



FREDERICK COUNTY BOARD OF APPEALS

May 22, 2025

TITLE: Janet E. Albert and Leonise D. Leduc – Owners
Michael Moran – Owner Representative

CASE NUMBER: B-25-10 (B277527)

REQUEST: Requesting a 25' variance from the 50' rear yard setback requirement and a 5' variance from the 50' side yard setback requirement for RC Zoning, in accordance with Sections 1-19-3.220 Variances and 1-19-6.100 Design Standards of the Frederick County Code, in order to construct a single-family home. The address of this property is 8015 Gambrill Park Road, Frederick, MD 21702 (the "Property") and it is zoned (RC) Resource Conservation on .67 Acres.

PROJECT INFORMATION:

ADDRESS/LOCATION: 8015 Gambrill Park Road, Frederick, MD 21702
TAX MAP/PARCEL: Tax Map 056, Parcel 0110, Tax ID# 21416452
ZONE: (RC) Resource Conservation
REGION: Frederick
WATER/SEWER: NPS/NPS
COMP. PLAN/LAND USE: Natural Resources

APPLICANT/REPRESENTATIVES:

APPLICANT: Janet Albert and Leonise Leduc¹
OWNER: Janet Albert and Leonise Leduc
ENGINEER: Michael Moran, Builders National Cooperative
ARCHITECT: N/A
ATTORNEY: N/A

STAFF: Michael Paone, Zoning Planner

RECOMMENDATION: Based on the findings and conclusions, as set forth in the staff report, staff has no objection to the approval of a 25' variance from the 50' rear yard building restriction line and a 5' variance from the 50' side building restriction line to permit the construction of a single-family residence on .67 Acres of Resource Conservation (RC) zoned land, in accordance with Sections 1-19-3.220 Variances and 1-19-6.100 Design Standards, on the Property located at 8015 Gambrill Park Road, Frederick, MD 21702.

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

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

Background

The required setbacks for this Resource Conservation (RC) zoned Property are front 50', side 50', and rear 50'. The Property is .67 acres in size. The Applicant is requesting approval of a 25' variance from the 50' rear yard building restriction line, leaving a 25' rear yard setback, and a 5' variance from the 50' side building restriction line, leaving a 45' side yard setback, 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 Applicants are requesting relief from the rear yard building restriction line (BRL), in order to reduce the rear yard BRL from 50' to 25', and from the side yard BRL, in order to reduce the side BRL from 50' to 45'. (Attachments #1 and #2)

- 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 Frederick County Zoning Staff were not able to approve plans for the new home and directed the Applicants 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, May 22, 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 Applicants state that the rear yard variance is necessary in order to keep the required distance from the septic reserve area which is required by the Frederick County Health Department.

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 special conditions are not the result of any actions taken by the Applicants. The home to be built is modest, consisting of a foundation with 1,641 finished square feet on the first floor and 645 finished square feet on the second.

- 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 Applicants state that without the approved variance from the BOA, the Owner would suffer an unreasonable hardship and be deprived of the rights commonly enjoyed by other properties in the same district. Given the unique design of the drip system septic design approved by the Health Department and its mandated distance requirements, it would be cost prohibitive to build any other type and size of home on this property. The maximum depth of any home that could fit on the property would be a 24' deep single-family home.

- 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 Applicants state that the granting of this variance will not confer any special privilege on this Property. The site location is such that it is within a mountainous and rural wooded area with just a few neighbors. The minimum lot size for RC zoning is 10 acres and this lot is .67 acres. The 50' setback required for front, rear and side yards is a tremendous obstacle, and to deny the variance would be to treat this property differently than others in the same district.

- 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 this requirement is understood and believe that the new home will not be injurious to the neighborhood as the location is not in a neighborhood but in a mountainous and rural wooded area.

- 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 Applicants understand this requirement and will comply with any appropriate conditions and safeguards imposed 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 of the Frederick County Code in said zone.

The Applicants state that a house is a permitted use subject to a variance granted by the BOA and building permit 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 Applicants understand this requirement and will comply.

- 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 understand 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 25' variance from the 50' rear yard building restriction line leaving a 25' rear yard setback, and a 5' variance from the 50' side building restriction line, leaving a 45' side yard setback, 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.

