

STANDARD APPLICATION
Harford County
Board of Appeals
 Bel Air, Maryland 21014

Case No. 5966
 Date Filed 4/29/22
 Hearing Date _____
 Receipt _____
 Fee \$650.00
 Type SE/Var

Information to be Submitted with Application

1. A plot plan drawn to scale indicating all pertinent data.
2. A list of all adjoining property owners with mailing addresses.
3. Names and addresses of all persons having legal or equitable interest in the property.
4. All required supporting documentation or additional studies as may be required; including traffic and environmental studies, etc.

NOTE:
 All applicants **MUST** schedule a pre-application meeting with the Department of Planning and Zoning prior to filing any application to the Board of Appeals.

To schedule please call **410-638-3119**.

Shaded areas for Office Use Only

Nature of Request and Section(s) of Code

CASE 5966 MAP 48 TYPE Special Exception/Variance
ELECTION DISTRICT 03 TAX ID 03-297780
LOCATION 1525 Watervale Road, Fallston 21047
BY H. Edward Andrews III & Irene M. Padilla
Appealed because a Special Exception pursuant to
Section 267-88G(2) of the Harford County Code to
permit an antique shop and a variance from
requirement that antique sales be located within a
"historic building" in the AG District requires approval
by the Board.

Owner (please print or type)

Name H. Edward Andrews III & Irene M. Padilla Phone Number Call attorney
 Address 1525 Watervale Road, Fallston, Maryland 21047
Street Number Street City State Zip Code

Co-Applicant _____ Phone Number _____
 Address _____
Street Number Street City State Zip Code

Contract Purchaser _____ Phone Number _____
 Address _____
Street Number Street City State Zip Code

Attorney/Representative Bradley R. Stover Phone Number 443-371-7248
Robinson & Stover, LLC
 Address 4685 Millennium Drive, Belcamp, Maryland 21017 bstover@robinsonstover.com
Street Number Street City State Zip Code

Land Description

Address and Location of Property 1525 Watervale Road, Fallston, Maryland 21047; near Winters Run

Subdivision La Vista Manor Lot Number 13

Acreage/Lot Size 8.052 Election District 3rd Zoning AG Tax ID # 03-297780

Tax Map No. 0048 Grid No. 3C Parcel 318 Water/Sewer: Private Public

List ALL structures on property and current use: Single Family Home
Barn and other agricultural outbuildings

Estimated time required to present case: 30 minutes

If this Appeal is in reference to a Building Permit, state number _____

Would approval of this petition violate the covenants and restrictions for your property? Yes _____ No

Is this property located within the County's Chesapeake Bay Critical Area? Yes _____ No

If so, what is the Critical Area Land Use designations: _____

Is this request the result of a zoning enforcement investigation? Yes _____ No

Is this request within one (1) mile of any incorporated town limits? Yes _____ No

Request

Special Exception for antique shop in the AG District. 267-88(G)(2). Variance from requirement that antique sales be located an "historic structure".

Justification

See attached.

If additional space is needed, attach sheet to application. In answering the above questions, please refer to the Requirements that pertain to the type of approval request. (Special Exception, Variance, Critical Area or Natural Resource District (NRD) Variance, etc.)

REQUEST AND JUSTIFICATION FOR A SPECIAL EXCEPTION AND VARIANCE
HARFORD COUNTY BOARD OF APPEALS STANDARD APPLICATION

Request

Special exception approval to permit antique sales in the AG District pursuant to §267-88(G)(2) of the Harford County Zoning Code; variance from requirement that antique sales be located within an “historic building”.

Justification – Code Application

The subject property consists of an 8.052 acre parcel located at 1525 Watervale Road, Fallston, Maryland 21047 (the “Subject Property”). The Subject Property is zoned agricultural (AG) as defined in the Harford County Zoning Code. The Subject Property is improved by a single family residence, barn and outbuildings. The Applicants are the fee simple owners of the Subject Property, and propose to have antique sales in the barn located on the property. The proposed use requires special exception approval from the Harford County Board of Appeals as more fully set forth in Section 267-88(g)(2) of the Harford County Zoning Code. The Applicant meets the requirements of that statute, namely:

1. The parcel is in excess of 2 acres in size.
2. Applicant requires a variance from the requirement that the antique sales be located within an historic structure. There are many structures on the parcel THAT do qualify and are eligible for designation on the State Register of Historic Places or as a Harford County Landmark due to the age thereof. Many structures were built as early as the late 1700’s. The barn in which the proposed antique sales shop is located is approximately 75 years old.

