



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-35-23 Richard Hart & Sarah Bergin

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: January 24, 2024.

CERTIFICATE OF SERVICE

This is to certify that on April 02, 2024, the above notice and attached Order of the Board were mailed, postage prepaid, to all persons of record.

A handwritten signature in black ink, appearing to read "Barbara J. Stone", is placed over a horizontal line.

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

Petitioners: Richard Hart & Sarah Bergin
Appeal No.: V-35-23

Subject Property: Lot 8, Block O, Rose Valley Estates Subdivision, being 10114 Kathleen Drive, Fort Washington, Prince George's County, Maryland

Counsel for Petitioner: Traci Scudder, Esq, Law Office of Traci Scudder, LLC

Witnesses: Lisa Rigazio, Architect

Mike Razavi, Engineer

Heard: October 25, 2023; Decided: January 24, 2024

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

Carl Isler, Vice Chairman

Renee Alston, Member

Board Members Absent: Anastasia T. Johnson, Member

Teia Hill, Member

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 27-3303 of the Zoning Ordinance, Petitioners request that the Board approve a variance from Section 27-4202(c) of the Zoning Ordinance, which prescribes that each lot shall have a minimum net lot area of 20,000 square feet and a maximum lot coverage of 25%. Petitioners propose to construct a 33.5' x 42' hangar/garage. Variances of 10,000 square feet net lot area and 17.5% lot coverage are requested.

Evidence Presented

The following testimony and record evidence were considered by the Board:

1. The property was subdivided in 1966, contains 10,000 square feet, is zoned RR (Residential, Rural), and is improved with a single-family dwelling, driveway, and carport. Exhibits (Exhs.) 2, 5, 8, 9 and 10 (A) thru (F).
2. The subject property is located within the APA-5 and meets the requirements of Section 27-4402 Aviation Policy Area Overlay (APAO) Zone. Specifically, height and floor area. As the hangar is lower in height than the main structure and by definition of floor area, garages are not included in gross floor area.
3. Petitioner proposes to validate existing conditions (net lot area) and obtain a building permit to construct a 33.5' x 42' hangar. Variances of 10,000 square feet net lot area and 17.5% lot coverage are requested. Exhs. 2, 3, 4 (A) thru (G) and 5 (A) thru (G).
4. Councilor Traci Scudder explained that this application is to request a variance for lot coverage as well as validate existing conditions relating to the size of the property. The approval they are requesting regarding lot coverage is to allow for a 42' x 33.5' hangar/garage that would allow for the storage of Mr. Hart's airplane that he currently parks in the grassy area of Potomac Airfield. The noted area abuts the Petitioner's backyard. He would like to build this hangar to protect this aircraft from the elements, prolong the serviceable life of the aircraft, and prevent weather-related damage. This hangar will also provide an additional layer of security for the aircraft. Several other homes along the same street also adjoin the

Airfield. There is one other home that also has a hangar/garage that was built on their property. The attorney for the Petitioner opined that the property is very unique, as it backs up to an airport. But also, for the RR Zone, this property is very small. Today standard for minimum lot size in the RR Zone is 20,000 square feet and this property is only 10,000 square feet. So, it is again a very small property for this particular zone. The hardship is that the requirement of a 25% limit creates a practical difficulty in this instance. On the one hand, you have this very unique situation. This gentleman was able to acquire a home that is abutting an airport, and he is an avid pilot; however, he needs to have a way to protect his aircraft. Safety is a primary issue when you are flying so having this hangar/garage will help protect the aircraft from the elements is essential. Further, to illustrate how the criteria under Section 27-3613(d) are met, the attorney for the Petitioner believes it is a peculiar and unusual situation being located in a residential community that is next to an airport. There is a solid relationship between the owners and the airport. Exhs. 2, 3, 4 (A) thru (G) and 5 (A) thru (G).

