

IN THE MATTER OF : **BEFORE THE FAIRVIEW TOWNSHIP**
THE APPLICATION OF : **ZONING HEARING BOARD**
DANIEL / MICHELE ALDERMAN : **YORK COUNTY, PENNSYLVANIA**
: **DOCKET NO. 2019-10**

DECISION GRANTING IN PART AND DENYING IN PART
THE REQUEST FOR DIMENSIONAL VARIANCES TO THE FAIRVIEW
TOWNSHIP ZONING ORDINANCE FOR THE CONSTRUCTION OF A NEW
RESIDENCE ON A NON-CONFORMING LOT

The Applicants applied for dimensional variances to Section 300-21, Area and Design Requirements, of the Fairview Township Zoning Ordinance for the property located in the Single-Family Residential Zoning District at 498 Pleasant View Road, New Cumberland, PA 17070. A hearing on the application was held on November 21, 2019, at 6:30 p.m. at the Fairview Township Municipal Building, 599 Lewisberry Road, New Cumberland, PA 17070.

FINDINGS OF FACT

1. The Applicants are Daniel and Michele Alderman of 695 Doe Lane, Lewisberry, PA 17339. The property which is the subject of the application is located at 498 Pleasant View Road, New Cumberland, PA 17070 and is owned by Wilma Stoner.¹ The property is under a contract for sale to the Applicants.

2. The property at 498 Pleasant View Road is situated on a corner lot with frontage on both Pleasant View Road and Fishing Creek Road.

3. The Applicants are requesting dimensional variances to Section 300-21 of the Fairview Township Zoning Ordinance, Area and Design Requirements, in order to demolish and

¹ This property is currently deeded in the names of Sylvanus and Wilma J. Stoner (Deed Book 37-A, Page 291). Upon the death of Sylvanus Stoner, title thereby vested in his wife, Wilma J. Stoner, by operation of law.

rebuild, on the same footprint, an entirely new single-family home. The location of the existing structure, built in about 1950 prior to any zoning ordinances in Fairview Township, does not conform with the setback requirements of the current Ordinance. Therefore, in order to build on the same footprint, the applicants will require dimensional front and side variances from the Ordinance.

4. Notice of the hearing was properly advertised; the property was properly posted; and all neighboring property owners required to be notified of the hearing were notified in accordance with the Township Ordinance and the Pennsylvania Municipalities Planning Code.

5. Michele Alderman, one of the Applicants, appeared and testified. She testified that their intent in purchasing the property was to renovate the existing home. However, they have determined that in order to achieve the upgrades in the structure which they desire, the expense of renovation is considerably in excess of the cost of demolishing and rebuilding in full. Consequently, the Applicants wish to demolish the existing home and attached garage and construct a new residential dwelling on the same footprint as the existing dwelling. The proposed new dwelling would continue to face Fishing Creek Road (although its postal address is on Pleasant View Road).

6. To build on the same footprint as the existing home requires a front setback variance along Pleasant View Road. The Pleasant View front setback variance was the subject of the zoning hearing application. Testimony established that to build on the same footprint would also require a side setback variance on the east side of the property where the existing structure is less than 10 feet from the property line. Therefore, at the hearing the Applicants also requested that the side setback variance be considered.

7. The basis for the dimensional variance requests is twofold. First, the existing home is legally nonconforming with respect to the setbacks and under the Zoning Ordinance it could remain in place when any and all structural changes are made to update it. The Applicants are not requesting to increase any nonconformities with the Zoning Ordinance when rebuilding at the same location. Secondly, the configuration of the lot with road frontage on two sides, and therefore forty (40) foot setback requirements on two sides, creates some constraints in the shape of the building envelope on this older 0.48-acre lot. Rebuilding with the same square footage of home on this lot within the current setback requirements would require a major reconfiguration of the shape of the dwelling. Furthermore, as noted, renovating to modernize the structure in place is much more expensive than demolishing and rebuilding in place, with the same resulting ordinance nonconformities in either case.

