

AA 356-00 Speight, Wayne
VAR 0260

USA-S-1829-777

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CHESAPEAKE BAY
CRITICAL AREA COMMISSION

IN THE OFFICE OF ADMINISTRATIVE HEARINGS

CASE NUMBER 2000-0260-V

IN RE: DAVID WAYNE SPEIGHT AND SARAH FAVRAO

THIRD ASSESSMENT DISTRICT

DATE HEARD: SEPTEMBER 7, 2000

ORDERED BY: STEPHEN M. LeGENDRE, ADMINISTRATIVE HEARING OFFICER

ZONING ANALYST: PATRICIA A. MILEY

DATE FILED: SEPTEMBER 13, 2000

PLEADINGS

D. Wayne Speight and Sarah Favrao, the applicants, seek a variance (2000-0260-V) to permit a dwelling with less setbacks and buffer than required and with disturbance to steep slopes on property located along the west side of Askewton Road, north of Severn River Road, Severna Park.

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

FINDINGS AND CONCLUSIONS

The applicants own a single-family residence located at 112D Askewton Road, in the subdivision of Round Bay, Severna Park. The property comprises 10,019 square feet and is zoned R-2 residential with a Chesapeake Bay Critical Area designation as Limited Development Area (LDA). This is a nonwaterfront lot improved with a deteriorated one and one-half story dwelling. The applicants propose to raze the structure and construct a new two and one-half story dwelling

with the same footprint. The new dwelling will impact steep slopes; the west side yard will measure six feet; the east side yard will measure seven feet; and the rear yard will measure 10 feet.

The Anne Arundel County Code, Article 28, Section 1A-105(c) prohibits development on slopes of 15 percent or greater in the LDA. Section 2-405(a) requires lots in the R-2 district to maintain side yards seven feet wide with a combined width of 20 feet and a rear yard 25 feet deep. Accordingly, the proposal necessitates a variance to disturb steep slopes; a variance of 1-foot to the west side setback; a variance of seven feet to the combined side yard width; and a variance of 15 feet to the rear setback.

Patricia A. Miley, a zoning analyst with the Office of Planning and Zoning, testified that the property was part of a larger site containing three dwellings. The larger site was recognized as a nonconforming use with three principal structures in Decision No. 1995-0017-N. The larger property came before this office in Case No. 1997-0139-V (July 23, 1997). The Order conditionally approved variances to permit three lots with reduced area, frontage, and setback and greater coverage. Thereafter, the property was subdivided into three lots. Because the instant application will cause a temporary disturbance to steep slopes and the dwelling maintains the same setbacks as the previously approved variance, the witness supported the request.

Mr. Speight submitted letters in support of the application from several neighbors. He also submitted photographs and exhibited a scaled model indicating

that the proposed dwelling is no taller than surrounding dwellings. The construction will not impact vegetated areas. Unlike the existing dwelling, the new dwelling will include down spouts to control slope erosion.

Upon review of the facts and circumstances, I find and conclude that the applicants are entitled to relief from the code. This case satisfies the test of unique physical conditions, consisting of a multi-sided lot on steep slopes with the dwelling tucked in the narrow rear portion, such that there was no reasonable possibility of developing the lot in strict conformance with the code. Given the physical conditions, a strict implementation of the Critical Area program would result in an unwarranted hardship. Its literal application will deprive the applicants of the right to redevelop the site, a right typically enjoyed by other properties in similar areas within the Critical Area. Conversely, the granting of the Critical Area variance will not confer on the applicant any special privilege that the program denies to other lands within the Critical Area. There was nothing to suggest that the request results from circumstances caused by the applicants; nor does it arise from conditions relating to land use on neighboring property. Finally, the granting of the variance will not adversely impact Critical Area resources and will harmonize with the general spirit and intent of the program. I further find that the variances are the minimum necessary to afford relief. As noted, the applicants will maintain the existing setbacks previously approved by this office. 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. Rather, the evidence indicates that the construction is wholly consistent with development within the immediate neighborhood. The approval shall be subject to the condition in the Order.¹

ORDER

PURSUANT to the application of D. Wayne Speight and Sarah Favrao, petitioning for a variance to permit a dwelling with less setbacks and buffer than required and with disturbance to steep slopes; and

