

CA 246-05
VAR

Beck, Bruce
3171

MSA-5-1829-4848

Comments 5/10/05
-K2A

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/

May 3, 2005

Ms. Roxana Whitt
Calvert County Department of Planning and Zoning
150 Main Street
Prince Frederick, Maryland 20678

Re: Variance 05-3171 Beck

Dear Ms. Whitt:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance from the steep slope requirements in order to construct an addition to the existing dwelling. The property is designated a Limited Development Area (LDA) and is currently developed.

Based on the site plan provided and a recent site visit, we have the following comments regarding the variance request.

1. While we do not generally oppose the applicant's proposal to construct an addition to the existing dwelling, it appears that the footprint could be further compacted to decrease the amount of slope and soil disturbance. For example, the applicant might consider an alternative design where the rear decks occupy the recessed areas created by the design of the dwelling, thereby avoiding the need to encroach even further down the slope.
2. During my site visit, I observed that the area of the proposed expansion consists of extremely steep slopes which are heavily vegetated. If not properly protected, there is potential for the slopes to be compromised during construction activities. Since there are no erosion control structures indicated on the site plan, it is unclear how the slope will be protected from erosion. Please have the applicant provide information regarding erosion control measures.
3. The property has been identified by the Department of Natural Resources (DNR) as lying within a sensitive species review area. Based on regulations included within the Calvert County Critical Area Program and Zoning Ordinance, the applicant is required coordinate with County staff and the appropriate resource agencies, in this case, DNR, to identify the potential species of concern and to address any recommendation for the protection of these species. This office has made an attempt to initiate this coordination process with DNR, but is awaiting notification of the affected species. We recommend that variance approval be delayed until an evaluation of the property by DNR can be obtained. This will ensure that all

Roxana Whitt
Variance 05-3171
May 3, 2005
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appropriate protection measures are addressed prior to the issuance of local building and grading permits.

4. We recommend that the Board require the applicant to provide stormwater best management practices which address stormwater and rooftop runoff for the proposed addition. In addition, we recommend that the decks be constructed as pervious, with spacing between the boards, six inches of gravel beneath the decks, and plantings around the base of the structure.
5. It is unclear whether any tree removal is required for the proposed construction activities. Should any tree removal be proposed, we recommend that mitigation be required at a 1:1 replacement ratio.

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,



Kerrie L. Gallo
Natural Resource Planner
CA246-05

Conditions on the approval

RECEIVED

05 3171

MAY 25 2005

Case No. 05-3171

CRITICAL AREA COMMISSION

Public Hearing
May 5, 2005

Bruce & Teresa Beck have applied for a variance in the steep slope requirements to construct an addition to their existing single-family dwelling. The property is located at 3750 Almond Road, Republic (Lots 416 & 417, Section 3-A, Scientists Cliffs) and is zoned R-1 Residential.

The matter was presented May 5, 2005 before Mr. Michael J. Reber, Chairman of the Board of Appeals, Mr. Walter Boynton, Vice Chairman and Mr. Daniel Baker. Dr. Bruce Beck was present at the hearing. The following Exhibits were dated and entered into the record at the hearing: (1) the plat submitted with the application was marked Applicants' Exhibit No. 1; (2) a plat with Health Department approval was marked Applicants' Exhibit No. 2; and (3) a written statement from Dr. and Mrs. Bruce Beck was marked Applicants' Exhibit No.3. Mr. Jonathan Bird, Builder, was present at the hearing and spoke in support of the Applicants' request. Ms. Kerrie Gallo from the Chesapeake Bay Critical Area Commission was present and testified at the hearing. A letter dated May 2, 2005 from Ms. Rose Bateman, neighboring property owner, expressing concerns with the proposed construction, was read into the record at the hearing. A Staff Report along with photographs taken on site was also entered into the record.