5. Ms. Scudder further stated, she would like to clarify some of the measurements as they reviewed the worksheet on page 29 of the binder. They did notice a discrepancy concerning measurements. Based on their calculations, they only need a 39.3% variance and not a 42.5% variance. The attorney for the Petitioner believes their site plan may have caused some confusion because it was labeled the concrete driveway as measuring 704.7 square feet. However, the site plan did not show a measurement for the existing carport so she believes that not including the measurement over the carport and only on the driveway, may have caused the Board's staff to measure the carport and add to the driveway measurement possibly leading to the miscalculation of the variance needed. But it was not excluded, it was included in that 704.5 square feet. So, the 704.7 that is currently showing for the existing driveway does include the small section right next to it that is labeled "carport". Additionally, on the site plan in the right-hand corner, there is a lot coverage table and they did not include the measurement for the carport in the table so again, to further indicate that the measurement is inclusive of what is needed for the variance. The attorney for the Petitioner believes the Board staff may have measured the carport again, even though it was already included. They would like to clarify their plans and label the carport area and then they can also include that in their lot coverage table. Exhs. 2, 3, 4 (A) thru (G) and 5 (A) thru (G).

6. Administrator Stone asked Ms. Scudder if she could talk about a concern, and also put on the record, the possible need for an easement to cross the property onto the airport property. Ms. Scudder responded that she would discuss that and the fact that Administrator Stone raised the question if a driveway was needed to the airport property. Ms. Scudder noted that she did meet with the Department of Permitting, Inspections, and Enforcement (DPIE) and their staff took a closer look at the application and determined that a driveway would not be needed. Also, the other issue regarding the need for an easement. They do not believe they need an easement as the airport owner will be entering into an agreement that has been presented to Mr. Hart that allows him to cross the property line from the airport to the homeowner. The Petitioner's attorney believes that would resolve that issue.

7. Administrator Stone questioned; will this proposal be similar to the existing hangar and access? Mr. Hart responded, that yes, as you can see on the aerial, at the house two doors down, the plane is taxied through the grass and parks the plane in the hangar. Exh. 20.

8. Madam Chair questioned if the neighbors complained about the noise of the airplane. Mr. Hart responded, no, there are restrictions on times you can fly so there are no departures before 6:00 a.m. and arrival after 10:00 p.m. These airplanes do not make a lot of noise, they are small single engine propellor planes. When in operation, it resembles the sound of a lawn mower. It is approximately 100 yards from his house to the taxiway. The runway is about $\frac{1}{2}$ mile long.

9. Madam Chair noted that we will need the signed agreement. Of course, since this agreement will be submitted after the hearing it cannot be part of the record but will be located in the case file. Ms. Traci Scudder also noted that they will be resubmitting a revised site plan and a revised Statement of Justification.

A motion was made by Chair Mack to continue this hearing for corrected documents. A second was made by Board Member Isler. Motion carried 3/0. (Mack, Isler, and Alston).

On January 24, this case was re-heard.

1. Councilor Traci Scudder explained that this case was held open for some clarifying information regarding lot coverage, but I believed the case was formally continued, and that is why they are back today. We did submit a revised site plan. The engineer believes there should be some clarifying notes for when this matter gets to permitting. So, there are no substantive changes to the request as everything is the same. Again, a revised site plan was submitted. Additional notes added were highlighted. The additional notes were only to clarify. The request remains the same. Exhs. 21 and 26.

2. Chair Mack questioned the access to the airport. Ms. Scudder stated they were to submit an agreement between the airport and Mr. Hart. That document will be submitted once this application is approved.

3. Board Member Isler noted that there was already a letter from Potomac Airfield granting permission to cross the property line onto the airport. But the Board was looking for something more formal. The agreement should be done after the application is approved. Exhs. 14 and 15.

4. Administrator Stone noted for the record, that we do have a copy of the letter, but it is not signed. Once the permit is issued, Ms. Scudder will provide the signed document for our records.

5. Board Attorney, Ellis Watson noted that this document is only for the record as the County is not a party to that contract.

6. Board Member Isler questioned the lot coverage issue. Ms. Scudder noted that yes, that issue has been resolved.

A motion was made by Madam Chair to incorporate the previous testimony from October 25, 2023. The motion was seconded by Board Member Isler. Motion carried 3/0. (Mack, Isler, and Alston).

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 comply with the applicable standards set forth in Section 27-3613(d), more specifically:

Due to the need to validate the existing condition of net lot area, the unique topographic conditions of the property backing up against Potomac Airfield that is peculiar to this specific parcel, and the need for the hangar/garage for the protection of the aircraft against elements and weather. In addition, it is not out of character as another home on the street has an existing hangar, 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 owners of the property. After reviewing the calculations of the variance, the Board determined that this variance was the minimum reasonably necessary to overcome the exceptional physical conditions of the property. Further, the record reflects that this variance does not substantially impair the use and enjoyment of adjacent properties as the Petitioner's neighbors have hangars and are not in disagreement with this addition. Lastly, the practical difficulty is not self-inflicted as the Petitioner sought the variance before construction of the hangar.

