

# FREDERICK COUNTY BOARD OF APPEALS

## JULY 24, 2025

**TITLE:** Brendan McGinnity and Anna Benko

**CASE NUMBER:** B-25-16 (B277616)

**REQUEST:** Requesting approval of a 30' variance to the 40' front 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 construction of an unattached accessory structure/garage. The property address is 10031 Pine Tree Road, Woodsboro, MD 21798, zoned (A) Agricultural and is 2.71 Acres in size. The front property line subject to the variance request, is located along the south side of the property.

**PROJECT INFORMATION:**

ADDRESS/LOCATION: 10031 Pine Tree Road, Woodsboro, MD 21798  
TAX MAP/PARCEL: Tax Map 050, Parcel 0008  
ZONE: (A) Agricultural  
REGION: Walkersville  
WATER/SEWER: NPS/NPS  
COMP. PLAN/LAND USE: Agricultural/Rural

**APPLICANT/REPRESENTATIVES:**

APPLICANT: Brendan McGinnity and Anna Benko<sup>2</sup>  
OWNER: Brendan McGinnity and Anna Benko  
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 30' variance to the 40' front yard Building Restriction Line (BRL), located along the south side of the property, 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 construction of an unattached accessory structure/garage.

**Attachments:**

Attachment #1: Record Plat for Subject Property  
Attachment #2: Plat With Close Up View of Front Yard BRL  
Attachment #3: Aerial Map  
Attachment #4: Zoning Map  
Attachment #5: Comprehensive Plan Map  
Attachment #6: Environmental Features Map

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

<sup>2</sup> The term Applicants refers to both the Applicants and the Property Owners.

## **Background**

The required setbacks for this (A) Agriculturally zoned property are front 40', side 10', and rear 30'. The Property is 2.79 acres in size. The Applicant is requesting approval of a 30' variance from the required 40' front yard BRL, 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 an unattached accessory structure/garage. If approved, the front yard BRL will be 10'.

## **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 a variance of 30' from the required 40' front yard BRL, in order to construct an unattached accessory structure to serve as a garage/storage building.**

- 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 proposed accessory structure and directed the Applicants to apply for a variance.**

- 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 Applicants state that the BOA Hearing is scheduled for Thursday, July 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 Applicants state that the front yard variance is necessary in order to construct an accessory structure to serve as a garage/storage structure.**

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;

**The Applicants' setbacks for this (A) zoned property include a 40' front yard setback,. The Applicants are requesting to reduce this setback by 30' in order to have room to construct an unattached accessory structure, to serve as a garage/storage building. Please note the plat indicates a 40' front yard which is parallel to the common drive that serves 5 lots. If this variance is approved it will leave a 10' foot front yard.**

- 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, they would be deprived of the rights commonly enjoyed by other properties in the same district. Constructing an accessory structure to serve as a garage/storage building is not an unusual request and there are other unattached accessory structures in our community.**

- 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. An accessory structure for the purpose of using it as a garage/storage building is not an unusual request and there are other unattached accessory structures in our community.**

- 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 construction of an accessory structure to serve as a garage/storage building, 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 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 an accessory structure used as a garage/storage area, 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 state that the proposed accessory structure will not be a nonconforming structure, once constructed with the requested reduction in the 40' front yard BRL. This will leave a 10' front yard BRL.**

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.

