

7/25 MSA-S-1829-4635

Comments

5/12/05

Comments

6/15/05 RL

Comments

7/28/06 VS

Robert L. Ehrlich, Jr.  
Governor

Michael S. Steele  
Lt. Governor



Martin G. Madden  
Chairman

Ren Serey  
Executive Director

**STATE OF MARYLAND  
CRITICAL AREA COMMISSION  
CHESAPEAKE AND ATLANTIC COASTAL BAYS**

1804 West Street, Suite 100, Annapolis, Maryland 21401  
(410) 260-3460 Fax: (410) 974-5338  
[www.dnr.state.md.us/criticalarea/](http://www.dnr.state.md.us/criticalarea/)

July 25, 2006

Ms. Pam Cotter  
Anne Arundel County  
Office of Planning and Code Enforcement  
2664 Riva Road  
Annapolis, Maryland 21404

Re: 2006-0230-V; 589 Highbank Road  
CJC, LLC

Dear Ms. Cotter:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance to permit a dwelling with less Buffer than required and with disturbance to steep slopes. The property is designated a Limited Development Area (LDA) and a Buffer Modification Area. The property was previously developed with a single family residence that was destroyed by fire.

Provided the lot is properly grandfathered, this office does not oppose the variance request; however impacts must be minimized and the variance the minimum necessary. Based on the information provided, we have the following comments regarding the development proposal and the variance request.

1. It would appear that impacts to steep slopes and forest vegetation through the placement of the well could potentially be minimized. If possible, the applicant should locate the well the minimum distance necessary to meet Health Department requirements.
2. Mitigation should be provided within the Buffer at a ratio of 2:1 for the amount of newly developed impervious surface.

Thank you for the opportunity to provide comments. 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 black ink that reads "Kate Schmidt" with a stylized flourish at the end.

Kate Schmidt  
Natural Resource Planner  
cc: AA287-05

Robert L. Ehrlich, Jr.  
Governor

Michael S. Steele  
Lt. Governor



Martin G. Madden  
Chairman

Ren Serey  
Executive Director

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June 15, 2005

Suzanne Schappert  
Anne Arundel County  
Office of Planning and Zoning  
2664 Riva Road  
Annapolis, Maryland 21401

Re: Variance 2005-0109-V Charles Converse

Dear Ms. Schappert:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance to permit a dwelling with less Buffer than required and with disturbance to steep slopes. The property is designated a Limited Development Area (LDA) and a Buffer Exemption Area (BEA). The property consists of Parcel 20 and Parcel 21.

I conducted a site visit with County staff to the property on April 18, 2005 accompanied by Mr. and Mrs. Converse and Bob Baxter (Diversified Permits, Inc.). Based on discussions during the site visit, I understand that the Converse's primary residence on Parcel 21 was severely damaged by a fire and was recently demolished by order of the Health Department. The existing dwelling on Parcel 20 was also damaged by the fire and is currently uninhabited. In addition, this office received for review a revised site plan on April 29, 2005 and supplemental information on June 10, 2005.

Providing Parcels 20 and 21 and the existing impervious surface coverage on the parcels are properly grandfathered, this office does not oppose the variance request; however, impacts must be minimized and the variance the minimum necessary. Based on the information provided, we have the following comments regarding the development proposal and variance request.

- 1) Our records indicate that Parcel 21 was the subject two previous variances, Case No. 1999-0137-V and Case No. 2000-0084-V. In Case No. 1999-0137-V, the Hearing Officer granted a variance to permit construction of a second story over the garage and a two-story addition connecting the dwelling to the garage. In Case No. 2000-0084-V, the Hearing Officer granted a variance to construct a 250 square foot waterfront deck addition (over existing impervious surface). In both cases, the variances resulted in no increase in existing impervious surface coverage on Parcel 21. Based on our records for Case No. 2000-0084-V, the applicant reported the existing impervious surface coverage as 2,699 square feet or 24.3 percent. As stated by the applicant in his letter of

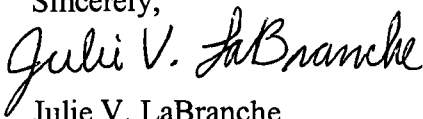
Suzanne Schappert  
Variance 2005-0109-V Charles Converse  
June 15, 2005  
Page

June 8, 2005 (refer to attachment), the impervious surface calculations reported in the variance application were incorrect. The applicant reports that the impervious surface coverage on Parcel 21 at the time of the two previous variances was approximately 4,319 square feet.

- 2) As noted on the revised site plan, steep slopes are present over both parcels. With expansion of the Buffer for steep slopes, the property is entirely within the Buffer.
- 3) The applicant proposes to remove the dwelling on Parcel 20 and to merge Parcel 20 and Parcel 21 (22,498 square feet total) to construct a single-family dwelling. The current proposal will reduce the existing impervious surface coverage on the combined parcels from 7,186 square feet (4,460 square feet on Parcel 21 and 2,726 on Parcel 20) to 6,391 square feet, including the removal of a covered patio and impervious walkways near the shoreline. The footprint of the proposed dwelling extends no further waterward than the setback as established by the dwellings on each of the parcels. As compared with the original site plan, the limits of disturbance have been reduced from 15,735 square feet to 14,885 square feet. As discussed during the site visit, grading proposed waterward of the dwelling is necessary to remove an existing retaining wall along the existing parcel boundary and match the existing uneven grades to properly convey runoff from the front yard. We note that the proposed grading in the front yard has been minimized as compared with the previous plan. Several large canopy trees will be removed as a result of grading, several of which were severely to moderately damaged by the fire.
- 4) Mitigation should be required consistent with the provision of the County's Buffer Exemption and Enhancement Program (Anne Arundel County Zoning Ordinance Article 28, §1A-109): for every foot of newly developed impervious surface within the Buffer, a vegetated buffer shall be planted within the Buffer at a ratio of two times the amount of newly developed impervious surface. If there is insufficient space to accommodate all of mitigation plantings on site, mitigation can be provided elsewhere as described in the Program.
- 5) As shown on the site plan, the applicant proposes a pretreatment trench and an infiltration trench in the front yard to provide water quality treatment of stormwater on the site.

Thank you for the opportunity to provide comments. 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,



Julie V. LaBranche  
Natural Resource Planner

cc: Bob Baxter (Diversified Permits, Inc.)

AA 278-05 Converse revised

Robert L. Ehrlich, Jr.  
*Governor*

Michael S. Steele  
*Lt. Governor*



Martin G. Madden  
*Chairman*

Ren Serey  
*Executive Director*

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May 12, 2005

Suzanne Schappert  
Anne Arundel County  
Office of Planning and Zoning  
2664 Riva Road  
Annapolis, Maryland 21401

Re: Variance 2005-0109-V Charles Converse

Dear Ms. Schappert:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance to permit a dwelling with less Buffer than required and with disturbance to steep slopes. The property is designated a Limited Development Area (LDA) and a Buffer Exemption Area (BEA). The property consists of Parcel 20 and Parcel 21. This office received a revised site plan for review on April 29, 2005.

I conducted a site visit with County staff to the property on April 18, 2005 accompanied by Mr. and Mrs. Converse and Bob Baxter (Diversified Permits, Inc.). Based on discussions during the site visit, I understand that the Converse's primary residence on Parcel 21 was severely damaged by a fire and was recently demolished by order of the Health Department. The existing dwelling on Parcel 20 was also damaged by the fire and is currently uninhabited.

Providing the parcels are properly grandfathered, this office does not oppose the variance request; however, impacts must be minimized and the variance the minimum necessary. Based on the information provided, we have the following comments regarding the development proposal and variance request.

- 1) Our records indicate that Parcel 21 was the subject two previous variances, Case No. 1999-0137-V and Case NO. 2000-0084-V. In Case No. 1999-0137-V, the Hearing Officer granted a variance to permit construction of a second story over the garage and a two-story addition connecting the dwelling to the garage.



Suzanne Schappert  
Variance 2005-0109-V Charles Converse  
May 12, 2005  
Page

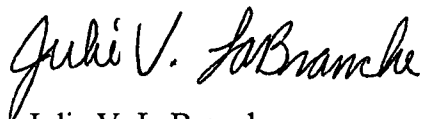
In Case No. 2000-0084-V, the Hearing Officer granted a variance to construct a 250 square foot waterfront deck addition (over existing impervious surface). Based on our records for Case No. 2000-0084-V, the applicant reported the existing impervious surface coverage as 2,699 square feet or 24.3 percent. We note that the applicant reports in the current variance application that the impervious surface coverage on Parcel 21, prior to the fire, was 4,460 square feet or 40.2 percent, which exceeds the maximum allowable impervious surface limit of 3,469 square feet or 31.25 percent. The applicant should provide information regarding the substantial increase in impervious surface coverage on Parcel 21 since the granting of the last variance, and if necessary, amend the current request to include an impervious surface variance.

