

AA 329-99
VAR

Lee, Edwin
99-0242

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Letter LC
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RECEIVED

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CHESAPEAKE BAY
CRITICAL AREA COMMISSION

IN THE OFFICE OF ADMINISTRATIVE HEARINGS

CASE NUMBER 2000-0440-V

IN RE: **EDWIN AND JACQUELINE LEE**

FIRST ASSESSMENT DISTRICT

DATE HEARD: JANUARY 23, 2001

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

ZONING ANALYST: **CHARLENE MORGAN**

DATE FILED: JANUARY 26, 2001

PLEADINGS

Edwin and Jacqueline Lee, the applicants, seek a variance (2000-0440-V) to permit a dwelling addition with less setbacks and buffer than required on property located along the north side of Lakeview Ave, east of Cedar Street, Edgewater.

PUBLIC NOTIFICATION

The case was advertised in accordance with the County Code. The file contains the certification of mailing to community associations and interested persons. Each person designated in the application as owning land that is located within 175' of the property was notified by mail, sent to the address furnished with the application. Mr. Lee testified that the property was posted for more than 14 days prior to the hearing. I find and conclude that the requirements of public notice have been satisfied.

FINDINGS AND CONCLUSIONS

The applicants own a single-family residence located at 100 Lakeview Avenue, in the subdivision of Beverley Beach, Edgewater. The property comprises 8,912 square feet and is zoned R-5 residential with a Chesapeake Bay Critical Area designation as Resource Conservation Area (RCA). In Case No. 1999-0242-V (August 16, 1999), the applicants received a variance to construct an addition over the existing footprint of the dwelling. In the present application, they seek to construct a two and one-half story addition (16' X 45') 48 feet from

Lake Beverley; seven feet from the west side lot line; and 21 feet from the rear lot line, which abuts Open Space (OS) zoning. The dwelling measures 52 feet in length.

The Anne Arundel County Code, Article 28, Section 1A-104(a)(1) establishes a minimum 100-foot buffer landward from the mean high-water line of tidal waters. Section 2-506(a) requires side yards seven feet wide. However, Section 10-104(e)(11) increases the side setback by 1-foot for each 10 feet or fraction of 10 feet by which the dwelling exceeds 50 feet. In this case, the side setback increases from seven feet to eight feet. Section 10-104(a) requires yards along zoning district boundary lines to maintain the standards of the more restrictive district. The setback of the OS district (50 feet) is more restrictive than the rear setback for the R-5 district (20 feet). Compare, Section 6-207(1) and Section 2-506(a)(3). Accordingly, the proposal requires a buffer variance of 52 feet, a west side setback variance of 1-foot, and a rear setback variance of 29 feet.

Charlene Morgan, a zoning analyst with the Office of Planning and Zoning, opposed the application on the grounds that it does not represent the minimum relief. She also contended that the property is already reasonably developed and there is no hardship. She reported that the Chesapeake Bay Critical Area Commission expressed concern about the extent of impervious coverage in the buffer. The Commission also requested that any approval should be conditioned on a forested buffer between the house and the water and mitigation at a 3:1 ratio.

Mr. Lee testified that the applicants planned their construction in two phases

as their finances allowed. The present configuration of the dwelling is a living room, dining room and kitchen on the first floor; two bedrooms on the second floor; and an attic study and bath. This project would add a one car garage and storage on the first level; a bedroom on the second floor; and an extension to the attic study. The applicants require additional living space for their three children and visitors. Mr. Lee conceded that it might be possible to decrease the footprint of the addition to 16' X 30' and to eliminate the attic extension. Jacqueline Lee added that the applicants' third child was born after the construction of the second story addition the subject of the prior variance.

