



THE PRINCE GEORGE'S COUNTY GOVERNMENT

BOARD OF ZONING APPEALS

BOARD OF ADMINISTRATIVE APPEALS

WAYNE K. CURRY COUNTY ADMINISTRATION BUILDING, LARGO, MARYLAND 20774
TELEPHONE (301) 952-3220

NOTICE OF FINAL DECISION

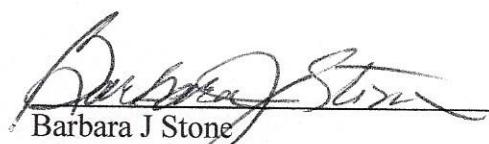
OF BOARD OF APPEALS

RE: Case No. V-15-23 Benjamin E. Hidalgo Siguenza

Enclosed herewith is a copy of the Board Order setting forth the action taken by the Board of Appeals in your case on the following date: July 12, 2023.

CERTIFICATE OF SERVICE

This is to certify that on August 10, 2023, the above notice and attached Order of the Board were mailed, postage prepaid, to all persons of record.



Barbara J Stone
Administrator

cc: Petitioner
Adjoining Property Owners
M-NCPPC, Permit Review Section
DPIE/Building Code Official, Permitting

BEFORE THE BOARD OF APPEALS FOR PRINCE GEORGE'S COUNTY, MARYLAND
Sitting as the Board of Zoning Appeals

Petitioner: Benjamin E. Hidalgo Siguenza

Appeal No.: V-15-23

Subject Property: Lot 24, Block G, South Lawn Subdivision, being 6900 Leyte Drive, Oxon Hill, Prince George's County, Maryland

Witness: Juan Swann, Inspector, Department of Permitting, Inspections and Enforcement (DPIE)

Spanish Language Interpreter: Ernesto Luna and Ruben Sotogomez (respectively by date)

Heard: May 24, 2023; Decided: July 12, 2023

Board Members Present and Voting: Bobbie S. Mack, Chairperson

Carl Isler, Acting Vice Chair

Teia Hill, Member

Anastasia Johnson, Member

Renee Alston, Member

Board Member Absent:

RESOLUTION

This appeal is brought before the Board of Appeals, sitting as the Board of Zoning Appeals for the Maryland-Washington Regional District in Prince George's County, Maryland (the "Board"), requesting a variance from the strict application of the provisions of Subtitle 27 of the Prince George's County Code (the "Zoning Ordinance").

In this appeal, a proceeding pursuant to Section 27-3613 of the Zoning Ordinance, Petitioner requests that the Board approve a variance from Section 27-4202(e) prescribes that each lot shall have a minimum net lot area of 6,5000 square feet. Section 27-4202(e)(1) prescribes that not more than 35% of the net lot area shall be covered by buildings off-street parking and shall have a minimum lot width of 65 feet. Section 274202(e)(2) prescribes that each lot shall have a front yard at least 25 feet in depth. Section 27-6610 prescribes that fences more than 4 feet high shall not be located in any required yard, shall meet the setback requirements for main buildings and shall require a security exemption approval. Petitioner proposes to validate existing conditions (net lot area, lot width, net lot coverage and front yard depth) and obtain a building permit for the unauthorized construction of an open porch in the rear yard and a 3-feet wooden fence over a wall of 2-feet. Variances of 956 square feet net lot area, 10% net lot coverage, 9 feet lot width, and 4 feet front yard depth and a Security Exemption review for a fence over 4 feet in height in the front yard (abutting Leyte Drive) are requested.

Evidence Presented

1. The property was subdivided in 1953, contains 5,544 square feet, is zoned RSF-65 (Residential, Single-Family-65) and is improved with a single-family dwelling, driveway, detached converted garage covered front porch and shed. Exhibit (Exhs.) 2, 4, 8, 9 and10 (A) through (F).

2. The subject property is rectangular in shape with a slight topographic decline on the right site property line. Exhs. 2, 4 and 10 (A) through (F).

3. Petitioner proposes to validate existing conditions (net lot area, lot width, net lot coverage and front yard depth) and obtain a building permit for the unauthorized construction of an open porch in the rear yard and a 3-feet wooden fence over a wall of 2-feet. Variances of 956 square feet net lot area, 10% net lot coverage, 9 feet lot width, and 4 feet front yard depth and a Security Exemption review for a fence over 4 feet in height in the front yard (abutting Leyte Drive) are requested. The existing conditions are to be validated. The 5-foot retaining wall and fence (2 foot retaining wall with

3-foot fence on top) must be reviewed as a Security Exemption for being 1-foot over the allowable height. Exhs. 2, 4, 8, 9 and 10 (A) through (F).

