

- AA 603-07 Van Metre, David -  
VAR 0343

51829-6351

Martin O'Malley  
*Governor*

Anthony G. Brown  
*Lt. Governor*



Margaret G. McHale  
*Chair*

Ren Serey  
*Executive Director*

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

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

October 15, 2007

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

Re: Van Metre Variance  
2007-0343-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 an accessory structure with less setbacks and Buffer than required on a grandfathered lot. The property is 15,990 square feet, is located in a Buffer Exempt Area (BEA), and is currently developed with a single family home, driveway, porch, deck, and sidewalks. The applicant proposes to construct a 600 square foot pool and a 30 square foot retaining wall that will be located closer to the shoreline than the existing house. Total impervious surface onsite is currently 2,925 square feet (18.2% of the total site); if the variance is granted, impervious surface will increase to 3,555 square feet (22.2%).

Although the office generally does not oppose variance requests for modest additions or renovations to an existing primary dwelling on a grandfathered lot, we cannot support this request for a new accessory use in the Buffer. Therefore, we oppose the variance to build a new swimming pool and retaining wall 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, particularly emphasizing the importance of the 100-foot Critical Area Buffer. The General Assembly also enacted specific standards for variances to the local Critical Area programs, and required that local jurisdictions use those State law standards. See Annotated Code of Maryland, Natural Resources Article Section 8-1808 (d). The General Assembly reaffirmed the stringent standards of the law, and required

that all applicants meet each and every standard 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* 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 a 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 construct a new pool and patio within the Buffer. The Critical Area Criteria establishes the Buffer as an area of undisturbed natural forest vegetation, or as 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. Thus, the County has enacted a specific set of provisions to recognize the importance of the 100-foot Buffer. These provisions aim to maintain its integrity by prohibiting the construction of new structures and impervious surfaces, including pools, patios, and retaining walls (Anne Arundel County Code 17-8-702).

Based on the information provided, the applicant currently enjoys reasonable and significant use of the entire lot or parcel as evident by the existing structure, porch, and deck. Therefore, denial of a variance for additional impervious surfaces and structures within the Buffer would not constitute an unwarranted hardship. In addition, it is our view that construction of a new pool, patio, and retaining wall in the Buffer is in direct contrast to the spirit and intent of the Critical Area as well as in contrast to State and County goals for proper Buffer Management. Because we do not believe that each and every one of the County's variance standards has been met, including the standard of unwarranted hardship, we oppose this variance and recommend that it be denied.

I have discussed each one of the 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, driveway, porch, deck, and sidewalk. The applicant proposes to construct a pool and retaining wall that are located in the Buffer and closer to the shoreline than the existing house. The State law standards, applicable to this variance request, define "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**. Given the uses enjoyed by

the Applicant on this property, we do not believe that the County has evidence on which to base a finding that, without the pool and retaining wall, the entire parcel would lack reasonable and significant use.

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.*

Anne Arundel County Code 17-8-702(b)(1-2) states that "no new impervious surface shall be placed nearer to the existing shoreline than the existing principal structure and landscape," and that "the structure or expansion shall be designed and located to maximize the distance from the shoreline and to enhance and protect the environmentally sensitive features on the site." The applicant proposes to construct a pool and retaining wall that are located closer to the shoreline than the currently existing house. This office would not support similar requests to construct a pool, patio, and retaining wall within the Buffer on other sites within the Critical Area. Therefore, the rejection of a variance for the swimming pool and retaining wall would not deny the applicants a right commonly enjoyed by other properties.

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.*

The granting of a variance to permit a pool and retaining wall within the 100-foot Buffer, a recognized Habitat Protection Area, would constitute a special privilege upon the applicant which would be denied to others in the County as well as within other jurisdictions in the Critical Area.

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.*

From the information provided, it does not appear that the variance request is based on conditions or circumstances that are the result of the applicant or from a neighboring property. Therefore, it appears that the applicant has met this standard.

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.*

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. Given that the

applicant can adequately redevelop this property and enjoy outdoor activities without the addition of a swimming pool and retaining wall in the 100-foot Buffer, approval of this variance would not be in harmony with the general intent and spirit of the Critical Area Law.

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. If you have any questions, please call me at (410) 260-3483.

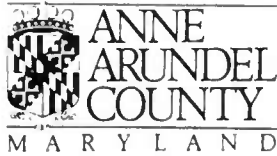
Sincerely,

*Nick Kelly*

Nick Kelly

Natural Resource Planner

cc: AA 603-07



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

January 15, 2008

**NOTICE OF APPEAL HEARING**

BA 84-07V  
Dana & David VanMetre

The Board of Appeals will conduct a public hearing on the above case on Thursday, February 28, 2008, at 5:30 p.m., in the Council Chambers, First Floor, Arundel Center, 44 Calvert Street, Annapolis, Maryland.

This is an appeal from a decision of the Administrative Hearing Officer. This appeal is taken from the denial of a variance to allow a pool and retaining wall with less buffer than required, on property known as 760 Cypress Rd., Severna Park.

Interested persons are advised to contact the Board of Appeals at 410-222-1119 to confirm that the hearing will proceed as advertised. The Board may choose to close a portion of the meeting to obtain legal advice or to discuss personnel matters as authorized by Section 10-508(a)(7) or Section 10-508(a)(1) of the Open Meetings Act.

A handwritten signature in cursive script that reads "Mary M. Leavell".

Mary M. Leavell  
Clerk to the Board

cc: News Media  
Property Owners  
Critical Area Commission  
Kathleen E. Byrne, Esq.  
Sarah M. Iliff, Esq.  
Robert Konowal (2007-0343-V)  
Suzanne Schappert  
Stephen LeGendre

603-07

Postponed  
↳ analyzed  
w/ soil  
concentration

Pool out of  
Buffer



IN THE OFFICE OF ADMINISTRATIVE HEARINGS

CASE NUMBER 2007-0343-V

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DANA AND DAVID VANMETRE

THIRD ASSESSMENT DISTRICT

DATE HEARD: NOVEMBER 15, 2007

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ORDERED BY: **STEPHEN M. LeGENDRE**, ADMINISTRATIVE HEARING OFFICER

PLANNER: **ROBERT KONOWAL**

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DATE FILED NOVEMBER 20, 2007



## **PLEADINGS**

Dana and David Vanmetre, the applicants, seek a variance (2007-0343-V) to allow a pool and retaining wall with less buffer than required on property located along the west side of Cypress Road, north of Gordon Avenue, 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 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. Vanmetre 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 760 Cypress Road, in the Manhattan Beach subdivision, Severna Park. The property comprises 17,424 square feet and is zoned R2-residential with a Chesapeake Bay Critical Area designation as Intensely Developed Area (IDA). This waterfront lot on Cypress Creek is mapped as a buffer modification area. The request is to



construct an in-ground pool (600 square feet) and a cheek wall (30 square feet) 80 feet from mean high water.

Anne Arundel County Code, Article 18, Section 18-13-104(a) establishes a 100-foot buffer from tidal waters. However, Section 18-13-104(b) creates a buffer modification area on lots created prior to December 1, 1985 on which the existing pattern of development prevents the 100-foot buffer from performing its protective function. Article 17, Section 17-8-702(b) provides that new impervious surface added during the construction or placement of a new accessory structure on a buffer modified lot shall not be placed nearer to the shoreline than the dwelling. In this case, the dwelling, which was constructed in 2004 without the need for variances, is more than 100 feet from water. Accordingly, the proposal requires a buffer variance of 20 feet.

Robert Konowal, a planner with the Office of Planning and Zoning, testified that any hardship is self-created because the dwelling could have been located further from shore. Alternatively, the request is considered more than the minimum relief; denial of the variance does not deny reasonable use; and the variance is considered a special privilege. The witness also summarized the adverse comments of the County's Development Division and the Chesapeake Bay Critical Area Commission. By way of conclusion, he opposed the application.

On questioning by Mr. Vanmetre, Mr. Konowal testified that his adverse recommendation would have been available to the applicants had they made

inquiry prior to the hearing. He also indicated that variances to the Critical Area buffer have typically been refused for pools.

