



**CITY OF NEWARK
DELAWARE**

July 6, 2020

TO: Mayor and Members of Council

VIA: Tom Coleman, City Manager *TC*
Mary Ellen Gray, Director of Planning and Development *MEG*

FROM: Michael Fortner, Planner II *MF*

RE: **Project # 20-06-02, Special Use Permit, 925 Rahway Drive, Construction of an uncovered deck in a Special Flood Hazard Area (SFHA)**

On Thursday, June 18, 2020, the Planning and Development Department received a special use permit application and supporting materials from Domenick and Karen Sicilia to construct an uncovered deck on their property at 925 Rahway Drive. The property is zoned RD/SFHA (one-family detached, 6250 sf minimum lot size/Special Flood Hazard Area (SFHA)). The uncovered deck was reviewed under Chapter 32 and 14A of the Municipal Code. The City's zoning code requires City Council approval for a special use permit to construct or place a structure in the SFHA.

The applicant has submitted the attached site plan and supporting materials concerning the request. The location of the proposed project and the SFHA is shown in the following "Exhibits" attached to this report:

- Exhibit A: Area floodplain map.
- Exhibit B: Floodplain map of property at 925 Rahway Drive.
- Exhibit C: Site plan for property at 925 Rahway Drive.
- Exhibit D: Uncovered deck construction diagram (1)
- Exhibit E: Uncovered deck construction diagram (2)
- Exhibit F: Uncovered deck construction diagram (3)

The Planning and Development Department's report on the special use permit application follows:

Background

The City of Newark regulates uses in flood hazard areas through City Code **Chapter 14A, Floodplains** and **Chapter 32, Zoning, ARTICLE XXVI. Special Provisions for Floodplains and Land Adjoining Floodplains**. The purpose of these regulations is to:

- (a) “Protect human life, health and welfare;
- (b) Encourage the utilization of appropriate construction practices in order to prevent or minimize flood damage in the future;
- (c) Minimize flooding of water supply and sanitary sewage disposal systems;
- (d) Maintain natural drainage;
- (e) Reduce financial burdens imposed on the community, its governmental units and its residents, by discouraging unwise design and construction of development in areas subject to flooding;
- (f) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (g) Minimize prolonged business interruptions;
- (h) Minimize damage to public facilities and other utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges;
- (i) Reinforce that those who build in and occupy special flood hazard areas should assume responsibility for their actions;
- (j) Minimize the impact of development on adjacent properties within and near flood prone areas;
- (k) Provide that the flood storage and conveyance functions of the floodplain are maintained;
- (l) Minimize the impact of development on the natural and beneficial functions of the floodplain;
- (m) Prevent floodplain uses that are either hazardous or environmentally incompatible; and
- (n) Meet community participation requirements of the National Flood Insurance Program as set forth in the Code of Federal Regulations at 44 C.F.R. Section 59.22.” (Sec 14A-2)

In addition, **Chapter 14A, Floodplains, ARTICLE II, Section 14A-9**, provides the following definitions which may be helpful to the discussion of this request:

- (c). “**Base flood**. The flood having a one percent chance of being equaled or exceeded in any given year; the base flood also is referred to as the 100-year flood or the 1%-annual-chance flood.

- (e). **“Base flood elevation.** The elevation of the base flood, including wave height, relative to the National Geodetic Vertical Datum (NGVD), North American Vertical Datum (NAVD) or other datum specified on the community’s Flood Insurance Rate Map.
- (ee). **“Special Flood Hazard Area.** The land in the floodplain subject flood hazards and shown on a Flood Insurance Rate Map as Zones A, AE, AO, and Zone VE. The term includes areas shown on other flood hazard maps that are specifically listed or otherwise described in Section 1.4.”

Zoning

The City’s zoning Code, **ARTICLE XXVI, Section 32-96 Use regulations for floodplain**, permits as a conditional use, approved by City Council with a special use permit, the improvement of an existing structure. It is specified that the improvement must have the lowest floor elevated 18” above the base flood elevation. An uncovered deck is a permitted use with conditions for floodproof materials, adequate anchoring to prevent flotation, and elevated 18” above the base flood elevation.