4. Petitioner Benjamin Hidalgo Siguenza testified that he understands that a permit must be obtained for the unauthorized construction of the covered porch and storage area. Exhs. 2, 4, 8, 9 and 10 (A) through (F).

5. Petitioner Hidalgo Siguenza further testified that the garage existed, and he only added the shingles and siding. The electricity was already in place. Exhs. 2, 3 (a) through (c).

6. Inspector Swann stated that Mr. Hildago Siguenza purchased the property in July of 2020. He provided photos showing the garage doors in January 2020. Current photos of the garage demonstrated that the garage doors had been removed with a reduced opening and installed patio door or French door. Exhs. 2, 3 (a) through (c).

7. When questioned by Board Member Isler, Inspector Swann testified that when he visited the subject property in response to a complaint, he had an issue with the garage as it appearing to be converted to a living space. He added that there were no longer garage doors and electricity was in the structure. The porch was constructed without obtaining permits. Exhs. 2, 3 (a) through (c).

8. Petitioner agreed and stated that he removed the garage doors because they were inoperable and added a window and balcony.

9. Inspector Swann testified in response to Board Member Isler question regarding the electricity that he was not able to inspect the interior of the structure. He noted that in a conversation with Mrs. Siguenza, he was led to believe that someone was residing there.

10. Inspector Swann stated that an additional permit would be required if someone is residing in the structure.

11. The petitioner testified that no one is residing in the garage, although, it is set up for someone to reside in it and children to play in. He stated that the garage is also set up for a possible emergency area to isolate a sick family member for Covid.

12. Board Member Isler questioned Inspector Swann regarding the construction within the right-of way as noted on the violation. Inspector Swann believed the retaining wall and fence in the front yard are located in the right-of-way. Inspector Swann stated that the wall and fence were not there in 2020. He further stated that the wall appears to be about 2.5 feet as there are 3 courses of CMU (concrete masonry units) block along with a 4-foot fence. Exhs. 2, 3 (a) through (c) and 5 (A) through (M).

13. Petitioner stated that he erected the wall because there was a decline in the front yard.

Madam Chair made the motion to continue this case in order for Inspector Swann to visit the site to ascertain more information, including the height of the wall and fence as related to Security Exemption review. Motion carried 4/0.

On July 12, 2023, the case was reheard to include a Security Exemption review and discuss further information based on Inspector Swann's reinspection.

1. Inspector Swann testified that based on his reinspection, it appears that the retaining wall and fence is not located within the right-of-way. It is approximately 12-18 inches behind the sidewalk.

2. Petitioner reiterated that he built the wall because the yard was on a decline and the fence that was there was in very bad condition, so he installed the wall to level the yard and then constructed the fence on top of it. Exhs. 2 and 5 (A) through (D).

3. Inspector Swann confirmed that the garage doors were replaced with french doors. Exhs. 5 (A) through (D).

4. Inspector Swann further stated that the garage does not have to have "garage doors" although any alteration of the doors require permits, as does the A/C and electrical.

5. Petitioner stated he constructed the covered porch in the rear because concrete was already there, and it looked "really bad", and he needed an area in the back for shade and to block the sun from the house as there is a window and a glass door in the rear. Exh. 2.

Applicable Code Section and Authority

The Board is authorized to grant the requested variances if it finds that the following provisions of Section 27-3613(d) of the Prince George's County Zoning Ordinance are satisfied:

(d) General Variance Decision Standards

A variance may only be granted when the review board or official, as appropriate, finds that:

- (1) A specific parcel of land is physically unique and unusual in a manner different from the nature of surrounding properties with respect to exceptional narrowness, shallowness, shape, exceptional topographic conditions, or other extraordinary conditions peculiar to the specific parcel (such as historical significance or environmentally sensitive features);
- (2) The particular uniqueness and peculiarity of the specific property causes a zoning provision to impact disproportionately upon that property, such that strict application of the provision will result in peculiar and unusual practical difficulties to the owner of the property.
- (3) Such variance is the minimum reasonably necessary to overcome the exceptional physical conditions.
- (4) Such variance can be granted without substantial impairment to the intent, purpose and integrity of the General Plan or any Functional Master Plan, Area Master Plan, or Sector Plan affecting the subject property.
- (5) Such variance will not substantially impair the use and enjoyment of adjacent properties; and
- (6) A variance may not be granted if the practical difficulty is self-inflicted by the owner of the property.

