

**NOTICE OF PUBLIC HEARING
WORCESTER COUNTY
BOARD OF ZONING APPEALS**

AGENDA

THURSDAY, JUNE 11, 2020

Pursuant to the provisions of the Worcester County Zoning Ordinance and due to the current COVID-19 pandemic, and in lieu of public appearance, notice is hereby given that the public hearing will be held remotely by conference call with the Board of Zoning Appeals for Worcester County.

Please review the attached page following the agenda that provides directions for joining and participating in the meeting.

6:30 p.m.

Case No. 20-31, on the application of Mark Spencer Cropper, lands of West Ocean City, LLC, requesting an exception to the Forest Conservation Code associated with NR 1-413(b) for an exception to allow for payment to the Forest Conservation Fund in lieu of any required acres of afforestation or reforestation, in the C-3 Highway Commercial District, pursuant to Zoning Code Sections ZS 1-116(k)(2) and NR 1-412 (d), located at the intersection of Samuel Bowen Blvd. and Ocean Gateway (MD Route 50), Tax Map 26, Parcels 300 and 368, in the Third Tax District of Worcester County, Maryland.

6:35 p.m.

Case No. 20-30, on the application of Richard and Heather Treml, on the lands of Donald and Rebecca Carter, requesting a variance to the Atlantic Coastal Bays Critical Area Buffer Management Area (BMA) from 15 feet to 12.43 feet (an encroachment of 2.57 feet) associated with an After-the-Fact ground level paver patio in the R-3 Multi-family Residential District, pursuant to Zoning Code Sections ZS 1-116(m)(1), NR 3-104(c)(4), and NR 3-111 located at 38 Alton Court, approximately 265 feet east of Leigh Drive, Tax Map 16, Parcel 96, Section 14B, Lot 121 of the Ocean Pines Subdivision, in the Third Tax District of Worcester County, Maryland.

6:40 p.m.

Case No. 20-29, on the lands of John & Brenda Maniatty, requesting a variance to the Atlantic Coastal Bays Critical Area Buffer Management Area (BMA) from 100 feet to 36.06 feet (an encroachment of 63.94 feet) associated with a proposed fence in the R-1 Rural Residential District, pursuant to Zoning Code Sections ZS 1-116(m)(1), NR 3-104(c)(4), located at 4232 Carry Back Road, approximately 465 feet east of Bayside Road, Tax Map 73, Parcel 126, Lot 9 of the Equestrian Shores Subdivision, in the Second Tax District of Worcester County, Maryland.

6:45 p.m.

Case No. 20-32, on the application of Hugh Cropper, IV, Esquire, on the lands of Gregory & Nancy Britt, requesting a variance to the Atlantic Coastal Bays Critical Area setback from 50 feet to 33.6 feet (an encroachment of 16.4 feet) associated with a proposed pool, patio and fence in the R-2 Suburban Residential District, pursuant to Zoning Code Section ZS 1-116(m)(1) and Natural Resources Sections NR 3-104(c)(4) and NR 3-111, located at 13016 North Shore Road, approximately 324 feet east of Golf Course Road, Tax Map 22, Parcel 367, Lot 26 of the Captain's Hill Subdivision, in the Tenth Tax District of Worcester County, Maryland.

6:50 p.m.

Case No. 20-33, on the application of Jason Hearn, on the lands of Thomas & Renee Finnegan, requesting a special exception to increase the height of a fence in the side yard setback from 6 feet tall to 9 feet 7 ½ inches tall in the R-4 General Residential District, pursuant to Zoning Code Sections ZS 1-116(c)(3) and ZS 1-305(k)(3)C, located at 12545 Ocean Reef Drive, approximately 900 feet south east of Indian Trail Drive, Tax Map 27, Parcel 442, Lot 28, in the Tenth Tax District of Worcester County, Maryland.

6:55 p.m.

Case No. 20-35, on the lands of Reet Reet Inc., requesting a special exception to increase the gross floor area of two retail and service establishments up to a maximum of 5,000 square feet each in the C-1 Neighborhood Commercial District, pursuant to Zoning Code Sections ZS 1-116(c)(3) and ZS 1-209(c)(1), on the southerly side of Jones Road, approximately 250 feet east of Old Worcester Highway, Tax Map 20, Parcel 320, Lot 5, in the Third Tax District of Worcester County, Maryland.

ADMINISTRATIVE MATTERS

Joining and Participating in the June 11, 2020 Board of Zoning Appeals Webinar

Zoom is a web-based application that offers the ability to join and participate in a meeting in a variety of ways. Below we will provide you with the instructions for joining the meeting by telephone, by computer, or both. You can also download the Zoom Mobile App for iOS or Android, and the Zoom desktop app for Windows and Mac users, however THIS IS NOT REQUIRED.

There will not be any video participation as a part of the meeting. The only visual that may be provided will be a copy of the agenda on the screen. All staff reports, site plans and exhibits will be provided in the meeting “packet” which can be found on the Worcester County website in the Meeting File Archives: <http://www.co.worcester.md.us/departments/commissioners/minutes>

The full case packet including the application, adjointer notifications and other required documents can be reviewed by contacting the Department.

NOTE: PRE-REGISTRATION IS REQUIRED FOR ALL PARTICIPANTS. Please register by Noon the day of the meeting. Pre-registration can be completed with a valid email address by using the below link:

https://us02web.zoom.us/webinar/register/WN_xsgC7w9QQdggGZ-hDxbk2Q

Once registration has been complete, you will receive a follow up email providing instructions on how to join the meeting. You may join the meeting by telephone only, by computer or both. ***Please do not forward the link received in your confirmation email;** this link is tailored specifically to the registered individual. If another individual would like to join the meeting, they must pre-register as well.

If you have concerns or would like clarification on the process, please contact our office as soon as possible. No one will be available to assist at the time of the meeting.

To Join by Telephone:

1. Please dial the telephone number provided in the Webinar Confirmation email, received after you have registered.
2. When prompted, please enter this Webinar ID to join the meeting: **859 4324 5757**
3. When prompted, please enter this password: **135467**
4. **If you have first joined by computer or mobile device.** You will be prompted to enter your unique Participant ID. To skip this step, press #.

To Join by Computer:

Click on the link provided in your Webinar Confirmation email. ***Please do not forward this individualized link.** If another individual would like to join the meeting, they will need to pre-register as well.

If you have a computer with a microphone and speakers, you can participate directly on your computer. If you do not have these features built in, a pop-up screen should automatically provide you with the information needed to call into the meeting following the same steps above. If it doesn't, please follow the instructions below:

- Click “Join Audio” in the meeting controls at the top of the screen.

- Click “Phone Call” and follow the instructions provided for dialing in: If this is your first time using Zoom, select the country you're calling from in the flag drop-down menu, and call one of the numbers provided.
- Enter the Webinar ID **859 4324 5757** followed by #.
- Enter your unique participant ID followed by #.

Participating:

To prevent background noises during the presentation, everyone is automatically muted upon joining the meeting.

Applicants:

If you are an applicant or presenter, when it is your turn to participate your case item will be read aloud. You will be asked to **raise your “virtual” hand by pressing *9 if you joined the audio by telephone. If you have joined the meeting through the computer, please click the Raise Hand button.** Once your hand has been raised the Host can unmute you.

Once staff has read the case, you will be asked to state your full name and address for the record then be sworn in by the Board Attorney. The Chairman of the Board will ask you if you have any additions or corrections to the case as it was read. You will then be prompted to explain your request. **Please be sure to review and address the list of special exception or variance criteria that is outlined in your staff report.**

Following your testimony, the Chairman will ask if the Board has any questions for you; the Chairman will then ask if anyone from the public would like to speak. Once all comments have been heard, you will be given an opportunity to make closing remarks. The Chairman will then request a member of the Board make a motion on your case. When your case is complete, you will be muted and may leave the meeting.

Receiving Public Comment:

If you are not a presenter but would like to speak on a particular case, raise your “virtual” hand when the Chairman asks for public comments. **Raise your “virtual hand by pressing *9 if you joined the audio by telephone. If you have joined the meeting through the computer, please click the Raise Hand button.** The Host will call on you in the order “virtual” hands are raised. The Host will address you by name (if you entered it on the computer) or by the last four digits of your phone number if your name is not available virtually.

You will be asked to state your full name and address for the record then be sworn in by the Board Attorney. The Chairman of the Board will ask if you are speaking for or against the application and why. **We are requesting that all participants please limit comments to 2 minutes.** Once complete, the Chairman will ask if the Board has any questions for you. When complete, you will be muted.

For any questions regarding this process, please contact Jessica Edwards at jedwards@co.worcester.md.us or (410) 632-1200, extension 1139.

APPLICATION TO :
BOARD OF ZONING APPEALS
WORCESTER COUNTY, MARYLAND
ONE WEST MARKET STREET
GOVERNMENT CENTER ROOM 1201
SNOW HILL, MD 21863-1070

OFFICE USE ONLY :

CASE NO: 20-31
DATE FILED: _____
HEARING DATE: 6.11.20

APPLICATION BEING MADE FOR:

<input type="checkbox"/> SPECIAL EXCEPTION	<input checked="" type="checkbox"/> FORESTRY
<input type="checkbox"/> VARIANCE	<input type="checkbox"/> CRITICAL AREA
<input type="checkbox"/> EXPANSION OF NONCONFORMING USE/STRUCTURE	<input type="checkbox"/> APPEAL
<input type="checkbox"/> OTHER	

☐ AFTER THE FACT ☐ PROPOSED ☐ ADMINISTRATIVE ADJUSTMENT

TO THE BOARD OF ZONING APPEALS:

Pursuant to Section ZS 1-116 of the Worcester County Zoning Ordinance, enacted or as amended, request is hereby made for: Clearing/cutting the existing on-site forestry for future development and to pay into the fund in lieu of \$22,876.62 needing 65,361.75 sq. ft. at \$0.35 a sq. ft.

LOCATION OF PROPERTY:

TAX MAP: 26 PARCEL: 300,368 SECTION: _____ LOT/ BLOCK: _____
On the N/S/E/W of: Route 50 - Eastbound lane and to the west of Samuel Bowen Boulevard
4,215.50 (Feet/Miles), N/S/E/W of Herring Creek Lane

PROPERTY OWNER INFORMATION:

Owner's Name: West Ocean City, LLC c/o JJ Farnan Telephone: (410) 749-1023
Address: 112 Montchan Drive, Wilmington, DE 19807 E-Mail: jjf003@gmail.com

APPLICANT INFORMATION:

Applicant's Name: MARK SPENCER CROPPER Telephone: (410) 723-1400
Address: 6200 COASTAL HIGHWAY, SUITE 200, OC, MD 21842 E-Mail: mcropper@ajgalaw.com

Has property in question ever been subject of a previous appeal? (If yes, give case no. and date)
n/a

Is property located in the Chesapeake Bay Critical Area or Atlantic Coastal Bay Critical Area, or its tributaries? n/a If so, has information been submitted in accordance with Worcester County's Critical Area Program Regulations? n/a

OFFICE USE ONLY: MINIMUM REQUIRED SETBACKS:

FRONT: _____ FROM CENTERLINE OF ROAD RIGHT-OF-WAY REAR : _____
_____ FROM PROPERTY LINE LEFT SIDE: _____
RIGHT SIDE: _____

ZONING DISTRICT: _____ TAX DISTRICT: _____

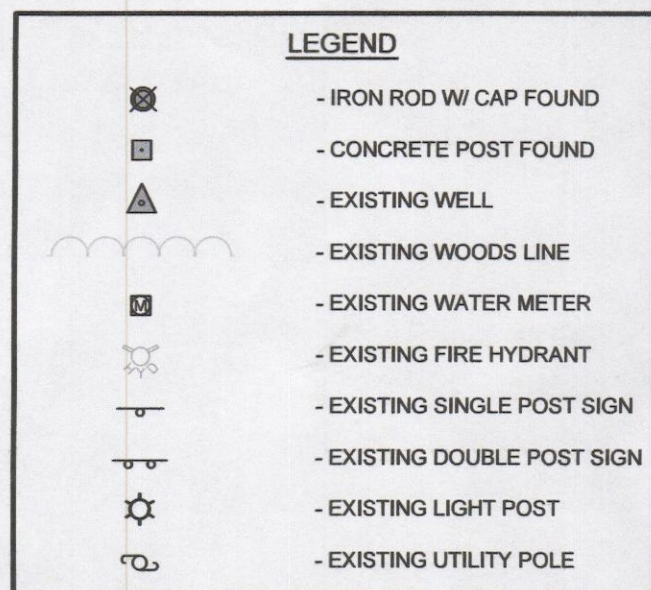
Signature of Owner or Legal Representative

Signature of Applicant

SEE NEXT PAGE FOR NOTARY (BOTH OWNER AND APPLICANT TO BE NOTARIZED)

MARK CROPPER / Attorney - Agent

MARK CROPPER



<div style="text-align: center;"> <h1>Worcester County</h1> <h2>Forest Conservation Worksheet 2.2</h2> </div>						
Project Name	Samuel Bowen Blvd				FCA#	20-05
Net Tract Area						
A. Total Tract Area					A =	3.04
B. Deductions					B =	0.00
C. Net Tract Area					C =	3.04
Land Use Category						
Input the number "1" under the appropriate land use zoning, and limit to only one entry						
ARA	MDR	DA	HDR	MPD	CIA	
0	0	0	0	0	1	
D. Aforestation Threshold (Net Tract Area x 15%)						
					D =	0.46
E. Conservation Threshold (Net Tract Area x 15%)						
					E =	0.46
Existing Forest Cover						
F. Existing Forest Cover within the Net Tract Area					F =	2.81
G. Area of Forest Above Conservation Threshold					G =	2.35
Break Even Point						
H. Break Even Point					H =	0.93
I. Forest Clearing Permitted Without Mitigation					I =	1.88
Proposed Forest Clearing						
J. Total Area of Forest to be Cleared					J =	2.81
K. Total Area of Forest to be Retained					K =	0.00
Planting Requirements						
L. Reforestation for Clearing Above the Conservation Threshold					L =	0.59
M. Reforestation for Clearing Below the Conservation Threshold					M =	0.01
N. Credit for Retention above the Conservation Threshold					N =	0.00
P. Total Reforestation Required					P =	1.50
Q. Total Aforestation Required					Q =	0.00
R. Total Planting Requirement					R =	1.50
					Sq. Ft.	65,361.78
Pay into Fund					\$22,676.62	

FORESTATION / GENERAL NOTES

1. THE PROPERTY SHOWN HEREIN IS CURRENTLY OWNED BY:
WEST OCEAN CITY, LLC
C/O J.3. FARNAN
PREMISE ADDRESS
OCEAN CITY, MARYLAND
BERLIN, MD 21811
2. OWNER ADDRESS
112 MONTICLARE DRIVE
WILMINGTON, DE 19807
3. DEED REFERENCE: 7368/348
4. THE PRESENT ZONING OF THIS PROPERTY IS: C-3 (HIGHWAY COMMERCIAL) (WORCESTER COUNTY)
5. TOTAL NUMBER OF EXISTING LOTS = 2
6. TOTAL AREA OF THE PROPERTY = 3.04 ACRES / 132,539.24 A SQ.FT.
7. THE ENTIRE CONSTRUCTION SHALL CONFORM TO WORCESTER COUNTY CODE IN EFFECT AT THE TIME OF CONSTRUCTION.
8. TOTAL AREA OF TRACT = 3.04 ACRES.
9. NET TRACT AREA (AREA OF DEVELOPMENT IMPACT) = 3.04 ACRES.
10. NON-WOODY COVER = 2.2 ACRES = WOODED AREA = 2.81 ACRES.
11. AREA IN 100-YEAR FLOODPLAIN = 0.00 ACRES.
12. AREA OF NON-TIDAL WETLANDS = 0.00 ACRES.
13. THE FOREST COVER CONSERVATION PLAN WAS PREPARED WITHOUT THE BENEFIT OF A TITLE REPORT AND IS SUBJECT TO ANY ENCUMBRANCES, RESTRICTIONS, EASEMENTS AND/OR RIGHTS-OF-WAY THAT MAY BE REVEALED BY A THOROUGH TITLE SEARCH.
14. THE PROPERTY IS LOCATED WITHIN G.P.R. MANAGEMENT ZONE A. NO STEEP SLOPES GREATER THAN 5% ARE LOCATED ON SITE.
15. THIS PROPERTY IS SHOWN ON F.L.R.M. COMMUNITY PLAN #2404700160H (PANEL 160 OF 450). DATE 07/16/2015, AS BEING IN FLOOD ZONE "X", AREA OF MINIMAL FLOODING.
16. THIS PROPERTY IS LOCATED WITHIN THE ISLE OF WIGHT BAY WATERSHED (023103001).
17. THIS PROPERTY IS LOCATED WITHIN THE ISLE OF WIGHT BAY SUBWATERSHED (023103003687).

PURPOSE STATEMENT

THE PURPOSE OF THIS PLAN IS TO FACILITATE A FOREST CONSERVATION PLAN AS REQUIRED BY WORCESTER COUNTY MARYLAND FOREST PRESERVATION REQUIREMENT.

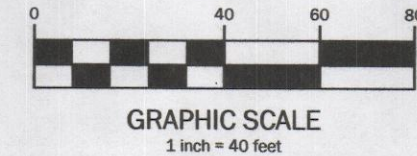
THIS SITE IS SUBJECT TO THE WORCESTER COUNTY FOREST CONSERVATION LAW. THIS SITE IS SUBJECT TO FOREST CONSERVATION PLAN NO. 20-05. THIS SITE HAS MET COMPLIANCE WITH THE WORCESTER COUNTY FOREST CONSERVATION LAW, BY OBTAINING A CREDIT FROM AN OFF-SITE FOREST CONSERVATION MITIGATION AREA, PLAT DEPICTING THE OFF-SITE FOREST CONSERVATION MITIGATION EASEMENT AREA AND A PERPETUAL PROTECTIVE AGREEMENT WERE PREVIOUSLY RECORDED IN THE LAND RECORDS OF WORCESTER COUNTY, MARYLAND. A CERTIFICATE OF UTILIZATION HAS BEEN EXECUTED AND RECORDED IN THE LAND RECORDS BETWEEN THE GRANTOR OF THE MITIGATION AREA AND USER WHO IS SEEKING A CREDIT FROM THE MITIGATION AREA IN ORDER TO OBTAIN COMPLIANCE WITH THE FOREST CONSERVATION LAW.

ESTIMATED COST OF PLANTING

- 1) PLANTING REQUIRED = 1.50 ± ACRES
- 2) DEFICIT IN PLANTING FOR WORCESTER COUNTY FORESTRY FUND = 1.50 ± ACRES
- 3) COST ESTIMATE FOR FUND = 1.50 ± ACRES OF PLANTING @ \$0.35/SQ.FT. = \$22,876.62

CONSTRUCTION SEQUENCE

- 1) Stake and flag limits of construction disturbance.
- 2) Install temporary forest protection devices.
- 3) Hold an on-site pre-construction meeting which should be attended by the developer, contractor, and appropriate local inspectors.
- 4) Construct stormwater management facilities as approved by Worcester County.
- 5) Forest protection devices to remain in place until all disturbance has taken place.
- 6) Remove temporary protection devices and place permanent devices as shown on plan.



SITE PLAN AND EVALUATION

SITE LOCATION:	SAMUEL BOWEN BOULEVARD	
COUNTY:	WORCESTER	DATE: 11/13/2019
PREPARED BY: Michael T. Parker QUALIFIED PROFESSIONAL	PHONE #: (410)749-1023	
CONTACT PERSON:	Brook E. Parker c/o Parker and Associates, Inc. 528 Riverside Drive Salisbury, Maryland, 21801-4100	

ACREAGE OF ON-SITE CONSERVATION = 0.00 ± ACRES

SITE ASSESSMENT: GOOD WELL-DRAINED SOIL

[illegible]

FOREST CONSERVATION PLAN

SAMUEL BOWEN BOULEVARD, BERLIN, MD
FOR J.J. FARNAN

LOCATION

THIRD ELECTION DISTRICT, WORCESTER COUNTY, MARYLAND

SCALE	DATE	TAX MAP
1" = 40'	11/13/2019	26
JOB NO.	DRAWN BY	PARCEL
S266	MAM	300, 36R

BERLIN QUADRANGLE MAP

UNITED STATES GEOLOGICAL SURVEY

An aerial photograph of a wooded area, likely a farm or undeveloped land. A yellow line outlines a specific area labeled 'SITE' in the center. To the right of the site, a road is labeled 'W. 100' and 'W. 100' is also written on the road itself. Another road is labeled 'W. 100' and 'W. 100' is also written on the road itself. A scale bar at the bottom left indicates '1 inch = 100 feet'. A north arrow is located in the top left corner. The text 'WORCESTER COUNTY SOIL MAP' is at the bottom, with a URL below it: 'https://websoilsurvey.sc.egov.usda.gov/App/WebSoilSurvey.aspx'. Below the URL is a section titled 'SOIL TYPE AND LEGEND' with a description: 'O1a- OTHELLO SILT LOAM, 0 TO 2% SLOPES, 97.2% OF SITE' and 'WdbB - WOODSTOWN SANDY LOAM, 2 TO 5% SLOPES, 2.8% OF SITE'.

WORCESTER COUNTY FOREST CONSERVATION ACT	
THIS SUBDIVISION IS BOUND BY THE AGREEMENTS AS SET FORTH IN FCA# <u>20-05</u> ON FILE IN THE PLANNING OFFICE.	
PLANNING DIRECTOR _____	DATE _____

<u>FOREST CONSERVATION PLAN</u>	
WEST OCEAN CITY, LLC C/O J.J. FARNAN	<div style="text-align: center;">OWNER</div> <div style="text-align: center;">DATE</div>

<u>FOREST CONSERVATION PLAN</u>	
<hr style="border: 0; border-top: 1px solid black; margin-bottom: 5px;"/> MICHAEL T. PARKER QUALIFIED PROFESSIONAL	<hr style="border: 0; border-top: 1px solid black; margin-bottom: 5px;"/> DATE

SURVEYING FORESTRY

PARKER

ESTABLISHED 1977

SALISBURY MARYLAND 410-749-1023

& ASSOCIATES

CIVIL ENGINEERING INC. SITE PLANNING

**WORCESTER COUNTY BOARD OF ZONING APPEALS
STAFF REPORT FOR:
CASE NO. 20-31**

HEARING DATE: June 11, 2020

LOCATION: The intersection of Samuel Bowen Blvd. and Ocean Gateway (MD Route 50), Tax Map 26, Parcels 300 and 368, in the Third Tax District of Worcester County, Maryland.

APPROVAL REQUESTED: An exception to the Forest Conservation Code associated with NR 1-413(b) for an exception to allow for payment to the Forest Conservation Fund in lieu of any required acres of afforestation or reforestation, in the C-3 Highway Commercial District

CODE REFERENCES: ZS 1-116(k)(2) and NR 1-412 (d)

PROPERTY HISTORY:

Previous permits for improvements/uses no longer in existence not listed;

02/22/2013	Demo Permit No. 13-0148 – Issued 03/08/13– No CO to date - Demolish house, leave garage, keep well and septic
03/12/2020	BZA Case No. 20-13 – Granted 3/12/2020 Allow the utilization of a mitigation bank to offset the required afforestation/reforestation requirements

COMMENTS: This is an exception to the Forest Conservation Law. Therefore, the Department has no comments relative to this request.

PLEASE FIND ENCLOSED THE STAFF REPORT FROM THE DEPARTMENT OF ENVIRONMENTAL PROGRAMS, NATURAL RESOURCES DIVISION PERTAINING TO THE SPECIFICS OF THIS REQUEST.

SUBSEQUENT PROCESSES IF APPROVED:

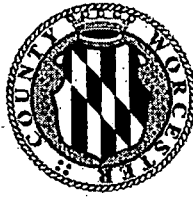
1. Submit for §ZS 1-325 site plan review;
2. Comply with regulations for Building Code, Fire Code, Zoning Code, Floodplain Management Ordinance, Forestry, Environmental Programs and the Atlantic Coastal Bays / Chesapeake Bay Critical Area, as applicable; and
3. Submit all applicable permits and fees.

OWNER: West Ocean City, LLC
C/O J.J Farnan
112 Montchan Drive
Wilmington, DE 19807

APPLICANT: Mark Cropper, Esq.
6200 Coastal Hwy Ste. 200
Ocean City, MD 21842

PREPARED BY: Zoning Division Staff

In accordance with Section ZS 1-114, the Department has met the public notification requirements with regard to advertisement in a local paper, posting of property and notification of adjoining property owners



Worcester County

Department of Environmental Programs
Natural Resources Division

Memorandum

To: Jennifer K. Keener, Zoning Administrator

From: David Mathers, Natural Resources Planner 

Subject: Board of Zoning Appeals Comments – June 11, 2020

Date: May 20, 2020

Below are comments relative to the cases scheduled for the Board of Zoning Appeals (BZA) meeting for Thursday, April 9, 2020, for their conformance with the Forest Conservation Act.

6:30 pm – Case #20-31:

This property is subject to Forest Conservation Plan #20-05. This property is seeking a special exception to the Forest Conservation Law. See the Forest Conservation Staff Report attached.

6:35 pm – Case #20-30:

This request is located within the landward limits of the Atlantic Coastal Bays Critical Area and therefore exempt from the Forest Conservation Act. No comment.

6:40 pm – Case #20-29:

This property is subject to Forest Conservation Plan #97-15. Forest Conservation Easement areas are to be kept as a natural habitat area, no clearing or grading within these Conservation Easement areas is permitted, and any new structures and improvements must not encroach into the Forest Conservation Easement. Furthermore, all Forest Conservation signs must be in place around the Conservation Easements.

6:45 pm – Case #20-32:

This request is located within the landward limits of the Atlantic Coastal Bays Critical Area and therefore exempt from the Forest Conservation Act. No comment.

Citizens and Government Working Together

6:50 pm – Case #20-33:

In accordance with Subtitle IV, Section 1-403(b)(15) of the Natural Resources Article of the Worcester County Code of Public Local Laws, this project is exempt from the Worcester County Forest Conservation Program.

6:55 pm – Case #20-35:

This property is subject to Forest Conservation Plan #07-28. This property has met compliance with the Worcester County Forest Conservation Law through the purchase of credits from an approved off-site forest mitigation bank.

Citizens and Government Working Together

WORCESTER COUNTY GOVERNMENT CENTER 1 WEST MARKET STREET, ROOM 1306 SNOW HILL, MARYLAND 21863
TEL: 410-632-1220 FAX: 410-632-2012



DEPARTMENT OF
ENVIRONMENTAL PROGRAMS


Worcester County

GOVERNMENT CENTER
ONE WEST MARKET STREET, ROOM 1306
SNOW HILL, MARYLAND 21863
TEL: 410.632.1220 / FAX: 410.632.2012

LAND PRESERVATION PROGRAMS
STORMWATER MANAGEMENT
SEDIMENT AND EROSION CONTROL
SHORELINE CONSTRUCTION
AGRICULTURAL PRESERVATION
ADVISORY BOARD

WELL & SEPTIC
WATER & SEWER PLANNING
PLUMBING & GAS
CRITICAL AREAS
FOREST CONSERVATION
COMMUNITY HYGIENE

WORCESTER COUNTY BOARD OF ZONING APPEALS FOREST CONSERVATION STAFF REPORT

FROM: David Mathers, Natural Resources Planner 

DATE OF MEETING: June 11, 2020

PROJECT: West Ocean City, LLC (J.J. Farnan), located at the corner of Samuel Bowen Boulevard and Ocean Gateway (Rt. 50), Berlin, MD

LOCATION: Tax Map 26, Parcels 300 & 368, 3.04 Acres, Zoned C-3, Highway Commercial

CASE No. : 20-31

APPLICANT: Parker & Associates, Inc.

