

TOWN OF ELSMERE

Invoice # I2401965

APPEAL TO THE BOARD OF ADJUSTMENT

Any person directly affected by a decision of the Code Enforcement Official or a notice or order issued under this Code shall have the right to appeal to the Board of Adjustment of the Town of Elsmere, provided that t written application for appeal is based on a claim that the true intent of this code or the rules legally adopted there under has been incorrectly interpreted or the provisions of this code do not fully apply. Additionally, an application for appeal may be based on a claim that an action other than what is required by the Code: 1) provides the same or better protections than what the Code requires and 2) will not cost the Tow of Elsmere any more money than enforcing the code as written. If the appellant proves that an action other than what is required by the code meets these two requirements, the Board of Adjustment may, in its discretion, either enforce the Code as written or permit the proposed alternative action.

Date this Appeal was filed: 4/29/24 Petition Number: 24-06

Date of the Original Action: 4/24/24 Tax Parcel Number: 19-008.00-130

Subject Property Address: 1234 Maple Ave Elsmere DE 19805

Property Owner's Name: Denise Purnell Cuff Phone Number: 302-383-3789

Property Owners Address: 1234 Maple Ave Elsmere DE 19805

Applicant's Name: Denise Purnell Cuff

Applicant's Address: 1234 Maple Ave Elsmere, DE 19805

Specific Item Being Appealed: (ex: Citation Number, Petition Number, Order Number, Etc.)

Reason for the Appeal: Medically necessary. Physical disability is making it more difficult to access treatment.

Relief sought:

Applicant's Signature: Denise Purnell Cuff Date: 4/29/24



The Town of Elsmere

11 Poplar Avenue, Elsmere, Delaware 19805

Phone (302) 998-2215 Fax (302) 998-9920

EXHIBIT

tabbles

24-06B

April 29, 2024

Mayor

Eric Thompson

1st District Council

Vacant

Denise Purnell Cuff
1234 Maple Avenue
Wilmington, DE 19804

2nd District Councilwoman
Secretary of Council

Sally Jensen

Dear Mrs. Purnell Cuff,

After reviewing your Application for Hearing, it was determined that your property is an existing legal non-conforming lot due to the following:

3rd District Councilwoman

Mary Steppi

1. Lot coverage (current lot is at 44%, allowable is 30%)

Chapter 225-31C of the Town of Elsmere Code prohibits the further expansion of an existing legal non-conforming use.

4th District Councilman

Charles McKewen

“Except as otherwise provided in this article, the lawful use of land or buildings existing at the date of the adoption of this chapter may be continued although such use or building does not conform to the regulations specified by this chapter for the zone in which such land or building is located; provided, however:

5th District Councilwoman

Joann I. Personti

A. That no nonconforming lot shall be further reduced in size.

6th District Councilwoman

Dawn DiBiao

B. That no nonconforming building shall be enlarged, extended, or

Town Treasurer

Paul Chalfant

increased unless such enlargement would tend to reduce the degree of nonconformance, except that an existing eating and drinking place may add a covered patio not exceeding 1,400 square feet that is connected to the nonconforming building.

C. That no nonconforming use may be expanded.”

City Solicitor

James McMackin

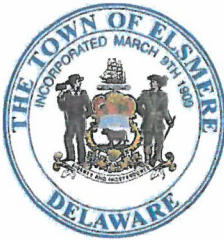
In conclusion, the Planning Commission and Board of Adjustment will not hear the petition. If you wish to appeal this decision, please reference Chapter 76 of the Town of Elsmere Code.

If you have any questions or concerns, please feel free to reach out to the Code Enforcement Department at (302) 998-2215.

