



County Commissioners Hearing Room

400 High Street
Chestertown, Maryland

AGENDA

Monday, August 15, 2022

5:00 p.m.

Members of the public are welcome to attend meetings in person or listen to the meeting via the audio-only phone number and conference identification number listed below.

1. Dial **1-872-239-8359**
2. Enter Conference ID: **103 789 546#**

Members of the public are asked to mute their phones/devices, until the Commission Chair opens the floor for comment.

MINUTES

July 18, 2022

APPLICATIONS FOR REVIEW:

- 22-28 Rayenne Chen – Variance – Development within the 100-foot buffer
4833 Deep Point Drive – Seventh Election District – Resource Conservation District (RCD)
- 22-47 Fred and Linda Lint – Variance
13910 Swantown Creek Road – First Election District – Critical Area Residential (CAR)
- 22-38 Gary Mundrake – Variance – Buffer
4884 Skinners Neck Road – Fifth Election District – Resource Conservation District (RCD)
- 22-39 Robert L. Hindman – Variance
Belchester Road, Map 6, Parcel 109 – Second Election District - Critical Area Residential (CAR)
- 22-40 Matthew and Gayle McCormick – Variance
Walnut Valley Court, Map 11, Parcel 52, Lot 6 – Third Election District – Critical Area Residential (CAR)
- 22-41 Kenah One Health Care Services – Special Exception
25000 Lambs Meadow Road – Third Election District – Village (V)

GENERAL DISCUSSION

APPLICANT OR REPRESENTATIVE MUST BE PRESENT

**APPLICANTS ARRIVING MORE THAN 10 MINUTES AFTER THE SCHEDULED HEARING WILL NOT BE HEARD
AND WILL BE RESCHEDULED AT THE APPLICANT'S EXPENSE.**

Meetings are conducted in Open Session unless otherwise indicated. All or part of the Board of Appeals meetings can be held in closed session under the authority of the MD Open Meetings Law by vote of the members. Breaks are at the call of the Chairman. Meetings are subject to audio and video recordings.

All applications will be given the time necessary to assure full public participation and a fair and complete review of all projects. Agenda items are subject to change due to cancellations.
Other business without assigned times may be discussed during the meeting.

MINUTES

Meeting: Kent County Board of Zoning Appeals
 Date: July 18, 2022
 Time: 5:00 P.M.
 Location: County Commissioners Hearing Room, 400 High Street, Chestertown, Maryland

Agenda Item	Sitting for the Board	Action Taken	Vote
<p>22-27 Tucker White – Special Exception – Oversized Accessory Structure</p> <p>The applicant is requesting a special exception to construct a pole building with a floor area of 1,968 square foot and a mean height of approximately 22 feet on his property located at 21779 Sunnyside Avenue, Rock Hall. The total height of the proposed building is approximately 23.5 feet. A special exception is required for accessory buildings that exceed floor area of 1,200 square feet or 17 feet in height on parcels less than 5 acres.</p> <p>The Kent County Planning Commission forwarded a favorable recommendation to the Board of Appeals in regard to this application.</p> <p><u>Applicant/Representative</u> Tucker White</p> <p>Mr. White was sworn in and presented a summary of his case.</p> <p><u>Public Comment</u> No correspondence was received on this application.</p> <p><u>Planning Staff</u> Mark Carper, Associate Planner, was sworn in.</p>	<p>Dr. Albert Townshend, Chairman</p> <p>Joan Horsey, Member</p> <p>John Massey, Member</p> <p>Mr. Christopher Drummond, Attorney for the Board</p> <p>David Hill, Alternate Member (observing)</p> <p>Carla Gerber, Acting Clerk</p>	<p>Mr. Massey moved to approve the application by Tucker White for a building with a footprint of 1,248 square feet and a floor area of 1,968 square feet at 21779 Sunnyside Avenue, Rock Hall. The decision is based on the findings of fact in the application and orally that the application is consistent with the Comprehensive Plan, there will be no unique adverse impacts to the neighborhood, and there is support for the application from the neighbors. This special exception will lapse after one year if no substantial construction is begun.</p> <p>The motion was seconded by Ms. Horsey; the motion passed with all in favor.</p>	<p>Unanimous Approval</p>

Agenda Item	Sitting for the Board	Action Taken	Vote
<p>22-28 Rayenne Chen – Buffer Variance</p> <p>The applicant is requesting a variance to demolish an existing principal dwelling and associated improvements and to construct a new principal dwelling and associated improvements within the 100-foot shoreline buffer. The property is located at 4833 Deep Point Drive, Chestertown.</p> <p>The Kent County Planning Commission forwarded a favorable recommendation to the Board of Appeals in regard to this application.</p> <p><u>Applicant/Representative</u> David Mallon, representative of the owner, was sworn in and presented a summary of the case.</p> <p><u>Public Comment</u> No correspondence was received on this application.</p> <p><u>Planning Staff</u> Mark Carper, Associate Planner, was sworn in.</p>	<p>Dr. Albert Townshend, Chairman</p> <p>Joan Horsey, Member</p> <p>John Massey, Member</p> <p>Mr. Christopher Drummond, Attorney for the Board</p> <p>David Hill, Member (observing)</p> <p>Carla Gerber, Acting Clerk</p>	<p>Ms. Horsey moved to table the application to the August meeting citing a need for additional information on the condition of the existing dwelling and alternate locations for the proposed dwelling.</p> <p>The motion was seconded by Mr. Massey; the motion passed with all in favor.</p>	<p>Unanimous Approval</p>
<p>MINUTES: May 16, 2022</p>		<p>Mr. Massey moved to approve the minutes. Ms. Horsey seconded the motion; the motion passed with all in favor.</p>	<p>Approved</p>
<p>Adjourn</p>		<p>Mr. Massey made a motion to adjourn the meeting, and Ms. Horsey seconded the motion; the motion passed with all in favor. The meeting adjourned at 6:15 p.m.</p>	<p>Unanimous Approval</p>

Dr. Albert Townshend, Chairman

/s/ Carla Gerber
Carla Gerber, Deputy Director

To: Kent County Planning Commission
From: Mark Carper, Associate Planner
Meeting: July 7, 2022
Subject: Rayenne Chen / Deep Point Farm
Variance – Buffer

Executive Summary

Request by Applicant

The applicant previously appeared before the Board on July 18 and was asked to return with additional information on the condition of the existing dwelling and alternative locations for the proposed dwelling.

Correspondence was received on this matter and is included following this Executive Summary.

Rayenne Chen is requesting a variance to demolish an existing principal dwelling and associated improvements and to construct a new principal dwelling and associated improvements within the 100-foot shoreline buffer.

Public Process

Per Article IX, Section 2.2 of the Kent County *Land Use Ordinance*, the Planning Commission shall review and make a recommendation to the Board of Appeals for variances. The Board of Appeals may authorize variances from ... buffer requirements so as to relieve practical difficulties or other injustices arising out of the strict application of the provisions of this Ordinance.

Summary of Staff Report

The 30.398-acre property is located at 4833 Deep Point Drive in the Seventh Election District, is zoned Resource Conservation District (RCD), and is comprised of tidal wetlands, forest, and working farmland. Tidal wetlands encompass much of the southern portion of this property, and the 100-foot buffer from that as well as the shore result in a very limited area outside of the buffer where development has occurred and is proposed. The buffer and tidal wetlands combined covers approximately 36% of the property.

Along with the demolition, reconfiguration, and rebuild of the existing dwelling, three outbuildings, the brick patios and walk, a wooden ramp, and fence are to be removed; the gravel drive is to be reconfigured; the septic system is to be upgraded; and an existing smokehouse is to be relocated to inside the buffer. The “Grieb Log Smokehouse” is listed in the Maryland Inventory of Historic Properties (K-246), the structure having been relocated in 1938 from Betterton to its current location. The shoreline bulkhead and a two-story detached garage are to remain. The proposed improvements include a 1 and 1/2-story single family dwelling with porches, new walks, and steps.

Staff Recommendation

Staff recommends forwarding a favorable recommendation to the Board of Appeals for approval of the buffer variance with the following conditions:

- A Buffer Management Plan is submitted for review and approval.
- The log smoke house is relocated to a place outside of the buffer rather than in the buffer.
- The septic system update is approved by the Kent County Health Department.
- The variance will lapse after the expiration of one year if no substantial construction in accordance with the plans herein presented occurs.

August 5, 2022

Dr. Albert Townsend
Chair of the Board of Zoning Appeals
400 High Street
Chestertown, MD 21620

Re: Rayenne Chen
4833 Deep Point Drive
Chestertown, MD 21620
Case #22-28

Dear Dr. Townsend and the Board of Zoning Appeals,

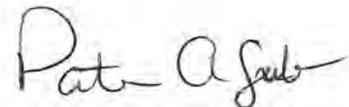
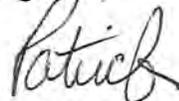
We are writing in regards to the above referenced Case #22-28 for Rayenne Chen's proposal for a variance to build a new home on the property adjacent to ours.

Please know that we support Ms. Chen's efforts to rehabilitate a property that means a lot to our family, not only because it is adjacent to our property, but, also, because the property has been in our family for such a long time. The property originally was purchased by our family in 1926 and has been in our family until the sale to Ms. Chen in 2021.

We are happy to have a neighbor who is excited to be a good steward and is anxious to build a new home in the area of the existing one that is in disrepair and not disrupt additional areas of the property as well as preserve nature as much as possible.

It is our hope that you will approve of the variance requested by Ms. Chen.

Regards,



Patrick and Patricia Grieb
4930 Deep Point Drive
Chestertown, MD 21620
410-708-5056
Pgrieb54@gmail.com

DEPARTMENT OF
PLANNING, HOUSING & ZONING
RECEIVED

8/8/2022

PRELIMINARY STAFF REPORT

TO: Kent County Planning Commission
SUBJECT: #22-28 – Rayenne Chen / Deep Point Farm
Variance – Buffer
DATE: June 28, 2022

DESCRIPTION OF PROPOSAL

Rayenne Chen is requesting a variance to demolish an existing principal dwelling and associated improvements and to construct a new principal dwelling and associated improvements within the 100-foot shoreline buffer. The 30.398-acre property is located at 4833 Deep Point Drive in the Seventh Election District, is zoned Resource Conservation District (RCD), and is comprised of tidal wetlands, forest, and working farmland. The buffer wraps around the point where the house is located because of the tidal wetlands, and much of the existing and proposed improvement are or will be within the buffer. The buffer and tidal wetlands combined covers approximately 36% of the property.

Along with the demolition, reconfiguration, and rebuild of the existing dwelling, three outbuildings, the brick patios and walk, a wooden ramp, and fence are to be removed; the gravel drive is to be reconfigured; the septic system is to be upgraded; and an existing smokehouse is to be relocated to inside the buffer. The “Grieb Log Smokehouse” is listed in the Maryland Inventory of Historic Properties (K-246), the structure having been relocated in 1938 from Betterton to its current location. The shoreline bulkhead and a two-story detached garage are to remain. The proposed improvements include a 1 and 1/2-story single family dwelling with porches, new walks, and steps. The proposed dwelling will be approximately 20 feet further from the shoreline than the existing dwelling.

The limit of disturbance for the demolition, reconfiguration, and rebuild is to be 28,242 square feet (SF), 26,947 SF within the buffer and 1,475 SF outside of the buffer. Upgrade of the septic system is to include 3,455 SF of temporary disturbance in the buffer and 6,623 SF outside of the buffer. The exiting lot coverage is 27,728 SF, 7,077 SF are to be removed (7,051 SF in the buffer), and 8,419 SF are to be added, with a net increase of 1,342 SF. The proposed lot coverage in the buffer is 7,986 SF and outside of the buffer is 407 SF.

APPLICABLE LAWS

- I. Development in the Buffer
 - A. *Comprehensive Plan*: “Maintain, enforce and if necessary, strengthen existing regulations for floodplains and buffers.” (Page 86)
 - B. *Applicable Law*: Article V, Section 2.7.B.3.a of the Kent County Land Use Ordinance establishes the standards for development in the buffer:
 - i. Development activities, including structures, roads, parking areas, and other impervious surfaces, mining, and related activities, or septic systems shall not be permitted within the minimum 100-foot buffer. This restriction does not apply to water-dependent facilities that meet the criteria set forth below.
 - C. *Staff and TAC Comments*: Development activity of this nature is not permitted in the buffer; therefore, the applicant has applied for a buffer variance to demolish an existing principal dwelling and associated improvements and to construct a new principal dwelling along with associated improvements

II. Variance

- A. *Applicable Law*: Article IX, Section 2.2, Variances of the Kent County *Land Use Ordinance* authorizes the Board of Appeals to grant variances from the yard (front, side, or rear), height, bulk, parking, loading, shoreline cliff, 15% slope, pier length, impervious surface, stream protection corridor, and buffer requirements so as to relieve practical difficulties or other injustices arising out of the strict application of the provisions of this Ordinance.

...

In the Critical Area, for a variance of 15% slope, impervious surface, or buffer requirements, it being the purpose of this provision to authorize the granting of variation only for reasons of demonstrable and exceptional unwarranted hardship as distinguished from variations sought by applicants for purposes or reasons of convenience, profit, or caprice.

In order to grant a *variance*, the Board of Appeals must find all of the following:

- a. That the *variance* will not cause a substantial detriment to adjacent or neighboring property.
- b. That the *variance* will not change the character of the neighborhood or district.
- c. That the *variance* is consistent with the *Comprehensive Plan* and the general intent of this Ordinance.
- d. That the practical difficulty or other injustice was caused by the following:
 - i. Some unusual characteristic of size or shape of the property.
 - ii. Extraordinary topographical or other condition of the property.
 - iii. The use or *development* of property immediately adjacent to the property, except that this criterion shall not apply in the *Critical Area*.
- e. That the practical difficulty or other injustice was not caused by the applicants own actions.
- f. That within the *Critical Area* for *variances* of 15% slope, impervious surface, or buffer requirements:
 - i. The granting of a *variance* will be in harmony with the general spirit and intent of the *Critical Area Law* and the *regulations* adopted by Kent County
 - ii. That the granting of a *variance* will not adversely affect water quality or adversely impact fish, wildlife, or *plant habitat*.
 - iii. That the application for a *variance* will be made in writing with a copy provided to the *Critical Area Commission*.
 - iv. That the strict application of the Ordinance would produce an *unwarranted hardship*.
 - v. Such hardship is not shared generally by other properties in the same zoning district and the same vicinity.
 - vi. The authorization of such *variance* will not be a substantial detriment to adjacent property and that the character of the district will not be changed by the granting of the *variance*.
 - vii. That a literal interpretation of this Ordinance deprives the applicant of rights commonly enjoyed by other properties in similar areas within the *Critical Area* of Kent County.
 - viii. That the granting of a *variance* will not confer upon an applicant any special privilege that would be denied by this Ordinance to other lands or *structures*.
 - ix. Due to special features of a site, or special conditions or circumstances peculiar to the applicant's land or *structure*, a literal enforcement of this Ordinance would result in *unwarranted hardship* to the applicant.
 - x. The Board of Appeals finds that the applicant has satisfied each one of the *variance* provisions.
 - xi. Without the *variance*, the applicant would be deprived of a use of land or a *structure* permitted to others in accordance with the provisions of the critical area program.
- g. In considering an application for a *variance*, the Board shall consider the reasonable use of the entire parcel or lot for which the *variance* is requested.

- h. In considering an application for a *variance*, the Board of Appeals shall presume that the specific *development* activity in the Critical Area that is subject to the application and for which a *variance* is required does not conform with the general purpose and intent of this Ordinance and the Critical Area Law.
 - i. The Board may consider the cause of the *variance* request and if the *variance* request is the result of actions by the applicant, including the commencement of *development* activity before an application for a *variance* has been filed.
- B. *Staff and TAC Comments*: The granting of the variance will not adversely impact adjacent or neighboring properties, nor will it alter the character of the district. The residential portion of the property is visible only by water, and the surrounding area is comprised of woodlands, active agricultural fields, widely dispersed single-family homes, and shoreline.

The practical difficulty is derived from the buildable location outside of the tillable area being confined to an elevated portion of the shoreside point, mostly out of the 100-year floodplain and the tidal wetlands. This condition was not caused by the applicant's actions. The granting of the variance will not negatively impact water quality or adversely impact habitat. The Critical Area Commission has reviewed the application and does not oppose the variance. Strict application of the Ordinance would produce an unwarranted hardship, denying the applicant reasonable and significant use of the property. The hardship is not shared by other properties in the vicinity, and the granting of the variance would not be a detriment to adjacent properties or the character of the neighborhood.

Permanent disturbance to the buffer must be mitigated at a ratio of 3:1, and the new lot coverage outside of the buffer must be mitigated at a ratio of 1:1. Mitigation for the permanent disturbance in the buffer is 16,907 SF ((7,986 SF of lot coverage in the buffer x 3 = 23,958) – 7,051 SF of lot coverage in the buffer to be removed). Mitigation for the new lot coverage outside of the buffer is 407 SF. The total mitigation and enhancement required in the buffer is 17,314 SF. All temporary disturbances must be returned to pre-construction conditions.

STAFF RECOMENDATION

Staff recommends forwarding a favorable recommendation to the Board of Appeals for approval of the buffer variance to demolish, reconfigure, and rebuild a single-family dwelling along with surrounding porch, and walks and steps; to remove the existing sheds, brick patios and walk, wooden ramp, and fence; to reconfigure the existing gravel drive; and to upgrade the septic system. Staff further recommends the following:

- A Buffer Mitigation/Enhancement Plan is submitted for review and approval that includes species, size, spacing and schedule of plantings, maintenance of plantings to ensure survivability, and description of the measures to return the temporarily disturbed areas to pre-construction conditions. This plan should include the placement of mitigation, to the extent possible and as recommended by the Critical Area Commission, between the improvements and the shoreline. A letter of credit will be required.
- The historic "Grieb Log Smokehouse" be relocated to a place outside of the buffer rather than in the buffer, as proposed. The mitigation requirements may be adjusted in accordance with the change.
- The septic system update is approved by the Kent County Health Department.
- The variance will lapse after the expiration of one year if no substantial construction in accordance with the plans herein presented occurs.



July 8, 2022

Dr. Al Townsend
Kent County Board of Appeals
400 High Street
Chestertown, MD 21620

RE: 22-28 Rayenne Chen / Deep Point Farm – Variance (Development in Buffer)

Dear Dr. Townsend,

At its meeting on July 7, 2022, the Kent County Planning Commission reviewed the application of Rayenne Chen, requesting a variance to demolish an existing principal dwelling and associated improvements and to construct a new principal dwelling and associated improvements within the 100-foot shoreline buffer. The 30.398-acre property is located at 4833 Deep Point Drive in the Seventh Election District, is zoned Resource Conservation District (RCD), and is comprised of tidal wetlands, forest, and working farmland. The buffer wraps around the point where the house is located because of the tidal wetlands, and much of the existing and proposed improvements are or will be within the buffer. The buffer and tidal wetlands combined covers approximately 36% of the property.

The practical difficulty is derived from the buildable location outside of the tillable area being confined to an elevated portion of the shoreside point, mostly out of the 100-year floodplain and the tidal wetlands.

Following discussion, the Planning Commission voted to make a favorable recommendation for the variance to demolish an existing principal dwelling and associated improvements and to construct a new principal dwelling and associated improvements within the 100-foot shoreline buffer. The Planning Commission recommends the following conditions should the Board of Appeals grant approval:

- A Buffer Mitigation/Enhancement Plan is submitted for review and approval and the plan should include the placement of mitigation, to the extent possible and as recommended by the Critical Area Commission, between the improvements and the shoreline. A letter of credit will be required.
- The historic “Grieb Log Smokehouse” be relocated to a place outside of the buffer rather than in the buffer.
- The septic system update is approved by the Kent County Health Department.
- The variance will lapse after the expiration of one year if no substantial construction in accordance with the plans herein presented occurs.

The decision was based on the following findings of fact:

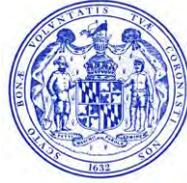
- Article V, Section 2.7.B.3.a of the Kent County Land Use Ordinance established the standards for development in the buffer.
- The variance will not cause a substantial detriment to adjacent or neighboring property.
- The variance will not change the character of the neighborhood or district.
- The variance is consistent with the Comprehensive Plan and general intent of the Land Use Ordinance.
- The practical difficulty was not caused by the applicant’s own action.
- The applicant purchased a waterfront property with a waterfront home in a deteriorated condition and will replace the dwelling with one of similar tone and size, placing it in a similar location more removed from the shoreline. Placing it elsewhere would cause a greater negative impact to the property, including increasing development in active farmland.

Sincerely,
Kent County Planning Commission

Joe Hickman
Chair

cc: David Mallon, Architect

Larry Hogan
Governor
Boyd K. Rutherford
Lt. Governor



Charles C. Deegan
Chairman
Katherine Charbonneau
Executive Director

**STATE OF MARYLAND
CRITICAL AREA COMMISSION
CHESAPEAKE AND ATLANTIC COASTAL BAYS**

June 23, 2022

Mr. Mark Carper
Kent County
Department of Planning, Housing and Zoning
400 High Street
Chestertown, MD 21620

**RE: Chen Residence/Deep Point Farm
Buffer Variance Request
4833 Deep Point Drive, Chestertown
(Tax Map 56, Parcel 33)
Local Case #22-28**

Dear Mr. Carper:

Thank you for submitting information regarding the project referenced above for review and comment. The applicant requests a Buffer variance to redevelop an existing single-family dwelling and the associated amenities. The proposed project is located on a grandfathered 30.4-acre parcel zoned Resource Conservation District (RCD) and located on lands designated Resource Conservation Area (RCA), the majority of which consist of tidal wetlands, forest, and working farmland. The limit of disturbance (LOD), comprising 28,422 square feet (sf), is the location of the existing and proposed dwelling and associated amenities. The LOD is located almost entirely in the Buffer, which is expanded due to tidal wetlands. Within the LOD, the existing improvements include a single-family dwelling to be demolished, reconfigured, and rebuilt, a smokehouse to be relocated outside of the Buffer, a gravel driveway to be reconfigured, a septic system to be upgraded and a shoreline bulkhead and a 2-story detached garage to remain. In addition, the existing shed, barn, brick patios and walk, wooden ramp, wire corn cribs and fence will be removed. The proposed improvements include a 1 and ½-story single-family dwelling and porches, walks and steps, and a gravel driveway. Additionally, no clearing is proposed. The existing lot coverage is 27,728 sf (2.1%). The lot coverage to be removed is 7,077 sf. The new lot coverage proposed is 8,419 sf. The proposed net lot coverage is 29,070 sf (2.2%).

We do not oppose this variance. When hearing this case, this office recommends that the Board of Appeals consider:

1. The proposed reconfigured improvements will be no further waterward from the shoreline compared to the existing improvements, and the dwelling will be the same in

Mr. Carper
Chen/Deep Point Farm Buffer Variance
June 23, 2022
Page 2

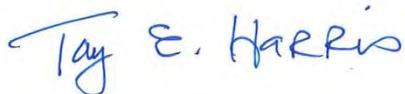
size and located 20± feet further landward from the shoreline compared to the existing dwelling.

2. Trees and vegetation are located between the garage and both the existing and proposed dwelling. If the reconfiguration of improvements leads to fatally damaging or clearing of trees and/or vegetation in the expanded Buffer, mitigation is required at a ratio of 1:1 for the area damaged or cleared.
3. Due to the proximity of the dwelling and associated amenities to the shoreline, it is recommended that mitigation be emplaced between the improvements and the shoreline to the extent possible for the purposes of enhancing the expanded Buffer functions.

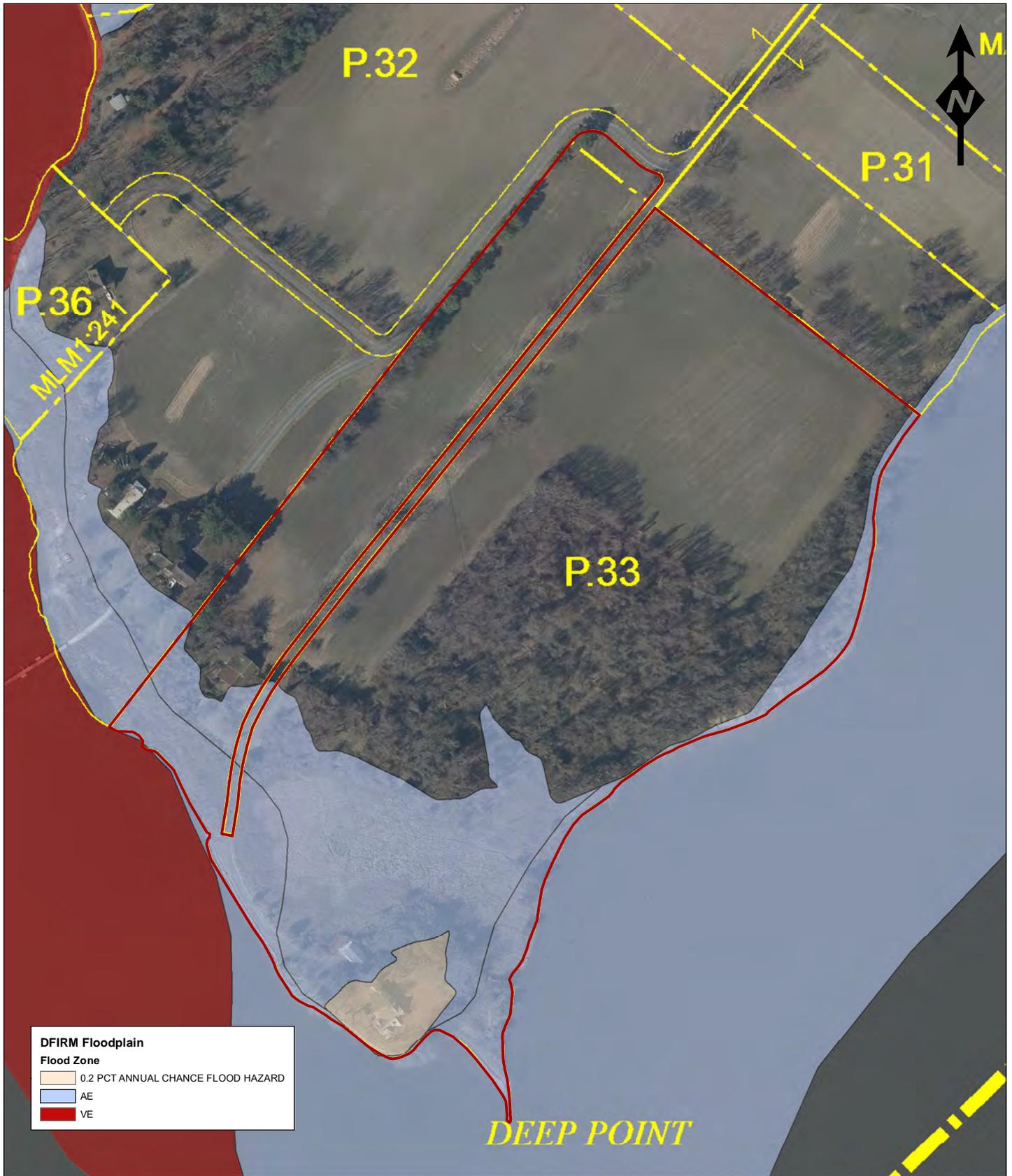
If the variance is approved, permanent disturbance to the expanded Buffer must be mitigated at a rate is 3:1. Additionally, new lot coverage located outside of the expanded Buffer must be mitigated at a rate of 1:1, to be emplaced within the expanded Buffer. Furthermore, all temporary impacts must be returned to pre-construction conditions. The applicant shall provide a Buffer Management Plan to the County for review and approval that includes species, size, spacing and schedule of plantings, maintenance of plantings to ensure survivability requirements, as well as a description of the measures to return temporarily disturbed areas to pre-construction conditions.

If you have any questions, please feel free to contact me at 410-260-2481 or tay.harris@maryland.gov. Again, thank you for the opportunity to provide comments.

Sincerely,

A handwritten signature in blue ink that reads "Tay E. Harris". The signature is written in a cursive style with a large initial "T" and "H".

Tay E. Harris
Natural Resources Planner
KC 218-22



Source: Kent County Department of Planning, Housing, and Zoning.
 Aerial taken Spring 2019. Map prepared June 2022.

1 inch = 250 feet

BOARD OF APPEALS APPLICATION

Kent County Department of Planning, Housing and Zoning

Kent County Government Center
400 High Street • Chestertown, MD 21620
410-778-7423 (phone) • 410-810-2932 (fax)

IN THE MATTER OF THE APPLICATION OF:

(Name, Address and Telephone Number of Applicant)

David W. Mallon (Agent)

619 Severn Avenue, Suite 202

Annapolis, MD 21403

410-571-3604

Email: davidm@kimmelstudio.com

For Office Use Only:

Case Number/Date Filed: _____

Filed by: _____

Applicant: _____

Planning Commission: _____

Date of Hearing: _____

Parties Notified: _____

Notice in Paper: _____

Property Posted: _____

Please provide the email of the one person who will be responsible for responding to comments. Only this person will be contacted by staff and will be the person responsible for forwarding the comments or requests for additional information to any other interested parties. EMAIL: davidm@kimmelstudio.com

TO THE KENT COUNTY BOARD OF APPEALS: In accordance with Article _____ Section _____

of the Kent County Zoning Ordinance, as amended, request is hereby made for:

_____ Appealing Decision of Kent County Zoning Administrator Variance

_____ Special Exception _____ Nonconforming Use

DESCRIPTION OF PROPERTY INVOLVED:

Located on: (Name of Road, etc.) 4833 Deep Point Drive

In the 7th Election District of Kent County.

Size of lot or parcel of Land: 30.398 Ac.

Map: 56 Parcel: 33 Lot #: - Deed Ref: 1169/332

List buildings already on property: 2 Story Main Dwelling, 2 Story Garage, Run-down Sheds & Barn and wire corn cribs.

If subdivision, indicate lot and block number: N/A

If there is a homeowner's association, give name and address of association: N/A

PRESENT ZONING OF PROPERTY: RCD - Resource Conservation District

DESCRIPTION OF RELIEF REQUESTED: (List here in detail what you wish to do with property that requires the Appeal Hearing.) The demolition of the existing main dwelling & associated improvements and the construction of a new main dwelling and associated improvements within the 100' shoreline buffer.

If appealing decision of Zoning Administrator, list date of their decision: N/A

Present owner(s) of property: Rayenne Chen Telephone: 610-639-7993

If Applicant is not owner, please indicate your interest in this property: N/A

Has property involved ever been subject to a previous application? No

If so, please give Application Number and Date: _____

PLEASE FILL IN BELOW, OR ATTACH HERETO, A SKETCH OF THIS PROPERTY.

List all property measurements and dimensions of any buildings already on the property. (See Variance Plan)

Put distances between present buildings or proposed buildings and property lines. (See Variance Plan)

NAMES OF ADJOINING PROPERTY OWNERS:

Owner(s) on the North: William C. Grieb & Catherine M. Grieb

Owner(s) on the South: Chester River

Owner(s) to the East: Chester River

Owner(s) to the West: William C. Grieb & Catherine M. Grieb

Homeowners Association, name and address, if applicable: N/A

BY SIGNING THIS APPLICATION, I GRANT MEMBERS AND ALTERNATE OF THE BOARD OF ZONING APPEALS THE RIGHT TO ENTER ONTO THE PROPERTY FOR THE PURPOSE OF VIEWING THE SITE OF THE APPLICATION OR APPEAL.