The applicant is requesting a Special Exception from the Board of Appeals to allow fee in lieu of on-site afforestation in accordance with the Worcester County Forest Conservation Law requirements. In accordance with Section NR 1- 413, in order to allow for payment into the Forest Conservation Fund in lieu of afforestation, the Board of Zoning Appeals may grant, upon special appeal, an exception to the requirements of this law provided the applicant can demonstrate conformance with five "considerations".

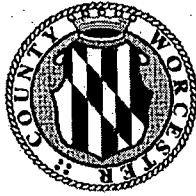
Below is an analysis of the considerations for Special Exception. **Bold text indicates the "considerations" of the Forest Conservation Law;** *italic text indicates the Staff analysis:*

1. **Specifically how the unwarranted hardship would be caused:** *This site is subject to the Worcester County Forest Conservation Law since the site is over 40,000 sq. ft. in size. In the C-3 (Highway Commercial) Zoning District, the amount of afforestation/reforestation required is based on the total tract area and not just the Limits of Disturbance. The net tract area is 3.04 acre. The existing forest and amount proposed for clearing is 2.81 acre. The amount of afforestation required is 1.50 acre. The site is situated at the corner of U.S. Highway 50 and Samuel Bowen Boulevard, a busy intersection accessing an intensely developed commercial area. Sketch plans show that the proposed development will require the entire area of the site to accommodate the necessary infrastructure (buildings, parking areas, landscaping, stormwater facilities, etc.). Approval had previously been granted to*

satisfy the afforestation requirement by means of off-site mitigation. Currently, the applicant is seeking approval for payment into the Forest Conservation Fund in lieu of on-site afforestation. This would not be considered an unwarranted hardship due to the fact that this variance is based on conditions or circumstances that are the result of the proposed actions by the applicant.

- 2. How enforcement of the law would deprive the applicant of rights enjoyed by others:** *There have been developed properties located in commercially zoned districts of Worcester County that have satisfied their forestry requirements by utilizing fee in lieu. Enforcement of this law may deprive the applicant of rights enjoyed by others.*
- 3. How this case is unique and what special conditions apply:** *This case is unique in that the site is located along the busy and developing Route 50 corridor. The existing forest on site is isolated from other forested areas as there are roadways adjacent to the north, south and east, and an agricultural field on the west side. Most of the understory of the existing forest has been cleared or disturbed as the area was formerly a home site. Commercial development and forest are not likely to be compatible on this site.*
- 4. How the intent of this law will be satisfied:** *This project intends on satisfying the Forest Conservation Law through payment into the Forest Conservation Fund. The afforestation requirement is 1.50 acres or 65,340 square feet. At \$ 0.35 per square feet the amount required to be paid into the Forest Conservation Fund will be \$22,869. The County is obligated to use the fund to complete reforestation and afforestation projects.*
- 5. How the exception may not adversely affect water quality:** *Should the Board grant this special exception it does not preclude the applicant from adhering to the requirements of the Stormwater Management Law which further addresses water quality issues.*

STAFF RECOMMENDATION: The Department recommends that this obligation be met by acquiring credits from a forest mitigation bank. The applicant has indicated that the cost of acquiring credits from a forest mitigation bank is significantly greater than the cost of providing payment into the Forest Conservation Fund and therefore is seeking the fee in lieu special exception.



Worcester County
Department of Environmental Programs
Natural Resources Division

Memorandum

To: Jennifer K. Keener, Zoning Administrator
From: Jenelle Gerthoffer, Natural Resources Administrator (JG)
Subject: Board of Zoning Appeals Comments – June 11, 2020
Date: May 27, 2020

Below are comments relative to the cases scheduled for the Board of Zoning Appeals (BZA) meeting for Thursday, June 11, 2020, for their conformance with the Chesapeake Bay (CBCA) and Atlantic Coastal Bays Critical Area Law (ACBCA):

6:30 pm – Case #20-31:

This request is located outside of the Atlantic Coastal and Chesapeake Bay Critical Area programs. No Comment.

6:35 pm - Case #20-30:

This request is located within the landward limits of the Atlantic Coastal Bays Critical Area and designated as Intensely Development Area (IDA) within Buffer Management Area A-15. As this request is specifically for a variance to the Atlantic Coastal Bays Critical Area ordinance, a separate memo will be provided.

6:40 pm – Case #20-29:

This request is located within the landward limits of the Atlantic Coastal Bays Critical Area and designated as Limited Development Area (LDA) with a 100' Buffer. As this request is specifically for a variance to the Atlantic Coastal Bays Critical Area ordinance, a separate memo will be provided.

6:45 pm – Case #20-32:

This request is located within the landward limits of the Atlantic Coastal Bays Critical Area and designated as Intensely Development Area (IDA) within Buffer Management Area B-50. As this request is specifically for a variance to the Atlantic Coastal Bays Critical Area ordinance, a separate memo will be provided.

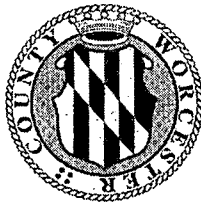
Citizens and Government Working Together

6:50 pm – Case #20-33:

This request is located within the landward limits of the Atlantic Coastal Bays Critical Area and designated as Intensely Development Area (IDA) within Buffer Management Area B-50. The proposed activity does not appear to have any issues with the Atlantic Coastal Bay Critical Area regulations. Any applicable mitigation will be addressed at permitting stage. We reserve any further comments upon permit submittal.

6:55 pm – Case #20-35:

This request is located outside of the Atlantic Coastal and Chesapeake Bay Critical Area programs. No Comment.



Worcester County

Department of Environmental Programs
Environmental Programs Division

Memorandum

To: Board of Zoning Appeals (BZA) for a June 11, 2020 meeting

From: Environmental Programs Staff

Subject: Case No. 20-31; TM 26 P 300 & 368 – requesting an exception to the Forest Conservation Code associated with NR 1-412 to allow the utilization of a mitigation bank to offset afforestation/reforestation requirements.











Date: May 26, 2020

These comments are based upon the site plans received and are subject to change as the plans change to accommodate comments made by other committee members.

There is an existing well on the property. Before Environmental Programs can sign off on any permits, this well will need to be sealed by a licensed well driller.

Citizens and Government Working Together



	- IRON ROD W/ CAP FOUND
	- CONCRETE POST FOUND
	- EXISTING WELL
	- EXISTING WOODS LINE
	- EXISTING WATER METER
	- EXISTING FIRE HYDRANT
	- EXISTING SINGLE POST SIGN
	- EXISTING DOUBLE POST SIGN
	- EXISTING LIGHT POST
	- EXISTING UTILITY POLE

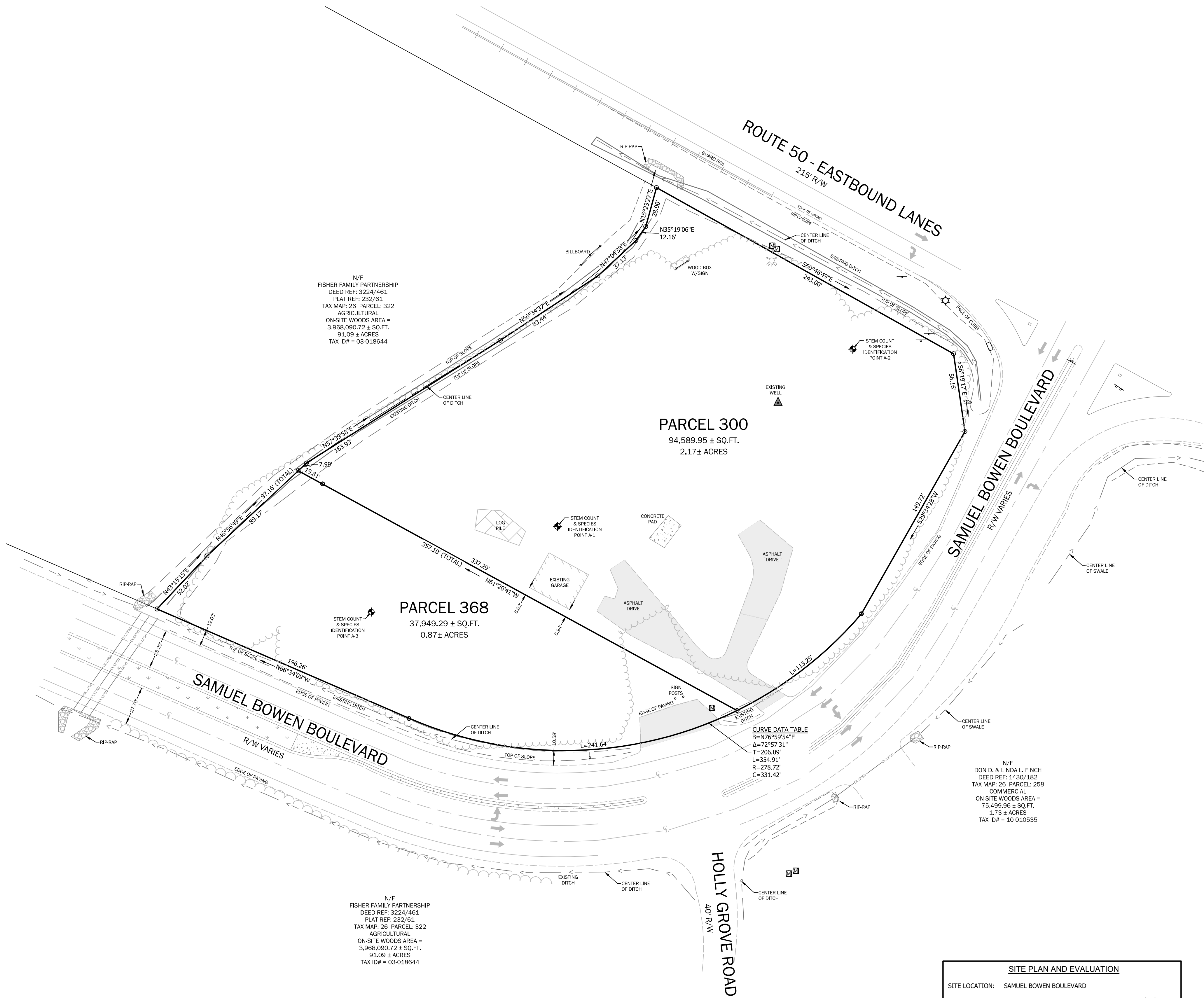
<div style="text-align: center;"> <h1>Worcester County</h1> <h2>Forest Conservation Worksheet 2.2</h2> </div>											
Project Name						FCA#		20-05			
Net Tract Area											
A. Total Tract Area						A =		3.04			
B. Deductions						B =		0.00			
C. Net Tract Area						C =		3.04			
Land Use Category											
Input the number "1" under the appropriate land use zoning, and limit to only one entry											
ARA		MDR		IDA		HDR		MPD		CIA	
0		0		0		0		0		1	
D. Afforestation Threshold (Net Tract Area x 15%)						D =		0.46			
E. Conservation Threshold (Net Tract Area x 15%)						E =		0.46			
Existing Forest Cover											
F. Existing Forest Cover within the Net Tract Area						F =		2.01			
G. Area of Forest Above Conservation Threshold						G =		2.35			
Break Even Point											
H. Break Even Point						H =		0.93			
I. Forest Clearing Permitted Without Mitigation						I =		1.88			
Proposed Forest Clearing											
J. Total Area of Forest to be Cleared						J =		2.91			
K. Total Area of Forest to be Retained						K =		0.00			
Planting Requirements											
L. Reforestation for Clearing Above the Conservation Threshold						L =		0.59			
M. Reforestation for Clearing Below the Conservation Threshold						M =		0.01			
N. Credit for Retention above the Conservation Threshold						N =		0.00			
O. Total Reforestation Required						O =		1.50			
P. Total Afforestation Required						P =		0.00			
R. Total Planting Requirement						R =		1.50			
						Sq. Ft.		65,361.78			
						Pay into Fund		\$22,876.62			

FORESTATION / GENERAL NOTES

1. THE PROPERTY SHOWN HEREON IS CURRENTLY OWNED BY:
WEST OCEAN CITY, LLC
C/O J.3. FARNAN
PREMISE ADDRESS
OCEAN GATEWAY
BERLIN, MD 21811
2. DEED REFERENCE: 7368/248
3. THE PRESENT ZONING OF THIS PROPERTY IS: C-3 (HIGHWAY COMMERCIAL) (WORCESTER COUNTY).
4. TOTAL NUMBER OF EXISTING LOTS = 2
5. TOTAL AREA OF THE PROPERTY = 3.04 ± ACRES / 132,539.24 ± SQ. FT.
6. ALL FUTURE CONSTRUCTION SHALL CONFORM TO WORCESTER COUNTY CODE IN EFFECT AT THE TIME OF CONSTRUCTION.
7. TOTAL AREA OF TRACT = 3.04 ± ACRES.
8. NET TRACT AREA (AREA OF DEVELOPMENT IMPACT) = 3.04 ± ACRES.
9. NON-WOODED AREA = 0.23 ± ACRES, WOODED AREA = 2.81 ± ACRES.
10. AREA IN 100-YEAR FLOODPLAIN = 0.00 ± ACRES.
11. AREA OF NON-TIDAL WETLANDS = 0.00 ± ACRES.
12. THIS FOREST CONSTRUCTION PLAN WAS PREPARED WITHOUT THE BENEFIT OF TITLE REPORT AND IS SUBJECT TO ANY ENCUMBRANCES, RESTRICTIONS, EASEMENTS AND/OR RIGHTS-OF-WAY THAT MIGHT BE REVEALED BY A THOROUGH TITLE SEARCH.
13. THIS PROPERTY IS LOCATED WITHIN G.P.R. MANAGEMENT ZONE A. NO STEEP SLOPES GREATER THAN 5% ARE LOCATED ON SITE.
14. THIS PROPERTY IS SHOWN ON L.R.M. COMMUNITY MAP 242407C0160H (PANEL 160 OF 450), DATE 07/16/2015, AS BEING IN FLOOD ZONE "X," AREA OF MINIMAL FLOODING.
15. THIS PROPERTY IS LOCATED WITHIN THE ISLE OF WIGHT BAY WATERSHED (0213100103).
16. THIS PROPERTY IS LOCATED WITHIN THE ISLE OF WIGHT BAY SUBWATERSHED (021310030687).

PURPOSE STATEMENT

THE PURPOSE OF THIS PLAT IS TO FACILITATE A FOREST CONSERVATION PLAN AS REQUIRED BY WORCESTER COUNTY MARYLAND FORESTRY REQUIREMENT.



TOTAL OFF-SITE MITIGATION REQUIRED = 2 x 1.50 = 3.0
TOTAL OFF-SITE MITIGATION PROVIDED = 3.0 ACRES

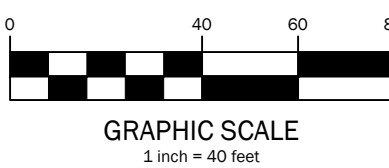
PROPOSED LIMITS OF DISTURBANCE (LOD) = 128,814.96 ± SQ.FT. / 2.96 ± ACRES
NO PAST OR PRESENT FORESTED MANAGEMENT AREA WAS OBSERVE ON-SITE.

ESTIMATED COST OF PLANTING

- 1) PLANTING REQUIRED = 1.50 ± ACRES
- 2) DEFICIT IN PLANTING FOR WORCESTER COUNTY FORESTRY FUND = 1.50 ± ACRES
- 3) COST ESTIMATE FOR FUND = 1.50 ± ACRES OF PLANTING @ \$0.35/SQ.FT. = \$22,876.62

CONSTRUCTION SEQUENCE

- 1) Stake and flag limits of construction disturbance.
- 2) Install temporary forest protection devices.
- 3) Hold an on-site pre-construction meeting which should be attended by the developer, contractor, and appropriate local inspectors.
- 4) Construct stormwater management facilities as approved by Worcester County.
- 5) Forest protection devices to remain in place until all disturbance has taken place.
- 6) Remove temporary protection devices and place permanent devices as shown on plan.



SITE PLAN AND EVALUATION

SITE LOCATION: SAMUEL BOWEN BOULEVARD

COUNTY: WORCESTER DATE: 11/13/2019

PREPARED BY: Michael T. Parker PHONE #: (410)749-1023

QUALIFIED PROFESSIONAL

CONTACT PERSON: Brock E. Parker
c/o Parker and Associates, Inc.
528 Riverside Drive
Salisbury, Maryland, 21801-4100

ACREAGE OF ON-SITE CONSERVATION = 0.00 ± ACRES

SITE ASSESSMENT: GOOD WELL-DRAINED SOIL

[illegible]

<h1 style="text-align: center;">FOREST CONSERVATION PLAN</h1> <p style="text-align: center;">SAMUEL BOWEN BOULEVARD, BERLIN, MD FOR J.J. FARNAN</p>			
LOCATION THIRD ELECTION DISTRICT, WORCESTER COUNTY, MARYLAND			
SCALE	1" = 40'	DATE	11/13/2019
JOB NO.	S2266	DRAWN BY	MAM
		TAX MAP	26
		PARCEL	300, 368

BERLIN QUADRANGLE MAP
UNITED STATES GEOLOGICAL SURVEY

A.D.C. MAP NUMBER 8
SCALE: 1" = 2,000'

0 100 200 Feet

Wdwb

New Market Rd

SITE

Ota

WORCESTER COUNTY SOIL MAP

<https://websoilsurvey.sc.egov.usda.gov/App/WebSoilSurvey.aspx>

SOIL TYPE AND LEGEND

Ota- Othello SILT LOAM, 0 TO 2% SLOPES, 97.2% OF SITE

Wdwb- WOODSTOWN SANDY LOAM, 2 TO 5% SLOPES, 2.8% OF SITE

WORCESTER COUNTY FOREST CONSERVATION ACT

THIS SUBDIVISION IS BOUND BY THE AGREEMENTS AS SET FORTH IN
FCA# 20-05 ON FILE IN THE PLANNING OFFICE.

PLANNING DIRECTOR

DATE

<u>FOREST CONSERVATION PLAN</u>		
WEST OCEAN CITY, LLC C/O J.J. FARNAN	OWNER	DATE

<u>FOREST CONSERVATION PLAN</u>	
<u>MICHAEL T. PARKER</u> QUALIFIED PROFESSIONAL	<u>DATE</u>

SURVEYING FORESTRY

PARKER

ESTABLISHED 1977

SALISBURY, MASS. AND 410-749-1023

ASSOCIATES

CIVIL ENGINEERING INC. SITE PLANNING

- 1) When all plans have been approved, including Sediment Control, notify stormwater management supervisor, sediment control inspector, contractor, designer, and a representative from any other approving agency to attend pre-construction meeting at least 48 hours prior to starting work.
- 2) All sediment control measures shall be installed prior to any other grading of the site and as specified in the Construction Sequence and Specifications for this project. Prior to starting grading, the contractor shall submit a site stabilization plan to the Department of the Environment (M.D.E.) and the Worcester County Department of Public Works.
- 3) As soon as rough grading is complete, areas to be paved will be stabilized with base material. All non-paved disturbed areas, both on and off the site, shall be stabilized with suitable seedings as soon as possible after grading in accordance with 2011 Maryland Standards and Specifications for Soil Erosion and Sediment Control (Refer to Temporary and Permanent Seeding Schedules for this project)
- 4) Sediment control measures will not be removed until approval is obtained from the M.D.E.
- 5) During construction, the contractor must prevent sediment from entering storm water drain outlets. The contractor may place straw mulch or other erosion control measures in sediment control basins. Sediment control measures must be maintained in place until final paving is complete. Wherever possible, a perimeter of undisturbed vegetation will be maintained around the site until grading is complete.
- 6) Following initial soil disturbance or redistribution, permanent or temporary stabilization shall be completed within three (3) calendar days as to the surface of all perimeter contours, dikes, swales, ditches, perimeter slopes, and all slopes greater than three horizontal to one vertical. The contractor shall stabilize all other disturbed or graded areas on the project site. The requirements of this sub-paragraph do not apply to those areas which are shown on the plan and are currently being used for material storage; for those areas in which actual construction activities are currently being performed; or to interior areas of a surface mine site where the stabilized material would contaminate the recoverable resource. Maintenance shall be performed as necessary to ensure that stabilization measures meet the requirements of the 2011 Maryland Standards and Specifications for Soil Erosion and Sediment Control, which is incorporated by reference in Regulation 10.
- 7) The developer shall request that the appropriate inspection agency approve work completed at the stages of construction specified in accordance with the approved erosion and sediment control plan as well as the grading or building permit.

Date _____

- 1 THE PROPERTY SHOWN HEREON IS CURRENTLY OWNED BY:
- 2 WEST OCEAN CITY, LLC
- 3 C/O J. L. FARWAN
- 4 PREMISE ADDRESS
- 5 112 MONTCHAM DRIVE
- 6 WILMINGTON, DE 19807
- 7
- 8 OWNER ADDRESS
- 9 112 MONTCHAM DRIVE
- 10 WILMINGTON, DE 19807
- 11
- 12 DEED REFERENCE: 7368/48
- 13
- 14 THE PRESERVATING OF THIS PROPERTY IS: C-3 (HIGHWAY COMMERCIAL)
- 15 (WORCESTER COUNTY).
- 16
- 17 TOTAL NUMBER OF EXISTING LOTS = 2
- 18
- 19 TOTAL AREA OF THE PROPERTY = 3.04 ACRES / 132,539.24 SQ.FT.
- 20 ALL FUTURE CONSTRUCTION SHALL CONFORM TO WORCESTER COUNTY CODE IN
- 21 EFFECT AT THE TIME OF CONSTRUCTION.
- 22
- 23 NET TRACT AREA (AREA OF DEVELOPMENT IMPACT) = 3.04 ACRES.
- 24
- 25 TOTAL AREA OF TRACT = 3.04 ACRES.
- 26
- 27 NON-WOODED AREA = 0.23 ACRES, WOODED AREA = 2.81 ACRES.
- 28
- 29 WOODED AREA TO BE REMOVED = 2.81 ACRES.
- 30
- 31 AREA IN 100-YEAR FLOODPLAIN = 0.00 ACRES.
- 32
- 33 AREA OF NON-TIDAL WETLANDS = 0.00 ACRES.
- 34
- 35 A SEPARATE FOREST CONSERVATION PLAN IS BEING PREPARED THROUGH
- 36 SEPARATE SUBMISSION PROCESS FOR REMOVAL OF TREES AND TREE
- 37 REPLACEMENT.
- 38
- 39 THIS PROPERTY IS LOCATED WITHIN G.P.R. MANAGEMENT ZONE. NO STEEP
- 40 SLOPES GREATER THAN 5% ARE LOCATED ON SITE.
- 41
- 42 THIS PROPERTY IS SHOWN ON F.L.R.M. COMMUNITY PANEL #2404Q/160H
- 43 (PANEL 160' BY 450'). DATED 07/16/2015, AS BEING IN FLOOD ZONE "X", AREA OF
- 44 MINIMAL FLOODING.
- 45
- 46 THIS PROPERTY IS LOCATED WITHIN THE ISLE OF WIGHT BY (13210103).
- 47
- 48 THIS PROPERTY IS LOCATED WITHIN THE ISLE OF WIGHT BAY SUBWATERSHED
- 49 (132130103687).

1. Approval of all plans, including Sediment Control. Notify Worcester County Department of Development & Planning, M.D.E. inspector (notify MDE at 410-901-4020 two weeks prior to start of construction), contractor, designer, and a representative from any other approving agency of a pre-construction meeting at least five days prior to the starting work.
2. Install silt fence and Stabilized construction entrance as shown on the plans. Install inlet protection.
3. Begin clearing of the existing driveways, debris piles, existing building, existing pads, and trees as noted.
4. Tree clearing to be done per approved Forest Conservation Plan.
5. Stabilize site with permanent seeding after all disturbance is completed.
6. Job is complete.
7. ESC measures to remain in place until the whole site is stabilized. Owner to maintain ESC at all times until approval from Maryland Department of the Environment has been given to remove devices.

AREA = 129,615.95 SQ.FT. / 2.98 ACRES



GRAPHIC SCALE



- IRON ROD W/ CAP FOUND
- CONCRETE POST FOUND
- EXISTING WELL
- EXISTING WOODS LINE
- EXISTING WATER METER
- EXISTING FIRE HYDRANT
- EXISTING SINGLE POST SIGN
- EXISTING DOUBLE POST SIGN
- EXISTING LIGHT POST
- EXISTING UTILITY POLE
- AREA TO BE CLEARED
- SILT FENCE/LIMIT OF DISTURBANCE
- STABILIZED CONSTRUCTION ENTRANCE

CERTIFICATION

I HEREBY CERTIFY THAT THESE DOCUMENTS WERE PREPARED OR APPROVED BY ME, AND THAT I AM A DULY LICENSED CIVIL ENGINEER UNDER THE LAWS OF THE STATE OF MARYLAND, LICENSE NO. 12113, EXPIRATION DATE: JULY 24, 2020 AND A DULY LICENSED LAND SURVEYOR UNDER THE LAWS OF THE STATE OF MARYLAND, LICENSE NO. 21193, EXPIRATION DATE: JANUARY 25, 2020.

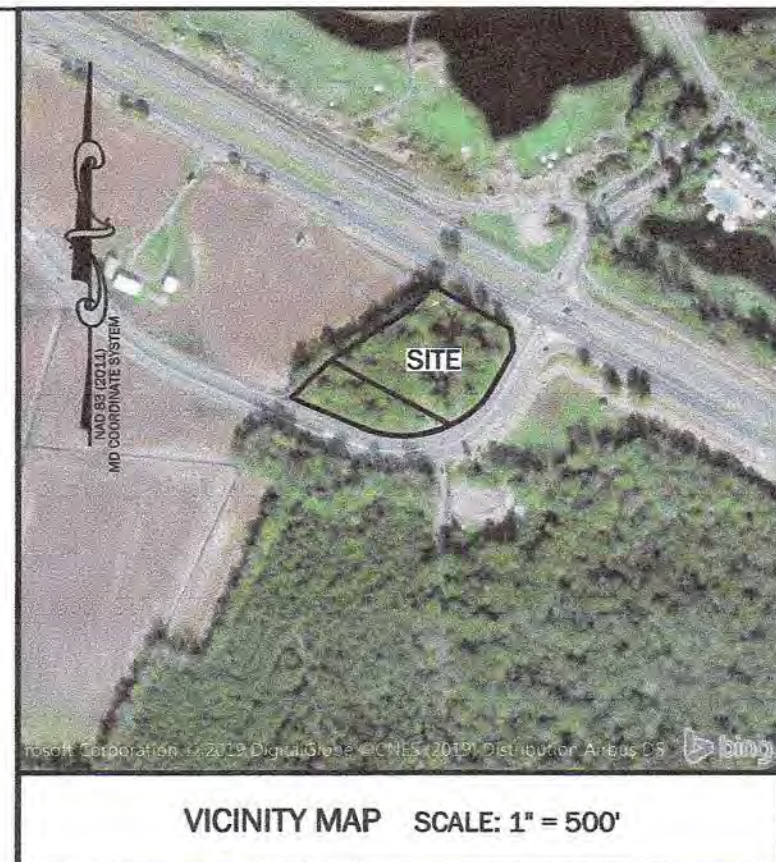
[Signature] 12/13/19

BROCK E PARKER P.E., R.L.S.
528 RIVERSIDE DRIVE
SALISBURY, MARYLAND 21801
PHONE: (410) 749-1023 FAX: (410) 749-1012
EMAIL: BROCK@PARKERLANDSOCIATES.ORG

DATE

Sediment Control Plan Approval
Worcester Soil Conservation District
Snow Hill, ME 21863

Approved by 
Date 12/17/18

[illegible]



DEPARTMENT OF
DEVELOPMENT REVIEW AND PERMITTING

Worcester County

GOVERNMENT CENTER
ONE WEST MARKET STREET, ROOM 1201
SNOW HILL, MARYLAND 21863
TEL: 410.632.1200 / FAX: 410.632.3008

<http://www.co.worcester.md.us/departments/drp>

ADMINISTRATIVE DIVISION
CUSTOMER SERVICE DIVISION
TECHNICAL SERVICES DIVISION

ZONING DIVISION
BUILDING DIVISION
DATA RESEARCH DIVISION

April 27, 2020

Mark Cropper, Esq.
6200 Coastal Hwy Ste. 200
Ocean City, MD 21842

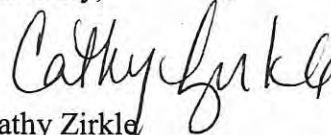
Re: **Case No. 20-13**, on the application of Parker & Associates, Inc., lands of West Ocean City, LLC, requesting an exception to the Forest Conservation Code associated with NR 1-412 (d) to allow the utilization of a mitigation bank to offset the required afforestation/reforestation requirements, in the C-3 Highway Commercial District, pursuant to Zoning Code Sections ZS 1-116(k)(2) and NR 1-412 (d), located at the intersection of Samuel Bowen Blvd. and Ocean Gateway (MD Route 50), Tax Map 26, Parcels 300 and 368, in the Third Tax District of Worcester County, Maryland.

