

TOWNSHIP OF UPPER PROVIDENCE
1286 Black Rock Road, Phoenixville, PA 19460
610-933-9179 (phone) 484-391-2380 (fax)
www.uprov-montco.org

Application to the Zoning Hearing Board

1. Date:

2. Classification of Application (Check one or more if Applicable):

- A. Request for Variance (PA MPC, Section 909.1(a)(5)-910.2)
 B. Request for Special Exception (PA MPC, Section 909.1(a)(6)-912.1)
 C. Appeal of decision of the Zoning Officer (PA MPC, Section 909.1(a)(3)(4)(8))
 D. Challenge of the Validity of Ordinance or Map by person aggrieved by use or development permitted on land of another (PA MPC, Section 909.1(a)(1)(2))

3. Applicant:

Name (a) Francis and Linda McCutcheon

Mailing Address (b)

197 Kline Road, Royersford, PA 19468

Phone Number (c) (610) 812-9375

Owner:

Name (a) Francis and Linda McCutcheon

Mailing Address (b)

197 Kline Road, Royersford, PA 19468

Phone Number (c) (610) 812-9375

4. Legal Status of Applicant (check one):

- Owner of Legal Title - Copy of deed must be attached as Exhibit A
 Owner of Equitable Title-Agreement of Sale must be attached as Exhibit A
 Tenant with the permission of Owner of Legal Title - Lease must be attached as Exhibit A
 Other (describe)

5. Applicant's Attorney, if any:

(a) Name George J. Ozorowski, Esquire

(b) Mailing Address 1250 Germantown Pike, Suite 205, Plymouth Meeting, PA 19462

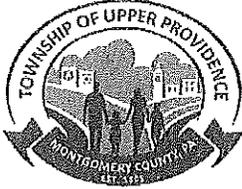
(c) Phone Number (610) 279-6800

6. Property:

(a) Present Zoning Classification R-2

(b) Number and Street (if assigned pursuant to Township Ordinance No. 179,
June 28, 1976, as amended):
197 Kline Road

(c) Location, with reference to nearby intersections or prominent features:



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- (d) Tax Map Identification: Block 05 Unit 05
- (e) Dimensions: Area 27,600 SF
Frontage: 100 ft. Depth _____
- (f) Describe the size, construction and use of existing improvements or use of land, if unimproved:

7. Describe the proposed use or construction:

See attachment

8. Describe how the proposed use or construction differs from what is permitted:

See attachment

9. State legal grounds for appeal, cite specific sections of Pennsylvania Municipal Planning Code, Zoning Ordinance, Subdivision regulations or other acts of Ordinances:

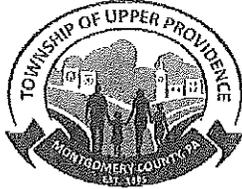
Chapter 82, Section 47(b)

10. Has any previous appeal been filed concerning subject matter of this appeal?

Yes [] No [x] If yes, specify: _____

In re: Zoning Appeal – Francis and Linda McCutcheon

Variances sought as follows: Applicants purchased the home in January 2020. They applied for and received a Permit to install a deck on the rear of the property and spent in excess of \$24,000.00 for the deck area. At the conclusion of the construction of the deck, Applicants learned that the property line was not where they thought it was located and that the new deck was constructed in the side yard setback. The neighboring property is approximately 200 ft. away and does not object to the variance request. Upon surveying the property to determine the deck issue, the Applicants further realized that the house was constructed in a way to be oriented towards the face of Kline Road; however, due to the unique shape of the lot caused the corner's of the house where partially constructed in the side yard setbacks. The Applicants had no knowledge of this encroachment when they purchased the property. The Applicants request and interpretation that the corners of the house are non-conforming pursuant to Article XXI, 182-172. In the alternative, the Applicant would request a variance from the side-yard setback for the house. The house was constructed in 1953 which pre-dates the Zoning Ordinance.



