

AA 795-05  
VAR

Weitzman, Alan  
0402

MSA-S-1829-4738

Ms 12/15/05  
P

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/)

December 15, 2005

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

RE: Variance 2005-0402-V Alan and Day Weitzman

Dear Ms. Ploceinnik:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance to permit the construction of a single-family dwelling, septic system, well, driveway, deck, and with less setbacks and Buffer than required. The applicant is also requesting a variance to exceed the impervious surface limits. The property is designated as a Resource Conservation Area (RCA), is Buffer exempt, and is developed with a single-family dwelling, driveway, porch, septic system, well, and bulkhead.

Provided that this property is properly grandfathered, we do not oppose a variance to develop the property; 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 requests.

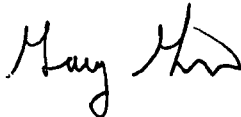
- 1) As shown on the site plan, much of the property is encumbered by Buffer and the existing and proposed structures are at the base of steep slopes. The proposed dwelling will not impact steep slopes.
- 2) The property is 0.15 acres (6,464 square feet) and the applicant proposes a total of 2,360 square feet of impervious surface coverage. 2,373 square feet of impervious surface coverage exists on the site. The impervious surface limit is 2,116 square feet
- 3) Mitigation, at a ratio of 3:1 for disturbance within the Buffer should be required. Mitigation plantings should be accommodated on the site to the extent possible.

Ms. Ramona Plociennik  
Variance 2005-0402-V Alan and Day Weitzman  
December 15, 2005  
Page 2

- 4) Stormwater from the dwelling and driveway should be directed to a best management practice to provide water quality benefits 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,



Gary Green  
Environmental Analyst  
cc: AA795-05

795-05

**RECEIVED**

JAN 09 2006

CRITICAL AREA COMMISSION

IN THE OFFICE OF ADMINISTRATIVE HEARINGS

**CASE NUMBER 2005-0402-V**

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**IN RE: ALAN AND DAY WEITZMAN**

SECOND ASSESSMENT DISTRICT

DATE HEARD: JANUARY 3, 2006

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

PLANNER: **LIZ WEST**

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DATE FILED: JANUARY 5, 2006

## **PLEADINGS**

Alan and Day Weitzman, the applicants, seek a variance (2005-0402-V) to permit a dwelling with less setbacks and buffer than required on property located along the north side of Severn Forest Road, northeast of Severn Grove 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. Mr. Weitzman 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**

This case concerns the same property the subject of a decision by this office in Case No. 2000-0444-V (February 2, 2001). The prior Order conditionally approved a variance to permit a driveway in the expanded Chesapeake Bay Critical Area buffer and on steep slopes. The applicants have constructed the driveway so that the property is no longer land locked. They now seek to raze an existing cottage (footprint 576 square feet), followed by the construction of a

replacement dwelling (footprint 1,008 square feet) and deck addition (160 square feet). The replacement dwelling would be located 34 feet from mean high water (corresponds with the front lot line), 10 feet from the east side lot line and 11 feet from the west side lot line.

Anne Arundel County Code, Article 18, Section 18-13-104 establishes a 100-foot buffer from tidal waters. Section 18-4-501 requires lots in the R-1 district to maintain a front setback in the amount of 40 feet and side yards 15 feet wide with a combined width of 40 feet. Accordingly, the proposal requires a buffer variance in the amount of 66 feet, and variances of six feet to the front setback, five feet to the east side setback, four feet to the west side setback and 19 feet to the combined side yard width.

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-1 district. The applicants have revised the site plan to incorporate the garage within the footprint, yielding 2,500 square feet of enclosed living space. The enclosed area is no closer to the water than the existing dwelling. The project includes a net reduction in impervious coverage (from 2,373 square feet to 2,200 square feet). The witness anticipated little adverse impact on the use or development of adjacent property because the applicants' property is at a lower elevation than the adjoining properties. Ms. West summarized the agency comments. The Department of Health requires plan approval; the Chesapeake Bay Critical Area Commission

requested mitigation and control of stormwater. By way of conclusion, Ms. West supported the request.

The applicants supplied several site photographs. The proffered testimony of Doug Bourquin, their engineering consultant, indicated that the project includes a new septic system and does not remove forest coverage. 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 conditional relief from the code. With respect to the Critical Area variance, due to the proximity to water, a strict implementation of the program would result in an unwarranted hardship. To literally interpret the program would deprive the applicants of the right to redevelop the property with a dwelling, a right commonly enjoyed by other properties in similar areas in the Critical Area. Conversely, the granting of the variance will 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, with mitigation and other conditions, the granting of the variance will not adversely impact Critical Area resources and will harmonize with the general spirit and intent of the program.

