

**CITY OF DELAWARE
BOARD OF ZONING APPEALS
AGENDA**

**MEETING TO BE HELD VIRTUALLY VIA CISCO Webex **
6:30 P.M.**

REGULAR MEETING

November 11, 2020

1. ROLL CALL
2. APPROVAL of the Motion Summary of the Board of Zoning Appeals meeting held on September 9, 2020, as recorded and transcribed.
3. REGULAR BUSINESS

- A. 2020-2309: A request by Suncraft Corporation Inc., for a rear yard setback variance for an open porch addition and deck at 476 Grand Circuit Boulevard on property zoned R-4 PUD (Medium Density Residential District with a Planned Unit Development Overlay District).

Due to the meeting being held virtually, written public comment, maximum 500 words, is requested to be received before 3p.m. the date of the meeting through email at emccloskey@delawareohio.net. To provide live public comment please email emccloskey@delawareohio.net to sign up by 3 p.m. the date of the meeting. Name and address are required for public comment. Comments received on Facebook may have to be addressed by staff subsequent to the meeting.

4. BOARD MEMBER COMMENTS AND DISCUSSION
5. NEXT REGULAR MEETING: December 9, 2020
6. ADJOURNMENT

** This meeting will be a virtual meeting. Residents are encouraged to view online through the City of Delaware Facebook page. To comply with the CDC recommendation prohibiting group meetings, no in person attendance by Council, staff, or the public will be available.

BOARD OF ZONING APPEALS
MOTION SUMMARY
September 9, 2020

ITEM 1. Roll Call

Vice-Chairman Junk called the virtual meeting to order at 6:35 p.m.

Members Present Virtually: Todd Daughenbaugh, Robert Whitmore, Councilman Cory Hoffman, and Vice-Chairman Paul Junk and Chairman Matt Dick

Members Absent: Beth Fisher and Adam Vaughn

Staff Present Virtually: Jordan Selmek, Zoning Officer and Lance Schultz, Zoning Administrator

Motion to Excuse: Chairman Dick motioned to excuse Ms. Fisher and Mr. Vaughn, seconded by Mr. Daughenbaugh. Motion approved by a 5-0 vote.

ITEM 2. Approval of the Motion Summary of the Board of Zoning Appeals meeting held on June 10, 2020, as recorded and transcribed.

Motion: Mr. Daughenbaugh moved to approve the Motion Summary for the Board of Zoning Appeals held on June 10, 2020 meeting, seconded by Councilman Hoffman. Motion approved by a 5-0.

Vice-Chairman Junk swore in the following participants from the public for Case 2020-1633:

Terry and Carol Kee
451 West William Street
Delaware, Ohio

ITEM 3. REGULAR BUSINESS

A. 2020-1633: A request by Mr. & Mrs. Kee for approval of a front yard setback variance for two detached garages at 451 West William Street on approximately 0.227 acres on property zoned R-3 (One-Family Residential District)

Mr. Selmek reviewed the staff report. He discussed the property location and description, as well as current zoning. The owners are proposing to construct two detached 264 square foot garages and a new driveway. Mr. Selmek discussed that there is currently a shed placed in the proposed location and no existing complaints have been received on the current shed. The garages will be

pushed as close to the home as possible to reduce any impact to surrounding neighbors. The proposed garages will match the existing house in relation to design and materials. Staff has received 6 letters from surrounding neighbors in support of the variance.

APPLICANT:

Terry and Carol Kee
451 West William Street
Delaware, Ohio

Motion: Chairman Dick moved to approve 2020-1633, along with all staff conditions, finding beyond a reasonable doubt that the decision factor necessary for approval of a variance according to Chapter 1128 of the Planning and Zoning Commission are met, with the staff conditions as noted, seconded by Councilman Hoffman. Motion approved by a 5-0 vote.

Vice-Chairman Junk swore in the following participants from the public for Case 2020-1599:

Robert Pollitt
3955 Montgomery Road
Cincinnati, Ohio 45212

Rebecca Mott
Plank Law Firm
411 East Town Street, Floor 2
Columbus, Ohio

Brian Yates
Burgess & Niple
5085 Reed Road
Columbus, Ohio

- B. 2020-1599: A request by United Dairy Farmers Inc., for approval of a buffer yard setback variance to chapter 1150.07 Establishment of Buffer Area at 123 West William Street on approximately 0.765 acres on property zoned B-3 (Community Business District).

