



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-75-23 Tunde Folorunsho, Etal

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: February 21, 2024

CERTIFICATE OF SERVICE

This is to certify that on April 24, 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".

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: David Tunde Folorunsho and Oluwadamilola Adeyemo

Appeal No.: V-75-23

Subject Property: Lot 15, Block B, Woodyard Estates Subdivision, being 10204 Brightfield Lane, Upper Marlboro, Prince George's County, Maryland

Witness: Frederick Johnson, Woodyard Estates Homeowners Association

Heard and Decided: February 21, 2024

Board Members Present and Voting: Carl Isler, Vice Chairman

Renee Alston, Member

Teia Hill, Member

Board Member Absent: Bobbie S. Mack, Chairperson

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 variances 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 variances from Section 27-4202(c), which prescribes that each lot shall have a minimum net lot area of 20,000 square feet. Section 27-4202(c)(1), which prescribes that not more than 25% of the net lot area shall be covered by buildings and off-street parking. Petitioners propose to validate an existing condition (net lot area) and obtain a building permit for the proposed 14' x 12' gazebo and 8' x 20' shed. Variances of 9,850 square feet net lot area and 15.2% net lot coverage¹ are requested.

Evidence Presented

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

1. The property was subdivided in 1991, contains 10,150 square feet, is zoned RR (Residential, Rural), and is improved with a single-family dwelling, asphalt driveway, deck, and play area, and 6' x 8' shed. Exhibits (Exhs.) 2, 4, 7, 8, and 9 (A) thru (F).

2. The subject lot is rectangular in shape, with the rear yard sloping up toward the rear property line. The lot lies within an approved Cluster Development and was strictly controlled, and development of the land is permitted only in accordance with land uses indicated on the approved Development Plan, Preliminary Plat 4-88269. As the Cluster Development no longer exists within Subtitle -24, the specific regulations were laid out in Resolution SP-90109. Currently, the regulations convert to the original zoning of the property (R-R). Exhs. 2, 4, 7, 8, and 9 (A) thru (F).

3. Petitioners propose to validate an existing condition (net lot area) and obtain a building permit for the proposed 14' x 12' gazebo and 8' x 20' shed. Variances of 9,850 square feet net lot area and 15.2% net lot coverage are requested. Exhs. 2, 3 (a) thru (b) and 5 (A) thru (G).

4. Administrator Stone noted, for the record that the only structures that are included in this proposal are the shed and the gazebo. The proposed basketball court and the 6-foot fence are not included in this variance request, as variances are not needed. Per this information, the lot coverage has been reduced from

¹ Correction of Net Lot Coverage. The basketball court was erroneously added to lot coverage. The correct net lot coverage should be 3%.

15.2% down to 3%. The building permit only includes the shed and gazebo. Petitioner David Folorunsho noted that it would be concrete. It has not been constructed. Also, for the record, the patio and the lead walk do need a permit. The Petitioner may include that in his permit. Exh. 2.

5. Petitioner David Folorunsho testified that the intention is to provide a better environment for his family. They have a 3-year-old son and a baby on the way. He wanted to provide a safe area for them to play and a comfortable area to sit and watch them. The proposed gazebo will protect them from the sun and elements. The proposed shed will be used as a storage area. The height of the shed is 7.9 feet in height. The height of the gazebo is 10 to the peak. So, both structures meet the height requirements. Exh. 2 and 3 (a) thru (b).

6. Mr. Frederick Johnson testified that the request that came into the homeowner's association (HOA) was for three items: the play set, the gazebo, and the tool shed. The HOA has approved the playset, but they requested that he provide a permit for the proposed shed and the gazebo. The HOA's position is that if he gets the permit, they will re-evaluate. He cannot say that it is 100% approved, but it will likely be approved. In the drawing that was submitted with the variance, the HOA has not seen a request for a fence. Petitioner noted that he was going to submit that to the HOA as soon as he got the approval.

7. Administrator Stone noted that this issue often occurs with HOAs, where they don't give their approval until after a permit is obtained. We find that very difficult as the Petitioner will go through the permit process and possibly a variance process, and then the HOA denies the request. The Board finds it best to obtain the HOA's approval with the condition that the permit will be approved.

