



FREDERICK COUNTY BOARD OF APPEALS

March 28, 2024

TITLE: Gregory Stitz
CASE NUMBER: B-24-09 (B275912)

REQUEST: Requesting approval of a variance of 29.52', thereby reducing the required 40' Front Building Restriction Line (BRL) to 10.48', in accordance with Frederick County Code. Sections 1-19-3.220 Variances, and 1-19-6.100 Design Requirements. The purpose of the variance is to allow for an existing accessory structure to remain. Approval of this application would leave a front BRL of 10.48'.

PROJECT INFORMATION:

ADDRESS/LOCATION: 13813 Liberty Road
TAX MAP/PARCEL: Tax Map 61, Parcel 0184, Size 1.68 Acres
ZONE: (A) Agricultural
REGION: Walkersville
WATER/SEWER: NPS/NPS
COMP. PLAN/LAND USE: Agricultural/Rural

APPLICANT/REPRESENTATIVES ¹:

APPLICANT: Gary and Joanne Stitz
OWNER: Gary and Joanne Stitz
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 29.52' variance to a 40 ft. front building restriction line in order to allow for the continued use of an existing accessory structure, as a work/hobby shop, complies with Sections 1-19-3.220 (Variance), and 1-19-6.100 (Design Standards) of the Frederick County Code. Approval of this Application would result in a 10.48 ft. front building restriction line (BRL).

ATTACHMENTS: Attachment 1: Property Location Map
Attachment 2: Variance Map
Attachment 3: Picture of Accessory Structure
Attachment 4: Aerial Map
Attachment 5: Comprehensive Plan Map
Attachment 6: Zoning Map
Attachment 7: Environmental Features Map

¹ The term Applicant refers to both the Representative and the Property Owner(s).

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

Background

The property zoning is (A) Agriculture and the required setbacks for this property are front – 40', side – 10', rear – 30'.

The Applicant is requesting a 29.52' variance to a 40' front building restriction line in order to construct an accessory structure (garage), 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 10.48' front building restriction line. **(Attachments 1 & 2)**

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 Applicants state that they understand this requirement. The Applicants are requesting a variance to the front Building Restriction Line (BRL), in order to allow for the continued use of a shed built by the previous owners without appropriate permits, between 2007 and 2009. This request falls under the purview of the BOA.

- (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 Applicants state that the County Zoning Staff directed them 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 the request they were proposing.

- (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 Applicants state that a public hearing is scheduled for March 28, 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 Applicants state that the conditions and circumstances are unique to their property in that the previous owners built the structure, without permits and within the building setback area and that was not the result of actions taken by the property owner. The accessory structure was built prior to the current owners purchase of this property.

- (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 Applicants state that the conditions and circumstances are not the result of actions taken by the property owner. The Applicant purchased the property after the accessory structure was constructed without permits by a previous owner.

- (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 Applicants state that literal interpretation of Chapter 1-19 deprives the owners of the ability to enjoy a building on their property, that was on the property before they purchased it and was one of the reasons, they purchased the property.

- (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 Applicants state that the granting of this variance would not confer any special privilege for them. Many properties have an accessory structure on their property and that is all this is. The Applicants state that they just want to use it as a personal workshop, and not for business.

- (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 Applicants state 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 Applicants state 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 Applicants state that the requested use of an accessory structure 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 Applicants state that they are not requesting to expand or otherwise add anything to the accessory structure that increases its size.

