



FREDERICK COUNTY BOARD OF APPEALS

NOVEMBER 20, 2025

TITLE: Kelley Venegas

CASE NUMBER: B-25-25 B277919

REQUEST: Requesting approval for an ***Activities Within Floodplain District***, for an interior reconstruction of an existing townhouse dwelling with extensive fire damage, in accordance with Sections 1-19-9.110.(A) Activities Within the Floodplain District and 1-19-9.120 Procedures for Activities Within the FEMA Floodplain. The reconstruction cost exceeds 50% of the base value of the home at the time of the damage, and therefore this application is a Substantial Improvement (SI).

PROJECT INFORMATION:

ADDRESS/LOCATION: 7306 E Springbrook Ct., Middletown, MD 21769
TAX MAP/PARCEL: Tax Map 065, Parcel 0107
ZONE: High Density Residential (R8)
REGION: Middletown
WATER/SEWER: W-1/S-1
COMP. PLAN/LAND USE: Low Density Residential

APPLICANT/REPRESENTATIVES:

APPLICANT: Kelley Venegas
OWNER(S): Kelley Venegas
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 the approval of this Application. The Applicant meets the standards and requirements contained in the Frederick County Code, Sections 1-19-9.110.(A) Activities Within the Floodplain District and 1-19-9.120 Procedures for Activities Within the FEMA Floodplain. The reconstruction cost exceeds 50% of the base value of the home at the time of the damage, and therefore this application is a Substantial Improvement (SI).

ATTACHMENTS:

Attachment #1: Aerial Photo Showing Damaged Townhouse
Attachment #2: Photo of Damaged Townhouse Front
Attachment #3: Photo of Damaged Townhouse Interior
Attachment #4: Aerial Map
Attachment #5: Zoning Map
Attachment #6: Comprehensive Plan Map
Attachment #7: Environmental Features

¹ 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 Applicant is requesting approval for an Activity within a Floodplain in order to rebuild an existing townhome, with extensive fire damage, in accordance with Sections 1-19-9.110.(A) Activities Within the Floodplain District and 1-19-9.120 Procedures for Activities Within the FEMA Floodplain. This Application is a Substantial Improvement (SI). The owner, Kelley Venegas, plans to fully gut the structure to the studs and rebuild the interior of the home.

The existing dwelling is a townhouse on a residential townhouse lot. This structure is located within the FEMA Floodplain area and is subject to Section 1-19-9.120 Procedures for activities within the FEMA Floodplain. The improvements sought by the Applicant are greater than 50% of the market value of the residence at the time of damage. The Applicant submitted appropriate information demonstrating that the cost of all work, would exceed 50% of the base value of the home at the time of the damage. Therefore, this work is considered and categorized as a Substantial Improvement for land within the FEMA floodplain and approval by the Board of Appeals (BOA) is required. It should be noted that when these townhomes were originally approved, the land was not listed as having FEMA floodplain. That changed with the approval of the new FEMA floodplain maps in August of 2023.

Section 1-19-11.100 SUBSTANTIAL IMPROVEMENT. Any repair, reconstruction, alteration, or improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure (less land value) either:

- (a) Before the improvement or repair is started; or
- (b) If the structure incurred substantial damage and has been restored before the damage occurred.

SUBSTANTIAL IMPROVEMENT occurs when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. Substantial improvements will be calculated on a cumulative basis. The minimum repairs needed to correct previously identified violations of local health, safety or sanitary codes and alterations to historic structures which do not preclude their continued designation as historic structures are not considered substantial improvements. The term also includes structures which have incurred substantial damage regardless of the actual repair work performed.

The reconstruction cost will exceed 50% of the base value of the home at the time of the damage, and therefore this application is a Substantial Improvement (SI).

The Applicant has submitted an Elevation Certificate, confirming that any utilities or other related structures on the lowest floor, if existing, will have to be elevated. All electric utilities to the building side of the meter, both interior and exterior to the building, must comply with all requirements of this chapter. Distribution panel boxes must be at least 2 feet above the Flood Protection Elevation. All outlets and electrical installations, such as heat pumps, air conditioners, water heaters, furnaces, generators, distribution systems, including duct work, must be installed at or above the Flood Protection Elevation. Replacement HVAC equipment shall be elevated to the Flood Protection Elevation unless proven to be impractical.