Upon review of the facts and circumstances, I find and conclude that the applicants are entitled to modified relief from the code. As in the prior case, there is sufficient evidence to justify relief. What remains is the extent of the relief. After due consideration, I will modify the request to permit a 15' X 30' two-story addition. By reducing the width of the addition from 16 feet to 15 feet, there is no need for the west side setback variance. The distance to the shoreline will increase to 63 feet; thereby reducing the buffer variance to 37 feet. The distance to the rear property line will increase to 36 feet; thereby reducing the rear setback variance to 14 feet. The modifications will also reduce the amount of impervious cover in the buffer. So modified, I find and conclude 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 cause a detriment to the public welfare. The approval is subject to the conditions in the Order.

ORDER

PURSUANT to the application of Edward and Jacqueline Lee, petitioning for a variance to permit a dwelling addition with less setbacks and buffer than required; and

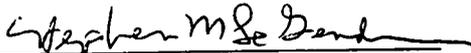
PURSUANT to the advertising, posting of the property, and public hearing and in accordance with the provisions of law, it is this 26 day of January, 2001,

ORDERED, by the Administrative Hearing Officer of Anne Arundel County, that the applicants are hereby **granted** a modified variance of 37 feet to the 100-foot Critical Area buffer and a variance of 14 feet to the rear setback to permit a two-story, 15' X 30' dwelling addition.

The foregoing variances are subject to the following conditions:

1. The applicants shall provided a forested buffer with planting materials satisfactory to the Permit Application Center between the house and the water.
2. The applicants shall provide mitigation at a 3:1 ratio for all disturbance within the buffer.

FURTHER ORDERED, that the applicants are hereby **denied** a variance to the west side setback.


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

1804 West Street, Suite 100, Annapolis, Maryland 21401
(410) 260-3460 Fax: (410) 974-5338

January 2, 2001

Mr. Kevin Dooley
Anne Arundel County Office of Planning & Zoning
2664 Riva Road, MS 6301
Annapolis, MD 21401

RE: Variance 2000-0440-V, Edwin Lee

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 and Buffer than required. The property is designated LDA and is currently developed with a single family dwelling and driveway.

This office reviewed a variance request on this property in 1999 which added a second story to an existing structure. The currently proposed garage addition adds an additional 720 square feet of impervious surface, entirely within the Buffer. While an attached garage is a reasonable use, this office is concerned about the large amount of impervious surface within the Buffer. If the variance is approved, we recommend mitigation in the form of woody forest vegetation at a 3:1 ratio for all disturbance within the Buffer. The Buffer, between the house and the water, should be a priority for the mitigation. The landscape plan, with the majority of plantings consisting of screening landscape vegetation (Leyland Cypress and Junipers), is not sufficient. A forested Buffer should be established.

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,

A handwritten signature in cursive script that reads "LeeAnne Chandler".

LeeAnne Chandler
Natural Resources Planner

cc: AA329-99

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



RESIDENTIAL BUILDING INFORMATION

TAX ACCOUNT #: 1046-0698-1800

VARIANCE #:

HEALTH DEPT. APPROVAL #:

BUILDING PERMIT #:

LEGAL DESCRIPTION:

Liber Folio: Parcel: 0240 Tax Map: 65 Lot: 29-32 Block: R
 Subdivision: Beverley Beach Election District: 01

LOT CHARACTERISTICS:

Lot Size: 85' x 105' Total Area: 8,912 sf
 front Lot: Yes Non-Tidal No
 Critical Area: RCA Yes No
 Building Zonig: R-5
 Flood Zone: Zone A8

