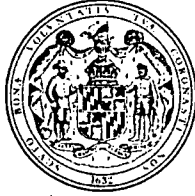


AA 826-05 Gay, Richard
VAR 0447

MSA-S-1829-4751

Gay 11/9/06



**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/

March 16, 2007

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

Re: Mary and Richard Gay – 2007-0041-V

Dear Ms. Schappert:

I have received the above-referenced variance request to allow an extension in time for the implementation of a previously approved variance request. In a letter dated 1/9/06 Critical Area planner Gary Green made comments regarding this grandfathered property and requested 3:1 mitigation and stormwater management. This office does not oppose the allowance of more time for the implementation and completion of the variance.

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

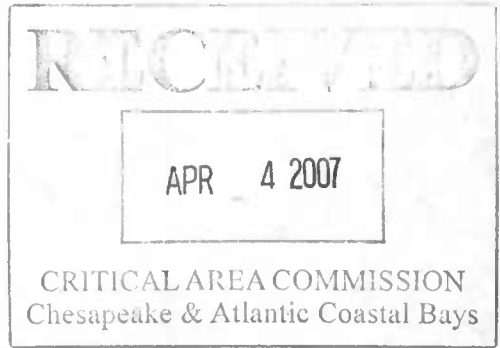
Sincerely,

A handwritten signature in black ink, appearing to read "Julie Roberts", with a long, sweeping horizontal line extending to the right.

Julie Roberts
Natural Resources Planner

cc: AA 826-05

826-65



IN THE OFFICE OF ADMINISTRATIVE HEARINGS

CASE NUMBER 2007-0041-V

IN RE: RICHARD AND MARY GAY

THIRD ASSESSMENT DISTRICT

DATE HEARD: MARCH 29, 2007

ORDERED BY: STEPHEN M. LeGENDRE, ADMINISTRATIVE HEARING OFFICER

PLANNER: LORI RHODES

DATE FILED APRIL 2nd, 2007

PLEADINGS

Richard and Mary Gay, the applicants, seek a variance (2007-0041-V) to permit an extension in the time for the implementation and completion of a previously approved variance on property located along the west side of Carrollton Road, west of Brice 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. Gay testified that the property was posted for more than 14 days prior to the hearing. I find and conclude that there has been compliance with the notice requirements.

FINDINGS AND CONCLUSIONS

This case concerns the same property the subject of a decision by this office in Case No. 2005-0447-V (January 30, 2006). The prior Order conditionally approved variances to disturb the expanded buffer and steep slopes to allow a dwelling addition.¹ At the time of the approval, Anne Arundel County Code,

¹ There were eight conditions. The applicants appealed Conditions No. 4 and 5 to the County Board of Appeals but the appeal was subsequently withdrawn. See, Case No. BA 9-06V.

Article 18, Section 18-16-405(a) provided that a variance expires by operation of law unless the applicants obtain a building permit within one-year. Thereafter, the variance shall not expire so long as construction proceeds in accordance with the permit. The present request is a timely application for an additional year to obtain the building permit.

Lori Rhodes, a planner with the Office of Planning and Zoning, testified that the project was delayed by architectural complexities. The permits are pending issuance. There were no adverse agency comments. By way of conclusion, Ms. Rhodes supported the request.

Roy Little, the applicants' engineering consultant, testified that the redesign and expansion of an existing stormwater management trench also delayed the building permit. The eight conditions of the prior Order remain valid. 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. In this regard, I adopt the findings and conclusions of the prior Order. There is sufficient evidence of delay associated with the architectural and stormwater management designs. There is no indication of any change in circumstances such that the extension should be refused. The approval incorporates the same conditions appended to the prior Order.

ORDER

PURSUANT to the application of Richard and Mary Gày, petitioning for a variance permit an extension in the time for the implementation and completion of a previously approved variance; and

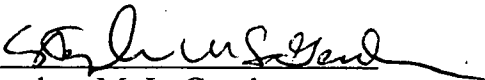
PURSUANT to the notice, posting of the property, and public hearing and in accordance with the provisions of law, it is this 2nd day of April, 2007,

ORDERED, by the Administrative Hearing Officer of Anne Arundel County, that the applicants are **granted** a variance to extend the time to obtain building permits until April 1, 2008 and the time for completion in accordance with the permit.

