

AA 752-07  
VAR

Murphy, Paul  
0422

51829-6392

8/21/08

forward

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

January 2, 2008

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

Re: 2007-0422-V – Murphy, Paul

Dear Ms. Schappert:

I have received the information regarding the above-referenced variance request. The applicant requests a variance to allow a dwelling and associated facilities with disturbance to slopes greater than 15%. The lot is designated as a Limited Development Area (LDA) and is not considered waterfront. This lot is 0.26 acres and is currently improved with an existing dwelling unit. The existing impervious site coverage on this site is 2,908 square feet for the current house and driveway and the proposed impervious surface for the new house, porch, and driveway is 3,450 square feet which is within the allowable limits. The applicant has indicated in his narrative that the majority of the disturbance to steep slopes is to raze the existing dwelling.

Provided this lot is properly grandfathered, we do not oppose this variance request to disturb steep slopes for the purpose of razing the existing dwelling. However, aside from the disturbance necessary to remove the existing dwelling, it appears that there is adequate area on this parcel to build a reasonably sized replacement dwelling without the need to further disturb steep slopes. As a result, we do not support the variance request to disturb previously undisturbed areas of steep slopes for the purposes of building a new dwelling. Instead, a smaller house and/or a house with a different configuration should be constructed which could avoid the need for a variance altogether. Where it is possible to develop a property without the need for a variance, as appears feasible in this case, we question how the applicant can meet the standard of unwarranted hardship.

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 Roberts".

Julie Roberts  
Natural Resources Planner

cc: AA <sup>752-07</sup>~~762-07~~



752-07

IN THE OFFICE OF ADMINISTRATIVE HEARINGS

CASE NUMBER 2007-0422-V

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PAUL AND MARJORIE MURPHY

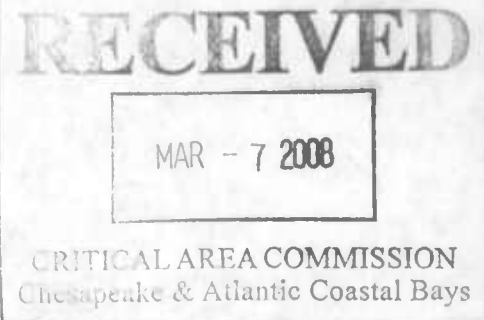
SECOND ASSESSMENT DISTRICT

DATE HEARD: FEBRUARY 28, 2008

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ORDERED BY: STEPHEN M. LeGENDRE, ADMINISTRATIVE HEARING OFFICER

PLANNER: JOHN FURY



DATE FILED: MARCH 4, 2008

## PLEADINGS

Paul and Marjorie Murphy, the applicants, seek a variance (2007-0422-V) to allow a dwelling and associated facilities with disturbance to slopes of 15% or greater on property located along the west side of Little John Hill, south of Sherwood Forest Road, Annapolis.

## 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. Ms. Murphy testified that the property was posted on February 5, 2008. 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 510 Little John Hill, in the Sherwood Forest subdivision, Annapolis. The property comprises 11,519 square feet and is zoned R2 residential with a Chesapeake Bay Critical Area designation as Limited Development Area (LDA). The applicants seek to raze the dwelling, followed by the construction of a new dwelling (irregularly configured, 42 by 52 feet) with disturbance to steep slopes.

Anne Arundel County Code, Article 17, Section 17-8-201 proscribes disturbance of steep slopes in the LDA. Accordingly, the proposal requires a variance.

John R. Fury, a planner with the Office of Planning and Zoning, testified that the property is below the minimum area for the district. The existing dwelling is built across the north side lot line. The new dwelling would comply with the zoning setbacks. The slope disturbance relates primarily to the demolition of the existing dwelling. The project includes a new septic system relocated further from the slope. The project is within the allowance for impervious coverage (3,450 square feet versus 3,600 square feet). The witness conceded that the granting of the variance would not alter the essential character of the neighborhood or impair the use or development of adjacent property. However, he questioned the extent of relief. While there is no objection to the demolition of the existing dwelling, the new development should not cause any further disturbance of slopes. The County's Development Division indicated that the southwest side porch addition should not come any closer to the top of slopes than the existing improvements; and suggested relocating the rain gardens and minimizing the limits of disturbance. The Chesapeake Bay Critical Area Commission did not oppose the slope disturbances for the demolition of the existing dwelling but opposed new disturbance for the replacement dwelling. By way of ultimate conclusion, Mr. Fury opposed the application.

