



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-58-23 William Werner

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: May 22, 2024

CERTIFICATE OF SERVICE

This is to certify that on July 29, 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

Petitioner: William Werner

Appeal No.: V-58-23

Subject Property: Part of Lot 19 and Part of Lot 20, Block 10, Mount Rainier Subdivision, being 4216
Rainier Avenue, Mount Rainier, Prince George's County, Maryland

Municipality: Mount Rainier

Witnesses: William Lachance, Contractor

Charles Gude, Neighbor

Mary Abe, Neighbor

Heard: October 25, 2023

May 8, 2024

Decided: May 22, 2024

Board Members Present and Voting: Bobbie S. Mack, Chairperson
Carl Isler, Vice Chairman
Renee Alston, 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 prior Section 27-229, of the Prince George's County Zoning Ordinance, the specific violation resides in the fact that prior Zoning Ordinance Section 27-442(b)(Table I) prescribes that each lot shall have a minimum net lot area of 6,500 square feet. Section 27-442(e)(Table IV) prescribes that each lot shall have a front yard at least 25 feet in depth and a rear yard at least 20 feet in depth/width. Section 27-442(c)(Table II) prescribes that not more than 30% of the net lot area shall be covered by buildings and off-street parking. Section 27-442(i)(Table VIII) prescribes that accessory buildings shall be set back 60 feet from the front street line, 2 feet from any side, and generally be located only in the rear yard. Variances of 975 square feet net lot area, 16.3 feet front yard depth, 5 feet rear yard depth/width, 6.1% net lot coverage, 44 feet front street line setback for the carport, 1-foot side lot line setback for the carport, and a waiver of the parking area location, the side/front yard location requirement for an accessory building (carport) and 1-foot side lot line setback for an accessory building (shed) are requested.

Evidence Presented

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

1. The property was subdivided in 1903, before the adoption of the Prince George's County Zoning Ordinance, contains 5,525 square feet, is zoned R-55 (One-Family Detached Residential, and is improved with a single-family dwelling, gravel driveway, covered wood front porch, covered wood side porch, concrete front wall, and shed. Exhibits, (Exhs.) 2, 4, 10. 11. And 12 (A) thru (F).
2. The subject property has a unique angular shape and consists of two partial lots. Exhs. 2 and 4.

3. The Petitioner proposes to validate existing conditions (net lot area, front yard, rear yard, and parking area location) and obtain a building permit for the proposed carport (28.2' x 21.3'). Variances of 975 square feet net lot area, 4.2 feet front yard depth, 10.9 feet rear yard depth/width, and waiver of the parking area location requirement are requested. Exhs. 2, 4, 10, 11, And 12 (A) thru (F).

4. Petitioner William Werner testified that he intended to build a carport on an area that was previously a driveway for 30 years. In the past, he has had car canopies for his cars for several years. He intends to convert the canopies to a metal structure, which is more attractive. The carport will protect his valuable cars on his property so he can watch and monitor them. In addition, he has security cameras on the property. The canvas shelter that was previously on his lot was not sustainable. He believes that the new steel structure will provide more permanent protection for his cars and is more attractive. Exhs. 2, 3, 5 (A) thru (E), and 6 (A) thru (I).

5. Madam Chair questioned if he had consulted the City of Mount Rainier to discuss the proposal. Mr. Werner responded that yes, he and the city had one meeting, and it was put on hold because they did not have proper documents. We have since submitted all the information they needed. They are currently reviewing the proposal, and another meeting will be required at a later date. The current canopies will be removed. He did speak with an inspector (name unknown) who advised him that, yes, he could install the steel shelter as long as there were no complaints. He further stated that he does not have formal approval from the City. In speaking with the City Council, they advised him that the inspector was correct. So, he proceeded to take down the canopies and build the shelter. During the construction of the roof stage, the inspector came back and said, we have a complaint. He did not receive a stop work order, but Mr. Werner did stop the work. He then moved toward permitting, which is now a variance. Exhs. 2, 3, 5 (A) thru (E), and 6 (A) thru (I).

6. Mr. Werner continued that he is erecting a steel frame shelter with foundations and a metal roof structure. The structure is open on all four sides. It is more of a carport. This shelter will protect his fully restored collectible cars. All cars are licensed, tagged, and insured. Exhs. 2, 3, 5 (A) through (E), and 6 (A) through (I).