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.

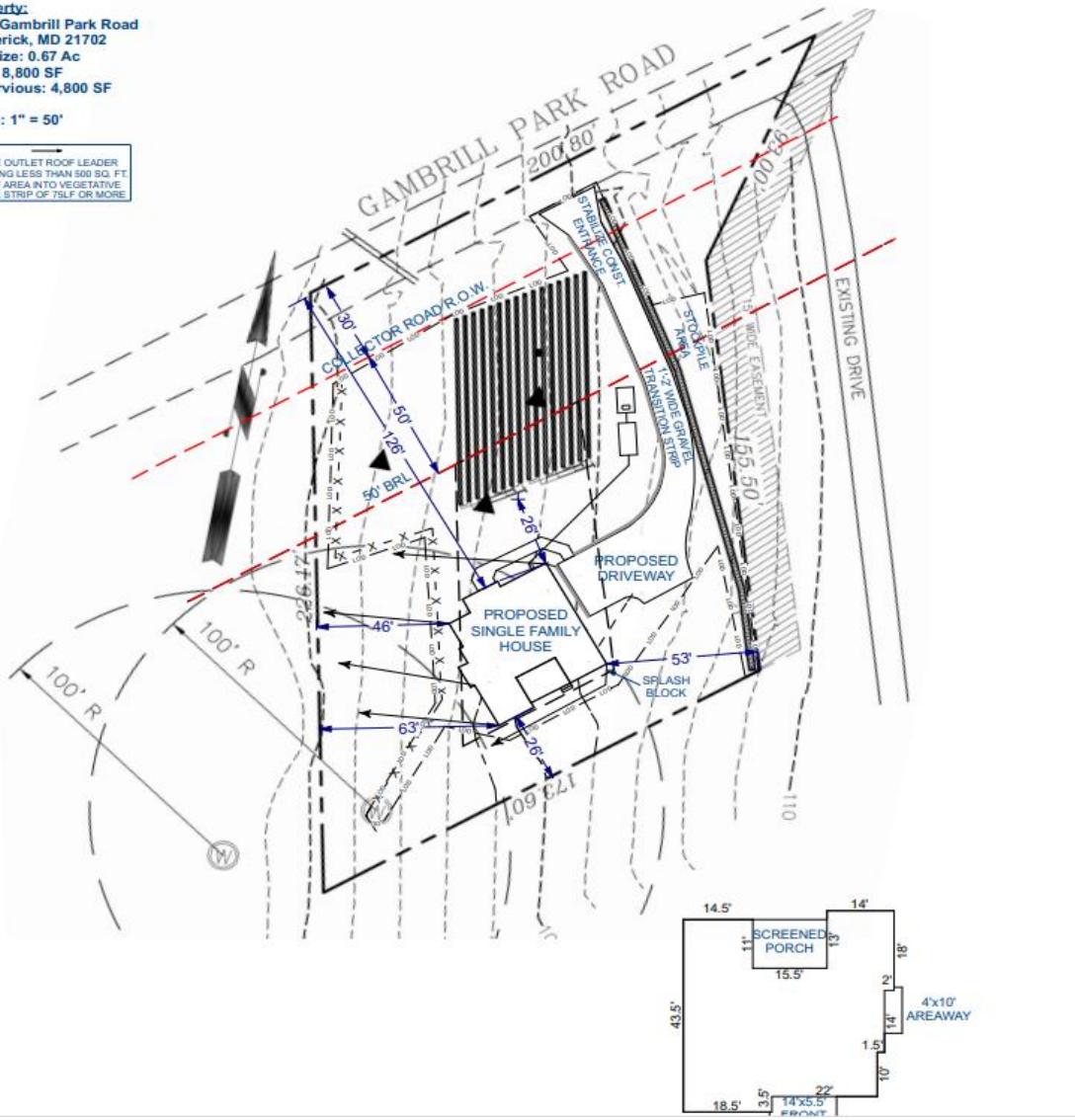
Attachment #1: Plot Plan with Proposed Setbacks