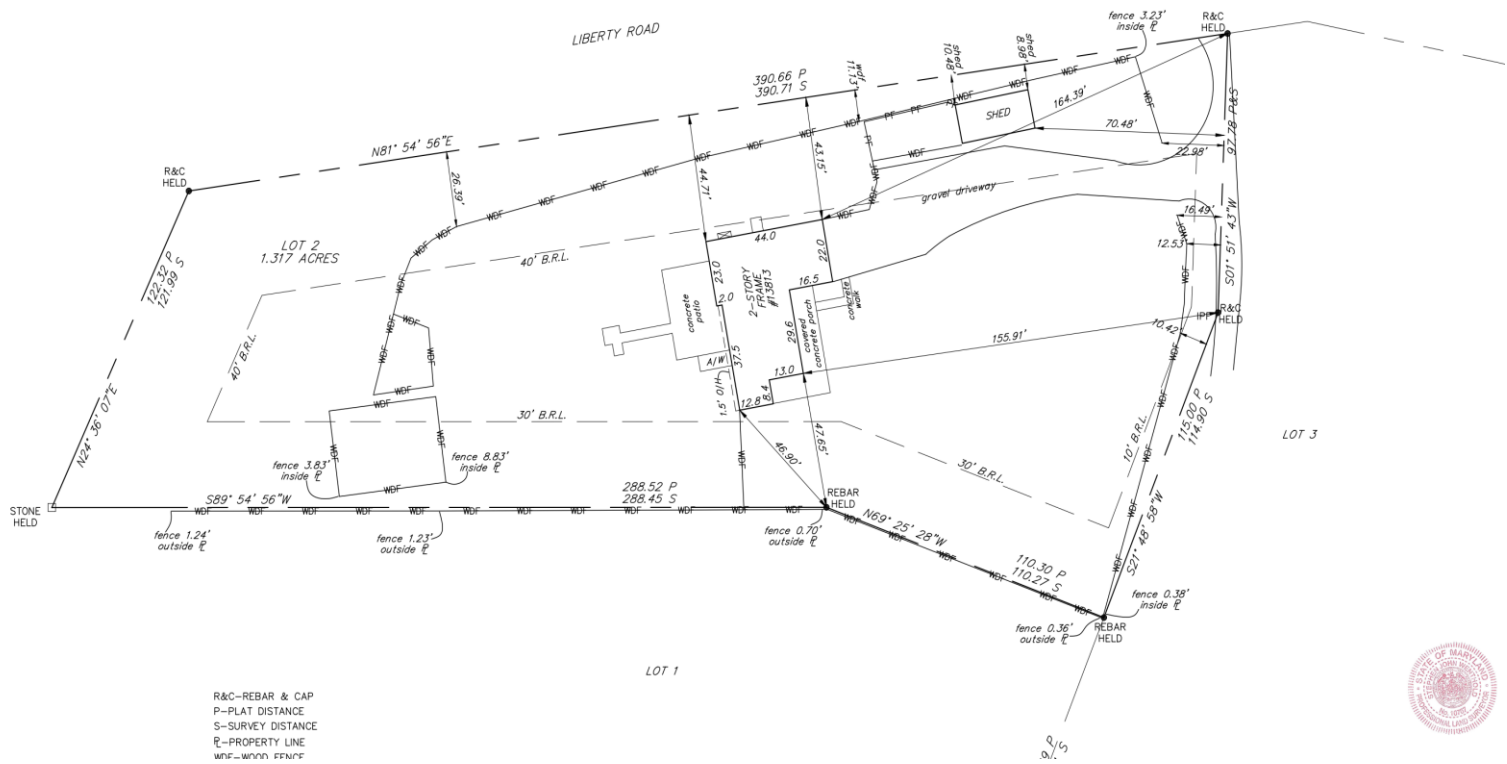
- (G) A decision of the Board of Appeals granting a variance will be void 2 years from date of approval by the Board of Appeals unless the use is established, a building permit is issued, construction has begun, or final site development plan approval has been received in accordance with the terms of 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 Applicants state that they understand this requirement and will comply.