Mr. Schultz reviewed the staff report. He discussed the property location and description, as well as current surrounding zoning. Mr. Schultz discussed that the owner had purchased the three adjacent properties which buildings have already been demolished. The proposed plan is to construct a new approximate 4,061 square foot building on approximately 0.65 acres on the four parcels of land. Part of the proposed new building and a portion of the parking lot will be within the 15-foot buffer set back along the Delaware Run. He reviewed the approval from the Planning Commission meeting for the Conditional Use Permit

and Preliminary Development Plans. Currently the building and portion of the parking lot are located within the 15-foot buffer setback. The Delaware Run is piped under the building and the parking lot currently. He reviewed the 100 Year Flood Plain, Floodway and the current pipe location. The pipe will be extended about 95 feet. Mr. Schultz reviewed the variance factors and staff reports that the proposed variance does constitute a hardship and practical difficulty due to the 15-foot buffer setback requirement in Chapter 1150.07. Mr. Schultz discussed the post flood study that was conducted by the Applicant.

APPLICANT:

Robert Pollitt
3955 Montgomery Road
Cincinnati, Ohio 45212

Rebecca Mott
Plank Law Firm
411 East Town Street, Floor 2
Columbus, Ohio

Brian Yates
Burgess & Niple
5085 Reed Road
Columbus, Ohio

Mr. Pollitt reviewed the location of the proposed gas tanks.

Motion: Councilman Hoffman moved to approve 2020-1599, along with all staff conditions, finding beyond a reasonable doubt that the decision factor necessary for approval of a variance according to Chapter 1128 of the Planning and Zoning Commission are met, with the staff conditions as noted, seconded by Chairman Dick. Motion approved by a 5-0 vote.

ITEM 4. BOARD MEMBER COMMENTS AND DISCUSSION

ITEM 5. NEXT REGULAR MEETING: October 14, 2020.

ITEM 6. ADJOURNMENT

Motion: Chairman Dick moved to adjourn the Board of Zoning Appeals meeting, seconded by Mr. Whitmore. The Board of Zoning Appeals meeting adjourned at 7:20 p.m.

Matt Dick, Chairman

Elaine McCloskey, Clerk

CASE NUMBERS: 2020-2309

REQUEST: Variance

PROJECT: 476 Grand Circuit Boulevard

MEETING DATE: November 11, 2020

APPLICANT/OWNER

Suncraft Corporation Inc
122 West Johnstown Road
Gahanna, Ohio 43230

REQUEST

2020-2309: A request by Suncraft Corporation Inc., for a rear yard setback variance for an open porch addition and deck at 476 Grand Circuit Boulevard on property zoned R-4 PUD (Medium Density Residential District with a Planned Unit Development Overlay District).

PROPERTY LOCATION & DESCRIPTION

The subject property is a corner lot located on the east side of Grand Circuit Boulevard and just south of Sundew Court. The subject site is zoned R-4 PUD as are the properties to the north, south and east. The properties to the west are zoned R-3 PUD.

BACKGROUND

The subject house was constructed in 1997 and the current owner purchased the house in 2019 and now is proposing to construct an open porch addition and deck on the eastern portion of their house which is considered their rear yard on the corner lot per the zoning code. The proposed attached open porch would encompass 192 square feet (16x12) and the deck would encompass 96 square feet (8x12) that totals 288 square feet and would protrude 12 feet into the 40 foot rear yard setback. The design, material and color of the open porch addition and deck appears to match and complement the existing house.

STAFF ANALYSIS

- **REAR YARD VARIANCE:** The R-4 PUD zoning district requires a 40-foot rear yard setback while the owner is proposing a variance to construct an open porch addition and deck that would protrude 12 feet into the required 40 setback resulting in a minimum 28 foot rear yard (east) yard setback for the addition.
 - The survey provided by the applicant indicates the house was constructed 38 feet from the rear yard setback, Therefore, the proposed porch addition and deck would be located 16 feet from the east property line.
 - The subject property is a corner lot which has two front yards and one side and rear yard per the zoning code. In this case, the rear yard of the subject house is to the east which is the side yard of the house to the east.

- **VARIANCE REVIEW:** In considering whether or not a Variance shall be granted, the Board of Zoning Appeals is required to consider certain factors to determine if a practical difficulty exists. As listed below, Section 1128.09(c)(1) of the Planning & Zoning Code sets forth these factors. Following each factor in italics is a brief Staff analysis.
 1. Whether the granting of the Variance would be in accord with the general purpose and intent of the regulations imposed by this Ordinance and the district in which it is located and shall not be injurious to the area or otherwise detrimental to the public welfare.

The purpose and intent of the R-4 PUD Ordinance is outlined in Section 1134.01 states:

 - a) *To regulate the bulk and location of dwellings to obtain proper privacy and useable open spaces for each unit appropriate for the various districts.*
 - b) *To regulate the density and distribution of population, avoid congestion, and provide adequate public services.*
 - c) *To provide for proper location of institutions and other community facilities so as to increase the general convenience, safety and amenities.*

Approval of the Variance is not in accordance with purpose and intent of the PUD zoning district and would be considered significant but would not likely be detrimental to the public welfare. The proposed open porch addition and deck would be setback approximately 26 feet from the adjacent house (the side

yard of the adjacent house because the subject property is a corner lot), The open porch and deck is located on the northern half of the house (setback approximately 33 feet from Sundew Court) which is not directly adjacent to the house to the east which is setback approximately 65 feet from Sundew Court (western portion of the house. If the porch and deck were detached, they would only need to be setback 3 feet from the rear yard setback per the zoning code. Therefore, the addition would not add a dwelling unit to the overall structure and would not change the overall character of the single-family neighborhood.

