

CA 136-99  
VAR

Fischer, Richard  
99-2535

MSA\_S - 1829-311

HC letter  
3-29-99

Soliman  
Rightwood  
Restoration  
E

583-88  
136-98

Mr. Richard H. Fischer, Jr. has applied to the Board of Appeals for a variance in the 30' waterfront setback requirements to 0' for construction of a 6' addition to the existing deck located on the rear of the Lighthouse Inn Restaurant. The subject property is located on the east side of Route 2 in the Solomons Town Center.

The matter was presented April 1, 1999 before Mr. Michael J. Reber, Chairman of the Board of Appeals, Mr. John Smith, Vice-Chairman, and Mr. H. Wilson Dowell. Mr. Jeff Tewell, of Collinson, Oliff & Associates, Inc., spoke on the applicant's behalf. The plat which was submitted with the application was marked Applicants' Exhibit No. 1, dated, and entered into the record. A staff report, along with photographs taken on-site, were also entered into the record.

#### FINDINGS OF FACT

Through testimony and evidence presented at the hearing, the Board found the following facts to be true:

1. The subject property contains .47 acres. Although the property is located entirely within the Critical Area, it is designated Intensely Developed Area (IDA), and lies within a buffer-exempt area. The variance requested is to the 30' waterfront setback required by the Solomons Town Center Zoning Ordinance.
2. The property is currently developed with a two-story restaurant with parking between the building and the road, and a deck on the waterfront side. The rear portion of the restaurant, along with the existing deck, is located within the 30' setback.
3. The applicant proposes the construction of a 6' wide deck to be situated approximately 3.5' to 4' below the level of the existing deck on the waterfront side of the restaurant.
4. The deck addition will be cantilevered using the posts which support the existing deck. Therefore, no new posts will be needed for the addition and no disturbance will be necessary. The deck addition will be accessed via the existing stairs which provide access to the pier.

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5. The area on which the deck addition is to be constructed is adjacent to the shoreline which is riprapped. Vegetation in this area consists of several heavily pruned trees. Adjoining properties on either side have some grass area between the developments and the waterfront. However, those areas are not tree-covered.
6. The staff report, which was entered into the record, indicated no objection to the requested variance.
7. There was no one present at the hearing who objected to the applicant's request.

### CONCLUSIONS

Based on the above findings of fact, the Board came to the following conclusions (in accordance with Section 7-3.01 of the Calvert County Zoning Ordinance):

1. Strict application of the 30' waterfront setback requirements would impose peculiar and unusual practical difficulties and undue hardship upon the owners of the property due to the location of the existing restaurant, which is located within the 30' setback.
2. Granting the variance would not cause injury to the public interest or substantially impair the intent of the Comprehensive Plan as the deck addition will be constructed within a buffer-exempt area and will be cantilevered from the existing deck, so that no new support posts will be needed.

### ORDER

It is hereby ordered, by a unanimous decision, that the variance in the 30' waterfront setback requirements as requested by Mr. Richard Fischer, be granted based on the above findings of fact and conclusions.

In accordance with Section 7-3.02 of the Calvert County Zoning Ordinance, "any person or persons, jointly or severally, aggrieved by any decision of the Board of Appeals...may appeal the same to the Circuit Court of Calvert County. Such appeal shall be taken according to the Maryland Rules as set forth in Maryland Rules, Title 7, Chapter 200 within 30 days. If any application for a variance is denied by a final order of the Board, or if appealed, by a final order

of the Court, a second application involving substantially the same subject matter shall not be filed within one year from the date of the final order."

Entered: May 13, 1999  
Miriam A. Gholi, Clerk

Michael J. Reber  
Michael J. Reber, Chairman

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

March 26, 1999

Ms. Roxana Whitt  
Calvert County Dept. of Planning & Zoning  
150 Main Street  
Prince Frederick, Maryland 20678

RE: Variance 99-2535, Richard Fischer

Dear Ms. Whitt:

Thank you for providing information on the above referenced variance application. The property owner is requesting a variance from the waterfront setback requirements in order to construct a deck. The property is designated IDA, is Buffer Exempt, and is developed with a waterfront restaurant with existing decks and associated parking.

Development and redevelopment rules for existing structures within a Buffer Exemption Area state, "In such cases where a set back line exists as defined by structures on adjacent lots or parcels, the expansion or redevelopment of the structure may not extend shoreward of that line" (Section 4-4.07(E)(3)). Information was not provided as to the setback line as defined by structures on adjacent lots but it appears that this deck may be permitted under the regulations contained in the County Zoning Ordinance as long as it does not extend shoreward of that line. Please be aware that if the edge of the deck extends shoreward of the mean high water line, it will require a tidal wetlands permit.