PURSUANT to the advertising, posting of the property, and public hearing and in accordance with the provisions of law, it is this 13th day of September, 2000,

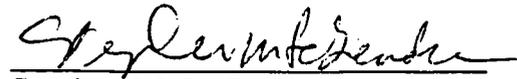
ORDERED, by the Administrative Hearing Officer of Anne Arundel County, that the applicants are hereby **granted** the following variances:

1. A variance to permit disturbance to steep slopes.
2. A variance in the amount of 1-foot to the required 7-foot west side setback.
3. A variance of seven feet to the required 20-foot combined side yard width.
4. A variance of 15 feet to the required 25-foot rear setback.

The foregoing variances are subject to the condition that there shall be no

¹The required condition is that there shall be no additional impervious surfaces. The condition is consistent with the prior Order and the subdivision plat.

additional impervious surfaces permitted.



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**

1804 West Street, Suite 100, Annapolis, Maryland 21401
(410) 260-3460 Fax: (410) 974-5338

July 17, 2000

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

RE: Variance 2000-0260-V, Wayne Speight

Dear Mr. Dooley:

Thank you for providing information on the above referenced variance application. The applicant is requesting a variance to permit a dwelling with less Buffer and setbacks than required and with disturbance to steep slopes. The property is designated LDA and is currently developed with a cottage (to be replaced).

This office does not oppose redevelopment of this lot with a new dwelling on the existing footprint. Vegetation removed in the course of construction should be replaced in kind. New impacts to steep slopes should be avoided.

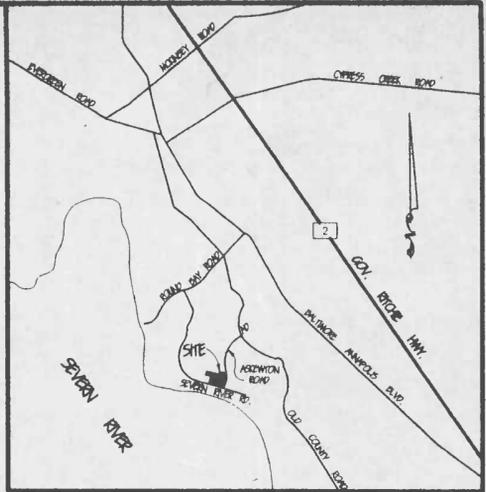
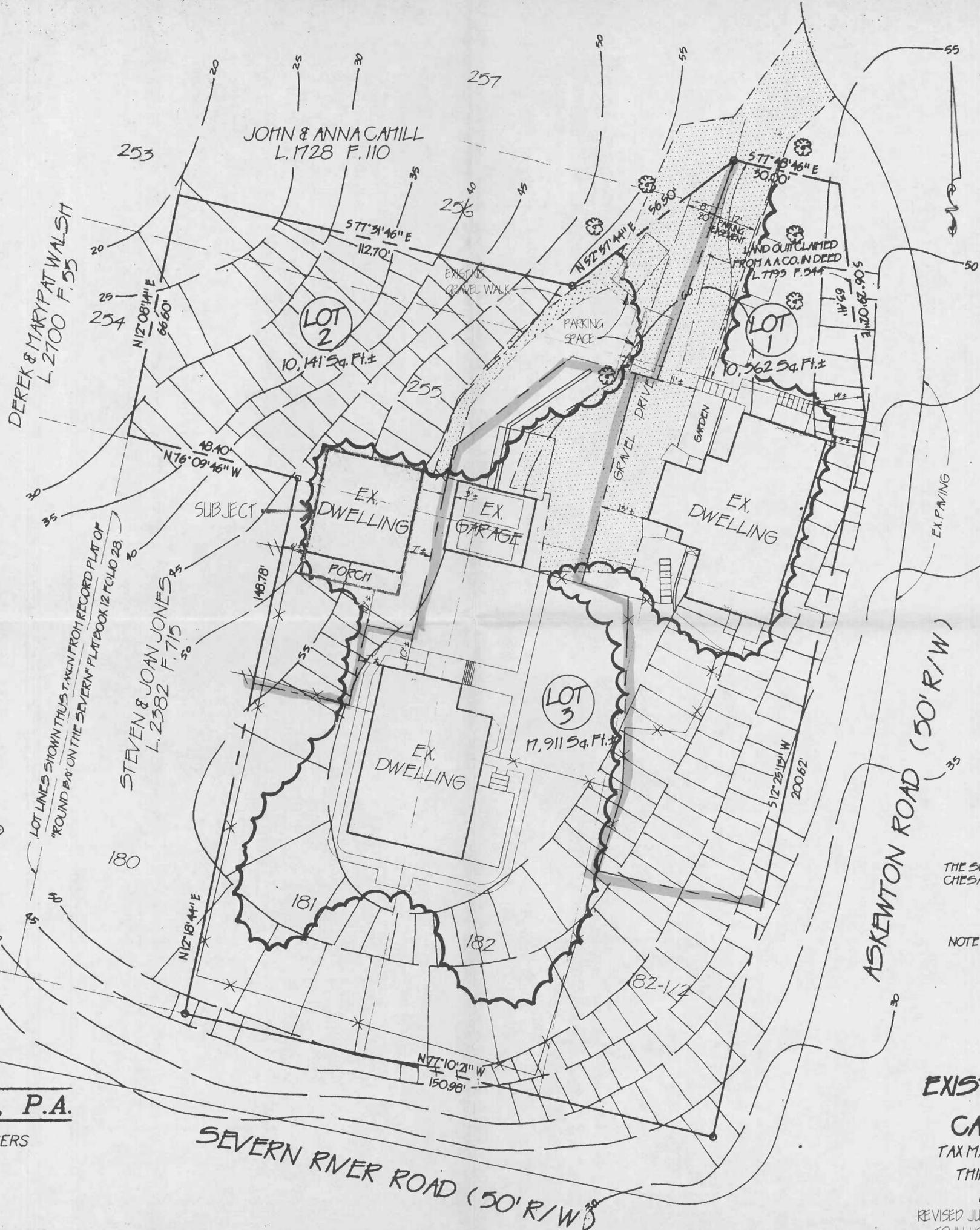
Thank you for the opportunity to comment. Please include this letter in your file and submit it as part of the record for this variance. Also, please notify the Commission in writing of the decision made in this case.