Ms. Murphy testified that she has lived in Sherwood Forest for 58 years. The new home is intended as the applicants' permanent residence in their retirement. The dwelling includes handicapped accessibility. There is only one living space other than the porch addition. The witness expressed a willingness to reduce the existing concrete patio (southwest side). However, the dwelling could not be relocated to the north due to a right-of-way serving her brother's home on the lot to the west. (The applicants' property also provides parking for her brother's property).

Michael Drum, the applicants' engineering consultant, submitted elevation drawings. The dwelling is considered modest in size and has been sited with due regard to the slopes. The slope disturbance for the project comprises 277 square feet, including the removal of the existing improvements and the new improvements. The rain gardens are located to capture flow from the roof leaders. According to the witness, there is little - if any - disturbance of previously undisturbed slopes. Nevertheless, as a further effort of minimization, a triangular area of replacement patio on the south side of the dwelling will be eliminated. And, the footer for the proposed porch addition near the edge of slopes will be hand dug.

Bart Key, the club manager for the Sherwood Forest Club, testified that the proposal satisfies the community guidelines and received the approval of the Board of Directors. There was no other testimony in the matter.

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 extent of the steep slopes, 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 with a single-family dwelling, 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 to other Critical Area lands. There is no indication that the request results from the actions of the applicants or from land use on neighboring property. Finally, with mitigation and other conditions, the variance will not adversely impact Critical Area assets and harmonizes with the general spirit and intent of the program.

I further find that the variance represents the minimum relief. This office is sensitive to the concerns of the reviewing agencies. However, this is as minimal a variance application as any that has been presented in this community. The disturbance relates to the removal of the existing improvements. The modifications agreed to at the hearing have allayed any concerns for any new slope disturbance. There was certainly 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 conditions in the Order.

ORDER

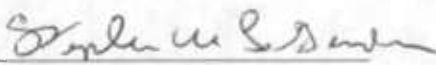
PURSUANT to the application of Paul and Marjorie Murphy, petitioning for a variance to allow a dwelling and associated facilities with disturbance to slopes greater than 15 percent, and

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 March, 2008,

ORDERED, by the Administrative Hearing Officer of Anne Arundel County, that the applicants are **granted** a variance to disturb steep slopes to allow a dwelling and associated facilities in accordance with the site plan.

The foregoing variance is subject to the following conditions:

1. The portion of the existing concrete patio between the porch addition and the southwest side slope shall be removed and the area revegetated.
2. The porch addition footer closest to the south side slope shall be hand dug.
3. The triangular incursion of replacement concrete patio on the south side slope shall be eliminated and the area revegetated.
4. The applicants shall provide stormwater management and mitigation as determined by the Permit Application Center.
5. No further expansion of the dwelling is allowed.

  
Stephen M. LeGenre  
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.

# Chesapeake Bay Critical Area Report

## Sherwood Forest ~ 510 Sherwood Forest

Tax Map 39, Grid 19, Parcel 295

Tax Account No. 02-720-03092500

**Property Address:** 510 Little John Hill  
Annapolis, Maryland 21405

**Property Owner & Variance Applicant:** Mr. & Mrs. Paul Murphy

**Critical Area Designation:** LDA      **Zoning:** R-2      **Lot Area:** 0.26 Ac.

### Site Description

The subject property is located on the west side of Little John Hill, in the community of Sherwood Forest. The property is an irregularly shaped, legal building lot with a property area of 11,519 s.f. (0.26 Ac.), and it is currently improved with a single-family dwelling that sits atop the steep slopes to the south, west, and north. A portion of the existing dwelling extends into the Little John Hill variable width path Right-of-Way by approximately three feet. The property is also developed with other associated improvements common to residential lots in the community, including patios, walkways, and retaining walls. A new traffic bearing septic tank and primary drywell shall provide on-site sewage disposal services. Replacement septic drywells are proposed, in accordance with current Anne Arundel County Plumbing Code, within a septic easement on the Sherwood Forest golf course. The property lies entirely within the Chesapeake Bay Critical Area with an LDA land use designation.

