

# FREDERICK COUNTY BOARD OF APPEALS

## June 26, 2025

**TITLE:** David De Jesus Hernandez

**CASE NUMBER:** B-25-13 (B277478)

**REQUEST:** Requesting approval for a 2' variance to the side yard Building Restriction Line (BRL), in accordance with Sections 1-19-3.220 Variances, and 1-19-6.100, Design Standards, of the Frederick County Code<sup>1</sup>, to allow for the approval of a **previously** constructed addition to the existing single-family residence. The address for this property is 11610 Primrose Ct. Ijamsville, MD 21754.

### PROJECT INFORMATION:

ADDRESS/LOCATION: 11610 Primrose Ct. Ijamsville, MD 21754.  
TAX MAP/PARCEL: Tax Map 097, Parcel 0143, Tax ID# 09240772  
ZONE: (R1) Low Density Residential  
REGION: Urbana  
WATER/SEWER: NPS/NPS  
COMP. PLAN/LAND USE: Rural Residential

### APPLICANT/REPRESENTATIVES:

APPLICANT: David De Jesus Hernandez<sup>2</sup>  
OWNER: David De Jesus Hernandez  
ENGINEER: N/A  
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 2' variance to the side yard Building Restriction Line (BRL), in accordance with Sections 1-19-3.220 Variances, and 1-19-6.100, Design Standards, to allow for the approval of an already constructed addition to the existing single-family residence. The address for this property is 11610 Primrose Ct. Ijamsville, MD 21754.

### Attachments:

Attachment #1: Plot Plan with Proposed Setbacks  
Attachment #2: Aerial Map  
Attachment #3: Zoning Map  
Attachment #4: Comprehensive Plan Map  
Attachment #5: Environmental Features Map

<sup>1</sup> All code references herein are to the Frederick County Code, unless otherwise specified.

<sup>2</sup> The term Applicant refers to both the Applicant(s) and the Property Owner(s).

## **Background**

The required setbacks for this (R1) zoned Property are front 40', side 10', and rear 30'. The Property is 1.01 acres in size. The Applicant is requesting approval of a 2' variance from the 10' side yard building restriction line, in accordance with Sections 1-19-3.220 Variances and 1-19-6.100 Design Standards, of the Frederick County Code. If approved, the side yard BRL will be 8'.

## **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 side yard building restriction line (BRL), in order to bring the previously constructed addition into compliance with the Frederick County Code.**

- 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 were not able to approve plans for the previously constructed addition to the single-family residence 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, June 26, 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 side yard variance is necessary in order to keep the addition to the residence which serves as an office for his business.**

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

**Technically, the problem here is the result of the Applicant's actions in building the addition. However, the Applicant states that, as a first-time property owner, he was unaware that he needed to obtain permits and to consult with the County before constructing any buildings or housing additions on the property.**

- 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, he would be deprived of the rights commonly enjoyed by other properties in the same district. He would not be able to keep the addition he already built to what would otherwise be a small 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 Applicant states that the granting of this variance will not confer any special privilege on this Property. Many other homes are able to provide a reasonable size addition with or without the need for a variance.**

- 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 will not be injurious to the neighborhood and is in character with 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 of the Frederick County Code.

**The Applicant understands 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 Applicant states that a house addition 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 addition is not 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.