Dear Mr. Cropper:

Enclosed please find a copy of the opinion as rendered by the Board of Zoning Appeals for Worcester County in regards to the above referenced case. I trust you will find this opinion self-explanatory.

Please do not hesitate to contact me at (410) 632-1200, extension 1136 with any questions.

Sincerely,


Cathy Zirkle
DRP Specialist II

Enclosure
cc: File

IN THE MATTER OF PARKER AND ASSOC., INC. *

*

BEFORE THE BOARD OF ZONING

*

APPEALS FOR WORCESTER COUNTY,

*

Case Nos.: 20-13

MARYLAND

* * * * *

OPINION

A hearing was held before the Board of Zoning Appeals for Worcester County, Maryland on Thursday, March 12, 2020, upon the application of Parker and Associates, Inc., on the lands of West Ocean City, LLC, requesting an exception to the Forest Conservation Code associated with NR 1-412 (d) to allow the utilization of a mitigation bank to offset the required afforestation/reforestation requirements, in the C-3 Highway Commercial District, pursuant to Zoning Code Sections ZS 1-116(k)(2) and NR 1-412 (d). The property is located at the intersection of Samuel Bowen Blvd. and Ocean Gateway (MD Route 50), Tax Map 26, Parcels 300 and 368, in the Third Tax District of Worcester County, Maryland.


Jennifer Keener, Zoning Administrator, presented the application to the Board.

Brock Parker testified before the Board in favor of the Application. There were no protestants to the application.

After duly considering the application and the testimony and other evidence offered and presented in connection therewith, the Board concluded that the applicant had met the burden of proof imposed upon them by Section NR 1-412(d). Accordingly, upon a Motion made by Mr. Dypsky, which was seconded by Mr. Fykes, the Board unanimously passed the following resolution:

BE IT RESOLVED, that the requested exception be GRANTED.

4/24/2020
Date


Robert Purcell
Chairperson

APPLICATION TO :
BOARD OF ZONING APPEALS
WORCESTER COUNTY, MARYLAND
ONE WEST MARKET STREET
GOVERNMENT CENTER ROOM 1201
SNOW HILL, MD 21863-1070

OFFICE USE ONLY :

CASE NO: 20-30
DATE FILED: 4-17-2020
HEARING DATE: 6-11-2020

APPLICATION BEING MADE FOR:

☒ SPECIAL EXCEPTION
☐ VARIANCE
☐ EXPANSION OF NONCONFORMING USE/STRUCTURE
☐ OTHER
☐ FORESTRY
☒ CRITICAL AREA
☐ APPEAL

☒ AFTER THE FACT ☐ PROPOSED ☐ ADMINISTRATIVE ADJUSTMENT

TO THE BOARD OF ZONING APPEALS:

Pursuant to Section ZS 1-116 of the Worcester County Zoning Ordinance, enacted or as amended, request is hereby made for:

VARIANCE of 200 (approx) sq. ft.
paver patio as detailed on as build drawing prepared
by Gregory Wilkins Surveyor Inc 4-1-20. As described in letter
dated April 8, 2020

LOCATION OF PROPERTY:

TAX MAP: 16 PARCEL: 96 SECTION: 14B LOT/ BLOCK: 121

On the N/S/E/W of:

(Feet/Miles), N/S/E/W of

PROPERTY OWNER INFORMATION:

Owner's Name: Donna B. Carter Telephone: 717-554-1860
Address: 10 Westwind Drive Lemoyne, PA. E-Mail: dcarter774@yahoo.com
17043

APPLICANT INFORMATION:

Applicant's Name: Richard Trenk & Heather Trenk (previous owner) Telephone: 302 750 1218
Address: 6494 Caroma Lane Naples, FL 34113 E-Mail: rck@fof03.com

Has property in question ever been subject of a previous appeal? (If yes, give case no. and date)

No

Is property located in the Chesapeake Bay Critical Area or Atlantic Coastal Bay Critical Area, or its tributaries? yes If so, has information been submitted in accordance with Worcester County's Critical Area Program Regulations? yes

OFFICE USE ONLY: MINIMUM REQUIRED SETBACKS:

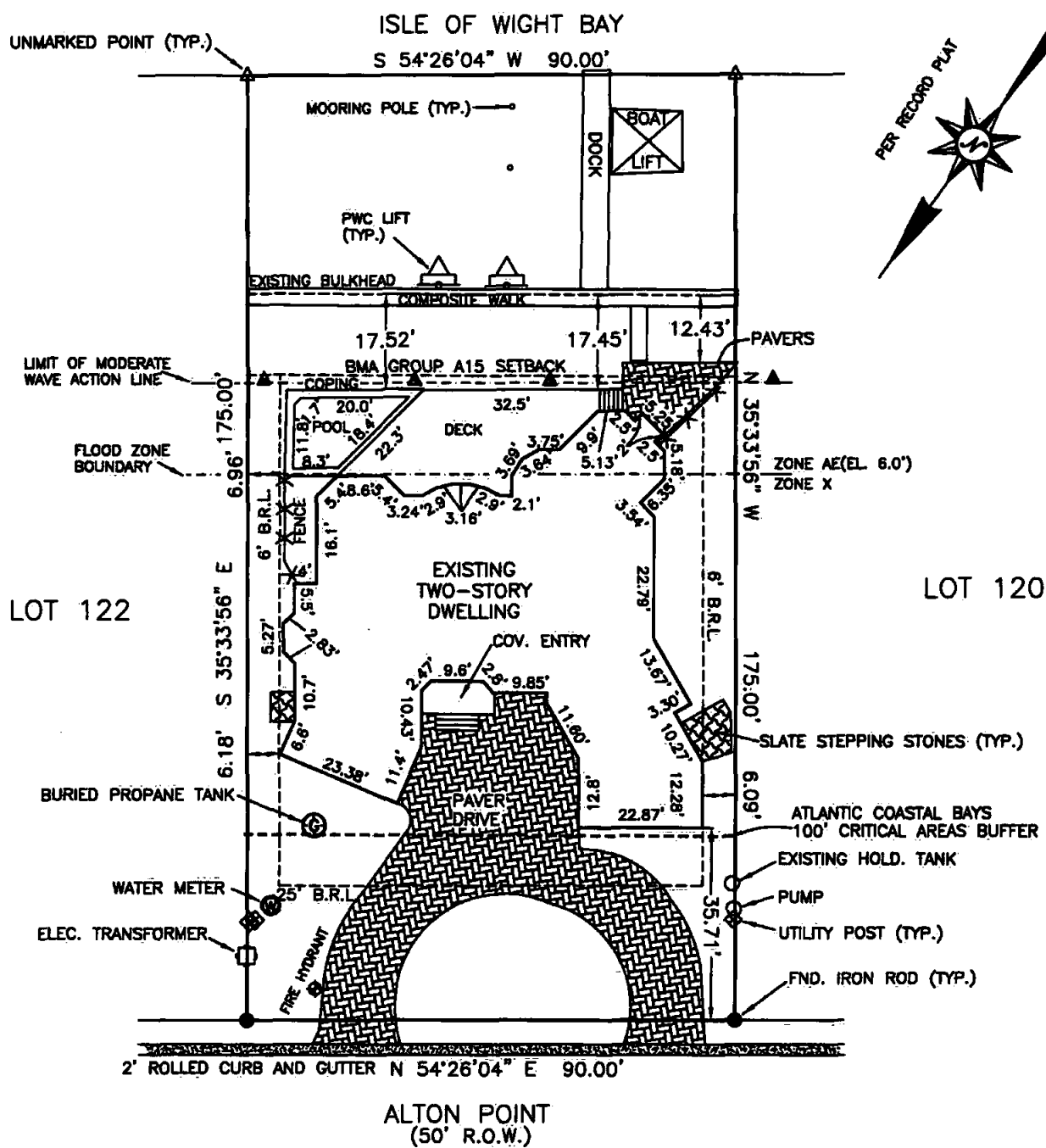
FRONT: ☐ FROM CENTERLINE OF ROAD
☐ RIGHT OF WAY OF A STATE ROAD
☐ FROM PROPERTY LINE
REAR: ☐
LEFT SIDE: ☐
RIGHT SIDE: ☐

ZONING DISTRICT: ☐ TAX DISTRICT: ☐

Signature of Owner or Legal Representative

Signature of Applicant owner

SEE NEXT PAGE FOR NOTARY (BOTH OWNER AND APPLICANT TO BE NOTARIZED)



CENTERLINE

AS-CONSTRUCTED SURVEY

LOT 121 - SECTION 14B
TERNS LANDING - OCEAN PINES

THIRD TAX DISTRICT
WORCESTER COUNTY, MARYLAND
TAX MAP 16, P/O PARCEL 96
LOT AREA = 15,750 SQ. FT.±
CURRENTLY ZONED R-3
REQUIRED SETBACKS: FRONT = 25'
SIDES = 6' EACH, REAR = 30'
FLOOD ZONE AS SHOWN

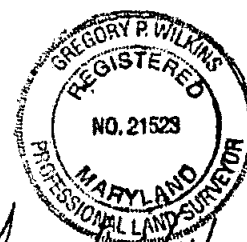
THIS LOT LIES WITHIN THE ATLANTIC COASTAL BAYS CRITICAL AREA AND IS CLASSIFIED AS AN (IDA) INTENSELY DEVELOPED AREA AND IS LOCATED IN BUFFER MANAGEMENT AREA GROUP A15

COVERAGE AREA INSIDE 15' BUFFER
COMPOSITE WALK TO BULKHEAD = 30.2 Sq. Feet
PAVER PATIO = 49.5 Sq. Feet
TOTAL = 79.7 Sq. Feet

THIS AS-CONSTRUCTED SURVEY REFLECTS THE DESCRIPTION OF LOT 121 AS SHOWN ON OCEAN PINES, SECTION 14B, RECORD PLAT, AND DOES NOT VERIFY THE EXISTENCE OR NON-EXISTENCE OF RIGHT OF WAYS OR EASEMENTS PERTAINING TO THIS PROPERTY OTHER THAN THOSE AS SHOWN ON SAID RECORD PLAT. NO TITLE SEARCH PROVIDED OR STIPULATED.



PROFESSIONAL CERTIFICATION
I HEREBY CERTIFY THAT THESE DOCUMENTS WERE PREPARED BY ME OR UNDER MY RESPONSIBLE CHARGE, AND THAT I AM A DULY LICENSED PROFESSIONAL LAND SURVEYOR UNDER THE LAWS OF THE STATE OF MARYLAND LICENSE NO. 21523, EXPIRATION DATE 07-13-2021.



GREGORY P. WILKINS - PRESIDENT
GREGORY P. WILKINS SURVEYOR, INC.

GREGORY P. WILKINS
SURVEYOR, INC.
12626 OLD BRIDGE ROAD
OCEAN CITY, MARYLAND 21842
(410)213-0222

SCALE: 1" = 30' DATE: 04/01/2020
DRAWN BY: GPW8 JOB NO.: 5534POOL

GREGORY P. WILKINS, SURVEYOR, INC. EXPRESSLY RESERVES ITS COMMON LAW COPYRIGHT IN THESE PLANS. THESE PLANS ARE NOT TO BE CHANGED, ALTERED, REPRODUCED, OR COPIED WITHOUT WRITTEN PERMISSION FROM GREGORY P. WILKINS SURVEYOR, INC. IF THE SURVEYORS SEAL & SIGNATURE ON THESE PLANS ARE NOT IN RED THEY ARE AN UNAUTHORIZED REPRODUCTION/COPY.

Current Owner:

Donald & Rebecca Carter, Jr.
10 Westwind Drive
Lemoyne, PA 17043
Cell: (717)554-1860
Email: dcarter774@yahoo.com

Previous Owner/Applicant:

Richard H. Trembl
6494 Carema Lane
Naples, FL 34113
Cell: (302)750-1218
Email: rick@fof03.com

April 8, 2020

Worcester County, Maryland
One West Market Street, Room 1201
Snow Hill, MD 21863-1070

Attn: Board of Zoning Appeals

RE: 38 Alton Point, Ocean Pines, MD 21811/Lot 121, Section 14B, Parcel 96, Tax Map 16
Special Exception/After the Fact/Critical Area Variance Request

To Whom It May Concern:

Donald and Rebecca Carter, Jr. purchased the property at 38 Alton Point, Lot 121, Section 14B, Terns Landing, Ocean Pines, MD 21811 on August 4, 2019 from Richard & Heather Trembl.

Upon completing an as-built of the property before closing, it was discovered that the Trembl's had installed a walkway 11.3 ft long x 3 ft long on the north side of the property from the dock to the lawn for easier access to the bulkhead. It was also discovered a paver patio was installed at the bottom of the steps to an existing walkway (installed by the previous owner, prior to the Trembls), to connect them to the bulkhead and boat lift. Another discovery was labeled, stone walk pad at each side door to the garages on either side of the house.

Worcester County notified the owners that one of the two walkways within the 15' Buffer Management Area must be removed. Mr. Trembl had it removed, the area was top-soiled, and sod was placed. The area was put into the same condition as the surrounding area. (See attached pictures #4, #5, #6 and the as-built drawing prepared by Gregory Wilkins Surveyor dated 4-1-20.)

Regarding the two paver areas noted on each side of the house, we feel these were mislabeled on the as-built; since then, we had our surveyor review the site again. The surveyor has relabeled these two areas to slate stepping stones (typical). (See attached pictures #2, #3 and the as-built drawing prepared by Gregory Wilkins Surveyor dated 4-1-20.) The stepping stones had been relocated (in 2009) from the area where the paver pad now sits and the area where the pool was constructed. The stepping stones have 2" to 4" gaps between them and are only in place to prevent mud & dirt from entering inside the garage areas. We view these as similar to paver stones or blocks and they do not inhibit impervious earth, if anything, they better support the area in question.

As far as the paver patio, we would like to request a variance for this. Various properties throughout Terns Landing have, we assume, approved patios similar in nature; in fact, some all the way to the bulkheads in Terns Landing. As you can see from the pictures, this patio installation was done very well. It is approximately 200 sf of EP Henry 6 x 9 "Old Town Cobble" Pewter Blend Pavers. The pattern is 90-degree Herringbone with Solider Coarse; polysand applied. The patio is

outlined with treated 4 x 4 post; fabric under base. The Tremls installed two large Crepe Myrtle Trees and a large quantity of knock out roses along the area.

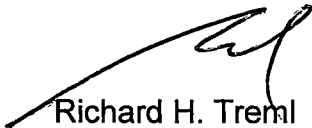
We feel the variance will not confer upon us any special privilege and will not affect any of the neighboring properties. The granting of this variance would not adversely affect water quality, fish, wildlife or any plant habitat within the Atlantic Coastal Bays Critical Area. In fact, before the pavers were placed, this area was generally a wash out area with zero grass or plantings and run off into the bay.

We have complied with the requirement to remove the North walkway and have had the surveyor review the drawing accordingly.

We hope to have a favorable outcome to this variance request. As you can see, we take much pride in our property and the surrounding area.

Thank you for your consideration.

Sincerely,



Richard H. Trembl
Previous Owner/Applicant

Enclosures:

- Check for \$450 to Worcester County w/BZA application (\$350-BZA Application + \$100 for Critical Area Variance)
- Board of Zoning Appeals Application Notary Page for Both Owner & Applicant
- Natural Resources Article Atlantic Bays Critical Area Subsection NR3-11 Critical Bay Variance, with Responses to Each Standard per Natural Resources Article, Atlantic Coastal Bays Critical Area Subsection NR 3-111 Critical Area Variances (marked "page 3 of 3")
- 10 Copies – 11 x 17 As-built drawing prepared by Gregory Wilkins Surveyor dated 4-1-20
- Pictures #1 thru #6 showing areas in question

Picture # 1

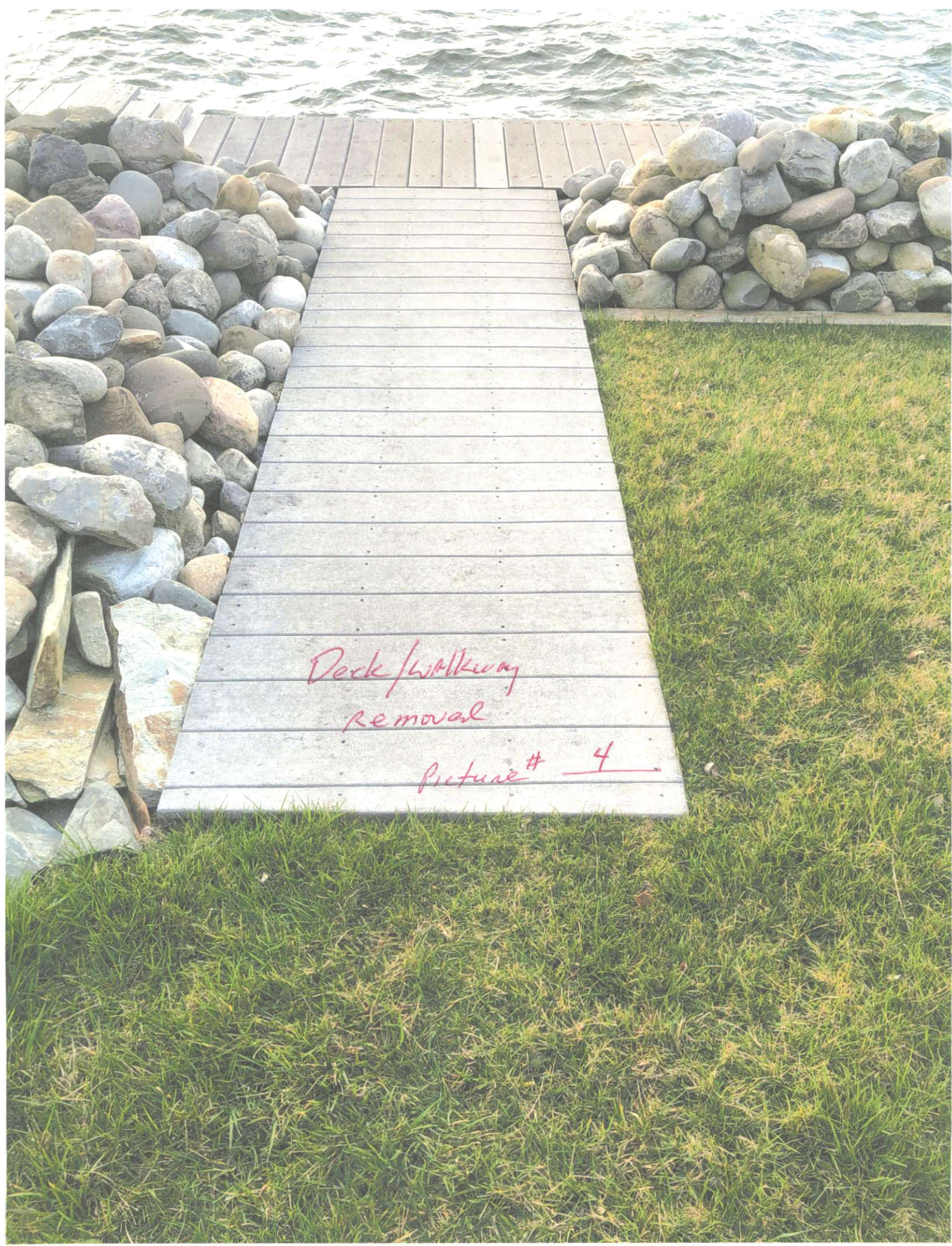




Picture #. 2



Picture # 3



Deck/Walkway
removal

Picture # 4



Sod & restoration area where
walkway was removed
picture # 5



Picture # 6

Area requested for
variance

Walker removed

- (1) The paver area in question was installed to stabilize the ground area and eliminate a wet area at the end of our deck. The area is approximately 200 sf. and stabilizes our back deck and minimal yard area. We installed additional trees (Crepe Myrtles) and Knock Out roses along the area for stabilization. Since the work was completed, we never had any additional wash out into the bay, especially during severe storms.
- (2) Throughout the development many properties have substantially more pavers, stones, slates walkways etc. that have been accepted. These installations have stabilized the ground area and prevented washout into the bay while preserving the intended aesthetic and functional elements within the landscape of the community.
- (3) Our request would not be granting us any special privilege, in fact, as mentioned, this property has minimal improvements allowed along the bay area except for work that enhances the quality of the property and reduction of washout into the bay.
- (4) All requested variance conditions are within the property in question and are shown on the as-built drawing prepared by Gregory Wilkins Surveyor dated 4-1-20 and as shown on the included pictures.
- (5) The granting of the variance will not adversely affect water quality, fish, wildlife or plant habitat within the Atlantic Coastal Bays Critical Area. The area in question improves the surrounding ground conditions and helps stabilize the area, especially during major storms.
- (6) We hope to have a favorable outcome for this variance. The area in question is minimal in square footage and the quality of the work installed is excellent. Upon review of the as-built drawing and pictures you we hope that you will conclude that this variance should be granted. The area located withing the buffer area is only 49 sf. of pavers and 30 sf. of decking.

HEARING DATE: June 11, 2020

APPROVAL REQUESTED: A variance to the Atlantic Coastal Bays Critical Area Buffer Management Area (BMA) from 15 feet to 12.43 feet (an encroachment of 2.57 feet) associated with an After-the-Fact ground level paver patio in the R-3 Multi-family Residential District

CODE REFERENCES: ZS 1-116(m)(1), NR 3-104(c)(4), and NR 3-111

01/19/2005	Building Permit No. 91770 – Issued 02/14/2005– C/O issued 11/18/2005 - 2 story SFD with 2 attached garages and rear open deck
02/17/2009	Building Permit No. 115657 – Issued 03/04/2009 – No C/O to date- Remove existing deck stairs and add 12' x 20' pool

ENCLOSED PLEASE FIND THE STAFF REPORT FROM THE DEPARTMENT OF ENVIRONMENTAL PROGRAMS, NATURAL RESOURCES DIVISION AND THE CRITICAL AREA COMMISSION RELATIVE TO THIS REQUEST

1. Obtain CO for permit 115657;
2. Comply with regulations for Building Code, Fire Code, Zoning Code, Floodplain Management Ordinance, Forestry, Environmental Programs and the Atlantic Coastal Bays / Chesapeake Bay Critical Area, as applicable; and
3. Submit all applicable permits and fees.

APPLICANT: Richard & Heather Tremblay
6494 Carema Lane
Naples, FL 34113

PREPARED BY: Zoning Division Staff

In accordance with Section ZS 1-114, the Department has met the public notification requirements with regard to advertisement in a local paper, posting of property and notification of adjoining property owners



Worcester County
Department of Environmental Programs
Natural Resources Division

Memorandum

To: Jennifer K. Keener, Zoning Administrator
From: Jenelle Gerthoffer, Natural Resources Administrator (JG)
Subject: Board of Zoning Appeals Comments – June 11, 2020
Date: May 27, 2020

Below are comments relative to the cases scheduled for the Board of Zoning Appeals (BZA) meeting for Thursday, June 11, 2020, for their conformance with the Chesapeake Bay (CBCA) and Atlantic Coastal Bays Critical Area Law (ACBCA):

6:30 pm – Case #20-31:

This request is located outside of the Atlantic Coastal and Chesapeake Bay Critical Area programs. No Comment.

6:35 pm - Case #20-30:

This request is located within the landward limits of the Atlantic Coastal Bays Critical Area and designated as Intensely Development Area (IDA) within Buffer Management Area A-15. As this request is specifically for a variance to the Atlantic Coastal Bays Critical Area ordinance, a separate memo will be provided.

6:40 pm – Case #20-29:

This request is located within the landward limits of the Atlantic Coastal Bays Critical Area and designated as Limited Development Area (LDA) with a 100' Buffer. As this request is specifically for a variance to the Atlantic Coastal Bays Critical Area ordinance, a separate memo will be provided.

6:45 pm – Case #20-32:

This request is located within the landward limits of the Atlantic Coastal Bays Critical Area and designated as Intensely Development Area (IDA) within Buffer Management Area B-50. As this request is specifically for a variance to the Atlantic Coastal Bays Critical Area ordinance, a separate memo will be provided.

Citizens and Government Working Together

6:50 pm – Case #20-33:

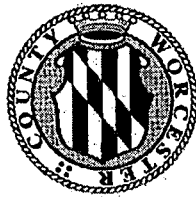
This request is located within the landward limits of the Atlantic Coastal Bays Critical Area and designated as Intensely Development Area (IDA) within Buffer Management Area B-50. The proposed activity does not appear to have any issues with the Atlantic Coastal Bay Critical Area regulations. Any applicable mitigation will be addressed at permitting stage. We reserve any further comments upon permit submittal.

6:55 pm – Case #20-35:

This request is located outside of the Atlantic Coastal and Chesapeake Bay Critical Area programs. No Comment.

Citizens and Government Working Together

WORCESTER COUNTY GOVERNMENT CENTER 1 WEST MARKET STREET, ROOM 1306 SNOW HILL, MARYLAND 21863
TEL: 410-632-1220 FAX: 410-632-2012



Worcester County

Department of Environmental Programs
Natural Resources Division

Memorandum

To: Jennifer K. Keener, Zoning Administrator

From: Jenelle Gerthoffer, Natural Resources Administrator (JG)

Subject: Critical Area Variance – Donald & Rebecca Carter, 38 Alton Point Road, Case #20-30

Date: May 27, 2020

The following comments are provided for the above referenced case as related to the Atlantic Coastal Bays Critical Area Law:

This variance request before the Board of Zoning Appeals (BZA) is for a property located within the Atlantic Coastal Bays Critical Area. The property is identified as the lands of Donald and Rebecca Carter, Tax Map 16, Parcel 96, Section 14B, Lot 121, 38 Alton Point Road. The property is more specifically located within the Intensely Developed Area (IDA) designation with a Buffer Management area of A-15.