FINDINGS OF FACT

Through testimony and evidence presented at the hearing, the Board found the following facts to be true:

1. The subject property contains 19,243 square feet. The property is zoned R-1 Residential.

2. The property is currently developed with a single-level house that is situated partially on level ground and partially on the steep slope that descends toward the ravine at the rear of the lot.
3. The applicant is requesting a variance in the steep slope requirements to construct an addition to their existing single-family dwelling on slopes of 15% or greater.
4. The Applicant testified and submitted into the record a written statement which indicated: (1) the house on the subject property was built in 1961; (2) the home is now in need of renovation and modification to better suit family needs; (3) Hurricane Isabel created damage to the deck and roof and the original windows are rotting plus there are numerous other repairs needed; (4) they are asking for a variance to place an addition on the home. A portion of the existing home would be removed (Note: an existing wooden deck would be removed and a one-story addition on a basement with a screened porch would be added); (5) the physical location of the existing house site within the property limits requires building on a greater than 15% slope; (6) granting the variance will not result in injury to the public interest or substantially impair the intent of the Comprehensive Plan; (7) a change to the current use of the land is not requested; (8) the house will continue to be used as a residence; (9) they are sensitive to the need to restore a more native landscape and to discourage erosion; (10) the addition will not adversely affect water quality, fish, wildlife or plant habitat within the critical area; (11) the Health Department has approved the site plan with some restrictions to the measurement of the proposed addition and they will abide by them; (12) they feel granting the variance will enhance the community and will afford them rights commonly enjoyed by other properties with similar land features within the critical areas; and (13) having read the criteria for granting a variance they feel they qualify.
5. Staff comments indicated: (1) no erosion was noted and all slopes except the area under the house are vegetated and relatively stable; (2) the proposed addition follows the outline of, and will apparently replace, the existing wooden deck; (3) this may actually stabilize the barren soil area under the deck; (4) the only area that is new construction outside the existing development footprint is the porch/deck on the rear; (5) the proposed deck and porch should include a minimum of 6 inches of gravel underneath to prevent erosion; (6) mitigation in the form of native plantings should be required; (7) ivy that was planted within the Scientists Cliffs community has overtaken much of the wooded area behind the house and is compromising the existing trees and future of the forest there; (8) the applicants should work with Planning and Zoning to develop a plan to replace the aggressively invasive ivy with native species and incorporate tree plantings; (9) no stockpiling of excavated soils should be allowed on

- site; and (10) sediment and erosion control measures should include silt fence backed by wire fence.
6. The Applicant indicated he agrees with the Planning and Zoning comments and will implement all their recommendations.
 7. Ms. Kerrie Gallo from the Chesapeake Bay Critical Area Commission was present at the hearing and comments in her May 3, 2005 letter indicated the Critical Area Commission does not generally oppose the Applicants' request; however, suggested that the amount of intrusion to the slopes and soil disturbance could be minimized if the Applicant considered an alternative design where the rear decks occupy the recessed areas created by the design of the dwelling.
 8. The Applicant indicated there are no recessed areas
 9. Ms. Gallo indicated she was suggesting that instead of sprawling down the slope, the deck could be put in an alternative flat area to minimize disturbance to the slope
 10. The Applicant indicated the alternative location s was not possible due to the configuration of the house and the existing driveway.
 11. Ms. Gallo indicated she was also concerned as the property has been identified by the Department of Natural Resources (DNR) as lying within a sensitive species review area and the Applicant is required to identify the potential species of concern and to address any recommendation for the protection of these species.
 12. The Board indicated they were concerned with the disturbance to the steep slopes, the negative environmental impact, and the location of the proposed addition. The Board also indicated: (1) Building Restriction Lines are not shown on the plat; (2) proposed stormwater management is not shown on the plat; and (3) the Board needs to see the Building Restriction Lines, how much clearing is proposed, and what is proposed for stormwater management. The Board also indicated the Applicant must contact the Department of Natural Resources to determine if there are endangered species within the boundaries of the project site.
 13. Mr. Jonathan Bird, the Applicants' builder, was present at the hearing and responded to the Board's concerns as follows: (1) he assisted in preparing the site plan and acknowledges that more detail is needed; (2) the silt fence and erosion control devices can be detailed in; (3) he would defer to whatever recommendations for additional stormwater management are required; (4) initially the addition was proposed in place of an existing deck with minimal clearing; (5) they will be replacing a portion of an existing structure so impact to the environment is minimal; (6) it would be

