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NCE

AA 49-99
VAR

Morgan, Stephen
99-0017

MSA-51829-15

49-99

RECEIVED
MAR 15 1999
CHESAPEAKE BAY
CRITICAL AREA COMMISSION

IN THE OFFICE OF ADMINISTRATIVE HEARINGS

CASE NUMBER 1999-0017-V

IN RE: **STEPHEN AND ANN MORGAN**

THIRD ASSESSMENT DISTRICT

DATE HEARD: MARCH 2, 1999

ORDERED BY: **STEPHEN M. LeGENDRE**, ADMINISTRATIVE HEARING OFFICER

ZONING ANALYST: **CHARLENE L. MORGAN**

DATE FILED: MARCH 11, 1999

PLEADINGS

Stephen and Ann Morgan, the applicants, seek a variance (1999-0017-V) to permit an addition with less setbacks than required on property located along the south side of Gregson Court, southwest of Michener Court, Severna Park.

PUBLIC NOTIFICATION

The case was advertised in accordance with the provisions of the County Code. Mr. Morgan testified that the property was posted for 14 days prior to the hearing.

FINDINGS AND CONCLUSIONS

The applicants own a single-family residence located at 309 Gregson Court, in the subdivision of Stewarts Landing, Severna Park. The property comprises 8,103 square feet and is zoned R-5 residential with a Chesapeake Bay Critical Area designation as Limited Development Area (LDA). The applicants seek to construct an irregularly shaped deck (20' X 17') at grade (no more than eight inches off the ground with no steps or railings) which will be as close as three feet from the rear property line.

The Anne Arundel County Code, Article 28, Section 2-506 establishes a 20-foot rear setback in the R-5 district. Accordingly, the proposal necessitates a variance of 17 feet.

Charlene L. Morgan,¹ a zoning analyst with the Department of Planning and Code Enforcement, testified that the property is an average sized lot but the house is setback further than usual from the front property line (45 feet verses the minimum 25-foot setback) and angled in the rear yard. The dwelling is only 17 feet from the rear property line. As a result, there is very limited buildable area for a deck. The witness concluded that some relief to the code was in order, but suggested reducing the deck to a depth of 12 feet.

Mr. Morgan stated his willingness to accept the County's recommendation.

At this juncture in the proceedings, a dialogue ensued as to whether the proposal necessitated a variance. On a previous occasion, this office was advised that PACE considers patios up to eight inches above grade as landscape fixtures such that a variance is not required. See Case No. 1997-0206-V (October 27, 1997). Mr. Morgan displayed several photographs of the site. The area is essentially level with the rear of the dwelling. The proposed structure will be only the height of the stringers above the existing ground.

Upon review of the facts and circumstances, I will grant the requested relief. I am satisfied that this is a case of unique physical conditions, consisting of a dwelling set at an angle and deep into the lot. In the circumstances, there is no reasonable possibility of developing the lot with a deck in strict conformance with the code. I am further satisfied that the variance is the minimum necessary to

¹Ms. Morgan is not related to the applicants.

afford relief. Although this is a good sized deck, it is at grade. I further find that the approval will not alter the essential character of the neighborhood, substantially impair the appropriate use or development of adjacent property, or be detrimental to public welfare. To begin with, there is sufficient room between the edge of the deck and the property line for maintenance. Furthermore, the area to the rear of the property is an undeveloped recreational area. The approval shall be subject to the condition in the Order.

ORDER

PURSUANT to the application of Stephen and Ann Morgan, petitioning for a variance to permit an attached deck with less setbacks than required; and

PURSUANT to the advertising, posting of the property, and public hearing and in accordance with the provisions of law, it is this 11th day of March, 1999,

ORDERED, by the Administrative Hearing Officer of Anne Arundel County, that the applicant's request for a variance of 17 feet to the required 20-foot rear property line setback is hereby **granted**. The foregoing variance is subject to the condition that the applicants shall not erect a railing along the deck.


Stephen M. LeGenre
Administrative Hearing Officer

NOTICE TO APPLICANT

Within thirty (30) days from the date of this Decision, any person, firm, corporation, or governmental agency having an interest therein and aggrieved thereby may file a Notice of Appeal with the County Board of Appeals.

Further, Section 11-102.2 of the Anne Arundel County Code states:

A variance granted under the provisions of this Article shall become void unless a building permit conforming to the plans for which the variance was granted is obtained within one year of the grant and construction is completed within two years of the grant.

If this case is not appealed, exhibits must be claimed within 60 days of the date of this order, otherwise they will be discarded.