The Applicants are requesting a variance to §NR 3-104(c) (4) of the Worcester County Code of Public Local Laws in order to gain authorization for the After the Fact construction of a concrete patio within the 15' BMA buffer.

Under §NR 3-111 "[a]n Atlantic Coastal Bays Critical Area Program variance may be granted . . . where, owing to special features of a site or other circumstances, implementation of this Program or a literal enforcement of provisions within the Program would result in unwarranted hardship to an applicant". Also within §NR 3-111(c) of the County Code, "[A]pplications for a variance shall be made in writing to the Board of Zoning Appeals".

Under the Code of Maryland (COMAR) 27.01.12.06, Worcester County may not accept an application for a variance to legalize a violation of this subtitle, including an unpermitted structure or other development activity, until the County issues a notice of violation and assesses an administrative or civil penalty for the violation. Both these items have been completed and the fine has been paid.

Citizens and Government Working Together

As the Board is aware from previous variances to the Critical Area Law, all applicants must address six standards. The Critical Area Law requires that each of the six standards for a variance be met before the Board renders a decision.

STAFF ANALYSIS

The six standards for Variance, as listed in §NR 3-111(b) (1) thru (6) of the County Code, will be addressed below.

- 1) **Special conditions or circumstances exist that are peculiar to the applicant's land or structure and a literal enforcement of provisions and requirements of the County's Atlantic Coastal Bays Critical Area Program would result in unwarranted hardship.**

Staffs opinion would be that special conditions or circumstances and a literal enforcement of provisions and requirements does not result in an unwarranted hardship. An unwarranted hardship means that without a variance, an applicant would be denied reasonable and significant use of the entire lot. This property was platted prior to the adoption of the Atlantic Coastal Bays Critical Area program and was included within a Buffer Management Area (BMA). A variance is being requested for this case due to an After-the-Fact encroachment into an already reduced (from 100 foot to 15 foot) Buffer. The current owner purchased this property with the unpermitted structures in the BMA.

- 2) **A literal interpretation of the provisions of the County's Atlantic Coastal Bays Critical Area Program and related laws will deprive the applicant of rights commonly enjoyed by other properties in similar areas within the Atlantic Coastal Bays Critical Area.**

Staffs opinion would be that the applicant's rights may not be lessened without the granting of this variance due to the restrictions of the Atlantic Coastal Bays Critical Area Program. There are numerous properties within the Critical Area that have structures that are located within the 15' Buffer Management Area (BMA), the majority of which were completed prior to the enforcement of the Atlantic Coastal Bays Critical Area program. While the Board has provided variance approvals for encroachments into the Buffer/BMA, this is an After-the Fact variance, which means the improvements were completed without the benefit of a permit and approval of Worcester County. As mentioned previously, these improvements were not completed by the current property owner.

- 3) **The granting of a variance will not confer upon an applicant any special privilege that would be denied by the County's Atlantic Coastal Bays Critical Area Program to other lands or structures within the Atlantic Coastal Bays Critical Area.**

As previously mentioned, this is an After-the Fact request, While there are numerous properties throughout the County that have structures located within the 15' BMA, the majority of which were constructed prior to the adoption of the Atlantic Coastal Bays

Citizens and Government Working Together

Critical Area. Therefore, granting this variance would present a special right or privilege to the applicant.

- 4) **The variance request is not based upon conditions or circumstances which are the result of actions by the applicant nor does the request arise from any condition relating to land or building use, either permitted or non-conforming on any neighboring property.**

This request an After-the-Fact variance. While this property was platted prior to the adoption of the Atlantic Coastal Bays Critical Area program, the variance request is based on conditions which are the result of actions made by the previous property owner, but not the current property owner/applicant.

- 5) **The granting of a variance shall not adversely affect water quality or adversely impact fish, wildlife or plant habitat within the Atlantic Coastal Bays Critical Area and the granting of the variance will be in harmony with the general spirit and intent of the County's Atlantic Coastal Bays Critical Program.**

The granting of this variance may adversely affect water quality as it is resulting in an increase in lot coverage within the most sensitive area on the property, the Buffer. However, if approved the property owner would be required to mitigate at a 7:1 ratio, which will improve the water quality.

- 6) **The Board of Zoning Appeals shall not make a decision relative to a request for such a variance without reviewing the comments of the Department and finding that the applicant has satisfied each of the provisions and standards contained herein.**

Staff opinion is that the applicant may not have an unwarranted hardship due to for this After-the-Fact variance. It should be reiterated that the applicant bought the property with these After-the-Fact improvements placed within 15' BMA buffer. The Board should consider additional testimony before determining that the applicant has adequately addressed and met all standards required for a variance.

ADDITIONAL STAFF COMMENTS

State Critical Area Commission staff has also reviewed this request and have provided comments. Critical Area Commission Natural Resources Planner, Kathryn Durant, stated in her April 20, 2020 letter:

"In order for the Board to grant this variance, the applicant must address and the Board must find that the proposal meets all of the required Critical Area variance standards as described in NR 3-111 of the Worcester County Code, including unwarranted hardship."

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The Commission also requests that they be informed by writing of the decision rendered by the Board for this case.

STAFF RECOMMENDATION

Staff cannot support this variance due to the issue that a potential hardship does not exist. If the previous property owner had applied for a permit for the improvements, this Department would not have been able to approve or issue a permit without BZA approval. The total square footage of the paver patio area is 176 square feet, with 49.5 square feet of the patio encroaching into the BMA; therefore, there is paver patio area located outside the BMA where the property owner could continue to enjoy their property.

Should the Board of Zoning Appeals grant the After-the-Fact variance, current regulations require a 7:1 mitigation requirement. This mitigation will be based upon a 4:1 ratio for unpermitted lot coverage and a 3:1 ratio for lot coverage if the variance is approved. It should also be subject to the condition that the Applicant agrees to and enters upon a Critical Area Planting Agreement. The Applicant will also be required to submit a Buffer Management Plan/planting plan which must show plantings within the the buffer first, then any remaining point requirements may be planted elsewhere on the lot. If total amount of mitigation cannot be planted onsite, as verified by a Natural Resources inspector, provisions exist to allow for offsite planting and/or fee-in-lieu.

Should you have any questions or need additional information please contact me at 410-632-1220, ext 1147 or e-mail at: jgerthoffer@co.worcester.md.us.

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

April 20, 2020

Ms. Jenelle Gerthoffer
Worcester County Department of Environmental Programs
One West Market Street – Room 1306
Snow Hill, Maryland 21863

Re: Carter Variance
38 Alton Point, Berlin (Tax Map 16, Parcel 96, Section 14B, Lot 121)

Dear Ms. Gerthoffer:

Thank you for providing information on the above referenced after-the-fact variance request to perfect the development of a patio and walkway in the Modified Buffer Area. The property is a waterfront lot that is 15,750 square feet located entirely in the Intensely Developed Area (IDA). The applicants discovered that the concrete patio and walkway were installed illegally after they purchased the property. The footprint of the concrete patio and walkway is approximately 79.7 square feet.

In order for the Board to grant this variance, the applicant must address and the Board must find that the proposal meets all of the required Critical Area variance standards as described in §NR 3-111 of the Worcester County Code, including unwarranted hardship. Unwarranted hardship is defined as such "that without a variance, an applicant would be denied reasonable and significant use of the *entire* parcel or lot for which the variance is requested." Additionally, as the Worcester County Code does not have provisions for after-the-fact variances, the procedures outlined in COMAR 27.01.12.06 should be followed. I have listed the pertinent components of this section below:

1. COMAR 27.01.12.06 states that "a local jurisdiction may not accept an application for a variance to legalize a violation of this subtitle, including an unpermitted structure or other development activity, until the local jurisdiction: (1) issues a notice of violation; and (2) assesses an administrative or civil penalty for the violation."
 - Worcester County issued a notice of violation on February 21, 2020 that assessed a \$100 fine, therefore, this requirement has been met.
2. COMAR 27.01.12.06 also states that "a local jurisdiction may not issue a permit, approval, variance, or special exception to legalize a violation of this subtitle unless an applicant has: (1) fully paid all administrative, civil, and criminal penalties imposed under Natural Resources Article §8-1808(c)(1)(iii) 14-15 and (2)(i), Annotated Code of Maryland; (2) prepared a restoration or mitigation plan, approved by the local

jurisdiction, to abate impacts to water quality or natural resources as a result of the violation; and (3) performed the abatement measures in the approved plan in accordance with the local Critical Area program.”

- The applicant has paid the penalties and submitted a variance request as outlined in the Notice of Violation, dated February 21, 2020. However, our office did not receive a copy of the mitigation plan; therefore, it is unclear if this requirement has been met. Please forward to this office a copy of the mitigation plan that addresses the required mitigation for the violation. Without this plan, a variance cannot be issued.
3. COMAR 27.01.12.06 finally states that “if a local jurisdiction denies the requested after-the-fact variance, then the local jurisdiction shall: (1) order removal or relocation of any structure; and (2) order restoration of the affected resources.”
- Mitigation for the violation must be provided at a rate of 4:1 per COMAR 27.01.09.01-2(H), regardless of whether the variance is granted or denied.
 - Should the variance be granted, additional mitigation must be provided at a rate of 3:1 for the variance, for a total mitigation rate of 7:1 per COMAR 27.01.09.01-2(H) for both the violation and the variance. The total mitigation would equal 558 square feet of plantings.
 - Worcester County may collect a fee in lieu of the required mitigation plantings per COMAR 27.01.09.01-5.
 - A Buffer Management Plan for the mitigation must be provided in accordance with COMAR 27.01.09.01-3.

Please include this letter in the file and submit it as part of the record. In addition, please notify the Commission in writing of the decision made in this case. Thank you for the opportunity to comment. If you have any questions, please contact me at (410)260-3477.

Sincerely,



Kathryn Durant
Natural Resources Planner

File: WC 188-20



Worcester County

Department of Environmental Programs
Natural Resources Division

Memorandum

To: Jennifer K. Keener, Zoning Administrator

From: David Mathers, Natural Resources Planner (DM)

Subject: Board of Zoning Appeals Comments – June 11, 2020

Date: May 20, 2020

Below are comments relative to the cases scheduled for the Board of Zoning Appeals (BZA) meeting for Thursday, April 9, 2020, for their conformance with the Forest Conservation Act.

6:30 pm – Case #20-31:

This property is subject to Forest Conservation Plan #20-05. This property is seeking a special exception to the Forest Conservation Law. See the Forest Conservation Staff Report attached.

6:35 pm – Case #20-30:

This request is located within the landward limits of the Atlantic Coastal Bays Critical Area and therefore exempt from the Forest Conservation Act. No comment.

6:40 pm – Case #20-29:

This property is subject to Forest Conservation Plan #97-15. Forest Conservation Easement areas are to be kept as a natural habitat area, no clearing or grading within these Conservation Easement areas is permitted, and any new structures and improvements must not encroach into the Forest Conservation Easement. Furthermore, all Forest Conservation signs must be in place around the Conservation Easements.

6:45 pm – Case #20-32:

This request is located within the landward limits of the Atlantic Coastal Bays Critical Area and therefore exempt from the Forest Conservation Act. No comment.

Citizens and Government Working Together

6:50 pm – Case #20-33:

In accordance with Subtitle IV, Section 1-403(b)(15) of the Natural Resources Article of the Worcester County Code of Public Local Laws, this project is exempt from the Worcester County Forest Conservation Program.

6:55 pm – Case #20-35:

This property is subject to Forest Conservation Plan #07-28. This property has met compliance with the Worcester County Forest Conservation Law through the purchase of credits from an approved off-site forest mitigation bank.

Citizens and Government Working Together

WORCESTER COUNTY GOVERNMENT CENTER 1 WEST MARKET STREET, ROOM 1306 SNOW HILL, MARYLAND 21863
TEL: 410-632-1220 FAX: 410-632-2012



Worcester County

Department of Environmental Programs
Environmental Programs Division

Memorandum

To: Board of Zoning Appeals (BZA) for a June 11, 2020 meeting

From: Environmental Programs Staff

Subject: Case No. 20-30; TM 16 P 96 S 14B L 121 – requesting a variance to Critical Area associated with an after-the-fact paver patio.

Date: May 26, 2020

These comments are based upon the site plans received and are subject to change as the plans change to accommodate comments made by other committee members.

Environmental Programs has no objection to this request.

Citizens and Government Working Together

Richard H. Tremi
6494 Carema Lane, Naples, FL 34113
Cell: (302)750-1218 / Email: rick@fof03.com

May 28, 2020

Department of Review & Permitting
Worcester County Government Center
One West Market Street, Room 1201
Snow Hill, MD 21863

Attn: Jessica Edwards, Customer Service Representative

RE: Case No. 20-30 Request for Variance
38 Alton Point, Ocean Pines, MD 21811

Dear Ms. Edwards:

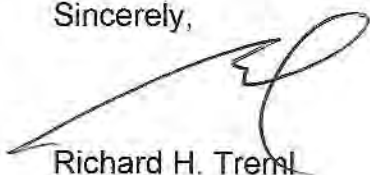
I am in receipt of your email dated May 28, 2020 requesting additional exhibits pertaining to the upcoming Board of Zoning Appeals hearing on June 11, 2020.

Please include the following exhibits:

- Letter from immediate neighbor, Nancy Schneider, located at 36 Alton Point dated May 27, 2020.
- Aerial & Satellite pictures of homes within the surrounding areas. Most properties seem to have permitted pavers & sidewalks well in excess of what we are requesting. See circled areas on attached pictures.

Thank you.

Sincerely,



Richard H. Tremi

cc: Donald & Rebecca Carter, 10 Westwind Drive, Lemoyne, PA 17043

John & Nancy Schneider
3579 Drifting Drive
Holliston MA 01805

May 27, 2020

Worcester County Government Center
Department of Review and Permitting
One West Market Street, Room 1201
Snow Hill, MD 21863

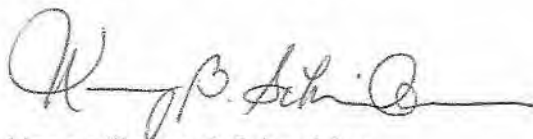
Re: Case No. 20-30

To Whom It May Concern,

We are the adjoining property owners to the property referenced in the above Case. We reside at 36 Alton Point. We have no issue with, and find it acceptable, to leave the patio as is, rather than upset the esthetics and stabilization of the area. The area looks substantially better than in the past and avoids wash out from major storms, to which our properties are prone.

I believe our new neighbors at the property, Don and Becky Carter, would prefer to not have to deal with the destruction of and reconstruction of that area of land. The inconvenience alone would be detrimental to the enjoyment of their property, and potentially ours as well.

To the extent that this might sway your decision, we would appreciate your consideration. Thank you.



Nancy (Benson) Schneider

cc: Rick & Heather Trembl
6494 Carema Lane
Naples, FL 34113



Map

Lot Lines



Maps

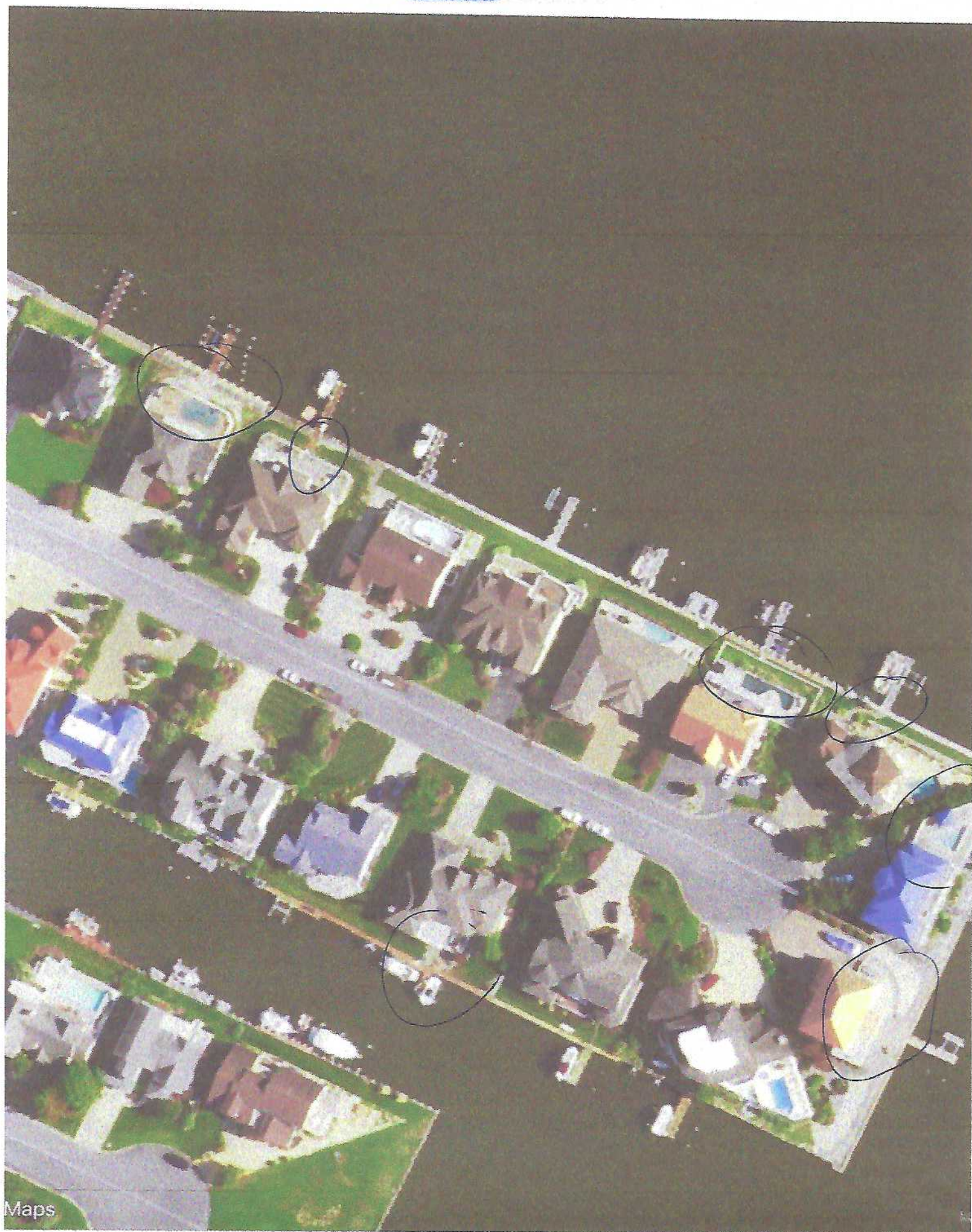
Map Options



Map

Lot Lines

2 of 3





Map

Lot Lines



APPLICATION TO :
BOARD OF ZONING APPEALS
WORCESTER COUNTY, MARYLAND
ONE WEST MARKET STREET
GOVERNMENT CENTER ROOM 1201
SNOW HILL, MD 21863-1070

OFFICE USE ONLY :

CASE NO: 20-29
DATE FILED: 4-30-2020
HEARING DATE: _____

APPLICATION BEING MADE FOR:

☒ SPECIAL EXCEPTION
☐ VARIANCE
☐ EXPANSION OF NONCONFORMING USE/STRUCTURE
☐ OTHER
☐ FORESTRY
☐ CRITICAL AREA
☐ APPEAL

_____ AFTER THE FACT _____ PROPOSED _____ ADMINISTRATIVE
ADJUSTMENT

TO THE BOARD OF ZONING APPEALS:

Pursuant to Section ZS 1-116 of the Worcester County Zoning Ordinance, enacted or as amended, request is hereby made for: 5' Black Aluminum fence with
3 gates installed by Anderson Fence Company.
in the critical area buffer.

LOCATION OF PROPERTY:

TAX MAP: 0073 PARCEL: 0126 SECTION: 0002 LOT/ BLOCK: Lot 9
On the N/S/E/W of: _____
(Feet/Miles), N/S/E/W of _____

PROPERTY OWNER INFORMATION:

Owner's Name: John + Brenda Maniatty Telephone: 443-614-9171
Address: 4232 Carry Back Rd Snow Hill MD E-Mail: bjmaniatty15@gmail.com
21863

APPLICANT INFORMATION:

Applicant's Name: Brenda Maniatty Telephone: 443-614-9171
Address: 4232 Carry Back Rd Snow Hill MD E-Mail: Same
21863

Has property in question ever been subject of a previous appeal? (If yes, give case no. and date)
NO

Is property located in the Chesapeake Bay Critical Area or Atlantic Coastal Bay Critical Area, or its tributaries? YES If so, has information been submitted in accordance with Worcester County's Critical Area Program Regulations? YES

OFFICE USE ONLY: MINIMUM REQUIRED SETBACKS:

FRONT: _____ FROM CENTERLINE OF ROAD REAR : _____
_____ RIGHT OF WAY OF A STATE ROAD LEFT SIDE: _____
_____ FROM PROPERTY LINE RIGHT SIDE: _____

ZONING DISTRICT: _____ TAX DISTRICT: _____

John + Brenda Maniatty
Signature of Owner or Legal Representative

Brenda Maniatty
Signature of Applicant

SEE NEXT PAGE FOR NOTARY (BOTH OWNER AND APPLICANT TO BE NOTARIZED)

Fence Specs

Customer: Brenda Manlatty Snow Hill, MD
 Date: 04/21/20

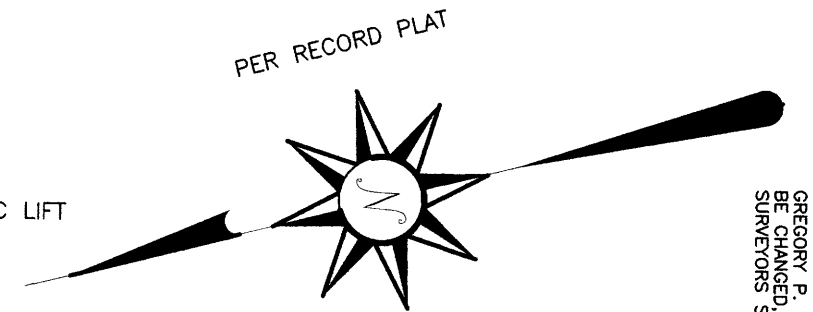
<u>Fence Style:</u> 5'H Ascot - 3-Rail		<u>Residential Grade - Black</u>		
<u>Bottom:</u>	Thru Picket	<u>Rails:</u> 1" x 1".	<u>Pickets:</u> 5/8" Square	
<u>Panel</u>			<u>Qty</u>	
	6'W	59		
<u>Posts</u>				
<u>Type</u>	<u>Size</u>	<u>Wall</u>	<u>Length</u>	<u>Qty</u>
Line	2"	0.062	82"	34
Ends	2"	0.093	88"	2
Corner	2"	0.093	88"	4
Gate	2"	0.125	94"	2
Gate	2.5"	0.125	94"	4
Line/long	2"	0.062	88"	20
<u>Gates</u>				
Single	48"	Flat top	1	
Double	10'	Flat top	2	
<u>Gate HW</u>				
1	Gardog Locking latch(2 sided)		1	
2	Gravity Latch(dble)		2	
3	Drop rod		2	
6	Self-closing hinges		(included)	-
<u>Other</u>				
Pen	1			
10' Vinyl Blank Post+4 rail mount	1			

Note: All posts are set in concrete.

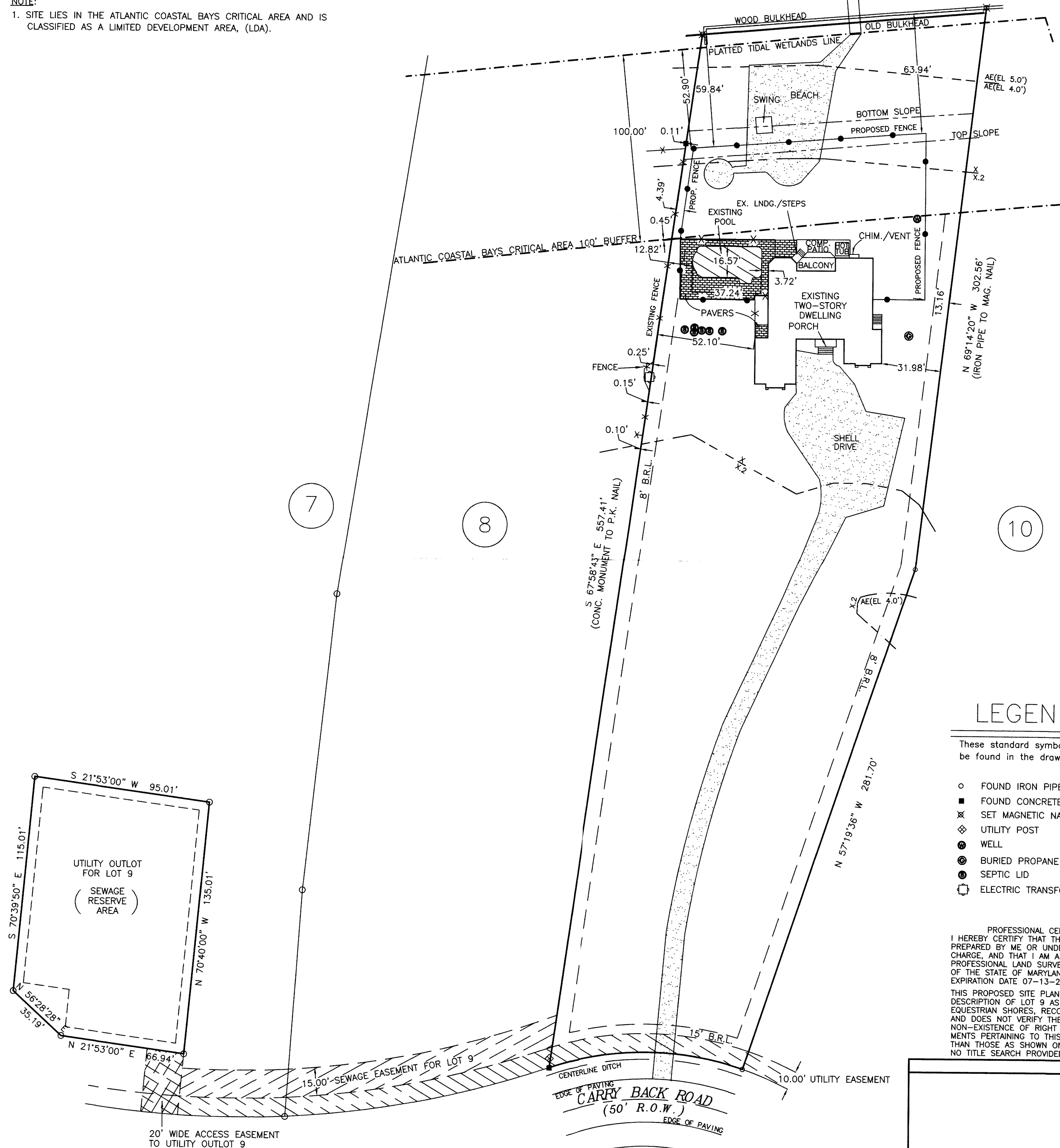
[illegible]

HOUSE NO. 4232
LOT 9 – EQUESTRIAN SHORES
SECOND TAX DISTRICT
WORCESTER COUNTY, MARYLAND
TAX MAP 73, P/O PARCEL 126
LOT AREA = 1.83 AC.± (79,685.9 SQ. FT. ABOVE MEAN HIGH WATER)
CURRENTLY ZONED R-1
APPLICABLE ZONING E-1
REQUIRED SETBACKS AS SHOWN
FLOOD ZONES AS SHOWN

CHINCOTEAGUE BAY



GREGORY P. WILKINS, SURETOR, INC. EXPRESSLY RESERVES ITS COMMON LAW COPYRIGHT IN THESE PLANS. THESE PLANS ARE NOT TO BE CHANGED, ALTERED, REPRODUCED, OR COPIED WITHOUT WRITTEN PERMISSION FROM GREGORY P. WILKINS SURETOR, INC. IF THE INDUSTRY'S SEAL & SIGNATURE ON THESE PLANS ARE NOT IN THE DESIGNATED AREA, THESE PLANS ARE VOID.



