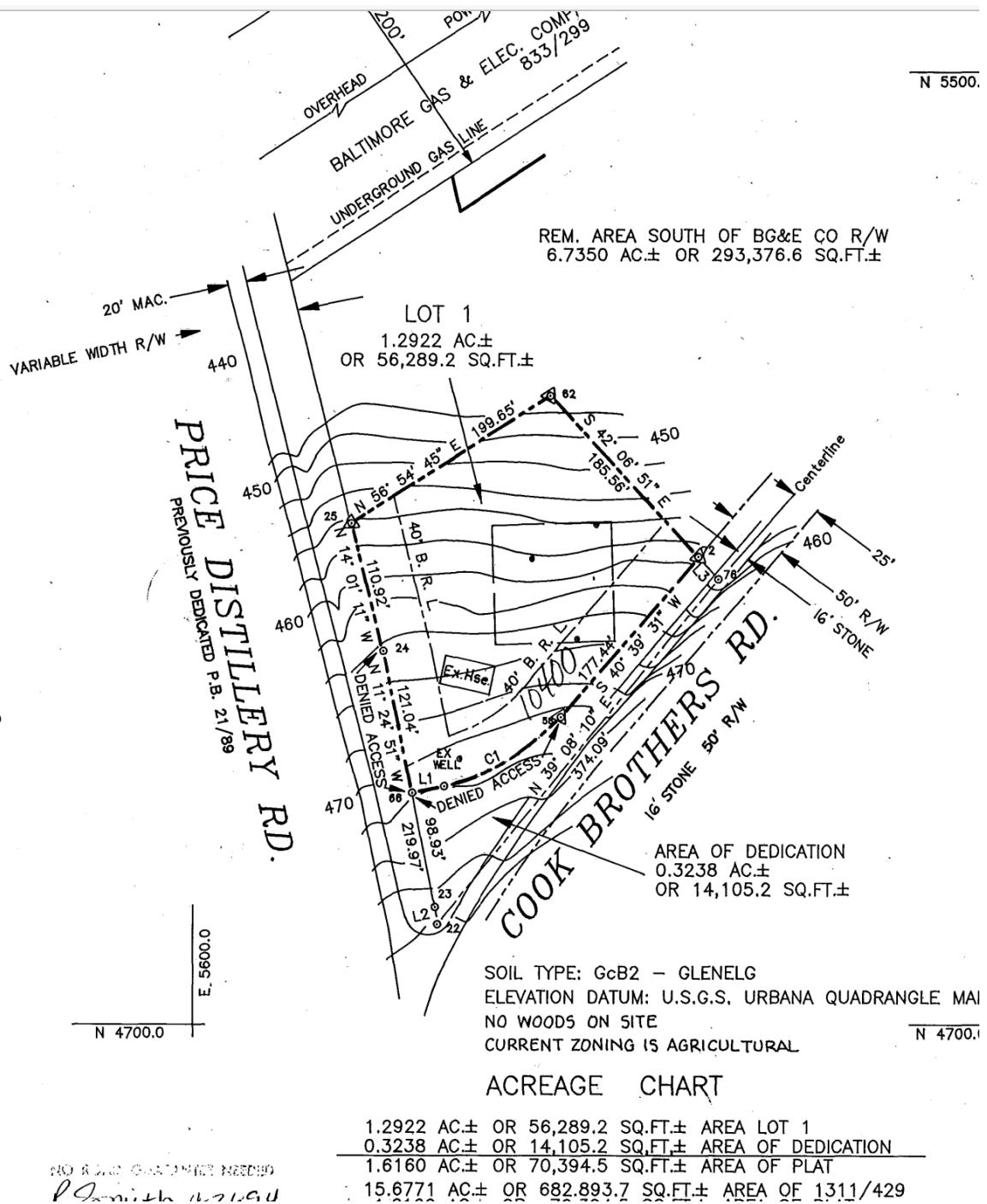
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RECOMMENDATION

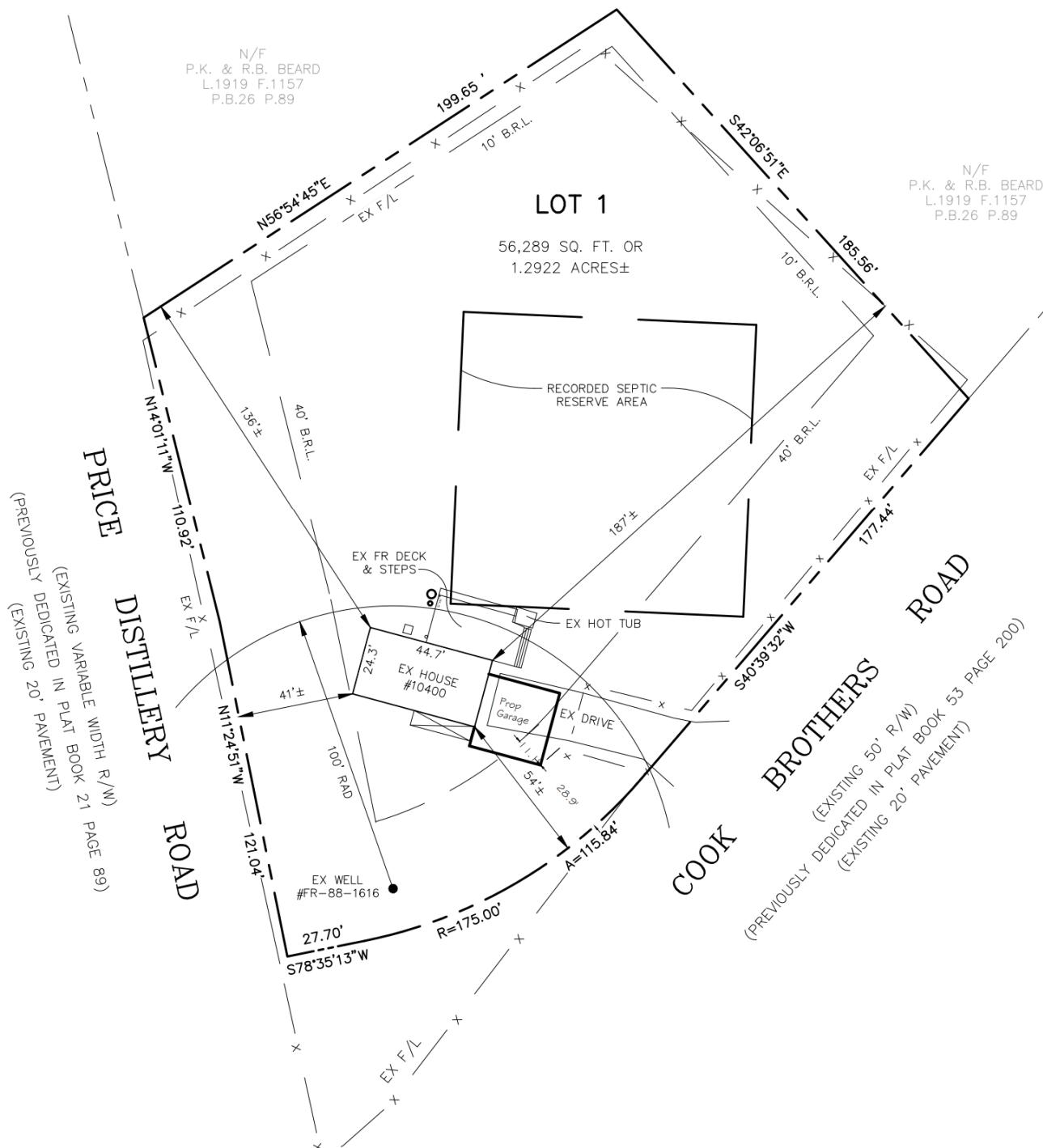
Based on the findings and conclusions in the staff report, Staff finds that the proposed 11.1' variance to a 40 ft. front building restriction line to construct a garage addition to a single-family residence, is consistent with the requirements contained in Sections 1-19-3.220 Variances, and 1-19-6.100 Design requirements for specific districts. If approved, the variance would create a 28.9' front building restriction line, rather than the required 40' BRL.