8. The southwest corner of the existing structure is 57 feet from the centerline of Fishing Creek Road, which complies with the current Ordinance². However, with respect to Pleasant View Road, the same corner of the home is only 38 feet from the centerline, intruding 18½ feet into the setback area. The northwest corner of the existing structure is slightly further from the Pleasant View Road right-of-way and intrudes 12½ feet into the 40-foot setback area.

9. The existing structure has an attached two-car garage to the eastern side of the residence and a driveway onto Fishing Creek Road. The existing garage is 8.8 feet from the adjoining property line, where the required side setback under the Ordinance is 10 feet.

10. In summary, the Applicants' request requires an 18½ foot variance on Pleasant View Road. The setback variance requested on the eastern side yard adjoining the property on Fishing Creek Road is 1.2 feet.

² The right-of-way for both Fishing Creek Road and Pleasant View Road is 33-feet or 16½ feet from the centerline.

11. Brenda Ressler, 565 Fishing Creek Road, Lewisberry, PA, a nearby property owner on Fishing Creek Road also appeared and testified. While not expressing any objection to the application, Ms. Ressler noted that in recent renovations to her property, she was required to comply with all ordinance requirements.

CONCLUSIONS

1. The Applicants have the burden of establishing entitlement to the requested dimensional variances and demonstrating that all requirements of the Fairview Township Zoning Ordinance are met.

2. On the basis of the testimony and documentary evidence presented, the Board concludes that under the circumstances, the Applicants request for dimensional variances should be granted in part and denied in part, as follows:

- (a) the new construction shall be no closer than 38 feet from the centerline of Pleasant View Road; and
- (b) the new construction shall conform to the 10-foot side setback requirement from the adjoining property on Fishing Creek Road.

DECISION

On the basis of the foregoing findings and conclusions and on the basis of all the testimony and evidence presented to the Board at the hearing, the request for dimensional variances should be granted in part and denied in part, as follows:

- (a) the new construction shall be no closer than 38 feet from the centerline of Pleasant View Road; and

- (b) the request for a variance from the 10-foot side setback requirement from the adjoining property on Fishing Creek Road is denied.

The Application was granted in part and denied in part as stated upon the motion of Mr. McElhenie, seconded by Mr. Bashore and adopted 3-0 by the Board Members present and voting.

FAIRVIEW TOWNSHIP ZONING HEARING
BOARD

Dated: December 18, 2019

By: 
Timothy C. Mader, Chairman

Distribution:
Applicants



BOARD of SUPERVISORS
Dr. Larry Cox, *Chairman*
Korey Leslie, *Vice-Chairman*
Christopher L. Allen, *Supervisor*
John W. Jones, *Supervisor*
Mario D. Pirritano, *Supervisor*

MANAGER
Donald F. Martin, III

The Fairview Township Zoning Hearing Board will hold a Public Hearing on Thursday, **November 21, 2019**, at 6:30 p.m., at the Fairview Township Municipal Building, 599 Lewisberry Road, New Cumberland, PA 17070, to discuss the following:

Docket No. 2019-10: Daniel and Michele Alderman, 695 Doe Lane, Lewisberry, PA 17339. The Applicants are requesting a Variance to the Fairview Township Zoning Ordinance, §300-21 – Area and Design Requirement. The Applicants are proposing to demolish the existing non-conforming home and rebuild a new single-family detached dwelling equal to the existing home's current setbacks. The property is located at 498 Pleasant View Road, New Cumberland, PA 17070, and is in the Single Family Residential District.



ZONING HEARING BOARD APPLICATION

YORK COUNTY, PENNSYLVANIA

❖ **Part 1:**

APPLICANT(S)/EQUITABLE OWNER

Name: Daniel and Michele Alderman
Address: 695 Doe Lane
Lewisberry, PA 17339
Phone: 717-938-2477

EXISTING OWNER OF PROPERTY:

Name: Sylvanus (deceased) and Wilna Stoner
Address: 498 Pleasant View Road
New Cumberland, PA 17070
Power of Attorney for Wilna - Stuart Stoner 717-903-1969

PROPERTY LOCATION:

Address: 498 Pleasant View Road
New Cumberland, PA 17070
Lot Size: 110' x 175' x 137' x 177'
Date Purchased: Contract date - September 20, 2019
Location: Corner of Fishing Creek and Pleasant View
Roads. House faces Fishing Creek Rd. across from cemetary.