These standard symbols will be found in the drawing.

- FOUND IRON PIPE
- FOUND CONCRETE MONUMENT
- ⊗ SET MAGNETIC NAIL
- ◇ UTILITY POST
- ⦿ WELL
- ⊙ BURIED PROPANE TANK
- ⦿ SEPTIC LID
- ⦿ ELECTRIC TRANSFORMER

PROFESSIONAL CERTIFICATION
I HEREBY CERTIFY THAT THESE DOCUMENTS WERE
PREPARED BY ME OR UNDER MY RESPONSIBLE
CHARGE, AND THAT I AM A DULY LICENSED
PROFESSIONAL LAND SURVEYOR UNDER THE LAWS
OF THE STATE OF MARYLAND LICENSE NO. 21523,
EXPIRATION DATE 07-13-2021.

THIS PROPOSED SITE PLAN REFLECTS THE DESCRIPTION OF LOT 9 AS SHOWN ON EQUESTRIAN SHORES, RECORD PLAT, AND DOES NOT VERIFY THE EXISTENCE OR NON-EXISTENCE OF RIGHT OF WAYS OR EASEMENTS PERTAINING TO THIS PROPERTY OTHER THAN THOSE AS SHOWN ON SAID RECORD PLAT. NO TITLE SEARCH PROVIDED OR STIPULATED.

GREGORY P. WILKINS - PRESIDENT
GREGORY P. WILKINS SURVEYOR, INC.

GREGORY P. WILKINS
SURVEYOR, INC.
12626 OLD BRIDGE ROAD
OCEAN CITY, MARYLAND 21842
(410)213-0222

SCALE:	1" = 40'	DATE:	04/25/2020
DRAWN BY:	GPW8	JOB NO.:	7172

THE PLACEMENT OF THE PROPOSED IMPROVEMENTS AS SHOWN HEREON IS AS DIRECTED BY BRENDA MANIATTY AND IS SUBJECT TO APPROVAL BY THE APPROPRIATE GOVERNMENTAL AGENCIES AND/OR HOMEOWNERS ASSOCIATION

**WORCESTER COUNTY BOARD OF ZONING APPEALS
STAFF REPORT FOR:
CASE NO. 20-29**

HEARING DATE: June 11, 2020

LOCATION: 4232 Carry Back Road, approximately 465 feet east of Bayside Road, Tax Map 73, Parcel 126, Lot 9 of the Equestrian Shores Subdivision, in the Second Tax District of Worcester County, Maryland.

APPROVAL REQUESTED: A variance to the Atlantic Coastal Bays Critical Area Buffer Management Area (BMA) from 100 feet to 36.06 feet (an encroachment of 63.94 feet) associated with a proposed fence in the R-1 Rural Residential District

CODE REFERENCES: ZS 1-116(m)(1), NR 3-104(c)(4)

PROPERTY HISTORY:

01/21/2010 Building Permit No. 117759 – Issued 3/12/2010– C/O Issued 10/29/2010
 2 Story single family dwelling with attached garage
07/22/2013 Building Permit No. 13-0711 – Issued 08/02/2013 – C/O Issued 04/23/2014
 16' x 36' inground pool with 4' tall fence
01/15/2014 Building Permit 14-0038 – Issued 01/17/2014 – No CO to Date –
 Add a rear open deck with hot tub

COMMENTS: The proposed improvement does not require a Zoning variance; therefore, we have no objection to this request.

ENCLOSED PLEASE FIND THE STAFF REPORT FROM THE DEPARTMENT OF ENVIRONMENTAL PROGRAMS, NATURAL RESOURCES DIVISION AND THE CRITICAL AREA COMMISSION RELATIVE TO THIS REQUEST

SUBSEQUENT PROCESSES IF APPROVED:

1. Obtain a certificate of use and occupancy for permit 14-0038;
2. Comply with regulations for Building Code, Fire Code, Zoning Code, Floodplain Management Ordinance, Forestry, Environmental Programs and the Atlantic Coastal Bays / Chesapeake Bay Critical Area, as applicable; and
3. Submit all applicable permits and fees.

OWNER: John & Brenda Maniatty
 4232 Carry Back Road
 Snow Hill, MD 21863

PREPARED BY: Zoning Division Staff

In accordance with Section ZS 1-114, the Department has met the public notification requirements with regard to advertisement in a local paper, posting of property and notification of adjoining property owners



Worcester County

Department of Environmental Programs
Natural Resources Division

Memorandum

To: Jennifer K. Keener, Zoning Administrator

From: Jenelle Gerthoffer, Natural Resources Administrator (JG)

Subject: Board of Zoning Appeals Comments – June 11, 2020

Date: May 27, 2020

Below are comments relative to the cases scheduled for the Board of Zoning Appeals (BZA) meeting for Thursday, June 11, 2020, for their conformance with the Chesapeake Bay (CBCA) and Atlantic Coastal Bays Critical Area Law (ACBCA):

6:30 pm – Case #20-31:

This request is located outside of the Atlantic Coastal and Chesapeake Bay Critical Area programs. No Comment.

6:35 pm - Case #20-30:

This request is located within the landward limits of the Atlantic Coastal Bays Critical Area and designated as Intensely Development Area (IDA) within Buffer Management Area A-15. As this request is specifically for a variance to the Atlantic Coastal Bays Critical Area ordinance, a separate memo will be provided.

6:40 pm – Case #20-29:

This request is located within the landward limits of the Atlantic Coastal Bays Critical Area and designated as Limited Development Area (LDA) with a 100' Buffer. As this request is specifically for a variance to the Atlantic Coastal Bays Critical Area ordinance, a separate memo will be provided.

6:45 pm – Case #20-32:

This request is located within the landward limits of the Atlantic Coastal Bays Critical Area and designated as Intensely Development Area (IDA) within Buffer Management Area B-50. As this request is specifically for a variance to the Atlantic Coastal Bays Critical Area ordinance, a separate memo will be provided.

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6:50 pm – Case #20-33:

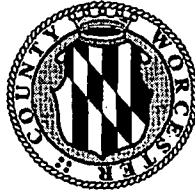
This request is located within the landward limits of the Atlantic Coastal Bays Critical Area and designated as Intensely Development Area (IDA) within Buffer Management Area B-50. The proposed activity does not appear to have any issues with the Atlantic Coastal Bay Critical Area regulations. Any applicable mitigation will be addressed at permitting stage. We reserve any further comments upon permit submittal.

6:55 pm – Case #20-35:

This request is located outside of the Atlantic Coastal and Chesapeake Bay Critical Area programs. No Comment.

Citizens and Government Working Together

WORCESTER COUNTY GOVERNMENT CENTER 1 WEST MARKET STREET, ROOM 1306 SNOW HILL, MARYLAND 21863
TEL: 410-632-1220 FAX: 410-632-2012



Worcester County

Department of Environmental Programs
Natural Resources Division

Memorandum

To: Jennifer K. Keener, Zoning Administrator

From: Jenelle Gerthoffer, Natural Resources Administrator (CG)

Subject: Critical Area Variance – John & Brenda Maniatty, 4232 Carry Back Road, Case #20-29

Date: May 27, 2020

The following comments are provided for the above referenced case as related to the Atlantic Coastal Bays Critical Area Law:

This variance request before the Board of Zoning Appeals (BZA) is for a property located within the Atlantic Coastal Bays Critical Area. The property is identified as the lands of John and Brenda Maniatty, Tax Map 73, Parcel 126, Lot 9, 4232 Carry Back Road. The property is more specifically located within the Limited Development Area (LDA) designation and within the 100' Buffer.

The Applicants are requesting a variance to §NR 3-104(c) (4) of the Worcester County Code of Public Local Laws in order gain authorization to install a fence within the 100' buffer.

The Critical Area "[b]uffer shall be established at a minimum distance of one hundred feet landward from the mean high water line of tidal waters" as stated in §NR 3-104(c)(1). Under §NR 3-104(c) (4) of the County Code, "[n]ew development activities including structures . . . and other impervious surfaces may not be allowed in the Buffer". Under §NR 3-111(c) of the County Code, "[A]pplications for a variance shall be made in writing to the Board of Zoning Appeals".

Under §NR 3-111 "[a]n Atlantic Coastal Bays Critical Area Program variance may be granted . . . where, owing to special features of a site or other circumstances, implementation of this

Citizens and Government Working Together

Program or a literal enforcement of provisions within the Program would result in unwarranted hardship to an applicant”.

As the Board is aware from previous variances to the Critical Area Law, all applicants must address six standards. The Critical Area Law requires that each of the six standards for a variance be met before the Board renders a decision.

STAFF ANALYSIS

The six standards for Variance, as listed in §NR 3-111(b) (1) thru (6) of the County Code, will be addressed below.

1) Special conditions or circumstances exist that are peculiar to the applicant's land or structure and a literal enforcement of provisions and requirements of the County's Atlantic Coastal Bays Critical Area Program would result in unwarranted hardship.

Staff agrees that without the granting of this variance a potential hardship could exist. This property was platted prior to the adoption of the Atlantic Coastal Bays Critical Area Program. The property does not have a buffer management area which would have reduced the impact to the 100' buffer. Without granting this variance a potential hardship could exist.

2) A literal interpretation of the provisions of the County's Atlantic Coastal Bays Critical Area Program and related laws will deprive the applicant of rights commonly enjoyed by other properties in similar areas within the Atlantic Coastal Bays Critical Area.

Staff opinion would be that the applicant's rights would be lessened without the granting of this variance due to the restrictions of the Atlantic Coastal Bays Critical Area Program. Numerous properties within the Critical Area, including the adjacent lot, have fences that are located within the 100' buffer. These fences may have been permitted prior to the start of the Critical Area Law or have been granted through the variance process.

(3) The granting of a variance will not confer upon an applicant any special privilege that would be denied by the County's Atlantic Coastal Bays Critical Area Program to other lands or structures within the Atlantic Coastal Bays Critical Area.

As stated previously, there are numerous properties throughout the County that have fences located within the 100' buffer. Therefore, granting this variance would not present a special right or privilege to the applicant.

(4) The variance request is not based upon conditions or circumstances which are the result of actions by the applicant nor does the request arise from any condition relating to land or building use, either permitted or non-conforming on any neighboring property.

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This request is not an after-the-fact variance and the property was platted prior to the adoption of the Atlantic Coastal Bays Critical Area program and was not awarded to be within a Buffer Management Area.

(5) The granting of a variance shall not adversely affect water quality or adversely impact fish, wildlife or plant habitat within the Atlantic Coastal Bays Critical Area and the granting of the variance will be in harmony with the general spirit and intent of the County's Atlantic Coastal Bays Critical Program.

The granting of this variance could slightly affect the water quality due to the proposed impact to the 100' buffer. If approved the proposed activity will be required to conduct mitigation at a 3:1 ratio for the area disturbed within the 100' buffer.

(6) The Board of Zoning Appeals shall not make a decision relative to a request for such a variance without reviewing the comments of the Department and finding that the applicant has satisfied each of the provisions and standards contained herein.

Staff agrees that the applicant does have an unwarranted hardship due to the 100' buffer. The Board should consider additional testimony before determining that the applicant has adequately addressed and met the standards required for a variance.

ADDITIONAL STAFF COMMENTS

State Critical Area Commission staff has also reviewed this request and have provided comments. Critical Area Commission Natural Resources Planner, Kathryn Durant, stated in her May 18, 2020 letter:

"This office does not oppose the construction of the fence. In order to grant a variance, the applicants need to demonstrate and the Board of Zoning Appeals needs to find that each and every one of the County's variance standards has been met, including the standards of unwarranted hardship and that the variance request is the minimum necessary to provide relief. If the variance is approved, mitigation is required at a 3:1 ratio for any disturbance to the 100-foot Buffer, and a Buffer Management Plan must be approved by the County prior to the start of construction...."

The Commission also requests that they be informed by writing of the decision rendered by the Board for this case.

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WORCESTER COUNTY GOVERNMENT CENTER 1 WEST MARKET STREET, ROOM 1306 SNOW HILL, MARYLAND 21863
TEL: 410-632-1220 FAX: 410-632-2012

STAFF RECOMMENDATION

Staff agrees that without this variance that an unwarranted hardship does exist. Numerous properties located throughout the County have structures that encroach into the 100' buffer. Due to the fact that this lot was platted prior to the adoption of the Critical Area regulations, without a variance the applicant could not have reasonable use of the property.

Should the Board of Zoning Appeals grant the variance, the Department feels that there should be a condition placed on the site that requires full compliance with the 3:1 mitigation requirement. This mitigation will be based upon the amount of disturbance and lot coverage that occurs within the buffer. It should also be subject to the condition that the Applicant agrees to and enters upon a Critical Area Planting Agreement as required by §NR 3-111(e) (1). The Applicant would also be required to submit a planting plan and work with Staff to satisfy this requirement. Mitigation shall be conducted within the buffer first with the balance installed at other places onsite. If total amount mitigation cannot be planted onsite, provisions exist to allow for offsite planting and/or fee-in-lieu.

Should you have any questions or need additional information please contact me at 410-632-1220, ext 1147 or e-mail at: jgerthoffer@co.worcester.md.us.

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WORCESTER COUNTY GOVERNMENT CENTER 1 WEST MARKET STREET, ROOM 1306 SNOW HILL, MARYLAND 21863
TEL: 410-632-1220 FAX: 410-632-2012

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

May 18, 2020

Ms. Joy Birch
Worcester County Department of Environmental Programs
One West Market Street – Room 1306
Snow Hill, Maryland 21863

Re: Maniatty Variance (Case # 20-29)
- 4232 Carry Back Road, Snow Hill, Maryland

Dear Ms. Birch:

Thank you for providing information on the above referenced variance application. The applicant proposes to build a fence in the 100-foot Buffer. The property is 1.82 acres and is designated as Limited Development Area (LDA). It is a waterfront lot, and contains an existing dwelling, driveway, and pool located entirely outside of the 100-foot Buffer.

This office does not oppose the construction of the fence. In order to grant a variance, the applicants need to demonstrate and the Board of Zoning Appeals needs to find that each and every one of the County's variance standards has been met, including the standards of unwarranted hardship and that the variance request is the minimum necessary to provide relief. If the variance is approved, mitigation is required at a 3:1 ratio for any disturbance to the 100-foot Buffer, and a Buffer Management Plan must be approved by the County prior to the start of construction.

Please include this letter in the file and submit it as part of the record. In addition, please notify the Commission in writing of the decision made in this case. Thank you for the opportunity to comment. If you have any questions, please contact me at (410)260-3477.

Sincerely,

A handwritten signature in black ink that reads "Kathryn Durant".

Kathryn Durant
Natural Resources Planner

File: WC 200-20



Worcester County

Department of Environmental Programs
Natural Resources Division

Memorandum

To: Jennifer K. Keener, Zoning Administrator

From: David Mathers, Natural Resources Planner 

Subject: Board of Zoning Appeals Comments – June 11, 2020

Date: May 20, 2020

Below are comments relative to the cases scheduled for the Board of Zoning Appeals (BZA) meeting for Thursday, April 9, 2020, for their conformance with the Forest Conservation Act.

6:30 pm – Case #20-31:

This property is subject to Forest Conservation Plan #20-05. This property is seeking a special exception to the Forest Conservation Law. See the Forest Conservation Staff Report attached.

6:35 pm – Case #20-30:

This request is located within the landward limits of the Atlantic Coastal Bays Critical Area and therefore exempt from the Forest Conservation Act. No comment.

6:40 pm – Case #20-29:

This property is subject to Forest Conservation Plan #97-15. Forest Conservation Easement areas are to be kept as a natural habitat area, no clearing or grading within these Conservation Easement areas is permitted, and any new structures and improvements must not encroach into the Forest Conservation Easement. Furthermore, all Forest Conservation signs must be in place around the Conservation Easements.

6:45 pm – Case #20-32:

This request is located within the landward limits of the Atlantic Coastal Bays Critical Area and therefore exempt from the Forest Conservation Act. No comment.

Citizens and Government Working Together

6:50 pm – Case #20-33:

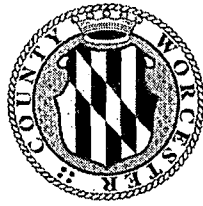
In accordance with Subtitle IV, Section 1-403(b)(15) of the Natural Resources Article of the Worcester County Code of Public Local Laws, this project is exempt from the Worcester County Forest Conservation Program.

6:55 pm – Case #20-35:

This property is subject to Forest Conservation Plan #07-28. This property has met compliance with the Worcester County Forest Conservation Law through the purchase of credits from an approved off-site forest mitigation bank.

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TEL: 410-632-1220 FAX: 410-632-2012



Worcester County

Department of Environmental Programs
Environmental Programs Division

Memorandum

To: Board of Zoning Appeals (BZA) for a June 11, 2020 meeting

From: Environmental Programs Staff

Subject: Case No. 20-29; TM 73 P 126 S 2 L 9 – requesting a special exception to allow a 5 ft. tall fence with 3 gates within the Critical Area buffer.

Date: May 26, 2020

These comments are based upon the site plans received and are subject to change as the plans change to accommodate comments made by other committee members.

Environmental Programs has no objection to this request.

Citizens and Government Working Together

APPLICATION TO:
BOARD OF ZONING APPEALS
WORCESTER COUNTY, MARYLAND
ONE WEST MARKET STREET
GOVERNMENT CENTER, ROOM 1201
SNOW HILL, MARYLAND 21863-1070

OFFICE USE ONLY
CASE NUMBER: 20-32
DATE FILED: 5-1-2020
HEARING DATE: _____

APPLICATION IS BEING MADE FOR:

_____ SPECIAL EXCEPTION	_____ FORESTRY
<u>XXX</u> VARIANCE	_____ CRITICAL AREA
_____ EXPANSION OF NONCONFORMING USE/STRUCTURE	_____ APPEAL
_____ OTHER	
_____ AFTER THE FACT _____ PROPOSED	
	_____ ADMINISTRATIVE REVIEW

TO THE BOARD OF ZONING APPEALS:

Pursuant to Section ZS 1-116 of the Worcester County Zoning Ordinance, enacted or as amended, request is hereby made for: A variance to modify the previously granted variance in BZA Case 19-4, to increase the encroachment into the Critical Area Buffer from 14.4 feet to 16.4 feet, an additional encroachment of 2 feet, and to increase the amount of lot coverage in the Critical Area Buffer, an additional encroachment of 71 feet.

LOCATION OF PROPERTY:

Tax Map: 22 Parcel: Parcel 367 Section: _____ Lot: 26 Block: _____
Located on North Shore Road

PROPERTY OWNER INFORMATION:

Owner: Gregory K. and Nancy J. Britt Telephone: 410-430-9634
Address: 13016 North Shore Road, Ocean City, MD 21842 E-mail gbritt1117@comcast.net

APPLICANT INFORMATION:

Applicant's Name: Hugh Cropper, IV Telephone: 410-213-2681
Address: 9923 Stephen Decatur Hwy., D-2, Ocean City, MD 21842 E-Mail: hcropper@bbcmllaw.com


Has property in question ever been subject of previous appeal? (If yes, give case no. and date) Yes, Case No. 19-4, April 11, 2019

Is property located in the Chesapeake Bay Critical Area or the Atlantic Coastal Bay Critical Area, or its tributaries?
Yes If so, has information been submitted in accordance with Worcester County's Critical Area Program Regulations? _____

OFFICE USE ONLY: MINIMUM REQUIRED SETBACKS:

FRONT: _____ FROM CENTERLINE OF ROAD	REAR: _____ FT.
_____ RIGHT OF WAY STATE ROAD	SIDE: LEFT _____ FT.
_____ FROM PROPERTY LINE	SIDE: RIGHT _____ FT.

ZONING DISTRICT _____ TAX DISTRICT _____

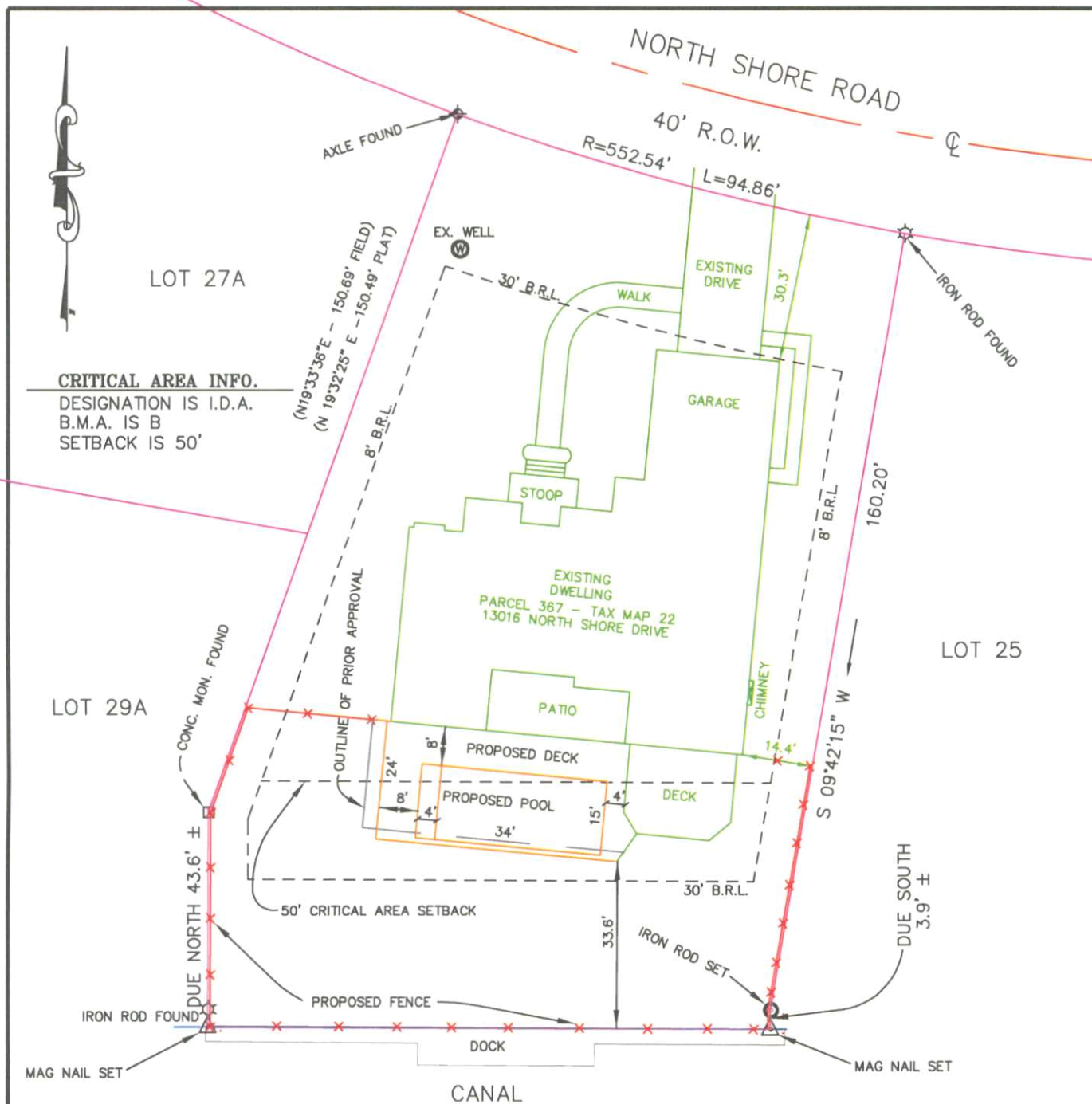


Signature of Owner or Legal Representative



Signature of Applicant

SEE NEXT PAGE FOR NOTARY - BOTH THE OWNER AND APPLICANT NEED TO BE NOTARIZED



WORCESTER COUNTY BOARD OF ZONING APPEALS
STAFF REPORT FOR:
CASE NO. 20-32

HEARING DATE: June 11, 2020

LOCATION: Located at 13016 North Shore Road, approximately 324 feet east of Golf Course Road, Tax Map 22, Parcel 367, Lot 26 of the Captain's Hill Subdivision, in the Tenth Tax District of Worcester County, Maryland.

APPROVAL REQUESTED: A variance to the Atlantic Coastal Bays Critical Area setback from 50 feet to 33.6 feet (an encroachment of 16.4 feet) associated with a proposed pool, patio and fence in the R-2 Suburban Residential District

ZONING CODE REFERENCES: ZS 1-116(m)(1), NR 3-104(c)(4) and NR 3-111

PROPERTY HISTORY:

08/31/94	Building Permit No. 34832 – Issued 10/27/94 – C/O issued 06/06/95 - Single Family Dwelling
04/11/20	BZA Case No. 19-4 – Variance to the Critical Area setback from 50 feet to 35.6 feet (an encroachment of 14.4 feet) associated with a proposed pool, patio and fence - Granted

COMMENTS: The proposed improvements meet the 30 foot rear yard setback for zoning, therefore we have no objection to this request.

ENCLOSED PLEASE FIND THE STAFF REPORT FROM THE DEPARTMENT OF ENVIRONMENTAL PROGRAMS, NATURAL RESOURCES DIVISION AND THE CRITICAL AREA COMMISSION RELATIVE TO THIS REQUEST

SUBSEQUENT PROCESSES IF APPROVED:

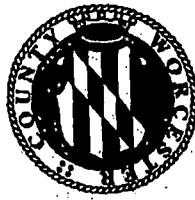
1. Submit a building permit application for the proposed improvements;
2. Comply with regulations for Floodplain Management Ordinance, Forestry, Environmental Programs and the Atlantic Coastal Bays / Chesapeake Bay Critical Area, as applicable and
3. Submit all applicable fees.

OWNER: Greg and Nancy Britt
10352 Waltham Road
Ocean City, MD 21842

APPLICANT: Mark Cropper, Esq.
6200 Coastal Highway, Ste. 200
Ocean City, MD 21842

PREPARED BY: The Zoning Section Staff

In accordance with Section ZS 1-114, the Department has met the public notification requirements with regard to advertisement in a local paper, posting of property and notification of adjoining property owners.



Worcester County
Department of Environmental Programs
Natural Resources Division

Memorandum

To: Jennifer K. Keener, Zoning Administrator
From: Jenelle Gerthoffer, Natural Resources Administrator (JG)
Subject: Board of Zoning Appeals Comments – June 11, 2020
Date: May 27, 2020

Below are comments relative to the cases scheduled for the Board of Zoning Appeals (BZA) meeting for Thursday, June 11, 2020, for their conformance with the Chesapeake Bay (CBCA) and Atlantic Coastal Bays Critical Area Law (ACBCA):

6:30 pm – Case #20-31:

This request is located outside of the Atlantic Coastal and Chesapeake Bay Critical Area programs. No Comment.

