

AA 579-06 Szymanski, Jon
VAR 0241

MSA-S-1829-5486

Comments
9/8/06 - KS
Co

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/

September 13, 2006

Ms. Lori Rhodes
Anne Arundel County
Office of Planning Zoning
2664 Riva Road, MS 6301
Annapolis, Maryland 21401

RE: Variance 2006-0241 & Variance 2006-0242
C. Szymanski; 12610 Dusty Wheel Lane

Dear Ms. Rhodes:

This letter is to replace my previous correspondence to you regarding the above referenced variance request. The applicant is requesting variances to the expanded 100-foot Buffer in order to reconstruct an existing house and to construct a new swimming pool. The lot is 23,729 square feet and designated as a Limited Development Area (LDA) and a Buffer Modification Area. The Buffer is expanded due to steep slopes. The property is currently developed with a single family home, garage, driveway, and deck. The applicant is proposing to replace the existing home and garage and construct a larger deck with a pool on the waterside of the dwelling.

This office does not oppose the variance to construct a new dwelling at the same setback as the existing principal structure. However, we do oppose the variance to build a new swimming pool in the Buffer.

In 2002 and 2004, the General Assembly strengthened the Critical Area Law, and reiterated its commitment to the Chesapeake Bay Critical Area's water quality and wildlife habitat values, especially emphasizing the importance of the 100-foot Critical Area Buffer. In particular, the General Assembly reaffirmed the stringent standards, which an applicant must meet in order for a local jurisdiction to grant a variance to the Critical Area law. The State law provides that variances to a local jurisdiction's Critical Area program may be granted **only** if a Board of Appeals finds that an applicant has satisfied its burden to prove that the applicant meets each one of the county's variance standards, including the standard of "unwarranted hardship." The General Assembly defined that term as follows: "without the variance, the applicant would be denied reasonable and significant use of the entire parcel or lot." Furthermore, the State law establishes presumption that a proposed activity for which a Critical Area variance is requested does not conform to the purpose and intent of the Critical Area law. The County must make an affirmative finding that the applicant has overcome this presumption, based on the evidence presented.

In this case the applicant is proposing to redevelop the existing home and deck and to add a new pool within the expanded Buffer. The Critical Area Buffer establishes an area of undisturbed natural forest vegetation, or an area for enhancement with vegetation native to the Critical Area, managed to protect shorelines, streams, wetlands, and riparian biological communities from adverse effects of land use. The County has enacted Buffer Modification Area provisions to recognize that the pattern of existing development prevents the Buffer from fulfilling its functions. As a result, the Anne Arundel County Zoning Code §17-8-701(b) provides a very specific set of criteria for new impervious surface within the Buffer that balance the pattern of existing development with maintaining the integrity of the Buffer. The zoning code states that the "no new impervious surface shall be placed nearer to the shoreline than the existing principal structure AND landscape or retaining walls, pergolas, patios, and swimming pools may not be considered as part of the principal structure".

The variance to the expanded 100-foot Buffer cannot be granted unless the applicant proves, and the hearing examiner finds, that without the variance, the applicant would suffer an unwarranted hardship, that is "denial of reasonable and significant use of the entire parcel or lot." We do not believe that this standard is met, and accordingly the variance should be denied. I have discussed each one of the County's variance standards below as it pertains to this site:

1. That special conditions or circumstances exist that are peculiar to the land or structure within the jurisdiction's Critical Area program that would result in an unwarranted hardship to the applicant.

Currently, the lot is developed with a single family home and pervious deck on the waterside. The intent of the flexibility provided by the Buffer Modification Area designation is to recognize that the existing pattern of development may prevent the Buffer from fulfilling its function. However, new development should be sited to minimize the extent of impervious surface in the Buffer to the extent possible. In this case, the applicant has the opportunity to redevelop the home and to construct a large pervious deck in the existing footprint, in conformance with the standards of the Buffer Modification Area. However, the construction of the new pool, which is considered impervious surface, does not comply with the Buffer Modification Area standards for new impervious surface. As stated above, the General Assembly defined "unwarranted hardship" to mean that the applicant must prove that, without the requested variance, he would be denied reasonable and significant use of **the entire parcel or lot**. Based on this information, we do not believe that the County has evidence on which to base a favorable finding on this factor for the pool.

2. That a literal interpretation of this subtitle or the local 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 local jurisdiction.

The applicant has a reasonable use of this property for residential purposes, and therefore, would not be denied a right commonly enjoyed by neighboring properties. From a review of the application we believe that there is opportunity to construct the desired dwelling and outdoor areas in a manner that meets the Buffer regulations and remains consistent with the Anne Arundel County Critical Area Regulations. No one has the right to construct a new swimming pool in the buffer. Therefore, denial of a variance for the accessory swimming pool would not deny the applicants a right commonly enjoyed.

3. The granting of a variance will not confer upon an applicant any special privilege that would be denied by this subtitle or the local Critical Area program to other lands or structures within the jurisdiction's Critical Area.

If the variance is granted, it would confer upon the applicant a special privilege that would be denied to others in this area, as well as in similar situations in the County's Critical Area. To grant a variance to the Buffer in a Buffer Exemption Area beyond what has been established as law by the County would confer a special privilege on the applicant (Section 17-8-702(b)(1)). The applicant has the burden of proof and the burden of persuasion to overcome the presumption that his proposed variance does not conform to the Critical Area Law. We do not believe the applicant has overcome this burden.

4. The variance request is not based upon conditions or circumstances, which are the result of the actions, by the applicant, nor does the request arise from any condition conforming, on any neighboring property.

In contrast, the need for a variance to construct the pool is directly the result of the applicant's current design. The lot is located in a Buffer Modification Area. The Buffer Modification Area recognizes that the existing level of development prevents the Buffer from fulfilling all of its functions, and thus allows for redevelopment activities to take place. However, it prevents further degradation to the Buffer by prohibiting new impervious surface to be placed nearer to the shoreline.

5. The granting of a variance will not adversely affect water quality or adversely impact fish, wildlife, or plant habitat within the jurisdiction's Critical Area, and that the granting of the variance will be in harmony with the general spirit and intent of the Critical Area law and the regulations.

In contrast, granting of this variance is not in harmony with the general spirit and intent of the Critical Area law and regulations. An increase in impervious surface in the Buffer and consequential disturbance to the land results in increased stormwater and sediment runoff and the loss of essential infiltration opportunities. While the lot is grandfathered and in a Buffer Modification Area, the County zoning regulations under §17-8-702(b) require that the site design must minimize to the extent possible intrusion into the Buffer. Given that the applicant can adequately redevelop this property and enjoy outdoor activities without the addition of a pool in the Buffer, approval of this variance would not be in harmony with the general intent and spirit of the Critical Area Law.

In conclusion, it is our position that, unless the Board finds, by competent and substantial evidence, that the applicant has met the burden of proof to overcome the presumption of non-conformance, and the burden to prove that the applicant has met each one of the County's variance standards, the Board must deny the application for variance to the Buffer.

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,



Kate Schmidt
Natural Resource Planner
AA579-06

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
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Martin G. Madden
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1804 West Street, Suite 100, Annapolis, Maryland 21401
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www.dnr.state.md.us/criticalarea/

September 8, 2006

Ms. Ramona Plociennik
Anne Arundel County
Office of Planning and Code Enforcement
2664 Riva Road
Annapolis, Maryland 21401

RE: Variance 2006-0241 & Variance 2006-0242
C. Szymanski; 12610 Dusty Wheel Lane

Dear Ms. Plociennik:

Thank you for providing information regarding the above referenced variance request. The applicant is requesting variances to the expanded 100-foot Buffer in order to reconstruct an existing house and to construct a new swimming pool. The lot is 23,729 square feet and designated as a Limited Development Area (LDA) and a Buffer Modification Area. The Buffer is expanded due to steep slopes. The property is currently developed with a single family home, garage, driveway, and deck. The applicant is proposing to replace the existing home and garage and construct a larger deck with a pool on the waterside of the dwelling.

This office does not oppose the variance to construct a new dwelling at the same setback as the existing principal structure. However, we do oppose the variance to build a new swimming pool in the Buffer.

In 2002 and 2004, the General Assembly strengthened the Critical Area Law, and reiterated its commitment to the Chesapeake Bay Critical Area's water quality and wildlife habitat values, especially emphasizing the importance of the 100-foot Critical Area Buffer. In particular, the General Assembly reaffirmed the stringent standards, which an applicant must meet in order for a local jurisdiction to grant a variance to the Critical Area law. The State law provides that variances to a local jurisdiction's Critical Area program may be granted **only** if a zoning board finds that an applicant has satisfied its burden to prove that the applicant meets each one of the county's variance standards, including the standard of "unwarranted hardship." The General Assembly defined that term as follows: "without the variance, the applicant would be denied reasonable and significant use of the entire parcel or lot." Furthermore, the State law establishes presumption that a proposed activity for which a Critical Area variance is requested does not conform to the purpose and intent of the Critical Area law. The County must make an affirmative finding that the applicant has overcome this presumption, based on the evidence presented.

In this case the applicant is proposing to redevelop the existing home and deck and to add a new pool within the expanded Buffer. The Critical Area Buffer establishes an area of undisturbed natural forest vegetation, or an area for enhancement with vegetation native to the Critical Area, managed to protect shorelines, streams, wetlands, and riparian biological communities from adverse effects of land use. The County has enacted Buffer Modification Area provisions to recognize that the pattern of existing development prevents the Buffer from fulfilling its functions. As a result, the Anne Arundel County Zoning Code §26-8-701(b) provides a very specific set of criteria for new impervious surface within the Buffer that balance the pattern of existing development with maintaining the integrity of the Buffer. The zoning code states that the "no new impervious surface shall be placed nearer to the shoreline than the existing principal structure AND landscape or retaining walls, pergolas, patios, and swimming pools may not be considered as part of the principal structure".

The variance to the expanded 100-foot Buffer cannot be granted unless the applicant proves, and the hearing examiner finds, that without the variance, the applicant would suffer an unwarranted hardship, that is "denial of reasonable and significant use of the entire parcel or lot." We do not believe that this standard is met, and accordingly the variance should be denied. I have discussed each one of the County's variance standards below as it pertains to this site:

1. That special conditions or circumstances exist that are peculiar to the land or structure within the jurisdiction's Critical Area program that would result in an unwarranted hardship to the applicant.

Currently, the lot is developed with a single family home and pervious deck on the waterside. The intent of the flexibility provided by the Buffer Modification Area designation is to recognize that the existing pattern of development may prevent the Buffer from fulfilling its function. However, new development should be sited to minimize the extent of impervious surface in the Buffer to the extent possible. In this case, the applicant has the opportunity to redevelop the home and to construct a large pervious deck in the existing footprint, in conformance with the standards of the Buffer Modification Area. However, the construction of the new pool, which is considered impervious surface, does not comply with the Buffer Modification Area standards for new impervious surface. As stated above, the General Assembly defined "unwarranted hardship" to mean that the applicant must prove that, without the requested variance, he would be denied reasonable and significant use of **the entire parcel or lot**. Based on this information, we do not believe that the County has evidence on which to base a favorable finding on this factor for the pool.

2. That a literal interpretation of this subtitle or the local 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 local jurisdiction.

The applicant has a reasonable use of this property for residential purposes, and therefore, would not be denied a right commonly enjoyed by neighboring properties. From a review of the application we believe that there is opportunity to construct the desired dwelling and outdoor areas in a manner that meets the Buffer regulations and remains consistent with the Anne Arundel County Critical Area Regulations. No one has the right to construct a new swimming pool in the buffer. Therefore, denial of a variance for the accessory swimming pool would not deny the applicants a right commonly enjoyed.

3. The granting of a variance will not confer upon an applicant any special privilege that would be denied by this subtitle or the local Critical Area program to other lands or structures within the jurisdiction's Critical Area.

If the variance is granted, it would confer upon the applicant a special privilege that would be denied to others in this area, as well as in similar situations in the County's Critical Area. To grant a variance to the Buffer in a Buffer Exemption Area beyond what has been established as law by the County would confer a special privilege on the applicant (Section 26-8-702(b)(1)). The applicant has the burden of proof and the burden of persuasion to overcome the presumption that his proposed variance does not conform to the Critical Area Law. We do not believe the applicant has overcome this burden.

