AA 475-99 Kilsheimer, Douglas
VAR 99-0364

MSA_S_1829-187

Case dismissed
see letter inside
11/2/99

475-99 LC

ANNE
ARUNDEL
COUNTY,
MARYLAND

2664 RIVA ROAD, P.O. BOX 6675
ANNAPOLIS, MARYLAND 21401

DEPARTMENT OF PLANNING AND CODE ENFORCEMENT

October 28, 1999

Monica Kilsheimer
2648 Greenbriar Lane
Annapolis, Maryland 21401

RE: Variance Application Case Number 1999-0364-V

Dear Ms. Kilsheimer:

After reviewing your application and visiting your property, the Department of Planning and Code Enforcement has found your variance request to be unnecessary. This determination is based upon your property being buffer exempt and the proposed pool being located farther from the shoreline than the decks extending off of the front of your dwelling.

A refund of your filing fee ($150.00) should be provided to you shortly. Please accept my apologies for any inconvenience you may have experienced and feel free to contact me at 410-222-7437 should you have any questions.

Sincerely,

Kevin P. Dooley
Planner

KPD:clw

cc: Administrative Hearings
LeeAnne Chandler
Bill Love

RECEIVED
NOV 2 1999
CHESAPEAKE BAY
CRITICAL AREA COMMISSION

A:\KILSHEIMR.ltr.wpd

Hearing on 11/8

LeeAnne,
Let's hold off on revising this letter until we see how the Bluff Point decision goes.
RAE

September 14, 1999

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

RE: Variance 1999-0364-V, Douglas Kilsheimer

Dear Mr. Dooley:

Thank you for providing information on the above referenced variance application. The applicant is requesting a variance to permit a swimming pool with disturbance to steep slopes and with less setbacks and Buffer than required. The property is designated LDA and is currently developed with a single family dwelling, carport, gazebo, detached decks and an extensive driveway.

The Critical Area Commission opposes the variance requested. Any person in the Critical Area who wishes to apply for a variance to the Critical Area Criteria must meet five variance standards that are specifically listed in COMAR 27.01.11 and the Anne Arundel Critical Area Program in Article 3, Title 2 Zoning Appeals 2-107B (1-5). All five standards must be met in order for a variance to be granted. This office opines that only one of the five variance standards have been met in this case. Below is a brief outline of the required standards.

1. Section 2-107B1 addresses site features that are unique to the subject property or structure and the unwarranted hardship resulting from denial of the variance. Unwarranted hardship results only when denial of an applicant's variance request would result in denial of all reasonable use of the property. To our understanding, there is nothing unique about this 1.6 acre property; it is typical of many lots created prior to the implementation of the Critical Area regulations. The applicants currently enjoy reasonable use of their property which is developed with a dwelling, carport, extensive driveway, gazebo, decks and a private pier. Furthermore, this office firmly believes that denial of an accessory structure would not result in an unwarranted hardship to the applicant.

2. Section 2-107B2 addresses the rights of the variance applicant with respect to the rights commonly shared by other owners of property in the same management area within the Critical Area. Denial of this variance will not deprive the property owner of rights shared by other property owners in the Limited Development Area. All property owners within the Critical Area are similarly limited by the Critical Area Law and the County's program.

Mr. Kevin Dooley

MEMORANDUM

February 25, 1998

TO: Ed Dunn, Support Services

FROM: Veronica Moulis, Administrator

RE: Sensitive Items Inventory Report

Attached please find the Commission's Sensitive Inventory Report. I need to request two changes.

During last year's inventory, the Commission a multi-page list of changes/adjustments (copy attached). Two of the changes were submitted incorrectly. On page 2 of 4 under "New Items being transferred to Dean",- 3/20/97, Property Tag #0057409 should have read 0057417. The serial number shown on my list matches that of Property Tag #0057417 shown on our inventory report. Hence, Property Tag #0057417 should have been transferred to Dean under Unit 01.005.001. As far as Property Tag #0057409 is concerned, it had been transferred to Dean during a prior year.

The second mistake was a typo when the item was added to inventory. Property Tag #0057573 should read 0057473. The serial number on the monitor matches that shown on the inventory report. Can I change this or do you need to change it?

Other than the above, our report is fine. Please call me if you have any questions.

