



# FREDERICK COUNTY BOARD OF APPEALS

## November 21, 2024

Joanne Cary, Sill Engineering Group (Owner Representative)  
Samuel H. Rogers III (Owner)  
Front Yard Variance

**CASE NUMBER:** B-24-22 (B276951)

**REQUEST:** Requesting approval for a variance to reduce the required front yard building restriction line (BRL) of 50' to 25', in order to construct a house addition to the front of the home, in accordance with Sections 1-19-3.220 Variances and 1-19-6.100 Design Standards, of the Frederick County Code, on a property located at 3351 Mar-Lu-Ridge Road, Jefferson, MD 21755 (the "Property").

### PROJECT INFORMATION:

ADDRESS/LOCATION: 3351 Mar-Lu-Ridge Road, Jefferson MD, 21755  
TAX MAP/PARCEL: Tax Map 93, Parcel 0153  
ZONE: (RC) Resource Conservation  
REGION: Brunswick  
WATER/SEWER: NPS/NPS  
COMP. PLAN/LAND USE: Natural Resources

### APPLICANT/REPRESENTATIVES:

APPLICANT: Joanne Cary, Sill Engineering Group (Owner Representative)  
OWNER: Samuel H. Rogers III  
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 has no objection to approval of a variance to reduce the required front yard building restriction line (BRL) of 50' to 25', in order to construct a house addition to the front of the home, in accordance with Sections 1-19-3.220 Variances and 1-19-6.100 Design Standards of the Frederick County Code.

### Attachments:

Attachment #1: Property Site Plan Showing Variance Request  
Attachment #2: Front and Rear Elevation Views  
Attachment #3: Side Elevation Views  
Attachment #4: Aerial Map  
Attachment #5: Zoning Map  
Attachment #6: Environmental Features Map  
Attachment #7: Comprehensive Plan Map

<sup>1</sup> 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 required setbacks for this Resource Conservation (RC) zoned Property are front 50', side 50', and rear 50'. The Property is 23.5 acres in size. The Applicant is requesting approval for a variance from the front yard building restriction line from 50' to 25', in order to construct a house addition for a pool and pool house to the front of the principal residential dwelling, in accordance with Sections 1-19-3.220 Variances and 1-19-6.100 Design Standards, of the Frederick County Code.

The primary structure was built in 1991, and the site consists of 23.50 acres. Originally, the site was designed to include a pool house and pool, and the site was excavated to include these improvements. The pool and pool house construction was not completed at the time of the house construction. In keeping the addition location in the same disturbed area that was part of the original design, the addition extends 25' beyond the front BRL. Because the majority of the site is comprised of steep slopes, this location prevents encroaching into those areas to the greatest extent possible while still providing the Best Management Practices required for grading and storm water management.

**General Criteria - Variance:**

Under the provisions of Section 1-19-3.220(C) of the County Zoning Ordinance, 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.

**The Applicant is requesting relief from the front yard building restriction line in order to reduce the front (BRL) from 50' to 25'.**

(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.

**Frederick County Zoning Staff refused to approve plans for the addition to the home and directed the Applicant to apply for a variance request.**

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

**The BOA Hearing is scheduled for Thursday, November 21, 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 the rear yard is not feasible for the garage and pool as there are steep slopes and established forest directly behind the proposed addition location and would encroach into sensitive forest areas.**

(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 are not the result of any actions taken**

by the Applicant. The home was built in 1991, and the area proposed to be disturbed was to include a pool. The need for a variance is based on the steep slopes on the Property that cannot be disturbed in the (RC) zoning district.

(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 of the Frederick County Code; and

**The Applicant states that without the approved variance from the BOA, the Owner would have an unreasonable hardship and be deprived of the rights commonly enjoyed by other properties in the same district. Some of those neighbors have pools and garages, so granting this variance will not provide any special privilege. The Owner has had two total hip replacements and suffers from chronic lung disease. The Owner requires very low impact exercise and daily swimming is ideal. Additionally, letters of support from the neighbors have been received and were submitted with this application.**

(c) That the 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 on this Property. The BOA receives many applications for variance approvals each year and has approved many of them for a variety of reasons and uses, including for health reasons. The site location is such that it is within a mountainous and rural wooded area with just a few neighbors. Some of those neighbors have pools and garages, so granting this variance will not provide any special privilege.**

(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 this requirement is understood, and believes that the addition and pool will not be injurious to the neighborhood as the location is not in a neighborhood but in a mountainous and rural wooded area. It is very remote, and the addition will have no negative impact on the public welfare.**

(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 of the Frederick County Code.