Literal enforcement of the Code requirement that the antique sales be located within an historic building would cause undue hardship. The governing statute does not specifically define “historic building”. The subject barn wherein antique sales is proposed is 75 years of age and is part of a property that began to be developed in 1790. Certainly, the character of the entire property is such that it is quite historic.

Justification – Limitations, Guidelines and Standards

The proposed use will fall within the applicable limitations guidelines and standards to be adhered to by the Board of Appeals as set forth in §267-9(i):

1. The Subject Property and use thereon should not have an impact on the number of persons living or working in the immediate area, which consists of residential and farming uses. The antique sales out of the barn will have limited hours of operation. The Subject Property was, in fact, approved for an antique shop and variance from the requirement that the antique shop be located within an historic structure in Board of Appeals Case No. 3394, a copy of which is attached hereto.

2. The proposed use should not have any negative impact on traffic conditions. The anticipated number of trips generated by the limited proposed use will not be significant.

3. The proposed use should not affect the orderly growth of the neighborhood and community.

4. There will be no effect as the result of any odors, dust, gas, smoke, fumes, vibration, glare, noise as a result of the proposed use. The limited activity should not have any such adverse impacts. Parking already exists for the proposed use.

5. The proposed use shall not have any adverse impact on facilities, fire protection, sewage, water, trash and garbage collection or the like. The Subject Property shall be served by on-site well and septic. The owner of the Subject Property will provide for trash and garbage collection.

6. The requested use is consistent with generally accepted engineering and planning principles and practices.

7. There will be no additional impact on structures in the vicinity, such as schools, houses of worship, theaters, or hospitals, none of which are in close proximity with the Subject Property.

8. The proposed use is consistent with the purposes of the Code, the Master Plan and related studies for land use and the like, insofar as the use is a special exception use in the AG district.

9. The proposed use shall not have any environmental impact on any nearby sensitive features.

10. The proposed use shall not have any negative impacts on any cultural or historic landmarks. The antique sales will add to and enhance the historic nature of the landmarks located on the Subject Property.

Zoning Code Requirements

Appeal from Administrative Decision/Interpretation Requirements (Article 267-7A)

- (6) Render a final written determination, within 45 calendar days of the written request, of whether a proposed use is permitted in a particular zoning district, or whether a proposed use is a legal nonconforming use upon written request of any person. The Director of Planning may determine a materially similar use exists, based on the North American Industrial Classification System (NAICS). The final written determination of the Director of Planning shall be subject to appeal to the Board by the applicant within 20 calendar days of the date of the decision.

Variance Requirements (Article 267-11)

- (A) Variances from the provisions or requirements of this Code may be granted if the Board finds that:
 - (1) By reason of the uniqueness of the property or topographical conditions, the literal enforcement of the Code would result in practical difficulty or unreasonable hardship; and
 - (2) The variance will not be substantially detrimental to adjacent properties, or will not materially impair the purpose of this Code or the public interest.

(The Board may impose such conditions as it deems necessary in each particular case. No variance shall exceed the minimum adjustment necessary to relieve the hardship imposed by literal enforcement of this Code.)

Special Overlay District Requirements (Article 267-62)

(E) Natural Resources District

Variances. The Board may grant a variance to Subsection C or D upon a finding by the Board that the proposed development has been designed to minimize adverse impacts to the Natural Resources District to the greatest extent possible. Prior to rendering approval, the Board shall request advisory comments from the Director of Planning, the Soil Conservation District and the Maryland Department of the Environment.

Chesapeake Bay Critical Area Overlay District (Article 267-63)

- (1) Variances from the provisions of this section may only be granted if, due to special features of a site or other circumstances, implementation of this section or a literal enforcement of its provisions would result in unwarranted hardship to an applicant.
- (2) All applications for variances shall be reviewed by the Director of Planning for conformance with applicable provisions of this section, and a written report shall be provided to the Board of Appeals.
- (3) In granting a variance, the Board shall issue written findings demonstrating that the requested approval complies with each of the following conditions:

- (a) That special conditions or circumstances exist that are peculiar to the land or structure within the County's Critical Area, and a literal enforcement of the Critical Area Program would result in an unwarranted hardship.
 - (b) That a literal interpretation of the provisions of this section will deprive the applicant of rights commonly enjoyed by other properties in similar geographic and land use management areas within the Critical Area.
 - (c) That the granting of a variance will not confer upon the applicant any special privilege that would be denied by this section to other lands or structures within the Critical Area.
 - (d) That the variance request is not based upon conditions or circumstances which are the result of actions by the applicant, nor does the request arise from any condition relating to land or building use, either permitted or nonconforming, on any neighboring property.
 - (e) That the granting of a variance will not adversely affect water quality or adversely impact fish, wildlife, or plant habitat within the Critical Area, and the granting of the variance will be in harmony with the purpose and intent of this section.
 - (f) That all identified habitat protection areas on or adjacent to the site have been protected by the proposed development and implementation of either on-site or off-site programs.
 - (g) That the growth allocation for the County will not be exceeded by the granting of the variance.
 - (h) That the variance will not be substantially detrimental to adjacent properties or will not materially impair the purpose of the Code or the public interest.
- i. Special exceptions. All projects requiring approval as special exceptions within the Critical Area must meet the standards of this section. The Director of Planning may require such additional information, studies or documentation deemed necessary to ensure that applicable requirements of this district are met. Applications will not be considered complete for processing until all information as required by the Director of Planning has been received.

Change/Extension of Non-Conforming Use Requirements

267-20(3) - When authorized by the Board, one nonconforming use may be substituted for another nonconforming use.

267-21(d) - The Board may authorize the extension or enlargement of a nonconforming use, with or without conditions, provided that:

- (A) The proposed extension or enlargement does not change to a less restricted and more intense use.
- (B) The enlargement or extension does not exceed 50% of the gross square footage in use at the time of the creation of the nonconformity.

Special Exceptions Requirements (Article 267-87)

(a) Special exceptions require the approval of the Board of Appeals in accordance with 267-9 (Board of Appeals). The Board may impose such conditions limitations and restrictions as necessary to preserve harmony with adjacent uses, the purposes of this Code and the public health, safety and welfare.

- (b) A special exception grant or approval shall be limited to the Site Plan approved by the Board. Any substantial modification to the approved Site Plan shall require further Board approval.
- (c) Extension of any use or activity permitted as a special exception shall require further Board approval.
- (d) The Board may require a bond, irrevocable letter of credit or other appropriate guarantee as may be deemed necessary to assure satisfactory performance with regard to all or some of the conditions.
- (e) In the event the development or use is not commenced within 3 years from date of final decision, after all appeals have been exhausted, the approval for the special exception shall be void. In the event of delays, unforeseen at the time of application and approval, the Director of Planning shall have the authority to extend the approval for an additional 12 months or any portion thereof. (See Article 267-88 for specific requirements of Special Exception uses.)

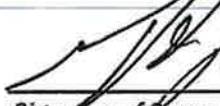

I/We agree to provide additional information as requested by the Department of Planning and Zoning or the Hearing Examiner.



I/We do hereby declare that no officer or employee of Harford County, whether elected or appointed, has received prior hereto or will receive subsequent hereto any monetary or material consideration, any service or thing of value, directly or indirectly, upon more favorable terms than those granted to the public generally in connection with the submission, processing, issuance, grant or aware of the within application or petition.

I/We do solemnly declare and affirm under the penalties of perjury that this petition contains names and addresses of all persons having legal or equitable interest in the property, including shareholders owning more than five percent (5%) of the stock in a corporation having any interest in the property, except those corporations listed and traded on a recognized stock exchange.

I/We do solemnly declare and affirm under the penalties of perjury that the contents of the foregoing affidavit are true and correct to the best of my/our knowledge, information and belief.

I/We agree, upon final action, to comply with all requirements or conditions imposed by the Board.

 3-19-22 
 Signature of Owner Date Witness Date

 3/17/2022 
 Signature of Co-Applicant Date Witness Date

 3/25/22 
 Signature of Attorney/Representative Date Witness Date

 4/29/22 _____
 Director of Planning and Zoning Date Zoning Staff Date



DORIS POULSEN
Secretary of the Council

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NOTIFICATION OF ZONING HEARING EXAMINER'S DECISION

DATE OF DECISION: February 12, 1987
HEARING EXAMINER: L. A. Hinderhofer
RE: Zoning Appeal Case No. 3394
APPLICANT: Fritz V. Sterbak
LOCATION: 1525 Watervale Road, Fallston
REQUEST: Special Exception to operate an antique shop
and variance from requirement that it be
located in a historic structure

Enclosed is an official copy of the Hearing Examiner's decision relative to the above referenced case.