difficult to alter the shape of the proposed addition based on the layout of the house and restrictions of the site forces the location for the proposed addition; (7) the only area of new disturbance for the pervious deck and a small porch, which will be constructed on pilings and could be hand dug; (8) 400 s.f. of forested area would be removed (includes proposed removal of a large tree to prevent danger in the future, which could remain); (9) the total disturbance for the proposed project is 1,400 square feet and no grading permit is required; (10) the project would be delayed if he needs to have an engineer provide a detailed plan. A detailed plan was not prepared as the thought was this project was not extensive enough to require such and would not add that much more information.

14. Staff indicated the County recognizes the recorded setbacks for Scientists Cliffs and the setbacks there are 10'. The proposed construction is clearly within the buildable area.
15. The property is served by public water and has a septic system.
16. A letter dated May 2, 2005 from Ms. Rose Bateman, neighboring property owner, expressing concerns with the placement of the proposed addition, encroachment onto their property, reduced privacy, use of their property by construction vehicles, destruction of slopes, and destruction of vegetation was read into the record at the hearing. The letter also indicated she is not opposed to the proposed construction.
17. The Applicant testified he is not expecting destruction of the slopes or vegetation.

CONCLUSIONS

Based on the above findings of fact, the Board came to the following conclusions (in accordance with Section 11-1.01.B of the Calvert County Zoning Ordinance):

1. Strict application of the steep slope requirements would impose peculiar and unusual practical difficulties and undue hardship upon the owners as they are removing a portion of the existing structure for the replacement addition and adding a screened porch and deck.
2. Granting the variance would not cause injury to the public interest or substantially impair the intent of the Comprehensive Plan, as neighboring property owners have been notified of the proposed construction. One neighboring property owner expressed concerns with the proposed addition but indicated in writing they are not opposed to the proposed construction.

3. Findings were made which demonstrate that special conditions or circumstances exist that are peculiar to the land and that a literal enforcement of provisions within the County's Critical Area Program would result in unwarranted hardship. This is a replacement addition as an existing wooden deck would be removed and a one-story addition on a basement with a screened porch would be added. The house was constructed in 1961 and recently damaged by Hurricane Isabel and the addition will partially renovate the home. In addition, the location of the existing house and septic system limits the space available for the proposed addition.
4. A literal interpretation of the Critical Area Legislation and the Calvert County Critical Area Program and related ordinances will deprive the Applicant of rights commonly enjoyed by other properties in similar areas within the Critical Area of the County, as they only seek to construct a small replacement/addition to their existing structure.
5. The granting of the variance will not confer upon the Applicant special privileges that would be denied by the Calvert County Critical Area Program to other lands or structures within the County's Critical Area. The Applicants only seek the right to replace an existing wooden deck with a proposed one-story addition on a basement and a screened porch.
6. The variance request is not based upon conditions or circumstances which are the result of actions by the Applicants, nor does the request arise from any condition relating to land or building use, either permitted or non-conforming, on any neighboring property but due to the physical characteristics of this property and its location within the Critical Area.
7. The granting of the variance will not adversely affect water quality or adversely impact fish, wildlife, or plant habitat within the County's Critical Area, and the granting of the variance will be in harmony with the general spirit and intent of the Critical Area law as the Critical Area Commission has reviewed the request and does not generally oppose the Applicant's proposal. Concerns expressed by the Critical Area Commission will be addressed as conditions to this order.
8. The application for a variance was made in writing to the Board of Appeals with a copy provided to the Critical Area Commission.

