

AA 663-05
VAR

Pastirik, Thomas
0354

MSA-S-1829-4724

Ms. 10105

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/

November 1, 2005

Ms. Ramona Plociennik
Anne Arundel County
Office of Planning and Zoning
2664 Riva Road, MS 6301
Annapolis, MD 21401

RE: Variance 2005-0354-V Thomas C. Pastirik

Dear Ms. Plociennik:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance to permit the construction of a second-story pervious deck (8'x14') on the northeast side of the existing dwelling with less setbacks and Buffer than required. The property is designated a Limited Development Area (LDA) and is currently developed with a two-story single-family dwelling, driveway, sidewalks, and pond on steep slopes.

Provided the property is properly grandfathered, we do not oppose the variance.

If granted, we recommend that mitigation at a ratio of 3:1 for disturbance within the Buffer should be required.

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 "Gary Green".

Gary Green
Environmental Analyst
cc: AA663-05

663-05

IN THE OFFICE OF ADMINISTRATIVE HEARINGS

CASE NUMBER 2005-0354-V

IN RE: THOMAS AND MARY LEE PASTIRIK

SECOND ASSESSMENT DISTRICT

DATE HEARD: NOVEMBER 17, 2005

ORDERED BY: STEPHEN M. LeGENDRE, ADMINISTRATIVE HEARING OFFICER

PLANNER: LIZ WEST

DATE FILED: NOVEMBER 21st, 2005

RECEIVED

NOV 28 2005

CRITICAL AREA COMMISSION

PLEADINGS

Thomas and Mary Lee Pastirik, the applicants, seek a variance (2005-0354-V) to permit a deck addition with less setbacks and buffer than required on property located along the north side of Alan A Dale Hill, north of Clopstrom Road, Annapolis.

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. Joe Mayer, the applicants' architect, 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 with a street address of 403 Alan A Dale Hill, in the Sherwood Forest subdivision, Annapolis. The property comprises 7,799 square feet and is zoned R-5 residential with a Chesapeake Bay Critical Area designation as Limited Development Area (LDA). The request is to construct a second floor, pervious deck addition (8 by 14 feet) in the Chesapeake

Bay Critical Area buffer as expanded for steep slopes and 16 feet from the front lot line.

Anne Arundel County Code, Article 27, Section 27-13-104 establishes a 100-foot buffer from tidal waters. The buffer expands to include all lands within 50 feet of contiguous steep slopes. Section 27-4-601 requires lots in the R-2 district to maintain a front setback in the amount of 30 feet. Accordingly, the proposal requires a variance to disturb the expanded buffer and a variance of 14 feet to the front setback.

Liz West, a planner with the Office of Planning and Zoning, testified that the property is below the minimum area and width for the R-2 district, irregularly configured, and encompassed by steep slopes. The dwelling was built in the 1940's. The deck is proposed in a relatively level, landscaped area. The witness summarized the agency comments. The Chesapeake Bay Critical Area Commission requested mitigation a 3:1 ratio. The Department of Health requested plan approval. By way of conclusion, Ms. West supported the application.

Ms. Hall testified that the project has received the approvals of the Sherwood Forest Board of Directors. There was no other testimony in the matter.

Upon review of the facts and circumstances, I find and conclude that the applicants are entitled to relief from the code. For this Critical Area property, due to the extent of the expanded buffer, a strict implementation of the program would result in an unwarranted hardship. To literally interpret the program would deny the applicants the right to a deck addition, a right commonly enjoyed by other

properties in similar areas in the Critical Area. Conversely, the granting of the variance does not confer any special privilege that the program typically denies. There is no indication that the request results from the actions of the applicants or from land use on neighboring property. Finally, the variance will not adversely impact Critical Area resources and harmonizes with the general spirit and intent of the program.

With respect to the zoning variance, this property satisfies the test of unique physical conditions, consisting of its reduced area and width and irregular configuration, such that there is no reasonable possibility of development in strict conformance with the code.

