

CA 726-05 Kla, Bai
VAR 05-3235

MSA-S-1829-4881

Revised 12/22/05-Ked
Revised 1/27/06-Ked

Martin O'Malley
Governor
Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair
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/

February 22, 2008

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

Re: Kla, Bai Variance 08-3498

Dear Ms. Whitt:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance to allow disturbance to the 100-foot Buffer and slopes greater than 15% for construction of a retaining wall. The 22,615 square foot lot is designated as a Limited Development Area (LDA). We note that a Critical Area variance was granted for this property in 2006 for construction of a replacement dwelling, workshop, deck and driveway with disturbance to the 100-foot Buffer and to slopes greater than 15%.

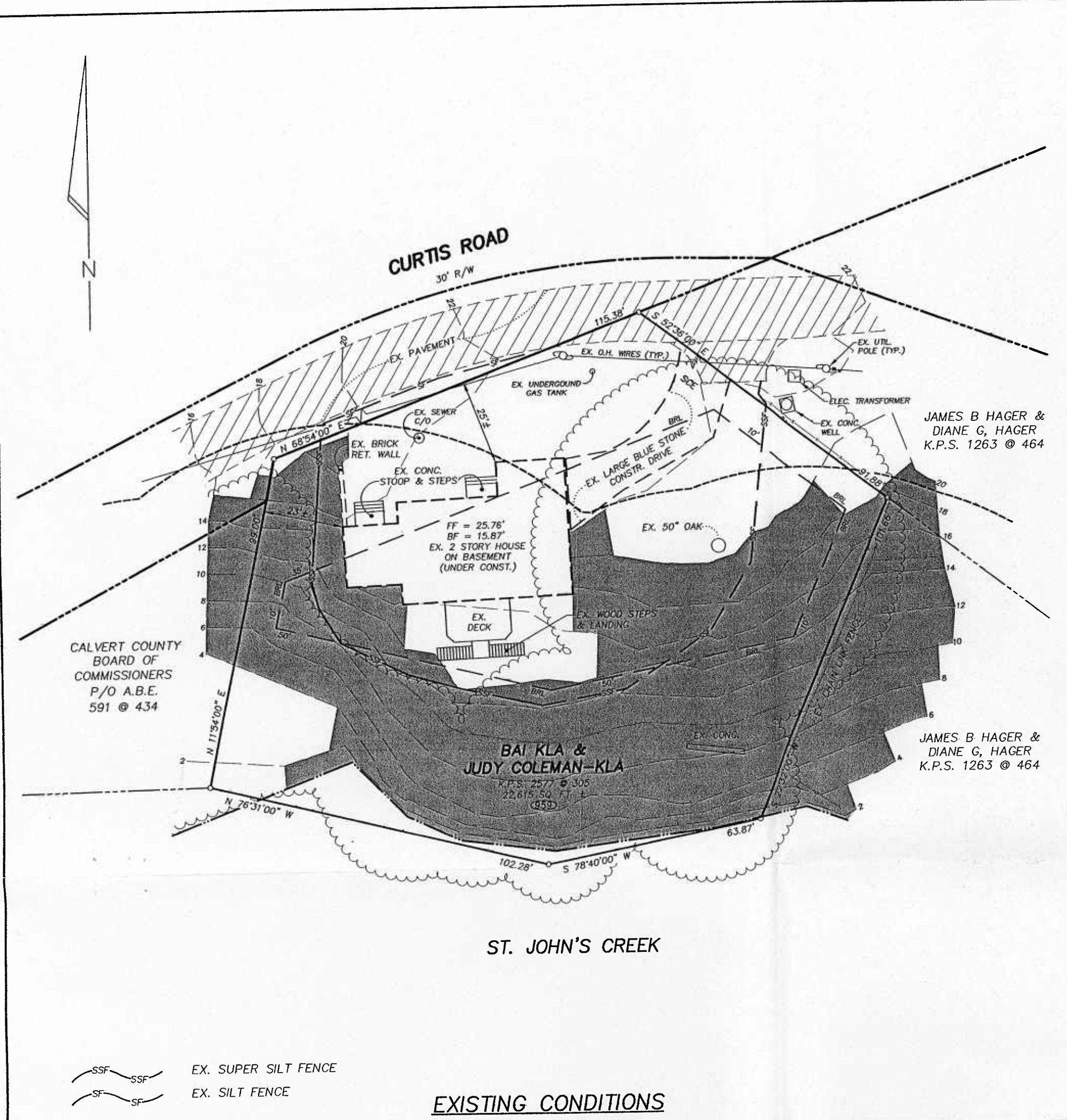
Based on the information submitted at this time, this office can not support the proposed retaining wall. The applicant was recently granted permission for a significant amount of new disturbance within the Buffer and to steep slopes to replace the previously existing dwelling with a new dwelling with at least twice the footprint. The applicant now proposes even greater disturbance within the sensitive and protected Buffer and to steep slopes for the stated purpose of creating a more level area adjacent to the basement walkout. In the absence of a demonstrated erosion problem on the slope, it does not appear that the proposed wall or the additional impacts to the Buffer are necessary. Further, it does not appear possible that the applicant can meet each and every one of the County's strict variance standards for this request.

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.