**The Applicant understands 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 of the Frederick County Code in said zone.

**The Applicant states that a house addition is a permissible use subject to BOA approval and site plan approval.**

(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 the proposed house addition will not be nonconforming, and will be allowed, subject to BOA approval.**

(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.

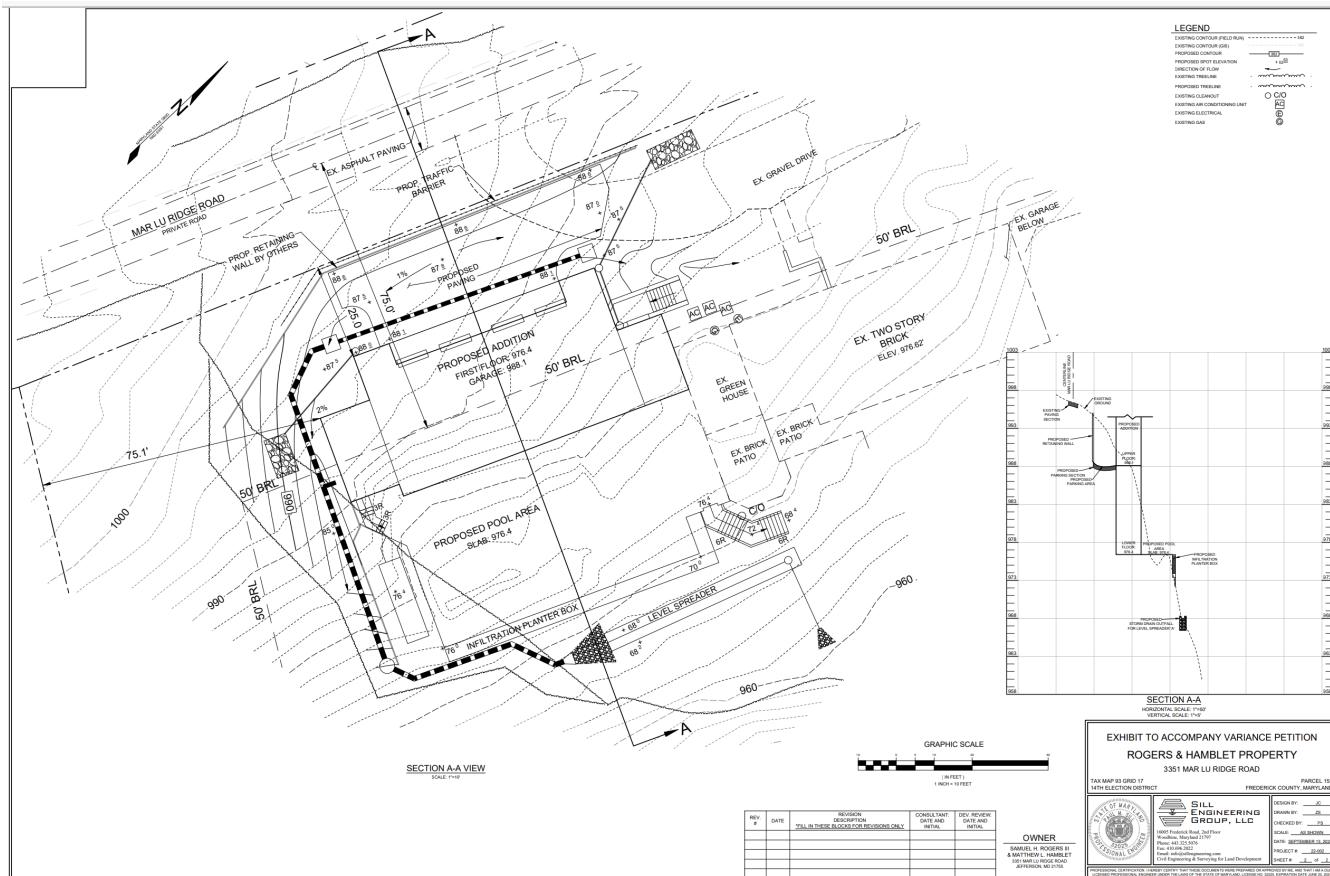
**The Applicant understands this requirement and will comply.**