Findings of the Board

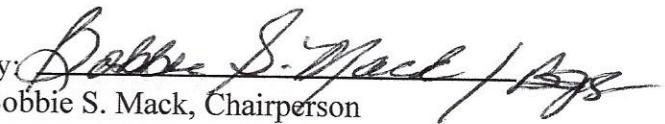
After hearing all the testimony and reviewing the evidence of record, the Board finds that the requested variances and Security Exemption complies with the applicable standards set forth in Section 273613(d), more specifically:

Due to the need to validate existing conditions and obtain a Security Exemption review for the wall/fence, the need to provide a covered area for family enjoyment and the character of the neighborhood, granting the relief requested would not substantially impair the intent, purpose and integrity of the General Plan or Master Plan, and denying the request would result in a peculiar and unusual practical difficulty upon the owner of the property.

BE IT THEREFORE RESOLVED, by majority vote, Ms. Renee Alston absent, that variances of 956 square feet net lot area, 10% net lot coverage, 9 feet lot width, and 4 feet front yard depth and a Security Exemption review for a fence over 4 feet in height in the front yard (abutting Leyte Drive) in order to validate existing conditions (net lot area, lot width, net lot coverage and front yard depth) and obtain a building permit for the unauthorized construction of an covered rear porch and a 3 foot wooden fence on top of a 2 foot retaining wall on the property located at 6900 Leyte Drive, Oxon Hill, Prince George's County, Maryland, be and is hereby **APPROVED**. Approval of the variances and

Security Exemption approval is contingent upon development in compliance with the approved site plan, Exhibit 2 and approved elevation plans, Exhibits 3 (a) through (c).

BOARD OF ZONING APPEALS

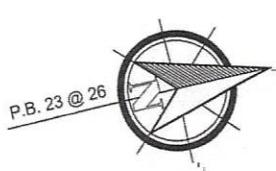
By: 
Bobbie S. Mack, Chairperson

NOTICE

Within thirty (30) days from the date of this decision, any person, firm, corporation, or governmental agency who was a party to the Board's proceedings and is aggrieved by its decision may file an appeal to the Circuit Court of Prince George's County.

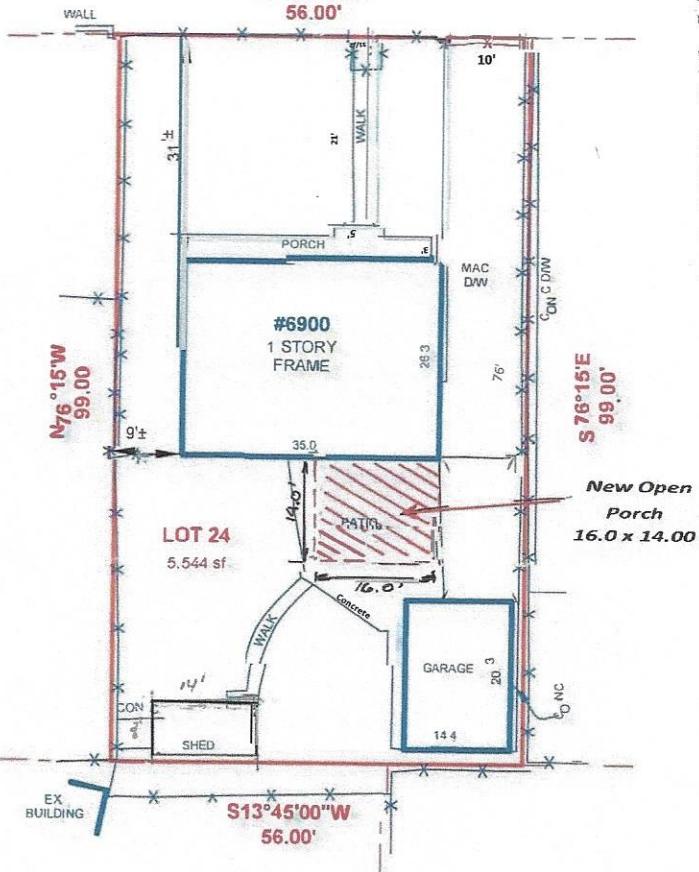
Further, Section 27-3613(c)(10)(B) of the Prince George's County Code states:

A decision of the Board, permitting the erection of a building or structure, shall not be valid for more than two (2) years, unless a building permit for the erection is obtained within this period and the construction is started and proceeds to completion in accordance with the terms of the decision and the permit.



