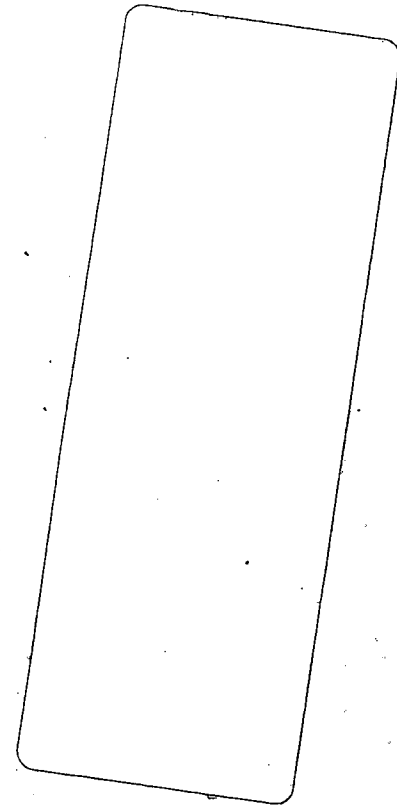


CA 444-06
VAR

McBride, Patrick
06-3340

MSA-S-1829-5654



Q.3

Comments File Job
Kud
Revised 10/16/86
Kud

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/

October 16, 2006

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

Re: Variance 06-3340 McBride-Revised

Dear Ms. Whitt:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance to the 100-foot Buffer and the impervious surface area limits in order to permit the construction of a replacement dwelling damaged as a result of Hurricane Isabel. The property lies within a designated Limited Development Area (LDA), and is currently developed.

As indicated in our previous review letter, it appears that the applicant is decreasing the overall impervious surface area of the site by 455 square feet. In addition, the site plan indicates that the new dwelling will not encroach closer to Mean High Water (MHW) than the existing dwelling. As a result, this office does not generally oppose the granting of a variance. However, given the extensive amount of impervious surface area both existing and proposed on the lot, it remains our position that the applicant should be required to provide some offsetting measures to enhance water quality, plant and wildlife habitat. While the use of structural best management practices on site may not be appropriate given the sandy conditions of the property, there appears to be opportunity to implement native, salt-tolerant plantings in order to enhance the environmental resources of the site. We recommend that the Board require plantings along the sides of the dwelling, as well as between the replacement septic area and the water as a condition of any variance approval.

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 revised variance. Also, please notify the Commission in writing of the decision made in this case.

Sincerely,

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

Kerrie L. Gallo
Natural Resources Planner
CA 444-06

2/3-deferred for Health Dept. approval → new site plan
- new advertising for imp. surface areas

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
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1804 West Street, Suite 100, Annapolis, Maryland 21401
(410) 260-3460 Fax: (410) 974-5338
www.dnr.state.md.us/criticalarea/

July 27, 2006

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

Re: Variance 06-3340 McBride

Dear Ms. Whitt:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance to the 100-foot Buffer in order to permit the construction of a replacement dwelling damaged as a result of Hurricane Isabel. The property lies within a designated Limited Development Area (LDA), and is currently developed.

Based on the information provided, it appears that the applicant is decreasing the overall impervious surface area of the site by 455 square feet. In addition, the site plan indicates that the new dwelling will not encroach closer to Mean High Water (MHW) than the existing dwelling. As a result, this office does not generally oppose the granting a variance. However, we note that while the overall impervious surface area is decreasing, the proposed amount of impervious surface area will still exceed that which is permitted by State and County Law. Given that the existing dwelling will be demolished and that a new dwelling will be constructed which exceeds the impervious surface area permitted in State Law, it is our view that a variance to the impervious surface area limits should be required in order to legally permit the proposed development activity.