WATER: Private Public

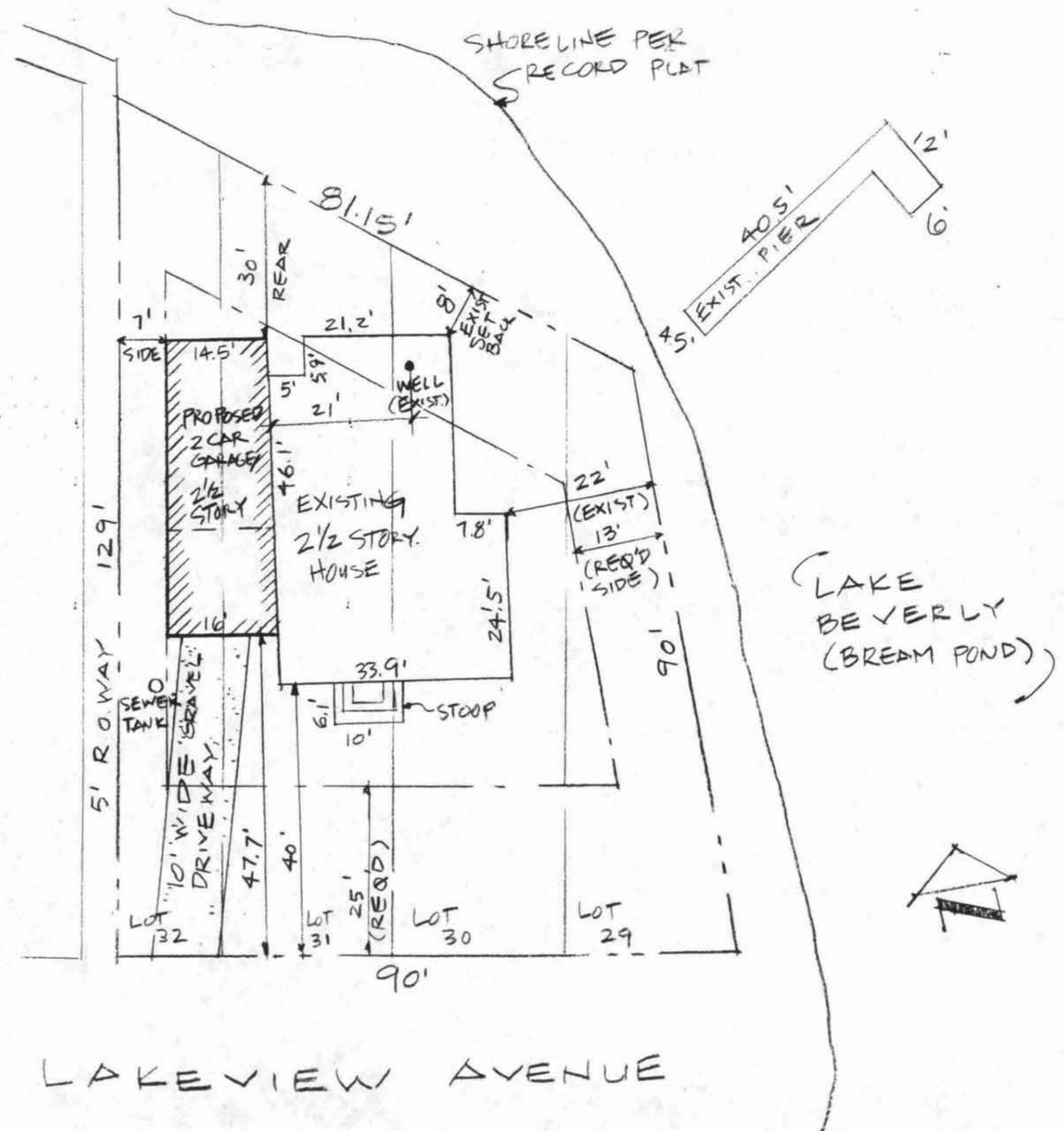
SEWER: Private Public

BUILDING SETBACKS:

Required:	Provided:
Height:	35'-0" / 34'-10"
Rear Setback:	20'-0" / 30'-0"
Front Setback:	25'-0" / 47'-8"
Side Setback:	7'-0" / 7'-0"

IMPERVIOUS CALCULATIONS:

Total Area Allowable: 8,912 sf x 31.25% = 2,785 sf
 Existing: 1,505.79 sf (building) + 477.08 sf (driveway) +
 64.89 sf (walkway, stoop) = 2,047.76 sf
 Proposed: 669.09 sf (garage)
 Total Impervious: 2,047.76 sf (existing) + 669.09 sf (proposed) = 2716.85 sf



SHEET TITLE: SITE PLAN	DATE: 0-24-00
PROJECT: LEE RESIDENCE	DWG. NO. C.1
SCALE: 1" = 20'-0" BY: EUL	
EDWIN LEE ARCHITECT 100 Lakeview Avenue Edgewater, MD 21037	