LEYTE DRIVE

N13°45'00"E
56.00'



THE LEVEL OF ACCURACY OF
DISTANCES TO APPARENT
PROPERTY LINES IS:
1' \pm

LOCATION DRAWING OF:

#6900 LEYTE DRIVE

LOT 24

BLOCK G

SOUTH-LAWN

PLAT BOOK 23, PLAT 26

PRINCE GEORGE'S COUNTY, MARYLAND

SCALE: 1"=20' DATE: 09/27/2021

DRAWN BY: SM FILE #: 2111463 200

LEGEND:

- FENCE
- BASEMENT ENTRANCE

- BAY WINDOW
- BRICK

- BLOCK RESTRICTION LINE

- CONCRETE STOOP

- CONCRETE
- DRIVEWAY

- EXISTING
- EXISTING

- FRAME

- GATE

- GATE

- OVERHANG

- PUBLIC UTILITY ESMT

- PUBLIC IMPROVEMENT ESMT

- RECORD INFORMATION

- IMPROVEMENTS

- ESMTS & RESTRICTION LINES

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SURVEYOR'S CERTIFICATE

I HEREBY STATE THAT I WAS IN RESPONSIBLE CHARGE OVER THE PREPARATION OF THIS DRAWING AND THE SURVEY WORK REFLECTED HEREIN AND IT IS IN COMPLIANCE WITH THE REQUIREMENTS SET FORTH IN REGULATION 12 CHAPTER 02.13.5 OF THE CODE OF MARYLAND ANNOTATED REGULATIONS. THIS SURVEY IS NOT TO BE USED OR RELIED UPON FOR THE ACCURATE IDENTIFICATION OF PROPERTY BOUNDARY LINES, BUT SUCH SURVEY MAY BE USED AS A REFERENCE FOR THE LOCATION OF EXISTING IMPROVEMENTS, TRANSFERS, OR REFINANCING. THIS PLAT DOES NOT PROVIDE FOR THE ACCURATE IDENTIFICATION OF PROPERTY BOUNDARY LINES, BUT SUCH SURVEY MAY BE USED AS A REFERENCE FOR THE LOCATION OF EXISTING IMPROVEMENTS, TRANSFERS, OR REFINANCING. THIS PLAT IS OF BENEFIT TO A CONSUMER ONLY INsofar AS IT IS REQUIRED BY A LENDER OR FINANCIAL COMPANY OR ITS AGENTS IN CONNECTION WITH THE CONTEMPLATED TRANSFER, FINANCING OR REFINANCING. NO TITLE REPORT WAS FURNISHED TO NOR DONE BY THIS COMPANY. SAID PROPERTY SUBJECT TO ALL NOTES, RESTRICTIONS AND EASEMENTS OF RECORD. BUILDING RESTRICTION LINES AND EASEMENTS MAY NOT BE SHOWN ON THIS SURVEY. IMPROVEMENTS WHICH IN THE SURVEYOR'S OPINION APPEAR TO BE IN A STATE OF DISPAIR OR MAY BE CONSIDERED TEMPORARY, MAY NOT BE SHOWN. IF IT APPEARS ENCROACHMENTS MAY EXIST, A BOUNDARY SURVEY IS RECOMMENDED.

Exh. # 2
V-15-23

DULEY & ASSOC.

WILL GIVE YOU A 100%
FULL CREDIT TOWARDS
UPGRADING THIS
SURVEY TO A
"BOUNDARY/STAKE"
SURVEY FOR ONE
YEAR FROM THE DATE
OF THIS SURVEY
(EXCLUDING D.C. & BALTIMORE CITY)

