



DEPARTMENT OF PLANNING SERVICES

NOTICE OF DECISION

APPLICATION: A-24-55

APPLICANT/OWNER: David, Tyler G., & William Washington
Shirley A. Morris
7313 Marshall St.
Lincoln, DE 19960

ADDITIONAL CONTACT: DBF, Inc
c/o Lisa Workman
1 Park Ave.
Milford, DE 19963

PROPERTY LOCATION: 4404 S Bowers Rd, Milford, DE 19963

**DATE OF PUBLIC HEARING
& DECISION:** December 19, 2024

MEMBERS PRESENT: Brian Cusick, Chairperson
Morgan Hudson, Vice-Chairperson
Joan Denney
Temple Carter
Brauncy Jenkins
Charlie Jones
George Gallo, Jr.

NATURE OF REQUEST:

A-24-55 David, Tyler G., & William Washington & Shirley A. Morris seek a variance from the maximum impervious coverage limit of 30% to enable a lot line adjustment (**§205-82.A. of the Kent County Code**). The property is located on the north side of S. Bowers Rd., approx. 0.61 mi. north of Webbs Cutoff, south of Bowers Beach. Levy Court District: 4th. Zoning District: RS1. **Tax Map No. 5-00-115.17-01-10.00-000**

The applicants are requesting a variance from the maximum impervious coverage of 30%. The applicants are requesting the variance to enable a submittal of a minor lot line adjustment to allow a 7,457 sq. ft. lot with an impervious surface coverage of 53.7%.

SUMMARY OF EVIDENCE

1. The subject site is currently 6,309 sq. ft. and is improved with a single-family detached

dwelling, decks, ramp, shed, and driveway. The proposed minor lot line adjustment will increase the parcel to be 7,457 sq. ft.

2. Mr. William Washington, property owner, spoke in favor of the application.
3. Mr. Washington explained that his grandparents originally bought the properties in the 1940's and then they were passed down to his father. Mr. Washington stated that his father passed in 1975 and left the properties to he and his 3 siblings.
4. Mr. Washington stated that he took a measurement and found that the existing improvements may be crossing property lines. He contacted a surveyor and thought that it would be an easy fix through a minor lot line adjustment and then found out that variances would be needed.
5. Mr. Washington detailed that the survey does not account for the overhang of the house on parcel 10.00 hanging over the existing property line onto parcel 11.00.
6. Mr. Washington explained that he and his siblings are trying to do the minor lot line adjustment to clean up the encroachments for future property owners.

FINDINGS OF FACT & CONCLUSIONS OF LAW

Analysis of the four factors set forth in Board of Adjustment of New Castle County v. Kwik-Check Realty, Inc., 389 A.2d 1289, 1291 (Del. 1978), supports the **APPROVAL** of the requested variance.

- (1) **The nature of the zone where the property lies:** As shown on Exhibit A, the subject site is zoned RS1 (Single-Family Residential District). Surrounding properties are also similarly zoned RS1. Single-family dwellings, accessory structures, and pavement are within the nature of the RS1 zoning district.
- (2) **The character and uses of the immediate vicinity:** The character of this area is residential in nature. The lots to the east and west are residential and to the north is a waterway. Residential improvements are normal in the surrounding area. Additional improvements are not being proposed to the parcel at this time. Being of similar size, the proposed lot would keep in the character of the surrounding area. Other parcels in the immediate vicinity also appear to exceed the 30% impervious coverage.
- (3) **Whether removal of the restriction on the applicant's property would seriously affect the neighboring properties:** The removal of this requirement will not seriously affect other properties in the area. Currently improvements for parcel 10.00 encroach onto parcel 11.00 which would be corrected with the proposed minor lot line adjustment. No residential improvements are being proposed which would not make for a noticeable change to the neighboring properties. In addition, we have yet to receive an objection from any of the surrounding property owners.
- (4) **Whether failure to remove the restriction would create unnecessary hardship or exceptional practical difficulty for the owner in relation to the owner's efforts to make**

normal improvements to the property: Failure to remove the restriction would create an unnecessary hardship since the applicants would not be able to do a minor lot line adjustment to correct current improvements that are crossing the property line. The minor lot line adjustment will adjust the lines so that the dwelling, deck, and ramp for parcel 10.00 will no longer encroach onto parcel 11.00.

DECISION: On a motion made by Ms. Hudson and seconded by Mr. Jones, the Board of Adjustment voted 7 in favor of the motion to grant **APPROVAL** of application A-24-55, thus granting a variance from the maximum impervious coverage of 30% to enable the submittal of a minor lot line adjustment to allow a 7,457 sq. ft. lot with an impervious coverage of 53.7%, as shown on Exhibit B, attached hereto. The support of this motion was based on testimony given, the request does not negatively affect the neighboring property owners, staff recommendation, the improvements are not changing, the request is necessary to allow for a minor lot line adjustment to ensure all improvements are on the respective properties.