Sincerely,

Nicole Facciolo
Code Enforcement Officer

c; file



The Town of Elsmere

11 Poplar Avenue, Elsmere, Delaware 19805

Phone (302) 998-2215 Fax (302) 998-9920

EXHIBIT

tabbies

24-06 C

Application for Hearing

50.00

Board of Adjustment

Planning Commission

Petition # 24-05 Filing Fee: _____ Date Received 4/24/2024 Received by: DML

Subject Property: 1234 Maple Ave Elsmere DE 19805

Property is:

Residential

Commercial

Tax Parcel # 19-8-130 Zoning District: R2

Applicant name:

Denise Purnell Cuff

Address: 1234 Maple Ave Telephone # 302-383-3789

City: Elsmere State: DE Zip Code: 19805

Application for Zoning Variance Related to: _____

Front yard setback

Lot Coverage

Rear yard setback

Fencing

Side yard setback

Parking requirements

Lot Area

Signage

Rezoning

Current Zoning: R2 New Zoning Request: _____

Application for Special Exception Use Permit for the following use: _____

Application for Appeal of an Administrative decision: _____

By: _____ Date: _____

For the following reasons: _____

VARIANCE HARDSHIP WORKSHEET

Town of Elsmere Petition Number: 24-05

Property Owners Name: Denise Purnell Cuff

Person(s) Representing the Property Owner: _____

Additional page(s) attached

Applicants, please be aware that the following are the prerequisites to the granting of a variance:

A variance may be granted when it will not be contrary to the public interest where, owing (due) to special conditions, a literal enforcement of the provisions of the Code of The Town of Elsmere will result in unnecessary and undue hardship.

The term "undue hardship" has a specific legal definition in this context and essentially means that without the requested variance, the applicant will have no reasonable use of the subject property under existing development regulations.

Personal medical reasons shall not be considered as grounds for establishing undue hardship sufficient to qualify an applicant for a variance.

Economic reasons may be considered only in instances where a landowner cannot yield a reasonable use and/or reasonable return under the existing land development regulations. You have the right to consult a private attorney for assistance.

In order to recommend the approval of or authorize any variance from the terms of the code, the Planning Commission or Board of Adjustment must find all of the following factors to exist:

- (1) That special conditions and circumstances exist which are not applicable to other lands, structures or buildings in the applicable zoning classification.

Please explain how this applies:

one of the home owners is disabled. The current state of the yard does not allow for safe, stable + confident eyes.

- (2) That the special conditions and circumstances do not result from the actions of the applicant.

Please explain how this applies:

Currently the yard acts as a barrier to access for my disabled spouse. It hinders his access to the outside and access to treatment.

- (3) That granting the variance requested will not confer on the applicant any special privilege that is denied by the provisions of the code to other lands, buildings or structures in the identical zoning classification.

Please explain how this applies:

No special privilege is being applied to us the
homeowners we are paying for the modifications

- (4) That literal enforcement of the provisions of the code would deprive the applicant of rights commonly enjoyed by other properties in the identical zoning classification under the provisions of the code and will constitute unnecessary and undue hardship on the applicant.

Please explain how this applies:

Most of the homes/our neighbors have paved concrete -
or asphalt rear yards. Most residence can safely leave their
homes. My disabled husband is now challenged to leave safely
due to the current state.

- (5) That the variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure:

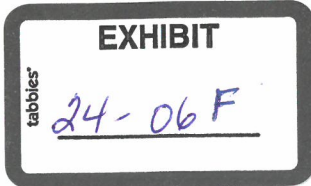
Please explain how this applies:

In order to address his current ability a car
would have to get as close as possible to the rear door.
This request to pave is the minimum variance.

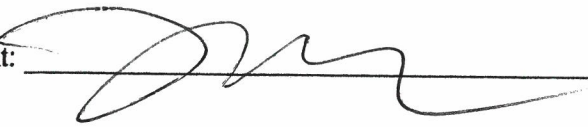
- (6) That the granting of the variance will be in harmony with the general intent and purpose of the code and that such use variance will not be injurious to the area involved or otherwise detrimental to the public welfare.

Please explain how this applies:


This variance takes place will be in harmony
with my neighbors. And will act as a mechanism
to get my spouse safely to chemo treatment.



