



Rouss City Hall
15 North Cameron Street
Winchester, Virginia 22601
www.winchesterva.gov

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BOARD OF ZONING APPEALS
AGENDA
JUNE 8, 2016 - 4:00 P.M.
Council Chambers - Rouss City Hall

1. **POINTS OF ORDER**

- A. Roll Call
- B. Approval of Minutes – March 9, 2016 and April 13, 2016
- C. Reading of Correspondence

2. **PUBLIC HEARINGS**

3. **NEW BUSINESS**

BZA-16-323 Request of NB 333 W. Cork Street LLC for variances of the Winchester Zoning Ordinance, Sections 15-7-1 and 15-8-1 pertaining to building height and minimum corner side yard at 333 West Cork Street (*Map Number 192-01-C-16 - > <01*) zoned Health Services (HS) District. The request is to allow for the construction of an outdoor patio contiguous with the fifth floor of the existing structure.

4. **OLD BUSINESS**

5. **ADJOURN**

**BOARD OF ZONING APPEALS
MINUTES**

The Board of Zoning Appeals held its regularly scheduled meeting on Wednesday, March 9, 2016, at 4:00p.m. in Council Chambers, Rouss City Hall, 15 North Cameron Street, Winchester, Virginia.

POINTS OF ORDER:

PRESENT: Chairman Pifer, Vice Chairman Crawford, Mr. Whitacre, Mr. Lewis, Ms. Marchant

ABSENT: Ms. Anderson

STAFF: Aaron Grisdale, Erick Moore, Carolyn Barrett

VISITORS: Rock Skowbo, Stacie Brown

ELECTION OF OFFICERS:

Ms. Marchant nominated Brandon Pifer as Chairman. Mr. Whitacre seconded the nomination. Voice vote was taken and the nomination passed 3-0.

Ms. Marchant nominated Don Crawford as Vice Chairman. Chairman Pifer seconded the nomination. Voice vote was taken and the nomination passed 3-0.

CONSENT AGENDA:

Approval of Minutes of September 9, 2015:

Chairman Pifer called for corrections or additions to the minutes. Mr. Whitacre made a motion to approve the minutes as submitted. Ms. Marchant seconded the motion. Chairman Pifer called for a vote. Roll call vote was taken and the motion passed 4-0.

READING OF CORRESPONDENCE:

None.

PUBLIC HEARINGS:

BZA-16-038 Request of Mario Katrandjiyski for variances of the Winchester Zoning Ordinance, Sections 5.1-3-3, 5.1-4-2 and 5.1-6-1.2 pertaining to required lot area, lot width and side yard setback at 355 and 355 ½ National Avenue (*Map Number 174-01-K -31*) zoned Limited High Density Residential (HR-1) District. The request is to grant variances to a non-conforming structure to allow for it to be reused as a two-family dwelling.

Mr. Grisdale presented the staff report. The property has been vacant for more than two years which resulted in the legal nonconformities expiring. The property is also deficient in Zoning Ordinance requirements. The property owner has requested that a two-family dwelling use be permitted at the

property, to resemble the previous use of the property. This use requires a conditional use permit from City Council.

Chairman Pifer disclosed that his company manages 357-359 National Avenue but did not feel that it was sufficient cause for him to recuse himself.

Chairman Pifer Opened The Public Hearing

No one spoke during the public hearing.

Chairman Pifer Closed The Public Hearing

Vice Chairman Crawford noted that if the parking lot was lined properly, there would be more than enough parking spaces for two units. His concern was that City Council had stated very clearly through the ordinance that zoning would revert to what the new zoning was if a building had been abandoned for a number of years. There was no longer a by-right possibility of having it the way before if it was a non-conforming use.

Chairman Pifer said he had no issue with it being a multi-family use as it was before, as long as it doesn't fall into the state of disrepair that it was in. Mr. Whitacre said he agreed with Vice Chairman Crawford. He noted that the property was listed as under contract. Mr. Grisdale said the current owner is facilitating the variance for the contract. Ms. Marchant said the owner had mentioned the property had always been a duplex but she did not see that proved anywhere in the documents. Mr. Grisdale said it had been a two-family dwelling for a couple of decades.

Ms. Marchant made a motion to approve the variance of the Winchester Zoning Ordinance, Sections 5.1-3-3, 5.1-4-2 and 5.1-6-1.2 pertaining to required lot area, lot width and side yard setback at 355 and 355 ½ National Avenue (Map Number 174-01-K -31) zoned Limited High Density Residential, HR-1 District, with the following conditions:

- a. The variances are granted to allow for the use of the structure as only single-family dwelling;*
- b. The variances are granted only for the current footprint of the structure. Any future alteration to the structure's footprint will only be permitted in such a way as nonconforming setbacks are reduced;*
- c. The variances will expire if the property ceases to be used for a two year period.*

The variances are approved because the strict application of the terms of the ordinance would unreasonably restrict the utilization of the property

- 1) The property interest for which the variance is being requested was acquired in good faith and any hardship was not created by the applicant for the variance;*
- 2) The granting of the variance will not be of substantial detriment to adjacent property and nearby properties in the proximity of that geographical area;*
- 3) The condition or situation of the property concerned is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the ordinance;*

- 4) *The granting of the variance does not result in a use that is not otherwise permitted on such property or a change in the zoning classification of the property; and,*
- 5) *The relief or remedy sought by the variance application is not available through a special exception process or the process of an administrative modification at the time of the filing of the variance application.*

Vice Chairman Crawford seconded the motion. Chairman Pifer asked for a roll call vote.

Vice Chairman Crawford – yes

Ms. Marchant – yes

Mr. Whitacre – yes

Chairman Pifer – no

Chairman Pifer stated the motion passed 3-1.

BZA-16-095 Request of Stacie Smith Brown for variances of the Winchester Zoning Ordinance, Sections 10-3-1, 10-5-1, 10-6-1 and 10-8-1 pertaining to minimum lot area and width, main building, side yard and corner yard setbacks at 574 North Loudoun Street (*Map Number 153-01-G-1*) zoned Commercial Industrial (CM-1) District. Variances are being requested to establish an extended stay use in a non-conforming structure.

Mr. Grisdale presented the staff report. He outlined what the issues and setbacks were currently and what was required under the ordinance. Since the previous residential two-family use is not permitted in the CM-1 district, and the nonconformity has expired, the use may never be reinstated. Staff believes a hardship exists in this situation. Mr. Grisdale reviewed the criteria for use in that district.