Sincerely,

LeeAnne Chandler
Natural Resources Planner

cc: AA356-00

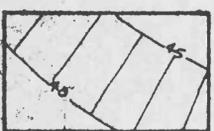
Branch Office: 31 Creamery Lane, Easton, MD 21601
(410) 822-9047 Fax: (410) 820-5093



VICINITY MAP
SCALE: 1" = 2000'

RECEIVED
JUL 7 2000
CHESAPEAKE BAY
CRITICAL AREA COMMISSION

LEGEND

-  EXISTING WOODLANDS
-  15-25% Slopes
-  >25% Slopes

LOT LINES SHOWN TRUS TAKEN FROM RECORD PLAT OF "ROUND P/R" ON THE SEVERN PLAT BOOK 12 FOLIO 28.

ZONING

THE SUBJECT PROPERTY IS ZONED R2, CHESAPEAKE BAY CRITICAL AREA CLASSIFICATION - LDA

NOTE: FOR THE DESCRIPTION OF THE LANDS SHOWN HEREON SEE DEED REFERENCES LIBER 3100 AT FOLIO 554 AND LIBER 1793 AT FOLIO 544.

EXISTING CONDITIONS MAP
FOR
CARPENTER PROPERTY
TAX MAP 32 BLOCK 14 P/O PARCEL 184
THIRD DISTRICT A.A.CO., MARYLAND
MAY 15, 1997 SCALE: 1" = 20'
REVISED JUNE 8, 2000 BY SPEIGHT STUDIO ARCHITECTS, INC.
TO ILLUSTRATE CORRECT PARKING AND WALK LOCATIONS

BOYD & DOWGIALLO, P.A.

ENGINEERS*SURVEYORS*PLANNERS
405 Headquarters Drive
Suites 7 & 8
Millersville, Maryland 21108
(410) 987-2500

SEVERN RIVER ROAD (50' R/W)

ASKEWTON ROAD (50' R/W)

BDP

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