— AA 415-07 Teti, Virgil VAR 0192

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MS coments 7-20-07 M2 3/25/08 Martin O'Malley

Governor

Anthony G. Brown



Margaret G. McHale

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/

March 25, 2008

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

Re:

Teti Variance

2008-0073-V

Dear Ms. Schappert:

Thank you for sending the above-referenced variance request for review and comment. The applicant is requesting a variance to allow a dwelling unit with less setbacks and Buffer than required. The property is 8,850 square feet in size and is located in a Limited Development Area (LDA) and Buffer Exemption Area (BEA). The property is currently developed with a house, driveway, sidewalk, stoop, and porches. The applicant proposes to renovate and rebuild an existing single-story dwelling unit and install a pervious deck over an existing porch. Total impervious surface onsite is 1,409 square feet (15.9%); if the variance is granted, total impervious surface will increase to 2,282 square feet (25.8%).

Based on the information provided, we understand that the property was granted a variance to allow a dwelling addition with less setbacks than required in July 2007. It is our understanding that, after the granting of this variance, it was determined that the foundation was in disrepair; consequently, the applicant has applied for a variance to repair the foundation, rebuild the house within the existing footprint, and construct a pervious, second-floor deck over the existing porch. It is also our understanding that the County has not asked the applicant to move the house behind the existing BEA setback line due to the existing mature tree line and septic area located in front of the house.

Provided that the lot is properly grandfathered, we do not oppose this variance request. However, we do have the following comments:

1. Mitigation for any clearing or disturbance within the Buffer for this project should be performed at a 2:1 ratio.

2. Please note that, due to the existence of an impervious porch beneath it, the proposed second story deck cannot be considered pervious in nature.

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,

Mich Kelly Nick Kelly Natural Resource Planner

cc: AA 415-07

Martin O'Malley
Governor

Anthony G. Brown Lt. Governor



Margaret G. McHale Chair

Ren Serey
Executive Director

#### STATE OF MARYLAND CRITICAL AREA COMMISSION CHESAPEAKE AND ATLANTIC COASTAL BAYS

July 24, 2007

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

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

Re: Teti VAR 192

Dear Ms. Schappert:

This office has received the above-referenced variance request for review and comment. The applicant is seeking a variance to allow dwelling additions with less setbacks than required. The project involves building an addition to an existing dwelling, adding to the walkway, and the addition of a wood porch. The property is in the Limited Development Area. My comments are outlined below:

1. We recommend that the new porch is constructed in a pervious manner, with spacing between the boards, six inches of gravel substrate below the deck and native plantings surrounding the foundation.

This office has no comment regarding the setback variance.

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.

If you have any questions, please telephone me at (410) 260-3481 or Lisa Hoerger at (410) 260-3478.

Sincerely,

Megan J. Sines

Natural Resources Planner

cc: AA 415-07

#### IN THE OFFICE OF ADMINISTRATIVE HEARINGS

**CASE NUMBER 2008-0073-V** 

VIRGIL AND NINA TETI

EIGHTH ASSESSMENT DISTRICT

DATE HEARD: APRIL 15, 2008

ORDERED BY: STEPHEN M. LeGENDRE, ADMINISTRATIVE HEARING OFFICER

PLANNER: JOHN FURY

DATE FILED: APRIL 18, 2008

APR 2 | 2008

CRITICAL AREA COMMISSION

CRITICAL AREA COMMISSION
Chesapeake & Atlantic Coastal Bays

## **PLEADINGS**

Virgil and Nina Teti, the applicants, seek a variance (2008-0073-V) to allow a dwelling with less setbacks and buffer than required on property located along the west side of Bay Front Avenue, north of Cypress 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. Teti 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

This case concerns the same property the subject of a decision by this office in Case No. 2007-0192-V (August 13, 2007). The prior Order conditionally approved a variance of two feet to the south side setback to allow a dwelling addition. The addition was planned in conjunction with the renovation of the non-conforming, one and one-half story dwelling constructed in the 1930's. It has now been determined that the foundation to the existing dwelling is unsound and must

be demolished. Accordingly, the present request is for a new dwelling in the same footprint as the pre-existing dwelling as expanded by the approved addition.<sup>1</sup>

John R. Fury, the same planner from the Office of Planning and Zoning from the prior hearing, once again supported the application. There were still no adverse agency comments.

Mr. Teti confirmed the substance of the request.