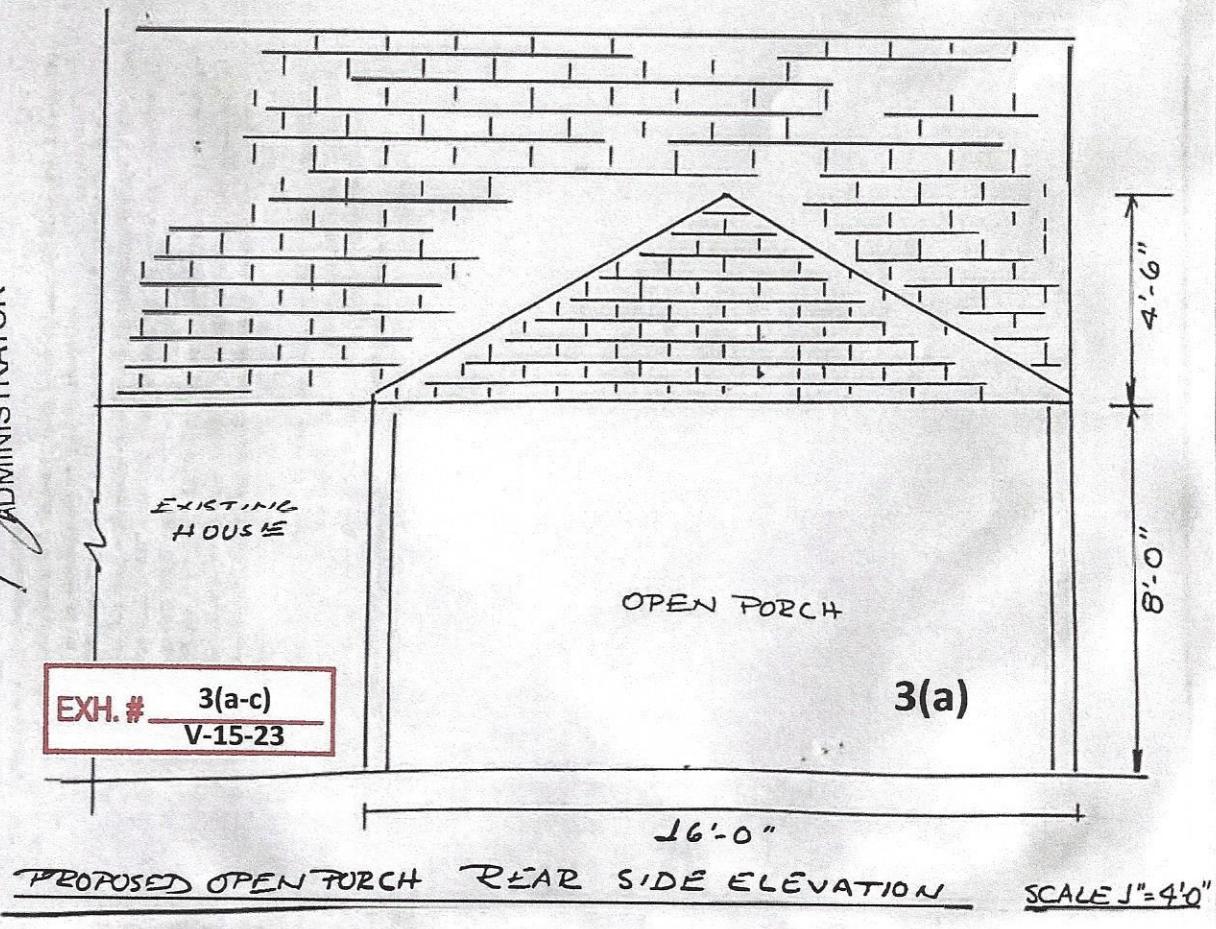
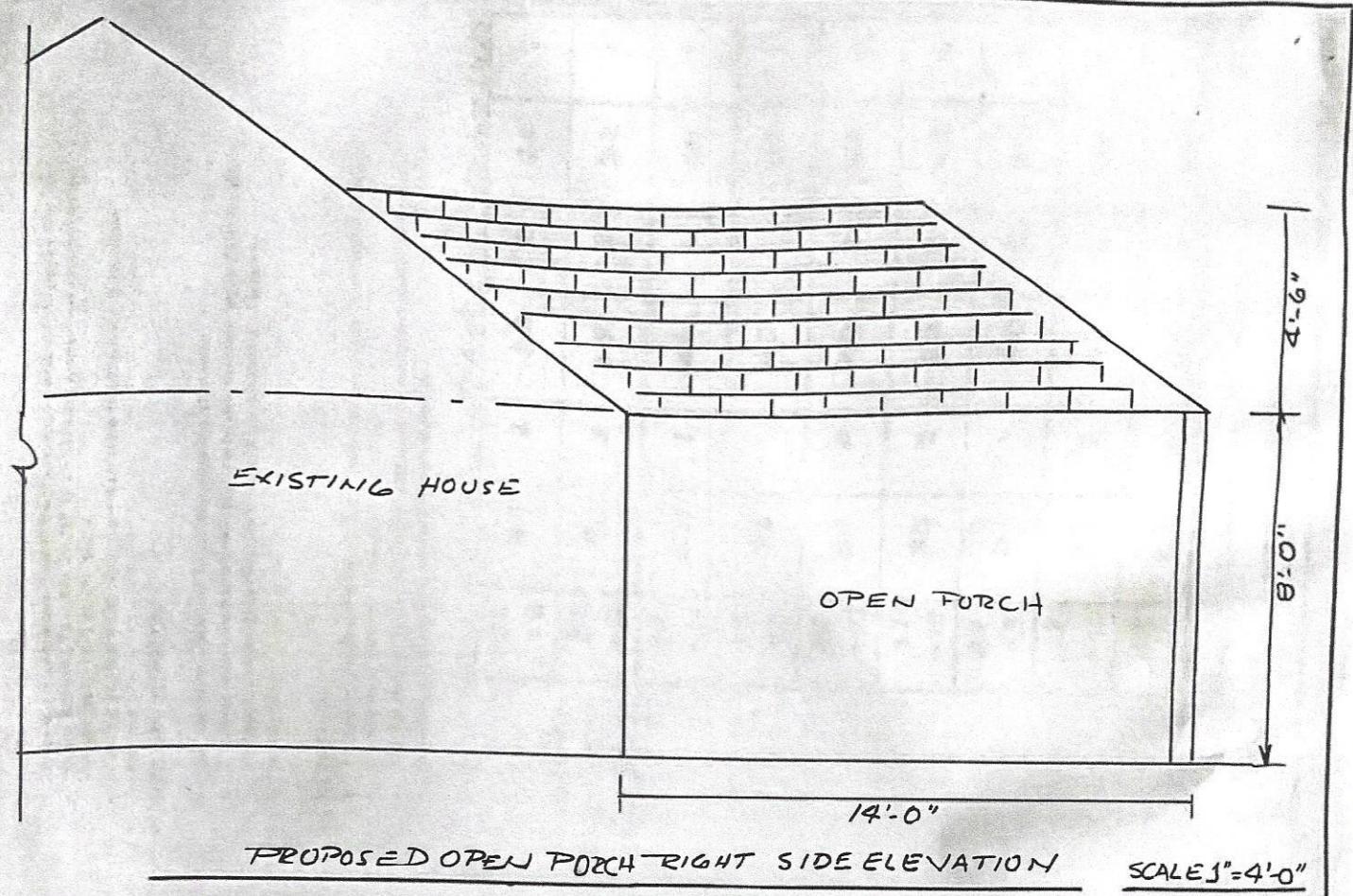
BOARD OF APPEALS