Chairman Pifer Opened The Public Hearing

Stacie Brown, 101 Christa Court, Charlottesville, Virginia, stated she had unknowingly purchased property with a building with inherent problems that she did not understand at the end of 2013. After closing, she ran into problems she did not know how to handle which left the building vacant for two years. The only way to put the building back into service was to approve the variances. She said the neighbor was amenable to the parking area being used. The only time she uses the area is when she is taking large items to the dump. Ms. Brown said she could not afford to carry a vacant property.

Ms. Marchant asked about the parking situation and Ms. Brown showed the board pictures of the current area. Vice Chairman Crawford asked about the doors being numbered one through four and how many units were in the building. Ms. Brown said there were two units, each one had two doors. She said she had never seen the numbers he was talking about.

Rock Skowbo, 566 North Loudoun Street, spoke in favor of the variance for extended stay use. He said it does not make any sense to restrict the use of the building as a residence. Sometimes it can take a few years to get a property ready to use. He had read about it in the newspaper and noted another neighbor had spoken against the use at the Planning Commission meeting because of the type of people it might attract. He has had many people move in and out of his property; sometimes they stay a few months, other times a few years and has not had issues. He said many people in that area do not have cars and walk to where they need to go. He also said it was unrealistic to not allow the use of the

building. It would be one thing if the City had a plan for use of that lot for some other reason and it would make sense to get rid of all those houses. He realizes the houses in that area are out of place. He had heard that there might be more residential units becoming available near that area.

Chairman Pifer Closed The Public Hearing

Chairman Pifer said his only concern was with extended stay being used as a boarding house and you don't know what exactly they're going to use it for. He did not have issues with the building and that the units had been fixed up nicely. As long as it wasn't used as a boarding house, he didn't have any issues.

Ms. Marchant asked if it still had to go to Council for any kind of use and Chairman Pifer said yes. She asked about the option to pull down part of the building to make more parking. Mr. Grisdale said under Option One-Part Two, the addition on the back was not part of the original structure. The adjacent property may be sold in the future and even though there is an agreement between neighbors now, it may change.

Vice Chairman Crawford repeated what he had said earlier about Council's intent with the zoning ordinance. Ms. Marchant said she did not see what options were available if the variance was not approved, otherwise the property could not be used. Mr. Whitacre said the request does match the area and that Mr. Skowbo was correct that it takes time to get properties ready for occupancy.

Mr. Grisdale reviewed the options available for a motion.

Ms. Marchant moved that the Board of Zoning Appeals approve variances of the Winchester Zoning Ordinance, Sections 10-3-1, 10-4-1, 10-5-1, 10-6-1 and 10-8-1 pertaining to minimum lot area and width, main building, side yard and corner yard setbacks at 574 North Loudoun Street (Map Number 153-01-G-1) zoned Commercial Industrial (CM-1) District, with the following conditions:

- a. Only the following uses permitted in the CM-1 district shall be permitted: Convenience Service Establishment (Section 10-1-9), Government Offices (10-1-12), Offices, business and professional (10-1-18), Parking lot (10-1-19), Repair services or business (10-1-25), Off-street parking areas (10-1-36), Extended Stay Lodging (10-2-12);*
- b. Any use permitted in subsection (a) above may be permitted to the degree that three (3) parking spaces are required per Section 18-6 of the Zoning Ordinance;*
- c. The variance applies only the current structure and lot as they are currently situated as of the date of this decision. Any future alteration to the lot dimensions or building footprint shall cause the variances to expire; and,*
- d. The variances will expire if the property ceases to be used for a two year period.*

The variances are approved because the strict application of the terms of the ordinance would unreasonably restrict the utilization of the property:

- 1) The property interest for which the variance is being requested was acquired in good faith and any hardship was not created by the applicant for the variance;*

- 2) *The granting of the variance will not be of substantial detriment to adjacent property and nearby properties in the proximity of that geographical area;*
- 3) *The condition or situation of the property concerned is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the ordinance;*
- 4) *The granting of the variance does not result in a use that is not otherwise permitted on such property or a change in the zoning classification of the property; and,*
- 5) *The relief or remedy sought by the variance application is not available through a special exception process or the process of an administrative modification at the time of the filing of the variance application.*

Mr. Whitacre seconded the motion. Chairman Pifer asked for a roll call vote.

Vice Chairman Crawford – no

Ms. Marchant – yes

Mr. Whitacre – yes

Chairman Pifer – yes

Chairman Pifer stated the motion passed 3-1.

NEW BUSINESS:

None.

OLD BUSINESS:

None.

ADJOURN:

With no further business before the Board, the meeting was adjourned at 4:47pm.

**BOARD OF ZONING APPEALS
MINUTES**

The Board of Zoning Appeals held its regularly scheduled meeting on Wednesday, April 13, 2016, at 4:00p.m. in Council Chambers, Rouss City Hall, 15 North Cameron Street, Winchester, Virginia.

POINTS OF ORDER:

PRESENT: Chairman Pifer, Vice Chairman Crawford, Mr. Whitacre, Ms. Marchant, Ms. Anderson

ABSENT: Mr. Lewis

STAFF: Aaron Grisdale, Erick Moore, Carolyn Barrett

VISITORS: Ben Montgomery, Carl Hales, Aaron Ranberger

CONSENT AGENDA:

Approval of Minutes of March 9, 2016:

Chairman Pifer called for corrections or additions to the minutes. Ms. Marchant made a motion to table the approval of the minutes until the next meeting due to the lateness of receiving them and the level of detail. Mr. Crawford seconded the motion. Chairman Pifer called for a vote. Roll call vote was taken and the motion passed 5-0.

READING OF CORRESPONDENCE:

None.

PUBLIC HEARINGS:

BZA-16-106 Request of Carl S. Hales for variances of the Winchester Zoning Ordinance, Sections 10-5-1 and 10-6-2 pertaining to front and rear setbacks at 1328-1470 Commerce Street (*Map Number 233-01--11*) zoned Commercial Industrial (CM-1) District. The applicant is seeking these variances to allow for re-use of several non-conforming structures on the parcel.

Mr. Grisdale reviewed the staff report. The property has been before the Board previously. Until 1998, the property had been used for building supplies. The BZA granted variances in 1998 for front yard setbacks for several buildings facing Commerce Street. The property has changed hands since then. In 2014, City staff had noticed several new and different uses taking place on the property in violation of the previous BZA approvals. The current property owner filed a variance request in 2014 to amend the use restrictions imposed by the 1998 approval. They requested light auto repair and contractor's establishments be authorized in Buildings F and G/H. The Board approved the request with several conditions including submittal of complete site plan within six months to the Planning Department and implementation of all required site improvements within twelve months. Failure to implement the required improvements would cause the variances to expire.

