

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/

February 15, 2008

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

Re: 2007-0434-V Williams, Daryl & Stuart

Dear Ms. Cotter:

Thank you for providing information regarding the above referenced variance. The applicant is seeking a variance to disturb slopes 15% or greater in order to remodel an existing dwelling and construct multiple additions to the dwelling. The property for which the variance is being sought lies within the Limited Development Area (LDA) and is currently developed with a single family dwelling

Based on the information provided, it appears that the subject property is a legally grandfathered parcel of record and that the lot is entirely constrained by the presence of steep slopes. As a result, this office is not generally opposed to the granting of a limited variance to remodel the existing dwelling. However, in order to grant a variance, the Hearing Officer, or Board of Appeals, must find that the applicant has overcome the burden of proof to demonstrate that each and every one of the County's variance standards has been met. These standards include that the variance request is the minimum necessary to provide relief and that the granting of the variance will not create adverse impacts to water quality or to fish, plant, and wildlife habitat within the Critical Area. In addition, the applicant must demonstrate that the variance is in keeping with the general spirit and intent of the Critical Area Law. The site plan as proposed does not satisfy the variance standards. I have outlined my concerns below.

1. The proposed redevelopment maximizes the amount of impervious surface area on the property by proposing to construct up to the allowable limit within in the law, in this case, 2,302 square feet. Maximization of impervious surface on this lot given its site constraints is not in keeping with the spirit and intent of the Critical Area Law. In contrast, the sensitive nature of development on steep slopes warrants further minimization of impervious surface areas on this property in order to assure that adverse impacts to water quality are not incurred. It appears that reasonable habitable space could be achieved even if the footprint was reduced. Further, maximization of impervious surface areas as proposed is shortsighted in that no future opportunity for redevelopment exists without the need for an impervious surface area variance. Given that ample opportunity exists to minimize the

TTY for the Deaf

Annapolis: (410) 974-2609 D.C. Metro: (301) 586-0450

Pam Cotter
Williams Variance
February 15, 2008

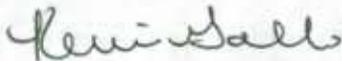
dwelling footprint in the present and avoid this situation in the future, we will not support future variances for additional impervious surfaces on this property.

2. The applicant has stated that stormwater management will be addressed at the time of permit review, showing an indiscriminate stormwater management device on the site plan with no rooftop leaders. Given the sensitive nature of development on steep slopes and the potential to adversely affect both downslope water quality and neighboring properties, we recommend that more specific stormwater management be required as a condition of or prior to any variance approval. At a minimum, we recommend a variance condition specifying that treatment of all rooftop areas is required.
3. It appears that partial replacement and/or upgrades to the existing septic system are being made in conjunction with the proposed redevelopment. If not already required, we recommend that a condition be included requiring the applicant to provide nitrogen removal technology as a method of further minimizing adverse impacts within the Critical Area.

In summary, this office recognizes that some degree of variance on this property may be appropriate. Based on the current site plan however, we believe that further minimization of impact to steep slopes, particularly in the amount of impervious surface area proposed, is possible and necessary to satisfy the variance standards. The proposed variance is not the minimum necessary to provide relief.

