AA 326-99 Wilson, Donald
VAR 99-0239

MSA_S1829-132

Letter RC
6/29/99

326-99

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AUG 18 1999
CHESAPEAKE BAY
CRITICAL AREA COMMISSION

IN THE OFFICE OF ADMINISTRATIVE HEARINGS

CASE NUMBER 1999-0239-V

IN RE: **DONALD AND JERRIANN WILSON**

THIRD ASSESSMENT DISTRICT

DATE HEARD: AUGUST 10, 1999

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

ZONING ANALYST: **KEVIN P. DOOLEY**

DATE FILED: **AUGUST** 16, **1999**

PLEADINGS

Donald and Jerriann Wilson, the applicants, seek a variance (1999-0239-V) to permit a dwelling addition with less setbacks than required on property located along the west side of Richard Way, south of Benfield Road, Severna Park.

PUBLIC NOTIFICATION

The case was advertised in accordance with the provisions of the County Code. Mr. Wilson testified that the property was posted for 15 days prior to the hearing.

FINDINGS AND CONCLUSIONS

The applicants own a single-family residence located at 584 Richard Way, in the subdivision of Colchester, Severna Park. The property comprises 0.825 acres and is zoned R-1 residential with a Chesapeake Bay Critical Area designation as Limited Development Area (LDA). The applicants seek to construct a 5' X 7' addition within seven feet of the northern side lot line.

The Anne Arundel County Code, Article 28, Section 2-305(a)(2) requires a side yard setback of 15 feet in the R-1 district. Accordingly, the proposal necessitates a variance of eight feet.

Kevin P. Dooley, a zoning analyst with the Department of Planning and Code Enforcement, testified that the property is below the minimum area for the R-1 district. The house is near the northeast corner of the lot. As a result, it

would be difficult for any addition to comply with setbacks. The witness noted that the proposal complies with the lesser setback for the R-2 district (seven feet), which is the more typical zoning for comparably sized lots. The proposal will not require the removal of vegetation and will add very little impervious coverage. In the circumstances, he supported the application.

Mr. Wilson testified that the applicants have occupied the dwelling for 26 years. He submitted correspondence from neighbors indicating no objection to the proposal. There was no adverse testimony at the hearing.

Upon review of the facts and circumstances, I find and conclude that the applicants are entitled to relief from the code. This case satisfies the test of unique physical conditions, consisting of a smaller lot with the dwelling off center, such that there is no reasonable possibility of an addition which will strictly conform to the code. I am satisfied that the variance is the minimum necessary to afford relief. This is a very small addition; the dwelling is already nonconforming, and the extent of the additional encroachment into the setback is slight. There was nothing to suggest that the granting of the variance will alter the essential character of the neighborhood, substantially impair the appropriate use or development of adjacent property, or be detrimental to the public welfare.

ORDER

PURSUANT to the application of Donald and Jerriann Wilson, petitioning for a variance to permit a dwelling addition 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 16th day of August, 1999,

ORDERED, by the Administrative Hearing Officer of Anne Arundel County, that the applicants are hereby **granted** a variance of eight feet to the minimum 15-foot setback to permit a 5' X 7' addition.

Stephen M. LeGendre
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

June 29, 1999

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

RE: Variance 1999-0239-V, Donald Wilson

Dear Mr. Dooley:

Thank you for providing information on the above referenced variance application. The applicant is requesting a variance to permit a dwelling addition with less setbacks than required. The property is designated LDA and is currently developed with a single family dwelling and driveway.

It appears that the dwelling addition will be placed over existing impervious surfaces and no habitat protection areas will be affected by this proposal. Therefore, this office has no comment regarding the setback issue. Mitigation at a 1:1 ratio of native species should be required if any clearing occurs as a result of construction.

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

Sincerely,

LeeAnne Chandler
Natural Resources Planner

cc: AA326-99

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 REPORT
584 Richard Way, Severna Park, Forked Creek
Anne Arundel County, Maryland

Information submission

The variance is necessary to allow for the addition of a powder room on the side of an existing house on the second floor over an existing walk area. The existing house is 11' from the Northwest property line and the addition, which is to be 7' x 5' shall be 7' from the Northwest property line. The property is zoned R-1 with a total lot area of only 0.83 acre which should be zoned R-2. Since R-1 requires a 15' side yard set back a variance to the R-1 side yard setback is required. R-2 zoning only requires a 7' set back to the side yard. The property is nonconforming because of the area is less than an acre and the existing house is already less than the required side yard set back.

Narrative statements:

The predominant trees are large oaks, sycamore, maple, sugar gum, poplar, locus, pine, mulberry and cedar with smaller trees of dogwood, cheery and holly. The area is largely landscaped with gardens and wooded buffers.

The existing house, driveway and walks direct rainwater onto the existing grass areas, gardens and woodland of the lot. The addition shall not impact the site because there is sufficient woodland to control the water runoff and the changes add no additional stormwater to the site because the impervious surface area remains the same.

The construction area shall be protected by a silt fence. The total disturbed area for construction shall be less than 100 sq. ft. , the addition is only 5' x 7' requiring a small footing and all construction is on level areas, not on any sloped areas.