David Mallon / AGENT FOR
KIMMEL STUDIO / PAYENNE CHEN:
Signature of Owner/Applicant/Agent or Attorney OWNER Date 4/20/2022

Please file this form at 400 High Street, Chestertown, MD 21620 accompanied by **\$350.00** filing fee made payable to the **County Commissioners of Kent County**. The filing fee for appeals of a Zoning Administrator's decision is \$250.00. If you have any questions, please contact the Clerk at 410-778-7467.

NOTICE: Neither the Board of Appeals nor the Planning Department is required to make out this Application. If the Planning Department assists you, it cannot be held responsible for its contents.

Applicants arriving more than 10 minutes after the scheduled hearing will not be heard and will be re-scheduled at the applicant's expense.

Variance Narrative

Chen Residence – Deep Point Farm

4833 Deep Point Drive, Chestertown, MD, 21620

06/10/2022

Name of Landowner: Rayenne Chen

Name of Representative: David Mallon, Kimmel Studio Architects

Tax Map: 0056 Parcel Number: 0033 Grid: 001F

Zone: RCD (Resource Conservation District)

Project Description:

- The 33.3 acre property is located at the end of Deep Point Drive on the Chester River and is zoned Resource Conservation District (RCD).
- The parcel predominately consists of Agricultural farmland and Tidal Wetland and the primary dwelling and accessory storage/garage structures are currently located within the 100' buffer.
- Variance is being requested to the 100' shoreline development buffer, to raze the existing dwelling and rebuild a new dwelling within the buffer.
- The new building will match the existing dwelling in size, bedroom/bathroom count and character.
- The proposed building and covered porch will not be located closer to the water than the existing building's footprint. There will be no further expansion toward the waterline.

Variance Standards:

- a. The property is mostly covered by wetlands and farmland and the proposed development area is within the existing residential development portion of the property and is only visible by water. The proposed construction will remain a small, 1 ½ story, single family residence, maintaining its current use and zoning. Authorization of such variance will not be a substantial detriment to the adjacent or neighboring properties.
- b. The proposed residence is designed with an aesthetic to be complementary with local building typology. The construction project also calls for removing the existing, damaged sheds surrounding the existing garage that are

- unusable and detract from the nature of the property and neighborhood. The building size and proportion as well as the materials selected for the construction of the project will not change or alter the character of the district.
- c. The requested Variance to the 100' Shoreline Development Buffer is consistent with the comprehensive plan and the general intent of the Ordinance. The new dwelling will be more energy-efficient, visually pleasing, and will add to the value of the tax base. In addition, it encourages the protection of the existing agricultural fields and will be developed using bay sensitive grading, stormwater management and native plantings. Within RCD, it is encouraged to re-use existing buildings. Although the variance is for a new dwelling, the applicant is keeping the existing garage. The decision was made to raze and rebuild a new dwelling due to the existing house and foundation being partially unstable and containing building materials that are beyond their effective lifespan and repair. In addition, the applicant would like to protect and re-use some of the existing historic features such as the Grieb Log Smokehouse. The relocation of the 18-th century structure will be a focal point of the property and landscape.
 - d. The practical difficulty or other injustice is caused or influenced by some of the following:
 - i. The property consists of an existing residential buildable area located on a small point of land bound by water and tidal marsh lands on all sides. The residential buildable area is confined to the point to allow for maximizing the raised, tillable area for tenant farmers.
 - ii. The prime / safest buildable area for the dwelling to avoid rising water levels and high tides is the land located on the highest elevation on the point. We are proposing moving the replacement dwelling away from the water to the furthest extent possible while maintaining a location within the high elevation area. The existing dwelling to be demolished is located 28.4' and 54.3' from MHW; the proposed dwelling will be 48.6' and 79.8' from MHW. This effectively relocates the new principal dwelling 20.2' and 25.5' further away from the water creating more impervious surface area between the house and water.

- e. The practical difficulty was not caused by the owner's own actions and existed prior to Ms. Chen purchasing the property in 2021. The existing property was developed and the primary residence built-in 1905, with later additions and improvements according to Maryland Tax Assessment Records.

- f. Other Site & Development factors to consider:
 - i. The property water service is currently provided via a private well. The existing well is to remain, and the proposed new dwelling is to tie-in to the existing water supply system.
 - ii. The proposed type of sewer service is by a private sewage disposal system. The system is currently comprised of a 750-gallon single compartment concrete septic tank, distribution box and a sub-surface disposal field. The existing system will be abandoned / removed as required and a new system will be installed. A new 1500 gallon BAT septic tank system will be installed (in close proximity to the new house) with a pump tank to transfer the effluent to a new conventional drain field located in the farmland, outside of the 100' buffer. Although we have received positive Perc data, the system is still under review and design with the Health Dept and the SRA needs to be platted and recorded.
 - iii. Without the variance, the applicant would be deprived of the use of land, or a structure permitted to others in accordance with the provisions of the critical area program.
 - iv. This variance will not adversely affect the water quality or adversely impact fish, wildlife, or plant habitat.
 - v. The location of the new dwelling will not increase the effect of noise, vibration, smoke, odor, fire, and glare on the neighboring properties.

- g. The proposed development schedule is as follows:
 - a. Summer 2022: Variance Approval – Grading & Building Permit
 - b. Fall 2022: Construction Start
 - c. Winter 2023: Landscape Start
 - d. Fall 2023: Construction complete

CHEN RESIDENCE - DEEP POINT FARM

VARIANCE PACKAGE

06/13/2022

KIMMEL
STUDIO

ARCHITECTS

PROPERTY OWNER: RAYENNE A. CHEN
 PROPERTY ADDRESS: 4833 DEEP POINT DRIVE
 CHESTERTOWN, MARYLAND 21620
 DEED REFERENCE: 1169/332
 PLAT REFERENCE: 1/113

SITE NOTES
 ZONING CLASSIFICATION: RCD (RESOURCE CONSERVATION DISTRICT)
 SETBACKS:
 FRONT: 50'
 SIDE: 15'
 REAR: 30'
 MEAN HIGH WATER: 100'
 TIDAL WETLANDS: 100'
 NON-TIDAL WETLANDS: 100'
 MAXIMUM STRUCTURE HEIGHT: 38'
 MINIMUM LOT WIDTH: 75'

THE PROPERTY SHOWN HEREON LIES ENTIRELY WITHIN THE CHESAPEAKE BAY CRITICAL AREA AS SHOWN ON THE KENT COUNTY CRITICAL AREA MAPS IN ACCORDANCE WITH KENT COUNTY BILL No. 1-2021, ADOPTED APRIL, 2021.

MEAN HIGH WATER WAS NOT ESTABLISHED BY THIS SURVEY. MEAN HIGH WATER IS DEFINED BY ELEVATION REFERENCED TO A TIDAL BENCH MARK. THE SHORELINE WAS LOCATED TO THE EDGE OF TIDAL VEGETATION AND TO THE EDGE OF TIDAL WATER STAINS ON RIPRAP. THE BOUNDARY IS SUBJECT TO CHANGE DUE TO NATURAL CAUSES AND IT MAY NOT REPRESENT THE ACTUAL LOCATION OF THE LIMIT OF TITLE.

THE WETLANDS SHOWN HEREON WERE DELINEATED BY SEAN CALLAHAN, A QUALIFIED PROFESSIONAL WITH LANE ENGINEERING, LLC AND SURVEY LOCATED ON NOVEMBER 9, 2021.

LANE ENGINEERING, LLC HAS REVIEWED THE MAPPED SOILS AND TOPOGRAPHIC INFORMATION FOR THIS PROPERTY RELATED TO POSSIBLE BUFFER EXPANSION REQUIREMENTS DUE TO STEEP SLOPES AND/OR HYDRIC AND HIGHLY ERODIBLE SOILS AND HAS DETERMINED THAT EXPANSION SHOWN HEREON IS REQUIRED UNDER THE STATE AND COUNTY REGULATIONS AS OF THE DATE OF THIS PLAN. HOWEVER, A DETERMINATION BY CARLA GERBER FROM KENT COUNTY PLANNING & ZONING REQUESTED THE REMOVAL OF THE EXPANDED BUFFER FOR HYDRIC SOILS SO THE PLAN IS CONSISTENT WITH KENT COUNTY INTERPRETATION.

THE IMPROVEMENTS SHOWN HEREON WERE FIELD LOCATED BY LANE ENGINEERING, LLC ON NOVEMBER 9, 2021.

THE LOCATION OF THE SEPTIC SYSTEM SHOWN HEREON WAS TAKEN FROM THE BEST AVAILABLE RECORDS PROVIDED BY THE KENT COUNTY HEALTH DEPARTMENT AND IS APPROXIMATE ONLY.

THE TREE LINE SHOWN HEREON WAS TAKEN FROM THE 2019 KENT COUNTY AERIALS AND IS APPROXIMATE ONLY.

FLOOD DATA

A PORTION OF THE PROPERTY SHOWN HEREON IS LOCATED IN THE NATIONAL FLOOD INSURANCE PROGRAM (NFIP) SPECIAL FLOOD HAZARD AREA (SFHA) SUBJECT TO INUNDATION BY THE 1% ANNUAL CHANCE FLOOD. THE PROPERTY IS MAPPED IN THE "X" (SHADED), "AE" (EL. 6'), "AC" (EL. 7'), AND "VE" (EL. 8') FLOOD ZONES AS SHOWN ON THE FEDERAL INSURANCE RATE MAPS FOR COMMUNITY NO. 240045, MAP NO. 24029C0405D FOR KENT, MARYLAND. THE 1% ANNUAL CHANCE FLOOD (100-YEAR FLOOD), ALSO KNOWN AS THE BASE FLOOD, IS THE FLOOD THAT HAS A 1% CHANCE OF BEING EQUALLED OR EXCEEDED IN ANY GIVEN YEAR. THE SFHA IS THE AREA SUBJECT TO FLOODING BY THE 1% ANNUAL CHANCE FLOOD. THE SFHA INCLUDES ZONES A, AE, AH, AO, AR, A99, V & VE. THE BASE FLOOD ELEVATION (BFE) IS THE WATER SURFACE ELEVATION OF THE 1% ANNUAL CHANCE FLOOD. FLOOD INSURANCE MAY BE REQUIRED FOR STRUCTURES LOCATED IN THE SPECIAL FLOOD HAZARD AREA.

FLOOD ZONE LEGEND
 ZONES AE & VE - 1% ANNUAL CHANCE FLOOD
 ZONE X (SHADED) - 0.2% ANNUAL CHANCE FLOOD
 ZONE X - AREA OUTSIDE THE 0.2% ANNUAL CHANCE FLOOD

THE FLOOD DATA SHOWN HEREON IS BASED ON AVAILABLE MAPPED AND/OR DIGITAL INFORMATION AND IS DEPICTED AS DIRECTED AND REQUIRED BY FEDERAL, STATE AND LOCAL REGULATIONS. IT IS SUBJECT TO DATA INACCURACIES AND REGULATORY CHANGE AND SHOULD BE VERIFIED PRIOR TO FINALIZING DEVELOPMENT OR IMPROVEMENT PLANS FOR THE SUBJECT LAND.

VARIANCE REQUEST SUMMARY

THE APPLICANT IS PROPOSING TO DEMOLISH THE EXISTING DWELLING, ASSOCIATED IMPROVEMENTS AND PART OF THE DRIVEWAY AND TO CONSTRUCT A NEW DWELLING, ASSOCIATED IMPROVEMENTS AND GRAVEL DRIVEWAY & PARKING

THE NEW DWELLING WILL BE 20.2'± FURTHER FROM MHW.

EXISTING DWELLING, ASSOCIATED IMPROVEMENTS AND DRIVEWAY IN BUFFER

DWELLING, ASSOCIATED IMPROVEMENTS AND DRIVEWAY = 11,632 SF

PROPOSED DWELLING, ASSOCIATED IMPROVEMENTS AND DRIVEWAY & PARKING IN BUFFER

DWELLING, ASSOCIATED IMPROVEMENTS AND DRIVEWAY & PARKING = 7,986 SF

CRITICAL AREA LOT COVERAGE CALCULATIONS: ENTIRE SITE

TOTAL AREA IN CRITICAL AREA = 30.398 AC± OR 1,324,129 SF

15% LOT COVERAGE THRESHOLD = 15% OF 30.398 AC± = 198,619 SF

EXISTING LOT COVERAGE

2 STORY FRAME DWELLING	=	2,812 SF
GRAVEL DRIVEWAY	=	18,252 SF
SHEDS	=	1,536 SF
BRICK PATIOS AND WALK	=	396 SF
WOOD RAMP	=	50 SF
STEPS	=	22 SF
CONCRETE BULKHEAD	=	375 SF
CONCRETE APRON	=	87 SF
BILCO DOORS	=	27 SF
BARN	=	3,857 SF
WIRE CORN CRIBS	=	314 SF
TOTAL EXISTING LOT COVERAGE	=	27,278 SF 2.1%

EXISTING LOT COVERAGE TO BE REMOVED

2 STORY FRAME DWELLING (INCLUDING SMOKEHOUSE)	=	2,812 SF
GRAVEL DRIVEWAY	=	2,596 SF
SHEDS	=	1,176 SF
PATIOS, WALKS & RAMPS	=	466 SF
BILCO DOORS	=	27 SF
TOTAL EXISTING LOT COVERAGE TO BE REMOVED	=	7,077 SF

PROPOSED LOT COVERAGE

DWELLING & PORCHES	=	3,977 SF
RELOCATED SMOKEHOUSE	=	118 SF
GRAVEL DRIVEWAY	=	3,556 SF
WALKS & STEPS	=	768 SF
TOTAL PROPOSED LOT COVERAGE	=	8,419 SF

TOTAL LOT COVERAGE (EXISTING LESS REMOVED + PROPOSED) = 29,070 SF 2.2%

ALLOWABLE LOT COVERAGE REMAINING = 169,549 SF

NET INCREASE IN LOT COVERAGE = 1,342 SF

LOT COVERAGE CALCULATIONS: 100' BUFFER

TOTAL AREA IN 100' BUFFER = 10,930 AC± OR 476,091 SF

EXISTING LOT COVERAGE

2 STORY FRAME DWELLING	=	2,802 SF
GRAVEL DRIVEWAY	=	6,332 SF
SHEDS	=	1,350 SF
BRICK PATIOS AND WALK	=	379 SF
WOOD RAMP	=	50 SF
STEPS	=	22 SF
CONCRETE BULKHEAD	=	375 SF
CONCRETE APRON	=	87 SF
BARN	=	208 SF
BILCO DOORS	=	27 SF
TOTAL EXISTING LOT COVERAGE	=	11,632 SF 2.4%

EXISTING LOT COVERAGE TO BE REMOVED

2 STORY FRAME DWELLING (INCLUDING SMOKEHOUSE)	=	2,802 SF
GRAVEL DRIVEWAY	=	2,596 SF
SHEDS	=	1,176 SF
PATIOS, WALKS & RAMPS	=	450 SF
BILCO DOORS	=	27 SF
TOTAL EXISTING LOT COVERAGE TO BE REMOVED	=	7,051 SF

PROPOSED LOT COVERAGE

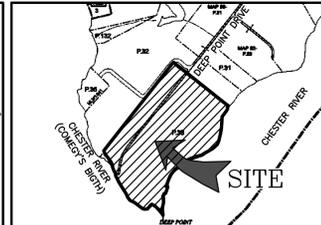
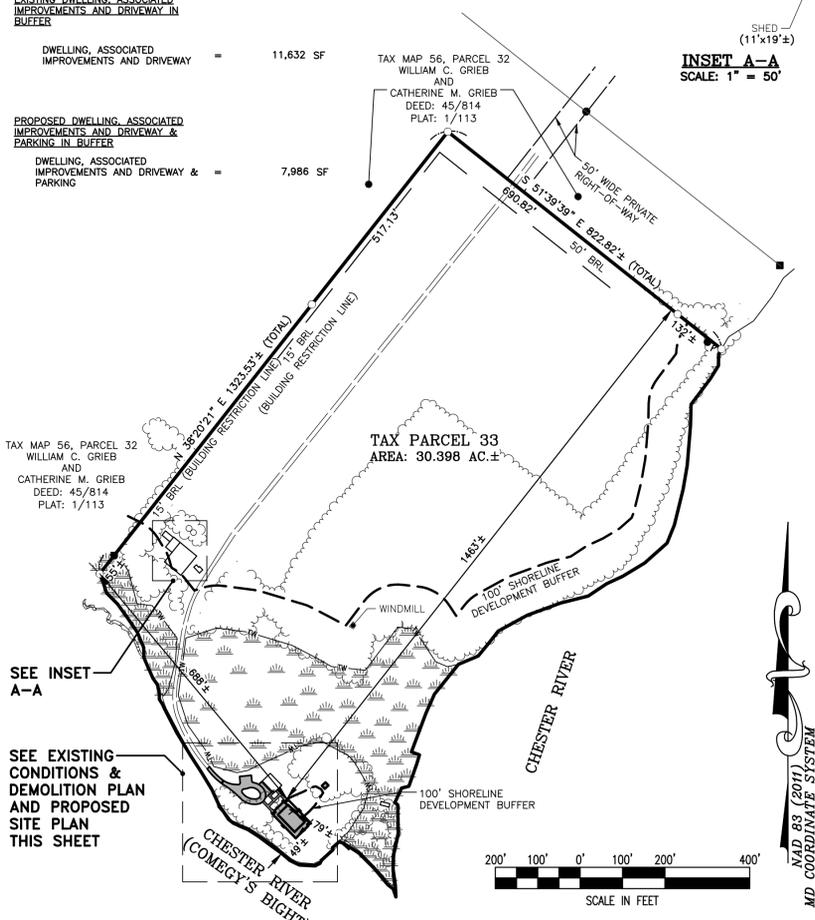
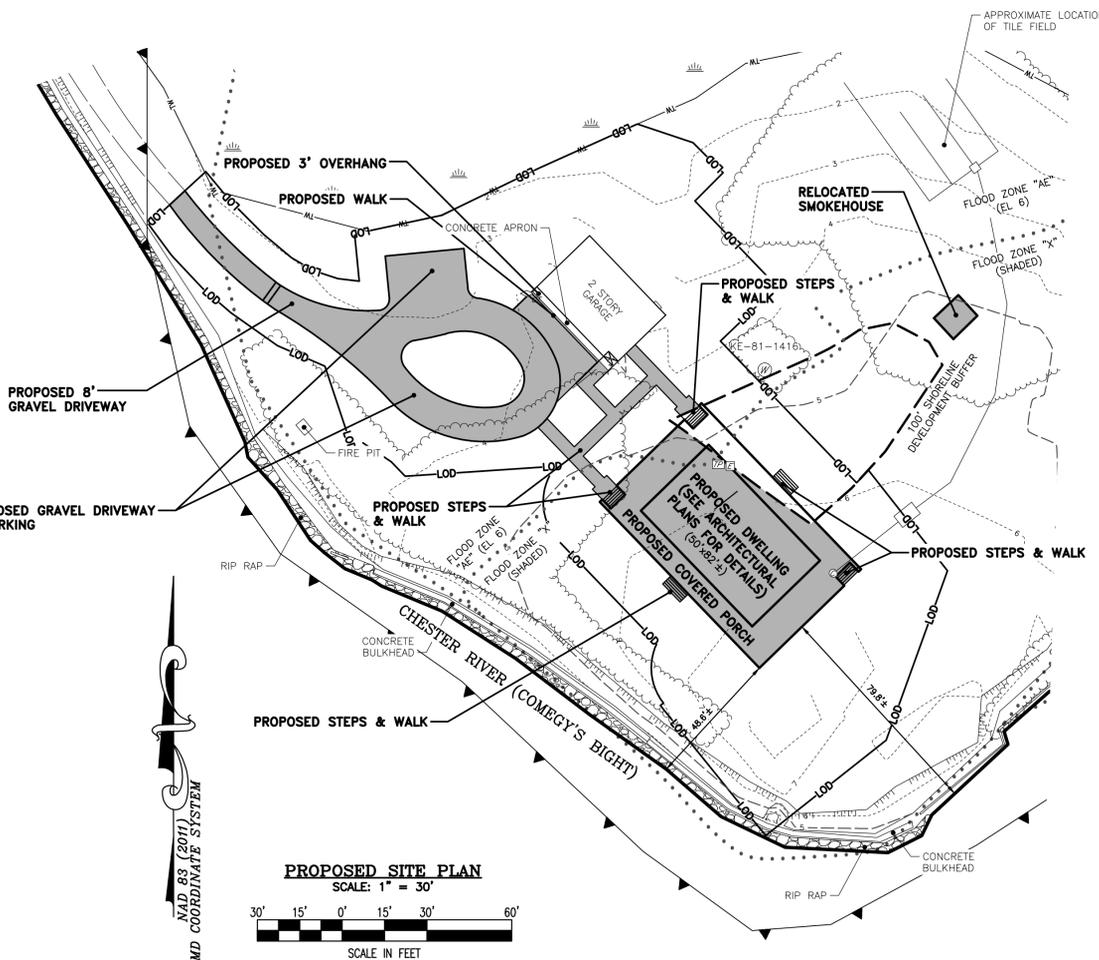
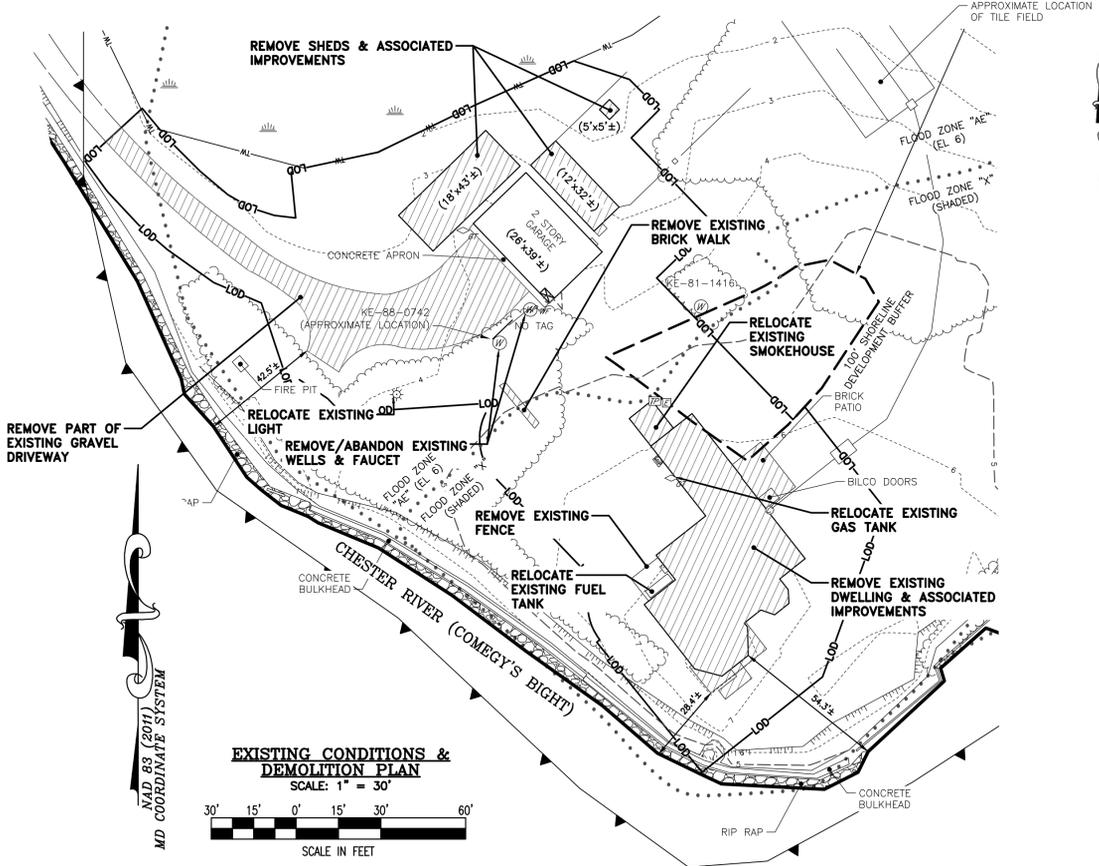
DWELLING & PORCHES	=	3,616 SF
RELOCATED SMOKEHOUSE	=	118 SF
GRAVEL DRIVEWAY	=	3,556 SF
WALKS & STEPS	=	696 SF
TOTAL PROPOSED LOT COVERAGE	=	7,986 SF

TOTAL LOT COVERAGE (EXISTING LESS REMOVED + PROPOSED) = 12,567 SF 2.6%

NET INCREASE IN LOT COVERAGE = 935 SF

LEGEND

- COMPUTED POINT
- IRON ROD FOUND
- CONCRETE MONUMENT FOUND
- ☼ LAMP POLE
- ⊕ ABOVE GROUND GAS TANK
- ⊖ ELECTRIC TRANSFORMER
- ⊕ TELEPHONE PEDESTAL
- ⊕ DRINKING WATER SUPPLY WELL
- ⊕ WATER FAUCET
- ⊕ TIDAL WETLAND
- ⊕ TIDAL WETLAND
- LIMIT OF MODERATE WAVE ACTION
- ▨ PROPOSED LOT COVERAGE IN BUFFER
- ▨ LIMITS OF DISTURBANCE = 28,422 SF
- ▨ LOT COVERAGE TO BE REMOVED



VICINITY MAP
 SCALE: 1" = 1,000'
 SCALE IN FEET

REVISIONS			
No.	DATE	DESCRIPTION	BY

WARNING!!
 THE LOCATIONS OF EXISTING UTILITIES AS SHOWN ON THIS PLAN ARE APPROXIMATE ONLY. THE CONTRACTOR SHALL VERIFY THE LOCATION AND DEPTH OF EXISTING UTILITIES PRIOR TO BEGINNING CONSTRUCTION. THE QUANTITIES SHOWN ON THIS PLAN ARE FOR INFORMATIONAL AND PERMITTING PURPOSES ONLY. THE CONTRACTOR SHALL VERIFY ALL QUANTITIES TO HIS OWN SATISFACTION PRIOR TO BEGINNING CONSTRUCTION. THE CONTRACTOR SHALL TEST PIT AND LOCATE EXISTING UNDERGROUND UTILITIES PRIOR TO THE BEGINNING OF ANY WORK ON-SITE. THE CONTRACTOR SHALL NOTIFY DEPT. OF PUBLIC WORKS OF ANY POSSIBLE CONFLICT AND REQUEST THE RELOCATION OF THE EXISTING UNDERGROUND UTILITIES BEFORE BEGINNING ANY WORK ON-SITE. THE CONTRACTOR SHALL BE RESPONSIBLE FOR ANY RELOCATION EXPENSE.



Lane Engineering, LLC
 Established 1986
 Civil Engineers • Land Planning • Land Surveyors
 117 Bay St., Easton, MD 21601 (410) 822-8003
 15 Washington St., Centreville, MD 21613 (410) 221-0818
 354 Pennsylvania Ave., Centreville, MD 21617 (410) 758-2095

PLANS ARE ISSUED FOR REVIEW ONLY
PLANS ARE NOT APPROVED FOR CONSTRUCTION

VARIANCE PLAN
 FOR
 4833 DEEP POINT DRIVE

IN THE SEVENTH ELECTION DISTRICT
 KENT COUNTY, MARYLAND
 TAX MAP 56, GRID 1F, PARCEL 33

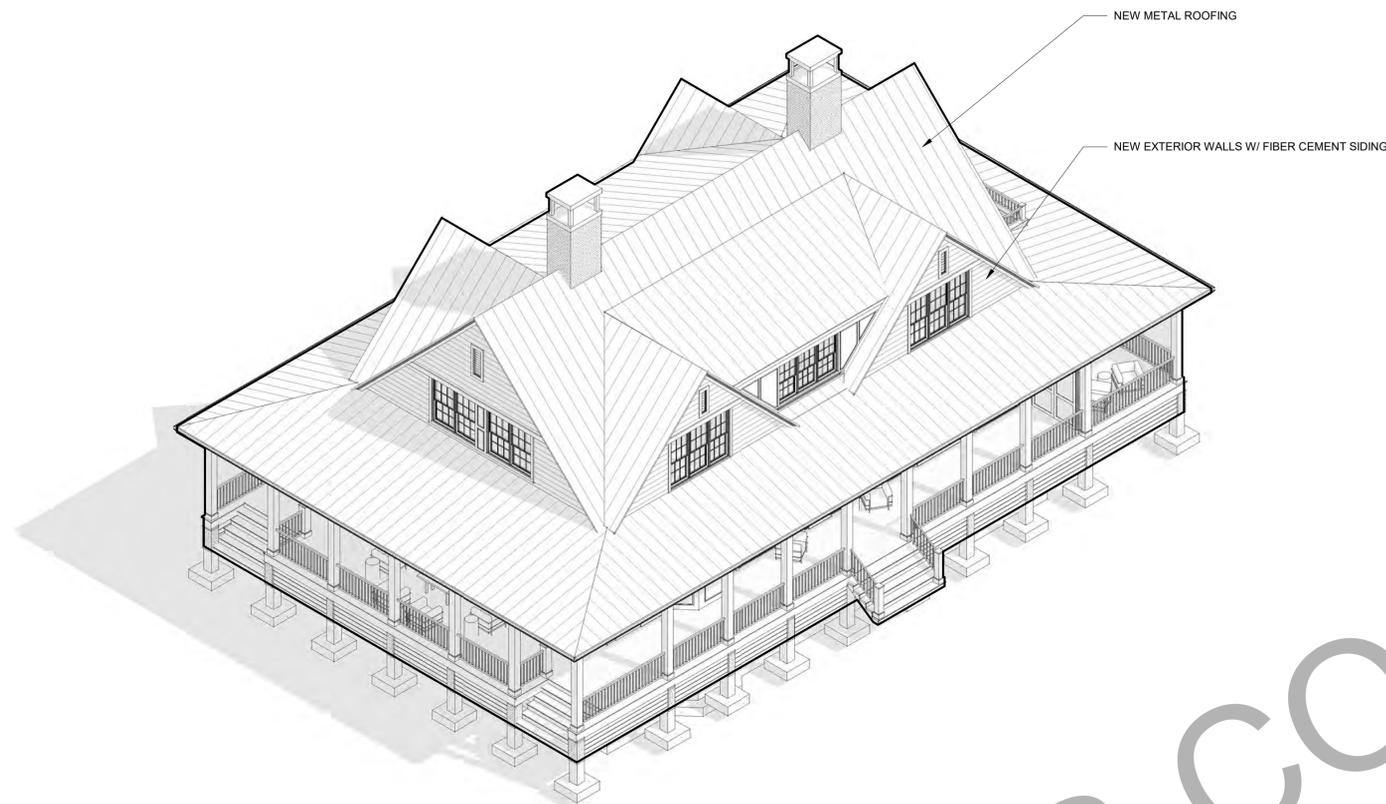
ISSUED FOR: AGENCY REVIEW DATE: 06/08/2022 BY: BCE