Special Use Permit

Zoning code Section 32-78, Special Use Permits, stipulates that Council may issue a special use permit provided the applicants demonstrate that the proposed use will not:

- "a. Affect adversely the health or safety of person(s) residing or working within the City of Newark boundaries or within one mile of the City of Newark boundaries and within the State of Delaware;
- b. Be detrimental to the public welfare or injurious to property or improvements within the City of Newark boundaries or within one mile of the City of Newark boundaries and within the State of Delaware; and
- c. Be in conflict with the purposes of the comprehensive development plan of the city.

In addition to the above considerations, Council is also provided guidance in considering a special use permit in the SFHA in Section 32-96 (a)(3) as follows:

“Factors to be considered for granting of special use permit. In determining the issuance of a special use permit, the city council shall, in addition to the requirements as provided in Section 32-78, consider the following:

- a. The danger to life and property due to increased flood heights or velocities caused by encroachments.
- b. The danger that materials may be swept on to other lands or downstream to the injury of others.
- c. The proposed water supply and sanitation systems and the ability of these systems to provide safe, reliable service during flooding conditions and to avoid disease; contamination and unsanitary conditions.
- d. The susceptibility of the proposed use to flood damage and the effect of such damage on the owner.
- e. The importance of the proposed use to the community.
- f. The requirements of the use for a waterfront location.
- g. The availability of alternative locations not subject to flooding for the proposed use.
- h. Measures to minimize reduction of floodwater storage.
- i. Floodproofing measures.
- j. Erosion-control measures.
- k. No new construction, substantial improvements, or other development (including fill) shall increase the water surface elevation of the base flood (100-year flood).
- l. Notification as required by the National Flood Insurance Program, be sent by the developer to New Castle County, the state flood insurance coordinating office, and the Federal Insurance Administration regarding proposed alteration or relocation of watercourses.
- m. Assurances with documenting evidence that the flood carrying capacity within the altered or relocated portion of any watercourses.
- n. All necessary federal and state permits have been received by the city.”

Departmental Comments

The City departmental comments are as follows:

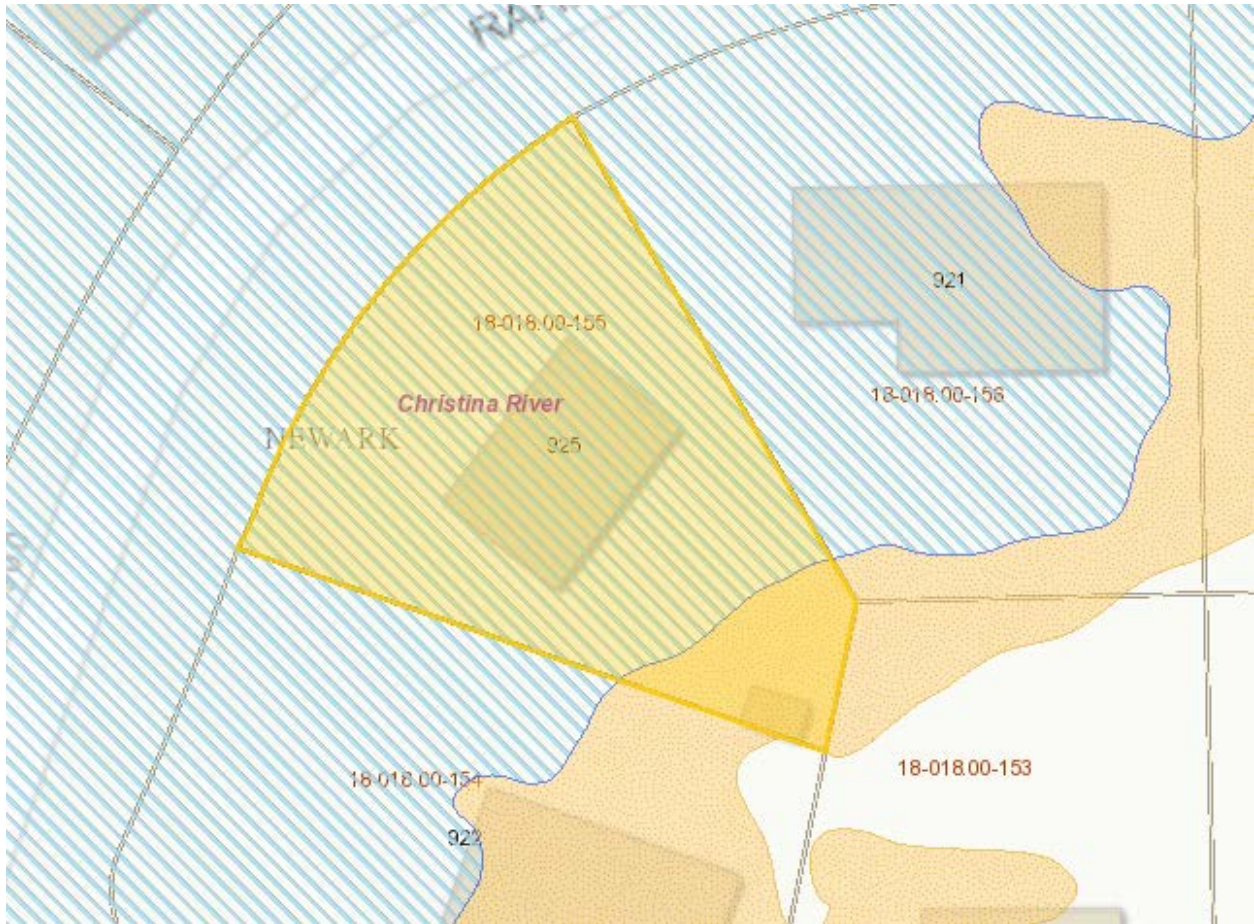
1. The Planning and Development Department notes that water depth at the proposed deck would be less than a foot during a 1% chance (100-year) flood. At over 7 feet above grade, the bottom of the proposed deck is over 6 feet above the base flood elevation (BFE). Because the proposed deck is elevated above the BFE and supported by posts that will be securely anchored to a concrete foundation, the Planning and Development Department indicates that the new construction will not increase the water surface elevation of the base flood, will not impede the flow of flood waters, and will not otherwise cause danger to life and property at, above or below the location along the floodway.
2. The Planning and Development Department notes that the proposed uncovered deck meets all RD zoning area requirements.

3. The other City operating Departments did not express any issues or concerns with this special use permit request.

Recommendation





Because the proposed special use permit will not conflict with the purposes of the Comprehensive Development Plan V, because the proposed structure will not be injurious to property or improvements in the surrounding area, and because the use can meet all zoning and special use permit requirements, the Planning and Development Department recommends that **City Council approve the special use permit for the uncovered deck, as requested, at 925 Rahway Drive.**