### **Recommendation**

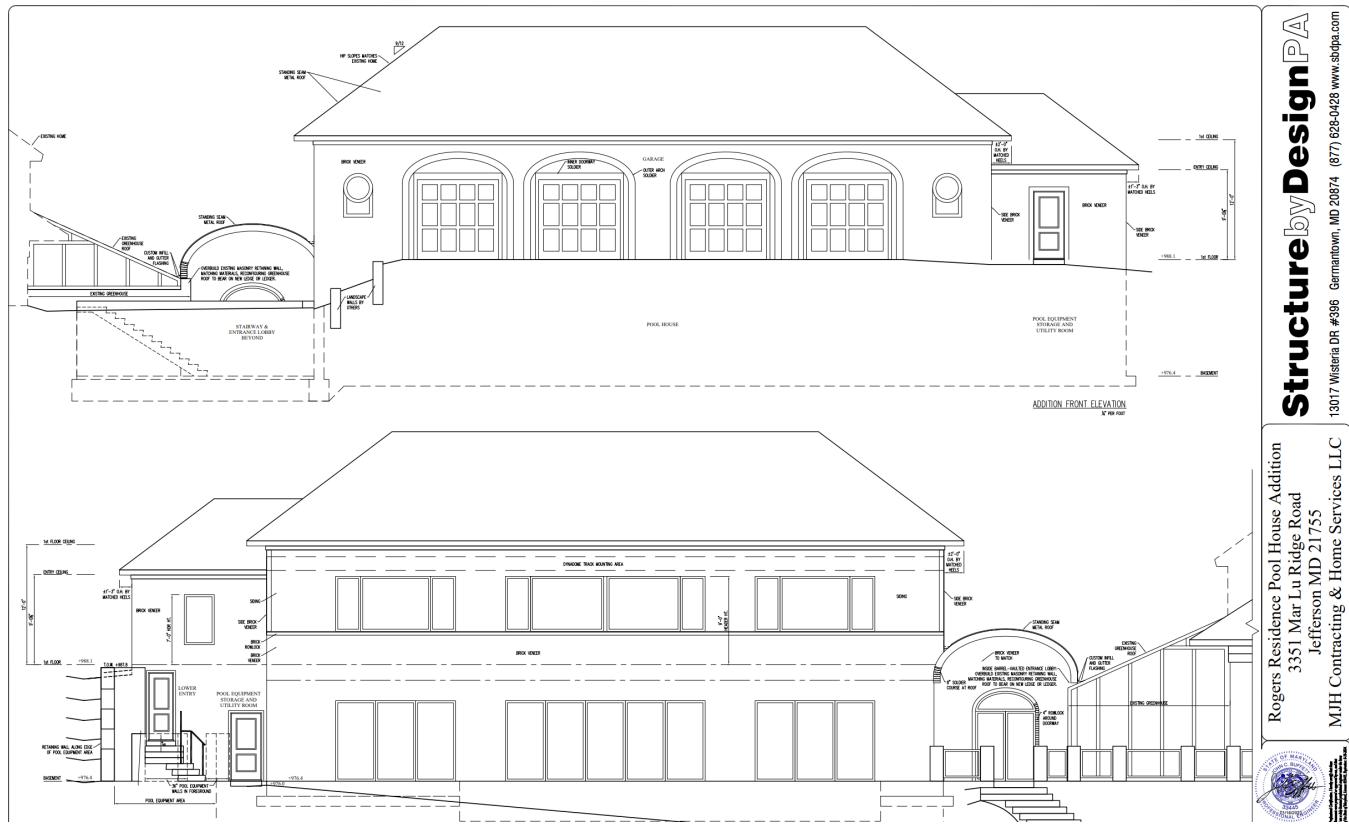
Based on the Application, and on the findings and conclusions in the staff report, staff has no objection to the approval for a variance to reduce the required front yard building restriction line (BRL) of 50' to 25', in order to construct a house addition to the front of the home, in accordance with Sections 1-19-3.220. Variances and 1-19-6.100 Design Standards, of the Frederick County Code.