A non-conversion agreement will need to be signed by the owner for the bottom floor of the townhouse.

Section 1-19-9.120 Procedures for Activities within the FEMA Floodplain: § 1-19-9.120. PROCEDURES FOR ACTIVITIES WITHIN THE FEMA FLOODPLAIN.

- A. The Board of Appeals shall review the following activities within the FEMA floodplain: substantial improvements, substantial improvements due to existing structures substantial damage, replacement or relocated dwelling units (including manufactured homes), the addition of accessory buildings, the expansion or replacement of an existing nonconforming use, or development of an existing parcel of

record lying totally within the FEMA floodplain. Applications to allow new structures or fill to be placed in the floodway shall not be considered. The Board of Appeals may grant an application for approval for activity within the FEMA floodplain when the Board specifically finds that:

1. Failure to grant the application for approval would result in exceptional hardship to the applicant; and

The Applicant states that this renovation to the existing townhouse due to a fire, cannot be accomplished without this approval. The Applicant is not expanding the home, and all work is within the existing footprint. Denial of this application would result in an exceptional hardship as the home could not be repaired.

2. The granting of an application for approval would not increase flood heights, add threats to public safety, result in extraordinary public expense, create nuisances, cause fraud or victimization of the public or conflict with existing local laws or ordinances; and

The Applicant states that the location of this renovation creates no additional threats to the public. The improvements will not increase flood heights. The use of the property is not being changed, expanded, or modified in any way. There will not be any increase to existing footprint to the structure. The structure is a townhouse and the proposed work would, in no way, alter the existing use or zoning of the subject structure.

At the time of building permit submission this site will be subject to the Building Standards listed in Section 1-19-9.110.C, of the Frederick County Ordinance.

3. The granting of an application for approval would not allow new structures or fill to be placed in the floodway; and

The Applicant states that this proposed renovation is not placing any new structures in the floodway and would be interior renovations only. The footprint of the structure would not be increasing.

4. The granting of an application for approval is the minimum necessary considering the flood hazard to provide relief and that public funds may not be available to mitigate the results of the approval; and

The Applicant states that this approval is the minimum necessary consideration, and public funds may not be available to mitigate the results of the approval. There are no public funds used in the rehabilitation of this townhouse residence.

5. All new structures and substantial improvements to existing structures will have the lowest floor elevated to the greatest extent possible with respect to the 100 year flood elevation, but at least to the Flood Protection Elevation, and a FEMA elevation certificate filed. In addition, all structures, including manufactured homes, must be firmly anchored in accordance with acceptable engineering practices (i.e., FEMA publication 85 "Manufactured Home Installation in Flood Hazard Areas"); and

The Applicant understands and agrees to this requirement and further states that additional work may be required including possible first floor elevations. All work will be performed in accordance with applicable rules and regulations.

At the time of building permit submission this site will be subject to the Building Standards listed in 1-19-9.110.C. of the Frederick County Ordinance.

6. The granting of a permit by the Maryland Department of the Environment if located within a FEMA floodplain; and

The Applicant states that they understand this requirement and will comply. All appropriate permits

will be applied for in accordance with County and State requirements.

7. The action is duly recorded with the deed of the property on which the application for approval is granted prior to the issuance of a building permit. Any expense incurred by the recording is the responsibility of the applicant.

The Applicant states that they understand this requirement and will comply.

8. The Board of Appeals shall not grant approval of the above activities for lots containing floodplain created after June 6, 1989.

The Applicant states that they understand this requirement and will comply. The structure being proposed for renovation was constructed in 1973 and well before the land was designated as floodplain.

- B. The Board of Appeals will notify the applicant of approval in writing through the Zoning Administrator. The decision of approval and findings shall include the notification that:

1. The issuance of a decision to allow construction of a structure below the 100 year flood level will result in increased premium rates for flood insurance.

The Applicant states that they understand this.

2. Such construction below the 100 year flood level increases risks to life and property.

The Applicant states that they understand this and accept this risk.

- C. The Board of Appeals will maintain a record of all decisions, including justification for their issuance, and the Zoning Administrator will report such decisions in the county biennial reports submitted to the Federal Emergency Management Agency

The Applicant states that they understand this requirement.