SHEET No. 1 OF 1 DATE: 06/08/2022
 SCALE: AS NOTED JOB No. 210523
 FILE No. D096

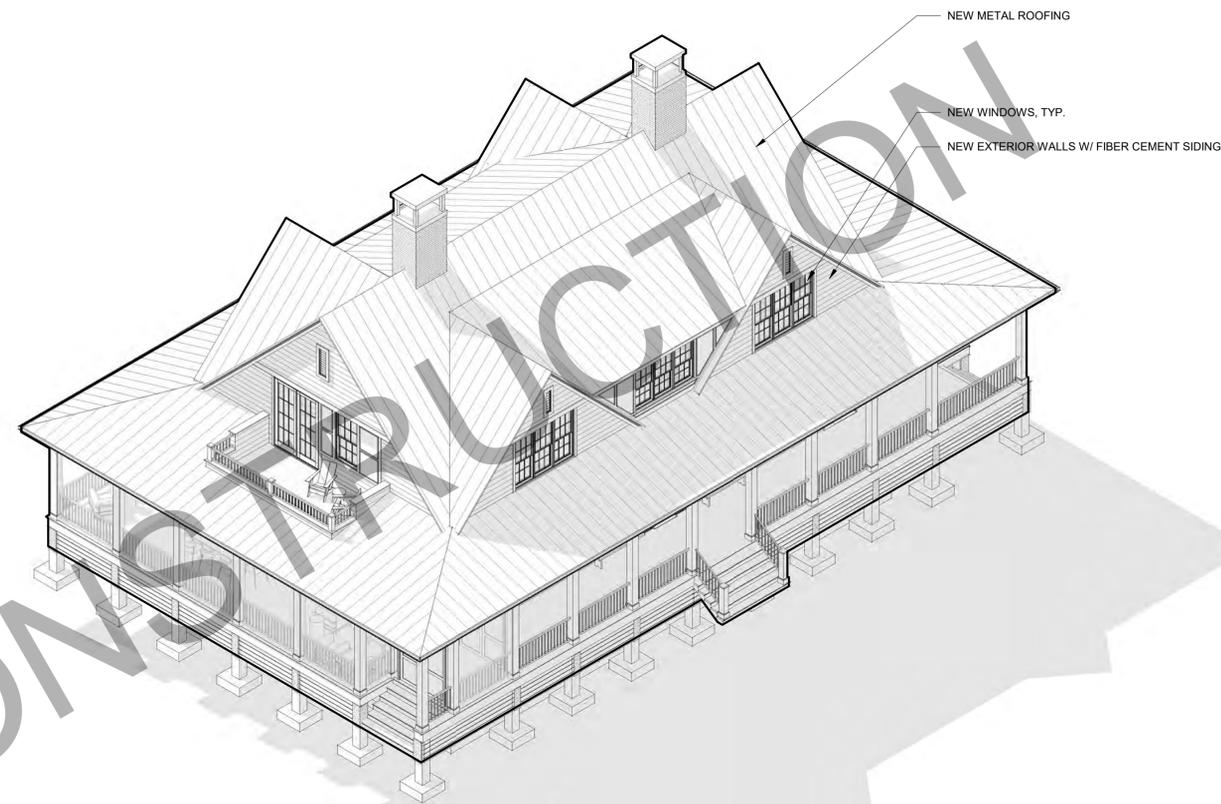
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REVISIONS:

NO.	DATE	REVISION
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Axon - Front



Axon - Rear

NOT FOR CONSTRUCTION

CHEN RESIDENCE
DESIGN DEVELOPING / PRICING SET
4833 DEEP POINT DRIVE
CHESTERTOWN, MD, 21620

PROJECT NAME:

ARCHITECT SEAL



Professional Certification:
I, Devin S. Kimmel, certify that these documents were prepared or approved by me, and that I am a duly licensed architect under the laws of the State of MD, license number 18136, Expires 06/30/2023

PROJECT SCOPE

SCALE:

DATE: 06/01/22	PROJECT NO.: 20210920
DRAWN BY: AS	CHECKED BY: DM

G2.00

REVISIONS:

NO.	DATE	REVISION

CHEN RESIDENCE
DESIGN DEVELOPING / PRICING SET
4833 DEEP POINT DRIVE
CHESTERTOWN, MD, 21620

PROJECT NAME:

ARCHITECT SEAL

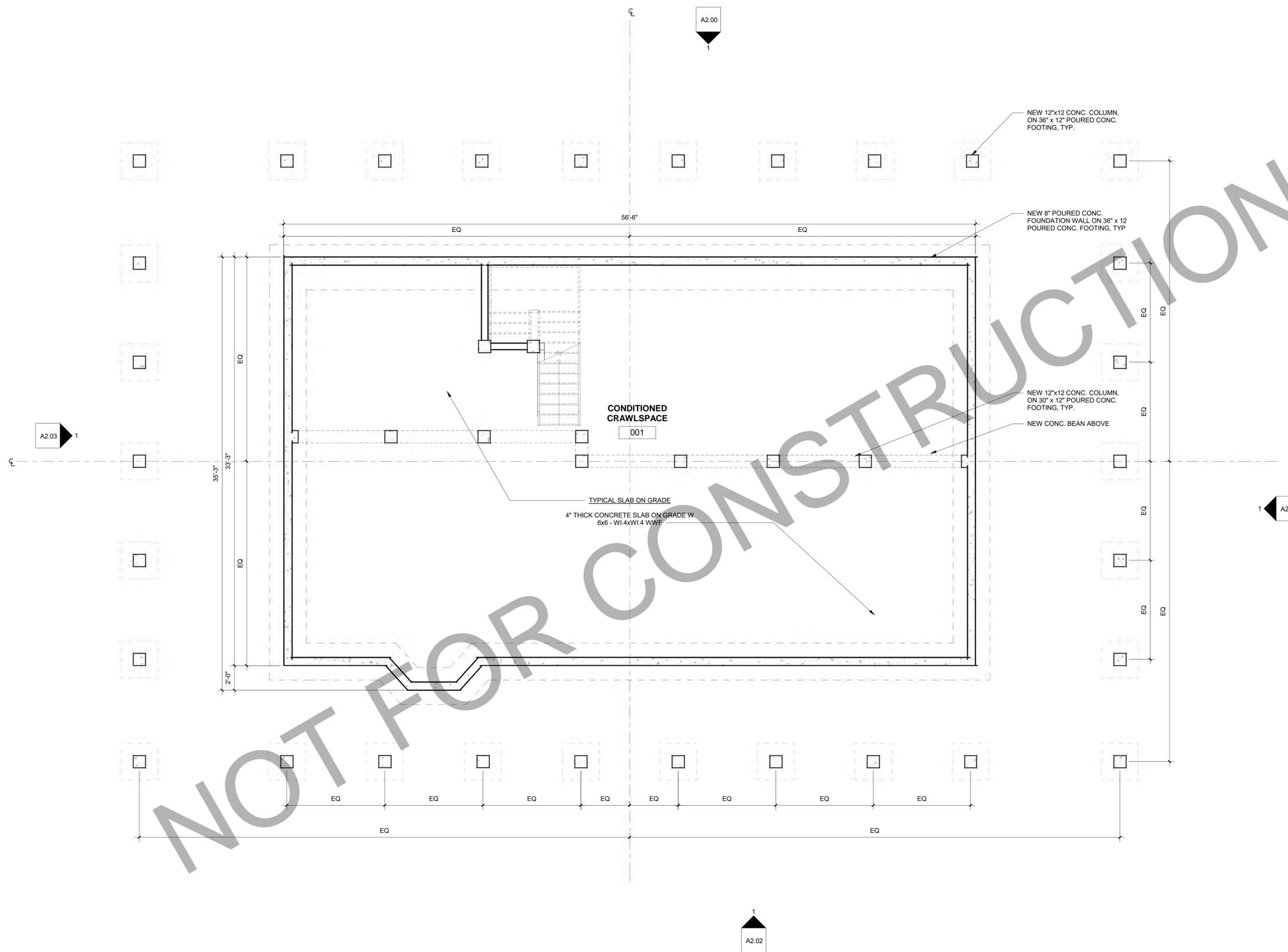
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the State of MD, license number
18136, Expires 06/30/2023

BASEMENT FLOOR PLAN

SCALE:
1/4" = 1'-0"

DATE: 06/01/22	PROJECT NO.: 20210920
DRAWN BY: AS	CHECKED BY: DM

A1.00



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REVISIONS:

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CHESTERTOWN, MD, 21620

PROJECT NAME:

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FIRST FLOOR PLAN

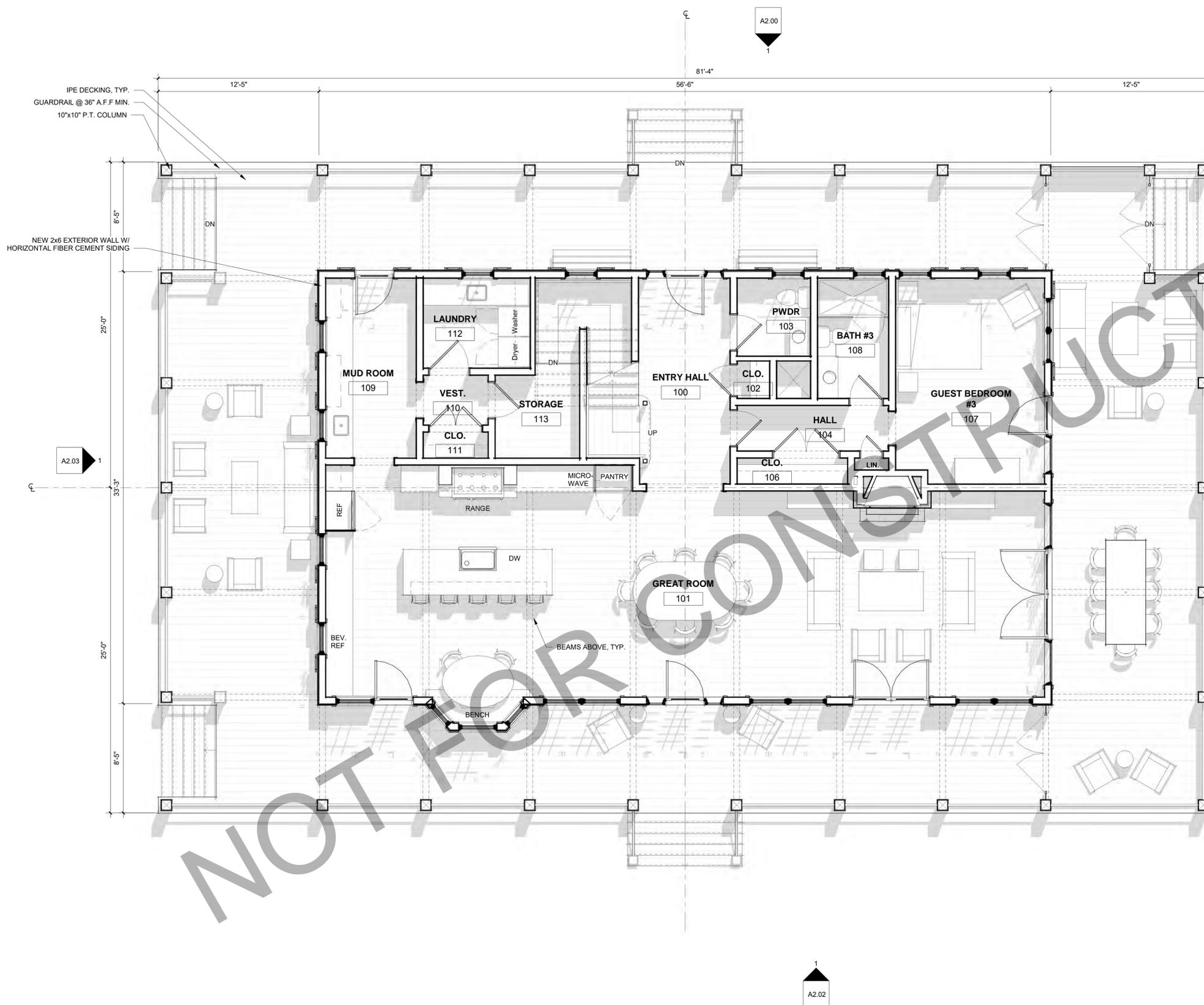
SCALE:
1/4" = 1'-0"

DATE: 06/01/22	PROJECT NO. NO.: 20210920
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A1.01



TRUE
NORTH



1
A1.01
FIRST FLOOR PLAN
1/4" = 1'-0"

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REVISIONS:

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CHESTERTOWN, MD, 21620

PROJECT NAME:

ARCHITECT SEAL

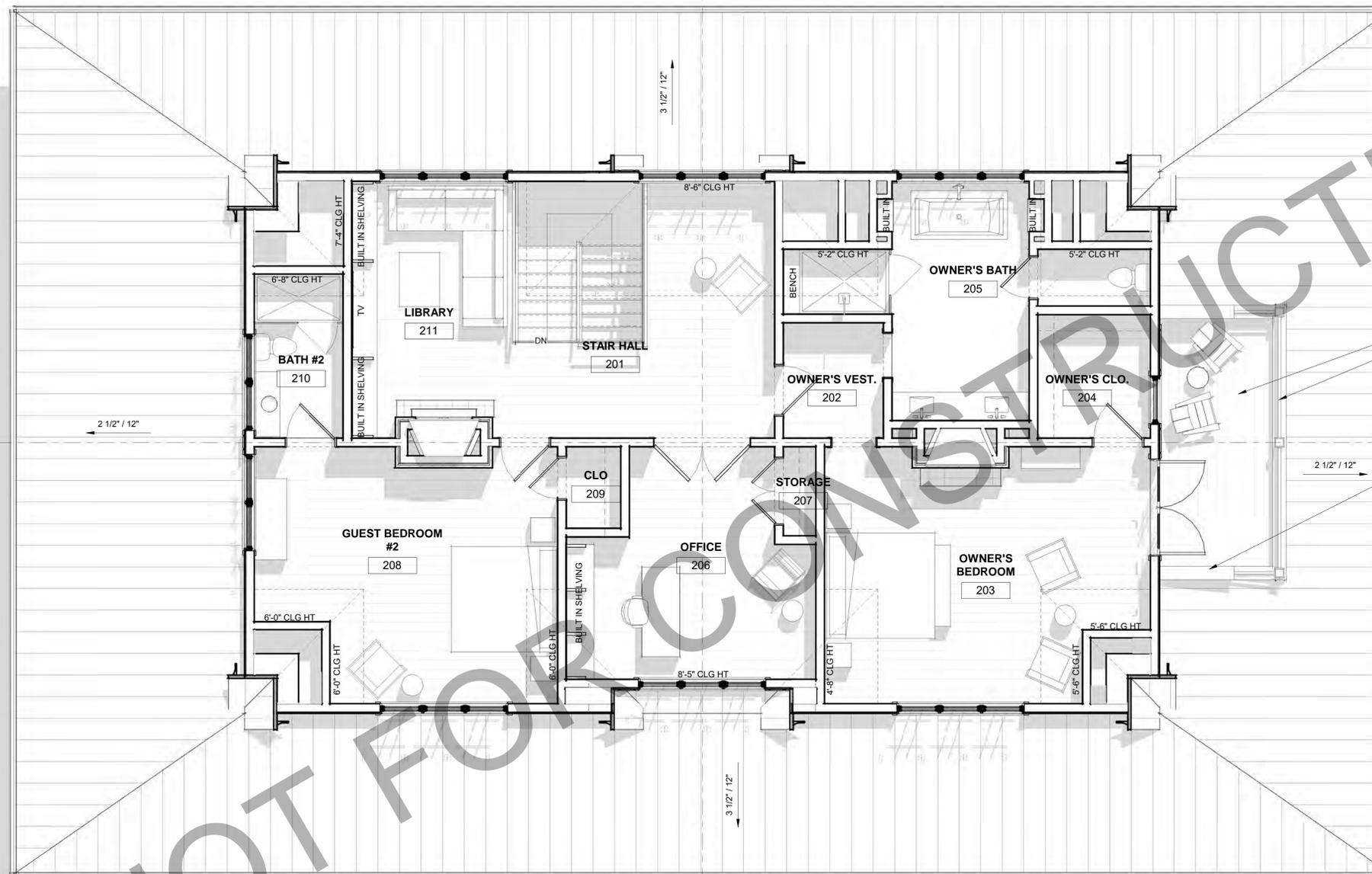
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the State of MD, license number
18136, Expires 06/30/2023

SECOND FLOOR PLAN

SCALE:
1/4" = 1'-0"

DATE: 06/01/22	PROJECT NO.: 20210920
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A1.02



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REVISIONS:

NO.	DATE	REVISION
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CHEN RESIDENCE
DESIGN DEVELOPING / PRICING SET
4833 DEEP POINT DRIVE
CHESTERTOWN, MD, 21620

PROJECT NAME:

ARCHITECT SEAL

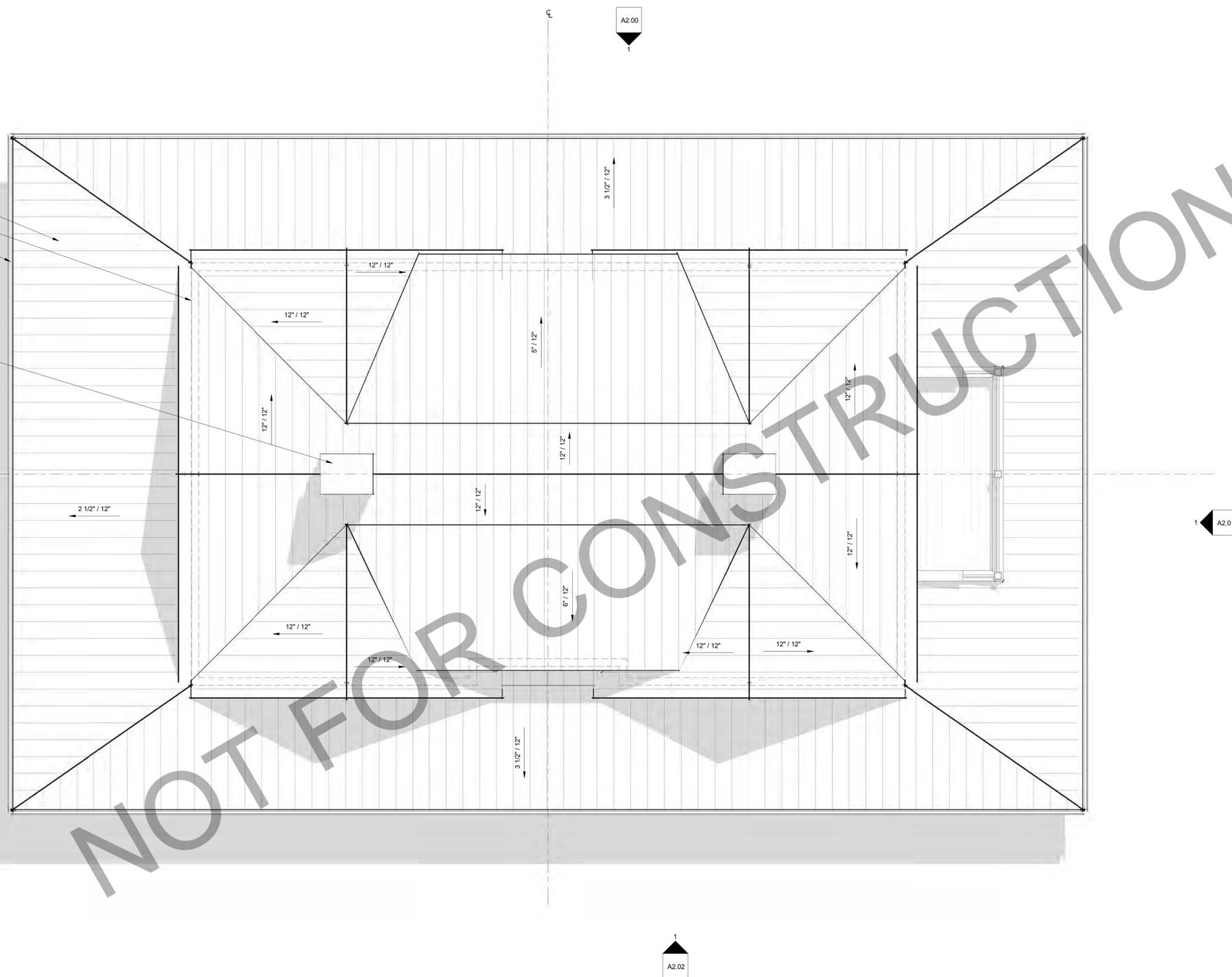
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ROOF PLAN

SCALE:
1/4" = 1'-0"

DATE: 06/01/22	PROJECT NO.: 20210920
DRAWN BY: AS	CHECKED BY: DM

A1.03



STANDING SEAM METAL ROOFING
EXTERIOR WALL BELOW
PAINTED ALUMINIUM GUTTER

CHIMNEY CAP

REVISIONS:

NO.	DATE	REVISION

CHEN RESIDENCE
DESIGN DEVELOPING / PRICING SET
4833 DEEP POINT DRIVE
CHESTERTOWN, MD, 21620

PROJECT NAME:

ARCHITECT SEAL

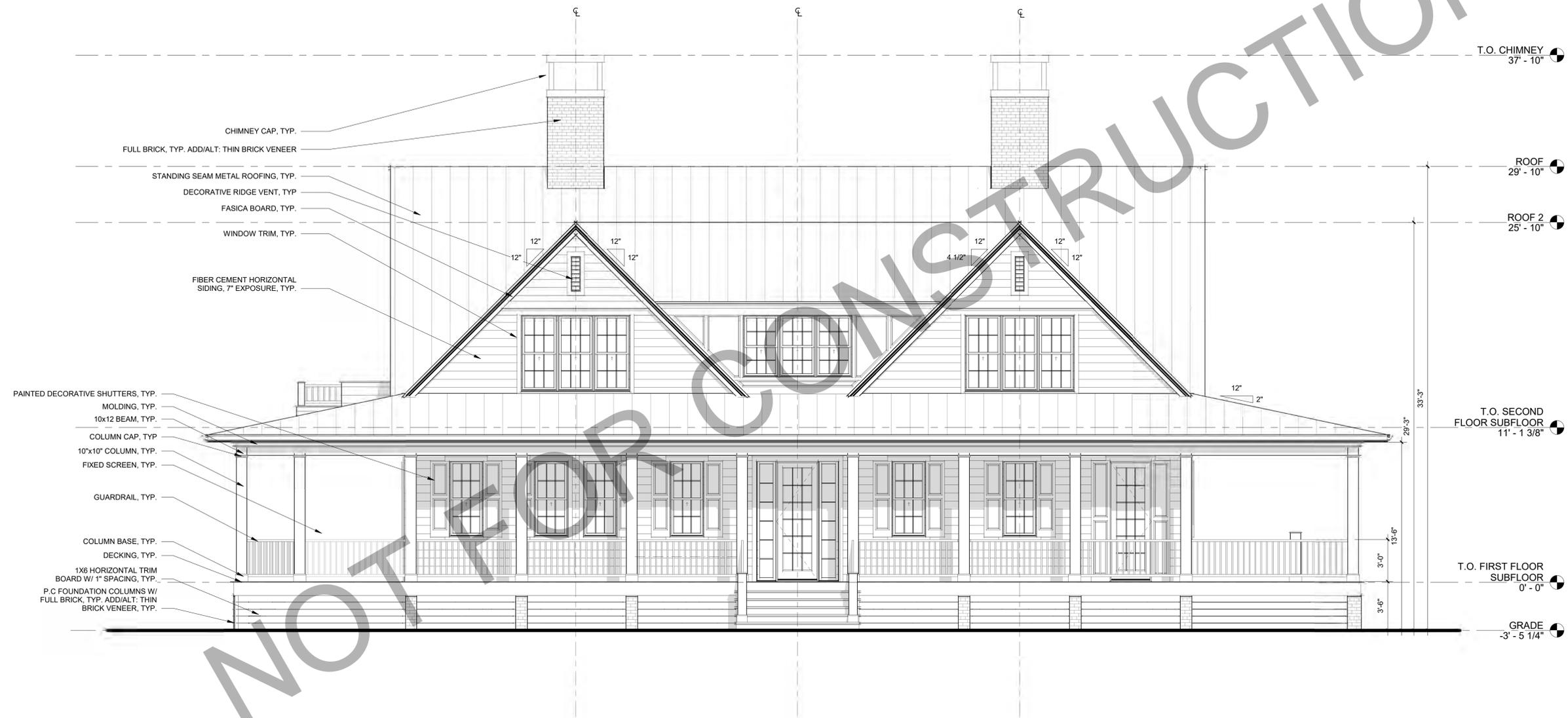
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EXTERIOR ELEVATION

SCALE:
1/4" = 1'-0"

DATE: 06/01/22	PROJECT NO.: 20210920
DRAWN BY: AS	CHECKED BY: DM

A2.00



REVISIONS:

NO.	DATE	REVISION
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CHEN RESIDENCE
DESIGN DEVELOPING / PRICING SET
4833 DEEP POINT DRIVE
CHESTERTOWN, MD, 21620

PROJECT NAME:

ARCHITECT SEAL



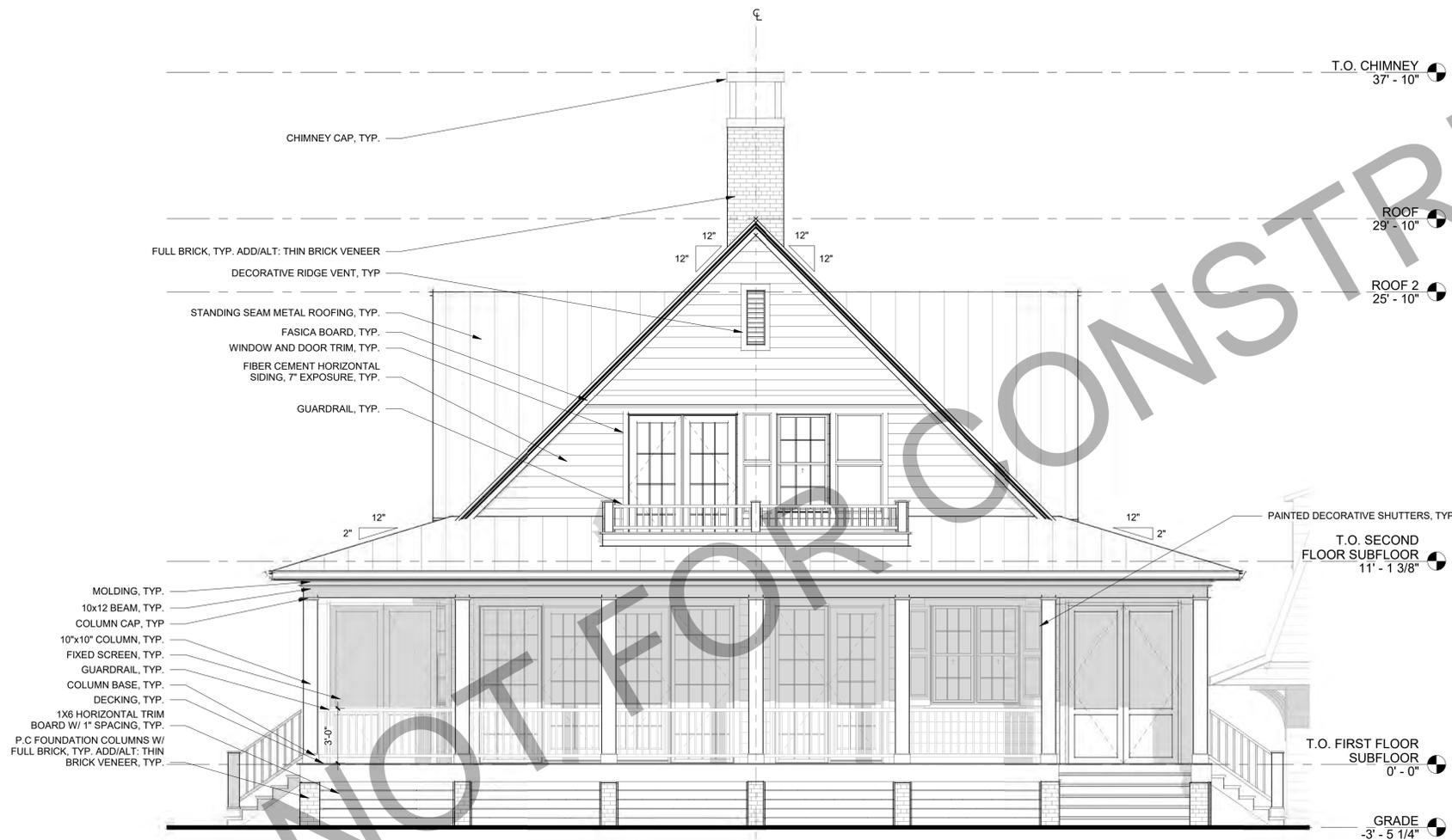
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18136, Expires 06/30/2023

EXTERIOR ELEVATION

SCALE:
1/4" = 1'-0"

DATE: 06/01/22	PROJECT NO.: 20210920
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A2.01



1 EAST ELEVATION
A2.01 1/4" = 1'-0"

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18136, Expires 06/30/2023

EXTERIOR ELEVATION

SCALE:
1/4" = 1'-0"

DATE: 06/01/22	PROJECT NO. NO: 20210920
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REVISIONS:

NO.	DATE	REVISION
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CHEN RESIDENCE
DESIGN DEVELOPING / PRICING SET
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CHESTERTOWN, MD, 21620

PROJECT NAME:

ARCHITECT SEAL



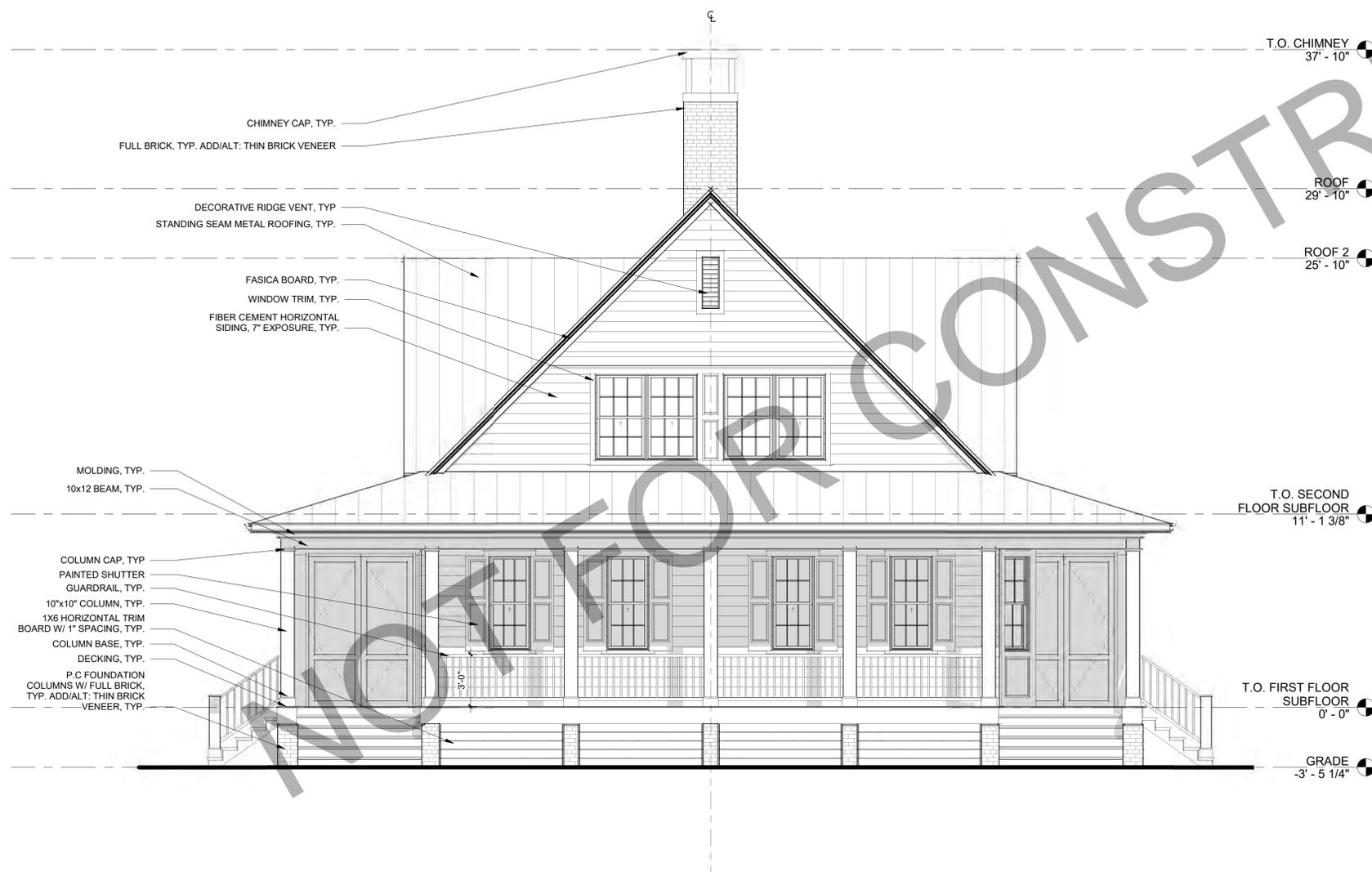
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the State of MD, license number
18136, Expires 06/30/2023

EXTERIOR ELEVATION

SCALE:
1/4" = 1'-0"

DATE: 06/01/22	PROJECT NO.: 20210920
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A2.03



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To: Kent County Planning Commission
From: Mark Carper, Associate Planner
Meeting: August 4, 2022
Subject: Fred and Linda Lint
Variance – Buffer

Executive Summary

Request by Applicant

New information shows that the property is in a modified buffer area, for which a criterion for the expansion of existing dwellings is, “New construction is not closer to mean high tide or the edge of a tidal wetland than the existing dwelling or the average of line of neighboring properties”. Because of the existing, expansive deck, it appears that the proposed addition will not be closer to mean high tide, and many of the neighboring properties appear to be as close or closer to the shoreline than the applicant’s residence. It is staff’s opinion that a buffer variance is not required for this application. The 7.5-foot variance for the requested side yard setback is still required.