7. Mary Abe, (4217 Mt Rainier Avenue) testified that she sent a slide presentation. She described the photographs, stating that the metal structure is almost on her property line. Another picture is from her yard into the subject property. She described the surrounding properties in an overview. Her concern is safety, as Mount Rainier is actually an emergency road with a bus. The way it is configured now if he pulled out, he would go headlong into traffic. Her biggest concern is also that her neighbor has a severe drainage problem. If he would like to garage structure up, that's fine, but he never came to her with his proposal, and there was no effort to accommodate a buffer or any sort of setback. There was no attempt to simply put the structure at an angle to put as many cars in there as he could. No interaction, no request. She has lived there since 2007. He works on the vehicles, gunning the engine on a Sunday. The sound is loud enough to rattle her windows. The exhaust is pointed to her property, burning vegetation. He put the chain link fence on her property, which has still not been removed. She has made her concerns known to the City of Mt. Rainier, calling them several times. The City of Mt. Rainier asked for a postponement of this hearing, but she was advised by this Board that the Design Review Board for Mt. Rainier is a historic district, and so there is a whole layer of review that must occur. Exhs. 2, 3, 5 (A) thru (E), and 6 (A) thru (I).

8. Charles Gude (4214 Rainier Avenue) testified that Mt. Rainier Code Enforcement conducted a site visit and stated that the work being done was not what was agreed upon. Mr. Werner called the supervisor and was told to stop work.

9. Madam Chair questioned the structure's height. Mr. Werner responded that it would be 14 feet in height. She also advised Ms. Abe to contact Mt. Rainier to voice her concerns.

10. Mr. William Lachance testified that Mr. Werner received no stop work notice. It was a verbal stop work order.

11. Administrator Stone noted that permit 10764-2023 was approved in the permit record, but it has not been issued. Exh. 9.

12. Mary Abe questioned the setback of the carport structure. Administrator Stone noted that under the current code, the setback for an accessory structure would be a 1-foot setback for every 1 foot over 10 feet in height. So, in this instance, the carport is 14 feet, so a 4-foot setback is needed. The old code requires a straight 2-foot setback.

13. Mary Abe noted that, as a landscape architect, the configuration of the carport can be moved to meet the setback requirements. In response, Mr. Werner stated that he placed the carport in that configuration because as you go inside the property with the building, it goes straight uphill to another part of the yard, which would make it much more difficult to control the water runoff issues. He would not be able to access the side of the house where there is a two-foot-wide sidewalk.

Chair Mack made the Motion to Continue the record in order to receive comments from Mt. Rainier. Seconded by Vice Chair Isler, the Motion carried 4/0. (Mack, Isler, Alston, and Hill)

On May 8, 2024, the record was reheard with a revised Notice of Hearing.

1. Mr. William Werner reiterated his request from the October 25, 2024, Hearing. He further stated that he needed to obtain approval from Mt. Rainier City. They negotiated with the city and the neighbors to try to reach a reasonable agreement on relocating the carport. He has lived in the residence for 30 years. He has an antique car collection. He has had the cars for 25 years. He has 4 carports in which he keeps his cars. Now, he is attempting to build a structure that doesn't need replacement due to the canvas wearing out. He is now requesting a steel carport. He called the city inspector to ask if he would like to build a metal carport similar to the size that he had. The proposed structure will actually be smaller by 80 square feet. The inspector told him that he didn't see a problem, as the old structure had been there for 25 years. If someone complains, then we have a problem. At that point, a permit will be necessary. Of course, there is no proof, as the inspector is now retired. The old structures were grandfathered in. And now, he wants to follow the rules and be completely compliant. He is only trying to protect his cars. This is an open carport, now a closed garage. Exhs. 2, 3, 5 (A) thru (E), and 6 (A) thru (I).

2. Mr. Lachance noted that a revised plan was negotiated with the city and the neighbors. The changes include deconstructing the frame and moving it again (parallel) to the house. It should be in line with the front of the house so that it does not shed water onto the neighbor's property. He further stated that his lot is very different from the surrounding properties. This lot is a chopped-up lot, as he got all the leftovers from a subdivision.

3. Administrator Stone noted that she did speak with Jamie Stepowany (Park & Planning Permit Office). The legal front yard is Rainier Avenue. At the north part of the site plan, there is a 40.5' property line, which is considered the side yard. At the west portion, along the 65.93' property line, this is considered the rear yard. All property lines, including 23.90', 16.40', 47.10', and 41.26', are considered a side yard.