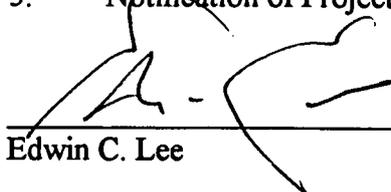
To: Department of Planning and Code Enforcement
From: Edwin & Jacqueline Lee
Date: October 24, 2000
RE: Addition for 100 Lakeview Avenue, Edgewater, Md 21037
Tax Map 65, Block R, Parcel 0240

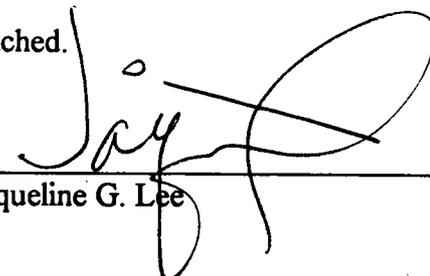
EXPLANATION FOR CRITICAL AREA REPORT

1. We are seeking a variance to permit a dwelling addition with less setback and buffer than required on property. The house was built during 1930's and new additions during 1999-2000. The house is located at the end of the street abutting Beverley Pond at the east. The proposed addition is to the west side of the existing house and will not exceed the existing rear, front setback nor the height of the existing house.

Due to the expansion of the family, we are planning 2 car garage(669.09 sq. ft.), a bedroom and a study on the second floor above the garage (669.09 sq. ft.) and a loft(335 sq. ft.) above the second floor. The height of the proposed addition (2 1/2 storey) is to be 32'-6" from lowest to the highest peak of the roof.

2. Five copies of the vicinity maps are attached.
3. Item1. The landscape plan is included.
Item2. The site very flat and with the existing landscape, there is no run-off during heavy rain.
Item3. The driveway remains graveled with site sloped toward the natural pond with the well landscaped site. The 669 sq. ft. of new addition will run its rain water thru traditional gutter & spout system to underground pipe to daylight toward pond.
Item4. An approximately 2,500 sq. Ft. Of the site is landscaped with trees and shrubs which will not be disturbed. The 669 sq ft of garage addition will disturb existing grassy area. The lot is 8,912 sq. ft. And the total impervious area will be 2,717 sq. ft.
4. Plot plan is attached. Landscape plan is attached. Since purchasing the property, we have planted more than 50 trees and shrubs to achieve a natural environment.
5. Notification of Project Application is attached.


Edwin C. Lee


Jacqueline G. Lee

208-94
32999

REC-11

AUG 18 1999

CHESAPEAKE BAY
CRITICAL AREA COMMISSION

IN THE OFFICE OF ADMINISTRATIVE HEARINGS

CASE NUMBER 1999-0242-V

IN RE: EDWIN AND JACQUELINE LEE

FIRST ASSESSMENT DISTRICT

DATE HEARD: AUGUST 12, 1999

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

ZONING ANALYST: **SUZANNE SCHAPPERT**

DATE FILED: AUGUST 16, 1999

PLEADINGS

Edwin and Jacqueline Lee, the applicants, seek a variance (1999-0242-V) to permit a dwelling addition with less setbacks and buffer than required on property located along the north side of Lakeview Avenue, east of Cedar Street, Edgewater.

PUBLIC NOTIFICATION

The case was advertised in accordance with the provisions of the County Code. Ms. Lee 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 100 Lakeview Avenue, in the subdivision of Beverley Beach, Edgewater. The property comprises 8,912 square feet and is zoned R-5 residential with a Chesapeake Bay Critical Area designation as Resource Conservation Area (RCA). The applicants seek to construct an addition over the existing footprint of the dwelling. The dwelling is located eight feet from the rear lot line and 28 feet from Lake Beverley. The property abuts the OS zone.

