

— AA 111-00
VAR

Cutler, David
0063

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DC Cutler
3/13/00

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CHESAPEAKE BAY
CRITICAL AREA COMMISSION

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CHESAPEAKE BAY
CRITICAL AREA COMMISSION

IN THE OFFICE OF ADMINISTRATIVE HEARINGS

CASE NUMBER 2000-0063-V

IN RE: DAVID CUTLER

SEVENTH ASSESSMENT DISTRICT

DATE HEARD: APRIL 18, 2000

ORDERED BY: STEPHEN M. LeGENDRE, ADMINISTRATIVE HEARING OFFICER

ZONING ANALYST: SUZANNE DIFFENDERFER

DATE FILED: APRIL 25, 2000

PLEADINGS

David and Annette Cutler, the applicant, seeks a variance (2000-0063-V) to permit a dwelling addition with less setbacks than required on property located along the south side of Holly Avenue, east of Lake Avenue, Shady Side.

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. Cutler testified that the property was posted for 14 days prior to the hearing. I find and conclude that the public notice requirements have been satisfied.

FINDINGS AND CONCLUSIONS

The applicants own a single-family residence located at 1187 Holly Avenue, in the subdivision of Cedarhurst on the Bay, Shady Side. The property comprises 7,500 square feet and is zoned R-5 residential with a Chesapeake Bay Critical Area designation as Intensely Developed Area (IDA). The applicants propose to construct a 16' X 32' bedroom addition (one-story) within five feet of the west side property line. The east side yard measures 10 feet.

The Anne Arundel County Code, Article 28, Section 2-506 requires side

yards seven feet wide, with a combined width of 20 feet. Accordingly, the proposal necessitates a variance of two feet to the west side setback and five feet to the combined side yard width.

Suzanne Diffenderfer, a zoning analyst with the Department of Planning and Code Enforcement, testified that the property is located in an older cottage community with many nonconforming structures and lots. However, this property satisfies all zoning standards. The existing structure is a one-story dwelling. The witness conceded that the request will not alter the essential character of the neighborhood, but was unable to support the application absent a demonstration of hardship.

Mr. Cutler testified that the small dwelling has only two bedrooms. Expansion to the rear is difficult due to the existing room layout, flower beds, and a fenced play area. The property abuts a vacant lot with a natural drainage course to the west and a County sewage pumping station to the east. The witness testified that a house under construction down the street appears to be in very close proximity to the front property line. He stated that his neighbors do not object to the request. There was no adverse testimony at the hearing.

Upon review of the facts and circumstance, I find and conclude that the applicants are entitled to relief from the code. This case very minimally satisfies the test of unique physical conditions, consisting of the placement and layout of the dwelling and the landscaping and play area amenities, such that there is no reasonable possibility of developing the lot in strict conformance with the code. I

further find that the variance is the minimum necessary to afford relief. The addition is relatively modest in size and is limited to a single story. 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. Given that the property borders a vacant lot and a sewage pumping station, there will be little impact. The approval is subject to the condition in the Order.

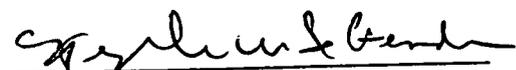
ORDER

PURSUANT to the application of David and Annette Cutler, 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 25th day of April, 2000,

ORDERED, by the Administrative Hearing Officer of Anne Arundel County, that the applicants are hereby **granted** a variance of two feet to the required 7-foot west side setback and five feet to the required 20-foot combined side yard width to permit a 16' X 32' addition (one-story) in accordance with the site plan.

The foregoing variance is subject to the condition that the applicants shall meet the 10 percent pollutant reduction rule 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.

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 13, 2000

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

RE: Variance 2000-0063-V, David Cutler

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

Because there are no habitat protection issues, this office has no comment on the setback variance requested. The property is designated IDA and the 10% pollutant reduction rule should be addressed. Usually, on lots of this size, plantings are sufficient to meet this requirement.