I further find that the variances represent the minimum relief. This is a very modest deck addition to an existing dwelling. The construction does not increase impervious surfaces and does not disturb steep slopes. There was nothing to indicate that the granting of the variances would 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. The approval is subject to the conditions in the Order.

ORDER

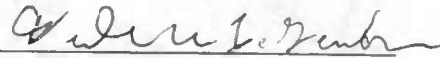
PURSUANT to the application of Thomas and Mary Lee Pastirik, petitioning for a variance to permit a deck addition with less setbacks and buffer than required; and

PURSUANT to the notice, posting of the property, and public hearing and in accordance with the provisions of law, it is this 21st day of November, 2005,

ORDERED, by the Administrative Hearing Officer of Anne Arundel County, that the applicants are **granted** a variance to disturb the expanded buffer and a variance of 14 feet to the front setback to permit a deck addition (8 by 14 feet) in accordance with the site plan.

The foregoing variance is subject to the following conditions:

1. There shall be no net increase in impervious coverage.
2. The applicants shall provide mitigation at a 3:1 ratio for disturbance in the buffer.
3. The building permit is subject to the approval of the Department of Health.

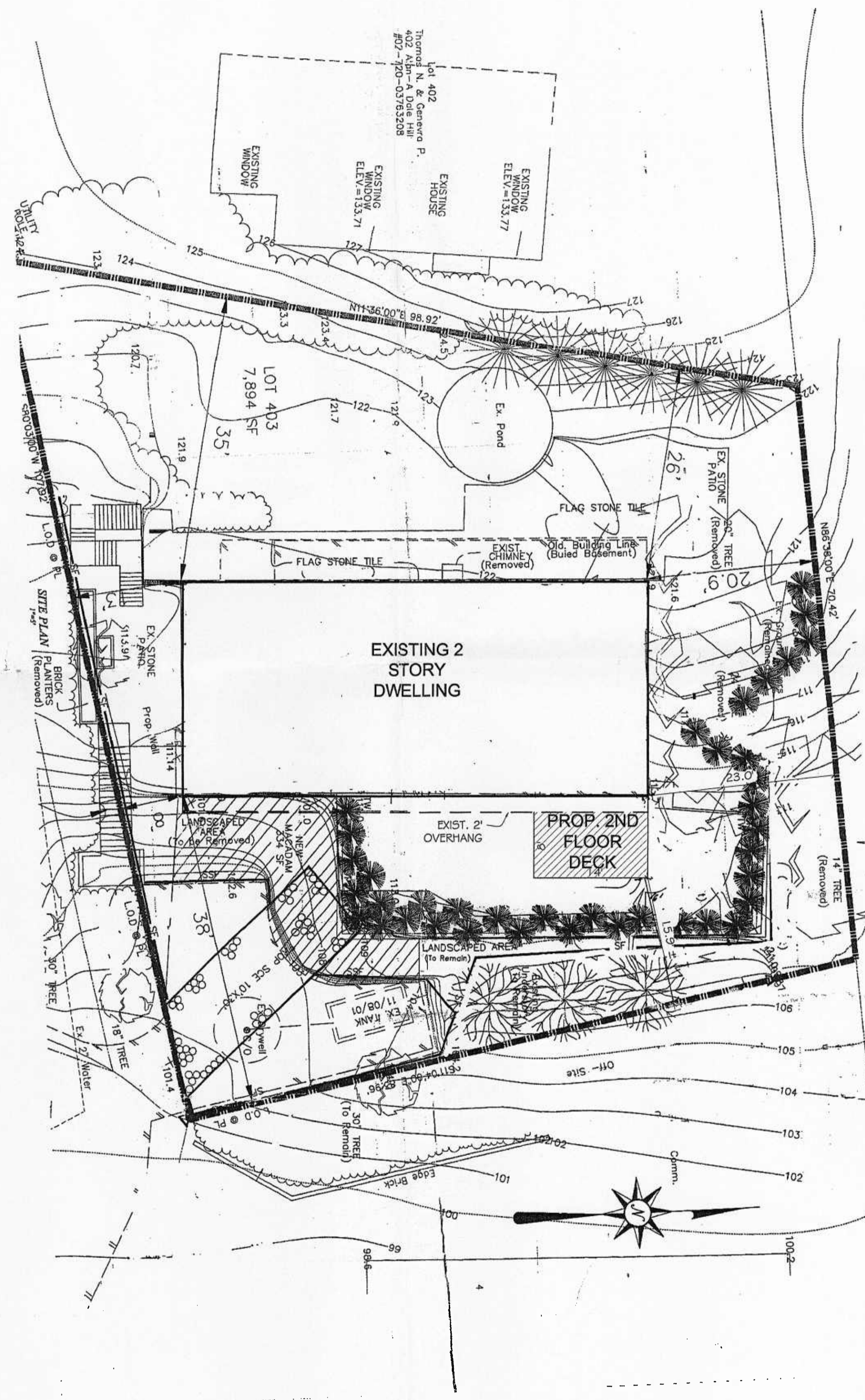

Stephen M. LeGenre