6:35 pm - Case #20-30:

This request is located within the landward limits of the Atlantic Coastal Bays Critical Area and designated as Intensely Development Area (IDA) within Buffer Management Area A-15. As this request is specifically for a variance to the Atlantic Coastal Bays Critical Area ordinance, a separate memo will be provided.

6:40 pm – Case #20-29:

This request is located within the landward limits of the Atlantic Coastal Bays Critical Area and designated as Limited Development Area (LDA) with a 100' Buffer. As this request is specifically for a variance to the Atlantic Coastal Bays Critical Area ordinance, a separate memo will be provided.

6:45 pm – Case #20-32:

This request is located within the landward limits of the Atlantic Coastal Bays Critical Area and designated as Intensely Development Area (IDA) within Buffer Management Area B-50. As this request is specifically for a variance to the Atlantic Coastal Bays Critical Area ordinance, a separate memo will be provided.

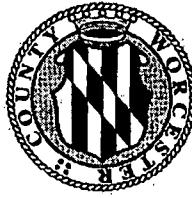
Citizens and Government Working Together

6:50 pm – Case #20-33:

This request is located within the landward limits of the Atlantic Coastal Bays Critical Area and designated as Intensely Development Area (IDA) within Buffer Management Area B-50. The proposed activity does not appear to have any issues with the Atlantic Coastal Bay Critical Area regulations. Any applicable mitigation will be addressed at permitting stage. We reserve any further comments upon permit submittal.

6:55 pm – Case #20-35:

This request is located outside of the Atlantic Coastal and Chesapeake Bay Critical Area programs. No Comment.



Worcester County

Department of Environmental Programs
Natural Resources Division

Memorandum

To: Jennifer K. Keener, Zoning Administrator

From: Jenelle Gerthoffer, Natural Resources Administrator 

Subject: Critical Area Variance – Gregory & Nancy Britt, 13016 North Shore Road,
Case #20-32

Date: May 27, 2020

The following comments are provided for the above referenced case as related to the Atlantic Coastal Bays Critical Area Law:

This variance request before the Board of Zoning Appeals (BZA) is for a property located within the Atlantic Coastal Bays Critical Area. The property is identified as the lands of Gregory and Nancy Britt, Tax Map 22, Parcel 367, Lot 26, 13016 North Shore Road. The property is more specifically located within the Intensely Developed Area (IDA) designation with a Buffer Management area of B-50.

The Applicants are requesting a variance to δ NR 3-104(c) (4) of the Worcester County Code of Public Local Laws in order to gain authorization to construct a pool, patio and fence within the 50' BMA buffer.

Under δ NR 3-111 "[a]n Atlantic Coastal Bays Critical Area Program variance may be granted . . . where, owing to special features of a site or other circumstances, implementation of this Program or a literal enforcement of provisions within the Program would result in unwarranted hardship to an applicant". Also within δ NR 3-111(c) of the County Code, "[A]pplications for a variance shall be made in writing to the Board of Zoning Appeals".

Citizens and Government Working Together

As the Board is aware from previous variances to the Critical Area Law, all applicants must address six standards. The Critical Area Law requires that each of the six standards for a variance be met before the Board renders a decision.

STAFF ANALYSIS

The six standards for Variance, as listed in §NR 3-111(b) (1) thru (6) of the County Code, will be addressed below.

1) Special conditions or circumstances exist that are peculiar to the applicant's land or structure and a literal enforcement of provisions and requirements of the County's Atlantic Coastal Bays Critical Area Program would result in unwarranted hardship.

Staffs opinion would be that without the granting of this variance a potential hardship could exist. The property was platted prior to the adoption of the Atlantic Coastal Bays Critical Area Program and therefore all current development must conform to the current Critical Area regulations, including the 50' buffer management setback.

2) A literal interpretation of the provisions of the County's Atlantic Coastal Bays Critical Area Program and related laws will deprive the applicant of rights commonly enjoyed by other properties in similar areas within the Atlantic Coastal Bays Critical Area.

Staffs opinion would be that the applicant's rights could be lessened without the granting of this variance due to the restrictions of the Atlantic Coastal Bays Critical Area Program. There are numerous properties within the Critical Area that have structures that are located within the 50' buffer management area; however most of them were constructed prior to the adoption of the Atlantic Coastal Bays Critical Area.

(3) The granting of a variance will not confer upon an applicant any special privilege that would be denied by the County's Atlantic Coastal Bays Critical Area Program to other lands or structures within the Atlantic Coastal Bays Critical Area.

As previously stated, there are numerous properties throughout the County that have structures located within the 50' buffer, the majority of which were constructed prior to the adoption of the Atlantic Coastal Bays Critical Area. Therefore, granting this variance would not present a special right or privilege to the applicant.

(4) The variance request is not based upon conditions or circumstances which are the result of actions by the applicant nor does the request arise from any condition relating to land or building use, either permitted or non-conforming on any neighboring property.

This variance is not based upon conditions or circumstances which are the result of the actions by the applicant. This is a proactive variance request.

Citizens and Government Working Together

(5) The granting of a variance shall not adversely affect water quality or adversely impact fish, wildlife or plant habitat within the Atlantic Coastal Bays Critical Area and the granting of the variance will be in harmony with the general spirit and intent of the County's Atlantic Coastal Bays Critical Program.

The granting of this variance may adversely affect water quality as it is resulting in an increase in lot coverage within the most sensitive area on the property, the buffer. However, if approved the property owner would be required to mitigate at a 3:1 ratio, which will improve the water quality.

(6) The Board of Zoning Appeals shall not make a decision relative to a request for such a variance without reviewing the comments of the Department and finding that the applicant has satisfied each of the provisions and standards contained herein.

Staff agrees that the applicant may have an unwarranted hardship due to the location of the 50' BMA buffer. The Board should consider additional testimony before determining that the applicant has adequately addressed and met all standards required for a variance.

ADDITIONAL STAFF COMMENTS

State Critical Area Commission staff has also reviewed this request and have provided comments. Critical Area Commission Natural Resources Planner, Kathryn Durant, stated in her May 19, 2020 letter:

"We cannot support this variance request as proposed. In order to grant a variance, the applicants need to demonstrate and the Board of Zoning Appeals needs to find that each and every one of the County's variance standards has been met, including the standards of unwarranted hardship and that the variance request is the minimum necessary to provide relief. The Board of Zoning Appeals granted a variance to the applicant in April 2019, which indicates they decided that the variance was for the minimum necessary to provide relief..."

The Commission also requests that they be informed by writing of the decision rendered by the Board for this case.

STAFF RECOMMENDATION

Staff would like to point out that there are numerous properties located throughout the County that have structures that encroach into the 50' buffer, some which were built prior to the Critical Area law going into effect and some of which have been approved through variances. Due to the fact that this lot was platted prior to the adoption of the Critical Area Program and the single

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TEL: 410-632-1220 FAX: 410-632-2012

family dwelling was built prior to the adoption of the Critical Area Program, without the variance the applicant's rights to the property could be lessened.

It also should be noted that the Board approved a previous Critical Area variance for this property for similar proposed improvements, except that those improvements and associated encroachment were less than what is being asked for in this request. At that time, the applicant indicated that they decided an encroachment of 14.4 feet would be enough to provide relief; however, they are now asking for an encroachment of 16.4 feet.

Should the Board of Zoning Appeals grant the variance, the Department will require full compliance with the 3:1 mitigation requirement. This mitigation will be based upon the amount of disturbance and lot coverage that occurs within the buffer. It should also be subject to the condition that the Applicant agrees to and enters upon a Critical Area Planting Agreement as required by δNR 3-111(e) (1). The Applicant will also be required to submit a planting plan and work with Staff to satisfy this requirement. Mitigation shall be conducted within the buffer first with the balance installed at other places onsite. If total amount mitigation cannot be planted onsite, provisions exist to allow for offsite planting and/or fee-in-lieu.

Should you have any questions or need additional information please contact me at 410-632-1220, ext 1147 or e-mail at: jgerthoffer@co.worcester.md.us.

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TEL: 410-632-1220 FAX: 410-632-2012

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

May 19, 2020

Ms. Joy Birch
Worcester County Department of Environmental Programs
One West Market Street – Room 1306
Snow Hill, Maryland 21863

Re: Gregory & Nancy Britt Variance
13016 North Shore Drive, Ocean City

Dear Ms. Birch:

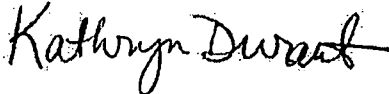
Thank you for providing information on the above referenced variance request to allow additional development within the Buffer Management Area (BMA) of the Critical Area. The applicant proposes to construct a patio and a pool that will be closer to the water than the current footprint of the house. The site currently contains a single family dwelling with a driveway, sidewalk and two decks. The property is a waterfront lot that is 18,375 sq. ft. located entirely in the Intensely Developed Area (IDA). The applicant was previously granted a variance in April 2019 for a pool, a patio and a fence that would add 1,092 square feet of lot coverage to the site. The applicant is now requesting a variance to the originally granted variance to encroach an additional 2 feet closer to the water and add an additional 71 square feet of lot coverage in the 50-foot Critical Area Buffer.

We cannot support this variance request as proposed. In order to grant a variance, the applicants need to demonstrate and the Board of Zoning Appeals needs to find that each and every one of the County's variance standards has been met, including the standards of unwarranted hardship and that the variance request is the minimum necessary to provide relief. The Board of Zoning Appeals granted a variance to the applicant in April 2019, which indicates they decided that the variance was for the minimum necessary to provide relief.

The Commission does not consider the inability to construct a swimming pool to be an unwarranted hardship and would not consider it one in this case. Additionally, the Commission does not consider a variance to expand a previously granted variance to be an unwarranted hardship. However, if the swimming pool must be built, we would prefer if it did not extend beyond the edge of the existing deck which is already in the 50-foot Critical Area Buffer or the edge of the existing single family dwelling. If the swimming pool must extend beyond the edge of the existing deck, we would prefer if it did not extend beyond the edge of what the Board of Zoning Appeals approved in April 2019.

Please include this letter in the file and submit it as part of the record. In addition, please notify the Commission in writing of the decision made in this case. Thank you for the opportunity to comment. If you have any questions, please contact me at (410)260-3477.

Sincerely,

A handwritten signature in cursive script that reads "Kathryn Durant".

Kathryn Durant
Natural Resources Planner

File: WC 959-18



Worcester County

Department of Environmental Programs
Natural Resources Division

Memorandum

To: Jennifer K. Keener, Zoning Administrator

From: David Mathers, Natural Resources Planner 

Subject: Board of Zoning Appeals Comments – June 11, 2020

Date: May 20, 2020

Below are comments relative to the cases scheduled for the Board of Zoning Appeals (BZA) meeting for Thursday, April 9, 2020, for their conformance with the Forest Conservation Act.

6:30 pm – Case #20-31:

This property is subject to Forest Conservation Plan #20-05. This property is seeking a special exception to the Forest Conservation Law. See the Forest Conservation Staff Report attached.

6:35 pm – Case #20-30:

This request is located within the landward limits of the Atlantic Coastal Bays Critical Area and therefore exempt from the Forest Conservation Act. No comment.

6:40 pm – Case #20-29:

This property is subject to Forest Conservation Plan #97-15. Forest Conservation Easement areas are to be kept as a natural habitat area, no clearing or grading within these Conservation Easement areas is permitted, and any new structures and improvements must not encroach into the Forest Conservation Easement. Furthermore, all Forest Conservation signs must be in place around the Conservation Easements.

6:45 pm – Case #20-32:

This request is located within the landward limits of the Atlantic Coastal Bays Critical Area and therefore exempt from the Forest Conservation Act. No comment.

Citizens and Government Working Together

6:50 pm – Case #20-33:

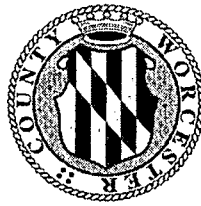
In accordance with Subtitle IV, Section 1-403(b)(15) of the Natural Resources Article of the Worcester County Code of Public Local Laws, this project is exempt from the Worcester County Forest Conservation Program.

6:55 pm – Case #20-35:

This property is subject to Forest Conservation Plan #07-28. This property has met compliance with the Worcester County Forest Conservation Law through the purchase of credits from an approved off-site forest mitigation bank.

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TEL: 410-632-1220 FAX: 410-632-2012



Worcester County

Department of Environmental Programs
Environmental Programs Division

Memorandum

To: Board of Zoning Appeals (BZA) for a June 11, 2020 meeting

From: Environmental Programs Staff

Subject: Case No. 20-32; TM 22 P 367 L 2 – requesting a variance to modify previously granted variance in BZA case 19-4, to increase the encroachment into the Critical Area buffer from 14.4 feet to 16.4 feet, an additional encroachment of 2 feet, and to increase the amount of lot coverage in the Critical Area buffer, an additional encroachment of 71 feet.

Date: May 26, 2020

These comments are based upon the site plans received and are subject to change as the plans change to accommodate comments made by other committee members.

Environmental Programs has no objection to this request.

LAW OFFICES

BOOTH CROPPER & MARRINER

A PROFESSIONAL CORPORATION

9923 STEPHEN DECATUR HIGHWAY, D-2

OCEAN CITY, MARYLAND 21842

(410) 213-2681

FAX (410) 213-2685

EMAIL: hcropper@bbcmlaw.com

CURTIS H. BOOTH
HUGH CROPPER IV
THOMAS C. MARRINER*
ELIZABETH ANN EVINS
LYNDSEY J. RYAN

*ADMITTED IN MD & DC

EASTON OFFICE

130 N. WASHINGTON ST.

EASTON, MD 21601

(410) 822-2929

FAX (410) 820-6586

WEBSITE

www.bbcmlaw.com

April 30, 2020

Ms. Jenelle Gerthoffer, Natural Resources Administrator
Worcester County Department of
Environmental Programs
One West Market Street, Room 1306
Snow Hill, Maryland 21863

RE: Worcester County Tax Map 22, Parcel 357, Lot 26

Dear Ms. Gerthoffer:

I represent Gregory Knox Britt and Nancy J. Britt, his wife, owners of 13016 North Shore Road, designated as Lot 26, Plat one, Section one, on the Plat entitled "Captain's Hill" which is recorded among the Land Records of Worcester County, Maryland, in Plat Book EWR No. 2, Folio 40, and a copy is attached hereto as an exhibit.

Mr. and Mrs. Britt appeared before the Worcester County, Board of Zoning Appeals, requesting a variance to reduce the Atlantic Coastal Bays Critical Law area setback from 50 feet to 35.6 feet (an encroachment of 14.4 feet) associated with a proposed pool, patio, and fence. The proposed structures were accessory to a single family dwelling, which has existed for many, many years. The Board of Zoning Appeals granted the requested Critical Area Variance, and a copy of the Opinion in Case No. 19-4 is attached hereto as an exhibit.

The property is in a Buffer Management Area, with a 50 foot Critical Area Buffer.

The original proposal included a 6 foot wide patio area, 13 foot wide pool (by 44 feet in length), and a 3 foot wide walkway. Subsequent to receiving the Critical Area Variance, the property owners met with several pool installation companies. Unfortunately, there are no current specifications for either plastic or fiberglass pools, or pool liners, 13 feet in width. Such a pool is not commercially reasonable.

After consulting with several professional pool installers, the narrowest reasonable pool available is 15 feet in width. In summary, the property owners are requesting the following:

The original pool was 13 feet by 44 feet, for a total of 572 square feet. The new request is for a pool 15 feet by 34 feet, for a total of 510 square feet. This is a reduction of 62 square feet.

The property owners are desirous of increasing the proposed patio or deck from 6 feet to 8 feet, but eliminating the 3 foot wide walkway, instead providing a 1 foot wide apron or pad on the channelward side of the pool. This will provide for a safer pool. In summary, the property owners are requesting the following: The original approval requested a variance to reduce the setback from 50 feet to 35.6 feet, an encroachment of 14.4 feet. The new request is to reduce the setback from 50 feet to 33.6 feet, an encroachment of 16.4 feet. The encroachment into the setback will be increased by 2 feet. The additional lot coverage area within the Critical Area setback is 71 square feet.

It should be noted that the entirety of the proposed patio, as well as a portion of the proposed pool, is outside of the Critical Area Buffer; however, due to the location of the pre-existing single family dwelling, it is impossible to locate all of these improvements outside of the Critical Area Buffer.

The designation in the Critical Area is Intensely Developed Area, or IDA. The property is zoned R-2, Suburban Residential District. Single family dwellings, and accessory uses, are permitted by zoning.

According to the Department of Assessments and Taxations, the primary structure was built in 1995, before the implementation of the Critical Area Law. It is impossible to relocate the single family dwelling, so this permitted accessory use does require a variance, to avoid unwarranted hardship.

1. Special conditions or circumstances exist that are peculiar to the applicant's land or structure and a literal enforcement of provisions and requirements of the County's Atlantic Coastal Bays Critical Area Program would result in unwarranted hardship.

The Captain's Hill Subdivision was platted on May 16, 1960 and, as such, pre-dates the Critical Area Law by many, many years. Since that time, the property lines have not changed, and the subdivided lot has not been reconfigured.

Captain's Hill is certainly one of the older subdivisions in Worcester County. According to SDAT records, the single family dwelling on this property was constructed in 1995. Virtually the entire subdivision was improved with single family dwellings prior to the effective date of the Critical Area Law. In many instances in this neighborhood, lot coverage or impervious surface is located in the Buffer, and in many cases extends all the way to the bulkhead. This condition exists up and down North Shore Drive, where the property is located.

The property is appropriately zoned, classified as an IDA, in a Buffer Management Area, and the single family dwelling is permitted by zoning. The proposed patio and pool are permitted by zoning as accessories.

There are special conditions or circumstances associated with this lot that make it very unique. The house was constructed in 1995. There is no room for accessory uses. The literal enforcement of the requirements of the Critical Area Law would result in unwarranted hardship.

The Board made this finding in BZA Case 19-4. The proposed request is an incredibly minor increase to that previously granted Critical Area Variance.

2. A literal interpretation of the provisions of the County's Atlantic Coastal Bays Critical Area Program and related laws will deprive the applicant of rights commonly enjoyed by other properties in similar areas within the Atlantic Coastal Bays Critical Area.

There are many other waterfront lots in this subdivision. The vast majority of these lots are improved with single family dwellings, piers, garages, swimming pools, sheds, and other accessory structures. Many of these structures extend to the tidal wetlands line, or water's edge, and certainly many are located within the Critical Area Buffer.

There have been other Critical Area Variances granted in this community due to unique condition of this much older subdivision.

The lot is properly zoned and has been allocated an EDU in the public sewer system. There are other lots directly on North Shore Drive which have patios and swimming pools. Virtually all of those swimming pools are much larger than the swimming pool requested in this case. The proposed swimming pool is only 510 square feet, with an accessory patio. A literal interpretation of the Critical Area Law would deprive the applicants the right to construct their proposed pool, which is an unwarranted hardship.

3. The granting of a variance will not confer upon an applicant any special privilege that would be denied by the County's Atlantic Coastal Bays Critical Area Program to other lands or structures within the Atlantic Coastal Bays Critical Area.

The granting of this variance will not confer a special privilege upon the applicants. As stated previously, many of the houses on North Shore Drive are already improved with swimming pools, all of which are much larger than this proposal. The Board of Zoning Appeals recognized this in the prior case 19-4, when they found that a hardship did exist. They also found that numerous properties have structures located within the Critical Area Buffer.

4. The variance requested is not based upon conditions or circumstances which are the result of actions by the applicant nor does the request arise from any condition relating to land or building use, either permitted or non-conforming on any neighboring property.

This is not an after-the-fact variance.

This subdivision was platted many, many years ago, pre-dating the Critical Area Law. Swimming pools were constructed in this neighborhood, many, many years ago.

The single family dwelling was constructed in 1995, 25 years ago. It is the location of the single family dwelling that necessitates the variance in this case.

5. The granting of a variance shall not adversely affect water quality or adversely impact fish, wildlife or plant habitat within the Atlantic Coastal Bays Critical Area and the granting of the variance will be in harmony with the general spirit and intent of the County's Atlantic Coastal Bays Critical Area Program.

The lots along North Shore Drive consist of a developed residential subdivision. There are numerous single family dwellings, swimming pools, garages, storage structures, boat docks, piers, etc. The area is designated IDA, and virtually all of the lots are improved by structures, and virtually all those structures are within the Critical Area Buffer, or have accessory uses within the Critical Area Buffer.

The applicants will be required to mitigate the impact of this accessory use.

6. The Board of Zoning Appeals shall not make a decision relative to a request for such a variance without reviewing the comments of the Department and finding that the applicant has satisfied each of the provisions and standards contained herein.

In conclusion, this lot has been platted since 1960. Virtually all of the lots on North Shore Drive are improved by single family dwellings, swimming pools, and other accessory structures.

This lot is unique by virtue of the fact that the single family dwelling was constructed back in 1995, and it was configured in a way that would not permit any accessory uses, without the variance. This is an unwarranted hardship.

The opinion in Board of Zoning Appeals Case No. 19-4 is hereby incorporated by reference. The Board of Zoning Appeals already found a hardship for a patio and swimming pool. This request is to increase the impact into the Buffer by only 2 feet, and the amount of lot coverage in the Buffer by only 71 square feet. This will require mitigation at a 3-1 ratio. The size of the swimming pool has actually been reduced by 61 square feet, and it is currently 510 square feet. This is an extremely minimal request.

This is virtually the exact same case as presented previously, with a very, very minor modification.

The failure to grant this variance would result in an unwarranted hardship, and the applicants respectfully request that the variance be granted.

April 30, 2020
Page Six

Very truly yours,

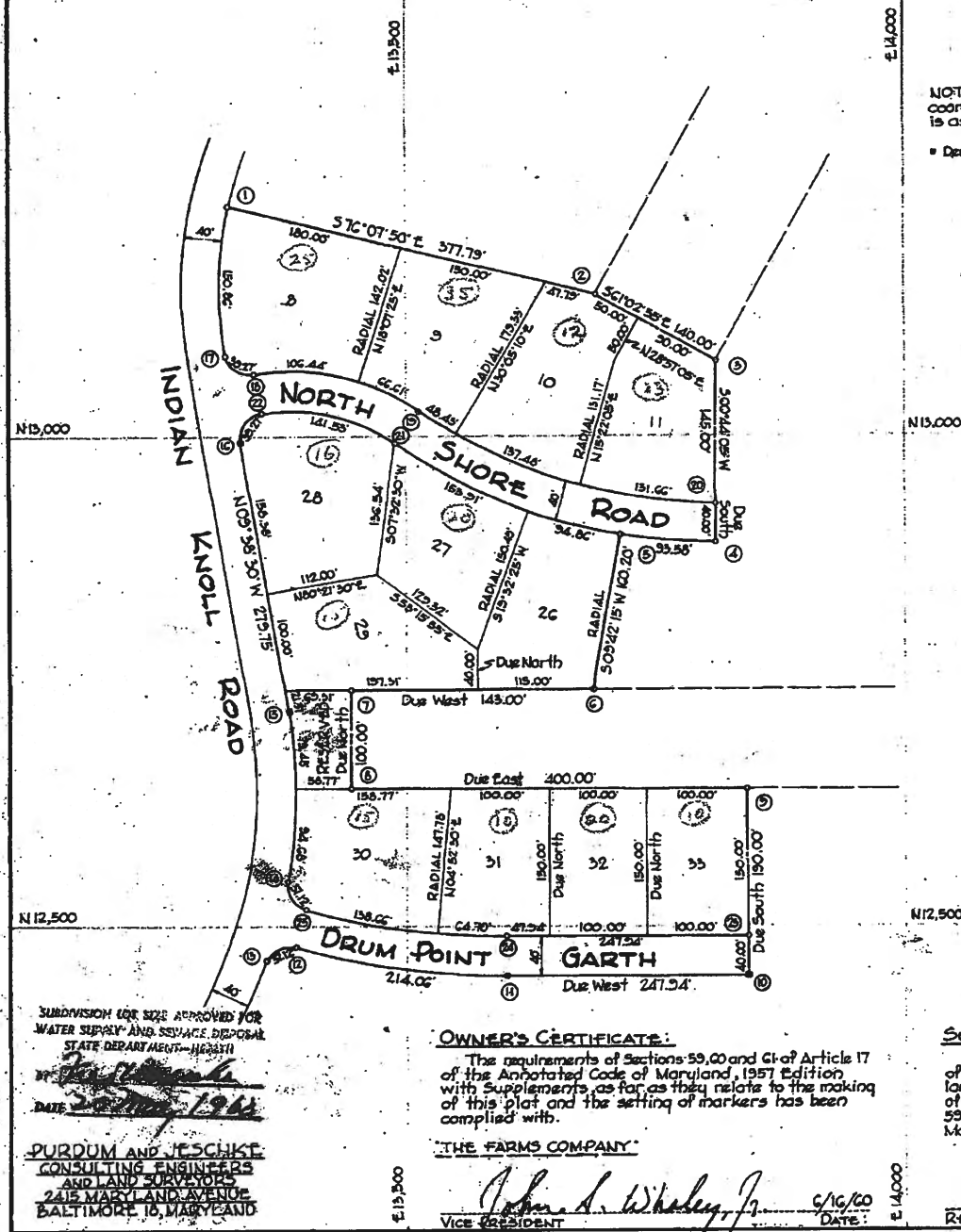
A handwritten signature in black ink, consisting of several loops and a long horizontal stroke at the end.

Hugh Cropper IV

HC/tgb

Enclosures

CC: Mr. and Mrs. Gregory Britt
Frank G. Lynch, Jr.
Chris McCabe



EWR 2/40

COORDINATE TABLE

NO.	NORTH	EAST	NO.	NORTH	EAST
1	13234.06	13322.10	14	12346.36	13375.52
2	13143.50	13288.88	15	12719.66	13380.65
3	13075.75	13811.38	16	12995.46	13355.80
4	12890.75	13809.52	17	13084.20	13318.72
5	12898.64	13716.38	18	13065.74	13347.58
6	12740.75	13689.58	19	13026.01	13511.82
7	12740.75	13446.38	20	12995.44	13609.52
8	12640.75	13446.38	21	12995.44	13488.66
9	12640.75	13646.38	22	13022.29	13554.26
10	12490.75	13646.38	23	12490.75	13646.38
11	12450.75	13598.44	24	12490.75	13598.44
12	12479.18	13586.95	25	12517.76	13537.50
13	12463.72	13556.87			

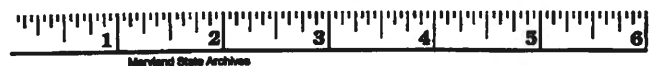
CURVE DATA

NO.	RADIUS	Δ	ARC	TAN	CH. BEAR.	CH. DIST.
4-5	552.44'	09°42'15"	93.55'	46.85'	N85°08'55"W	93.46'
11-12	800.44'	15°15'20"	214.00'	107.67'	N82°20'20"W	213.42'
12-13	25.00'	85°08'54"	37.12'	22.98'	S62°47'25"W	33.80'
14-15	458.22'	20°01'44"	174.16'	87.98'	N00°22'22"E	173.28'
16-17	25.00'	90°00'00"	35.27'	25.00'	N36°11'30"E	35.35'
17-18	25.00'	90°00'00"	35.27'	25.00'	S54°36'30"E	35.35'
18-19	219.64'	45°08'30"	175.05'	91.50'	S77°04'15"E	168.61'
19-20	512.54'	35°30'00"	317.57'	164.07'	S72°15'00"E	312.51'
21-22	552.54'	35°30'00"	342.35'	176.87'	N72°15'00"W	336.20'
22-23	175.64'	45°08'30"	141.93'	74.67'	N77°04'15"W	137.90'
24-25	760.44'	15°15'20"	203.36'	102.25'	N82°20'20"W	202.75'
25-14	25.00'	85°08'54"	37.12'	22.98'	N32°08'45"W	33.80'
17-1	395.14'	21°32'05"	150.86'	76.35'	N01°17'31"E	145.85'

PLAT ONE SECTION ONE



A DEVELOPMENT BY THE FARMS COMPANY WORCESTER CO., MD. MAY 16, 1960 — SCALE: 1"=100'



IN THE MATTER OF MARK CROPPER, ESQ. *

BEFORE THE BOARD OF ZONING *

APPEALS FOR WORCESTER COUNTY, *

Case No. 19-4

MARYLAND * * * * *

OPINION

A hearing was held before the Board of Zoning Appeals for Worcester County, Maryland on Thursday, April 11, 2019, upon the application of Mark Cropper, Esquire, on the lands of Gregory Britt and Nancy Britt, requesting a variance to the Atlantic Coastal Bays Critical Area setback from 50 feet to 35.6 feet (an encroachment of 14.4 feet) associated with a proposed pool, patio and fence in the R-2 Suburban Residential District, pursuant to Zoning Code Section ZS 1-116(m)(1) and Natural Resources Sections NR 3-104(c)(4) and NR 3-111. The property is located at 13016 North Shore Road, approximately 324 feet east of Golf Course Road, Tax Map 22, Parcel 367, Lot 26 of the Captain's Hill Subdivision, in the Tenth Tax District of Worcester County, Maryland.

