

AA 533-99
VAR

Washburn, Joanna
99-0394

MSA.S.1829-202

LC letters
10-15-99

DATE: 09/29/1999
TIME: 09:20:36

ANNE ARUNDEL COUNTY, MARYLAND
PACE ZONING APPLICATION SYSTEM
CREATE APPLICATION REQUEST

PROGRAM ID: PNZ020C
SCREEN ID: PNZMS20

AA 533-99

APPLICATION TYPE	VARIANCE							
CASE NUMBER	TAX ACCT NBR	MAP	BLK	PARCEL	LOT	SQFT	TYPE	
1999-0394-V	3530-1851-6400	32E	05	0067	29	7080.0	R	
APPLICANT NAME	WASHBURN, JOANNA					APPLICATION DATE	09/29/1999	
CLASS	RESRPN	STANDARD	SETBKS	TYPE	ADDN	APPLICATION FEE	150.00	
ANALYST	LSD	STATUS	OPEN	DECISION		COURT	APPEAL	
OWNER NAME/ADDRESS/PHONE						PROPERTY DESCRIPTION		
WASHBURN, JOANNA						IMPSLT 29 BK B PL 2		
374 MAGOTHY RD						374 MAGOTHY RD		
						MANHATTAN BEACH		
SEVERNA PARK	MD 21146	TELEPHONE						
PROPERTY LOCATION	20 FEET OF FRONTAGE ON S SIDE OF MAGOTHY ROAD							
	500 FEET N OF CYPRESS ROAD IN SEVERNA PARK							
TAX DIST	3	COUNCIL DIST	5	ZONING		R2		
WATERFRONT	Y	CORNER LOT	N	CRITICAL AREA: IDA Y LDA N RCA N				
MAPS:	200	ALEX	DEED: LIBER 4490 FOLIO 611					

CLEAR-MENU RECORD SUCCESSFULLY ADDED
PF2-HEA PF3-SIG PF5-CNT PF6-COM PF11-FWD

DATE: 09/29/1999 ANNE ARUNDEL COUNTY, MARYLAND PROGRAM ID: PNZ021C
TIME: 09:22:05 PACE ZONING APPLICATION SYSTEM SCREEN ID: PNZMS21
CREATE DESCRIPTION AND RECOMMENDATION DATA

CASE NUMBER 1999-0394-V APPLICATION TYPE VARIANCE
DESCRIPTION
VARIANCE TO PERMIT A DWELLING ADDITION AND ACCESSORY STRUCTURE WITH
LESS SETBACKS THAN REQUIRED

RECEIVED

OCT 13 1999

CHESAPEAKE BAY
CRITICAL AREA COMMISSION



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

October 15, 1999

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

RE: Variance 1999-0394-V, Joanna Washburn

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 and accessory structure with less setbacks than required. The property is designated IDA and is currently developed with a single family dwelling.

This office has no comment on the setback issue. Please note that because this lot is designated IDA, the 10% pollutant reduction rule must be met. Usually, on lots of this size, plantings are sufficient to meet the 10% requirement. Also, despite the lot being IDA, mitigation is required for new impervious surfaces within the 100-foot Buffer at a 2:1 ratio and at a 1:1 ratio for newly developed impervious surfaces outside the 100-foot Buffer. This mitigation should occur on-site within the Buffer to the extent possible.

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: AA533-99

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

533-99

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CRITICAL AREA COMMISSION

IN THE OFFICE OF ADMINISTRATIVE HEARINGS

CASE NUMBER 1999-0394-V

IN RE: JOANNA WASHBURN

THIRD ASSESSMENT DISTRICT

DATE HEARD: DECEMBER 16, 1999

ORDERED BY: STEPHEN M. LeGENDRE, ADMINISTRATIVE HEARING OFFICER

ZONING ANALYST: CHARLENE MORGAN

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DATE FILED: DECEMBER 20, 1999

CHESAPEAKE BAY
CRITICAL AREA COMMISSION

PLEADINGS

Joanna Washburn, the applicant, seeks a variance (1999-0394-V) to permit a dwelling and accessory structure with less setbacks than required on property located along the south side of Magothy Road, north of Cypress Road, Severna Park.

PUBLIC NOTIFICATION

The case was advertised in accordance with the provisions of the County Code. Scarlett Breeding, the applicant's architect, testified that the property was posted for fourteen days prior to the hearing.