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

Sincerely,



Kerrie Gallo
Regional Program Chief

105-08

IN THE OFFICE OF ADMINISTRATIVE HEARINGS

CASE NUMBER 2007-0434-V

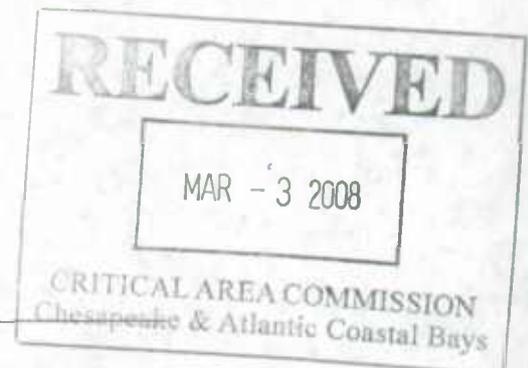
STUART AND DARYL WILLIAMS

SECOND ASSESSMENT DISTRICT

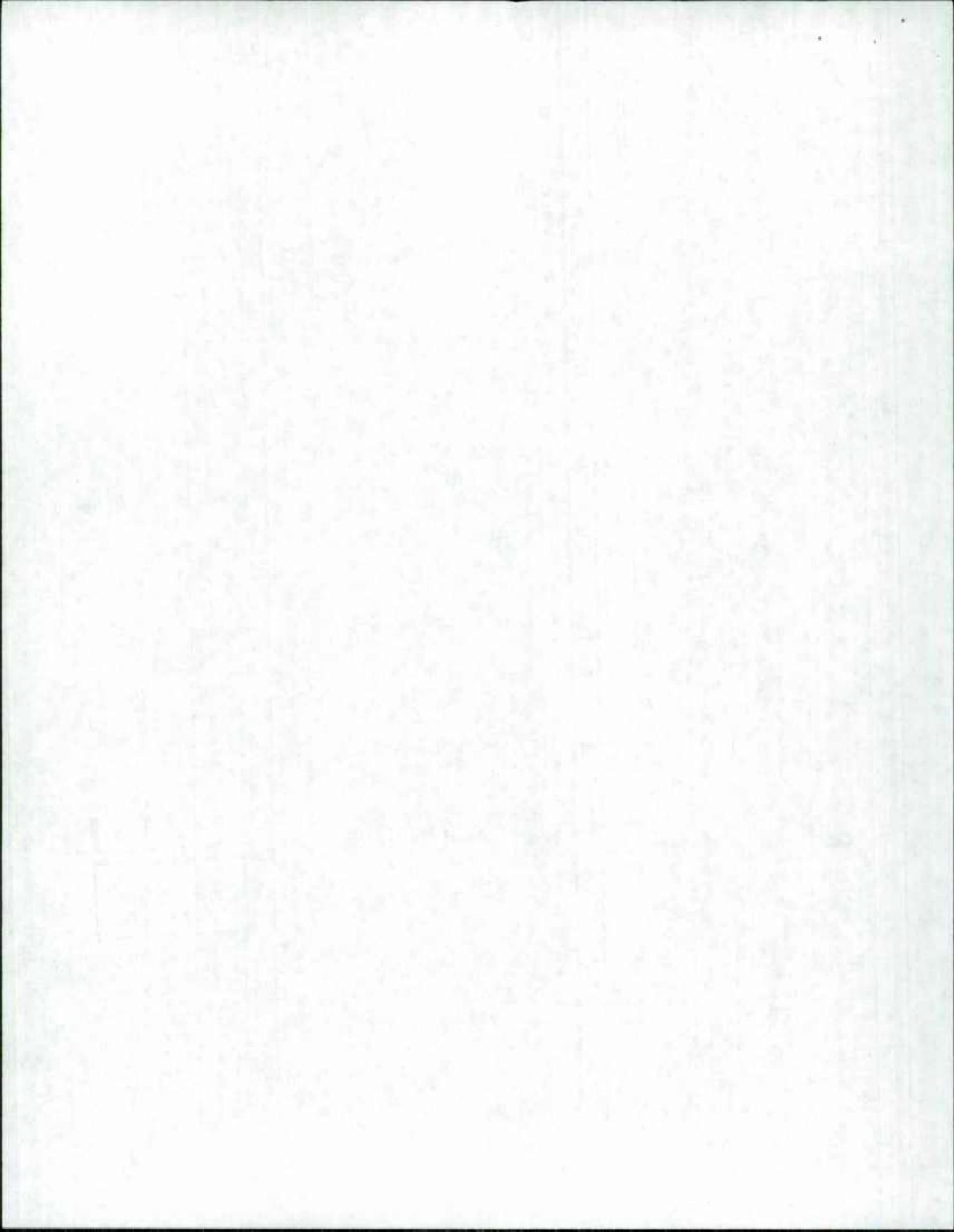
DATE HEARD: FEBRUARY 21, 2008

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

PLANNER: **LORI RHODES**



DATE FILED: FEBRUARY 29, 2008



PLEADINGS

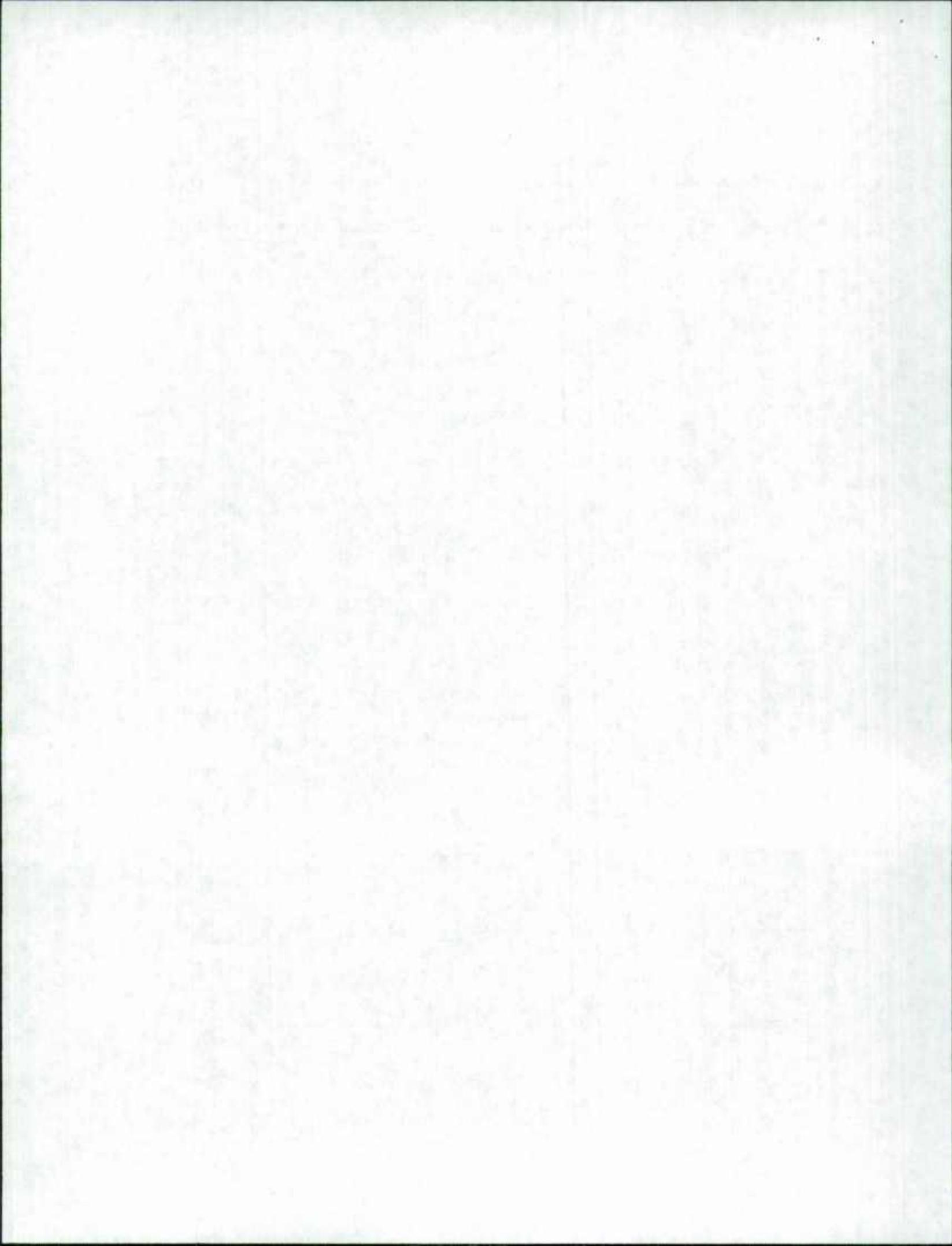
Stuart and Daryl Williams, the applicants, seek a variance (2007-0434-V) to allow dwelling additions with less setbacks than required and with disturbance to slopes of 15 percent or greater on property located along the southwest side of Maid Marion Hill, southeast of Sherwood Forest Road, Annapolis.