TOWNSHIP OF UPPER PROVIDENCE

1286 Black Rock Road, Phoenixville, PA 19460

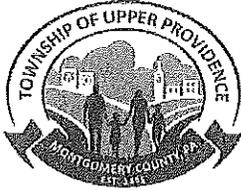
610-933-9179 (phone) 484-391-2380 (fax)

www.uprov-montco.org

Instructions for Application to the Zoning Hearing Board

- 1) Complete all phases of application and submit with six (6) copies.
 - 2) For 2 (A) (B) or (C), seven (7) copies of the plan or plans must be attached to the Appeal. The plan(s) should be prepared by a professional engineer or surveyor, but the Board will accept any plan(s) which are complete and accurate, provided that if not prepared by a professional engineer or surveyor, the person who prepared the plan(s) must be prepared to state under oath at the formal hearing that the plan(s) is/are complete and accurate. The plan(s) must contain all information relevant to the Appeal, including but not limited to, the following: the property related to a street; the dimensions and area of the lot; the dimensions and location of existing buildings or improvements; the dimensions and locations of proposed uses, building or improvements.
 - 3) For 2 (D), seven (7) copies of the challenged Ordinance, Ordinance Section or Map must be attached to the Appeal.
 - 4) The application must be signed by all applicants; the term, "applicant" includes the owner of record and the individual or entity claiming to have an equitable interest in the premises.
 - 5) The person actually presenting the application before the Zoning Hearing Board must be one of the following:
 - a) Legal owner of the property
 - b) Equitable owner of the property
 - c) An attorney who is a member of the Pennsylvania Bar
 - 6) Documentation, whether it be a copy of the deed, agreement of sale, lease, or any other agreement confirming and describing the specific interest of the individual signing the application, should be attached to the application as Exhibit "A".
 - 7) Please see Current Fee Schedule for all applicable fees associated with the Zoning Hearing Board applications and charges to be submitted with the application.
- * Applicant will be required to pay any expenses incurred by the Township over and above these amounts.

If the applicant hereafter files an Appeal, or desires a transcript for any reason, he shall be liable for and deposit with the Township forthwith the Court Reporter's estimated charges for an original and two (2) copies of such transcript. If the actual charges differ from the estimate, the Township shall bill or make a refund to the applicant, as appropriate.



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- 8) Any building permit or any other permits to which applicant may be entitled as a result of a decision of the Zoning Hearing Board shall be applied for within six (6) months of the date thereof. Failure to do so will render the decision null and void.

- 9) All checks shall be made payable to the order of UPPER PROVIDENCE TOWNSHIP and must be submitted with the application.

APPLICATION NO. _____

FEE AMOUNT: \$ _____

DATE FILED: _____

TIME FILED: _____

HUGHES, KALKBRENNER & OZOROWSKI, LLP

ATTORNEYS AT LAW

SUITE 205

1250 COMMONS

1250 GERMANTOWN PIKE

PLYMOUTH MEETING, PENNSYLVANIA 19462

EDWARD J. HUGHES
GEORGE J. OZOROWSKI

TELEPHONE (610) 279-6800
TELECOPIER (610) 279-9390
E-MAIL: GJO@hkolaw.com

June 29, 2020

Mr. Mr. Geoffrey Grace
Zoning Officer
Upper Providence Township
1286 Black Rock Road
Phoenixville, PA 19460

**Re: Francis and Linda McCutcheon -
197 Kline Road**

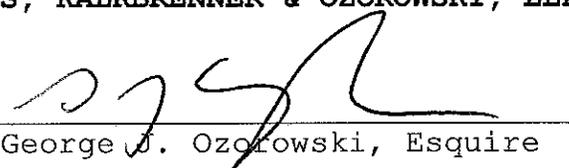
Dear Geoff:

Enclosed please find six (6) copies of the Application to the Zoning Hearing Board in reference to the captioned matter. Please substitute the enclosed Application for the previous Application sent in on or about June 1, 2020.

Thank you in advance for your anticipated cooperation.