VM/
Attachments

3. Section 2-107B3 addresses special privileges that may be conferred upon an applicant with the granting of a variance when such privileges would be denied other owners of like properties and/or structures within the Critical Area. The granting of this variance clearly would confer upon this property owner a special privilege because all similar properties are restricted from locating new structures, such as a pool, within the Buffer.

4. Section 2-107B4 addresses conditions or circumstances that are self-imposed and conditions or circumstances related to adjacent properties. This standard appears to have been met.

5. Section 2-107B5 addresses adverse impacts to water quality and fish, wildlife, or plant habitat that may result from the granting of the variance and the consistency of the variance approval with the spirit and intent of the Critical Area Program. The General Assembly instituted the requirements for protection of the Buffer because of the cumulative impact of construction in the Buffer. Approval of the proposed variance will contribute to these cumulative impacts and therefore is not consistent with the general spirit and intent of the Critical Area Program.

This office has consistently opposed the placement of accessory structures, including pools, in the 100-foot Buffer. The Buffer is a designated Habitat Protection Area (HPA) designed to act as both a natural filter for runoff and provide habitat to both terrestrial and aquatic species. The Buffer's ability to achieve these functions is greatly reduced by structures that are in the Buffer. Certainly, this pool may seem inconsequential to the health and welfare of the Bay and the ecosystems it supports, but allowing one would be to allow thousands that arguably would have a detrimental effect on the Bay.

The Critical Area Commission opposes the placement of accessory structures in the Buffer because no disturbance is permitted in Habitat Protection Areas, including the 100-foot Buffer, except for water-dependent facilities. An accessory structure is not a water-dependent facility as defined in the Critical Area Criteria. Simply stated, a pool does not need to be within 100-feet of the shoreline for it to function as such. The Criteria, in Section 27.01.09.01, and the Anne Arundel County Critical Area Program specifically prohibit development within the Buffer.

Also, please note that the site plan enclosed with the application does not accurately portray the limits of disturbance for construction of the proposed pool. The pool is proposed on steep slopes and would like involve grading and/or construction of retaining walls. Again, this disturbance in the Buffer is prohibited under County regulations.

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

Sincerely,

LeeAnne Chandler
Natural Resources Planner

cc: Marianne D. Mason, Esq.

MEMORANDUM

February 25, 1998

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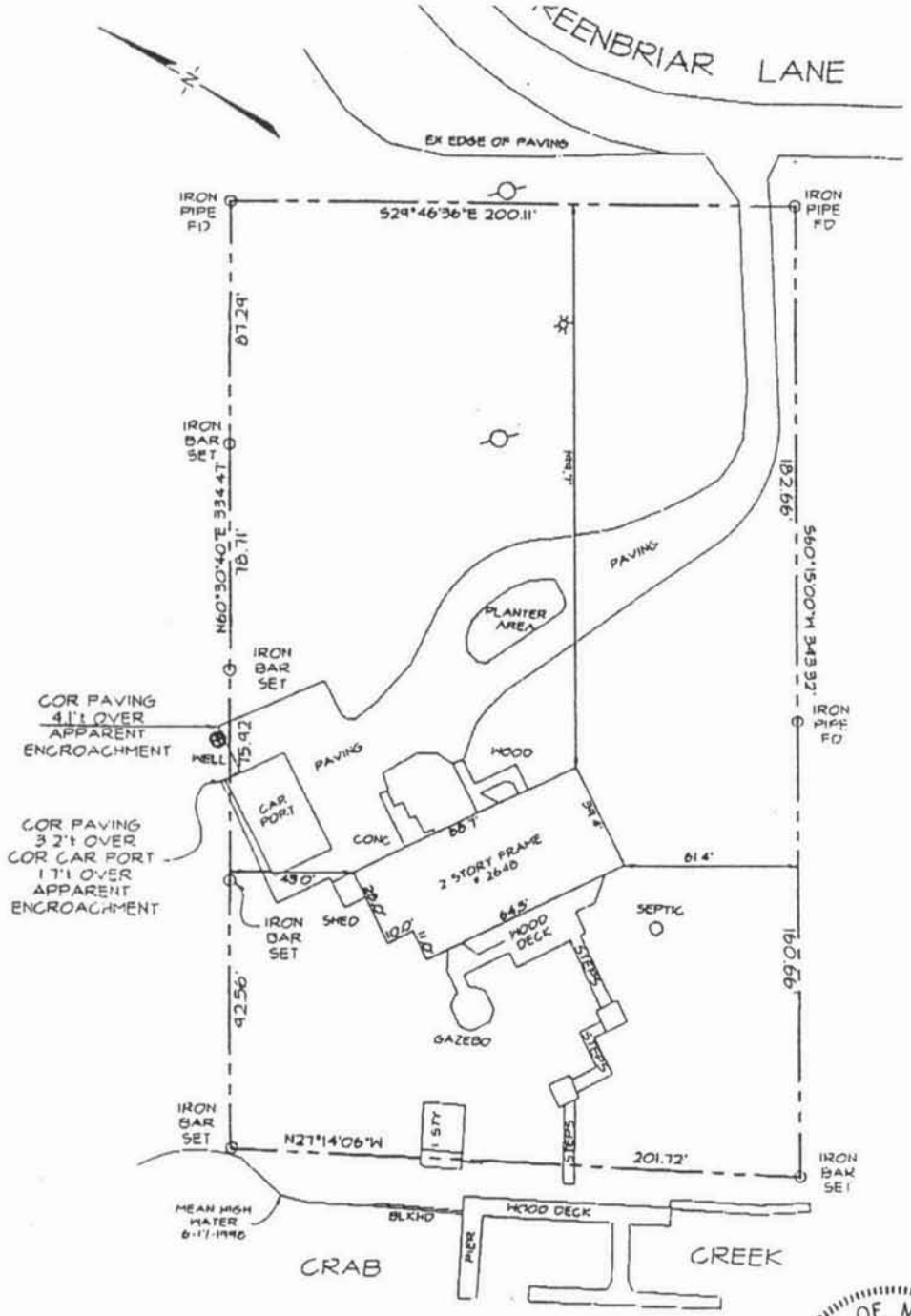

