

BOARD OF APPEALS Meeting Agenda

Via Zoom

Tuesday, February 3, 2021 5:30 PM

SPECIAL NOTICE: Until further notice all meetings of Boards and Commissions are being held virtually via Zoom.

The February 3, 2021 Meeting of the Board of Appeals is a Public Hearing; public questions and comments are invited.

Please follow the instructions below to submit questions:

- <u>To register</u> to participate in the public hearing via zoom, please go to the following link: https://zoom.us/webinar/register/WN itYXfBpvRlilimGwXE-RjQ
 - After registering, you will receive a confirmation email containing instructions to join the webinar via computer or telephone.
- Written questions will be accepted until 12:00 PM/NOON on the day of the meeting. Submit to:
 - Email: <u>dengelhart@berlinmd.gov</u>; please use <u>Meeting Questions</u> as your subject
 - o Fax to: 410-641-2316
 - Mail to: Berlin Town Hall, Attn: Meeting Questions, 10 William St.,
 Berlin, MD 21811. Mail should be posted no later close of business on the Friday before the meeting to help ensure delivery.
 - Drop off in one of the two drop boxes at Town Hall one is at the rear
 of the building behind the stair tower, and the other is at the corner of
 Bay and Williams Street on the building.

Meetings will be streamed live on Facebook. To watch the Meeting on Facebook, please click on the blue Facebook icon at the top of any page on the Town website, www.berlinmd.gov, or type @berlinmd in the Facebook search bar.

Questions and comments will not be taken via Facebook; no response will be given to questions and comments submitted via Facebook during the meeting.



Mayor & Council of Berlin

10 William Street, Berlin, Maryland 21811
Phone 410-641-2770 Fax 410-641-2316
www.berlinmd.gov

NOTICE OF PUBLIC HEARING Town of Berlin Board of Appeals

Meeting to be held via Zoom

 <u>To register</u> to participate in the public hearing via zoom, please go to the following link: https://zoom.us/webinar/register/WN_itYXfBpvRlilimGwXE-RjQ

After registering, you will receive a confirmation email containing instructions to join the webinar via computer or telephone.

Pursuant to the requirements of §108-191 of the Code of the Town of Berlin, notice is hereby given that a public hearing will be conducted by the Berlin Board of Zoning Appeals in the Mayor and Council Chambers of Berlin Town Hall, 10 William Street, Berlin, Maryland on

WEDNESDAY, February 3, 2021 5:30 PM

- 1. Approval of Minutes September 2, 2020
- 2. Election of Chairman & Vice Chairman
- 3. An Appeal to request a Special Exception for a variance from the rear setback requirement specified on the plat for Lot #3, tax map #300, parcel 1231. The proposed dwelling to be constructed on site represents an encroachment of 9 feet into the platted 40-foot rear building restricted line.

Applicant: Donald & Helen Ferguson

4. An Appeal to request a Special Exception For a Conditional Use to hold outdoor events for up to 100 guest / Requesting to modify previously authorized Conditional Use to allow for increased guest capacity - 15 Harrison Ave

Applicant: Giovanni Pino Tomasello

Any persons having questions about the above-referenced meeting or any persons needing special accommodations should contact Dave Engelhart at 410-641-4143. Written materials in alternate formats for persons with disabilities are made available upon request. TTY users dial 7-1-1 in the State of Maryland or 1-800-735-2258 outside Maryland.

Town of Berlin Board of Zoning Appeals September 2nd, 2020

Chairman Joe Moore called the September 2nd, 2020 Board of Zoning Appeals meeting to order at 6:40PM. Members present were Joe Moore, Jay Knerr, Robert Palladino and John Apple. Absent member was Woody Bunting. Staff present were Planning Director Dave Engelhart and Permit Coordinator Carolyn Duffy.

Chairman Joe Moore called for a motion to approve the minutes from the August 5th, 2020 meeting. Mr. Jay Knerr made the motion to approve the minutes from the August 5th, 2020 meeting. Mr. John Apple seconded the motion and it was unanimously accepted by the commission.