Fred and Linda Lint are requesting a variance to allow for the construction of a residential addition, a portion of which is in the 100-foot buffer. They are also seeking a variance of 7.5 feet from the 15-foot side yard setback so as to construct the attached garage.

Public Process

Per Article IX, Section 2.2 of the Kent County *Land Use Ordinance*, the Planning Commission shall review and make a recommendation to the Board of Appeals for variances. The Board of Appeals may authorize variances from the yard (front, side, or rear) [and] ... buffer ... requirements so as to relieve practical difficulties or other injustices arising out of the strict application of the provisions of this Ordinance.

Summary of Staff Report

The property is located at 13910 Swantown Creek Road in the Fifth Election District. The proposed residential addition includes a garage and associated drive and a partial covering for an existing deck. The proposed new lot coverage for the project will be 495 square feet; that same amount is to be removed from an existing gravel drive and parking area. The application has been sent to the Critical Area Commission for review.

The neighborhood is comprised of detached, single-family dwellings and interspersed stands of trees. The granting of the variance will not adversely impact adjacent or neighboring properties nor change the character of the neighborhood. The application is consistent with the Comprehensive Plan.

The practical difficulty is caused by the original placement and construction of the home in 1972, prior to establishment of the Critical Area Law and the associated 100-foot buffer, which encompasses much of the structure. The granting of the variance would not be a substantial detriment to adjacent properties, nor would it provide any special privilege to the applicant that would be denied by the Ordinance to other lands or structures.

Staff Recommendation

Staff recommends forwarding a favorable recommendation to the Board of Appeals for approval of the buffer variance and side yard setback variance with the following conditions:

- Buffer mitigation at 1:1 for temporary disturbance and at 3:1 for permanent disturbance.
- The variances will lapse after the expiration of one year if no substantial construction in accordance with the plans herein presented occurs.

PRELIMINARY STAFF REPORT

TO: Kent County Planning Commission
SUBJECT: #22-47 – Fred and Linda Lint
Variance – Buffer
DATE: July 28, 2022

DESCRIPTION OF PROPOSAL

Fred and Linda Lint are requesting a variance to allow for the construction of a residential addition, a portion of which is in the 100-foot buffer. The proposed residential addition includes a garage and associated drive and a partial covering for an existing deck. They are also seeking a variance of 7.5 feet from the 15-foot side yard setback so as to construct the attached garage. The property is located at 13910 Swantown Creek Road in the Fifth Election District. The application has been sent to the Critical Area Commission for review.

At 5,905 square feet, lot coverage on the property is in excess of the currently allowable amount and is non-conforming. To remain at the current amount of coverage, an area equivalent to that which is to be added will be removed. The proposed new coverage for the project will be 495 square feet; that same amount is to be removed from an existing gravel drive and parking area. On site disturbance will include 390 square feet of permanent disturbance outside of the buffer for placement of the garage and associated drive, and 105 square feet for overhangs and new roof over an existing deck.

Of the 105 square feet for overhangs and the deck roof, there will be approximately 35 square feet of new overhangs over undisturbed buffer. There will be 495 square feet of temporary disturbance inside the buffer for removal of stone from the existing drive and parking area. Approximately three quarters of the proposed deck covering that will be new lot coverage is within the buffer.

APPLICABLE LAWS

I. Development in the Buffer

- A. *Comprehensive Plan*: "Maintain, enforce and if necessary, strengthen existing regulations for floodplains and buffers." (Page 86)
- B. *Applicable Law*: Article V, Section 2.7.B.3.a of the Kent County Land Use Ordinance establishes the standards for development in the buffer:
 - i. Development activities, including structures, roads, parking areas, and other impervious surfaces, mining, and related activities, or septic systems shall not be permitted within the minimum 100-foot buffer. This restriction does not apply to water-dependent facilities that meet the criteria set forth below.
- C. *Staff and TAC Comments*: Development activity of this nature is not permitted in the buffer; therefore, the applicant has applied for a buffer variance to allow for a residential addition, a portion of which is in the 100-foot buffer. The Department of Public Works and MDOT SHA have reviewed this application and have no issues. The Health Department has requested that the site plan show the location of the well. The application has been sent to the Critical Area Commission for review.

II. Variance

- A. *Applicable Law*: Article IX, Section 2.2, Variances of the Kent County *Land Use Ordinance* authorizes the Board of Appeals to grant variances from the yard (front, side, or rear), height, bulk, parking, loading, shoreline cliff, 15% slope, pier length, impervious surface, stream protection corridor, and buffer requirements so as to relieve practical difficulties or other injustices arising out of the strict application of the provisions of this Ordinance.

...

In the Critical Area, for a variance of 15% slope, impervious surface, or buffer requirements, it being the purpose of this provision to authorize the granting of variation only for reasons of demonstrable and exceptional unwarranted hardship as distinguished from variations sought by applicants for purposes or reasons of convenience, profit, or caprice.

In order to grant a *variance*, the Board of Appeals must find all of the following:

- a. That the *variance* will not cause a substantial detriment to adjacent or neighboring property.
- b. That the *variance* will not change the character of the neighborhood or district.
- c. That the *variance* is consistent with the *Comprehensive Plan* and the general intent of this Ordinance.
- d. That the practical difficulty or other injustice was caused by the following:
 - i. Some unusual characteristic of size or shape of the property.
 - ii. Extraordinary topographical or other condition of the property.
 - iii. The use or *development* of property immediately adjacent to the property, except that this criterion shall not apply in the *Critical Area*.
- e. That the practical difficulty or other injustice was not caused by the applicants own actions.
- f. That within the *Critical Area* for *variances* of 15% slope, impervious surface, or buffer requirements:
 - i. The granting of a *variance* will be in harmony with the general spirit and intent of the *Critical Area Law* and the *regulations* adopted by Kent County
 - ii. That the granting of a *variance* will not adversely affect water quality or adversely impact fish, wildlife, or *plant habitat*.
 - iii. That the application for a *variance* will be made in writing with a copy provided to the *Critical Area Commission*.
 - iv. That the strict application of the Ordinance would produce an *unwarranted hardship*.
 - v. Such hardship is not shared generally by other properties in the same zoning district and the same vicinity.
 - vi. The authorization of such *variance* will not be a substantial detriment to adjacent property and that the character of the district will not be changed by the granting of the *variance*.
 - vii. That a literal interpretation of this Ordinance deprives the applicant of rights commonly enjoyed by other properties in similar areas within the *Critical Area* of Kent County.
 - viii. That the granting of a *variance* will not confer upon an applicant any special privilege that would be denied by this Ordinance to other lands or *structures*.
 - ix. Due to special features of a site, or special conditions or circumstances peculiar to the applicant's land or *structure*, a literal enforcement of this Ordinance would result in *unwarranted hardship* to the applicant.
 - x. The Board of Appeals finds that the applicant has satisfied each one of the *variance* provisions.
 - xi. Without the *variance*, the applicant would be deprived of a use of land or a *structure* permitted to others in accordance with the provisions of the critical area program.

- g. In considering an application for a *variance*, the Board shall consider the reasonable use of the entire parcel or lot for which the *variance* is requested.
 - h. In considering an application for a *variance*, the Board of Appeals shall presume that the specific *development* activity in the Critical Area that is subject to the application and for which a *variance* is required does not conform with the general purpose and intent of this Ordinance and the Critical Area Law.
 - i. The Board may consider the cause of the *variance* request and if the *variance* request is the result of actions by the applicant, including the commencement of *development* activity before an application for a *variance* has been filed.
- B. *Staff and TAC Comments*: The neighborhood is comprised of detached, single-family dwellings and interspersed stands of trees. The granting of the variance will not adversely impact adjacent or neighboring properties nor change the character of the neighborhood. The application is consistent with the Comprehensive Plan as a stated goal is to “Provide a wide range of housing opportunities to meet the needs of Kent County residents” (Page 90).

The practical difficulty is caused by the original placement and construction of the home in 1972, prior to establishment of the Critical Area Law and the associated 100-foot buffer, which encompasses much of the structure. The current owners purchased the property and have not created this practical difficulty. The application is in harmony with the intent and spirit of the Critical Area Law and Kent County, and the variance will not negatively affect fish, wildlife, or plant habitat.

The granting of the variance would not be a substantial detriment to adjacent properties, nor would it provide any special privilege to the applicant that would be denied by the Ordinance to other lands or structures.

STAFF RECOMENDATION

Staff recommends forwarding a favorable recommendation to the Board of Appeals for approval of the buffer variance to allow for the construction of a residential addition, a portion of which is in the 100-foot buffer, and the side yard setback variance with the following conditions:

- Buffer mitigation at 1:1 for temporary disturbance and at 3:1 for permanent disturbance.
- The variances will lapse after the expiration of one year if no substantial construction in accordance with the plans herein presented occurs.



August 5, 2022

Dr. Al Townsend
Kent County Board of Appeals
400 High Street
Chestertown, MD 21620

RE: 22-47 Fred and Linda Lint – Variance – Development in Buffer and side yard setback

Dear Dr. Townsend,

At its meeting on August 4, 2022, the Kent County Planning Commission reviewed the application of Fred and Linda Lint, owners, requesting a variance to allow for the construction of a residential addition, 105 square feet of which is in the 100-foot buffer. The proposed residential addition includes a garage and associated drive and a partial covering for an existing deck. They are also seeking a variance of 7.5 feet from the 15-foot side yard setback so as to construct the attached garage. The property is located at 13910 Swantown Creek Road in the First Election District and is zoned Critical Area Residential (CAR).

Following discussion, the Planning Commission voted to make a favorable recommendation for the variance to allow a residential addition of 105 square feet in the buffer and a variance of 7.5 feet from the 15-foot side yard setback. The Planning Commission recommends the following conditions should the Board of Appeals grant the approval:

- Buffer mitigation at 1:1 for temporary disturbance and at 3:1 for permanent disturbance.
- The variances will lapse after the expiration of one year if no substantial construction in accordance with the plans herein presented occurs.

The decision was based on the following findings of fact:

- The granting of the variance will not adversely impact adjacent or neighboring properties nor change the character of the neighborhood.
- The granting of the variance would not be a substantial detriment to adjacent properties, nor would it provide any special privilege to the applicant that would be denied by the Ordinance to other lands or structures.
- The application is consistent with the Comprehensive Plan's stated goal to "Provide a wide range of housing opportunities to meet the needs of Kent County residents"
- The application is in harmony with the intent and spirit of the Critical Area Law and Kent County's Land Use Ordinance, and the variance will not negatively affect fish, wildlife, or plant habitat.
- The practical difficulty is caused by the original placement and construction of the home in 1972, prior to establishment of the Critical Area Law and the associated 100-foot buffer. Because of the roadside narrowness of the lot, the limited area of level ground on which the house was constructed, and a steep slope toward the water, no other option for placement existed.
- The proposed addition will allow for safe ingress and egress into the structure.
- The Critical Area Commission has reviewed the application and does not oppose the granting of a variance.

Sincerely,
Kent County Planning Commission

Joe Hickman
Chair

cc: Fred Lint, Owner
Buck Nickerson, L.S., Extreme Measures, LLC

Larry Hogan
Governor
Boyd K. Rutherford
Lt. Governor



Charles C. Deegan
Chairman
Katherine Charbonneau
Executive Director

**STATE OF MARYLAND
CRITICAL AREA COMMISSION
CHESAPEAKE AND ATLANTIC COASTAL BAYS**

July 29, 2022

Mr. Mark Carper
Kent County
Department of Planning, Housing and Zoning
400 High Street
Chestertown, Maryland 21620

**Re: Fred and Linda Lint
Buffer Variance Request (22-47)
13910 Swantown Creek Road
(TM 8, P 97)**

Dear Mr. Carper:

Thank you for submitting information regarding the project referenced above for review and comment. The applicant requests a Buffer variance to in order to construct a covered walkway/porch to provide access to the proposed garage to the entrance to an existing dwelling. The property is 0.57 acres in size, located on lands designated as Limited Development Area (LDA), and zoned Critical Area Residential (CAR). The proposed development activities comprise a garage and associated driveway, as well as a covered walkway/porch. The lot coverage onsite exceeds allowable amount at 5,445 square feet (sf); therefore, the applicant proposes to remove an equal amount of that which is to be emplaced on site. No clearing is proposed; however, the proposed walkway/porch will permanently impact 35 sf in the Buffer.

We do not oppose this Buffer variance request. Mitigation at a 3:1 ratio is required for permanent impacts to the Buffer as per COMAR 27.01.09.01-2. Locating the plantings between the improvements and the shoreline is recommended to maximize water quality benefits. The applicant shall provide a Buffer Management Plan as per COMAR 27.01.09.01-3 to the County for review and approval that includes species, size, spacing and schedule of plantings, and maintenance activities and survivability assurance. Please include this letter in your file and submit it as part of the record for the variance. Please notify the Commission of the decision made in this case.

Thank you for the opportunity to review and provide comments. If you have any questions, please feel free to contact me at 410-260-2481 or tay.harris@maryland.gov.

Sincerely,

A handwritten signature in blue ink that reads "Tay E. Harris".

Tay E. Harris
Natural Resources Planner
KC 259-22



Source: Kent County Department of Planning, Housing, and Zoning.
Aerial taken Spring 2019. Map prepared July 2022.

1 inch = 100 feet

ADMINISTRATIVE HEARING APPLICATION

Kent County Department of Planning, Housing, and Zoning

Kent County Government Center
400 High Street • Chestertown, MD 21620
410-778-7475 (phone) • 410-810-2932 (fax)

IN THE MATTER OF THE APPLICATION OF:
(Name, Address and Telephone Number of Applicant)

FRED & LINDA LINT
13910 SWANTOWN Creek Rd
GALENA, MD, 21635

Email: flintl59@gmail.com

For Office Use Only:

Case Number: _____
Date Filed: _____
Filed by: _____
Applicant: _____
Date of Hearing: _____
Parties Notified: _____
Notice in Paper: _____
Property Posted: _____

Please provide the email of the one person who will be responsible for responding to comments. Only this person will be contacted by staff and will be the person responsible for forwarding the comments or requests for additional information to any other interested parties. EMAIL: buck@extrememeasuresllc.com

TO THE DEPARTMENT OF PLANNING, HOUSING AND ZONING: In accordance with Article _____ Section _____ of the Kent County Land Use Ordinance, as amended, request is hereby made for an

Administrative Hearing for:

Variance _____ Special Exception _____ Determination of Nonconforming Use

DESCRIPTION OF PROPERTY INVOLVED:

Located on: (Name of Road, etc.) 13910 SWANTOWN Creek Rd, GALENA, MD, 21635

In the 1st Election District of Kent County.

Size of lot or parcel of Land: 24,904 ft²
Map: 8 Parcel: 97 Lot #: 29 Deed Ref: S.L.K. 1180/239

List buildings already on property: MAIN HOUSE/Dwelling, 1-shed

Subdivision name and address, if applicable: Shorewood Estates

PRESENT ZONING OF PROPERTY: RESIDENTIAL - CAR (MODIFIED BUFFER

DESCRIPTION OF RELIEF REQUESTED: (List here in detail what you wish to do with property that requires the Appeal Hearing.) ADD 1 CAR GARAGE with front entry that is outside 100ft setback, ATTACHED TO HOUSE. will not exceed 50% of B.R.L. TO ADJACENT 20' RIGHT OF WAY. ADDITIONAL COVERAGE TO BE OFFSET BY REDUCTION IN DRIVEWAY INSIDE 100ft SETBACK - CONVERT STONE AREA TO GRASS + PLANTINGS

Present owner of property: FRED Y. LINT Telephone: 443-480-7540

If Applicant is not owner, please indicate your interest in this property: _____

Has property involved ever been subject to a previous application? UNKNOWN

If so, please give Application Number and Date: _____

PLEASE FILL IN BELOW, OR ATTACH HERETO, A SKETCH OF THIS PROPERTY.
List all property measurements and dimensions of any buildings already on the property.

Put distances between present buildings or proposed buildings and property lines.

NAMES OF ADJOINING PROPERTY OWNERS:

Owner(s) on the North: Mr. & Mrs Robert M. Rose

Owner(s) on the South: Mr & Mrs. Bryan Leigh Matthews
13900 SWANTOWN Creek Road

Owner(s) to the East: N/A

Owner(s) to the West: N/A

Homeowners Association, name and address, if applicable: Shorewood Estates

BY SIGNING THIS APPLICATION, I GRANT THE DEPARTMENT OF PLANNING, HOUSING AND ZONING THE RIGHT TO ENTER ONTO THE PROPERTY FOR THE PURPOSE OF VIEWING THE SITE OF THE APPLICATION.

 _____
Signature of Owner/ Applicant/ Agent or Attorney

6/21/2022
Date

Please file this form at 400 High Street, Chestertown, MD 21620 accompanied by **\$200.00** filing fee made payable to the Department of Planning, Housing & Zoning. If you have any questions, contact the Kent County Department of Planning, Housing and Zoning.

NOTICE: The Department of Planning, Housing and Zoning is not required to make out this application. Application should be filled in by Applicant or its agent. If the Planning Office assists you, they cannot be held responsible for its contents.

Applicants arriving more than 10 minutes after the scheduled hearing will not be heard and will be re-scheduled at the applicant's expense.

Narrative for Variance request for the addition of an attached one car garage and for covering a section of existing deck to provide protected access and egress to the house from the garage.

1. Fred and Linda Lint, homeowners living @
2. 13910 Swantown Creek Rd, Galena, MD, 21635, Tax map: 8, Parcel: 97, Lot#: 29, in Shorewood Estates subdivision.
3. Zoning is residential, waterfront in CAR (modified buffer).
4. Current use is residential, proposed use is residential
5. The site plan has existing structures, open space, and topography shown in attached survey.
6. There are no anticipated changes to ownership and no conflicts expected with the Homeowners association. Citizen Participation is also planned and should result in no external impact to neighboring property or waterways. Septic is newly installed BAT with existing well water and new geothermal HVAC.

An additional garage is needed at the level of the main living space to avoid carrying groceries or other supplies up a flight of stairs from the rear entrance or down the front walk and steps in inclement weather. This will facilitate the accessibility for aging in place as the current residents are seniors. Housing of a vehicle indoors is also preferred over outside parking in the elements. The optimal and apparent only space available for the structure is shown on the survey map due to restrictions of the 100 ft set back and logistical home access.

Ordinances affected concern the total coverage restrictions on the lot and exceeding the 15' B.R.L. next to the 20' right of way that doubles as a shared driveway with the neighbor and community access to the water for small watercraft launches.

Coverage:

Current lot coverage is 5905 ft² where only 5,445 ft² would be allowed under the statutes if this were new construction. Since this coverage is existing, the lot coverage is capped at 5,905 ft². Addition of the garage and driveway add 212 ft² and 178 ft², respectively. The plan to address this is to convert part of the gravel drive at the rear of the house and inside the 100 ft setback to grass and or shrubs that will offset the proposed changes to achieve zero net change in coverage and reduced coverage inside the 100ft set back. Please note that the gravel removal is also sufficient to offset the eave overhangs that would or could contribute to coverage area. The garage foundation is positioned outside the 100 ft setback. The additional coverage for the overhangs and drip line are also included in the survey calculation and offset gravel removal.

15' B.R.L.

Due to the existing building location and lot size, part of the proposed garage extends past the 15' B.R.L. setback. The garage size was reduced to not exceed 50% of the B.R.L. so the foundation remains 7.5 feet from the property line. It is requested that an administrative variance be granted to allow this encroachment. The 20 foot wide right of way (ROW) makes this substantially distant from the neighbor's house and driveway and a wooded area is directly across the ROW from the proposed site.

Deck roof cover

During the garage design it became apparent that a cover over the existing deck would provide protection from the weather transiting from the garage to inside the house. Although the proposed garage is attached, the interior shared wall is in the kitchen and is fully lined with cabinets and appliances providing no placement for an interior door necessitating exiting the garage onto the deck and entering the home via an existing exterior door that opens to the kitchen. A cover over the deck seems the most reasonable solution to provide the intended shelter from the weather and screened-in it would provide insect protection as well. Since most of the deck is already over either concrete pad or gravel drive, a roof does not increase the coverage except for a small section that is overhang above a dirt area. Some of this area is also inside the 100 ft set back so requires a variance or consideration for changes inside the 100 ft set back. The increase in coverage is addressed or offset to zero with reduction of the gravel driveway in the rear of the house, also within the 100 ft set back. This results in a net zero change for the lot coverage but a reduction inside the 100 ft set back. In addition, removal of the HVAC outside condenser unit when the geothermal unit was installed, eliminated 16 square feet of coverage not shown on any of the surveys but was indeed a reduction in lot coverage since house purchase i Oct 2021. .

The current survey shows the gravel drive reduction to get to a net zero change in total coverage and keep the 5905 ft² coverage cap intact. It is most sensible and economic to do both the garage and deck at the same time, but at minimum the garage approval could standalone while the deck roof cover is reviewed since it is the only portion inside the 100ft setback.

Optional front porch cover.

The proposed building elevations also show a front porch cover for the steps. The drip line expands the current coverage (shown) and is also compensated for with the gravel removal.

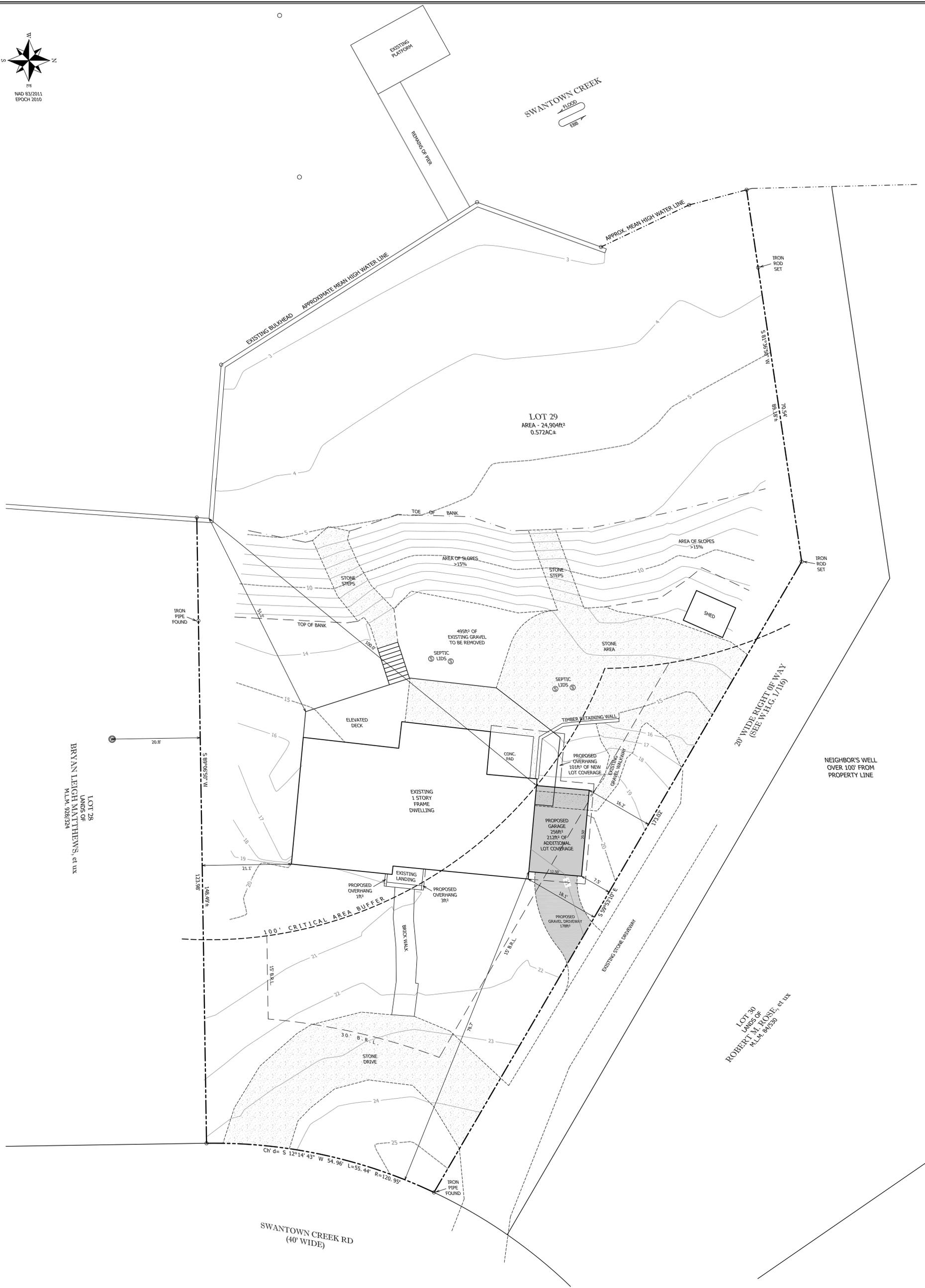
I believe our proposal complies with both the spirit and letter of the law in protecting our waterways and improved home safety and ask that these variances be granted.

Fred Lint

Property owner

Tree removal:

One small Japanese Maple will need to be removed to make room for the driveway. Another under canopy tree will be planted in the front yard as a replacement.