BE IT THEREFORE RESOLVED, by majority vote, Ms. Hill and Ms. Johnson absent, that Variances of 10,000 square feet net lot area and 17.5% lot coverage are requested in order to validate existing conditions (net lot area) and obtain a building permit to construct a 33.5' x 42' hangar on the property located at 0114 Kathleen Drive, Fort Washington, Prince George's County, Maryland, be and is hereby APPROVED. Approval of the variances is contingent upon development in compliance with the approved revised site plan, Exhibit 26, and approved elevation plans, Exhibits 4 (A) thru (G).

BOARD OF ZONING APPEALS

By:

Bobbie P. Mack

Bobbie S. Mack, Chairperson

Approved for Legal Sufficiency

By:

Ellis Watson

Ellis Watson, Esq

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.

Signature: Ellis F. Watson
Ellis F. Watson (Mar 27, 2024 11:41 EDT)

Email: efwatson@co.pg.md.us

BOARD OF APPEALS

APPROVED B. Stone JAN 24 2024

Administrator

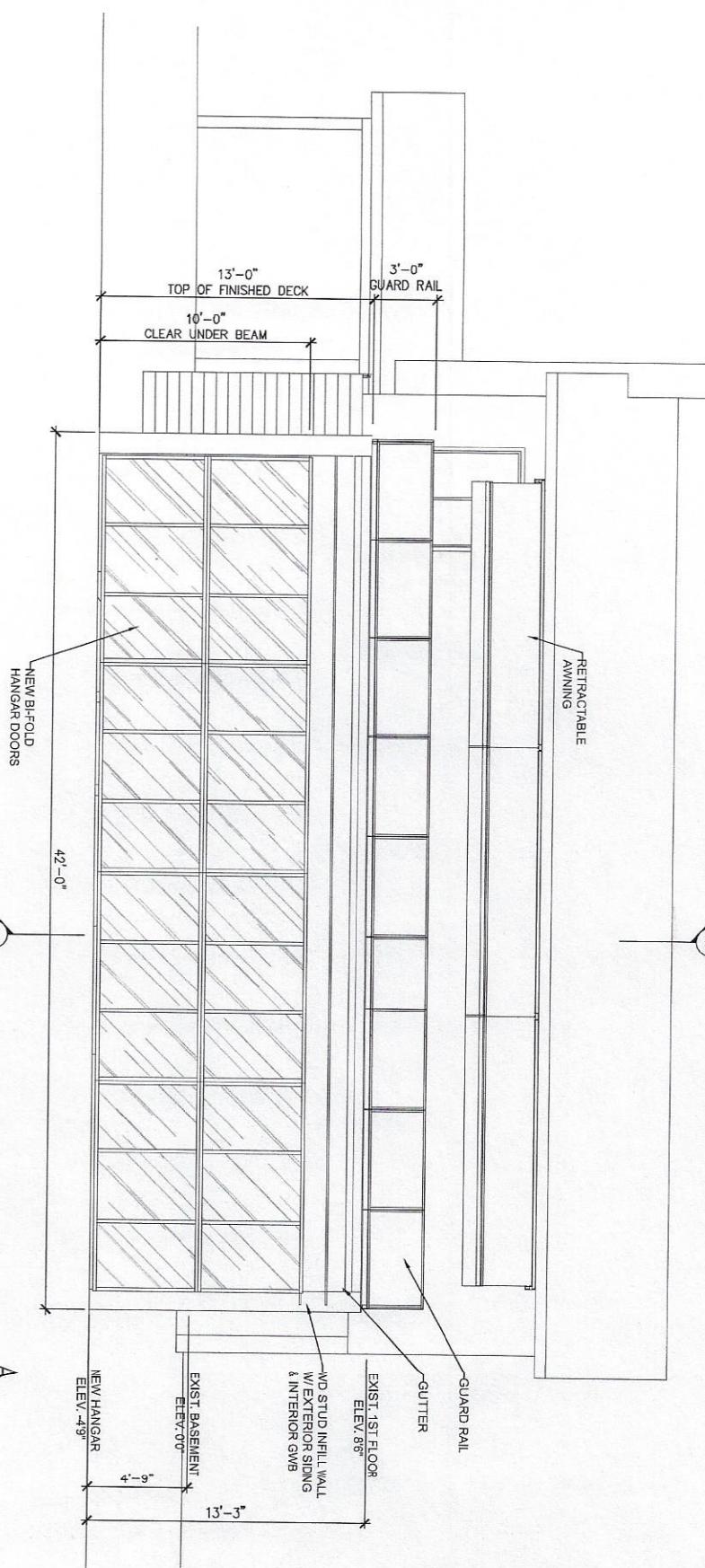


EXHIBIT
4 (A-G)
V-35-23

REAR ELEVATION (SOUTH EAST)
SCALE: 1/8" = 1'-0"

A7

**HART HANGAR
PRELIMINARY DESIGN**
10114 KATHLEEN DR, FORT WASHINGTON, MD

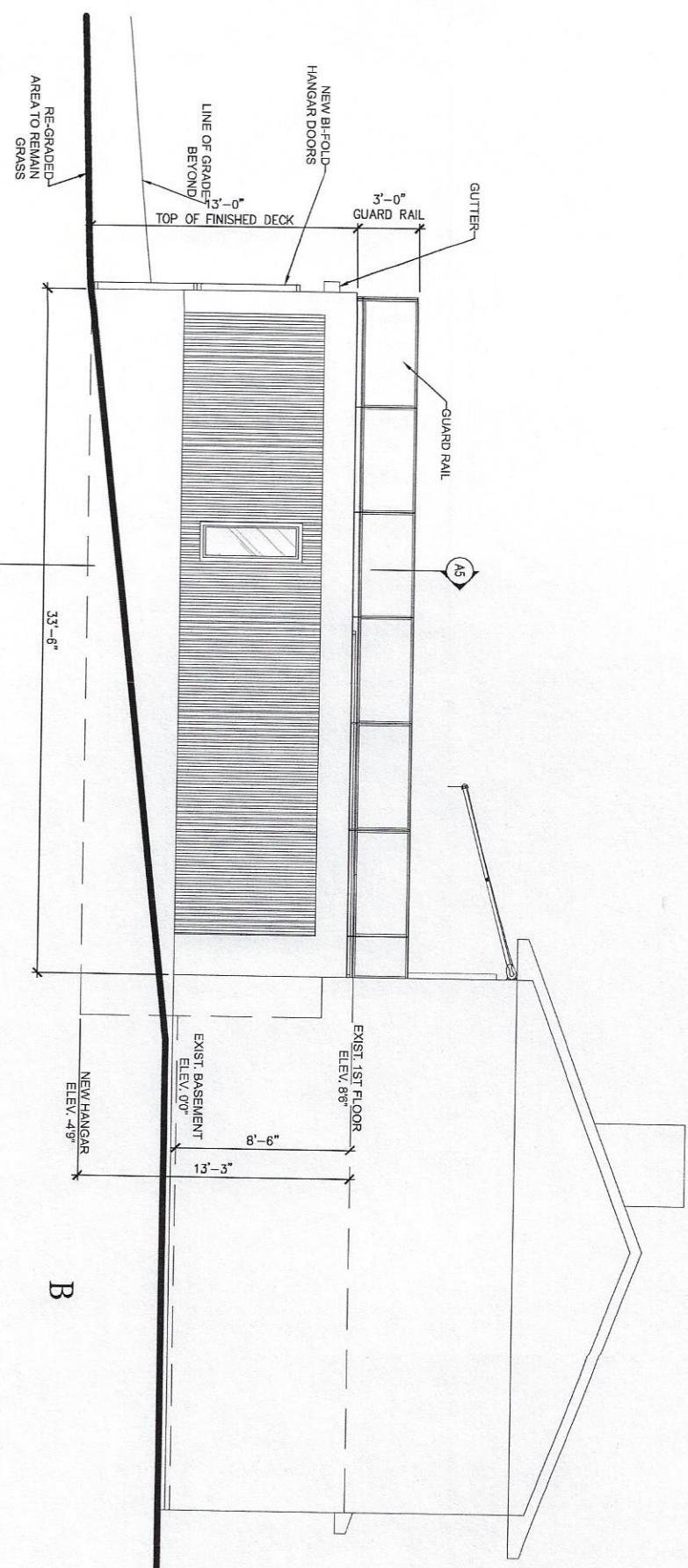
0 2 8 16
SCALE: 1/8" = 1'-0"