Chairman Joe Moore explained that the alternate, Mr. Doug Parks, was sitting in place for Mr. Woody Bunting who was absent from tonight's meeting. Chairman Joe Moore stated that Mr. & Mrs. Doug Parks had submitted a letter stating they had no objections to the case for the variance. Chairman Joe Moore asked Mr. Parks if he could make a fair assessment to the case that was to be heard. Mr. Doug Parks stated that he could. Mr. Moore then asked the members if anyone had objections to Mr. Doug Parks sitting for tonight's case. No one objected to Mr. Doug Parks sitting for the case. Chairman Joe Moore then explained he had a letter from Danny & Mary Moore who are the owners of property across the street from the requested variance. Mr. Joe Moore explained that Mr. Danny Moore was his brother and he didn't have any financial or ownership of the property. He asked if the board had any objections to him sitting for the case. No member objected to him sitting.

Chairman Joe Moore stated the request was for a variance for a rear deck and stairs located at 203 Broad Street. Representing Ms. Jill Gray was Mr. Steve Green. Chairman Joe Moore asked the Planning Director to explain the case. Planning Director Dave Engelhart stated it was an encroachment of the rear setback of the building restricted line. When the property was subdivided it called for a 25' setback. But with it being a major collector street the house had to be set back further to 30 feet. So, with that it pushed the house back to the rear setback line and didn't leave room for the deck or steps that were on the plan. Mr. Engelhart stated this is a brand-new home by Beracah to be set on the foundation. He also said that the home may be delivered the next day. Mr. Engelhart stated that 9 foot was the depth of the deck and 3 foot for the stairs leading down from the deck. Mr. Engelhart stated the section of the code that explains this is Section 108-706. He stated he had given this section of the code to the members in the packets. He also added the section 108-165 to explain the nature of the variance that would support the variance being issued. Mr. Engelhart stated that it had very little impact on the neighborhood.

Chairman Joe Moore stated that the house was a corner lot and it fronts on Broad Street & Harrison Ave which makes it an unusual setback. Mr. Engelhart stated that the shape of the lot was unusual. Mr. Jay Knerr asked when the property had been subdivided. Mr. Engelhart replied two to three years ago the property was subdivided. Chairman Joe Moore swore in Mr. Steve Green so he could testify. James Steven Green of One Harrison Ave. Mr. Green stated the

property had been subdivided years ago. He stated his mother would be living in the house. They are the ones that live on the hill and the only ones that the encroachment would affect. Chairman Joe Moore stated Mr. Green is located on lot #1. He asked if the owners of lot #3 had made any statements. They had not. Chairman Joe Moore asked Mr. Engelhart the distance from the deck to lot #3 seemed to be an increased distance. Mr. Engelhart stated looks to be about 52 feet to 53 feet. Chairman Joe Moore asked Mr. Green if there was a practical difficulty if the deck had to comply with all setbacks. Mr. Green said yes it would be. They had discussed a patio but decided they wanted to have the elevated deck. Chairman Joe Moore discussed with the members what a practical difficulty meant.

Mr. Robert Palladino stated he had gone by and thought it would enhance the neighborhood. Mr. Engelhart stated for Mr. Greens mother to have the enjoyment of the property in having a deck this was the way to fix it. The deck was the only encroachment out of the BRL and the foundation is in. Mr. Jay Knerr stated if the homeowner wanted to expand the deck, she would have to come back to the Board of Zoning Appears. Mr. Engelhart replied yes.

Chairman Joe Moore called for a motion. Mr. John Apple made the motion to approve the application for the variance. Mr. Robert Palladino seconded the motion and it was unanimously approved by the board. Meeting Adjourned

Respectfully Submitted,

Carolyn Duffy

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Mayor & Council Gt Werlin

10 William Street Berlin, Maryland 21811

www.townofberlinmd.com.

A AND COUNCIL OF BERLIEF				
ELEPHONE 410-641-2770		ning appeals app		
FAX 410-641-2316 rlin@townofberlinmd.com	3PON ST (OPPOSIT	E HENRY'S MILL D.	R)	-
LEGAL DESCRIMION Property Location: Lo	3ROAD ST (OPPOSIT MOUNT PLEAS ST 3 18,120,9 SQ FT	SANT SURVEY N/S BROAD SIT DO	ate: 11/4/20	
Lot #: 3 Lot Siz	ze: 18,120 SF Zoning	g: <u>R /</u> Map#: <u>030</u>	<u> </u>	
Pl	ease check ($$) one of the	following option requests	3.4	
Variance/	Conditional Use	Special Excepti	on	
	Description (of Request:		
This equates to 4 feet f Doing so, will permit ou This will provide us the likelihood of saving the	riance of approximately 9 feet fr rom the currently coded 35 foot ir house to be built as designed greatest distance (and privacy) 70-100 year old pecan tree in o I, appearance of our home, and	Berlin BRL. with a 10 foot covered rear por from the neighbors house at 21 our lot's back left corner, and wi	rch. I1 Broad Street, the highest Il create an aesthetically	
If you answered yes	question ever been the subje , what is the appeal number	and dater		
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Address: 326 W	LD S. & HELEN LLIAM ST # 10 3 151_Owner's Signature:_	Doublitungs	2/8// 	g
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HEARING DATE: 02	103/2021	LAND POSTED	125/2021	
DECISION:				•
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Donald & Helen Ferguson