I understand that all of the above conditions apply to the consideration of a variance and that each of these conditions have been discussed with me by the below-signed Code Enforcement Department representative. I am fully aware that it is solely my responsibility to prove that my petition meets all of the aforementioned criteria.

Signature of applicant: 

Date: _____

Signature Code Department Representative: 

Date: 4/24/2024

**BUILDING
SUBCODE
TECHNICAL SECTION**

A. IDENTIFICATION—APPLICANT: COMPLETE ALL APPLICABLE INFORMATION. WHEN CHANGING CONTRACTORS, NOTIFY THIS OFFICE.

Block _____ Lot _____
 Work Site Location _____
 1234 Maple Ave Elsonese
 Owner in Fee Denise Rorrett
 Address _____
 Tele. _____
 Contractor Marshall Landscaping
 Address 1902 Newport Gap Pike Wilmington DE 19808
 Tele. 302-454-7838
 Lic. No. or Bldrs. Reg No _____ Fax _____
 Federal Emp. No. 87-3219731

Date Received 4/18/2004
 Date Issued _____
 Control # 17-8-130
 Permit # P2400243



D. TECHNICAL SITE DATA

DESCRIPTION OF WORK

Please see attached quote will be removing fence and installing 40x16' asphalt area where high-lighted on survey.

JOB SUMMARY (Office Use Only)

PLAN REVIEW	Date	Initial	INSPECTIONS	Dates (Month/Day)	Failure	Approval	Initial
<input type="checkbox"/> No Plans Required			Type:				
<input type="checkbox"/> All			Footing				
<input type="checkbox"/> Footing			Foundation				
<input type="checkbox"/> Foundation			Slab				
<input type="checkbox"/> Frame			Frame				
<input type="checkbox"/> Other			Barrier-Free				
Joint Plan Review Required:			Insulation				
<input type="checkbox"/> Elec. <input type="checkbox"/> Plumb. <input type="checkbox"/> Fire <input type="checkbox"/> Elevator			Finishes				
SUBCODE APPROVAL			Energy				
<input type="checkbox"/> CO <input type="checkbox"/> CCO <input type="checkbox"/> CA			Mechanical				
Date _____			TCO				
Approved by: _____			Other				
			Final				
			Barrier-Free				

B. BUILDING CHARACTERISTICS

Use Group Present _____ Proposed _____
 Constr. Class Present _____ Proposed _____
 No. of Stories _____
 Height of Structure _____ Ft
 Area --- Largest Floor _____ Sq. Ft.
 New Bldg. Area/All Floors _____ Sq. Ft.
 Volume of New Structure _____ Cu. Ft.
 Total Land Area Disturbed _____ Sq. Ft.

C. CERTIFICATION IN LIEU OF OATH

I hereby certify that I am the (agent of) owner of record and am authorized to make this application.

Signature _____

TYPE OF WORK

- New Building
- Addition
- Alteration
- Roofing
- Siding
- Fence _____ Height (exceeds 6')
- Sign _____ Sq. Ft.
- Pool
- Asbestos Abatement
- Lead Haz. Abatement
- Other _____
- Demolition