4. The variance request is not based upon conditions or circumstances, which are the result of the actions, by the applicant, nor does the request arise from any condition conforming, on any neighboring property.

In contrast, the need for a variance to construct the pool is directly the result of the applicant's current design. The lot is located in a Buffer Modification Area. The Buffer Modification Area recognizes that the existing level of development prevents the Buffer from fulfilling all of its functions, and thus allows for redevelopment activities to take place. However, it prevents further degradation to the Buffer by prohibiting new impervious surface to be placed nearer to the shoreline.

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In contrast, granting of this variance is not in harmony with the general spirit and intent of the Critical Area law and regulations. An increase in impervious surface in the Buffer and consequential disturbance to the land results in increased stormwater and sediment runoff and the loss of essential infiltration opportunities. While the lot is grandfathered and Buffer Exempt, the County zoning regulations under §26-8-702(b) require that the site design must minimize to the extent possible intrusion into the Buffer. Given that the applicant can adequately redevelop this property and enjoy outdoor activities without the addition of a pool in the buffer, approval of this variance would not be in harmony with the general intent and spirit of the Critical Area Law.

In conclusion, it is our position that, unless the Board finds, by competent and substantial evidence, that the applicant has met the burden of proof to overcome the presumption of non-conformance, and the burden to prove that the applicant has met each one of the City's variance standards, the Board must deny the application for variance to the Buffer.

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,



Kate Schmidt
Natural Resource Planner
AA579-06

June 30, 2006

Anne Arundel County Permit Application Center
2664 Riva Rd.
3rd Floor
Annapolis, Maryland

RE: Variance Applications, Szymanski, 41 Boone Trail
Letter of Explanation
Our File No.: 13786.01

To Whom It May Concern:

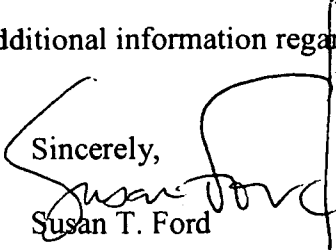
This firm represents Jon and Courtney Szymanski, property owners at 41 Boone Trail in Severna Park. They have filed two separate variance applications to tear down an existing house and deck and replace them in approximately the same footprint (the house goes slightly outside the existing footprint but not closer to the water and the deck is actually slightly smaller than the existing one) on their lot. This work will also require replacement of an existing deteriorated retaining wall located in the Critical Area buffer on steep slopes. They have also filed a variance application to put a small pool of 321 square feet in the deck. They plan to reconfigure impervious surface outside the buffer (the actual amount will be less than existing) and thus were not required to request a variance for that. They respectfully request that the two variance applications be processed simultaneously as they apply to the same property.

The overall impervious coverage on site will be reduced from 7174 square feet to 5745 square feet, even with the small pool. The applicant has designed a storm water management system to be located near the roadway to manage the runoff from the house. Additional plantings and a rain garden will also be established in the buffer to mitigate for impacts. The lot is long and narrow and the expanded buffer encompasses a majority of the lot. Required utilities and the driveway are located to the rear of the lot, thus it is not possible to accommodate the principal nor the accessory structures in that area.

The applicant's engineer had several pre-application meetings with the Planning and Zoning Staff including with Rob Konowal, Jeff Torney and Suzanne Schappert.

Please feel free to contact me if you require any additional information regarding the two attached variance requests.

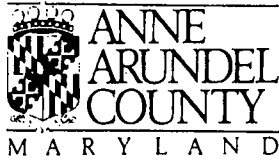
Sincerely,


Susan T. Ford

cc: Mr. and Mrs. Szymanski
Mr. Doug Bourquin
Mr. Eric See

125 West Street, 4th Floor, Post Office Box 2289, Annapolis, Maryland 21404

0579-04



BOARD OF APPEALS
P.O. BOX 2700, 44 CALVERT ST., RM. 160
ANNAPOLIS, MARYLAND 21404
410-222-1119

March 5, 2007

RE: Withdrawal of Appeal
BA 70-06V
Szymanski

Dear Property Owner:

The Board of Appeals has been advised that the appellant wishes to withdraw this appeal.

Rule 3-102(c) states that appeals may be withdrawn as follows:

- (c) An appellant who seeks to withdraw an appeal at any time after 30 days following the date of the order or decision being appealed may do so if no objection to the withdrawal is made by any other party or any owner of real property within 175 feet of the subject property, or if granted permission to withdraw by the Board upon good cause shown.

This is to advise you that the Board intends to act on this withdrawal request after 10 days from the date of this letter.

If you have any objections, comments, or questions regarding the withdrawal of this appeal, please direct them to the Board of Appeals office at (410) 222-1119.

Mary M. Leavell
Clerk to the Board

cc: Property Owners
 News Media
 Critical Area Commission ✓
 Susan T. Ford, Esq.
 Sarah M. Iliff, Esq.
 Suzanne Schappert
 Lori Rhodes (06-242-V)
 Lois Villemaire
 Stephen M. LeGendre

RECEIVED

MAR 07 2007

CRITICAL AREA COMMISSION

579-06

IN THE OFFICE OF ADMINISTRATIVE HEARINGS

CASE NUMBERS 2006-0242-V AND 2006-0241-V

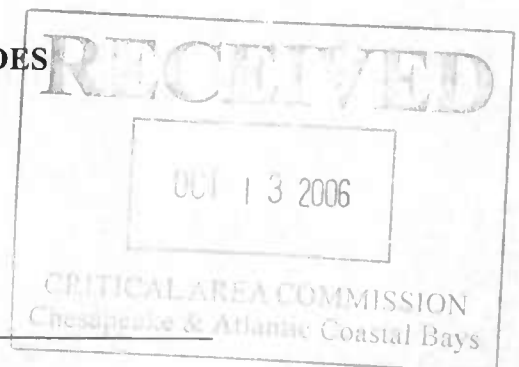
IN RE: COURTNEY AND JON SZYMANSKI

THIRD ASSESSMENT DISTRICT

DATE HEARD: SEPTEMBER 12, 2006

ORDERED BY: STEPHEN M. LeGENDRE, ADMINISTRATIVE HEARING OFFICER

PLANNER: LORI RHODES



DATE FILED: OCTOBER 11, 2006

PLEADINGS

Courtney and Jon Szymanski, the applicants, seek a variance (2006-0242-V) to allow a dwelling and retaining wall with less buffer than required and with disturbance to steep slopes. At the same time, the applicants request a variance (2006-0241-V) that would authorize the same project and disturbances with a swimming pool (321 square feet) incorporated into the waterside deck addition. The two cases were consolidated. The property is located along the south side of Boone Trail, east of Evergreen Trail, Severna Park.

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 applications as owning land that is located within 175 feet of the property was notified by mail, sent to the address furnished with the applications. Mr. Szymanski 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

The applicants own a single-family residence with a street address of 41 Boone Trail, also identified as Lot 21 in the subdivision of Linstead on the Severn, Severna Park. The property comprises 23,729 square feet and is zoned R-2

Residential with a Chesapeake Bay Critical Area designation as Limited Development Area (LDA). This waterfront lot on the Severn River is mapped as a Buffer Modification Area (BMA). The request is to raze the improvements, followed by the redevelopment of the property. As noted, there is disturbance to the Chesapeake Bay Critical Area buffer as expanded for steep slopes as well as disturbance to the slopes.

Anne Arundel County Code, Article 18, Section 18-13-104(a) creates a 100-foot buffer from tidal waters. The buffer expands to include all lands within 50 feet of contiguous steep slopes. Section 18-13-104(b) establishes a BMA on lots platted on or before December 1, 1985 on which the existing pattern of development prevents the 100-foot buffer from performing its protective functions. Under Article 17, Section 17-8-702(c), redevelopment of existing impervious surfaces is allowed when reconstruction occurs on the same foundation or within the same footprint and modification is allowed when necessary for structural stability. Finally, Section 17-8-201 proscribes development on slopes of 15 percent or greater in the LDA. Accordingly, the applicants request variances to disturb the expanded buffer and steep slopes.

Lori Rhodes, a planner with the Office of Planning and Zoning, testified that the property is below the minimum width for the district and slopes steeply to the Severn River with the result that approximately three-fourths of the property is expanded buffer. The existing dwelling was constructed in 1948 and includes subsequent additions, including a three-car garage addition on the street side. The

existing dwelling also includes a waterside deck addition extending to a failing wood retaining wall. The replacement dwelling comprises two stories over a basement, waterside and street side deck additions and a breezeway connecting to a two-car garage addition. The redevelopment of the property reduces impervious coverage from 7,174 square feet to either 4,782 square feet (excluding pool) or 5,103 square feet (including pool); the allowance is 7,415 square feet. The areas of removal of impervious surfaces are predominately in the northeast (rear) corner of the property (driveway) and the side yards (pavement and sidewalks). The neighborhood is characterized by homes of variable sizes and styles, including some nonconforming structures and uses. There are approved variances in the neighborhood but not for pools. The pool in the buffer on Lot 25 (51 Boone Trail) predates the Critical Area program. Ms. Rhodes summarized the agency comments. The Anne Arundel County Soil Conservation District recommended the replacement of the retaining wall running diagonally under the deck addition. The County's Development Division North Team recommended maximization of the buffer, including relocation of the stormwater trench closer to the road, the elimination of the breezeway connection to the garage and the reduction of decking around the pool. The Chesapeake Bay Critical Area Commission did not oppose a new dwelling in the same position as the existing dwelling but opposed the pool in the buffer. In concluding her direct testimony, Ms. Rhodes adopted the recommendation from the County's Development Division for the elimination of the breezeway connection to the garage addition and the recommendation of the

Commission opposing the pool. Finally, she supported the in-kind replacement of the retaining wall.

On cross-examination by counsel to the applicants, Ms. Rhodes agreed that the applicants' proposal locates the new improvements further from water than the existing improvements and the reduction in coverage and the plantings and stormwater management are environmental enhancements. She withdrew her objection to the breezeway connection to the garage because a portion of the foundation of the existing dwelling is in the same location. She was unaware of the existence of a specimen tree near the southwest corner (water side) of the dwelling. She agreed it would be inadvisable to place a pool under utility lines on the street side. And finally, she was not familiar with the circumstances leading to the construction of the pool on Lot 19 (37 Boone Trail).

Doug Bourquin, a land planner and surveyor to the applicants, submitted color-coded exhibits comparing existing and proposed impervious coverage, proposed removal of impervious surfaces (roof, pavement and sidewalks), and proposed environmental enhancements (plantings and stormwater management). At present, the downspouts discharge across land to steep slopes and then to the river. In the after condition, the downspouts would be piped to an infiltration pit on the street side. The reduction in impervious coverage in the expanded buffer is 741 square feet (excluding pool); or 420 square feet (including pool). The pool would be mitigated on a 3:1 basis by planting native species, including a rain garden, in the buffer. The witness opined that the variance standards are satisfied.

Concerning the pool, the relief is justified because the location is the disturbed area behind the replacement retaining wall. And, denial of relief for the pool is considered an unwarranted hardship and the deprivation of a right commonly enjoyed because there are other pools in the buffer. In response to my inquiry, Mr. Bourquin indicated that he did not know whether any of the existing pools in the buffer received variances.

Eric See, an environmental consultant to the applicants, summarized his Critical Area report, consisting of a comparison of the existing conditions and the proposed conditions for the dwelling and the dwelling with the pool. The witness reiterated much of the same testimony and opinions as Mr. Bourquin. Mr. See opined that relief has been minimized because the dwelling and retaining wall represent in-kind replacement and the pool is within the disturbance for the deck and retaining wall. He identified additional environmental benefits consisting of the relocation of the replacement dwelling further from water and the removal of invasive species. Other than size, Mr. See asserted that the environmental impact of the pool would be similar to the impact from a "kiddy" pool or Jacuzzi placed on the deck. Because the pool is contained within the footprint of the deck, runoff from both the pool and deck would percolate through the soils under the deck, and then pass through weep holes in the retaining wall for treatment in the rain garden. He observed that the pool is further from the shore than the pools approved by the County Board of Appeals under Case No. BA 11-06-V, In Re: George and Kathryn Vincent (August 31, 2006) (115 feet versus 92 feet) and under Case No.