- 2) As noted on the revised site plan, steep slopes are present over both parcels. With expansion of the Buffer for steep slopes, the property is entirely within the Buffer.
- 3) The applicant proposes to remove the dwelling on Parcel 20 and merge Parcel 20 and Parcel 21 (22,498 square feet total) to construct a single-family dwelling. The current proposal will reduce the existing impervious surface coverage on the combined parcels from 7,186 square feet to 6,391 square feet, including removal of a covered patio and impervious walkways near the shoreline. The footprint of the proposed dwelling extends no further waterward than the setback as established by the dwellings on each of the parcels. As compared with the original site plan, the limits of disturbance have been reduced from 15,735 square feet to 14,885 square feet. As discussed during the site visit, grading proposed waterward of the dwelling is necessary to remove an existing retaining wall along the existing parcel boundary and match the existing uneven grades to properly convey runoff from the front yard. We note that the proposed grading in the front yard has been minimized as compared with the previous plan. Several large canopy trees will be removed as a result of grading, several of which were severely to moderately damaged by the fire.
- 4) Mitigation should be required consistent with the provision of the County's Buffer Exemption and Enhancement Program (Anne Arundel County Zoning Ordinance Article 28, §1A-109): for every foot of newly developed impervious surface within the Buffer, a vegetated buffer shall be planted within the Buffer at a ratio of two times the amount of newly developed impervious surface. If there is insufficient space to accommodate all of mitigation plantings on site, mitigation can be provided elsewhere as described in the Program.
- 5) As shown on the site plan, the applicant proposes a pretreatment trench and an infiltration trench in the front yard to provide water quality treatment of stormwater on the site.

Thank you for the opportunity to provide comments. 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.

Suzanne Schappert  
Variance 2005-0109-V Charles Converse  
May 12, 2005  
Page

Sincerely,

A handwritten signature in cursive script that reads "Julie V. LaBranche".

Julie V. LaBranche  
Natural Resource Planner

cc: Bob Baxter (Diversified Permits, Inc.)

AA 278-05 Converse



791-03  
0278-05

BOARD OF APPEALS  
P.O. BOX 2700, 44 CALVERT ST., RM. 160  
ANNAPOLIS, MARYLAND 21404  
410-222-1119

September 30, 2005

RE: Withdrawal of Appeal  
BA 87-05A  
Converse Builders

Dear Property Owner:

The Board of Appeals has been advised that the appellant wishes to withdraw this appeal.

Rule 3-102(c) states that appeals may be withdrawn as follows:

- (c) An appellant who seeks to withdraw an appeal at any time after 30 days following the date of the order or decision being appealed may do so if no objection to the withdrawal is made by any other party or any owner of real property within 175 feet of the subject property, or if granted permission to withdraw by the Board upon good cause shown.

This is to advise you that the Board intends to act on this withdrawal request after 10 days from the date of this letter.

If you have any objections, comments, or questions regarding the withdrawal of this appeal, please direct them to the Board of Appeals office at (410) 222-1119.

A handwritten signature in cursive script that reads "Mary M. Leavell".

Mary M. Leavell  
Clerk

cc: Property Owners  
News Media  
Critical Area Commission  
Anthony F. Christhilf, Esq.  
David M. Plott, Esq.  
Sarah M. Iliff, Esq.  
Frank W. Ward  
Marlene Patmore

**RECEIVED**

OCT 04 2005

CRITICAL AREA COMMISSION



278-05

IN THE OFFICE OF ADMINISTRATIVE HEARINGS

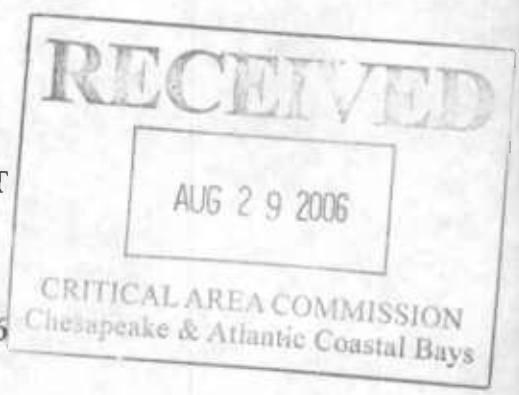
CASE NUMBER 2006-0230-V

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IN RE: CJC, LLC

THIRD ASSESSMENT DISTRICT

DATE HEARD: AUGUST 8, 2006



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ORDERED BY: STEPHEN M. LeGENDRE, ADMINISTRATIVE HEARING OFFICER

PLANNER: SUZANNE SCHAPPERT

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DATE FILED: AUGUST 25<sup>th</sup>, 2006

## **PLEADINGS**

CJC, LLC, the applicant, seeks a variance (2006-0230-V) to allow a dwelling with less buffer than required and with disturbance to steep slopes on property located along the west side of Highbank Road, west of Lake View Circle, Severna Park.<sup>1</sup>

## **PUBLIC NOTIFICATION**

The hearing notice was posted on the County's web site 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 feet of the property was notified by mail, sent to the address furnished with the application. Charles Converse 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 dwelling on this buffer modified, waterfront lot on the Severn River is fire damaged. In Case No. 2005-0109-V (July 25, 2005), this office denied the request of Mr. and Mrs. Converse to merge this property with their then vacant adjacent property (581 Highbank Road) for redevelopment as a single principal

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<sup>1</sup> The case was heard at the same time as Case No. 2006-0218-V requesting a pier platform and pilings with less setbacks than required.

use. There was no appeal. In the interim, the Converses obtained a building permit for the construction of their home on the adjacent property; there were no variances. The present request is to raze the fire damaged dwelling, followed by the construction of a new dwelling. As in the 2005 case, the project entails the removal of impervious surfaces from the 100-foot Chesapeake Bay Critical Area buffer. Because the deck addition on the replacement home is slightly forward of the front façade of the existing home (83 feet from water versus 88 feet from water) the new construction also requires variances to disturb the buffer as expanded for steep slopes and to disturb the slopes.

Anne Arundel County Code, Article 18, Section 18-13-104(a) creates a 100-foot buffer from tidal waters. The buffer expands to include all lands with 50 feet of contiguous steep slopes. However, Section 18-13-104(b) creates a Buffer Modification Area with respect to all or part of a lot created before December 1, 1985 on which the existing pattern of development prevents the 100-foot buffer from performing its protective function. Article 17, Section 17-8-702(c) allows redevelopment of existing impervious surfaces within the same footprint as previously existing development. Finally, Section 17-8-201 proscribes development in the Limited Development Area (LDA) on slopes of 15 percent or greater. Accordingly, as in the 2005 case, the proposal requires variances to the buffer and expanded buffer and a variance to disturb steep slopes.

Suzanne Schappert, a planner with the Office of Planning and Zoning, testified that the property is below the minimum area and width for the district.

The witness conceded the need for relief in the redevelopment of the property. However, she initially questioned the extent of the relief, under the mistaken belief that most of the waterfront decking addition projected closer to the shore than the front façade of the preexisting dwelling. The witness summarized the agency comments. The County's North Development Team suggested relocating the dwelling three feet closer to the road to the minimum rear setback. The North Development Team also opposed the removal of trees for the temporary stockpile. The Chesapeake Bay Critical Area Commission offered no objection, subject to mitigation. By way of ultimate conclusion, Ms. Schappert supported the request.

Robert Baxter, the applicant's engineering consultant, testified that the deck addition, including the staircase, extends 10 feet from the front façade of the replacement dwelling, and is further from shore than the preexisting patio (83 feet versus 81 feet). The dwelling could not be relocated closer to the road due to the proximity to the water well on the Converse's adjacent property. The witness submitted a listing of properties along Highbank Road with waterfront deck and patio additions, including several properties with improvements less than 100 feet from water. Although the stockpile could be relocated, the installation of the water well on the waterside of the replacement dwelling requires the removal of trees. The project also includes stormwater management. Finally, the redevelopment proposal is consistent with other development in the neighborhood.

Mr. Converse testified that the request is unobjectionable to neighboring residents and submitted a letter of support from the owners of 583 Highbank Road.

There was no other testimony in the matter.

Upon review of the facts and circumstances, I find and conclude that the applicant is entitled to relief from the code. For this Critical Area property, due to the extent of the expanded buffer and steep slopes, a strict implementation of the program would result in an unwarranted hardship. To literally interpret the program will deny the applicant the right to redevelop the property with a single-family dwelling, a right commonly enjoyed by other properties in similar areas of the Critical Area. Conversely, the granting of the variances does not confer any special privilege that the program typically denies. There is no indication that the request results from the actions of the applicant or from land use on neighboring property. Finally, with mitigation, the variance will not adversely impact Critical Area assets and harmonizes with the general spirit and intent of the program.