Administrative Hearing Officer

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.

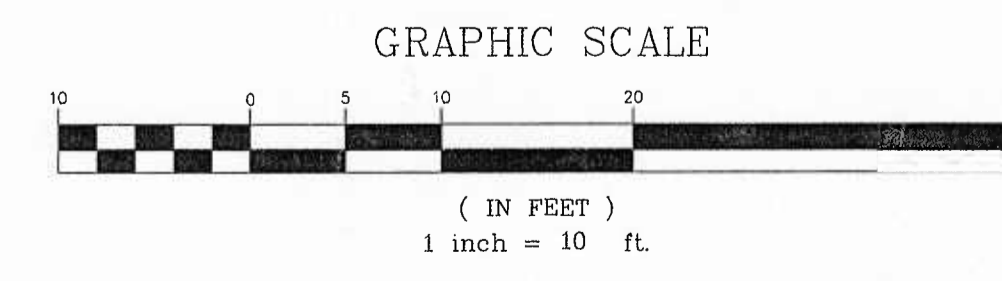
Further Section 27-16-405(a) provides that a variance expires by operation of law unless the applicant obtains a building permit within one year. Thereafter, the variance shall not expire so long as construction proceeds in accordance with the permit.

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



SITE INFORMATION:

LOT AREA: _____
 TOTAL LOT AREA: _____ 7,799 S.F.
 IMPERVIOUS AREA:
 DWELLING _____ 1,620 S.F.
 DRIVE WAY, WALKS, & PORCHES _____ 1,045 S.F.
 POND _____ 150 S.F.
 TOTAL IMPERVIOUS AREA: _____ 2,823 S.F.



SITE PLAN
 SCALE: 1" = 10.00'

I CERTIFY THAT THESE DOCUMENTS WERE PREPARED OR APPROVED BY ME, AND I AM A DULY LICENSED ARCHITECT UNDER THE LAWS OF THE STATE OF MARYLAND, LICENSE NO. 724, EXPIRATION DATE 09/04/06

RECEIVED
 OCT 04 2005
 CRITICAL AREA COMMISSION

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PROJECT:
 ADDITION PLANS FOR:
PASTIRIK RESIDENCE
 403 ALAN-A-DALE HILL
 SHERWOOD FOREST, MD 21405
 ANNE ARUNDEL COUNTY
 MAP 39, PARCEL 295
OWNER / CLIENT:
 TOM & MARY-LEE PASTIRIK

SUBMISSION SCHEDULE		
No.	DATE	DESCRIPTION
1	9-1-05	CLIENT REVIEW
REVISION		
No.	DATE	DESCRIPTION

ISSUE DATE: 09-01-2005
 DWG SCALE: 1" = 10.00'
 DRAWN BY: SCS
 PROJECT No.: 04063
 FOLDER No.: 5D
 DWG FILE No.: 5P
 DWG TITLE:

SITE PLAN