**RIGAZIO
DESIGNS**
architecture
lisa@rigaziodesigns.com | p: (240) 350-0532
www.RigazioDesigns.com

BOARD OF APPEALS

APPROVED JAN 24 2024

B. J. Glavin
Administrator



SIDE ELEVATION (NORTH WEST)
SCALE: 1/8"=1'-0"

A8

**HART HANGAR
PRELIMINARY DESIGN**
10114 KATHLEEN DR, FORT WASHINGTON, MD

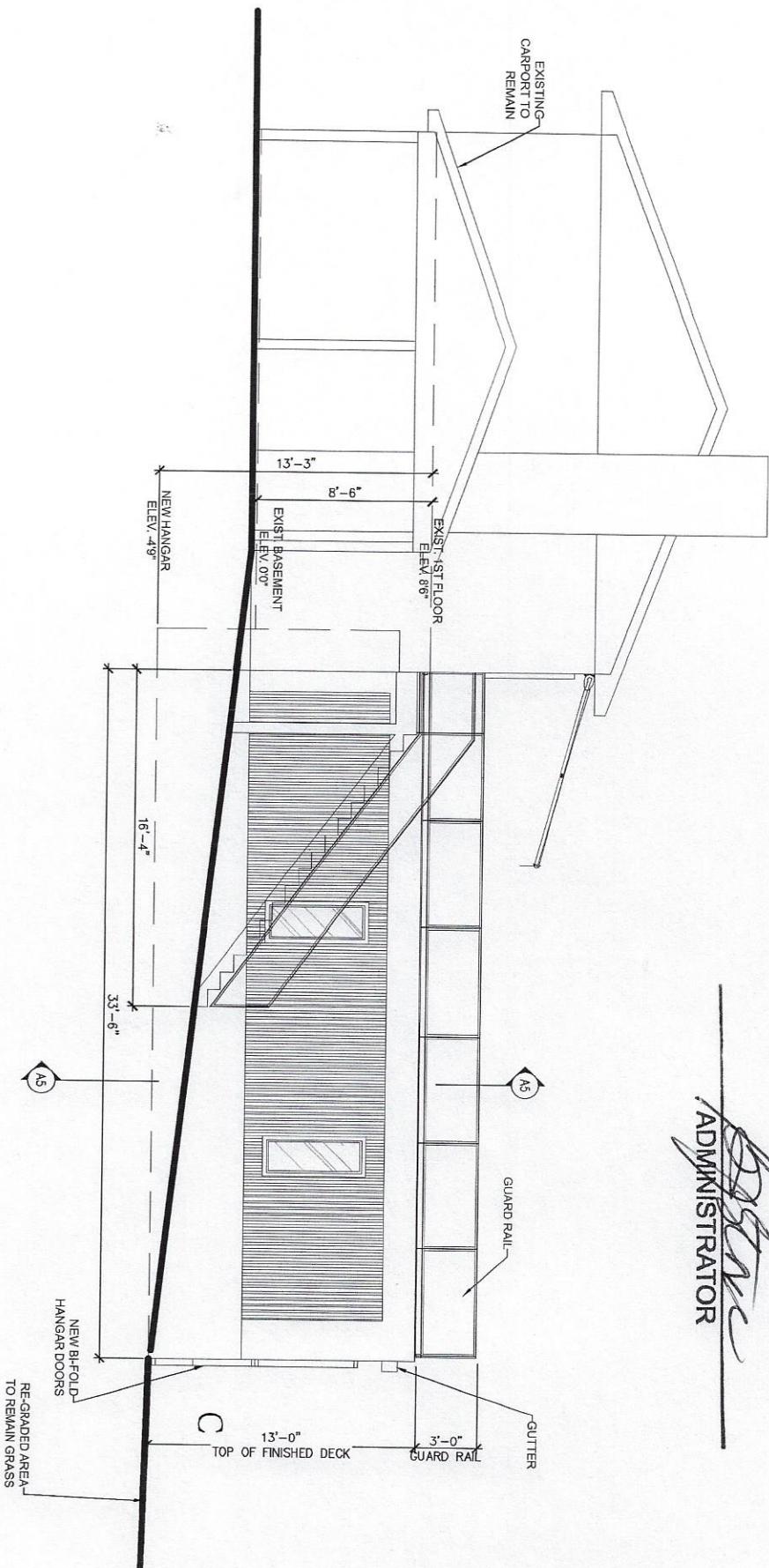
0 2 8 16
SCALE: 1/8" = 1'-0"