The Anne Arundel County Code, Article 28, Section 1A-104(a)(1) establishes a minimum 100-foot buffer landward from the mean high-water line of tidal waters, tributary streams and tidal wetlands. Section 10-104(a) requires yards along zoning district boundary lines to maintain the standards of the more

restrictive district. The setback for the OS district (50 feet) is more restrictive than the rear setback for the R-5 district (20 feet). Compare, Section 6-207(1) and Section 2-506(a)(3). Accordingly, the proposal necessitates a buffer variance of 72 feet and a zoning setback variance of 42 feet.

Suzanne Schappert, a zoning analyst with the Department of Planning and Code Enforcement, testified that the property is a grandfathered lot with the existing nonconforming dwelling dating to the 1940's. In Case No. V-224-94 (September 6, 1994), the applicants were granted the same variance. The approval has long since expired. In the circumstances, she supported the request. The Critical Area Commission did not oppose the request, conditioned on mitigation for disturbance within the buffer. There was no adverse testimony concerning the application.

Upon review of the facts and circumstances, including the prior decision by this office, I find and conclude that the applicants are entitled to relief from the code. In this regard, I adopt the findings and conclusion of the prior decision. The approval shall be subject to the condition in the Order.

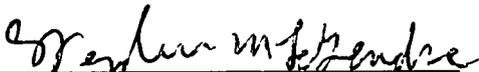
ORDER

PURSUANT to the application of Edwin and Jacqueline Lee, 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 72 feet to the 100-foot Critical Area buffer and a variance of 42 feet to the required 50-foot rear property line setback to permit a dwelling addition in accordance with the site plan. *The foregoing variances are subject to the condition that the applicants shall provide mitigation for disturbance within the buffer in accordance with the Anne Arundel County Code.*


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 1999-0242-V, Edwin Lee

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 and Buffer than required. The property is designated LDA and is currently developed with a single family dwelling and driveway.

This office does not oppose the variance requested as it appears that the proposed dwelling addition will be placed over existing impervious surfaces and no other habitat protection areas will be affected. Mitigation should be provided for disturbance within the Buffer in accordance with the Anne Arundel County Zoning Ordinance.

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,

A handwritten signature in cursive script that reads "LeeAnne Chandler".

LeeAnne Chandler
Natural Resources Planner

cc: AA329-99

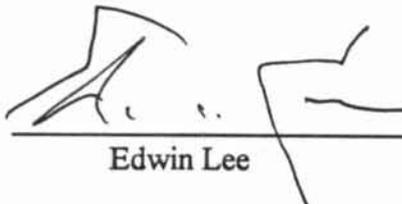
Branch Office: 31 Creamery Lane, Easton, MD 21601
(410) 822-9047 Fax: (410) 820-5093

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

TO: Department of Planning and Code Enforcement
FROM: Edwin and Jacqueline Lee
DATE: May 30, 1999
RE: 100 Lakeview Avenue, Edgewater, MD 21037
Tax Map 65, Block R, Parcel 240

EXPLANATION FOR CRITICAL AREA REPORT

1. Our initial request for a variance was approved in 1994 (No. Y224-94), but expired in October, 1998 due to prolonged construction. We are reapplying for the variance. A variance is necessary because our house was built to be used as a weekend house in the 1920s. The house has two small bedrooms, a 3/4 bathroom, kitchen/dining room living room, and a loft (steep sloped attic). The house is too small for us, our two children, guests, and storage.
2. Five copies of the vicinity map are attached.
3. The landscape plan is included. The site is very flat and with the existing landscape, there is no run-off during heavy rain. The driveway remains graveled with no additional impervious and no run-offs.
4. The landscape plan is attached. Since purchasing the property, we have planted more than 50 trees and shrubs to achieve a natural environment.
5. Notification of Project Application is attached.

