



# FREDERICK COUNTY BOARD OF APPEALS

## April 24, 2025

**TITLE:**

**Michael Wheeler – Owner**  
**Michael Muren - Representative**

**CASE NUMBER:**

**B-25-05 (B277319)**

**REQUEST:**

Requesting approval for a 10' variance from the 50' front yard building restriction line and a 40' variance from the 50' side building restriction line to construct a single-family residence on .64 Acres of Resource Conservation (RC) zoned land, 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 3 Kehne Road, Frederick, MD 21701 (the "Property").

**PROJECT INFORMATION:**

ADDRESS/LOCATION: 3 Kehne Road, Frederick, MD 21701  
TAX MAP/PARCEL: Tax Map 066, Parcel 0000, Tax ID#12295200 ,  
ZONE: (RC) Resource Conservation  
REGION: Frederick  
WATER/SEWER: NPS/NPS  
COMP. PLAN/LAND USE: Natural Resources

**APPLICANT/REPRESENTATIVES:**

APPLICANT: Michael Wheeler  
OWNER: Michael Wheeler  
ENGINEER: Michael Muren, Builders National Cooperative  
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 10' variance from the 50' front yard building restriction line and a 40' variance from the 50' side building restriction line to construct a single-family residence on .64 Acres of Resource Conservation (RC) zoned land, in accordance with Sections 1-19-3.220 Variances and 1-19-6.100 Design Standards, of the Frederick County Code, on the property located at 3 Kehne Road, Frederick, MD 21701 (the "Property").

**Attachments:**

**Attachment #1: Plot Plan with Proposed Setbacks**  
**Attachment #2: Existing Building Envelope**  
**Attachment #3: Aerial Map**  
**Attachment #4: Zoning Map**  
**Attachment #5: Comprehensive Plan Map**  
**Attachment #6: Environmental Features 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 .64 acres in size. The Applicant is requesting approval of a 10' variance from the 50' front yard building restriction line and a 40' variance from the 50' side building restriction line to construct a single-family residence in accordance with Sections 1-19-3.220 Variances and 1-19-6.100 Design Standards, of the Frederick County Code.

## **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 states that he is requesting relief from the prescribed yard regulations. Specifically, he is requesting relief of 10' in order to reduce the designated front BRL from 50' to 40' and relief of 40' from the north side lot line in order to reduce the side BRL from 50' to 10'.**

- (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 Frederick County Zoning Staff directed the Applicant to the Board of Appeals (BOA) as the only way to obtain the variances needed for approval of a building permit to construct a single-family residence on this Property.**

- (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 Applicant states that the BOA Hearing is scheduled for Thursday, April 24, 2025.**

- (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 size of the Property is unusually small for a lot in the Resource Conservation (RC) zone and the required setbacks. The subject lot was created before the property was zoned Resource Conservation.**

- (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 he did not take any action or cause any action to be taken that resulted in the size of the lot. This lot was created prior to the RC zoning district being created in Frederick County. The creation of the RC zoning district and its application to this lot makes the construction of any single-family residence virtually impossible due to the required setbacks.**

- (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 a variance being granted the buildable footprint would be unduly burdensome resulting in an atypical building footprint. The RC zoning district setbacks were not created for small lots and in part, this is why today's RC zoning requires new lots to be a minimum of 10 acres.**

- (c) That the granting of 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 the Property. Attachment #2 illustrates how difficult it would be to build any single-family residence on the Property without the requested variances.**

- (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 granting a variance would merely allow the Applicant to build a home in line with other typical homes in the surrounding area and with the same zoning. The single-family residence proposed is consistent with the RC zoning district in that this use is allowed, and the residence will be constructed within the RC zoning district regulations.**

- (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 states that he understands this requirement and will comply with any conditions or safeguards prescribed by the BOA.**

- (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 the proposed use is permissible and not prohibited under Chapter 1-19 of the 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 the proposed house will not be nonconforming, if this Application is approved.**

(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.