### Description and Purpose of Variance Request

The applicant proposes to raze and remove the existing dwelling and construct a new single-family dwelling with associated improvements. The proposed dwelling is sited at the top of the steep slopes, in a similar location as the existing dwelling; however, the new dwelling conforms to all Anne Arundel County zoning setbacks. The variance request arises from the proposed construction disturbing slopes 15% or greater; the slope disturbance is mainly required to demolish the existing structure. A variance to **Article 17, Section 8-201** for disturbance to slopes of 15% or greater is therefore requested.

### Vegetative Coverage and Clearing

This property is forested with a variety of hardwood trees. Vegetative stabilization consists of a creeping ivy groundcover common to the community. The existing wooded area totals roughly 5,632 s.f. (0.13 Ac.) The proposed woodland clearing is 400 s.f.+/- (0.01 Ac.) The overall property disturbance will be approximately 6,300 s.f. (0.14 Ac.), the majority of which is necessary to demolish the existing dwelling. Reforestation and afforestation requirements for this property will be addressed during the permit phase of this project.

### Impervious Coverage

The site currently has 2,908 s.f. (0.26 Ac.) of impervious coverage. The proposed impervious area for this property is 3,500 s.f. (0.08 Ac.) and will not exceed the allowable impervious coverage of 3,600s.f. (0.08 Ac.)



**Drum, Loyka & Associates, LLC**  
Civil Engineers - Land Surveyors

December 11, 2007

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

**RE: Sherwood Forest ~ Lot 510**  
510 Little John Hill  
Sherwood Forest, MD 21405  
Tax map 39, Grid 19, Parcel 295  
Tax Account # 02-720-03092500

Sir/Madam:

Enclosed please find a variance request package for the above referenced project. The subject property is located in the community of Sherwood Forest, on Little John Hill, and resides within the Chesapeake Bay Critical Area with an LDA land use designation. This lot is not a waterfront lot. The property is irregular in shape, is approximately 11,519 s.f. in area, and is improved with a single-family dwelling. A portion of the existing dwelling extends into the Little John Hill variable width path Right-of-Way. Approximately 40% of the subject property is encumbered with slopes greater than 15%.

The applicants propose to raze and remove the existing single-family dwelling and construct a new single family dwelling in the same general location; however, the proposed dwelling shall conform to current Anne Arundel County Zoning setbacks. The applicants request a variance to **Article 17, Section 8-201** of the Anne Arundel County Code for disturbance of slopes 15% or greater in the LDA.

Disturbance of the slopes is necessary to demolish the existing, non-conforming dwelling. A new septic system shall provide sewage disposal services. This system will include a new traffic bearing tank, a new primary drywell on-site, and two septic replacement drywells located on the community golf course, within an easement, approximately 700 feet from the Severn River.

The proposed dwelling has been located in roughly the same location as the existing dwelling, further away from the top of bank, and in conformance with current Anne Arundel County zoning setbacks. The new construction shall provide qualitative stormwater management measures and shall remove the existing septic tank from the steep slopes, thereby improving the environmental quality of the site

Thank you for your attention to this matter. Please contact us if we may be of further service during your review of this variance request.

Sincerely,

DRUM, LOYKA AND ASSOCIATES, LLC



William Bower

Engineering & Survey Technician

209 West Street, Suite 203  
Annapolis, Maryland 21401  
(410) 280-3122 Fax (410) 280-1952

**Steep Slopes (slopes > 15%)**

The subject property contains approximately 4,577 s.f. (0.11 Ac.), or 40% of the site area, of steep slopes. Approximately 277 s.f. (0.01 Ac.) of the steep slopes shall be disturbed during the proposed construction.