BA 59-05V, In Re: Jay Tokosch (87 feet). Finally, in response to my inquiry, Mr. See indicated that he did not evaluate any other proposals for the redevelopment of the property.

Thomas Davies, the applicants' architect, described the design approach. In brief, expansion of the existing dwelling was rejected; the retention of the existing waterside deck addition was rejected; the design reduces the mass by eliminating the existing three-car garage and substituting the proposed two-car garage; and the phasing calls for replacing the failed retaining wall prior to the construction of the new dwelling. The new foundation uses the hole from the existing foundation and is further from the water. Excluding the garages, the footprint of the new dwelling is slightly larger than the footprint of the existing dwelling. Including the garages, the two footprints are nearly the same.¹ The new garage has been relocated out of the buffer. The existing waterside deck addition is large (28 by 39 feet) with a cut out for a tree. The replacement deck addition is smaller by 120 square feet, preserves the tree and follows the contour of the slope. The soils in the area of the decking would be replaced with gravel in graded layers to allow for infiltration of one roof leader and could also handle pool runoff. The alternative of relocating the dwelling further from the shore would necessitate cheek walls and the conversion of the deck to a patio; increase impervious coverage in the expanded buffer in order to gain access to the retained stairs across the slope to the water;

¹The existing dwelling has a footprint of 2,150 feet and the new dwelling has a footprint of 2,300 square feet. The existing garage has a footprint of 840 square feet and the new garage has a footprint of 576 square feet.

and eliminate the green area representing the deck cut out. That is, the extension of the deck from the new dwelling is based on the location of the existing retaining wall and stairs; although the replacement wall could be closer to the dwelling, the location of the existing wall corresponds with the top of slope.

Mr. Szymanski testified that the dwelling was expanded in the 1970's and is now in disrepair and out of character with the neighborhood. The alternative of a pool on the street side is unsafe for his young child and would conflict with utility lines, proposed stormwater management and the applicants' desire to entertain on the waterside of their property. He supplied an aerial photograph and photographs of the neighborhood. Dwellings on a bluff characterize the neighborhood; 48 percent of the homes have accessory structures (sheds, beach cabanas, pools) on the waterfront. He supplied a listing of 32 permits dating back to 1996, including 12 permits for accessory structures in the buffer. Pools were installed at 5 and 7 Boone Trail in 1999 and 2002, respectively. The pool on Lot 19 was constructed in 2001. The date of construction of the pool on Lot 25 is unknown. Two other pools in West Severna Park were constructed after 1984 but prior to 2005. The denial of the applicants' pool is considered the denial of reasonable use and is not viewed as a special privilege. Finally, the neighbors do not oppose the project.²

² Ms. Szymanski's testimony was largely duplicative of her husband's testimony. And finally, Donald Duffy and William Rogers, both residents of Boone Trail, supported the redevelopment plans for the property.

I visited the site and the neighborhood. The dwelling is accessed across a circular driveway. The older brick cape cod has substantial additions on the street side (garage) and waterside (living addition, stacked patio/porch/deck, and decking and stairs). About 40 stairs and a platform extend across the steep, vegetated slope down to a level lawn. The dwelling with its waterside additions is considerably forward of the houses on both sides. The homes on both sides are also perched on the steep slope. The community contains a mixture of dwelling types, from modest original cottages to substantial newer homes.

The standards for granting variances are contained in Section 18-16-305. Under subsection (b), for a property in the Critical Area, a variance to the Critical Area program requirements may be granted only after determining that (1) due to unique physical conditions, peculiar to the lot, a strict implementation of the program would result in an unwarranted hardship to the applicants; (2) a literal interpretation of the program will deprive the applicants of rights commonly enjoyed by other properties in similar areas within the Critical Area; (3) the granting of the variance will not confer on the applicants any special privilege that would be denied by the program to other lands within the Critical Area; (4) the variance request is not based on circumstances resultant of actions by the applicants and does not arise from conditions relating to land use on neighboring property; and (5) the granting of the variance will not adversely affect water quality or adversely impact fish, wildlife or plant habitat within the Critical Area and will be in harmony with the general spirit and intent of the program. Under

subsection (c), any variance must be the minimum necessary to afford relief; and its grant may not alter the essential character of the neighborhood, substantially impair the appropriate use or development of adjacent property, or be detrimental to the public welfare.

As a preliminary matter, I would be remiss if I failed to comment that this is certainly the only time in recent years - and perhaps the only time since the critical area program began - that this office has been asked to consider simultaneous applications for variances to program requirements for the same property.³

Because the Office and Planning and Zoning, rather than this office, accepts applications, this office does not have the luxury to refuse the practice. But it is of doubtful validity and it should be discouraged. In the first place, the applicants' burden under the State program is to provide substantial evidence to overcome the presumption that the specific development activity for which a variance to the program is requested does not conform to the local program. Md. Nat. Res. Code Ann. Section 8-1808(d)(2)(i). How can this be accomplished when there are alternative development activities rather than a specific activity? In the second place, the applicant's burden is to satisfy each and every of the many requirements set forth in Section 18-16-305. One of the myriad requirements is proof that the variance represents the minimum relief. Accepting for sake of argument that the application excluding the impervious pool represents the minimum relief, how can

³ There is also little or no history of simultaneous applications seeking relief from the zoning code for the same property.

the same project with the pool in the waterside deck addition represent the minimum relief? In the third place, in the best case, the submission of simultaneous applications complicates the agency review and the subsequent hearing in this office and any subsequent appeals; or in the worst case, the submission of simultaneous applications compromises the redevelopment of the property by including design elements needed for one application but superfluous to the other application. It is for some of these reasons that this office typically does not hear a new application pending an appeal of a prior application for the same property. See, Case No. 2005-0137-V, In Re: U.S. Financial Capital, Inc. (August 3, 2005); Case No. 2002-0130-V, In Re: Richard Roesser (October 23, 2003); Case Nos. 2003-0045-S and 0046-V, In Re: Riva Trace Baptist Church and Elm Street Development (July 29, 2003).

Nor is the difference between the applications - the absence or presence of the pool in the deck - a trivial matter. Pools in the buffer have been the source of much controversy for the duration of the critical area program. During the early days of the County's program, variances for pools in the buffer were routinely denied. Then, for a few years, some pools in the buffer received variances. More recently, as a result of Chapter 432 of the 2002 Session of the General Assembly, which obligated an applicant to satisfy each and every of the variance standards, the reviewing agencies have opposed variances for pools in the buffer and the applications have been uniformly denied by this office. Mr. See makes much of the decisions by the County Board of Appeals in Case Nos. BA 11- 06-V and BA

59-05V. But these decisions are anomalies and are specifically rejected as incorrectly decided. In any event, the facts of these cases are substantially different from the facts presented by the applicants. In Case No. BA 11-06V, the Board approved the variance by a 4-1 Opinion, with two members not participating. The majority found as fact that the County "told the Petitioners to remove the pool from the plans" and ruled that they "should not be penalized for reasonably relying on the word of the County." Opinion at 5. In Case No. BA 59-05V, the Board found as fact that the need for the relief was the result of "contractor's negligence" in failing to construct the pool before the expiration of a variance approved by this office under the law in effect prior to Chapter 432. Opinion at 4. In sum, the decisions by the Board do not represent any change in the law and do not justify the filing of simultaneous applications for the dwelling and for the dwelling with the pool.

Applying the facts to the law for the application for the dwelling and retaining wall, I am constrained to deny the application. Even though several of the criteria are satisfied, the proof is lacking as to others.

Thus, the complementary provisions in subsections (b)(2) and (3) and the requirement of subsection (b)(4) are all satisfied. That is, a literal interpretation of the program would deny the applicants the right to redevelop the property, a right in common enjoyment; the granting of some relief is not a special privilege; and the need for some relief does not result from the actions of the applicants or land use on neighboring property. However, as will be discussed below, the

redevelopment proposal is excessive. Therefore, the request does not harmonize with the general spirit and intent of the program, as required by subsection (b)(5).

The determination of what constitutes the minimum relief under subsection (c) is undoubtedly subjective in nature. But by any standard, the applicants are proposing substantial improvements, consisting of a dwelling (two stories with basement) with a footprint of 2,300 square feet, a deck addition of approximately 872 square feet and a garage addition of 576 square feet. It does not matter that the existing improvements are similar in size and location. Nor is it controlling that the proposal includes a reduction in impervious coverage, plantings and stormwater management. Rather, the applicants' obligation is to maximize the buffer and minimize the slope disturbance. But the only adjustment in the before and after conditions is the relocation of the front façade of the replacement dwelling a few feet further from the critical area assets. Even though the new foundation utilizes the hole from the existing foundation, the footprint has been expanded. In any event, there is the opportunity to minimize the relief by relocating the replacement wall and the waterside deck addition further from shore. In this regard, the applicants' experts offered three justifications for holding the location of the replacement wall and deck addition. First, the wall is located at the top of slope; second, the ground behind the wall is already disturbed; and third, the new deck addition extends to the existing stairs (to be retained) across the steep slope. But the program proscribes disturbances to the expanded buffer and steep slopes. Nor is there any reason that part of the disturbed area

under the existing deck should not be revegetated, just as the applicants are revegetating other areas of the property - albeit predominantly areas that are outside the expanded buffer. And finally, the relocation of the replacement wall and decking further from shore does not mandate the removal of the stairs across the slope. I find and conclude that the application fails to minimize the relief. Considering the balance of the subsection (c) criteria, while the granting of the relief may not alter the essential character of the neighborhood or the use or development of adjacent property, the granting of the relief is nonetheless a detriment to the public welfare.

In sum, even though the property exhibits unique physical conditions of expanded buffer and steep slopes, the denial of the application is not an unwarranted hardship under subsection (b)(1) because the applicants have not met their burden of proof.

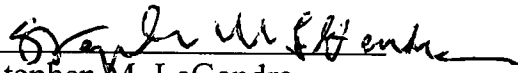
The variance application with the pool in the waterside deck addition is moot and is also denied. However, so that the record is clear, the existence of other pools in the neighborhood is not evidence that the denial of a pool in the buffer is an unwarranted hardship or the deprivation of a right in common enjoyment. This is especially true when the existing pools did not receive variances. Rather, the request for a pool in the buffer represents a special privilege that the program typically denies. Finally, additional mitigation is not a justification for a pool in the buffer and Mr. See's analogy to a "kiddy" pool or Jacuzzi is not persuasive.

ORDER

PURSUANT to the application of Courtney and Jon Szymanski, petitioning for a variance to allow a dwelling and retaining wall with less buffer than required and with disturbance to steep slopes and a variance that would authorize the same project with a swimming pool incorporated into the waterside deck addition; and

PURSUANT to the notice, posting of the property, and public hearing and in accordance with the provisions of law, it is this 11th day of October, 2006,

ORDERED, by the Administrative Hearing Officer of Anne Arundel County, that the applicants' requests are **denied**.


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.



**SEE ENVIRONMENTAL
SERVICES, INC.**

CHEESAPEAKE BAY CRITICAL AREA REPORT

Variance Applicant: Courtney and Jon Symanaski
41 Boone Trail
Severna Park, MD 21146
TM 31, G 18, P 84, Lot 21

C.A. Land Use Designation: LDA
Zoning: R-2

June, 2006 / REV'D AUGUST, 2006

Introduction/Variance Request:

The applicants own a 23,729-square foot/0.56-acre lot, waterfront on the Severn River, located on Boone Trail in the Linstead on Severn neighborhood in Severna Park. The site is located completely within the Critical Area with a Limited Development land use designation. The lot and adjoining lots are mapped by the County as "Buffer Exempt".

The existing house dates from approximately 1948 and has been added onto a number of times, including a three-car garage on the street side and a large wooden deck on the waterside, adjacent to a walk-out basement and extending out over the top of a steep slope down to the beach. The 100-foot Buffer from the shoreline falls in the middle of steep slopes, and the steep slopes expand the Buffer up to the outer edge of the house and up the slopes on either side.