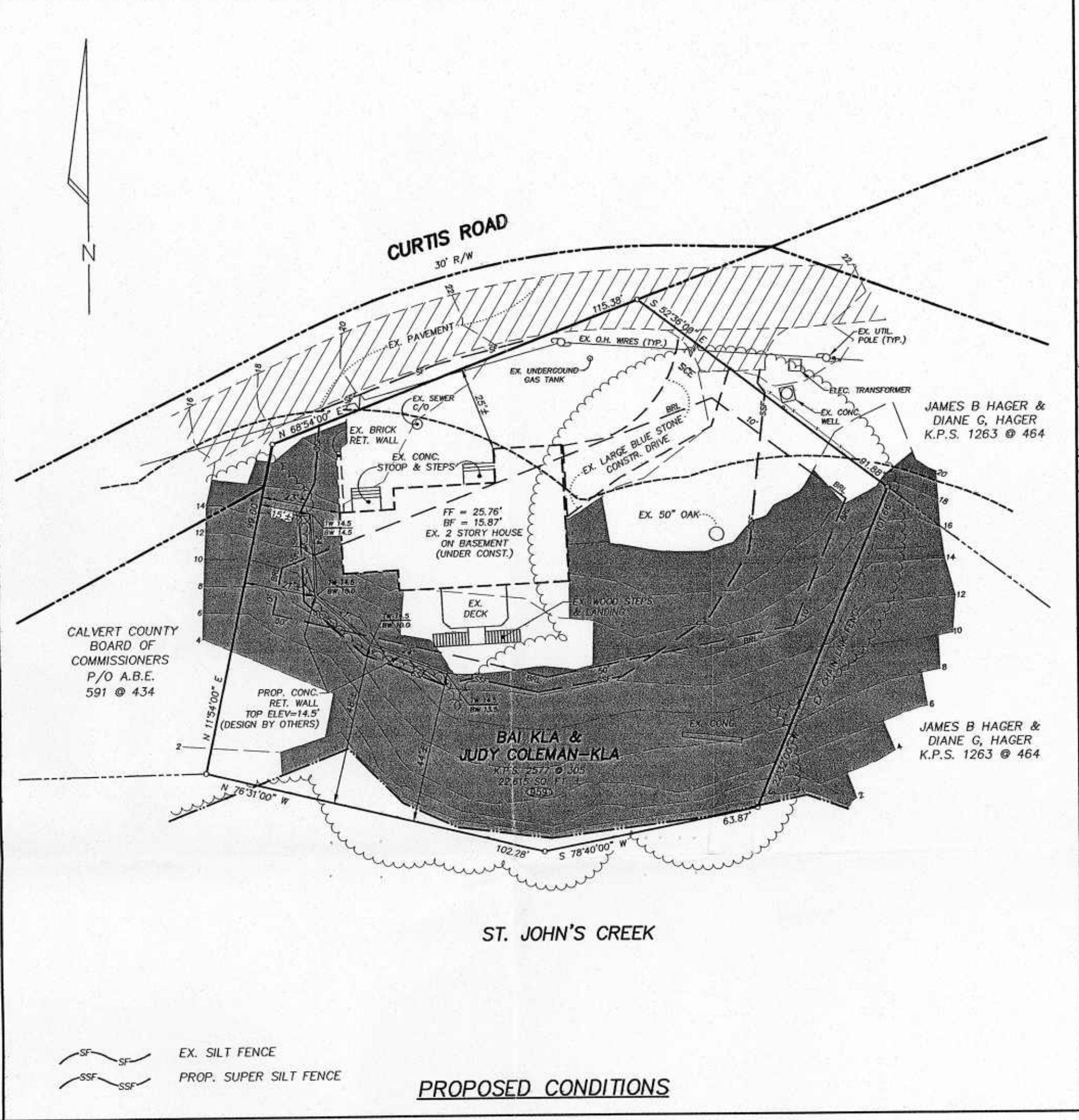
Sincerely,

A handwritten signature in black ink, appearing to read "Amber Widmayer".

Amber Widmayer
Natural Resources Planner
cc: CA 726-05



EXISTING CONDITIONS



PROPOSED CONDITIONS

INFORMATION STATEMENT

69 L.F.T. ± CONCRETE RETAINING WALL
DESIGN BY OTHERS

LOT AREA: 22,615 SQ. FT. ±
ADDITIONAL DISTURBED AREA: 218 SQ. FT. ±
EX. IMPERVIOUS AREA: 3,229 SQ. FT. ± (14.3%)
PROP. IMPERVIOUS AREA: 47 SQ. FT. ± (0.2%)
FORESTED AREA: 15,981 SQ. FT. ± (70.7%)
FORESTED AREA TBR: 218 SQ. FT. ± (1.4%)
DISTURBANCE WITHIN 100' BUFFER: 218 SQ. FT. ±

OWNER: BAI & JUDY KLA
DEED: K.P.S. 2577 @ 305
TAX I.D.#: 01004093

SOILS MAP #44
SOIL TYPE: MuD3 MATTAPEX SILT LOAM,
5 TO 15 PERCENT SLOPES,
SEVERELY ERODED
MuB2 MATTAPEX SILT LOAM,
2 TO 5 PERCENT SLOPES,
MODERATELY ERODED

THIS LOT IS IN THE CRITICAL AREA.

THIS LOT WAS RECORDED PRIOR TO JULY 1984,
WHEN STORMWATER MANAGEMENT WAS NOT REQUIRED.

CONTACT "MISS UTILITY" AT 1-800-257-7777 AT LEAST
48 HOURS PRIOR TO COMMENCEMENT OF ANY WORK.

DECKS AND OTHER STRUCTURES NOT SHOWN DO NOT
HAVE ZONING APPROVAL FOR CONSTRUCTION.

THE ISSUANCE OF COUNTY PERMITS IS A LOCAL PROCESS
AND DOES NOT IMPLY THE APPLICANT HAS MET STATE &
FEDERAL REQUIREMENTS FOR WETLAND FILLING AND/OR
WETLAND BUFFER DISTURBANCE.

EROSION CONTROL MATTING SHALL BE PLACED ON ALL DISTURBED
SLOPES GREATER THAN 15%.

SEE ZONING BOARD OF APPEALS CASE NO. 05-3235

GRAPHIC SCALE



(IN FEET)
1 inch = 30 ft.

LEGEND

	15% OR GREATER SLOPES
	EXISTING SHORELINE
	100' BUFFER
	EXISTING TREELINE
	ASSIGNED HOUSE NUMBER
	STABILIZED CONSTRUCTION ENTRANCE

COLLISON, OLIFF & ASSOCIATES, INC.
Surveyors • Engineers
Land Planners
110 MAIN STREET
PRINCE FREDERICK, MARYLAND 20678
410-535-3101 • 301-855-1599 • FAX: 410-535-3103 • EMAIL: INFO@COAINC.COM

COA

STATE OF MARYLAND
JAMES B. HAGER
DIANE G. HAGER
K.P.S. 1263 @ 464

FOLDER REFERENCE
TAX MAP 44, GRID 11, PARCEL 243

SCALE AS SHOWN
DATE

JOB NO. 1-9672
DRAWN BY NJM
APPROVED JLT
CASE NO.

JAN 28 2008

BUILDING PERMIT PLAT FOR RETAINING WALL
THE PROPERTY OF
BAI KLA & JUDY COLEMAN-KLA
FIRST DISTRICT, CALVERT COUNTY, MARYLAND
TAX MAP 44, GRID 11, PARCEL 243
FOR: **BAI KLA**

SHEET NO. 1 OF 1
FILE NO. A - 19 - 2

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
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www.dnr.state.md.us/criticalarea/

January 27, 2006

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

Re: Variance 05-3235 Kla-Revised

Dear Ms. Whitt:

Thank you for providing information on the above referenced revised variance. This office has provided two previous comment letters on the applicant's proposal. This letter is in response to further revisions made by the applicant.