Jennifer Keener, Zoning Administrator, presented the application to the Board.

Property owner Gregory Britt testified before the Board in favor of the application. There were no protestants to the application. The testimony revealed that most, if not all, properties in the Captain's Hill subdivision have structures within the 50 foot Buffer Management Area.

After duly considering the application, and the testimony and other evidence offered and presented in connection therewith regarding the requested variance, the Board adopted the March 25, 2019 Staff report as its finding of fact as if set forth fully herein:

1. Special conditions or circumstances exist that are peculiar to the applicant's land or structure and a literal enforcement of provisions and requirements of the County's Atlantic Coastal Bays Critical Area Program would result in unwarranted hardship;

5. The granting of a variance shall not adversely affect water quality or adversely impact fish, wildlife or plant habitat within the Atlantic Coastal Bays Critical Area and the granting of the variance will be in harmony with the general spirit and intent of the County's Atlantic Coastal Bays Critical Area Program;

The granting of this variance may adversely affect the water quality as it is resulting in an increase in lot coverage within the most sensitive area on the property, the buffer. However, the property owner will be required to mitigate at a 3:1 ratio, which will improve the water quality.

6. The Board of Zoning Appeals shall not make a decision relative to a request for such a variance without reviewing the comments of the Department and finding that the applicant has satisfied each of the provisions and standards contained herein.

The Board agrees with the staff that the applicant may have an unwarranted hardship due to the location of the 50' BMA buffer. The Board has considered additional testimony and has determined the applicant has adequately addressed and met all standards required for a variance.

Accordingly, upon a Motion made by Mr. Purcell, which was seconded by Mr. Green, the Board passed the following resolution which was opposed by Mr. Babcock:

BE IT RESOLVED, that the requested variance be GRANTED.

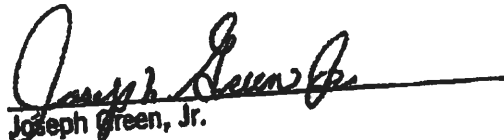
5-9-19
Date

5-9-19
Date

5-9-19
Date


David Dypsky
Chairperson


Larry Duffy


Joseph Green, Jr.

Date

5/9/19

Date

5-9-2019


Date

5-9-2019

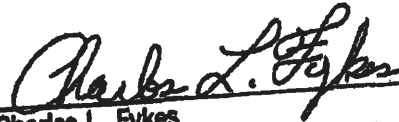
Robert Purcell

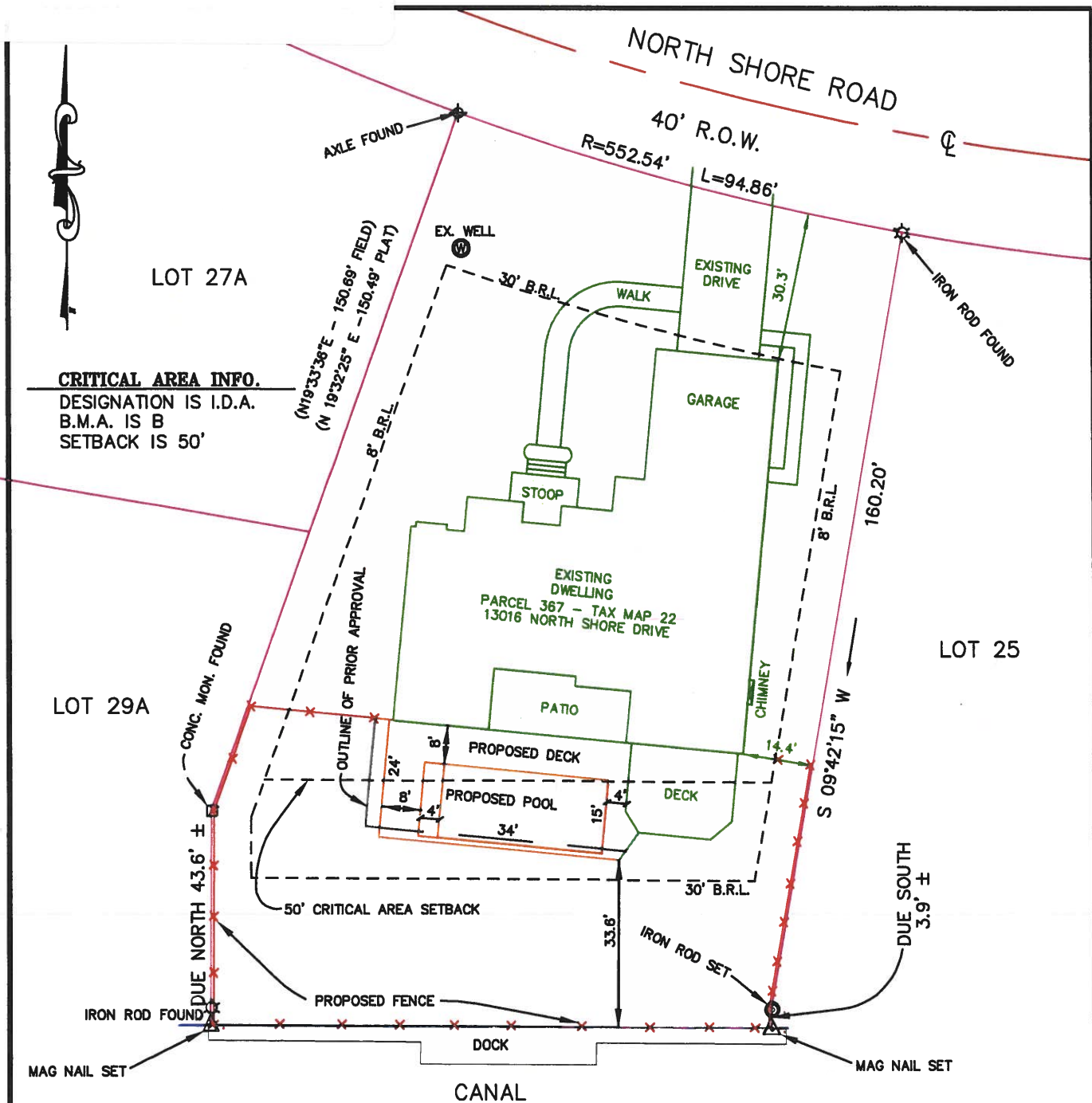


Thomas Babcock



Charles L. Fykes





REVISED POOL & FENCE SITE PLAN

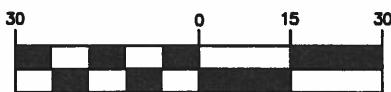
LOT 26, PLAT ONE, SECTION ONE, CAPTAINS HILL
TENTH TAX DISTRICT, WORCESTER COUNTY, MARYLAND

PRIOR APPROVED PATIO & POOL = 1,092 SF
ADDITIONAL LOT COVERAGE AREA
WITHIN 50' SETBACK = 71 SF

REFERENCE

LOT AREA: 19,343 S.F.
EX. ZONING: R-2
REQUIRED SETBACKS:
FRONT: 50' MEAS. FROM C/L RD
SIDES: 8'
REAR: 30'

FLOOD ZONE: AE (BFE=4)
PER COMMUNITY PANEL NO.:
24047C0180H DATED 7-16-2015.
OWNER : GREGORY & NANCY BRITT
DEED : 7172/207



(IN FEET)
1 inch = 30 ft.

**Frank G. Lynch, Jr.
& Associates, Inc.**

SURVEYING · LAND PLANNING
10535 RACETRACK ROAD · BERLIN MARYLAND 21811
(410) 641-5353 · 641-5773

DRAWN BY EGL JR.
FILE NO. 5450-18
DATE 7-9-2018
rev.2-10-2020



Britt Proposed Variance Request Exhibit—13016 North Shore Road, Ocean City MD

 = Approximate Buffer Management Area Demarcation BMA 50

 = Pool Encroachment observed



IN THE MATTER OF MARK CROPPER, ESQ. *

BEFORE THE BOARD OF ZONING

APPEALS FOR WORCESTER COUNTY,

MARYLAND

Case No. 19-4

* * * * *

OPINION

A hearing was held before the Board of Zoning Appeals for Worcester County, Maryland on Thursday, April 11, 2019, upon the application of Mark Cropper, Esquire, on the lands of Gregory Britt and Nancy Britt, requesting a variance to the Atlantic Coastal Bays Critical Area setback from 50 feet to 35.6 feet (an encroachment of 14.4 feet) associated with a proposed pool, patio and fence in the R-2 Suburban Residential District, pursuant to Zoning Code Section ZS 1-116(m)(1) and Natural Resources Sections NR 3-104(c)(4) and NR 3-111. The property is located at 13016 North Shore Road, approximately 324 feet east of Golf Course Road, Tax Map 22, Parcel 367, Lot 26 of the Captain's Hill Subdivision, in the Tenth Tax District of Worcester County, Maryland.

Jennifer Keener, Zoning Administrator, presented the application to the Board.

Property owner Gregory Britt testified before the Board in favor of the application. There were no protestants to the application. The testimony revealed that most, if not all, properties in the Captain's Hill subdivision have structures within the 50 foot Buffer Management Area.

After duly considering the application, and the testimony and other evidence offered and presented in connection therewith regarding the requested variance, the Board adopted the March 25, 2019 Staff report as its finding of fact as if set forth fully herein:

1. **Special conditions or circumstances exist that are peculiar to the applicant's land or structure and a literal enforcement of provisions and requirements of the County's Atlantic Coastal Bays Critical Area Program would result in unwarranted hardship;**

The Board agrees with Staff that without the granting of this variance a potential hardship could exist. The property was platted prior to the adoption of the Atlantic Coastal Bays Critical Area Program and therefore all current development must conform to the current Critical Area regulations, including the 50' buffer management setback.

2. **A literal interpretation of the provisions of the County's Atlantic Coastal Bays Critical Area Program and related laws will deprive the applicant of rights commonly enjoyed by other properties in similar areas within the Atlantic Coastal Bays Critical Area;**

The Board agrees with the Staff opinion that the applicant's rights would be lessened without the granting of this variance due to the restrictions of the Atlantic Coastal Bays Critical Area Program. There are numerous properties within the Critical Area that have structures that are located within the 50' buffer management area; however most of them were constructed prior to the adoption of the Atlantic Coastal Bays Critical Area.

3. **The granting of a variance will not confer upon an applicant any special privilege that would be denied by the County's Atlantic Coastal Bays Critical Area Program to other lands or structures within the Atlantic Coastal Bays Critical Area;**

As previously stated, there are numerous properties throughout the County that have structures located within the 50' buffer, the majority of which were constructed prior to the adoption of the Atlantic Coastal Bays Critical Area. Therefore, granting this variance would not present a special right or privilege to the applicant.

4. **The variance request is not based upon conditions or circumstances which are the result of actions by the applicant nor does the request arise from any condition relating to land or building use, either permitted or non-conforming on any neighboring property;**

This variance request is not based upon conditions or circumstances which are the result of the actions by the applicants. This is a proactive variance request.

5. The granting of a variance shall not adversely affect water quality or adversely impact fish, wildlife or plant habitat within the Atlantic Coastal Bays Critical Area and the granting of the variance will be in harmony with the general spirit and intent of the County's Atlantic Coastal Bays Critical Area Program;

The granting of this variance may adversely affect the water quality as it is resulting in an increase in lot coverage within the most sensitive area on the property, the buffer. However, the property owner will be required to mitigate at a 3:1 ratio, which will improve the water quality.

6. The Board of Zoning Appeals shall not make a decision relative to a request for such a variance without reviewing the comments of the Department and finding that the applicant has satisfied each of the provisions and standards contained herein.

The Board agrees with the staff that the applicant may have an unwarranted hardship due to the location of the 50' BMA buffer. The Board has considered additional testimony and has determined the applicant has adequately addressed and met all standards required for a variance.

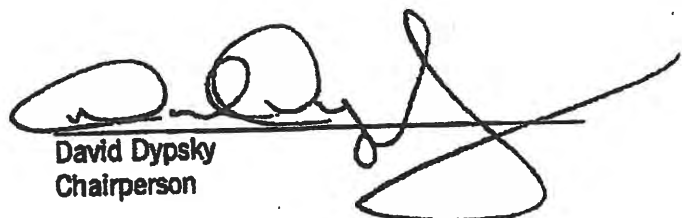
Accordingly, upon a Motion made by Mr. Purcell, which was seconded by Mr. Green, the Board passed the following resolution which was opposed by Mr. Babcock:

BE IT RESOLVED, that the requested variance be GRANTED.

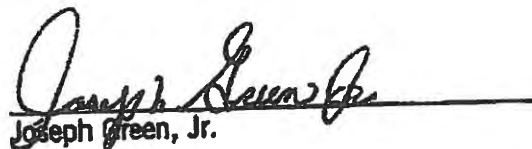
5-9-19
Date

5-9-19
Date

5-9-19
Date


David Dypsky
Chairperson


Larry Duffy


Joseph Green, Jr.

Date

5/9/19

Robert Purcell



Date

5-9-2019

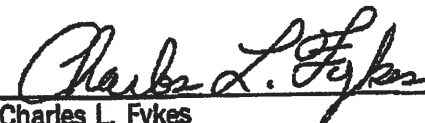
Thomas Babcock



Date

5-9-2019

Charles L. Fykes



Hugh Cropper

From: Hugh Cropper
Sent: Thursday, May 28, 2020 2:23 PM
To: Jenelle Gerthoffer
Cc: Robert Mitchell; David M. Bradford; Joy Birch; Chris McCabe; frank lynch; Greg Britt
Subject: Britt Critical Area Variance
Attachments: BRITT-EXHIBIT.pdf

Jenelle:

I did receive the CAC comment letter. Thank you very much.

Unless I am missing something, it seems incredibly harsh. Captains Hill is probably one of the oldest subdivisions in Worcester County. Although it is in a Buffer Management Area of 50 feet, it should have been 25 feet.

I have attached a PDF of one of the exhibits that we will file tomorrow. There are numerous swimming pools in the Buffer, and many of these have lot coverage extending all the way to the bulkhead. In fact, it is hard to find a single family home in Captains Hill without lot coverage in the Buffer.

CAC seems to be opposing the entire variance, as opposed to focusing on this request, which is an additional 2 feet, and an additional 71 square feet of lot coverage.

If my math is correct, 71 square feet is about the size of my conference room table.

The property owners have lived there for many, many years. They are just trying to fix up their property, and they will still have a very generous Critical Area Buffer, much bigger than any of the surrounding properties.

I am hopeful that Worcester County's comments will not be so harsh.

Thank you, and have a great day.

Hugh Cropper IV
Booth Cropper & Marriner, P.C.
9923 Stephen Decatur Highway, D-2
Ocean City, Maryland 21842
410-213-2681
www.bbcmllaw.com

Hugh Cropper

From: Jenelle Gerthoffer <jgerthoffer@co.worcester.md.us>
Sent: Thursday, May 28, 2020 3:46 PM
To: Hugh Cropper
Cc: Robert Mitchell; David M. Bradford; Joy Birch; Chris McCabe; frank lynch; Greg Britt
Subject: RE: Britt Critical Area Variance

Hugh,

We understand. I made note in the NR BZA comments that the property was platted prior to the Critical Area Law going into effect and the house was also built prior to the law.

In this neighborhood, lot coverage within the BMA most likely was in place prior to the Critical Area Law or a variance may have been provided.

Jenelle Gerthoffer
Natural Resources Administrator
Worcester County Dept. of Environmental Programs
One West Market Street, Room 1306
Snow Hill, Maryland 21863
Office: (410)-632-1220, ext: 1147
Fax: (410) 632-2012
Cell: (443) 880-5203



APPLICATION TO :
BOARD OF ZONING APPEALS
WORCESTER COUNTY, MARYLAND
ONE WEST MARKET STREET
GOVERNMENT CENTER ROOM 1201
SNOW HILL, MD 21863-1070

OFFICE USE ONLY :

CASE NO: 20-33
DATE FILED: 5-13-2020
HEARING DATE: _____

APPLICATION BEING MADE FOR:

☒ SPECIAL EXCEPTION
____ VARIANCE
____ EXPANSION OF NONCONFORMING USE/STRUCTURE
____ OTHER

____ FORESTRY
____ CRITICAL AREA
____ APPEAL

____ AFTER THE FACT ☒ PROPOSED
____ ADMINISTRATIVE ADJUSTMENT

TO THE BOARD OF ZONING APPEALS:

Pursuant to Section ZS 1-116 of the Worcester County Zoning Ordinance, enacted or as amended, request is hereby made for:

Fence height adjustment to add decorative beam and fence for privacy on property line.
9' 7 1/2"

LOCATION OF PROPERTY:

TAX MAP: 27 PARCEL: 442 SECTION: _____ LOT/ BLOCK: 28

On the N/S/E/W of:

(Feet/Miles), N/S/E/W of

PROPERTY OWNER INFORMATION:

Owner's Name: Thomas & Renee Finnegan Telephone: 410-464-7118
Address: 12545 Ocean Reef Dr, Berlin MD 21811 E-Mail: Renee.F@pollardpensions.com

APPLICANT INFORMATION:

Applicant's Name: Jason Hearn Telephone: 443-497-3120
Address: P.O. Box 148 Parsonsburg MD 21849 E-Mail: jasonh@bhl-us.com

Has property in question ever been subject of a previous appeal? (If yes, give case no. and date)
No

Is property located in the Chesapeake Bay Critical Area or Atlantic Coastal Bay Critical Area, or its tributaries? Yes If so, has information been submitted in accordance with Worcester County's Critical Area Program Regulations? Yes

OFFICE USE ONLY: MINIMUM REQUIRED SETBACKS:

FRONT: _____ FROM CENTERLINE OF ROAD
____ RIGHT OF WAY OF A STATE ROAD
25' FROM PROPERTY LINE

REAR: 30'
LEFT SIDE: 10'
RIGHT SIDE: 10'

ZONING DISTRICT: R-4 TAX DISTRICT: 10

Signature of Owner or Legal Representative

Signature of Applicant

SEE NEXT PAGE FOR NOTARY (BOTH OWNER AND APPLICANT TO BE NOTARIZED)

Building Envelope-Sq. Ft.=7,266
 Upland-Sq. Ft.=16,661
 Non-tidal Wetlands-Sq. Ft.=6,422

OCEAN REEF DRIVE
 50' Right of Way

PER PLAT R.H.O. 1616

PERMITTED BUFFER
 IMPACT AREA

AREA OF LOT 28=
 Sq. Ft.=23,303 ±
 Acres=0.53 ±

GENERAL NOTES

LEGEND

MEAN HIGH WATER LINE

25' BUFFER
 TO
 NON-TIDAL WETLANDS LINE

50' SHORE SETBACK LINE

RIPARIAN ACCESS EASEMENT

RIPARIAN ACCESS EASEMENT

SCALE IN FEET

DATE	REVISED	LOW NO.
SITE	DRAWN	FIELD BOOK PAGE
WORK	REVIEW	SHEET OF
JOHN H. AND ASSOCIATES, INC.		
PROFESSIONAL ENGINEERS REG. LAND SURVEYORS 435 EASTERN SHORE DRIVE SALISBURY, MD. 21804 (410) 546-3333 FAX (410) 546-3334		

Fence elevation facing roadway

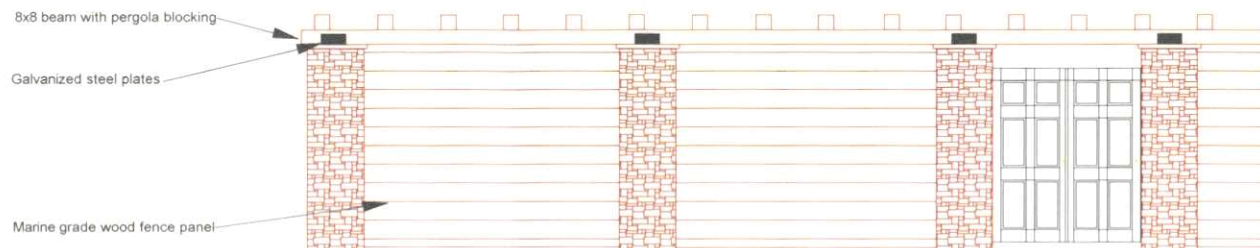


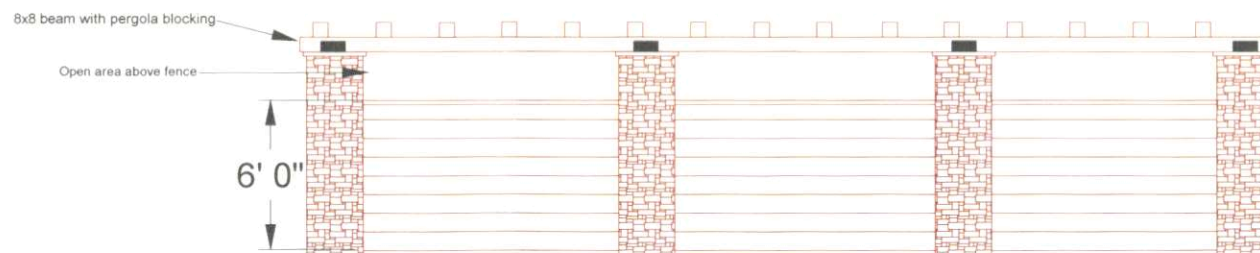
Plate detail

- 1) 1/8 inch galvanized steel plates with Simpson 5" lags.
- 2) Plating will be anchored to masonry column using Simpson anchors.

Fence Specifications

- 1.) Fiberglass solid entry doors. Self closing with self locking door handles.
- 2.) Stone veneered 2x2 ft. masonry column.
- 3.) Marine grade 2x4 wood fence panel. Studs 16" o/c with 1x6 horizontal cladding.

Fence elevation north property line side

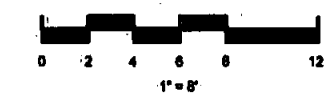
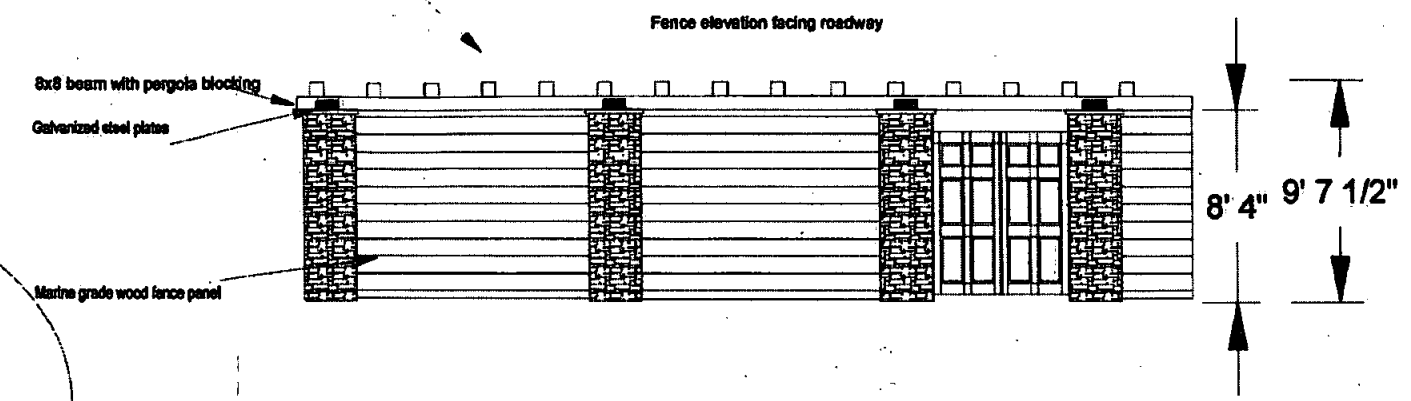
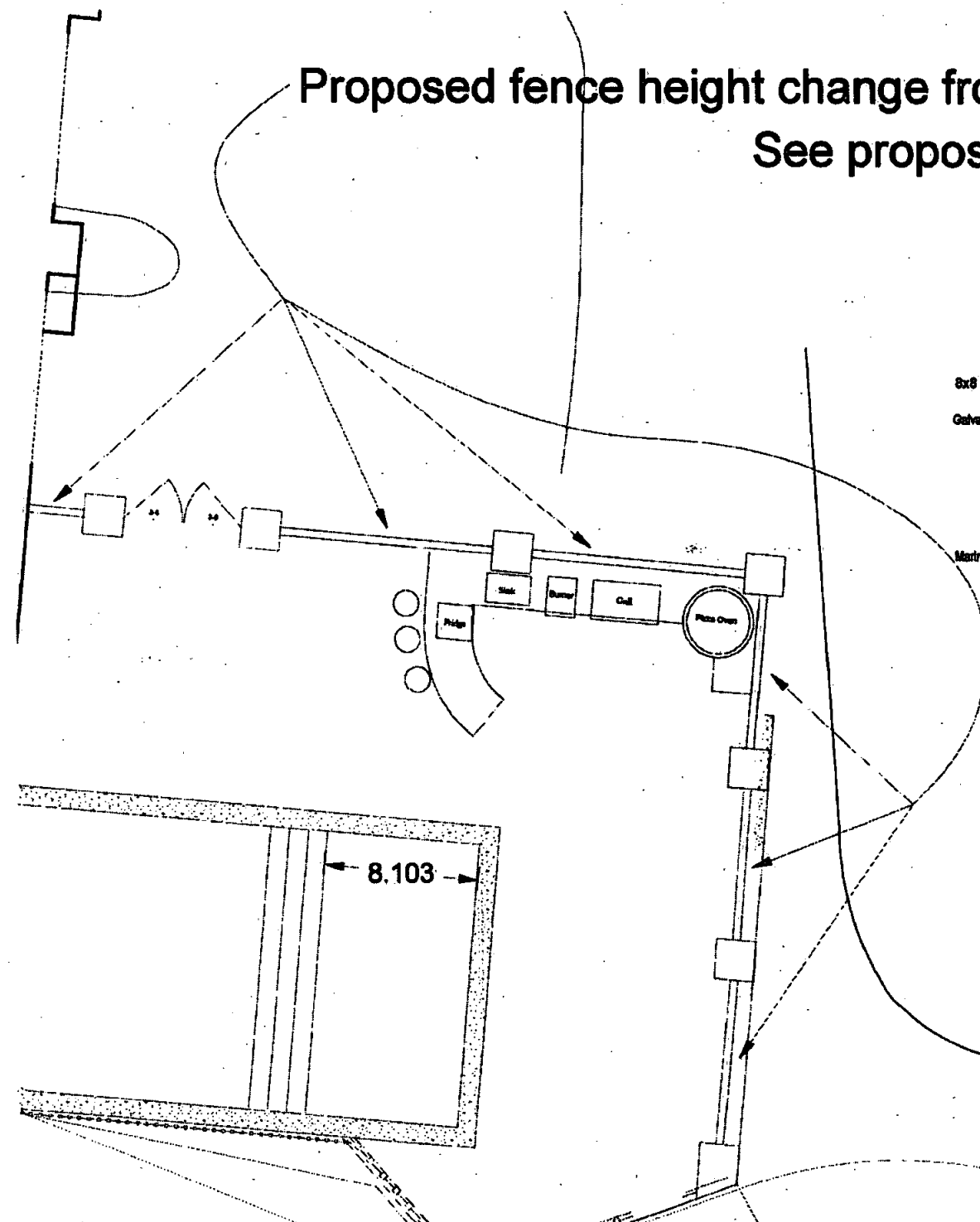


Footing detail

- 1.) Column footing 32"x32" width x 10" deep concrete footing
- 2.) Column footings will connect together with a 10" thick x 24" wide footing with 2) strands of #4 rebar running continuously through footing.