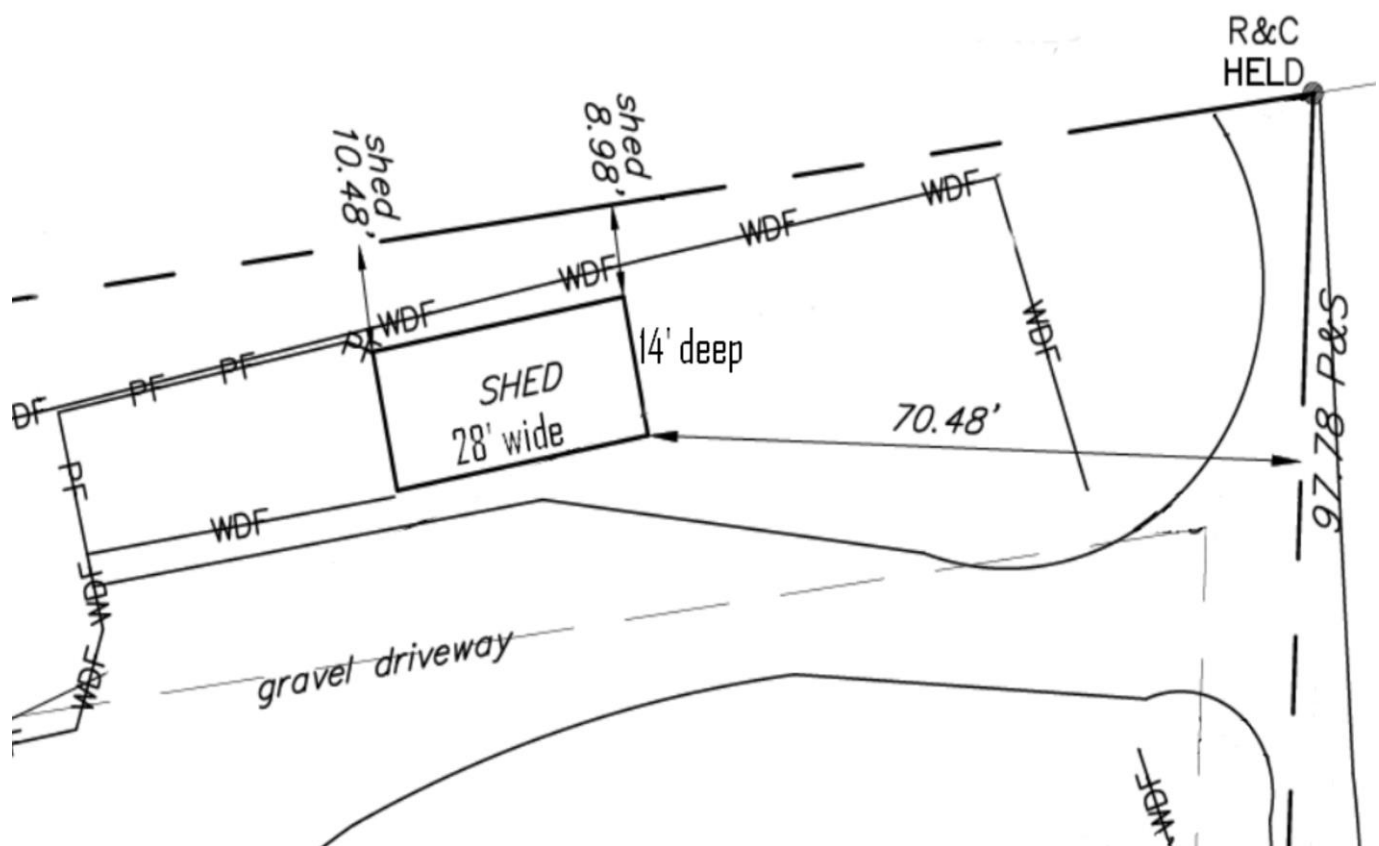
Based on the findings and conclusions in the staff report, Staff finds that the proposed 29.52' variance to a 40' front building restriction line in order to use the existing accessory structure as workshop, is consistent with the intent of Sections 1-19-3.220 (Variance), and 1-19-6.100 (Design Standards) of the Frederick County Zoning Code. Approval of this application would result in a 10.48' front building restriction line (BRL).

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.