Based on our review of the revised site plan provided, we note that the applicant has made significant changes which result in an overall decrease in disturbed area, and a significant reduction in the amount of clearing proposed. The proposed revisions eliminate the need for a clearing variance altogether, and preserve the ecologically significant, mature oak tree found on the property. While the revisions represent a substantial improvement in ensuring that the environmental resources of the site are not compromised, our previously communicated position that the proposed workshop does not meet the County's variance standards, nor the spirit and intent of the Critical Area Law, remains unchanged. Specifically, we note that a significant portion of the proposed development occurs within the 100-foot Buffer, with a setback of 65 feet to tidal waters. As you are aware, the Buffer is a particularly sensitive and important resource, vital to the protection of the quality of the Chesapeake Bay. The County's Critical Area Law and Criteria are intended to assure that the integrity of the Buffer is not compromised by the individual and cumulative impacts of development within the County. We believe that the proposal of an accessory structure in addition to a dwelling, garage, and driveway within the Buffer exceeds that which would be necessary to provide relief for an unwarranted hardship, and is in excess of the minimum variance necessary. In addition, excessive areas of impervious surface area seriously compromise the ability of the Buffer to perform the goals and functions set out in State and County Law. As such, it is our position that the County's variance standards have not been met.

Thank you for the opportunity to provide comments for this variance request. If you have any questions or concerns, please feel free to contact me at 410-260-3482. As always, please provide the Commission with a copy of the written decision made in this case.

Sincerely,

A handwritten signature in cursive script that reads "Kerrie Gallo".

Kerrie L. Gallo
Natural Resource Planner
CA726-05

TTY for the Deaf
Annapolis: (410) 974-2609 D.C. Metro: (301) 586-0450

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

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December 20, 2005

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

Re: Variance 05-3235 K1a-Revised

Dear Ms. Whitt:

Thank you for providing information on the above referenced revised variance. Upon review of the revised application materials, this office remains opposed to the Buffer and clearing variances as proposed.

During the previous review of the variance request, this office expressed serious concerns regarding the magnitude of disturbance proposed in conjunction with the applicant's development proposal. While we acknowledge that the applicant has decreased the amount of total disturbance by 319 square feet and decreased the amount of impervious surface area by 524 square feet, the majority of our previous concerns remain outstanding. Specifically, this office is concerned about the recognition of the Buffer as a particularly sensitive and important resource, vital to the protection of the quality of the Chesapeake Bay. In evaluating the applicant's revised proposal, as well as in evaluating the environmental conditions of the site, it remains our position that the current proposal significantly exceeds that which would be necessary to provide reasonable and significant use of the entire lot. Specifically, the proposal of an accessory structure in addition to a dwelling, garage, and driveway within the Buffer seems excessive in contrast to that which would be necessary to provide relief.

In addition to our opinion that a further reduction in overall dwelling footprint appears feasible, it appears that the applicant could enjoy reasonable use of the property without the construction of an accessory workshop. Elimination of this feature would further decrease impacts to the Buffer, and allow the dwelling to be relocated towards the western property line. This shift would benefit the property by allowing the large tree on the property to remain, altogether avoiding the need for a clearing variance. Because we do not believe that the applicant is yet able to meet the County's variance standards, and because a variance of a lesser degree is possible, we oppose the request for a Buffer variance.

As previously stated, this office also remains strongly opposed to the granting of a clearing variance. Specifically, the large, mature tree near the eastern portion of the site provides significant environmental benefits to the property, including shading of a majority of the property, provision of valuable habitat opportunities, and provision of enhanced infiltration and absorption benefits for stormwater runoff. It

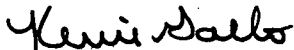
Buffer
• Remain opposed to Buffer variance
• concerned re: recognition of Buffer as partic. sensitive + vital resource
• Proposal (2100 house, 400 garage, 400 workshops) exceeds that which would be necessary to provide reasonable + significant use of parcel.
• Additional accessory structure + excessive given particularly buffer
In general) the - overall footprint could be further reduced + further minimization achieved
clearing
• strongly opposed to clearing -> specific to the large tree + the environmental value of the tree
• removal of tree would be extrem. damaging
• app. exists to construct house in harmony w/ env. + that clearing variance is unnecessary

Roxana Whitt
Variance 05-3235
December 20, 2005
Page 2

remains the opinion of this office that the clearing of this tree would be extremely damaging to the environmental conditions of the property. Furthermore, we note that opportunities appear to exist to construct a dwelling in harmony with the existing natural features, and that the need for a clearing variance appears generally unnecessary. Therefore, we remain strongly opposed to the applicant's request for a clearing variance. We recommend that the Board require the applicant to submit a site plan that avoids the need for a clearing variance altogether.

Thank you for the opportunity to provide comments for this variance request. If you have any questions or concerns, please feel free to contact me at 410-260-3482. As always, please provide the Commission with a copy of the written decision made in this case.

Sincerely,



Kerrie L. Gallo
Natural Resource Planner
CA726-05

Robert L. Ehrlich, Jr.
Governor



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October 31, 2005

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

Re: Variance 05-3235 Kla

Dear Ms. Whitt:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance from the 100-foot Buffer, steep slope, and clearing requirements in order to construct a replacement dwelling, garage and workshop. The property is designated a Limited Development Area (LDA) and is currently developed.

Based on information provided by the applicant, as well as observations made during a site visit, we acknowledge that the majority of the property lies within the 100-foot Buffer, and is therefore non-buildable without some degree of variance. However, we also note that the Buffer is recognized as a particularly sensitive and important resource, vital to the protection of the quality of the Chesapeake Bay. In proposing development activities within the Buffer, the applicant bears the responsibility to demonstrate that impacts to the Buffer have been minimized, and that each of the county's variance standards has been met. These standards include that the granting of the variance will not negatively affect water quality, or adversely impact fish, wildlife and plant habitat within the County's Critical Area, and demonstration that denial of the variance would result in an unwarranted hardship to the applicant.

Currently, the applicant is proposing to construct a dwelling with a 3,883 square foot footprint, as well as construct multiple impervious accessory structures, all within the Buffer. Based on the site conditions, it is our position that the current proposal significantly exceeds that which would be necessary to provide reasonable and significant use of the entire lot. In addition, it does not appear as though the applicant has made any attempt to minimize impacts to the Buffer. Because we do not believe that the applicant has sufficiently met each of the County's variance standards, we oppose the Buffer variance as currently proposed. We recommend that the applicant be required to submit a revised site plan demonstrating minimization of impact. In addition to the request for a variance to the Buffer, the applicant has also requested relief from the steep slope and clearing requirements. While all impact to steep slopes may not be avoidable, it does appear that minimization of the dwelling footprint would also provide further minimization of impact to steep slopes. Therefore, it is our recommendation that the Board consider tabling the request for

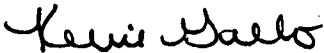
Roxana Whitt
Variance 05-3235
October 31, 2005, 2005
Page 2

a steep slope variance until the applicant can provide a revised site plan which demonstrates minimization of overall impact.