**Predominant Soils**

The predominant soil type is Annapolis Fine Sandy Loam, 40 to 80 percent slopes (AsG). This soil has a type "C" hydrologic classification and is not a hydric soil (soils characteristic of wetlands).

**Drainage and Rainwater Control**

Runoff from the existing site improvements appears to be unmanaged, as there are no apparent stormwater management practices being utilized at the time.

Stormwater management and sediment and erosion control will be addressed during the permit phase of the project in accordance with Anne Arundel County design criteria.

**Conclusions – Variance Standards**

The applicant is proposing to raze and remove an existing dwelling that is non-conforming to current Anne Arundel County zoning setbacks and to construct a new dwelling in conformance with current Anne Arundel County zoning code. Stormwater management will be addressed during the permit phase of the project. Reforestation will be provided on-site to the extent practicable. With the proposed implementation of reforestation, sediment controls, and stormwater management, the proposed development will not cause adverse impacts to fish, wildlife, or water quality in the Critical Area.

**Reference:**

ADC: The Map People, 2002 Anne Arundel County, Maryland, Street Map Book

Anne Arundel County Office of Planning & Zoning , 1988 Critical Area Map

Anne Arundel County Office of Planning & Zoning, 1995 Buffer Exemption Map

Anne Arundel County, Maryland; Chesapeake Bay Critical Area Mapping Program, 1988, Critical Area Map

Federal Emergency Management Agency , 1985. Flood Insurance Rate Map

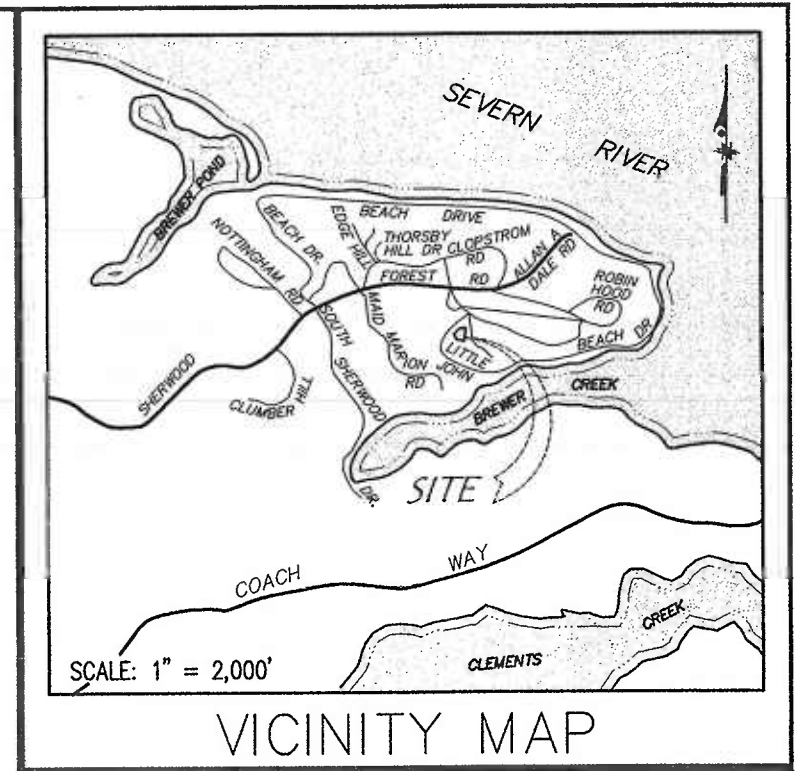
First American Real Estate Solutions, 2002, Realty Atlas: Anne Arundel County Maryland

Drum, Loyka and Associates LLC, 2006 Variance Plan

U.S. Department of Agriculture, Natural Resource Conservation Service –2003 Soil Survey of Anne Arundel County Maryland.