2. Whether special conditions and circumstances exist which are peculiar to the land or structure involved and which are not applicable generally to other lands or structures in the same zoning district. Examples of such special conditions or circumstances are exceptional irregularity, narrowness, shallowness or steepness of the lot, or adjacency to non-conforming and inharmonious uses, structures or conditions.

The subject lot is a corner lot with the rear yard setback being the side yard for the house to the east, but this is common for any lot that abuts a corner lot. The subject corner lot is oversized by approximately 33% per the zoning code requirements.

3. Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the Variance. Mere loss in value or financial disadvantage to the property owner does not constitute conclusive proof of practical difficulty; there shall be deprivation of beneficial use of land.

The house was constructed in 1997 per the Delaware County Auditor and will continue to be used as such with or without approval of this Variance. The proposed open porch addition and deck will likely increase the value of the house if allowed.

4. Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer substantial detriment as a result of the Variance.

Although the request is not compliant with the rear yard setback requirements in the R-4 PUD zoning district, the character of the neighborhood would not likely be "substantially altered" if the architecture, material and color of the open porch addition and deck are compatible to the existing house which it appears to be. The proposed addition does not add a dwelling unit to the existing single-family house.

5. Whether the Variance would adversely affect the delivery of governmental services such as water, sewer, or trash pickup.

The delivery of governmental services, particularly emergency services, would not be impacted with approval of this Variance.

6. Whether the property owner purchased the property with knowledge of the zoning restrictions. Purchase without knowledge of restrictions in itself is not sufficient proof of practical difficulty.

Staff would not have any knowledge if the owner knew of the zoning restrictions when the house was purchased. However, this information was readily available and commonly known to all similarly situated property owners.

7. Whether special conditions or circumstances exist as a result of actions of the owner.

It is not likely any special conditions or circumstances occurred because of the actions of the owner.

8. Whether the property owner's predicament feasibly can be obviated through some method other than a Variance.

Staff and the owner researched and discussed several options but the only way to construct the open porch addition and deck as proposed and would require a rear yard setback variance.

9. Whether there is evidence of Variances granted under similar circumstances.

The BZA has approved building additions in the past.

10. Whether the granting of the Variance is necessary for the reasonable use of the land or building, and the Variance as granted is the minimum Variance that will accomplish that purpose.

The property is currently zoned for single-family houses and will continue to be used as such with or without approval of this Variance. As a result, a Variance is not necessary for the reasonable use of the land.

11. Whether the proposed Variance would impair an adequate supply of light and air to adjacent property, substantially increase the congestion in the public streets, increase the danger of fire, endanger the public safety or substantially diminish or impair property values of the adjacent area.

The variance would not likely have an impact on any of the aforementioned issues.

12. Whether the granting of the Variance requested would confer on the applicant any special privilege that is denied by this regulation to other lands, structures or buildings in the same district.

If the Board finds that the standards for approval of a Variance are met then no special privilege is granted.

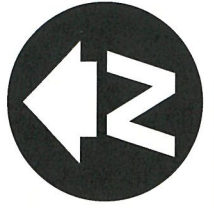
CONCLUSION

Staff would recommend approval of the subject variance for the following reasons: 1.) The proposed rear yard setback variance request would not likely have a negative impact on the adjacent properties; 2.) The open porch addition and deck appears to be compatible in design, material and color of the existing house 3.) No new dwelling units are being added; and 4). If the porch and deck were detached, they would only need to be setback 3 feet from the rear yard setback per the zoning code