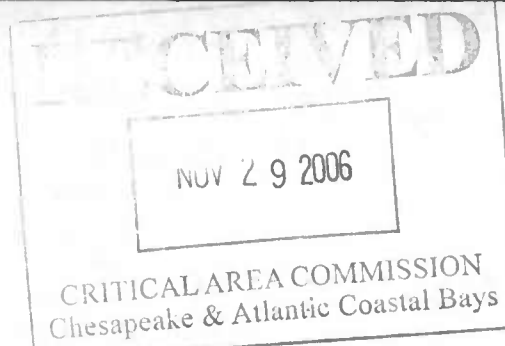
In addition, in order to exceed the impervious surface area limits outlined within the State and County Law, the applicant should be required to provide some offsetting measures to enhance water quality, plant and wildlife habitat. While the use of structural best management practices on site may not be appropriate given the sandy conditions of the property, there appears to be opportunity to implement native, salt-tolerant plantings in order to enhance the environmental resources of the site. We recommend that the Board require an area of planting between the dwelling and the water as a condition of any variance approval.

Thank you for the opportunity to provide comments. Please include this letter in your file and submit it as part of the record for this variance. Also, please notify the Commission in writing of the decision made in this case.

Sincerely,

Kerrie L. Gallo
Natural Resources Planner
CA 444-06

Case No. 06-3340



444-06

Public Hearing
August 3, 2006
November 2, 2006

Patrick & Judith McBride have applied for a variance in the front setback requirements from 25' to 13.2', a variance in the left side setback requirements from 6' to 3.7', a variance in the right side setback requirements from 6' to 4.5'¹, a variance in the rear setback requirements from 25' to 13', a variance in the 100' waterfront buffer requirements, and a variance in the impervious surface requirements for construction of a replacement dwelling. The property is located at 2827 Beach Drive, Huntingtown (Tax Map 19B, Lot 2, Block B, Neeld Estates) and is zoned RD Residential District.

AUTHORITY OF THE BOARD OF APPEALS

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 of Section 8-1 of this Ordinance.

TESTIMONY & EVIDENCE PRESENTED

1. The case was presented August 3, 2006 before Board of Appeals members Mr. Michael Reber, Chairman, Mr. Walter Boynton, Vice Chairman, and Mr. Dan Baker (the Board). Mr. Patrick McBride was present at the hearing and was represented by Mr. Matt Tippett from RDA.
2. A Staff Report, along with photographs taken on site, was dated and entered into the record as Staff Exhibit No. 1.
3. The following applicant Exhibits were dated and entered into the record at the August hearing:
 - Exhibit No. 1 – Plat Submitted With Application
 - Exhibit No. 2 – Board of Appeals Addendum for McBride

¹ The applicant advised at the November hearing that based on a redesign a variance in the right side setback requirements from 6' to 4.5' was no longer required.

4. The following person testified at the August hearing:
 - Kerrie Gallo, Chesapeake Bay Critical Area Commission
5. The following correspondence was entered into the record at the August hearing:
 - Letter dated July 27, 2006 from Kerrie Gallo, Chesapeake Bay Critical Area Commission
 - Letter dated July 7, 2006 from Patrick McBride
6. The Board deferred action at the August hearing: (1) to allow pending issues with the Health Department to be resolved; (2) for a revised plat addressing Health Department decisions; and (3) to allow time for a variance in the impervious surface requirements to be requested.
7. The case was again presented November 2, 2006 before the Board. Mr. Patrick McBride was present at the hearing and was represented by Mr. Matt Tippett from RDA.
8. A Revised Staff Report was entered into the record at the November hearing and marked Staff Exhibit No. 2.
9. The following Applicant Exhibits were entered into the record at the November hearing:
 - Exhibit No. 3 – Revised Plat with Health Department Approval
 - Exhibit No. 4 – Revised Plat Presented at the Hearing
10. The following correspondence was entered into the record at the November hearing.
 - Memo dated October 4, 2006 from Ron Babcock, Soil Conservation District
 - Letter dated October 16, 2006 from Kerrie Gallo, Chesapeake Bay Critical Area Commission
 - Memo dated October 23, 2006 from Serena Chapla, Calvert County Engineering Bureau.