Following the BZA decision in 2014, only a partial amount of the improvements had been completed by November 2015 which caused the site to fall out of compliance with the previous approval. The property owner has applied to re-establish the variances for the front buildings on the property. The 1998 variances are still in effect; however, the 2014 variances are now null and void. The Board will have to re-authorize the uses that are actually occurring. There have also been unauthorized uses of Building K which was grandfathered in as storage use. There are currently auto related uses occurring there and rear yard setbacks would have to be authorized as well. There are also non-compliance issues with the building code but those are not under the Board's purview.

There are several criteria that the Board must use to evaluate the request. The burden of proof is on the applicant to prove by preponderance of evidence that the application meets the standards of a variance. The standards include the property interest in which the variance was requested was acquired in good faith and any hardship was not created by the applicant. The granting of a variance would not be of substantial detriment to adjacent properties. The condition or situation of the property concerned is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the ordinance. The granting of the variance does not result in a use that is not otherwise permitted on such property or a change in the zoning classification of the property. The relief or remedy sought by the variance application is not available through a special exception process or the process of an administrative modification. If the Board believes that the request does not satisfy each of the above considerations, then a variance cannot be approved by the Board.

Staff does believe a hardship had existed at one time in the past when it transitioned to a new owner. However, the continual changes of use on the property and the request to make those uses allowable have the appearance of being a convenience of the current owner rather than necessary to ensure there is reasonable use of the property. The applicant has met the fourth and fifth criteria but staff has reservations about the applicant meeting the other three. There have not been any letters of support or opposition to this request.

Vice Chairman Crawford asked if there had been a site plan for the property. Mr. Grisdale replied there had been several over the years. The applicant had submitted one in 2014 but it was only partially implemented. Vice Chairman Crawford asked if screening had been one of the items requested but not implemented. Mr. Grisdale said there were certain parking improvements associated with the request but he did not recall if a specific enclosure area had been required. The zoning ordinance requires that inoperable vehicles not be visible from public view. There are vehicles there that are in violation of the ordinance.

Chairman Pifer Opened The Public Hearing

Carl Hales apologized for not meeting the requirements in a timely manner. He had tenants that started out with one idea then progressed to other things. He has given termination notices to two of them which will get rid of most of the concerns for unauthorized uses of the property. Another tenant has vehicles that are out of public view but he had started parking and scrapping other vehicles. After discussions with him, he has agreed to stop those activities and remove the vehicles. The property is unique and Mr. Hales thought when he bought it in 2009, the use would be completely different. With the downturn in the economy, it has prevented making any improvements. He has asked for the variance to be re-implemented and he will have the necessary work done by June 30, 2016. It is now on the market with no offers yet.

Chairman Pifer Closed The Public Hearing

Chairman Pifer said having the variance until June 30 is fair. Extending it for another year would not be a possibility. Vice Chairman Crawford said he was not inclined to agree with the applicant. He had been before the Board before and knew what needed to be done. He did not feel there was any intent to get in line with the BZA requirements. He suggested tabling it until July. Ms. Marchant asked if the applicant had come to the Zoning office or did staff contact him. Mr. Grisdale said staff had reached out to the property owner not long after the one year compliance period ended. Mr. Whitacre said it did not appear there had been much improvement on the site. He also agreed with Vice Chairman Crawford about tabling the item.

Vice Chairman Crawford made a motion to table BZA-16-106 until the July 13, 2016 meeting. Ms. Anderson seconded the motion. Chairman Pifer asked for a roll call vote.

Vice Chairman Crawford – yes

Ms. Marchant – yes

Mr. Whitacre – yes

Ms. Anderson - yes

Chairman Pifer – yes

Chairman Pifer stated the motion passed 5-0.

BZA-16-206 Request of Montgomery Engineering Group, Inc., on behalf of Southside Church of Christ, for a variance pertaining to parking/drive buffer pursuant to Section 18-6-3.2 of the Winchester Zoning Ordinance, for the property located at 3136 Papermill Road (*Map Number 332-01—1 - ><01*) zoned Medium Density Residential District. The applicant is seeking relief of the required parking/drive buffer in order to enhance the entrance to the church and provide safer parking.

Mr. Grisdale reviewed the staff report. An issue with the required off-street parking area/drive area buffer was observed. The buffer did not meet the required distance from the property line. The applicant has corrected several non-conformities and bringing the property closer to compliance. A similar request was granted in 2013. Since the church has not started the project to date, the Board will need to re-approve this variance request.

Vice Chairman Crawford said he remembered the previous application. The church did not have much room to do anything with.

Chairman Pifer Opened the Public Hearing

Ben Montgomery said he had nothing to add to the staff report but he was available for questions. Ms. Marchant asked what had stopped the church from completing the project within the two years. Mr. Montgomery said it was money. Ms. Marchant asked if there was money available now and he said yes.

Chairman Pifer Closed the Public Hearing

Vice Chairman Crawford said he did not have a problem approving it the first time and he did not have any problem with approving it again.

Mr. Whitacre made a motion to approve BZA-16-206 a variance of the Winchester Zoning Ordinance pertaining to parking/drive buffer pursuant to Section 18-6-3.2 of the Winchester Zoning Ordinance, for

the property located at 3136 Papermill Road (Map Number 332-01- -1) zoned Medium Density Residential District, with the following conditions:

- a. *Failure to complete the required site improvements within two (2) years of the date of this decision will cause the variance for this property to expire.*

The variance is approved because the strict application of the terms of the ordinance would unreasonably restrict the utilization of the property:

- 1) *The property interest for which the variance is being requested was acquired in good faith and any hardship was not created by the applicant for the variance;*
- 2) *The granting of the variance will not be of substantial detriment to adjacent property and nearby properties in the proximity of that geographical area;*
- 3) *The condition or situation of the property concerned is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the ordinance;*
- 4) *The granting of the variance does not result in a use that is not otherwise permitted on such property or a change in the zoning classification of the property; and,*
- 5) *The relief or remedy sought by the variance application is not available through a special exception process or the process of an administrative modification at the time of the filing of the variance application.*

Ms. Anderson seconded the motion. Chairman Pifer asked for a roll call vote.

Vice Chairman Crawford – yes

Ms. Marchant – yes

Mr. Whitacre – yes

Ms. Anderson - yes

Chairman Pifer – yes

Chairman Pifer stated the motion passed 5-0.

NEW BUSINESS:

None.

OLD BUSINESS:

None.

ADJOURN:

With no further business before the Board, the meeting was adjourned at 4:25pm.