8. Mr. Johnson noted that lately, they have been giving conditional approval for the permit. The uniqueness of this case is that all three were in one submission, so it was hard to approve. He can state that the reason he is present this evening is that the Petitioner does have a unique yard, one of the most unique yards in the community. There isn't much backyard. Mr. Johnson has spoken to several neighbors, and they are not opposed to Mr. Folorunsho's proposal as long as it is built properly and fits in with the rest of the community, so he understands the request, and he will adjust that rule in reviewing applications moving forward. The HOA did have a meeting yesterday about this case because the Hearing Notice sign in the petitioner's yard has drawn a lot of attention to the HOA. Specifically, there are no issues with the proposal of the shed or the gazebo. Exh. 2.

9. Vice Chair Isler questions the topography of the rear yard. Mr. Folorunsho noted that, yes, the backyard does have a steep slope in the rear yard. He also noted that caused flooding when they first purchased the property. This is why the patio was put in to stop the water. Exh. 2.

10. Administrator Stone noted, for the record, that this permit will go to Storm Water Management for review due to the overage of lot coverage.

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 property being developed under Cluster standard and Resolution SP-90109, which creates minimum standards, the topography of the property 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 for the property owners.

BE IT THEREFORE RESOLVED, by majority vote, Ms. Hill absent, that variances of 9,850 square feet net lot area and 15.2% net lot coverage in order to validate an existing condition (net lot area) and obtain a building permit for the proposed 14' x 12' gazebo and 8' x 20' shed on the property located at 10204 Brightfield Lane, Upper Marlboro, Prince George's County, Maryland, be and are hereby APPROVED. Approval of the variances is contingent upon development in compliance with the approved site plan, Exhibit 2, and approved elevation plans, Exhibits 3 (a) thru (b).

BOARD OF ZONING APPEALS

By: William C. Isler, II
William C. Isler, II (Apr 24, 2024 11:31 EDT)
William Carl Isler, Vice Chair

APPROVED FOR LEGAL SUFFICIENCY

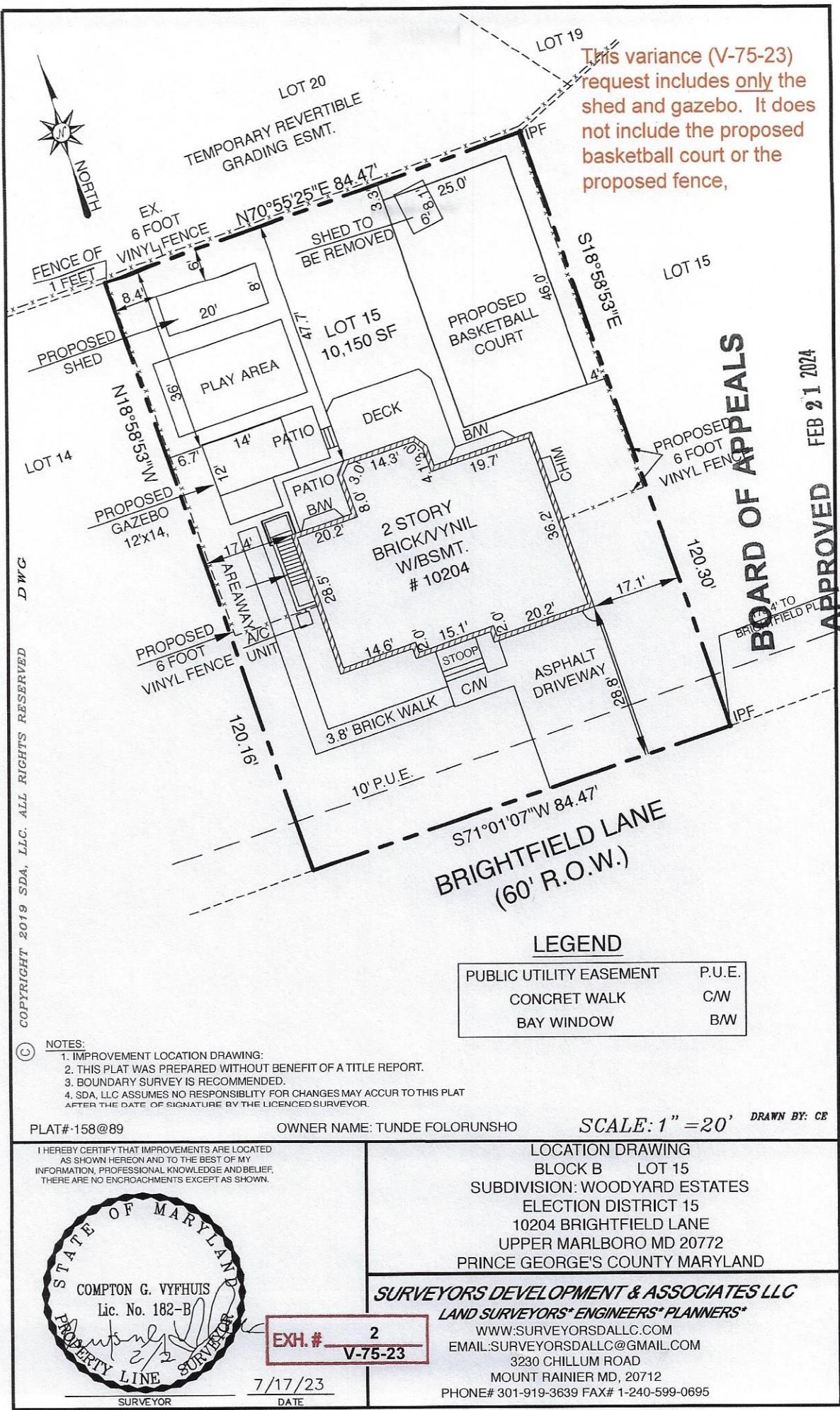
By: Ellis Watson
Ellis Watson (Apr 24, 2024 12:14 EDT)
Ellis Watson, Esq.