Upon review of the facts and circumstances, I find and conclude that the applicants are entitled to relief from the code. For this Critical Area property, due to the proximity to water, a strict implementation of the program would result in an unwarranted hardship. To literally interpret the program would deny the applicants the right to redevelop the property, a right commonly enjoyed by other properties in similar areas of the Critical Area. Conversely, the granting of the variance is not a special privilege that the program typically denies. There is no indication that the request results from the actions of the applicants or from land use on neighboring property. Finally, with mitigation, the critical area variance will not adversely impact Critical Area assets and harmonizes with the general spirit and intent of the program.

<sup>&</sup>lt;sup>1</sup> The property is located in a buffer modification area with the existing dwelling 86 feet from water and a wood porch (7 by 20 feet) 79 feet from water. Both the original proposal and the present request include a second level deck atop a lower level wood porch. Under Anne Arundel County Code, Article 18, Section 18-13-104(a), there is a 100-foot buffer to tidal waters. However, Section 18-13-104(b) creates a buffer modification area on lots platted before December 1, 1985 on which the existing pattern of development prevents the buffer from performing its protective functions. Finally, Article 17-8-301(b) proscribes the expansion of a dwelling in a buffer modification area closer to water. Accordingly, out of an abundance of caution, I am now including a buffer variance of seven for the second floor deck.

I further find that the zoning variance is justified. In this regard, I adopt the finding of the prior Order that the property satisfies the test of unique physical conditions, consisting of its narrow width, such that there is no reasonable possibility of development in strict conformance with the code.

I further find that the variances represent the minimum relief. As indicated, the new construction follows the building lines of the existing building and the previously approved addition. There is still nothing to suggest that the granting of the variances would alter the essential character of the neighborhood, substantially impair the appropriate use or development of adjacent property, or cause a detriment to the public welfare. The approval is subject to the conditions in the Order.

# **ORDER**

PURSUANT to the application of Virgil and Nina Teti, petitioning for a variance to allow a dwelling with less setbacks and buffer than required, and

ORDERED, by the Administrative Hearing Officer of Anne Arundel County, that the applicants are **granted** a buffer variance of seven feet and a variance of two feet to the south side setback to allow a dwelling in accordance with the sitc plan.

The foregoing variances are subject to the following conditions:

- 1. The building permit is subject to the approval of the Department of Health.
- 2. The applicants shall provide mitigation 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 they will be discarded.

AA 415-67

#### IN THE OFFICE OF ADMINISTRATIVE HEARINGS

#### **CASE NUMBER 2007-0192-V**



IN RE: VIRGIL AND NINA TETI

EIGHTH ASSESSMENT DISTRICT

DATE HEARD: AUGUST 9, 2007

ORDERED BY: STEPHEN M. LeGENDRE, ADMINISTRATIVE HEARING OFFICER

PLANNER: JOHN FURY

DATE FILED AUGUST 13, 2007

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## **PLEADINGS**

Virgil and Nina Tcti, the applicants, seek a variance (2007-0192-V) to allow a dwelling addition with less setbacks than required on property located along the west side of Bay Front Avenue, north of Cypress 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. The applicants 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 1018 Bay Front Avenue, in the subdivision of North Beach Park, North Beach. The property comprises 8,850 square feet and is zoned R5 residential with a Chesapeake Bay Critical Area designation as Limited Development Area (LDA). This is a waterfront lot on the Chesapeake Bay. The existing one and one-half story dwelling (51 by 20 feet) is nonconforming to the south side setback. The

applicants propose to renovate the existing dwelling and to construct an addition (24 by 20 feet) that will continue the nonconforming south side setback (five feet).

Anne Arundel County Code, Article 18, Section 18-4-701 requires principal structures in the R5 district to maintain side yards seven feet wide.

Accordingly, the proposal requires a variance of two feet.

John Fury, a planner with the Office of Planning and Zoning, testified that the property is below the minimum width for the district. The impervious coverage is within the allowance (1,890 square feet versus 2,766 square feet). The request is considered consistent with the character of the neighborhood. There were no adverse agency comments. By way of conclusion, Mr. Fury supported the request.

The applicants confirmed the substance of the application. This 1930's cottage has been in their family since 1957. The renovations reuse the existing foundation. The property is heavily treed. Finally, the applicants are not proposing additional impervious surfaces for a driveway.

Upon review of the facts and circumstances, I find and conclude that the applicants are entitled to relief from the code. This property satisfies the test of unique physical conditions, consisting of its extremely narrow width at the location of the dwelling (34 feet) such that there is no reasonable possibility of development in strict conformance with the code. I further find that the variance represents the minimum relief. As indicated, the new construction follows the

<sup>&</sup>lt;sup>1</sup> The Department of Health requested plan approval.

existing building line with no new encroachment into the side yard. There was nothing to suggest that the granting of the variance would alter the essential character of the neighborhood, substantially impair the appropriate use or development of adjacent property, or cause a detriment to the public welfare. The approval is subject to the condition in the Order.