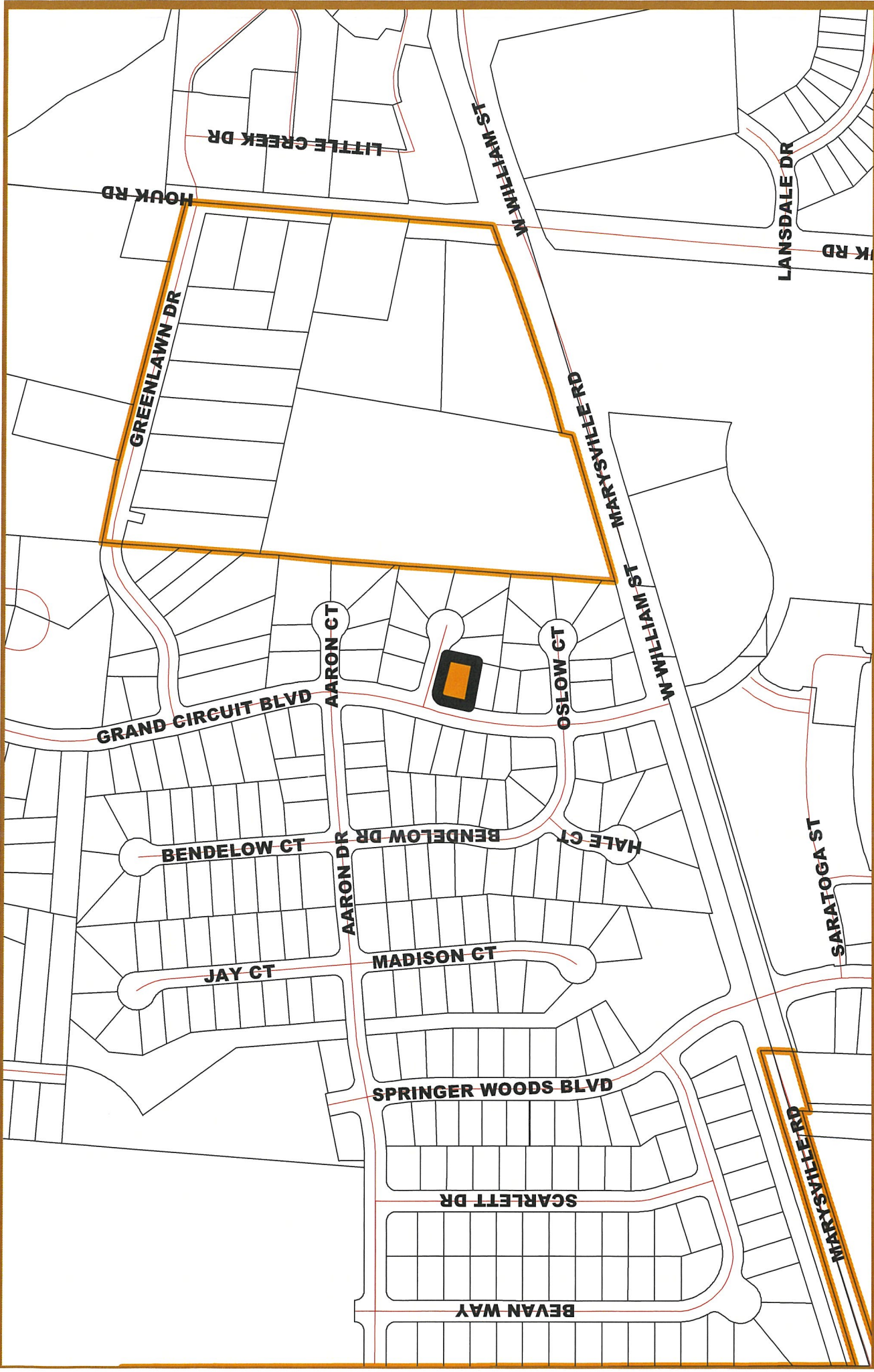
STAFF RECOMMENDATION – VARIANCE (2020-2309)

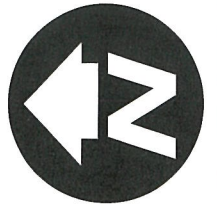
Staff recommends approval of a request by Suncraft Corporation Inc., for a rear yard setback variance for an open porch addition and deck at 476 Grand Circuit Boulevard on property zoned R-4 PUD (Medium Density Residential District with a Planned Unit Development Overlay District), with the following conditions that:

1. The proposed open porch addition and deck shall be setback a minimum of 26 feet from the rear property line to the east.
2. The open porch addition and deck shall be compatible in design, material and color to the existing house.
3. The remaining structure and any future proposed additions shall comply with the 40 ft. rear yard setback requirement (existing building line).