With respect to the zoning variances, this property satisfied the test of unique physical conditions, consisting of its reduced area and width, 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. The replacement dwelling is appropriately sized. The enclosed living space is no closer to the water than the existing condition. There is no forest clearing and a net reduction in imperious coverage. I further find that the granting of the variances 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 grade difference to the adjacent properties. The approval is subject to the conditions in the Order.

**ORDER**

PURSUANT to the application of Alan and Day Weitzman, petitioning for a variance to permit a dwelling 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 5<sup>th</sup> day of January, 2006,


ORDERED, by the Administrative Hearing Officer of Anne Arundel County, that the applicants are **granted** a buffer variance of 66 feet and variances of six feet to the front setback, five feet to the east side setback, four feet to the west side setback and 19 feet to the combined side yard width to permit a dwelling in accordance with the site plan.

The foregoing variances are subject to the following conditions:

1. The building permit is subject to the approval of the Department of Health.



2. The applicants shall provide mitigation at a ratio of 3:1 for disturbance in the buffer.
3. Stormwater from the dwelling and driveway shall be directed to a best management practice.
4. Impervious coverage shall not exceed 2,200 square feet.
5. No further development is allowed in the buffer.

  
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.

Further Section 18-16-405(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.

0402-1  
**ED BROWN & ASSOCIATES, INC.**

**EDWARD A. BROWN L.S.**  
President

Land Surveyors - Planners  
19 Loretta Avenue  
Annapolis, Maryland 21401

Phone 410-266-6199  
410-841-0119  
Fax 410-266-8862

**DOUGLAS D. BOURQUIN**  
Vice President

October 18, 2005

Anne Arundel County  
Office of Planning and Zoning  
Zoning Division  
2664 Riva Road  
Annapolis, MD 21401

Attention: Lois Villemaire

Reference: 1714 Severn Forest Road- R-1 Zoning  
TM 45, Parcel 408  
Variance- Letter of Explanation

Dear Ms. Villemaire:

The purpose of this writing is to explain the proposed site re-development and the variances that we believe will be needed to facilitate it. We had a Pre-Filing review meeting with Rob Konowal on October 7, 2005. A copy of his memorandum for that meeting is attached.

The subject property is located in the community of Severn Forest off Bestgate Road at 1714 Severn Forest Road. The property is 0.15 acres in size, is located within the Resource Conservation Area and is mapped buffer exempt. There is a small existing house, to be razed and replaced. The majority of this waterfront lot falls within the 100' buffer and no improvements can be accomplished without a variance to disturb the buffer.

The lot is almost completely improved with the existing house and driveway. There is a small front yard that is maintained in lawn. The property fronts the Severn River and has an established bulkhead and pier. There is no stormwater management on the property at this time. With the proposed improvements stormwater management will be addressed via plantings of trees and shrubs in a sufficient quantity to also meet the required afforestation.

The lot is very small and is located between two hillsides and at the bottom of a steep driveway. Because the lot is only 138' in depth, it is not possible to do any improvements without impacting the 100' buffer. There will be no impacts to the slopes on each side, nor to the bulkhead or shallow water habitat. The new house will be no closer to the shoreline than the existing house. There is an approved grading permit #

G02008082 for the lot and the improvements will result in a net decrease in the impervious coverage even though the actual amount will be greater than the allowed. With the installation of the stormwater management planting, there will be a net increase in the amount of vegetative cover in the Critical Area.

The existing well, septic tank and retaining wall will all remain as is. The site calculations are as follows:

Total Site Area	6,4641 square feet.
Existing Woodland	-0- square feet
Proposed Clearing	-0- square feet
Existing Impervious	2,373 square feet
Proposed Impervious	2,360 square feet

We believe the following variances are needed:

1. Side Yards: The lot is only 50' wide and therefore side yard variances are required.
2. Front Yard: The existing house is only 34' from the bulkhead waterfront and therefore a front yard variance is needed for the new house since the existing septic system prevents moving the house further back from the water.
3. Buffer: Work will be performed and expansion will occur in the 100' buffer and therefore a buffer variance is required.
4. Impervious: Even though the redevelopment will result in a decrease in impervious surface cover, the total impervious will still exceed the allowable and therefore a variance is requested.

The variance requests are the result of the size and shape of the lot not due to any action of the property owners. Allowing the construction of the new house will not confer any special privilege on the property owners or have an adverse impact on the community.

Please contact us with any questions you may have. Thank you.