The foregoing variances are subject to the following conditions:

1. The applicants shall provide a Lot Merger Agreement satisfactory to the Permit Application Center.
2. The applicants shall provide a conservation easement satisfactory to the Permit Application Center.
3. No further expansion of the dwelling is allowed.
4. No new accessory structures are allowed.
5. Impervious coverage shall not exceed 9,885 square feet.
6. The applicants shall provide mitigation at a 3:1 ratio for disturbance in the buffer with plantings of native species onsite to the extent practicable.
7. The applicants shall provide stormwater management satisfactory to the Permit Application Center.

8. Stormwater from the dwelling shall be directed to a stable, vegetated outfall away from steep slopes to provide water quality benefits.


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.

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/

January 9, 2006

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

RE: Variance 2005-0447-V Mary and Richard Gay

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 two-story, single-family dwelling with less setbacks than required and disturbance to steep slopes and the expanded Buffer. The property is currently designated as Limited Development Area (LDA), is developed with a single-family dwelling, driveway, porch, pool, and deck and is on steep slopes.

Provided that the property is properly grandfathered, this office does not oppose a variance to permit the construction of the dwelling and additions; however, impacts must be minimized and the variance the minimum necessary. Based on the site plans, we have the following comments.

- 1) As stated in the Critical Area report, steep slopes encumber almost the entire property.
- 2) The property is 2.286 acres (99,619 square feet) and the applicant proposes a total of 9,885 square feet of impervious surface coverage. 13,796 square feet of impervious surface exists on the site. The amount of impervious surface allowed on the site is 14,942 square feet. The amount of ground disturbance was not provided on the site plans. The amount of vegetation to be removed is 497 square feet.
- 3) Mitigation, at a ratio of 3:1 for disturbance within the Buffer should be required. Plantings consisting of native trees and shrubs, should be accommodated on the site to the extent possible.

Ms. Ramona Plociennik
Variance 2005-0447-V Mary and Richard Gay
January 9, 2006
Page 2

- 4) Stormwater from the dwelling should be directed to stable vegetated outfalls away from steep slopes, to provide water quality benefits on the site. The site plans noted that the existing infiltration trench will be expanded as part of the new construction; we recommend this be evaluated carefully as the trench is partially on steep slopes.

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: AA826-05

0826-05

RECEIVED

JAN 31 2006

CRITICAL AREA COMMISSION

IN THE OFFICE OF ADMINISTRATIVE HEARINGS

CASE NUMBER 2005-0447-V

IN RE: MARY AND RICHARD GAY

THIRD ASSESSMENT DISTRICT

DATE HEARD: JANUARY 19, 2006

ORDERED BY: STEPHEN M. LeGENDRE, ADMINISTRATIVE HEARING OFFICER

PLANNER: LIZ WEST

DATE FILED: JANUARY 30, 2006

PLEADINGS

Mary and Richard Gay, the applicants, seek a variance (2005-0447-V) to permit a dwelling addition with less buffer than required and with disturbance to steep slopes on property located along the west side of Carrollton Road, west of Brice 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. Gay 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 property with a street address of 1900 Carrollton Road, also identified as Lots 54, 55 and part of 56 in the subdivision of Pendennis Mount, Annapolis. The property comprises 99,619 square feet and is zoned R-2 residential with a Chesapeake Bay Critical Area designation as Limited Development Area (LDA). The property fronts on the Severn River. Lot 54, comprising 40,170 square feet, is developed with a single-family dwelling in the

Chesapeake Bay Critical Area buffer as expanded for steep slopes under a variance approved by this office in Case No. 1998-0039-V (April 16, 1998). The balance of the property (Lots 55 and part of 56) is developed with a 1950's rancher-style dwelling and a swimming pool. (In Case No. 1999-0361-V (November 3, 1999), this office approved a screened addition in the expanded buffer on what was considered the rear of the rancher. The given address was 22 Brice Road, a non-waterfront lot.¹) The Gays purchased the two residences in separate transactions. They seek to merge the lots, demolish the rancher, and construct a two-story addition to the remaining home across the common lot line for former Lots 54 and 55.² The project disturbs the expanded buffer and steep slopes.