In regard to the requested clearing variance, it appears that the need for a variance is driven by the excessive dwelling footprint and the desire for multiple accessory structures. During a site visit, it was observed that the large, mature tree near the eastern portion of the site provides significant environmental benefits to the property, including shading of a majority of the property, provision of valuable habitat opportunities, and provision of enhanced infiltration and absorption benefits for stormwater runoff. It is the opinion of this office that the degree of clearing proposed would be extremely damaging to the environmental conditions of the property. Furthermore, we note that adequate opportunities appear to exist to construct a dwelling in harmony with the existing natural features, and that the need for a clearing variance appears generally unnecessary. Therefore, we strongly oppose the applicant's request for a clearing variance.

Thank you for the opportunity to provide comments for this variance request. If you have any questions or concerns, please feel free to contact me at 410-260-3482. As always, please provide the Commission with a copy of the written decision made in this case.

Sincerely,

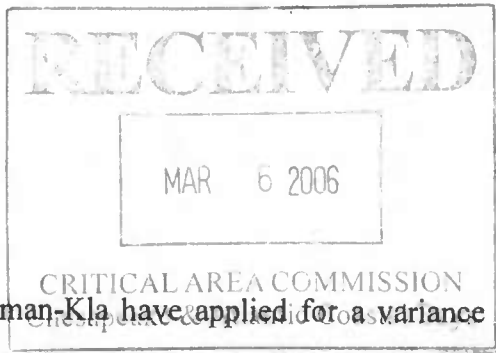


Kerrie L. Gallo
Natural Resource Planner

726-03

CA 726-05

Case No. 05-3235



Public Hearing
 November 3, 2005
 January 5, 2006
 February 2, 2006

Bai Kla & Judy Coleman-Kla have applied for a variance in the steep slope requirements, a variance in the 100' waterfront buffer requirements, and a variance in the front setback requirements from 35' to 25' for construction of a replacement dwelling, workshop, deck and driveway within the 100' buffer on slopes of 15% or greater. The property is located at 959 Curtis Road, Dowell (Parcel 243, Tax Map 44, Grid 11) and is zoned R1 – Residential.

AUTHORITY OF THE BOARD OF APPEALS

Section 11-1.01.A of the Calvert County Zoning Ordinance provides that the Board of Appeals shall have the authority to grant variances from the strict application of the area, yard, and height requirements of the Ordinance.

Section 11-1.01.B of the Calvert County Zoning Ordinance provides that the Board of Appeals shall have the authority to grant variances from the Critical Area requirements.

TESTIMONY & EVIDENCE PRESENTED

1. The case was first presented November 3, 2005 before Board of Appeals members Mr. Mike Reber, Chairman, Mr. Walter Boynton, Vice Chairman, and Mr. Dan Baker (the Board). Mr. Bai Kla and Mrs. Judy Coleman Kla were present at the hearing and were represented by Mr. Nicholas Montgomery from Collinson, Oliff and Associates (COA). Ms. Kerri Gallo from the Chesapeake Bay Critical Area Commission (CBCAC) was present at the hearing and spoke expressing CBCAC concerns. A Staff Report, along with photographs taken on site, was entered into the record. The Board deferred action that day for a site visit and advised the applicants they would be notified when the case was rescheduled. The following Exhibit was marked, dated and entered into the record at the hearing:

Applicant Exhibit No. 1 – The Plat Submitted w/the Application

2. The case was again presented January 5, 2006 before the Board. Mr. Bai Kla was present at the hearing and was represented by Mr. Nicholas Montgomery from COA. Ms. Kerrie Gallo from the CBCAC was present and spoke addressing CBCAC concerns. A Staff Report was entered into the record. The Board deferred action that day pending receipt of a revised

plat and a revised application, if required, specifying any changes to the variances requested. The following Exhibit was marked, dated and entered into the record at the hearing:

Applicant Exhibit No. 1 – A Revised Plat

3. The case was again presented February 2, 2006 before the Board. Mr. Bai Kla was present at the hearing and was represented by Mr. Nicholas Montgomery from COA. (NOTE: the applicants revised their application between the January and February 2006 to delete a request for a variance to clear greater than 30% of the property and to add a request for a variance in the front setback requirements from 35' to 25' for the proposed construction.) A Staff Report was entered into the record. The following Exhibit was marked, dated and entered into the record at the hearing:

Applicant Exhibit No. 1 – A Revised Plat

FINDINGS OF FACT

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

1. The property is located at 959 Curtis Road, Dowell and is otherwise known as Parcel 243 of Tax Map 44 in the Land Records for Calvert County.
2. The property consists of .52 acre and is situated between Curtis Road and a cove on St. John's Creek.
3. The subject property is zoned R-1 with a Limited Development Area (LDA) Critical Area overlay.
4. Section 8-1.03 of the Zoning Ordinance states, with respect to LDA zoning overlay:

"Limited Development Areas are those areas within the Critical Area District which are currently developed in low or moderate intensity uses. They also contain areas of natural plant and animal habitats, and the quality of runoff from these areas has not been substantially altered or impaired."

5. The existing house on the property is to be removed and replaced with a somewhat larger house.
6. The property is served by the public water and sewer system.

7. The terrain includes a level knoll at the front portion of the property, after which the slopes descend steeply (25%) toward the creek.
8. The waterfront buffer as measured from St. John's Creek encompasses most of the buildable area of the property.
9. Steep slopes encompass ~ half of the property.
10. Section 8-1.01.C.2. lists the following purposes of the Critical Area waterfront buffer:

The purpose of the Buffer is to:

- a) Provide for the removal or reduction of sediments, nutrients, and potentially harmful toxic substances in runoff entering the bay and its tributaries;*
 - b) Minimize the adverse effects of human activities on wetlands, shorelines, stream banks, tidal waters, and aquatic resources;*
 - c) Maintain an area of transitional habitat between aquatic and upland communities;*
 - d) Maintain the natural environment of streams; and*
 - e) Protect riparian wildlife habitat.*
11. The rear half of the property along the creek is wooded, with little to no shrub layer. There is a large oak tree in the northeast quadrant of the property, within the lawn area. Smaller trees are located adjacent to the house. Total forested area is 17,788 s.f.
 12. Proposed disturbed area is 8,177 s.f. Proposed forested area to be removed is 2,192 s.f.
 13. The proposal includes a 50' x 30' house with an attached 20' x 20' garage, 12' x 18' deck, and 16' x 18' workshop. The Applicants have downsized the size of the shop, the size of the house, and the size of the garage from the original request, to address comments received from CBCAC and concerns the Board had on the previous design. In addition, the applicant has moved the proposed workshop from a separate building to an attached building further reducing the area of the site that is impacted.
 14. The required front setback is 35'. The proposed front setback is 25'.
 15. The proposed structure has been moved toward Curtis Road, away from St. Johns Creek, at the request of the Board.
 16. The applicants have revised the proposal to shift the house to the northwest, thereby avoiding impact to the large oak tree on the property.