ORDER

It is hereby ordered, by a unanimous decision, that the variance in the steep slope requirements to construct an addition to their existing single-family dwelling as requested by

Bruce & Teresa Beck be **GRANTED** based on the above findings of fact and conclusions subject to the following conditions:


1. Mitigation in the form of native plantings shall be required.
2. The Applicant shall work with Planning and Zoning to develop a plan to replace the aggressively invasive ivy with native species and incorporate tree plantings.
3. No stockpiling of excavated soils shall be allowed on site.
4. Sediment and control measures shall include silt fence backed by wire fence.
5. A revised plat shall be submitted showing the Building Restriction Lines, stormwater management proposed, and the limit of clearing and disturbance which shall be reviewed and accepted by the office of Planning and Zoning.
6. The 10' x 15' is roofed over. The 10' x 20' porch shall remain as an open porch area.
7. An erosion and stormwater management plan must be submitted.
8. DNR will be contacted to determine if there are threatened or endangered species within the boundaries of the project site and to address their recommendations for the protection of these species. No construction shall commence until DNR has responded and any recommendations are met.
9. The property shall be developed in phases with each phase being stabilized prior to proceeding to the next phase.
10. A phasing plan shall be submitted with the building permit.
11. Prior to work being done on site, the location of the house and the limitation of clearing shall be staked and marked.
12. The Applicants' construction representative shall meet with representatives from the Department of Planning and zoning and the Department of Public Works to determine the construction grading and limit of clearing prior to construction start.
13. A foundation location plat by a registered surveyor must be submitted to and approved by the Department of Planning and Zoning prior to framing.
14. A 6" washed gravel bed shall be placed under any decks or deck areas to provide stabilization.
15. A final as-built certification by a registered surveyor must be submitted for approval by the Department of Planning and Zoning showing that the grading was performed

and structures were built according to the approved plan, prior to final approval of the project.

In accordance with Section 6 of the Calvert County Board of Appeals Rules of Procedure, "any party to a case may apply for a reconsideration of the Board's decision no later than 15 days from the date of the Board's Order."

In accordance with Section 11-1.02 of the Calvert County Zoning Ordinance, "any person or persons, jointly or severally, aggrieved by any decision of the Board of Appeals...may appeal the same to the Circuit Court of Calvert County. Such appeal shall be taken according to the Maryland Rules as set forth in Maryland Rules, Title 7, Chapter 200 within 30 days. If any application for a variance is denied by a final order of the Board, or if appealed, by a final order of the Court, a second application involving substantially the same subject matter shall not be filed within one year from the date of the final order."

Entered: May 23 2005
Pamela P. Helie, Clerk



Michael J. Reber, Chairman

CALVERT COUNTY BOARD OF APPEALS

Case No. 05-3171: Our house on 3750 Almond Rd. Port Rep. was built in 1961. Now in 2005, we have found our home in need of renovation and modification, to better suit our family needs. Hurricane Isabel also created damage to our deck and roof and the original windows are rotting, plus numerous other necessary repairs. We are asking for a variance to make an addition on our home. Based on the physical location of our home site within the property limits, this requires building on a greater than 15% slope. Granting such a variance will not result in injury to the public interest or substantially impair the intent of the comprehensive plan. We are not requesting a change to the current use of the land, which is to continue its use as a residence.

We are especially sensitive to the need to restore a more native landscape and to discourage erosion. Our addition will not adversely affect water quality, fish, wild life or plant habitat within the critical area. The health Dept. perused our lot and has approved our site plan with some restrictions to the measurement of our proposed addition. We feel that granting this variance will enhance our community and will afford us rights commonly enjoyed by other properties with similar land features within the critical areas.

We ask your approval to allow us to proceed with our project.

Sincerely,

A handwritten signature in black ink, appearing to read "Bruce & Terri Beck". The signature is fluid and cursive, with a long horizontal flourish extending to the right.

Dr. Bruce & Terri Beck

**BOARD OF APPEALS
CRITICAL AREA FORM**

**THE FOLLOWING ADDITIONAL INFORMATION IS REQUIRED FOR ALL
CRITICAL AREA VARIANCE CASES:**

PROPERTY LOCATION AND INFORMATION:

Tax Map # 28A Parcel — Lot 416 Block — Section 3A
Property Address 3750 Almond Rd Port Republic, Md. 20676
Zoning R-1 Critical Area Designation LDA
Total Acreage of Property 19,243 sqft Tax ID 01-048155

PROJECT INFORMATION:

Type of construction proposed wood frame over concrete block
Total square footage of the proposed construction 994 sq ft + 350 of wood deck
Total square footage of existing impervious surface 3143 sq. ft
Total square footage of proposed impervious surface 994 sq. ft
Total square footage of existing tree cover 16,000 sq. ft.
Total square footage of disturbed area and/or tree cover to be removed 1475 disturbed
400 tree cover removed
Is the proposed construction site within the waterfront buffer? no
Is the proposed construction site on slopes greater than 15%? yes

ALL PLANS MUST CONTAIN THE FOLLOWING INFORMATION:

Location and dimensions of the proposed construction.