Very truly yours,

HUGHES, KALKBRENNER & OZOROWSKI, LLP

By: 

George J. Ozorowski, Esquire

GJO:drc
Enclosures

HUGHES, KALKBRENNER & OZOROWSKI, LLP

ATTORNEYS AT LAW

SUITE 205

1250 COMMONS

1250 GERMANTOWN PIKE

PLYMOUTH MEETING, PENNSYLVANIA 19462

EDWARD J. HUGHES
GEORGE J. OZOROWSKI

TELEPHONE (610) 279-6800
TELECOPIER (610) 279-9390
E-MAIL: GJO@hkolaw.com

June 1, 2020

Mr. Mr. Geoffrey Grace
Zoning Officer
Upper Providence Township
1286 Black Rock Road
Phoenixville, PA 19460

**Re: Francis and Linda McCutcheon -
197 Kline Road**

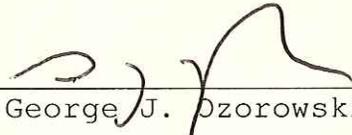
Dear Geoff:

Per my recent email, enclosed please find the original Application for Variance, nine (9) copies of the Site Plan prepared by Johnson Surveying, Inc. and a copy of the Applicant's Deed along with a check in the amount \$500.00 payable to Upper Providence Township. Kindly let me know when this matter will be scheduled for a hearing.

Thank you in advance for your anticipated cooperation.

Very truly yours,

HUGHES, KALKBRENNER & OZOROWSKI, LLP

By: 
George J. Ozorowski, Esquire

GJO:drc
Enclosures

**UPPER PROVIDENCE TOWNSHIP
ZONING HEARING BOARD
APPLICATION FOR VARIANCE**

****PLEASE NOTE THAT THE APPLICANT MUST SCHEDULE AN APPOINTMENT WITH THE ZONING OFFICER PRIOR TO SUBMITTING THE APPLICATION****

APPLICATION INFORMATION:

Name: Francis and Linda McCutcheon
Address: 197 Kline Road
Royersford, PA 19468
Phone: (610) 812-9375

PROPERTY INFORMATION

Address: 197 Kline Road, Royersford, PA 19468
Folio #: _____
Map Page/Parcel: 61-00-02833-00-4

Property was acquired on or before the 13th day of January, 2020
Property is zoned: R-2 Current use is: Residence Proposed Use: Residence

Attach to this application the following documents:

Proof of ownership* X Property Deed X 9 copies of site plan** _____

****Deed may be used as proof of ownership and a copy of the agreement of sale should be provided for equitable owners to be recognized as petitioner****

*****Site plan should be drawn to scale and show "existing conditions" as well as proposed conditions*****

Applicant petitions the Board for a variance from the following section(s) of the Zoning Code:

Chapter: 82 Section: 47 Subsection: b

Chapter: _____ Section: _____ Subsection: _____

Variance(s) sought are as follows: See Attachment.

Petitioner requests that the Zoning Hearing Board of Upper Providence Township set a day and time for a public hearing on this petition so that the Petitioner and others may be heard for or against the granting of this petition in accordance with the Upper Providence Township Code.

I hereby certify that the statements contained herein are true and correct to the best of my knowledge and belief.

Petitioner(s) signature:

Francis McCutcheon
Francis McCutcheon
Linda McCutcheon
Linda McCutcheon

Sworn to and Subscribed
Before me this 28th day
of May, 2020
My commission expires 2/11/2023

Dana R. Carbone
Notary Public signature

Commonwealth of Pennsylvania - Notary Seal
Dana R. Carbone, Notary Public
Montgomery County
My commission expires February 11, 2023
Commission number 1023164
Member, Pennsylvania Association of Notaries