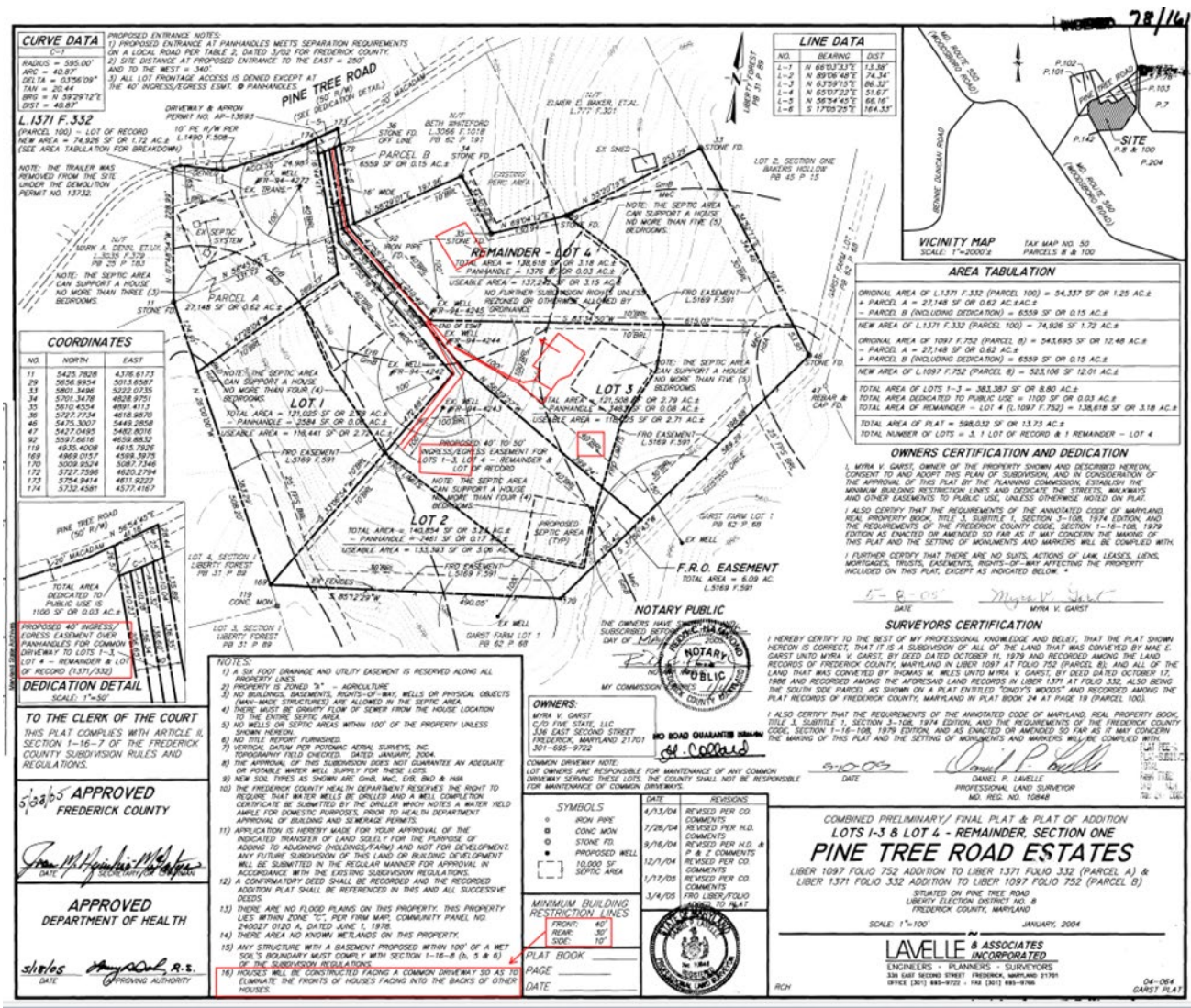
**The Applicants state that they understand this requirement and will comply.**

### **Recommendation**

Based on the Application, and on the findings and conclusions set forth herein, staff has no objection to the approval of a 30' variance to the front yard BRL, in accordance with Sections 1-19-3.220 Variances, and 1-19-6.100 Design Standards, to allow for the construction of an accessory structure to be used as a garage/storage, leaving a 10' front yard BRL.