APPROVED JUL 12 2023

[Signature]
ADMINISTRATOR

EXH. # 3(a-c)
V-15-23

3(a)



BOARD OF APPEALS

APPROVED JUL 12 2013

by [Signature]
ADMINISTRATOR

SPECIFICATIONS

- Construction shall be in compliance with the **MD Uniform State Wide Building Code**, latest edition.
- Design Loads, PSF:
 - Floor: 40 L.L., 10 D.L.
 - Roof: 30 L.L., 10 D.L.
- All Structural Wood Joists, Rafters and Headers shall be Hem Fir, No.2, 15% M.C. or Spruce - Pine Fir No.2, 15% M.C. or Southern Pine No.2 D.L.
- Concrete Properties for Footing:
 - a - Min. Compressive Strength (F_c) = 3000psi
 - b - Min. Aggregate: 9" - 1"
- All Exposed concrete shall be 5% - 1% air entrained.
- Bottom of all footings shall extend below frost line of the locality and run 2" below existing grade.
- Detail design loads:

	Live Loads	Dead Loads	Total Loads
Roof Trusses	40 psf(snow)	7 top & 11 bottom	47 psf
Roof Rafters	30 psf	12 psf	42 psf
Sleeping Rooms	30 psf	10 psf	40 psf
Other Rooms	40 psf	10 psf	50 psf
Walkways	80 psf	10 psf	90 psf
Stairs	40 psf (*)	10 psf	50 psf
Wind Load	18 psf (min.)		