326 Williams St, Unit 102 Berlin, MD 21811 fergees@comcast.net

November 11, 2020

Mayor & Council of Berlin, Board of Zoning Appeals

10 William Street

Berlin, MD 21811

Dear Sirs/Madam,

My husband and I own Lot 3, Broad Street, here in-town Berlin, and have begun the process of planning the home we are to build there. Great thought, purpose, and care has gone into our selection of home plan to suit our family's current and future needs, and how we d like it placed on the lot. In the packets provided, I've included a drawing of the house we plan to build along with its' floorpan, and a site plan showing the home with our preferred placement on the lot.

Our objectives in choosing this specific home plan and siting are as follows:

- 1) <u>Beautification</u>—To compliment the beauty of Berlin we believe our choice of home, a 1920's replica bungalow will blend seamlessly with the surrounding architecture offering great curb appeal, thereby enhancing all effected neighboring properties' values. We believe the placement of the home on our site as shown will create an aesthetically pleasing, visually balanced, streetscape when viewing these three homes (211 Broad, and the two new homes on Lots 2 and 3) in their entirety from the Broad Street and Henry's Mill Drive perspectives.
- 2) <u>Privacy and Quality of Life</u>—Because the neighboring home of the Ercolino's at 211 Broad Street (built in 1950) is sited so closely to our common property line, we are attempting to permit as much space as possible between our new home and theirs. This will permit both households the enjoyment of a comfortable level of privacy (and it is our hope this will allow the Ercolino's continued enjoyment of the peaceful lifestyle they are accustomed to.)



3) <u>Environmental Preservation</u>—Along with an eye to preserving the beauty of Berlin, we hope to save the 70-100 year old Pecan tree in (when facing) the left/rear portion of our lot. The preservation of such an important tree enhances our natural environment, and our air quality. Toward that end, we have already had trimming work done on the tree, and developed a further plan to save the tree, with an arborist. It is my hope, if successful, this tree will provide some instant, very mature, landscaping, some shade, and will impart a bona fide quality to our house further suggesting its' existence as that from an earlier time.

Unfortunately, we've found that the odd shape of our lot will not permit us to build our house as designed while meeting these objectives without the rear covered screened porch exceeding the BRL.

Therefore, we are asking for a 9 foot variance from the platted 40 foot rear building restriction line (or 4 feet from the currently coded 35 foot Berlin building restriction line).

As shown in each of the provided packets, our immediate neighbors have no objection to the variance we seek. We are hopeful you will agree with them, and approve our variance so that we may begin to build our new home.

Thank you,

Donald and Helen Ferguson



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HISTORICAL HOUSE PLAN 1070-00254



Images copyrighted by the designer. Photographs may reflect a homeowner modification.