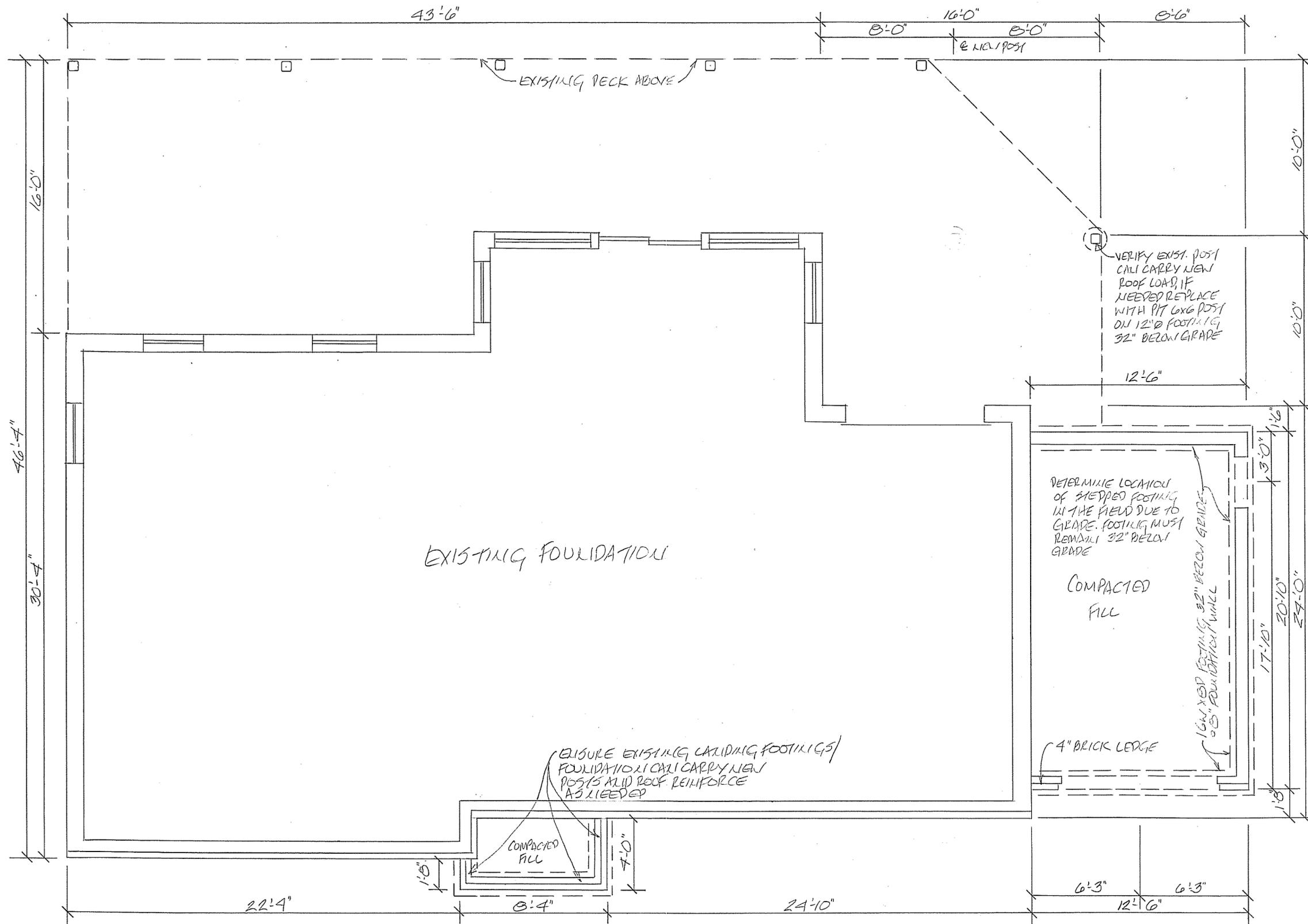


NOTES:
 OWNER: FRED Y. LINT, et ux
 DEED REFERENCE: S.L.K. 1180/239
 PLAT REFERENCE: W.H.G. 1/116
 PREMISES ADDRESS: 13910 SWANTOWN CREEK RD
 GALENA, MD. 21635
 SITE ZONING - CAR (MODIFIED BUFFER)



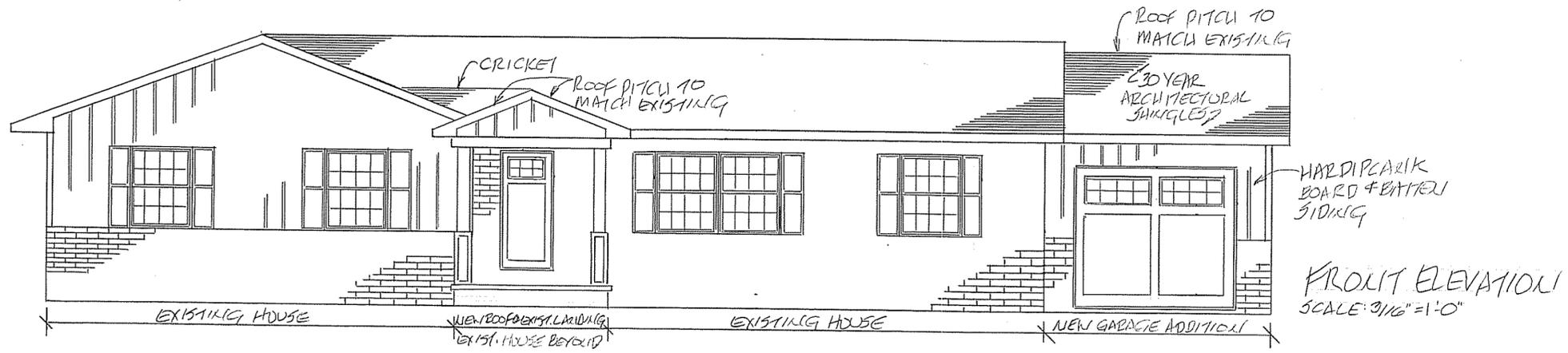
EXISTING LOT COVERAGE TABLE		PROPOSED LOT COVERAGE TABLE	
HOUSE	1,695 FT ²	HOUSE	1,695 FT ²
SHED	78 FT ²	SHED	78 FT ²
BRICK & CONC	289 FT ²	BRICK & CONC	289 FT ²
STONE	3,348 FT ²	STONE	3,348 FT ²
STONE GARAGE	212 FT ²	PROPOSED GARAGE	212 FT ²
PROPOSED DRIVEWAY	178 FT ²	PROPOSED DRIVEWAY	178 FT ²
PROPOSED OVERHANG	105 FT ²	PROPOSED OVERHANG	105 FT ²
PROPOSED TOTAL	5,905 FT ²	PROPOSED TOTAL	5,905 FT ²
ALLOWED	5,445 FT ²		

<p>SITE PLAN OF THE LANDS OF, FRED Y. LINT et ux. FIRST ELECTION DISTRICT, KENT COUNTY, MARYLAND TAX MAP 8, PARCEL 97 - LOT 29 SHOREWOOD ESTATES</p>	<p>SCALE 1"=10' DRAWN BY BAN DATE 6-29-22 JOB NO. 1400 REVISIONS</p>	<p>EXTREME MEASURES LAND SURVEYORS Chestertown, MD 21620 PHONE 410-778-0147 www.extrememeasuresllc.com</p>	
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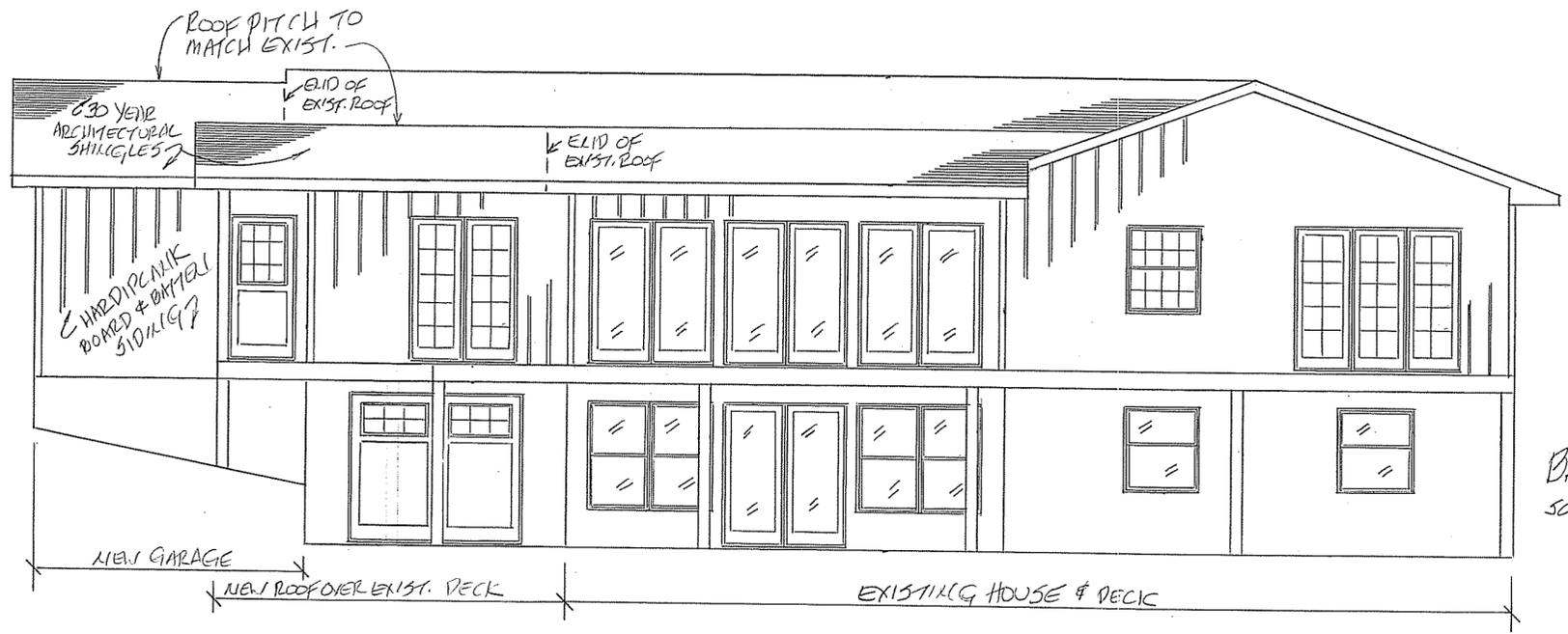


FOUNDATION PLAN
SCALE: 1/4" = 1'-0"

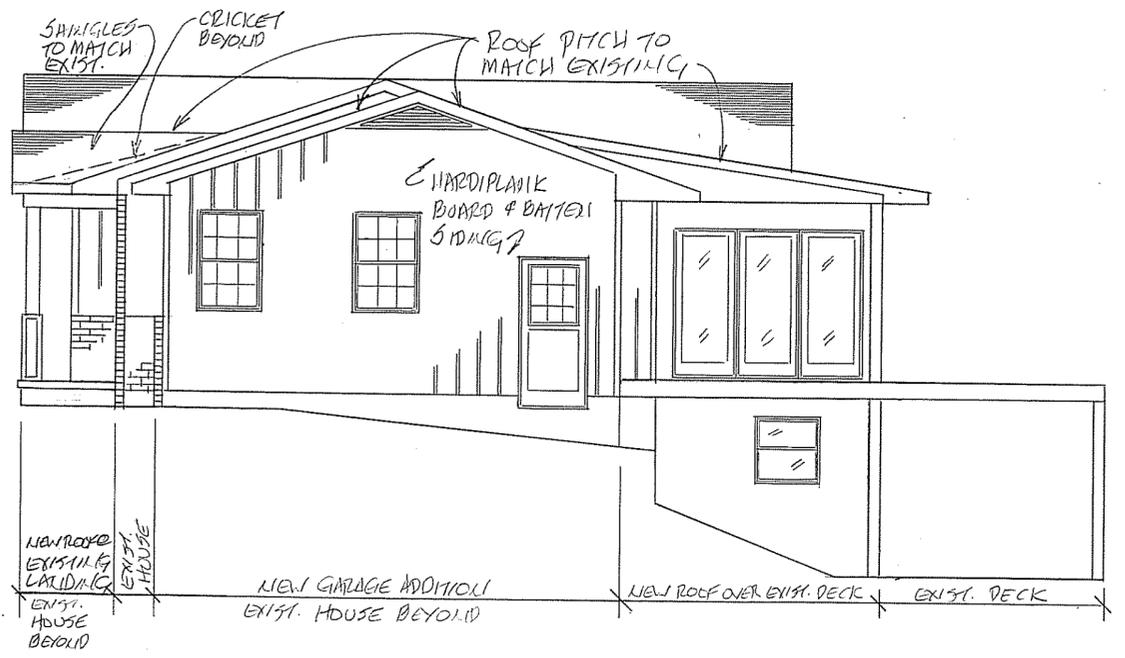
LIFT GARAGE ADDITION 13910 SWANFLOWER RD. GALEJA, MD 21635		1477
DWG BY: REBECCA G. MALLI ARCHITECTURAL DESIGN #10-005-2159	DATE 5.25.22	A-1 1 OF 4
CONTRACTORS RESPONSIBILITY TO VERIFY ACCURACY AND DIMENSIONS BEFORE CONSTRUCTION		
UNAUTHORIZED USE OR COPYING OF THIS DRAWING IS PROHIBITED		



FRONT ELEVATION
SCALE: 3/16" = 1'-0"



BACK ELEVATION
SCALE: 3/16" = 1'-0"

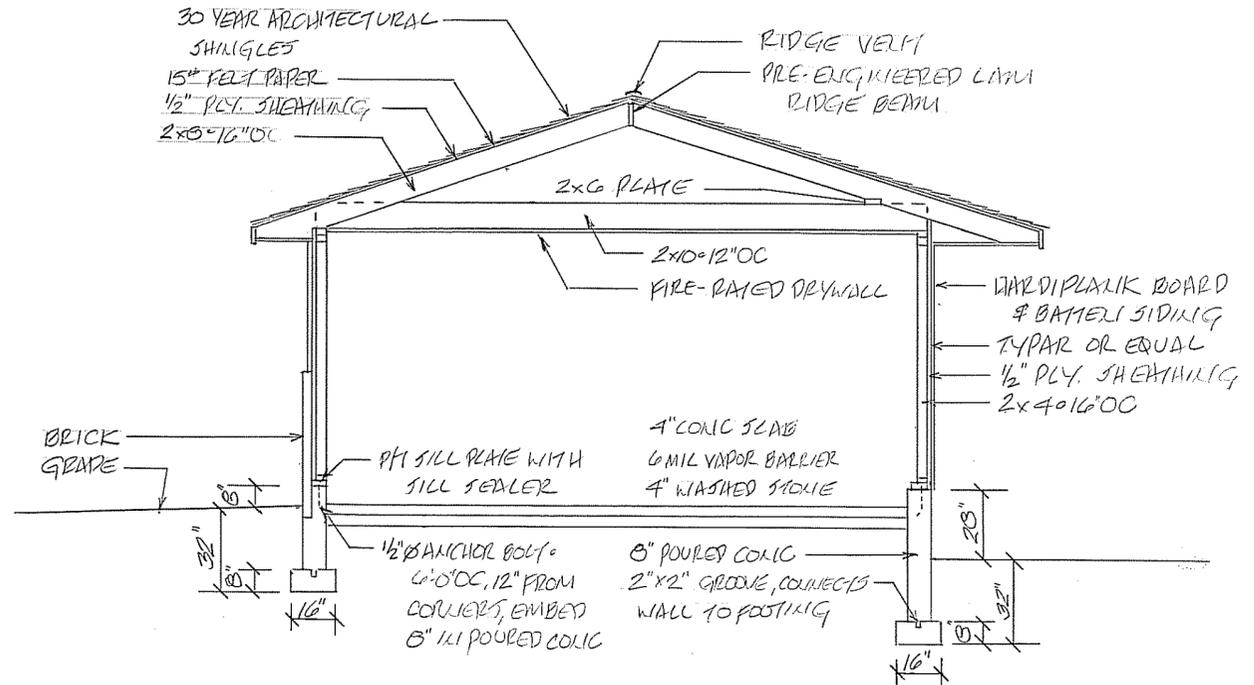


SIDE ELEVATION
SCALE: 3/16" = 1'-0"

NEW GARAGE ADDITION 13910 SWANTON CREEK RD. GALERIA, MD 21035		1477
DWG: REBECCA G MALIN BY: ARCHITECTURAL DESIGN 410-685-2159	DATE 5-25-22	A-3 3 OF 4
CONTRACTOR'S RESPONSIBILITY TO VERIFY ACCURACY AND DIMENSIONS BEFORE CONSTRUCTION		
UNAUTHORIZED USE OR COPYING OF THIS DRAWING IS PROHIBITED		

NOTES:

CONTRACTOR MAY MAKE CHANGES OR SUBSTITUTIONS IN THE FIELD WITH OWNER APPROVAL
 CONTRACTOR TO ENSURE ALL BUILDING CODES ARE MET DURING CONSTRUCTION AND PROVIDE ANY ADDITIONAL INFORMATION THAT MAY BE REQUIRED WHEN APPLYING FOR PERMITS.
 CONTRACTOR TO ENSURE EXISTING STRUCTURE CAN CARRY NEW LOADS AND REINFORCE AS NEEDED
 CONTRACTOR TO VERIFY DIMENSIONS IN THE FIELD AND ADJUST AS NEEDED
 WINDOWS LABELED ACCORDING TO "ALBERTA" DOUBLE HUNG UNITS.
 WINDOW AND DOOR HEADERS TO BE SIZED AS PER CODE, EACH END OF HEADER MUST REST ON JACK STUDS.
 ALL FRAMING LUMBER TO BE #2 OR BETTER, SPRUCE, PINE, OR FIR
 SEE OWNER FOR ADDITIONAL REQUIREMENTS, I.E.: INSULATION, DRYWALL (EXCLUDING REQUIRED FIRE-RATED DRYWALL, TRIM, LIGHTING LOCATIONS-EXTERIOR AND INTERIOR, EXTERIOR WATER SPIGOT, ETC.
 ANY OVERSIGHT BY DESIGNER TO BE CORRECTED BY CONTRACTOR IN THE FIELD.
 PRE-ENGINEERED LAM. BEAMS TO BE SPECIFIED BY SUPPLIER/ MANUFACTURER AND SPECIFICATIONS TO BE PROVIDED TO SUBMIT WHEN APPLYING FOR PERMIT. BEAMS USED IN EXTERIOR APPLICATIONS TO BE VINYL CLAD TO RESIST WEATHER.



BUILDING SECTION
 SCALE: 1/4" = 1'-0"

LUM GARAGE ADDITION 13910 SWALTON CREEK RD. GALEXIA, MD 21635		1477
DWG. REBECCA G. MALILI BY: ARCHITECTURAL DESIGN 410-885-2159	DATE 5.25.22	A-4 4 OF 4
CONTRACTORS RESPONSIBILITY TO VERIFY ACCURACY AND DIMENSIONS BEFORE CONSTRUCTION		
UNAUTHORIZED USE OR COPYING OF THIS DRAWING IS PROHIBITED		

To: Kent County Planning Commission
From: Carla Gerber, Deputy Director
Meeting: August 4, 2022
Subject: Gary Mundrake - Buffer Variance

Executive Summary

Request by Applicant

Gary Mundrake is requesting a buffer variance to add a small deck and set of steps as a second means of ingress and egress to an existing dwelling located partially within the 100-foot buffer.

Public Process

Per Article IX, Section 2.2 of the Kent County *Land Use Ordinance*, the Planning Commission shall review and make a recommendation to the Board of Appeals for variances. The Board of Appeals may authorize variances from ... buffer requirements so as to relieve practical difficulties or other injustices arising out of the strict application of the provisions of this Ordinance.

Summary of Staff Report

Staff Recommendation

Staff recommends forwarding a favorable recommendation to the Board of Appeals for approval of the buffer variance with the following conditions:

- A Buffer Management Plan is submitted for review and approval.
- The variance will lapse after the expiration of one year if no substantial construction in accordance with the plans herein presented occurs.

PRELIMINARY STAFF REPORT

TO: Kent County Planning Commission
 SUBJECT: Gary Mundrake – Buffer Variance
 DATE: July 28, 2022

DESCRIPTION OF PROPOSAL

Gary Mundrake is requesting a buffer variance to add a small 8 foot by 8 foot deck and set of steps as a second means of ingress and egress to an existing dwelling located almost entirely within the 100-foot buffer. The total square footage of the project is approximately 100 sq. ft. of which 49 sq. ft. will be within the buffer. The deck will be constructed to allow water to pass through which will not increase the lot coverage. The 11.127-acre property is located at 4884 Skinners Neck Road in the Fifth Election District and is zoned Resource Conservation District (RCD). Mr. Mundrake purchased the property in 2019 and chose to renovate the cottage within the existing footprint and raise it almost 7 feet. The only entrance is through the kitchen.

APPLICABLE LAWS

I. Development in the Buffer

- A. *Comprehensive Plan*: “Maintain, enforce and if necessary, strengthen existing regulations for floodplains and buffers.” (Page 86)
- B. *Applicable Law*: Article V, Section 2.7.B.3.a of the Kent County Land Use Ordinance establishes the standards for development in the buffer:
 - i. Development activities, including structures, roads, parking areas, and other impervious surfaces, mining, and related activities, or septic systems shall not be permitted within the minimum 100-foot buffer. This restriction does not apply to water-dependent facilities that meet the criteria set forth below.
- C. *Staff and TAC Comments*: Development activity of this nature is not permitted in the buffer; therefore, the applicant has applied for a buffer variance to add a second point of ingress and egress to the existing dwelling.

II. Variance

- A. *Applicable Law*: Article IX, Section 2.2, Variances of the Kent County *Land Use Ordinance* authorizes the Board of Appeals to grant variances from the yard (front, side, or rear), height, bulk, parking, loading, shoreline cliff, 15% slope, pier length, impervious surface, stream protection corridor, and buffer requirements so as to relieve practical difficulties or other injustices arising out of the strict application of the provisions of this Ordinance.

...

In the Critical Area, for a variance of 15% slope, impervious surface, or buffer requirements, it being the purpose of this provision to authorize the granting of variation only for reasons of demonstrable and exceptional unwarranted hardship as distinguished from variations sought by applicants for purposes or reasons of convenience, profit, or caprice.

In order to grant a *variance*, the Board of Appeals must find all of the following:

- a. That the *variance* will not cause a substantial detriment to adjacent or neighboring property.
 - b. That the *variance* will not change the character of the neighborhood or district.
 - c. That the *variance* is consistent with the *Comprehensive Plan* and the general intent of this Ordinance.
 - d. That the practical difficulty or other injustice was caused by the following:
 - i. Some unusual characteristic of size or shape of the property.
 - ii. Extraordinary topographical or other condition of the property.
 - iii. The use or *development* of property immediately adjacent to the property, except that this criterion shall not apply in the *Critical Area*.
 - e. That the practical difficulty or other injustice was not caused by the applicants own actions.
 - f. That within the *Critical Area* for *variances* of 15% *slope, impervious surface, or buffer* requirements:
 - i. The granting of a *variance* will be in harmony with the general spirit and intent of the *Critical Area Law* and the *regulations* adopted by Kent County
 - ii. That the granting of a *variance* will not adversely affect water quality or adversely impact fish, wildlife, or *plant habitat*.
 - iii. That the application for a *variance* will be made in writing with a copy provided to the *Critical Area Commission*.
 - iv. That the strict application of the Ordinance would produce an *unwarranted hardship*.
 - v. Such hardship is not shared generally by other properties in the same zoning district and the same vicinity.
 - vi. The authorization of such *variance* will not be a substantial detriment to adjacent property and that the character of the district will not be changed by the granting of the *variance*.
 - vii. That a literal interpretation of this Ordinance deprives the applicant of rights commonly enjoyed by other properties in similar areas within the *Critical Area* of Kent County.
 - viii. That the granting of a *variance* will not confer upon an applicant any special privilege that would be denied by this Ordinance to other lands or *structures*.
 - ix. Due to special features of a site, or special conditions or circumstances peculiar to the applicant's land or *structure*, a literal enforcement of this Ordinance would result in *unwarranted hardship* to the applicant.
 - x. The Board of Appeals finds that the applicant has satisfied each one of the *variance* provisions.
 - xi. Without the *variance*, the applicant would be deprived of a use of land or a *structure* permitted to others in accordance with the provisions of the critical area program.
 - g. In considering an application for a *variance*, the Board shall consider the reasonable use of the entire parcel or lot for which the *variance* is requested.
 - h. In considering an application for a *variance*, the Board of Appeals shall presume that the specific *development* activity in the Critical Area that is subject to the application and for which a *variance* is required does not conform with the general purpose and intent of this Ordinance and the Critical Area Law.
 - i. The Board may consider the cause of the *variance* request and if the *variance* request is the result of actions by the applicant, including the commencement of *development* activity before an application for a *variance* has been filed.
- B. *Staff and TAC Comments*: The granting of the variance will not adversely impact adjacent or neighboring properties, nor will it alter the character of the district.

The practical difficulty is due to the shape of the property. The dwelling is surrounded on almost three sides by water, and the cottage pre-dates the adoption of the Critical Area Law or floodplain regulations. The granting of the variance will not negatively impact water quality or adversely impact habitat.

STAFF RECOMENDATION

Staff recommends forwarding a favorable recommendation to the Board of Appeals for approval of the buffer variance to add a small deck and set of steps partially within the buffer. Staff further recommends the following:

- A Buffer Mitigation Plan is submitted at a rate of 3:1 mitigation for disturbance within the buffer.
- The variance will lapse after the expiration of one year if no substantial construction in accordance with the plans herein presented occurs.



Planning Commission
Department of Planning, Housing, and Zoning

August 5, 2022

Dr. Al Townshend
Kent County Board of Appeals
400 High Street
Chestertown, MD 21620

RE: Gary Mundrake - Critical Area Buffer Variance

Dear Dr. Townshend:

At its meeting on August 5, 2022, the Kent County Planning Commission reviewed an application submitted by Gary Mundrake requesting a variance of the Critical Area buffer standards in order to add a small deck and stairs to an existing dwelling located almost entirely within the 100-foot buffer. The proposed deck and steps will add a second means of ingress and egress to the dwelling which was raised almost seven feet when it was renovated in 2019. The 11.127-acre property is located at 4884 Skinners Neck Road, adjacent to Grays Inn Creek in the Fifth Election District, and is zoned Resource Conservation District (RCD).

Following discussion, the Planning Commission voted to make a favorable recommendation for a buffer variance to allow the deck and stairs. The decision was based on the following findings of fact:

- The granting of the variance is in harmony with the general spirit and intent of the Critical Area Law.
- The granting of the variance will not adversely affect water quality, impact fish, wildlife, or plant habitat.
- The hardship is not shared generally by other properties.
- Granting a variance will neither cause a substantial detriment to neighboring properties nor will it change the character of the neighborhood and district.
- The granting of a variance is consistent with the Comprehensive Plan and general intent of the Land Use Ordinance.
- The granting of the variance will not confer any special privilege to the property.
- The extraordinary topographical condition of the property whereby it is surrounded on almost three sides by water.
- The house was built prior to the adoption of the Critical Area Law and floodplain regulations.
- The Critical Area Commission does not oppose this application.

In accordance with the Critical Area requirements, the Commission recommends that buffer mitigation occur at a rate of 3:1 for permanent disturbance. In addition, the Planning Commission recommends that the variance will lapse after one year if no substantial construction is begun.

Sincerely,
Kent County Planning Commission


F. Joseph Hickman

Larry Hogan
Governor
Boyd K. Rutherford
Lt. Governor



Charles C. Deegan
Chairman
Katherine Charbonneau
Executive Director

**STATE OF MARYLAND
CRITICAL AREA COMMISSION
CHESAPEAKE AND ATLANTIC COASTAL BAYS**

July 29, 2022

Ms. Carla Gerber
Kent County
Department of Planning, Housing and Zoning
400 High Street
Chestertown, Maryland 21620

**Re: Gary Mundrake
Buffer Variance Request (22-38)
4884 Skinners Neck Road
(TM 45, P 45)**

Dear Ms. Gerber:

Thank you for submitting information regarding the project referenced above for review and comment. The applicant requests a Buffer variance to construct a deck and an accompanying staircase. The property is 1.13 acres in size, located on lands designated as Resource Conservation Area (RCA) and zoned Critical Area Residential (CAR). The proposed development activities comprise an 8.1' by 8.6' deck and accompanying staircase, providing a second ingress/egress to an existing dwelling that was rebuilt in-kind and elevated in order to comply with floodplain regulations. No clearing is proposed.

We do not oppose this Buffer variance request. Mitigation at a 3:1 ratio is required for permanent impacts to the Buffer as per COMAR 27.01.09.01-2. Locating the plantings between the improvements and the shoreline is recommended to maximize water quality benefits. The applicant shall provide a Buffer Management Plan as per COMAR 27.01.09.01-3 to the County for review and approval that includes species, size, spacing and schedule of plantings, and maintenance activities and survivability assurance. Please include this letter in your file and submit it as part of the record for the variance. Please notify the Commission of the decision made in this case.

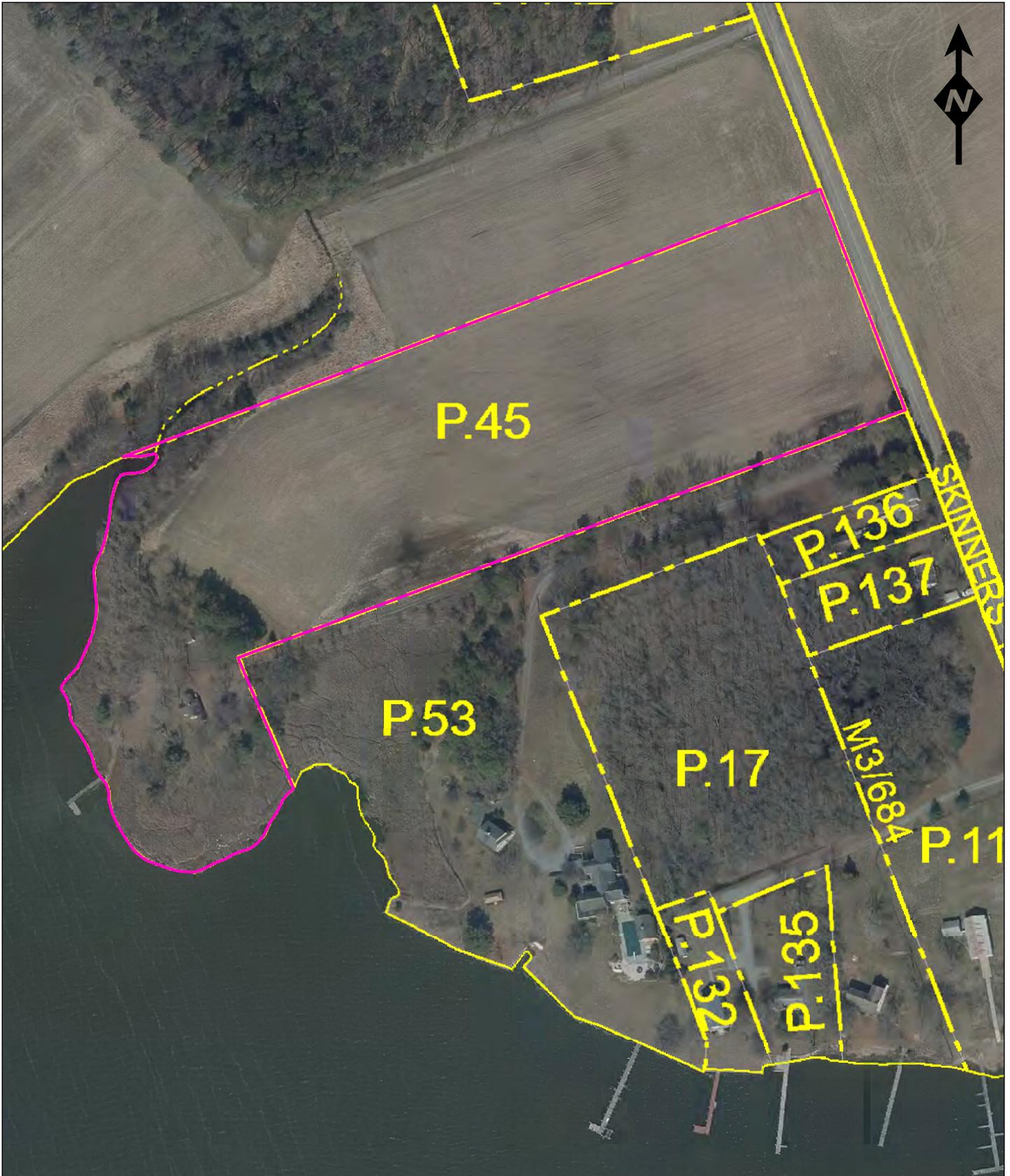
Thank you for the opportunity to review and provide comments. If you have any questions, please feel free to contact me at 410-260-2481 or tay.harris@maryland.gov. Again, thank you for the opportunity to provide comments.

Sincerely,

A handwritten signature in blue ink that reads "Tay E. Harris".

Tay E. Harris
Natural Resources Planner
KC 254-22

Gary Mundrake - Buffer Variance
4884 Skinners Neck Road, Rock Hall



Source: Kent County Department of Planning, Housing, and Zoning.
Aerial taken Spring 2019. Map prepared July, 2022.

1 inch = 200 feet

ADMINISTRATIVE HEARING APPLICATION

Kent County Department of Planning, Housing, and Zoning

Kent County Government Center
400 High Street • Chestertown, MD 21620
410-778-7475 (phone) • 410-810-2932 (fax)

IN THE MATTER OF THE APPLICATION OF:
(Name, Address and Telephone Number of Applicant)

Gary Mundrake
4884 Skinners Neck Road
Rock Hall, MD 21661 Email:

For Office Use Only:
Case Number:
Date Filed:
Filed by:
Applicant:
Date of Hearing:
Parties Notified:
Notice in Paper:
Property Posted:

Please provide the email of the one person who will be responsible for responding to comments. Only this person will be contacted by staff and will be the person responsible for forwarding the comments or requests for additional information to any other interested parties. EMAIL: buck@extrememeasuresllc.com

TO THE DEPARTMENT OF PLANNING, HOUSING AND ZONING: In accordance with Article Section of the Kent County Land Use Ordinance, as amended, request is hereby made for an Administrative Hearing for:

Variance Special Exception Determination of Nonconforming Use

DESCRIPTION OF PROPERTY INVOLVED:

Located on: (Name of Road, etc.) 4884 Skinners Neck Road, Rock Hall, MD 21661

In the 5 Election District of Kent County.

Size of lot or parcel of Land: 11.127 acres
Map: 55 Parcel: 45 Lot #: Deed Ref: MLM 1024/132

List buildings already on property: House and shed

Subdivision name and address, if applicable: n/a

PRESENT ZONING OF PROPERTY: Resource Conservation District

DESCRIPTION OF RELIEF REQUESTED: (List here in detail what you wish to do with property that requires the Appeal Hearing.) Add a deck and adjoining steps to the existing house for a second point of ingress and egress. 49ft² of the proposed deck will be over the 100' Buffer, the remaining deck and steps will not be in the buffer. The base of the steps will be in the floodplain.

Present owner of property: Gary Mundrake Telephone:

If Applicant is not owner, please indicate your interest in this property: _____

Has property involved ever been subject to a previous application? No

If so, please give Application Number and Date: _____

PLEASE FILL IN BELOW, OR ATTACH HERETO, A SKETCH OF THIS PROPERTY.

List all property measurements and dimensions of any buildings already on the property.

Put distances between present buildings or proposed buildings and property lines.

NAMES OF ADJOINING PROPERTY OWNERS:

Owner(s) on the North: Paul C. Bramble PO Box 419, Chestertown, MD 21620

Owner(s) on the South: Arne Sorenson et al 4876 Skinners Neck Road, Rock Hall, MD 21661

Owner(s) to the East: _____

Owner(s) to the West: _____

Homeowners Association, name and address, if applicable: n/a

BY SIGNING THIS APPLICATION, I GRANT THE DEPARTMENT OF PLANNING, HOUSING AND ZONING THE RIGHT TO ENTER ONTO THE PROPERTY FOR THE PURPOSE OF VIEWING THE SITE OF THE APPLICATION.