Mr. Vanmetre testified that the pool would provide exercise and enhance the health of the applicants' family. There is no community pool within walking distance. He also indicated that there are other pools in the front yards of houses along the creek. However, he was unable to indicate when the pools were constructed. Mr. Vanmetre also believes the denial of the application is a hardship. Although he does not believe that the pool is too big, he would consider reducing its scope. Finally, he considers the denial of the application to be inconsistent with the buffer exempt status of the property.

Al Erdi, the applicants' engineering consultant, testified that he submitted the request to another planner (John Fury), who explained the need for a variance. Mr. Erdi heard nothing further and was not aware that the final recommendation could have been obtained prior to the hearing. The project does not require the removal of any trees and the disturbed area would be mitigated. He anticipated little adverse impact to Critical Area assets. Although Mr. Erdi acknowledged the denial of other variances for pools in the buffer, the denial in this case is considered an unwarranted hardship because of the buffer modified status of the property.

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.

The applicants' burden of proof in this case is to satisfy each and every of the Critical Area variance criteria. If they fail to prove even one criterion, then this office is obligated to deny their request. Just as in the several prior applications for pools in the buffer, I am compelled to deny the relief on the grounds that several of the criteria are not satisfied. Under subsection (b), the applicants have failed to show the denial of a right in common enjoyment; rather, a pool in the buffer represents a special privilege that the Critical Area program

routinely denies. Nor is there any showing that the variance harmonizes with the general spirit and intent of the program. Finally, with regard to the subsection (c) criteria, a variance for a pool in the buffer is not a minimal variance and its grant constitutes a detriment to the public welfare.

Because the applicants have not met their burden of proof, denial of the application does not deny reasonable use and is not an unwarranted hardship.

As indicated, the decision in this matter is consistent with other decisions. See, in this regard, Case No. 2007-0168-V, In Re: Daniel and Kimberly Money (July 30, 2007) and the cases cited in the decision. See also, Case No. 2007-0230-V, In Re: Allen and Penny Barkdoll (September 19, 2007) and the cases cited in the decision.<sup>1 2</sup>

### ORDER

PURSUANT to the application of Dana and David Vanmetre, petitioning for a variance to allow a pool and retaining wall with less buffer 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 20<sup>th</sup> day of November, 2007,

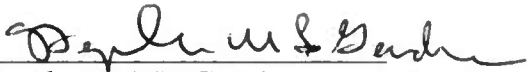
ORDERED, by the Administrative Hearing Officer of Anne Arundel

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<sup>1</sup> Case No. 2007-0230-V has been appealed to the County Board of Appeals, where the matter is pending (Case No. BA 67-07V).

<sup>2</sup> Since the decision in Case No. 2007-0230-V, the Circuit Court for Anne Arundel County has issued a Memorandum Opinion in Case No. C-2006-117320 AA remanding an approved variance for a pool in the buffer to the Board of Appeals. The matter is pending before the Board of Appeals. The Memorandum Opinion and Order from the Circuit Court are appended (Attachment A).

County, that the applicants' request is 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 they will be discarded.

Sally

Attachment A

RECEIVED

SEP 25 2007

A. A. CO. OFFICE OF LAW

PETITION OF:  
MARTIN G. MADDEN  
FOR JUDICIAL REVIEW OF THE  
DECISION OF THE BOARD OF APPEALS  
OF ANNE ARUNDEL COUNTY

\* IN THE  
\* CIRCUIT COURT  
\* FOR

\* ANNE ARUNDEL COUNTY

IN THE CASE OF:

GEORGE AND KATHRYN VINCENT

\* CASE NUMBER: C-2006-117320 AA

BA 11-06V

\*\*\*\*\*

MEMORANDUM OPINION

On March 19, 2007 this matter came before the Court for oral argument on the Petition for Judicial Review filed by Martin G. Madden as Chairman of the Critical Area Commission for the Chesapeake and Atlantic Coastal Bays ("Petitioner") and the opposition to that Petition filed by Respondents, George and Kathryn Vincent (the "Vincent").<sup>1</sup> Petitioner asks us to reverse the August 31, 2006 Order of the Anne Arundel County Board of Appeals (the "Board") granting a variance to the Vincent to construct a swimming pool within the 100-foot Critical Area Buffer.

The parties appeared through counsel and arguments were heard. After consideration of the administrative record, the various memoranda and the arguments of counsel, for reasons set forth in this Memorandum Opinion, we entered the September 18, 2007 Order remanding the August 31, 2006 Order to the Board.

<sup>1</sup> Anne Arundel County sought to intervene in this appeal. We granted the Vincent's motion to strike the County's appearance at the March 19, 2007 hearing.

2007 SEP 21 A 11:12

## I. INTRODUCTION/FACTS

The Vincents' property is located in Shady Side and was purchased by them in 2004. Pursuant to a critical area variance dated February 7, 2005, the Vincents were allowed to construct their house and an attached wooden deck built over a gravel substrate (the "Deck"), all within the 100-foot Critical Area Buffer.<sup>2</sup> Their original plans included a swimming pool, which they excluded from the application following a recommendation from County planners that they do so. In granting the 2005 variance, the Administrative Hearing Officer indicated that the Vincents would not be allowed to build any new accessory structures.

The variance now before us was applied for soon thereafter. The Vincents proposed to construct a pool (sometimes referred to as a "lap pool") in the 100-foot Critical Area Buffer. In order to construct the pool, the Vincents required a variance to Anne Arundel County's Chesapeake Bay Critical Area program to remove 36 square feet of the Deck and build the pool in that opening. Although built into the Deck, the pool would be closer to the water than the existing house. The Board stated:

The [Vincents'] property is located within the [Critical Area]. Two thirds of the property is within the 100" buffer. The Petitioners seek to place an 8 ½ X 16' lap pool into their existing deck. The requested variance would allow the [Vincents] to place 4.2' of their pool and 136 square feet of additional impervious surface inside the 100' buffer.

Although denied by the Administrative Hearing Officer, the Board granted the variance on August 31, 2006 following a *de novo* hearing. Petitioner then filed this timely appeal.

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<sup>2</sup> Although this administrative variance is referred to in the memoranda as the "2004" variance, it is dated 2/7/05. We assume that is because the variance was applied for in 2004.

## II. ISSUES

Petitioner argues that the record does not include sufficient evidence to establish the following statutory requirements:

- A. That denying the variance would cause an "unwarranted hardship" to the Vincents;
- B. That denying the Vincents a variance to construct this swimming pool would deprive them of a right commonly enjoyed by others under the County Critical Area program; and
- C. That allowing the Vincents to construct a new swimming pool in the 100 foot buffer would grant them a special privilege.

Finally, we will consider an issue originally brought to our attention by the County's erstwhile memorandum; *i.e.*, whether the February 7, 2005 variance precluded the Vincents from applying for the variance at issue here. While the County was dismissed from this appeal, the estoppel question is implicitly raised by Petitioner in its memorandum. In any event, we are not aware of anything that would preclude us from considering this question *sua sponte*.

## III. LAW

### A. Critical Area

The Maryland Critical Area Act (Natural Resources Art. §8-1801 *et seq.*) requires local jurisdictions to adopt a Critical Area program. MD. CODE ANN., NAT. RES. § 8-1801(B) (WEST 2007). Pursuant to that requirement, Anne Arundel County enacted its critical area laws.

Under the County Code, the variance may be granted only if an applicant proves that:

- (1) because of certain unique physical conditions, such as exceptional topographical conditions peculiar to and inherent in the particular lot, or irregularity, narrowness, or shallowness of lot size and shape, strict implementation of the County's critical area program would result in an unwarranted hardship, as that



term is defined in the Natural Resources Article, § 8-1808, of the State Code, to the applicant;

- (2) (i) a literal interpretation of COMAR 27-01, Criteria for Local Critical Area Program Development, of the County critical area program and related ordinances will deprive the applicant of rights commonly enjoyed by other properties in similar areas, as permitted in accordance with the provisions of the critical area program, within the critical area;
- (3) the granting of a variance will not confer on an applicant any special privilege that would be denied by:
  - (i) COMAR, 27.01, or the County critical area program to other lands or structures within the County critical area; or
- (4) that the variance request:
  - (i) is not 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 was filed; and
  - (ii) does not arise from any condition relating to land or building use on any neighboring property;
- (5) that the granting of the variance:
  - (i) will not adversely affect water quality or adversely impact fish, wildlife, or plant habitat within the County's critical area or bog protection area; and
  - (ii) will be in harmony with the general spirit and intent of the County critical area program and bog protection program;

In addition, a variance may not be granted unless the Board finds that:

- (1) the variance is the minimum variance necessary to afford relief;
- (2) the granting of the variance will not:
  - (i) alter the essential character of the neighborhood or district in which the lot is located;

- (ii) substantially impair the appropriate use or development of adjacent property;
- (iii) be contrary to acceptable clearing and replanting practices required for development in the critical area or bog protection area; or
- (iv) be detrimental to the public welfare.