Sincerely,

  
Douglas D. Bourquin

# **WEITZMAN PROPERTY**

## **CRITICAL AREA REPORT**

### **INTRODUCTION**

The Weitzman Property is located in the community of Severn Forest off Bestgate Road at 1714 Severn Forest Road. The property is 0.15 acres in size, is located within the Resource Conservation Area and is mapped buffer exempt. There is a small existing house, to be razed and replaced. The majority of this waterfront lot falls within the 100' buffer and no improvements can be accomplished without a variance to disturb the buffer.

### **VICINITY MAP**

Included in this report and shown on the attached plan is a vicinity map designating the location of the subject site. Also included in the report are portions of the nontidal wetland map of the area and the Critical Area Map with the site located.

### **NARRATIVE**

#### **EXISTING CONDITIONS**

The lot is almost completely improved with the existing house and driveway. There is a small front yard that is maintained in lawn. The property fronts the Severn River and has an established bulkhead and pier. Between the house and adjacent property is a retaining wall behind which is a hillside vegetated with small dogwood trees, English ivy, Christmas ferns, pokeweed and common raspberry. None of this vegetation will be disturbed.

#### **STORMWATER MANAGEMENT**

There is no stormwater management on the property at this time. With the proposed improvements stormwater management will be addressed via plantings of trees and shrubs in a sufficient quantity to also meet the required afforestation.

#### **IMPACT MINIMIZATION**

The lot is very small and is located between two hillsides and at the bottom of a steep driveway. Because the lot is only 138' in depth, it is not possible to do any improvements without impacting the 100' buffer. There will be no impacts to the slopes

on each side, nor to the bulkhead or shallow water habitat. The new house will be no closer to the shoreline than the existing house.

### **HABITAT PROTECTION AREAS**

The Habitat Protection Areas located on or adjacent to this lot include the 100' buffer to the shoreline and the shallow water habitat. As discussed, there can be essentially no improvements to the lot without impacts in the 100' buffer but there will be no impacts to the shallow water habitat.

### **PROPOSED CONDITIONS AND SITE CALCULATIONS**

The proposed conditions of the lot include the removal of the existing house and part of the existing driveway and the construction of a new house. The existing well, septic tank and retaining wall will all remain as is. The site calculations are as follows:

Total site area	6,461 square feet
Existing woodland	-0- square feet
Proposed clearing	-0- square feet
Existing impervious	2,373 square feet
Proposed impervious	2,360 square feet

### **CONCLUSIONS**

The subject lot is very small, as is the existing house, which is essentially a bathroom, kitchen and living room; there is no apparent bedroom. Razing and replacing the existing house will allow the property owners to build a more functional house. In order to build any useful size house, the side yard and front yard setbacks will be impacted, as will the 100' buffer.

There is an approved grading permit for the lot and the improvements will result in a net decrease in the impervious coverage even though the actual amount will be greater than 15%. With the installation of the stormwater management planting, there will be a net increase in the amount of vegetative cover in the Critical Area.

Since the lot is already improved, the replacement of the house will not result in any adverse impact to plant or wildlife habitats or to the shallow water habitat since the pier and bulkhead have already been constructed. The replacement of the house will also have no adverse impact on adjacent property owners and, in fact, the new house will be more in keeping with the size of other houses in the neighborhood.

The variance requests are the result of the size and shape of the lot and not due to any action of the property owners. Allowing the construction of the new house will not confer any special privilege on the property owners or have an adverse impact on the community.

## **PLANS**

A plan showing the site and its proposed improvements is attached to this report.