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

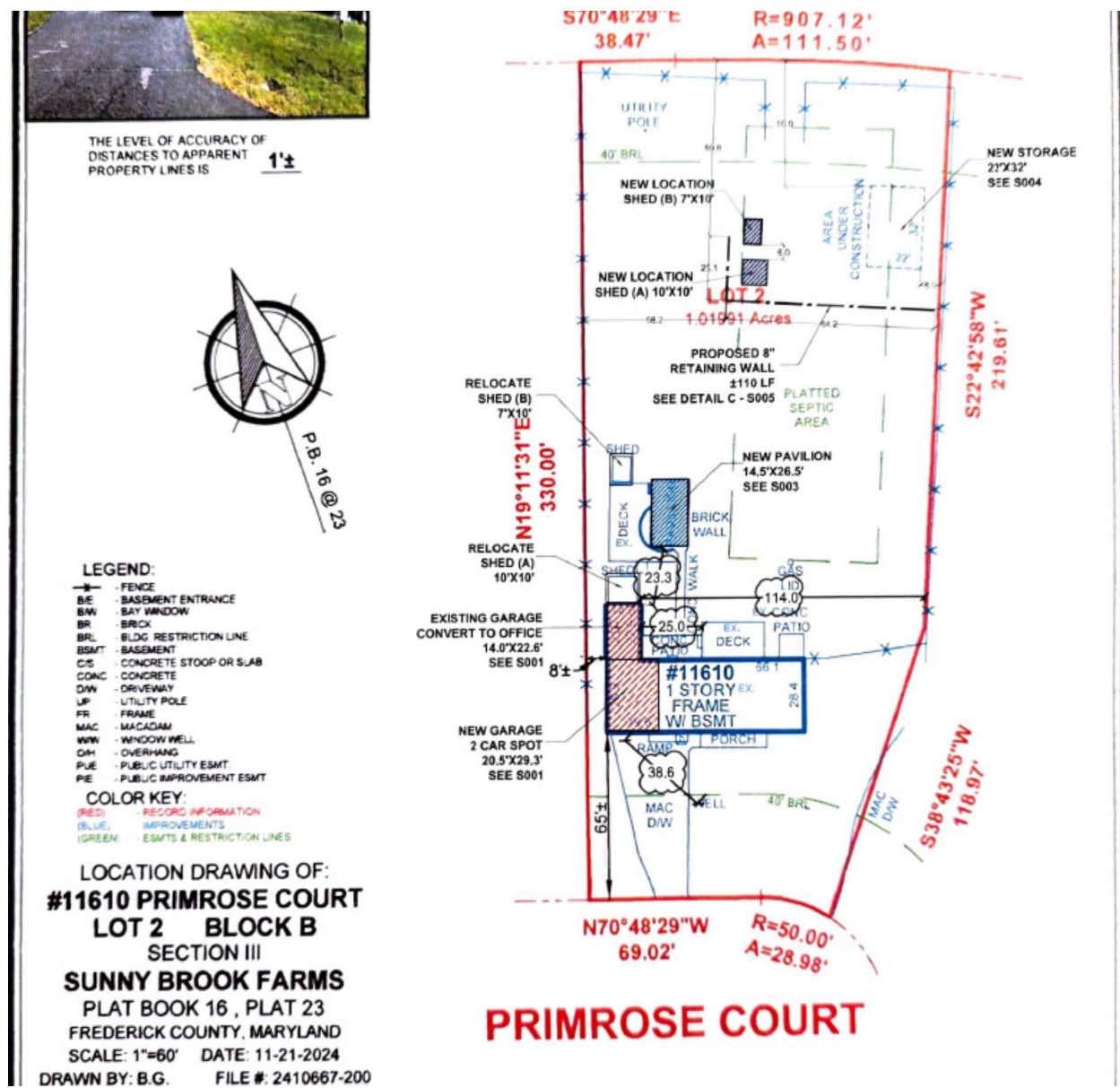
## **Recommendation**

Based on the Application, and on the findings and conclusions set forth herein, staff has no objection to the approval of a 2' variance to the side yard Building Restriction Line (BRL), in accordance with Sections 1-19-3.220 Variances, and 1-19-6.100, Design Standards, to allow for the approval of a **previously** constructed addition to the existing single-family residence.

Staff notes that if this variance is approved the Applicant will need all proper permits and approvals for the structure.