ANNE ARUNDEL COUNTY CODE, § 3-1-207(B) AND (C) (2005).

The Critical Area Act creates a presumption that a proposed variance does not conform to the purposes of regulations adopted pursuant to it or to local critical area programs. Natural Resources Art., §8-1808(d). An applicant for such a variance must meet every standard of the Critical Area Act in order to obtain a variance. *Id.*

#### B. Standard of Review by Circuit Court

Decisions of administrative agencies are *prima facie* correct and, on appeal, must be viewed in the light most favorable to the agency. Bd. of Ed., Montgomery Co. v. Paynter, 303 Md. 22, 35-36 (1985); see also, Bulluck v. Pelham Wood Apts., 283 Md. 505, 511-13 (1978). Accordingly, "the reviewing court should not substitute its judgment for the *expertise* of those persons who constitute the administrative agency from which the appeal is taken." Paynter, 303 Md. at 35 (emphasis in original).

In reviewing administrative agency decisions, factual findings by the agency are binding upon the reviewing court, "if supported by substantial evidence in the record." Bd. of Appeals v. Baltimore, 72 Md. App. 427, 431 (1987). In determining whether there is substantial evidence to support an administrative decision, the court determines if there is evidence from which a reasonable person might have reached the conclusion of the administrative body. Eger v Stone,

253 Md.533, 542 (1969). If so, the Court cannot substitute its judgment for that of the agency, even if the Court might have reached a different conclusion. *Id.*

#### IV. DISCUSSION

Because the Vincents' pool would be built closer to the water than their principal structure (*i.e.*, their house) and would be built within the 100 foot buffer, they were required to receive a variance to the County Critical Area program. In order for that variance to be granted, the Vincents were required to prove (and the Board was required to find that the Vincents had proven), each of the several statutory factors of County Code, Section 3-1-207 set forth above.

Before we turn to Petitioner's argument that four of those factors are not satisfied, we note that an administrative agency must identify those facts it has found to support or to not support each and every statutory requirement. Rodriguez v. Prince George's County, 79 Md. App. 537, 550 (it is not permissible for any administrative body to simply parrot general statutory requirements or rest on broad conclusory statements), cert. denied, 317 Md. 641 (1989); Ocean Hideaway Condominium Ass'n v. Boardwalk Plaza Venture, 68 Md. App. 650, 662 (1986) (findings of fact are insufficient where they amount to a simple repetition of the nine statutory requirements and nothing more).

A. Did the Board's findings establish that denying the variance would "result in an unwarranted hardship, as that term is defined in the Natural Resources Art., §8-1808" to the Vincents?

Under Section 8-1808(d), an "unwarranted hardship" means that, without a variance, the applicant would be denied "reasonable or significant use of the entire parcel or lot for which the

variance is requested." In addition, Anne Arundel County Code, §3-1-207(b)(1) requires that the hardship to the applicant must result from "certain unique physical conditions, such as exceptional topographical conditions peculiar to or inherent in the particular lot, or irregularity, narrowness, or shallowness of lot size and shape."

On this question the Board found that the "majority of the [Vincents'] property is inside the buffer. The street side of the property is narrow and the water side of the property is very wide. The pool cannot be placed on the street side of the property because the well is located there. In addition, there are overhead power lines that would pose a significant safety risk to anyone swimming in the pool. Accordingly, due to the irregular shape of the [Vincents'] property and the lack of any other reasonable location for the swimming pool, we find that "strict implementation of the County's critical area program would" cause them to suffer an unwarranted hardship."

Those findings, however, do not state how the denial of this variance would deny the Vincents *reasonable or significant use of the entire parcel or lot*. Moreover, assuming that the "irregular shape of the [Vincents] property and the lack of any other reasonable location for the swimming pool," the Board's decision did not explain how the Vincents would suffer an "unwarranted hardship" by not having a pool in the 100-foot buffer. We believe that the case must be remanded to the Board for the purpose of determining whether the Vincents' proof satisfied this factor.

B. Did the Board's findings establish that denying the variance would deprive the Vincents of a right commonly enjoyed by others under the County Critical Area program?

The Board found that the Vincents, "would be deprived of the same rights that others enjoy in the Avalon Shores community. There are various types of accessory structures throughout the community, including pools, sheds and ponds, the majority of which are closer to the water than the [Vincents'] proposed pool. Therefore, we find that denying the [Vincents'] variance would deprive them of a right commonly enjoyed by other property owners in their community."

However, the County Code requires the Board to determine whether denying the variance would deprive the applicant "rights commonly enjoyed by other properties *in similar areas... within the critical area.*" The Board's consideration of other properties in the Vincents' neighborhood, while generally relevant to other types of variances, is not relevant to this Critical Area variance application.

C. Did the Board's findings adequately explain how allowing the Vincents to construct a new swimming pool in the 100-foot buffer would grant them a special privilege.

The County Code requires an applicant to prove that "granting [the] variance would not confer [to the] applicant any special privilege that would be denied by [Critical Area laws] to other lands or structures within the County critical area." On this question, the Board found that granting the variance "would not confer any special privilege.... [T]here are a plethora of accessory structures inside the buffer in the surrounding community. Thus, we find that denying the Petitioners' variance would exclude them from a privilege that other property owners throughout the community enjoy."

In finding that the Vincents had satisfied this requirement, the Board erroneously looked to the accessory structures inside the buffer "in the surrounding community." This factor requires the Board to determine whether the variance would convey a right to the Vincents that would be denied to other lands or structures *within the County critical area*.

In an effort to assist the Board of Appeals in this and future cases, we quote at length from Bucktail LLC v. County Counsel of Talbot County, 352 Md. 530 (1999). That case explains why this Court cannot meaningfully review an administrative decision without the agency making sufficient factual findings for each statutory factor.

The court's task on review is not to substitute its judgment for the expertise of those persons who constitute the administrative agency[.] A reviewing Court may not uphold the agency order unless it is sustainable on the agency's findings and for the reasons stated by the agency.' A court's role is limited to determining if there is substantial evidence in the record as a whole to support the agency's findings and conclusions, and to determine if the administrative decision is premised upon an erroneous conclusion of law.

....

In accordance with the above standard of judicial review, in order for the reviewing court to determine whether the Council's action was fairly debatable, findings of fact are required. *Findings of fact must be meaningful and cannot simply repeat statutory criteria, broad conclusory statements, or boilerplate resolutions.*

....

In Board of County Commissioners v. Ziegler, 244 Md. 224, 223 A.2d 255 (1966), the Board of Commissioners of Prince George's County, sitting as a district council, denied an application for a special exception. *Id.* at 226, 223 A.2d at 256. The circuit court reversed. *Id.* On appeal, the problem was that, contrary to the requirements of the county zoning ordinance, the district council failed to make findings of fact in the record on which its decision was based. *Id.* at 228, 223 A.2d at 257. Remanding for such findings of fact, we explained:

There are several reasons for requiring a more comprehensive record of what transpired in this case at the hearing before the district council. Aside from the rule that a zoning authority, in the absence of evidence to support its action, cannot apply its expertise in granting or refusing a zoning change or exception, it is clear that without a record of the facts on which the zoning authority acted or a statement of the reasons for its action, the reviewing court could not properly perform the duty it

had of determining whether the action of the zoning authority was arbitrary or capricious. The rule is as applicable to a special exception as it is to a reclassification.

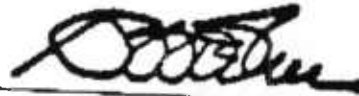
352 Md. at 552-556 (emphasis supplied, interior quotation marks and citations omitted).