Location and dimensions of all existing improvements on the property.

Location and dimensions of driveways, parking areas and accessory structures.

Distances from proposed construction to all property lines and waterways/wetlands.

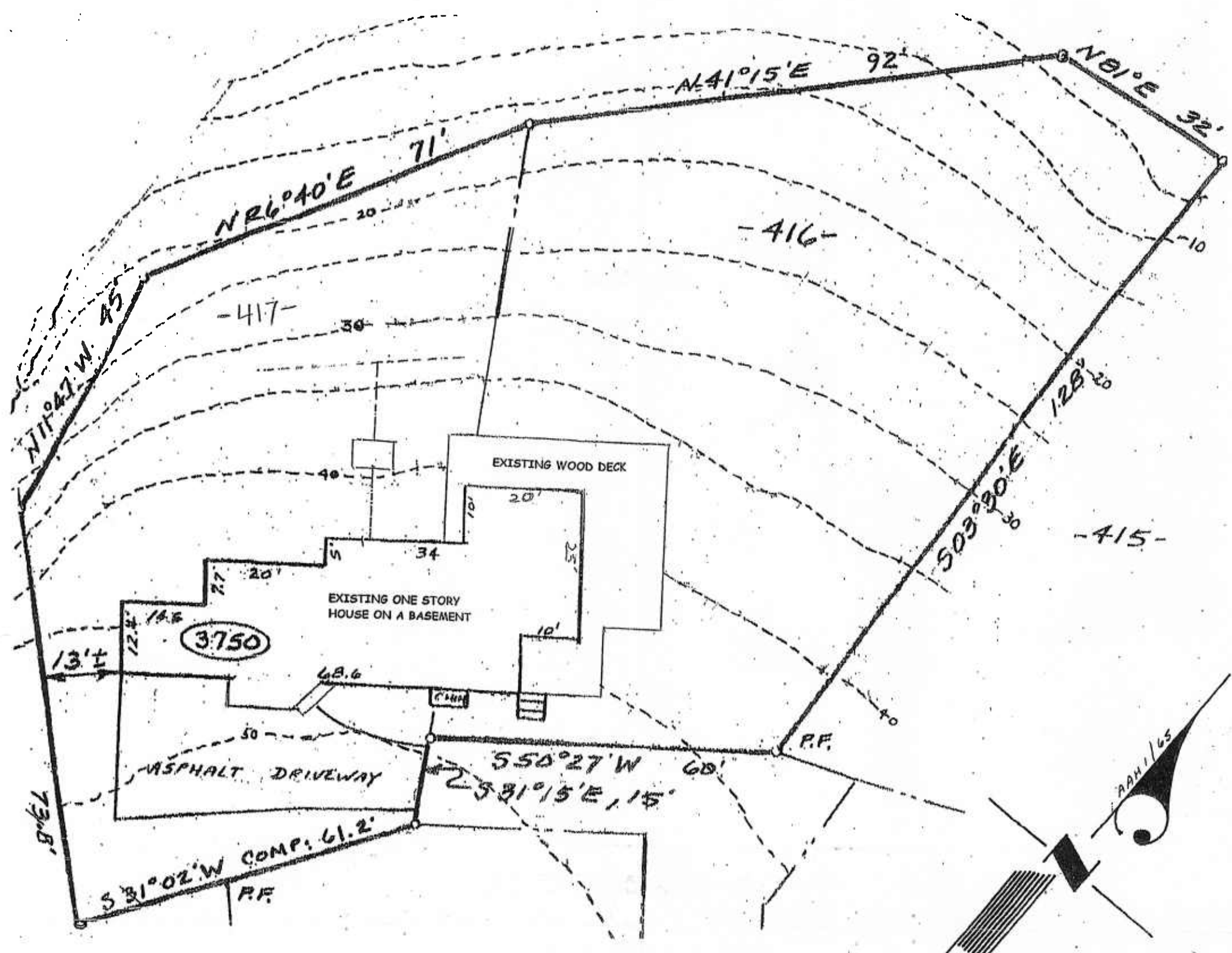
Location of the approved well and the septic system drainfields.

