

AA 248-07 Seminario, Luis  
VAR 0092

S1829-6245

Comment

9/11/07

5/14/07

✓  
Sexted

9/11/07

6/17/07



**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/](http://www.dnr.state.md.us/criticalarea/)

May 4, 2007

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

Re: 2007-0092-V

Dear Ms. Schappert:

This office has received the above-referenced variance request to allow a dwelling with less setbacks than required. The applicant proposes to remove the current 518.4 square feet of impervious surface on this 2,500 square foot lot and build a new dwelling unit. The proposed impervious surface on the lot would be 976 square feet which is within the impervious surface limits of this lot. Therefore, this office has no comment on the request for less setbacks than required.

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

Sincerely,

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

Julie Roberts  
Natural Resources Planner

cc: AA 248-07

IN THE OFFICE OF ADMINISTRATIVE HEARINGS

CASE NUMBER 2007-0092-V

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IN RE: LUIS SEMINARIO AND ROSEMARY REILLY

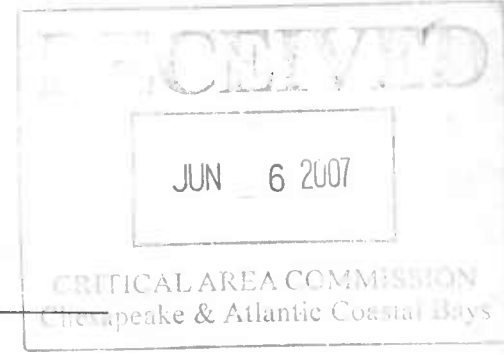
EIGHTH ASSESSMENT DISTRICT

DATE HEARD: MAY 10, 2007

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ORDERED BY: STEPHEN M. LeGENDRE, ADMINISTRATIVE HEARING OFFICER

PLANNER: PATRICIA A. COTTER



DATE FILED JUNE 4<sup>th</sup>, 2007

## **PLEADINGS**

Luis Seminario and Rosemary Reilly, the applicants, seek a variance (2007-0092-V) to allow a dwelling with less setbacks than required on property located along the north side of Beach Avenue, east of Walnut Avenue, North Beach.

## **PUBLIC NOTIFICATION**

The hearing notice was posted on the County's web site in accordance with the County Code. The file contains the certification of mailing to community associations and interested persons. Each person designated in the application as owning land that is located within 175 feet of the property was notified by mail, sent to the address furnished with the application. Mr. Seminario testified that the property was posted on April 25, 2007. I find and conclude that there has been compliance with the notice requirements.

## **FINDINGS AND CONCLUSIONS**

The applicants own an uninhabitable one-story cottage with a street address of 808 Beach Avenue, in the subdivision of North Beach Park, North Beach. The property comprises 2,506 square feet and is zoned R5 residential with a Chesapeake Bay Critical Area designation as Limited Development Area (LDA). The request is to raze the cottage, followed by the construction of a two-story dwelling with loft. The new dwelling is located 15 feet from the front lot line and four feet from both sides.

Anne Arundel County Code, Article 18, Section 18-4-701 requires principal structures in the R5 district to maintain a front setback of 25 feet and side yards seven feet wide. Accordingly, the proposal requires a variance of 10 feet to the front setback and three feet to the each side setback.

Patricia A. Cotter, a planner with the Office of Planning and Zoning, testified that the property is below the minimum area and width for the district. The existing dwelling has a footprint of 432 square feet; the replacement dwelling has a footprint of 833 square feet. The homes on the abutting lots on both sides approximate the same front setback and are closer to their side boundaries. There were no adverse agency comments.<sup>1</sup> By way of conclusion, Ms. Cotter supported the request.

Doug Bourquin, a land planning consultant to the applicant, submitted a photograph showing a series of old pilings indicative of a former porch wrapping the front and east side facades of the cottage. The property is served by public sewer. The Department of Health requires the abandonment of the existing well and the installation of a new well in the northwest rear corner (30 feet from the foundation of the new dwelling). The new dwelling has approximately 1,700 square feet of enclosed living space on three levels.<sup>2</sup> Finally, Mr. Bourquin

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<sup>1</sup> The Chesapeake Bay Critical Area Commission indicated that the proposal satisfies the impervious surfaces requirement.