The Hearing Examiner's decision shall become final twenty (20) calendar days after the date of the decision, (MARCH 4, 1987), unless a written request for final argument before the County Council/Board of Appeals is filed before the expiration of the twenty (20) calendar day period by the Applicant/Applicant's Attorney, Opponents/People's Counsel, or a person aggrieved who was a party to the proceedings before the Hearing Examiner. In addition, any Board Member, upon written notice to the Secretary of the Council, may request final argument.

COUNTY COUNCIL OF HARFORD COUNTY

Doris Poulsen
Doris Poulsen
Secretary of the Council

ds

Enclosure

cc: Applicant/Attorney
Opponents/Attorney
Adjoining Property Owners
Registered Hearing Attendees
Department of Planning and Zoning
Department of Law
People's Counsel

20 WEST COURTLAND STREET / BEL AIR, MARYLAND 21014 / (301) 838-6000 / 879-2000
"An Equal Opportunity Employer"

BOARD OF APPEALS CASE NO. 3394

*

BEFORE THE

APPLICANT: Fritz V. Sterbak

*

ZONING HEARING EXAMINER

REQUEST: Special Exception to operate an antique shop and variance from requirement that it be located in a historic structure; 1525 Watervale Road, Fallston

*

OF HARFORD COUNTY

*

Hearing Advertised

*

Aegis: 11/6/86 & 11/13/86

HEARING DATE: January 7, 1987

*

Record: 11/5/86 & 11/12/86

* * * * *

ZONING HEARING EXAMINER'S DECISION

The Applicant, Fritz V. Sterbak, is requesting a Special Exception in an Agricultural District to operate an antique shop and a variance from the requirement that the antique shop be in a historic structure.

The subject parcel is located at 1525 Watervale Road in the Third Election District. The parcel contains 170 acres, more or less, all of which is zoned Agricultural.

Ms. Barbara Thomas appeared and testified that she currently occupies the main house on the subject parcel and that the house was built in three phases, beginning approximately in the year 1790, with additions around 1800 and another addition after the Civil War. The witness said that she is proposing locating the antique shop in a barn with dimensions of 30 feet by 60 feet. The barn is approximately 45 years old and does not qualify as a historic structure. The witness testified, however, that many of the structures on the parcel do qualify and are eligible for designation on the State Register of Historic Places, or as a Harford County Landmark. The witness said that she would comply with the conditions set forth in the Staff Report and that adequate parking is available to meet the requirements of the Zoning Code. Ms. Thomas also said that she would post a small unlighted sign with dimensions of 12 inches by 36 inches on Watervale Road to direct customers to the shop.

The Staff Report recommends approval of the Special Exception and variance, with conditions. No protestants appeared in opposition to the Applicant's request.

Case No. 3394 - Fritz V. Sterbak

CONCLUSION:

Antique shops are permitted as Special Exceptions in the Agricultural District, provided that:

- a. A minimum parcel area of two (2) acres is required and the proposed use is located in a historic structure.
- b. Parking requirements of Section 25-5.5 are met and all parking areas are screened from adjacent residential lots.

Since the subject parcel contains 170 acres, more or less, the Applicant can meet the two (2) acre requirement and the parking requirements of the Zoning Code. However, the barn in which the Applicant proposes to locate the antique shop does not qualify as a historic structure or building as defined in Section 25-2.4, which states:

"A structure of historical, cultural or architectural significance which is eligible for designation on the National or State Register of Historic Places or as a Harford County Landmark."

Therefore, the Applicant has applied for a variance to the requirement that the antique shop be located in a historic structure. The testimony of the Applicant's witness was that several of the buildings on the subject parcel are eligible for designation on the National or State Register of Historic Places, or as a Harford County Landmark.

Even though this particular barn is not a historic structure, it is part of the overall historic atmosphere of the site and is located adjacent to the historic structures on the site, well within the home place and farm building enclave.

Therefore, it is the finding of the Hearing Examiner that the requested variance can be granted without substantial detrimental impact on the community.

The Special Exception and variance are subject to the following conditions:

1. That the Applicant obtain all necessary permits.
2. The operation of the antique shop shall be limited to the hours of 8:00 a.m. to 8:00 p.m.

Case No. 3394 - Fritz V. Sterbak

3. Any outside lighting should be shielded or directed so that the light intensity or brightness shall not adversely affect surrounding or facing premises, nor adversely affect the vision of motor vehicle operators on public roads.
4. That the Applicant shall not post a sign larger than 12 inches by 36 inches, directing customers to the antique shop.