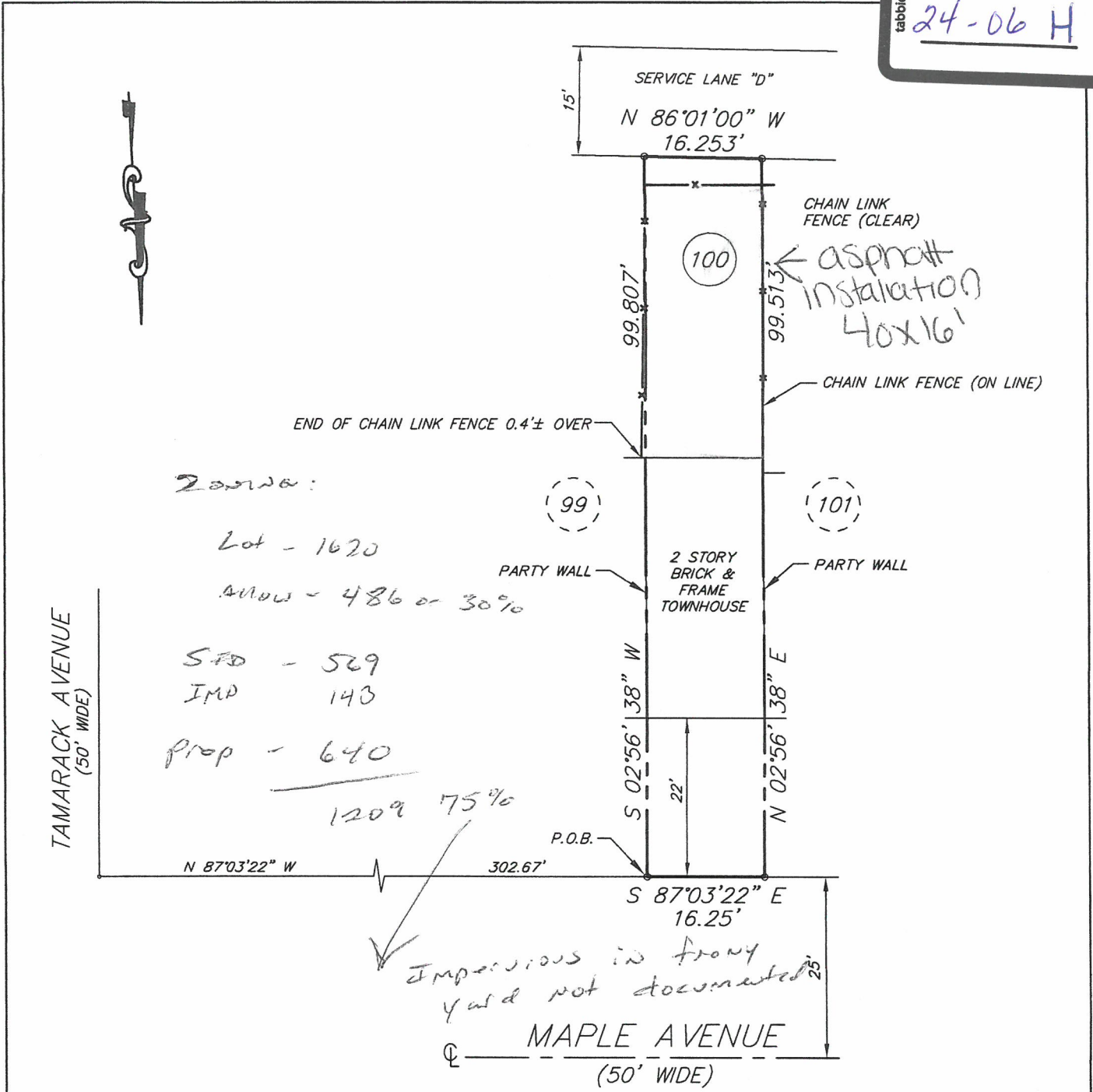
FEE (Office Use Only)

Administrative Surcharge \$ _____
 Minimum Fee \$ _____
 Fee \$ _____
 TOTAL FEE \$ 100

1. White = Inspector Copy
 2. Canary = Office Copy
 3. Pink = Office Copy

EXHIBIT
 24-06 G

EXHIBIT
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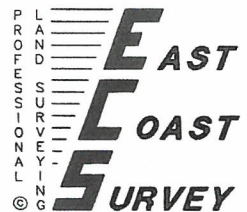


THIS PLAN DOES NOT REPRESENT A PROPERTY SURVEY & SHOULD NOT BE USED FOR FURTHER IMPROVEMENTS. CORNERS HAVE NOT BEEN STAKED UNLESS NOTED. PARCEL IS SUBJECT TO EASEMENTS, RESTRICTIONS & RESERVATIONS OF RECORD.