#### IV. CONCLUSION

For the reasons set forth above, we will remand this case to the Board of Appeals for further proceedings consistent with this Memorandum Opinion. Specifically, the Board is directed to review the existing record and determine whether the Vincents satisfied the "reasonable and significant use," "unwarranted hardship," "commonly enjoyed right," and "special privilege" factors discussed above. Also, because those findings may impact the Board's findings with regard to the other factors, the Board is directed to reconsider its findings as to all of the other statutory requirements as well. Finally, the Board is directed to determine whether the Vincents' 2005 variance precluded them from requesting the variance at issue here.

We leave to the Board the decision of whether to hear additional argument from counsel.

Dated: September 21, 2007



Paul Garvey Goetzke, Associate Judge  
Circuit Court for Anne Arundel County

Copies: Counsel of Record  
Anne Arundel County Board of Appeals

Sally

PETITION OF:

MARTIN G. MADDEN

FOR JUDICIAL REVIEW OF THE  
DECISION OF THE BOARD OF APPEALS  
OF ANNE ARUNDEL COUNTY

IN THE CASE OF:

GEORGE AND KATHRYN VINCENT

BA 11-06V

IN THE

CIRCUIT COURT

FOR

ANNE ARUNDEL COUNTY

CASE NUMBER: C-2006-117320 AA

RECEIVED

SEP 21 2007

A. A. CO.  
OFFICE OF LAW

2007 SEP 18 P 4: 03

\*\*\*\*\*

**ORDER**

On March 19, 2007, this matter came before the Court for oral argument on the Petition for Judicial Review filed by Martin G. Madden as Chairman of the Critical Area Commission for the Chesapeake and Atlantic Coastal Bay ("Petitioner"). Respondents are George and Kathryn Vincent ("Mr. and Mrs. Vincent"). For the reasons set forth in our Memorandum Opinion to be filed presently, it is this 18<sup>th</sup> day of September, 2007 by the Circuit Court for Anne Arundel County,

ORDERED, that the August 31, 2006 Order of the Anne Arundel County Board of Appeals is hereby REMANDED to that Board to determine whether February 7, 2005 variance relating to the Vincent property precluded them from filing the instant variance application on the basis of *res judicata* or collateral estoppel and if not, the Board shall apply *each* standard of Anne Arundel County Code, §3-1-207 (2005) and all applicable State standards to the record established at the June 22, 2006 hearing; and it is,

ORDERED, that the Board may, in its discretion, received additional argument from the parties with regard to those issues; and it is,

ORDERED, that thereafter, the Board shall thereafter issue a revised Memorandum of



Opinion and Order address in the matters set forth above; and it is,

ORDERED, that Petitioner and the Vincents shall each pay one-half of costs.



Paul Garvey Goetzke, Associate Judge  
Circuit Court for Anne Arundel County

TRUE COPY,

TEST: Robert P. Duckworth, Clerk

By:  Deputy

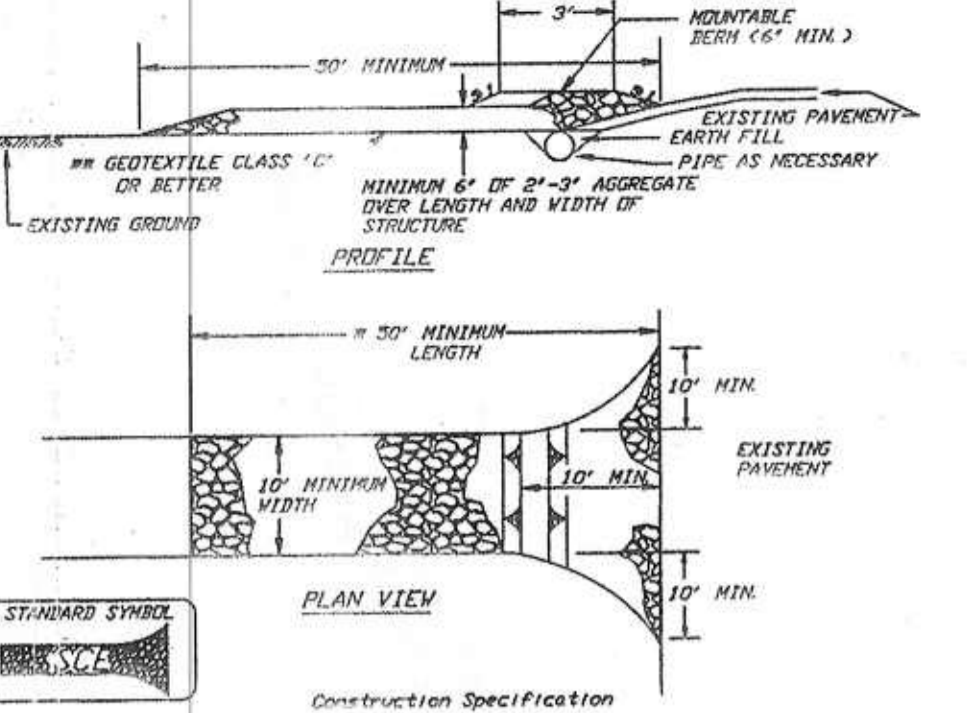
Copies: Counsel of Record  
Anne Arundel County Board of Appeals

**DETAILS AND SPECIFICATIONS FOR VEGETATIVE ESTABLISHMENT**

Following initial soil disturbance or redistribution, permanent or temporary stabilization shall be completed within seven calendar days for the surface of all slopes greater than 3:1 horizontal to 1 vertical (3:1) and fourteen days for all other disturbed or graded areas on the project site.

- Permanent Seeding:**
  - a. Soil texture and fertilizer will be applied per soil test results for areas greater than 5 acres. Soil tests will be done on a minimum of 10 samples per acre. The soil test results will be provided to the grading contractor as well as the contractor at completion of grading. Fertilizer and seed will be applied to the soil surface to a minimum of 12 inches of depth.
  - b. Seeding shall be done after the soil has been graded and after the contractor has completed all other grading. Seeding shall be done on a minimum of 12 inches of depth.
  - c. Seeding shall be done on a minimum of 12 inches of depth.
  - d. Seeding shall be done on a minimum of 12 inches of depth.
- Temporary Seeding:**
  - a. 100 pounds of dolomitic limestone per 1,000 square feet.
  - b. Fertilizer: 10 pounds of 10-10-10 per 1,000 square feet.
  - c. Seed: 100 pounds of 10-10-10 per 1,000 square feet (February through April 30 or August 15 through November 31).
  - d. Mulk: 500 pounds per 1,000 square feet (May 1 through August 15).
- No fill may be placed on frozen ground.** All fill to be placed in approximately horizontal layers, each layer having a loose thickness of not more than 8 inches. All fill to be placed in approximately horizontal layers, each layer having a loose thickness of not more than 8 inches. All fill to be placed in approximately horizontal layers, each layer having a loose thickness of not more than 8 inches.
- Permanent Sod:**
  - a. Sod shall be placed in approximately horizontal layers, each layer having a loose thickness of not more than 8 inches.
  - b. Sod shall be placed in approximately horizontal layers, each layer having a loose thickness of not more than 8 inches.
  - c. Sod shall be placed in approximately horizontal layers, each layer having a loose thickness of not more than 8 inches.
- Soil Boring:**
  - a. Soil boring shall be done at a minimum of 12 inches of depth.
  - b. Soil boring shall be done at a minimum of 12 inches of depth.
  - c. Soil boring shall be done at a minimum of 12 inches of depth.