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. Stuart Williams 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 property with a street address of 658 Maid Marion Hill, in the Sherwood Forest subdivision, Annapolis. The property comprises 7,210 square feet and is zoned R2 residential with a Chesapeake Bay Critical Area designation as Limited Development Area (LDA). The request is to renovate and



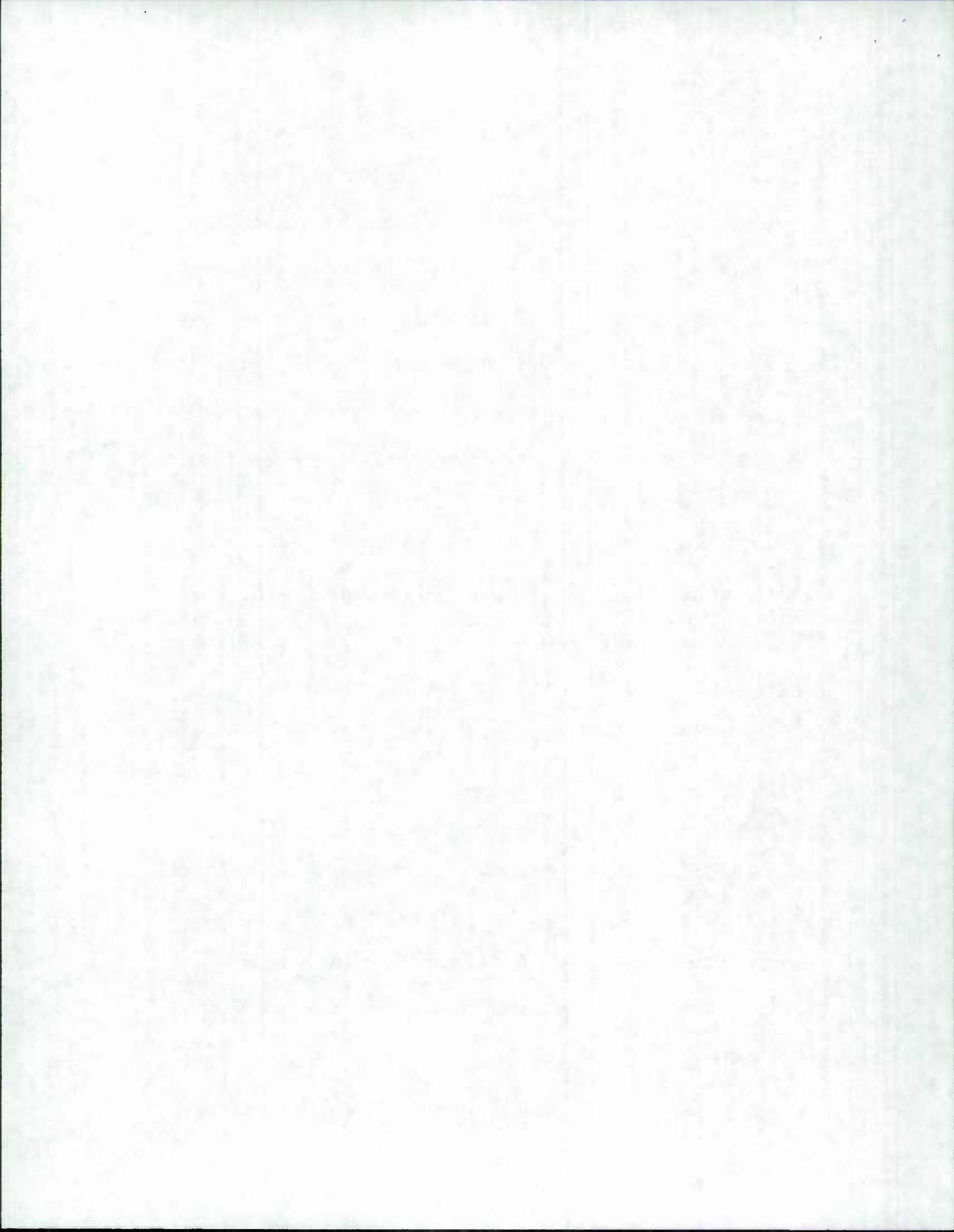
expand the dwelling.¹ The project disturbs steep slopes. The expansion areas are: (1) a south side addition (10 by 21 feet) 12 feet from the front lot line and eight feet from the corner side lot line²; and (2) a rear addition (11 by 30 feet).

Anne Arundel County Code, Article 17, Section 17-8-201 proscribes the disturbance of steep slopes in the LDA. Article 18, Section 18-4-601 requires principal structures in the R2 district to maintain 30 feet from the front lot line and 20 feet from the corner side lot line. Accordingly, the proposal requires a variance to disturb steep slopes and variances of 18 feet to the front setback and 12 feet to the corner side setback.

Lori Rhodes, a planner with the Office of Planning and Zoning, testified that the property is irregular in configuration, below the minimum area for the district and predominately (approximately 5,000 square feet) steep slopes. The project disturbs 4,376 square feet of slopes, with the permanent disturbance comprising 710 square feet. There is a net increase in impervious coverage, from 2,055 square feet to the allowance (2,303 square feet). The surrounding dwellings are comparatively modest in size. Many of the lots in Sherwood Forest have received Critical Area and zoning variances. The witness requested clarification concerning reforestation and afforestation. She summarized the agency comments. The County's Development Division did not oppose the application, subject to satisfying the 30 percent clearing restriction. The Chesapeake Bay

¹ The existing dwelling consists of two stories over a basement; there is no covered parking.