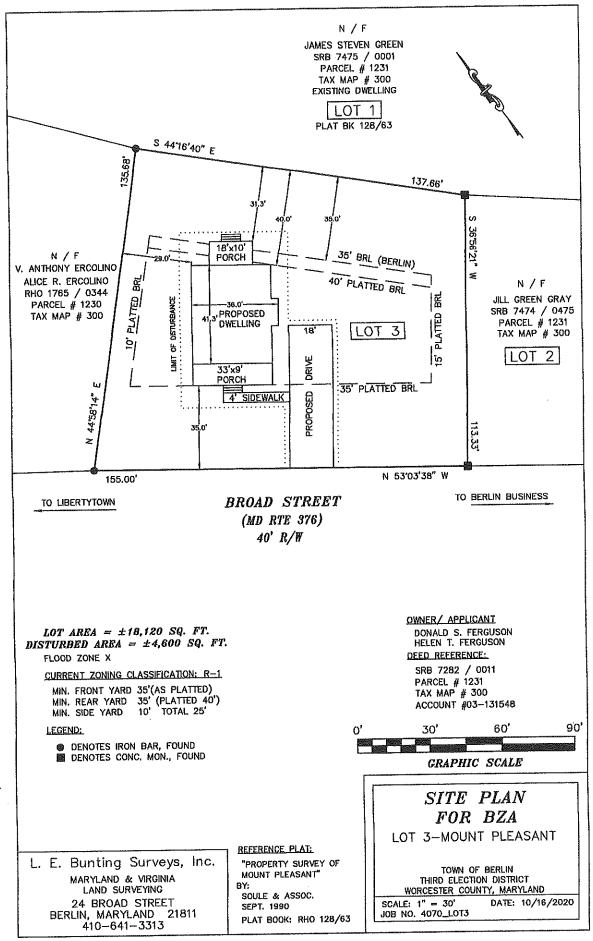
Select Package

PDF \$1,472.00

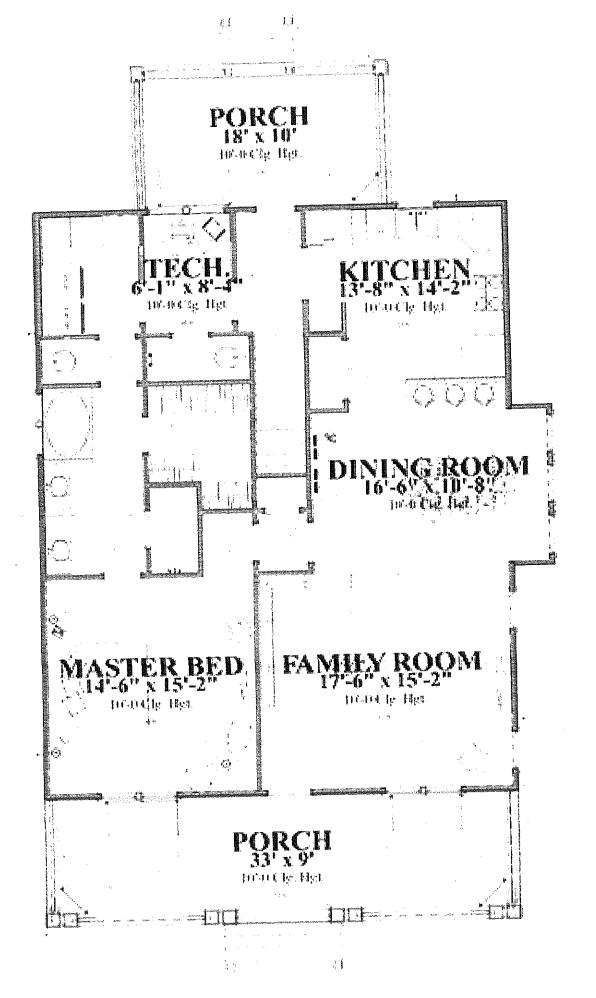
ELECTRONIC FORMAT

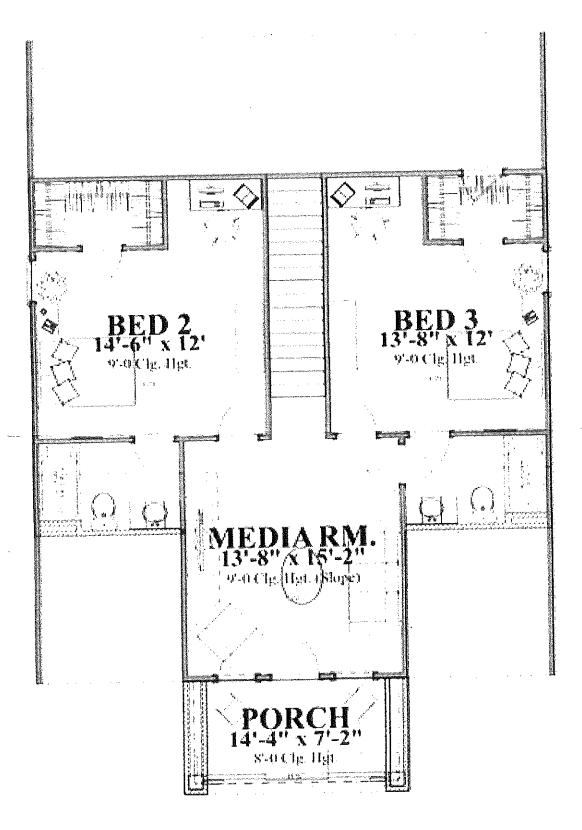
One Complete set of working drawings emailed to you in PDF format. Avoid shipping cost with this option! Most plans can be emailed same business day or the business day after your purchase. Comes with the





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			Legal Descri	ntion:	LOT 3 18120	.9 SQ FT	
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Town: BERLIN							
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		The County of the County	1				
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Seller: LOHMEYER PATSY M		Date: 11/16/200	6		Price:	\$0	
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Coastal Association of REALTORS® of Maryland, Inc.