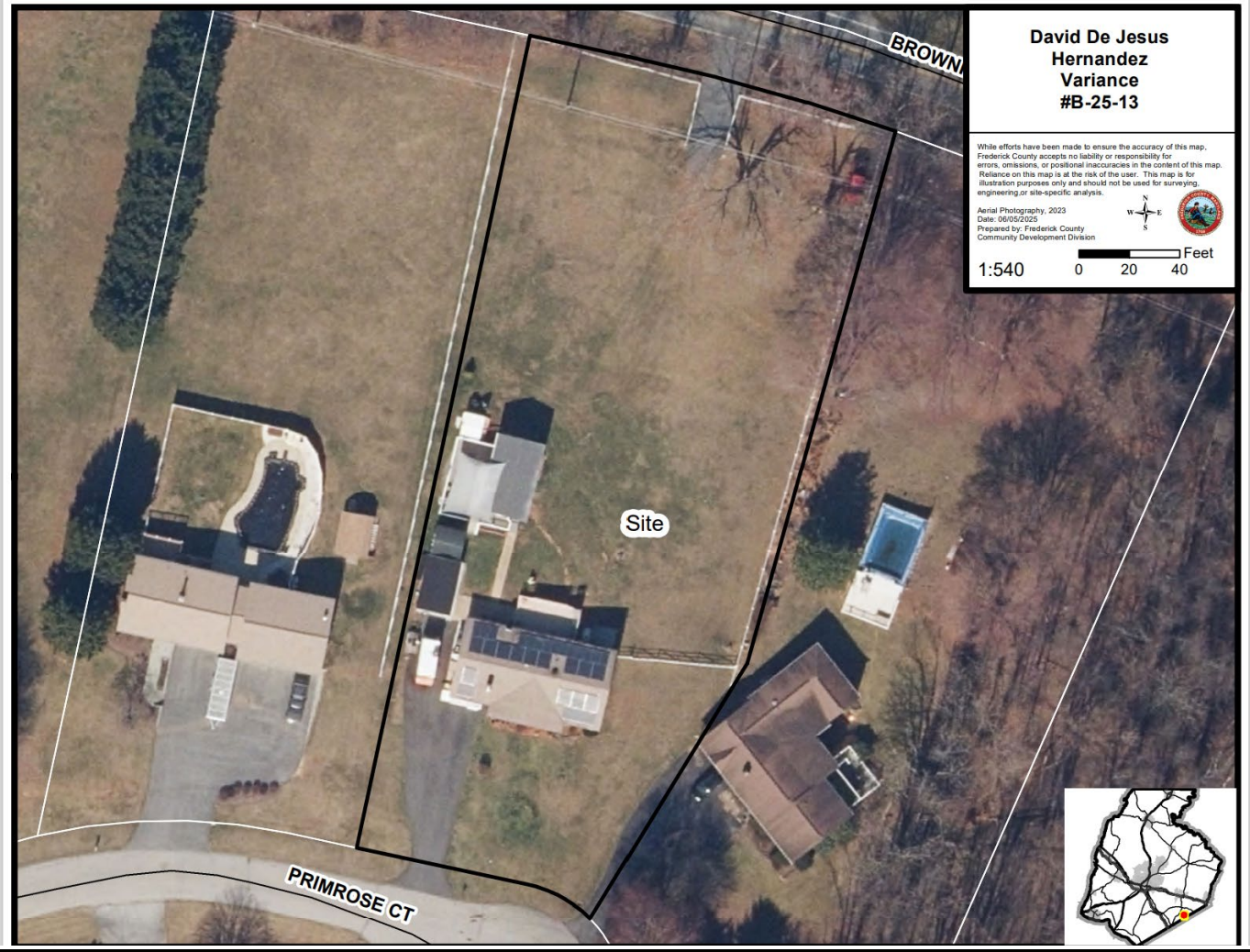
**1-19-3. 220.G: A decision of the Board of Appeals granting a variance will be void 2 years from date of approval by the Board of Appeals unless the use is established, a building permit is issued, construction has begun, or final site development plan approval has been received in accordance with the 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