17. Impacts to the waterfront buffer are 6,245 s.f. Impacts to steep slopes within the buffer are ~2,000 s.f.
18. The proposal represents construction that is similar to other houses in the Critical Area and within the applicants' local community.
19. Ms. Kerri Gallo from the Chesapeake Bay Critical Area Commission (CBCAC) was present at the November 2005 and January 2006 hearings and expressed CBCAC concern with the size of the proposed structures, concern that the applicants were not minimizing disturbance to the buffer, and did not agree with the removal of the large oak tree for the proposed construction.
20. Neighboring property owners have been notified of the proposed construction and have raised no objections to the variances requested.
21. The variances are the minimum required and there is no other suitable location for this structure.

CONCLUSIONS

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

1. Strict application of the steep slope requirements, the 100' waterfront buffer requirements, the steep slope requirements, and the front setback requirements from 35' to 25' for construction of a 30' x 50' single-family replacement dwelling, a 20' x 20' garage, and an 18' x 16' attached workshop, including a 12' x 18' deck and driveway would impose peculiar and unusual practical difficulties and undue hardship upon the applicants.
2. Granting the variances would not cause injury to the public interest or substantially impair the intent of the Comprehensive Plan.
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.
4. A literal interpretation of the Critical Area Legislation and the Calvert County Critical Area Program and related ordinances would deprive the

Applicant of rights commonly enjoyed by other properties in similar areas within the Critical Area of the County.

5. The granting of the variances 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.
6. The variance requests are not based upon conditions or circumstances, which are the result of actions by the Applicant, nor does the request arise from any condition relating to land or building use, either permitted or non-conforming, on any neighboring property.
7. The granting of the variances 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.
8. The application for the variances 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, the variance in the 100' waterfront buffer requirements and the variance in the front setback requirements from 35' to 25' for construction of a 30' x 50' replacement dwelling with a 20' x 20' garage and an 18' x 16' attached workshop, 12' x 18' deck and driveway as requested by Bai Kla and Judy Coleman Kla be **GRANTED** based on the above findings of fact and conclusions subject to the following conditions:

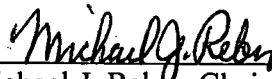
1. The property shall be developed in phases with each phase being stabilized prior to proceeding to the next phase.
2. A phasing plan shall be submitted with the building permit.
3. Prior to work being done on site, the location of the house and the limitation of clearing shall be staked and marked.

4. The Applicant's 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.
5. There shall be no stockpiling of excavated materials on site.
6. A foundation location plat prepared by a registered surveyor must be submitted to and approved by the Department of Planning and Zoning prior to framing.
7. A 6" washed gravel bed shall be placed under any decks or deck areas to provide stabilization.
8. All downspouts shall discharge into drywells or other appropriate and approved stormwater management devices as recommended by the Department of Public Works.
9. A final as-built certification prepared 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.
10. Approval by the Zoning Enforcement Officer for the Board of Appeals is required prior to issuance of a Use and Occupancy Permit, or other final approval for the project, as determined by the Division of Inspection and Permits.

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: March 3 2006
Pamela P. Helie, Clerk



Michael J. Reber, Chairman

7-26-05



**CALVERT COUNTY
BOARD OF APPEALS**

150 Main Street
Prince Frederick, Maryland 20678
Phone: (410) 535-2348 • (301) 855-1243
Fax: (410) 414-3092

March 10, 2008

Bai Kla & Judy Coleman-Kla
500 Summerset Court
Dowell, MD 20629

Subject: Board of Appeals Case No. 08-3508 – Property Located at 959 Curtis Road,
Dowell, MD 20629

Dear Mr. and Mrs. Kla:

This is to confirm the action taken by the Board of Appeals at its Thursday, March 6, 2008 hearing regarding your request for a variance in the 100' waterfront buffer requirement and a variance in the steep slope requirement for construction of a retaining wall. As you know, the Board deferred action pending a site visit. Please have your engineer notify me once the staking is completed. The Board also requested you have the site evaluated by a soils/other engineer to propose the best method for addressing any erosion problems related to the construction.

Your case will be rescheduled once the site visit has been completed.

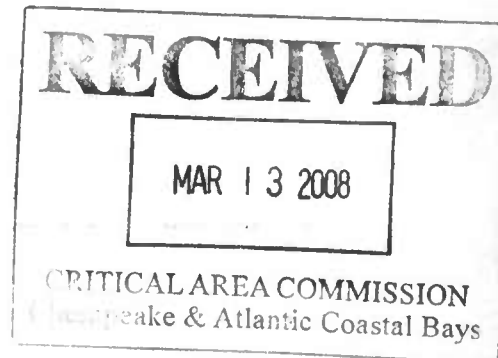
In accordance with Rule 5-101.A of the Board's Rules of Procedure, any request by the Board for additional information shall stay the 45-day time normally required for the Board to make its decision.

If you have any questions I can be reached at 410/535-1600, extension 2559.

Sincerely,

Pamela P. Helie
Clerk to the Board

Cc: Nicholas Montgomery, COA
Amber Widmayer, CAC



Mailing Address: 175 Main Street, Prince Frederick, Maryland 20678

Maryland Relay for Impaired Hearing or Speech 1-800-735-2258

**BOARD OF APPEALS
STAFF REPORT FOR THE DEPARTMENT OF PLANNING AND ZONING**

DATE: January 5, 2005

CASE NO. 05-3235

APPLICANT: Bai and Judy Coleman Kla

VARIANCE TYPE: Steep Slope, Buffer and Clearing variances are requested

PROPERTY LOCATION: 959 Curtis Rd.

PROPERTY SIZE: 22,615 s.f.

WATERFRONT: St. John's Creek

DISTURBED AREA: 8705 s.f.

DEVELOPMENT SITE SLOPE: Mostly level, 20% at the rear

GENERAL SITE CONDITIONS:

The property is currently developed with a single-story house on a level knoll above St. John's Creek. Much of the buffer is wooded, primarily with large, old oak trees.

COMMENTS:

The revised plan shows that the applicants propose a 2-story house with basement, a deck and a garage. Included in the plan, but detached, is a workshop. Overall dimensions of the house are 58' x 36.5'. The workshop dimensions are 20' x 20'. Drywells and surge stone are proposed for controlling stormwater runoff after construction. An earth dike is proposed on the slope on the waterfront side to control erosion during construction.

It is noted that the 100-foot waterfront buffer encompasses much of the lot and the property would not be buildable without a variance in the buffer requirements. However, the scope of the proposed development is driving the requests for variances in the steep slope and limit of clearing requirements, and for the significant impacts to the waterfront buffer. It is acknowledged that the applicants have scaled back the house size, thus reducing the proposed clearing. While the current plan is an improvement, the Department of Planning and Zoning does not agree that the variance requirements for the clearing request have been met.

While some impacts to the slopes may be warranted, the current proposal appears to exceed that which would be required to allow reasonable use and enjoyment of the property. This lot is less than ½ acre in size, while the development proposed is more in

keeping with that generally found on significantly larger lots where impacts to the waterfront buffer are avoidable.