#### **ORDER**

PURSUANT to the application of Virgil and Nina Teti, petitioning for a variance to allow a dwelling addition 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 13 day of August, 2007,

ORDERED, by the Administrative Hearing Officer of Anne Arundel County, that the applicant is **granted** a variance of two feet to the south side setback to allow a dwelling addition in accordance with the site plan.

The foregoing variance is subject to the condition that the building permit is subject to the approval of the Department of Health.

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.

(OUER)

# Criticial AREA REPORT CRITERIA 1018 BAY FRONT AVE, NORTH BENCH MD 20714 Response to Reavers DATA

- A. To improve Existing single story dwelling being 51-3"
  by 20' with ATTIC being a total 1025 the Living AREA.

  The proposer New dwelling will increase the building width by 2' on the Southside and an Addition of 23'-9" by 22' width Resulting in a Residential single story with ATTIC measuring 75' x 22' wide, height 19', being a total 1366 the Living AREA.
- B. Trees are mixture of Tucip Popular, gum, mis

  OAK with size Romge between 22"-32" diameter.

  ALL Trees Existers on property IN Excess of 50-75 years.

  Showbs me typical Evergreens & some flowering shoubs.

  The only disturbers rown will be the replacement of

  Existing Foundation piers with continuace footing

  At the Same Location of Existing foundation.
- C. A SILT Fence will be INSTAllers AROUND PERIMETER
  of property lives on Sides and Across front men &
  Near Area OF STRUcture.
- D. Description Existing TROPOSES 1000/ 3610 House 1025# 13864 Sidewark 90# Driveway 6 2944 3840 DRIVEWM 0 6 Accessory Structure 120# 1200 0 2644 264 \$ 1772-1 1. 1. its

MARON 6, 2008 A NA June 11, 2007

Anne Arundel County, Maryland Office of Planning and Zoning 2664 Riva Road Annapolis, Maryland 21401

Re Variance Application 1018 Bay Front Avenue North Beach Park, Maryland 20714

Dear Planning and Zoning:

We are requesting a variance to retain the existing 5' setback on the north side property line for the renovation and rebuild of the existing residential dwelling built in 1930 as a beach cottage with subsequent modification thereto. The existing dwelling consists of a single story with attic 51'-3" long by 20' wide, height 17'-6", being a total 1025 sq. ft. living area. The proposed new dwelling will increase the building width by 2' on the south side and will comply with the minimum 7' setback requirement. The dwelling will be a single story with attic, 75' by 22' wide, height 19', being a total 1386 sq. ft. living area.

The existing building lot is 34' wide and 150' in length. The adjoining secondary property lot is 50' wide and 75' in length, being a total of. 8850 sq. ft.

In summary the proposed completed dwelling will have a 5' setback on the north side, a 22' wide structure and 7' setback on the south side. By reason of this exceptional lot narrowness, without the variance, the viability to build a house is diminished and hinders the ability to design and construct a single-family residence to provide a reasonable and adequate square footage living area.

The requested variance would not diminish the existing pattern or character of the neighborhood or be detrimental to the use and enjoyment of the adjoining or neighboring properties which share similar lot characteristics as ours, but will only enhance the block and community as a whole.