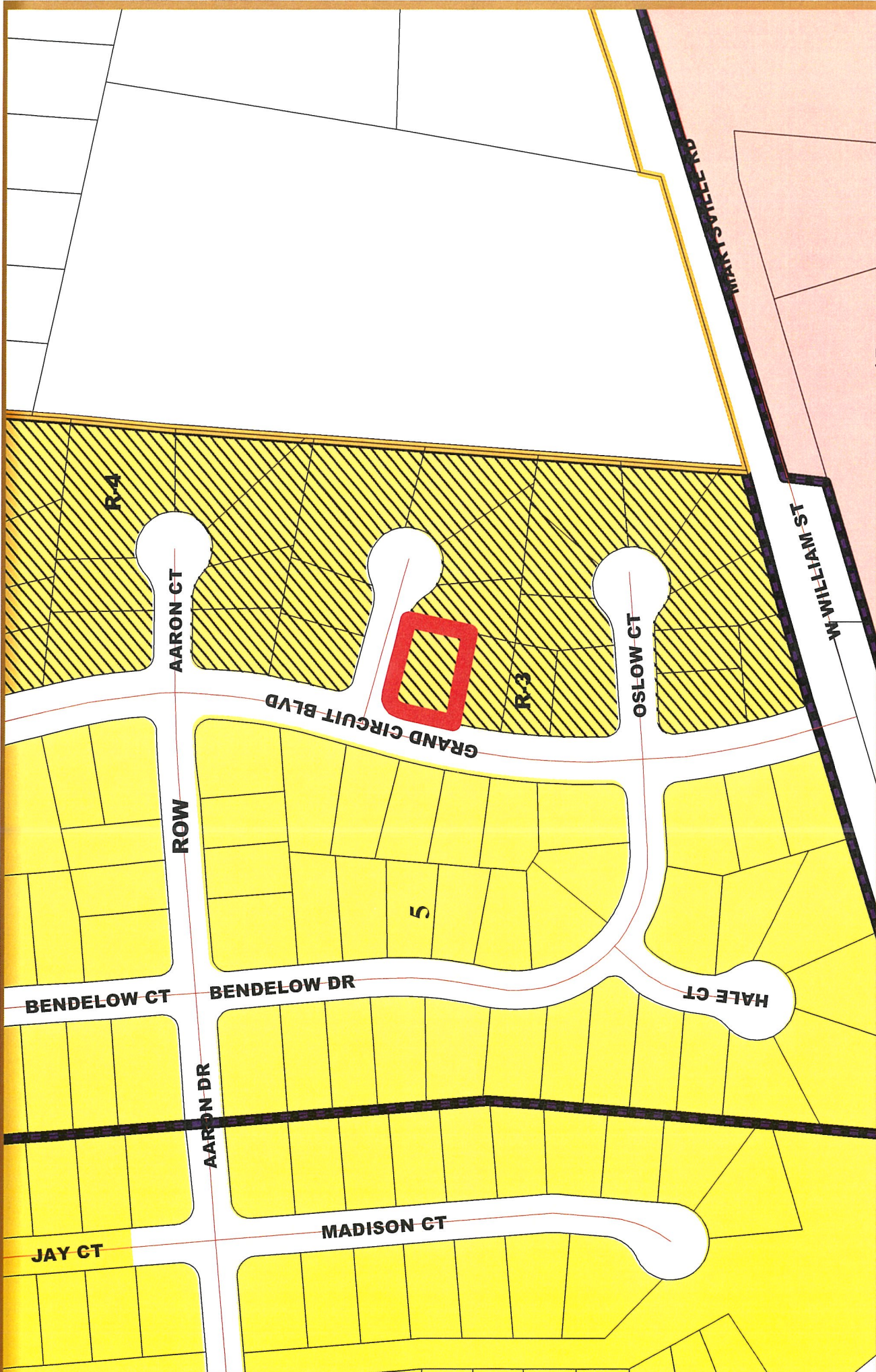


2020-2309
Rear Yard Setback Variance
476 Grand Circuit Boulevard
Location Map