I further find that the variances represent the minimum relief and their grant will not alter the essential character of the neighborhood, substantially impair the appropriate use or development of adjacent property or cause a detriment to the public welfare. These findings consider the removal of impervious surfaces in the buffer as well as the required separation to the water well on the Converses' adjacent property. The approval is subject to the conditions in the Order.

ORDER

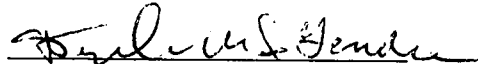
PURSUANT to the application of CJC, LLC, petitioning for a variance to allow a dwelling with less buffer than required and with disturbance to steep slopes; and

PURSUANT to the notice, posting of the property, and public hearing and in accordance with the provisions of law, it is this 25<sup>th</sup> day of August, 2006,

ORDERED, by the Administrative Hearing Officer of Anne Arundel County, that the applicant is **granted** a variance to the 100-foot buffer for the removal of impervious surfaces and variances to the expanded buffer and steep slopes to permit the construction of a dwelling in accordance with the site plan.

The foregoing variances are subject to the following conditions:

1. No further expansion of the dwelling is allowed and no new accessory structures are allowed.
2. The waterfront deck addition shall remain pervious.
3. The applicant shall relocate the stockpile to the satisfaction of the Permit Application Center.
4. The applicant shall provide stormwater management and mitigation as determined by the Permit Application Center.

  
Stephen M. LeGenre  
Administrative Hearing Officer

## NOTICE TO APPLICANT

Within thirty 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 18-16-405(a) provides that a variance expires by operation of law unless the applicant obtains a building permit within eighteen months. Thereafter, the variance shall not expire so long as construction proceeds in accordance with the permit.

If this case is not appealed, exhibits must be claimed within 60 days of the date of this Order, otherwise that will be discarded.

0278 05

**RECEIVED**

JUL 26 2005

CRITICAL AREA COMMISSION

IN THE OFFICE OF ADMINISTRATIVE HEARINGS

**CASE NUMBER 2005-0109-V**

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**IN RE: CHARLES CONVERSE, III AND JEAN CONVERSE**

THIRD ASSESSMENT DISTRICT

DATE HEARD: JUNE 28, 2005

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

**PLANNER: SUZANNE SCHAPPERT**

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DATE FILED: JULY 25<sup>th</sup>, 2005



## PLEADINGS

Charles Converse, III and Jean Converse, the applicants, seek a variance (2005-0109-V) to permit a dwelling with less buffer than required and with disturbance to steep slopes on two adjacent properties located along the west side of Highbank Road, southwest of Lakeview Circle, Severna Park.<sup>1</sup>

## 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 feet of the properties was notified by mail, sent to the address furnished with the application. Mr. Converse submitted an affidavit indicating that the properties were posted on June 12, 2005. I find and conclude that the requirements of public notice have been satisfied.

## FINDINGS AND CONCLUSIONS

This case concerns properties with street addresses of 579 and 581 Highbank Road, also identified on Tax Map 31, Block 2 as Parcels 20 (11,398 square feet) and 21<sup>2</sup> (11,100 square feet). The zoning is R-2 residential with a

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<sup>1</sup> The case was also advertised for a variance for greater impervious coverage than allowed. However, the preexisting coverage for one of the properties exceeds the allowance and the proposal results in a net reduction in coverage. Therefore, the variance for greater impervious coverage is not needed and is considered denied. See, Article 28, Section 11-106.

Chesapeake Bay Critical Area designation as Limited Development Area (LDA). These waterfront lots on the Severn River are buffer exempt. A dwelling on Parcel 21 was a total loss in a fire and has been razed. The dwelling on Parcel 20 received fire damage. The request is to remove the remaining home, followed by the merger of the two properties and the redevelopment as a single principal use. The project entails the removal of impervious surfaces from the 100-foot Chesapeake Bay Critical Area buffer and new construction in the buffer as expanded for steep slopes and on steep slopes.

Anne Arundel County Code, Article 28, Section 1A-104(a)(1) establishes a minimum 100-foot buffer from tidal waters. The buffer expands to include all lands within 50 feet of contiguous steep slopes. However, Section 1A-109 creates a buffer exemption and enhancement program for the 100-foot and expanded buffers. Under subsection (c), redevelopment of existing impervious surfaces is permitted on the same footprint with additional square footage required to maximize the buffer and subject to all other criteria and mitigation. Finally, Section 1A-105(d) prohibits disturbances of slopes of 15 percent or greater in the LDA. Accordingly, the proposal requires variances to the buffer and expanded buffer and a variance to disturb steep slopes.

Suzanne Schappert, a planner with the Office of Planning and Zoning, testified that the steep slopes expand the buffer to encompass nearly the entire site.

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<sup>2</sup> Parcel 21 is the subject of two prior decisions by this office. See, Case Nos. 1999-0137-V (June 13, 1999) and 2000-0084-V (May 4, 2000).

The applicants are proposing a net reduction in impervious surfaces - from 7,186 square feet<sup>3</sup> to 6,391 square feet - including the removal of patios and walkways near the water. As compared to the existing and preexisting dwellings, the proposed dwelling is no closer to the water. The site plan has been revised to reduce the limits of disturbance and grading in the front yard (waterside). There were no adverse agency comments. By way of conclusion, Ms. Schappert offered support for the application, subject to mitigation in accordance with the County's buffer exemption and enhancement program.

Bob Baxter, the applicants' engineering consultant, confirmed the substance of the application. In brief, the property is steeply sloped near the road, the redevelopment proposal satisfies the zoning setbacks and there is a net reduction in impervious coverage. Mr. Baxter indicated that the applicants are allowed 8,022 square feet<sup>4</sup> of impervious coverage if the parcels are considered separately. (A vacant lot with the combined area of Parcels 20 and 21 is allowed 5,445 square feet of impervious coverage.) Mr. Baxter believes that the request satisfies the variance standards.

Nancy Matthews, an environmental consultant to the applicants, submitted a Critical Area report and testified in summary fashion that the variance standards are satisfied.

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<sup>3</sup> Parcel 20 has 2,726 square feet of impervious coverage. The preexisting coverage for Parcel 21 is 4,460 square feet.

<sup>4</sup> The figure represents the sum of (1) the maximum coverage for Parcel 20 (31.25% X 11,398 square feet = 3,562 square feet) and the preexisting coverage for Parcel 21.

Shep Tullier, a land planning consultant to the applicants, submitted several site photographs. Large homes, some closer to the water, characterize the neighborhood. He indicated that the variance standards are satisfied. In particular, the site conditions, consisting of the existing south side retaining wall that must be stabilized and the dwelling on Parcel 20 and rubble near the shore that must be removed, dictate the limits of disturbance. Additionally, the applicants enjoy nonconforming impervious coverage on Parcel 21 with eligibility to redevelop in the same footprint within 12 months. Finally, Parcel 20 is allowed 3,562 square feet of impervious surfaces.

Mr. Converse testified that the proposed dwelling comprises four bedrooms on the second floor, a guestroom and common areas on the first floor, a lower level recreation room and a two-car garage with additional area for storage. The finished living space is 5,500 square feet.<sup>5</sup> He conceded that there are smaller homes in the neighborhood, which is a function of the narrow lots they occupy.

I visited the site and the neighborhood. The property slopes down from the road all the way to the water. An abandoned cottage is centered on Parcel 20. The only other structures on Parcel 20 are an open-sided covered pavilion near the water and a pier. There is a parking pad near the road on Parcel 21 and a substantial retaining wall along the south side boundary. The only other improvements on Parcel 21 are playground equipment and a screened pavilion

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<sup>5</sup> The project also includes a parking area; and there is a turn around area that is shared with an adjacent property.

near the water and a pier. The site is cleared at the center with some mature trees near the water. Wooded lots characterize the neighborhood. The waterfront dwelling to the north is much closer to the water than the dwelling on Parcel 20. The waterfront dwelling to the south is slightly closer to the water than the dwelling on Parcel 20. There is a substantial home across Highbank Road from the applicants' site.

The standards for granting variances are contained in Section 11-102.1. Under subsection (b), for a property in the Critical Area, a variance to the Critical Area program requirements may be granted only after determining that (1) due to unique physical conditions, peculiar to the lot, a strict implementation of the program would result in an unwarranted hardship to the applicants; (2) a literal interpretation of the program will deprive the applicants of rights commonly enjoyed by other properties in similar areas within the Critical Area; (3) the granting of the variance will not confer on the applicants any special privilege that would be denied by the program to other lands within the Critical Area; (4) the variance request is not based on circumstances resultant of actions by the applicants and does not arise from conditions relating to land use on neighboring property; and (5) the granting of the variance will not adversely affect water quality or 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. Under subsection (c), any variance must be the minimum necessary to afford relief; and its grant may not 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 applicants have presented a redevelopment proposal premised on the transfer of impervious coverage from the two lots to the merged property.<sup>6</sup> The standard by which it is measured is the same as any other application that requires variances to the Critical Area program. Their obligation is to meet all of the criteria.