4. Ms. Mary Abe testified that she was involved in the review meetings at the City of Mt. Rainier. The potential solution to this issue was discussed. Mr. Werner installed this over a weekend, and then someone called and complained (*she indicated she was not the complainant*). Her concerns during the meeting were that when they finally came to reconcile their differences, he would be at a minimum of two feet from her property. She believes he could get closer to his house to make it less obtrusive to herself and Mr. Gude. Her greatest concern is the variance; her concern is whether either Mr. Werner or someone else who buys the house can actually use this carport and turn it into a permanent structure. Looking at the size of the structure, it is almost the size of his house. It was agreed that Mr. Werner would reorient the carport so it is more in keeping with the street. She also has concerns about access to the property as it is a potential hazard to pedestrians. One of the things they were told by the review board is that he is allowed to put this size structure on his property. We must be very mindful of all the concrete, and we must be concerned for the runoff. Mr. Werner agreed to lower the height of the carport, which was a major point. Exhs. 21, 22, and 23.

5. Charles Gude testified that he fully agreed with Mary Abe. His biggest concerns are aesthetics and the town's historic element. He is also concerned about water runoff.

6. Madam Chair questioned Mr. Gude whether he had a water problem previously. Mr. Gude responded that, yes, about a month or two ago, they had two sump pumps and a backup sump pump in the basement, and they ended up with 14" of flood water. This is nothing new. This has happened before.

7. Mr. Werner noted that the height will, in fact, be lowered from 12 feet to the inside collar down to 9 feet, taking off 3 feet in height and moving the carport parallel to his house. The ground cover under the carport is gravel. He will, though, remove the gravel around the carport and plant grass to mitigate the flooding concerns due to the amount of impervious surface on his property. Exhs. 21, 22, and 23.

Applicable Code Section and Authority

The Board is authorized to grant the requested variances if it finds that the following provisions of Section 27-230 of the Prince George's County Zoning Ordinance are satisfied:

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

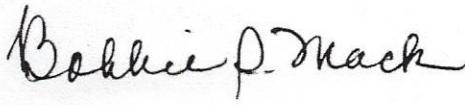
After hearing all the testimony and reviewing the evidence of record, the Board finds that the requested variances comply with the applicable standards set forth in Section 27-230, more specifically:

Due to the need to protect a valuable car collection, the need to replace multiple worn canopies and install one larger carport, the agreement with the City of Mount Rainier to make adjustments to the placement and height of the structure 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. Furthermore, the lot contains two angular lots that were subdivided in 1903, before the Prince George's County Zoning Ordinance, making the specific parcel physically unique and unusual in a manner different from the nature of surrounding properties. Additionally, this particular uniqueness and peculiarity of the Petitioner's lot would cause a zoning provision to impact disproportionately upon the property due to current zoning provisions, which would result in peculiar and unusual practical difficulties. Therefore, the Board determined that the variance(s) are the minimum reasonably necessary to overcome the exceptional physical

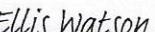
conditions. Lastly, there was testimony in the record that an adjacent neighbor's use and enjoyment of her property would be substantially impaired; however, the Petitioner made the necessary adjustments to alleviate these concerns.

BE IT THEREFORE RESOLVED, unanimously, that variances of 975 square feet net lot area, 4.2 feet front yard depth, 10.9 feet rear yard depth/width, and waiver of the parking area location requirement in order for the Petitioner proposes to validate existing conditions (net lot area, front yard, rear yard, and parking area location) and obtain a building permit for the proposed carport (28.2' x 21.3') on the property located at 4216 Rainier Avenue, Mount Rainier, Prince George's County, Maryland, be and are hereby APPROVED. Approval of the variances is contingent upon development in compliance with the approved revised site plan, Exhibit 22, and approved elevation plan, Exhibit 23.

BOARD OF ZONING APPEALS

By: 
Bobbie S. Mack, Chairperson

Approved for Legal Sufficiency

By: 
Ellis Watson (Jul 29, 2024 13:01 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 27-233(a) of the Prince George's County Code states:

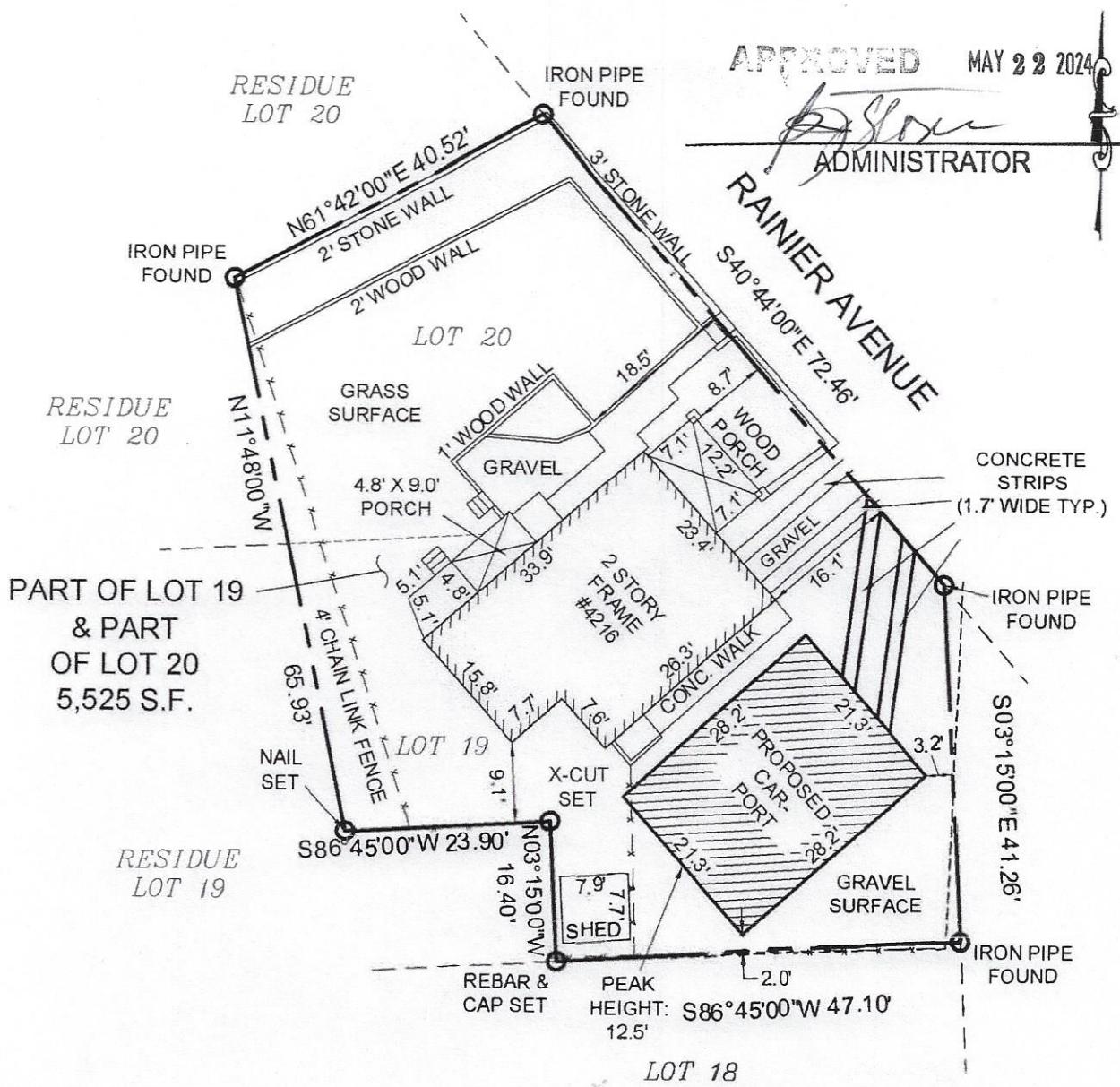
A decision of the Board, permitting the erection of a building or structure shall not be valid for more than two (2) years, unless a building permit for the erection is obtained within this period and the construction is started and proceeds to completion in accordance with the terms of the decision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

ADDRESS: 4216 RAINIER AVENUE
MOUNT RAINIER, MD 20712

BOARD OF APPEALS

APPROVED

MAY 22 2024


Administrator


NOTES:

1. THIS PLAT WAS PREPARED WITHOUT BENEFIT OF A TITLE REPORT.
2. SUBJECT TO ALL EASEMENTS ON RECORD.

DRAWN BY: DS

FILE: #4216 RAINIER AVENUE

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.