² The existing dwelling maintains 13 feet from the front lot line and 15 feet from the corner side lot line.

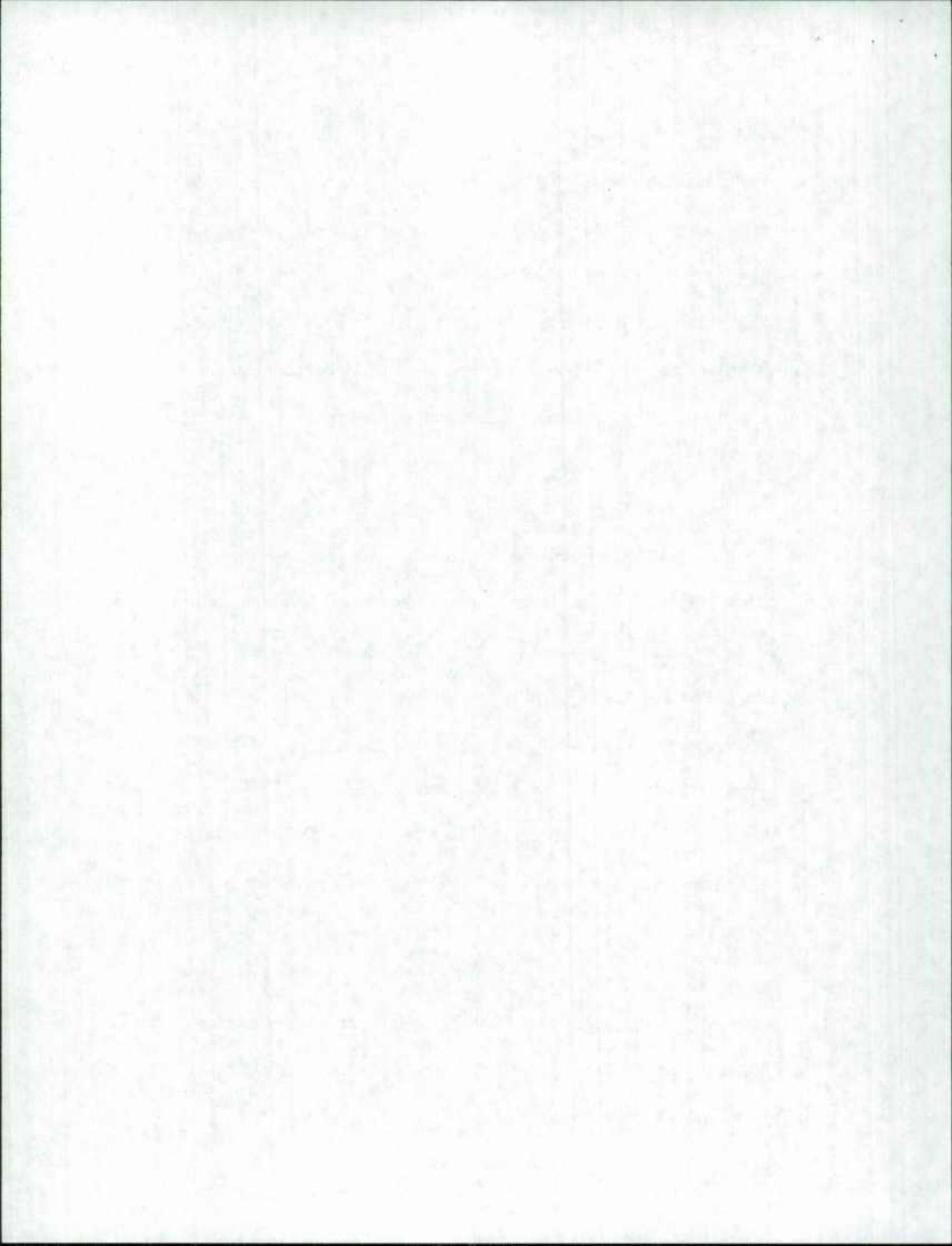


Critical Area Commission disputed that the relief has been minimized and requested clarification concerning the stormwater management and septic systems. By way of ultimate conclusion, Ms. Rhodes offered conditional support for a modified variance achieved by eliminating the south side addition.

Daryl Williams testified that she grew up in Sherwood Forest and her parents still reside there. The applicants seek to renovate her uncle's summer cottage as their year-round residence. The south side addition wraps the existing front porch and provides storage below. There is still no garage.

Michael Drum, the applicants' engineering consultant, testified that the project satisfies the clearing limitation with minimal disturbance of woodlands and no removal of specimen trees. The stormwater management device has been located to receive runoff from the roof leaders. The witness provided the following breakdown of the slope disturbances: replacement septic system, 860 square feet; removal of railroad ties, 980 square feet; stormwater management, 380 square feet; dwelling, 570 square feet; driveway, 140 square feet; and ancillary disturbances for access for construction around the dwelling, 1,446 square feet. He also supplied a series of the prior approvals by this office for slope and setback variances in Sherwood Forest. He opined that the variance standards are satisfied.

Bart Key, the general manager of the Sherwood Forest Club, testified that the proposal complies with the community covenants and has received the approval of the Board of Directors.