FINDINGS OF FACT

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

1. The property consists of .092 acre (4000 s.f.) and is situated between Beach Drive and the Chesapeake Bay in Neeld Estates.
2. The entire property lies within the 100-year floodplain, with a maximum elevation of 5 feet. The terrain of the property is level and the soil material is beach sand.
3. There are some small shrubs and grass present, but no trees on the property.
4. The property is currently developed with a 1.5-story house that has suffered damage from storms. The applicants wish to raze and replace the house with a 3-level dwelling that meets floodplain standards.
5. Adjoining lots are developed with houses that were constructed as replacements for previous cottages. They are constructed to floodplain standards.
6. The well is in the front yard. The septic is in the rear, approximately 40 feet from mean high tide at an elevation of 4 feet.
7. The existing house has a footprint of 1665 s.f. The proposed house has a footprint of 1340 s.f. The deck on the rear of the proposed house extends further shoreward than the existing house construction; however, there are existing patios and other concrete surfaces on the property that extend further shoreward than the proposed construction.
8. Existing impervious surfaces, which include the house, driveway, concrete patio and walkways total 2821 s.f., or 69% of the property. Proposed impervious surfaces total 33% of the property.
9. The existing house sits as close as 3 feet from the front property line. The proposed side setbacks are 6 feet and 3.7 feet. The existing rear setback of 25 feet is met with the current house, but with a concrete patio extending beyond the rear wall. The proposed rear setback would be reduced from 25 feet to 13 feet.
10. The proposed house footprint is similar in size to many of the recently rebuilt houses along the waterfront in the Neeld Estates community; it is, however, considerably larger than many of the older beach cottages throughout the community.
11. The applicants acquired the property in 2003, subsequent to the adoption of Critical Area Law in 1986. The existing house was built in 1931, many years prior to Critical Area Law. The property existed as a building lot prior to 1986 and is therefore deemed by the State of Maryland to be properly grandfathered for Critical Area variance consideration.

12. The applicants revised their site plan between the August and November hearings with the following positive changes: (1) the dwelling size was reduced; (2) Health Department approval for the proposed septic system was obtained; (3) the deck will now be cantilevered and has been pulled farther away from the Chesapeake Bay; (4) plantings are proposed under the deck instead of gravel; and (5) 1,156 s.f. of driveway and patio are being removed with impervious surfaces on site reduced from 69% to 33%.

CONCLUSIONS

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

1. The Board of appeals concludes that it has the authority to grant a variance in the front setback requirements from 25' to 13.2', a variance in the left side setback requirements from 6' to 3.7' and a variance in the rear setback requirements from 25' to 13' for construction of a replacement dwelling as set forth in the Ordinance.
2. The Board concludes that peculiar and unusual practical difficulties exist on the parcel, and such difficulties are created by the small size of the property. The applicants have reduced the size of the proposed dwelling to minimize the setback variances required.
3. The Board concludes that:
 - a. The variance will not result injury to the public interest; and
 - b. granting the variance will not adversely affect the implementation of the Comprehensive Plan; and
 - c. the variance is the minimum required to grant relief from the regulations; and
 - d. the variance request is not based upon conditions or circumstances that are the result of the applicant.

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

1. The Board concludes that it has the authority to grant the subject variances from the Critical Area requirements of Section 8-1 of this Ordinance.
2. The Board concludes that the applicant has overcome the presumption of nonconformance as required in Section 11-1.01.B.2 & 3 of the Zoning Ordinance.
3. The Board concludes that the applicant has met each of the following variance standards:

- a. The variance will not result in injury to the public interest; and
- b. granting the variance will not adversely affect the implementation of the Comprehensive Plan; and
- c. the variance is the minimum adjustment necessary to afford relief from the regulations; and
- d. special conditions or circumstances exist that are peculiar to the land or structure within Calvert County and that a literal enforcement of provisions within the County's Critical Area Program would result in unwarranted hardship; and
- e. a literal interpretation of the Critical Area Legislation and the Calvert County Critical Area Program and related ordinances will deprive the applicant of rights commonly enjoyed by other properties in similar areas within the Critical Area of the County; and
- f. the granting of a variance will not confer upon an applicant any special privilege that would be denied by the Calvert County Critical Area Program to other lands or structures within the County's Critical Area; and
- g. the variance request is 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. If the variance request is based on conditions or circumstances that are the result of actions by the applicant, including the commencement of development activity before an application for a variance has been filed, the Board of Appeals may consider that fact; and
- h. the granting of a variance will not adversely affect water quality or adversely impact fish, wildlife, or plant habitat within the County'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.