SURVEY CLASS: B

MORTGAGE INSPECTION PLAN

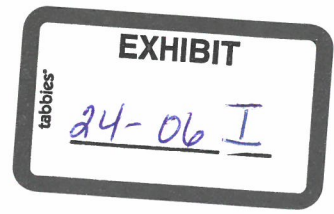
DENISE R.C. PURNELL
 1234 MAPLE AVENUE
 LOT 100
 ELSMERE GARDENS
 TOWN OF ELSMERE
 NEW CASTLE COUNTY, DELAWARE



P.O. BOX 265
 YORKLYN, DE 19736
 PHONE: 302/234-8100

PROJECT	TAX PARCEL #	DEED REF.	DATE	SCALE
529-6172	19-008.00-130	20011011-0084256	9-11-04	1" = 20'

APPROVED BY



Site Analysis
Petition 24-05

Property Owner: Denise Purnell Cuff
Zoning District: R2
Address: 1234 Maple Ave
Parcel No.: 19-00800-130

LOT COVERAGE CALCULATIONS

Lot Area in Sq. Ft.:	1620	Sq. Ft.
Allowable Lot Coverage:	486	Sq. Ft. or 30%
Total Lot Coverage Currently:	714	or 44 %
❖ Building =	569	Sq. Ft.
❖ (Front/Rear) Porch =		Sq. Ft.
❖ Garage =		Sq. Ft.
❖ Impervious Pave =	145	Sq. Ft.
❖ Rear Patio =		Sq. Ft.

Proposed Addition: 640 Sq. Ft.

Proposed Lot Coverage Total: 1354 Sq. Ft. or 84 %

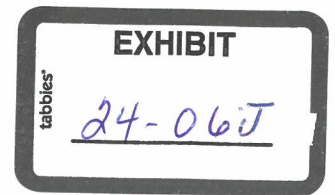
Conclusion: The applicant seeks to add 640 sq. feet of rear impervious paving for parking.

Required Setbacks: Front: 20 Rear: 30
Side: 0 Both Sides: 0

Existing Setbacks: Front: 22 Rear: 60
Side: 0 Both Sides: 0

Proposed Setbacks: Front: 22 Rear: 60
Side: 0 Both Sides: 0

Conclusion: There are no proposed changes to the existing building setbacks.



STATEMENT OF FACT

The subject parcel is currently legal non-conforming in regard to the following:

1. Lot coverage, the current lot coverage is 44% the allowable lot coverage for R2 zoning district is 30%.

REQUEST BY THE APPLICANT

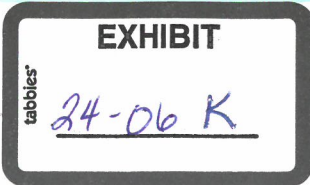
1. The applicant seeks to add 640 sq. feet of rear impervious parking area to accommodate a disabled individual.

ISSUE(S)

1. The subject parcel is legal non-conforming in regard to lot coverage, section 225 Attachment #3 limits lot coverage to 30% in the R-2 zoning district, the current lot coverage is 44% +/-.
2. The applicant seeks to add 640 sq. feet of additional impervious surface bringing the combined impervious coverage to 1354 sq. feet or 84%.

GRANTING OF THE PETITION

1. The Planning Commission of the Town of Elsmere shall review the proposed development as per Town of Elsmere Code 225-9 and determine that it meets the harmonious development intent of the Town of Elsmere said Code.
2. The Board of Adjustment of the Town of Elsmere shall grant a variance from the Town of Elsmere Code 225 attachment #3 to allow for 84% lot coverage in lieu of the required 30%.
3. The applicant shall, within 1 year of approval, obtain permits from the Town of Elsmere Code Enforcement Department.