-----FOR OFFICE USE ONLY-----

Date Received: _____ Fee: _____ Escrow: _____ Rec'd By: _____

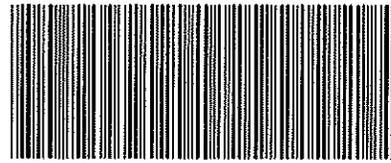
Check #: _____ Rec'd From: _____

In re: Zoning Appeal – Francis and Linda McCutcheon

Variances sought as follows: Applicants purchased the home in January 2020. They applied for and received a Permit to install a deck on the rear of the property and spent in excess of \$24,000.00 for the deck area. At the conclusion of the construction of the deck, Applicants learned that the property line was not where they thought it was located and that the new deck was constructed in the side yard setback. The neighboring property is approximately 200 ft. away and does not object to the variance request. Upon surveying the property to determine the deck issue, the Applicants further realized that the house was constructed in a way to be oriented towards the face of Kline Road; however, due to the unique shape of the lot caused the corner's of the house where partially constructed in the side yard setbacks. The Applicants had no knowledge of this encroachment when they purchased the property. The Applicants request and interpretation that the corners of the house are non-conforming pursuant to Article XXI, 182-172. In the alternative, the Applicant would request a variance from the side-yard setback for the house. The house was constructed in 1953 which pre-dates the Zoning Ordinance.



DEED BK 6169 PG 02490 to 02495
INSTRUMENT # : 2020006681
RECORDED DATE: 01/27/2020 10:23:14 AM



5727456-0021W

RECORDER OF DEEDS
MONTGOMERY COUNTY
Jeanne Sorg

One Montgomery Plaza
 Swede and Airy Streets ~ Suite 303
 P.O. Box 311 ~ Norristown, PA 19404
 Office: (610) 278-3289 ~ Fax: (610) 278-3869

MONTGOMERY COUNTY ROD

OFFICIAL RECORDING COVER PAGE

Page 1 of 6

Document Type: Deed	Transaction #: 5980598 - 3 Doc(s)
Document Date: 01/13/2020	Document Page Count: 5
Reference Info:	Operator Id: ebossard
RETURN TO: (Simplifile) Secured Land Transfer, LLC 75 Shannon Road Harrisburg, PA 17112 (717) 920-2541	PAID BY: SECURED LAND TRANSFER LLC

*** PROPERTY DATA:**

Parcel ID #:	61-00-02833-00-4
Address:	197 KLINE RD
	ROYERSFORD PA
	19468
Municipality:	Upper Providence Township (100%)
School District:	Spring-Ford Area

*** ASSOCIATED DOCUMENT(S):**

CONSIDERATION/SECURED AMT: \$305,000.00	DEED BK 6169 PG 02490 to 02495
TAXABLE AMOUNT: \$305,000.00	Recorded Date: 01/27/2020 10:23:14 AM
FEES / TAXES:	I hereby CERTIFY that this document is recorded in the Recorder of Deeds Office in Montgomery County, Pennsylvania.
Recording Fee:Deed \$86.75	
Additional Pages Fee \$2.00	
Additional Names Fee \$1.00	
Affordable Housing Pages \$2.00	
Affordable Housing Names \$1.00	
State RTT \$3,050.00	
Upper Providence Township RTT \$1,525.00	
Spring-Ford Area School District RTT \$1,525.00	 Jeanne Sorg Recorder of Deeds
Total: \$6,192.75	

Rev1 2016-01-29

PLEASE DO NOT DETACH

THIS PAGE IS NOW PART OF THIS LEGAL DOCUMENT

NOTE: If document data differs from cover sheet, document data always supersedes.

***COVER PAGE DOES NOT INCLUDE ALL DATA, PLEASE SEE INDEX AND DOCUMENT FOR ANY ADDITIONAL INFORMATION**



1515019-02559
 Tax Parcel: 61-00-02833-00-4
 Being known and Numbered as 197 Kline Road, Royersford, Pennsylvania

Prepared by:
 Title Services
 75 Shannon Road
 Harrisburg, PA 17112
 (717) 901-8342

MONTGOMERY COUNTY COMMISSIONERS REGISTRY
 61-00-02833-00-4 UPPER PROVIDENCE TOWNSHIP
 197 KLINE RD

Return to:
 Title Services
 75 Shannon Road
 Harrisburg, PA 17112
 (717) 901-8342