ORDER

It is hereby ordered, by a unanimous decision, that a variance in the front setback requirements from 25' to 13.2', a variance in the left side setback requirements from 6' to 3.7', a variance in the rear setback requirements from 25' to 13', a variance in the 100' waterfront buffer requirements, and a variance in the impervious surface requirements for construction of a replacement dwelling as requested by Patrick & Judith McBride be

GRANTED based on the above findings of fact and conclusions subject to the following conditions:

1. All permits and approvals required by the Calvert County Zoning Ordinance and the Department of Planning and Zoning and those required by any other departments, agencies, commissions, boards or entities, in accordance with County, State and Federal law, must be obtained before commencing the development activity approved by this Order.
- ★ 2. A denitrification septic system must be installed and must be shown on the revised plat submitted with the Building Permit application.
3. The property shall be developed in phases with each phase being stabilized prior to proceeding to the next phase.
4. A phasing plan shall be submitted with the building permit.
5. Prior to work being done on site, the location of the house and the limitation of clearing shall be staked and marked.
6. 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.
7. There shall be no stockpiling of excavated materials on site.
8. 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 9. Native plantings must be incorporated into the site plan and shall also be placed under the deck or deck areas to provide stabilization. Fifteen percent tree cover

must be established and a planting plan shall be provided to the Board's Planner for review and approval prior to Building Permit submittal.

10. All downspouts shall discharge into drywells or other appropriate and approved stormwater management devices as recommended by the Department of Public Works.
11. 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. A copy of the approved as-built certification shall be filed in the records for this case.
12. 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.

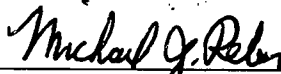
In accordance with Section 11-1.01.F.3 of the Calvert County Zoning Ordinance any violation of conditions imposed by the Board of Appeals shall be considered a violation of this Ordinance and subject to the enforcement provisions of Section 1-7.

In accordance with Section 11-1.01G of the Calvert County Zoning Ordinance if any application for a variance is denied by a final order of the Board, a second application involving substantially the same subject matter shall not be filed within one year from the date of the final order. If any such denial by the Board is appealed to a higher Court and the Board's denial is upheld, a second application involving substantially the same subject matter shall not be filed within one year from the date of the final order of the Court.

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 11-1.07 of the Calvert County Zoning Ordinance, Board of Appeals decisions may be appealed to the Circuit Court of Calvert County by (1) any person aggrieved by any decision of the Board of Appeals or (2) any taxpayer, or (3) any officer, department, board or bureau of Calvert County. Such appeal shall be taken according to the Maryland Rules as set forth in Maryland Rules, Title 7, Chapter 200, as amended from time to time, within 30 days of the Board of Appeals Order.