The site consists of 36,076.4 sq. ft. total area. Currently 30,650 sq. ft. or 85% of the site is covered with woodland and gardens. Less than 100 sq. ft. of the site shall be disturbed during construction and there shall be no change in the impervious coverage once construction is complete.

There are no habitat protection areas on this site.

CRITICAL AREA WORKSHEET TO ACCOMPANY THE SITE PLAN

Permit Number _____

Total Site Area 36,076.4 Square Feet (1 Acre = 43,560 Square Feet).

Total Wooded Area 30,650 Square Feet - "Wooded" MEANS A BIOLOGICAL COMMUNITY DOMINATED BY TREES AND OTHER WOODY PLANTS (SHRUBS AND UNDERGROWTH), INCLUDING FORESTS THAT HAVE BEEN CUT BUT NOT CLEARED.

Please Indicate Square Footage of Woodland Removed for the following:

1. House 0 Sq. Ft.
2. Septic or sewer 0 Sq. Ft.
3. Well 0 Sq. Ft.
4. Driveway 0 Sq. Ft.
5. Accessory structures 0 Sq. Ft.
6. Additions 0 Sq. Ft.
7. Storm water management 0 Sq. Ft.
8. Other Clearing: work areas; access; stockpiles, etc. 0 Sq. Ft.

*Total Woodland Removed 0 Sq. Ft.

"Impervious Coverage" IS ANY SURFACE THAT WILL NOT ABSORB LIQUID. THIS INCLUDES ROOFS, SIDEWALKS, DRIVEWAYS, AND ANY TYPE OF PAVEMENT. COMPACTED GRAVEL IS CONSIDERED AN IMPERVIOUS SURFACE.

- Please Indicate Square Footage of Impervious Coverage for the Following:

Existing Impervious		Proposed Impervious	
1. House (roof area)	2056 Sq. Ft.	1. House (roof area)	2056 Sq. Ft.
2. Driveway + sidewalks	2425 Sq. Ft.	2. Driveway + sidewalks	2380 Sq. Ft.
3. Accessory structures	0 Sq. Ft.	3. Accessory structures	0 Sq. Ft.
		4. Additions	45 Sq. Ft.

Total Existing and Proposed Impervious Coverage 4481 Sq. Ft.

Note: addition is over an existing walk - no change in impervious area

* PLEASE INCLUDE ALL EXISTING AND PROPOSED SQUARE FOOTAGE.

Lots 1/2 acre or less are limited to 25% impervious coverage of total lot area.

Lots greater than 1/2 acre are limited to 15% impervious coverage of total lot area.

* * * *

I Donald G. Wilson, Jerriann M. Wilson, (property owner and contract purchaser, if applicable) hereby certify that the above critical area worksheet is true and correct based upon personal knowledge. I further declare that a copy of the foregoing document will be transferred to any purchaser of this property from me (or corporation, if applicable) at the time of settlement. I hereby understand that these computations shall be a binding part of issuance of a building permit for lot # 5, block # 5 of Subdivision Forked Creek.

I hereby certify that I have seen and read the record plat (if approved after 1986 and subject to Critical Area requirements) and have indicated on the attached site plan any easements, buffers, or other restrictions declared on said plat.

Donald G Wilson (Signature) 6-2-99 (Date)

Owner (Title)

[illegible] (Signature) 6/2/99 (Date)

Owner (Title)

OWNERS DEDICATION

We, The undersigned owners of the property shown hereon, hereby adopt this plan of subdivision, establish the minimum building restriction lines, We also certify that there are no suits, actions of law, leases, mortgages, trusts, easements, rights of way, or contracts of sale affecting this plan of subdivision unless otherwise noted, all parties in interest have hereunto affixed their signatures indicating their assent to this plan of subdivision.

Donald G. Wilson
Donald G. Wilson W.G.L. 3216/383

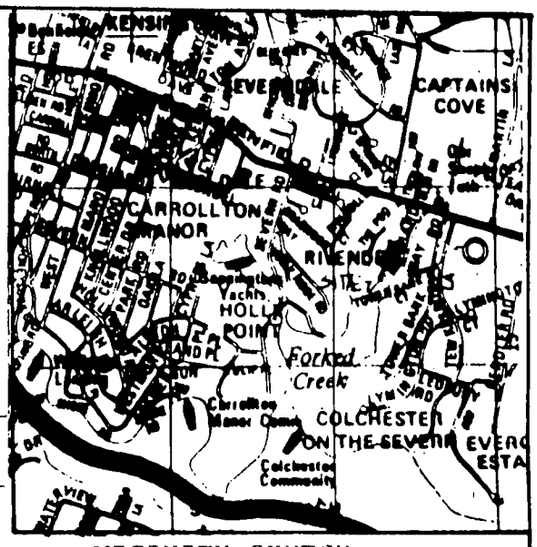
Jonriann M. Wilson
Jonriann M. Wilson W.G.L. 3216/383