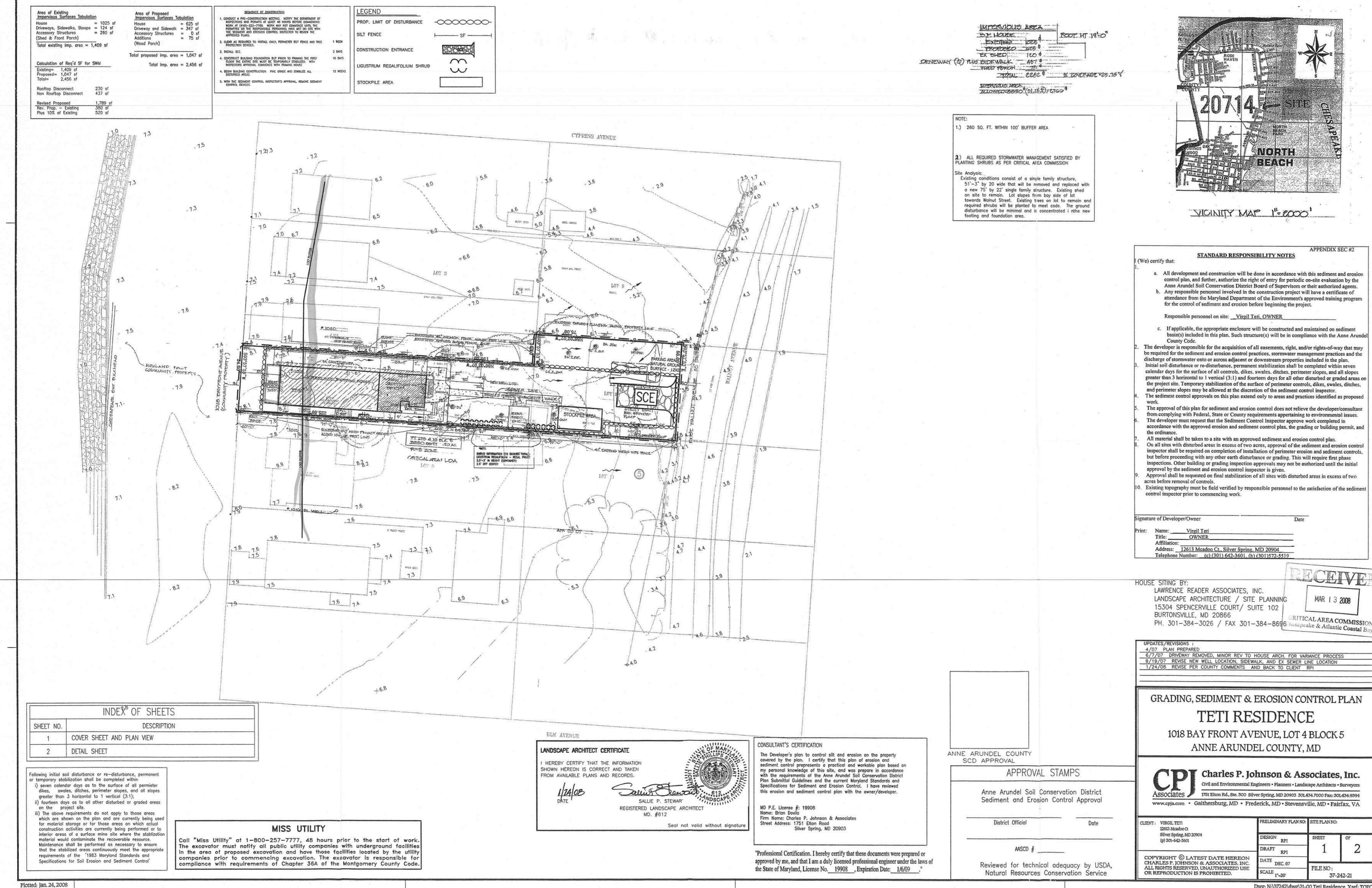
Thank you for your consideration of our request.

Respectfully yours,

Virgil M Teti

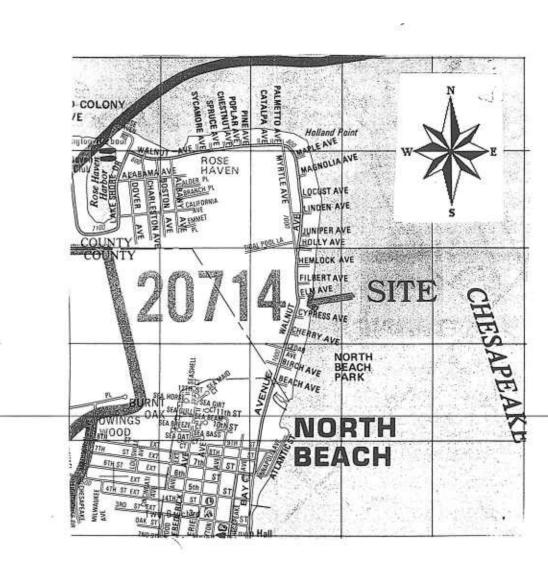
Nina M Teti

INSERT: In addit in we hereby Request AUARIANCE of 7 feet to the modifies buffer on the EASTSIDE (FRONT) of dwelling for the construction of a secons Level poran deak ours A VARIANCE of Zfeet to the side years set back on North side for the construction of the above describes new dwelling 3-10-7008



TO SERVICE TO THE PROPERTY OF THE PROPERTY OF

Dwg: N:\37242\dwg\21-00 Teti Residence Xref: TOPO



VICINITY MAP 1"= 8000"