		ADDENDUM NO1	REALTOR® COMMENT
PROPERTY	Lot 3 Broad Street, Tm 300, P 1231, Berlin,	21811	
SELLER:	Patsy M. Lohmeyer, for Life		····
BUYER:	Donald S. Ferguson, Helen T. Ferguson		

AMENDMENT/ADDENDUM

For valuable consideration, receipt of which is hereby acknowledged, we, the undersigned parties agrees as follows: Owner has no objection to the rear setback not conforming to zoning code (35 feet).

All other terms and conditions of the Contract of sale shall remain the same and in full force and effect.	
Buyer's Signature Donald S. Ferguson Date	
Helen T. Flegron 7/5/18	
Buyer's Signature Helen T. Ferguson Date	
Pater M. Lyhounger 7-3-18	
Seller's Signature Patsy M. Lohmeyer, for Life Date	
Seller's Signature Date	
© Copyright Coastal Association of REALTORS® of Maryland, Inc. 2000	
AMENDMENT/ADDENDUM	
Revised 03/25/00	
Page 1 of 1	
Bunting Realty, Inc., 24 Bread Street Berlin MD 21811 Phone: 410.713.2065 Cam Bunting Produced with zipForm® by zipLogix 18070 Fifteen Mile Road, Fraser, Michigan 48026 www.zipl.ogix.com	Fax: 410.641.3314 Donald and Helen



<u>(4)</u>			

To: Berlin Board of Zoning Appeals
From: Patsy Bell
Date: November 9, 2020
Subject: Approval for Variance at Lot 3, Broad St., Berlin, MD 21811
As a next door neighbor to the Ferguson's Lot 3 on Broad St., Berlin, MD, please let it be known that I have no objection to the variance they seek.
Patsy Bell, Lot 2-203 Broad St, Berlin, MD 21811

To: Berlin Board of Zoning Appeals

From: James Steven Green

Date: November 9, 2020

Subject: Approval for Variance at Lot 3, Broad St., Berlin, MD 21811

As a next door neighbor to the Ferguson's Lot 3 on Broad St., Berlin, MD, please let it be known that I have no objection to the variance they seek.

James Steven Green, 1 Harrison St, Berlin, MD 21811

DEST DISURS
ON YOUR
NEW HUME!

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To: Berlin Board of Zoning Appeals

From: Tony and Alice Ercolino

Date: November 9, 2020

Subject: Approval for Variance at Lot 3, Broad St., Berlin, MD 21811

As a next door neighbor to the Ferguson's Lot 3 on Broad St., Berlin, MD, please let it be known that we have no objection to the variance they seek.

Tony Ercolino, 211 Broad St. Berlin MD 21811

VINCENT A. ERCOLIND, SE. TONY

Alice Ercolino, 211 Broad St, Berlin MD 21811

To: Berlin Board of Zoning Appeals

From: Jill Gray

Date: November 9, 2020

Subject: Approval for Variance at Lot 3, Broad St., Berlin, MD 21811

As a neighbor to the Ferguson's Lot 3 on Broad St., Berlin, MD, please let it be known that I have no objection to the variance they seek.

Jill Gray, 203 Broad St, Berlin, MD 21811

(132)



Mayor & Council Ot Werlin Ckt 1077

10 William Street Berlin, Maryland 21811

www.townofberlinmd.com.