Ellsworth B. Nowell
Ellsworth B. Nowell W.G.L. 2616/516

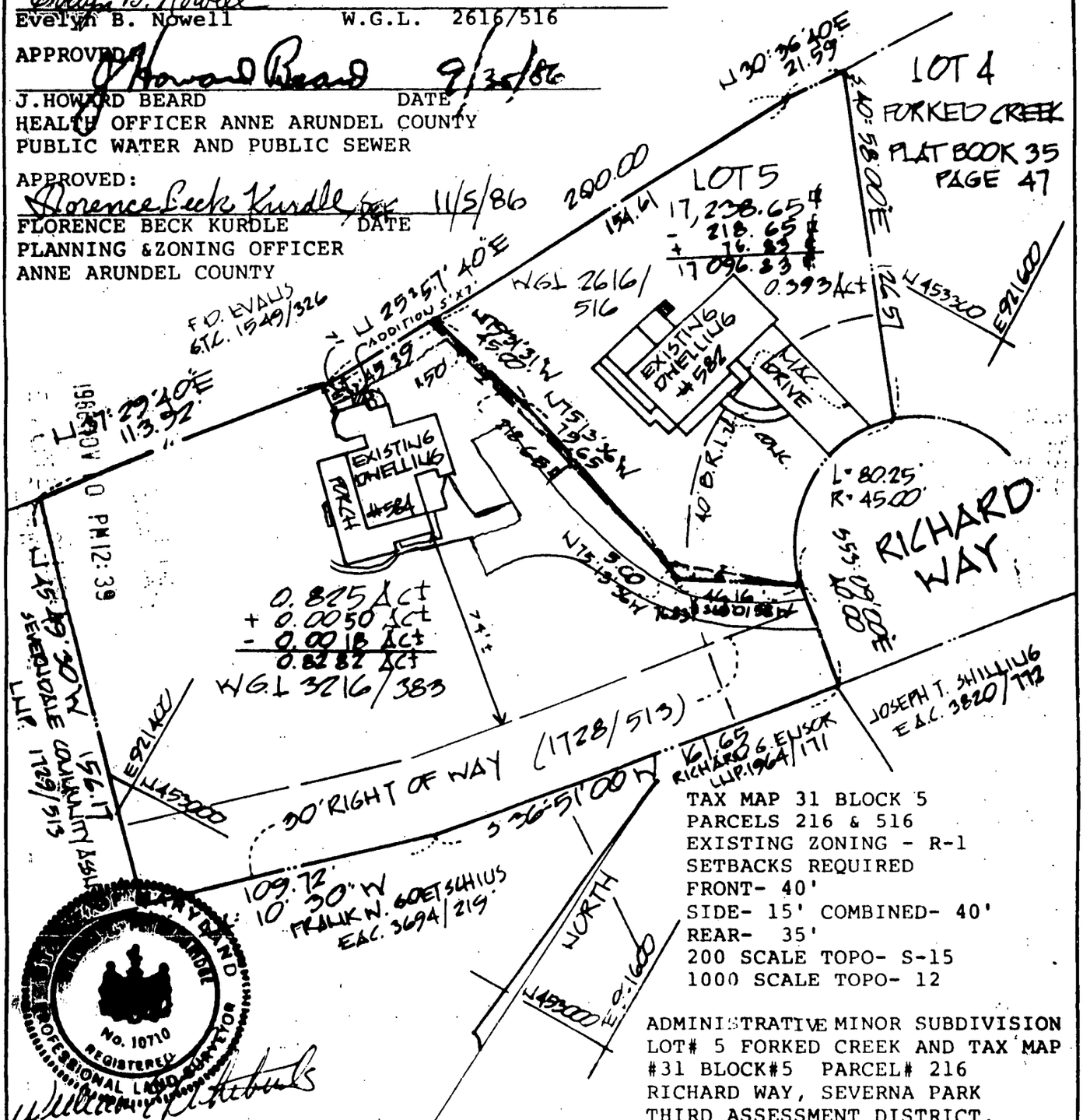
Evelyn B. Nowell
Evelyn B. Nowell W.G.L. 2616/516

APPROVED:
J. Howard Beard 9/30/86
J.HOWARD BEARD DATE
HEALTH OFFICER ANNE ARUNDEL COUNTY
PUBLIC WATER AND PUBLIC SEWER

APPROVED:
Florence Beck Kurdle for 11/5/86
FLORENCE BECK KURDLE DATE
PLANNING &ZONING OFFICER
ANNE ARUNDEL COUNTY



VICINITY SKETCH
SCALE 1"=2000'



ADMINISTRATIVE MINOR SUBDIVISION
LOT# 5 FORKED CREEK AND TAX MAP
#31 BLOCK#5 PARCEL# 216
RICHARD WAY, SEVERNA PARK
THIRD ASSESSMENT DISTRICT,
ANNE ARUNDEL COUNTY, MARYLAND
SCALE 1"=50' SEPTEMBER, 1986
REV. JUNE, 1999

M.S. 86-312

MARYLAND PROFESSIONAL LAND SURVEYOR No. 10710 REGISTERED

SEVERN SURVEYS, INC.
Land Development, Land Planning
Land Surveying
189 Maryland Route #3 South
Millersville, Maryland 21108
301-987-0788

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JUN 21 1999
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CRITICAL AREA COMMISSION