

AA 86-99
VAR

Foster, James
99-0051

MSA-51829-31

LT
Comment
3/12/99



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

March 12, 1999

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

Re: James C. Foster, Jr.
1999-0051-V

Dear Mr. Dooley:

I have received the above-referenced request to replace an existing dwelling that will require less setbacks and Buffer. It appears the dwelling can be accommodated further outside the Buffer; therefore we recommend the applicant consider minimizing the Buffer intrusion if possible. Mitigation should follow the County's Buffer Exemption Area Policy.

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 86-99

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

TTY FOR DEAF ANNAPOLIS-974-2609 D.C. METRO-586-0450



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

JA 2-99

NOTIFICATION OF PROJECT APPLICATION

Jurisdiction: Anne Arundel Date: 1-1-99
Name of Project (site name, subdivision name, or other): Lot 49, Sub. - Bar Harbor
Local case number: 1999-0051-V James C. Foster, JR.
Project location/Address: 138 BAR HARBOR Rd. PASKENTIA, MD 21122

Tax map# 11 Block# 23 Lot# 49 Parcel# 9185

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: 2 STORY RESIDENCE less 5/16' Buffer

SITE INVENTORY OF AREA ONLY IN THE CRITICAL AREA

TOTAL ACRES IN CRITICAL AREA: 360 ± 12,300 sqft.

IDA ACRES X AREA DISTURBED: 3000 sqft.

LDA ACRES _____ # LOTS CREATED: _____

RCA ACRES _____ # DWELLING UNITS: 1

AGRICULTURAL LAND: _____

EXISTING FOREST/WOODLAND/TREES: 0 FOREST/WOODLAND/TREES REMOVED: 0

FOREST/WOODLAND/TREES CREATED: 0

EXISTING IMPERVIOUS SURFACE: 3500 ± PROPOSED IMPERVIOUS SURFACE: 3800 ±

TOTAL IMPERVIOUS SURFACE: 3800

GROWTH ALLOCATION DEDUCTED: _____

RCA to LDA: _____ RCA to IDA: _____ LDA to IDA: _____

BEA?
When variance?
cc. maybe
move to
out of
buffer

RECEIVED

FEB 10 1999

Local Jurisdiction Contact person: _____
Telephone number: _____
Response from Commission required by: _____ Hearing Date: _____
CHESAPEAKE CRITICAL AREA COMMISSION

Buffer along

case, the east side setback increases from seven feet to 10 feet. Accordingly, the proposal necessitates a variance of four feet to the east side setback and two feet in combined side yard width.

Kevin P. Dooley, a zoning analyst with the Department of Planning and Code Enforcement, testified that the lot is 10 feet below the minimum width for the R-5 district. The replacement dwelling will retain the same side building lines as the existing dwelling. The replacement dwelling will be eight feet further from the water than the existing dwelling. In the circumstances, the witness supported the request, conditioned on shoreline plantings with a minimum of 1,250 square feet of native vegetation.

Mr. Misener testified that the dwelling has been in the Foster family for 40 years. As a result of a series of renovations, there are a variety of floor elevations. The applicant has pulled the dwelling back from the water in order to accommodate the sight distance from neighboring structures. Mr. Foster testified that the proposal has the support of his neighbors. There was no opposition.

Upon review of the facts and circumstances, I find and conclude that the applicant is entitled to relief to the code. This case satisfies the test of unique physical conditions, consisting of a lot that is below the minimum width for the district. In the circumstances, there is no reasonable possibility of developing the lot in strict conformance with the code. I further find that the variance is the minimum necessary to afford relief. The applicant has maintained the same building lines as the original dwelling and has reduced the proximity to water. I

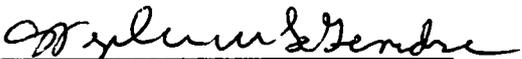
find that the granting of the variance will not alter the essential character of the neighborhood, substantially impair the appropriate use or development of adjacent property or be detrimental to the public welfare. Rather, the undisputed evidence indicated that as a result of the proposal, the sight distance from neighboring properties to the water will improve. The approval shall be subject to the condition in the Order.

ORDER

PURSUANT to the application of James Foster, Jr., petitioning for a variance to permit a dwelling with less setbacks and buffer than required; and