(201) 37-1-2121

Property:
8009 Gambrill Park Road
Frederick, MD 21702
Lot Size: 0.67 Ac
LOD: 8,800 SF
Impervious: 4,800 SF

Scale: 1" = 50'

SAFE OUTLET ROOF LEADER
DRAINING LESS THAN 500 SQ. FT.
ROOF AREA INTO VEGETATIVE
FILTER STRIP OF 75LF OR MORE

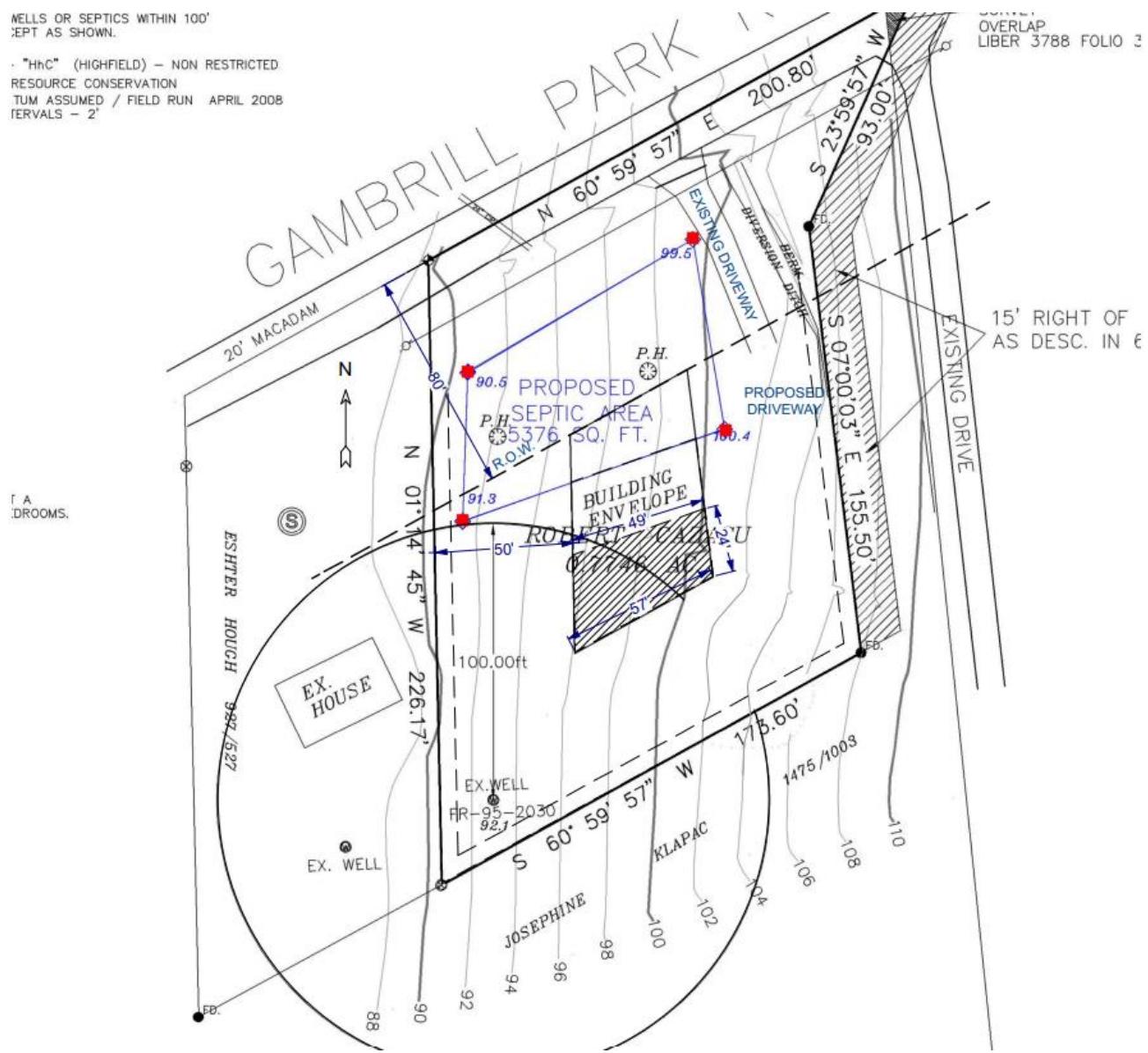


Attachment #2: Existing Building Envelope

WELLS OR SEPTICS WITHIN 100'
EXCEPT AS SHOWN.