<sup>2</sup> The footprint (17 by 43 feet) includes a front porch (6 by 17 feet) on the first level and a deck (12 by 17 feet) on the second level. The peak height is 30 feet.

indicated that the project is subject to grading and sediment controls with stormwater management consisting of onsite plantings.

Ms. Reilly testified that the dwelling has been uninhabited since 1942. The applicants purchased the property three to four years ago. The new dwelling is considered compatible with the character of the neighborhood. Finally, the new dwelling is smaller than other homes in the neighborhood, including the dwelling owned by Reba Williams approved under Case No. 2002-0504-V (February 4, 2003).<sup>3</sup>

Joan Taylor, who resides on the adjacent property to the west, requested that the first level front porch remain unenclosed and sought an assurance that the project would not cause standing water in her yard.

Ms. Williams stated that the project - unlike her home - would impair the view to the bay. She estimated that her home has a peak height of 26 to 28 feet.

Shirley Clark, who resides on the property to the east, expressed concern that the project would cause increased flooding and block light, air and view.<sup>4</sup>

I visited the site and the neighborhood. The property is overgrown with weeds and the cottage is little more than a dilapidated shell. The topography is essentially flat. The Taylor and Clark dwellings are one-story cottages. Beach

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<sup>3</sup> Case No. 2002-0504-V conditionally approved variances to the front and side setbacks to permit a new two-story dwelling with the same front and side setbacks as a preexisting one-story dwelling.

<sup>4</sup> This office also received a letter of opposition dated May 8, 2007 from Lillie Largey (Attachment A). Ms. Largey owns property with a street address of 1093 Bay Front Avenue. The property is located to the east of the Clark property.

Avenue is characterized by predominantly older homes on small lots that are nonconforming to the setbacks. Similar conditions exist along Bay Front Avenue.

The standards for granting variances are contained in Section 18-16-305. Under subsection (a), a zoning variance may be granted only after determining either (1) unique physical conditions, peculiar to the lot, such that there is no reasonable possibility of developing the lot in strict conformance with the code; or (2) exceptional circumstances such that the grant of a variance is necessary to avoid an unnecessary hardship, and to enable the applicants to develop the lot. 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.

Upon review of the facts and circumstances, I find and conclude that the applicants are entitled to conditional relief from the code. This property easily satisfies the test of unique physical conditions, consisting of its extremely limited area and width, such that there is no reasonable possibility of development in strict conformance with the code. As is frequently the case, the more difficult matter is to establish the minimum relief. Although the applicants are expanding the footprint of the new dwelling as compared to the dilapidated cottage, there is credible evidence that a former porch wrapped the front and east side facades. In any event, the new dwelling is comparable or smaller than other redevelopment projects approved by variances. In addition to Ms. Williams' case, see Case Nos.

2002-0167-V (January 24, 2003) and 2003-0225-V (August 1, 2003), concerning property with a street address of 1095 Bay Front Avenue.<sup>5</sup> I further find that the grant of conditional relief will not alter the essential character of the neighborhood, the use or development of adjacent property, or constitute a detriment to the public welfare. These findings consider the existence of other nonconforming homes on small lots in the neighborhood. The approval is subject to the conditions in the Order.<sup>6</sup>

### ORDER

PURSUANT to the application of Luis Seminario and Rosemary Reilly, petitioning for a variance to allow a dwelling with less setbacks than required; and

PURSUANT to the notice, posting of the property, and public hearing and in accordance with the provisions of law, it is this 4<sup>th</sup> day of June, 2007,

ORDERED, by the Administrative Hearing Officer of Anne Arundel County, that the applicants are **granted** variances of 10 feet to the front setback and three feet to each side setback to permit a dwelling in accordance with the site plan. The approval is subject to the following conditions:

1. No further expansion of the dwelling is allowed and accessory structures are not allowed.
2. The peak roof height shall not exceed 28 feet.