State Highway Administration of Maryland, 1989. Generalized Comprehensive Zoning Map: Third Assessment District

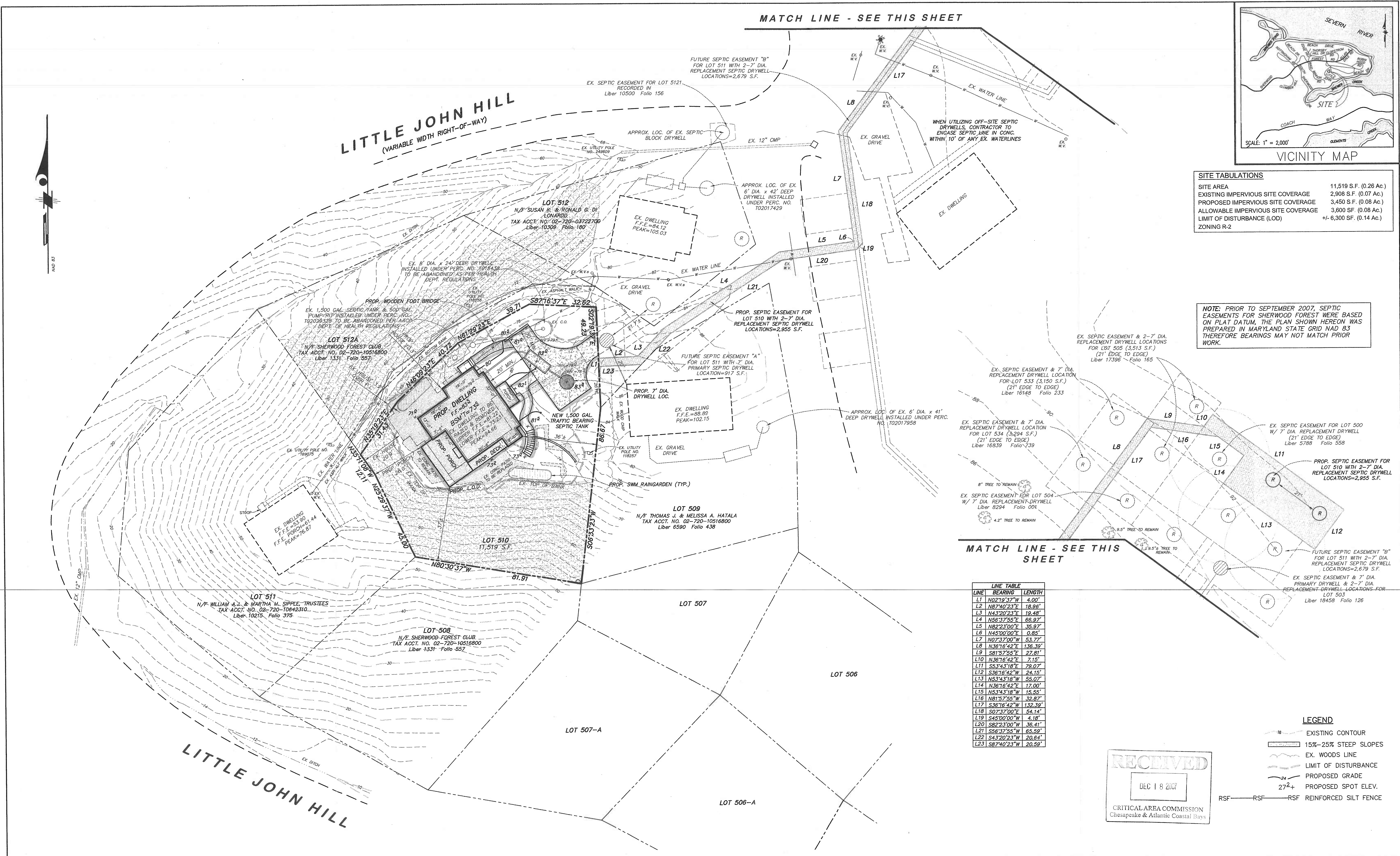
MATCH LINE - SEE THIS SHEET



**SITE TABULATIONS**

SITE AREA	11,519 S.F. (0.26 Ac.)
EXISTING IMPERVIOUS SITE COVERAGE	2,908 S.F. (0.07 Ac.)
PROPOSED IMPERVIOUS SITE COVERAGE	3,450 S.F. (0.08 Ac.)
ALLOWABLE IMPERVIOUS SITE COVERAGE	3,600 S.F. (0.08 Ac.)
LIMIT OF DISTURBANCE (LOD)	+/- 6,300 SF. (0.14 Ac.)
ZONING R-2	

NOTE: PRIOR TO SEPTEMBER 2007, SEPTIC EASEMENTS FOR SHERWOOD FOREST WERE BASED ON PLAT DATUM, THE PLAN SHOWN HEREON WAS PREPARED IN MARYLAND STATE GRID NAD 83 THEREFORE BEARINGS MAY NOT MATCH PRIOR WORK.