Judge John C. North, II
Chairman

Ren Serey
Executive Director

**STATE OF MARYLAND
CHESAPEAKE BAY CRITICAL AREA COMMISSION**

45 Calvert Street, 2nd Floor, Annapolis, Maryland 21401
(410) 260-7516 Fax: (410) 974-5338

February 2, 1999

Mr. Kevin Dooley
Anne Arundel County Department of Planning and Code Enforcement
2664 Riva Road, MS 6301
Annapolis, Maryland 21401

Re: Steven and Ann Morgan
1999-0017-V

Dear Mr. Dooley:

I have received the above-referenced request to permit a deck that will require less setbacks. This office offers no comment regarding the setback issue.

Thank you for the opportunity to comment. Please include this letter in your file and submit it as part of the record for variance. Please notify the Commission of the decision made in this case.

Sincerely,

Lisa A. Hoerger
Environmental Specialist

cc: AA 49-99

Branch Office: 31 Creamery Lane, Easton, MD 21601
(410) 822-9047 Fax: (410) 820-5093



CHESAPEAKE BAY CRITICAL AREA COMMISSION
45 CALVERT STREET, 2ND FLOOR
ANNAPOLIS, MD 21401

AA49-99

NOTIFICATION OF PROJECT APPLICATION

Jurisdiction: A. A. Co. Date: _____
Name of Project (site name, subdivision name, or other): Stewarts Landing
Local case number: 1999-0017-V Steven & Ann Morgan
Project location/Address: 309 Gregson Court Severn A

Tax map# 24 Block# 20 Lot# 205 Parcel# 0378

Type of application:
(Select all applicable)

- SUBDIVISION
- SITE PLAN
- VARIANCE:
Buffer Slope
Imp. Surf. Other
- SPECIAL EXCEPTION
- CONDITIONAL USE
- REZONING
- GRADING PERMIT
- BLDG PERMIT
- INTRAFAMILY
- GROWTH ALLOCATION

Type of Project:
(Select all applicable)

- RESIDENTIAL
- COMMERCIAL
- WATER DEPENDENT FACILITY/PIER/MARINA
- INDUSTRIAL
- MIXED USE
- REDEVELOPMENT
- SHORE EROSION PROTEC.
- AGRICULTURE
- OTHERS _____
e.g. PUD

Current Use:
(Select all applicable)

- COMMERCIAL
- RESIDENTIAL
- AGRICULTURE
- FOREST/BUFFER/ WOODLAND
- INDUSTRIAL
- INSTITUTIONAL
- OPEN SPACE/RECRE.
- SURFACE MINING
- VACANT
- WATER DEPENDENT FACILITY/PIER/MARINA

Describe Proposed use of project site: A Deck to enjoy breakfast and dinner less 5/10

SITE INVENTORY OF AREA ONLY IN THE CRITICAL AREA

TOTAL ACRES IN CRITICAL AREA: 8103

IDA ACRES	_____	AREA DISTURBED(_____)
<u>LDA</u> ACRES	<u>8103</u>	# LOTS CREATED: _____
RCA ACRES	_____	# DWELLING UNITS: _____

AGRICULTURAL LAND: _____

EXISTING FOREST/WOODLAND/TREES: N/A FOREST/WOODLAND/TREES REMOVED: _____

FOREST/WOODLAND/TREES CREATED: _____

EXISTING IMPERVIOUS SURFACE: (_____)^{sa} PROPOSED IMPERVIOUS SURFACE: 0

TOTAL IMPERVIOUS SURFACE: _____

GROWTH ALLOCATION DEDUCTED: N/A

RCA to LDA: N/A RCA to IDA: N/A LDA to IDA: N/A

RECEIVED

Local Jurisdiction Contact person: _____
Telephone number: _____
Response from Commission required by: _____ Hearing Date: _____