Parcel # 1900800130

Property Address: 1234 MAPLE AVE
 WILMINGTON, DE 19805-
 Subdivision: ELSMERE GARDENS
 Owner: PURNELL CUFF DENISE & CURTIS J
 1234 MAPLE AV
 Owner Address:
 WILMINGTON, DE 19805
 Municipal Info: Incorporated in ELSMERE PROPERTY TAX AREA

Lot #: 100	Property Class: RESIDENTIAL
Location:	Lot Size: 0.04
Map Grid: 09403560	Lot Depth: 99.80
Block:	Lot Frontage: 16.30
Census Tract: 124	Street Finish: SIDEWALK
Street Type: NEIGHBORHOOD	
Water: PUBLIC	
Microfilm #: UNREC	

District & Zoning Info

Districts

- **FIRE/RESCUE - ELSMERE**
- **RED CLAY SCHOOL DIST-TRES**
- DE SEN 07-SPIROS MANTZAVINOS
- COUNCIL 1 - BRANDON T TOOLE
- DE REP 13-DESHANNA U NEAL
- NORTH OF C&D CANAL
- ADD REQ PER SEC 10.3.4.4 DSSR
- TRAFFIC ZONE T093 (YR2022)
- SEWER DISTRICT NORTHERN-ASMT
- PLANNING 8 - LOWER CHRISTINA
- ELSMERE GARDENS - Civic Organization - no contact information available

Zoning

- 19R2 - ONE/TWO FAMILY DWELLING

Deed History

Grantee(s)	Deed	Multi?	Sale Date	Sale Amount
STRZALKOWSKI CASIMIR J & WF	Q58 459	N	Not Available	\$0.00
BITNER LLOYD RICHARD	779 87	N	10/17/1988	\$65,900.00
LEONI ROBERT	20011011 0084256	N	10/10/2001	\$61,000.00
PURNELL DENISE RC	20040924 0105739	N	9/17/2004	\$114,000.00
PURNELL CUFF DENISE & CURTIS J	20080826 0058372	N	8/20/2008	\$10.00

Tax/Assessment Info

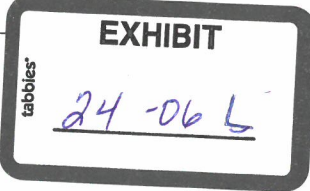
Assessment

Land: 6100
 Structure: 36900
 Homesite: 0
 Total: 43000
 County Taxable: 43000
 School Taxable: 43000

Tax Bills as of 5/13/2024 3:01:47 AM

Tax Year	County			School		
	Principal Due	Penalty Due	Amt Paid	Principal Due	Penalty Due	Amt Paid
2010A	\$0.00	\$0.00	\$130.63	\$0.00	\$0.00	\$707.72
2011A	\$0.00	\$0.00	\$133.00	\$0.00	\$0.00	\$699.57
2011Q2	\$0.00	\$0.00	\$2.40	\$0.00	\$0.00	\$12.62
2011Q3	\$0.00	\$0.00	\$2.40	\$0.00	\$0.00	\$12.62
2012A	\$0.00	\$0.00	\$147.81	\$0.00	\$0.00	\$766.26
2013A	\$0.00	\$0.00	\$146.97	\$0.00	\$0.00	\$813.13
2014A	\$0.00	\$0.00	\$147.53	\$0.00	\$0.00	\$827.45
2015A	\$0.00	\$0.00	\$147.00	\$0.00	\$0.00	\$919.77
2016A	\$0.00	\$0.00	\$146.64	\$0.00	\$0.00	\$1,002.89
2017A	\$0.00	\$0.00	\$147.41	\$0.00	\$0.00	\$1,063.95
2018A	\$0.00	\$0.00	\$157.84	\$0.00	\$0.00	\$1,058.23
2019A	\$0.00	\$0.00	\$146.17	\$0.00	\$0.00	\$1,065.97
2020A	\$0.00	\$0.00	\$136.16	\$0.00	\$0.00	\$1,065.97
2021A	\$0.00	\$0.00	\$133.74	\$0.00	\$0.00	\$1,061.03
2022A	\$0.00	\$0.00	\$166.46	\$0.00	\$0.00	\$1,062.96
2023A	\$0.00	\$0.00	\$165.72	\$0.00	\$0.00	\$1,062.96