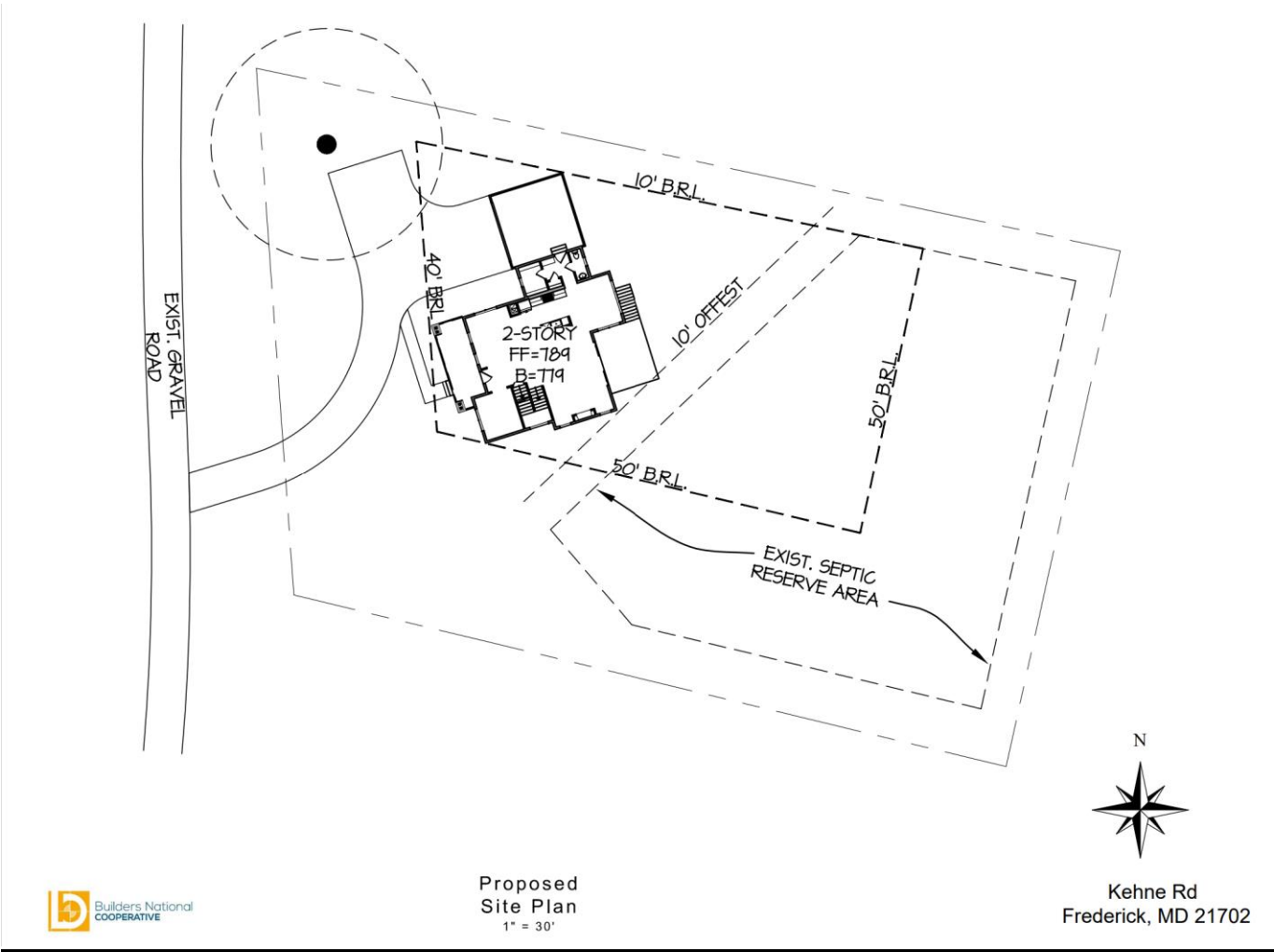
**The Applicant states that he understands this requirement and will comply.**