I hereby certify that the LOCATION DRAWING shown hereon has been prepared as a result of an on-site inspection of the premises; that the plat is of benefit to the consumer only insofar as it is required by a lender or a title insurance company or its agent in connection with a contemplated transfer, financing or re-financing; that the plat is NOT to be relied upon for the establishment or location of fences, garages, buildings, or other existing or future improvements; that the plat does NOT provide for the accurate identification of property boundary lines (such identification may not be required for the transfer of title or securing financing or refinancing); that any possible encroachments shown hereon were determined by a visual inspection of the property either way across the apparent property lines; that the minimum setback lines shown (if any) are based upon those provided by the requesting party; that this drawing is subject to a title report which may reveal additional conveyances, easements, covenants, rights-of-way or more stringent building restriction lines not shown hereon. If this drawing does not have an original seal and signature (the seal and signature are not copies), it is to be considered invalid.

STATE OF MARYLAND
ROCCO A TRIPODI
NO 10755
REGISTERED
PROFESSIONAL LAND SURVEYOR

6/18/98

Rocco A Tripodi, Prof. L.S. #10755
Date of Latest Field Notes: 6-17-1998

The property shown hereon appears to be located in the flood hazard zone "C", area of minimal flooding, on the FIRM Flood Insurance Map #240008 0030 C dated May 2, 1983 for said county and distributed by the Federal Emergency Management Agency.

ALL TIE DISTANCES ARE WITHIN A MINIMUM OF FIVE TENTHS OF A FOOT (0.5') OF THE DISTANCES SHOWN

PROPERTY LINE & LOCATION DRAWING	McCRONE	DRAWN BY: SWD
2648 GREENBRIAR LANE	ENGINEERING • ENVIRONMENTAL SCIENCES	SCALE 1"=50'
PREPARED FOR DOUG KILSHEIMER	LAND PLANNING & SURVEYING • CONSTRUCTION SERVICES	DATE JUNE 1998
TAX MAP 51 GRID 21 PARCEL 192	19 PURCELL AVENUE ANNAPOLIS, MARYLAND 21401 (410) 267-8821	JOB NO. C1980312
2nd DISTRICT ANNE ARUNDEL COUNTY, MARYLAND	ANNAPOLIS • CENTREVILLE • ELKTON • PRINCE FREDERICK • SALISBURY	FOLDER REF. GREENBRIAR ESTATES PINK
		FILE NO.
		CADD FILE: KILSHEIMER PRO

TOTAL P.02

CHESAPEAKE BAY CRITICAL AREA REPORT
CHECK LIST
Anne Arundel County, Maryland

ANNE ARUNDEL COUNTY MARYLAND

TO: Property Owners in the Chesapeake Bay Critical Area DATE: 20 Aug. 1999

FROM: Department of Planning and Code Enforcement

SUBJECT: Information Required for Submission of Critical Area Report - Zoning Applications

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Zoning Case Number _____ Applicant's Name MONICA & DOUGLAS KILSHEIMER

Critical Area Classification: LDA/RCA/IDA; Tax Map 51 Block 21 Parcel 192
EXEMPT.