PRESENT USE OF PROPERTY:

Residential - currently vacant

EXISTING ZONE: RS - Single Family Residential

❖ **Part 2:**

ZONING REQUEST (Identification of the applicable request(s)):

- () SUBSTANTIVE CHALLENGE
- () SPECIAL EXCEPTION
- (X) VARIANCE
- () APPEAL OF THE ZONING OFFICERS DECISION

SECTION(S) OF ZONING ORDINANCE WHICH APPLY TO THIS REQUEST - Please identify the specific section(s) of the Zoning Ordinance involved in the request):

Chapter 300; 300-21 Area and design requirement. Section A (Setback from road 40ft)

❖ **Part 3:**

DESCRIPTION OF REQUEST:

See attached

PART 3

Description of Request

To build a new home, after razing the existing home, with the same setbacks that is currently on the existing home. PennDOT has confirmed that the current road width on both Fishing Creek and Pleasant View Rds. remains at 33 feet in width as stated on the deed. Due to the high cost of renovating this current property built in 1952 and adding an addition, we determined from multiple builders that razing the existing home and building a new ranch home on this location with the same general footprint would be considerably less than the renovation would be.

The property for which we are filing this application is on the corner of Fishing Creek and Pleasant View Rd. The house faces Fishing Creek Rd and has a frontage of only 110' from the center of Pleasant View Rd. as stated on the deed. We would like to rebuild a new ranch home using the existing setbacks and the current placement of the existing structure with a similar footprint. The new house would continue to face Fishing Creek Rd. as it has an existing driveway with adequate site distance.

So, in summary, I want to maintain existing setback measurements and house direction with the new home construction. I have attached an aerial of the existing property, photos of the property, a survey and a rudimentary drawing of a new structure placed on the lot.

Part 4

Residents within 200 feet from 498 Pleasant View Road. (A map is attached to indicate said properties)

1. Edgar & Donnal Stoner
564 Fishing Creek Rd.
Lewisberry, PA. 17339
Residential Single Family
2. Crossroads Union Cemetery
Attn: Philip Dodson
Pleasant View Rd.
Lewisberry, PA. 17339
Cemetery
3. Klein Real Estate, Attn: Klein
501 Pleasant View Rd.
Lewisberry, PA. 17339
Dentist Office
4. Daniel C. McCullough
602 Fishing Creek Rd.
New Cumberland, PA. 17070
Residential Single Family
5. Alton R & Marie M. Heimbach
599 Fishing Creek Rd.
New Cumberland, PA. 17070
Residential Single Family
6. Dean & Viki Stoner
489 Pleasant View Rd.
New Cumberland, PA. 17070
Residential Single Family
7. Daniel J. & Mary J. Podboy
494 Pleasant View Rd.
New Cumberland, PA. 17070
Residential Single Family
8. Richard J. & Vicki L. Power
Pleasant View Rd.
New Cumberland, PA. 17070
Residential Single Family
9. Clair D. & Gladys Cline
567 Fishing Creek Rd.
Lewisberry, PA. 17339
Residential Single Family
10. Gerald W. Anderson Sr.
565 Fishing Creek Rd.
Lewisberry, PA. 17339
Residential Single Family
11. Joshua L. Kent & Courtney E. Gaumer
487 Pleasant View Rd.
New Cumberland, PA. 17070
Residential Single Family
12. Cross Road Independent Church
Pleasant View Rd.
Lewisberry, PA. 17339
Attn: Tina Traver
Church