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.



NOTES:

1. IMPROVEMENT LOCATION DRAWING:
2. THIS PLAT WAS PREPARED WITHOUT BENEFIT OF A TITLE REPORT.
3. BOUNDARY SURVEY IS RECOMMENDED.
4. SDA, LLC ASSUMES NO RESPONSIBILITY FOR CHANGES MAY ACCUR TO THIS PLAT
AFTER THE DATE OF SIGNATURE BY THE LICENSED SURVEYOR.

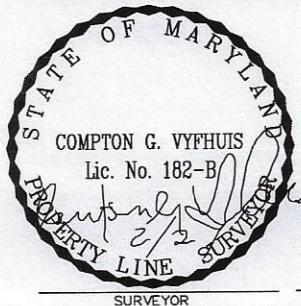
PLAT#-158@89

OWNER NAME: TUNDE FOLORUNSHO

SCALE: 1" = 20' DRAWN BY: CE

I HEREBY CERTIFY THAT IMPROVEMENTS ARE LOCATED
AS SHOWN HEREON AND TO THE BEST OF MY
INFORMATION, PROFESSIONAL KNOWLEDGE AND BELIEF,
THERE ARE NO ENCROACHMENTS EXCEPT AS SHOWN.

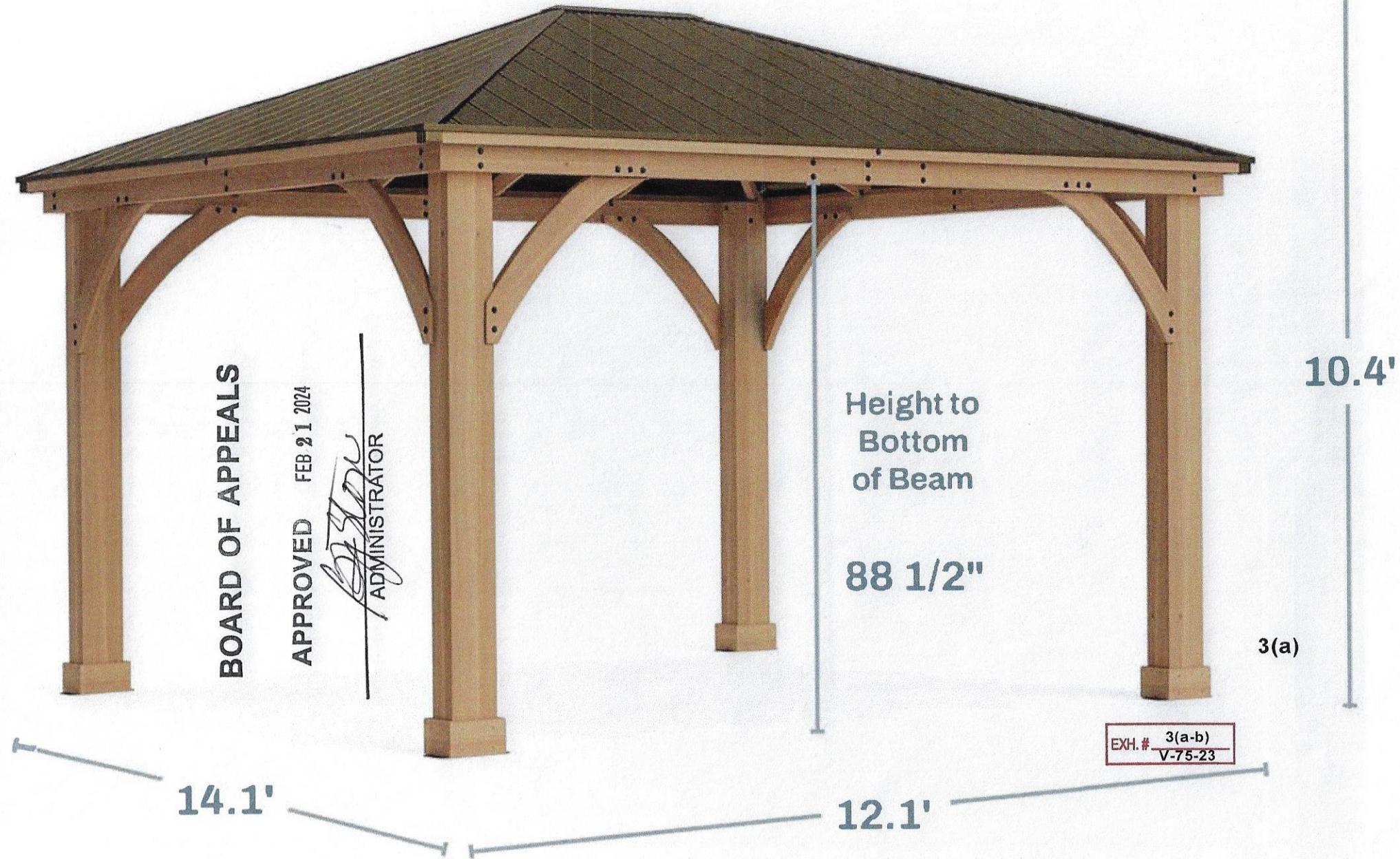
LOCATION DRAWING
BLOCK B LOT 15
SUBDIVISION: WOODYARD ESTATES
ELECTION DISTRICT 15
10204 BRIGHTFIELD LANE
UPPER MARLBORO MD 20772
PRINCE GEORGE'S COUNTY MARYLAND



EXH. # 2
V-75-23

7/17/23
DATE

YORS DEVELOPMENT & ASSOCIATES LLC
LAND SURVEYORS* ENGINEERS* PLANNERS*
WWW:SURVEYORSALLC.COM
EMAIL:SURVEYORSALLC@GMAIL.COM
3230 CHILLUM ROAD
MOUNT RAINIER MD, 20712
PHONE# 301-919-3639 FAX# 1-240-599-0695