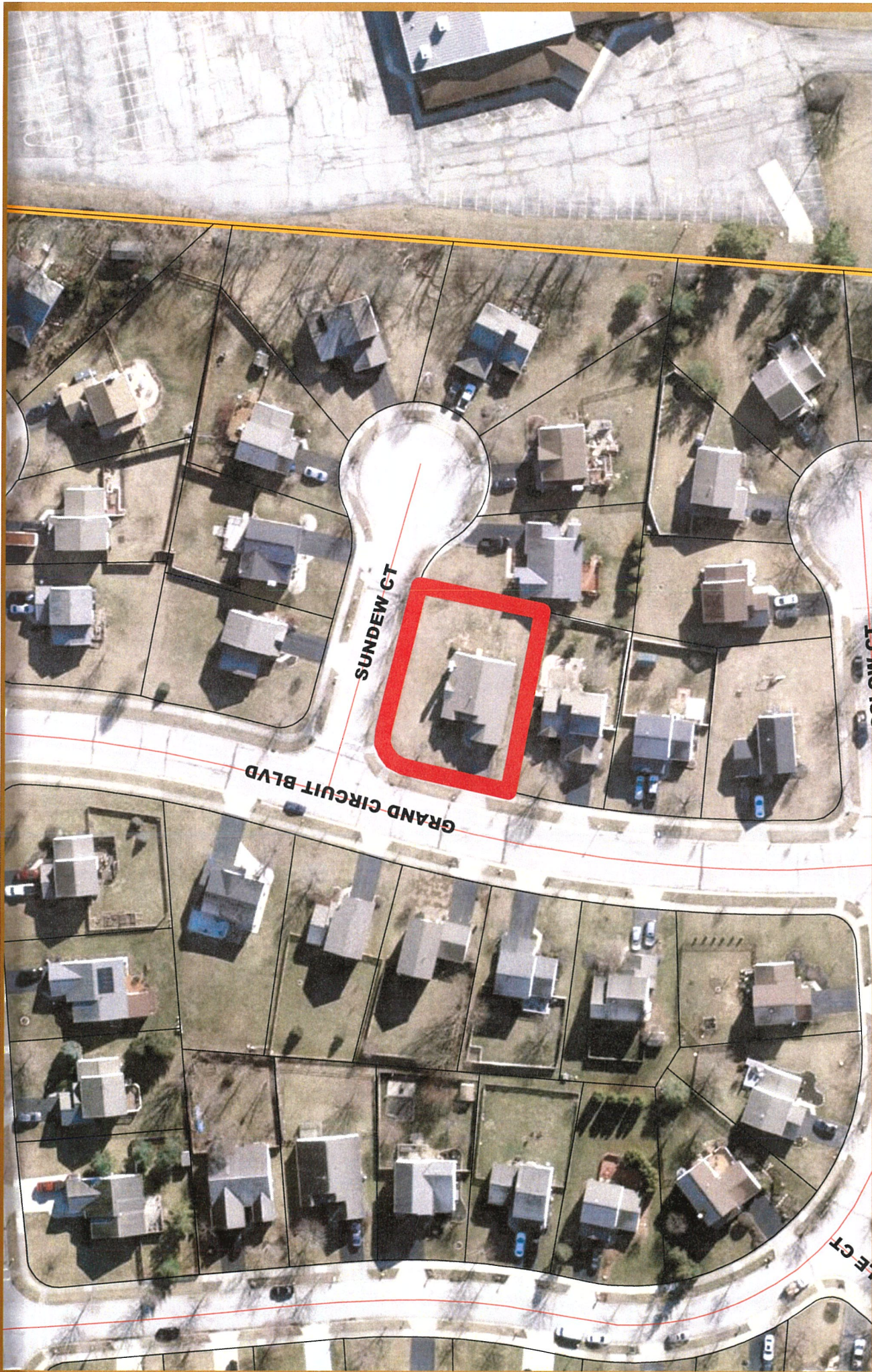


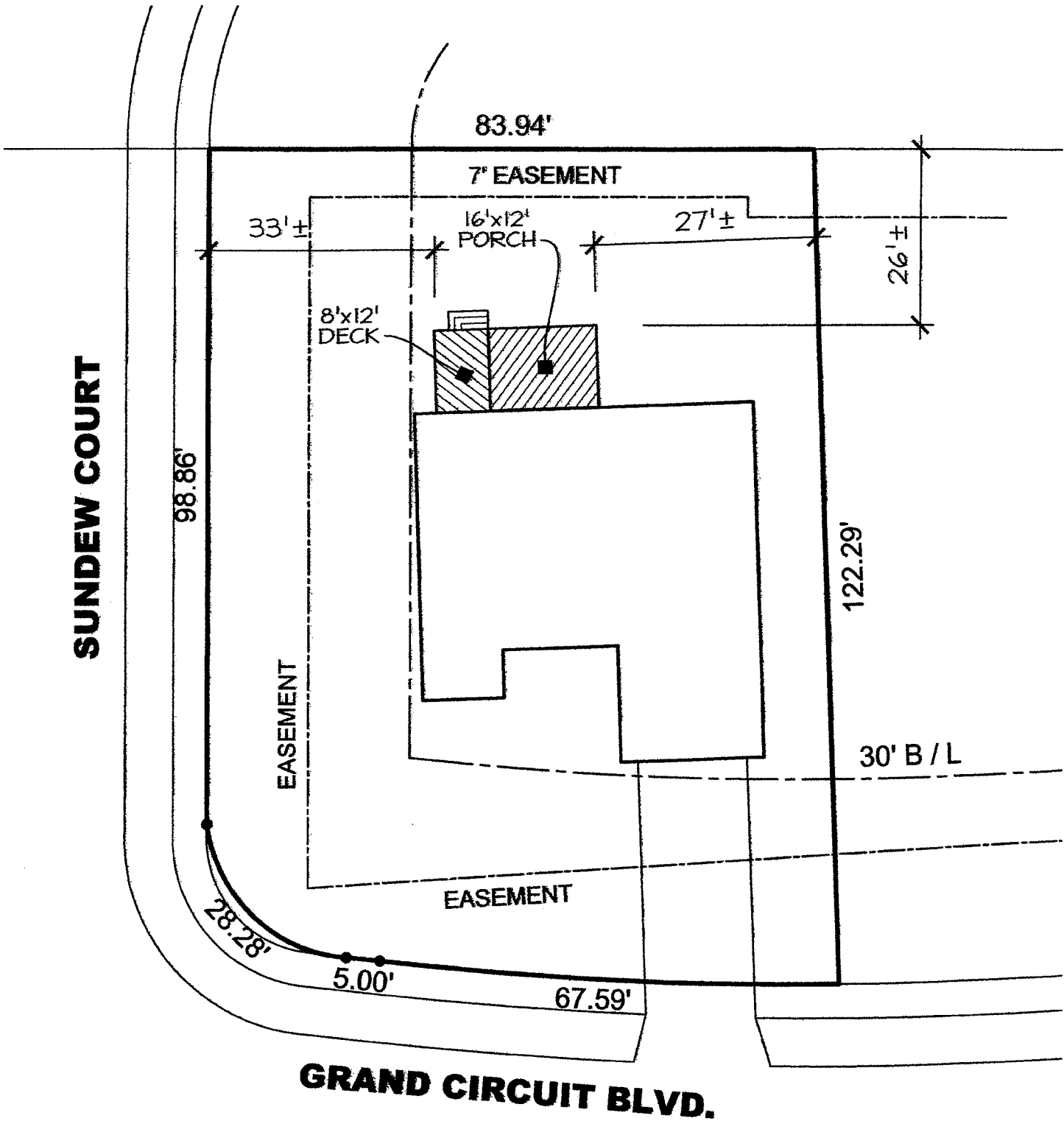
2020-2309
Rear Yard Setback Variance
476 Grand Circuit Boulevard
Zoning Map