GENERAL N

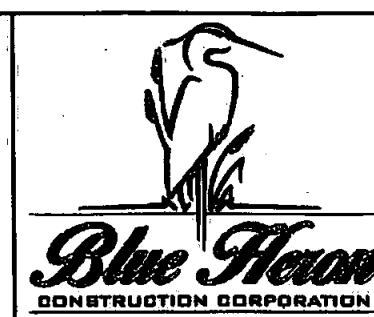
Proposed fence height change from 6' to 9' 7 1/2"
See proposed elevation drawing here



LEGEND

PROJECT:
Renee & Thomas Finnegan
12545 Ocean Reef Dr
Berlin, MD 21811

SHEET DESCRIPTION:
Proposed Fence Height Increase



Blue Heron Construction Corp.
Blue Heron Landscape & Design
Parsonsburg, MD 21849
302.227.5757 voice
410.341.9500 voice
410.341.9600 fax
info@blueheronlandscape.com

SHEET: 1 of 1	SCALE: 1" = 8'	CHECKED BY: RSW	DRAWN BY: JMH	DESIGN BY: Jason Hearn	DATE: May 14, 2020	REVISIONS: Rev 1
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WORCESTER COUNTY BOARD OF ZONING APPEALS
STAFF REPORT FOR:
CASE NO. 20-33

HEARING DATE: June 11, 2020

LOCATION: Located at 12545 Ocean Reef Drive, approximately 900 feet south east of Indian Trail Drive, Tax Map 27, Parcel 442, Lot 28, in the Tenth Tax District of Worcester County, Maryland.

APPROVAL REQUESTED: A special exception to increase the height of a fence in the side yard setback from 6 feet tall to 9 feet 7 ½ inches tall in the R-4 General Residential District

CODE REFERENCES: ZS 1-116(c)(3) and ZS 1-305(k)(3)C

PROPERTY HISTORY:

08/31/00	Permit No. 66390 – Issued 09/18/00 – CO Issued – 05/21/01 Single Family Dwelling
07/25/05	Permit No. 95748 – Issued 08/03/05 – CO Issued - 7/27/15 Enclose storage unit under SFD and relocate shower
07/10/15	Permit No. 15-0663 – Issued 01/25/16 – No CO Issued Ground level patio, fence, outdoor kitchen and spiral staircase to the second floor
10/04/19	Permit No. 19-0952 – Issued 10/29/19 – No CO Issued In-ground swimming pool, ground level patio, fence, outdoor kitchen (under construction)

COMMENTS: During the construction permitted under Building Permit Number 19-0952, the fence was partially constructed. Upon arriving for an inspection, the Building Inspector identified that the fence was over the allowable height and a stop work order was issued. The applicant has proposed the fence be finished at 9 feet 7 ½ inches

With respect to the special exception request, the Board must make findings that the proposed use or structure:

1. Will be in conformance with the County's Comprehensive Plan.
2. Will be in harmony with the general character of the neighborhood considering population density, the design, scale and bulk of any proposed new structures, the intensity and character of the activity, traffic and parking conditions or the number of similar uses.
3. Will not be detrimental to the use, peaceful enjoyment, economic value or development of surrounding neighborhoods; will cause no objectionable noise, vibration, fumes, odors, dust, glare or physical activity; and will not have a detrimental effect on ground- or surface water quality.
4. Will have no detrimental impact on vehicular or pedestrian traffic.
5. Will not adversely affect the health, safety, morals, security or general welfare of residents, workers, or visitors in the area.

6. Will not, in conjunction with existing development in the area and development permitted under existing zoning, overburden existing public services and facilities, including schools, police and fire protection, medical facilities, water, sanitary sewers, public roads, storm sewers, drainage and other public improvements.
7. Will meet the definitions and specific standards set forth elsewhere in this Title for such use.

SUBSEQUENT PROCESSES IF APPROVED:

1. Submit a permit application or revision;
2. Comply with regulations for Floodplain Management Ordinance, Forestry, Environmental Programs and the Atlantic Coastal Bays / Chesapeake Bay Critical Area, as applicable; and
3. Submit all applicable fees.

OWNER: Thomas and Renee Finnegan
12545 Ocean Reef Drive
Berlin, MD 21811

APPLICANT: Jason Hearn
PO Box 148
Parsonsburg, MD 21849


PREPARED BY: Zoning Division Staff

In accordance with Section ZS 1-114, the Department has met the public notification requirements with regard to advertisement in a local paper, posting of property and notification of adjoining property owners



Worcester County
Department of Environmental Programs
Natural Resources Division

Memorandum

To: Jennifer K. Keener, Zoning Administrator
From: David Mathers, Natural Resources Planner 
Subject: Board of Zoning Appeals Comments – June 11, 2020
Date: May 20, 2020

Below are comments relative to the cases scheduled for the Board of Zoning Appeals (BZA) meeting for Thursday, April 9, 2020, for their conformance with the Forest Conservation Act.

6:30 pm – Case #20-31:

This property is subject to Forest Conservation Plan #20-05. This property is seeking a special exception to the Forest Conservation Law. See the Forest Conservation Staff Report attached.

6:35 pm – Case #20-30:

This request is located within the landward limits of the Atlantic Coastal Bays Critical Area and therefore exempt from the Forest Conservation Act. No comment.

6:40 pm – Case #20-29:

This property is subject to Forest Conservation Plan #97-15. Forest Conservation Easement areas are to be kept as a natural habitat area, no clearing or grading within these Conservation Easement areas is permitted, and any new structures and improvements must not encroach into the Forest Conservation Easement. Furthermore, all Forest Conservation signs must be in place around the Conservation Easements.

6:45 pm – Case #20-32:

This request is located within the landward limits of the Atlantic Coastal Bays Critical Area and therefore exempt from the Forest Conservation Act. No comment.

Citizens and Government Working Together

6:50 pm – Case #20-33:

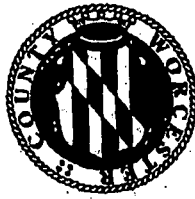
In accordance with Subtitle IV, Section 1-403(b)(15) of the Natural Resources Article of the Worcester County Code of Public Local Laws, this project is exempt from the Worcester County Forest Conservation Program.

6:55 pm – Case #20-35:

This property is subject to Forest Conservation Plan #07-28. This property has met compliance with the Worcester County Forest Conservation Law through the purchase of credits from an approved off-site forest mitigation bank.

Citizens and Government Working Together

WORCESTER COUNTY GOVERNMENT CENTER 1 WEST MARKET STREET, ROOM 1306 SNOW HILL, MARYLAND 21863
TEL: 410-632-1220 FAX: 410-632-2012



Worcester County
Department of Environmental Programs
Natural Resources Division

Memorandum

To: Jennifer K. Keener, Zoning Administrator

From: Jenelle Gerthoffer, Natural Resources Administrator (JG)

Subject: Board of Zoning Appeals Comments – June 11, 2020

Date: May 27, 2020

Below are comments relative to the cases scheduled for the Board of Zoning Appeals (BZA) meeting for Thursday, June 11, 2020, for their conformance with the Chesapeake Bay (CBCA) and Atlantic Coastal Bays Critical Area Law (ACBCA):

6:30 pm – Case #20-31:

This request is located outside of the Atlantic Coastal and Chesapeake Bay Critical Area programs. No Comment.

6:35 pm - Case #20-30:

This request is located within the landward limits of the Atlantic Coastal Bays Critical Area and designated as Intensely Development Area (IDA) within Buffer Management Area A-15. As this request is specifically for a variance to the Atlantic Coastal Bays Critical Area ordinance, a separate memo will be provided.

6:40 pm – Case #20-29:

This request is located within the landward limits of the Atlantic Coastal Bays Critical Area and designated as Limited Development Area (LDA) with a 100' Buffer. As this request is specifically for a variance to the Atlantic Coastal Bays Critical Area ordinance, a separate memo will be provided.

6:45 pm – Case #20-32:

This request is located within the landward limits of the Atlantic Coastal Bays Critical Area and designated as Intensely Development Area (IDA) within Buffer Management Area B-50. As this request is specifically for a variance to the Atlantic Coastal Bays Critical Area ordinance, a separate memo will be provided.

Citizens and Government Working Together

6:50 pm – Case #20-33:

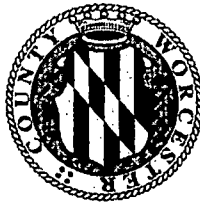
This request is located within the landward limits of the Atlantic Coastal Bays Critical Area and designated as Intensely Development Area (IDA) within Buffer Management Area B-50. The proposed activity does not appear to have any issues with the Atlantic Coastal Bay Critical Area regulations. Any applicable mitigation will be addressed at permitting stage. We reserve any further comments upon permit submittal.

6:55 pm – Case #20-35:

This request is located outside of the Atlantic Coastal and Chesapeake Bay Critical Area programs. No Comment.

Citizens and Government Working Together

WORCESTER COUNTY GOVERNMENT CENTER 1 WEST MARKET STREET, ROOM 1306 SNOW HILL, MARYLAND 21863
TEL: 410-632-1220 FAX: 410-632-2012



Worcester County
Department of Environmental Programs
Environmental Programs Division

Memorandum

To: Board of Zoning Appeals (BZA) for a June 11, 2020 meeting

From: Environmental Programs Staff

Subject: Case No. 20-³³30; TM 27 P 442 L 28 – requesting a special exception to increase the height of a fence in the side yard setback from 6 ft. tall to 9 ft. 7 ½ inches tall.

Date: May 26, 2020

These comments are based upon the site plans received and are subject to change as the plans change to accommodate comments made by other committee members.

Environmental Programs has no objection to this request.

Citizens and Government Working Together













APPLICATION TO :
BOARD OF ZONING APPEALS
WORCESTER COUNTY, MARYLAND
ONE WEST MARKET STREET
GOVERNMENT CENTER ROOM 1201
SNOW HILL, MD 21863-1070

OFFICE USE ONLY :

CASE NO: 20-35
DATE FILED: 5.13.2020
HEARING DATE: _____

APPLICATION BEING MADE FOR:

☒ SPECIAL EXCEPTION
☐ VARIANCE
☐ EXPANSION OF NONCONFORMING USE/STRUCTURE
☐ OTHER

☐ FORESTRY
☐ CRITICAL AREA
☐ APPEAL

☐ AFTER THE FACT ☒ PROPOSED

☐ ADMINISTRATIVE
REVIEW

TO THE BOARD OF ZONING APPEALS:

Pursuant to Section ZS 1-116 of the Worcester County Zoning Ordinance, enacted or as amended, request is hereby made for: SPECIAL EXCEPTION IN ACCORDANCE WITH ZS 1-209 (2)(1) TO INCREASE SIZE OF INDIVIDUAL UNITS - NOT TO EXCEED 5,000 SF

LOCATION OF PROPERTY:

TAX MAP: 20 PARCEL: 320 SECTION: — LOT: 5 BLOCK: —
On N/S/E/W side of: JONES Road;
E 300 (Feet/Miles), N/S/E/W of WORCESTER HWY Road.

PROPERTY OWNER INFORMATION:

Owner's Name: REET-REET INC Telephone: 410-677-3473
Address: 201 BELT STREET, SNOW HILL E-Mail: MAST@ROYAL PLUS.COM

APPLICANT INFORMATION:

Applicant's Name: _____ Telephone: _____
Address: SADIE E-Mail: _____

Has property in question ever been subject of a previous appeal? (If yes, give case no. and date)
NO

Is property located in the Chesapeake Bay Critical Area or Atlantic Coastal Bay Critical Area, or its tributaries? NO If so, has information been submitted in accordance with Worcester County's Critical Area Program Regulations? N/A

OFFICE USE ONLY: MINIMUM REQUIRED SETBACKS:

FRONT: _____ FROM CENTERLINE OF ROAD REAR : _____ FT.
_____ RIGHT OF WAY OF A STATE ROAD SIDE : LEFT _____ FT.
_____ FROM PROPERTY LINE SIDE : RIGHT _____ FT.

ZONING DISTRICT : _____ TAX DISTRICT: _____

M. J. O'Neil
Signature of Owner or Legal Representative

M. J. O'Neil
Signature of Applicant

SEE NEXT PAGE FOR NOTARY (BOTH OWNER AND APPLICANT TO BE NOTARIZED)

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TAX MAP 20, PARCEL 78
JAMES & ROSEMARY BARTZ
ZONED A-1, AGRICULTURAL
EXISTING USE: RESIDENTIAL

TAX MAP 20, PARCEL 238
PATRICIA ANN LONG & DEAN MICHAEL LONG
ZONED A-1, AGRICULTURAL
EXISTING USE: RESIDENTIAL

TAX MAP 20, PARCEL 65
RONALD R. RICHARDS & NORMA LEE RICHARDS
ZONED A-1, AGRICULTURAL
EXISTING USE: RESIDENTIAL

TAX MAP 20, PARCEL 353 A
ROGER DORMAN & LAURA MAE DORMAN
ZONED B-1, NEIGHBORHOOD BUSINESS
EXISTING USE: RESIDENTIAL

N/F
BERLIN UNION STATION INC.
R.E.O. 1990/49
ZONED B-1
PARCEL 134
EXISTING USE: RESIDENTIAL

N/F
BERLIN UNION STATION INC.
R.E.O. 1998/49
ZONED B-1
PARCEL 133
EXISTING USE: RESIDENTIAL

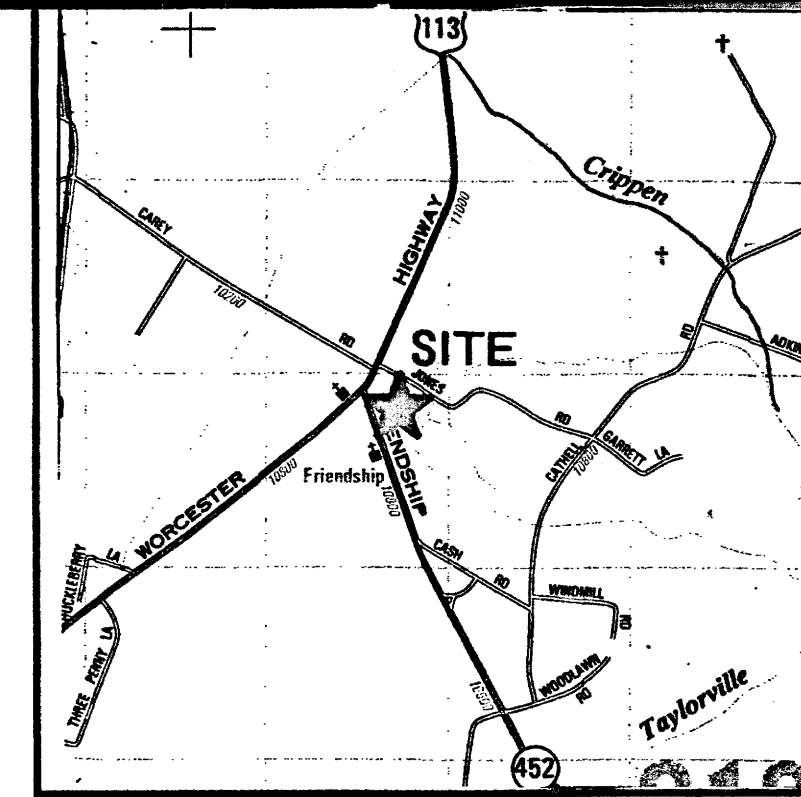
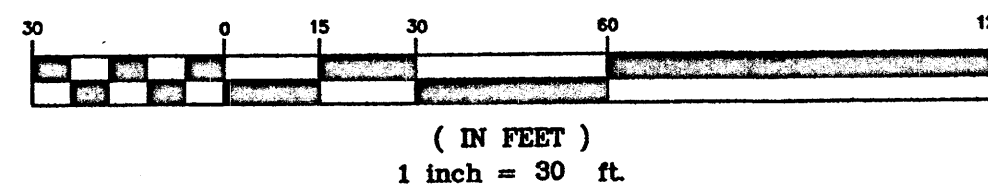
BUSINESS 1
4,500 SF RETAIL

BUSINESS 2
4,500 SF RETAIL

TAX MAP 20, P/O PARCEL 311
LOT 1
REET-REET, INC.
8781 9789/499
ZONED B-1
EXISTING USE: COMMERCIAL

LOT 2
P/O PARCEL 311

GRAPHIC SCALE



VICINITY MAP

SITE DATA

PARCEL DESCRIPTION

TAX MAP 20, PARCEL 320, LOT 5
WORCESTER COUNTY MARYLAND

PROPERTY OWNERS

REET-REET INC.
201 BELT STREET
SNOW HILL, MD 21863

EXISTING ZONING

B-1, NEIGHBORHOOD BUSINESS DISTRICT
SETBACKS : FRONT = 25' (50' FROM CL)
SIDE = 6'
REAR = 20'

SITE AREA

± 1.86 ACRES

PROPOSED USE

9,000 RETAIL(2- 4,500 SF RETAIL
ESTABLISHMENTS)

PARKING

RANGE

30-45 SPACES RETAIL@ 1/300 S.F. MIN.-1/200 S.F. MAX.

PROVIDED

2 UNIVERSAL HANDICAP
28 10'x20' SPACES
30 SPACES PROVIDED

SEWER FLOW DATA

450 GPD - 9,000 SF RETAIL@ .05 GPD/SF

NOTE

EXISTING CONDITIONS, BOUNDARY AND
TOPOGRAPHIC MAPPING BY FRANK G. LYNCH JR.
AND ASSOCIATES, INC.

SITE PLAN

TAX MAP 20, P/O PARCEL 320
WORCESTER COUNTY MARYLAND

Rd. HAND AND ASSOCIATES, INC.

LANDSCAPE ARCHITECTURE, SITE PLANNING AND FEASIBILITY
12302 COLLINS ROAD BISHOPVILLE, MD. 21813 410-352-5623

DATE 5/11/2020
REV. DATE 5/14/2020
DRAW BY
CHK'D BY R.D.HAND
DRAWING SP-1
SCALE 1"=30'

SHEET
S-1

WORCESTER COUNTY BOARD OF ZONING APPEALS
STAFF REPORT FOR:
CASE NO. 20-35

HEARING DATE: June 11, 2020

LOCATION: On the southerly side of Jones Road, approximately 250 feet east of Old Worcester Highway, Tax Map 20, Parcel 320, Lot 5, in the Third Tax District of Worcester County, Maryland.

APPROVAL REQUESTED: A special exception to increase the gross floor area of two retail and service establishments up to a maximum of 5,000 square feet each in the C-1 Neighborhood Commercial District

CODE REFERENCES: ZS 1-116(c)(3) and ZS 1-209(c)(1)

PROPERTY HISTORY:

This is an unimproved lot with no historical permits on file

COMMENTS: The applicant is requesting a special exception to increase allowable gross floor area to a maximum of 5,000 square feet associated with the proposed construction of one building housing two retail/ service establishments. The code allows a maximum gross floor area for retail establishments within the C-1 District by right at 2,500 square feet.

With respect to the special exception request, the Board must make findings that the proposed use or structure:

1. Will be in conformance with the County's Comprehensive Plan.
2. Will be in harmony with the general character of the neighborhood considering population density, the design, scale and bulk of any proposed new structures, the intensity and character of the activity, traffic and parking conditions or the number of similar uses.
3. Will not be detrimental to the use, peaceful enjoyment, economic value or development of surrounding neighborhoods; will cause no objectionable noise, vibration, fumes, odors, dust, glare or physical activity; and will not have a detrimental effect on ground- or surface water quality.
4. Will have no detrimental impact on vehicular or pedestrian traffic.
5. Will not adversely affect the health, safety, morals, security or general welfare of residents, workers, or visitors in the area.
6. Will not, in conjunction with existing development in the area and development permitted under existing zoning, overburden existing public services and facilities, including schools, police and fire protection, medical facilities, water, sanitary sewers, public roads, storm sewers, drainage and other public improvements.
7. Will meet the definitions and specific standards set forth elsewhere in this Title for such use.

SUBSEQUENT PROCESSES IF APPROVED:

1. Secure final site plan approval;
2. Submit a building permit application;
3. Comply with regulations for Floodplain Management Ordinance, Forestry, Environmental Programs and the Atlantic Coastal Bays / Chesapeake Bay Critical Area, as applicable; and
4. Submit all applicable fees.

OWNER: Reet Reet Inc
201 Belt Street
Snow Hill, MD 21863

CONSULTANT: R.D. Hand and Associates
12302 Collins Road
Bishopville, MD 21813

PREPARED BY: Zoning Division Staff

In accordance with Section ZS 1-114, the Department has met the public notification requirements with regard to advertisement in a local paper, posting of property and notification of adjoining property owners



Worcester County

Department of Environmental Programs
Natural Resources Division

Memorandum

To: Jennifer K. Keener, Zoning Administrator

From: David Mathers, Natural Resources Planner (DM)

Subject: Board of Zoning Appeals Comments – June 11, 2020

Date: May 20, 2020

Below are comments relative to the cases scheduled for the Board of Zoning Appeals (BZA) meeting for Thursday, April 9, 2020, for their conformance with the Forest Conservation Act.

6:30 pm – Case #20-31:

This property is subject to Forest Conservation Plan #20-05. This property is seeking a special exception to the Forest Conservation Law. See the Forest Conservation Staff Report attached.

6:35 pm – Case #20-30:

This request is located within the landward limits of the Atlantic Coastal Bays Critical Area and therefore exempt from the Forest Conservation Act. No comment.

6:40 pm – Case #20-29:

This property is subject to Forest Conservation Plan #97-15. Forest Conservation Easement areas are to be kept as a natural habitat area, no clearing or grading within these Conservation Easement areas is permitted, and any new structures and improvements must not encroach into the Forest Conservation Easement. Furthermore, all Forest Conservation signs must be in place around the Conservation Easements.

6:45 pm – Case #20-32:

This request is located within the landward limits of the Atlantic Coastal Bays Critical Area and therefore exempt from the Forest Conservation Act. No comment.

Citizens and Government Working Together

6:50 pm – Case #20-33:

In accordance with Subtitle IV, Section 1-403(b)(15) of the Natural Resources Article of the Worcester County Code of Public Local Laws, this project is exempt from the Worcester County Forest Conservation Program.

6:55 pm – Case #20-35:

This property is subject to Forest Conservation Plan #07-28. This property has met compliance with the Worcester County Forest Conservation Law through the purchase of credits from an approved off-site forest mitigation bank.

Citizens and Government Working Together

WORCESTER COUNTY GOVERNMENT CENTER 1 WEST MARKET STREET, ROOM 1306 SNOW HILL, MARYLAND 21863
TEL: 410-632-1220 FAX: 410-632-2012



Worcester County

Department of Environmental Programs
Natural Resources Division

Memorandum

To: Jennifer K. Keener, Zoning Administrator
From: Jenelle Gerthoffer, Natural Resources Administrator (JG)
Subject: Board of Zoning Appeals Comments – June 11, 2020
Date: May 27, 2020

Below are comments relative to the cases scheduled for the Board of Zoning Appeals (BZA) meeting for Thursday, June 11, 2020, for their conformance with the Chesapeake Bay (CBCA) and Atlantic Coastal Bays Critical Area Law (ACBCA):

6:30 pm – Case #20-31:

This request is located outside of the Atlantic Coastal and Chesapeake Bay Critical Area programs. No Comment.

6:35 pm - Case #20-30:

This request is located within the landward limits of the Atlantic Coastal Bays Critical Area and designated as Intensely Development Area (IDA) within Buffer Management Area A-15. As this request is specifically for a variance to the Atlantic Coastal Bays Critical Area ordinance, a separate memo will be provided.

6:40 pm – Case #20-29:

This request is located within the landward limits of the Atlantic Coastal Bays Critical Area and designated as Limited Development Area (LDA) with a 100' Buffer. As this request is specifically for a variance to the Atlantic Coastal Bays Critical Area ordinance, a separate memo will be provided.

6:45 pm – Case #20-32:

This request is located within the landward limits of the Atlantic Coastal Bays Critical Area and designated as Intensely Development Area (IDA) within Buffer Management Area B-50. As this request is specifically for a variance to the Atlantic Coastal Bays Critical Area ordinance, a separate memo will be provided.

Citizens and Government Working Together

6:50 pm – Case #20-33:

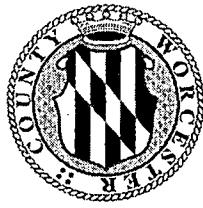
This request is located within the landward limits of the Atlantic Coastal Bays Critical Area and designated as Intensely Development Area (IDA) within Buffer Management Area B-50. The proposed activity does not appear to have any issues with the Atlantic Coastal Bay Critical Area regulations. Any applicable mitigation will be addressed at permitting stage. We reserve any further comments upon permit submittal.

6:55 pm – Case #20-35:

This request is located outside of the Atlantic Coastal and Chesapeake Bay Critical Area programs. No Comment.

Citizens and Government Working Together

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TEL: 410-632-1220 FAX: 410-632-2012



Worcester County

Department of Environmental Programs
Environmental Programs Division

Memorandum

To: Board of Zoning Appeals (BZA) for a June 11, 2020 meeting

From: Environmental Programs Staff

Subject: Case No. 20-35; TM 20 P 320 L 5 – requesting a special exception to increase the gross floor area of two retail & service establishments up to a maximum of 5,000 square feet.

Date: May 26, 2020

These comments are based upon the site plans received and are subject to change as the plans change to accommodate comments made by other committee members.

The property is approved for 450 gallons per day. The site plan shows the buildings being 4,500 square feet each. The flow for each building at 4,500 square feet would be $4,500 \times 0.05$ gallons (retail flow) = 225 gallons per day, 450 gallons per day total for both buildings. An increase in building size or change of use from retail would require reevaluation by Environmental Programs.

Citizens and Government Working Together