After due consideration, I find and conclude that several of the variance criteria are not met. I am unable to agree that the request represents the minimum relief as required by subsection (c)(1). The applicants are proposing a substantial dwelling by any standard. The dwelling measures 75 in width and extends from within twelve feet of the north side boundary to within ten feet of the south side boundary of the merged property. The length varies, from as little as 46 feet at the center, to as much as 77 towards the south side. The design includes a covered porch, terrace and stairs on the waterside. Even accepting the premise of the application, the amount of impervious coverage in the buffer and on steep slopes is excessive. Finally, the size of the structure is a contributing factor to the permanent disturbance that encompasses almost the entire site.

I further find that the subsection (b)(2) criterion is not satisfied. There is nothing in the record to show that the literal interpretation of the program will

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<sup>6</sup> Section 2-1A-03(2) of the merger law provides: "[t]his subtitle does not relieve lots within the scope of the subtitle from complying with the other requirements of this article." Therefore, it is arguable that the merged property is restricted to 5,445 square feet of impervious coverage. Nevertheless, I have accepted the assertion that excess coverage is transferable to the merged lots.

deprive the applicants of rights commonly enjoyed. That is, the applicants may redevelop Parcel 21 in the preexisting footprint and there is expansion potential for Parcel 20. See, Case No. BA 18-04V, In Re: David Gookin, (January 6, 2005).

Nor is the (b)(3) criterion met. Rather, the proposal to redevelop two lots with one principal dwelling appears to represent a special privilege that the program would deny to other lands in the critical area.

Because the applicants have not met all of the variance criteria, the denial of the application does not deny reasonable use and is not an unwarranted hardship.

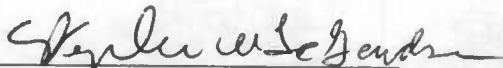
In closing, I would be remiss if I failed to note this case is different from previously approved critical area variances for merged properties. The prior approvals have involved expanding an existing dwelling across the shared boundary into a vacant lot in lieu of developing the vacant lot as a separate dwelling. See, Case Nos. 2004-0355-V, In Re: George and Carol Younts, (October 29, 2004) (critical area variances conditionally approved where an expanded dwelling on merged lots reduced impervious coverage and clearing as compared to development of the vacant lot with a separate home); Case No. V-110-94, In Re: Maurice Tose and Terisa Layden, (June 7, 1994) (critical area variances conditionally approved where an expanded dwelling on merged lots reduced disturbance as compared to development of the vacant lot with a separate home).

**ORDER**

PURSUANT to the application of Charles Converse, III and Jean Converse, petitioning for a variance to permit a dwelling with less 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 25<sup>th</sup> day of July, 2005,

ORDERED, by the Administrative Hearing Officer of Anne Arundel County, that the applicants' request is hereby **denied**.

  
Stephen M. LeGendre  
Administrative Hearing Officer

**NOTICE TO APPLICANT**

Within thirty 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.

If this case is not appealed, exhibits must be claimed within 60 days of the date of this Order, otherwise that will be discarded.



**DETAILS AND SPECIFICATIONS FOR VEGETATIVE ESTABLISHMENT**

Following initial soil disturbance or redistribution, permanent or temporary stabilization shall be completed within seven calendar days for the surface of all perimeter controls, dikes, swales, ditches, perimeter slopes, and all slopes greater than 3 horizontal to 1 vertical (3:1) and fourteen days for all other disturbed or graded areas on the project site.

1. Permanent Seeding
  - a. Soil Tests: Lime and fertilizer will be applied per soil tests for sites greater than 5 acres. Soil tests will be done at completion of initial rough grading or as recommended by the sediment control inspector. Rates and analyses will be provided to the grading inspector as well as the contractor.
  - b. A soil test: Lime and fertilizer will be applied per soil tests for sites greater than 5 acres. Soil tests will be done at completion of initial rough grading or as recommended by the sediment control inspector. Rates and analyses will be provided to the grading inspector as well as the contractor.
  - c. Occurrence of acid sulfate soils (grayish black color) will require covering with a minimum of 12 inches of clean soil with 6 inches minimum topsoil. No stockpiling of material is allowed. If needed, soil tests should be done before and after a 6 week incubation period to allow oxidation of sulfides.
  - d. The minimum soil conditions required for permanent vegetative establishment are:
    - a. Soil pH shall be between 6.0 and 7.0.
    - b. Soluble salts shall be less than 500 parts per million (ppm).
    - c. The soil shall contain less than 40% clay but enough fine grained material (> 30% silt plus clay) to provide the capacity to hold a moderate amount of moisture. An exception is if leverages or sparcia lepedeza is to be planted, then a sandy soil (< 30% silt plus clay) would be acceptable.
    - d. Soil shall contain 1.5% minimum organic matter by weight.
    - e. Soil must contain sufficient pore space to permit adequate root penetration.
    - f. If these conditions cannot be met by soils on site, adding topsoil is required in accordance with Section 21 Standard and Specifications for Topsoil or amendments made as recommended by a certified agronomist or soil scientist and approved by the appropriate approval authority. Regardless, topsoil shall not be a mixture of contrasting textured subsoils and shall contain less than 5% by volume of clumps, stones, logs, coarse fragments, gravel, sticks, roots, trash, or other materials larger than 1/2" in diameter.