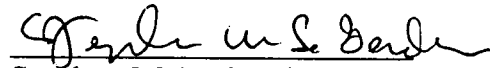
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<sup>5</sup>In recognition of the concerns of excess bulk, the decisions for 1095 Bay Front Avenue included conditions restricting the vertical profile of the replacement dwelling.

<sup>6</sup> I have included conditions restricting the peak roof height to 28 feet and requiring the first-level front porch to remain open and unenclosed.



3. The first-level front porch shall remain open and unenclosed.
4. The applicants shall provide grading, sediment controls and stormwater management as determined by the Permit Application Center.

  
Stephen M. LeGendre  
Administrative Hearing Officer

### **NOTICE TO APPLICANT**

Within thirty days from the date of this Decision, any person, firm, corporation, or governmental agency having an interest therein and aggrieved thereby may file a Notice of Appeal with the County Board of Appeals.

Further Section 18-16-405(a) provides that a variance expires by operation of law unless the applicant obtains a building permit within eighteen months. Thereafter, the variance shall not expire so long as construction proceeds in accordance with the permit.

If this case is not appealed, exhibits must be claimed within 60 days of the date of this Order, otherwise that will be discarded.

Lillie B. Sargey  
4084 Union Church Rd.  
Salisbury, Md 21804

May 8, 2007

# Attachment A

Mr. Stephen LeHendre  
Office of Administrative Hearings  
Arundel Center 40 Box 2700  
Annapolis, Md 21404-2700

Dear Mr. LeHendre,

I have received your notice of a Variance request re:  
~~Simon~~ Seminaris and Rosemary Reilly 2007-0092-V (AD8,CD7)

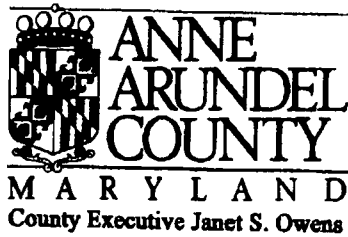
Please do not allow a dwelling with less setbacks than required to be built as requested. It appears from the explanation of the zoning analyst at the office of Planning and zoning they wish to use the same very small front footage to build a deck, park, drain their property and build a well (new one) possibly. The drainage of water continues to be a problem for this neighborhood. The request is excessive for such a small amount of land in an already congested area. The drainage problems should be solved prior to granting any plans to increase the amount of impervious space on land already in use in my opinion. Deck on top have been allowed in the past.

as is the decking it a real fire hazard and for health reasons should be leveled. What is built in its place should not exceed the bounds or location of what is there. Leaving the space empty is the best solution of all.

Respectfully yours,

Lillie B. Sargey  
410-546-2675

Notes enclosed from Mr. Peacock  
re my drainage problems created  
by an increase of impervious space not done.



*Department of Inspections and Permits*  
*2664 Riva Road, Annapolis, MD 21401*  
*Telephone: (410) 222-7790*  
*Fax: (410) 222-7970*  
*www.aacounty.org*

August 15, 2006

Ms. Lillie B. Largey  
4084 Union Circle Road  
Salisbury, Md. 21804

RE: Drainage Complaint E-2006-0841  
1093 Bayfront Road

Dear Ms. Largey:

Your recent drainage complaint letter to Administrative Hearing Officer Steven LeGendre has been referred to this office for investigation and response. Your letter seeks County enforcement action to correct standing water on your property attributed to certain actions taken by your neighbor at 1095 Bayfront Road. Your neighbor's property was inspected on August 14, 2006 and no violations of the County Floodplain, Grading and Stormwater Management Ordinance were observed. Please be advised the County Code does not regulate drainage patterns on existing properties unless a violation of the County Floodplain, Grading and Stormwater Management Ordinance is found to exist. Drainage complaints such as yours have been determined by the Maryland court system to be civil matters. As such they are subject to civil litigation in a court of law and not subject regulatory enforcement by the local jurisdiction. Accordingly the Department lacks the statutory authority to take enforcement action against your neighbor. You may wish to consult with an attorney to ascertain your legal options in this matter.