Anne Arundel County Code, Article 18, Section 18-13-104(a) establishes a 100-foot buffer from tidal waters. The buffer expands to include all lands within 50 feet of contiguous steep slopes. Article 17, Section 17-8-201 proscribes disturbances of steep slopes. Accordingly, the proposal requires a variance to disturb the expanded buffer and steep slopes.

Liz West, a planner with the Office of Planning and Zoning, testified that the property is encumbered by steep slopes that expand the buffer to encompass the improvements. The applicants are proposing 15,700 square feet of disturbance, including 5,035 square feet in the expanded buffer. The slope

¹ The site plan accompanying Case No. 1999-0361-V does not show the swimming pool.

² The pool would be retained.

disturbance measures 400 square feet. The addition is no closer to the water than the existing dwelling on Lot 54. There is a net reduction in impervious coverage in the amount of 3,911 square feet. The witness summarized the agency comments. The Chesapeake Bay Critical Area Commission requested mitigation at a ratio of 3:1 for disturbance in the buffer. By way of conclusion, Ms. West supported the application.

Roy Little, the applicants' engineering consultant, testified that the property is narrow on the cul-de-sac, then widens towards the water. The rancher has a substantial footprint that exceeds the footprint of the addition to the dwelling on Lot 54. The area of disturbance is already cleared. The impervious coverage is within the allowance (9,885 square feet versus 14,942 square feet). According to the witness, the redevelopment of Lots 55 and part of 56 in combination with an addition within the confines of Lot 54 would require a greater degree of disturbance than the present application. The project also offers the benefits of one septic system and one stormwater management infiltration trench. Finally, the required grading permit imposes a conservation easement on the remaining woodlands between the dwelling and the water.

Mr. Gay testified that the property was originally a large home site.

Kcith Bouchard, who resides on the adjacent property to the east, testified in support of the application, which removes the deteriorated rancher and is consistent with the character of the neighborhood.

The standards for granting variances are contained in Section 18-16-305.

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 would deny the applicants the opportunity to redevelop a portion of the property while expanding the other existing dwelling, rights commonly enjoyed by other properties in similar areas in the Critical Area. While the matter is not free from doubt, I am satisfied that the granting of the variances does not confer a special privilege that the program would deny to other lands in the Critical Area. This appears to be an unusual case in which what was once a solitary use - one dwelling - will be returned to the original condition. 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 variances will not adversely impact Critical Area resources and will harmonize with the general spirit and intent of the program.

Although the matter is again not free from doubt, I am satisfied that the variances represent the minimum relief. By any standard, this is a substantial dwelling. On the other hand, the project is well within the impervious surfaces limitation and there is a substantial reduction in coverage. 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 Mary and Richard Gay, petitioning for a variance to permit a dwelling addition with less buffer than required and width disturbance to steep slopes; and

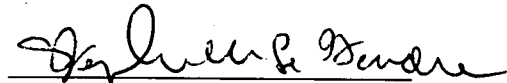
PURSUANT to the notice, posting of the property, and public hearing and in accordance with the provisions of law, it is this 30th day of January, 2006,

ORDERED, by the Administrative Hearing Officer of Anne Arundel County, that the applicants are **granted** variances to disturb the expanded buffer and steep slopes to permit a dwelling addition in accordance with the site plan.

The foregoing variances are subject to the following conditions:

- 
1. The applicants shall provide a Lot Merger Agreement satisfactory to the Permit Application Center.
 2. The applicants shall provide a conservation easement satisfactory to the Permit Application Center.
 3. No further expansion of the dwelling is allowed.
 4. No new accessory structures are allowed.
 5. Impervious coverage shall not exceed 9,885 square feet.
 6. The applicants shall provide mitigation at a 3:1 ratio for disturbance in the buffer with plantings of native species onsite to the extent practicable.
 7. The applicants shall provide stormwater management satisfactory to the Permit Application Center.

8. Stormwater from the dwelling shall be directed to a stable, vegetated outfall away from steep slopes to provide water quality benefits.



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.