Your property is located within the Chesapeake Bay Critical Area. In reviewing your application, Planning and Code Enforcement must determine the impact your proposal will have on stormwater management and plant and animal habitat in conformance to Critical Area criteria. Your plan must meet the criteria for your classification and satisfy COMAR 14.15.11 regarding variances. You are responsible for supplying five copies of the VICINITY MAP, NARRATIVE STATEMENT AND PLAN to the Zoning Administration Division of the Department of Planning and Code Enforcement with your zoning application. Applications within the Critical Area will not be accepted without a complete Critical Area Report.

✓ 1. A brief explanation of why you need a variance or special exception. If you have applied for a building or grading permit, please list the permit number(s). SEE ENCLOSED.

✓ 2. A VICINITY MAP showing clear directions to your property and the address.

✓ 3. A short, 1 or 2 sentence per item, NARRATIVE STATEMENT which provides the following information (if checked):

✓ Type of predominant trees and shrubs (maple, oak, evergreen, etc.) on the entire parcel. (At least 15% of the lot must have trees and shrubs or additional plantings will be required. Trees and shrubs must cover the area 25' from the water on waterfront lots except for access area.)

✓ Method of control of rainwater from existing and proposed structures, driveways and parking. (Where does it go now? Where will additional runoff go? Any special techniques?)

✓ Methods to minimize impacts on water quality and habitat from proposed construction (e.g. stormwater management, sediment control, replanting, avoiding slopes).

✓ Square footage of site that is currently wooded or has trees and shrubs; square footage to be disturbed by proposed work; acreage of lot; total impervious coverage before and after work (Any lot in LDA or RCA that is 21,780 square feet or less cannot have more than 25% impervious surface covered unless further restricted by plat. Lots over 1/2 acre cannot exceed 15% coverage.) (SEE ENCLOSED)

___ Habitat protection areas: Buffers, expanded buffers, wetlands, rare and endangered species, anadromous fish propagation waters, colonial water bird nesting sites, historic waterfowl staging and concentration areas, riparian forests 300' or more in width, forested blocks 100 acres or more, natural heritage areas, plant and wildlife habitats of local significance.

4. A PLAN of your property, drawn to scale (a plot plan, grading plan or building location survey can be used) showing (if checked):

✓ Steep slopes (15% or greater - show any slope if you aren't sure of percentage of slope) (SEE ENCLOSED)

✓ Existing tree line, individual trees and all proposed clearing, grading or any disturbance

___ Wetlands (tidal and nontidal) ___ Floodplain (tidal and nontidal)

___ Any proposed planting or landscaping on property

✓ Other (water depths, buffers as shown on record plat, habitat protection areas as identified in 3e, and plat notes)

5. ONE copy of a Notification of Project Application supplied with this check list.

Residential lots in IDA will be required to meet the criteria for LDA. Special circumstances where LDA criteria cannot be met will be reviewed in conjunction with the Critical Area Commission. Commercial, institutional or industrial uses in IDA must meet the 10% Pollutant Reduction Rule.

The reason we are applying for a variance/special exception is that we would like to install a pool on the side of our home. Due to the grade of the property and the location of the current septic system/drain fields, the need for the same amount of land for another drain field if our current system were to fail, there is virtually no other location available for a pool.

The predominant trees on the entire parcel consist of Poplars, Maple, Pine and Oak.

Natural drainage is currently being used, and would continue to be used as a method of controlling rainwater from existing and proposed structures. No special techniques are planned.