Despite our lack of statutory authority to take enforcement action, the Department is in a position to recommend certain repairs you can make to your property that will serve to redirect the existing drainage away from your foundation. Specifically the Department is willing to approve a Standard Grading Plan for the installation of a grass swale with a subsurface drain. This type of drainage system has been successful in relieving typical lot drainage problems experienced in the North Beach community. For your convenience I have enclosed a Standard Grading Plan Application. Any of the local engineering or surveying firms should be able to complete the application and submit a design sketch for approval.

I regret the Department is not in a position to provide the relief you are seeking in this matter. Should you have any questions or if I can be of further assistance, please feel free to contact me at 410-222-7763.

Very truly yours,

  
John P. Peacock, Sr., Environmental Code Administrator

cc: George F. Eberle, P.E., Assistant Director, Inspections and Permits  
E-2006-0841  
Chron

704 410 867 3811

222 7777 for no grading permit

Given permission to occupy

He can not enforce conditions Mr. LeGaudras <sup>day</sup> orders

Not have authority to enforce

Freedom of information act.

on letters

Bay Engineering

Jim Marten

410 897 9290

whole thing

Field Work - topography while there

07-0092-V

# ED BROWN & ASSOCIATES, INC.

EDWARD A. BROWN L.S.  
President

Land Surveyors - Planners  
19 Loretta Avenue  
Annapolis, Maryland 21401

Phone 410-266-6199  
410-841-0119  
Fax 410-266-8862

DOUGLAS D. BOURQUIN  
Vice President

February 27, 2007

Anne Arundel County  
Office of Planning & Zoning  
2644 Riva Road  
Annapolis, MD 21401

Attention: Ms. Suzanne Schappert

Reference: Explanation Letter  
P/O Lots 1 and 2, Block 1, formerly Lot E;  
Tax I.D. 08-579-01041925  
"North Beach Park", Section 1, Plat Book 2, Page 36, Plat #40  
TM 84, Block 3, Parcel 1

Dear Ms. Schappert:

The purpose of this variance letter is to seek the minimum relief possible as per The Anne Arundel County Codes and Regulations to permit the development of this lot that is within the critical area and where there are no non-tidal wetlands, steep slopes, or Habitat Areas affected.

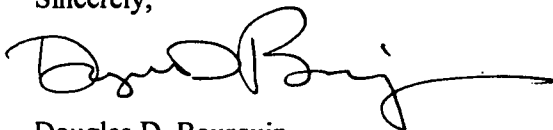
The subject site has an existing dwelling of 432 sq. ft. (footprint) to be removed and a proposed dwelling of 833 sq. ft. (footprint) to be constructed on a 25' x 100' lot that is nearly level. The subject site is served by public sewer and private water. The subject site, due to its narrowness in width requires variances to the side setbacks in order to accommodate a modest proposed Dwelling of 17 feet in width. Also, a variance is required for the front setback to allow the new dwelling to be 15' from the street line.

The granting of these variances are the minimum relief available and is necessary to the owners to allow the proposed improvements on this property.