BOARD OF ZONING APPEALS APPLICATION

Property Location: 15 HARRISON AVE Date: DEC 23-2020						
Lot #: Lot Size: Zoning: Map#:300 Parcel#: 1287						
Please check ($$) one of the following option requests:						
Variance Conditional Use Special Exception						
Description of Request:						
Special EVENT OUTSIDE, WEDDING						
Has the property in question ever been the subject of a previous appeal? If you answered yes, what is the appeal number and date? Property Owner: GIOVANNI RING TOMASELO Address: Phone: 443-64.3937 Owner's Signature: Date:						
OFFICE USE ONLY. PLEASE DO NOT MARK BELOW.						
CASE #: 02-03-21-02 DATE RECEIVED: 1/8/2021						
CASE #: <u>O2-03-21-02</u> DATE RECEIVED: 1/8/2021 HEARING DATE <u>02/03/2021</u> LAND POSTED 1/25/2021						
DECISION:						
,						





Town of Berlin,

On Febrary 3, 2021, MEJ Investments, LLC, t/a The Inn Berlin, will be asking the Town of Berlin for permission to hold outdoor tented events for up 100 guests. This letter is to confirm that the adjacent neighbor, Mr. Joe Hill, is not opposed to outdoor events with up to 100 attendees, to be held at The Inn Berlin, as long as he is given proper notice (2 weeks in advance). Please see his signature and contact information below.

Joseph F Hill

Address: 304 N Main St Berlin, MD 21811

Phone: (301) 641-4063

Sincerely,

The Inn Berlin

THE INN BERLIN theinnberlinagmail.com

15 HARRISON AVENUE BERLIN, MARYLAND 21811

(443) 347-3715 THEINNBERLIN COM

Worcester County Fire Marshal's Office

Capacity Certificate

PERMITTED IN THIS ESTABLISHMENT AT ONE TIME

Persons – Inside Dining

21 Persons Outside Deck

ISSUED PERSUANT TO THE FIRE CODE OF WORCESTER COUNTY, MARYLAND

Issued To:

Waystead Inn
15 Harrison Avenue
Berlin, Maryland 21811



LICENSE AGREEMENT

Th	is Agreement is entered onbetween the County
Co Wo	ommissioners of Worcester County, Maryland ("County") on behalf of the orcester County Library ("Library") and the M E J Investments LLC ("Inn").
	ounty and Inn agree as follows:
1.	Premises
	Subject to the conditions of this agreement, County licenses Inn to use up to 40 parking spaces on the library property located at 13 Harrison Ave., Berlin, Maryland and that are depicted in the attached Exhibit A ("Premises").
2.	Term
	The initial term of this agreement begins on and ends ("Initial Term").
	Upon mutual written consent, the parties may extend the term.
3.	Permitted Activities
	Inn may only use the Premises for guest parking upon authorization of the County and Library.
4.	Inn Obligations
	4.1. To use the parking lot, Inn must notify library staff in writing at least 3 weeks in advance before the date and provide the date and time of the proposed use and the number of spaces needed. County or Library may deny the use for any reason.
	4.2. Subject to availability, Inn may only use the Premises outside of library hours of operations.
	4.3. After any use, the Inn must clear the parking lot of all trash and vehicles. If the Inn fails to do so, the County will do so at the Inn's expense.
	4.4. The Inn must provide County and Library with the name and phone number of a representative who can be reached at any time.

5. Insurance

- 5.1. Inn must carry insurance satisfactory to the County, including at least the following policies:
 - 5.1.1. Commercial General Liability Insurance with a combined single limit of at least \$1,000,000 per occurrence and \$2,000,000 general aggregate and \$500,00 for property damage.
- 5.2. County must be named as an additional insured on each policy.
- 5.3. County may inspect the required policies upon request.
- 5.4. Inn must provide certifications that the policies are in effect.

6. Indemnification

Inn must indemnify County against all claims, losses, damages, or demands (including all related expenses for investigation and defense, including court costs, expert fees, and reasonable attorneys' fees) arising from Inn's or Inn's guests use of the Premises. This provision will survive the expiration or termination of this agreement indefinitely.

7. Termination

The County may terminate the agreement for any reason with 7 days' written notice to Inn.

8. Compliance with Applicable Law and Taxes

The Parties must strictly comply with all laws, ordinances, rules, and regulations of governing bodies with jurisdiction over it.

9. Notices

Notice under the agreement must be by certified mail (postage-prepaid) to the following addresses.

County:

One W. Market Street, Room 1103 Snow Hill, Maryland 21863

Inn:

M E J Investments LLC 9802 Golf Course Rd. Ocean City MD 21842

10. Amendments

Page 2 of 4

All amendments of this agreement must be in writing and signed by all parties.

11. Assignment Prohibited

Inn must not assign any interest in or sublet of any part of the Premises.