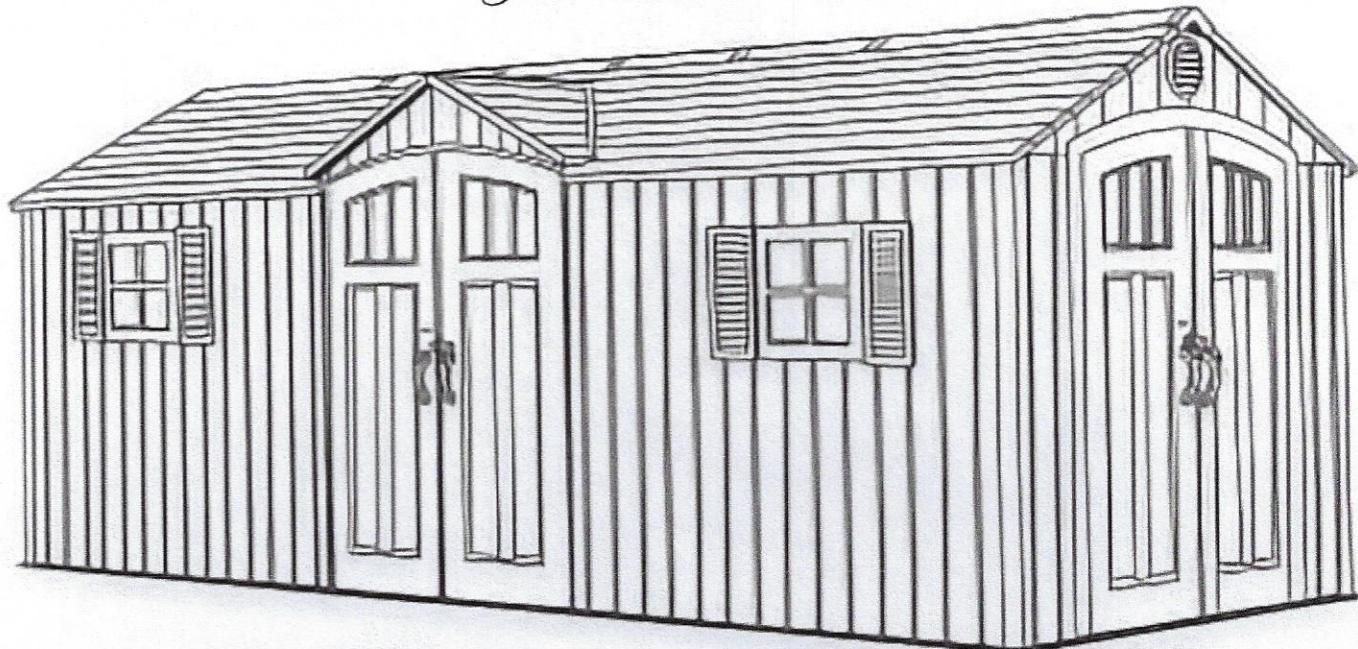
BOARD OF APPEALS

APPROVED FEB 21 2024

60351
20' x 8' Shed

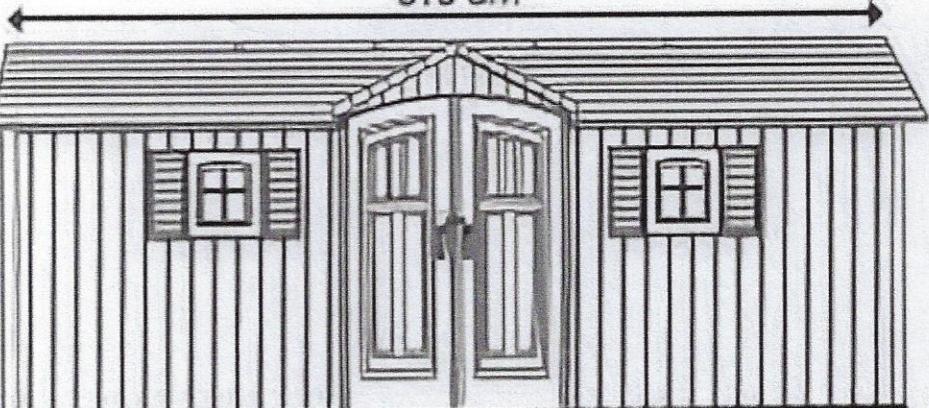

B. Stone
ADMINISTRATOR

LIFETIME



240 in.
610 cm

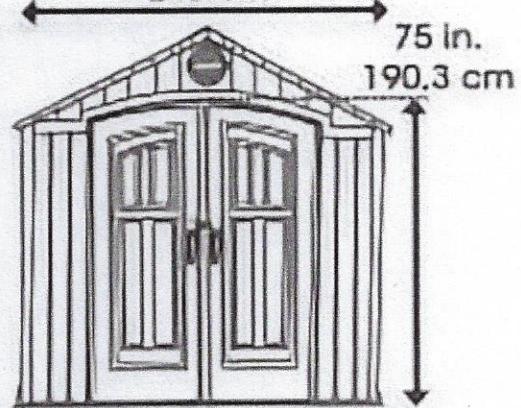
96 in.
243 cm



56.6 in.
143.8 cm

95.2 in.
241 cm

238.8 in.
606 cm



93.7 in.
237 cm

3(c)