"HhC" (HIGHFIELD) - NON RESTRICTED
RESOURCE CONSERVATION
TUM ASSUMED / FIELD RUN APRIL 2008
INTERVALS - 2'

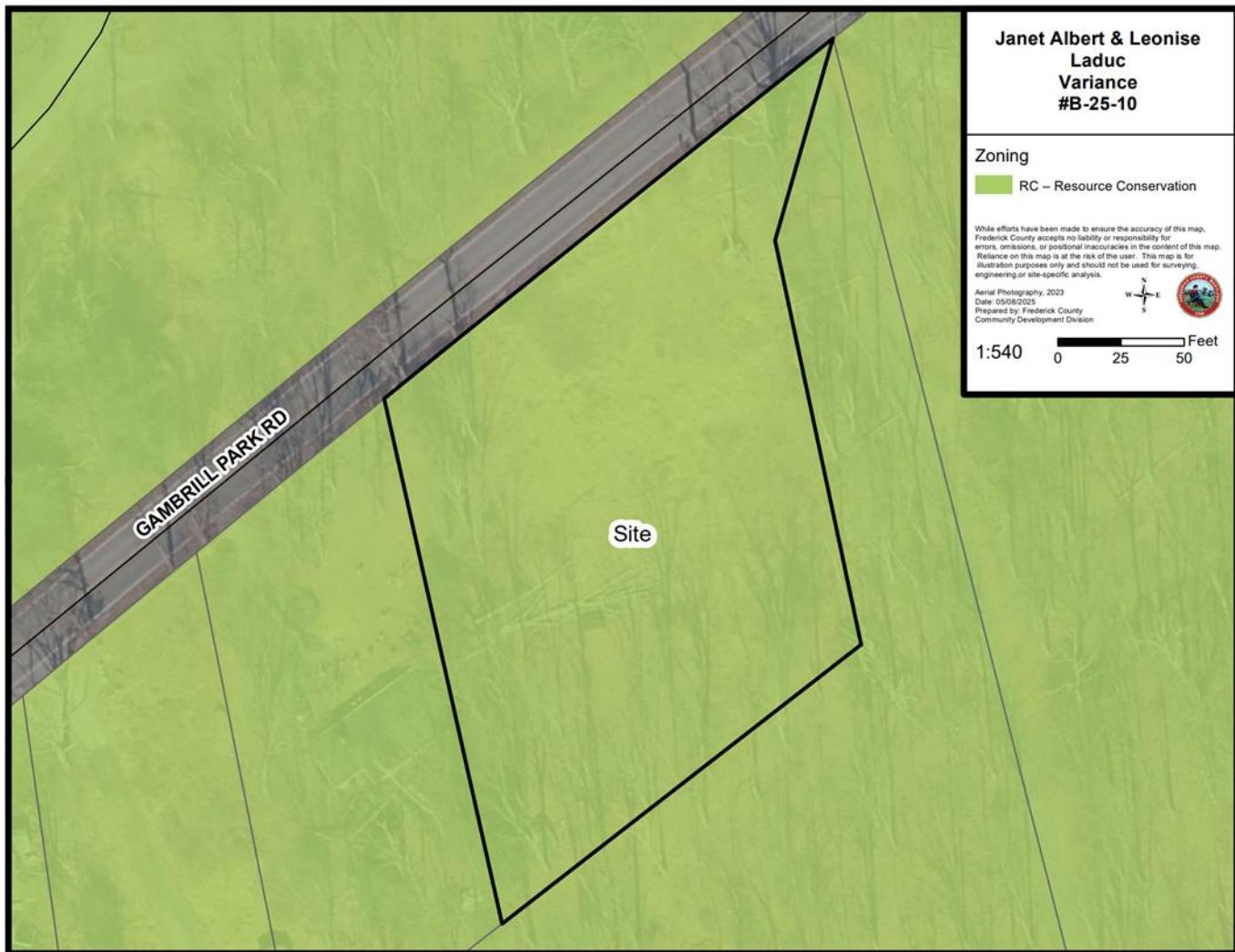
OVERLAP
LIBER 3788 FOLIO 3