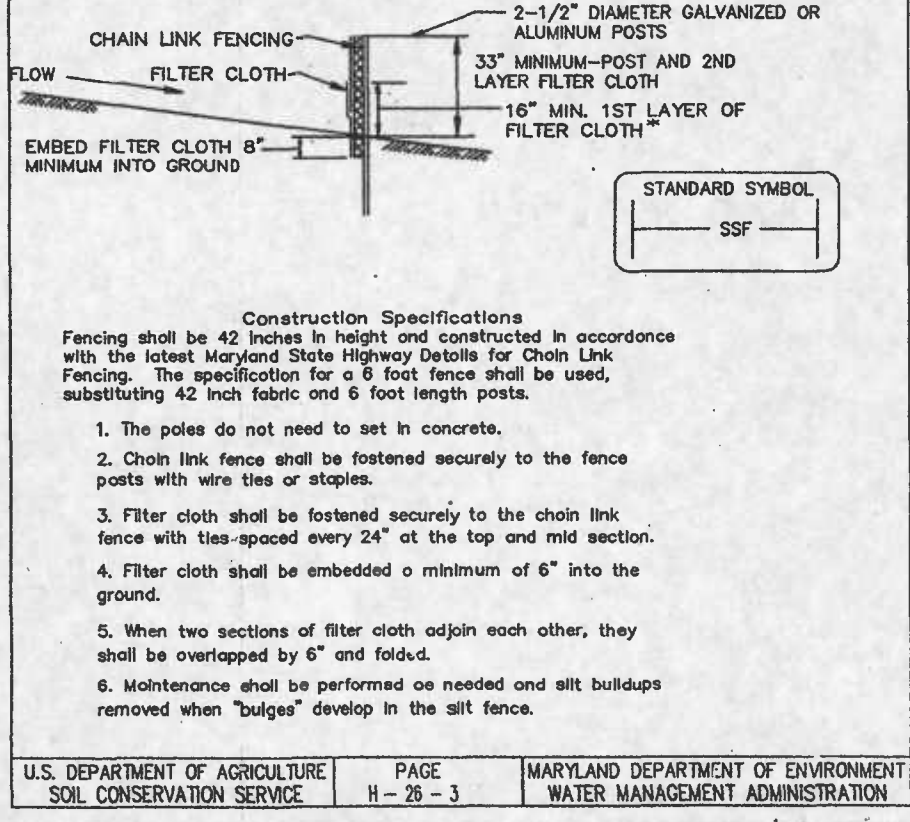
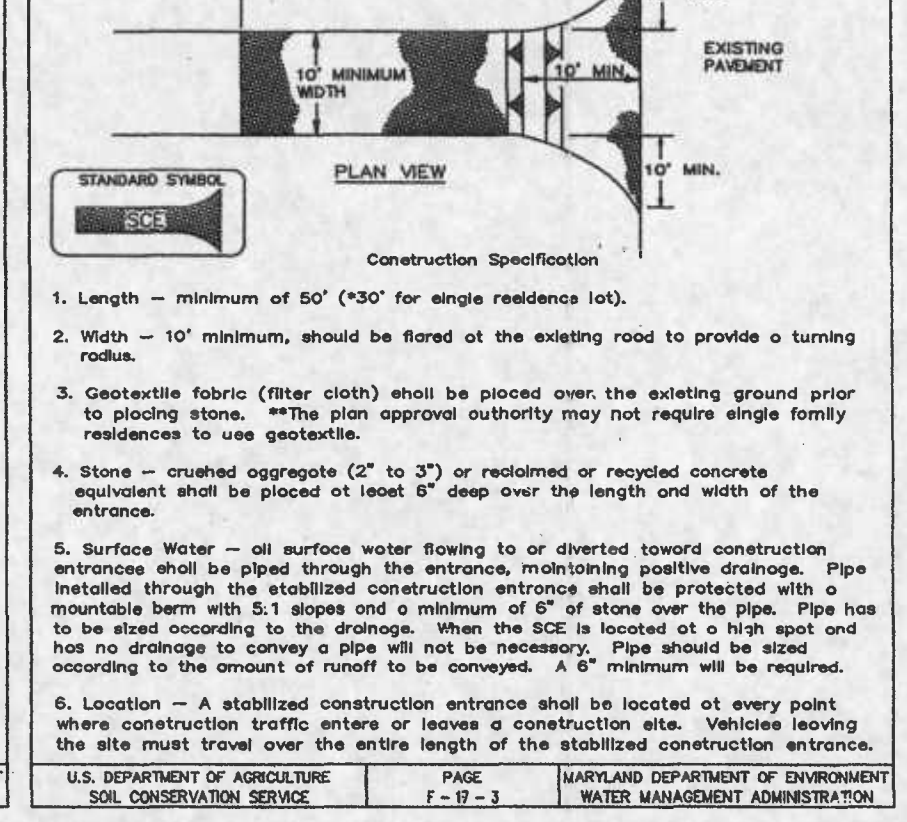
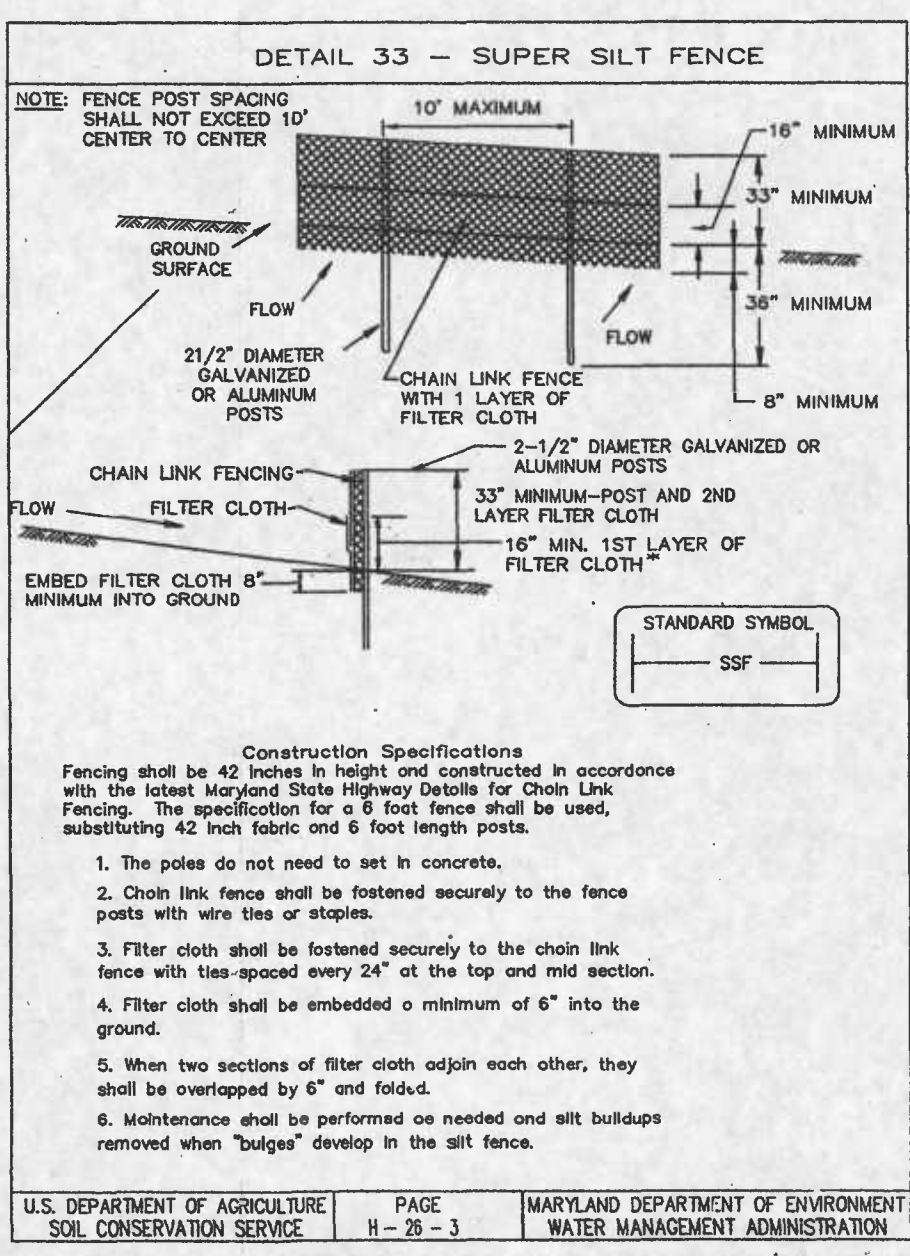
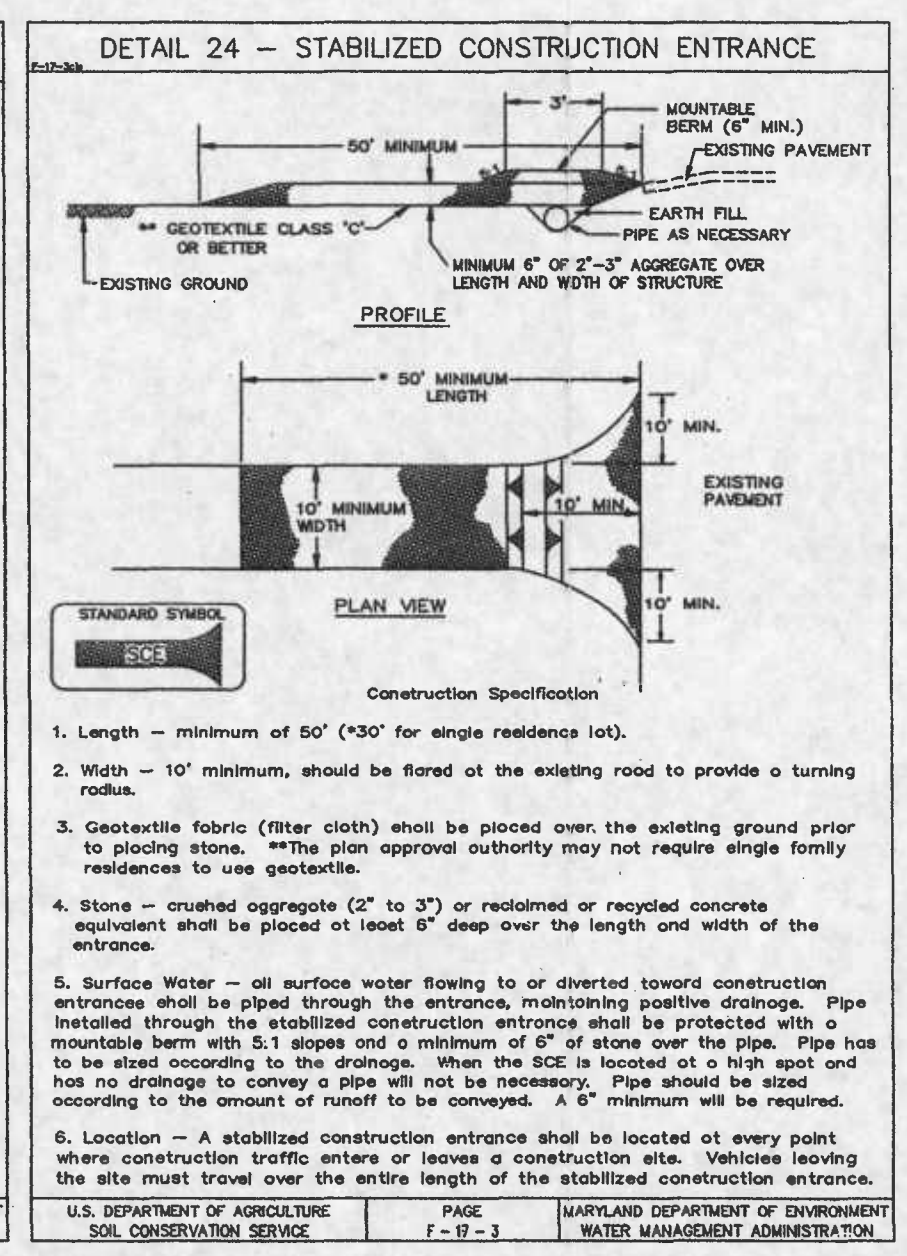
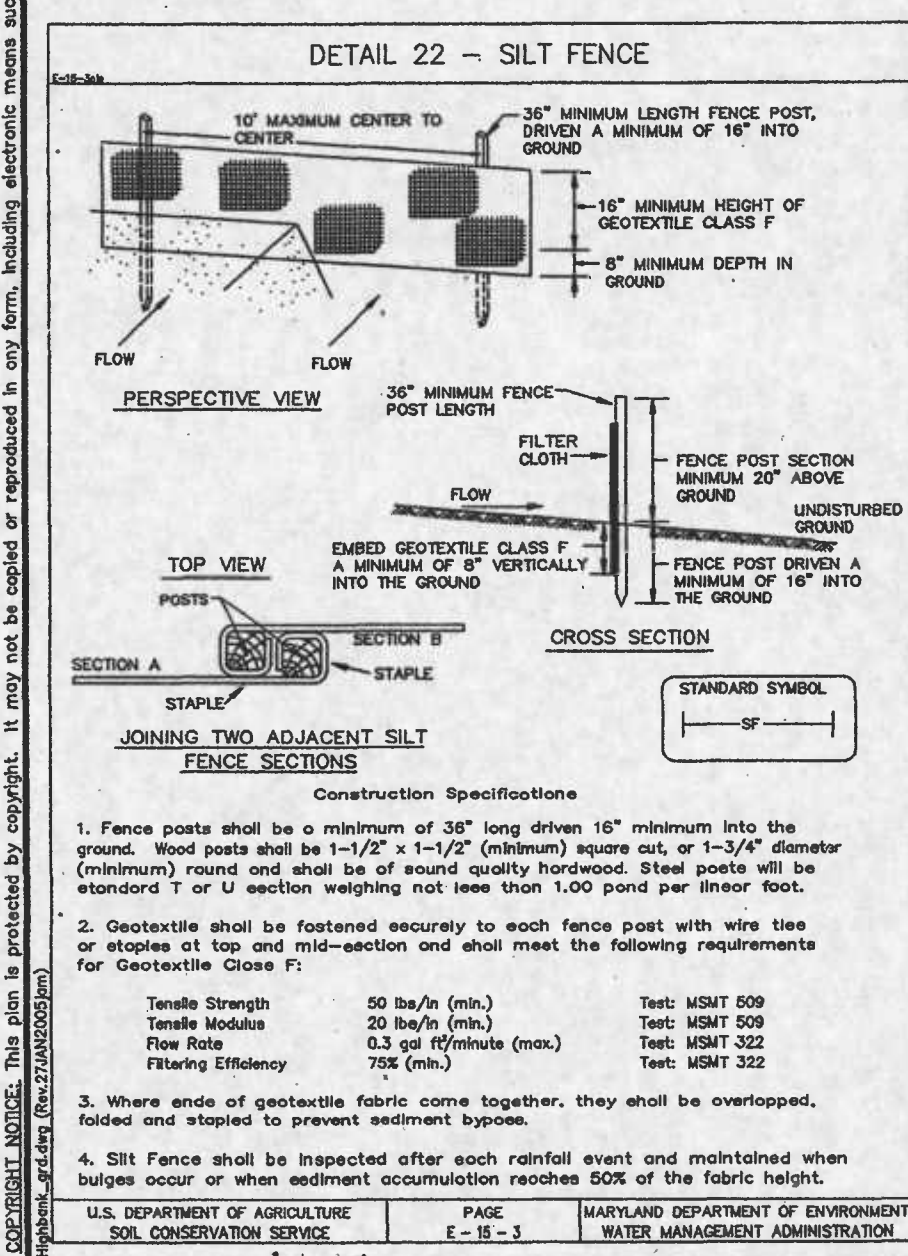
2. Seeded Preparation: Area to be seeded shall be loose and friable to a depth of at least 3 inches. The top layer shall be loosened by raking, disk or other acceptable means before seeding occurs. For sites less than 5 acres, apply 100 pounds of dolomitic limestone and 21 pounds of 10-10-10 fertilizer per 1,000 square feet. Harrow or disk lime and fertilizer into the soil to a depth of at least 3 inches on slopes flatter than 3:1.
3. Seeding: Apply 5-6 pounds per 1,000 square feet of tall fescue between February 1 and April 30 or between August 15 and October 31. Apply seed uniformly on a moist firm seedbed with a cyclone seeder, outdragger seeder or hydroseeder (lurry includes seeds and fertilizer, recommended on steep slopes only). Minimum seed depth shall be 1/4 inch in clayey soils and 1/2 inch in sandy soils when using other than the hydroseeder method. Irrigate where needed to support adequate growth until vegetation is firmly established. If other seed mixes are to be used, select from Table 25, entitled "Permanent Seeding For Low Maintenance Areas" from the current Standards and Specifications for Soil Erosion and Sediment Control. Mixes suitable for this area are 1, 3 and 5-7. Mixes 6 and 7 are suitable in non-moisture sensitive areas.