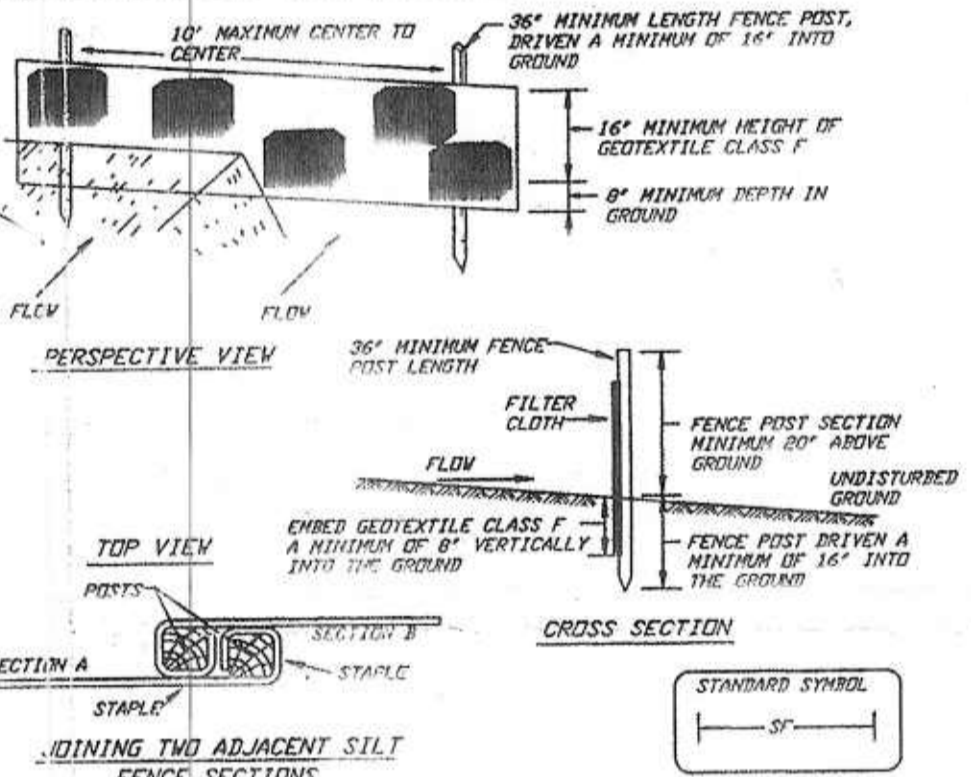
**DETAIL 24 - STABILIZED CONSTRUCTION ENTRANCE**



- Length - minimum of 30' (#30' for single residence lot).
- Width - 10' minimum, should be flared at the existing road to provide a turning radius.
- Geotextile Fabric (filter cloth) shall be placed over the existing ground prior to placing stone. A pre-plan approval authority may not require single family residences to use geotextile.
- Stone - crushed aggregate (2" to 3") or reclaimed or recycled concrete equivalent shall be placed at least 6' deep over the length and width of the entrance.
- Surface Water - all surface water flowing to or diverted toward construction entrances shall be piped through the entrance, maintaining positive drainage. Pipe installed through the stabilized construction entrance shall be protected with a number 8 wire mesh with a minimum of 1/2" opening. When the SCE is located at a high spot and has no means to convey a pipe it will not be necessary. Pipe should be sized according to the amount of runoff to be conveyed. A 6" minimum will be required.
- Location - A stabilized construction entrance shall be located at every point where construction traffic enters or leaves a construction site. Vehicles leaving the site must travel over the entire length of the stabilized construction entrance.

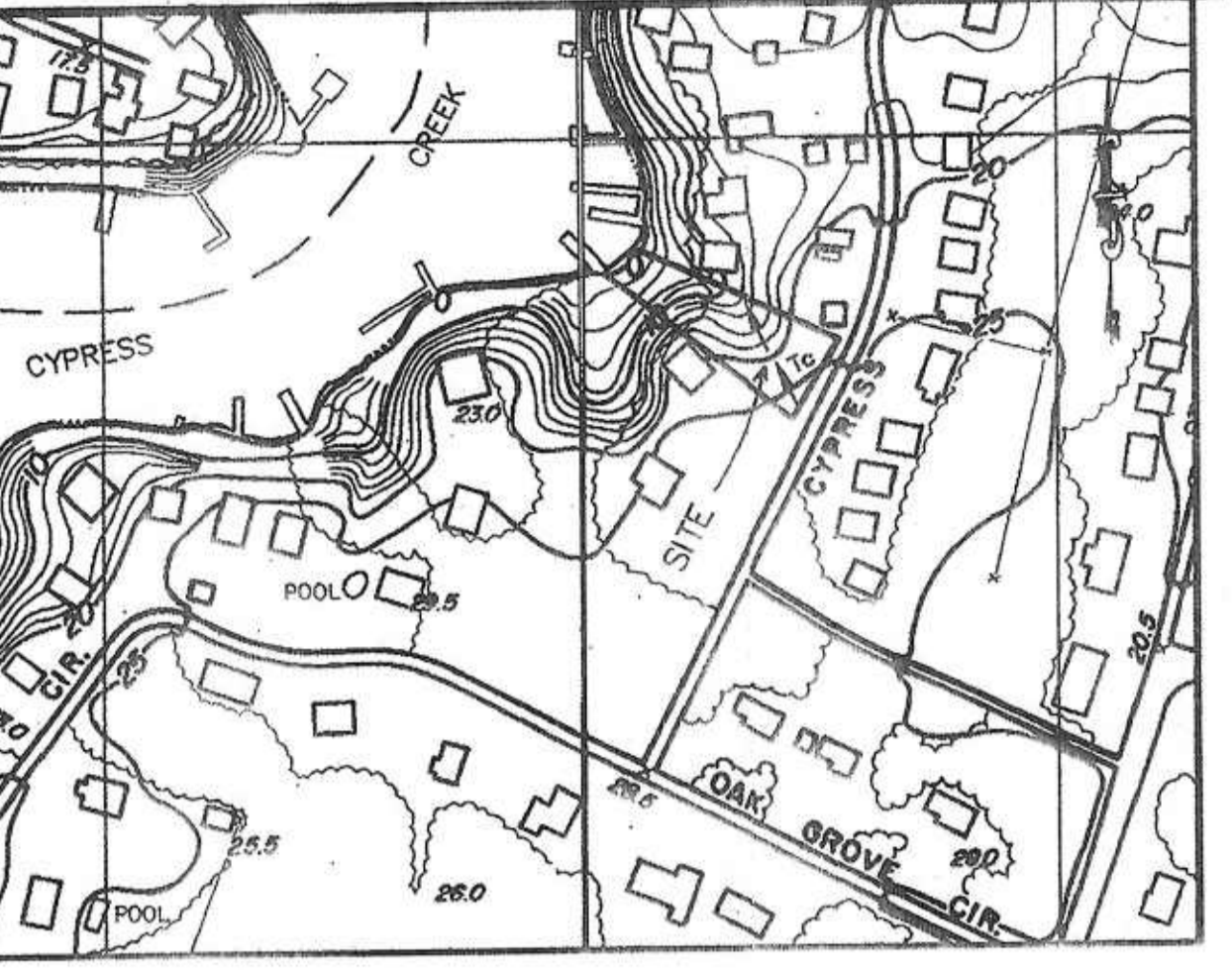
U.S. DEPARTMENT OF AGRICULTURE - PAGE 1 MARLAND DEPARTMENT OF ENVIRONMENT  
SOIL CONSERVATION SERVICE - F-15-3 WATER MANAGEMENT ADMINISTRATION

**DETAIL 22 - SILT FENCE**



- Fence posts shall be a minimum of 36" long driven 16" minimum into the ground. Wood posts shall be 1 1/2" x 1 1/2" square (minimum) or 1 3/4" diameter (minimum) round and shall be of sound quality hardwood. Steel posts will be standard 1 or U section heighting not less than 1.00 pound per linear foot.
- Geotextile shall be fastened securely to each fence post with wire ties or staples at top and mid-section and shall meet the following requirements for Geotextile Class F:
  - Tensile Strength: 50 (lb/in (min.) Test: HMT 309
  - Tensile Modulus: 20 (lb/in (min.) Test: HMT 309
  - Flow Rate: 0.3 gal F<sup>2</sup>/minute (max.) Test: HMT 309
  - Filtration Efficiency: 75% (min.) Test: HMT 309
- 36" ends of geotextile fabric cone together, they shall be overlapped, folded and stapled to prevent sediment bypass.
- Silt fence shall be inspected after each rainfall event and maintained when bulges occur or when sediment accumulation reaches 50% of the fabric height.