**CHESAPEAKE BAY CRITICAL AREA REPORT
1900 CARROLLTON ROAD
TAX MAP 46, BLOCK 13, PARCEL 314**

INTRODUCTION

This is a 2.286 acre property that is located on the west side of Carrollton Road in the subdivision of Pendennis Mount in Anne Arundel County, Maryland. The property is completely inside the Chesapeake Bay Critical Area Boundary and is designated as Limited Development Area (LDA). The property is zoned R-2.

In accordance with Article 27, Title 13, Critical Area Overlay Section 27-13-104 (a), the proposed removal of the existing house and reconstruction of the addition to the existing house on Lot 54 will require disturbance within the expanded buffer. The disturbance within the buffer will also require disturbance to isolated steep slopes as shown and shaded on this plan.

EXISTING LAND USE

The site currently contains an existing residence with accessory structures.

SURROUNDING LAND USE

The surrounding properties consist of single family dwellings in the Pendennis Mount Subdivision.

SOILS

The U.S. Department of Agriculture Soil Survey of Anne Arundel County, sheet 9, shows the subject property to contain the soil type:

COE: Collington fine sandy loam - 15% - 40% Slopes

FLOODPLAIN

The property is shown on the Federal Emergency Management Agency (FEMA) panel 240008 0034 C. The site is shown as Zone "A6". All proposed work is above the 100 year flood elevation of 7.0.

NON-TIDAL WETLANDS

Non-tidal wetlands do not exist on-site in the area of proposed construction.

BODIES OF WATER

The site is located in the drainage area of Severn River and is waterfront.

STEEP SLOPES

Steep slopes of 25% and greater do exist on this site and are delineated on the plan.
(See topography on site plan)

FOREST COVER

The site is developed and contains isolated trees and forest (see tree line on site plan).
The predominant tree types are identified at the end of this report.

RARE AND ENDANGERED SPECIES

There are no federally or state listed species of rare, threatened or endangered species of plants or animals on this site. The appropriate request letter has been forwarded to DNR as required.

STORMWATER MANAGEMENT

The existing construction on Lot 54 currently has an approved infiltration trench which will be expanded to include the proposed new house construction as provided.
Alternative methods of management may be provided for the driveway expansion.

FOREST MITIGATION

Due to the size of the site, approximately 1 acre, mitigation will be provided by onsite planting as necessary.

DATES OF FIELD WORK

November, 2005

FOREST COVER

The Balance of the vegetation on the site is indicated below:

COMMON NAME

SCIENTIFIC NAME

Oak Species
Maple
Holly
Locust
Pine

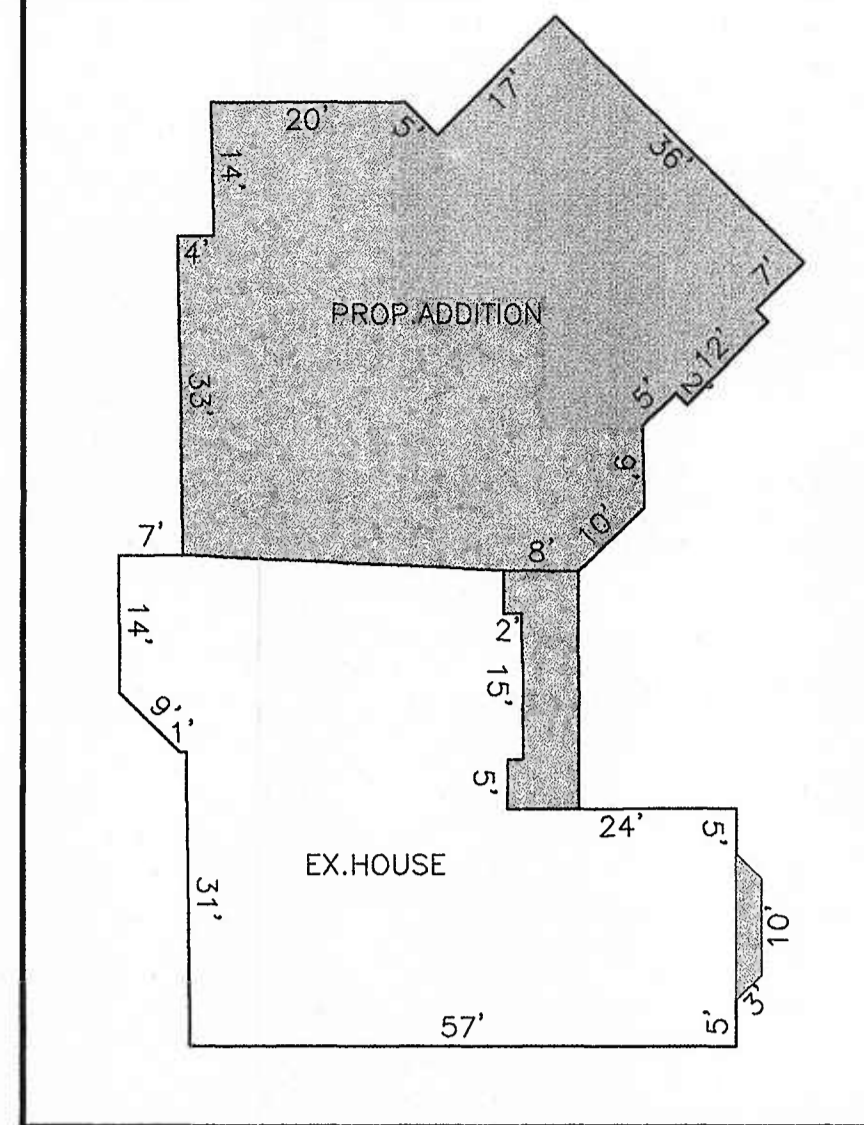
Quercus Spp.
Acer Rubrum
Aquifoliaceae
Fabacene
Pinaceae