FINDINGS AND CONCLUSIONS

The applicant owns a single-family residence located at 374 Magothy Road, in the subdivision of Magothy Beach, Severna Park. The property comprises 6,690 square feet and is zoned R-2 residential with a Chesapeake Bay Critical Area designation as Intensely Developed Area (IDA). This waterfront lot on the Magothy River is buffer exempt. The applicant proposes to raze the existing one-story dwelling and replace it with a new dwelling with a partial second story. The new dwelling will be 73 feet long, including a 10-foot waterfront deck. The dwelling is sited within five feet of the southeast side property line and three feet from the southwest side property line. The applicant is also proposing a storage shed within six feet of the southwest side lot line.

The Anne Arundel County Code, Article 28, Section 2-405 requires principal structures to maintain side yards at least seven feet wide with a combined width of 20 feet. However, Section 10-104(e)(11) increases the side setbacks by one-foot for each 10 feet or fraction of 10 feet by which the dwelling exceeds 50 feet in length. In this case, the side yards increase from seven feet to ten feet. Finally, Section 2-406 requires accessory structures to maintain ten feet from the side lot line. Accordingly, the dwelling necessitates variances of five feet to the southeast side setback, seven feet to the southwest side setback, and 12 feet to the combined side yard width. The storage shed needs a variance of four feet to the southwest side setback.

Charlene Morgan, a zoning analyst with the Department of Planning and Code Enforcement, testified that the lot is narrow and angled and below the minimum area for the R-2 district. The replacement dwelling maintains the same distance to the side property lines as the existing dwelling. Although the replacement structure is approximately 21 feet longer, only the central portion is two stories. Based on the site restrictions, the witness supported the application.

Ms. Breeding submitted elevation drawings and context photographs. She reported that the site is stable, well drained and devoid of wetlands. It is planted in a lawn with one tree which will be preserved. Impervious coverage will increase from 2,100 square feet to 2,676 square feet. The applicant will provide plantings to meet the 10 percent pollutant reduction requirement. The front edge of the deck on the new structure corresponds with the front edge of the existing

dwelling.

According to the witness, the existing home is the smallest dwelling in a neighborhood of renovated cottages, all nonconforming as to setbacks. The property is particularly unusual in that it narrows from 40 feet at the shore to 20 feet at the road. The existing dwelling is structurally unsound. The witness acknowledged that the neighbor to the west has expressed concerns about the integrity of the applicant's retaining wall along their common property line as well as an existing storm drain. She contended that with appropriate care, there would be no adverse impact to the wall or storm drain. She observed that the storage shed is modest in size and located in the narrowest part of the lot. Finally, she did not oppose the mitigation requested by the Chesapeake Bay Critical Area Commission (2:1 within the buffer, 1:1 outside the buffer).

Steve Zeller, who resides immediately west of the site, testified that the retaining wall is in disrepair and sought assurances that the project will not overburden the wall nor impact the storm drain.

I visited the site and the neighborhood. This is a functionally obsolete cottage among many nonconforming principal and accessory structures. The site is higher than Mr. Zeller's property, with the cottage very close to the old block retaining wall. The wall runs from the street to the water and varies in height, with some sections leaning. The storm drain pipe is visible directly under the wall at the road. The applicant will have to exercise due care in excavating for footers.

The standards for granting variances are contained in Section 11-102.1.

Under subsection (a), a zoning variance may be granted only after determining either (1) unique physical conditions, peculiar to the lot, such that there is no reasonable possibility of developing the lot in strict conformance with the code; or (2) exceptional circumstances such that the grant of a variance is necessary to avoid an unnecessary hardship, and to enable the applicant to develop the lot. Under subsection (c), any variance must be the minimum necessary to afford relief; and its grant may 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.

Upon review of the facts and circumstances, I find and conclude that the applicant is entitled to conditional relief from the code. This case easily satisfies the test of unique physical conditions, consisting of a narrow, wedge-shaped lot, such that there is no reasonable possibility of developing the lot in strict conformance with the code. Given that the replacement dwelling will maintain the same distance to the side property lines, and given the size and location of the accessory structure, I believe that the variances have been minimized. Based on the record evidence that the neighborhood abounds with nonconforming structures, I find and conclude that the grant of the variance will not alter the essential character of the neighborhood. With appropriate conditions, I further find that the grant of the variance will not substantially impair the appropriate use or development of adjacent property, or be detrimental to the public welfare. The approval shall be subject to the conditions in the Order.

ORDER

PURSUANT to the application of Joanna Washburn, petitioning for a variance to permit a dwelling and accessory structure 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 20th day of December, 1999,

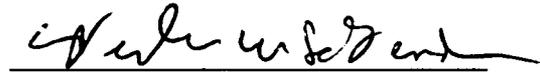
ORDERED, by the Administrative Hearing Officer of Anne Arundel County, that the applicant is hereby **granted** the following variances:

1. For the dwelling: a variance of five feet to the southeast side setback, seven feet to the southwest side setback and 12 feet to the combined side yard width.
2. For the accessory structure: a variance of four feet to the southwest side setback.