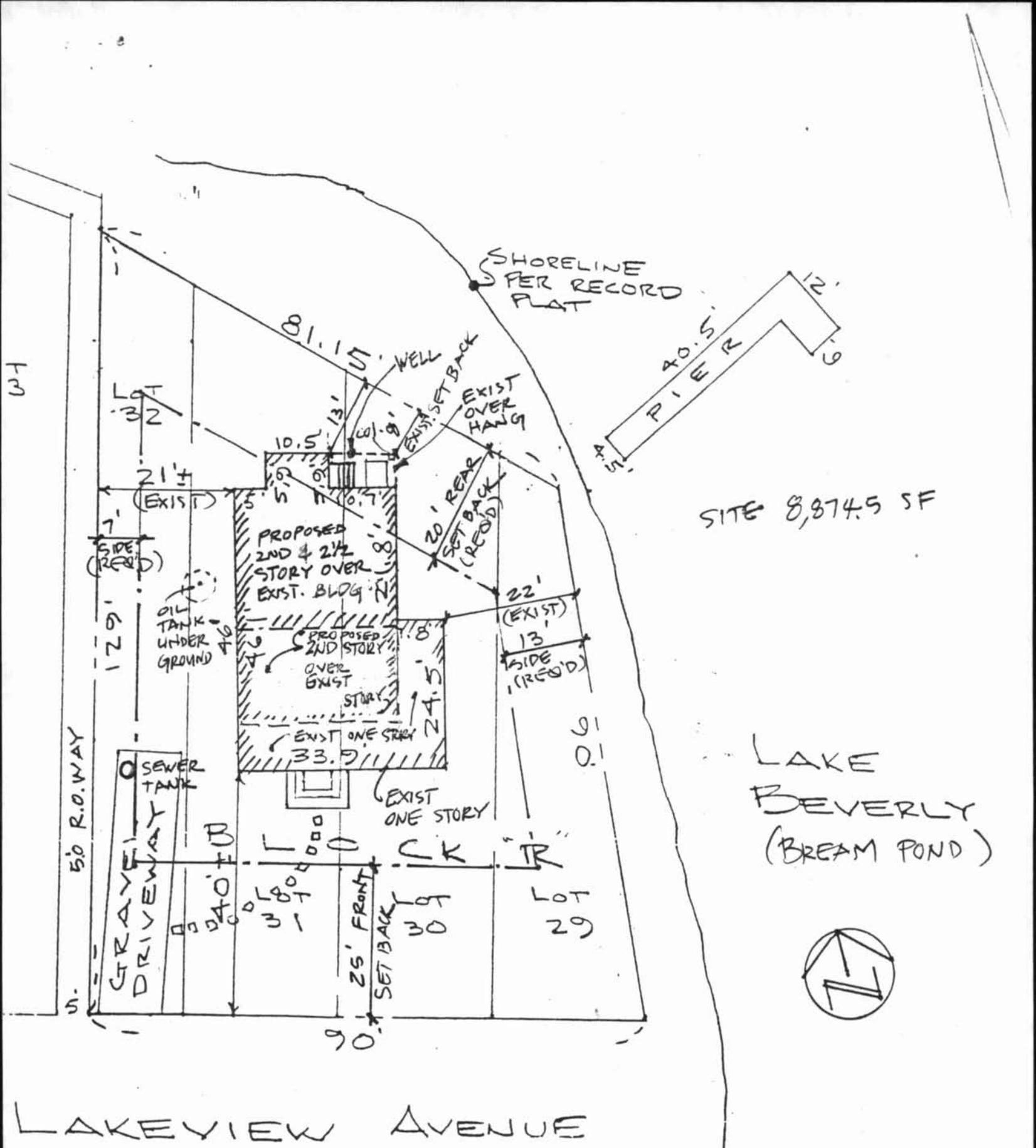

Edwin Lee


Jacqueline Lee

[9411_LeeRes]

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JUN 21 1999



SITE 8,874.5 SF

LAKE BEVERLY (BREAM POND)