Date February 12, 1987

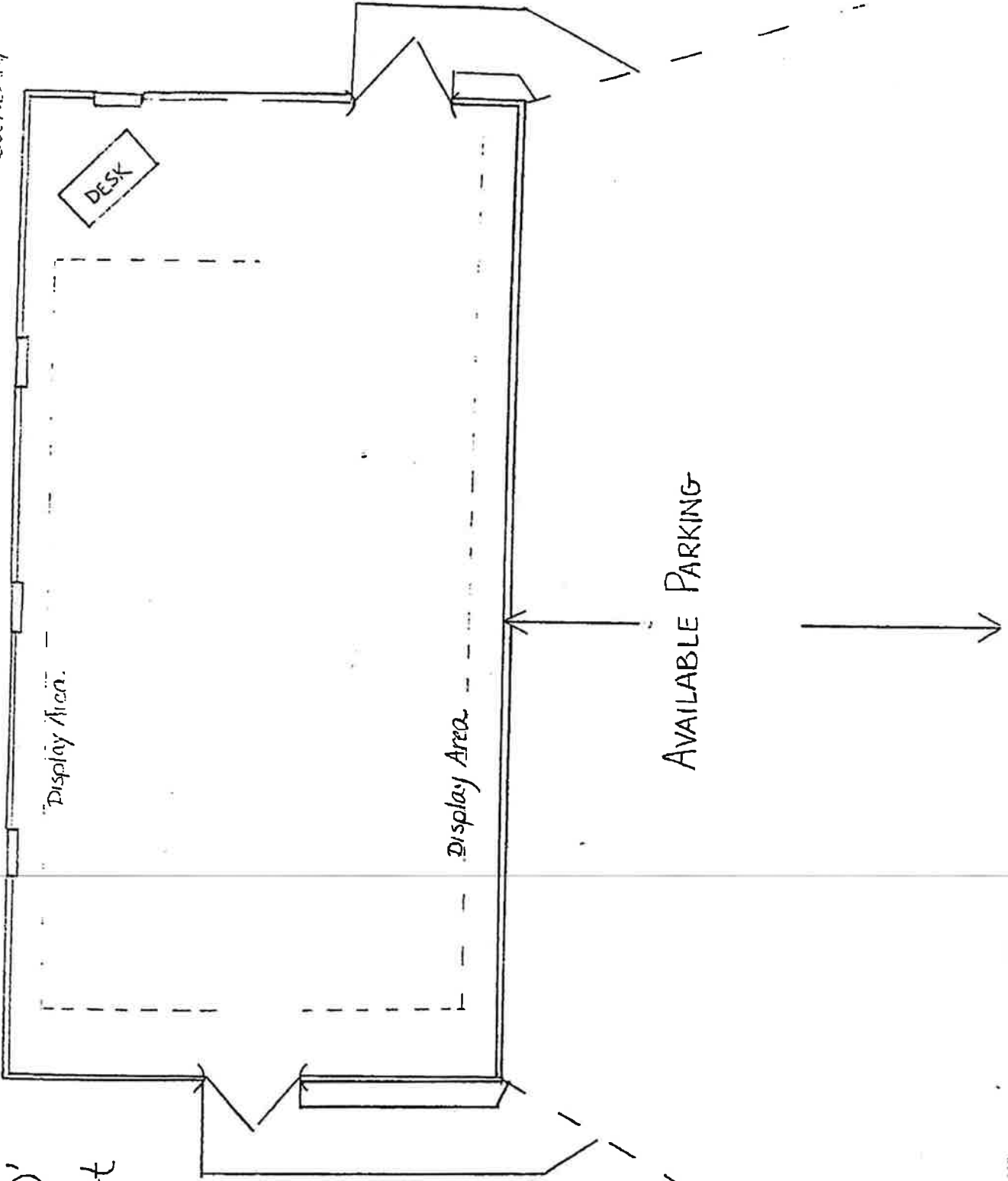
L. A. Hinderhofer
Zoning Hearing Examiner