12. Applicable Law

This agreement is governed by the laws of the State of Maryland and Worcester Inn.

13. Entire Agreement

This agreement is the entire agreement between the parties and supersedes all earlier related communications.

14. Third Party Beneficiaries

Nothing in this agreement gives any rights to any unnamed third persons.

15. Successors and Assigns

This agreement is binding upon the successors and assigns of the parties.

16. Severability

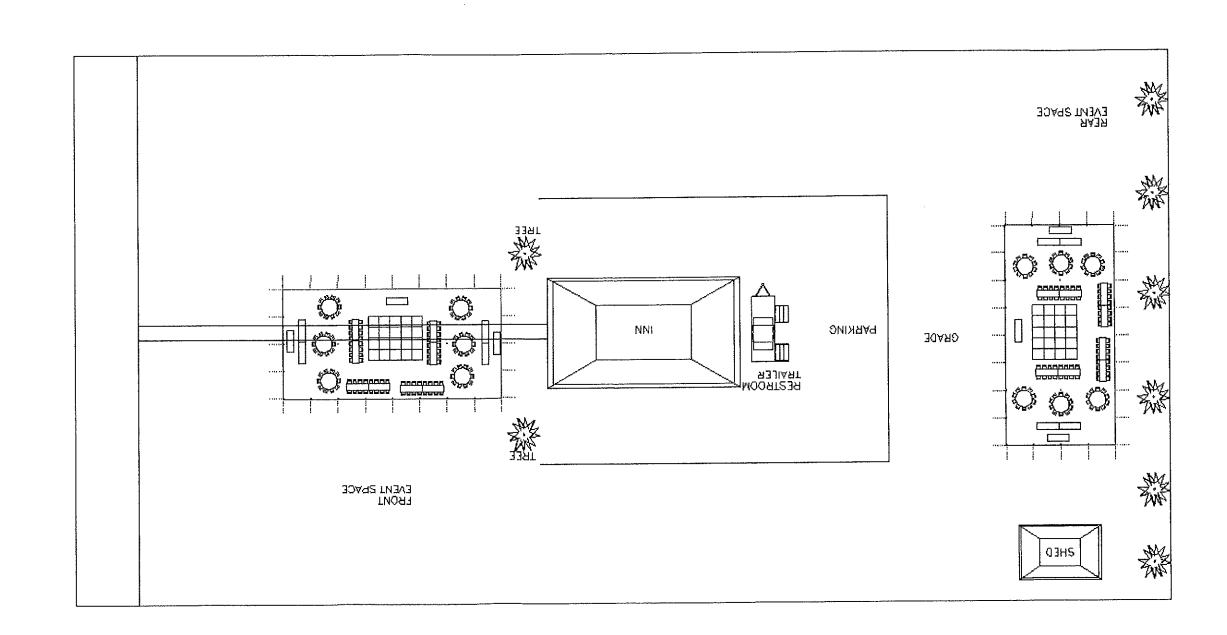
If a court finds any term of this agreement to be invalid, the remaining terms will be unaffected and construed as if the agreement did not contain the invalid term.