The foregoing variances are subject to the following conditions:

- A. There shall be no new development closer to the shoreline than the existing structure.
- B. New impervious surfaces within the 100-foot buffer shall be mitigated at a 2:1 ratio and newly developed impervious surfaces outside the 100-foot buffer shall be mitigated at a 1:1 ratio. Mitigation shall occur onsite within the expanded buffer to the extent possible.

- C. The applicant shall comply with the floodplain management ordinance.
- D. The applicant shall protect the retaining wall and storm drain from construction related failures, and shall repair any construction related failures to the retaining wall and storm drain to the satisfaction of PACE.



Stephen M. LeGendre
Administrative Hearing Officer

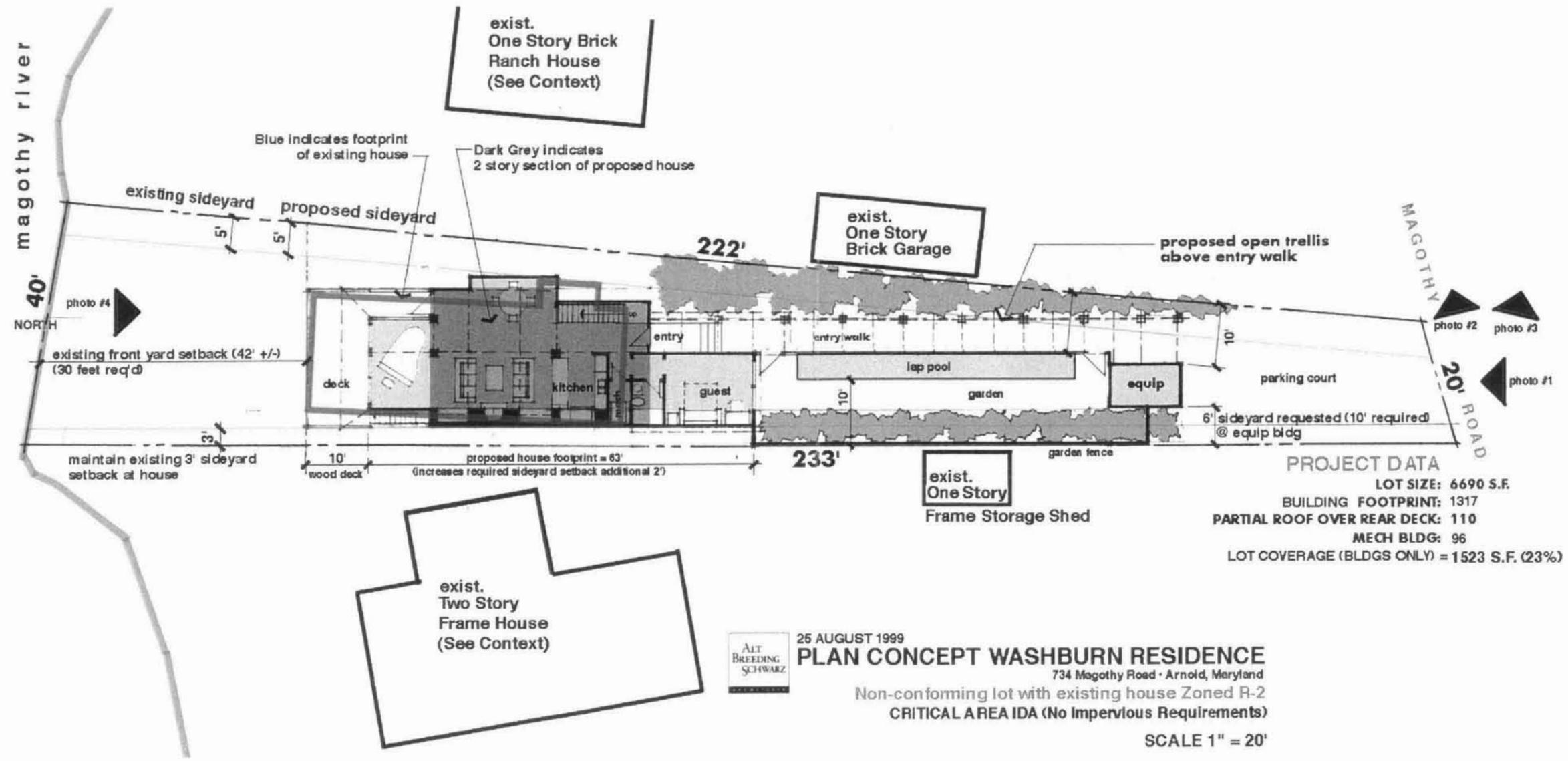
NOTICE TO APPLICANT

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.



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