SITE CALCULATIONS

1.	Site Area	99,619 Sq.Ft.
2.	Site Area in the Critical Area	99,619 Sq.Ft.
3.	Existing Impervious Area	13,796 Sq.Ft.
4.	Maximum Impervious Allowed (15%)	14,942 Sq.Ft.
5.	Proposed and Existing Impervious to Remain	9,885 Sq.Ft.



TAX MAP
Scale: 1"=1200'



INSET
Scale: 1"=20'

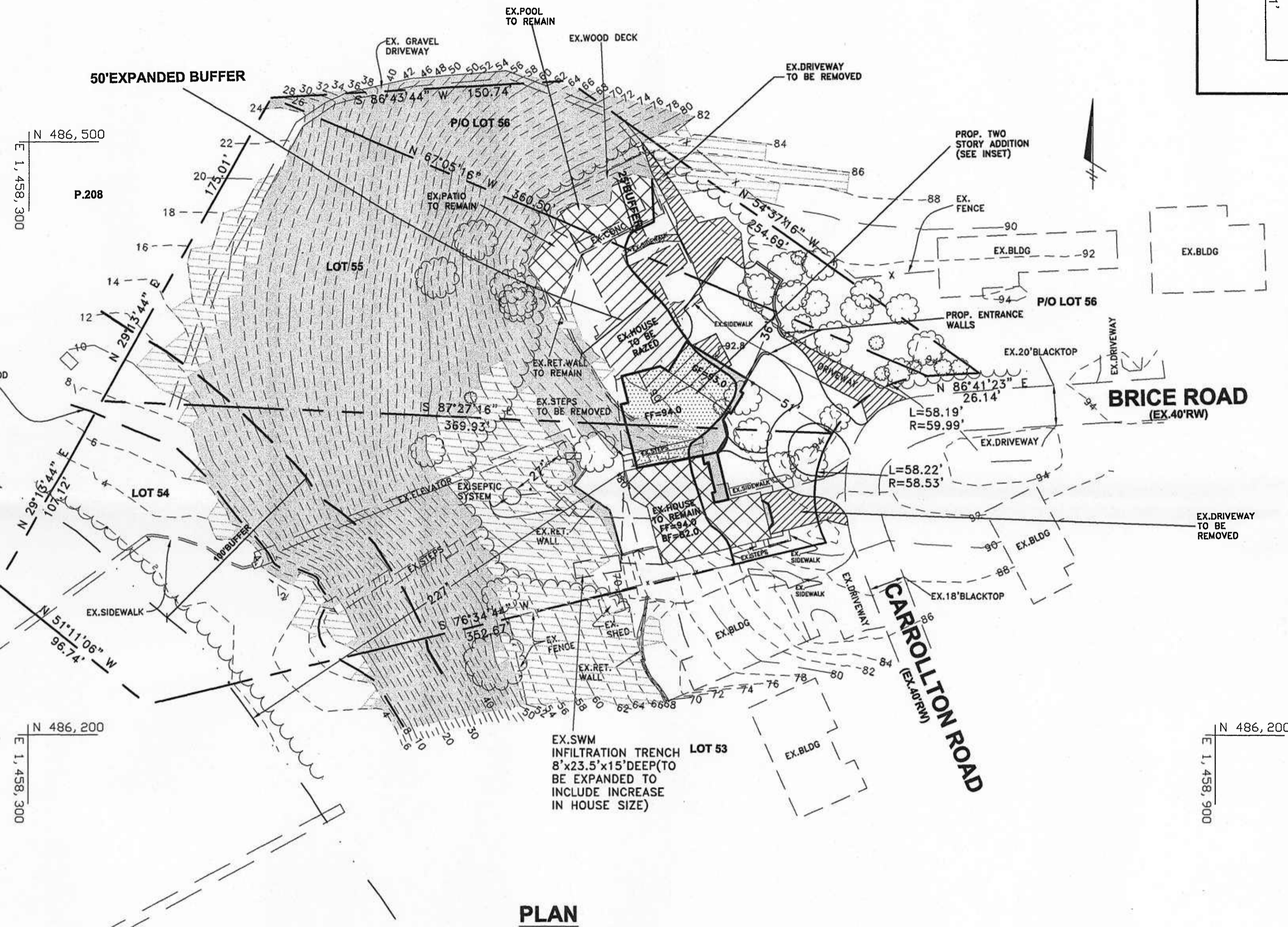


Copyright ADC The Map People
Permitted Use Number 20303126
VICINITY MAP
Scale: 1"=2000'
ADC MAP: 21-A6

RECEIVED
NOV 15 2007
CRITICAL AREA COMMISSION

PROPERTY OWNERS WITHIN 175'
OF
1900 Carrollton Road, Lots 54, 55 & 56

- | | |
|--|---|
| Tax Map 46, Lot 75:
James Rosenthal
1907 Carrollton Road
Annapolis, MD 21409 | Tax Map 46, Lot 51:
Pendennis Mount Assn.
1 Canal Road
Annapolis, MD 21409 |
| Tax Map 46, Lot 70:
Richard & Lorraine Baldorf
15 Brice Road
Annapolis, MD 21409 | Tax Map 46, Lot 53:
Mark & Melissa Myers
1902 Carrollton Road
Annapolis, MD 21409 |
| Tax Map 46, Lot 76:
Michael & Judith Donnelly
1905 Carrollton Road