TAGUE CHELSEA L & MARY JO & SHULTZ BRYAN \$15.00
 B 005 L U 005 1101 01/21/2020 JW

Consideration: \$305,000.00

Local Taxes: \$3,050.00

State Taxes: \$3,050.00

THIS DEED,

MADE THE 13th day of January, in the year Two Thousand Twenty (2020)

BETWEEN Bryan Shultz and Chelsea L. Shultz, f/k/a Chelsea L. Tague, Husband and Wife and Mary-Jo Tague, an Adult Individual, Grantors

and

Francis M. McCutcheon and Linda M. McCutcheon, Husband and Wife, Grantees:

WITNESSETH, that in consideration of the sum of Three Hundred Five Thousand and 00/100 Dollars (\$305,000.00), in hand paid, the receipt whereof is hereby acknowledged, the said grantors do hereby grant and convey to the said grantee(s), as tenants by the entirety:

PREMISES "A"

ALL THAT CERTAIN lot or piece of land, Hereditaments and Appurtenances, SITUATE in the Township of Upper Providence, County of Montgomery and State of Pennsylvania, bounded and described according to a survey made April 25, 1952, Francis W. Wack, Registered Surveyor, as follows, to wit:

BEGINNING at an iron pin in the center line of the public road (33 feet wide) leading from the Trappe-Linfield Road to Limerick, known as Klines Road, said beginning point being North 46 degrees, 52 minutes East 200 feet from the intersection of the center line of the Trappe-Linfield Road and the public road leading to Limerick, a corner of this and land now or late of Harry M. Weidenbaugh, Jr., et ux; thence along said Weidenbaugh's land, North 68 degrees, 53 minutes West, 150 feet to an iron pin, a corner of land of Edgar R. Imes, of which this was part; thence along the same, the two following courses and distances: (1) North 46 degrees 52 minutes East 100 feet to an iron pin, a corner; (2) thence South 68 degrees 53 minutes East 150 feet to an iron pin the center line of the said public road; thence in and through the center line of the said public road, South 46 degrees, 52 minutes West 100 feet to the place of beginning.

PREMISES "B"

ALL THAT CERTAIN interior lot or piece of land, Hereditaments and Appurtenances, SITUATE in the Township of Upper Providence, County of Montgomery and State of Pennsylvania, bounded and described in accordance



with a plan thereof made by Earl R. Ewing, Registered Surveyor of Phoenixville, Pennsylvania on July 11, 1958, as follows, to wit:

BEGINNING at an iron pipe in the line dividing this from land now or late of Harry M. Weidenbaugh, Jr., et ux, at the distance of 150 feet measured on a course of North 68 degrees 53 minutes West from a point in the title line in the bed of Klines Road, (which latter point is measured along said title line in the bed of Klines Road a distance of 200 feet Northeasterly from its intersection with the center line of Linfield Road); thence extending along land now or late of said Harry M. Weidenbaugh, Jr., et ux, North 68 degrees 53 minutes West 68.57 feet to an iron pin in line of land now or late of Edgar R. Imes; thence extending along the same North 46 degrees 52 minutes East 100 feet to an iron pin in line of land now or late of Joseph E. Platco, et ux; thence extending along the same South 68 degrees 53 minutes East 68.57 feet to an iron pin in line of land now or late of F. D. Myers, et ux; thence extending along the same South 46 degrees 52 minutes West 100 feet to the first mentioned point and place of beginning.

BEING COUNTY PARCEL NUMBER 61-00-02833-00-4.

UNDER AND SUBJECT TO the same rights, privileges, agreements, right-of-ways, easements, conditions, exceptions, restrictions, and reservations as exist by virtue of prior recorded instruments, plans, Deeds of Conveyance, or visible on the ground.

BEING KNOWN AND NUMBERED as 197 Kline Road, Royersford, Pennsylvania 19468

BEING THE SAME PREMISES which H. John Henry and Helen M. Henry, by deed dated May 28, 2013 and recorded May 30, 2013 in the Office of the Recorder of Deeds in and for Montgomery County, Pennsylvania in Deed Book 5874, Page 2937, granted and conveyed unto Chelsea L. Tague and Bryan Shultz and Mary Jo Tague, as joint tenants with the right of survivorship, Grantors herein.