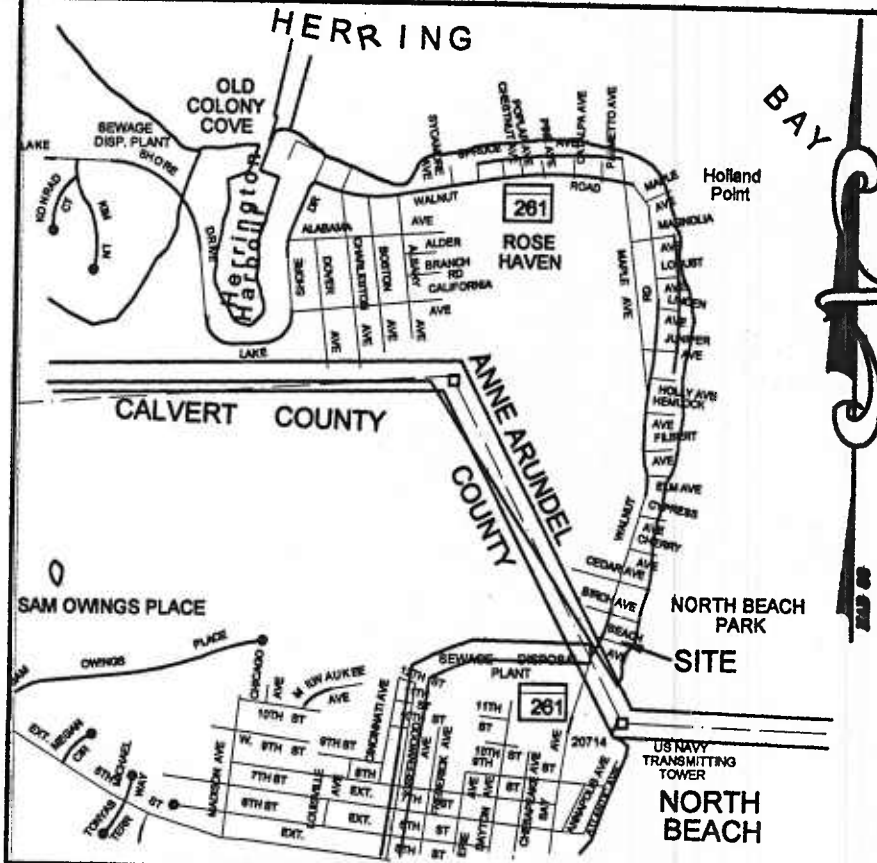
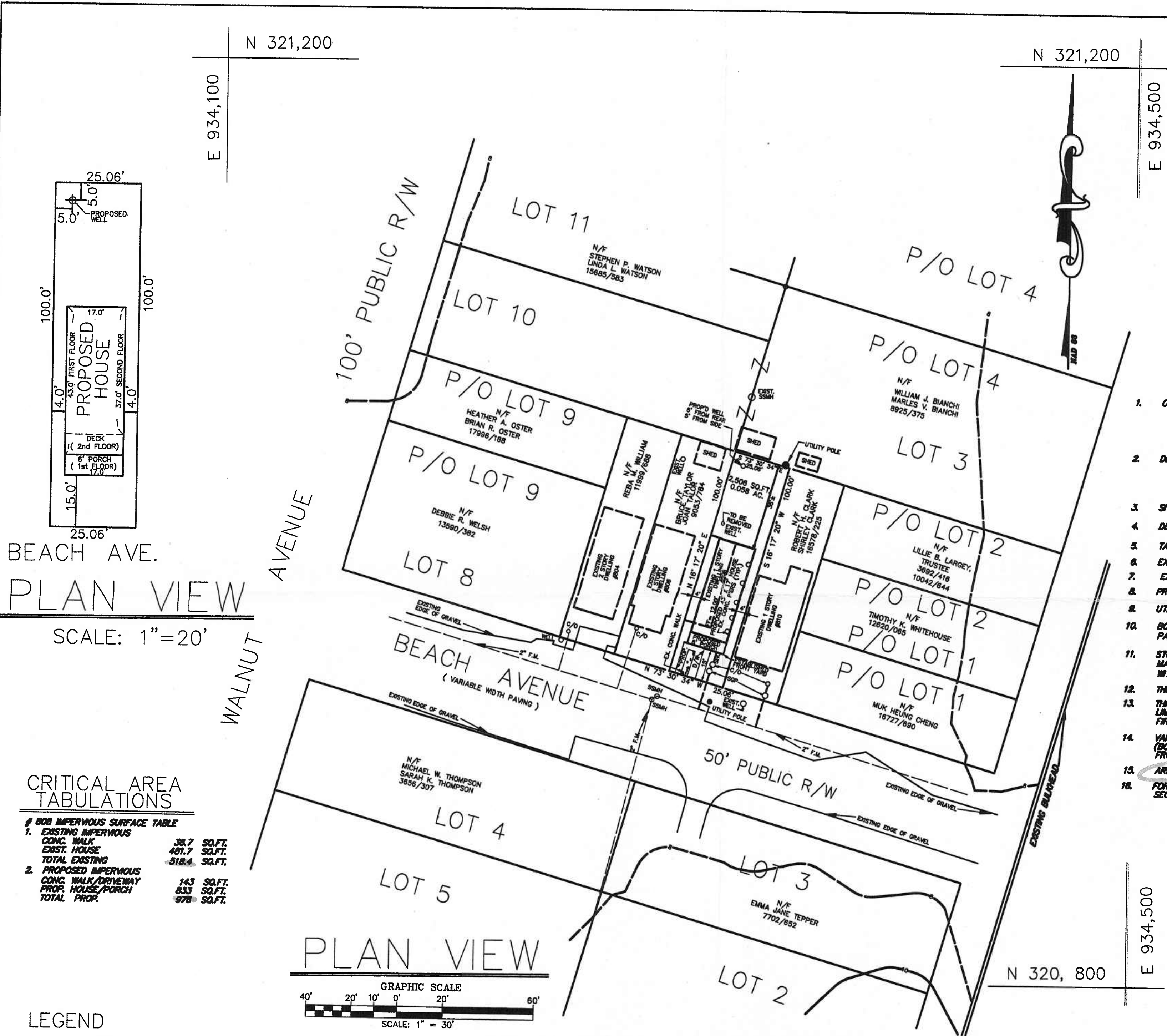
The granting of this variance will not present a threat to the public health, safety or welfare on the basis that the existing dilapidated dwelling will be removed and will be replaced by the new Single Family Dwelling.