**1-19-3. 220.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.**

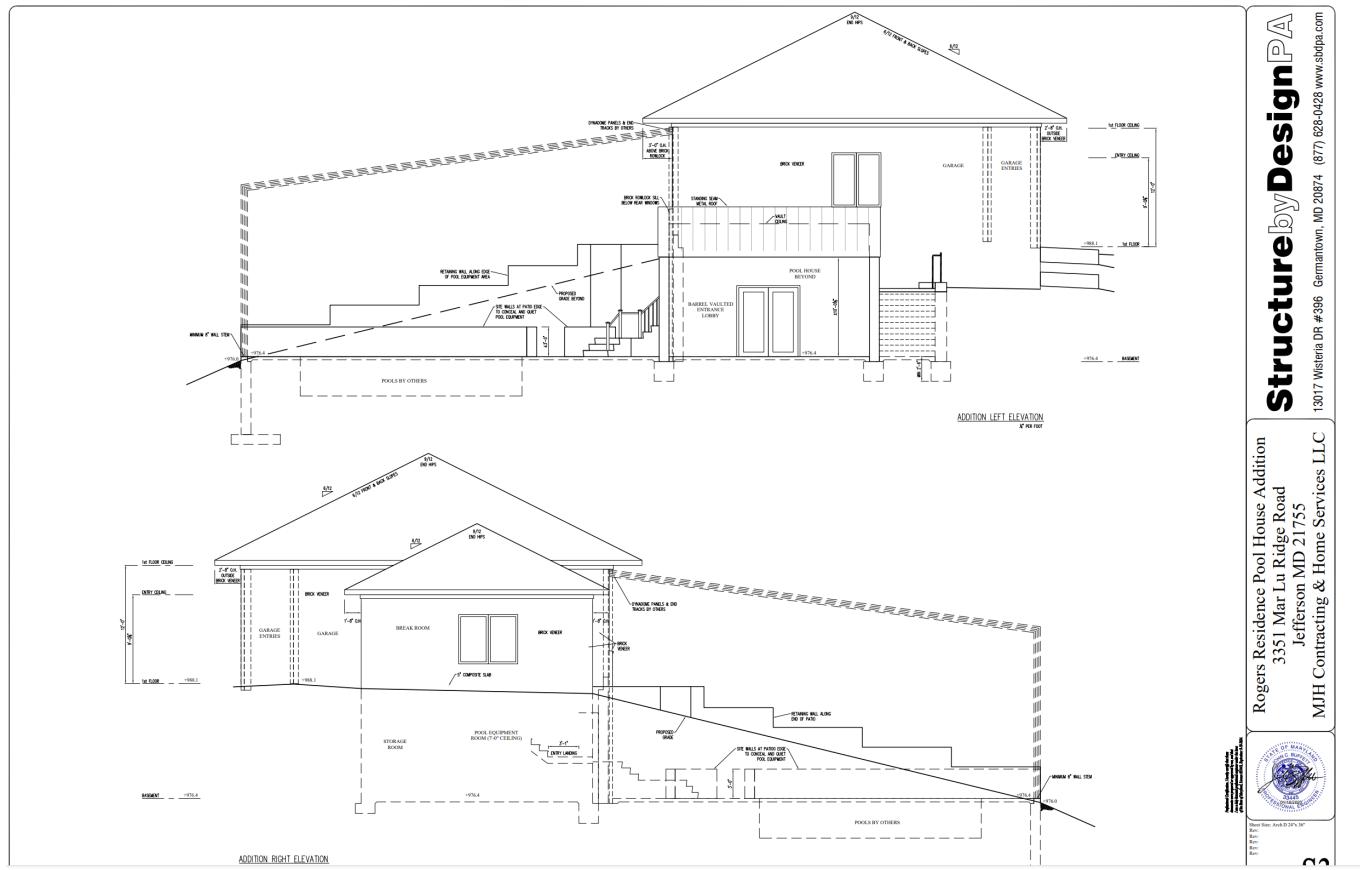
## **Attachment #1: Property Site Plan Showing Variance Request**