AND the said Chelsea L. Tague is now known as Chelsea L. Shultz.



And the said grantors hereby covenant and agree that they will warrant specially the property hereby conveyed.

IN WITNESS WHEREOF, said grantors have hereunto set their hands and seals the day and year first above written.

Signed, Sealed and Delivered
in the Presence of

(Witness)

Mary-Jo Tague

Mary-Jo Tague

STATE OF PENNSYLVANIA

COUNTY OF Allegheny _____ :

On this, the 13th day of January, 2020 before me, the undersigned officer, personally appeared Mary-Jo Tague, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument, and acknowledged that she executed same for the purposes therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Christina M. Kiefer

NOTARY PUBLIC

Commonwealth of Pennsylvania - Notary Seal
Christina M. Kiefer, Notary Public
Allegheny County
My commission expires September 28, 2023
Commission number 1244319
Member, Pennsylvania Association of Notaries



And the said grantors hereby covenant and agree that they will warrant specially the property hereby conveyed.

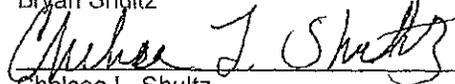
IN WITNESS WHEREOF, said grantors have hereunto set their hands and seals the day and year first above written.

Signed, Sealed and Delivered
In the Presence of

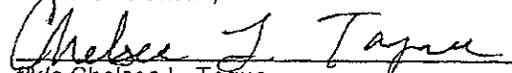
(Witness)



 Bryan Shultz



 Chelsea L. Shultz,



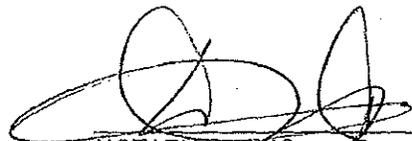
 f/k/a Chelsea L. Tague

STATE OF PENNSYLVANIA

COUNTY OF Montgomery

On this, the 17th day of January, 2020 before me, the undersigned officer, personally appeared Bryan Shultz and Chelsea L. Shultz, f/k/a Chelsea L. Tague, Husband and Wife, known to me (or satisfactorily proven) to be the persons whose names are subscribed to the within instrument, and acknowledged that they executed same for the purposes therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.



 NOTARY PUBLIC

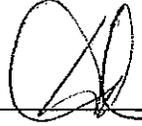
Commonwealth of Pennsylvania - Notary Seal
 DONNA M. RODENBAUGH, Notary Public
 Montgomery County
 My Commission Expires June 10, 2022
 Commission Number 1143819



I do hereby certify that the precise residence and complete post office address of the within grantee is:

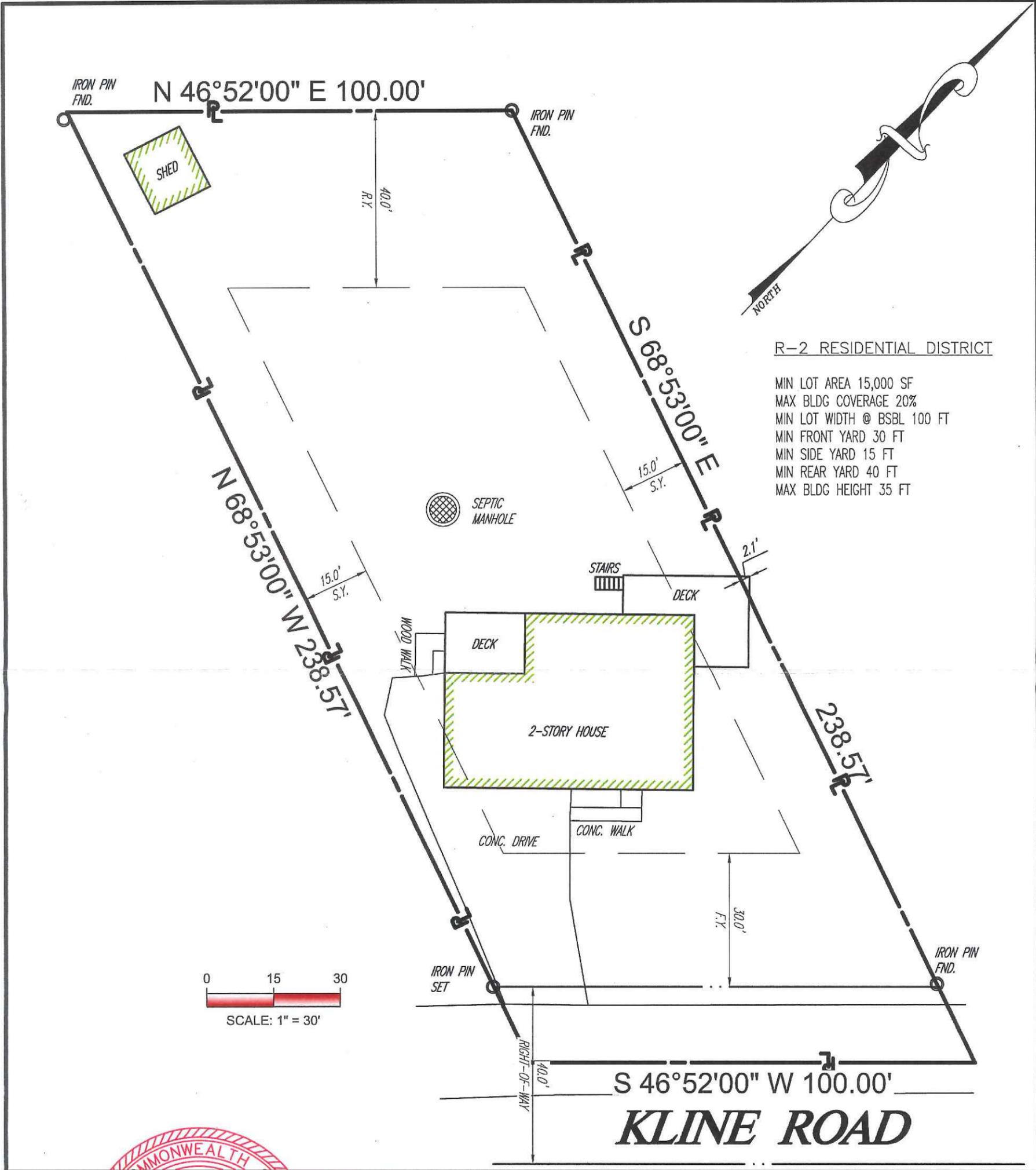
197 KLINE RD, ROYERSFORD, PA 19468

January 17, 2020.



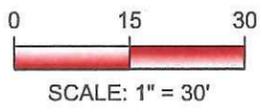
Agent for KEYSTONE TITLE SVCS





R-2 RESIDENTIAL DISTRICT

- MIN LOT AREA 15,000 SF
- MAX BLDG COVERAGE 20%
- MIN LOT WIDTH @ BSBL 100 FT
- MIN FRONT YARD 30 FT
- MIN SIDE YARD 15 FT
- MIN REAR YARD 40 FT
- MAX BLDG HEIGHT 35 FT



FIELD DATE:
04-10-20

PLAN DATE:
04-11-20

PROJECT NO.
MCCUTCHEN

DRAWN BY:
MMR



PREPARED BY:
Timothy B. Johnson

JOHNSON SURVEYING, INC.
6609 ROYAL ANCHORAGE WAY
PUTNAM STATION, NY 12861
610-390-0968

LICENSED IN NY, N.J. & PA.

PLAN TITLE:
PROPERTY SURVEY

PREPARED FOR:

FRANK MCCUTCHEON
197 KLINE ROAD
ROYERSFORD, PA. 19468
UPPER PROVIDENCE TOWNSHIP
MONTGOMERY COUNTY
COMMONWEALTH OF PENNSYLVANIA
PARCEL #61-00-02833-004