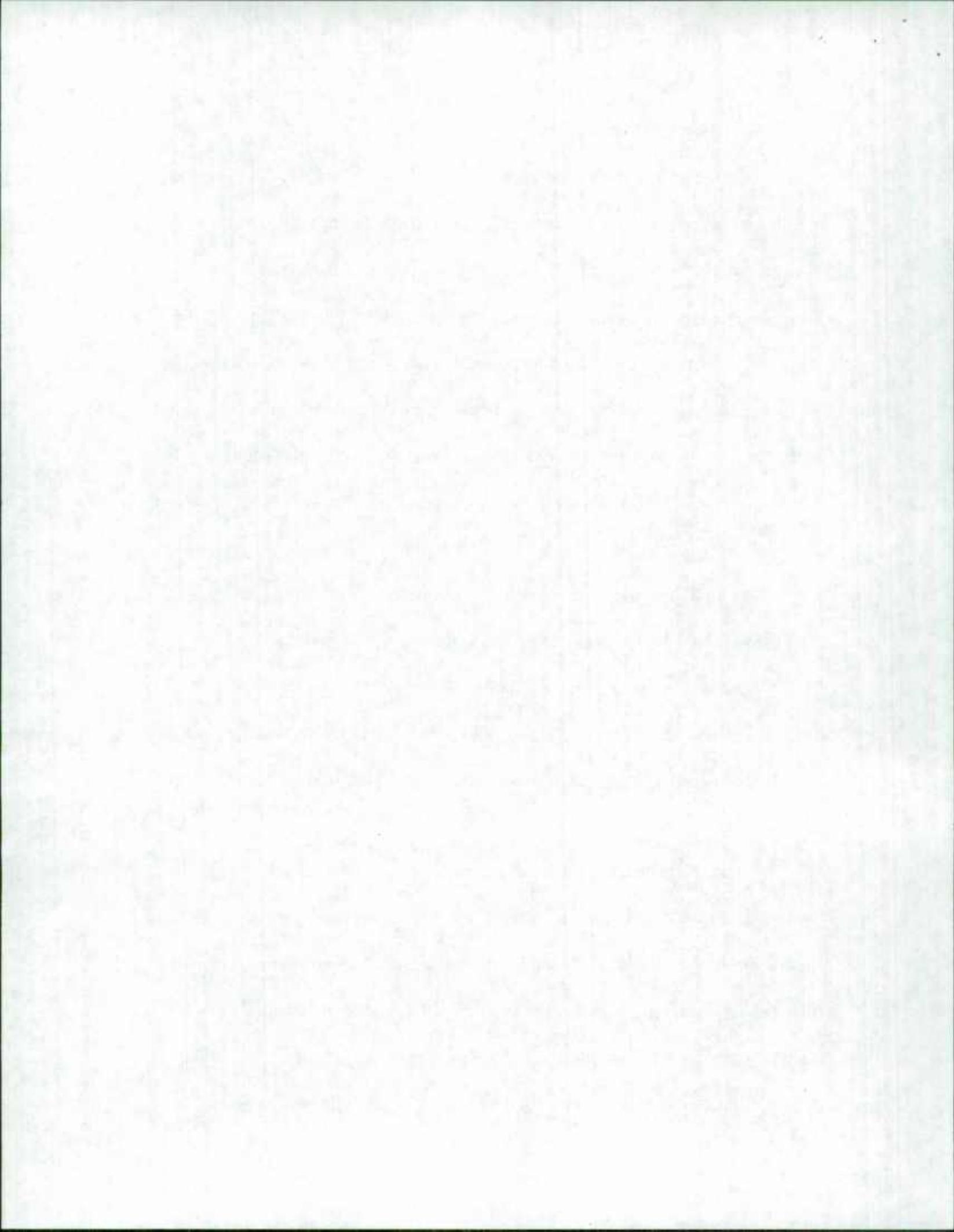


There was no other testimony in the matter.

Upon review of the facts and circumstances, I find and conclude that the applicants are entitled to conditional 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. Under a literal interpretation of the program, the applicants would be unable to renovate and expand the dwelling, a right commonly enjoyed elsewhere in 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 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.

With respect to the zoning variances, this property satisfies the test of unique physical conditions, consisting of its reduced area and the location of the older dwelling, 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. Even including the south side storage addition, this is a comparatively modest project. In this regard, Ms. Rhodes indicated that the footprint is comparable to or smaller than the surrounding homes; and, the majority of the slope disturbance is temporary in nature. I further find that the granting of the variances will not 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 Stuart and Daryl Williams, petitioning for a variance to allow dwelling additions with less setback than required and with disturbance to slopes of 15 percent or greater, and

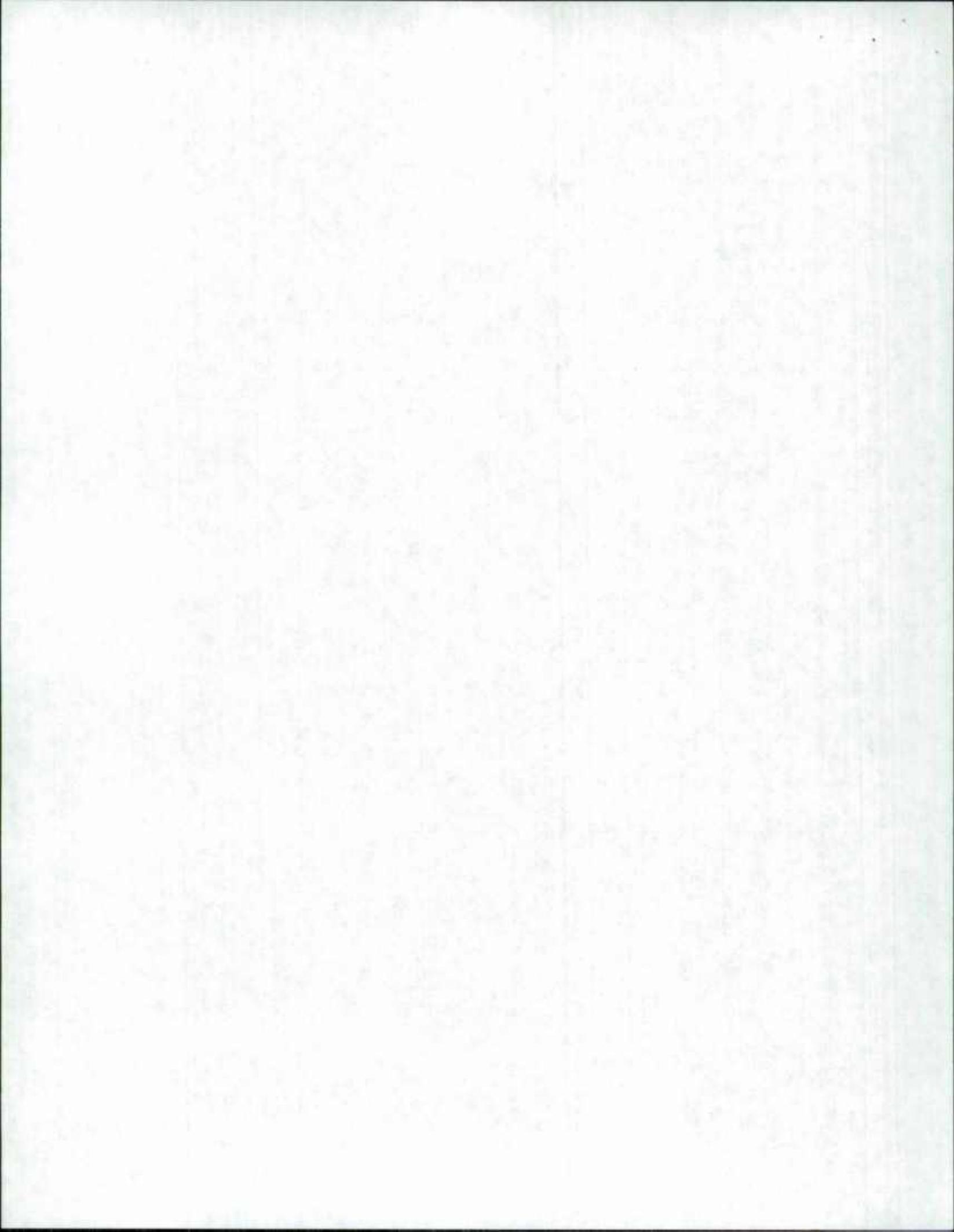
PURSUANT to the notice, posting of the property, and public hearing and in accordance with the provisions of law, it is this 29th day of February, 2008,