A separate variance application is being process for reconstruction of the house essentially on the same foot print. A separate Critical Report has been prepared for the house replacement application. The applicants also are proposing to construct a swimming pool within the confines of the existing wooded deck on the water side of the house. As part of the work, the remainder of the deck would be replaced in kind (as a pervious surface), and a collapsing retaining wall beneath the deck would removed as part of pool construction. Because the existing deck is within the Expanded Critical Area Buffer and partly on steep slopes, the proposed swimming pool requires variances to disturb in the Expanded Buffer and on steep slopes.

Existing/Proposed Conditions:

The site of the proposed pool is within an old and large wooden deck at the walkout basement level of the existing house. An existing timber retaining wall is in deteriorated condition and needs to be replaced, which would be accomplished when the pool is constructed. No vegetation except for a few weeds is present under the deck, on top of unconsolidated fill.

The Woodbridge Center
2444 Solomons Island Road, Suite 217
Annapolis, Maryland 21401
Tel: (410) 266-3828 Fax: (410) 266-3866

Soils mapped on the property in the 1973 County Soil Survey are the Collington series, which is not classified as "highly erodible". The soil under the deck is bare because of shading, and there is some erosion on the slope at the outer end of the deck that is outside of the existing retaining wall under the deck. The existing beach is stable with no erosion.

Existing impervious coverage of the property is 7,174 square feet, or 30.2% of the lot. The proposed impervious coverage with house and driveway would be 4,782 square feet, or 20.2% of the lot. With the addition of the pool in place of part of the existing deck, the impervious coverage would be increased by 321 square feet, or to a total of 21.1% of the lot.

Reforestation would be provided as conditioned by the variance decision. On-site reforestation on the beach (with salt-tolerant species such as bayberry) and on the steep slopes in place of English Ivy can meet a major portion of the reforestation requirement, with a fee-in-lieu for the remainder. Stormwater management for the pool only would be a 1,000 square foot rain garden in an area of lawn at the base of the steep slope down from the house. Native plantings, such as elderberry, swamp rose, and cardinal flower would be used in this rain garden.

A site visit was conducted on March 26, 2006, by Eric E. See of See Environmental Services, Inc. The report is based on the 2006 site plan prepared by Ed Brown & Associates, Inc.

Summary:

Because of the existing significant amount of impervious coverage and the existing large wooden deck, the applicants' proposed pool would create minimal increase in impervious coverage. Although the house reconstruction variance is a separate application, the net reduction of impervious coverage including the proposed pool would be 1,426 square feet, of which 741 square feet is within the Expanded Buffer. This new area would have stormwater management at the base of the slope in area that is partly mowed lawn and partly English ivy-covered slope. Therefore, no significant adverse impacts to water quality and fish and wildlife habitat are anticipated, and the area of native vegetation on the lot would be increased by the required reforestation and control of the overgrown English ivy and other invasive species..

References:

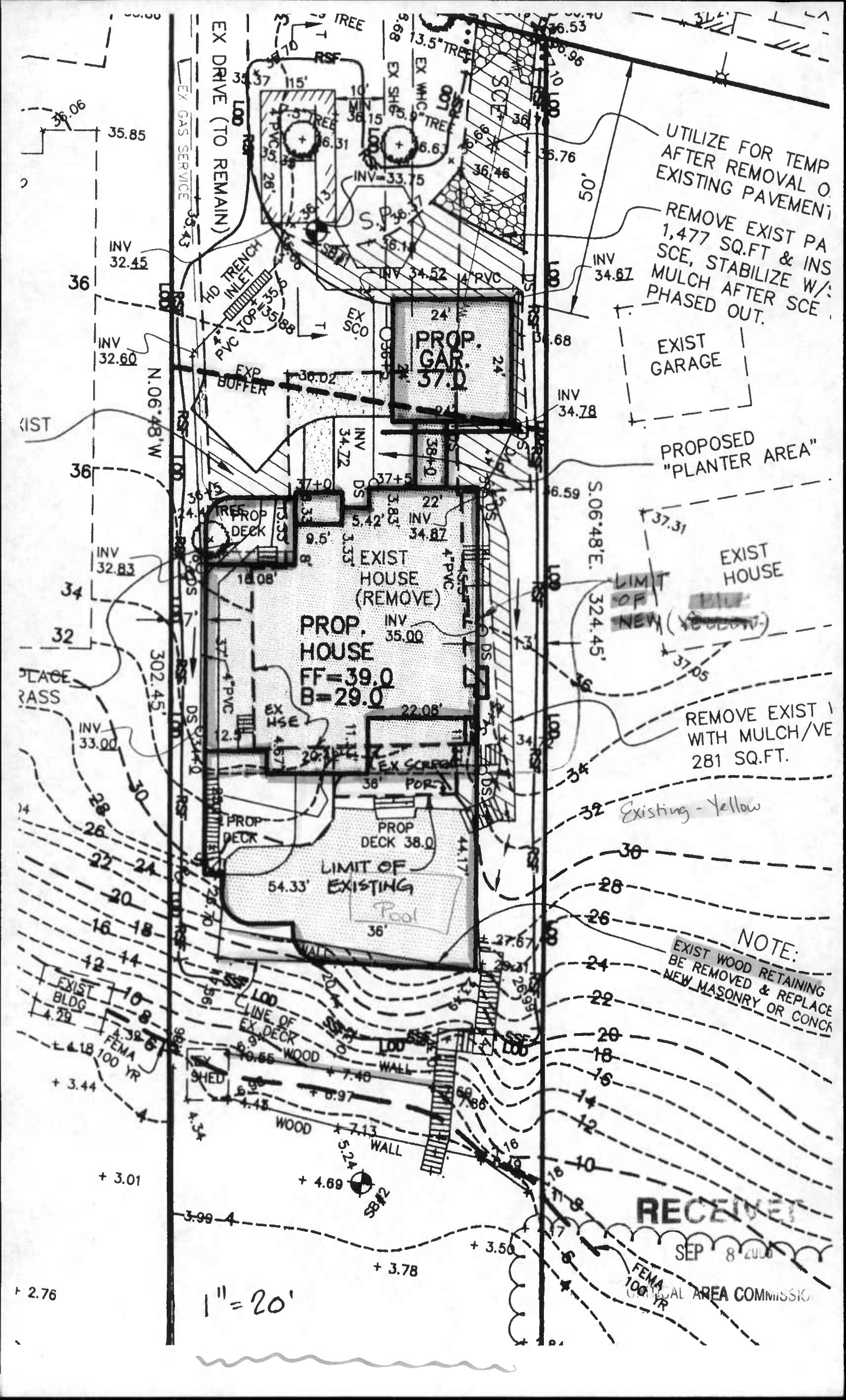
Anne Arundel County Critical Area Map 16.

Ed Brown & Associates, 2006 Variance Site Plan.

U. S. Conservation Service, 1973. Soil Survey for Anne Arundel County, Maryland. USDA

SEE ENVIRONMENTAL SERVICES, INC.

The Woodbridge Center • 2444 Solomons Island Road, Suite 217 • Annapolis, Maryland 21401 • Tel: (410) 266-3828 • Fax: (410) 266-3866



UTILIZE FOR TEMP AFTER REMOVAL OF EXISTING PAVEMENT
 REMOVE EXIST PA 1,477 SQ.FT & INS SCE, STABILIZE W/ MULCH AFTER SCE PHASED OUT.

EXIST GARAGE

PROPOSED "PLANTER AREA"

EXIST HOUSE

LIMIT OF NEW (YELLOW)

REMOVE EXIST WITH MULCH/VE 281 SQ.FT.

Existing - Yellow

NOTE:
 EXIST WOOD RETAINING BE REMOVED & REPLACE NEW MASONRY OR CONCR

RECEIVED

SEP 8 2000

FEMA LOCAL AREA COMMISSION

1" = 20'

+ 2.76

+ 3.01

+ 4.69

+ 3.78

+ 3.50

INV 32.45

INV 32.60

INV 32.83

INV 33.00

35.85

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EXIST

STAGE MASS

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DETAILS AND SPECIFICATIONS FOR VEGETATIVE ESTABLISHMENT

Following initial soil disturbance or redistribution, permanent or temporary stabilization shall be completed within seven calendar days... Section A: Soil Tests... Section B: Seedbed Preparation... Section C: Seeding... Section D: Mulching... Section E: Temporary Seeding...

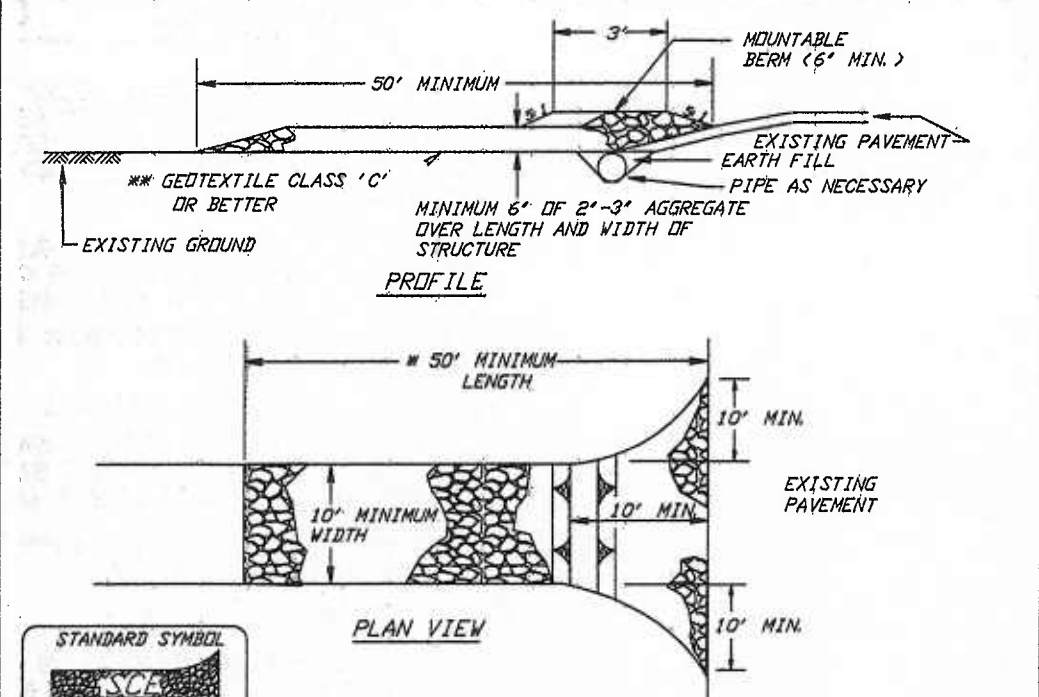
STANDARD RESPONSIBILITY NOTES

- 1. (We) certify that: a. All development and construction will be done in accordance with this sediment and erosion control plan... b. Any responsible personnel involved in the construction project will have a certificate of attendance from the Maryland Department of the Environment's approved training program... c. If applicable, appropriate enclosures will be constructed and maintained on sediment basins... d. The developer is responsible for the acquisition of all easements, rights, and/or rights-of-way that may be required for grading and/or work on adjacent properties included in this plan... e. Initial soil disturbance or redistribution, permanent or temporary stabilization shall be completed within seven calendar days... f. The developer is responsible for the acquisition of all easements, rights, and/or rights-of-way that may be required for grading and/or work on adjacent properties included in this plan... g. Approval shall be requested on final stabilization of all sites with disturbed areas in excess of two acres before removal of controls...