16-323
 FEE AM'T: \$775.00
 DATE PAID: 5/24/16

Rouss City Hall
 15 North Cameron Street
 Winchester, VA 22601
 540-667-1815
 TDD 540-722-0782

APPLICATION FOR BOARD OF ZONING APPEALS

Please print or type all information	NB 333 W. Cork Street, LLC
312-884-5400	Applicant
Telephone	55 E. Jackson St, Suite 500
gnudo@marcrealty.com	Street Address
E-mail address	Chicago IL 60604
	City State Zip

OWNER'S SIGNATURE (use reverse to list additional owners)	Gerald Nudo
312-884-5400	Owner Name (as appears in Land Records)
Telephone	55 E. Jackson St., Suite 500
gnudo@marcrealty.com	Street Address
E-mail address	Chicago IL 60604
	City State Zip

REQUEST TYPE CODE - Please mark type of request and complete information
KEY: V = Variance; AM = Administrative Modification; I = Interpretation

REQUEST TYPE	ORDINANCE SECTION	PERTAINING TO:
V	15-6-1	Minimum side yard of 20 feet.
V	15-7-1	Height restriction of 35 feet.

APPLICATION FEE: \$500 for 1st code section; \$100 for each additional code section
Public hearing sign deposit fee: \$50

PROPERTY LOCATION
 Current Street Address(es) 333 W. Cork St, Winchester, VA 22601 Zoning HS

Tax Map Identification - (sections, blocks, lots) Tax Map Number 192-1-C-16

REQUIRED MATERIALS LIST

- ___ 1 copy of application (this form completed)
- ___ 10 copies of letter explaining request and grounds for request
- ___ 10 Copies of plans/or drawings and surveys
- ___ Fee (check made payable to the Treasurer, City of Winchester)
- ___ List of adjacent property owners (public hearing items only). List must provide name and mailing address as appears in Land Records for owners of all properties within 300 feet of any portion of the subject site. If provided by staff, there is a \$25 fee.
- ___ Disclosure of Real Parties in Interest (list all equitable owners)
- ___ Public Hearing Sign Deposit Fee - \$50 (refundable upon return of sign)

All public hearing materials must be submitted at one time by 5:00 PM on the deadline date for the next regular meeting in order to be placed on the agenda. Only complete applications, which include the above materials, will be accepted.

I/we hereby certify that the above information is complete and correct and that public notification will be properly posted on the site not later than 14 days before the public hearing (if applicable) and that all delinquent real estate taxes have been paid per Section 22.9.

APPLICANT'S SIGNATURE DATE 5/17/16

FEE AM'T: _____
DATE PAID: _____

Todd Bryant

180 N. Michigan Ave, Suite 510

Additional Owner's Name

Address

Chicago IL 60601

312-332-7600

City, State, Zip

Telephone

OWNER'S SIGNATURE

Additional Owner's Name

Address

City, State, Zip

Telephone

OWNER'S SIGNATURE

Additional Owner's Name

Address

City, State, Zip

Telephone

OWNER'S SIGNATURE

Additional Owner's Name

Address

City, State, Zip

Telephone

OWNER'S SIGNATURE



**WINCHESTER BOARD OF ZONING APPEALS
STAFF REPORT AND RECOMMENDATION**

ISSUE/BACKGROUND

Case: BZA-16-323

Applicant: NB 333 W. Cork Street, LLC

Location: 333 West Cork Street

Zoning: Health Services (HS) District

Future Land Use: Institutional / Health Services.

Legal Notice: The request for variance was advertised in the *Winchester Star* on May 25, 2016, and June 1, 2016. The property was required to be posted with public hearing signs and notices were mailed to property owners within 300' of the subject property.

Applicant's Request: Request of NB 333 W. Cork Street LLC for variances of the Winchester Zoning Ordinance, Sections 15-7-1 and 15-8-1 pertaining to building height and minimum corner side yard at 333 West Cork Street (Map Number 192-01-C-16 - > <01) zoned Health Services (HS) District. The request is to allow for the construction of an outdoor patio contiguous with the fifth floor of the existing structure.

BACKGROUND

The subject property is located on the south side of Cork Street and is bounded by Stewart Street and West Clifford Street. The property is zoned Health Services (HS) District. The immediately surrounding properties on the north, west, south and east are zoned Medium Density Residential (MR) district. One property to the north, 110 Lee Street, is conditionally zoned HS district, and properties to the northeast on South Steward Street are zoned Residential Office (RO-1) district.

enclosure is required to conform to the current setback of 20-feet. The applicant is proposing this structure have a setback of 10'-5 5/8", thereby requesting relief of 9'-6 1/8". The proposal includes a 4.5' wide planter to be installed around the perimeter of the enclosure to provide some screening of the addition.

STAFF ANALYSIS & CONCLUSION

There are several evaluation criteria that the Board must use to evaluate a variance request to determine if it may be granted.

The Zoning Ordinance requires that with variance requests, the burden of proof shall be on the applicant to prove by a preponderance of the evidence that his application meets the standard for a variance.

A variance shall be granted if the evidence shows that the strict application of the terms of the ordinance would unreasonably restrict the utilization of the property or that the granting of the variance would alleviate a hardship due to a physical condition related to the property or improvements thereon at the time of the effective date of the ordinance. The request must satisfy all of the following:

- A. The property interest for which the variance is being requested was acquired in good faith and any hardship was not created by the applicant for the variance;
- B. The granting of the variance will not be of substantial detriment to adjacent property and nearby properties in the proximity of that geographical area;
- C. The condition or situation of the property concerned is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the ordinance;
- D. The granting of the variance does not result in a use that is not otherwise permitted on such property or a change in the zoning classification of the property; and,
- E. The relief or remedy sought by the variance application is not available through a special exception process or the process of an administrative modification at the time of the filing of the variance application.

If the Board believes that the request does not satisfy each of the above considerations, then a variance cannot be issued.

Criterion	Staff Analysis
The property interest for which the variance is being requested was acquired in good faith and any hardship was not created by the applicant for the variance	While it may be the most practical solution for the applicant to pursue the patio enclosure as proposed, it hypothetically is possible from a zoning standpoint to have an alternative design wherein the patio enclosure is located on western side of the structure. This would still likely require a height variance, but would eliminate the need for a corner side yard variance.
The granting of the variance will not be of substantial detriment to adjacent property and nearby properties in the proximity of that geographical area	Staff believes the proposal is consistent with this criterion.
The condition or situation of the property concerned is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the ordinance	It is possible to establish a general regulation for the HS district altering the allowable building height and/or setbacks. This district was created for the adaptive reuse of the old hospital, and there is only one other property (110 Lee Street) which has the HS district zoning.
The granting of the variance does not result in a use that is not otherwise permitted on such property or a change in the zoning classification of the property	Staff believes the proposal is consistent with this criterion.
The relief or remedy sought by the variance application is not available through a special exception process or the process of an administrative modification at the time of the filing of the variance application	Staff believes the proposal is consistent with this criterion.