4. Mulching: Mulch shall be applied to all seeded areas immediately after seeding. During the time periods when seeding is not permitted, mulch shall be applied immediately after grading. Mulch shall be unrotted, unchopped, small grain straw applied at a rate of 4 tons per acre or 90 pounds per 1,000 square feet (2 bales). If a mulch anchoring tool is used, apply 2.5 tons per acre. Mulch materials shall be relatively free of all kinds of weeds and shall be completely free of prohibited noxious weeds. Spread mulch uniformly, mechanically or by hand, to a depth of 1-2 inches.
5. Erosion Control Straw: Straw mulch shall be secured immediately following mulch application to minimize movement by wind or water. The following methods are permitted:
  - (i) Use a mulch anchoring tool which is designed to punch and anchor mulch into the soil surface to a minimum depth of 2 inches. This is the most effective method for securing mulch, however, it is limited to relatively flat areas where equipment can operate safely.
  - (ii) Wood cellulose fiber may be used for anchoring straw. Apply the fiber binder at a rate of 750 pounds per acre or 1 mixed with water, use 50 pounds of wood cellulose fiber per 100 gallons of water.
  - (iii) Liquid binders may be used. Apply at higher rates at the edges where wind catches mulch, such as in valleys and on crests of slopes. The binder of the area should appear uniform after binder application. Binders listed in the 1994 Standards and Specifications for Soil Erosion and Sediment Control or approved equal shall be applied at rates recommended by the manufacturers.
  - (iv) Lightweight plastic netting may be used to secure mulch. The netting will be stapled to the ground according to manufacturers recommendations.

6. Temporary Seeding:
  - Lime: 100 pounds of dolomitic limestone per 1,000 square feet.
  - Fertilizer: 15 pounds of 10-10-10 per 1,000 square feet.
  - Seed: Perennial rye - 0.92 pounds per 1,000 square feet (February 7 through April 30 or August 15 through November 1).
  - Millet - 0.92 pounds per 1,000 square feet (May 1 through August 15).
  - Mulch: Same as 1 D and E Above.

7. No file may be placed on frozen ground. All fill to be placed in approximately horizontal layers, each layer having a loose thickness of not more than 8 inches and compacted to a minimum of 95%. This is classified Type 2 as per Anne Arundel County Code - Article 21, Section 2-208, and shall be compacted to a minimum of 95% density as determined by ASTM D-1557-81 (Modified Proctor). Any fill within the building area is to be compacted to a minimum of 95% density as determined by methods previously mentioned. Fill for pond embankments shall be compacted as per MD-778 Construction Specifications. All other fill shall be compacted sufficiently so as to be stable and prevent erosion and slippage.
8. Permanent Sod:
  - a. Installation of sod should follow permanent seeding dates. Seeded preparation for sod shall be as noted in section (B) above. Permanent sod is to be tall fescue, state approved seed, lime and fertilizer per permanent seeding specifications and lightly irrigate soil prior to laying sod. Sod is to be laid on a level light weight geotextile fabric. Sod joints are to be staggered between rows. Water and/or tarp sag to insure positive root contact with the soil. All slopes steeper than 3:1, an shown, are to be permanently seeded or protected with an approved erosion control netting. Additional watering for establishment may be required. Sod is not to be installed on frozen ground. Sod shall not be transplanted. Irrigation moisture content (dry or wet) and/or extreme temperature may adversely affect its survival. In the absence of adequate rainfall, irrigation should be performed to ensure establishment of sod.