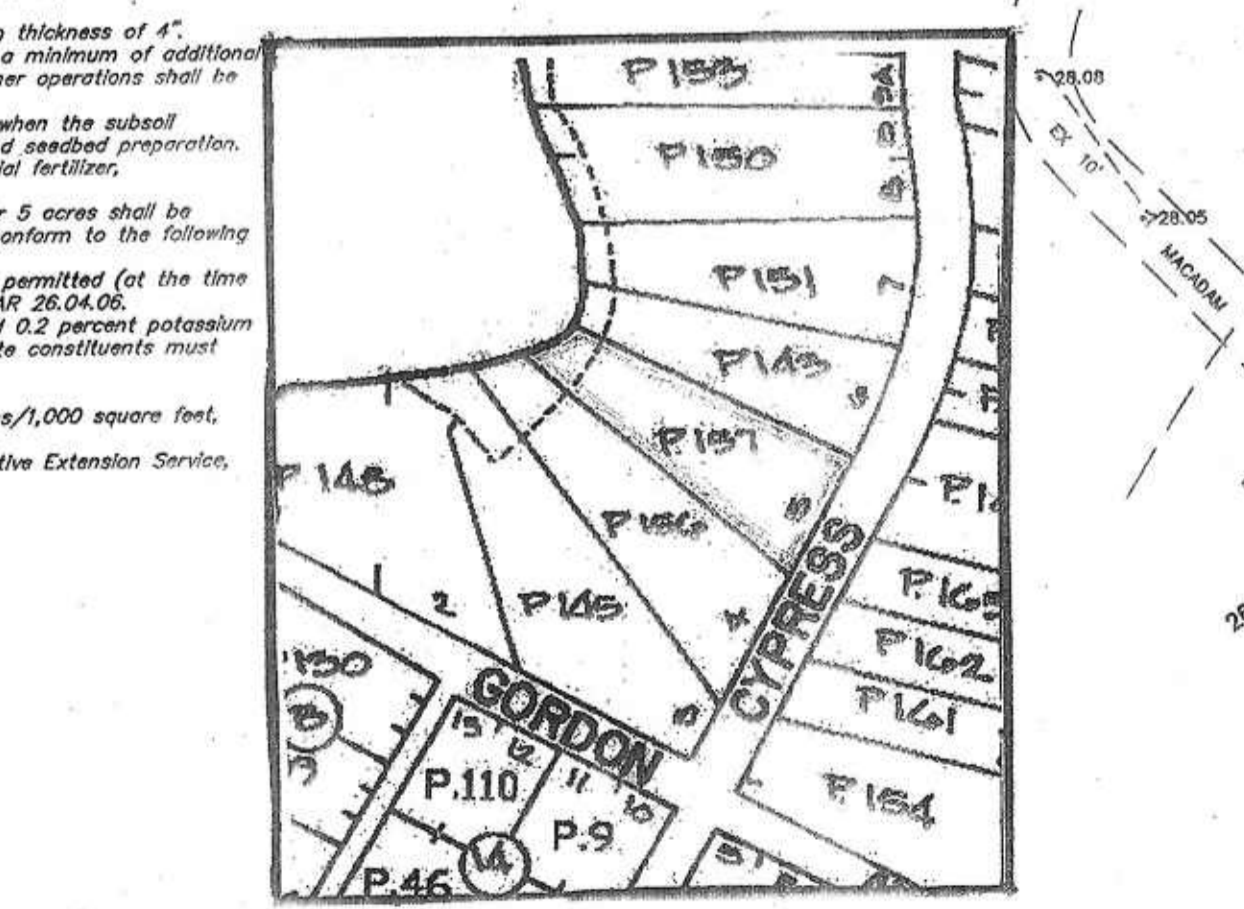
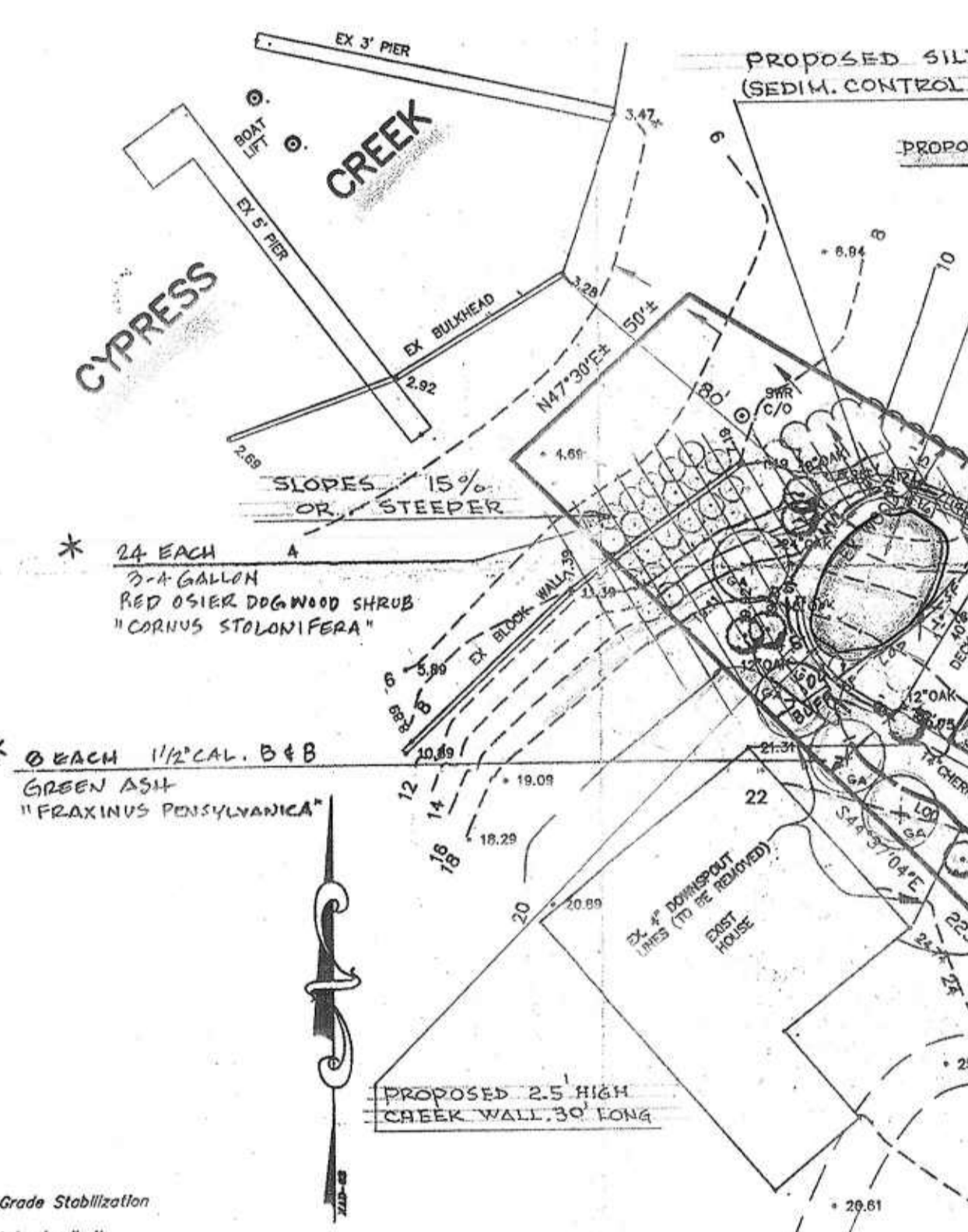
U.S. DEPARTMENT OF AGRICULTURE - PAGE 1 MARLAND DEPARTMENT OF ENVIRONMENT  
SOIL CONSERVATION SERVICE - F-15-3 WATER MANAGEMENT ADMINISTRATION



**DRAINAGE AREA MAP**  
SCALE: 1" = 200'

ADDITIONAL PROPOSED DISTURBED AREA: 1,200 #  
EXISTING IMPERVIOUS AREA TOTAL: 2,925 #  
AFTER PROPOSED WORKS: 3,555 #  
AREA OF SWM MITIGATION / REPLANTING: 1,200 #  
PROPOSED PLANTING STRATEGIES (1/2" CAL. NATIVE SP. OR 3/8 SHRUBS (3-4 GAL.))

**PROPOSED SILT FENCE (SEDM. CONTROL DEVICE)**



**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. I certify that this plan of erosion and sediment control represents a practical and workable plan based on my personal knowledge of this site, and was prepared in accordance with the requirements of the Anne Arundel Soil Conservation District Plan Submitter Guidelines and the current Maryland Standards and Specifications for Sediment and Erosion Control. I have reviewed this erosion and sediment control plan with the owner / developer.