JAN 29 1999

CHESAPEAKE BAY
CRITICAL AREA COMMISSION

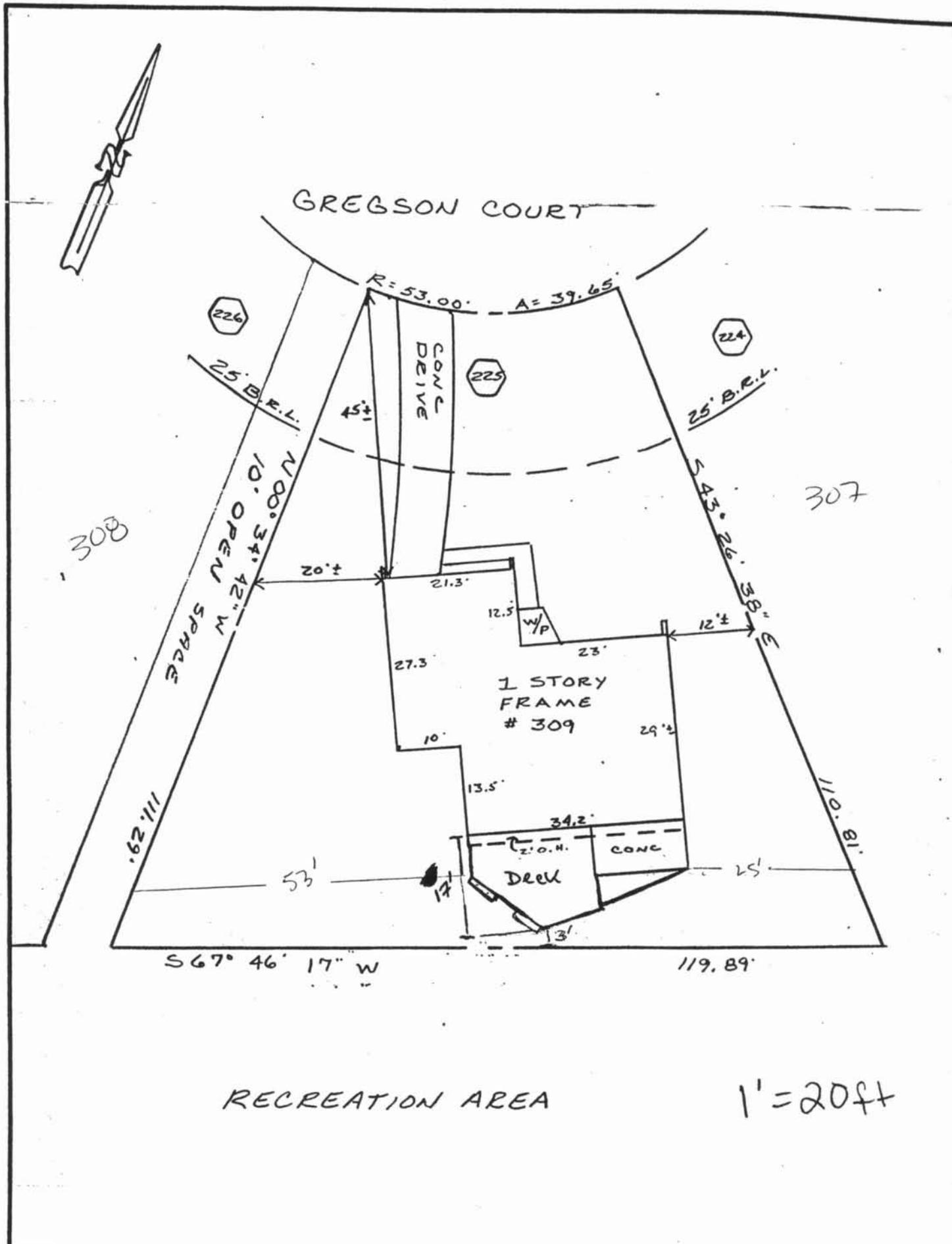
**Chesapeake Bay Critical Area
Check List**

3. A. Currently we have mix of Red Maples, Black Gum, Red, Black and Chestnut Oaks, American Holly, Dogwoods, Virginia Pines, and Sassafras. As for shrubs, we have Rhododendron, burning bush, Hostas, and various perennial flowers. No trees or shrubs will be removed to build the deck. The area where the deck will be place is currently dirt and grass.
- B. The deck will be off the ground 6-9 inches. Rain will flow through the spacing of deck boarding and be absorbed into the ground. Gutters will remain and continue for normal drainage into the ground.
- C. Through the deck, Not much of impact on the plants or grass.
- D. Not Applicable. Small individual trees.
Estimated square footage of woods, trees, and shrubs is approximately 2300 square feet.
Square footage to be disturbed, zero.
Total Impervious remains the same.
- E. Not Applicable.
4. A. Not Applicable.
- B. No tree removal.
- C. Wetlands nontidal Not Applicable.
Floodplains nontidal, out of Floodplains Zone C.
- D. Perennial Flowers.
- E. Not Applicable.