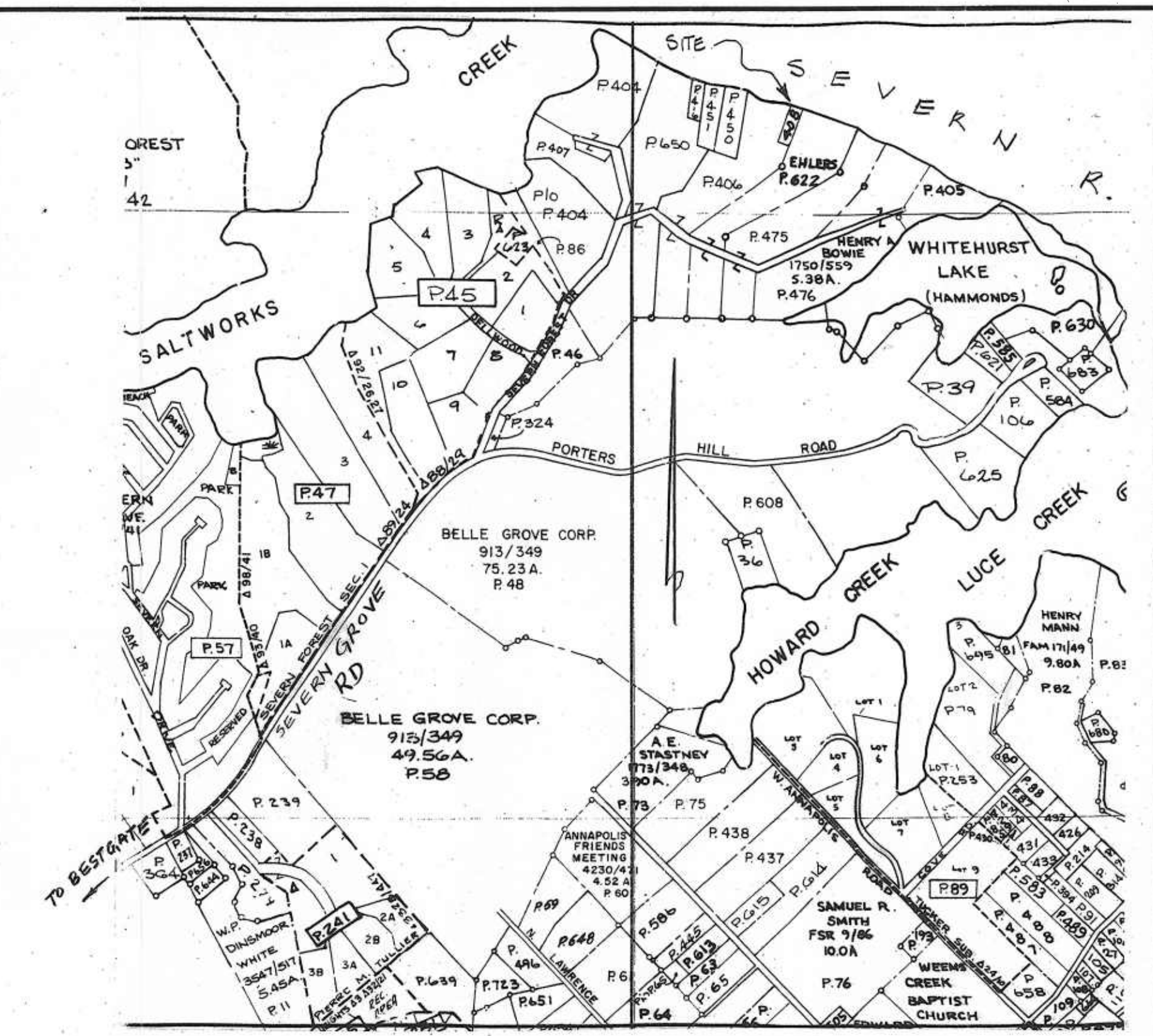
## **ADDITIONAL INFORMATION**

A Notification of Project Application for the Critical Area Commission is included in this package.