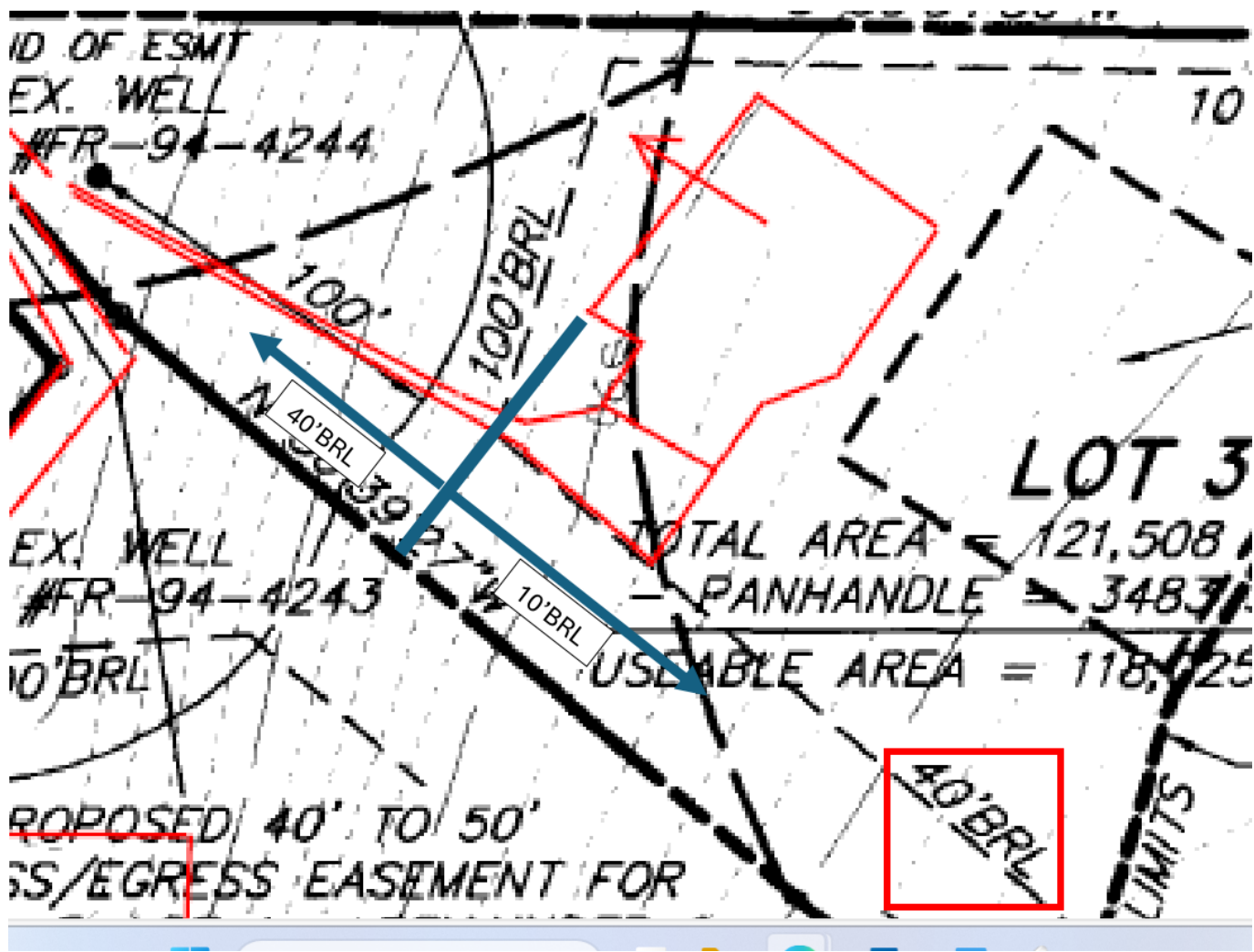
**1-19-3. 220.G: A decision of the Board of Appeals granting a variance will be void 2 years from date of approval by the Board of Appeals unless the use is established, a building permit is issued, construction has begun, or final site development plan approval has been received in accordance with the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