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JAN 29 1999

CHESAPEAKE BAY
CRITICAL AREA COMMISSION



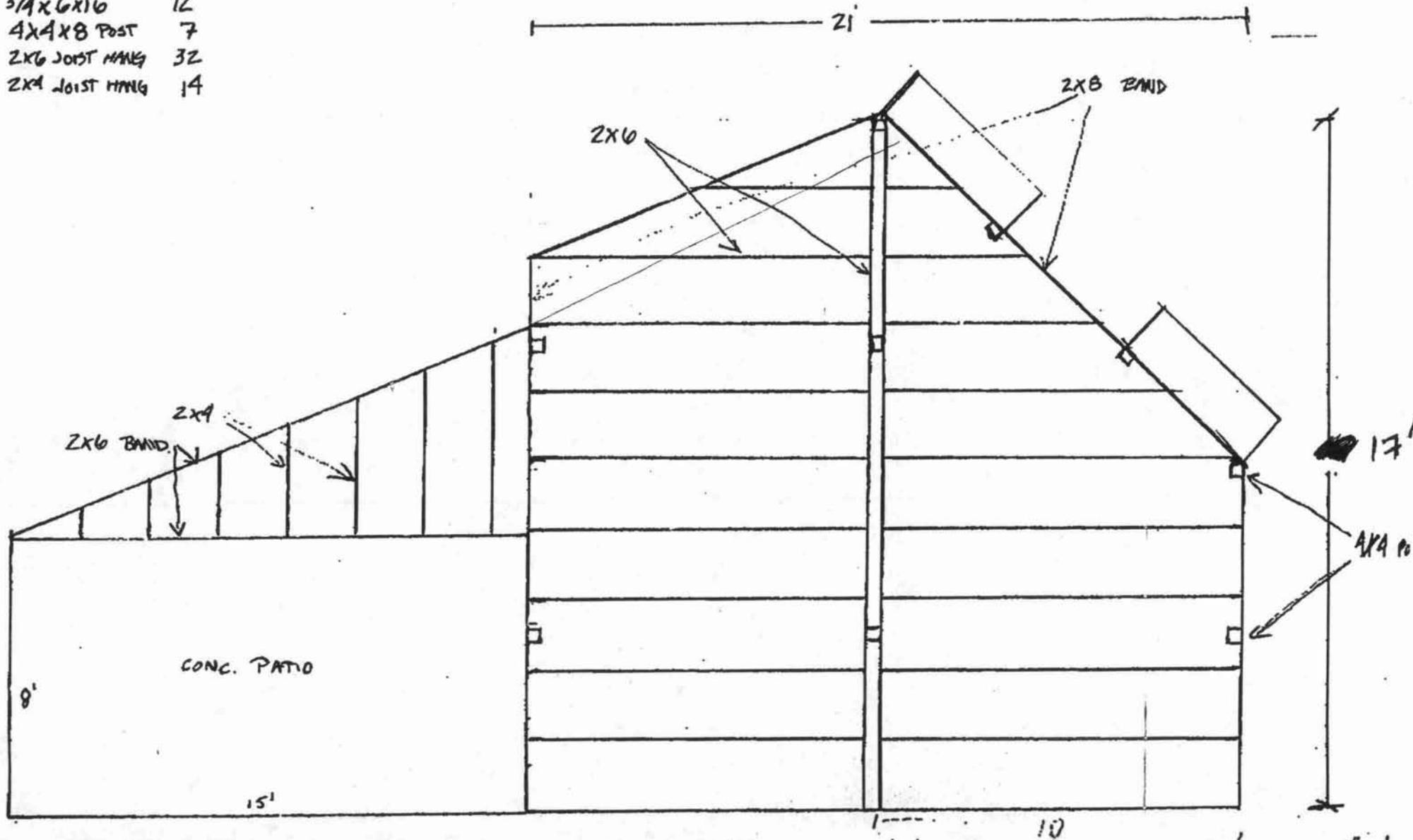
LOCATION DRAWING
309 GREGSON COURT

SUBJECT PROPERTY IS SHOWN IN ZONE "C"
ON THE NATIONAL FLOOD INSURANCE PROGRAM
FLOOD INSURANCE RATE MAP OF ANNIE BRINK

110 339 4055

Deck materials

2x8 x 16	2
2x8 x 12	4
2x6 x 10	8
2x6 x 12	8
2x6 x 18	1
2x6 x 16	1
2x4 x 12	16
5/4 x 6 x 20	56
5/4 x 6 x 16	12
4x4 x 8 Post	7
2x6 JOIST HANG	32
2x4 JOIST HANG	14



4-20-1998 8:00PM FROM VENICE PLUMB / 300 8001

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