Location of the tree canopy line and limit of clearing.

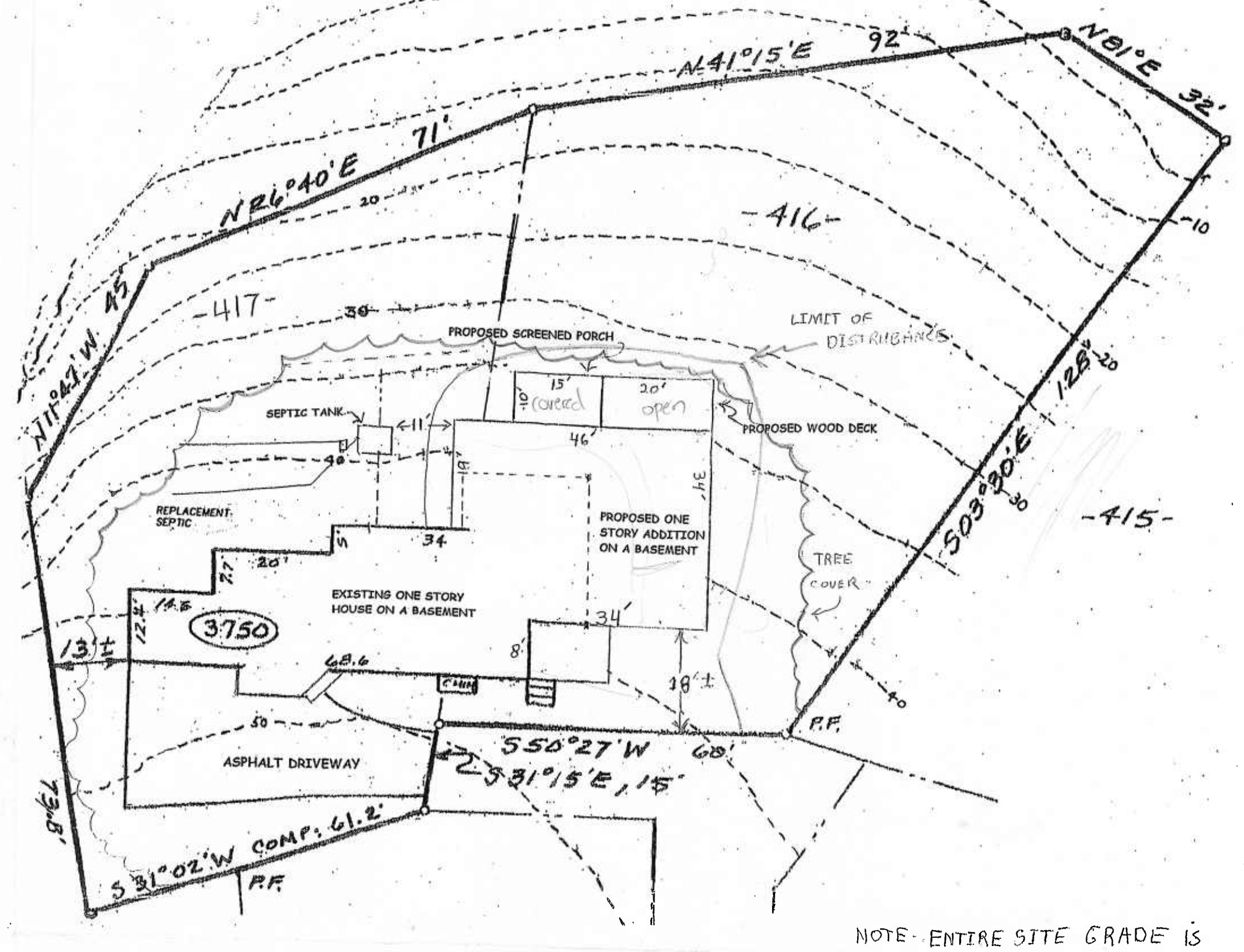
Waterfront and/or wetland buffers.