As a result of the above considerations, staff does not believe it is clear that all five of the above required considerations have been met. Specifically, staff believes that alternatives exist which could preclude the need for one or both of the variances.

Note: Staff has not received any letters of support or opposition for this application.

POSSIBLE MOTION(S)

[Approve the variances]

MOVE, that the Board of Zoning Appeals **approve** variances of the Winchester Zoning Ordinance Sections 15-7-1 and 15-8-1 pertaining to building height and minimum corner side yard at 333 West

Cork Street (Map Number 192-01-C-16 - > <01) zoned Health Services (HS) District, with the following conditions:

- a. The variances are granted for a corner side yard setback of 10'-5 5/8" and an allowable building height of 65 feet.
- b. Building permits for the proposed site improvements must be obtained within two (2) years of the date of this decision. Failure to do so will cause the variances for this property to expire.
- c. The variances are approved for the patio enclosure as generally depicted in the application materials.
- d. The variances are approved solely for the use of the outdoor space as part of an assisted living facility.

The variance is approved because the strict application of the terms of the ordinance would unreasonably restrict the utilization of the property:

- 1) *The property interest for which the variance is being requested was acquired in good faith and any hardship was not created by the applicant for the variance;*
- 2) *The granting of the variance will not be of substantial detriment to adjacent property and nearby properties in the proximity of that geographical area;*
- 3) *The condition or situation of the property concerned is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the ordinance;*
- 4) *The granting of the variance does not result in a use that is not otherwise permitted on such property or a change in the zoning classification of the property; and,*
- 5) *The relief or remedy sought by the variance application is not available through a special exception process or the process of an administrative modification at the time of the filing of the variance application.*

[Deny the variances]

MOVE, that the Board of Zoning Appeals **deny** a variance of the Winchester Zoning Ordinance, Sections 15-7-1 and 15-8-1 pertaining to building height and minimum corner side yard at 333 West

Cork Street (Map Number 192-01-C-16 - > <01) zoned Health Services (HS) District, for the following reasons:

a. *(List any reasons)*

Prepared by:

A handwritten signature in black ink, appearing to read "Aaron M. Grisdale". The signature is fluid and cursive, with the first name being the most prominent.

Aaron M. Grisdale, CZA
Director of Zoning and Inspections



Inspire Perform Manage

May 17, 2016

Board of Zoning Appeals
City of Winchester Planning & Zoning
Rouss City Hall
15 North Cameron Street
Winchester, VA 22601

RE: Application for Variance – 333 West Cork Street – Tax Map Number 192-1-C-16

Dear Board Members,

On behalf of NB 333 W. Cork Street, LLC, we respectfully submit this letter and accompanying information to request a variance for future work planned at 333 West Cork Street. Specifically, our request is in relation to Ordinance Section 15-6-1 pertaining to a minimum side yard of 20 feet and Ordinance Section 15-7-1 pertaining to a height restriction of 35 feet.

In support of our request, please find enclosed within this package a brief project narrative, an outline addressing the specific evaluation criteria of the Board of Zoning Appeals, and the following exhibits:

- Property survey outlining the affected area
- Images of the existing structure from several vantage points along Cork Street
- Plans and elevations of the proposed work

We are tremendously pleased to be operating within the Winchester community and look forward to presenting more detailed information to you on June 8th! In the interim, should you require additional information, please don't hesitate to reach out directly at (704) 618-1153 or jteague@hdppartners.com.

Sincerely,

Healthcare Development Partners
on behalf of NB 333 W. Cork Street, LLC

Joshua A. Teague
Senior Vice President

Project Narrative

The property at 333 West Cork Street currently consists of over 200,000 square feet of space related to the delivery of healthcare and includes such key tenants as Valley Health and Blue Ridge Hospice. In keeping with our efforts to promote enhanced healthcare within the City of Winchester, we have recently partnered with Greenfield Senior Living out of Falls Church, VA to develop a 52,000 square foot assisted living and memory care community that will bring state of the art accommodations and services to the downtown market. The community will consist of a primary common area on first floor of the building providing such amenities as a gourmet dining, library, coffee bar, wine bar, etc, in support of a memory care community on fifth floor and assisted living community on sixth and seventh floors.

The variance in question pertains to the fifth floor memory care community and specifically to the planned construction of a large outdoor patio to provide walking, gardening, and green space for the enjoyment and well-being of residents. Not only is such space required by law under the Virginia Department of Social Services, but there are numerous studies affirming that such space is invaluable with regard to clinical outcomes and quality of life. Moreover, Greenfield Senior Living is an operator of multiple memory care communities in the state of Virginia and nationwide and can attest directly to the positive impact such outdoor space has with regard to resident life and overall health and wellness.

Additional details and images of the proposed plans may be found within the exhibits of this package and below is an outline addressing the specific evaluation criteria of the Board of Zoning Appeals.

Section 20-2-3.1

Notwithstanding any other provision of law, general or special, a variance shall be granted if the evidence shows that the strict application of the terms of the ordinance would unreasonably restrict the utilization of the property or that the granting of the variance would alleviate a hardship due to a physical condition related to the property or improvements thereon at the time of the effective date of the ordinance, and:

- A. The property interest for which the variance is being requested was acquired in good faith and any hardship was not created by the applicant for the variance;*

The property was acquired in good faith with the purpose of providing healthcare services to residents of the greater Winchester community. The hardship relates specifically to the limitations the variance imposes with regard to proper delivery of care of memory care residents. The Virginia Standards for Licensed Assisted Living Facilities states the following:

22 VAC 40-72-1030. Outdoor area. The facility shall have a secured outdoor area for the residents' use or provide direct care staff supervision while residents with serious cognitive impairments who cannot recognize danger or protect their own safety and welfare are outside.

This standard is not achievable given the current parameters of zoning. The only feasible possibility to construct an outdoor area that is reasonably accessible to memory care patients is to construct such area with direct connectivity to the fifth floor. This is only programmatically and financially

achievable in the planned location as shown in the attached plans. It is not a viable alternative to consider an outdoor area at the ground floor level as such would only allow for access by one to two residents at a time in full accompaniment of a staff member which poses serious safety and security risks and greatly diminishes the functional use of outdoor space.