Attachment 1: Property Location Map



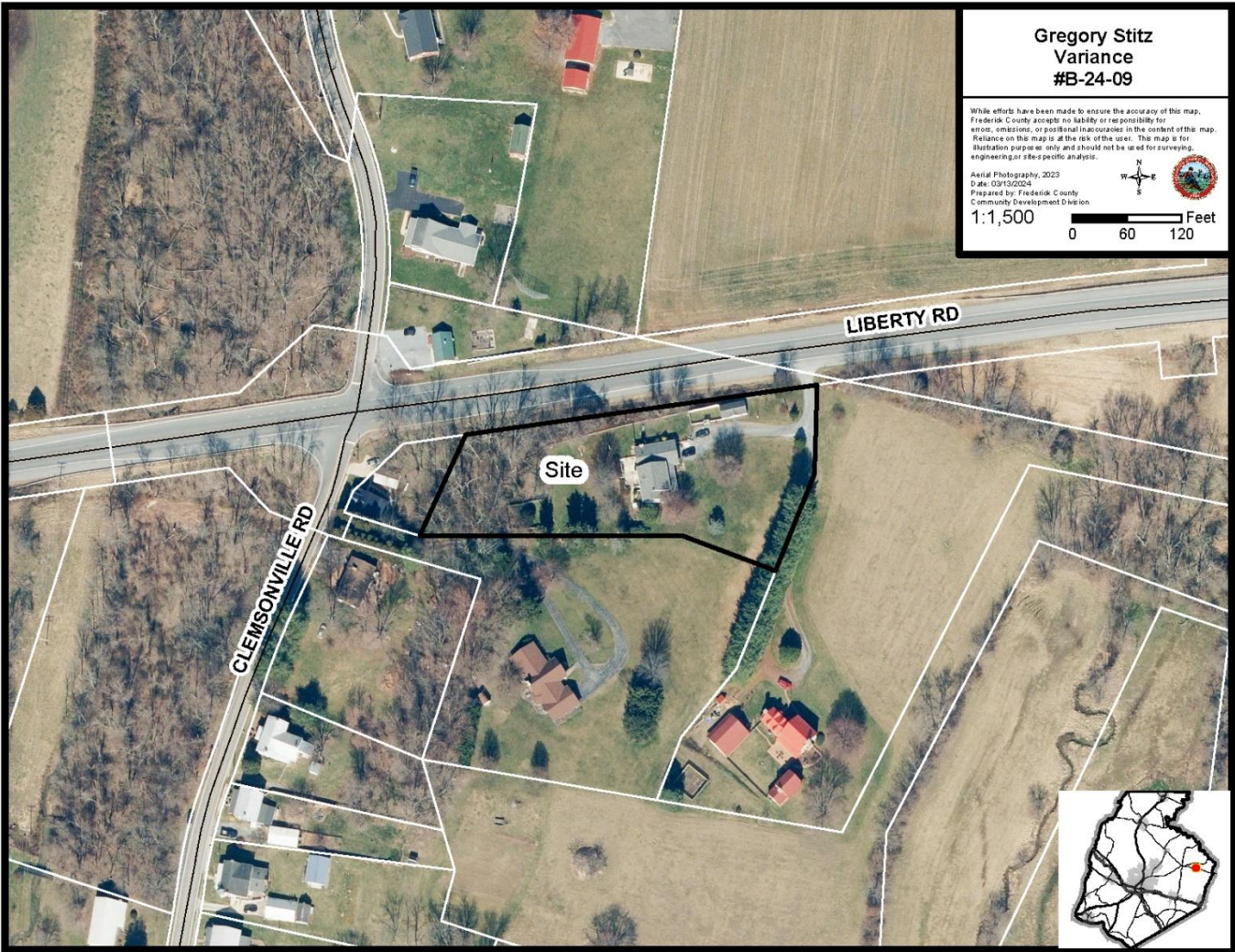
Attachment 2: Variance Map