* Individual stair treads shall be designed for the uniformly distributed live load or a 300 lb concentrated load acting over an area of 4 square inches, whichever is greater. Guardrails and handrails shall be designed to withstand a concentrated load applied in any single direction at any point along the top of 200 lb.

- All exposed exterior lumber or lumber in contact with concrete or masonry shall be pressure treated in accordance with industry standards with a minimum .40 retention.

Wood Structural members:

- Joists, Headers & Trimmers shall be minimum #2 Hem-Fir having the following properties unless noted otherwise:
F_b = 850 psi ; F_c = Perp. = 405 psi; F_v = 75 psi; E = 1,300,000 psi
- Exterior bearing wall studs shall be minimum #2 grade sqf 2" x 6" on 1st floor and 2" x 4" on 2nd floor having the following properties unless noted otherwise:
F_b = 875 psi ; F_c Perp. = 425 psi ; F_c Par. = 1100 psi ; E = 1,400,000 psi
- Interior bearing wall studs shall be minimum stud grade sqf 2" x 6" (1st floor) and 2" x 4" (2nd floor) having the following properties unless noted otherwise:
F_b = 675 psi ; F_c Perp. = 425 psi ; F_c Par. = 675 psi ; E = 1,200,000 psi
- 1 1/8" (LAMINATED VENEER LUMBER) shall be 1 3/4" wide with depth specified and shall be secured together as directed by the manufacturer. They shall have the following properties:
F_b = 2800 psi ; F_c = 500 psi ; F_v = 250 psi ; E = 2,000,000 psi

- Wood Joists shall have a minimum bearing of 1-1/2". Wood floor trusses to have a minimum bearing as per manufacturer's recommendations. All rafters and headers shall be connected at bearing points with one prefabricated galvanized metal connector, minimum 18 GA. With capacity to resist 450# loading.
- Prefab Joists & beam hangers shall be sized & attached for manufacturer's recommendations. Holes through wood shall not exceed manufacturer's recommendations. No cuts or holes are allowed through top or bottom chord.
- Wood Floor Joists shall be sized & spaced as indicated on drawings. Supplier shall confirm that members provided can carry the loading designated in section 7.
- Trusses, truss joints and floor joists shall align directly over studs with an offset no more than one inch. Install additional studs as required.
- Plywood - All plywood used structurally shall meet the performance standards and all other requirements of applicable U.S. commercial standards for the type, grade and species of plywood and shall be identified by an approved testing agency. Sub floor to be 1/2" tongue and groove plywood standard stud-l. floor D.E.T.S. unless noted otherwise. Roof Deck 7/16" O.S.B. with exterior glue unless otherwise noted. Direct bearing at all edges and nailed. All end joints shall be laid at right angles to the joists and trusses and parallel in the studs. Use plywood clips with 5/8" roof plywood if applicable.
- Railings - Railings or handrails shall be installed on any exterior porch or stair exceeding 3 risers in height or 24" above grade.

10. INSULATION

- Wall R-13 minimum 3 5/8" batt insulation with kraft paper face + vapor barrier. Provide 3 1/2" R-13 blanket insulation in all exterior frame walls that are 4" thick.
- Ceiling at roof R-30 fiberglass batt with kraft paper face vapor barrier.

11. DOORS AND WINDOWS

- All interior doors to be hollow core hardboard.
- Exterior doors and window opening to the exterior shall fully weatherstripped, caulked, gasketed or otherwise treated to limit air infiltration.