Tax Payments as of 5/13/2024 3:01:47 AM



Date Paid		
9/23/2010		\$838.35
9/23/2011		\$832.57
2/9/2012		\$15.02
5/17/2012		\$15.02
8/14/2012		\$806.25
9/26/2012		\$914.07
9/30/2013		\$960.10
9/17/2014		\$974.98
9/25/2015		\$1,066.77
9/26/2016		\$1,149.53
9/25/2017		\$1,211.36
9/7/2018		\$1,216.07
9/26/2019		\$1,212.14
9/24/2020		\$1,202.13
9/24/2021		\$1,194.77
9/26/2022		\$1,229.42
9/25/2023		\$1,228.68
County Balance Due:	\$0.00	
School Balance Due:	\$0.00	

These amounts are valid through the last day of the month. For accounts with delinquent balances, statutory penalty will accrue on the first day of next month.

Sewer History as of 5/13/2024 3:01:13 AM

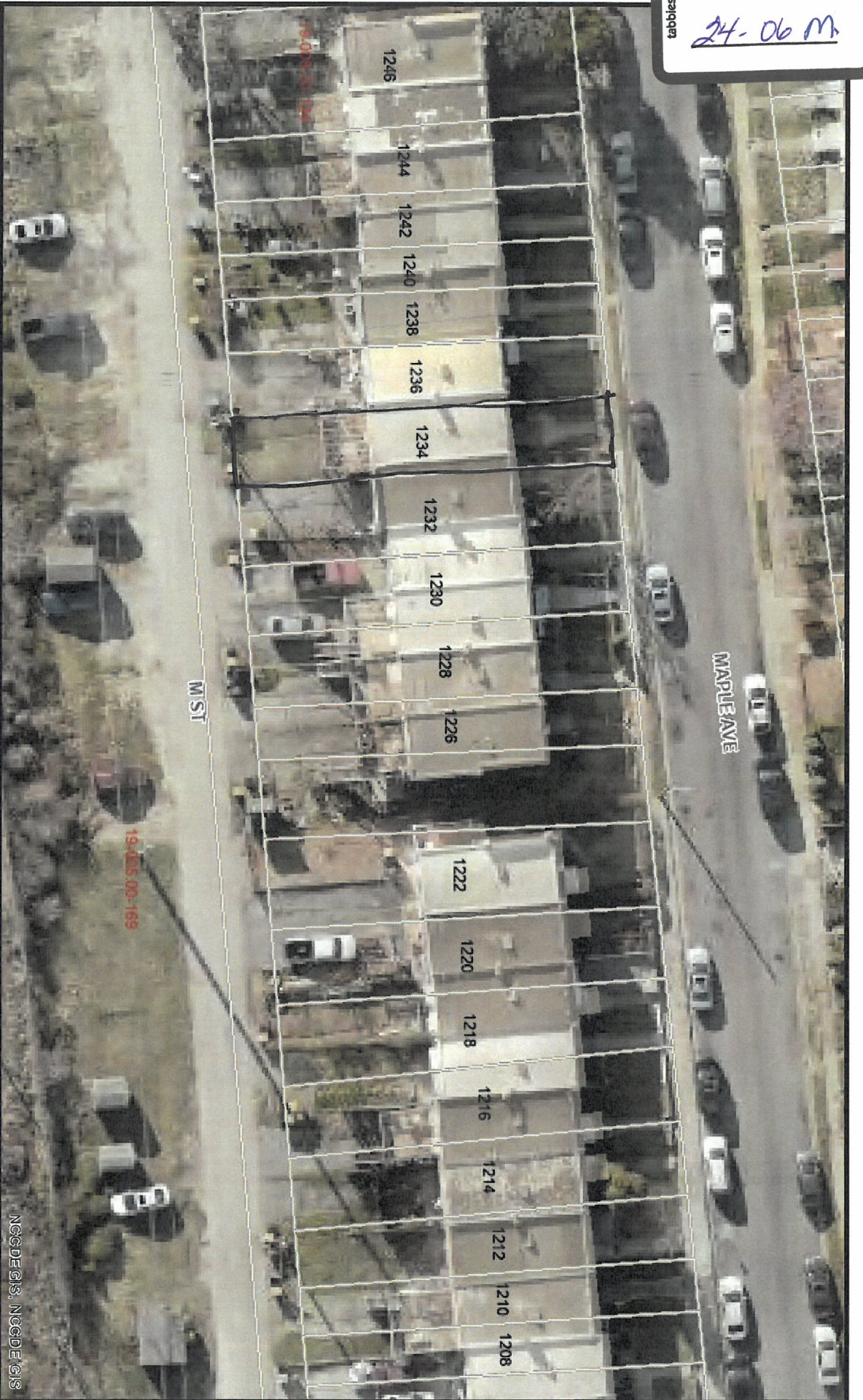
Tax Year	Principal Due	Penalty Due	Date Paid	Amount Paid
2002S1	\$0.00	\$0.00	5/7/2002	\$190.91
2003S1	\$0.00	\$0.00	5/13/2003	\$135.39
2004S1	\$0.00	\$0.00	6/15/2004	\$374.94
2005S1	\$0.00	\$0.00	2/15/2005	\$170.50
2006S1	\$0.00	\$0.00	2/11/2006	\$50.00
2007S1	\$0.00	\$0.00	2/14/2007	\$55.77
2008S1	\$0.00	\$0.00	2/14/2008	\$120.84
2009S1	\$0.00	\$0.00	2/26/2009	\$130.14
2009S5	\$0.00	\$0.00	2/19/2010	\$27.89
2010S1	\$0.00	\$0.00	2/19/2010	\$173.84
2011S1	\$0.00	\$0.00	2/23/2011	\$191.43
2012S1	\$0.00	\$0.00	2/13/2012	\$187.85
2013S1	\$0.00	\$0.00	2/26/2013	\$198.89