Signature of Owner/Applicant/Agent or Attorney

Date

Please file this form at 400 High Street, Chestertown, MD 21620 accompanied by **\$200.00** filing fee made payable to the Department of Planning, Housing & Zoning. If you have any questions, contact the Kent County Department of Planning, Housing and Zoning.

NOTICE: The Department of Planning, Housing and Zoning is not required to make out this application. Application should be filled in by Applicant or its agent. If the Planning Office assists you, they cannot be held responsible for its contents.

Applicants arriving more than 10 minutes after the scheduled hearing will not be heard and will be re-scheduled at the applicant's expense.



Narrative for a proposed Buffer Variance on the lands of Gary Mundrake, 4884 Skinners Neck Road, Rock Hall, MD 21661.

Tax Map 55, Parcel 45

Site Address: 4884 Skinners Neck Road, Rock Hall, MD 21661

Deed Reference: M.L.M. 1024/132

Site is zoned: RCD Resource Conservation District

Current/Proposed Use - Residential

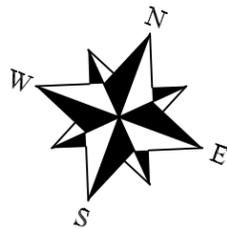
Total Land Area – 11.127 acres±

Site is served a private well and public sewer.

Mr Mundrake is requesting a variance to construct an 8'-1"x8'-6" wooden deck that will be 7' off the ground with a set of wooden steps that are 36" wide leading to the ground. 49ft² of the pervious deck will be in the 100' Buffer.

When Mr Mundrake purchased the property in 2019, there was a 628ft² cottage that was in disrepair and was well below the Base Flood Elevation of 6.0'. The cottage had a covered front porch which served as the front entrance and a back door from the kitchen, which served as the rear entrance. At that time there was a LiMWA line shown on the FEMA Flood Maps that bisected the house and porch. Mr Mundrake decided to refurbish and raise the cottage within the existing footprint, above the Base Flood Elevation and meet the floodplain requirements. During construction the house was raised nearly 7' and the front porch was enclosed. Due to the location of the Buffer and the LiMWA line there was no attempt made to apply for a variance because of the floodplain regulations. Currently there is only one point of ingress/egress through the kitchen.

Recently, FEMA has updated the maps to eliminate the LiMWA line. Mr Mundrake would like to add a small deck and steps from the front porch to the ground to have a second point of egress from the house.

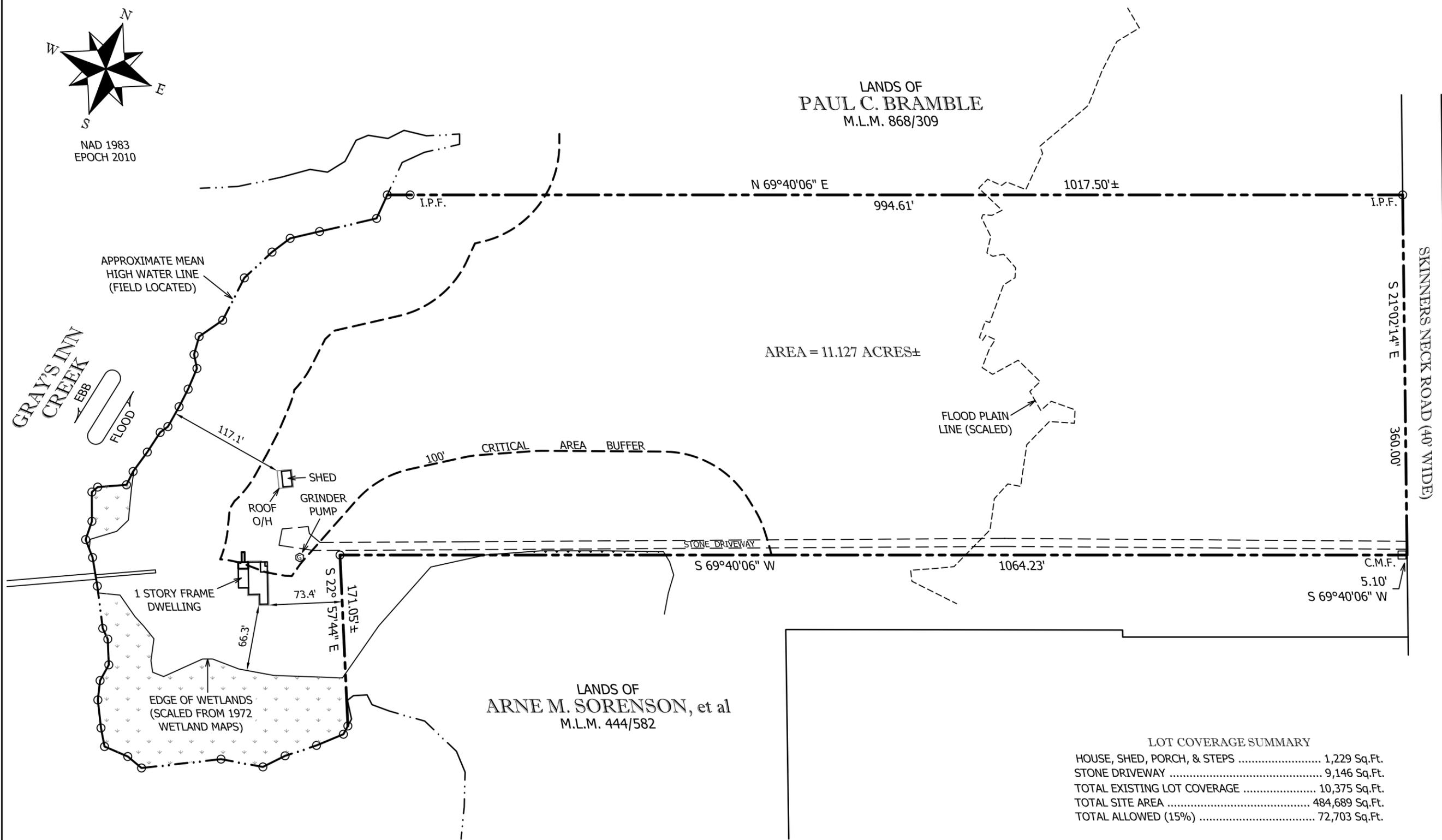


NAD 1983
EPOCH 2010

LANDS OF
PAUL C. BRAMBLE
M.L.M. 868/309

EXTREME MEASURES
LAND SURVEYORS

Chestertown, MD 21620
PHONE 410-778-0147
www.extrememeasuresllc.com



SCALE	1"=100'
DRAWN BY	WJE
DATE	5-25-22
JOB NO.	1131
REVISIONS	

LOCATION DRAWING

OF THE LANDS OF

GARY MUNDRAKE

FIFTH ELECTION DISTRICT, KENT COUNTY, MARYLAND

TAX MAP 55 PARCEL 45

LOT COVERAGE SUMMARY

HOUSE, SHED, PORCH, & STEPS	1,229 Sq.Ft.
STONE DRIVEWAY	9,146 Sq.Ft.
TOTAL EXISTING LOT COVERAGE	10,375 Sq.Ft.
TOTAL SITE AREA	484,689 Sq.Ft.
TOTAL ALLOWED (15%)	72,703 Sq.Ft.

NOTES:

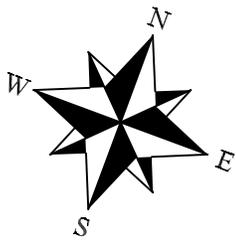
DEED REFERENCE: M.L.M. 1024/132

PREMISES ADDRESS: 4884 SKINNERS NECK ROAD
ROCK HALL, MD. 21661

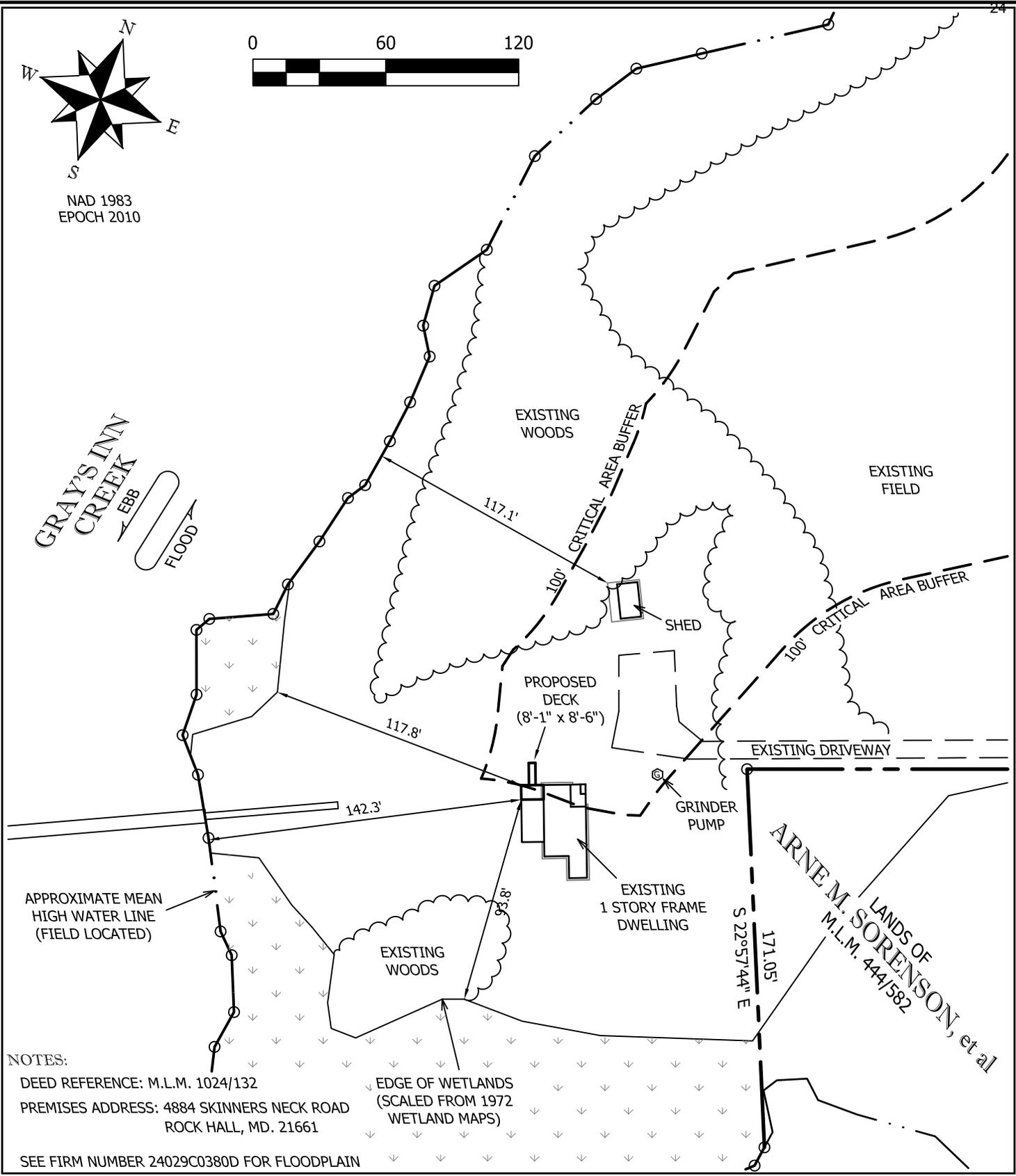
SEE FIRM NUMBER 24029C0380D FOR FLOODPLAIN
BASE FLOOD ELEVATION (BFE) = 6.0'
HIGHEST GROUND ELEVATION AT HOUSE CORNER = 3.5'



- LEGEND:
- I.P.F. - DENOTES IRON PIPE FOUND
 - C.M.F. - DENOTES CONCRETE MONUMENT FOUND
 - DENOTES WETLANDS (SCALED FROM 1972 WETLAND MAP)
 - DENOTES FLOODPLAIN LINE



NAD 1983
EPOCH 2010



NOTES:
DEED REFERENCE: M.L.M. 1024/132
PREMISES ADDRESS: 4884 SKINNERS NECK ROAD
ROCK HALL, MD. 21661
SEE FIRM NUMBER 24029C0380D FOR FLOODPLAIN

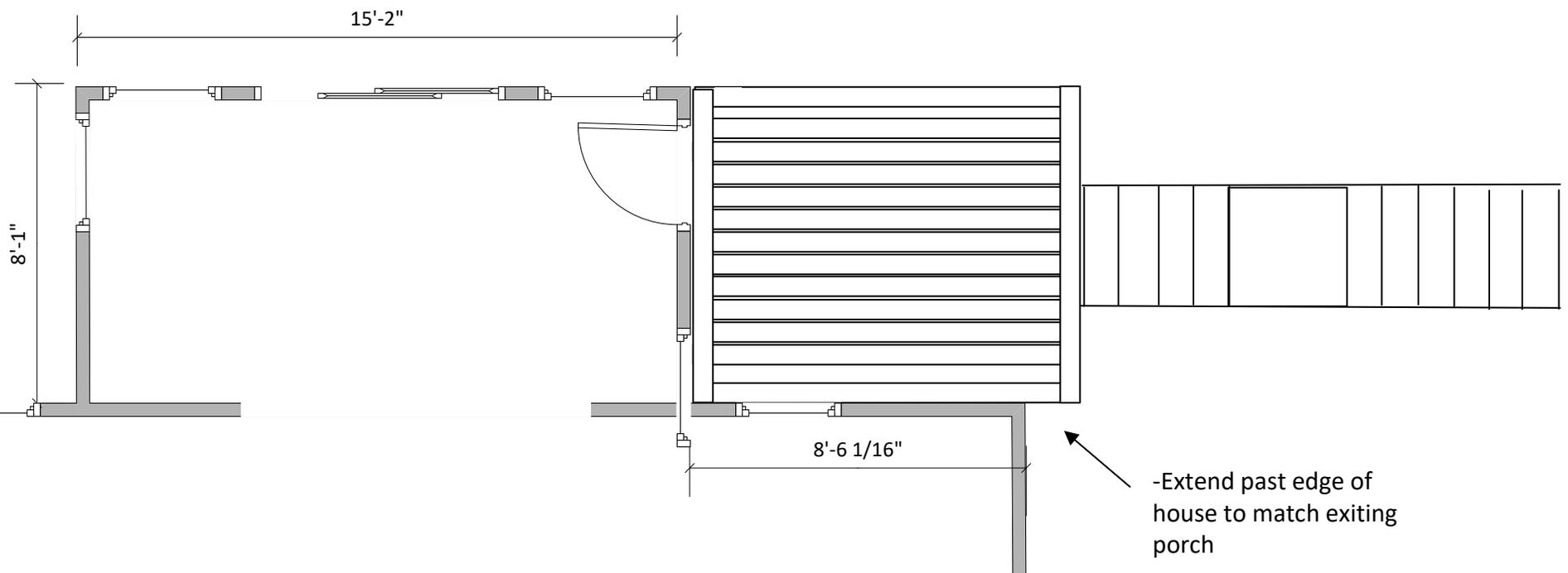
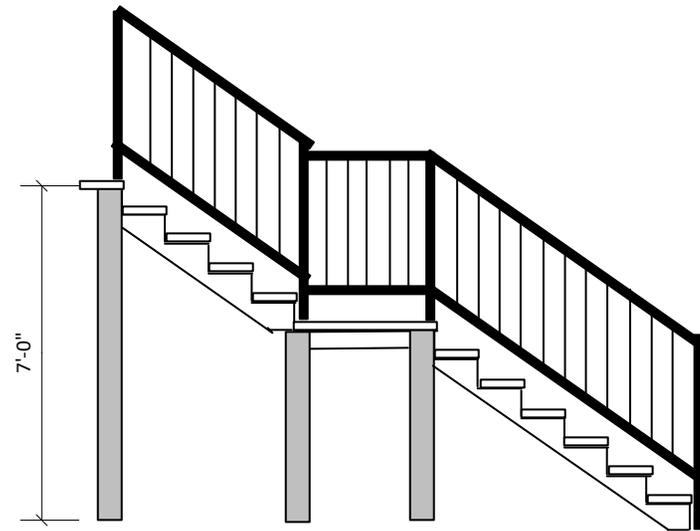
SITE PLAN
OF THE LANDS OF,
GARY MUNDRAKE
FIFTH ELECTION DISTRICT, KENT COUNTY
MARYLAND
TAX MAP 55, PARCEL 45

EXTREME MEASURES
LAND SURVEYORS

Chestertown, MD 21620 PHONE 410-778-0147
www.extrememeasuresllc.com

SCALE 1"=60'
DRAWN BY RAN
DATE 5-25-2022
JOB NO. 1131

- Match existing porch for all finishes and methods of construction
- All support posts – Pressure Treated 6" x 6"
- Step landing 3' x 3'
- Deck height no more than 2" below bottom of door threshold
- Stair treads 6.5" rise/11" run





2022



2019



2022



2019



To: Kent County Planning Commission
From: Mark Carper, Associate Planner
Meeting: August 4, 2022
Subject: Robert L. Hindman
Variance – Slope

Executive Summary

Request by Applicant

Robert L. Hindman is requesting a variance to allow for the construction of a driveway across approximately 713 square feet of slopes greater than 15%. The proposed development of this 3.103-acre property is for a single-family residence.

Public Process

Per Article IX, Section 2.2 of the Kent County *Land Use Ordinance*, the Planning Commission shall review and make a recommendation to the Board of Appeals for variances. The Board of Appeals may authorize variances from ... 15% slope ... requirements so as to relieve practical difficulties or other injustices arising out of the strict application of the provisions of this Ordinance.

Summary of Staff Report

The property is located east and south of Belchester Road near Kennedyville in the Second Election District and is zoned Critical Area Residential (CAR). The limits of disturbance for the project will be 21,255 square feet, of which 713 square feet are steep slopes. The proposed driveway has been oriented to have the least amount of disturbance to steep slopes as possible, and grading will decrease the slope and subsequently reduce the potential for erosion.

The practical difficulty is due to the extraordinary topographical condition of the property, which is not caused by the applicant, and the proposed action will neither alter the character of the district or negatively affect fish, wildlife, or plant habitat.

A strict application of the Ordinance would produce an unwarranted hardship and would deny reasonable and significant use of the of the parcel. The granting of the variance would not be a substantial detriment to adjacent properties, nor would it provide any special privilege to the applicant that would be denied by the Ordinance to other lands or structures.

Staff Recommendation

Staff recommends forwarding a favorable recommendation to the Board of Appeals for approval of the slope variance with the following conditions:

- That 3:1 mitigation for disturbance for the steep slopes is included.
- The variance will lapse after the expiration of one year if no substantial construction in accordance with the plans herein presented occurs.

PRELIMINARY STAFF REPORT

TO: Kent County Planning Commission
SUBJECT: #22-39 – Robert L. Hindman
Variance – Slope
DATE: July 28, 2022

DESCRIPTION OF PROPOSAL

Robert L. Hindman is requesting a variance to allow for the construction of a driveway across approximately 713 square feet of slopes greater than 15%. The proposed development of this 3.103-acre property is for a single-family residence. The property is located east and south of Belchester Road near Kennedyville in the Second Election District and is zoned Critical Area Residential (CAR). Adjacent properties are zoned CAR to the north and west and Resource Conservation District (RCD) to the east and south, and the area may be characterized as single-family residential across the road and agricultural to the rear.

The limits of disturbance for the project will be 21,255 square feet, of which 713 square feet are steep slopes. The proposed driveway has been oriented to have the least amount of disturbance to steep slopes as possible. The proposed lot coverage for the development will be 7,921 square feet.

APPLICABLE LAWS

I. Development on steep slopes

- A. *Comprehensive Plan*: “Goal: Limit development in area with constraints in order to improve safety and reduce environmental and property damage. (Page 86) “Strategy: Maintain and enforce existing regulations for steep slopes and shoreline cliffs” (Page 87)
- B. *Applicable Law*: Article V, Section 5.7.B.10 of the Kent County Land Use Ordinance establishes the standards in the Critical Area Residential (CAR) district for development on slopes:

Development on slopes greater than 15%, as measured before development, shall be prohibited unless the project is the only effective way to maintain or improve the stability of the land.

- C. *Staff and TAC Comments*: The proposed development has been oriented to have the least amount of disturbance to steep slopes as possible. The Department of Public Works, the Health Department, and MDOT SHA have reviewed this application and have no issues. The application has been sent to the Critical Area Commission for review.

II. Variance

- A. *Applicable Law*: Article IX, Section 2.2, Variances of the Kent County *Land Use Ordinance* authorizes the Board of Appeals to grant variances from the yard (front, side, or rear), height, bulk, parking, loading, shoreline cliff, 15% slope, pier length, impervious surface, stream protection corridor, and buffer requirements so as to relieve practical difficulties or other injustices arising out of the strict application of the provisions of this Ordinance.

...

In the Critical Area, for a variance of 15% slope, impervious surface, or buffer requirements, it being the purpose of this provision to authorize the granting of variation only for reasons of demonstrable and exceptional unwarranted hardship as distinguished from variations sought by applicants for purposes or reasons of convenience, profit, or caprice.

In order to grant a *variance*, the Board of Appeals must find all of the following:

- a. That the *variance* will not cause a substantial detriment to adjacent or neighboring property.
- b. That the *variance* will not change the character of the neighborhood or district.
- c. That the *variance* is consistent with the *Comprehensive Plan* and the general intent of this Ordinance.
- d. That the practical difficulty or other injustice was caused by the following:
 - i. Some unusual characteristic of size or shape of the property.
 - ii. Extraordinary topographical or other condition of the property.
 - iii. The use or *development* of property immediately adjacent to the property, except that this criterion shall not apply in the *Critical Area*.
- e. That the practical difficulty or other injustice was not caused by the applicants own actions.
- f. That within the *Critical Area* for *variances* of 15% *slope, impervious surface, or buffer* requirements:
 - i. The granting of a *variance* will be in harmony with the general spirit and intent of the *Critical Area Law* and the *regulations* adopted by Kent County
 - ii. That the granting of a *variance* will not adversely affect water quality or adversely impact fish, wildlife, or *plant habitat*.
 - iii. That the application for a *variance* will be made in writing with a copy provided to the *Critical Area Commission*.
 - iv. That the strict application of the Ordinance would produce an *unwarranted hardship*.
 - v. Such hardship is not shared generally by other properties in the same zoning district and the same vicinity.
 - vi. The authorization of such *variance* will not be a substantial detriment to adjacent property and that the character of the district will not be changed by the granting of the *variance*.
 - vii. That a literal interpretation of this Ordinance deprives the applicant of rights commonly enjoyed by other properties in similar areas within the *Critical Area* of Kent County.
 - viii. That the granting of a *variance* will not confer upon an applicant any special privilege that would be denied by this Ordinance to other lands or *structures*.
 - ix. Due to special features of a site, or special conditions or circumstances peculiar to the applicant's land or *structure*, a literal enforcement of this Ordinance would result in *unwarranted hardship* to the applicant.
 - x. The Board of Appeals finds that the applicant has satisfied each one of the *variance* provisions.
 - xi. Without the *variance*, the applicant would be deprived of a use of land or a *structure* permitted to others in accordance with the provisions of the critical area program.
- g. In considering an application for a *variance*, the Board shall consider the reasonable use of the entire parcel or lot for which the *variance* is requested.
- h. In considering an application for a *variance*, the Board of Appeals shall presume that the specific *development* activity in the Critical Area that is subject to the application and for which a *variance* is required does not conform with the general purpose and intent of this Ordinance and the Critical Area Law.

- i. The Board may consider the cause of the *variance* request and if the *variance* request is the result of actions by the applicant, including the commencement of *development* activity before an application for a *variance* has been filed.
- B. *Staff and TAC Comments*: Disturbance to steep slopes will take place in the center of the parcel, thus the granting of the variance will not adversely impact adjacent or neighboring properties. The proposed grading will decrease the slope and subsequently reduce the potential for erosion. The proposed action will not alter the character of the district. The application is consistent with the Comprehensive Plan as a stated goal is to “Provide a wide range of housing opportunities to meet the needs of Kent County residents” (Page 90).

The practical difficulty is due to the extraordinary topographical condition of the property, which is not the caused by the applicant. As the proposed grading will reduce the area of steep slopes, the application is in harmony with the intent and spirit of the Critical Area Law and Kent County regulations of minimizing erosion and sediment laden water. The variance will not negatively affect fish, wildlife, or plant habitat.

A strict application of the Ordinance would produce an unwarranted hardship and would deny reasonable and significant use of the of the parcel. The granting of the variance would not be a substantial detriment to adjacent properties, nor would it provide any special privilege to the applicant that would be denied by the Ordinance to other lands or structures.

STAFF RECOMENDATION

Staff recommends forwarding a favorable recommendation to the Board of Appeals for approval of the slope variance to allow for the construction of a driveway across approximately 713 square feet of slopes greater than 15% for development of this 3.103-acre property for a single-family residence. Staff recommends the following conditions:

- That 3:1 mitigation for disturbance for the steep slopes is included.
- The variance will lapse after the expiration of one year if no substantial construction in accordance with the plans herein presented occurs.



Planning Commission
Department of Planning, Housing, and Zoning

August 5, 2022

Dr. Al Townsend
Kent County Board of Appeals
400 High Street
Chestertown, MD 21620

RE: 22-39 Robert L. Hindman – Slope Variance

Dear Dr. Townsend,

At its meeting on August 4, 2022, the Kent County Planning Commission reviewed the application of Robert L. Hindman, owner, requesting a variance to allow for the construction of a driveway across approximately 713 square feet of slopes greater than 15%. The proposed development of this 3.103-acre property is for a single-family residence. The property is located east and south of Belchester Road near Kennedyville in the Second Election District and is zoned Critical Area Residential (CAR).

Following discussion, the Planning Commission voted to make a favorable recommendation for the variance to allow the construction of a driveway across approximately 713 square feet of slopes greater than 15%. The Planning Commission recommends the following conditions should the Board of Appeals grant the approval:

- That 3:1 mitigation for disturbance of steep slopes is included.
- The variances will lapse after the expiration of one year if no substantial construction in accordance with the plans herein presented occurs.

The decision was based on the following findings of fact:

- Granting of the variance will not adversely impact adjacent or neighboring properties or change the character of the neighborhood.
- The practical difficulty is due to the extraordinary topographical condition of the property, which is not caused by the applicant, and the project has been designed to minimize the impact.
- The proposed grading will decrease the slope and subsequently reduce the potential for erosion.
- The variance will not negatively affect fish, wildlife, or plant habitat.
- The application was reviewed by the Critical Area Commission, which does not oppose the granting of a variance.
- A strict application of the Ordinance would produce an unwarranted hardship and would deny reasonable and significant use of the parcel.
- The granting of the variance would not be a substantial detriment to adjacent properties, nor would it provide any special privilege to the applicant, which would be denied by the Land Use Ordinance to other lands or structures.
- The application is consistent with the Comprehensive Plan.

Sincerely,
Kent County Planning Commission

Joe Hickman
Chair

cc: Robert L. Hindman, Owner
Kevin Shearon, P.E., LEED AP, DMS & Associates

Larry Hogan
Governor
Boyd K. Rutherford
Lt. Governor



Charles C. Deegan
Chairman
Katherine Charbonneau
Executive Director

**STATE OF MARYLAND
CRITICAL AREA COMMISSION
CHESAPEAKE AND ATLANTIC COASTAL BAYS**

July 29, 2022

Mr. Mark Carper
Kent County
Department of Planning, Housing and Zoning
400 High Street
Chestertown, Maryland 21620

**Re: Robert L. Hindman
Slope Variance Request (22-39)
E/S Bellchester Road near Kennedyville
(TM 6, P 107)**

Dear Mr. Carper:

Thank you for submitting information regarding the project referenced above for review and comment. The applicant requests a variance for disturbance to steep slopes in order to construct a driveway through an area of steep slopes. The subject property is 3.03 acres in size, located on lands designated as Limited Development Area (LDA), and zoned Critical Area Residential (CAR), and landlocked. The proposed development activities comprise a newly constructed dwelling with a porch and accompanying staircase, and a driveway for a total lot coverage of 7,921 square feet. No clearing is proposed; however, the construction of the driveway will impact 713 square feet of steep slopes.

We do not oppose this variance request to disturb an area of steep slopes. Mitigation shall performed be in accordance with the County's Critical Area program.

Thank you for the opportunity to review and provide comments. If you have any questions, please feel free to contact me at 410-260-2481 or tay.harris@maryland.gov.

Sincerely,

A handwritten signature in blue ink that reads "Tay E. Harris".

Tay E. Harris
Natural Resources Planner
KC 258-22



Source: Kent County Department of Planning, Housing, and Zoning.
 Aerial taken Spring 2019. Map prepared July 2022.

1 inch = 150 feet

BOARD OF APPEALS APPLICATION

Kent County Department of Planning, Housing and Zoning

Kent County Government Center
400 High Street • Chestertown, MD 21620
410-778-7423 (phone) • 410-810-2932 (fax)

**IN THE MATTER OF THE APPLICATION OF:
(Name, Address and Telephone Number of Applicant)**

Robert L. Hindman, et ux
725 S. Atlantic Avenue
Virginia Beach, Virginia 23451

Email: robertlhindman@gmail.com

For Office Use Only:

Case Number/Date Filed: _____
Filed by: _____
Applicant: _____
Planning Commission: _____
Date of Hearing: _____
Parties Notified: _____
Notice in Paper: _____
Property Posted: _____

Please provide the email of the one person who will be responsible for responding to comments. Only this person will be contacted by staff and will be the person responsible for forwarding the comments or requests for additional information to any other interested parties. EMAIL: kjs@dmsandassociates.com

TO THE KENT COUNTY BOARD OF APPEALS: In accordance with Article V Section 5.7.B.10
of the Kent County Zoning Ordinance, as amended, request is hereby made for:

Appealing Decision of Kent County Zoning Administrator X Variance
 Special Exception Nonconforming Use

DESCRIPTION OF PROPERTY INVOLVED:

Located on: (Name of Road, etc.) Belchester Road

In the 2nd Election District of Kent County.

Size of lot or parcel of Land: 3.103 acres
Map: 6 Parcel: 109 Lot #: -- Deed Ref: 1162/194

List buildings already on property: None

If subdivision, indicate lot and block number: N/A

If there is a homeowner's association, give name and address of association: No

PRESENT ZONING OF PROPERTY: Critical Area Residential

DESCRIPTION OF RELIEF REQUESTED: (List here in detail what you wish to do with property that requires the Appeal Hearing.) The applicant is requesting variance to allow the construction of a driveway through an area of steep slopes (approximately 713-sf).

If appealing decision of Zoning Administrator, list date of their decision: _____

Present owner(s) of property: Robert L. Hindman, et ux Telephone: 410-348-2426

If Applicant is not owner, please indicate your interest in this property: n/a

Has property involved ever been subject to a previous application? no

If so, please give Application Number and Date: _____

PLEASE FILL IN BELOW, OR ATTACH HERETO, A SKETCH OF THIS PROPERTY.

List all property measurements and dimensions of any buildings already on the property.

Put distances between present buildings or proposed buildings and property lines.

NAMES OF ADJOINING PROPERTY OWNERS:

Owner(s) on the North: Elwood & Patricia Moore

Owner(s) on the South: Mitchell Family, LLC

Owner(s) to the East: Mitchell Family, LLC

Owner(s) to the West: Deirdre R. O'Connell, Michael & Mary Joe McCormick, The Chesapeake Trust

Homeowners Association, name and address, if applicable: _____

BY SIGNING THIS APPLICATION, I GRANT MEMBERS AND ALTERNATE OF THE BOARD OF ZONING APPEALS THE RIGHT TO ENTER ONTO THE PROPERTY FOR THE PURPOSE OF VIEWING THE SITE OF THE APPLICATION OR APPEAL.