Entered: November 28 2006
Pamela P. Helie, Clerk



Michael J. Reber, Chairman

GENERAL NOTES

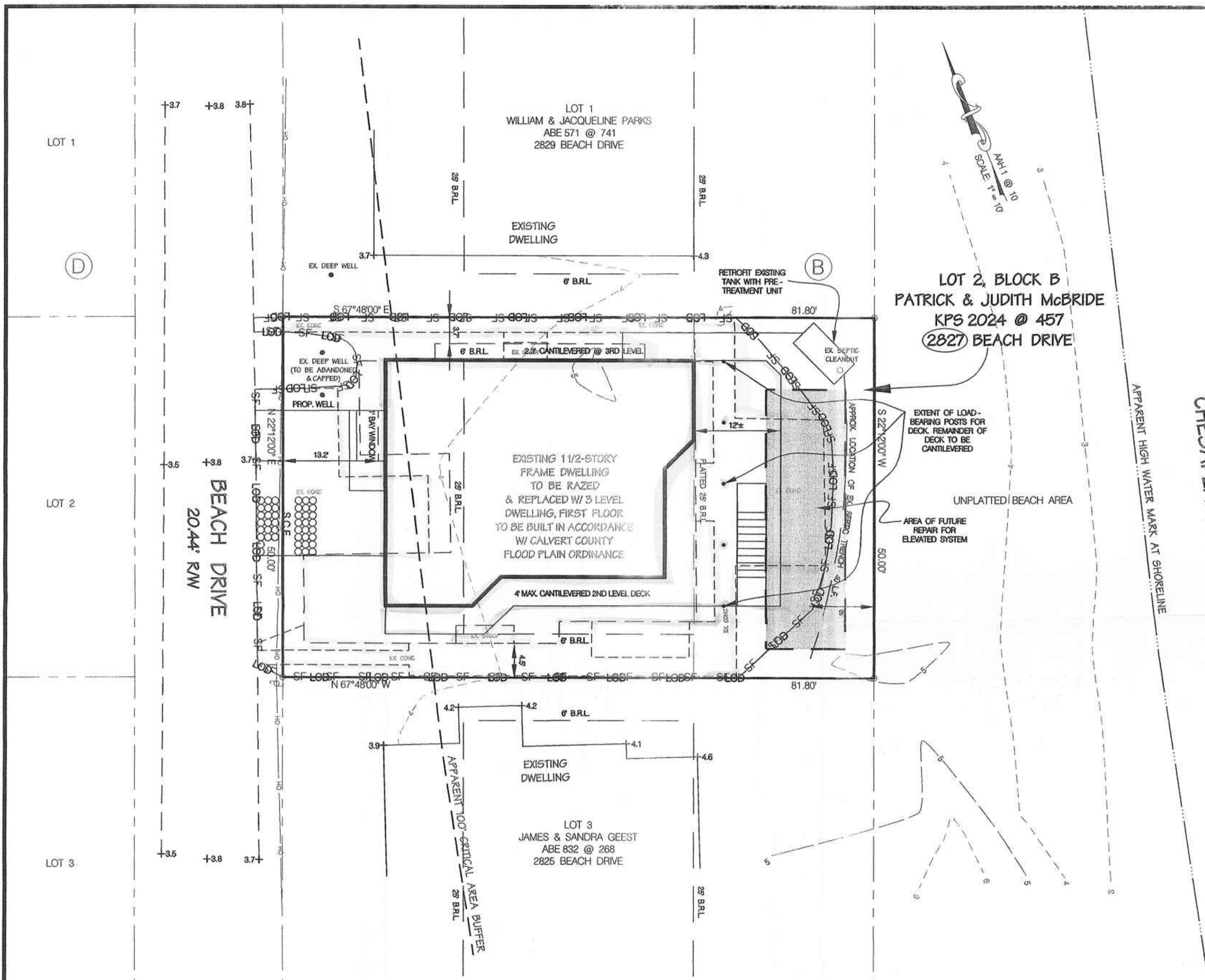
1. A title search was not furnished to or performed by this company.
2. Decks and other structures not shown do not have Zoning approval for construction.
3. The issuance of County permits is a local process and does not imply the applicant has met State and Federal requirements for wetlands filling and/or wetland buffer disturbance.
4. All fill under buildings to be Class 1; all fill under driveways and walks to be Class 2; all remaining fill to be Class 3.
5. Re-use of existing septic system, no additional bedrooms.
6. Assumed vertical datum.
7. Positive drainage away from the foundation to be provided.
8. All Sediment Control and Stabilization measures shall be performed in accordance with the Standards and Specifications of the 1994 MDE Manual.
9. Call "MISS UTILITY" for location of utilities, 1-800-257-7777, 48 hours in advance of any work in this vicinity.
10. FEMA Map # 240011 - 0013 - B, Zone V8 Elevation #9
11. The purpose of this permit is to obtain a building permit to raze an existing dwelling and replace with a new dwelling.
12. Zoning: LDA/R - 1
13. Existing well to be retained, variance required. Existing building setback 5', proposed 8'±.
14. In accordance with R106.2.1, discrepancies between proposed plans and the true location of construction can result in permit revocation.
15. Variances required for:
 - A. Left side setback variance from 6' to 3.7' for 2.3' 3rd-level only cantilever.
 - B. Front setback variance from 25' to 13' requested. Existing setback 2.8', proposed setback 13' for 1' front cantilever.
 - C. Right side setback variance from 6' to 4.5' for deck requested. Existing building shares equivalent setback.
 - D. Rear setback variance from 25' to 9' for deck requested.
 - E. Construction of a single family dwelling within 100' Critical Area Buffer.
16. A variance for stormwater management is to be applied for since the development will result in a reduction of impervious area.
17. Silt fence to follow L.O.D. to the stabilized construction entrance.
18. Existing concrete to be removed.
19. Two bedrooms existing, two bedrooms proposed.
20. All existing concrete side-walks to be removed.
21. Existing well to be replaced as shown.
22. Area of future repair for elevated system as shown on plan.
23. Garage area to be 1665 s.f., living area to be 3,330 s.f.
24. Disturbed area: 3,540 s.f.