Recommendation

Based on the findings and conclusions in the staff report, Staff has no objection to the approval of this Special Exception Application . The Applicant meets the standards and requirements contained in Section 1-19-3.210 Special Exception application, 1-19-9.110 Activity in the FEMA Floodplain, and 1-19-9.120 Procedures for Activities within the FEMA floodplain, in accordance with the Frederick County Ordinance, to allow for the rebuilding of the existing residential townhouse dwelling, as a Substantial Improvement.

§ 1-19-3.210. SPECIAL EXCEPTIONS. A decision of the Board of Appeals granting a special exception will be void 5 years from the 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 the 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 time extension may be granted by the Zoning Administrator for a period not to exceed 6 months.

Attachment #1: Aerial Photo Showing Damaged Townhouse



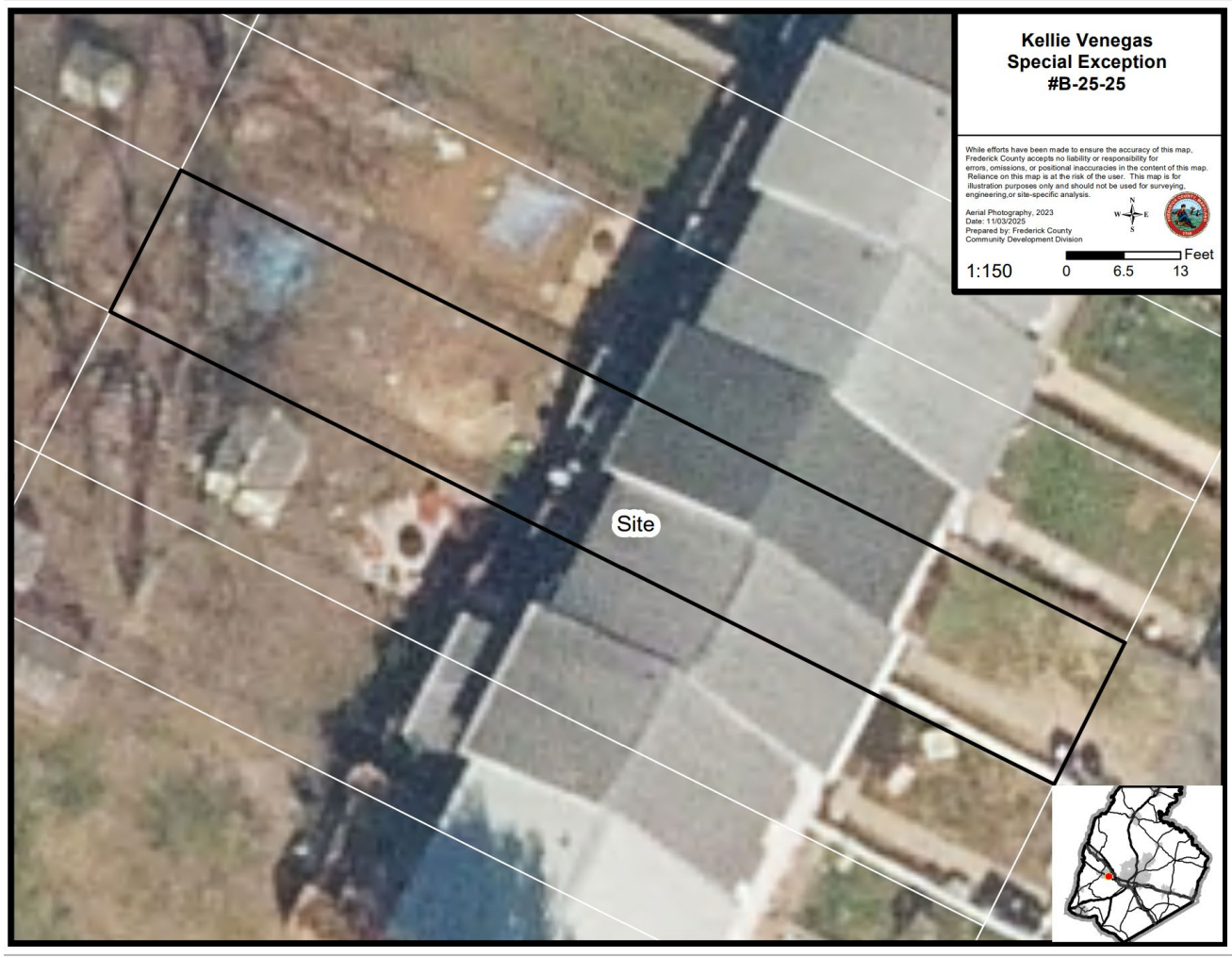
Attachment #2: Photo Of Damaged Townhouse Front