### **Recommendation**

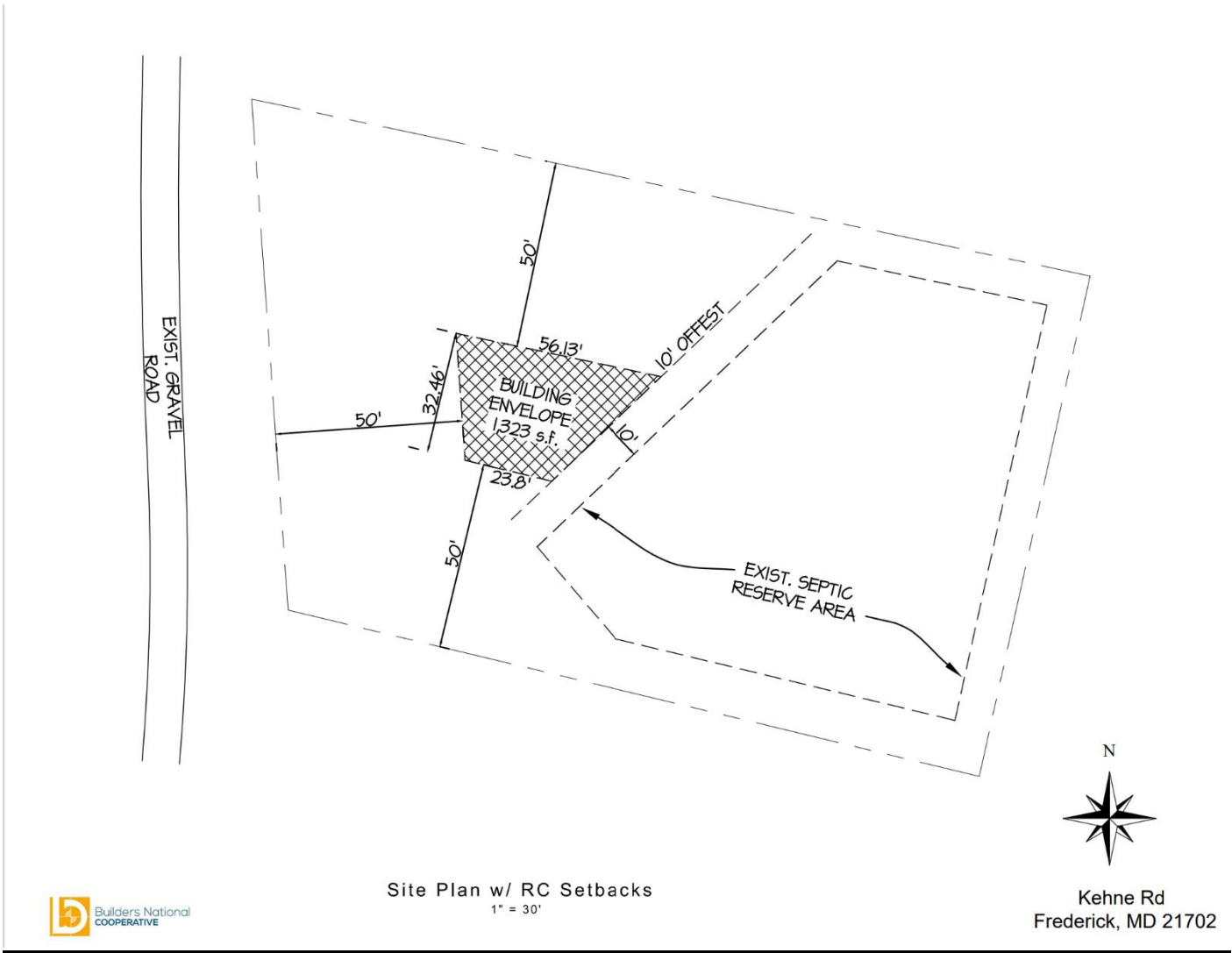
Based on the Application, and on the findings and conclusions set forth herein, staff has no objection to the approval for a 10' variance from the 50' front yard building restriction line and a 40' variance from the 50' side building restriction line to construct a single-family residence on .64 acres of Resource Conservation (RC) zoned land, 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: Plot Plan with Proposed Setbacks**