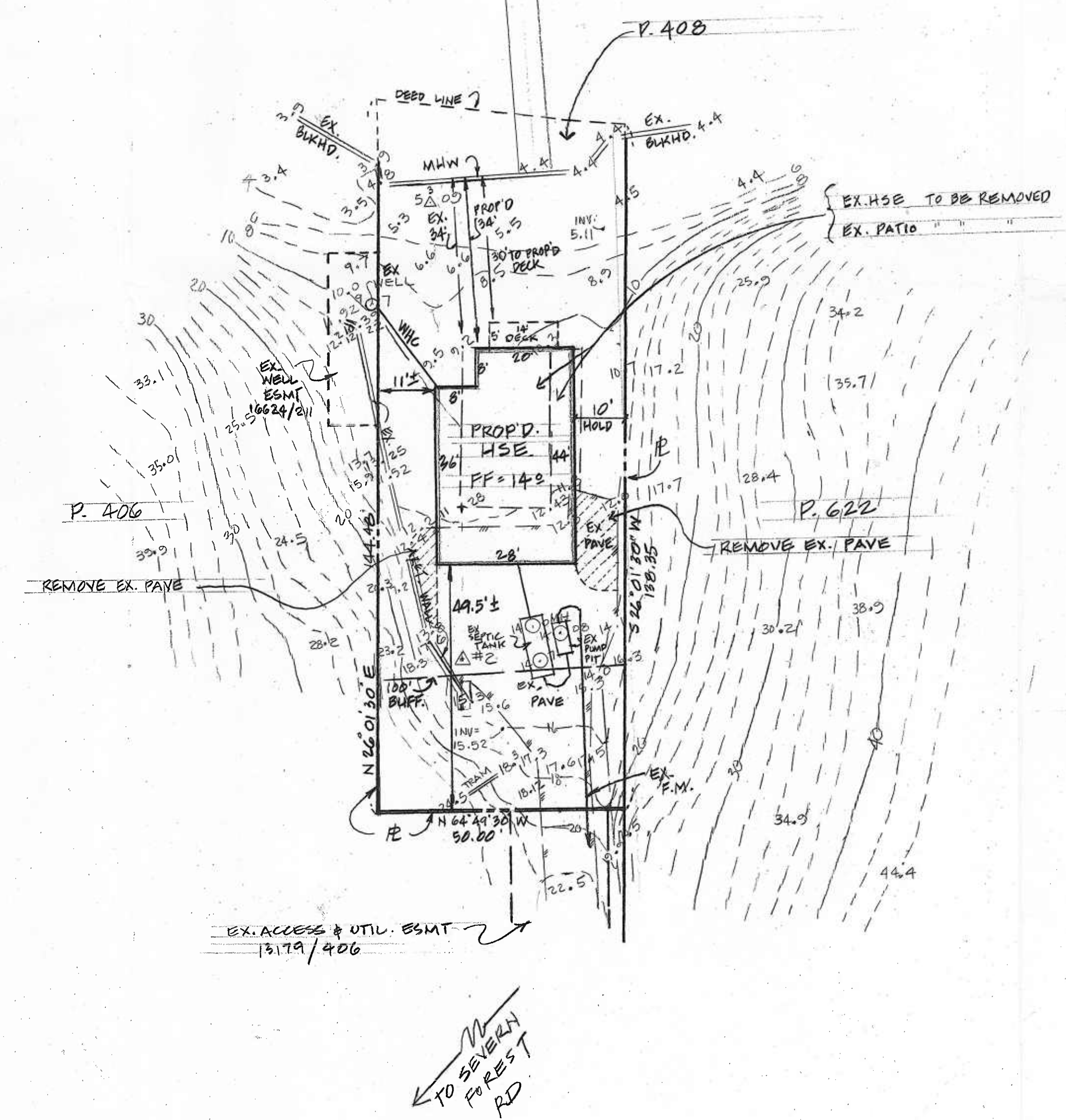
The fieldwork was conducted on 10/5/05.



SEVERN RIVER



TAX MAP & VICINITY MAP: 1" = 600'



**Critical Area Tabulation:**

1. Lot is RCA. Buffer Exempt
2. Lot Area: 6,461 sq. ft., 0.15 ac. (Deed = 0.16 Ac.)
3. Existing Impervious Cover: 2,373 sq. ft. (36.7%)
4. Ultimate Impervious Cover: 2,360 sq. ft. (36.5%)
5. Existing Forested Area: 0 sq. ft.
6. Forest Removal: 0 sq. ft.
7. All reduction of impervious area will occur in the 100-foot buffer.

**Variances: R-1 Zoning, Buffer Exempt**

Variances are requested to the required side and front setbacks; and to be allowed to expand the existing footprint in the 100' buffer; and for too much impervious surface cover in the Critical Area.

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CRITICAL AREA COMMISSION

**DETAILED & ENLARGED**

**SITE PLAN 20' VARIANCE**

SCALE: 1" = 20'

DATE: OCT, 2005

DRAWN BY: REC

CHECKED BY: DDB

JOB NO: 99-363

SHEET 1 OF 1

TAX MAP 45 BLK 4 PAR 408

1714 SEVERN FOREST RD ANNAPOLIS

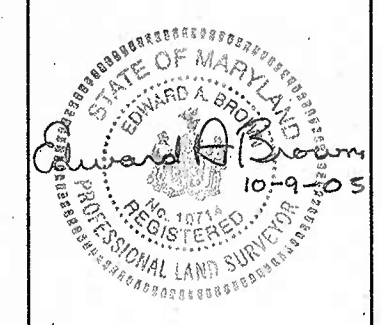
2ND TAX DISTRICT, A.A. COUNTY

FOR: ALAN & DAY WEITZMAN

RE: B02219650 TAX# 20007871600

**ED BROWN & ASSOCIATES, INC.**  
 LAND SURVEYORS - LAND PLANNERS  
 DEVELOPMENT CONSULTANTS  
 19 LORETTA AVENUE  
 ANNAPOLIS, MARYLAND 21401

ANNAPOLIS 410-266-6199 BALTIMORE 410-841-0119



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