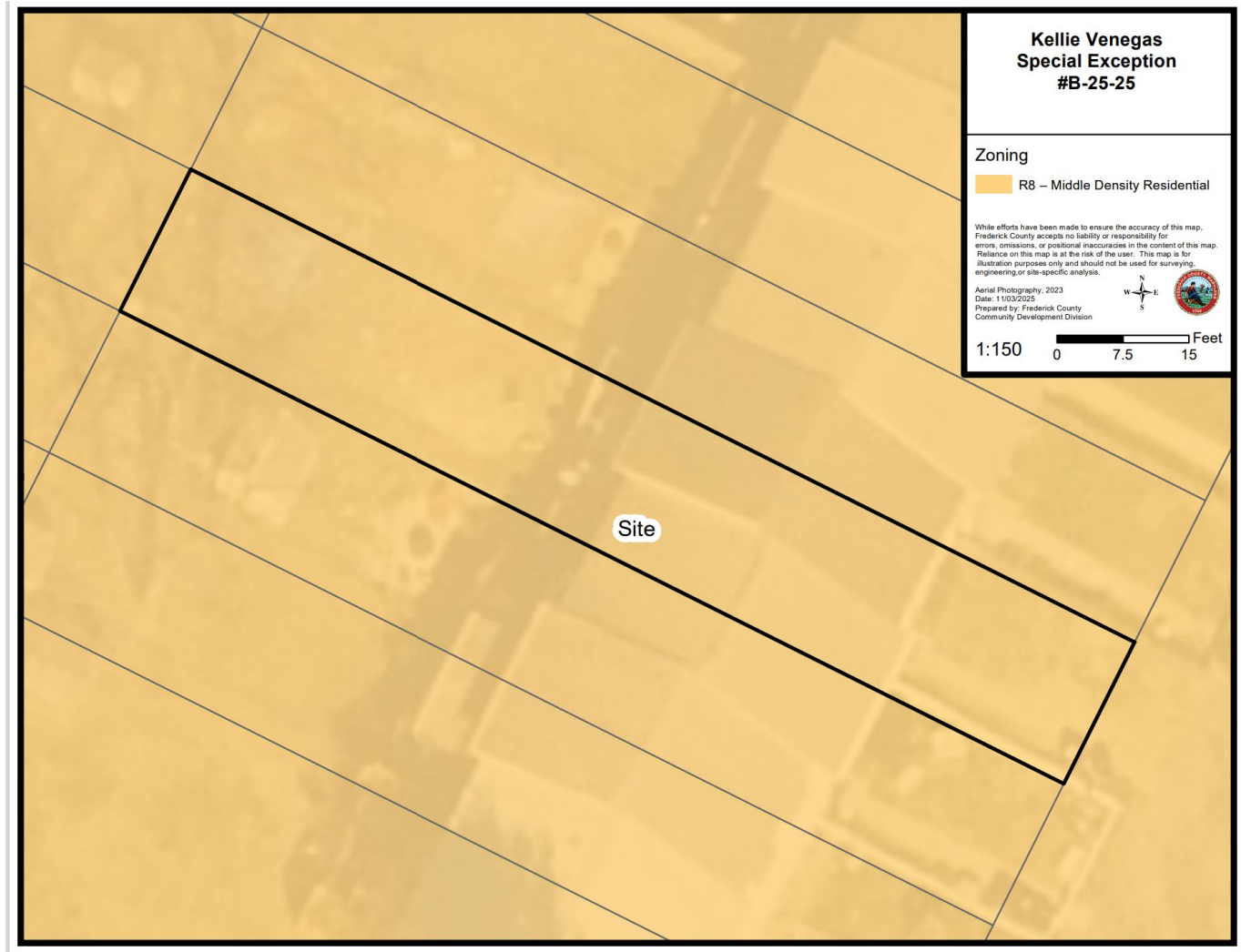
Attachment #3: Photos of Damaged Townhouse Interior