Should additional review materials be necessary for this application, please do not hesitate to call me.

Sincerely,



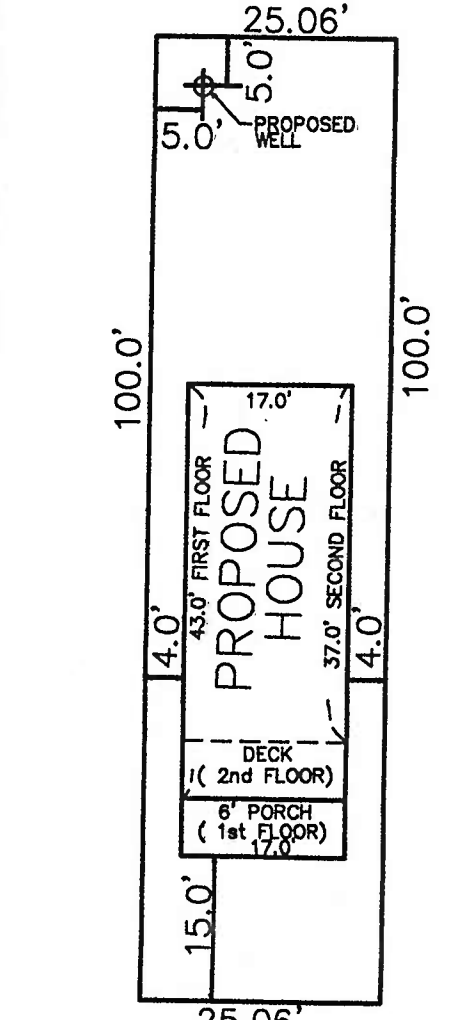
Douglas D. Bourquin



VICINITY MAP  
SCALE: 1" = 2,000'