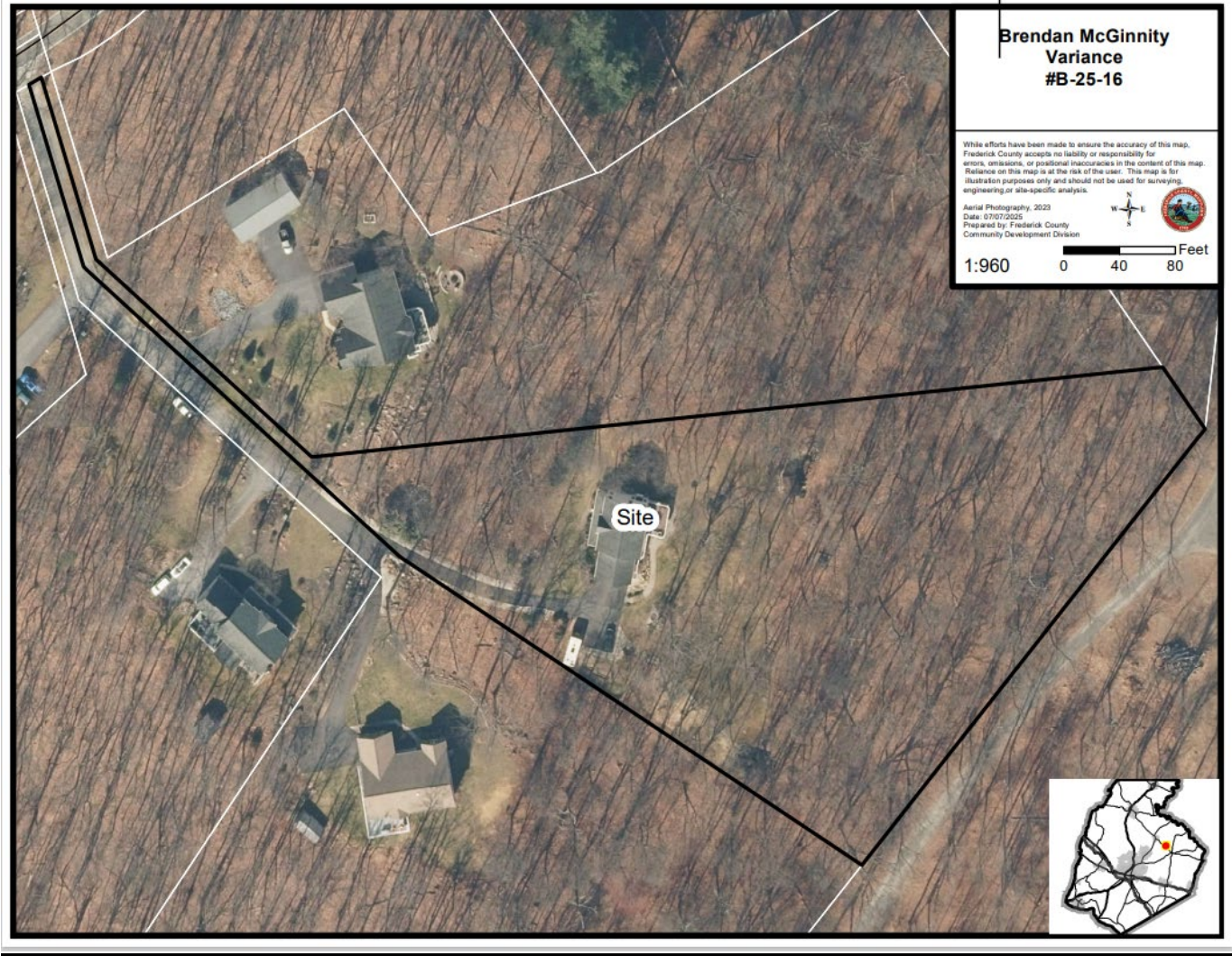




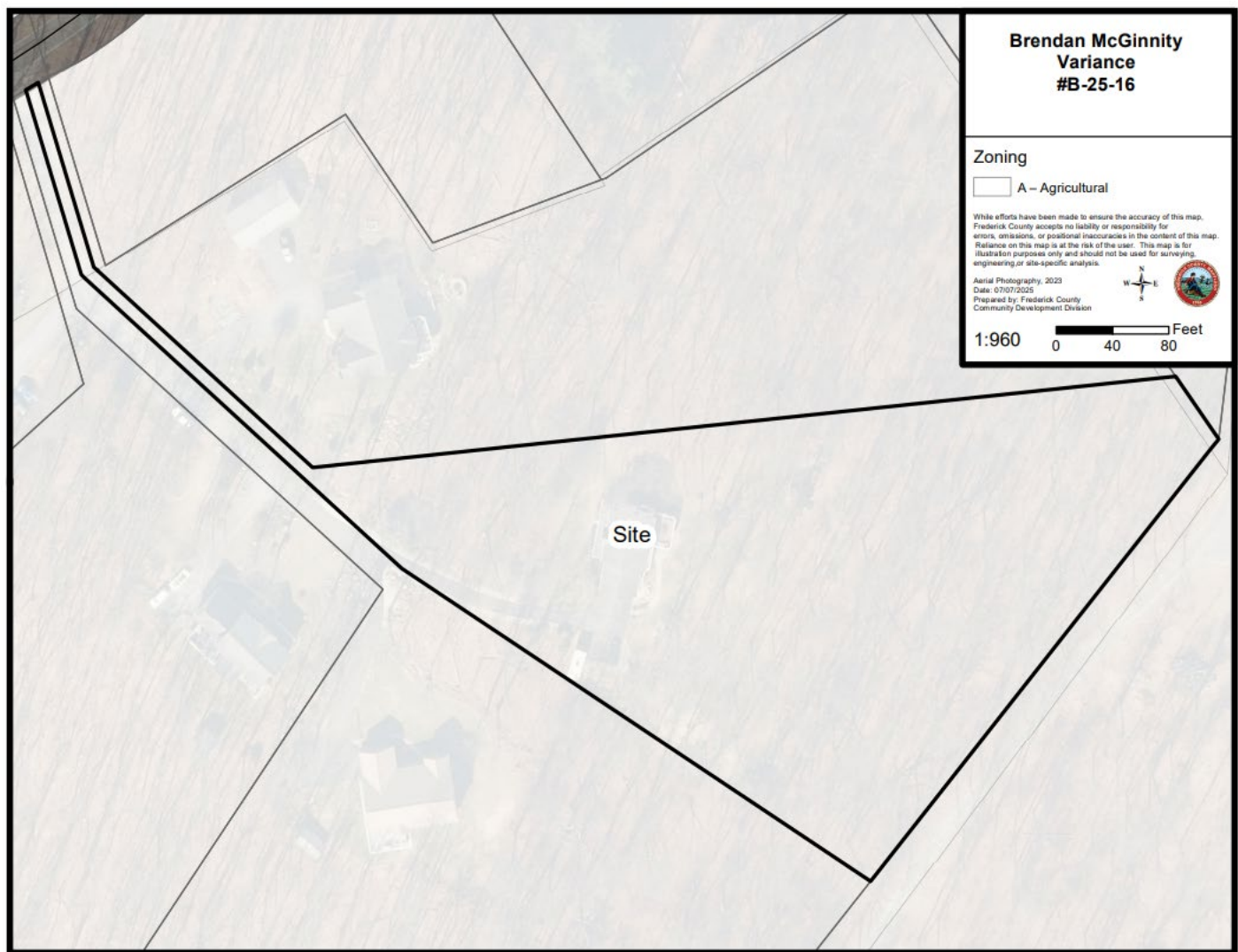
Attachment #2: Plat With Close Up View of Front Yard (BRL)