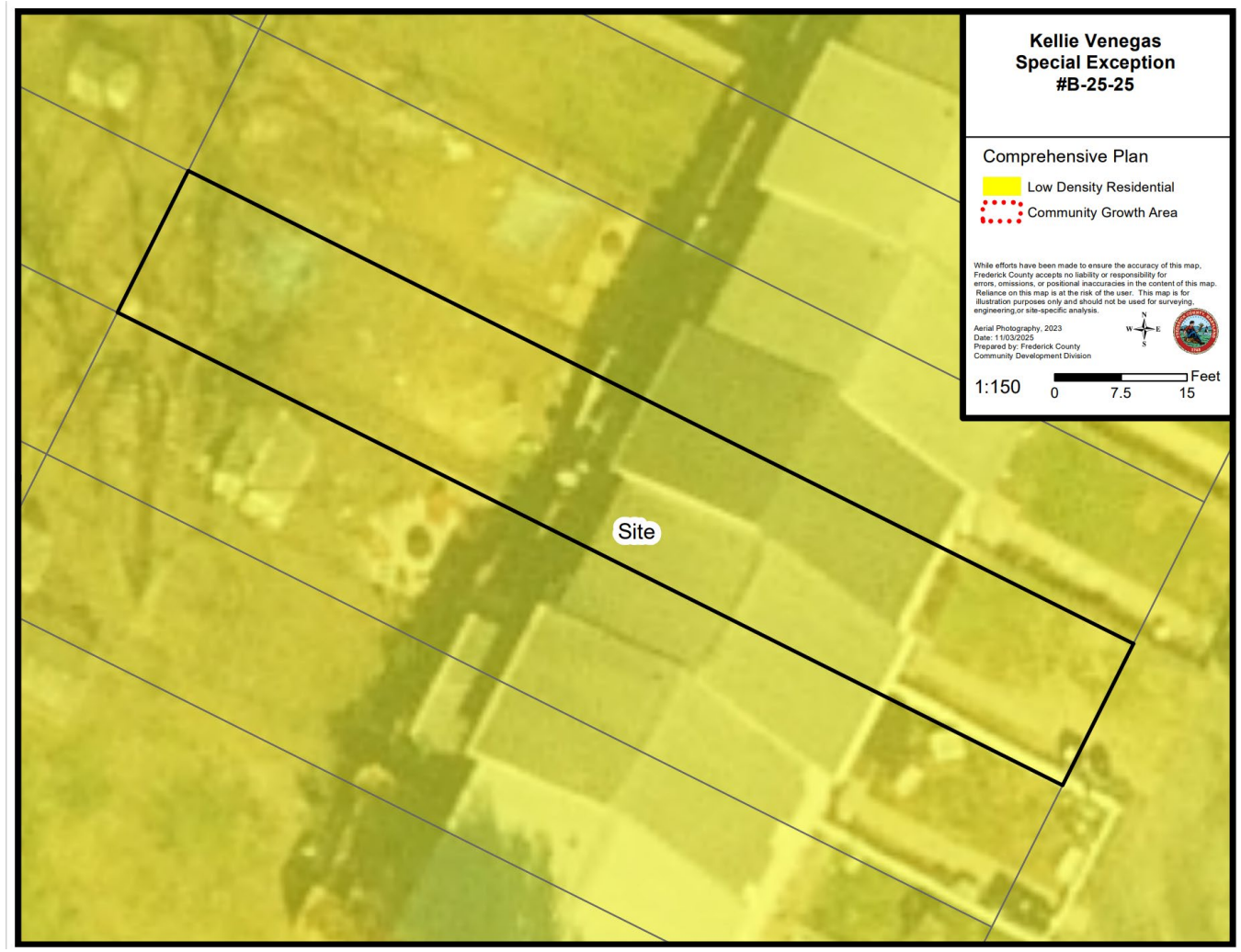
Attachment #4: Aerial Map



Attachment #5: Zoning Map



Attachment 6: Comprehensive Plan Map



Attachment 7: Environmental Features Map