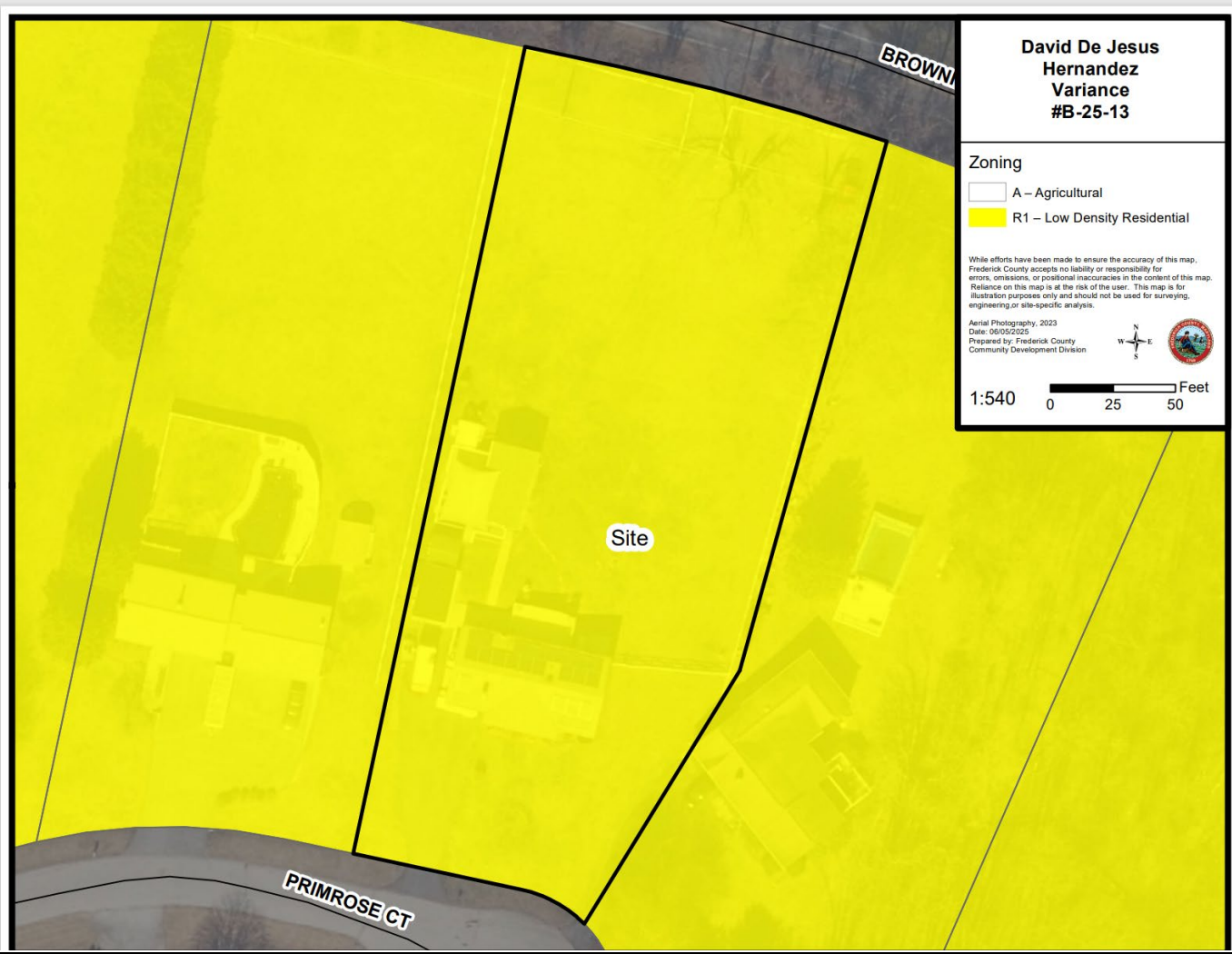




**Attachment #2: Aerial Map**

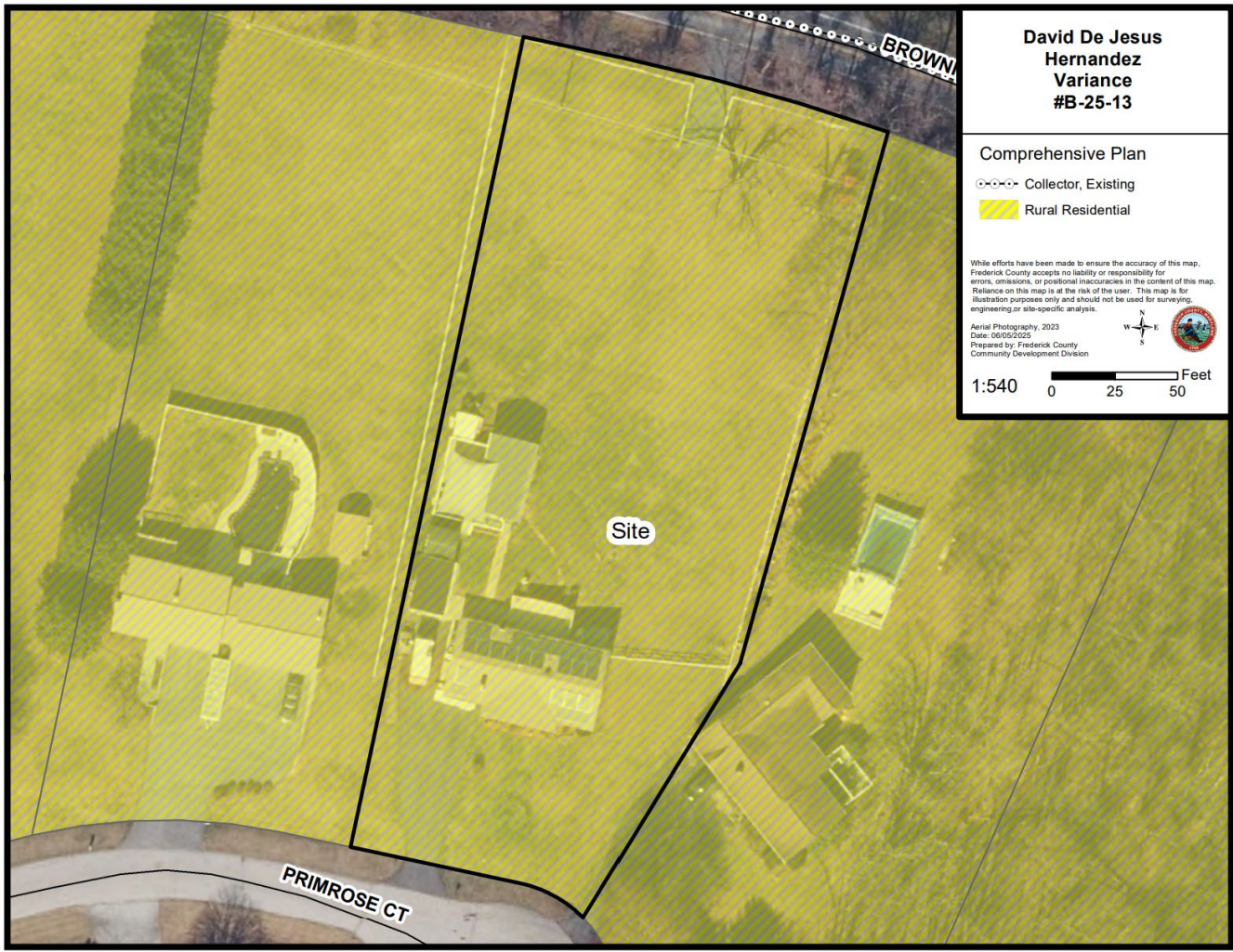


Attachment #3: Zoning Map





**Attachment #4: Comprehensive Plan Map**





**Attachment #5: Environmental Features Map**