Annapolis, MD 21409 | Tax Map 46, Lots 59, 60:
Henry & Susan Parker
12 Brice Road
Annapolis, MD 21409 |
| Tax Map 46, Lot 77:
James & Jean O'Farrell
17 Brice Road
Annapolis, MD 21409 | Tax Map 46, Lot 58:
Howard & Virginia Delude
16 Brice Road
Annapolis, MD 21409 |
| | Tax Map 46, Lots 57 & 54 56:
Keith & Michele Bouchard
18 Brice Road
Annapolis, MD 21409 |



PLAN
SCALE: 1"=40'

GENERAL NOTES:

- Total Site Area: 2.286 Ac. OR 99,619 S.F.
 - Existing Zoning: R-2
 - The site is located within the Critical Area Designation - LDA (Sheet No. 20 of Anne Arundel County Critical Area Maps)
 - Existing use of site is single family dwelling. Proposed use single family dwelling with addition.
 - The site is known as 1900 CARROLLTON ROAD
 - FEMA: 240008-0034C, Zone A6 - EL.7.0 area of minimal flooding
 - The site is served by private well and private septic system.
 - Contours shown on this plan are taken from a Field Surey by TERRAIN INC.
- SETBACKS (R-2)**
Front = 30 ft
Rear = 25 ft
Side = 7 ft min/ 20 combined