2014S1	\$0.00	\$0.00	4/2/2014	\$183.69
2015S1	\$0.00	\$0.00	3/6/2015	\$172.21
2016S1	\$0.00	\$0.00	2/16/2016	\$183.69
2017S1	\$0.00	\$0.00	2/22/2017	\$149.25
2018S1	\$0.00	\$0.00	2/28/2018	\$160.73
2019S1	\$0.00	\$0.00	3/1/2019	\$205.00
2020S1	\$0.00	\$0.00	3/3/2020	\$205.73
2021S1	\$0.00	\$0.00	3/30/2021	\$180.02
2022S1	\$0.00	\$0.00	2/15/2022	\$192.16
2023S1	\$0.00	\$0.00	2/7/2023	\$205.02
2024S1	\$0.00	\$0.00	2/23/2024	\$179.30
Balance Due:	\$0.00			

These amounts are valid through the last day of the month. Statutory penalty will accrue on the first day of next month.

Residence Characteristics

Residence 0	
Building Design: ROW INSD	Residence Class: SFD PLATTED LOT
Grade: AVERAGE	Condition: AVERAGE
Year Built: 1956	# Stories: 2
Total Area (sq. ft.): 1725	Main Floor Area: 576
# Rooms: 6	# Bedrooms: 3
# 1/2 Baths: 1	# Full Baths: 1
# Fam. Rooms: 0	# Fixtures: 7
Roof Type: FLAT	Roof Material: COMPWOOD
Exterior Wall: BRICK	Interior Wall Finish: DRYWALL
Floor Finish: WOOD	Foundation: CONTINUOUS
Garage Capacity: 0	Basement %: 100%
Basement % Finished: 100%	Basement Finish Type: OPEN FIN FL,WAL & CE
Attic % Finished:	
Unfinished %:	Unfinished Area: 0
Heat Type: HOT AIR	Air Conditioning: AIR CONDITIONING
Remodel Year: 0	

24-06 M



1234 Maple Ave 19-8-130

Author:



Date: 5/13/2024