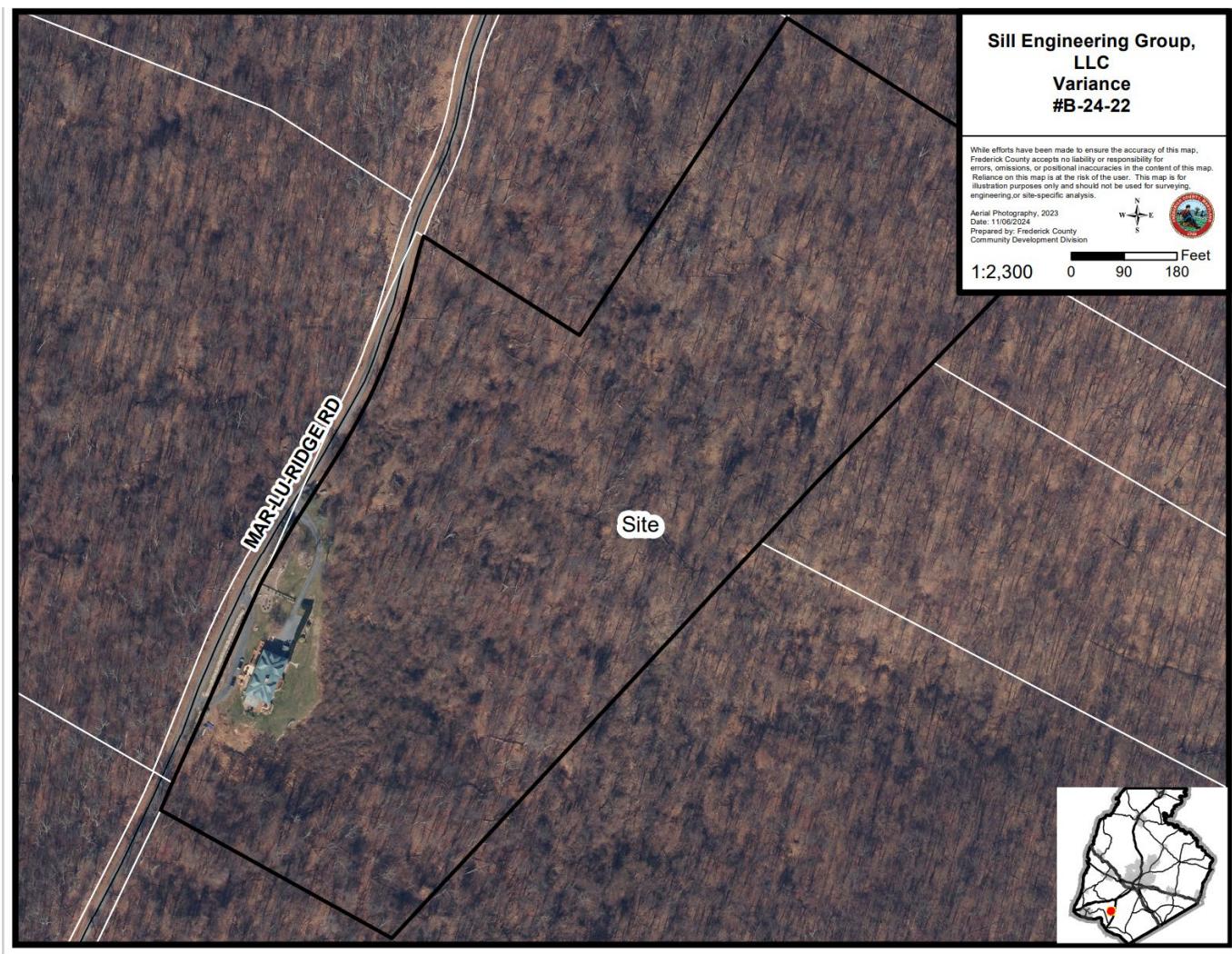
## Attachment 2: Front and Rear Elevation Views