CRITICAL AREA NOTES:

TOTAL AREA IN CRITICAL AREA	99,619 S.F.
EXISTING IMPERVIOUS AREA	13,796 S.F.
EXISTING WOODLANDS	57,973 S.F.
EXISTING WOODLANDS TO BE REMOVED	497 S.F.
PROPOSED AND EXISTING IMPERVIOUS TO REMAIN	9,885 S.F.
MAXIMUM IMPERVIOUS ALLOWED	14,942 S.F.(15%)

PURPOSE NOTE

THE PLAN HAS BEEN PREPARED TO SHOW THE PROPOSED REMOVAL OF THE EXISTING HOUSE ON LOT 55 INCLUDING WALK AND DRIVEWAY REMOVAL AND RECONSTRUCTION OF THE EXISTING HOUSE WITH AN ADDITION ENCOMPASSING PART OF LOT 55. A LOT MERGER AGREEMENT WILL BE PROVIDED WITH THE REQUIRED PERMITS. THE NEW DRIVEWAY AS PROPOSED DOES NOT REQUIRE A VARIANCE BECAUSE IT IS LOCATED OUTSIDE THE BUFFER.

VARIANCE NOTE

IN ACCORDANCE WITH ARTICLE 27, TITLE 13, CRITICAL AREA OVERLAY SECTION 27-13-104 (c), THE PROPOSED REMOVAL OF THE EXISTING HOUSE AND RECONSTRUCTION OF THE ADDITION TO THE EXISTING HOUSE ON LOT 54 WILL REQUIRE DISTURBANCE WITHIN THE EXPANDED BUFFER. THE DISTURBANCE WITHIN THE BUFFER WILL ALSO REQUIRE DISTURBANCE TO ISOLATED STEEP SLOPES AS SHOWN AND SHADED ON THIS PLAN.

SWM NOTE

THE EXISTING CONSTRUCTION ON LOT 54 CURRENTLY HAS AN APPROVED INFILTRATION TRENCH WHICH WILL BE EXPANDED TO INCLUDE THE PROPOSED NEW HOUSE CONSTRUCTION AS PROVIDED. ALTERNATIVE METHODS OF MANAGEMENT MAY BE PROVIDED FOR THE DRIVEWAY EXPANSION.

LEGEND

- EXISTING CONTOUR 42
- PROPOSED CONTOUR 40
- 15% > STEEP SLOPES
- 25% > STEEP SLOPES
- 25' BUFFER TO STEEP SLOPES
- PROPOSED SPOT ELEVATION +45^b
- EXISTING TREE LINE
- PROPOSED ADDITION INSIDE BUFFER
- PROPOSED ADDITION OUTSIDE BUFFER
- EXISTING T.B.R. OUTSIDE BUFFER
- EXISTING T.B.R. INSIDE BUFFER
- EXISTING TO REMAIN

THESE DESIGNS AND DRAWINGS ARE PROTECTED BY THE FEDERAL COPYRIGHT LAWS AND MAY NOT BE COPIED, REPRODUCED, MODIFIED, DISTRIBUTED OR USED IN ANY OTHER WAY WITHOUT THE SPECIFIC WRITTEN CONSENT OF TERRAIN, INC., 2005

REVISION BLOCK			
NO.	DATE	DESCRIPTION	BY

OWNER/DEVELOPER
RICHARD GAY
1900 CARROLLTON ROAD
ANNAPOLIS, MD 21401



TERRAIN, INC.
LAND ENGINEERING & DEVELOPMENT SERVICES
106 OLD SOLOMON'S ISLAND ROAD
ANNAPOLIS, MARYLAND 21401
410-266-1160 FAX (410) 266-6129

VARIANCE PLAN	
PENDENNIS MOUNT LOTS 54, 55 AND P/O LOT 56 1900 CARROLLTON ROAD	
TAX MAP 46, BLOCK 13, PARCEL 314 3RD TAX DISTRICT ANNE ARUNDEL COUNTY, MARYLAND	
DATE: NOVEMBER, 2005	DRAWN BY: K.L.B.
SCALE: AS SHOWN	CHECKED BY: T.N.S.
SHEET: 1 OF 1	TERRAIN JOB NO. 1704