

—AA 536-99
VAR

Scurlock, Herbert
99-0402

MSA-S-1829-205

LC letter
10/15/99

DATE: 10/01/1999
TIME: 14:04:02

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

PROGRAM ID: PNZ020C
SCREEN ID: PNZMS20

CA
AA536-99

APPLICATION TYPE	VARIANCE						
CASE NUMBER	TAX ACCT NBR	MAP	BLK	PARCEL	LOT	SQFT	TYPE
1999-0402-V	2597-0930-3000	57	21	0008	50	5964.0	R
APPLICANT NAME	SCURLOCK, HERBERT & JOAN			APPLICATION DATE	10/01/1999		
CLASS RESPRN	STANDARD	SETBUF	TYPE	APPLICATION FEE	150.00		
ANALYST	PAM	STATUS	OPEN	DECISION	COURT	APPEAL	
OWNER NAME/ADDRESS/PHONE	SCURLOCK, HERBERT A 1236 WASHINGTON DR			PROPERTY DESCRIPTION IMPSLT 50 BK 5 PL 1 1236 WASHINGTON DR OYSTER HARBOR			
ANNAPOLIS	MD 21403	TELEPHONE	410-269-6650				
PROPERTY LOCATION	50 FEET OF FRONTAGE ON E SIDE OF WASHINGTON DRIVE 400 FEET S OF LOUIS ROAD IN ANNAPOLIS						
TAX DIST	2	COUNCIL DIST	6	ZONING	R2		
WATERFRONT	Y	CORNER LOT	N	CRITICAL AREA: IDA N LDA Y RCA N			
MAPS:	200	ALEX	DEED: LIBER 5565 FOLIO 884				

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

DATE: 10/01/1999 ANNE ARUNDEL COUNTY, MARYLAND PROGRAM ID: PNZ021C
TIME: 14:04:11 PACE ZONING APPLICATION SYSTEM SCREEN ID: PNZMS21
CREATE DESCRIPTION AND RECOMMENDATION DATA

CASE NUMBER 1999-0402-V APPLICATION TYPE VARIANCE
DESCRIPTION
VARIANCE TO PERMIT A DWELLING ADDITION WITH LESS SETBACKS AND BUFFER
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 1999-0402-V, Herbert Scurlock

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.

Because the addition appears to be of reasonable size and because the majority of the lot falls within the Buffer, this office does not oppose the variance requested. Also, the narrative states that there is an existing concrete pad in the location of the proposed addition. Nonetheless, mitigation should be required for new impervious surfaces within the 100-foot Buffer at a 2:1 ratio and at a 1:1 ratio for new impervious surfaces outside the 100-foot Buffer in accordance with the County's Buffer Exemption policy. This mitigation should occur on-site within the Buffer to the extent possible. Also, given that this is a recently built dwelling (1992), the County may wish to check previous records for variances on this property to ensure that the addition would be consistent with any conditions placed on a previous approval.

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: AA536-99

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

536-99

IN THE OFFICE OF ADMINISTRATIVE HEARINGS

CASE NUMBER 1999-0402-V

IN RE: HERBERT AND JOAN SCURLOCK

SECOND ASSESSMENT DISTRICT

DATE HEARD: DECEMBER 14, 1999



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

ZONING ANALYST: **SUZANNE DIFFENDERFER**

DATE FILED: **DECEMBER 15**, 1999

PLEADINGS

Herbert and Joan Scurlock, the applicants, seek a variance (1999-0402-V) to permit a dwelling addition with less setbacks and buffer than required on property located along the west side of Washington Drive, south of Lewis Road, Annapolis.

PUBLIC NOTIFICATION

The case was advertised in accordance with the provisions of the County Code. Mr. Scurlock 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 1236 Washington Drive, in the subdivision of Oyster Harbor, Annapolis. The property comprises 6,950 square feet and is zoned R-2 residential with a Chesapeake Bay Critical Area designation as Limited Development Area (LDA). The applicants propose to construct a two-story addition (10' X 26') over an existing concrete patio. The new construction will be within 73 feet from tidal wetlands along Oyster Creek.

The Anne Arundel County Code, Article 28, Section 1A-104(a)(1) establishes a minimum 100-foot buffer from tidal wetlands. Accordingly, the proposal necessitates a variance of 27 feet.