NOTES:

1. The applicants are advised that any persons jointly or severally aggrieved by any decision of the Board of Adjustment may present to the Superior Court in and for Kent County a petition setting forth that such decision is illegal in whole or in part, specifying the grounds for the illegality. The petition shall be presented to the Court within 30 days after the filing of the decision in the office of the Board (9 Del. C. § 4918).
2. The applicant is advised that a minor lot line adjustment shall be applied for with the Planning Office. Please include a copy of this Notice of Decision with the minor lot line adjustment submittal. For more information, contact the Division of Planning at (302) 744-2471 between 8:00 a.m. and 5:00 p.m.
3. This variance will expire after **ONE YEAR** if a permit has not been submitted to the Division of Planning.

KENT COUNTY BOARD OF ADJUSTMENT



Brian Cusick, Chairperson

DECISION FILED: 1/17, 2025

Exhibit B

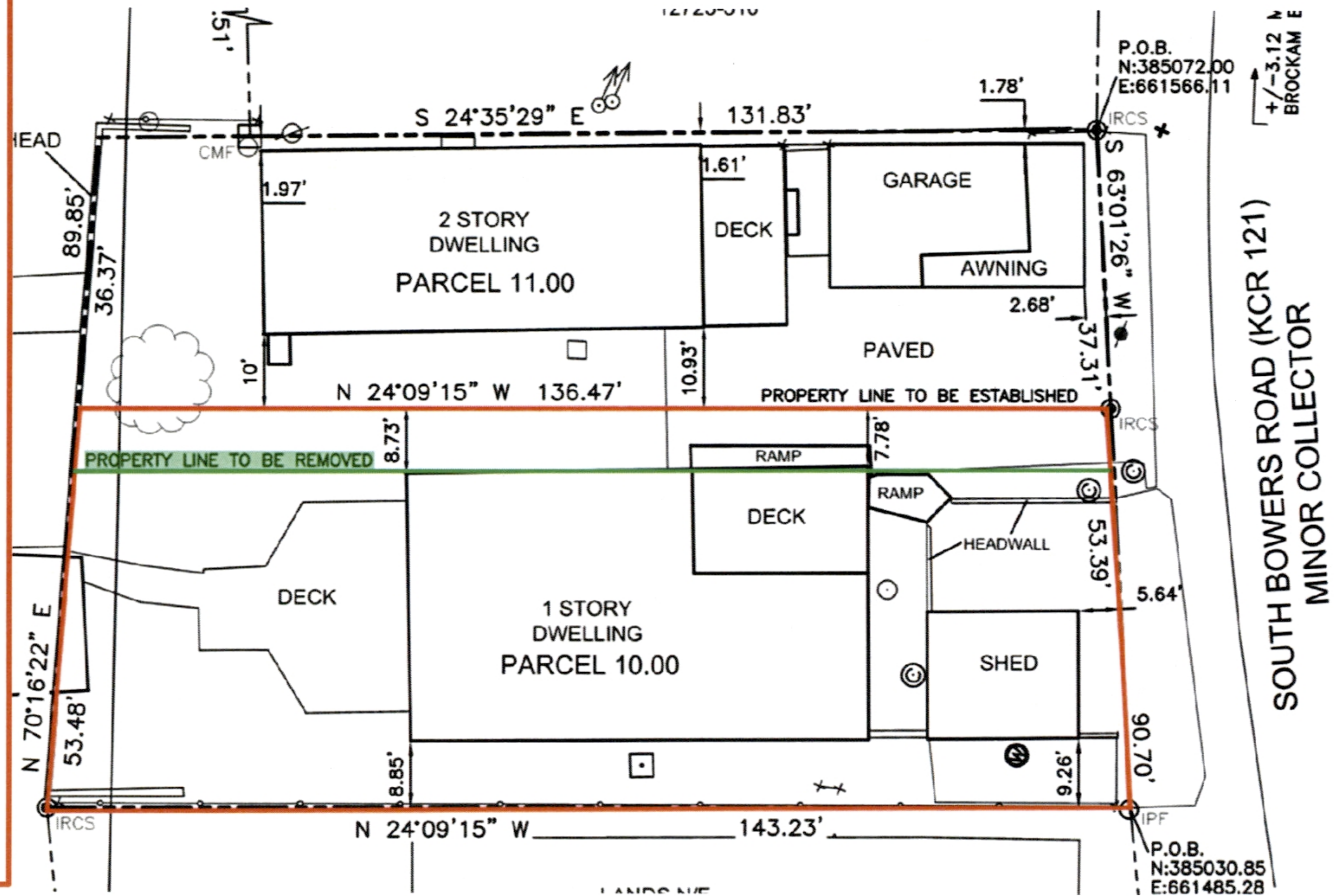
Application: A-24-55
Washington & Morris

Variance from the maximum impervious coverage limit of 30% to enable a lot line adjustment

Permitted
Impervious:
30%
(2,237sf for lot
size proposed)

Existing
Impervious:
56% (3,534sf)

Proposed
Impervious:
53.7%
(4,008sf)



SOUTH BOWERS ROAD (KCR 121)
MINOR COLLECTOR