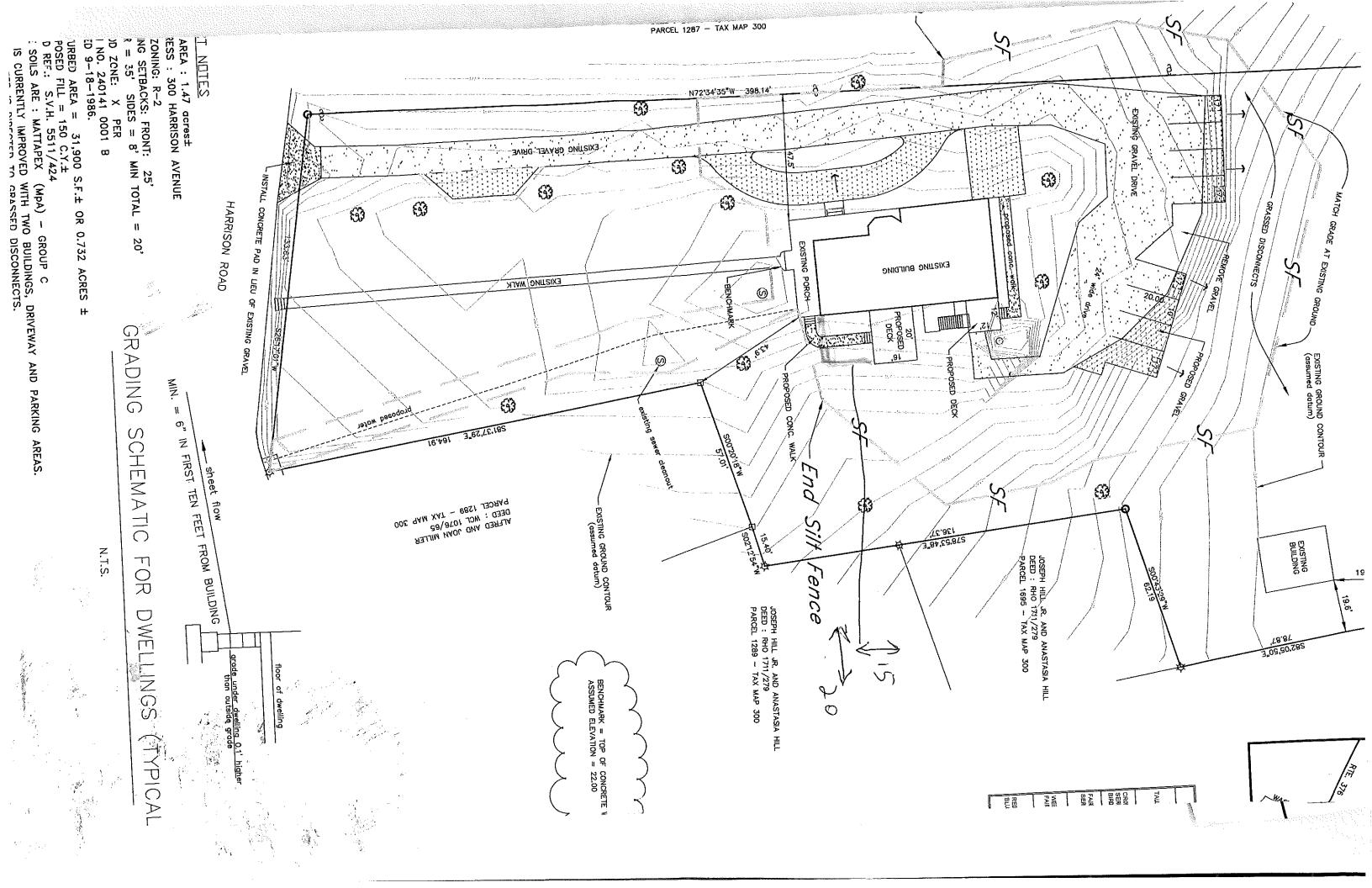
17. No Waiver

The failure of either party to enforce any term of this agreement is not a waiver.

The Parties agree to this agreement on the date stated above.

Attest:	County Commissioners of Worcester Count, Maryland
Harold L. Higgins Chief Administrative Officer	Joseph M. Mitrecic President (Seal)
Witness	M E J Investments LIC (Seal)





Notice of Public Hearings

Town of Berlin, MD

Board of Zoning Appeals

Wednesday, February 3, 2021

5:30 PM

Currently, meetings of the Board of Zoning Appeals are being held virtually with no in-person attendance by the Board, applicants or the public, HOWEVER, this meeting will be open to public participation via Zoom or call-in. Details regarding access will be available one week prior to the scheduled meeting on the Town website under Boards and Commissions, or by calling 410-641-4143 or emailing dengelhart@berlinmd.gov.

The Town of Berlin Board of Zoning Appeals will meet to consider two appeals pursuant to Town Code Sections 108-165 and 108-191 as follow:

- 1. An Appeal from Donald S. and Helen T. Ferguson, for Lot #3, Mount Pleasant, Broad Street for a Special Exception for a Variance from the rear setback requirement specified on the plat for Lot #3, Worcester County Tax Map No. 300, Parcel 1231. The proposed dwelling to be constructed on site represents an encroachment of 9 feet into the platted 40 foot rear Building Restricted Line.
- 2. An Appeal from Giovanni Pino Tomasello for 15 Harrison Avenue for a Special Exception for a Conditional Use to hold outdoor events for up to 100 guests, temporary tents and mobile restrooms, in addition to a request to modify a previously authorized Conditional Use allowing up to 30 dinner guests inside be increased to 50 guests at the Bed and Breakfast facility formerly known as the Waystead Inn.