Suzanne Diffenderfer, a zoning analyst with the Department of Planning and Code Enforcement, testified that the property is a grandfathered lot which is below

the minimum standards as to area and width for the R-2 district. The proposal will not increase the extent of imperious coverage. Because the adjacent dwellings to either side are closer to the water, there will be no impact on light, air or view. In the circumstances, the witness supported the application. The Chesapeake Bay Critical Area Commission requested mitigation in accordance with the County's buffer exemption policy.

Mr. Scurlock confirmed that the area in question is covered with a concrete patio. He stated that his neighbors do not object 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 conditional relief from the code. For this Critical Area property, due to the proximity to tidal wetlands, a strict implementation of the program would result in an unwarranted hardship to the applicants. To literally interpret the program will deprive them of the right to expand the dwelling, a right commonly enjoyed by other properties in similar areas within the Critical Area. Conversely, the grant of the variance will not confer on the applicants any special privilege that would be denied by the program to other lands or structures within the Critical Area. There was nothing to suggest that the request is based on conditions or circumstances resultant of actions by the applicants; nor does it arise from conditions relating to land use on neighboring properties. Finally, with mitigation, the granting of the variance will not adversely impact fish, wildlife or plant habitat within the Critical Area and will be in harmony with the general

spirit and intent of the program. I further find that the variance is the minimum necessary to afford relief. The addition is not overly large and covers an area that is already impervious. There will be no net increase in impervious coverage. 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. As noted, the adjoining properties are even closer to Oyster Creek. The approval shall be subject to the condition in the Order.

ORDER

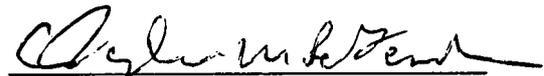
PURSUANT to the application of Herbert and Joan Scurlock, petitioning for a variance to permit a dwelling addition with less setbacks and buffer than required; and

PURSUANT to the advertising, posting of the property, and public hearing and in accordance with the provisions of law, it is this 15th day of December, 1999,

ORDERED, by the Administrative Hearing Officer of Anne Arundel County, that the applicants are hereby **granted** a variance of 27 feet to the 100-foot buffer from tidal wetlands to permit a 10' X 26' addition in accordance with the site plan.

The foregoing is subject to the condition that the applicants shall provide mitigation in accordance with the County's buffer exemption program at the time

of building permit.



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.