Robert L. Hindman _____ Date 6/28/22
Signature of Owner/Applicant/Agent or Attorney

Please file this form at 400 High Street, Chestertown, MD 21620 accompanied by **\$350.00** filing fee made payable to the **County Commissioners of Kent County**. The filing fee for appeals of a Zoning Administrator's decision is \$250.00. If you have any questions, please contact the Clerk at 410-778-7467.

NOTICE: Neither the Board of Appeals nor the Planning Department is required to make out this Application. If the Planning Department assists you, it cannot be held responsible for its contents.

Applicants arriving more than 10 minutes after the scheduled hearing will not be heard and will be re-scheduled at the applicant's expense.

PROJECT NARRATIVE

Steep Slope Variance Request Lands of Robert L. Hindman, et ux Belchester Road, Kennedyville, Maryland

In accordance with Article VI, Section 5.4.B of the Kent County Zoning Ordinance, we offer the following:

Name and address of the landowner, the developer and/or representative, if different from the owner

The property is owned by Mr. & Mrs. Robert L. Hindman. They are the property owners and the developers.

Street address, tax map, parcel number, and subdivision if any

The site is located on the east side of Belchester Road near Kennedyville, Maryland. The property is identified as Tax Map 6 Parcel 109. A subdivision is not needed as part of this project.

Zoning of the site

The site is zoned Critical Area Residential (CAR). The surrounding properties are zoned CAR to the north and west, and Resource Conservation District (RCD) to the east and south.

Current and proposed use of the property

The property is currently vacant. A single-family residence is proposed on the 3.103-acre property. Based on a topographic slope analysis, the middle portion of the property contains slopes that exceed 15%. Therefore, a variance is being sought in accordance with the Land Use Ordinance Article V, Section 5.7.B.10.

The following are draft findings for the Board of Appeal's consideration in accordance with Article IX, Section 2.2.3 we offer the following:

- a) The variance will not cause a substantial detriment to adjacent or neighboring properties as the disturbance to the steep slopes will be in the middle of the property. Following grading, the steep slopes will be flattened thereby lessening the potential of erosion.
- b) Granting of the variance will not negatively change the character of the neighborhood as the variance does not affect the use of a single-family residence.
- c) Granting of the variance is consistent with the Comprehensive Plan by encouraging a range of housing densities, types, and sizes.
- d) The practical difficulty arose from the following:

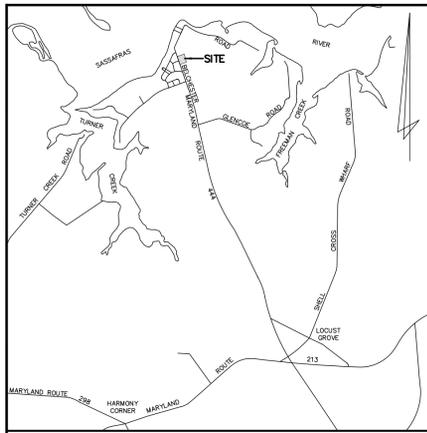
- i. The granting of a variance will be in harmony with the general spirit and intent of the Critical Area Law and regulations adopted by Kent County of minimizing erosion and sediment laden water. The final grades will be less than 15% and the area will be stabilized with dense vegetation.
- ii. The granting of the variance will not have an adverse impact on water quality or adversely impact fish, wildlife, or plant habitat. Conversely, the variance will allow the area of steep slopes to be developed and properly stabilized with flatter grades and more dense vegetation.
- iii. We acknowledge that the application for variance will be made in writing with a copy provided to the Critical Area Commission.
- iv. The strict application of the Ordinance would produce an unwarranted hardship by not allowing the property owner to temporarily disturb the area, construct the improvements, and then grade and stabilize the area to a nonerosive condition.
- v. We are unaware of other properties in the vicinity that have needed a variance to improve their property.
- vi. The disturbance to the steep slopes on this property is de minimis and will not be a substantial detriment to adjacent property, nor will the character of the district be changed by the granting of the variance.
- vii. The literal interpretation of the Ordinance deprives the applicant rights commonly enjoyed by other properties in similar areas within the Critical Area of Kent County as many of them were developed prior to the adoption of the steep slope regulations.
- viii. The granting of the variance will not confer upon the applicant any special privilege that would be denied by this Ordinance to other lands or structures so long as the disturbed area is improved with less slope and properly stabilized.
- ix. The special feature on the site is the area of slopes steeper than 15% which creates a unique feature of the property and would cause an unwarranted hardship if a variance were not granted.
- x. The Board of Appeals finds that the applicant has satisfied each one of the variance provisions.
- xi. Based on the Critical Area Program, the applicant would be deprived the intended use of the land without a variance. The Critical Area Program has accepted alternative interpretations of "steep slopes" in other jurisdictions which include minimum vertical distance criteria for an area to be considered steep.

How the proposed development complies with the Comprehensive Plan and the design and environmental standards of the Ordinance

The development complies with the Comprehensive Plan in that it promotes housing of all types. It also complies with the environmental standards in that it will result in a less steep and more nonerosive, vegetated area.

Proposed type of water and sewer service

The site will be served by private well and a private septic system.



VICINITY MAP
SCALE 1" = 4000'

- NOTES:**
1. THE SITE IS NOT LOCATED IN THE FLOODPLAIN AS TAKEN FROM F.E.M.A. FLOOD INSURANCE RATE MAP COMMUNITY PANEL No. 24029C0180D, (ZONE "X") (UNSHADED) DATED JUNE 9, 2014.
 2. SOIL ONSITE CONSIST OF "CnE" COLTS NECK AND SASSAFRAS SOILS (NON-HYDRIC SOIL, HYDROLOGIC SOIL, GROUP "B"), "SocC" SASSAFRAS SANDY LOAM, (NON-HYDRIC SOIL, HYDROLOGIC SOIL GROUP "B") AND "SIB" SASSAFRAS LOAM, (NON-HYDRIC, HYDROLOGIC SOIL GROUP "B")
 3. SITE IS ZONED CRITICAL AREA RESIDENTIAL (CAR)

SITE STATISTICS

SITE AREA	=	135,158 sq. ft.± (3.103 ac.±)
LOT COVERAGE (EXISTING) (0.0%)	=	0,000 sq. ft.± (0.000 ac.±)
LOT COVERAGE (PROPOSED) (5.9%)	=	7,921 sq. ft.± (0.182 ac.±)
DWELLING	=	1,344 sq. ft.±
DECK AND STAIRS	=	6,057 sq. ft.±
DRIVEWAY	=	520 sq. ft.±

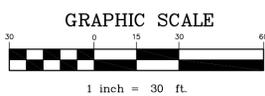
LANDS N/F OF
ELWOOD J. MOORE, et ux
E.H.P. 71/461

AREA SHOWN DEPICTS
SLOPES OF 15% OR STEEPER
AREA OF STEEP SLOPES LOCATED
WITHIN THE LIMITS OF DISTURBANCE
AREA = 0.016 acres± (713 sq. ft.±)

L.O.D. - DENOTES LIMITS OF DISTURBANCE
AREA = 0.49 acres± (21,255 sq. ft.±)

LEGEND

- DEED POINT
- EXISTING UTILITY POLE WITH OVERHEAD UTILITY LINE
- SOILS LINE AND TYPE
- PROPOSED WELL
- LIMITS OF DISTURBANCE



OWNER:
ROBERT HINDMAN & JOANNE O'ROURKE
725 S. ATLANTIC AVENUE
VIRGINIA BEACH, VIRGINIA 23451

ENGINEER
DMS & ASSOCIATES, LLC
c/o KEVIN J. SHEARON P.E. LEED
P.O. BOX 80
CENTREVILLE, MARYLAND 21617
PHONE No. 1-443-262-9130

BELCHESTER ROAD

KENT COUNTY PLANNING OFFICE 	DAVIS, MOORE, SHEARON & ASSOCIATES, LLC ENGINEERING, DRAFTING/DESIGN, ENVIRONMENTAL SERVICES & SURVEYING P.O. BOX 80 CENTREVILLE, MARYLAND 21617 PHONE : 1-443-262-9130 FAX : 1-443-262-9148	DATE 7-22-22	REVISION PER COMMENTS	BOARD OF APPEALS PRESENTATION PLAN ON THE LANDS OF ROBERT L. HINDMAN & JOANNE M. O'ROURKE NEAR THE VILLAGE OF KENNEDYVILLE TAX MAP - 6, GRID - 2B, PARCEL - 109 THIRD ELECTION DISTRICT, KENT COUNTY, MARYLAND	DATE JUNE '22	SCALE 1" = 20'
		SHEET No. - C-1	CADD FILE - 22067-C1			

TO: Kent County Planning Commission
FROM: Carla Gerber, Deputy Director
MEETING: August 4, 2022
SUBJECT: Matthew and Gayle McCormick – Slope Variance

Executive Summary

Request by Applicant

Mr. and Mrs. McCormick are requesting a variance to allow development of a parcel with steep slopes for a single-family residence.

Public Process

Per Article IX, Section 2.2 of the Kent County *Land Use Ordinance*, the Planning Commission shall review and make a recommendation to the Board of Appeals for variances. The Board of Appeals may authorize variances from ... 15% slope ... requirements so as to relieve practical difficulties or other injustices arising out of the strict application of the provisions of this Ordinance.

Summary of Staff Report

Mr. and Mrs. McCormick are proposing to construct a new dwelling on a parcel in Kinnaird's Point that is dominated by steep slopes. There will be 5,507 sq. ft. of disturbance to the slopes. The parcel is zoned Critical Area Residential (CAR), and the surrounding area is a neighborhood of single-family dwellings.

Recommendation

Staff recommends approving the variance with a condition for 3:1 mitigation for disturbance for the steep slopes.

PRELIMINARY STAFF REPORT

To: Kent County Planning Commission
 Subject: Matthew and Gayle McCormick - Slope Variance
 Date: July 28, 2022

Description of Proposal

Mr. and Mrs. McCormick request a variance from the steep slope requirements in order to construct a dwelling, driveway, walkway, and retaining walls on slopes in excess of 15%. The property is currently undeveloped. The 2.43-acre lot is part of the Kinnaird's Point subdivision and is located on Walnut Valley Court. It is zoned Critical Area Residential. Many of the neighboring houses were constructed prior to the adoption of the Critical Area Law and are within the 100-foot buffer.

Over half of the property is within the buffer. Only 0.98 acres is outside of the buffer and almost one-quarter of that area is needed for the septic reserve area. The flattest part of the property is along Walnut Valley Court and the property slopes toward Churn Creek. The property is entirely wooded, and the owners want to save as many of the trees as possible within the Limits of Disturbance, which is 0.53 acres (23,049 sq. ft.). The area of disturbance to the steep slopes will be approximately 0.125 acres (5,507 sq. ft.). The proposed lot coverage is 0.167 acres (7,290 sq. ft.).

I. Slopes

- A. *Comprehensive Plan*: "Maintain and enforce existing regulations for steep slopes and shoreline cliffs." (page 87).
- B. *Applicable Law*: Article V, Section 5.7.B.10 of the Kent County Land Use Ordinance addresses development in slopes as follows: Development on slopes greater than 15%, as measured before development, shall be prohibited unless the project is the only effective way to maintain or improve the stability of the land.
- C. *Staff Comments*: The applicants have applied for a variance to construct a dwelling and associated improvements on slopes greater than 15%.

II. Variance

- A. *Applicable Law*: Article IX Section 2.2 of the Kent County Land Use Ordinance authorizes the Board of Appeals to grant variances from the yard (front, side, or rear), height, bulk, parking, loading, shoreline cliff, 15% slope, pier length, impervious surface, stream protection corridor, and buffer requirements so as to relieve practical difficulties or other injustices arising out of the strict application of the provisions of this Ordinance.

Such granting of a variance shall comply, as nearly as possible, in every respect to the spirit, intent, and purpose of this Ordinance; it being the purpose of this provision to authorize the granting of variation only for reasons of demonstrable practical difficulties as distinguished from variations sought for purposes or reasons of convenience, profit, or caprice.

In the Critical Area, for a variance of 15% slope, impervious surface, or buffer requirements, it being the purpose of this provision to authorize the granting of variation only for reasons of demonstrable and exceptional unwarranted hardship as distinguished from variations sought by applicants for purposes or reasons of convenience, profit, or caprice.

In order to grant a variance, the Board of Appeals must find all of the following:

- a. That the variance will not cause a substantial detriment to adjacent or neighboring property.
- b. That the variance will not change the character of the neighborhood or district.

- c. That the variance is consistent with the Comprehensive Plan and the general intent of this Ordinance.
- d. That the practical difficulty or other injustice was caused by the following:
 - i. Some unusual characteristic of size or shape of the property.
 - ii. Extraordinary topographical or other condition of the property.
 - iii. The use or development of property immediately adjacent to the property, except that this criterion shall not apply in the Critical Area.
- e. That the practical difficulty or other injustice was not caused by the applicants own actions.
- f. That within the Critical Area for variances of 15% slope, impervious surface, or buffer requirements:
 - i. The granting of a variance will be in harmony with the general spirit and intent of the Critical Area Law and the regulations adopted by Kent County.
 - ii. That the granting of a variance will not adversely affect water quality or adversely impact fish, wildlife, or plant habitat.
 - iii. That the application for a variance will be made in writing with a copy provided to the Critical Area Commission.
 - iv. That the strict application of the Ordinance would produce an unwarranted hardship.
 - v. Such hardship is not shared generally by other properties in the same zoning district and the same vicinity.
 - vi. The authorization of such variance will not be a substantial detriment to adjacent property and that the character of the district will not be changed by the granting of the variance.
 - vii. That a literal interpretation of this Ordinance deprives the applicant of rights commonly enjoyed by other properties in similar areas within the Critical Area of Kent County.
 - viii. That the granting of a variance will not confer upon an applicant any special privilege that would be denied by this Ordinance to other lands or structures.
 - ix. Due to special features of a site, or special conditions or circumstances peculiar to the applicant's land or structure, a literal enforcement of this Ordinance would result in unwarranted hardship to the applicant.
 - x. The Board of Appeals finds that the applicant has satisfied each one of the variance provisions.
 - xi. Without the variance, the applicant would be deprived of a use of land or a structure permitted to others in accordance with the provisions of the critical area program.
- g. In considering an application for a variance, the Board shall consider the reasonable use of the entire parcel or lot for which the variance is requested.
- h. In considering an application for a variance, the Board of Appeals shall presume that the specific development activity in the Critical Area that is subject to the application and for which a variance is required does not conform with the general purpose and intent of this Ordinance and the Critical Area Law.
- i. The Board may consider the cause of the variance request and if the variance request is the result of actions by the applicant, including the commencement of development activity before an application for a variance has been filed.

C. *Staff Comments:* The granting of the variance will not cause a substantial detriment to the property, nor will it change the character of the district. The proposal represents reasonable use of the property and would not grant any special privilege. There is limited area outside of the buffer or off the steep slopes and limiting development to this area would deprive the owners use of the land permitted to others in the neighborhood. The owners have attempted to site the house and other improvements to have the least impact on the steep slopes as possible.

Staff Recommendation: Staff recommends approval. Staff further recommends mitigation of 3:1 for disturbance of steep slopes and 1:1 for clearing outside of the steep slopes in the form of Native Maryland tree and understory plantings or payment of a fee-in-lieu if there is not sufficient space on the property to mitigate.



Planning Commission
Department of Planning, Housing, and Zoning

August 5, 2022

Dr. Al Townshend
Kent County Board of Appeals
400 High Street
Chestertown, MD 21620

RE: Matthew and Gayle McCormick - Critical Area Slope Variance

Dear Dr. Townshend:

At its meeting on August 5, 2022, the Kent County Planning Commission reviewed an application submitted by Matthew and Gayle McCormick requesting a variance of the Critical Area slope standards in order to construct a new dwelling on slopes exceeding 15%. The undeveloped 2.43-acre property is located on Walnut Valley Court, adjacent to Churn Creek in the Third Election District, and is zoned Critical Area Residential (CAR). Construction of the dwelling, driveway, and walkways will disturb 5,507 square feet of steep slopes.

Following discussion, the Planning Commission voted to make a favorable recommendation for a slope variance to allow the construction of a new dwelling. The decision was based on the following findings of fact:

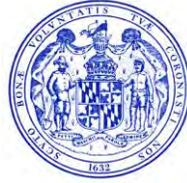
- The granting of the variance is in harmony with the general spirit and intent of the Critical Area Law.
- The granting of the variance will not adversely affect water quality, impact fish, wildlife, or plant habitat.
- The hardship is not shared generally by other properties.
- Granting a variance will neither cause a substantial detriment to neighboring properties nor will it change the character of the neighborhood and district.
- The granting of a variance is consistent with the Comprehensive Plan and general intent of the Land Use Ordinance.
- The granting of the variance will not confer any special privilege to the property and the literal interpretation of the Ordinance would deprive them of rights enjoyed by other property owners.
- The extraordinary topographical condition of the property whereby there is limited area for development outside of the buffer or off steep slopes and the septic reserve area will occupy much of the non-sloped area on the property.
- The Critical Area Commission does not oppose this application.

In accordance with the Critical Area requirements, the Commission recommends that buffer mitigation occur at a rate of 3:1 for permanent disturbance of the slopes and 1:1 for clearing of non-sloped areas or payment of fee-in-lieu if mitigation onsite is not feasible. In addition, the Planning Commission recommends that the variance will lapse after one year if no substantial construction is begun.

Sincerely,
Kent County Planning Commission


F. Joseph Hickman

Larry Hogan
Governor
Boyd K. Rutherford
Lt. Governor



Charles C. Deegan
Chairman
Katherine Charbonneau
Executive Director

**STATE OF MARYLAND
CRITICAL AREA COMMISSION
CHESAPEAKE AND ATLANTIC COASTAL BAYS**

August 4, 2022

Ms. Carla Gerber
Kent County
Department of Planning, Housing and Zoning
400 High Street
Chestertown, Maryland 21620

**Re: Matthew and Gayle McCormick
Slope Variance Request (22-40)
Walnut Valley Court, Worton
(TM 11, P 52)**

Dear Ms. Gerber:

Thank you for submitting information regarding the project referenced above for review and comment. The applicant requests a variance for disturbance to steep slopes in order to construct a dwelling on a grandfathered, undeveloped, and fully forested lot. The property is 2.43 acres in size, located on lands designated as Limited Development Area (LDA), and zoned Critical Area Residential (CAR). The proposed development activities comprise a dwelling with a porch and deck, a driveway and two sets of stairs providing access to the dwelling from the driveway, a detached garage, and two retaining walls to stabilize the steep slopes. Total lot coverage is 6,133 square feet. The limit of disturbance (LOD) is 0.53 acres, of which 5,507 square feet comprise an isolated area of steep slopes. The Buffer is partially expanded due to steep slopes. The proposed clearing comprises less than 20% of the property and is contained entirely within the LOD. The proposed development activities will not impact the expanded Buffer; however, the isolated area of steep slopes, located outside of the expanded Buffer, will be impacted.

We do not oppose this variance request to disturb an area of steep slopes. Mitigation at a 1:1 ratio is required for the proposed canopy clearing as per Article 5, Section 5.7B.4 of the Kent County Zoning Ordinance and COMAR 27.01.02.04.C(2). The applicant proposes to plant native vegetation and therefore stabilize the graded steep slopes located within the LOD, satisfying mitigation requirements partially. Accordingly, the applicant shall provide a planting plan to the County that includes species, size, spacing and schedule of plantings, and maintenance activities and survivability assurance in accordance with COMAR 27.01.09.01-2 and -3 for review and approval. The applicant shall also coordinate with the County to satisfy the remaining mitigation requirements that cannot be accommodated on site, as well as stabilize impacted steep slopes in accordance with the Kent County Critical Area Program. Please include this letter in your file

McCormick Steep Slope Variance Request (22-40)

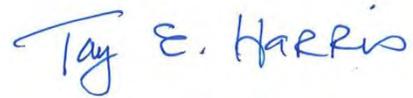
August 4, 2022

Page 2

and submit it as part of the record for the variance and notify the Commission of the decision made in this case.

Thank you for the opportunity to review and provide comments. If you have any questions, please feel free to contact me at 410-260-2481 or tay.harris@maryland.gov.

Sincerely,

A handwritten signature in blue ink that reads "Tay E. Harris". The signature is written in a cursive style with a large initial "T" and "H".

Tay E. Harris
Natural Resources Planner
KC 253-22

Matthew and Gayle McCormick
Walnut Valley Court, Worton



Source: Kent County Department of Planning, Housing, and Zoning.
Aerial taken Spring 2019. Map prepared July, 2022.

1 inch = 200 feet

BOARD OF APPEALS APPLICATION

Kent County Department of Planning, Housing and Zoning

Kent County Government Center
400 High Street • Chestertown, MD 21620
410-778-7423 (phone) • 410-810-2932 (fax)

IN THE MATTER OF THE APPLICATION OF:
(Name, Address and Telephone Number of Applicant)

Matthew & Gayle McCormick
617 Green Bay Rd #511
Wilmette, Illinois 60091

Email: mmccormick2010@gmail.com

For Office Use Only:

Case Number/Date Filed:
Filed by:
Applicant:
Planning Commission:
Date of Hearing:
Parties Notified:
Notice in Paper:
Property Posted:

Please provide the email of the one person who will be responsible for responding to comments. Only this person will be contacted by staff and will be the person responsible for forwarding the comments or requests for additional information to any other interested parties. EMAIL: kjs@dmsandassociates.com

TO THE KENT COUNTY BOARD OF APPEALS: In accordance with Article V Section 5.7.B.10

of the Kent County Zoning Ordinance, as amended, request is hereby made for:

Appealing Decision of Kent County Zoning Administrator X Variance
Special Exception Nonconforming Use

DESCRIPTION OF PROPERTY INVOLVED:

Located on: (Name of Road, etc.) Walnut Valley Court

In the 3rd Election District of Kent County.

Size of lot or parcel of Land: 2.43 acres

Map: 11 Parcel: 52 Lot #: 6 Deed Ref: 1116/171

List buildings already on property: none

If subdivision, indicate lot and block number: Subdivision #32, Section #1, Lot #6

If there is a homeowner's association, give name and address of association: Yes, Kinnairds Point Property Owners Association, Inc. 24089 Kinnairds Point Drive, Worton, Maryland 21678

PRESENT ZONING OF PROPERTY: Critical Area Residential

DESCRIPTION OF RELIEF REQUESTED: (List here in detail what you wish to do with property that requires the Appeal Hearing.) The applicant is requesting variance to allow the construction of a house and driveway on an area of steep slopes (approximately 6,133-sf).

If appealing decision of Zoning Administrator, list date of their decision:

Present owner(s) of property: Matthew & Gayle McCormick Telephone: 847-708-9176

If Applicant is not owner, please indicate your interest in this property: n/a

Has property involved ever been subject to a previous application? no

If so, please give Application Number and Date: _____

PLEASE FILL IN BELOW, OR ATTACH HERETO, A SKETCH OF THIS PROPERTY.

List all property measurements and dimensions of any buildings already on the property.

Put distances between present buildings or proposed buildings and property lines.

NAMES OF ADJOINING PROPERTY OWNERS:

Owner(s) on the North: Richard Doncaster, Karen Douglas

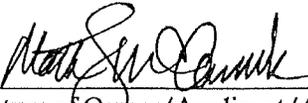
Owner(s) on the South: n/a Churn Creek

Owner(s) to the East: 423 Arbour Drive, LLC, Martin & Dawn Fumo,

Owner(s) to the West: Carl Dickey, Virginia Maier

Homeowners Association, name and address, if applicable: Kinnairds Point Property Owners Association, Inc.
24089 Kinnairds Point Drive, Worton, Maryland 21678

BY SIGNING THIS APPLICATION, I GRANT MEMBERS AND ALTERNATE OF THE BOARD OF ZONING APPEALS THE RIGHT TO ENTER ONTO THE PROPERTY FOR THE PURPOSE OF VIEWING THE SITE OF THE APPLICATION OR APPEAL.


Signature of Owner/Applicant/Agent or Attorney

6/28/2022
Date

Please file this form at 400 High Street, Chestertown, MD 21620 accompanied by **\$350.00** filing fee made payable to the **County Commissioners of Kent County**. The filing fee for appeals of a Zoning Administrator's decision is \$250.00. If you have any questions, please contact the Clerk at 410-778-7467.

NOTICE: Neither the Board of Appeals nor the Planning Department is required to make out this Application. If the Planning Department assists you, it cannot be held responsible for its contents.

Applicants arriving more than 10 minutes after the scheduled hearing will not be heard and will be re-scheduled at the applicant's expense.

PROJECT NARRATIVE

Steep Slope Variance Request Lands of Matthew J. & Gayle S. McCormick Walnut Valley Road, Worton, Maryland

In accordance with Article VI, Section 5.4.B of the Kent County Zoning Ordinance, we offer the following:

Name and address of the landowner, the developer and/or representative, if different from the owner

The property is owned by Matthew J. and Gayle S. McCormick. They are the property owners and the developers.

Street address, tax map, parcel number, and subdivision if any

The site is located on the west side of Walnut Valley Road near Worton, Maryland. The property is identified as Tax Map 11 Parcel 52. A subdivision is not needed as part of this project.

Zoning of the site

The site is zoned Critical Area Residential (CAR). The surrounding properties on all sides are zoned CAR. The property fronts on Churn Creek.

Current and proposed use of the property

The property is currently vacant. A single-family residence is proposed on the 2.20-acre property. As the property is waterfront, a 100-ft shore buffer is shown on the plan along the water. Based on a topographic slope analysis, the buffer has been expanded to include a section of steep slopes on the north side of the property. The remaining usable footprint of the lot is 0.98 acre which includes the 10,000-sf septic reserve area. A portion of the usable area of the property also contains slopes that exceed 15%. Therefore, a variance is being sought in accordance with the Land Use Ordinance Article V, Section 5.7.B.10.

The following are draft findings for the Board of Appeal's consideration in accordance with Article IX, Section 2.2.3 we offer the following:

- a) The variance will not cause a substantial detriment to adjacent or neighboring properties as the disturbance is a significant distance from the neighbors, and drainage does not flow onto adjacent properties. Following grading, the steep slopes will be flattened thereby lessening the potential of erosion.
- b) Granting of the variance will not negatively change the character of the neighborhood as the variance does not affect the use of a single-family residence.
- c) Granting of the variance is consistent with the Comprehensive Plan by encouraging a range of housing densities, types, and sizes.
- d) The practical difficult arose from the following:

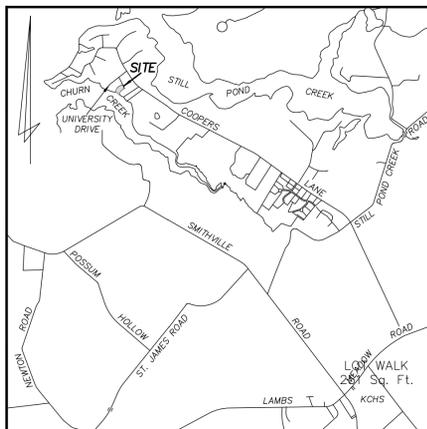
- i. The granting of a variance will be in harmony with the general spirit and intent of the Critical Area Law and regulations adopted by Kent County of minimizing erosion and sediment laden water. The final grades will be less than 15% and the area will be stabilized with dense vegetation.
- ii. The granting of the variance will not have an adverse impact on water quality or adversely impact fish, wildlife, or plant habitat. Conversely, the variance will allow the area of steep slopes to be developed and properly stabilized with flatter grades and more dense vegetation.
- iii. We acknowledge that the application for variance will be made in writing with a copy provided to the Critical Area Commission.
- iv. The strict application of the Ordinance would produce an unwarranted hardship by not allowing the property owner to temporarily disturb the area, construct the improvements, and then grade and stabilize the area to a nonerosive condition. Given the expanded buffer and the location of the septic reserve area, there is no other alternative location in which to construct a house on the property.
- v. We are unaware of other properties in the vicinity that have needed a variance to improve their property. The majority of the adjacent homes were constructed before the Critical Area regulations and are located within the 100-ft shore buffer.
- vi. The disturbance to the steep slopes on this property will not be a substantial detriment to adjacent property, nor will the character of the district be changed by the granting of the variance.
- vii. The literal interpretation of the Ordinance deprives the applicant rights commonly enjoyed by other properties in similar areas within the Critical Area of Kent County as many of them were developed prior to the adoption of the Critical Area steep slope regulations.
- viii. The granting of the variance will not confer upon the applicant any special privilege that would be denied by this Ordinance to other lands or structures so long as the disturbed area is improved with less slope and properly stabilized.
- ix. The special feature on the site include an expanded shore buffer that encompasses over half of the property, leaving a small buildable footprint. An unwarranted hardship would result if a variance were not granted and the applicant were not able to build a house on the site.
- x. The Board of Appeals finds that the applicant has satisfied each one of the variance provisions.
- xi. Based on the Critical Area Program, the applicant would be deprived the intended use of the land without a variance. The Critical Area Program has accepted alternative interpretations of “steep slopes” in other jurisdictions which include minimum vertical distance criteria for an area to be considered steep.

How the proposed development complies with the Comprehensive Plan and the design and environmental standards of the Ordinance

The development complies with the Comprehensive Plan in that it promotes housing of all types. It also complies with the environmental standards in that it will result in a less steep and more nonerosive, vegetated area.

Proposed type of water and sewer service

The site will be served by private well and a private septic system.