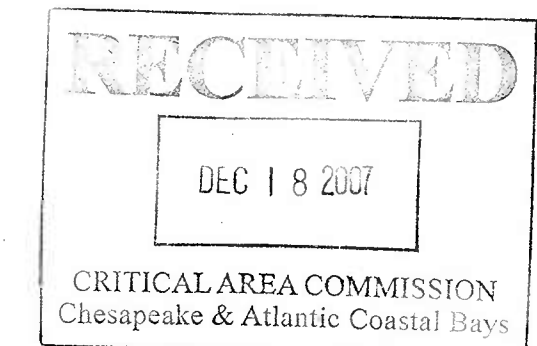


**LINE TABLE**

LINE	BEARING	LENGTH
L1	N02°19'37"W	4.00'
L2	N87°40'23"E	18.96'
L3	N43°20'23"E	19.48'
L4	N56°37'55"E	66.97'
L5	N82°23'00"E	35.97'
L6	N45°00'00"E	0.85'
L7	N07°37'00"W	53.77'
L8	N36°16'42"E	136.39'
L9	S81°57'55"E	27.81'
L10	N36°16'42"E	7.15'
L11	S53°43'18"E	78.07'
L12	S36°16'42"W	24.15'
L13	N53°43'18"W	55.07'
L14	N36°16'42"E	172.00'
L15	N53°43'18"W	15.55'
L16	N81°57'55"E	32.87'
L17	S36°16'42"W	132.39'
L18	S07°37'00"E	54.14'
L19	S45°00'00"W	4.18'
L20	S82°37'00"W	36.41'
L21	S56°37'55"W	65.59'
L22	S43°20'23"W	20.64'
L23	S87°40'23"W	20.59'

**LEGEND**

- - - - - EXISTING CONTOUR
- ===== 15%-25% STEEP SLOPES
- EX. WOODS LINE
- LIMIT OF DISTURBANCE
- PROPOSED GRADE
- 272+ PROPOSED SPOT ELEV.
- RSF-----RSF REINFORCED SILT FENCE



DESIGNED: MMD DRAWN: SAW

ORIG. DATE: AUG. 28 2007

MODIFIED BY/DATE:

CADD DWG #: SM12505V

DLA PROJECT #: SM12505

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REVISIONS TO APPROVED PLANS				
No.	DATE	BY	DESCRIPTION	

**DRUM, LOYKA & ASSOCIATES, LLC**  
 CIVIL ENGINEERS—LAND SURVEYORS  
 209 WEST STREET, SUITE 203  
 ANNAPOLIS, MARYLAND 21401  
 410-280-3122

"Professional Certification. I hereby certify that these documents were prepared or approved by me, and that I am a duly licensed Professional Engineer under the laws of the State of Maryland, license no. \_\_\_\_\_ expiration date: \_\_\_\_\_"

OWNER  
**MR. & MRS. PAUL MURPHY**  
 12222 McDONALD CHAPEL ROAD  
 GAITHERSBURG, MARYLAND 20878  
 301-330-4082

VARIANCE PLAN  
**SHERWOOD FOREST ~ LOT 510**  
 510 LITTLE JOHN HILL  
 TAX ACCT. NO. 02-720-03092500  
 TAX MAP 39 GRID 19 PARCEL 295 DISTRICT 2ND  
 ANNE, ARUNDEL COUNTY, MARYLAND

SCALE: 1" = 20' DATE: DEC. 11, 2007 PROJ. NO: SM12505V SHEET 1 OF 1