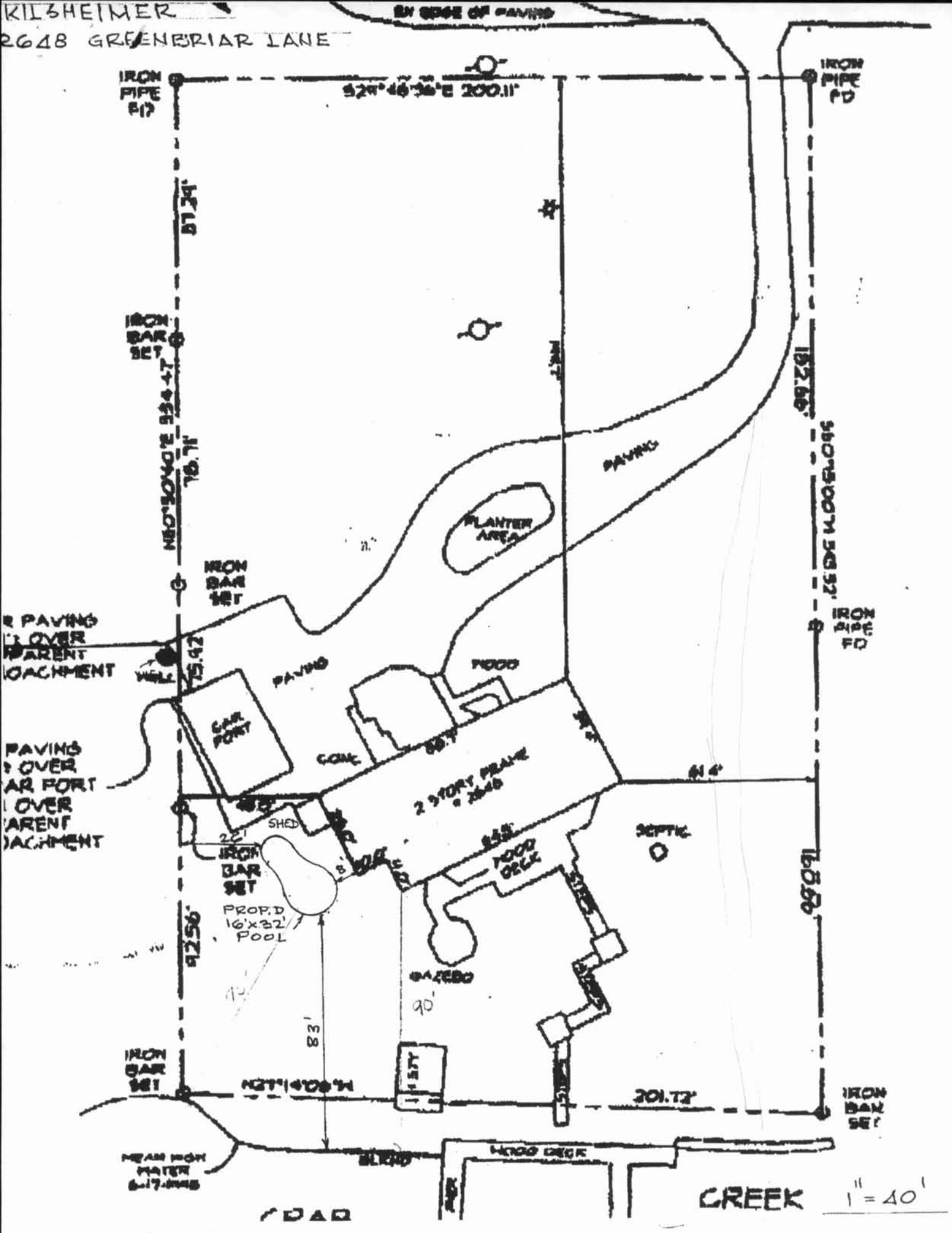
Square footage of site to be disturbed is 1400 feet.