Regulations in the Solomons Zoning Ordinance however, may not permit this deck. In Chapter VIII, "Waterfront Development Standards," section (A) defines a 30-foot setback in primarily developed areas under certain conditions including (d) "only water dependent facilities are allowed within this area." A deck is not a water-dependent facility as defined in County and State law.

Thank you for the opportunity to provide comments on this variance application. 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: CA136-99

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



**ABBREVIATIONS AND LEGEND**

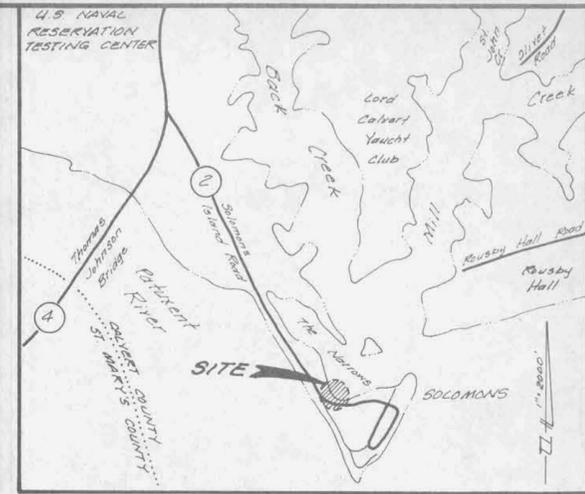
EX	EXISTING
IRP	IRON ROD FOUND
PoB	POINT OF BEGINNING
RR	RAIL ROAD
STD	STANDARD
Conc	CONCRETE
HC	HANDI CAP
Co	CLEAN OUT
Stor	STORAGE
Elec	ELECTRIC
Trans	TRANSFORMER
Approx	APPROXIMATE
Typ	TYPICAL
N/F	NOT OR FORMERLY

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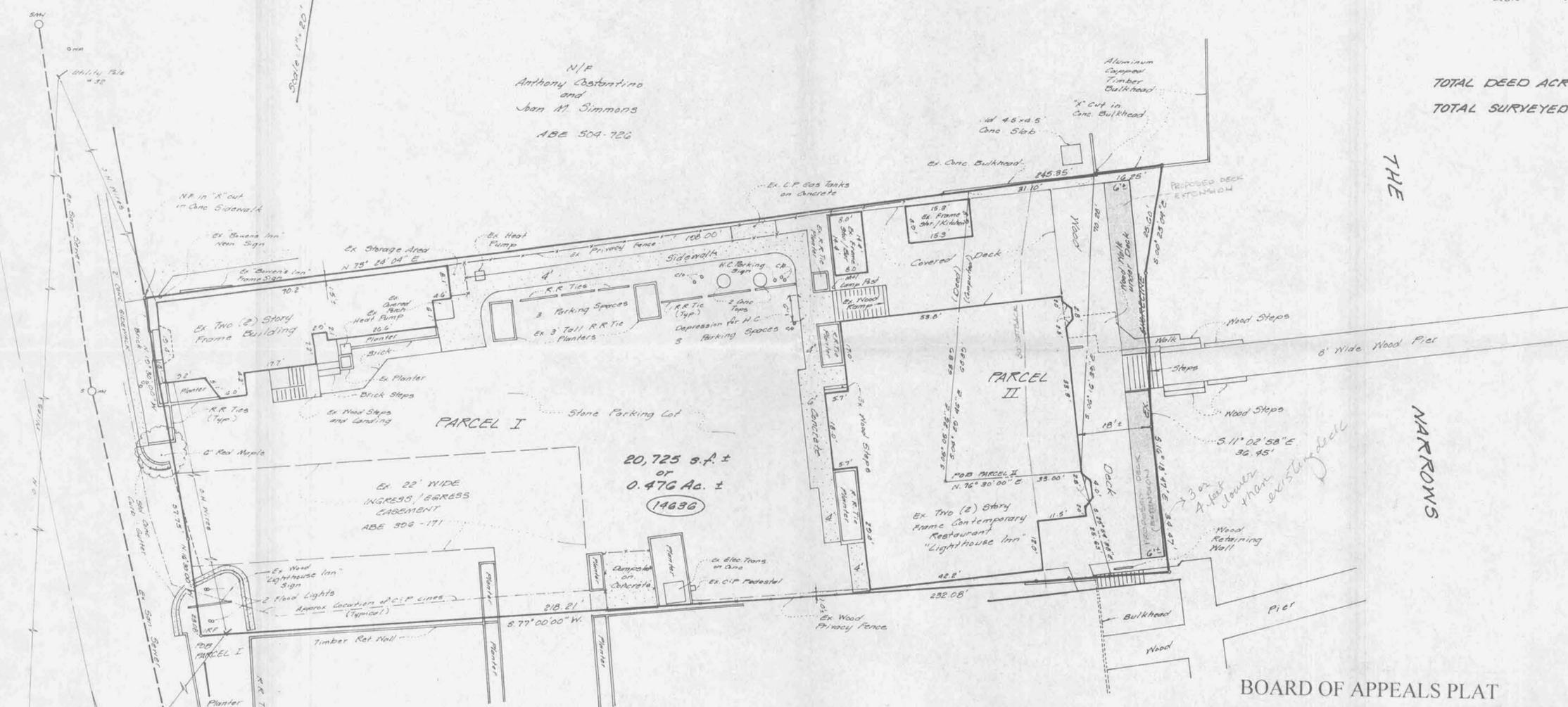