****For all new and replacement dwellings and for substantial additions, fully engineered plans are required, showing 2-foot contours, grading, and proposed sediment and erosion control measures.**

**NOTE: APPLICATIONS AND PLANS THAT ARE INCOMPLETE MAY BE
RETURNED TO THE APPLICANT FOR COMPLETION BEFORE SCHEDULING
FOR PUBLIC HEARING.**



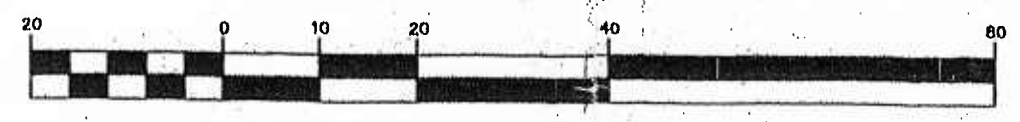
EXISTING CONDITIONS



PROPOSED CONDITIONS

NOTE - ENTIRE SITE GRADE IS OVER 15%

GRAPHIC SCALE



(IN FEET)
1 Inch = 20 ft.

INFORMATION STATEMENT

ONE STORY ADDITION OVER BASEMENT
EXISTING BEDROOMS - 3
PROPOSED BEDROOMS - 3

OWNER: BRUCE BECK, TERESA BECK
LOT 416 & 417 SECTION 3A SCIENTISTS CLIFFS
DEED: AAH 1/65
TAX I.D.# 01-048155

LOT AREA: 19,243 SQ. FT.
DISTURBED AREA: 1475 SQ. FT.
EXISTING IMPERVIOUS AREA: 3143 SQ. FT. *-16.3%*
PROPOSED IMPERVIOUS AREA: 994 SQ. FT.
EXISTING & PROPOSED IMPERVIOUS AREA: 4137 SQ. FT. *=21.4%*
FORESTED AREA: 13,085 SQ. FT.
FORESTED AREA TBR: 400 SQ. FT.

RECEIVED

APR 12 2005

CRITICAL AREA COMMISSION

"SCIENTISTS CLIFFS"		
LOTS 416 + 417 ~ SECTION 3-A		
SCALE: 1" = 20'	APPROVED BY	DRAWN BY: J.B.
DATE: 3-30-05		
BUILDING PERMIT PLAT		
FOR: BRUCE + TERESA BECK		DRAWING NUMBER 1 of 1



Robert L. Ehrlich, Jr., Governor
Michael S. Steele, Lt. Governor
C. Ronald Franks, Secretary

May 13, 2005

Ms. Kerrie Gallo
Critical Area Commission
1804 West Street, Suite 100
Annapolis, MD 21401

RE: Environmental Review for Beck Variance at Almond Drive, Scientists Cliffs, Tax Map 28A, Parcel 416, Calvert County, Maryland.

Dear Ms. Gallo:

The Wildlife and Heritage Service has determined that there are no State or Federal records for rare, threatened or endangered species within the boundaries of the project site as delineated. As a result, we have no specific comments or requirements pertaining to protection measures at this time. This statement should not be interpreted however as meaning that rare, threatened or endangered species are not in fact present. If appropriate habitat is available, certain species could be present without documentation because adequate surveys have not been conducted.

As with all steeply-sloped areas close to the Bay, where clay layers underlie the sandy surface material, we encourage the applicant to minimize the extent of impervious surface and manage stormwater via infiltration. In addition, infiltration measures should be dispersed over the property to reduce the potential for erosion.

Thank you for allowing us the opportunity to review this project. If you should have any further questions regarding this information, please contact me at (410) 260-8573.

Sincerely,

Lori A. Byrne,
Environmental Review Coordinator
Wildlife and Heritage Service
MD Dept. of Natural Resources

ER #2005.1007.ct
Cc: K. McCarthy, WHS