ORDERED, by the Administrative Hearing Officer of Anne Arundel County, that the applicants are **granted** a variance to disturb steep slopes and variances of 18 feet to the front setback and 12 feet to the corner side setback to permit dwelling additions in accordance with the site plan.

The foregoing variances are subject to the following conditions:

1. Clearing shall not exceed 30 % and removal of specimen trees is not allowed.
2. The applicants shall provide mitigation for disturbance as required by the Permit Application Center.
3. The applicants shall provide stormwater management as determined by the Permit Application Center.
4. The building permit is subject to the approval of the Department of Health.


Stephen M. LeGendre
Administrative Hearing Officer

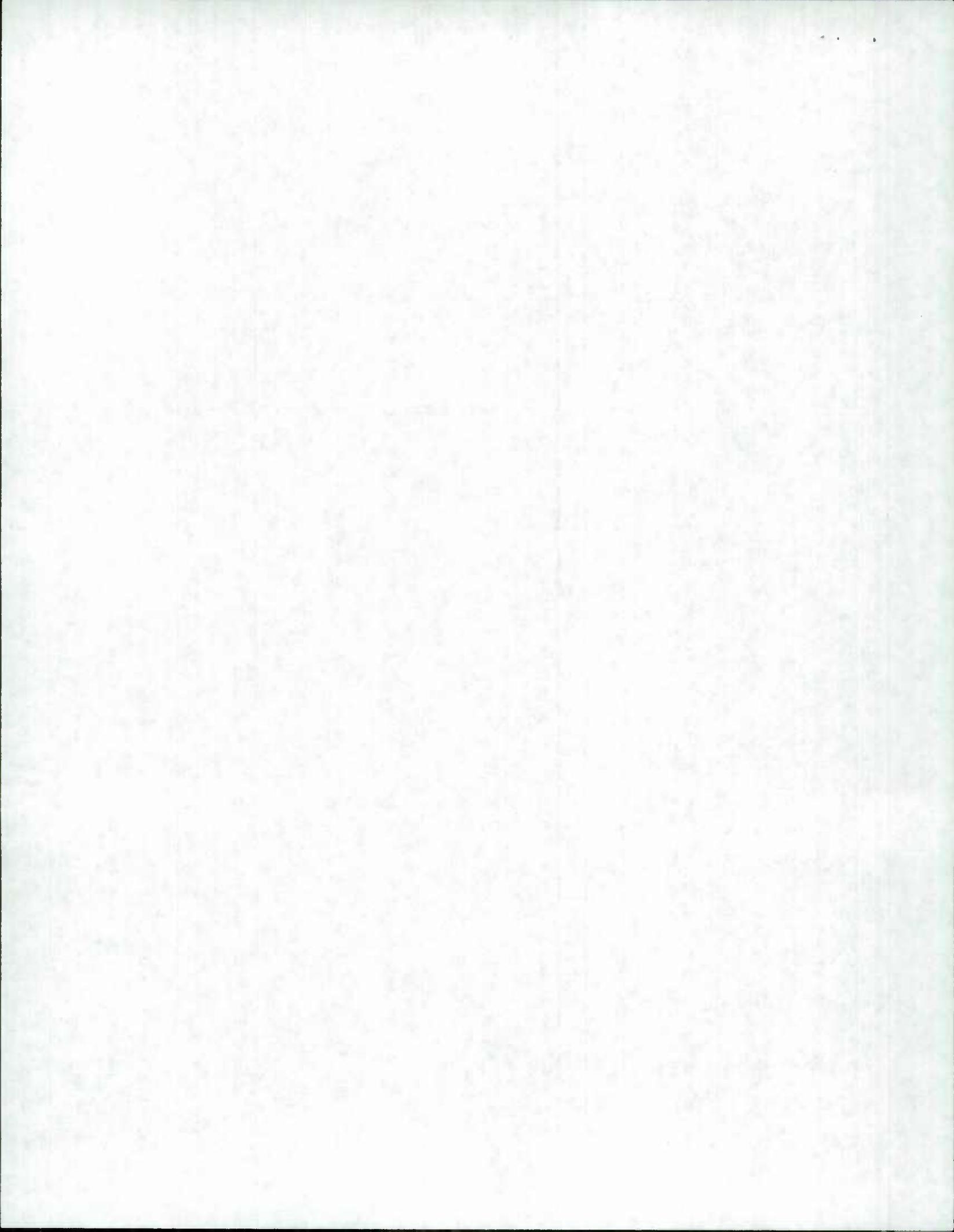


NOTICE TO APPLICANT

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 they will be discarded.