Exhibit B



FEMA Layers

FEMA- 1 PCT Annual Chance

-  A
-  AE
-  Regulatory Floodway AE
-  VE

FEMA- 0.2 PCT Annual Chance


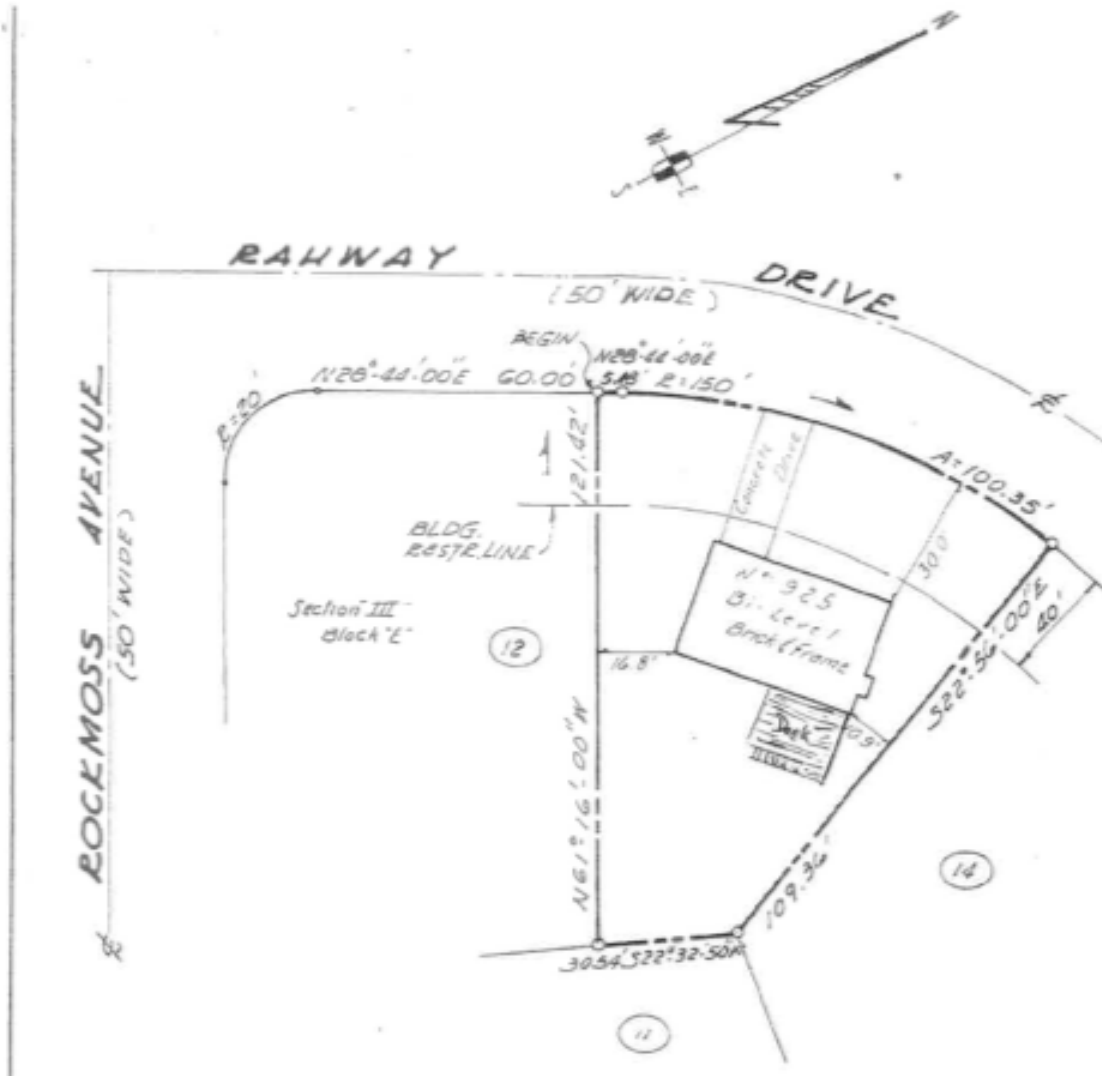
-  0.2 PCT Annual Chance

Exhibit C



Mortgage Inspection Survey

Property of

DOMENICK B. SICILIA & KAREN K. SICILIA

925 Rahway Drive

Lot No. 13, Block E, Section III

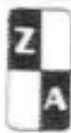
CHERRY HILL

City of Newark, New Castle County, Delaware

Scale: 1"=30'

Date: June 20, 1996

NOTE TO OWNER: Property corners are not staked.