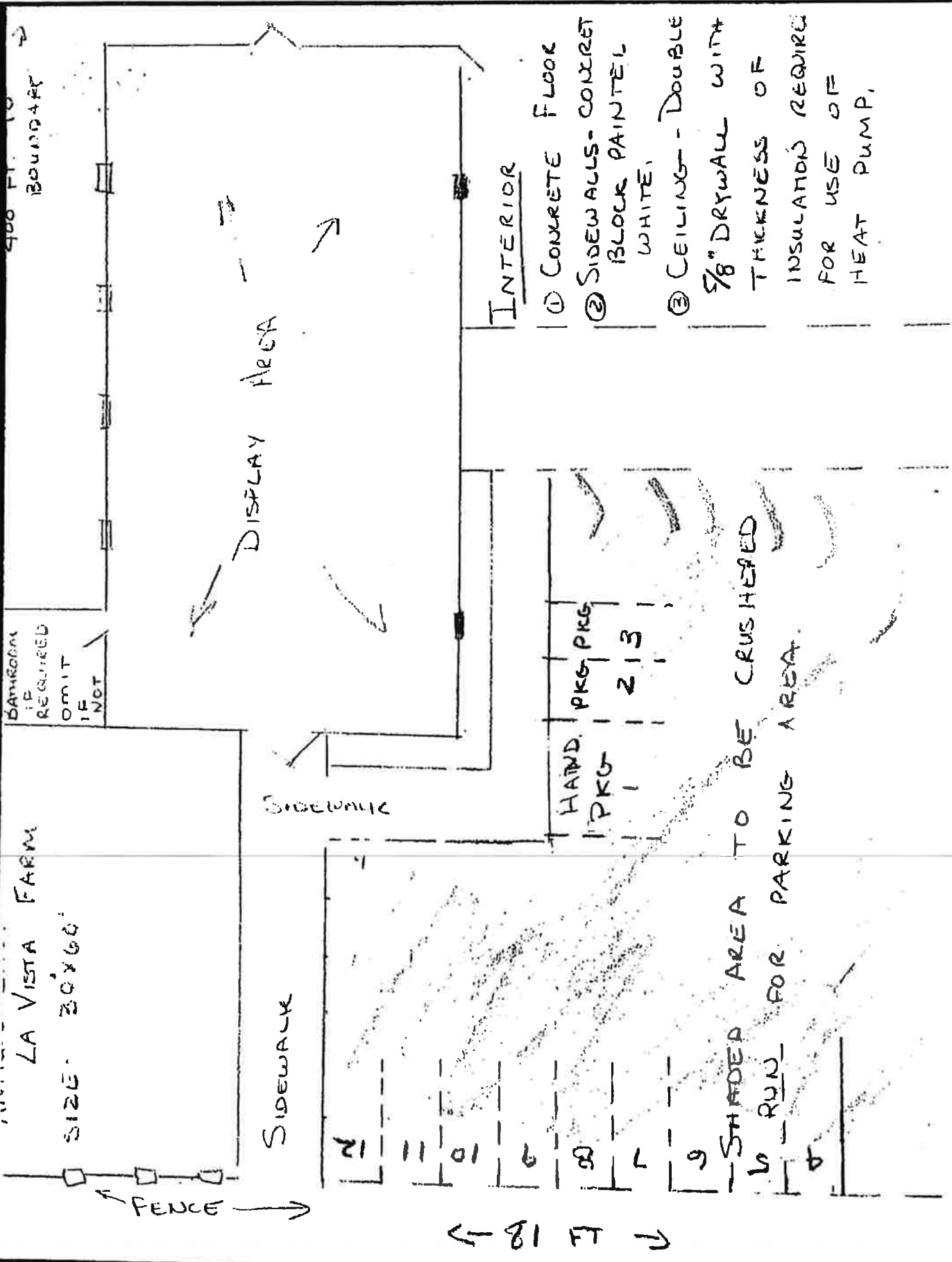
ANTIQUÉ SHOP - La Vista Farm

1100 FT
TO
BOUNDARY

30' x 60'
1 sq. = 2 ft

- Interior Finish
- 1) Insulate
 - 2) Dry wall
 - 3) Concrete Floor





400 FT

BARRIERS IF REQUIRED OMIT IF NOT

LA VISTA FARM
SIZE: 30' x 60'

FENCE

DISPLAY AREA

SIDEWALK

SIDEWALK

81 FT

INTERIOR

- ① CONCRETE FLOOR
- ② SIDEWALLS - CONCRETE BLOCK PAINTED WHITE,
- ③ CEILING - DOUBLE 5/8" DRYWALL WITH THICKNESS OF INSULATION REQUIRED FOR USE OF HEAT PUMP.

HAND PKG	1
PKG PKG	213

SHADED AREA TO BE CRUSHED
RUN FOR PARKING AREA