200 Feet Residents



❖ *Part 5 For office use only:*

ZONING HEARING BOARD CHECKLIST

Application Received: _____

Property Zoned: _____

Asking for Special Exception, Variance or Appeal: _____

Case No.: _____

Fees Paid: _____

Hearing Date: _____

Draft Public Notice sent to Attorney for review: _____

Notice sent to Newspaper: _____

Notice Published in Newspaper: _____

Notice Mailed to Property Owners in 225ft. Buffer: _____

Public Notice Posted on Property: _____

ZHB Packets Mailed and Emailed: _____

498 Pleasant View Rd.

New Cumberland

Current Owner: Sylvanus (deceased) & Wilna Stoner

Power of Attorney for Wilna Stoner is Stuart Stoner, son

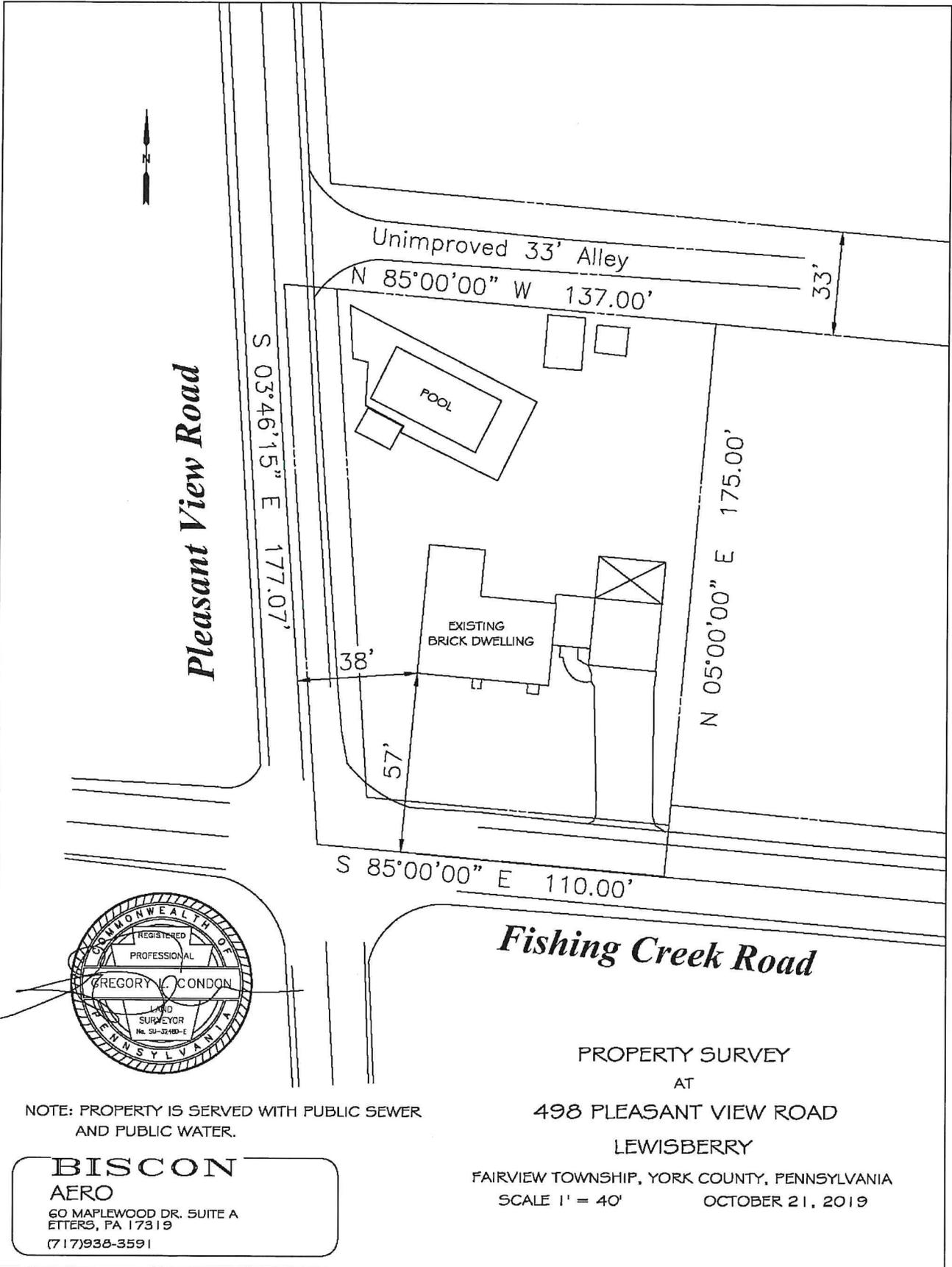
Under Contact By:

Daniel & Michele Alderman

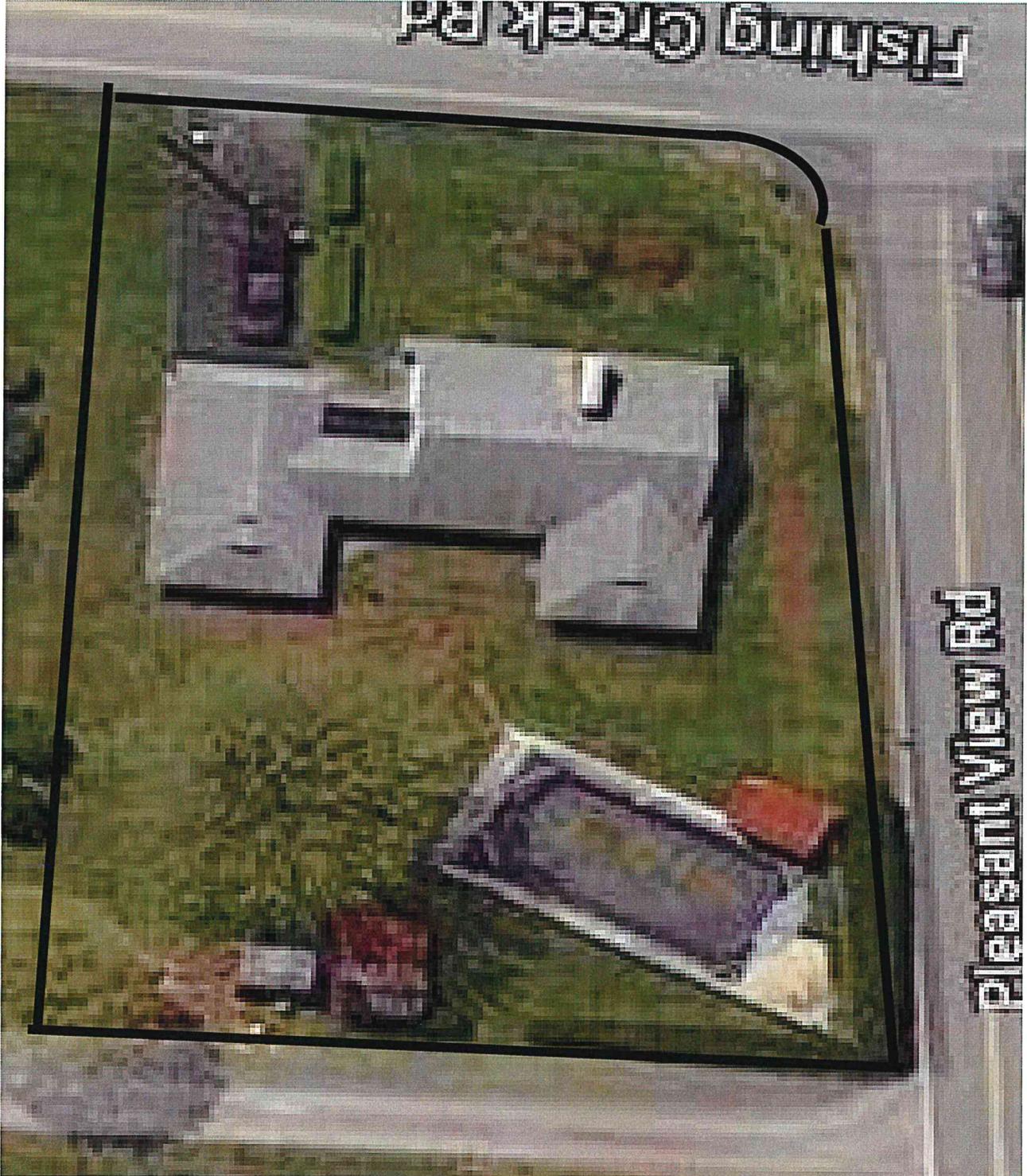
Contract Date 9/20/2019



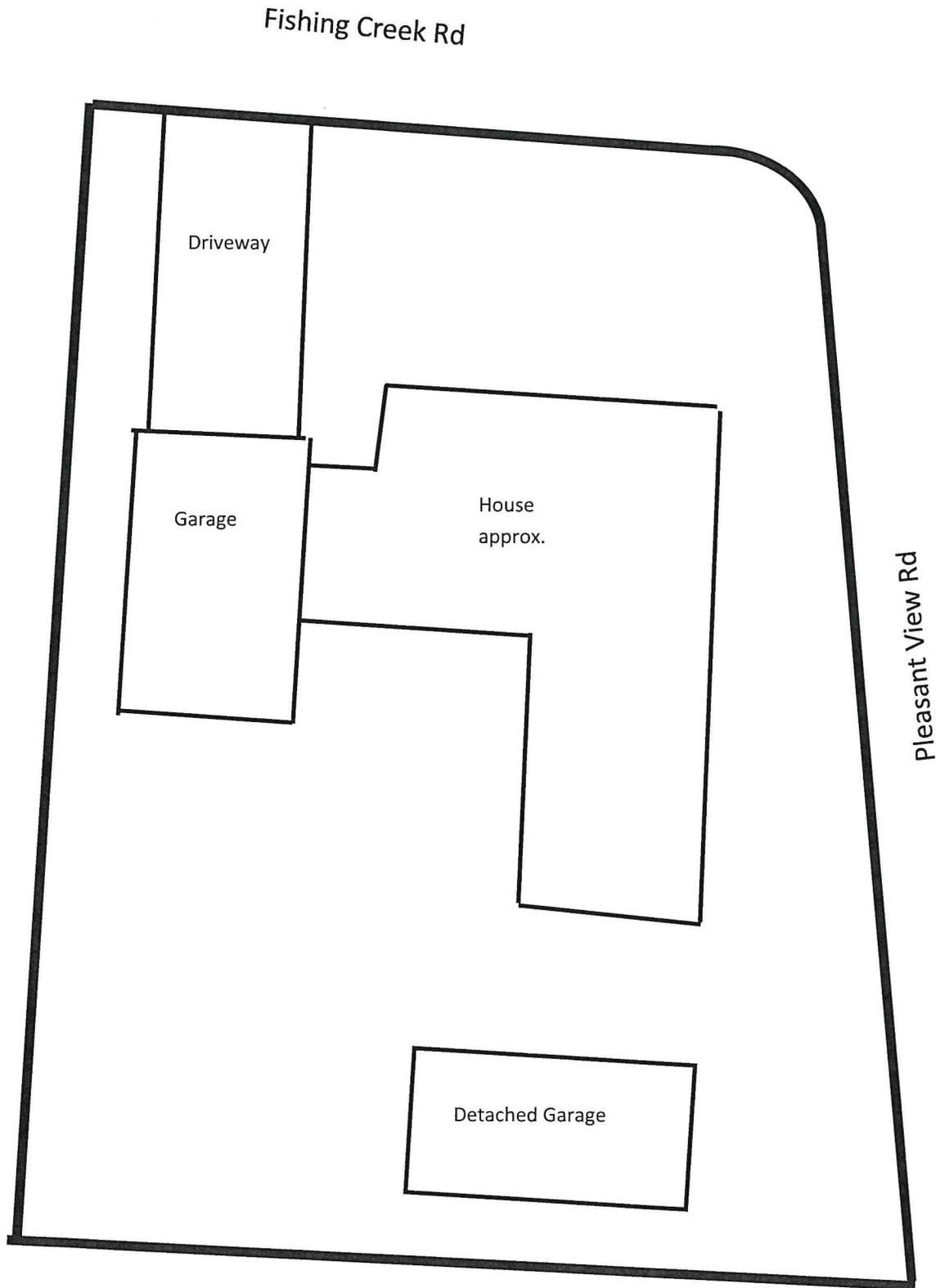
Survey



Aerial of 498 Pleasant View Rd



Concept Plan for New Construction



Front View



Rear View