**GENERAL NOTES**

- OWNER: LUIS A. SEMINARO  
ROSEMARY REILLY  
5730 DENFIELD ROAD  
ROCKVILLE, MARYLAND 20851  
301-468-7600
- DEVELOPER: LUIS A. SEMINARO  
5730 DENFIELD ROAD  
ROCKVILLE, MD., 20851  
301-468-7600 CELL: 301-704-1339
- SITE REFERENCE: TAX MAP 84; BLOCK 3; PARCEL 1
- DEED REFERENCE: 14786/360
- TAX ACCT.: 06-578-01041923
- EXISTING ZONING IS R-3.
- EXISTING USE: SINGLE FAMILY DWELLING.
- PROPOSED USE: SINGLE FAMILY DWELLING.
- UTILITIES: PUBLIC SEWER AND PRIVATE WATER (EXISTING).
- BOUNDARY INFORMATION WAS TAKEN FROM A PLAT OF NORTH BEACH PARK, BLOCK 1, PREPARED BY McCRONE ON 6/24/04.
- STORMWATER MANAGEMENT: THIS SITE IS SUBJECT TO STORMWATER MANAGEMENT AND WILL BE ADDRESSED AT TIME OF GRADING PERMIT WITH VEGETATIVE PLANTINGS.
- THIS PLAN IS DONE WITHOUT THE BENEFIT OF A TITLE SEARCH.
- THIS PROPERTY LIES ENTIRELY IN FLOOD ZONE "B", AREAS BETWEEN LIMITS OF THE 100 YEAR FLOOD AND THE 500 YEAR FLOOD ACCORDING TO FIRM PANEL #240008-0081 C, DATED MAY 2, 1983 FOR ANNE ARUNDEL CO.
- VARIANCE REQUESTED: A VARIANCE IS SOUGHT TO REDUCE THE SIDE YARD (BOTH SIDES), SETBACK FROM 7' TO 4' AND TO REDUCE THE FRONT YARD FROM 25' TO 15'.
- AREA TABULATION: 2,506 SQ. FT., ALLOWABLE IMPERVIOUS= 1126.5 SQ.FT.
- FOR ANY FURTHER NOTES SEE PREVIOUS RECORDED "NORTH BEACH PARK SECTION ONE", IN PLAT BOOK: 02; PAGE: 36; PLAT NO. 10.

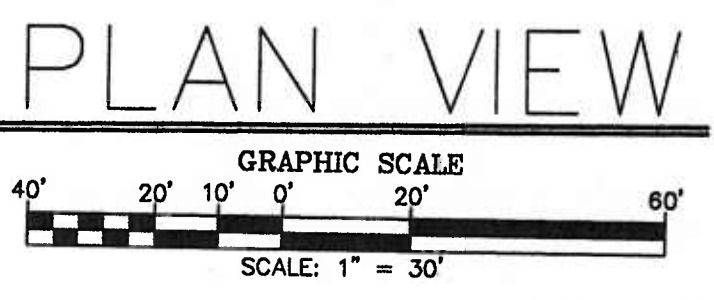


BEACH AVE.  
PLAN VIEW  
SCALE: 1" = 20'

**CRITICAL AREA TABULATIONS**

# 808 IMPERVIOUS SURFACE TABLE

1. EXISTING IMPERVIOUS	
CONC. WALK	38.7 SQ.FT.
EXST. HOUSE	481.7 SQ.FT.
TOTAL EXISTING	518.4 SQ.FT.
2. PROPOSED IMPERVIOUS	
CONC. WALK/DRIVEWAY	143 SQ.FT.
PROP. HOUSE/PORCH	833 SQ.FT.
TOTAL PROP.	976 SQ.FT.



**LEGEND**

F.M.	FORCE MAIN
SGP	SANITARY GRINDER PUMP
SHC	SANITARY HOUSE CONNECTION
WHC	WATER HOUSE CONNECTION
C/O	CLEAN-OUT
SSMH	SANITARY SEWER MANHOLE
CONC.	CONCRETE
PROP.	PROPOSED
EX.	EXISTING



**ED BROWN & ASSOCIATES, INC.**  
LAND SURVEYORS - LAND PLANNERS  
DEVELOPMENT CONSULTANTS  
19 LORETTA AVENUE  
ANNAPOLIS, MARYLAND 21401  
ANNAPOLIS 410-268-8199 BALTIMORE 410-841-0119

SCALE: 1" = 30'
DATE: DECEMBER, 2006
DRAWN BY: DEN
CHECKED BY: EAB
JOB NO: 06-199
SHEET NO: 1 OF 1

**VARIANCE PLAN**  
P/O LOTS 1 & 2, BLOCK 1  
NORTH BEACH PARK  
SUBDIVISION  
808 BEACH AVE., NORTH BEACH  
TAX MAP: 84; BLOCK: 3; PARCEL: 1  
8 TH DISTRICT ANNE ARUNDEL COUNTY, MARYLAND 20714