9. Mining Operations:
  - a. Sediment control plans for mining operations must include the following seeding dates and mixtures: For seeding dates of February 7 through April 30 and August 15 through October 31, use seed mixture of tall fescue at the rate of 5 pounds per 1,000 square feet and sparcia lepedeza at the minimum rate of 0.5 pounds per 1,000 square feet.
10. Topsoil shall be applied as per the Standard and Specifications for Topsoil from the current Maryland Standards and Specifications for Soil Erosion and Sediment Control.



**CONSULTANT'S CERTIFICATION**

The Developer's plan to control silt and erosion is adequate to contain the silt and erosion on the property covered by the plan. I certify that this plan of erosion and sediment control represents a practical and workable plan based on my personal knowledge of this site, and was prepared in accordance with the requirements of the Anne Arundel Soil Conservation District Plan Submittal Guidelines and the current Maryland Standards and Specifications for Sediment and Erosion Control. I have reviewed this erosion and sediment control plan with the developer.

Signature: *Jacobi A. Sytle* MD P.E. License # 12267 Date: 2/17/05

Name: *Jacobi A. Sytle* MD Land Surveyor License # \_\_\_\_\_  
Firm Name/Address: Diversified Permits, Inc., P.O. Box 242, Millersville, MD 21108, Phone: (410) 859-5583

**ANNE ARUNDEL COUNTY MARYLAND**

**DIVERSIFIED PERMITS, INC.**

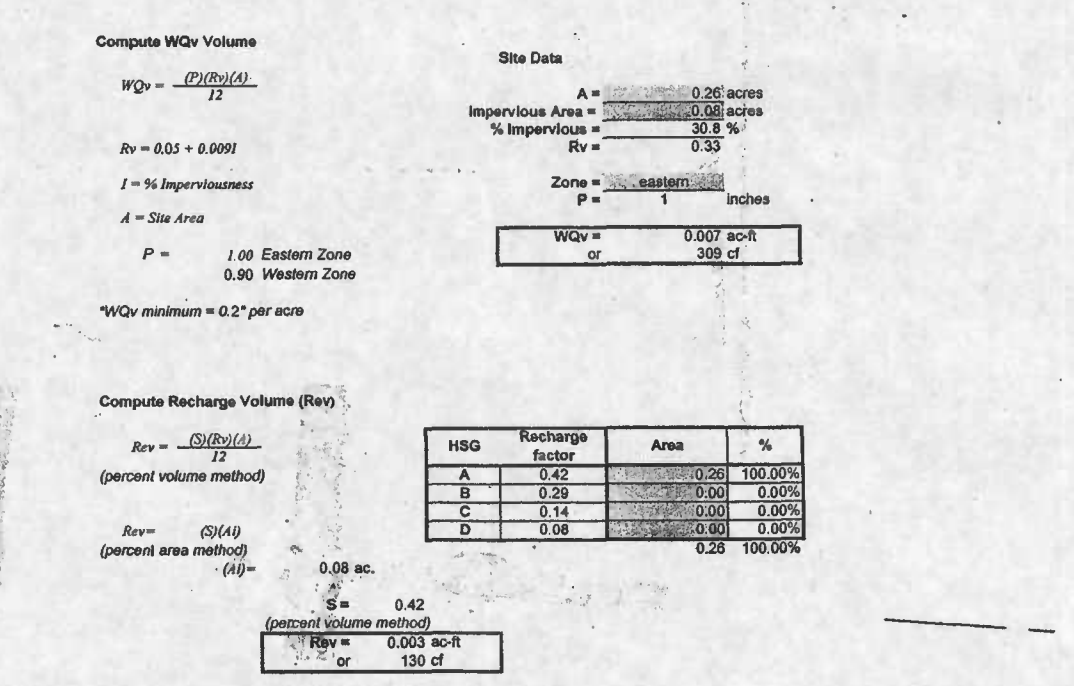
CIVIL DESIGN AND PERMIT SERVICES

P.O. Box 242  
Millersville, MD 21108

Phone: 410-859-5583  
Fax: 410-859-5584

**CRITICAL AREA CALCULATIONS**  
Parcel 20 Lakeland on the Severn

1. Total area of site: 11,398 sq. ft.
2. Impervious area allowed on site: 3,562 sq. ft. (31.26% of lot size)
3. Existing impervious area on site: 2,726 sq. ft.
4. Impervious area to be removed: 1,314 sq. ft.
5. Proposed impervious area: 2,146 sq. ft.
6. Impervious coverage after development: 3,558 sq. ft.
7. Existing woodlands on site: 2,232 sq. ft.
8. Woodlands allowed to be cleared: 6,534 sq. ft. or (lot size less than 1/2 an acre) Article 17 Sec. 8-601(a)
9. Proposed woodland clearing for development: 1,452 sq. ft.