Signature: Edward A. Brown MD, P.E. License # 10714 Date: 5-19-03  
Name: (Print) EDWARD A. BROWN Firm Name: ED BROWN & ASSOCIATES, INC.  
Address: 19 LORETTA AVENUE ANNAPOLIS, MARYLAND 21401

**SEQUENCE OF CONSTRUCTION**

- PRE-CONSTRUCTION MEETING: NOTIFY THE DEPARTMENT OF INSPECTIONS AND PERMITS AT LEAST 48 HOURS BEFORE COMMENCING WORK. WORK SHALL NOT COMMENCE UNTIL THE PERMITTEE OR THE RESPONSIBLE PERSONNEL HAVE MET ON SITE WITH THE SEDIMENT AND EROSION CONTROL INSPECTOR TO REVIEW THE APPROVED PLANS. 48 HOURS
- INSTALL ALL TEMPORARY EROSION CONTROL MEASURES SUCH AS SILT FENCE, STABILIZED CONSTRUCTION ENTRANCE. 2 DAYS
- ROUGH GRADE LIMIT OF DISTURBANCE. 2 WEEKS
- EXCAVATE FOR AND CONSTRUCT FOUNDATION, GRADE AND STABILIZE REMAINDER OF SITE. MAINTAIN SEDIMENT CONTROL MEASURES 20 DAYS
- CONSTRUCT HOUSE, WATER WATER & SEWER CONNECTION AND DRIVEWAY AND MAINLAND SEDIMENT CONTROL MEASURES 5 MONTHS
- INSTALL THE REQUIRED STORMWATER MANAGEMENT PLANTINGS. 5 DAYS  
\* PLANT 24 NATIVE SPECIES 9-4 GAL SHRUBS  
\* PLANT 3 NATIVE SPECIES 1/2" CAL. 3-4 B TREES
- FINAL CLEANUP, STABILIZATION AND REMOVAL OF REMAINING SEDIMENT CONTROL MEASURES WITH INSPECTOR'S APPROVAL 5 DAYS

**CRITICAL AREA TABULATION - DA, BUFFER EXEMPT**

TOTAL SITE AREA 15,990 SQ. FT.  
EXISTING WOODLAND AREA 8,460 SQ. FT.  
WOODLAND REMOVED 5,625 SQ. FT. (66%)  
PROPOSED IMPERVIOUS AREA 2,925 SQ. FT. (18%)

**Owner Information**

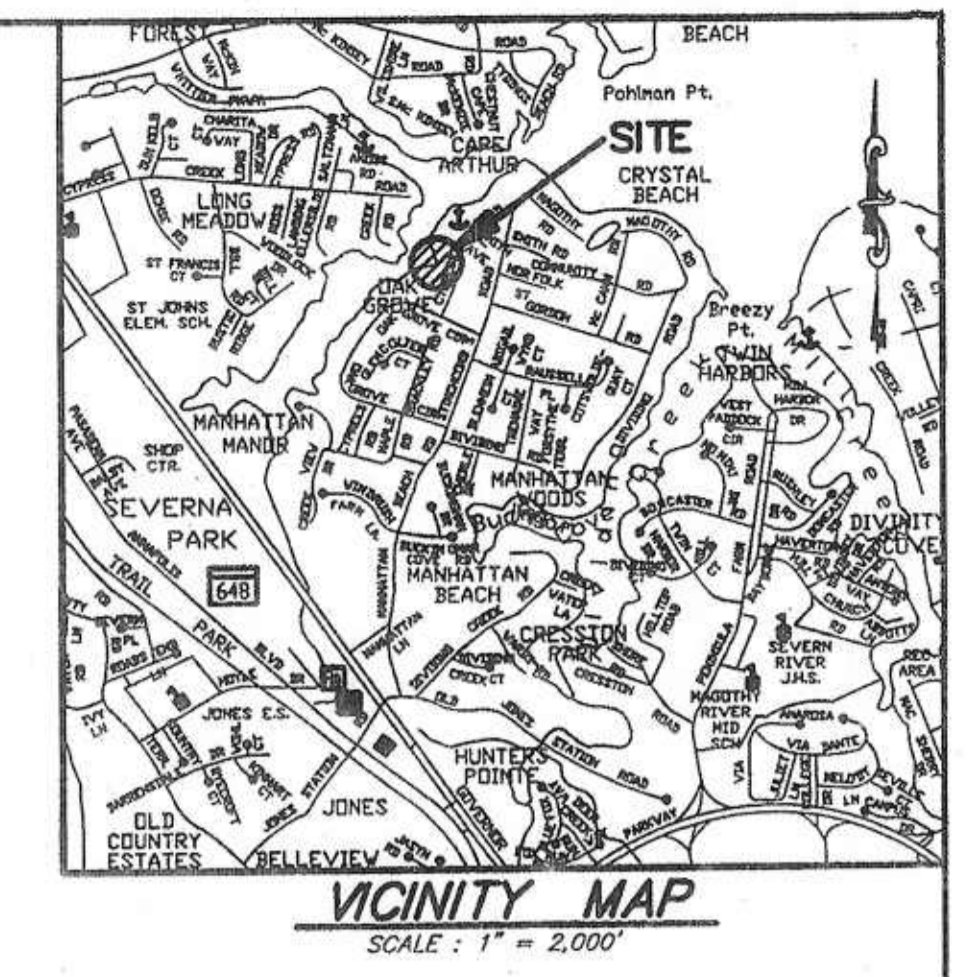
Owner Name: VANMETRE JR, DAVID R VANMETRE, DANA M  
Use: RESIDENTIAL  
Principal Residence: YES  
Deed Reference: 1) 141973/326 2) 141973/326  
Address: 760 CYPRESS RD SEVERNA PARK MD 21146-4211

**Location & Structure Information**

Map Grid Parcel Sub District Subdivision Section Block Lot Assessment Area Plat No: 2  
32E 9 157 330 A 3 1  
Special Tax Area: Town Ad Valorem Tax Class  
Primary Structure Built: 2004 Enclosed Area: 2,958 SF Property Land Area: 17,124.00 SF County Use

**Legal Description**

LT 5 SA PL 2 760 CYPRESS RD MANHATTAN BEACH  
Map Grid Parcel Sub District Subdivision Section Block Lot Assessment Area Plat No: 2  
32E 9 157 330 A 3 1



**GENERAL NOTES**

- ZONING: R-5 (BUFFER EXEMPT)
- SETBACKS: FRONT: 25' REAR: 20' SIDE/COMBINED: 7' / 20'
- PREDOMINANT SOIL TYPE: EUC Evesboro-Urban Land Complex
- TOTAL AREA OF SITE: 15,990 S.F. 0.367 ACRES.
- PROPOSED DISTURBED AREA: 7,623 S.F. 0.18 ACRES.
- A. A. COUNTY TOPO SHEET: U 16 & V 16
- F.E.M.A. RATE MAP: 24000027C ZONE: C
- THIS LOT IS NOT IN THE 100 YEAR FLOOD AREA.
- FIELD RUN TOPOGRAPHY BY ED BROWN & ASSOCIATES, INC
- PUBLIC WATER.
- PUBLIC SEWER.
- EARTH MOVING: ANY STOCKPILE NECESSARY SHALL REMAIN WITHIN THE LIMITS PROTECTED BY SEDIMENT CONTROL MEASURES. ANY EXCESS SPILL OR BORROW MATERIAL SHALL BE TAKEN TO OR OBTAINED FROM A A. CO. APPROVED SITE.
- 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.
- DISTURBANCE WITHIN CYPRESS ROAD MUST BE STABILIZED IMMEDIATELY USING COLD PATCH BITUMINOUS MATERIAL. PERMANENT PAVE PATCHING IN THESE AREAS WITH HOT MIX BITUMINOUS MATERIAL MUST BE COMPLETED WITHIN 14-30 DAYS TO MATCH THE EXISTING PAVEMENT SYSTEM OF ROAD.
- THE EXISTING UTILITIES AND OBSTRUCTIONS SHOWN ARE FROM THE BEST AVAILABLE RECORDS AND SHALL BE VERIFIED BY THE CONTRACTOR TO HIS SATISFACTION PRIOR TO CONSTRUCTION. NECESSARY PRECAUTIONS SHALL BE TAKEN BY THE CONTRACTOR TO PROTECT EXISTING SERVICES AND MANS AND ANY DAMAGE TO THEM SHALL BE REPAIRED AT HIS OWN EXPENSE.
- THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE OBSERVANCE OF ALL APPLICABLE OSHA REGULATIONS CONCERNING EXCAVATION AND BACKFILL. STORMWATER MANAGEMENT NOTES: DUE TO A HIGH WATER TABLE AND INSUFFICIENT SITE AREA, NATIVE VEGETATION WILL BE INSTALLED TO OFF-SET THE PROPOSED IMPERVIOUS AREA, IMPERVIOUS AREA = 2,925 SQ.FT. PLANTS = 8 TREES (1-1/2" CALIPER) AND 24 SHRUBS (3-4 GALLON). FOR 32.00 SQ.FT. OF SWM REPLANTING.
- INSUFFICIENT SITE AREA, NATIVE VEGETATION WILL BE INSTALLED TO OFF-SET THE PROPOSED IMPERVIOUS AREA, IMPERVIOUS AREA = 2,925 SQ.FT. PLANTS = 8 TREES (1-1/2" CALIPER) AND 24 SHRUBS (3-4 GALLON). FOR 32.00 SQ.FT. OF SWM REPLANTING.