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Attachment 1: Property Plat



Attachment 2: Variance Plan



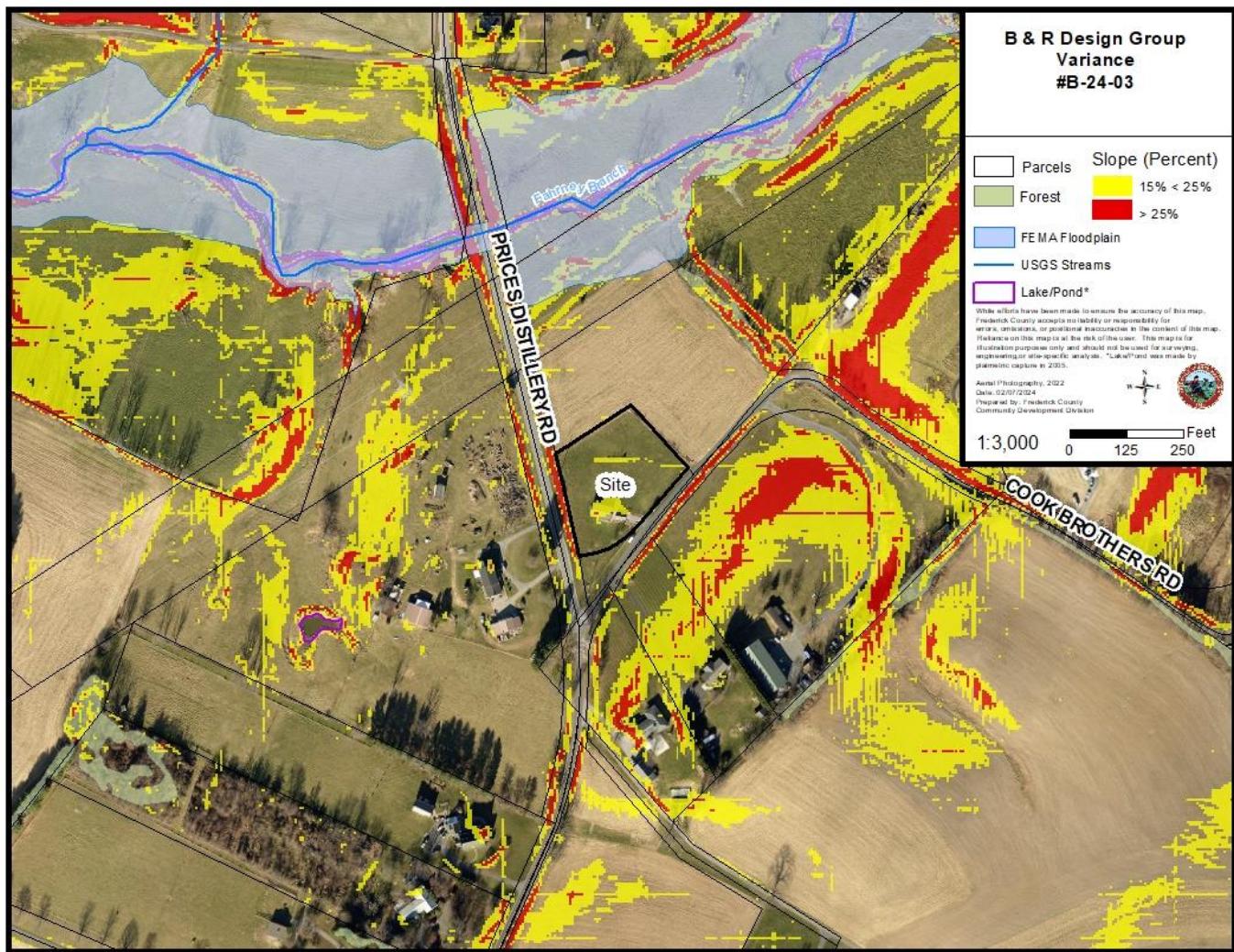
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