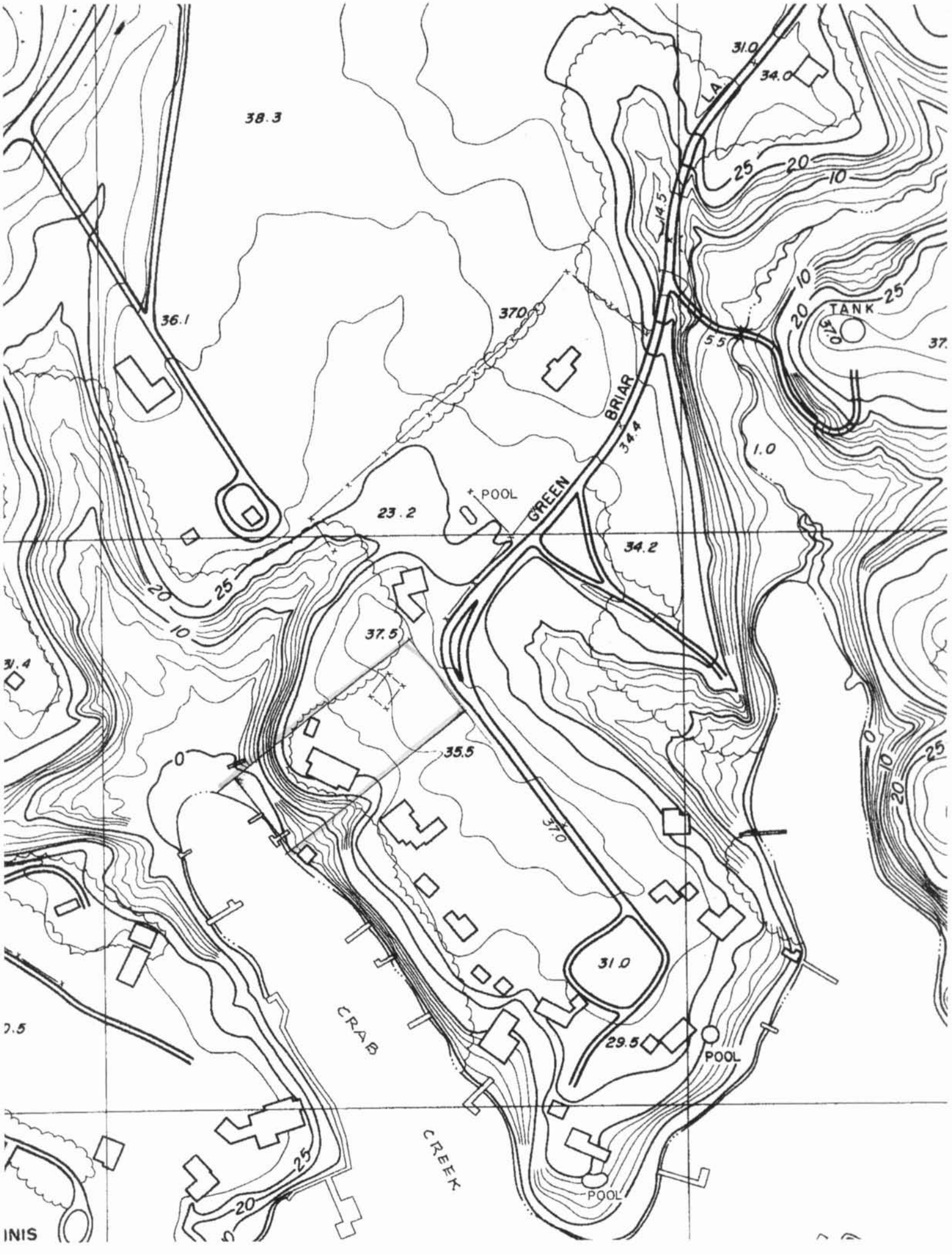
There are 5 trees and 2 saplings that will need to be removed to install pool and decking.

* Jerry Lay told us that you would be able to figure out from the survey performed by McCrone the total impervious coverage before and after the work.

* Notified applicant they must submit these figures

KILSHEIMER
2648 GREENBRIAR LANE





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INIS

2648 GREENBRIAR LA., ANNAPOLIS

CRITICAL AREA WORKSHEET TO ACCOMPANY THE SITE PLAN

Permit Number _____

Total Site Area 69,696 Square Feet (1 Acre = 43,560 Square Feet).

Total Wooded Area 21,780 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 —o— Sq. Ft.
2. Septic or sewer —o— Sq. Ft.
3. Well —o— Sq. Ft.
4. Driveway —o— Sq. Ft.
5. Accessory structures (Pool) 436 Sq. Ft.
6. Additions —o— Sq. Ft.
7. Storm water management —o— Sq. Ft.
8. Other Clearing: work areas; access; stockpiles, etc. —o— Sq. Ft.

*Total Woodland Removed 436 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)	2,960 Sq. Ft.	1. House (roof area)	—o— Sq. Ft.
2. Driveway + sidewalks	5,920 Sq. Ft.	2. Driveway + sidewalks	—o— Sq. Ft.
3. Accessory structures	1,110 Sq. Ft.	3. Accessory structures (Pool)	450 Sq. Ft.
	9990 ✓	4. Additions	—o— Sq. Ft.