PRIVATE PUBLIC  
STORMWATER MANAGEMENT  
S.W.M.A. # 03-5061  
48 hours notice is required prior to start of construction of stormwater management structure.  
Call 410-222-7736 to schedule inspection.

Anne Arundel Soil Conservation District  
Sediment and Erosion Control Approval  
District Official: [Signature] Date: 7/7/03  
ASCD # 493-73 SMALL POND(S) # -  
Reviewed for technical adequacy by  
USDA, Natural Resource Conservation Service Date: 6/27/07

**STANDARD RESPONSIBILITY NOTES**

- (Who) certify that:
  - All development and construction will be done in accordance with this sediment and erosion control plan, and further, authorize the right of entry for periodic on-site evaluation by the Anne Arundel Soil Conservation District District Supervisor or their authorized agents.
  - 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 for the control of sediment and erosion before beginning the project.
  - Responsible personnel on site:
    - W. Scott Bateman
- The appropriate enclosure will be constructed and maintained on sediment basins included in this plan. Such structures shall be in compliance with Article 21, Section 2-304 of the Anne Arundel County Code. The developer is responsible for the acquisition of all easements, rights, and/or rights-of-way that may be required for the sediment and erosion control practices, stormwater management practices and the discharge of stormwater onto or across adjacent or downstream properties included in this plan. He is also 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.
- Following initial soil disturbance or redistribution, permanent or temporary stabilization shall be completed within seven calendar days for the surface of all perimeter controls, dikes, swales, ditches, perimeter slopes, and all slopes greater than 3:1 horizontal to 1 vertical (3:1) and fourteen days for all other disturbed or graded areas on the project site.
- The sediment control approvals on this plan extend only to areas and practices identified as proposed work. The approval of this plan for sediment and erosion control does not relieve the developer/consultant from complying with any Federal, State/County requirements pertaining to environmental issues.
- The developer must request that the Department of Inspections and Permits approve work completed in accordance with the approved erosion and sediment control plan, the grading and siting permit, and the conditions.
- On all sites with disturbed areas in excess of 2 acres, approval of the Department of Inspections and Permits shall be required on completion of perimeter erosion and sediment controls, but before proceeding with any other earth disturbance or grading. Other building or grading inspection approvals may not be authorized until the initial approval by the Department of Inspections and Permits is given.
- Approval shall be requested on final stabilization of all sites with disturbed areas in excess of 2 acres before removal of controls.

Signature(s) of Developer/Owner: W. Scott Bateman Date: 6/1/03  
PRINT: Name: BATEMAN BUILDERS Title: SCOTT BATEMAN (PRES)  
Address: P.O. BOX 1082 SEVERNA PARK, MARYLAND 21146  
Telephone: (410) 647-8935

**21.0 STANDARD AND SPECIFICATIONS FOR TOPSOIL**

**Definition:** Topsoil is defined as the uppermost layer of soil, containing the highest concentration of organic matter and nutrients, which is suitable for supporting a wide variety of plant life.

**Purpose:** To provide a suitable soil medium for vegetative growth. Soils of concern have low moisture content, low nutrient levels, low pH, materials toxic to plants, and/or unacceptable soil gradation.

**Conditions Where Practice Applies:**

- This practice is limited to areas having 2:1 or flatter slopes where:
  - The texture of the exposed subsoil is not adequate to produce vegetative growth.
  - The soil material is shallow that the rooting zone is not deep enough to support plants or furnish continuing supplies of moisture and plant nutrients.
  - The original soil to be vegetated contains materials toxic to plant growth.
  - The soil is so acidic that treatment with limestone is not feasible.
- For the purpose of these Standards and Specifications, areas having slopes steeper than 2:1 require special consideration and design for adequate stabilization. Areas having slopes steeper than 2:1 shall have the appropriate stabilization shown on this plan.

**Construction and Material Specifications**

- Topsoil salvaged from the existing site may be used provided that it meets the standards as set forth in these specifications. Typically, the depth of topsoil to be salvaged for a given soil type can be found in the representative soil profile section in the Soil Survey published by USDA-SCS in cooperation with Maryland Agricultural Experiment Station.
- Topsoil Specifications - Soil to be used as topsoil must meet the following:
  - Topsoil shall be a loam, sandy loam, clay loam, silty loam, sandy clay loam, loamy sand. Other soils may be used if recommended by an agronomist or soil scientist and approved by the appropriate approval authority. Regardless, cinders, stones, glass, fragments, gravel, sticks, roots, or other materials larger than 1-1/2" in diameter.
  - Soil must be free of plants or plant parts such as Bermuda grass, quackgrass, Johnsongrass, nutgrass, poison ivy, thistle, or others as specified.
  - Where the subsoil is either highly acidic or composed of heavy clays, 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. Lime shall be distributed uniformly over designated areas and worked into the soil in conjunction with tillage operations as described in the following procedures.
  - For sites having disturbed areas under 5 acres:
    - Place topsoil (if required) and apply soil amendments as specified in 20.0 Vegetative Stabilization - Section 1 - Vegetative Stabilization Methods and Materials.
    - For sites having disturbed areas over 5 acres:
      - On soil meeting Topsoil specifications, obtain test results detailing fertilizer and lime amendments required to bring the soil into compliance with the following:
        - 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.
        - Organic content of topsoil shall be not less than 1.5 percent by weight.
        - Topsoil having soluble salt content greater than 500 parts per million shall not be used.
        - No soil or seed 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 distribution of plant-life materials.
- Place topsoil (if required) and apply soil amendments as specified in 20.0 Vegetative Stabilization - Section 1 - Vegetative Stabilization Methods and Materials.

**QUANTITIES**

1. CUT	222 C.Y.		
2. FILL	172 C.Y.	WASTE = 50 C.Y.	
3. AREA TO BE VEGETATIVELY STABILIZED:	4,698 S.F.	0.11 ACRES.	
4. AREA TO BE MECHANICALLY STABILIZED:	2,925 S.F.	0.07 ACRES.	

NOTE: THE EARTHWORK QUANTITIES SHOWN ARE FOR THE PURPOSE OF PERMIT FEE CALCULATION. THE CONTRACTOR SHALL VERIFY ALL QUANTITIES AND SOIL TYPES TO HIS OWN SATISFACTION.

**LEGEND**

EXISTING GRADE	----- 110'
PROPOSED GRADE	----- 110'
EXISTING ELEVATION	110.8
PROPOSED ELEVATION	110.6
SILT FENCE	----- SF
LIMIT OF DISTURBANCE	----- LOD
STABILIZED CONSTRUCTION ENTRANCE	----- SCE
STOCK PILE	----- SP

C.C.M. Inc.  
P.O. Box: 333  
Phoenix, Maryland 21131  
(410) 592-5153 Fax: (410) 592-3444

**ED BROWN & ASSOCIATES, INC.**  
LAND SURVEYORS - LAND PLANNERS  
DEVELOPMENT CONSULTANTS  
19 LORETTA AVENUE ANNAPOLIS, MARYLAND 21401 ANNAPOLIS 410-266-8189 BALTIMORE 410-841-1719

**GRADING & SEDIMENT CONTROL PLAN**  
LOT 5  
MANHATTAN BEACH  
#760 CYPRESS ROAD  
THIRD DISTRICT  
ANNE ARUNDEL COUNTY, MARYLAND  
ED BROWN #03-B1