LAKEVIEW AVENUE

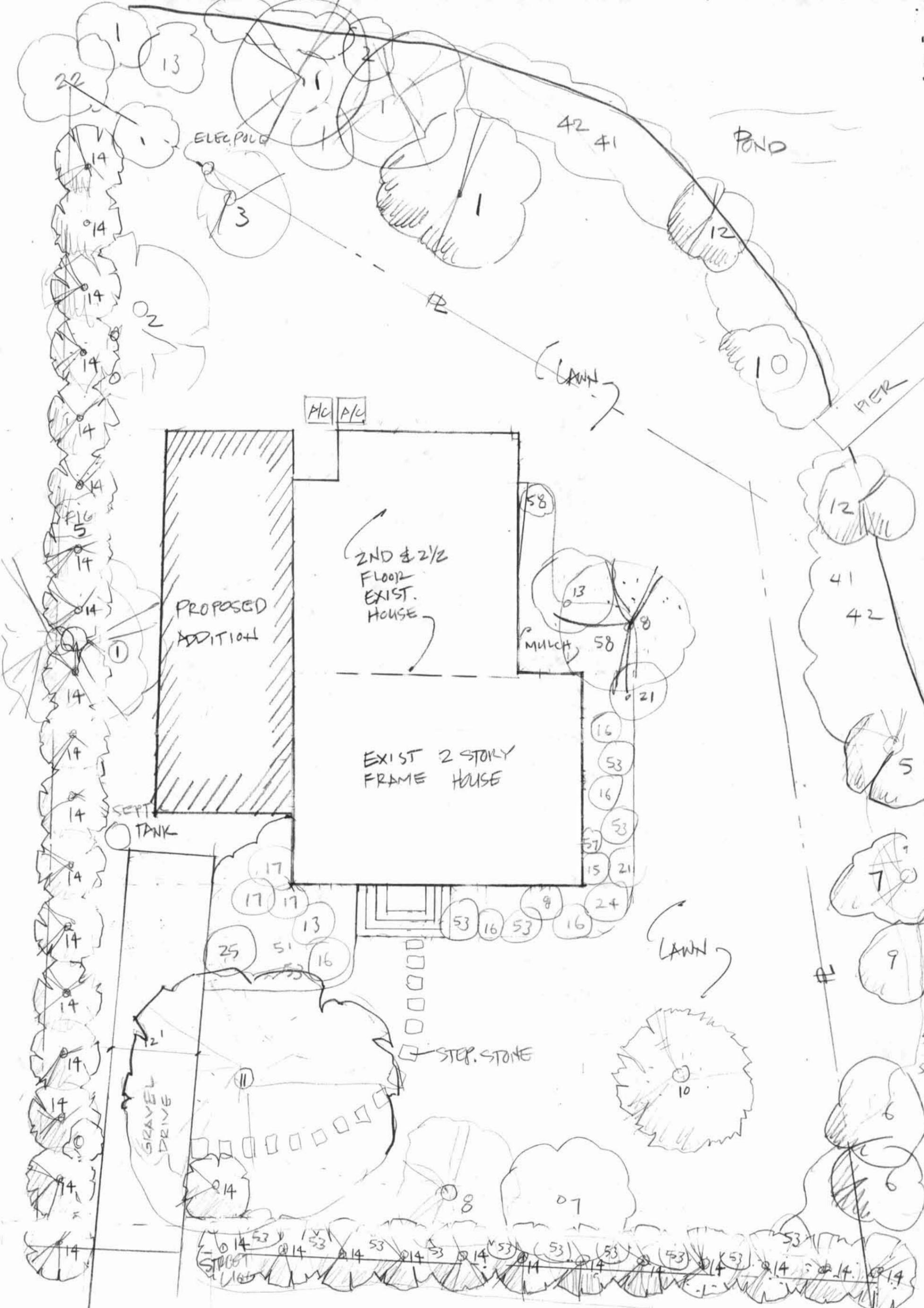
Site Plan

100 LAKEVIEW AVE, EDGEWATER, MD. 21037
 LOTS 29-32, BLOCK R, BEVERLY BEACH SUBDIV
 A.A. CO. MD. 1ST DISTRICT

1"=20'-0"

ECL 5-02-94

Handwritten signature or initials.



SCALE: 1" = 10'-0"
 100 LAKEVIEW AVE

LANDSCAPE PLAN

10-24-2000