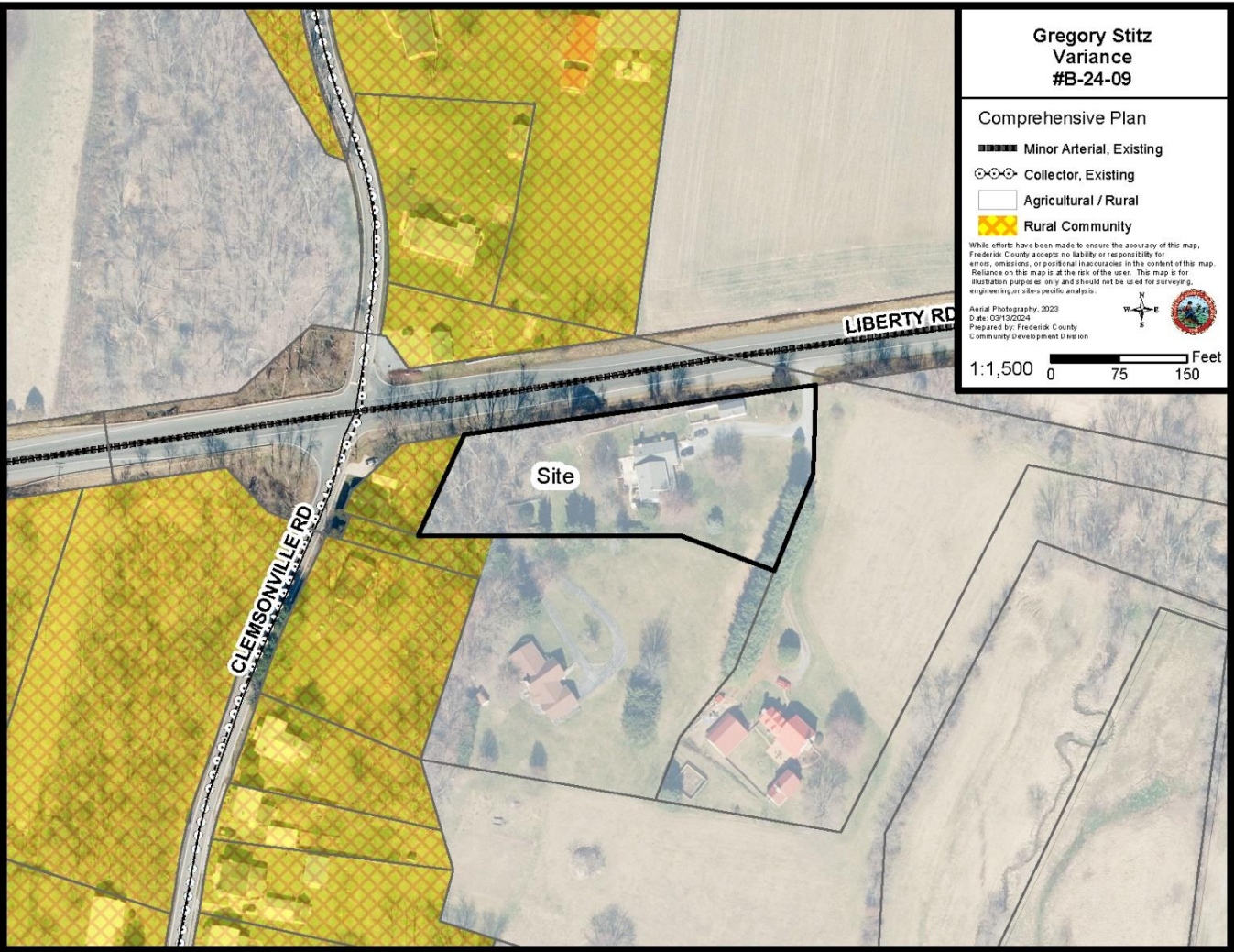
Attachment 3: Picture of Shed



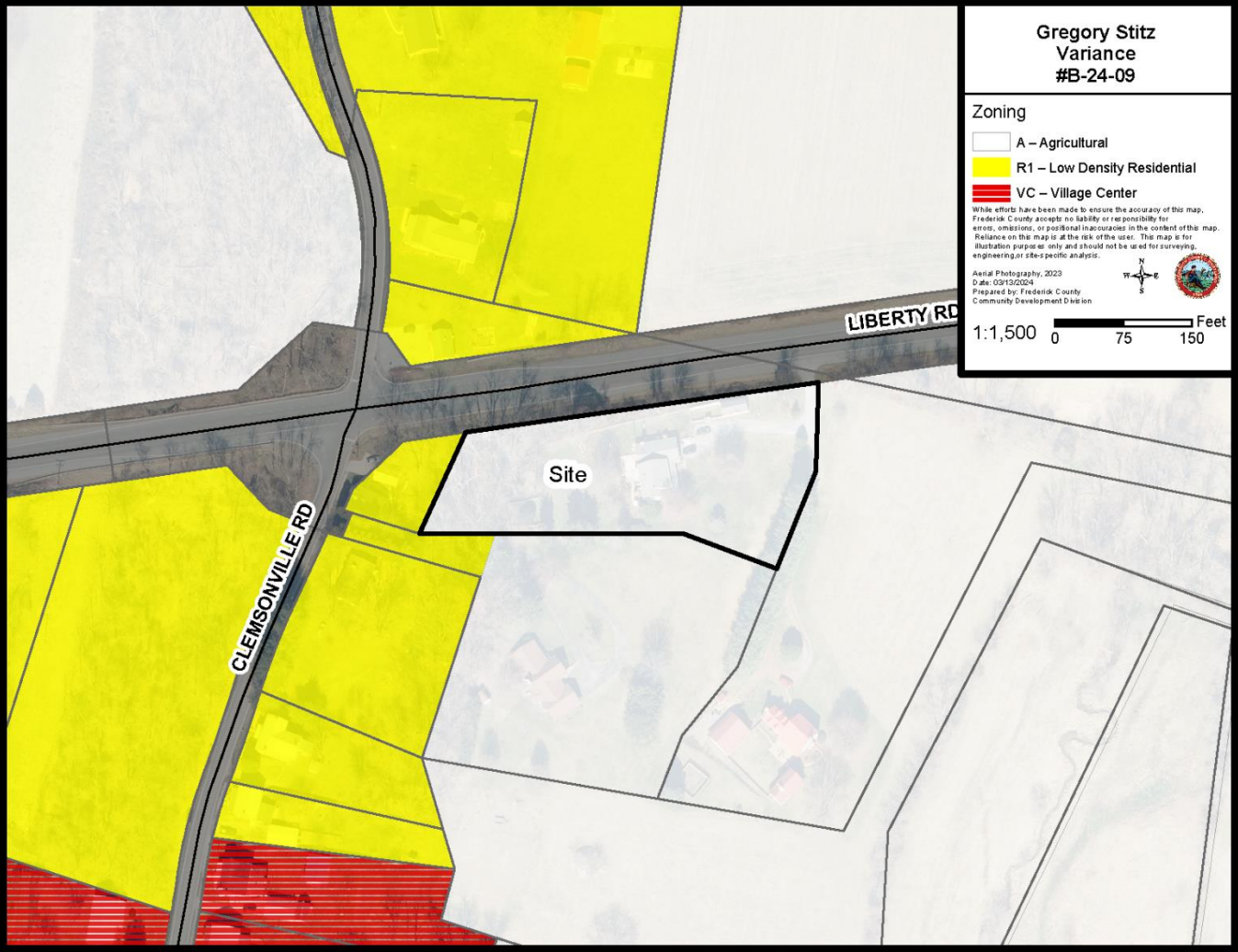
Attachment 4: Aerial Map



Attachment 5: Comprehensive Plan Map



Attachment 6: Zoning Map



Attachment 7 : Environmental Features Map