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,

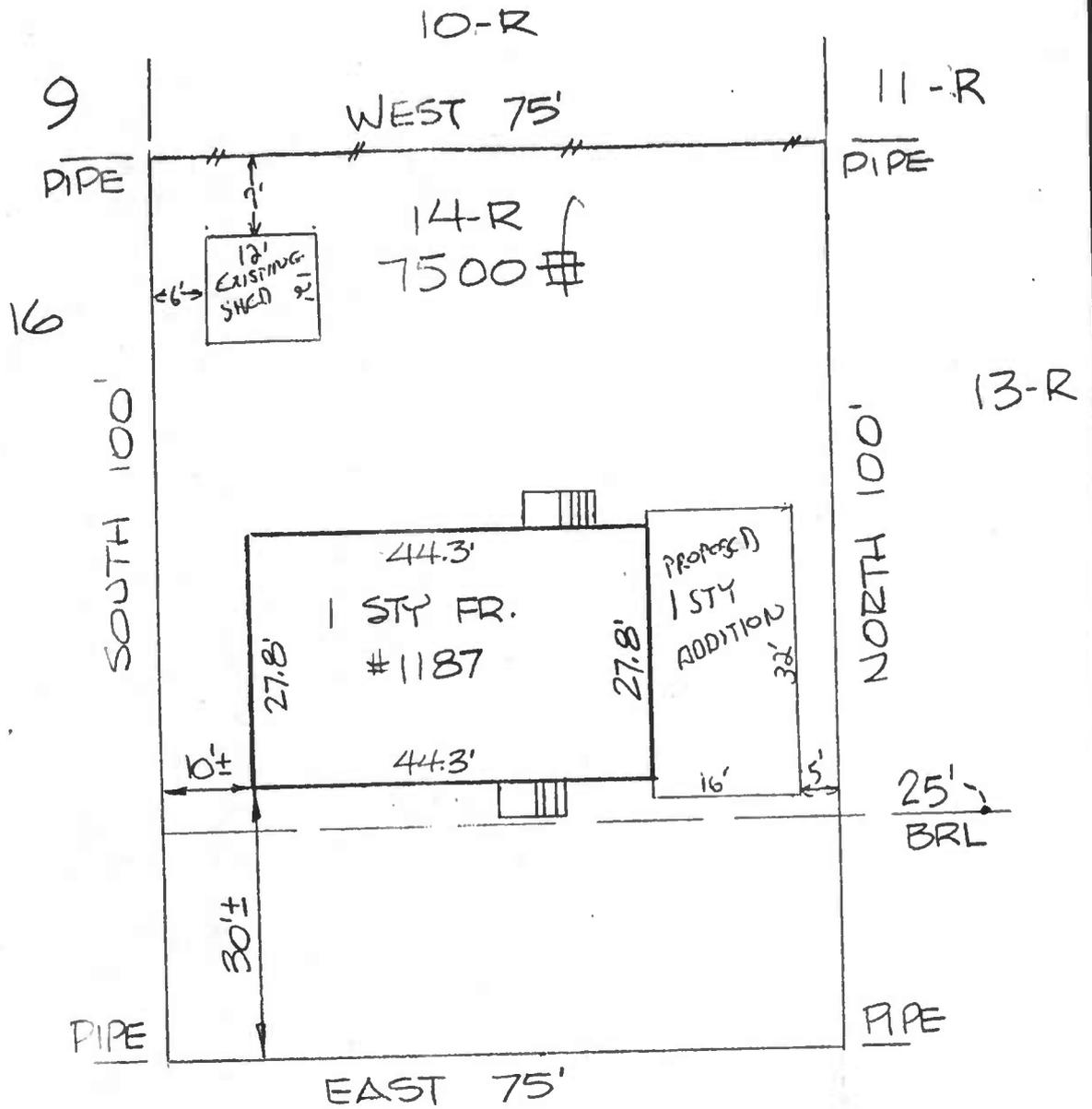
A handwritten signature in cursive script that reads "LeeAnne Chandler".

LeeAnne Chandler
Natural Resources Planner

cc: AA111-00

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



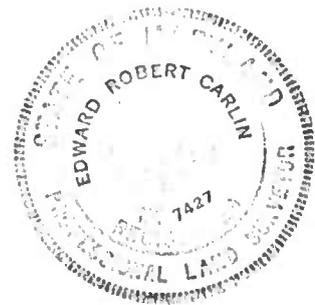


Lot 14 R Block 19
 CEDARHURST ON THE BAY
 Anne Arundel Co.,
 Maryland

1187 Holly Avenue

HOLLY AVE
 30' R/W

This lot is not subject to a 100 year flood plain as determined by HUD Flood Insurance Maps unless otherwise shown.



NO TITLE FURNISHED
 Not Valid Unless Original Seal.

FIRM
 COMMUNITY-PANEL NUMBER 0052D
 FLOOD ZONE A7 (EL?)

Record Reference 4845@123

SURVEYOR'S CERTIFICATION

I HEREBY CERTIFY THAT THE PROPERTY DELINEATED HEREON IS IN ACCORDANCE WITH THE PLAT OF SUBDIVISION AND/OR DEED OF RECORD, THAT THE IMPROVEMENTS WERE LOCATED BY ACCEPTED FIELD PRACTICES AND INCLUDE PERMANENT VISIBLE STRUCTURES AND ENCROACHMENTS, IF ANY. THIS PLAT IS NOT FOR DETERMINING PROPERTY LINES, BUT PREPARED FOR EXCLUSIVE USE OF PRESENT OWNERS OF PROPERTY AND ALSO THOSE WHO PURCHASE, MORTGAGE, OR GUARANTEE THE TITLE THERETO, WITHIN SIX MONTHS FROM DATE HEREOF AND AS TO THEM I WARRANT THE ACCURACY OF THIS PLAT.

Edward R. Carlin



1741 UNDERWOOD RD.
 GAMBRIEL, MD 21054
 301-261-3746 721-5177

SCALE 1" = 20' DATE 1.24.92 CONTRACT NO. CH. 5247