Total Existing and Proposed Impervious Coverage 10,440 Sq. Ft.

* PLEASE INCLUDE ALL EXISTING AND PROPOSED SQUARE FOOTAGE.

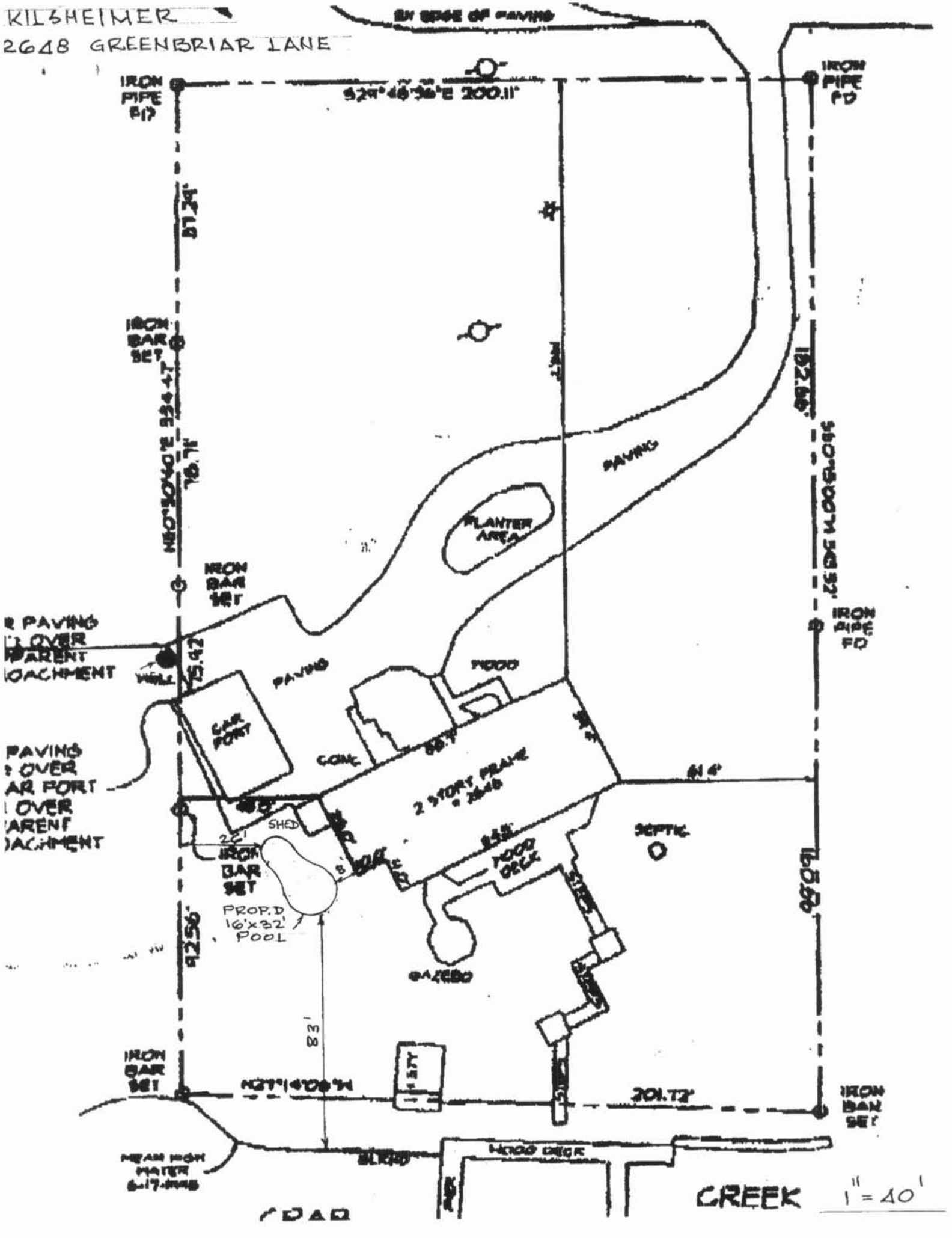
Lots 1/2 acre or less are limited to 25% impervious coverage of total lot area.

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

10,440 S.F. / 69,696 S.F. = 14.97% < 15.0% • OK.

WE I MONICA & DOUG, KILGHEIMER, (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~~ # 192, block # 21 of Subdivision GREENBRIAR. PARCEL

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.

KILSHEIMER

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