Signature(s) of Developer/Owner: COURTNEY A. SZYMANSKI Date: Print Name: COURTNEY A. SZYMANSKI Title: OWNER Affiliation: Address: SEVERNA PARK, MARYLAND 21146 Telephone Number: 410-647-0437

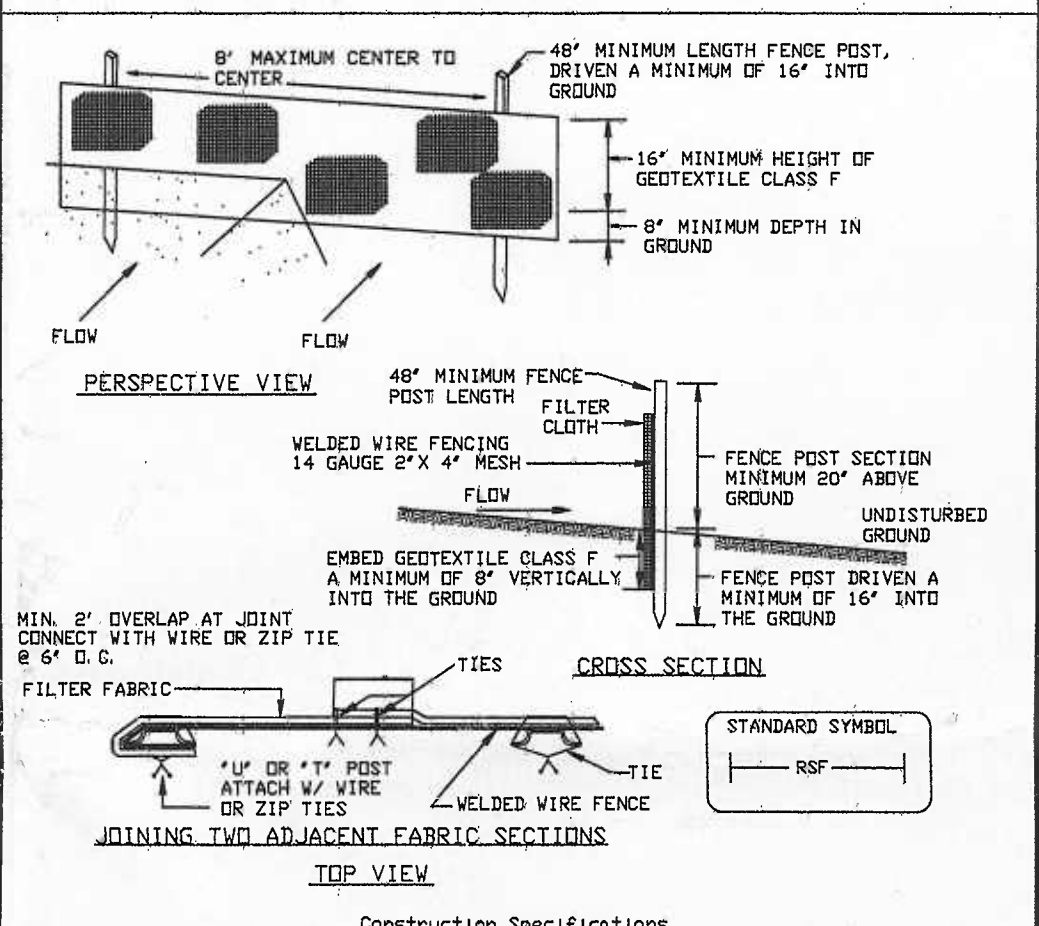
21.0 STANDARD AND SPECIFICATIONS FOR TOPSOIL Definition: Topsoil: The topsoil of the exposed subsurface material is not adequate to produce vegetative growth... Placement of topsoil over a prepared subsoil prior to establishment of permanent vegetation... Conditions Where Practice Applies: This practice is limited to areas having 2:1 or flatter slopes where: a. The texture of the exposed subsurface material is not deep enough to support plants or furnish continuing supplies as moisture and plant nutrients... b. The soil is so acidic that treatment with limestone is not feasible... c. For the purpose of these Standards and Specifications, areas having slopes steeper than 2:1 require special consideration and design for adequate stabilization... Construction and Material Specifications: Topsoil salvaged from the existing site may be used provided it meets the standards as set forth in these specifications... Topsoil Specifications - Soil to be used as topsoil must meet the following: i. Topsoil shall be a loam, sandy loam, clay loam, silt loam, sandy clay loam, sandy clay loam, loamy sand, Other soils may be used if recommended by an agronomist or soil scientist and approved by the appropriate authority... ii. Topsoil must be free of plants or plant parts such as bermuda grass, quackgrass, johnsongrass, nutcase, poison ivy, thistle, or others as specified... iii. Where the subsoil is either highly acidic or composed of heavy clay, ground limestone shall be spread at the rate of 4-8 tons/acre (200-400 pounds per 1,000 square feet) prior to the placement of topsoil... iv. For sites having disturbed areas under 5 acres: a. Place topsoil (if required) and apply soil amendments as specified in 20.0 Vegetative Stabilization - Section 1 - Vegetative Stabilization Methods and Materials... b. On soil meeting Topsoil specifications, obtain test results dictating fertilizer and lime amendments required to bring the soil into compliance with the following: i. pH for topsoil shall be between 6.0 and 7.5. If the tested soil demonstrates a pH of less than 6.0, sufficient lime shall be prescribed to raise the pH to 6.5 or higher... ii. Organic content of topsoil shall be not less than 1.5 percent by weight... c. Topsoil having organic content greater than 500 parts per million shall not be used... d. No sod or silt shall be placed on soil which has been treated with soil sterilants or chemicals used for weed control until sufficient time has elapsed (14 days min.) to permit dissipation of phytotoxic materials... Note: Topsoil substitution shall be approved by a qualified agronomist or soil scientist and approved by the appropriate authority... Use in lieu of natural topsoil... Place topsoil (if used) and apply soil amendments as specified in 20.0 Vegetative Stabilization - Section 1 - Vegetative Stabilization Methods and Materials.

DETAIL 24 - STABILIZED CONSTRUCTION ENTRANCE



1. Length - minimum of 50' (300' for single residence lots). 2. Width - 10' minimum, should be flared at the existing road to provide a turning radius... 3. Geotextile fabric (filter cloth) shall be placed over the existing ground prior to placing stone... 4. Stone - crushed aggregate (2" to 3") or recycled concrete aggregate shall be placed at least 6" deep over the length and width of the entrance... 5. Surface Water - all surface water flowing to and/or diverted toward construction entrances shall be piped through the entrance, maintaining positive drainage... 6. Location - A stabilized construction entrance shall be located at every point where construction traffic enters or leaves a construction site... 7. Installation - A stabilized construction entrance shall be installed at every point where construction traffic enters or leaves a construction site... 8. Maintenance - A stabilized construction entrance shall be inspected after each rainfall event and maintained when bulges occur or when sediment accumulation reaches 50% of the fabric height.

DETAIL 25A - REINFORCED SILT FENCE APPROVED BY MDE 2-7-05



1. Metal Fence post shall be a minimum of 48" long driven 16" minimum into the ground. Post shall be standard 1 or U section weighting not less than 1.00 pound per linear foot. 2. Geotextile shall be fastened securely to each fence post with wire ties or zip ties at top and mid section and shall meet the following requirements for geotextile Class F: Tensile Strength: 50 lbs/in. (min.); Tensile Modulus: 20 lbs/in. (min.); Flow Rate: 0.3 gal ft²/min (max.); Filtering Efficiency: 75% (min.). 3. Where ends of geotextile fabric come together, they shall be overlapped, folded and wired tied or zip tied to prevent sediment bypass. 4. Silt Fence shall be inspected after each rainfall event and maintained when bulges occur or when sediment accumulation reaches 50% of the fabric height.

21.0 STANDARD AND SPECIFICATIONS FOR TOPSOIL (CONTINUED) V. Topsoil Application: 1. When topsoiling, maintain needed erosion and sediment control practices such as diversions, Grade Stabilization Structures, Earth Dikes, Slope Silt Fence and Sediment Traps and Basins... 2. Grades on the areas to be topsoiled, which have been previously established, shall be maintained, albeit ± 6" higher in elevation... 3. Topsoil shall be uniformly distributed in a 4"-8" layer and lightly compacted to a minimum thickness of 4". Spreading shall be performed in such a manner that sodding or seeding can proceed with a minimum of additional soil separation and tillage... 4. Topsoil shall not be placed while the topsoil or subsoil is in a frozen or muddy condition, when the subsoil is excessively wet or in a condition that may otherwise be detrimental to proper grading and seeded preparation... W. Alternative to Permanent Seeding - Instead of applying the full amounts of lime and commercial fertilizer, composted sludge and amendments may be applied as specified below. i. Composted Sludge Material for use as a soil conditioner for sites having disturbed areas over 5 acres shall be tested to prescribe amendments and for sites having disturbed areas under 5 acres shall conform to the following requirements: a. Composted sludge shall be supplied by, or originate from, a person or persons that are permitted (at the time of acquisition of the compost) by the Maryland Department of the Environment under CDMAR 28.04.06... b. Composted sludge shall contain at least 1 percent nitrogen, 1.5 percent phosphorus, and 0.2 percent potassium and have a Ph of 7.0 - 8.0. If compost does not meet these requirements, the appropriate constituents must be added to meet the requirements prior to use... c. Composted sludge shall be applied at a rate of 1 ton/1,000 square feet... ii. Composted sludge shall be amended with a potassium fertilizer applied at the rate of 4 lbs/1,000 square feet, and 1/2 the normal lime application rate. Reference: Guideline Specifications, Soil Preparation and Seeding, MD-VA, Pub.#1, Cooperative Extension Service, University of Maryland Polytechnic Institutes. Revised 1973.

QUANTITIES table with columns for item description, quantity, and area. Items include CUT, FILL, AREA TO BE VEGETATIVELY STABILIZED (5,820 S.F. / 0.13 ACRES), and AREA TO BE MECHANICALLY STABILIZED (7,410 S.F. / 0.17 ACRES). Includes a LEGEND for EXISTING GRADE, PROPOSED GRADE, EXISTING ELEVATION, PROPOSED ELEVATION, REINFORCED SILT FENCE, LIMIT OF DISTURBANCE, STABILIZED CONSTRUCTION ENTRANCE, and STOCK PILE.