**RIGAZIO
DESIGNS**
architecture
lisa@rigaziodesigns.com | p: (240) 350-0532
www.RigazioDesigns.com

BOARD OF APPEALS

APPROVED JAN 24 2024

B. J. Rigazio
ADMINISTRATOR



SIDE ELEVATION (SOUTH WEST)
SCALE: 1/8" = 1'-0"

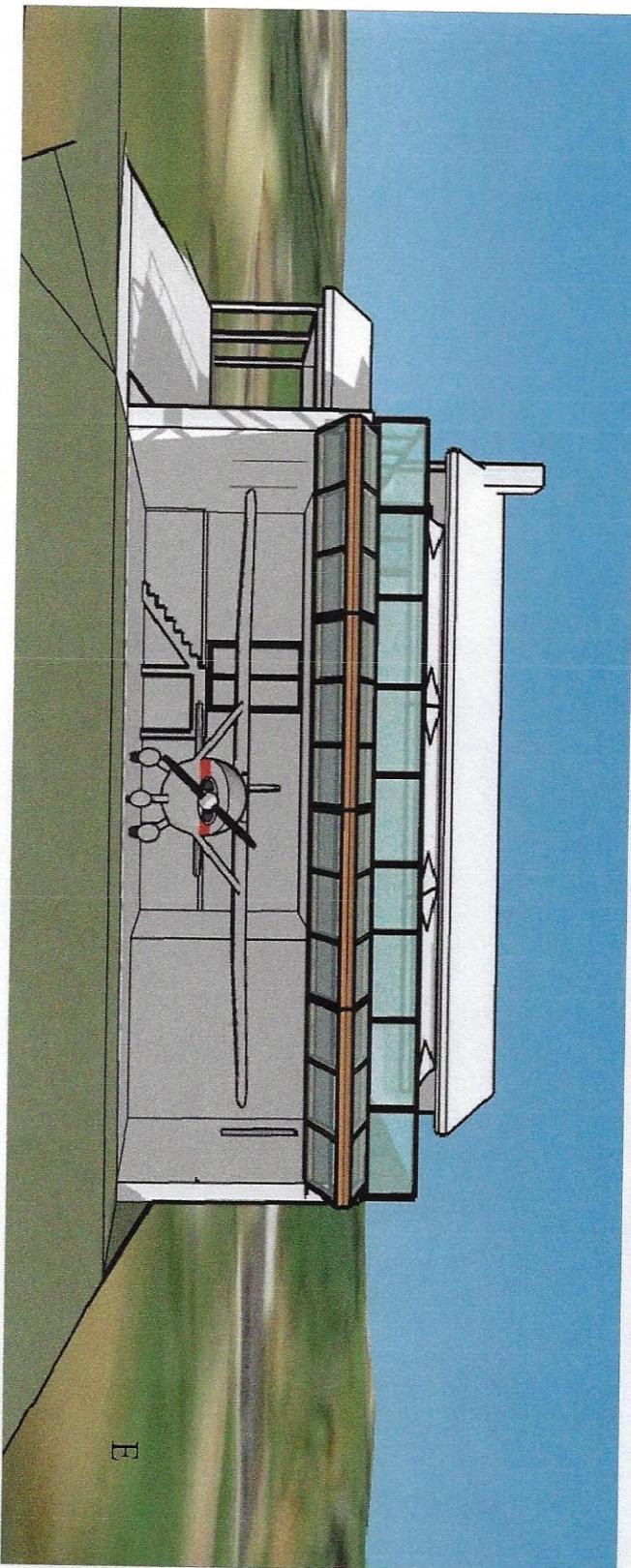
A9

HART HANGAR
PRELIMINARY DESIGN
10114 KATHLEEN DR, FORT WASHINGTON, MD

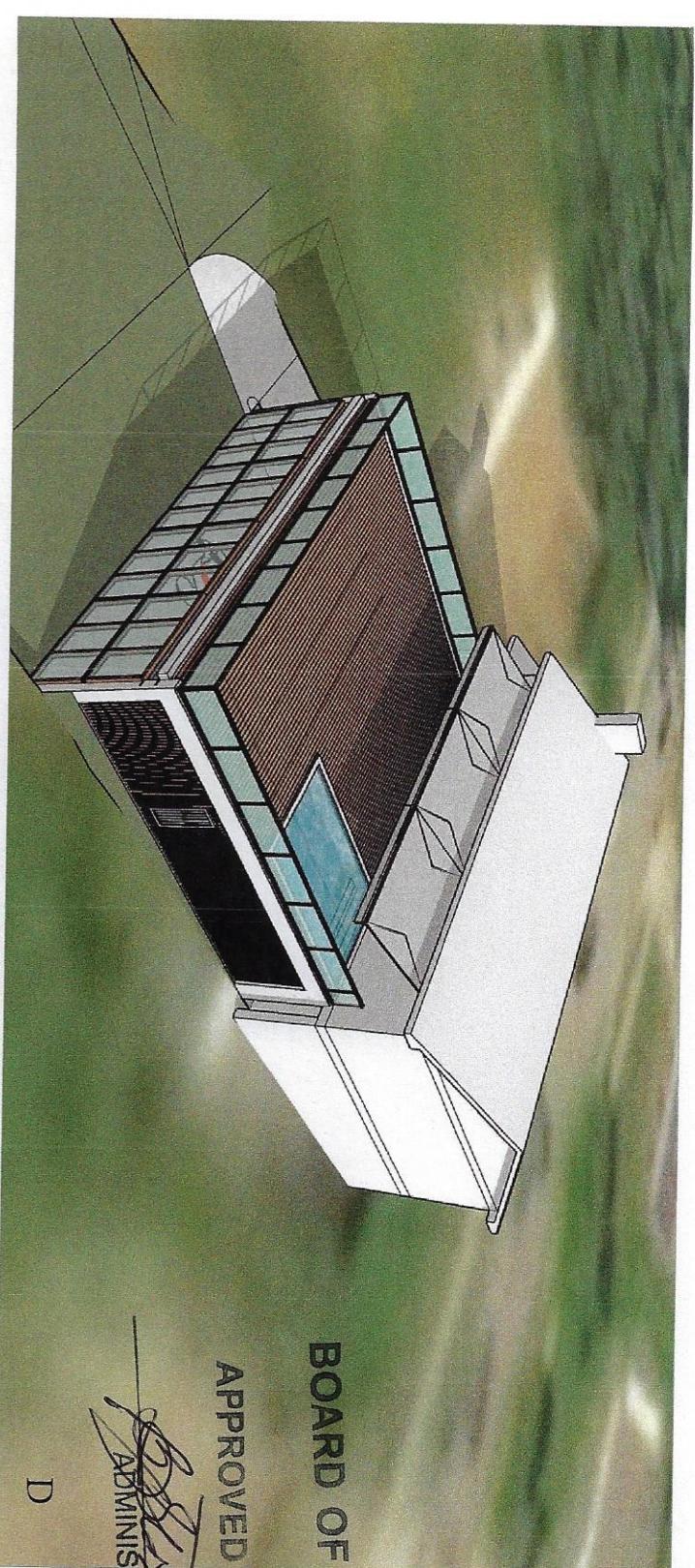
0 2 8 16
SCALE: 1/8" = 1'-0"

R RIGAZIO
DESIGNS
architecture
lisa@rigaziodesigns.com | p: (240) 350-0532
www.RigazioDesigns.com

FRONT ELEVATION



DECK VIEW



A10

HART HANGAR
PRELIMINARY DESIGN
10114 KATHLEEN DR, FORT WASHINGTON, MD

BOARD OF APPEALS
APPROVED JAN 24 2024

[Signature]
Administrator

R RIGAZIO
DESIGNS
architecture
lisa@rigaziodesigns.com | p: (240) 350-0532
www.RigazioDesigns.com

BOARD OF APPEALS

APPROVED JAN 24 2024


Administrator



LEFT ELEVATION



RIGHT ELEVATION

A11

**HART HANGAR
PRELIMINARY DESIGN**
10114 KATHLEEN DR, FORT WASHINGTON, MD

**RIGAZIO
DESIGNS**
architecture
lisa@rigaziodesigns.com | p: (240) 350-0532
www.RigazioDesigns.com