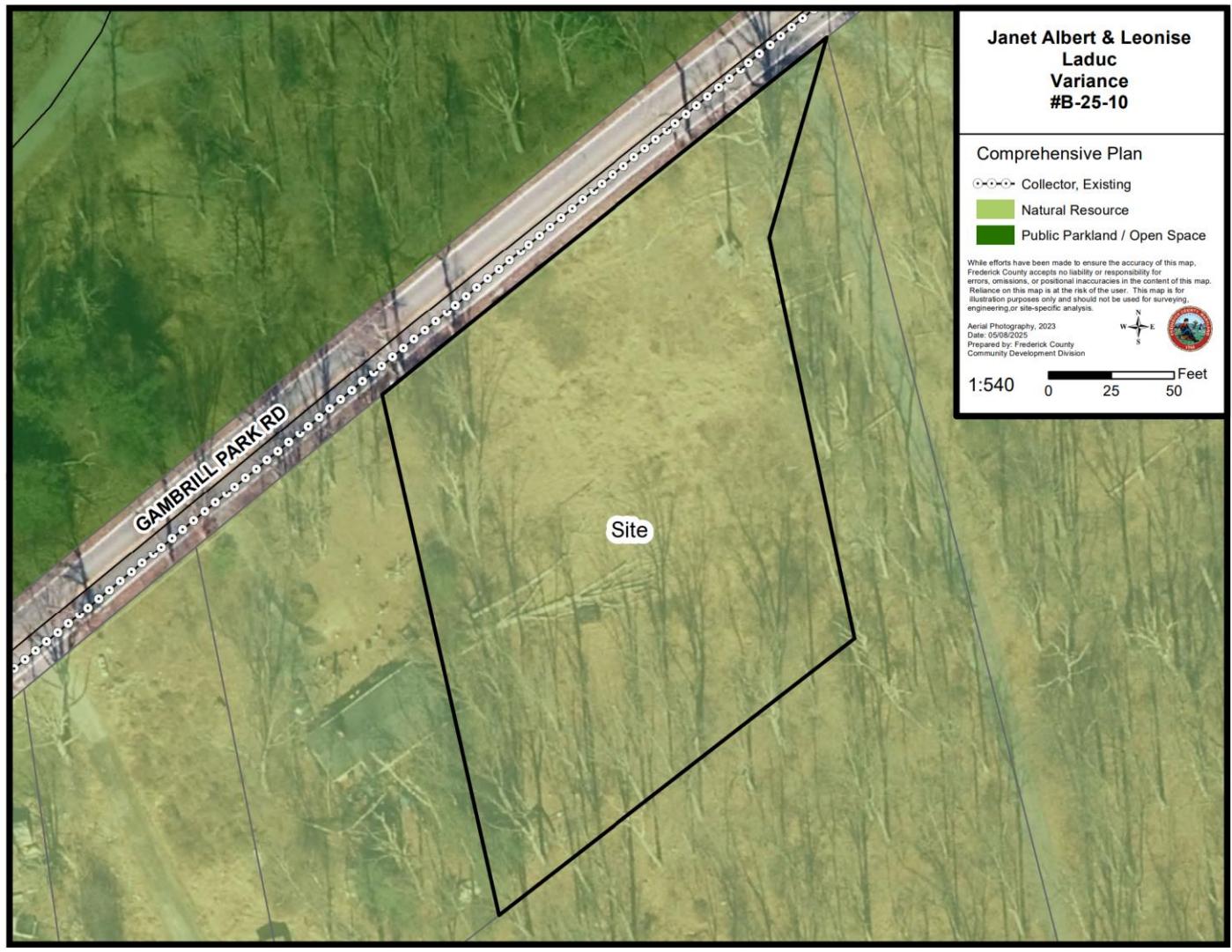
Attachment #3: Aerial Map



Attachment #4: Zoning Map



Attachment #5: Comprehensive Plan Map



Attachment #6: Environmental Features Map