The applicants have the opportunity to design the project in concert with the natural features of the property, including the existing large trees, and thus avoid the extent of clearing proposed. If the workshop were included within the footprint of the house, the house could be shifted toward the west, thus allowing the large oak on the east side of the property to remain. This would likely negate the need for a clearing variance. It is acknowledged that this might result in a need for a front setback variance, but such a revision would allow for protection of more of the natural features of the site and bring the project more into compliance with the criteria, goals and intent of the Critical Area law. Because the road in front of the house ends just beyond this property, there is minimal traffic and a front setback variance would be of negligible impact to the neighborhood. In fact, other front setback variances have recently been granted on properties within close proximity to the subject property.

BOARD OF APPEALS
CRITICAL AREA FORM

COMPLETION OF THIS FORM IS REQUIRED FOR ALL CRITICAL AREA
VARIANCE CASES:

PROPERTY LOCATION AND INFORMATION:

Tax ID # 01-004083
Map # 44 Parcel 243 Lot N/A Block N/A Section N/A
Property Address 959 CURTIS ROAD, DOWELL, MD 20629
Zoning RD Critical Area Designation LDA
Total Acreage of Property 22,615 SQ. FT. ± Acreage in Critical Area 22,615 SQ. FT.

PROJECT INFORMATION:

Type of construction proposed CONCRETE RETAINING WALL
Total square footage of the proposed construction 47 SQ. FT. ±
Total square footage of existing impervious surface 3,229 SQ. FT. ±
Total square footage of proposed impervious surface 47 SQ. FT. ±
Total square footage of existing tree cover 15,981 SQ. FT. ±
Total square footage of disturbed area 218 SQ. FT. ±
Total square footage of tree cover to be removed 218 SQ. FT. ±
Is the proposed construction site within the waterfront buffer? YES
Is the proposed construction site on slopes greater than 15%? YES

NOTE: APPLICATIONS AND PLANS THAT ARE INCOMPLETE ARE NOT
CONSIDERED TO HAVE BEEN PROPERLY SUBMITTED AND WILL BE
RETURNED TO THE APPLICANT FOR COMPLETION BEFORE SCHEDULING
FOR PUBLIC HEARING.

BOARD OF APPEALS
CRITICAL AREA FORM

COMPLETION OF THIS FORM IS REQUIRED FOR ALL CRITICAL AREA
VARIANCE CASES:

PROPERTY LOCATION AND INFORMATION:

Tax ID # 01-004093
Map # 44 Parcel 243 Lot _____ Block _____ Section _____
Property Address 959 CURTIS ROAD, DOWELL, MD 20629
Zoning R-1 Critical Area Designation _____
Total Acreage of Property 22,615 SQ. FT. Acreage in Critical Area 22,615 SQ. FT.

PROJECT INFORMATION:

Type of construction proposed SINGLE FAMILY DWELLING W/ATTACHED WORKSHOP
Total square footage of the proposed construction 2,020 SQ. FT.
Total square footage of existing impervious surface 1,652 SQ. FT.
Total square footage of proposed impervious surface 3,330 SQ. FT.
Total square footage of existing tree cover 17,788 SQ. FT.
Total square footage of disturbed area 8,177 SQ. FT.
Total square footage of tree cover to be removed 2,192 SQ. FT.
Is the proposed construction site within the waterfront buffer? YES
Is the proposed construction site on slopes greater than 15%? YES

NOTE: APPLICATIONS AND PLANS THAT ARE INCOMPLETE ARE NOT
CONSIDERED TO HAVE BEEN PROPERLY SUBMITTED AND WILL BE
RETURNED TO THE APPLICANT FOR COMPLETION BEFORE SCHEDULING
FOR PUBLIC HEARING.

**BOARD OF APPEALS
CRITICAL AREA FORM**

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

PROPERTY LOCATION AND INFORMATION:

Tax Map # 44 Parcel 243 Lot _____ Block _____ Section _____
Property Address 959 CURTIS ROAD, DOWELL, MD 20629
Zoning R1 Critical Area Designation _____
Total Acreage of Property 22,615 SQ. FT. ± Tax ID 01-004093

PROJECT INFORMATION:

Type of construction proposed SINGLE FAMILY DWELLING & DETACHED WORKSHOP
Total square footage of the proposed construction 3,619 SQ. FT. ±
Total square footage of existing impervious surface 1,652 SQ. FT. ±
Total square footage of proposed impervious surface 3,400 SQ. FT. ±
Total square footage of existing tree cover 17,788 SQ. FT. ±
Total square footage of disturbed area and/or tree cover to be removed 8,705 SQ. FT. ±
Is the proposed construction site within the waterfront buffer? YES
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.**

November 28, 2005

To Whom It May Concern:

Here are nine copies of the newly revised building permit plat for the property located at 959, Curtis road (B.O.A. case #05-3235). It should be noted that the disturbed area has been reduced from 8,705 sq. ft. to 8,386 sq. ft. The impervious area has been reduced from 3,400 sq. ft. to 2,876 sq. ft. and the disturbed area within the 100' buffer has been reduced from 7,119 sq. ft. to 6,193 sq. ft. The house, deck, porch, detached workshop and limit of disturbance have all been staked in the field. I have included a worksheet showing which corners of the proposed structures have been staked. The square footage of the existing house is 1,004 sq. ft. The square footage of the proposed house is listed below.

Basement ?

Proposed house:	
First floor:	<u>1,720 sq. ft.</u>
Second floor:	<u>724 sq. ft.</u>
Total:	2,444 sq. ft.

Garage:	420 sq. ft.
Workshop:	400 sq. ft.