FITZROY J. BERTRAND
SURVEYOR

DATE

03/27/2024

BOUNDARY SURVEY
PART OF LOT 19 & PART OF LOT 20: BLOCK 10
MOUNT RAINIERPLAT: A @ 5
PRINCE GEORGE'S COUNTY, MARYLAND
SCALE: 1" = 20'

DATE: 3/27/24

REAL ESTATE SURVEYORS & DEVELOPERS, LLC

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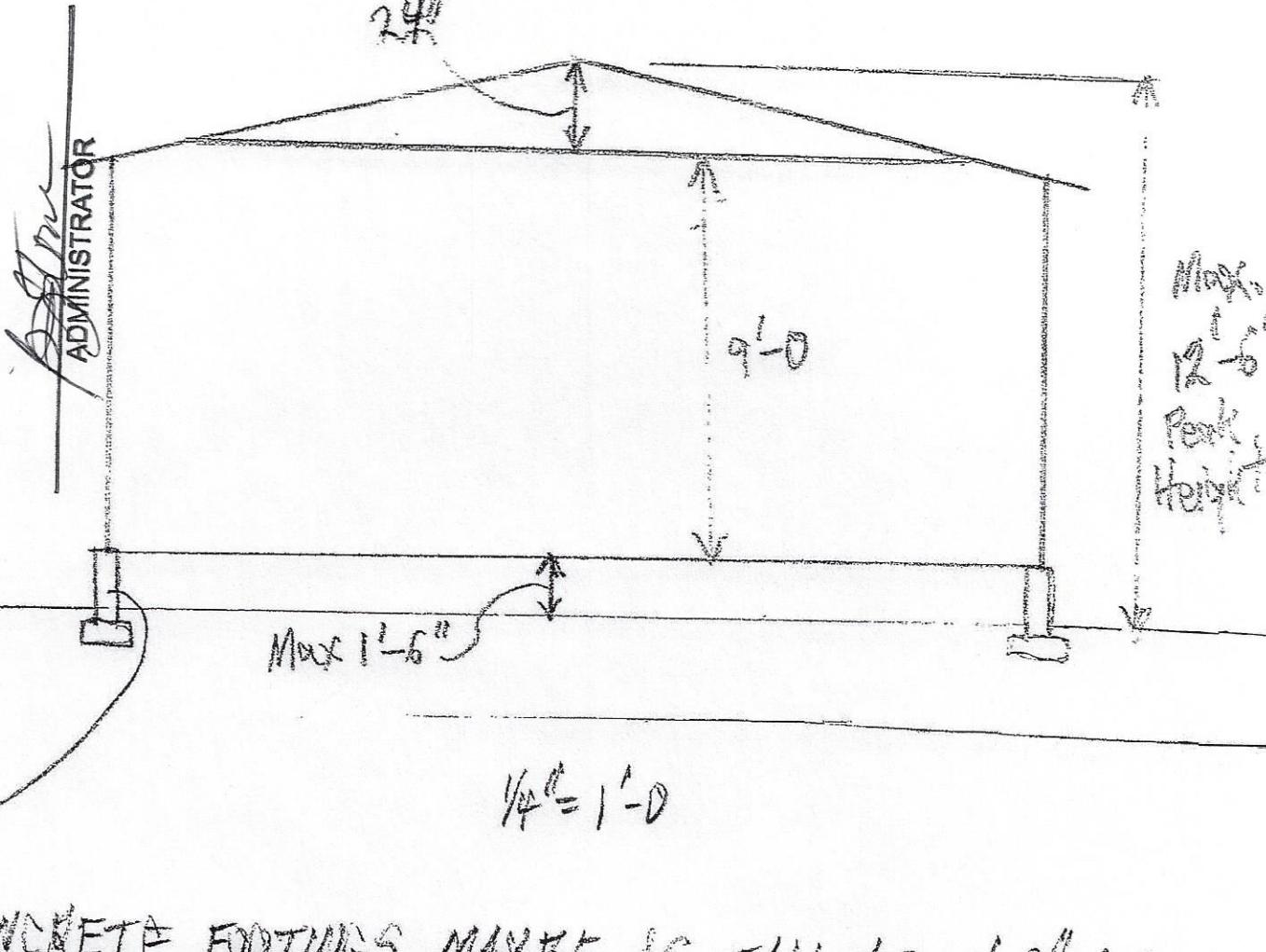
EXH. # 22
V-58-23

BOARD OF APPEALS

FRONT ELEVATION OF CARPORT
4116 RAINIER AVE, MT RAINIER, MD.
WERNER RESIDENCE

3/31/24

APPROVED MAY 22 2024



CONCRETE FOOTINGS MAYBE AS TALL AS. 1'-6" AT THE FRONT OF THE STRUCTURE. THIS WILL MAKE THE REAR OF THE STRUCTURE AT GROUND LEVEL AND THE STRUCTURE LEVEL. THE GRAVEL FLOOR IS SLOPING BACK TO FRONT AND AWAY FROM NEIGHBORING YARDS.

EXH. # 23
V-58-23

W.E.L.