EXISTING IMPERVIOUS AREAS

| | | |
|-------------|------------|-----|
| HOUSE | 1,665 s.f. | 41% |
| D/W & WALKS | 1,156 s.f. | 28% |
| DECK | - | - |
| TOTAL | 2,821 s.f. | 69% |

PROPOSED IMPERVIOUS AREAS

| | | |
|----------|------------|-----|
| HOUSE | 1,340 s.f. | 33% |
| DRIVEWAY | 258 s.f. | 6% |
| DECK | 768 s.f. | 19% |
| TOTAL | 2,366 s.f. | 58% |



(D)

(B)

LOT 2, BLOCK B
PATRICK & JUDITH McBRIDE
KPS 2024 @ 457
2827 BEACH DRIVE

BEACH DRIVE
20.44' RW

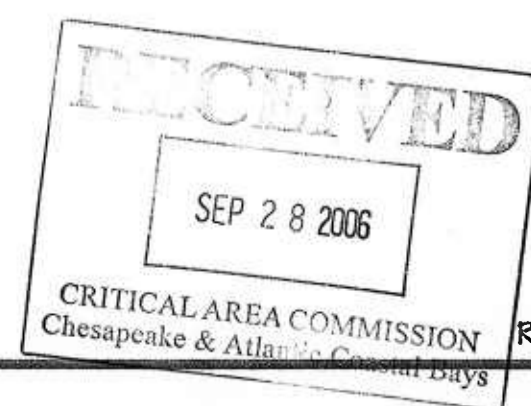
CHESAPEAKE BAY

APPARENT HIGH WATER MARK AT SHORELINE

LEGEND

- Existing Contour - - - - -
- Proposed Contour - - - - -
- Existing Spot Shot 100+1
- Proposed Spot Shot 100+1
- Existing Tree Line - - - - -
- Proposed Tree Line - - - - -
- Overhead Wires - OH - OH
- Existing Dwelling - - - - -
- Limits of Disturbance - LOD - LOD
- Silt Fence - SF - SF - SF - SF
- Stabilized Construction Entrance SCE - 2

OWNER / APPLICANT:
PATRICK J. & JUDITH L. McBRIDE
546 FAWNS WALK
ANNAPOLIS, MD 21401
(703) 620 - 2154



Chandu S. Dhalwala
8/17/06

CRITICAL AREA PLOT PLAN
LOT 2 ~ BLOCK B
NEELD ESTATES
SECOND DISTRICT, CALVERT COUNTY, MARYLAND
MAY, 2006 SCALE: 1" = 10'

RDA
RDA ENGINEERING CO. INC.
ENGINEERS • LAND PLANNERS • LAND SURVEYORS
65 DUKE STREET, SUITE 204
PRINCE FREDERICK, MARYLAND 20678
PHONE: (301) 855 - 9500
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REVISED: 5/1/06, 6/29/06, 6/30/06, 7/12/06, 8/17/06

SHEET 1 OF 1

CA - 121 - A - 4

06 - 3340
REVISION FOR NEW ZONE
CAC