Please call if you have any questions: (410)535-3101

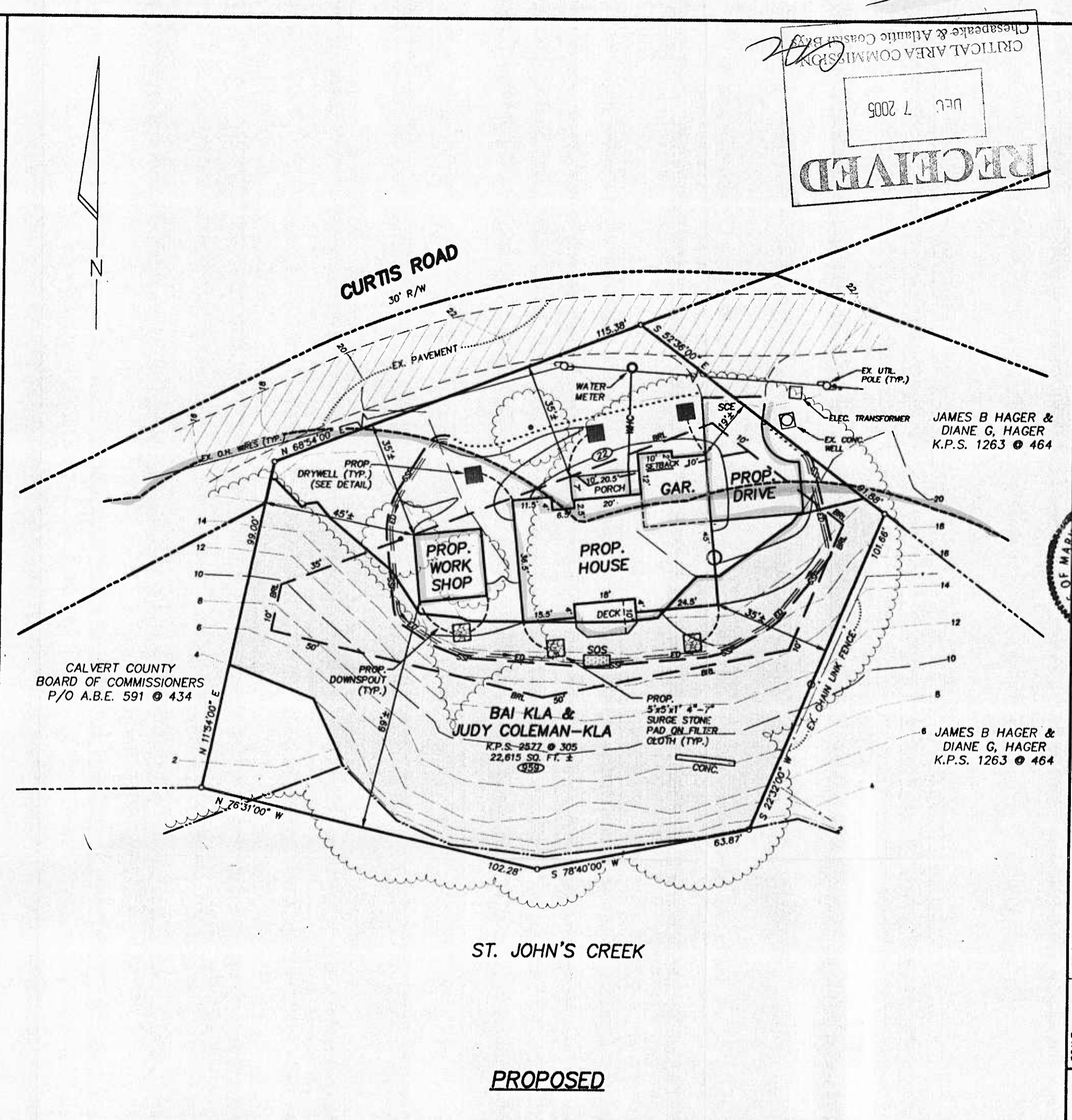
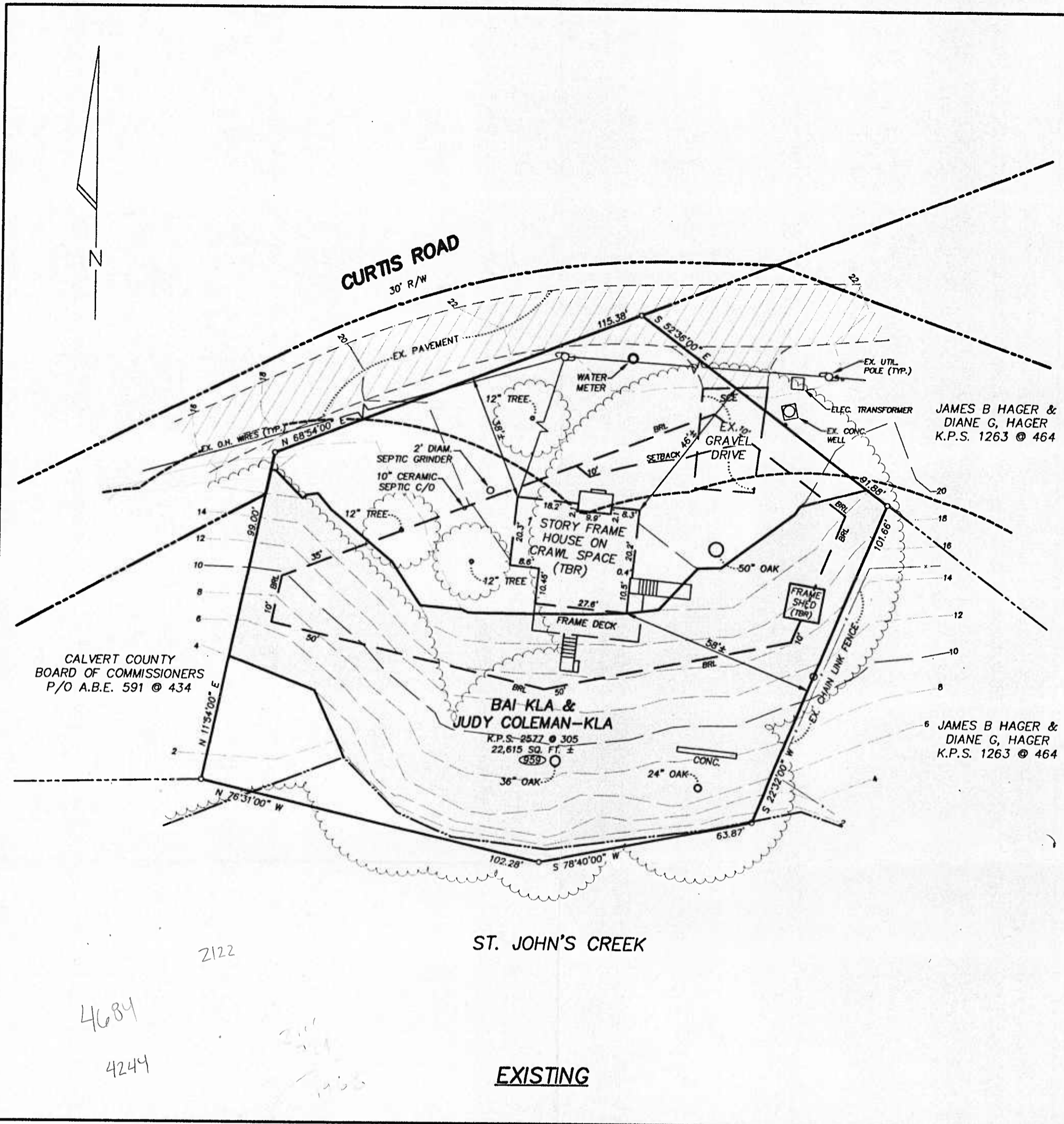
Sincerely,


