

AA 116-00  
VAR

Baity, Rick  
0070

MSA-S-1829-688

LC letter  
3/13/00



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 2000-0070-V, Rick Baity

Dear Mr. Dooley:

Thank you for providing information on the above referenced variance application. The applicant is requesting a variance to permit an accessory structure with less setbacks than required. The property is designated LDA and is currently developed with a single family dwelling.

Because there are no habitat protection or impervious surface issues and no clearing is proposed, this office has no comment on the setback variance requested.

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: AA116-00

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

116-80

**RECEIVED**

MAY 1 2000

CHESAPEAKE BAY  
CRITICAL AREA COMMISSION

IN THE OFFICE OF ADMINISTRATIVE HEARINGS

**CASE NUMBER 2000-0070-V**

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**IN RE: RICK BAITY**

**SECOND ASSESSMENT DISTRICT**

**DATE HEARD: APRIL 20, 2000**

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

**ZONING ANALYST: CHARLENE MORGAN**

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**DATE FILED: APRIL 26, 2000**

## **PLEADINGS**

Rick Baity, the applicant, seeks a variance (2000-0070-V) to permit an accessory structure with less setbacks than required on property located along the northwest side of Riverview Avenue, northwest of McPherson Road, Annapolis.

## **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. Baity testified that the property was posted with two signs for 14 days prior to the hearing. I find and conclude that the requirements of public notice have been satisfied.

## **FINDINGS AND CONCLUSIONS**

The applicant owns a single-family residence located at 133 Riverview Avenue, in the subdivision of Happy Hills, Annapolis. The property comprises 12,872 square feet and is zoned R-2 residential. The applicant seeks to perfect an 8' X 16' shed which is located within three feet of the right-of-way for Maryland Route 50.

The Anne Arundel County Code, Article 28, Section 10-103(a) requires structures located on a divided highway to maintain at least 60 feet from the right-

of-way. Accordingly, the proposal necessitates a variance of 57 feet.

Charlene Morgan, a zoning analyst with the Department of Planning and Code Enforcement, testified that the property is below the minimum area for the R-2 district. The 60-foot setback from Maryland Route 50 encompasses the entire rear yard. There is a sufficient area for maintenance between the shed and the property line. In the circumstances, the witness supported the application.

Mr. Baity testified that the shed was constructed several years ago in the opposite corner of the back yard. It was relocated to its present location in the summer of 1997. The shed maintains the required 10 feet from the side lot line.

April Victor, an area resident, testified in support of the application. There was no adverse testimony.

Upon review of the facts and circumstances, I find and conclude that the applicant is entitled to relief from the code. This case satisfies the test of unique physical conditions, consisting of a lot with the rear yard impacted by the highway setback, such that there was 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. As noted, the applicant has maintained the required 10 feet from the side property line. There is sufficient area to the rear for maintenance of the structure. 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. The approval shall be subject to the condition in the Order.

**ORDER**

PURSUANT to the application of Rick Baity, petitioning for a variance to permit an 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 26<sup>th</sup> day of April, 2000,

ORDERED, by the Administrative Hearing Officer of Anne Arundel County, that the applicant is hereby **granted** a variance of 57 feet to the required 60-foot setback from a divided highway.

*The foregoing variance is subject to the condition that the applicant shall not place any other storage shed on the property.*

  
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.

OWNER  
BRIAN + JACKIE BLAIR  
2729 CRESTVIEW Rd.  
RIVA, Md. 21140  
PH-410-956-3521

U.S. RT. 2/50 EAST

MARYLAND STATE  
HIGHWAY ADMIN. PROPERTY

MD. STATE HWY.  
FENCE

N 33° 56' 19" E

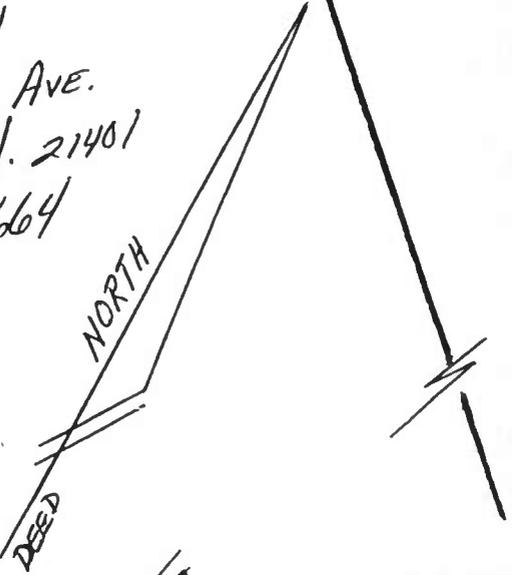
DOT 162-D  
135 RIVERVIEW  
MIMMOSA TREE  
8' FROM SHED



131 RIVERVIEW AVE.  
OWNER  
MARYANN LOFTUS  
1007 JACKSON ST.  
EASTPORT, Md. 21043  
PH-410-295-0241

N 44° 52' 50" W

LOT 162-C  
RICK L. BAITY  
133 RIVERVIEW AVE.  
ANNAPOLIS, Md. 21401  
PH-410-266-9664



NOTE: PLEASE REVIEW ATTACHED  
ADVANCED SURVEYS, INC.  
DRAWING FOR LARGER SCALE

SCALE  
3/32" = 1'

LOT 162 A  
135-A RIVERVIEW AVE.  
OWNER  
MR. GARY CHEEK  
3989 CANEY PL.  
EDGEWATER, MD. 21037  
PH-410-956-4753