Drum, Loyka & Associates, LLC

Civil Engineers - Land Surveyors

December 20, 2007

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

RE: Sherwood Forest ~ Lot 658
658 Maid Marion Hill
Annapolis, Maryland 21405
Tax Map 39, Grid 19, Parcel 295
Tax Account # 02-720-04149808

Sir/Madam:

Enclosed please find a variance request package for the above referenced project. The subject property is located on Maid Marion Hill in the community of Sherwood Forest, and is comprised almost entirely of steep slopes. The property is an irregularly shaped building parcel consisting of approximately **0.17 acres** and is currently improved with an aged single-family dwelling. The existing dwelling is nonconforming to setbacks, and is served with a septic system. A new septic tank was installed in 2001 under T02027371. A new primary septic drywell with two replacement drywells are proposed within an easement on the Sherwood Forest golf course in accordance with current Anne Arundel County Department of Health regulations. The drywell locations and the easement have been approved under T02037800. The property is zoned R-2 and has a Chesapeake Bay Critical Area land use designation of LDA. The subject property is not waterfront.

The applicants are proposing to remodel the existing single-family dwelling and construct attached additions. The applicants would like to request the following variances in order to proceed with this project. The applicants request a variance **Article 17, Section 8-201** for development of slopes 15% or greater in the LDA, and a variance to **Article 18, Section 4-601** of 18 feet to the required 30 foot front yard setback and 12 feet to the required 20 foot corner side street setback.

The property is small and encumbered with steep slopes. The majority of the proposed additions have been located in roughly the same location as existing impervious areas; therefore, limiting the increase in the overall impervious area. The proposed dwelling will utilize an existing septic tank and a new off-site drywell. The new construction will also provide stormwater quality management and should improvement the environmental quality of the site.

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

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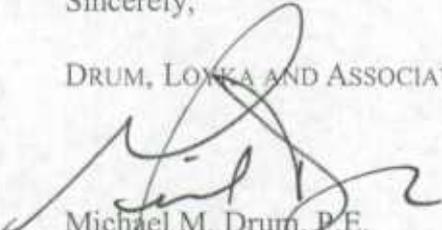
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CRITICAL AREA COMMISSION

Thank you for your attention to this matter. Please contact us at your earliest convenience if we can be of further assistance.

Sincerely,

DRUM, LONKA AND ASSOCIATES, LLC



Michael M. Drum, P.E.
Principal

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CRITICAL AREA COMMISSION

Chesapeake Bay Critical Area Report

Sherwood Forest ~ Lot 658

Tax Map 39, Grid 19, Parcel 295

Tax Account No. 02-720-04149808

Property Address: 658 Maid Marion Hill
Annapolis, Maryland 21403

Property Owner & Variance Applicant: Mr. & Mrs. Stuart Williams

Critical Area Designation: LDA **Zoning:** R-2 **Lot Area:** 0.17 Ac.

Site Description

The subject property is located on the southwest corner of Maid Marion Hill, in the community of Sherwood Forest. The property is an existing legal building lot with a property area of 7,210 s.f. (0.17 Ac.), and is currently improved with a single-family dwelling and other associated improvements common to residential lots in the community. The property is irregularly shaped, and is comprised almost entirely of steep slopes. A new septic tank was installed in 2001, and a new pump pit and drywell are proposed to provide sewage disposal in accordance with current Anne Arundel County Department of Health regulations. The property lies entirely within the Chesapeake Bay Critical Area with an LDA land use designation, but is not a waterfront lot.

Description and Purpose of Variance Request

The applicant is proposing to remodel the existing dwelling and construct new attached additions and associated improvements. The proposed additions are in approximately the same location as existing impervious surfaces. The variance request arises from the proposed construction encroaching on steep slopes and zoning setbacks. A variance to **Article 17, Section 8-201** for development on slopes of 15% or greater, and variances to **Article 18, Section 4-601** of 18' to the required 30' front yard setback and 12' to the required 20' corner side yard setback are therefore requested.

Vegetative Coverage and Clearing

This property is forested with hardwood trees. The existing wooded area totals roughly 3,130 s.f. (0.07 Ac.) Woodland clearing shall be minimized to the maximum extent practicable. The overall property disturbance will be approximately 6,750 s.f. (0.15 Ac.) Reforestation and afforestation requirements for this property will be addressed during the permit phase of this project.

Impervious Coverage

The site currently has 2,055 s.f. (0.05 Ac.) of impervious coverage. The proposed impervious area for this property is 2,302 s.f. (0.05 Ac.) and will not exceed the allowable impervious coverage of 2,303 s.f. (0.05 Ac.)

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Steep Slopes (slopes > 15%)

The subject property contains approximately 5,000 s.f. (0.16 Ac.) of steep slopes. Approximately 4,376 s.f. (0.10 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 drains directly a drainage ravine owned and maintained by the Sherwood Forest Company and appears to be unmanaged. There are no apparent stormwater management practices being utilized at the time.

Stormwater management, sediment and erosion control, and reforestation criteria will be addressed during the permit phase of the project in order to meet Anne Arundel County design criteria.

Conclusions – Variance Standards

The applicant is proposing to remodel an existing single-family dwelling and construct new attached additions and various associated improvements. 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.