Nicholas J.R. Montgomery

05-3235

05-3235 DA 26-05

RECEIVED
DEC 7 2005
CRITICAL AREA COMMISSION
Chesapeake & Atlantic Coastal Bay



COLLISON, OLIFF & ASSOCIATES, INC.
Surveyors • Engineers
Land Planners
288 MERRIMAC COURT
PRINCE FREDERICK, MARYLAND 20678
410-535-3101 • 301-855-1999 • FAX: 410-535-3103 • EMAIL: INFO@COAINC.COM

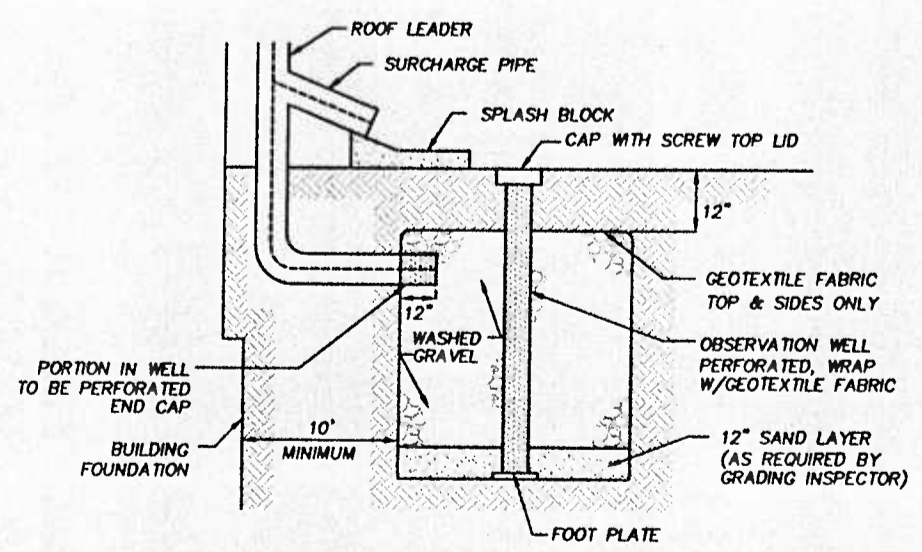


SCALE AS SHOWN	10'-7'-05"
DATE	10-7-05
JOB NO.	1-8755
DRAWN BY	NJM
APPROVED	J.T.
CASE NO.	
FOLDER REFERENCE	TAX MAP #4 GRID 11 PARCEL 243
	11-28-05

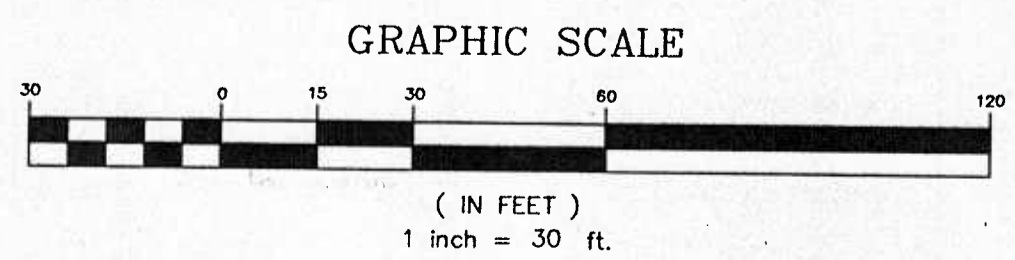
INFORMATION STATEMENT

36'6" x 58' TWO STORY HOUSE - 2122.8
ON BASEMENT - 440
20' x 22' GARAGE - 144
7' x 20' PORCH - 144
10' x 18' DECK - 180
20' x 20' DETACHED WORK SHOP - 400
GARAGE ELEVATION: 22.5
FIRST FLOOR ELEVATION: 23.5
BASEMENT ELEVATION: 14.5
WORK SHOP ELEVATION: 19.5
LOT AREA: 22,615 SQ. FT. ±
DISTURBED AREA: 8,386 SQ. FT. ± - 37%
IMPERVIOUS AREA: 2,876 SQ. FT. ± (12.7%)
FORESTED AREA: 17,788 SQ. FT. ± (78.7%)
FORESTED AREA TBR: 8,575 SQ. FT. ± (48.2%) ← not necessary
DISTURBANCE WITHIN 100' BUFFER: 6,193 SQ. FT. ±
OWNER: BAI & JUDY KLA
DEED: K.P.S. 2577 @ 305
TAX I.D.#: 01004093
SOILS MAP #44
SOIL TYPE: MuD3 MATTAPEX SILT LOAM,
5 TO 15 PERCENT SLOPES,
SEVERELY ERODED
MuB2 MATTAPEX SILT LOAM,
2 TO 5 PERCENT SLOPES,
MODERATELY ERODED

DECKS AND OTHER STRUCTURES NOT SHOWN DO NOT HAVE ZONING APPROVAL FOR CONSTRUCTION.
THE ISSUANCE OF COUNTY PERMITS IS A LOCAL PROCESS AND DOES NOT IMPLY THE APPLICANT HAS MET STATE & FEDERAL REQUIREMENTS FOR WETLAND FILLING AND/OR WETLAND BUFFER DISTURBANCE.
DOWNSPOUTS SHALL DISCHARGE INTO DRYWELLS OR SURGE STONE PADS AS SHOWN.
A 6" GRAVEL BED SHALL BE PLACED BENEATH ALL DECKS AND PORCHES.
EROSION CONTROL MATING SHALL BE PLACED ON ALL DISTURBED SLOPES GREATER THAN 15%.



- LEGEND**
- 15% OR GREATER SLOPES
 - EXISTING SHORELINE
 - 100' BUFFER
 - EXISTING TREELINE
 - ASSIGNED HOUSE NUMBER
 - WATER HOUSE CONNECTION
 - SEWER HOUSE CONNECTION
 - STABILIZED CONSTRUCTION ENTRANCE



DRYWELL DETAIL
NTS
STANDARD DIMENSIONS FOR 500 SQ. FT. ROOFTOP AREA (MAXIMUM ALLOWED)
5' W x 5' L x 4' D OR 100 C.F. (WITH A VOID RATIO OF 0.40) PROVIDES 40 C.F. OF STORAGE VOLUME PER DRYWELL.

THIS LOT IS IN THE CRITICAL AREA.
THIS LOT WAS RECORDED PRIOR TO JULY 1984, WHEN STORMWATER MANAGEMENT WAS NOT REQUIRED.
CONTACT "MISS UTILITY" AT 1-800-257-7777 AT LEAST 48 HOURS PRIOR TO COMMENCEMENT OF ANY WORK.

BUILDING PERMIT PLAN
THE PROPERTY OF
BAI KLA & JUDY COLEMAN-KLA
FIRST DISTRICT, CALVERT COUNTY, MARYLAND
TAX MAP #4, GRID 11, PARCEL 243
FOR BAI KLA