**Attachment #2: Existing Building Envelope**

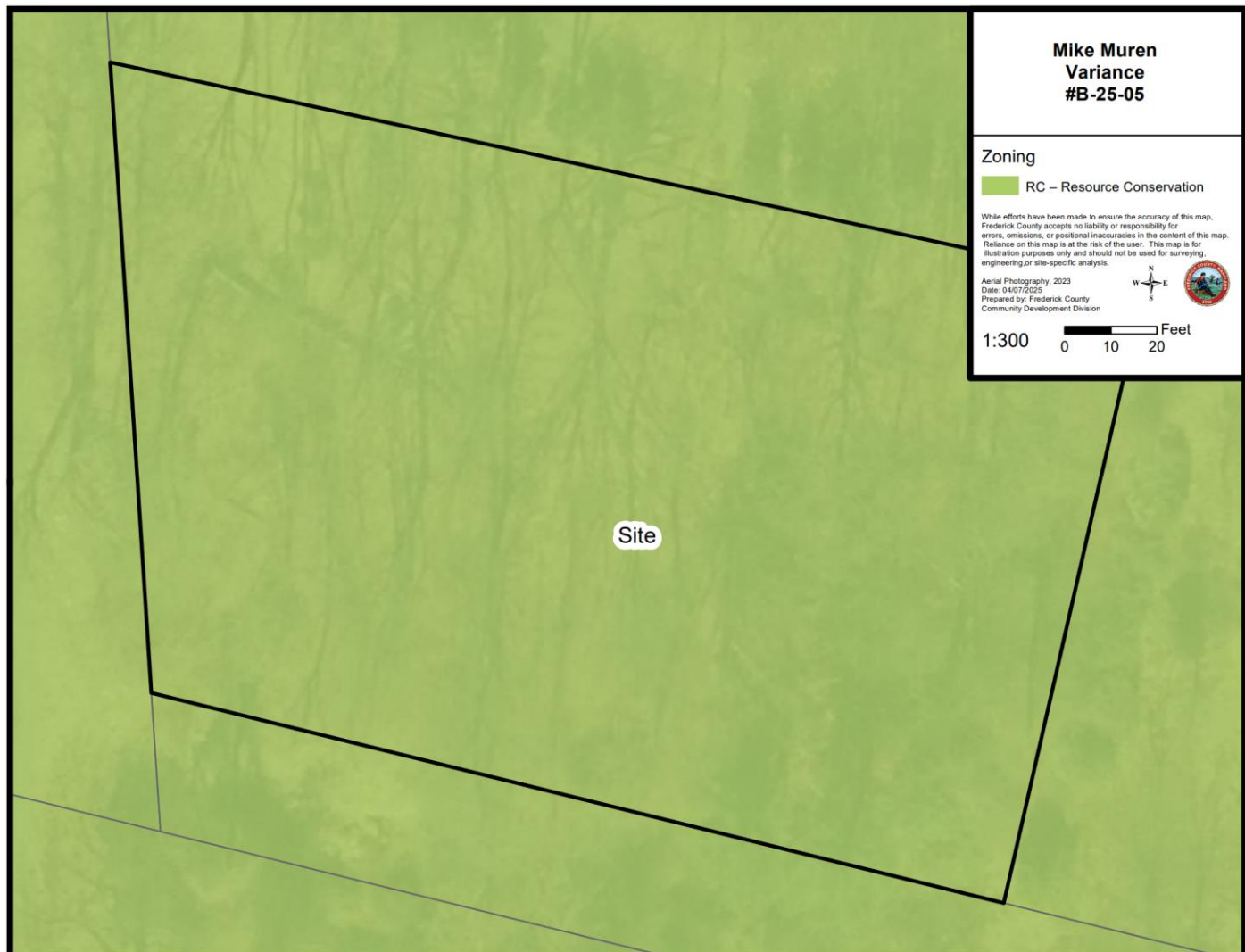




**Attachment #3: Aerial Map**

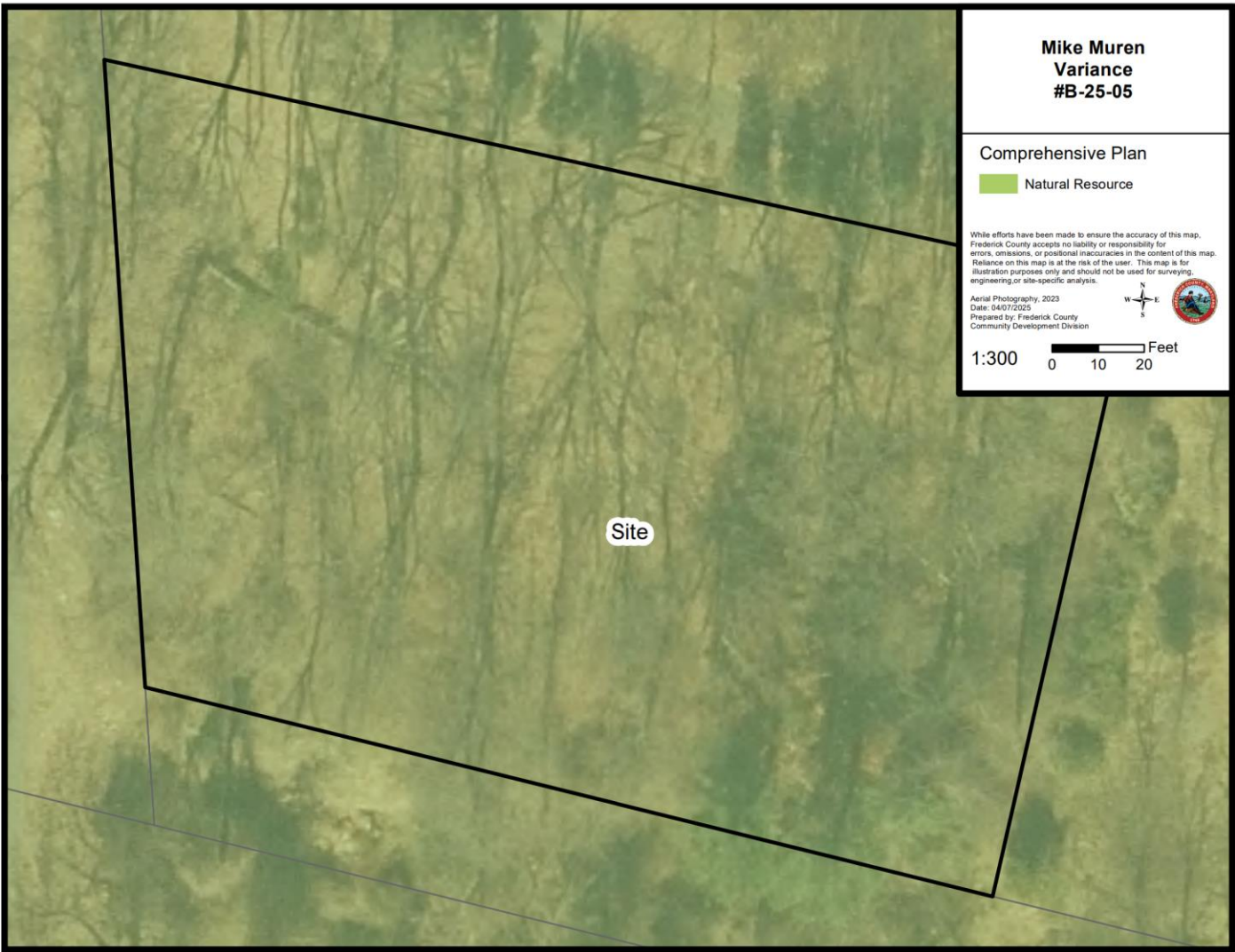


**Attachment #4: Zoning Map**





**Attachment 5: Comprehensive Plan Map**



**Attachment 6: Environmental Features Map**