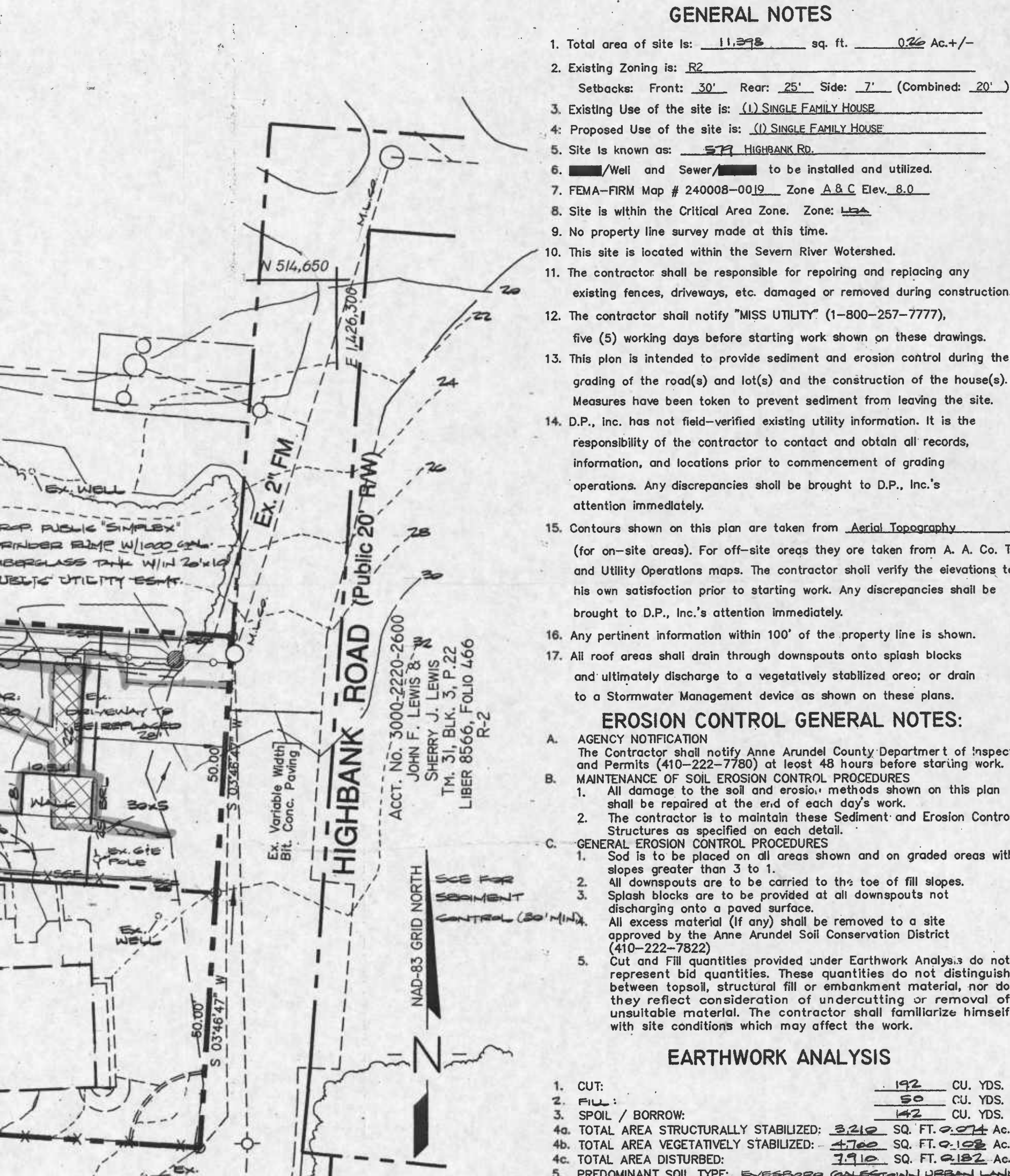
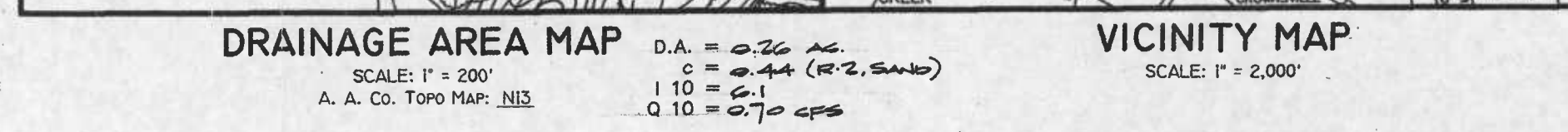
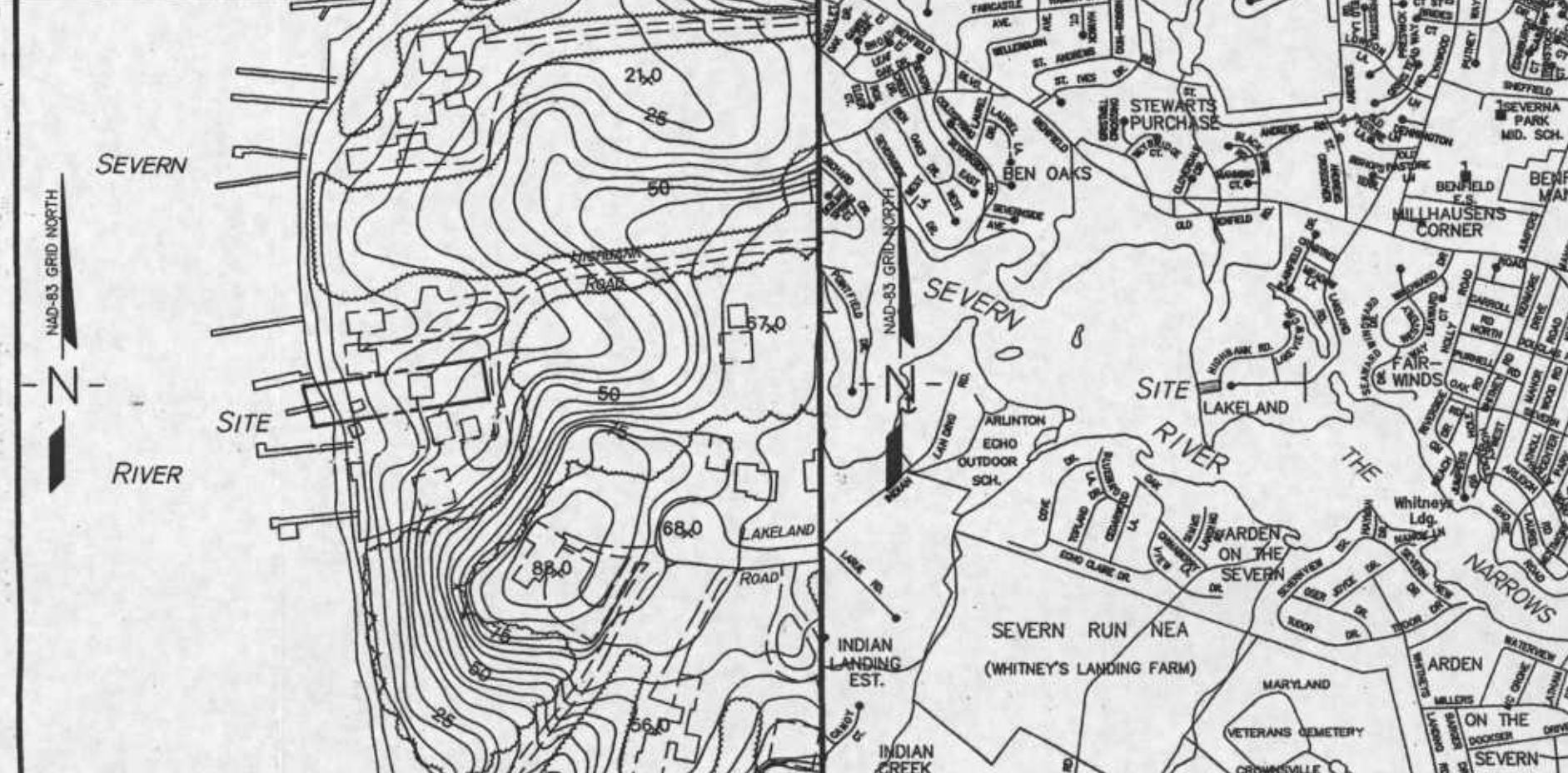
Signature of Developer/Owner: *Charles Converse* Title: OWNER  
Name: CHARLES CONVERSE Title: OWNER  
Affiliation: CONVERSE BUILDERS & DEVELOPERS, INC.  
Address: P.O. Box 5003, SEVERNA PARK, MD, 21146  
Telephone: (410) 647-0058

**SEQUENCE OF CONSTRUCTION:**

1. Contractor/Developer shall contact the Anne Arundel County Department of Inspections and Permits at 410-222-7780 at least 48 hrs. prior to the start of construction. Work may begin upon approval by Dept. of Inspections and Permits. 2 Days
2. Install S.C.E. and Silt Fence as indicated. 2 Days
3. Remove existing impervious coverage. 1 Week
4. Begin clearing and rough grading of site. Excavate for basement, footers, and foundation. Begin house construction. 2 Weeks
5. Install all utilities, including WATER & SEWER CONNECTIONS and driveway. Finish construction of house. 3 Months
6. Fine grade site. 2 Days
7. Stabilize all disturbed areas with seed and mulch as indicated. Obtain inspector's approval remove any remaining sediment control devices. 2 Days
8. Final cleanup and maintenance. 2 Days

**DRIVEWAY NOTES:**

1. Driveway shall be 10' minimum width.
2. Material shall be minimum 6" thick, CR-6 gravel w/ 2" Bituminous Concrete surface course.
3. A paved apron, constructed in accordance with Anne Arundel County Design Manual Standard Detail 54a, shall be provided within and to the ultimate right-of-way line of the intersecting public road, as part of this grading permit.



**EROSION CONTROL GENERAL NOTES:**

1. AGENCY NOTIFICATION: The Contractor shall notify Anne Arundel County Department of Inspection and Permits (410-222-7780) at least 48 hours before starting work.
2. MAINTENANCE OF SOIL EROSION CONTROL PROCEDURES: All damage to the soil and erosion methods shown on this plan shall be repaired at the end of each day's work.
3. GENERAL EROSION CONTROL PROCEDURES:
  - a. Sod is to be placed on all areas shown and on graded areas with slopes greater than 3 to 1.
  - b. All downspouts are to be carried to the toe of all slopes.
  - c. Splash blocks are to be provided at all downspouts not discharging onto a paved surface.
  - d. All excess material (if any) shall be removed to a site approved by the Anne Arundel Soil Conservation District (410-222-7822).
  - e. Cut and fill quantities provided under Earthwork Analysis do not represent bid quantities. These quantities do not distinguish between topsoil, structural fill or embankment material, nor do they reflect consideration of undercutting or removal of unusable material. The contractor shall familiarize himself with site conditions which may affect the work.

**EARTHWORK ANALYSIS**

1. CUT: 192 CU. YDS. +/-
2. FILL: 50 CU. YDS. +/-
3. SPILL / BORROW: 122 CU. YDS. +/-
4. TOTAL AREA STRUCTURALLY STABILIZED: 3,216 SQ. FT. @ 12% AC+/-
5. TOTAL AREA VEGETATIVELY STABILIZED: 4,116 SQ. FT. @ 12% AC+/-
6. TOTAL AREA DISTURBED: 7,116 SQ. FT. @ 12% AC+/-
7. PREDOMINANT SOIL TYPE: *SSSBSSS*

**A.A.S.C.D. APPROVAL STAMP AREA**

Anne Arundel Soil Conservation District  
Sediment and Erosion Control Approval

District Official: *JUL 19 2006* Date: \_\_\_\_\_

AASCD#: \_\_\_\_\_ CRITICAL AREA COMMISSION  
Chesapeake & Atlantic Coastal Bays

Reviewed for technical adequacy by  
USDA, Natural Resource Conservation Service

**GRADING, EROSION AND SEDIMENT CONTROL PLAN**

VARIANCE PLAN  
LAKELAND ON THE SEVERN

579 Highbank Rd., Severna Park  
ANNE ARUNDEL COUNTY, MARYLAND 21146  
GRID: 02 PARCEL: P.20  
TAX DISTRICT: 3rd TAX ACCT. NO.: 3000-2842-3351

DRAWN BY: JAM G.P. # \_\_\_\_\_  
CHECKED BY: REB S.C.E. As Noted  
DATE: *JUL 19 2006* SHEET 1 OF 1