RECEIVED

OCT 18 1999

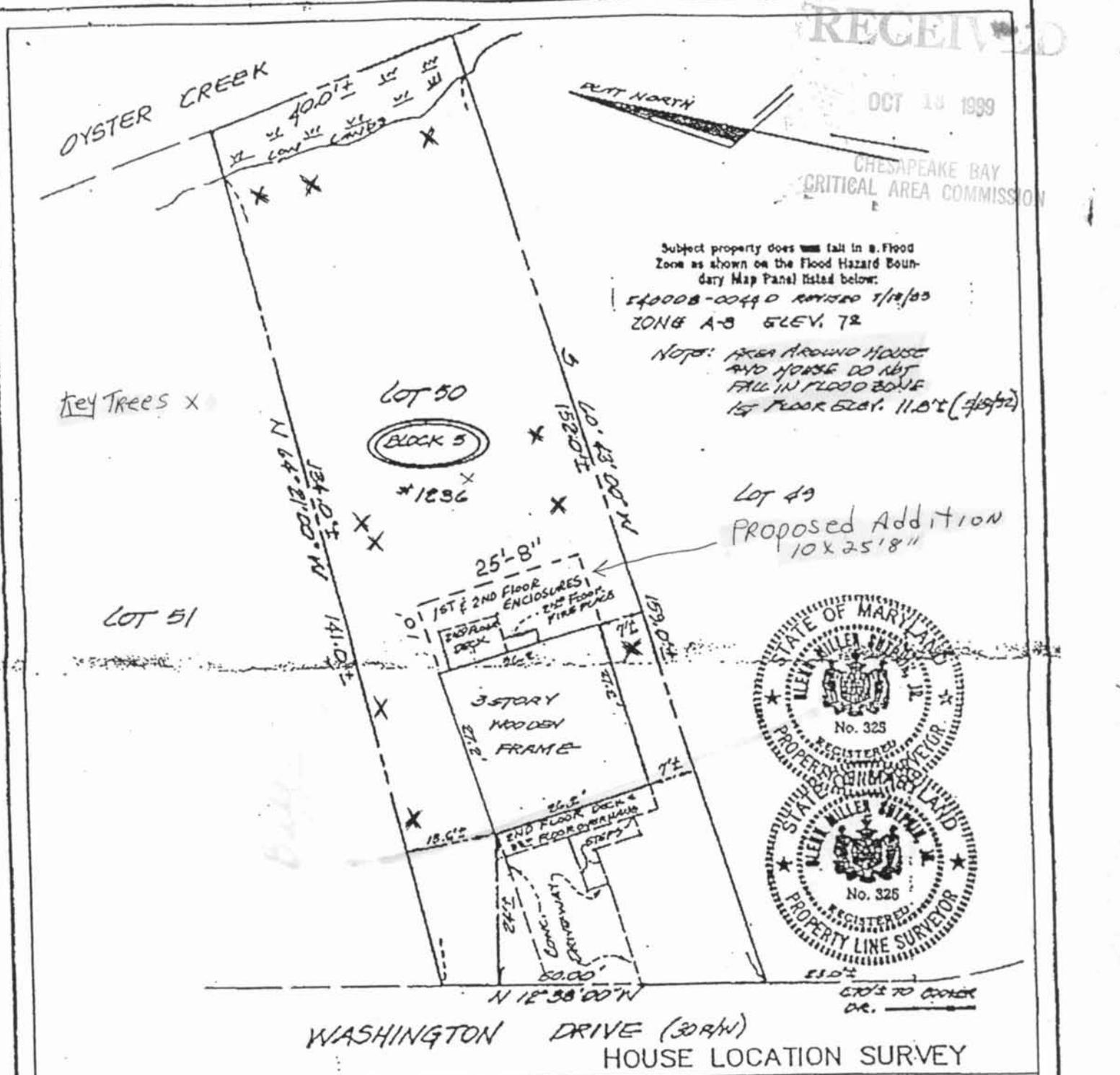
CHESAPEAKE BAY
CRITICAL AREA COMMISSION

Subject property does ~~not~~ fall in a Flood Zone as shown on the Flood Hazard Boundary Map Panel listed below:

540008-00440 REVISED 5/18/93
ZONE A-B ELEV. 72

NOTE: AREA AROUND HOUSE AND HOUSE DO NOT FALL IN FLOOD ZONE 1ST FLOOR ELEV. 11.0' ± (5/18/92)

LOT 49
Proposed Addition
10 x 25' 8"



WASHINGTON DRIVE (30'W)
HOUSE LOCATION SURVEY

SCALE: 1" = 20'	DATE 3/17/92	DRN. BY GMS	CKD. BY GMS
WALL CHECK FINAL	3/21/92	GMS	GMS

I HEREBY CERTIFY THAT THE POSITION OF EXISTING IMPROVEMENTS ON THE ABOVE PROPERTY HAS BEEN ESTABLISHED BY ACCEPTED FIELD METHODS. IT HAS BEEN PREPARED WITHOUT A TITLE REPORT AND DOES NOT PURPORT TO REFLECT ALL EASEMENTS, ENCUMBRANCES, OR OTHER CIRCUMSTANCES AFFECTING THE TITLE TO THE SUBJECT PROPERTY AND IS NOT INTENDED TO BE USED FOR THE CONSTRUCTION OF FENCES OR OTHER IMPROVEMENTS. THIS IS NOT A BOUNDARY SURVEY OR A LOT STAKEOUT.

REFERENCE
P.B. 22 P. 9
Glenn M. Sutphin, Jr.
Glenn M. Sutphin, Jr.

PLAT
OYSTER HARBOR
LOT 50 BLOCK 5
2ND DISTRICT
ANNAPOLIS ARUNDEL COUNTY, MARYLAND
GLENN M. SUTPHIN, JR. & ASSOCIATES
Land Subdivision and Surveys
11 Goodrich Road, Annapolis, Maryland 21401
(410) 280-6455

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