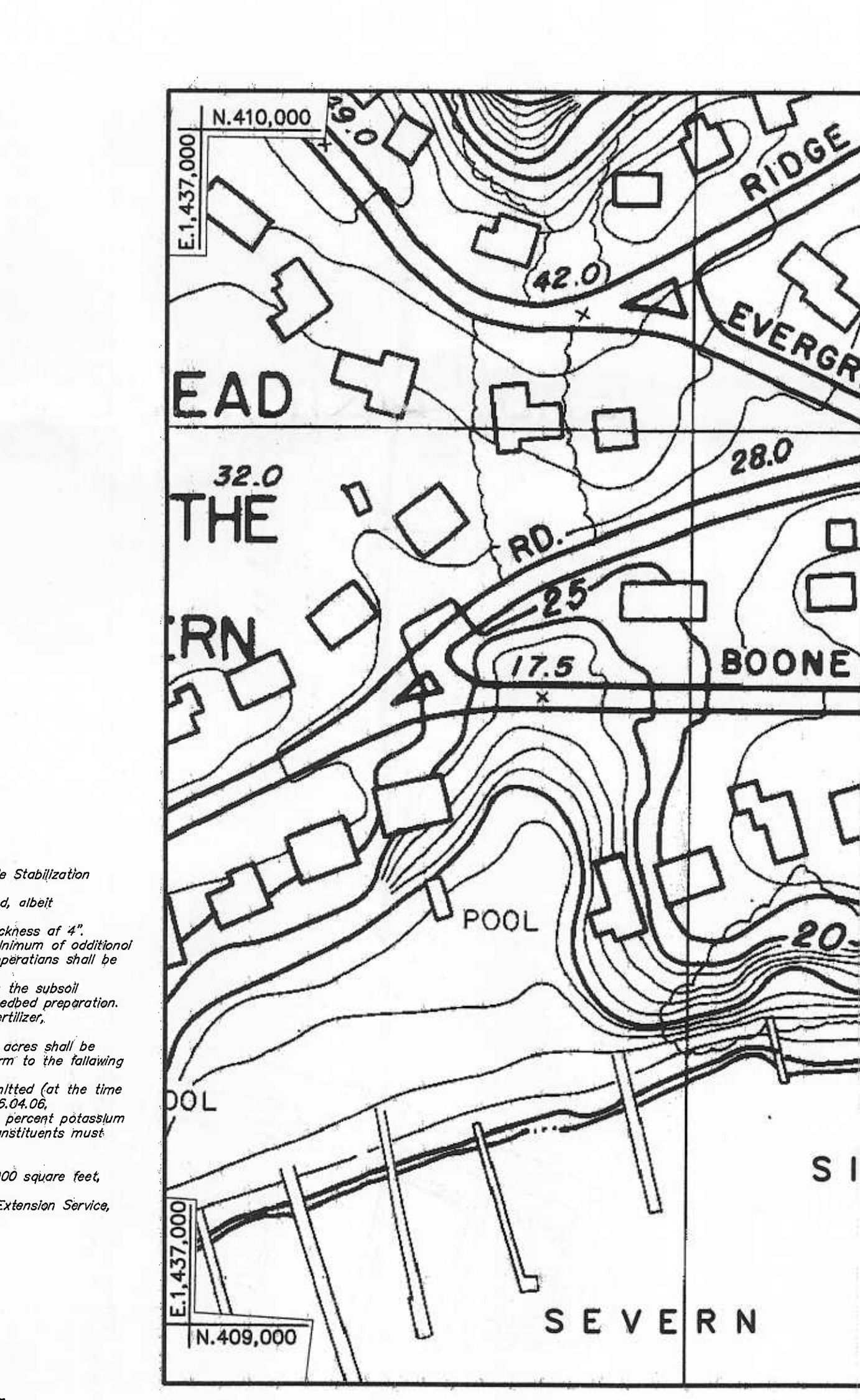
STORMWATER MANAGEMENT STATEMENT

WITH REGARD TO ARTICLE 21, SECTION 3 OF THE COUNTY CODE THE FOLLOWING APPLIES TO THIS SITE: 1. THE DISTURBED AREA IS 13,230 SQ.FT. 2. THESE ARE AT LEAST 48 HOURS BEFORE COMMENCING WORK, WORK SHALL NOT COMMENCE UNTIL THE PERMITEE OR THE RESPONSIBLE PERSONNEL HAVE MET ON SITE WITH THE SEDIMENT AND EROSION CONTROL INSPECTOR TO REVIEW THE APPROVED PLANS... 3. THE REVE AND WQ ARE ADDRESSED IN THIS CASE, BY PROVIDING THE ON-SITE INFILTRATION TRENCH PROVIDING 546 CU.FT. OF STORAGE... 4. THE CP V IS ADDRESSED BY THE FACT THAT THE SITE ENJOYS A DIRECT DISCHARGE TO THE TIDAL WATERS OF THE SEVERN RIVER.

STORMWATER MANAGEMENT SUMMARY TABLE with columns for MINIMUM SIZING CRITERIA, SYMBOL, VOLUME DRAINAGE AREA, VOLUME REQUIRED (CUBIC-FEET), VOLUME PROVIDED (CUBIC-FEET), SWM PRACTICE, and NOTES. Rows include WATER QUALITY VOLUME, RECHARGE VOLUME, and CHANNEL PROTECTION STORAGE VOLUME.

CRITICAL AREA TABULATION (LDA) (BUFFER MODIFIED)

- 1. SITE AREA = 23,729 SQ.FT. 2. EXISTING IMPERVIOUS AREA = 7,174 SQ.FT. 3. ULTIMATE IMPERVIOUS AREA = 5,102 SQ.FT. 4. EXISTING FOREST = -0- SQ.FT. (6 INDIVIDUAL TREES) 5. TREE REMOVAL = 2 TREES



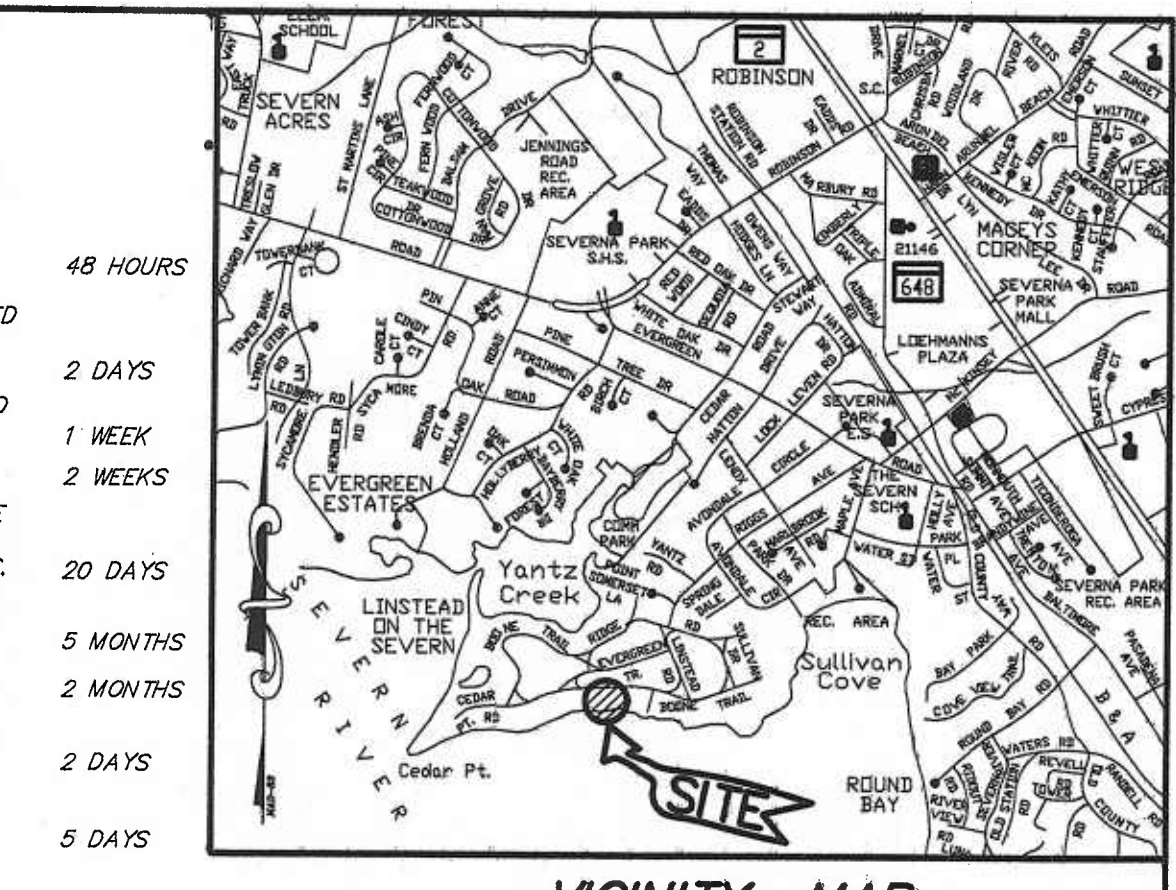
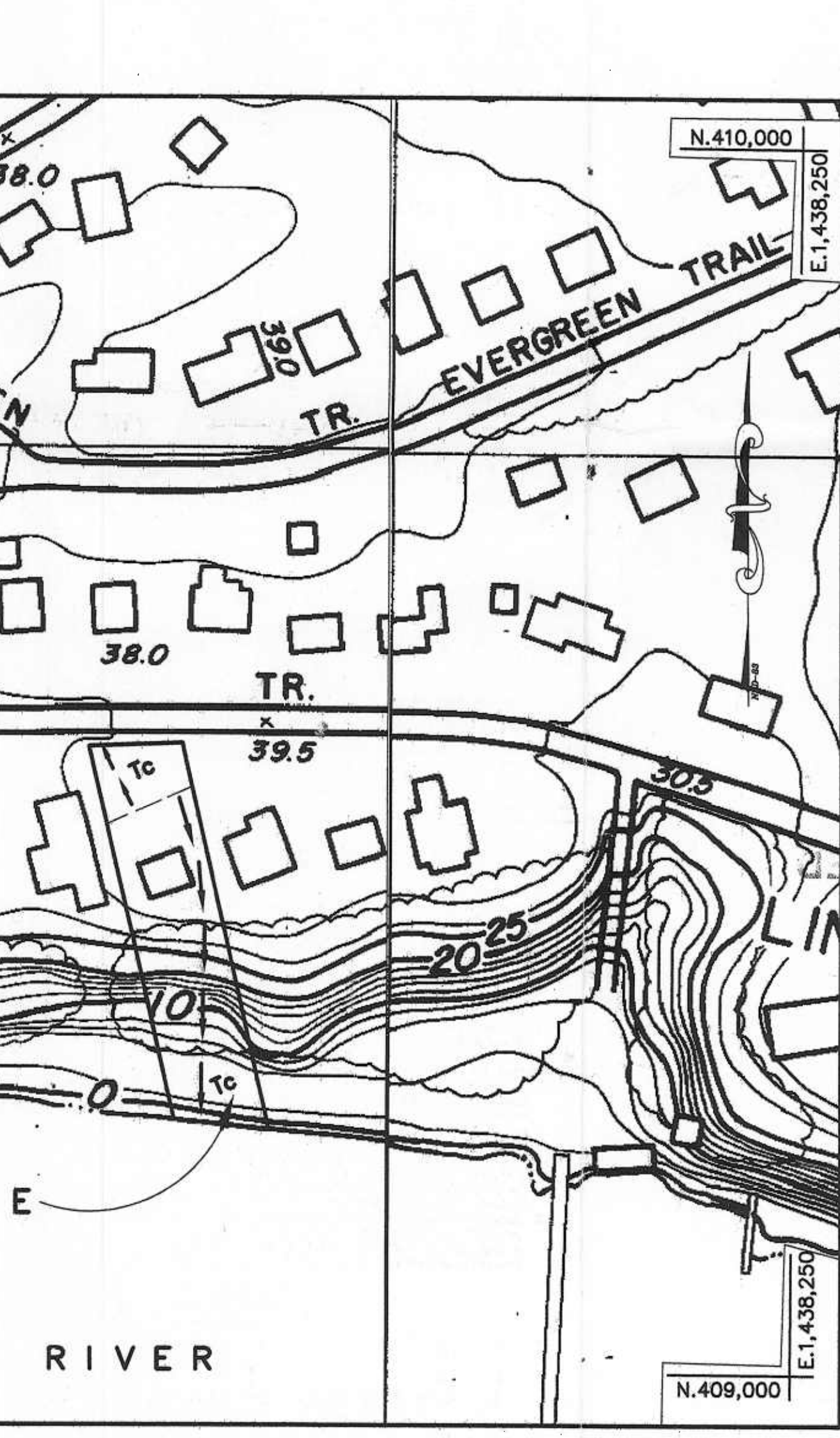
CONSULTANT'S CERTIFICATION: The Developer's plan to control silt and erosion is adequate to contain the silt and erosion on the property covered by the plan... ED BROWN & ASSOCIATES, INC. LAND SURVEYORS - LAND PLANNERS DEVELOPMENT CONSULTANTS. 19 LORETTA AVENUE ANNAPOLIS, MARYLAND 21401 ANNAPOLIS 410-266-6199 BALTIMORE 410-941-0119