### **Attachment 3: Side Elevation Views**



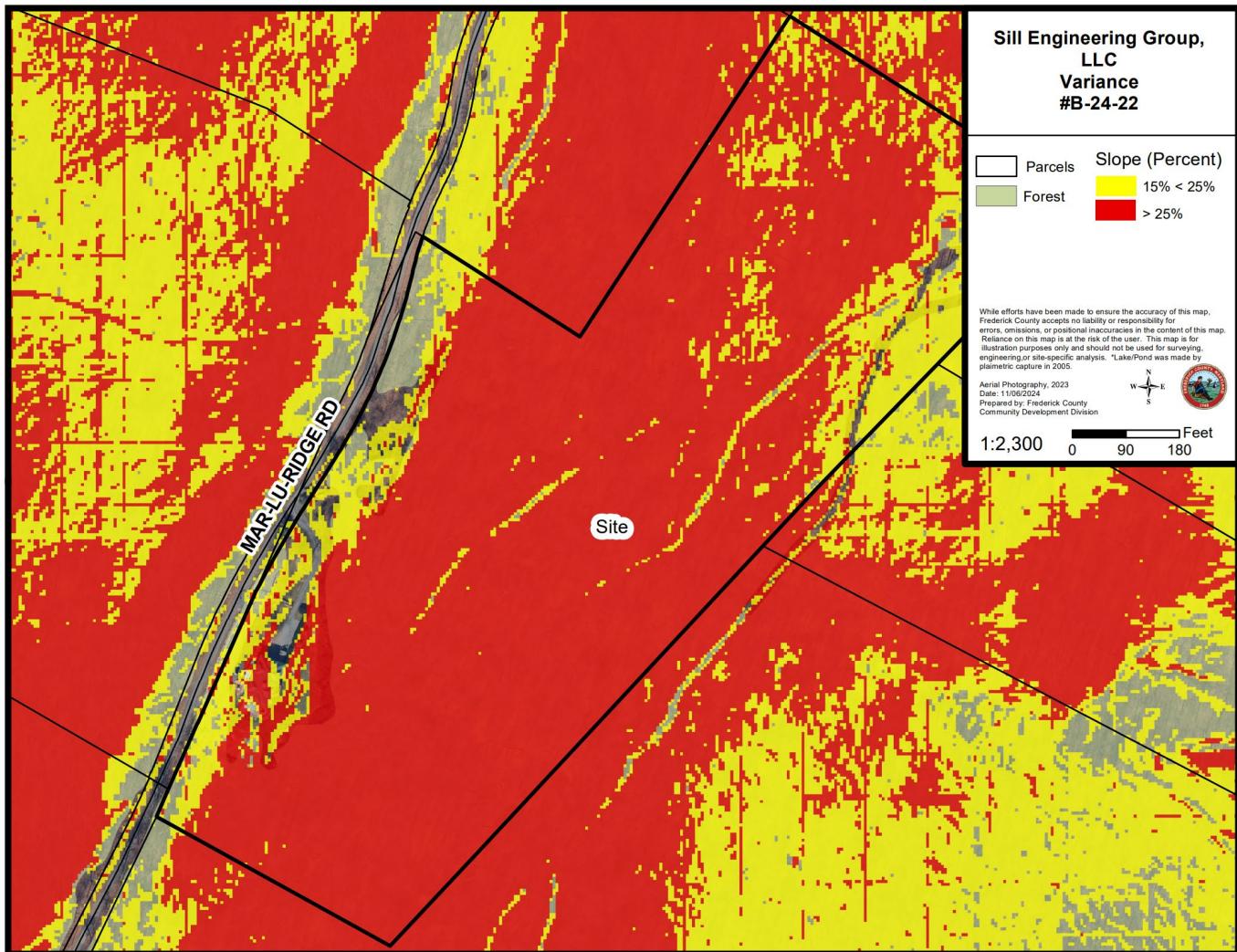
## Attachment 4: Aerial Map



## Attachment 5: Zoning Map



## Attachment 6: Environmental Features Map



## Attachment 7: Comprehensive Plan Map