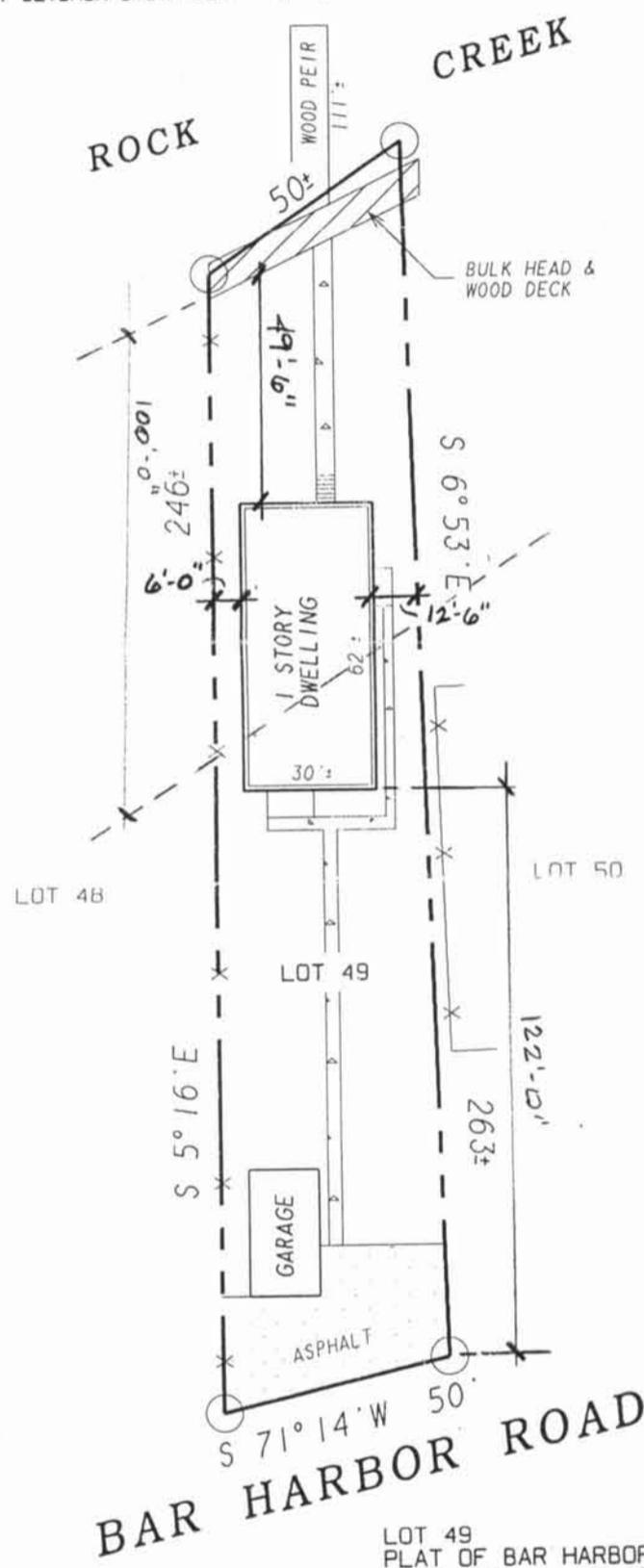
PURSUANT to the advertising, posting of the property, and public hearing and in accordance with the provisions of law, it is this 6th day of April, 1999,

ORDERED, by the Administrative Hearing Officer of Anne Arundel County, that the applicant's request for a variance of four feet to the required 10-foot east side property line setback and a variance of two feet to the required 20-foot combined side yard width is hereby **granted** *subject to the condition that the applicant shall provide shoreline buffer plantings with native vegetation to the extent of 1,250 square feet.*


Stephen M. LeGendre
Administrative Hearing Officer

check area

1. THIS DRAWING IS OF BENEFIT TO A CONSUMER ONLY INSOFAR AS IT IS REQUIRED BY A LENDER OR A TITLE INSURANCE COMPANY OR ITS AGENT IN CONNECTION WITH CONTEMPLATED TRANSFER, FINANCING OR REFINANCING.
2. THE DRAWING IS NOT TO BE RELIED UPON FOR THE ESTABLISHMENT OR LOCATION OF FENCES, GARAGES, BUILDINGS, OR OTHER EXISTING OR FUTURE IMPROVEMENTS.
3. THE DRAWING DOES NOT PROVIDE FOR THE ACCURATE IDENTIFICATION OF PROPERTY BOUNDARY LINES, BUT SUCH IDENTIFICATION MAY NOT BE REQUIRED FOR THE TRANSFER OF TITLE OR SECURING FINANCING OR REFINANCING.
4. ALL BUILDINGS, STRUCTURES AND OTHER IMPROVEMENTS SHOWN HEREON ARE IN APPROXIMATE RELATION TO THE APPARENT BOUNDARY LINES.
5. LEVEL OF ACCURACY OF APPARENT SETBACK DISTANCES $\pm 2'$



12,300 sq ft
 .360 of Acre
 3813 allowable improvements

LOT 49
 PLAT OF BAR HARBOR
 PLAT BOOK 5, FOLIO 2

I HEREBY CERTIFY TO THE BEST OF MY KNOWLEDGE AND BELIEF THE DWELLING(S) SHOWN ON THIS DRAWING LIES WITHIN THE LOT LINES SHOWN AS COMPILED FROM TITLE OR OTHER SOURCES. OTHER IMPROVEMENTS SHOWN ARE FOR PICTORIAL PURPOSES ONLY. THIS DRAWING IS NOT A BOUNDARY SURVEY AND HAS BEEN PREPARED EXCLUSIVELY FOR TITLE PURPOSES ONLY. PREPARED WITHOUT THE BENEFIT OF A TITLE REPORT.

BEING THAT PARCEL(S) DESCRIBED IN DEED LIBER NO. 4515, FOLIO NO. 872, RECORDED IN THE LAND RECORDS OFFICE OF ANNE ARUNDEL COUNTY, MD.

THIS DWELLING IS LOCATED IN FLOOD HAZARD ZONE C, PER THE F.I.R.M. MAPS.

Lane J. Hastings

REG. NO. 505

	LOCATION DRAWING 138 BAR HARBOR ROAD	SCALE 1" = 40'
	HASTINGS SURVEYING 41 EASTSHIP ROAD BALTIMORE, MD 21222 PHONE (410) 288-5663 FAX (410) 288-5311	DATE 05 26-96
	9/26/96	J. B. NO. 1337

RECEIVED

FEB 19 1999

CHESAPEAKE BAY
CRITICAL AREA COMMISSION