SEQUENCE OF CONSTRUCTION

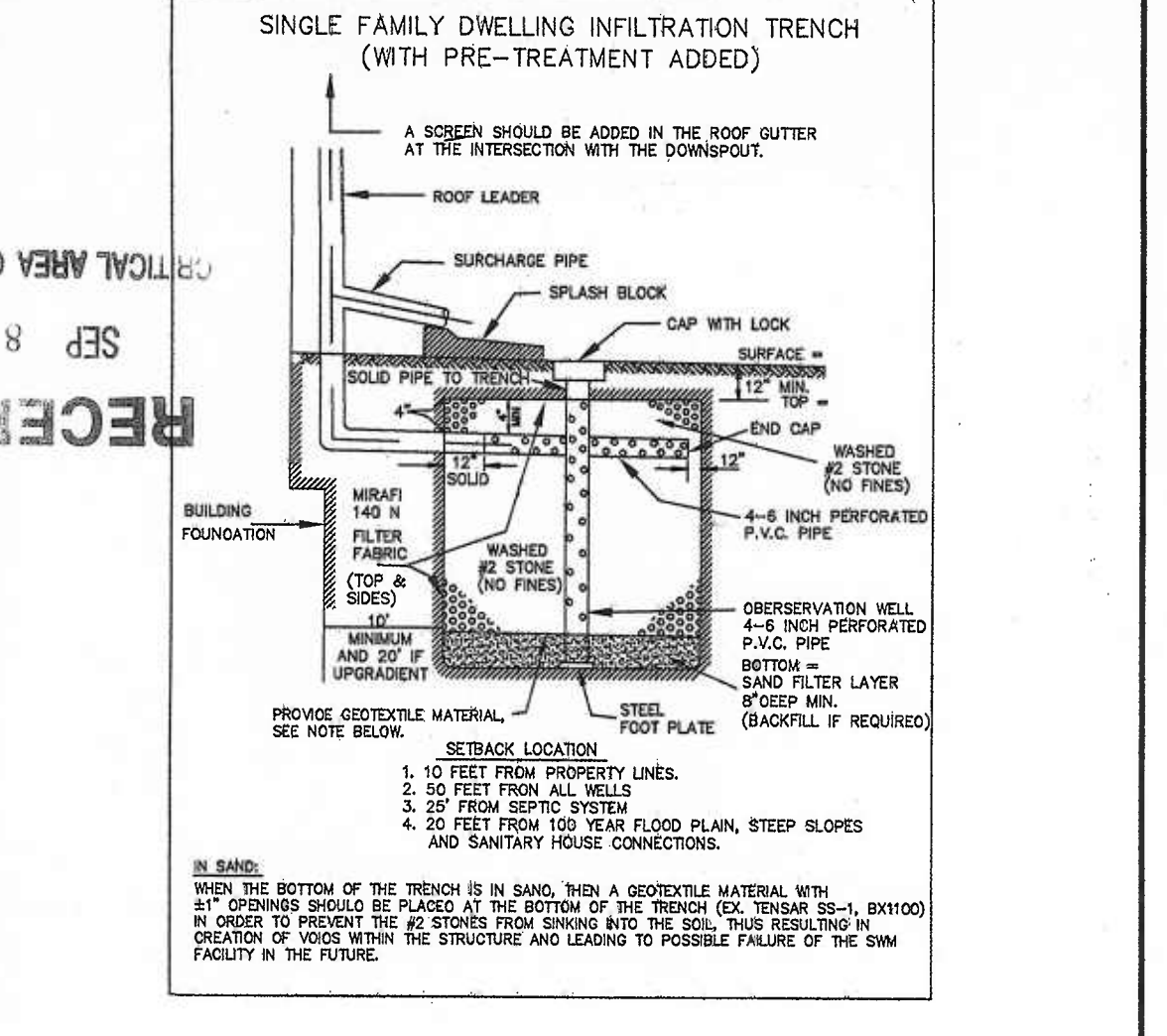
- 1. PRE-CONSTRUCTION MEETING. NOTIFY THE DEPARTMENT OF INSPECTIONS AND PERMITS AT LEAST 48 HOURS BEFORE COMMENCING WORK... 2. INSTALL ALL TEMPORARY EROSION CONTROL MEASURES SUCH AS REINFORCED AND SUPER SILT FENCE, STABILIZED CONSTRUCTION ENTRANCE... 3. REMOVE EXISTING TIMBER RETAINING WALL AND CONSTRUCT NEW REINFORCED CONCRETE RETAINING WALL... 4. RAZE AND REMOVE EXISTING HOUSE... 5. EXCAVATE FOR AND CONSTRUCT FOUNDATION (AT HOUSE BACKFILL, STABILIZE ALL AFFECTED AREAS AS PER THE STABILIZATION SPECIFICATIONS)... 6. CONSTRUCT HOUSE, WATER CONNECTION, SEWER CONNECTION AND MAINTAIN SEDIMENT CONTROL MEASURES... 7. CONSTRUCT DECK AND POOL... 8. INSTALL THE REQUIRED STORMWATER MANAGEMENT INFILTRATION TRENCH... 9. FINAL CLEANUP, STABILIZATION AND REMOVAL OF REMAINING SEDIMENT CONTROL MEASURES WITH INSPECTOR'S APPROVAL.

SITE ANALYSIS

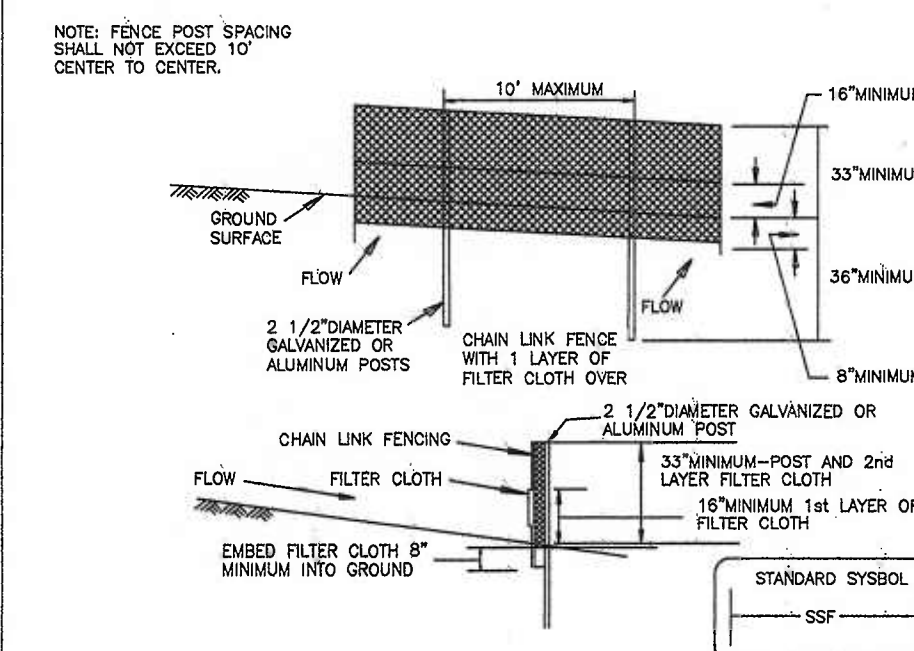
DRAINAGE AREA: 0.55 ACRES C = 0.44 Tc = 10 MINUTES 1.10 = 6.00 Q 10 = 0.44 x 6.00 x 0.55 = 1.5 C.F.S.



GENERAL NOTES: 1. ZONING: R2 2. SETBACKS: FRONT: 30' REAR: 25' SIDE: 7' 3. PREDOMINANT SOIL TYPE: CSE COLLINGTON "B" SOILS 4. TOTAL AREA OF SITE: 23,729 S.F. 0.545 ACRES. 5. PROPOSED DISTURBED AREA: 13,230 S.F. 0.30 ACRES. 6. A. A. COUNTY TOPO SHEET: S-16 7. F.E.M.A. RATE MAP: 240080027 C ZONE: C & A6 (ELEV 7') 8. THIS LOT IS IN THE 100 YEAR FLOOD AREA. 9. FIELD RUN TOPOGRAPHY BY ED BROWN AND ASSOCIATES, INC. 10. PUBLIC WATER. 11. PUBLIC SEWER. 12. EARTH MOVING: ANY STOCKPILE NECESSARY SHALL REMAIN WITHIN THE LIMITS PROTECTED BY SEDIMENT CONTROL MEASURES... 13. DOWNSPOUT PROTECTION: ALL DOWNSPOUTS ARE TO BE CARRIED TO THE TOE OF THE FILL SLOPES, SPLASH BLOCKS ARE TO BE PROVIDED AT ALL DOWNSPOUTS NOT DISCHARGING ONTO A PAVED SURFACE... 14. DISTURBANCE WITHIN BOONE TRAIL MUST BE STABILIZED IMMEDIATELY USING COLD PATCH BITUMINOUS MATERIAL... 15. THE EXISTING UTILITIES AND OBSTRUCTIONS SHOWN ARE FROM THE BEST AVAILABLE RECORDS AND SHALL BE VERIFIED BY THE CONTRACTOR... 16. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE OBSERVANCE OF ALL APPLICABLE OSHA REGULATIONS CONCERNING EXCAVATION AND BACKFILL... 17. THE SUBJECT SITE LIES ENTIRELY WITHIN THE LDA CRITICAL AREA. 18. THE EXISTING SINGLE FAMILY DWELLING WILL BE RAZED, REMOVED AND REPLACED BY A SINGLE FAMILY DWELLING WITH A MINIMUM OF 2 OFF-STREET PARKING SPACES.



VARIANCE SITE PLAN LOT 21 Linstead on the Severn 41 Boone Trail. SCALE: AS NOTED DATE: JUNE, 2006 DRAWN BY: JAY CHECKED BY: EAB JOB NO: 05-118 SHEET NO: 1 OF 2 TAX MAP 31, BLOCK 18, PARCEL 84, ZONING R2, ZIP CODE 21146 THIRD DISTRICT ANNE ARUNDEL COUNTY, MARYLAND



- CONSTRUCTION SPECIFICATIONS
- FENCING SHALL BE 42 INCHES IN HEIGHT AND CONSTRUCTED IN ACCORDANCE WITH THE LATEST MARYLAND STATE HIGHWAY DETAILS FOR CHAIN LINK FENCING. THE SPECIFICATION FOR A 6 FOOT FENCE SHALL BE USED, SUBSTITUTING 42 INCH FABRIC AND 6 FOOT LENGTH POSTS.
 - THE POLES DO NOT NEED TO BE SET IN CONCRETE.
 - CHAIN LINK FENCE SHALL BE FASTENED SECURELY TO THE FENCE POSTS WITH WIRE TIES OR STAPLES.
 - FILTER CLOTH SHALL BE FASTENED SECURELY TO THE CHAIN LINK FENCE WITH TIES SPACED EVERY 24" AT THE TOP AND MID SECTION.
 - FILTER CLOTH SHALL BE EMBEDDED A MINIMUM OF 8 INCHES INTO THE GROUND.
 - WHEN TWO SECTIONS OF FILTER CLOTH ADJOIN EACH OTHER, THEY SHALL BE OVERLAPPED BY 6 INCHES AND FOLDED.
 - MAINTENANCE SHALL BE PERFORMED AS NEEDED AND SALT BUILDUPS REMOVED WHERE "BULGES" DEVELOP IN THE SILT FENCE.

U.S. DEPARTMENT OF AGRICULTURE SOIL CONSERVATION SERVICE PAGE H - 26 - 3 MARYLAND DEPARTMENT OF ENVIRONMENT WATER MANAGEMENT ADMINISTRATION

LEGEND

- EXISTING GRADE - - - - - 110 - - - - -
- PROPOSED GRADE - - - - - 110 - - - - -
- EXISTING ELEVATION 110.8
- PROPOSED ELEVATION 110.8
- REINFORCED SILT FENCE - RSE - - - - - RSE
- LIMIT OF DISTURBANCE - - - - - 100 - - - - -
- STABILIZED CONSTRUCTION ENTRANCE - S.C.E. - - - - -
- STOCK PILE - SP - - - - -
- PROPOSED HOUSE - [Pattern]
- PROPOSED NEW PAVEMENT - [Pattern]
- REMOVED PAVEMENT - [Pattern]

STORMWATER MANAGEMENT COMPUTATIONS

- $R_{eV} = \frac{((0.29)(0.05 + 0.009(24)))(0.55)}{12}$
 $= \frac{0.0424}{12}$
 $= 0.0035 \text{ AC. FT.}$
 $= 154 \text{ CU. FT.}$
- $WQ_v = \frac{((1.0)(0.05 + 0.009(24)))(0.55)}{12}$
 $= \frac{0.1463}{12}$
 $= 0.0122 \text{ AC. FT.}$
 $= 531 \text{ CU. FT.}$
- #2 STONE RESERVOIR SIZE REQUIRED = $531 \times 2.5 = 1328 \text{ CU. FT.}$
- RESERVOIR DIMENSIONS = USE 3.5' D NEED 380 SQ. FT.
USE 15' W NEED 26' L
- PROPOSED RESERVOIR = 3.5' D X 15' W 26' L

NOTE

WITHIN THE EXPANDED BUFFER THE EXISTING IMPERVIOUS IS BEING REDUCED BY 741 SQ. FT. (NET)

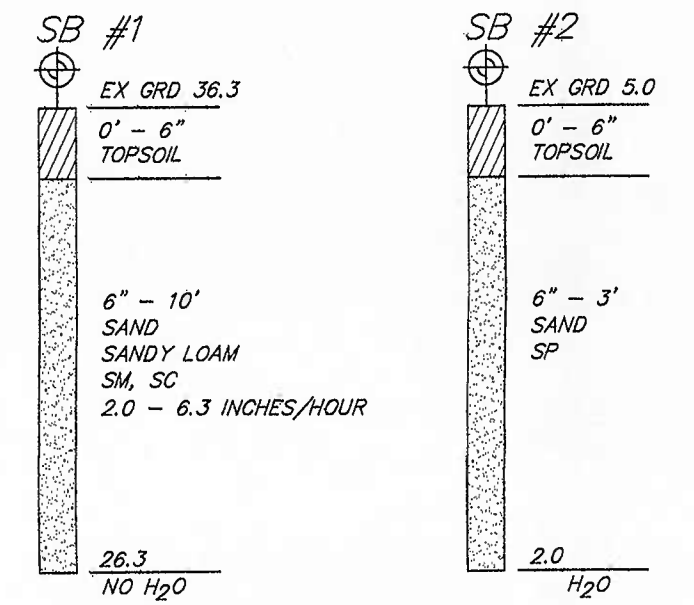
OUTFALL STATEMENT

ON JUNE 20, 2005 ED BROWN AND ASSOCIATES SURVEYED THE SUBJECT LOT AND REPORT THE FOLLOWING ABOUT THE OUTFALL.