**Attachment #3: Aerial Map**

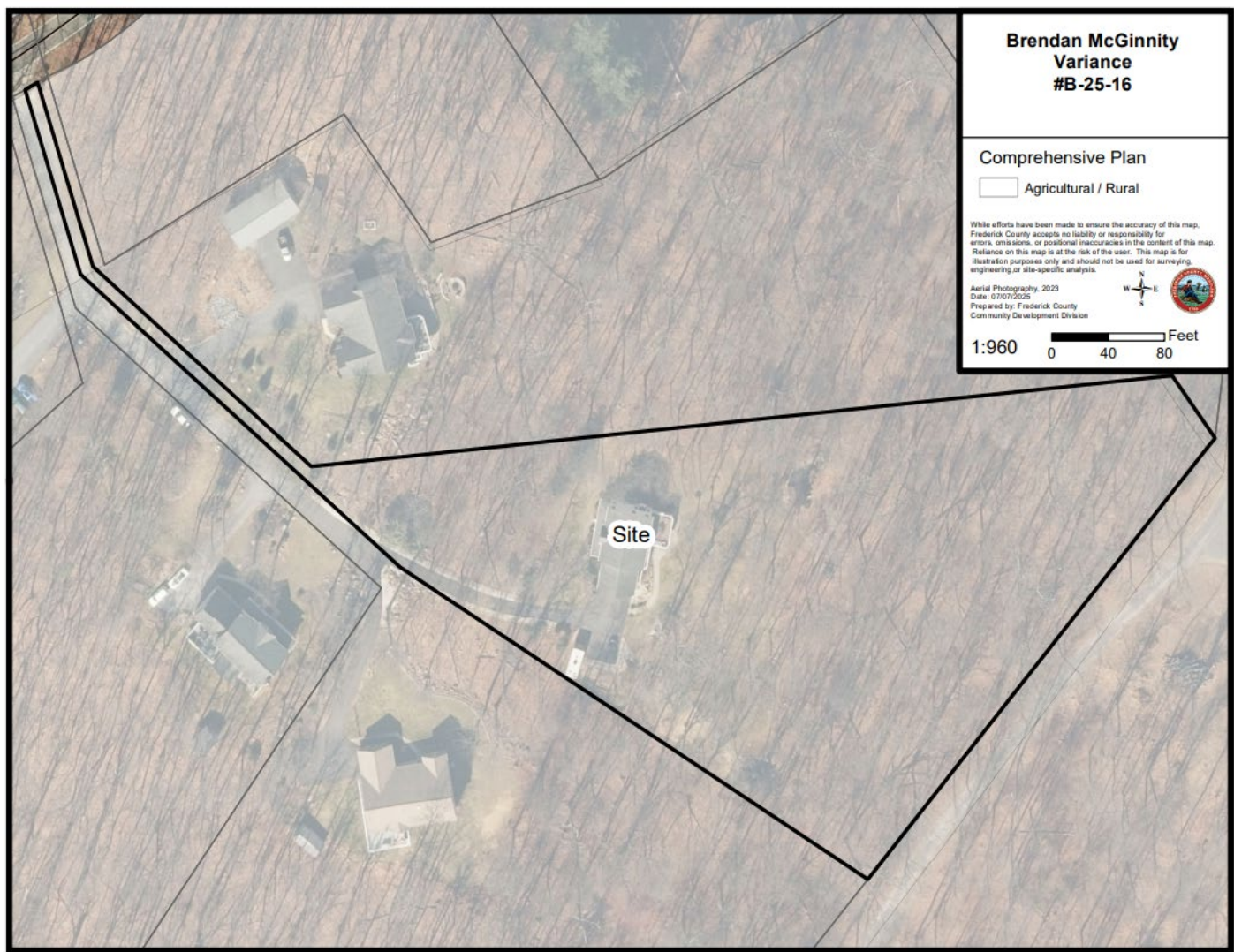


**Attachment #4: Zoning Map**





**Attachment #5: Comprehensive Plan Map**



**Attachment #6: Environmental Features Map**