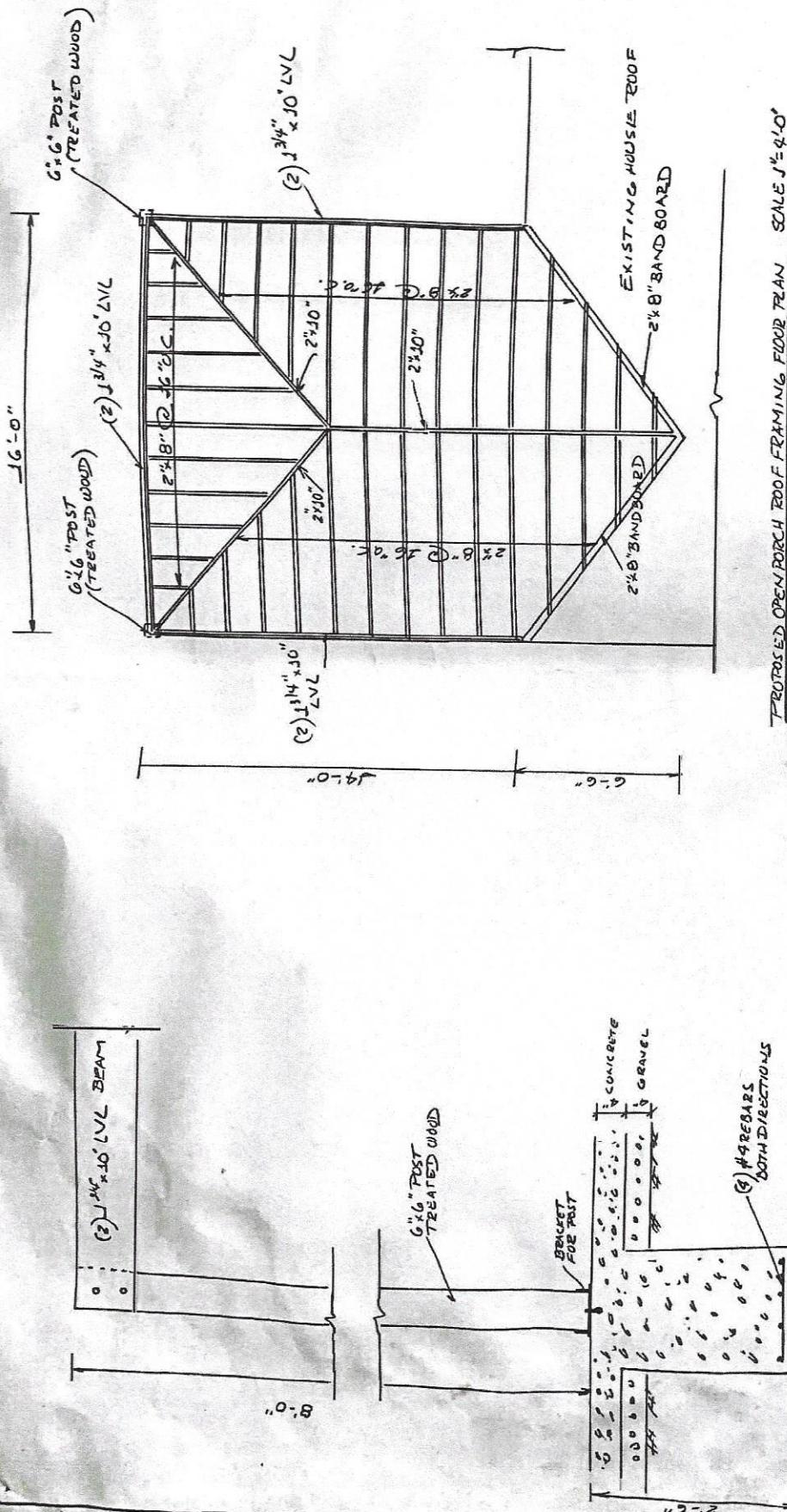
12. ELECTRICAL

- Electrical shall conform to the requirements of the National Electrical Code Local Power Company.
- Smoke Detectors are required and shall be installed outside of each separate sleeping area in each sleeping room.

Rec. ceiling and two clear span (ft. x ft.)	HEADERS						Ganging Jacks
	2-2 x8	4-3 x10	2	3-3 x12	2	2-8 x12	
2-2 x10	50	2	3-10	2	3-2	3	
2-2 x12	5-11	2	4-6	3	3-9	3	
3-2 x8	5-3	1	4-0	2	3-5	2	
3-2 x10	6-3	2	4-9	2	4-0	2	
3-2 x12	7-5	2	5-8	2	4-9	3	
4-2 x8	6-1	1	4-8	2	3-11	2	
4-2 x10	7-3	2	5-6	2	4-8	2	
4-2 x12	8-6	2	6-6	2	5-6	2	

A.002

- SPECIFICATIONS - TABLE OF HEADERS



BOARD OF APPEALS

APPROVED JUL 12 2013

B. S. Blinn
ADMINISTRATOR

6900 LEYTE DR. OXON HILL MD 20745
- POST 6x6" FOUNDATION DETAIL
- PROPOSED OPEN PORCH ROOF FRAMING FLOOR PLAN

S.001