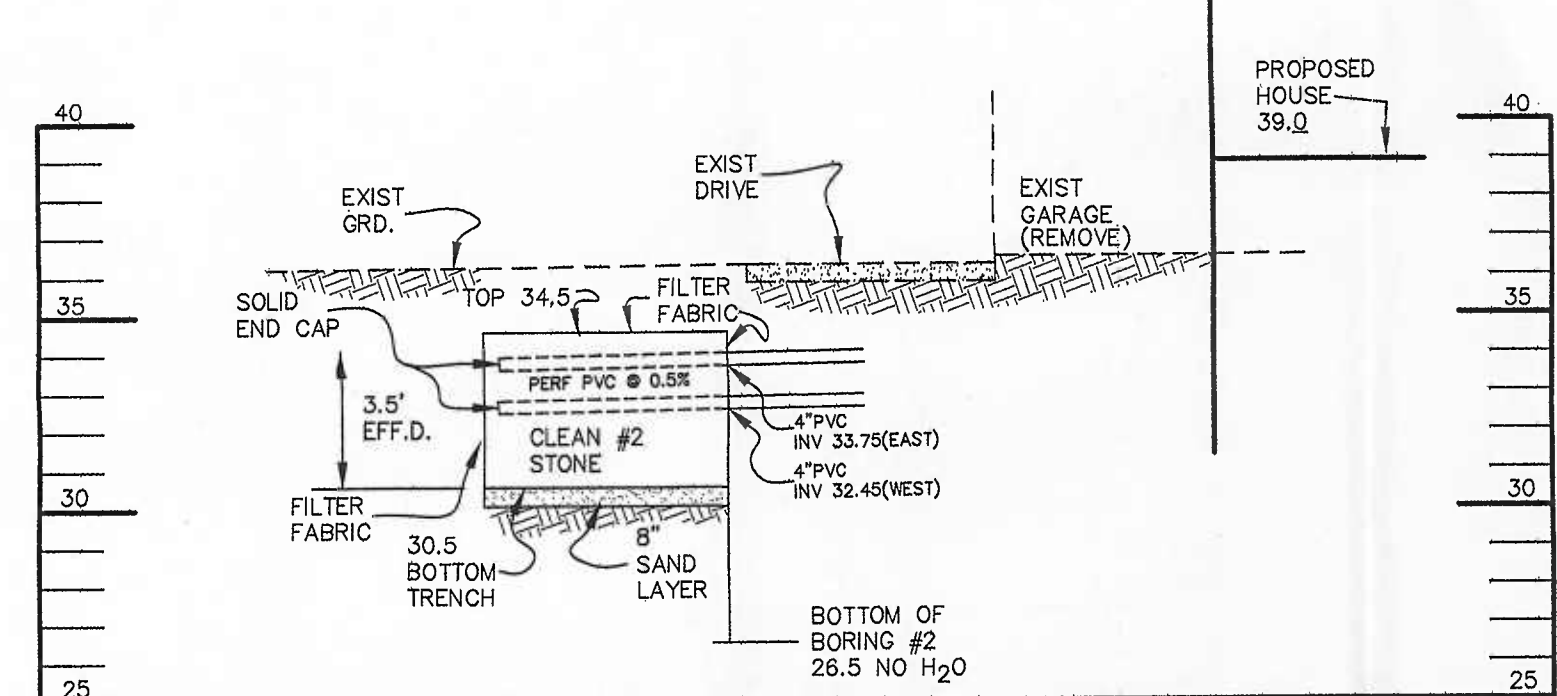
THE SUBJECT SITE IS AN IMPROVED PROPERTY ON THE SEVERN RIVER. THE HOUSE DRAINS OVER THE STEEP SLOPES FOR ABOUT 60' AND THEN ACROSS ABOUT 70' OF 2% LAWN PRIOR TO ENTRY INTO THE SEVERN RIVER. THE EXISTING DRIVEWAYS DRAIN INTO THE GRASS SHOULDER OF BOONE TRAIL. THE ONLY EXISTING EROSION IS SOME SMALL AREAS NEAR THE EXISTING DECK.

IN THE DEVELOPED CONDITION, THE DRAINAGE PATTERNS WILL NOT CHANGE. WHAT WILL CHANGE IS THAT 1/2 OF THE DRIVEWAY WILL BE DEMOLISHED AND WILL BE CONVERTED TO GRASS LAWN. THE OVERALL REDUCTION IN IMPERVIOUS COVER WILL BE REDUCED FROM 7,174 SQ. FT. TO 5,745 SQ. FT. (A REDUCTION OF 1429 SQ. FT.) ALSO, AN INFILTRATION TRENCH WILL BE INSTALLED TO MANAGE THE RE-V AND WOV. THE NEW RETAINING WALL WILL CORRECT THE SMALL EXISTING EROSION NEAR THE DECK.

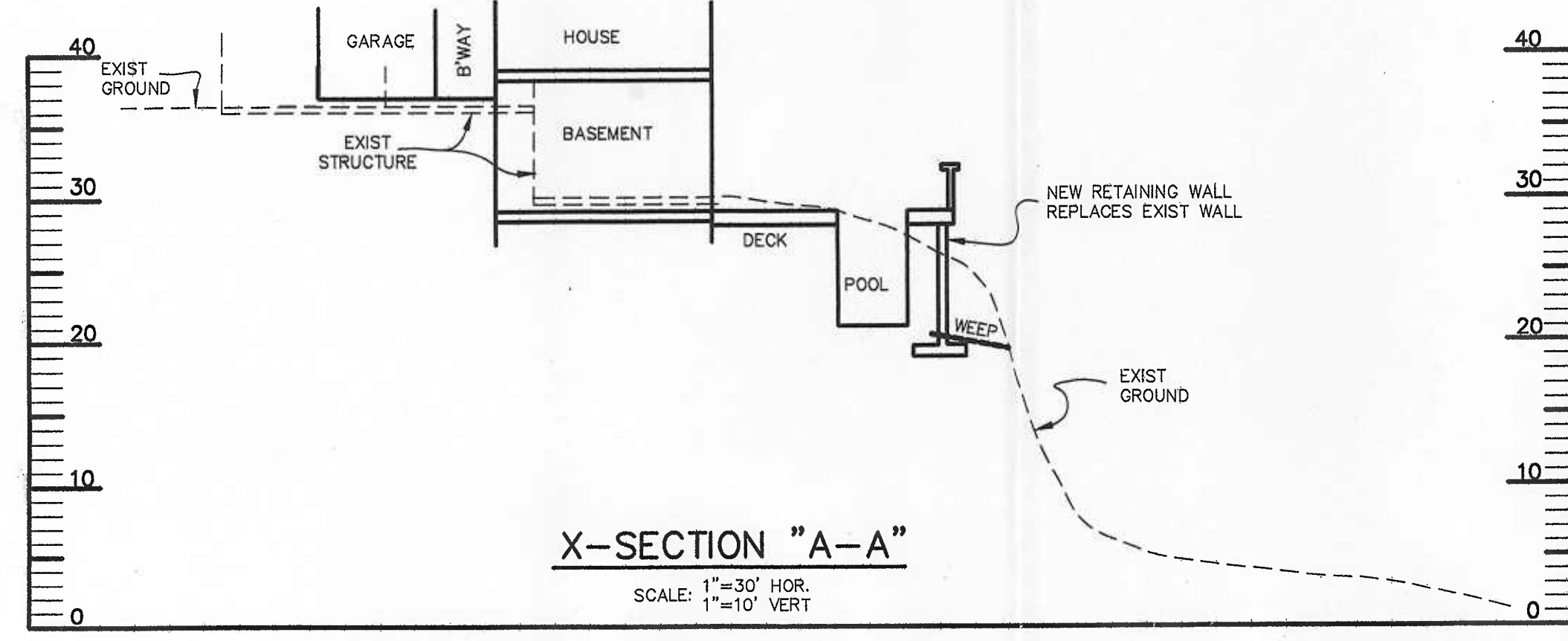
THERE WILL BE NO ADVERSE IMPACTS FROM THE PROPOSED NEW DEVELOPMENT ON THIS EXISTING PROPERTY.



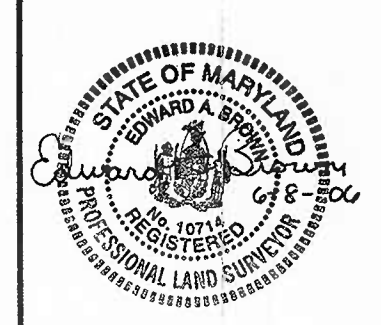
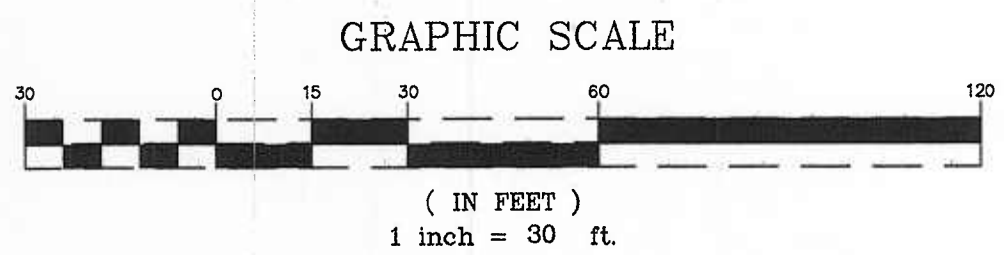
SOIL BORINGS NO SCALE



SWM TRENCH X-SECTION "T-T" SCALE: 1"=20' HOR. 1"=5" VERT



X-SECTION "A-A" SCALE: 1"=30' HOR. 1"=10' VERT



ED BROWN & ASSOCIATES, INC.
 LAND SURVEYORS - LAND PLANNERS
 DEVELOPMENT CONSULTANTS
 19 LORETTA AVENUE
 ANNAPOLIS, MARYLAND 21401
 ANNAPOLIS 410-268-6199 BALTIMORE 410-841-0119

SCALE: AS NOTED
 DATE: MAY, 2006
 DRAWN BY: JAY
 CHECKED BY: EAB
 JOB NO: 05-118
 SHEET NO: 2 OF 2

VARIANCE SITE PLAN
LOT 21
LINSTEAD ON THE SEVERN
 41 BOONE TRAIL
 TAX MAP 31, BLOCK 18, PARCEL B4, ZONING R2, ZIP CODE 21146
 THIRD DISTRICT ANNE ARUNDEL COUNTY, MARYLAND