2020-2309
Rear Yard Setback Variance
476 Grand Circuit Boulevard
Aerial (2019) Map





SUNDEW COURT

GRAND CIRCUIT BLVD.

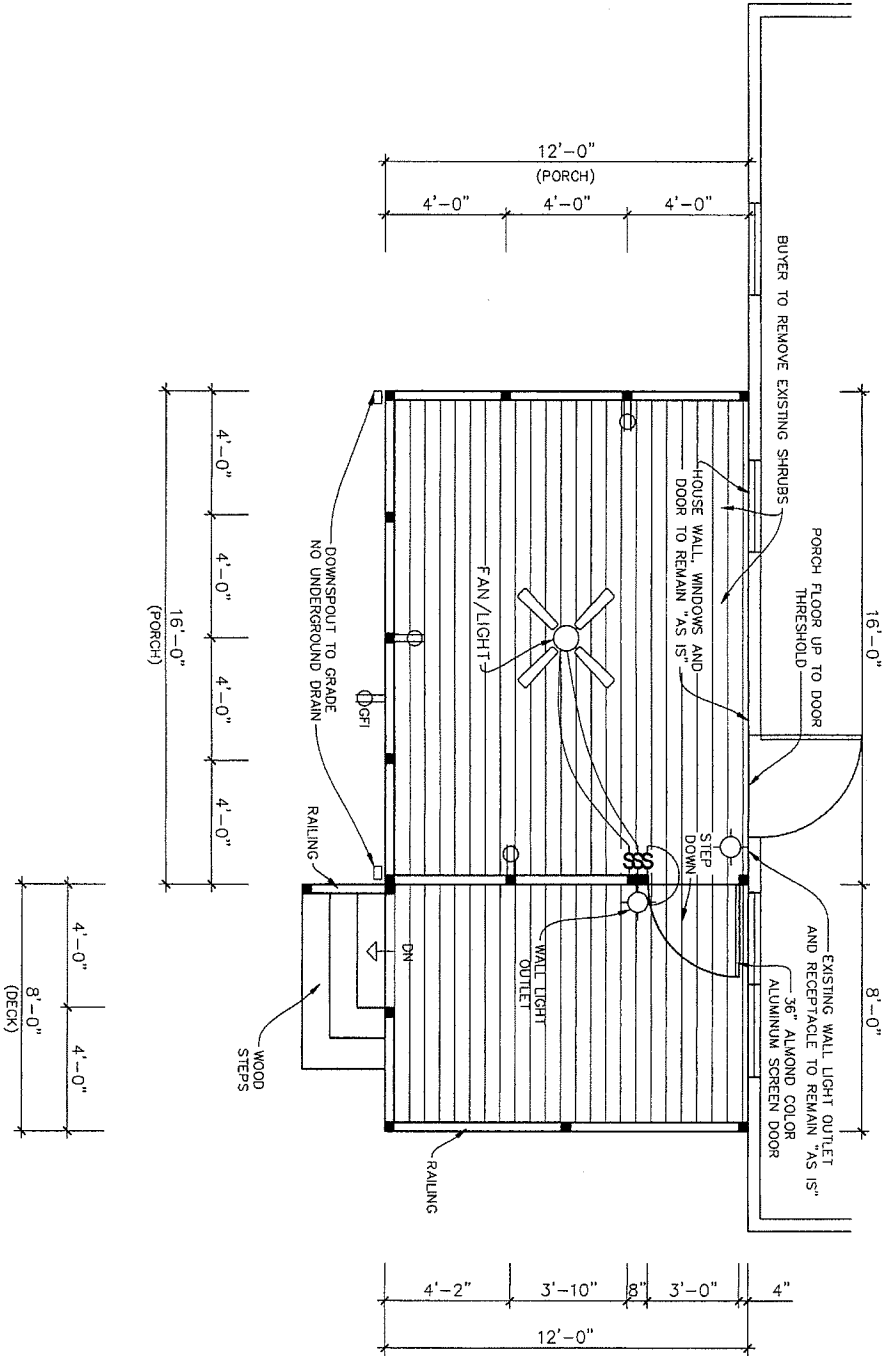


SAVINELL, JAMES / KATHERINE
 476 GRAND CIRCUIT BLVD.
 DELAWARE, OH 43015
 PARCEL# 14 - 51933204026000

SUNCRAFT
 SAVINELL 20127

No interior or exterior priming, painting, staining, caulking, or nail hole filling included.

PLAN VIEW



CONTRACT - PLAN #	20127
SHEET #	1 / 3

SUNCRAFT
DESIGNED RIGHT. BUILT RIGHT.

Suncraft Corporation, Inc.
 122 West Johnstown Road
 Columbus, OH 43230
 Phone: (614) 475-0000
 Fax: (614) 475-0986

Savinell, James and Kathy
 476 Grand Circuit Blvd. Delaware OH 43015

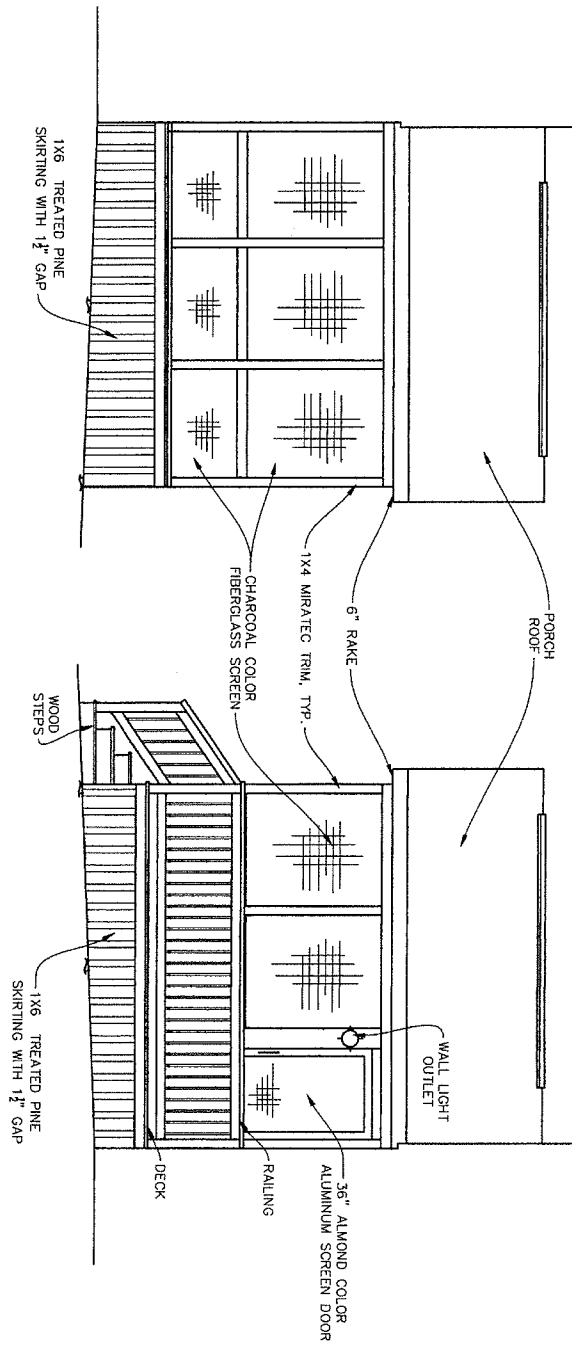
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DESIGNER	ER
SCALE	1/4" = 1'-0"
DATE	7-07-20
CHECKED	
REVISED	
APPROVED _____	DATE _____
APPROVED _____	DATE _____

No interior or exterior priming, painting, staining, caulking, or nail hole filling included.

LEFT SIDE ELEVATION

RIGHT SIDE ELEVATION



PRELIMINARY
 PERMIT
 CONSTRUCTION
 CONTRACT - PLAN # 20127
 SHEET # 3 / 3

SUNCRAFT®
 DESIGNED RIGHT. BUILT RIGHT.
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 122 West Johnstown Road
 Columbus, OH 43230
 Phone: (614) 475-0000
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DESIGNER	ER
SCALE	3/4" = 1'-0"
DATE	7-07-20
CHECKED	
REVISED	

Savinell, James and Kathy
 476 Grand Circuit Blvd. Delaware OH 43015

APPROVED _____ DATE _____
 APPROVED _____ DATE _____