- B. *The granting of the variance will not be of substantial detriment to adjacent property and nearby properties in the proximity of that geographical area;*

The granting of a variance will not be of substantial detriment. To the contrary, the planned work only serves to benefit all parties in that it enhances the aesthetics of the property in question, allows for a higher level of care to those in need of memory care services, and eliminates any risks related to safety and security.

- C. *The condition or situation of the property concerned is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the ordinance;*

The property resides under HS zoning which is a type of zoning particular to this parcel alone and, therefore, it would not be practicable to formulate a general regulation.

- D. *The granting of the variance does not result in a use that is not otherwise permitted on such property or a change in the zoning classification of the property; and,*

The requested variance would have no impact on use or zoning classification.

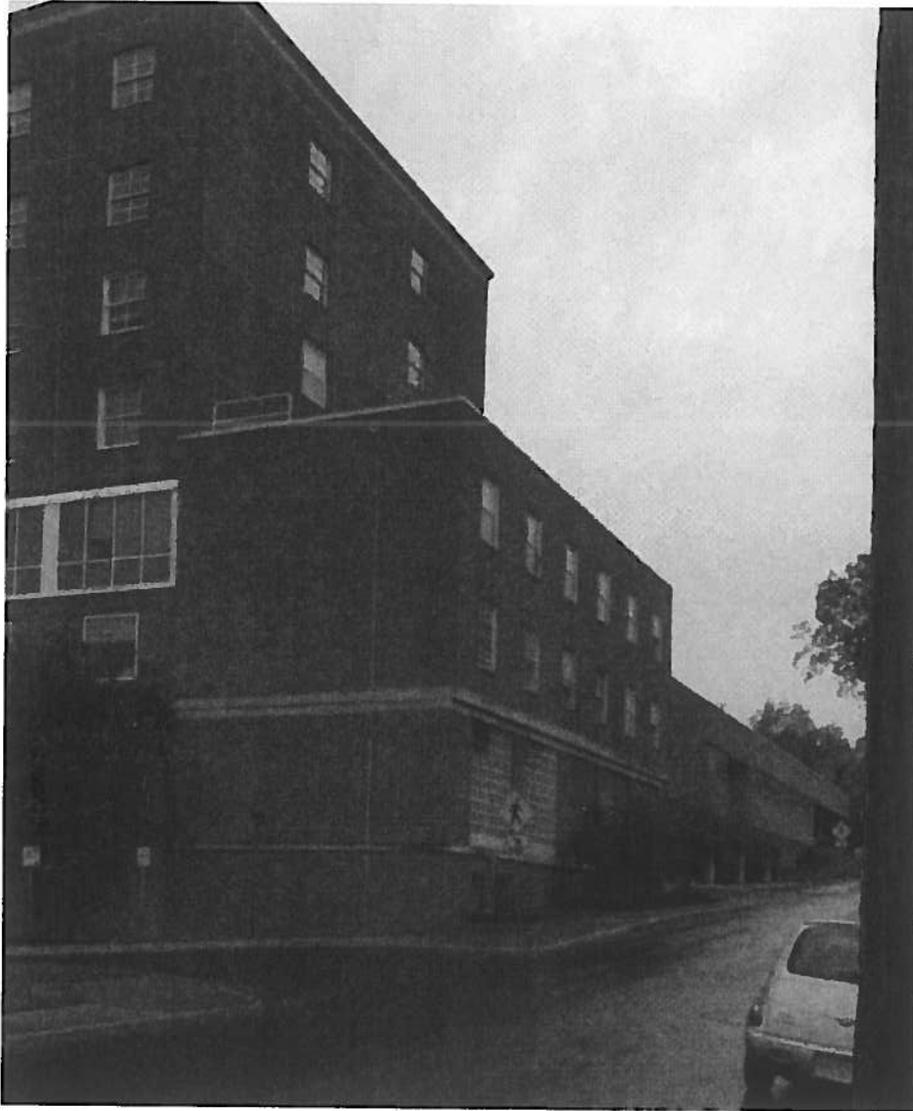
- E. *The relief or remedy sought by the variance application is not available through a special exception process or the process of an administrative modification at the time of the filing of the variance application.*

A special exception or administrative modification is not available.

[break for "Survey" tab]

[break for "Existing Structure" tab]