VICINITY MAP

Scale: 1" = 2,000'

TOTAL DEED ACREAGE: 0.44 Ac. ±  
TOTAL SURVEYED ACREAGE: 0.476 Ac. ±

SOLOMONS ISLAND ROAD  
MD. RTE. 2

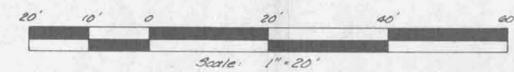


THE

NARROWS

**BOARD OF APPEALS PLAT**

THE FRANCES H. AND RICHARD H. FISCHER, JR. PROPERTY  
First District, Calvert County, Maryland  
For: Richard H. Fischer, Jr.



Scale: 1" = 20'

<p><b>COLLINSON, OLIFF &amp; ASSOCIATES, INC.</b> Surveyors • Engineers Land Planners 288 MERRIMAC COURT PRINCE FREDERICK, MARYLAND 410-535-3101 • 301-855-1599 FAX 410-535-3103</p>	DATE	SCALE
	3-4-99	1" = 20'
	JOB NO.	DRAWN BY
	1-4975	JFK
	Fldr REF.	APPROVED
Solomons Island 1	JSO	
DATE	REVISION	

© LATEST DATE HEREON

A-14-3

NOTIFICATION OF PROJECT APPLICATION

Jurisdiction: Calvert

Date: 03-11-99

Name of Project (site name, subdivision name, or other): Richard Fischer

Local case number: 99-2535

Project location/Address: \_\_\_\_\_

Tax map# 46A Block# \_\_\_\_\_ Lot# \_\_\_\_\_ Parcel# 42

Type of application:  
(Select all applicable)

- SUBDIVISION
- SITE PLAN
- VARIANCE:  
Buffer \_\_\_\_\_ Slope \_\_\_\_\_  
Imp. Surf. \_\_\_\_\_ Other
- SPECIAL EXCEPTION
- CONDITIONAL USE
- REZONING
- GRADING PERMIT
- BLDG PERMIT
- INTRAFAMILY
- GROWTH ALLOCATION
- OTHERS 20' setback

Type of Project:  
(Select all applicable)

- RESIDENTIAL
- COMMERCIAL
- WATER DEPENDENT FACILITY/PIER/MARINA
- INDUSTRIAL
- MIXED USE
- REDEVELOPMENT
- SHORE EROSION PROTEC.
- AGRICULTURE
- OTHERS \_\_\_\_\_  
e.g. PUD

Current Use:  
(Select all applicable)

- COMMERCIAL
- RESIDENTIAL
- AGRICULTURE
- FOREST/BUFFER/WOODLAND
- INDUSTRIAL
- INSTITUTIONAL
- OPEN SPACE/RECRE.
- SURFACE MINING
- VACANT
- WATER DEPENDENT FACILITY/PIER/MARINA
- OTHERS \_\_\_\_\_

Describe Proposed use of project site: deck

SITE INVENTORY OF AREA ONLY IN THE CRITICAL AREA

TOTAL ACRES IN CRITICAL AREA: \_\_\_\_\_ Buffer Exempt

IDA ACRES 0.47A AREA DISTURBED: \_\_\_\_\_

LDA ACRES \_\_\_\_\_ # LOTS CREATED: \_\_\_\_\_

RCA ACRES \_\_\_\_\_ # DWELLING UNITS: \_\_\_\_\_

AGRICULTURAL LAND: \_\_\_\_\_

EXISTING FOREST/WOODLAND/TREES: \_\_\_\_\_ FOREST/WOODLAND/TREES REMOVED: \_\_\_\_\_

FOREST/WOODLAND/TREES CREATED: \_\_\_\_\_

EXISTING IMPERVIOUS SURFACE: \_\_\_\_\_ PROPOSED IMPERVIOUS SURFACE: \_\_\_\_\_

TOTAL IMPERVIOUS SURFACE: \_\_\_\_\_

GROWTH ALLOCATION DEDUCTED: \_\_\_\_\_

RCA to LDA: \_\_\_\_\_ RCA to IDA: \_\_\_\_\_ LDA to IDA: \_\_\_\_\_

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Local Jurisdiction Contact person: Roxana L. Whitt

Telephone number: 410-535-1600 Ext. 335

Response from Commission required by: 03-31-99

Hearing Date: 04-01