ZEBLEY & ASSOCIATES, INC.
Professional LAND SURVEYORS AND SITE PLANNERS

1208 KING STREET, WILMINGTON, DELAWARE 19801
PHONE (302) 482-2828 • 478-2828

Project No. 686234

Location Map No.
18-018.00-155

Drawing No.
11547H

Exhibit D

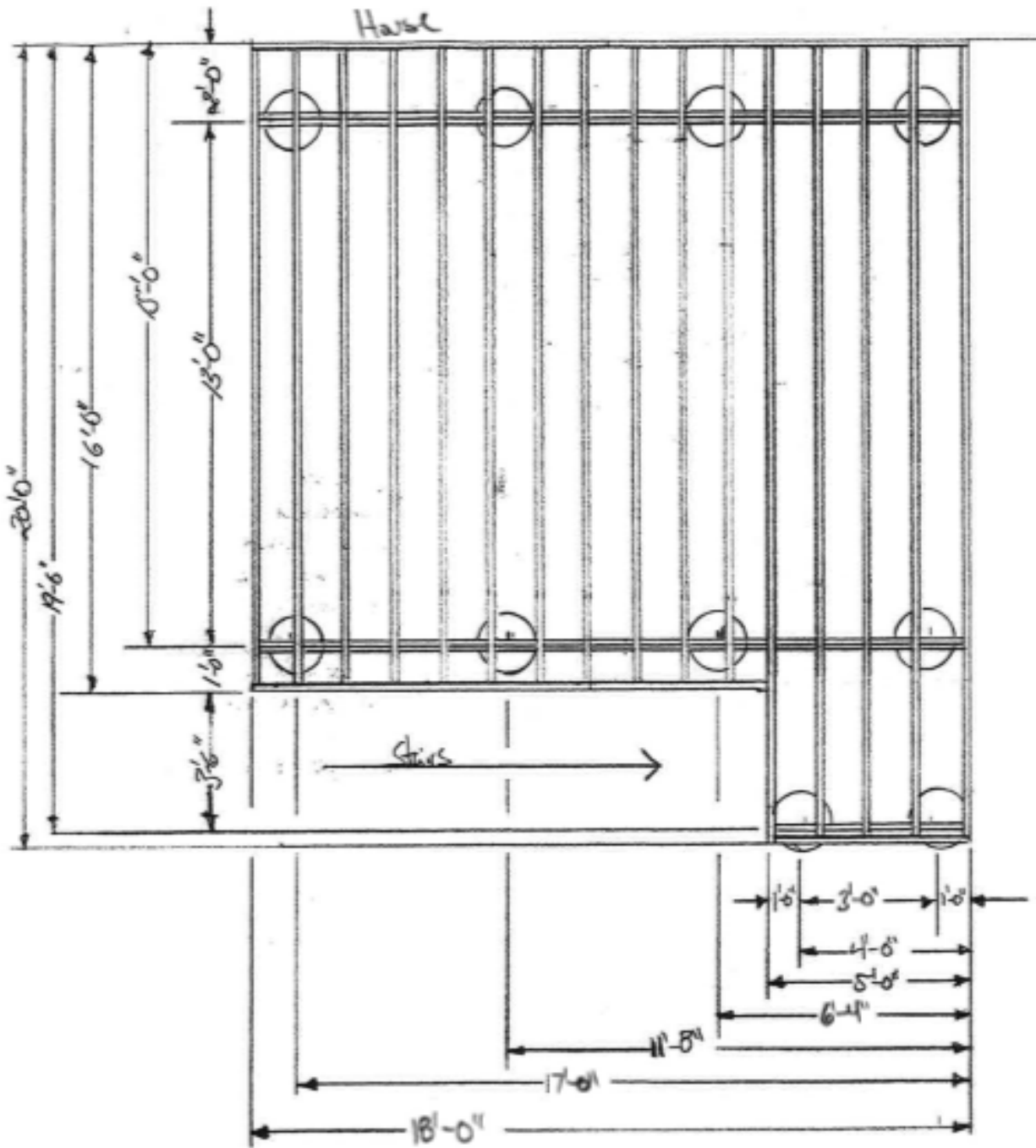


Exhibit E

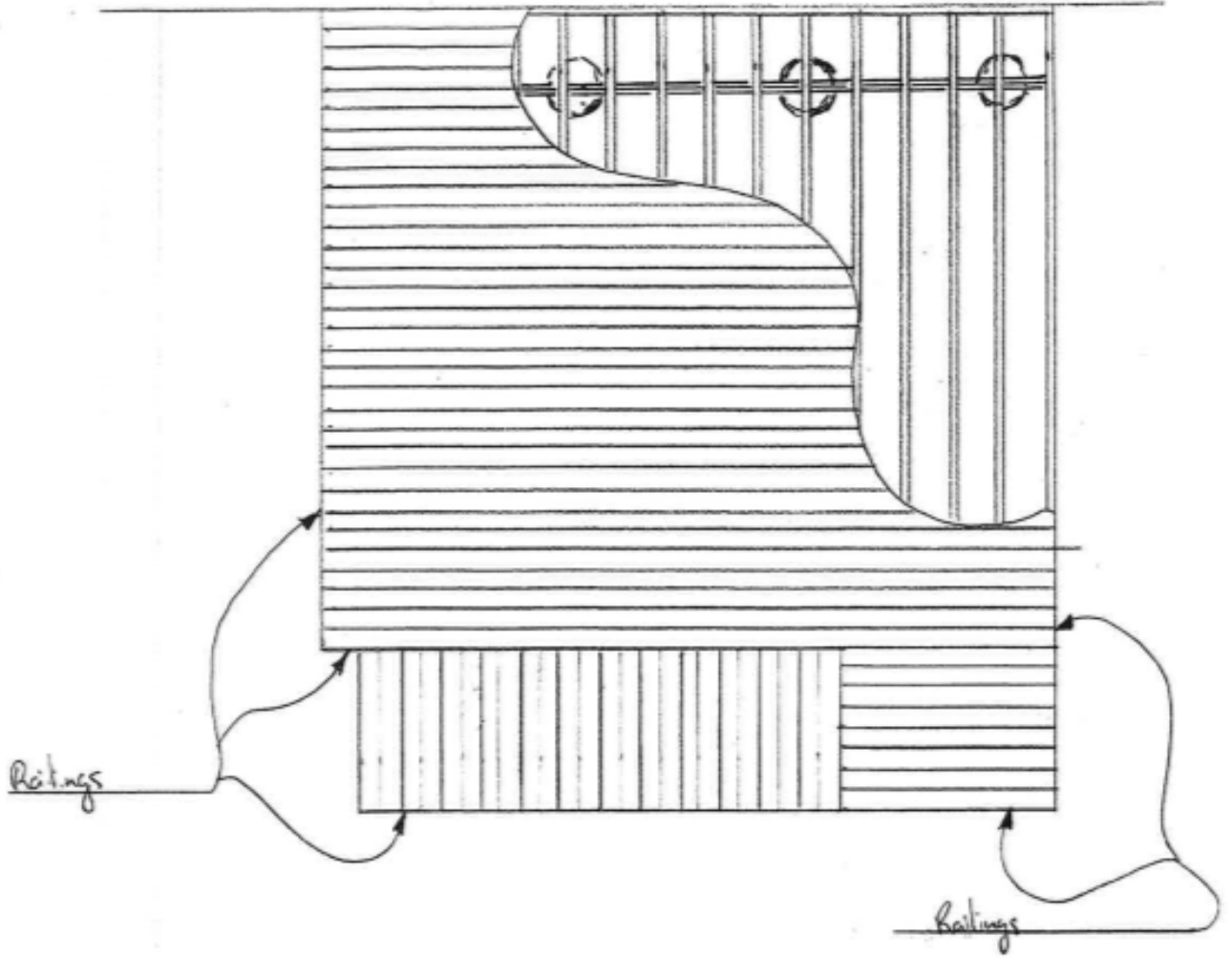


Exhibit F