SITE STATISTICS

SITE AREA	=	95,835 sq. ft.± (2.200 ac.±)
LOT COVERAGE (ALLOWED) (15%)	=	14,375 sq. ft.± (0.330 ac.±)
LOT COVERAGE (EXISTING) (0.0%)	=	0,000 sq. ft.± (0.000 ac.±)
LOT COVERAGE (PROPOSED) (7.6%)	=	7,290 sq. ft.± (0.167 ac.±)
DWELLING	=	1,317 sq. ft.±
GARAGE	=	576 sq. ft.±
PORCH	=	440 sq. ft.±
DECK	=	584 sq. ft.±
WALLS	=	125 sq. ft.±
WALK	=	251 sq. ft.±
DRIVEWAY	=	3,997 sq. ft.±
LOT COVERAGE (REMAINING) (7.4%)	=	7,085 sq. ft.± (0.163 ac.±)

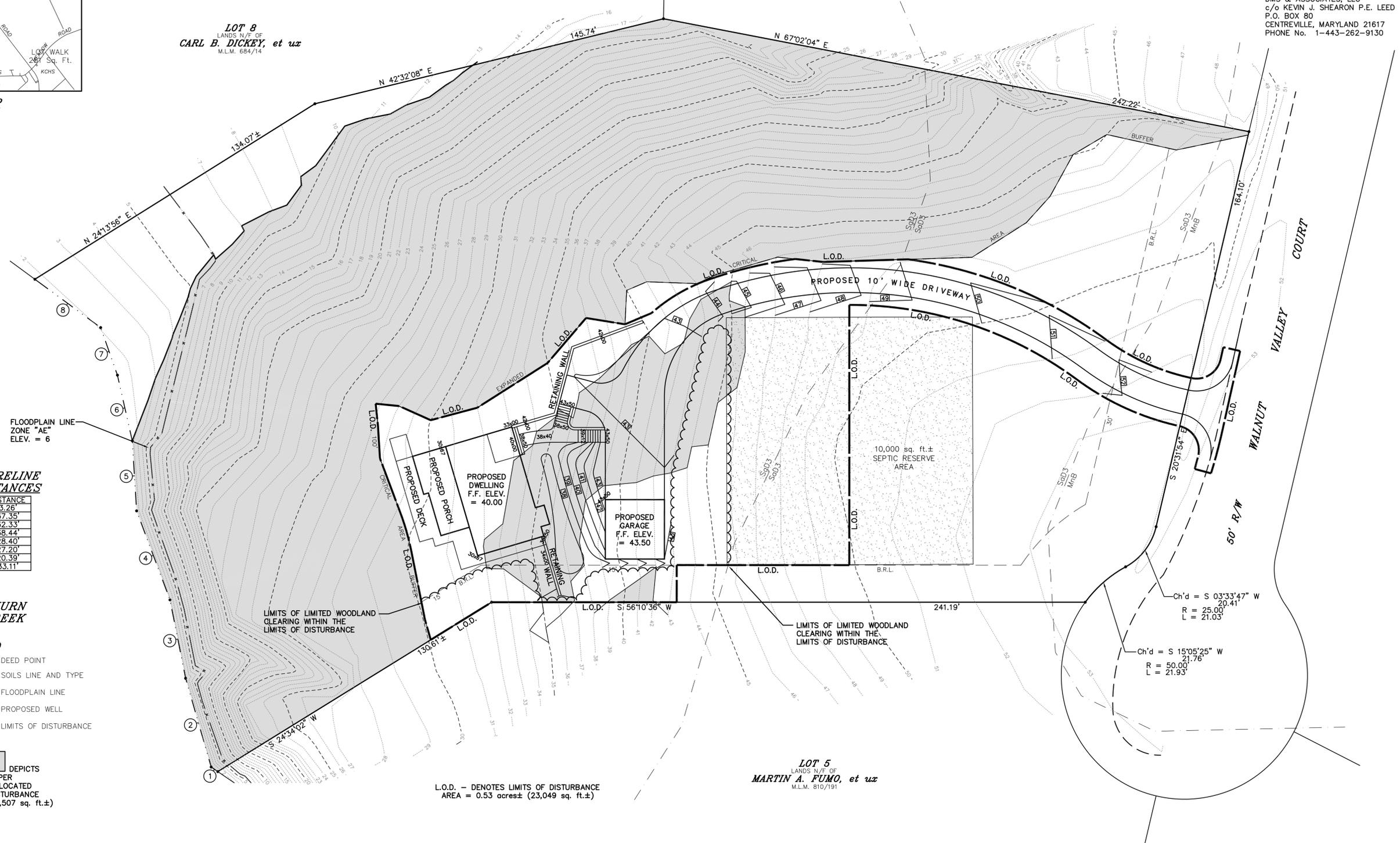
OWNER:
MATTHEW J. & GAYLE S. MCCORMICK
617 GREEN BAY ROAD, #511
WILMETTE, ILLINOIS 60091
PHONE No. 1-847-708-9176

BUILDER:
CHESTERTOWN BUILDERS
c/o ALDEN W. YETMAN
P.O. BOX 18
CHESTERTOWN, MARYLAND 21620
PHONE No. 1-410-810-3911

ENGINEER:
DMS & ASSOCIATES, LLC
c/o KEVIN J. SHEARON P.E. LEED
P.O. BOX 80
CENTREVILLE, MARYLAND 21617
PHONE No. 1-443-262-9130

LOT 8
LANDS N/F OF
CARL B. DICKEY, et ux
M.L.M. 684/14

LOT 7
LANDS N/F OF
VIRGINIA L. MAIER
E.H.P. 287/500



APPROXIMATE SHORELINE COURSES AND DISTANCES

LINE	BEARING	DISTANCE
1	N 89°33'46" W	3.26'
2	N 49°58'01" W	37.35'
3	N 45°08'27" W	32.33'
4	N 54°28'50" W	38.44'
5	N 37°22'53" W	28.40'
6	N 46°38'18" W	27.20'
7	N 53°19'22" W	20.39'
8	N 87°39'55" W	33.11'

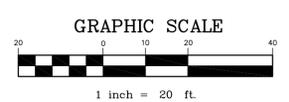
FLOODPLAIN LINE
ZONE "AE"
ELEV. = 6

CHURN CREEK

LEGEND

- DEED POINT
- SoD3 MmB SOILS LINE AND TYPE
- FLOODPLAIN LINE
- PROPOSED WELL
- L.O.D. LIMITS OF DISTURBANCE

AREA SHOWN DEPICTS
SLOPES OF 15% OR STEEPER
AREA OF STEEP SLOPES LOCATED
WITHIN THE LIMITS OF DISTURBANCE
AREA = 0.126 acres± (5,507 sq. ft.±)



- NOTES:**
- THE SITE IS ZONED CRITICAL AREA RESIDENTIAL (CAR)
 - THE SITE IS PARTIALLY LOCATED IN THE FLOODPLAIN AS TAKEN FROM F.E.M.A. FLOOD INSURANCE RATE MAP COMMUNITY PANEL No. 24029C0135D, (ZONE "AE") (ELEV. = 6) DATED JUNE 9, 2014.
 - SOIL ON SITE CONSIST OF "MmB" MATAPEAKE SILT LOAM (NON-HYDRIC SOIL, HYDROLOGIC SOIL GROUP "C"), "SoD3" SASSAFRAS SANDY LOAM, (NON-HYDRIC SOIL, HYDROLOGIC SOIL GROUP "B") AND "SoD3" SASSAFRAS GRAVELLY LOAM, (NON-HYDRIC SOIL, HYDROLOGIC SOIL GROUP "B")

L.O.D. - DENOTES LIMITS OF DISTURBANCE
AREA = 0.53 acres± (23,049 sq. ft.±)

LOT 5
LANDS N/F OF
MARTIN A. FUMO, et ux
M.L.M. 810/191

KENT COUNTY PLANNING OFFICE		DAVIS, MOORE, SHEARON & ASSOCIATES, LLC ENGINEERING, DRAFTING/DESIGN, ENVIRONMENTAL SERVICES & SURVEYING P.O. BOX 80 CENTREVILLE, MARYLAND 21617 PHONE : 1-443-262-9130 FAX : 1-443-262-9148	DATE	REVISION	BOARD OF APPEALS PRESENTATION PLAN ON LOT 6 IN KINNAIRDS POINT SUBDIVISION NEAR THE VILLAGE OF WORTON TAX MAP - 11, GRID - 3D, PARCEL - 52 THIRD ELECTION DISTRICT, KENT COUNTY, MARYLAND PREPARED FOR : CHESTERTOWN BUILDERS	DATE	SCALE
						JULY '22	1" = 20'
						JOB No.	DRAWN BY
						2022030	WJM
						FOLDER Ref	DESIGNED BY
						11-2022030	KJS
						SHEET No. -	
						CADD FILE - 22030BOA	



To: Kent County Planning Commission
From: Mark Carper, Associate Planner
Meeting: August 4, 2022
Subject: Kenah One Health Care Services
Special Exception

Executive Summary

Request by Applicant

Kenah One Health Care Services is requesting a special exception to operate an existing assisted living facility as a hospital, rehabilitation facility, or other similar institution for human care in a Village District.

Public Process

Per Article VII, Section 6 of the Kent County *Land Use Ordinance*, the Planning Commission shall review and make a recommendation to the Board of Appeals on certain special exceptions. The Board of Appeals may authorize special exceptions for hospitals, rehabilitation facilities, or other similar institutions for human care.

Summary of Staff Report

The property is located at 25000 Lambs Meadow Road in the Third Election District and is zoned Village (V). The surrounding area is comprised of single-family homes and other dwellings, such as a church, a community center, and a park. The facility will service adults with mental health and substance use disorders who need rehabilitative services over a 30–90-day period.

The proposed change in use is consistent with the Comprehensive Plan and Land Use Ordinance. The proposed use/services are compatible with existing and planned use, as assisted living services have been provided from this property for over 15 years and services will continue for the residents who are currently placed in the facility and new residents who are admitted for additional behavioral health services.

Staff Recommendation

Staff recommends forwarding a favorable recommendation to the Board of Appeals for approval of the special exception.

PRELIMINARY STAFF REPORT

TO: Kent County Planning Commission
SUBJECT: #22-41 – Kenah One Health Care Services
Special Exception
DATE: July 28, 2022

DESCRIPTION OF PROPOSAL

Kenah One Health Care Services is requesting a special exception to operate an existing assisted living facility as a hospital, rehabilitation facility, or other similar institution for human care in a Village District. The facility will service adults with mental health and substance use disorders who need rehabilitative services over a 30–90-day period. The property is located at 25000 Lambs Meadow Road in the Third Election District and is zoned Village (V).

APPLICABLE LAWS

I. Special Exceptions

- A. *Comprehensive Plan*: Kent County Comprehensive Plan recognizes that the County’s increasingly diversified economy includes health care, a growing field with competitive salaries. A strategy of the County is to “Support the County’s Health Care Industry” through encouraging, “... the development of new health-related businesses, thereby reinforcing a strong economic base while meeting community needs.” (page 10)
- B. *Applicable Law*: Article V, Section 7.3 of the Kent County Land Use Ordinance establishes that the following principal uses and structures may be permitted as special exceptions in the Village District, subject to site plan review by the Planning Commission or where applicable the Planning Director.

14. Hospitals, rehabilitation facilities, or other similar institutions for human care but not including animal hospitals.

- C. *Staff and TAC Comments*: The Department of Public Works, the Health Department, and MDOT SHA have reviewed this application and have no issues.

II. Special Exceptions Standards

- A. *Applicable Law*: Article VII, Section 2. of the Kent County *Land Use Ordinance* presents the standards by which a special exception may be granted.

The Board of Zoning Appeals, or where applicable the Planning Director, in accordance with the procedures and standards of this Ordinance may authorize buildings, structures, and uses as special exceptions in the specific instances and particular Districts set forth provided that the location is appropriate and consistent with the Comprehensive Plan, that the public health, safety, morals, and general welfare will not be adversely affected, and that necessary safeguards will be provided to protect surrounding property, persons, and neighborhood values, and further provided that the additional standards of this Article are specified as a condition of approval. Unless otherwise specified in this Article or as a condition of approval, the height, yard, lot area, design, environmental, parking, and sign requirements shall be the same as other uses in the

district in which the special exception is located.

No special exception shall be authorized unless the Board, or where applicable the Planning Director, finds that the establishment, maintenance, or operation of the special exception meets the standards set forth in this Article. The burden of proof is on the applicant to bring forth the evidence and the burden of persuasion on all questions of fact which are determined by the Board or where applicable the Planning Director.

The Board, or where applicable the Planning Director, shall make findings on the following where appropriate:

1. The nature of the proposed site, including its size and shape and the proposed size, shape, and arrangement of structures;
 2. Traffic Patterns;
 3. Nature of surrounding area;
 4. Proximity of dwellings, houses of worship, schools, public structures, and other places of public gathering;
 5. The impact of the development or project on community facilities and services;
 6. Preservation of cultural and historic landmarks, significant natural features and trees;
 7. Probable effect of noise, vibration, smoke and particulate matter, toxic matter, odor, fire or explosion hazards, or glare upon surrounding properties;
 8. The purpose and intent of this Ordinance as set forth in Article II;
 9. Design, environmental, and other standards of this Ordinance as set forth in Article V;
 10. The most appropriate use of land and structure;
 11. Conservation of property values;
 12. The proposed development's impact on water quality;
 13. Impact on fish, wildlife and plant habitat;
 14. Consistency with the Comprehensive Plan, Land Use Ordinance, and where applicable the Village Master Plan;
 15. Consistency with the Critical Area Program; and
 16. Compatibility with existing and planned land use as described in the Comprehensive Plan, Land Use Ordinance, and where applicable the Village Master Plan.
- B. *Staff and TAC Comments:* The surrounding area is comprised of single-family homes and other dwellings, such as a church, a community center, and a park. No changes to the current structure's size or shape are proposed. The proposed use will not have an impact on community services, such as police, fire, water, or sewer. There will be no noise, vibration, smoke and particulate matter, toxic matter, odor, fire or explosion hazards, or glare upon surrounding properties. There will be no impact to traffic patterns. The proposed change in use will not create any change in property values.

The proposed change in use is consistent with the Comprehensive Plan and Land Use Ordinance. The proposed use/services are compatible with existing and planned use, as assisted living services have been provided from this property for over 15 years and services will continue for the residents who are currently placed in the facility and new residents who are admitted for additional behavioral health services.

STAFF RECOMENDATION

Staff recommends forwarding a favorable recommendation to the Board of Appeals for approval of the special exception.



August 5, 2022

Dr. Al Townsend
Kent County Board of Appeals
400 High Street
Chestertown, MD 21620

RE: 22-41 Kenah One Health Care Services – Special Exception

Dear Dr. Townsend,

At its meeting on August 4, 2022, the Kent County Planning Commission reviewed the application of Kenah One Health Care Services, requesting a special exception to operate an existing assisted living facility as a hospital, rehabilitation facility, or other similar institution for human care in a Village District. The facility will service adults with mental health and substance use disorders who need rehabilitative services over a 30- to 90-day period. The property is located at 25000 Lambs Meadow Road in the Third Election District and is zoned Village (V).

Following discussion, the Planning Commission voted to make a favorable recommendation for the special exception to operate an existing assisted living facility as a hospital, rehabilitation facility, or other similar institution for human care in a Village District. The Planning Commission recommends the following conditions should the Board of Appeals grant approval:

- A site plan to be submitted to the Planning Commission for review and approval showing adequacy of parking and any impact to traffic patterns.

The decision was based on the following findings of fact:

- The special exception will not adversely impact the character of the neighborhood or have a negative impact on fish, wildlife, and plant habitat
- The proposed use will not have an impact on community services, such as police, fire, water, or sewer.
- There will be no noise, vibration, smoke and particulate matter, toxic matter, odor, fire or explosion hazards, or glare upon surrounding properties.
- The proposed change in use will not create any change in property values.
- The proposed change in use is consistent with the Comprehensive Plan and Land Use Ordinance.
- The proposed use/services are compatible with existing and planned uses, as assisted living services have been provided from this property for over 15 years, and services will continue for those residents who are currently placed in the facility, and new residents who are admitted for additional behavioral health services will also be served.

Sincerely,
Kent County Planning Commission

Joe Hickman
Chair

cc: Latonya Cotton, Kenah One Health Care Services

BOARD OF APPEALS APPLICATION

Kent County Department of Planning, Housing and Zoning

Kent County Government Center
400 High Street • Chestertown, MD 21620
410-778-7423 (phone) • 410-810-2932 (fax)

IN THE MATTER OF THE APPLICATION OF:
(Name, Address and Telephone Number of Applicant))

Kenah One Health Care Services

308 N. Crain Highway

Glen Burnie, MD 21061

Email: LATONYA@KENAHONEHCS.COM

For Office Use Only:

Case Number/Date Filed: _____
Filed by: _____
Applicant: _____
Planning Commission: _____
Date of Hearing: _____
Parties Notified: _____
Notice in Paper: _____
Property Posted: _____

Please provide the email of the one person who will be responsible for responding to comments. Only this person will be contacted by staff and will be the person responsible for forwarding the comments or requests for additional information to any other interested parties. EMAIL:

LATONYA@KENAHONEHCS.COM

TO THE KENT COUNTY BOARD OF APPEALS: In accordance with Article V Section 7.3

of the Kent County Zoning Ordinance, as amended, request is hereby made for:

_____ Appealing Decision of Kent County Zoning Administrator _____ Variance
 _____ Special Exception _____ Nonconforming Use

DESCRIPTION OF PROPERTY INVOLVED:

Located on: (Name of Road, etc.) 25000 Lambs Meadow Road, Worton, MD 21678

In the _____ Election District of Kent County.

Size of lot or parcel of Land: 0.708 AC

Map: 0020 Parcel: 0247 Lot #: 1 Deed Ref: /00712/ 00094

List buildings already on property: D's Place Assisted Living Residential Building and one shed

If subdivision, indicate lot and block number: _____

If there is a homeowner's association, give name and address of association: _____

PRESENT ZONING OF PROPERTY: Village

DESCRIPTION OF RELIEF REQUESTED: (List here in detail what you wish to do with property that requires the Appeal Hearing.) If approved, this property will be used as a hospital, rehabilitation facility, or other similar institution for human care, but not including animal hospitals. The facility will service adults with mental health and substance use disorders who need rehabilitative services over a 30-90 day period.

If appealing decision of Zoning Administrator, list date of their decision: _____

Present owner(s) of property: Sheldon Phillips, Diane Roberta Anderson Telephone: 443-553-5533 and 443-480-1718

If Applicant is not owner, please indicate your interest in this property: _____ Currently leasing the property with the intention to purchase the property for continued business use

Has property involved ever been subject to a previous application? _____ No

If so, please give Application Number and Date: _____

PLEASE FILL IN BELOW, OR ATTACH HERETO, A SKETCH OF THIS PROPERTY.

List all property measurements and dimensions of any buildings already on the property.

Put distances between present buildings or proposed buildings and property lines.

NAMES OF ADJOINING PROPERTY OWNERS:

Owner(s) on the North: Address- 25001 LAMBS MEADOW ROAD

Lauretta & Grover Freeman, PO Box 37, Worton, MD 21678

Owner(s) on the South: Address- No address assigned

Mary Cecilia Roseberry, 113 Quail Lane, Centreville, MD 21617-2308

Owner(s) to the East: Address- 25020 LAMBS MEADOW ROAD

Robert F. Miller, 24991 Lambs Meadow Road, Worton, MD 21678-0000

Owner(s) to the West: Address- 24986 LAMBS MEADOW ROAD

Mary Cecilia Roseberry, 113 Quail Lane, Centreville, MD 21617-2308

Homeowners Association, name and address, if applicable: _____

BY SIGNING THIS APPLICATION, I GRANT MEMBERS AND ALTERNATE OF THE BOARD OF ZONING APPEALS THE RIGHT TO ENTER ONTO THE PROPERTY FOR THE PURPOSE OF VIEWING THE SITE OF THE APPLICATION OR APPEAL.

Latonya Cotton for Kenah One Health Care Services
Signature of Owner/Applicant/Agent or Attorney

07/01/2022
Date

Please file this form at 400 High Street, Chestertown, MD 21620 accompanied by **\$350.00** filing fee made payable to the **County Commissioners of Kent County**. The filing fee for appeals of a Zoning Administrator's decision is \$250.00. If you have any questions, please contact the Clerk at 410-778-7467.

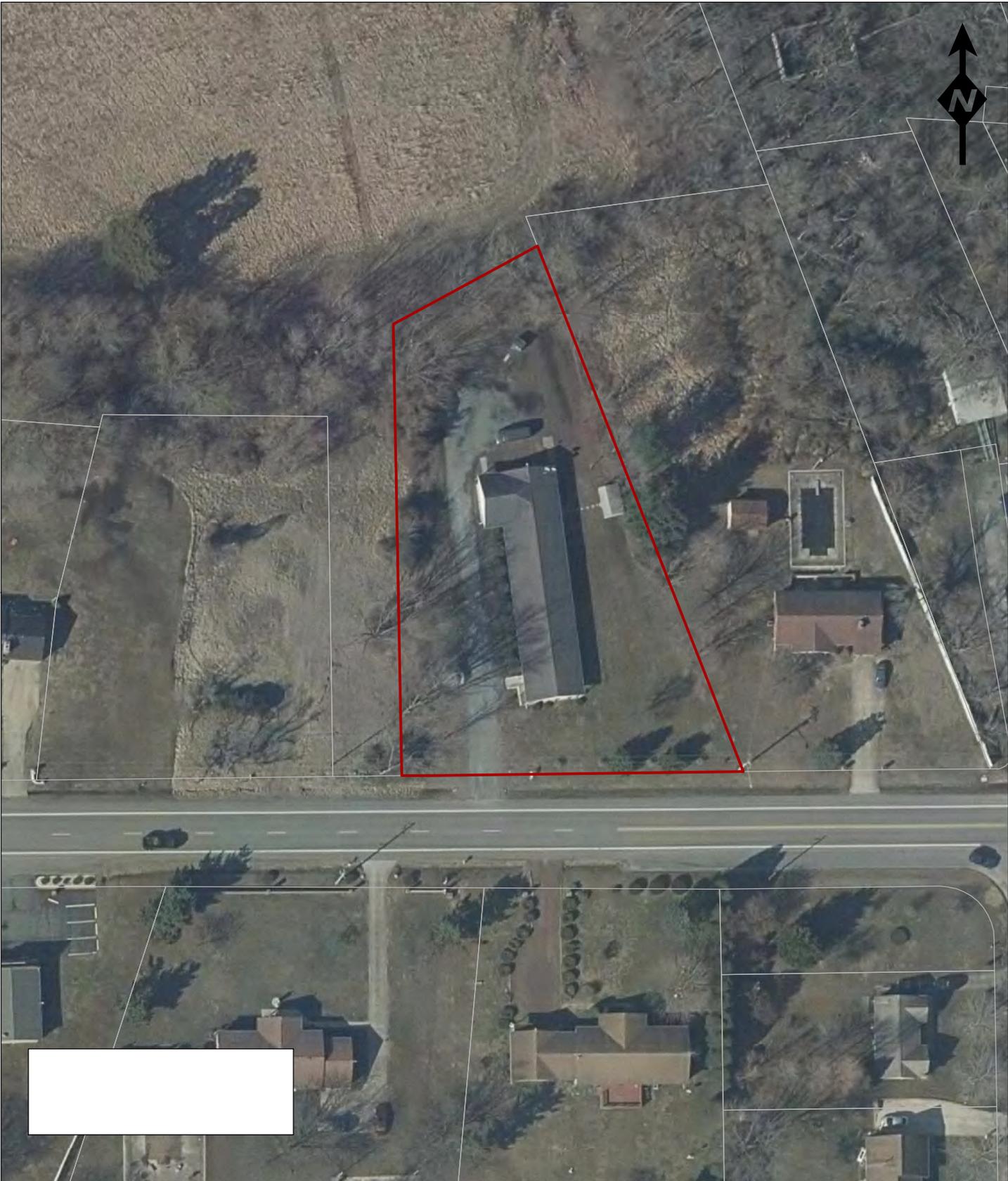
NOTICE: Neither the Board of Appeals nor the Planning Department is required to make out this Application. If the Planning Department assists you, it cannot be held responsible for its contents.

Applicants arriving more than 10 minutes after the scheduled hearing will not be heard and will be re-scheduled at the applicant's expense.

Narrative for Board of Appeals Application

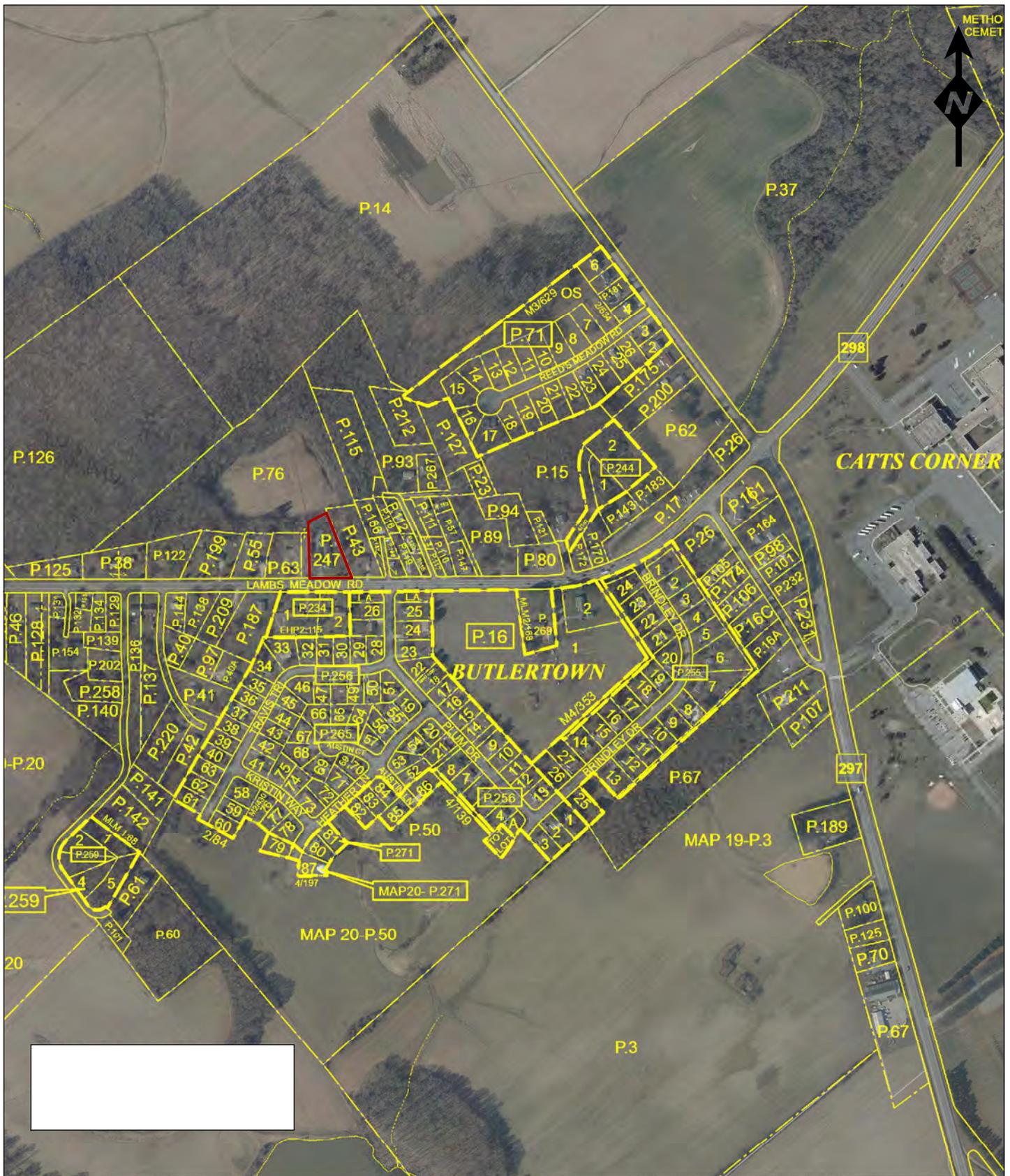
If approved, this property will be used as a hospital, rehabilitation facility, or other similar institution for human care, but not including animal hospitals. The facility will service adults with mental health and substance use disorders who need rehabilitative services over a 30–90-day period.

There are no proposed changes to the current structure's size or shape. The current traffic pattern will not change. The surrounding area is a neighborhood of single-family homes and other dwellings, such as a church, a community center, and a park. The proposed use does not have any impact on the current cost for police, fire, water, or sewer. There will be no probable effect of noise, vibration, smoke and particulate matter, toxic matter, odor, fire or explosion hazards, or glare upon surrounding properties. The proposed use is the most appropriate use of the structure, as the structure was originally designed for the caretaking of those who are the most vulnerable in our community. For more than 15 years, the structure has served as a home away from home for those who could not remain or be maintained in their home or living situation. The proposed use will continue to provide that same service to the community and community members. The proposed change in use will not create any change in property values. The proposed change in use is consistent with the Comprehensive Plan, Land Use Ordinance and Village Master Plan with a text amendment to allow for hospitals, rehabilitation facilities, or other similar institutions for human care but not including animal hospitals in the Village district. The proposed use/services are compatible with existing and planned use, as assisted living services have been provided for over 15 years and services will continue for the residents who are currently placed in the facility and new residents who are admitted for additional behavioral health services.



Source: Kent County Department of Planning, Housing, and Zoning. Aerial taken Spring 2019. Map prepared July 2022.

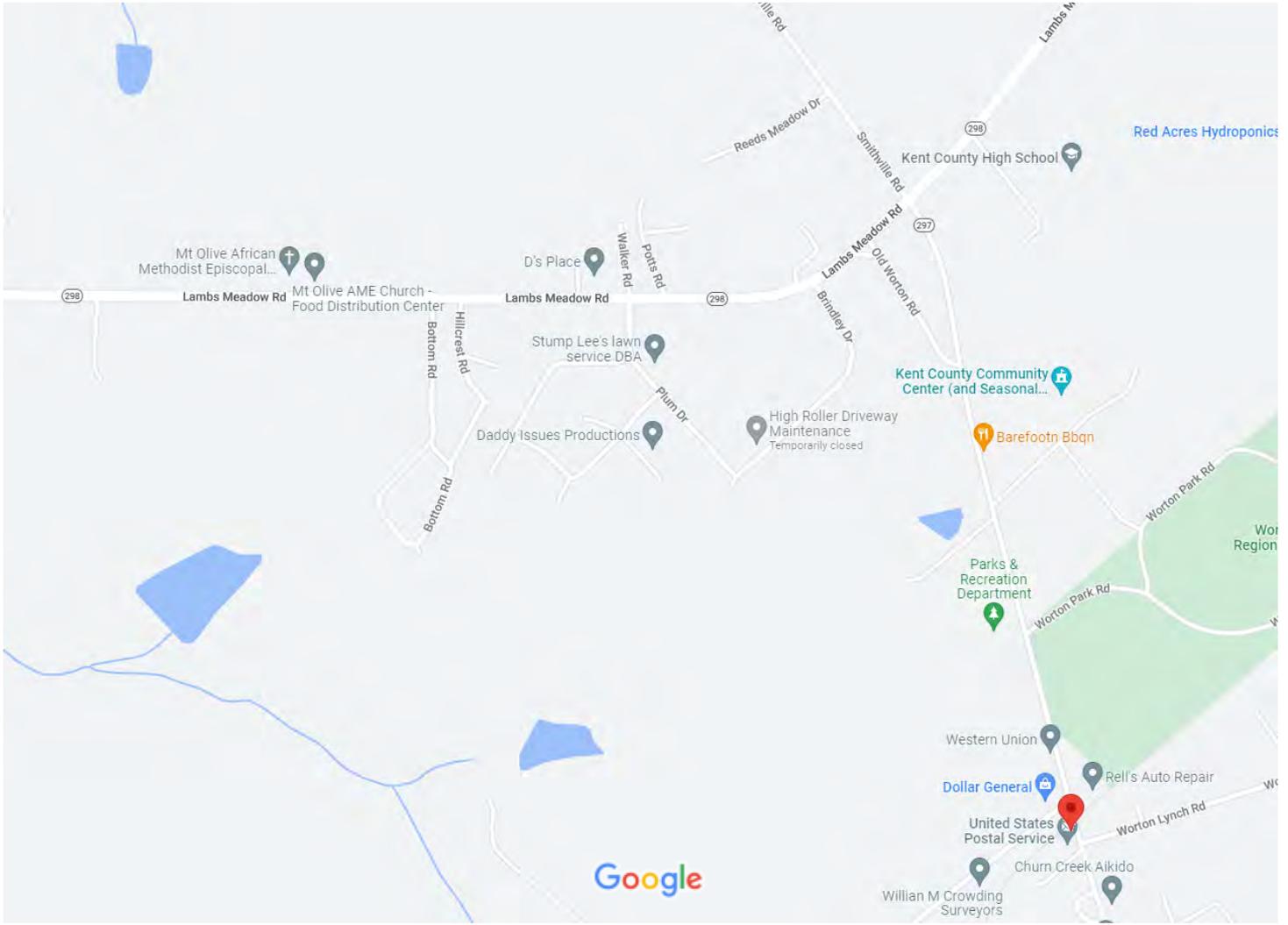
1 inch = 75 feet



Source: Kent County Department of Planning, Housing, and Zoning.
 Aerial taken Spring 2019. Map prepared July 2022.

1 inch = 600 feet

Google Maps Worton



Map data ©2022 500 ft 