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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, 2007 Variance Plan

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

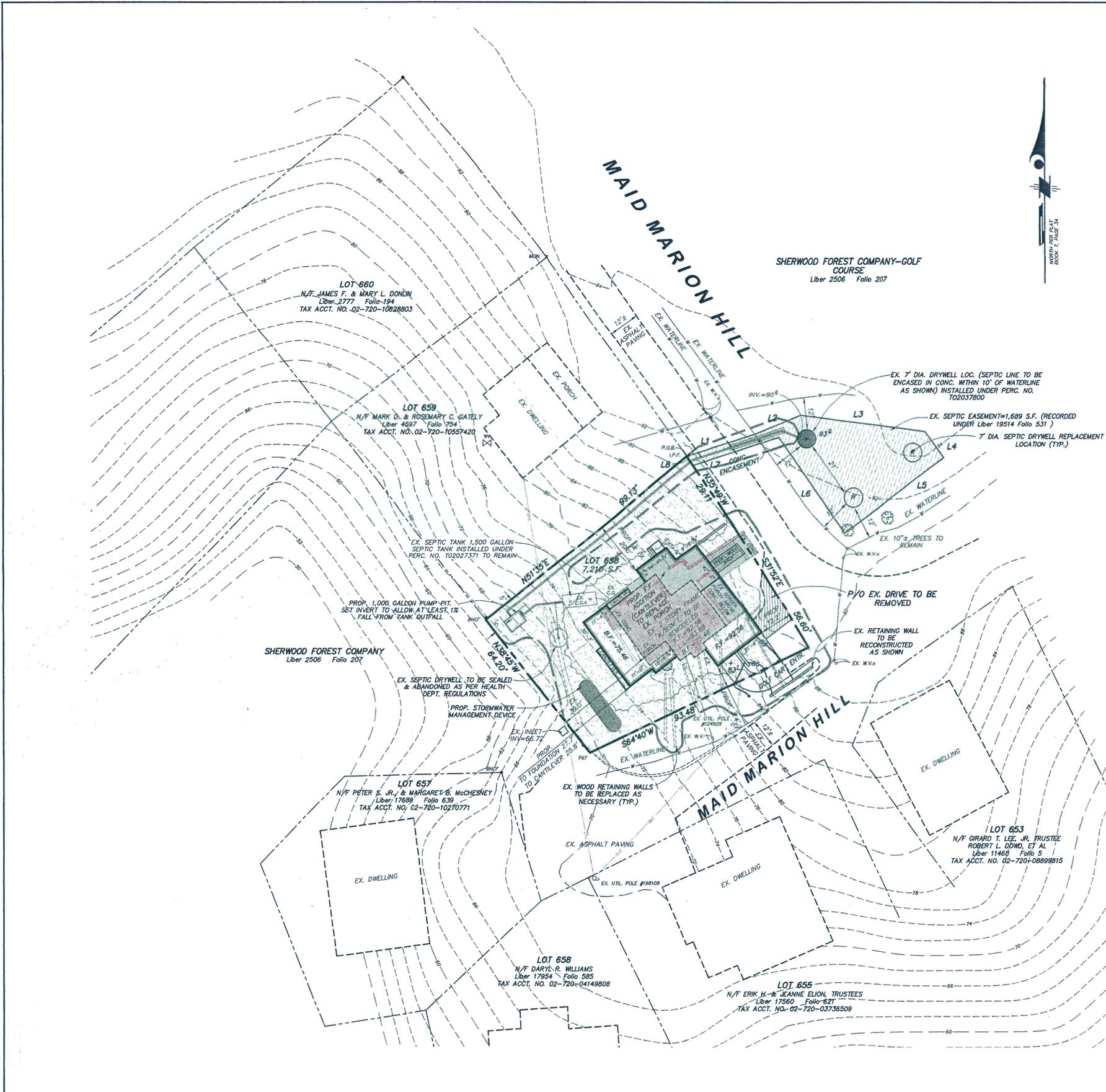
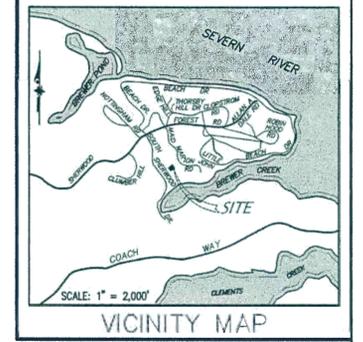
State Highway Administration of Maryland, 1989. Generalized Comprehensive Zoning Map: Third Assessment District

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CRITICAL AREA COMMISSION

SITE TABULATIONS	
SITE AREA	7,210 S.F. (0.17 Ac.)
EXISTING IMPERVIOUS SITE COVERAGE	2,055 S.F. (0.05 Ac.)
PROPOSED IMPERVIOUS SITE COVERAGE	2,302 S.F. (0.05 Ac.)
ALLOWABLE IMPERVIOUS SITE COVERAGE	2,303 S.F. (0.05 Ac.)
ZONING R-2	



LINE TABLE		
LINE	BEARING	LENGTH
L1	N72°03'52"E	27.28'
L2	N68°18'12"E	19.40'
L3	S82°35'22"E	47.90'
L4	S35°51'17"E	12.17'
L5	S54°08'43"W	46.75'
L6	N35°51'17"W	43.30'
L7	S72°03'52"W	34.58'
L8	N35°49'00"W	4.20'

PERC. NO. T02037800

DESIGNED: MMD DRAWN: SW
 ORIG. DATE: APRIL 30, 2007
 MODIFIED BY/DATE:
 CADD DWG #: SW01806V
 DSA PROJECT #: SW01806

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

CLIENT:
MR. & MRS. STUART WILLIAMS
 300 GLYNDON MEWS
 GLYNDON, MARYLAND 21071

VARIANCE PLAN
SHERWOOD FOREST ~ LOT 658
 658 MAID MARION HILL
 TAX ACCT. NO. 02-720-04149808
 TAX MAP 39 GRID 19 PARCEL 295 2ND DISTRICT
 ANNE ARUNDEL COUNTY, MARYLAND

SCALE: 1" = 20' DATE: DEC. 20, 2007 PROJ. NO: SW01806V SHEET 1 OF 1

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