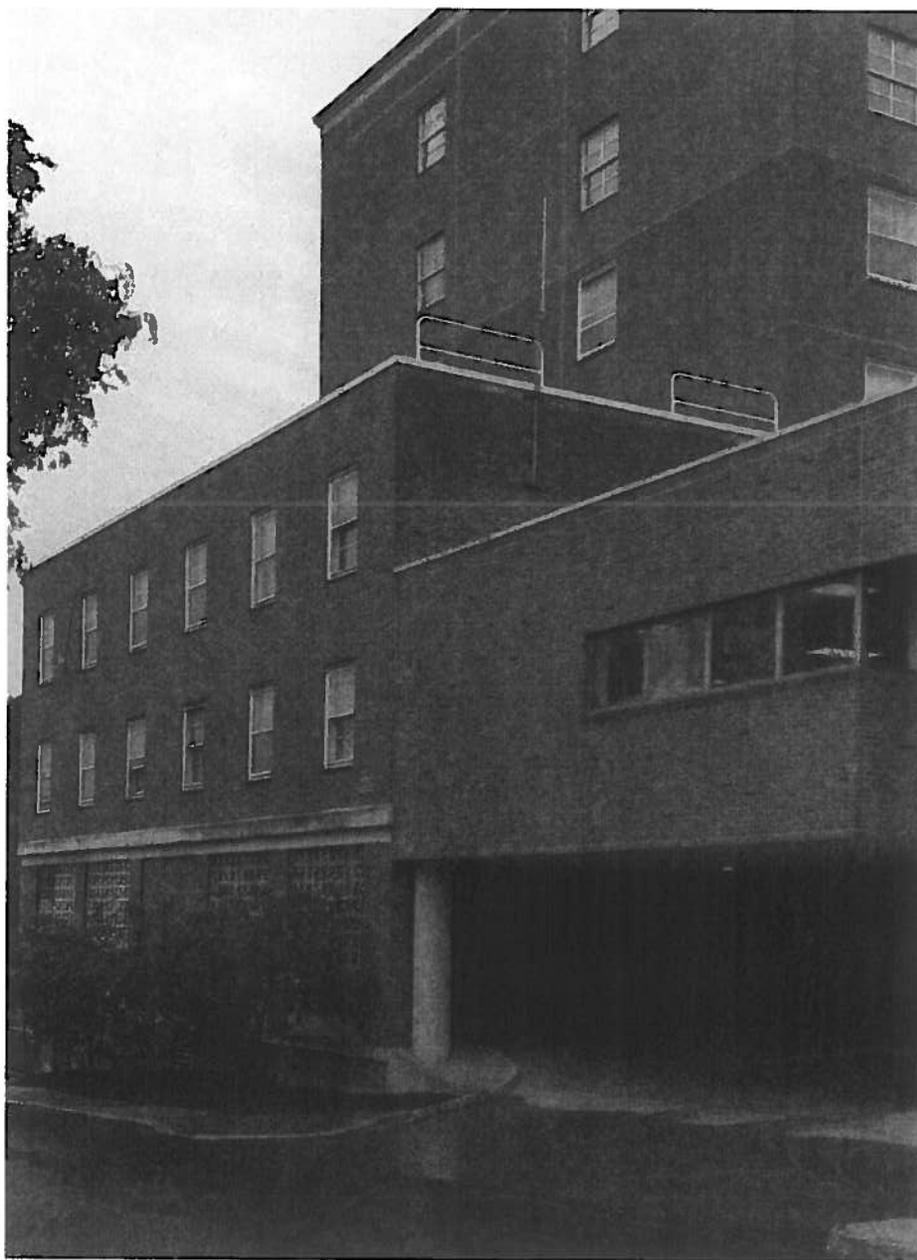
Existing Structure



Cork Street -- looking west

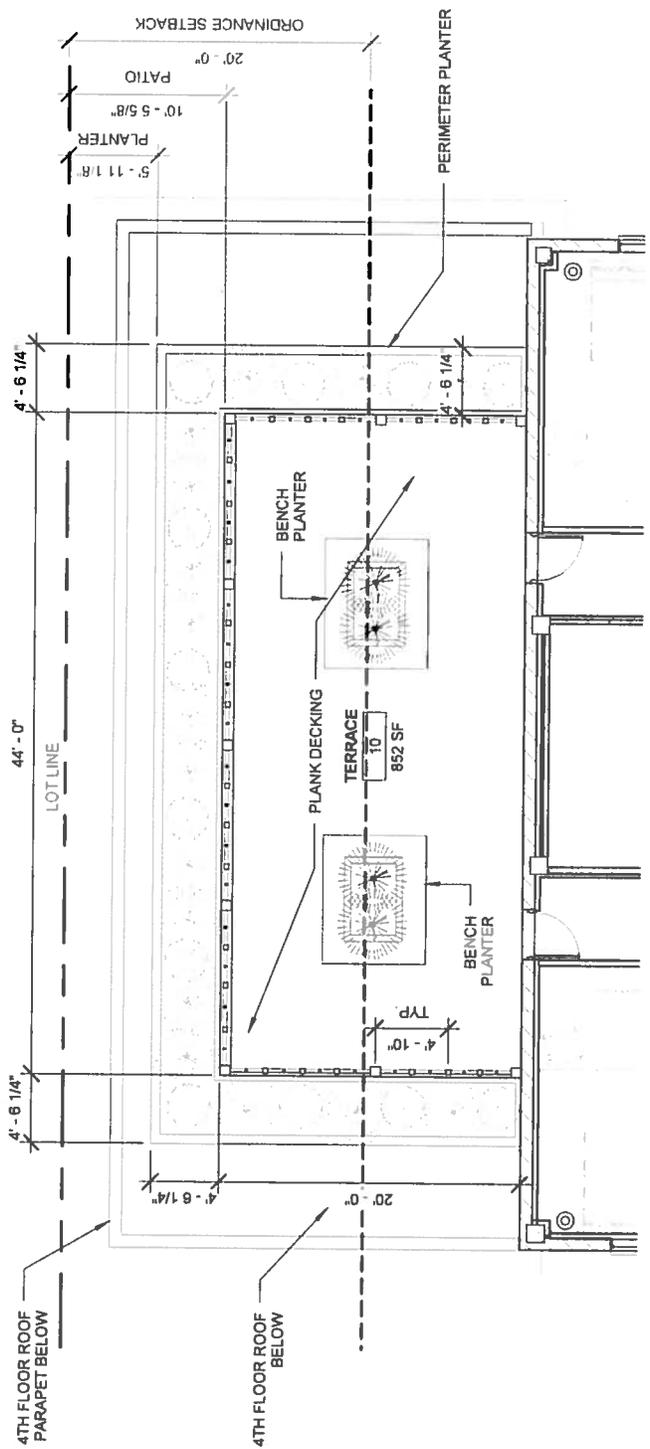


Cork St – looking south



Cork St – looking east

[break for “Plans and Elevations” tab]



1 FIFTH FLOOR ENLARGED PATIO PLAN
1/8" = 1'-0"

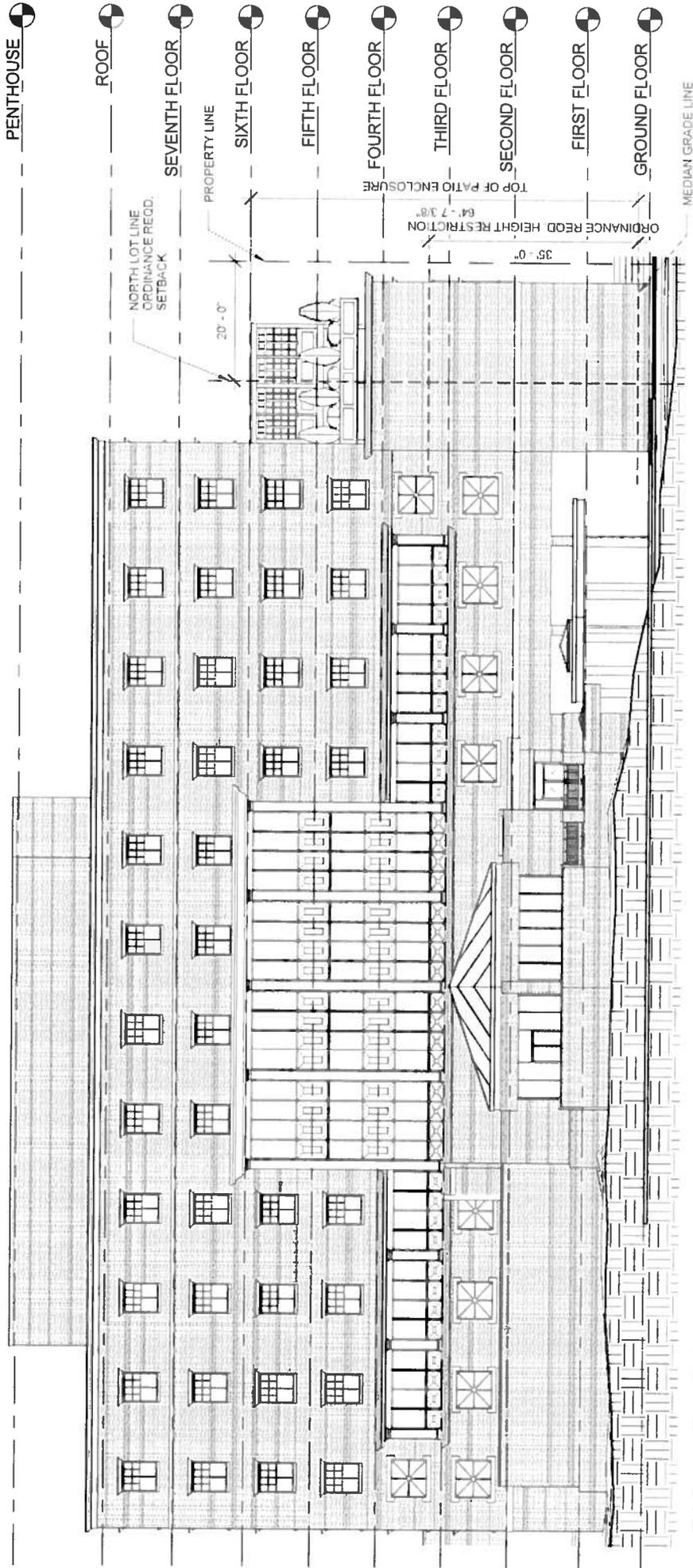


GREENFIELD SENIOR LIVING

333 CORK STREET
WINCHESTER, VIRGINIA 22601



05-1775



1 EAST ELEVATION
1/16" = 1'-0"



HDP
HUDON DEVELOPMENT PARTNERS

09/17/16

GREENFIELD SENIOR LIVING

333 CORK STREET
WINCHESTER, VIRGINIA 22601

5-2014 PROJECTS.dwg - FILE: C:\Users\jsherman\Desktop\2014\22601_GREENFIELD_SeniorLiving.dwg - 10/17/16, 2:01 PM, jsherman



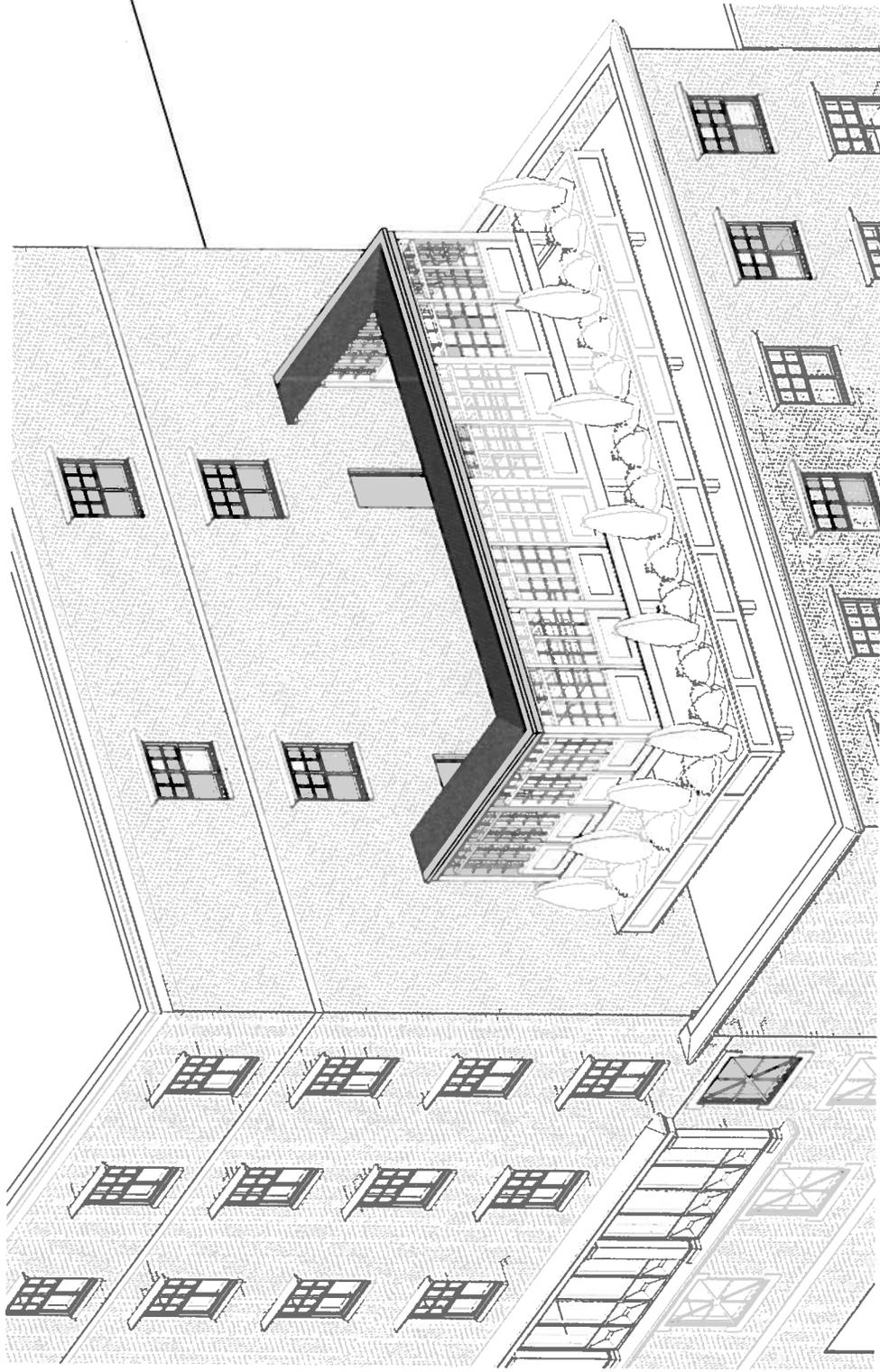
1 NORTH ELEVATION
1/16" = 1'-0"



GREENFIELD SENIOR LIVING

333 CORK STREET
WINCHESTER, VIRGINIA 22601





1 EXTERIOR PATIO



GREENFIELD SENIOR LIVING

333 CORK STREET
WINCHESTER, VIRGINIA 22601



[break for “Real Parties in Interest” tab]

Real Parties in Interest

Ownership Entity: NB 333 W. Cork Street, LLC

Individual Members: Jerry Nudo, Todd Bryant, Paul Bryant