

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/

December 27, 2007

Mr. John Fury
Anne Arundel County
Office of Planning and Zoning
2664 Riva Road, MS 6301
Annapolis, MD 21401

Re: 2007-0406-V – Dhanda, Anand & Urmil

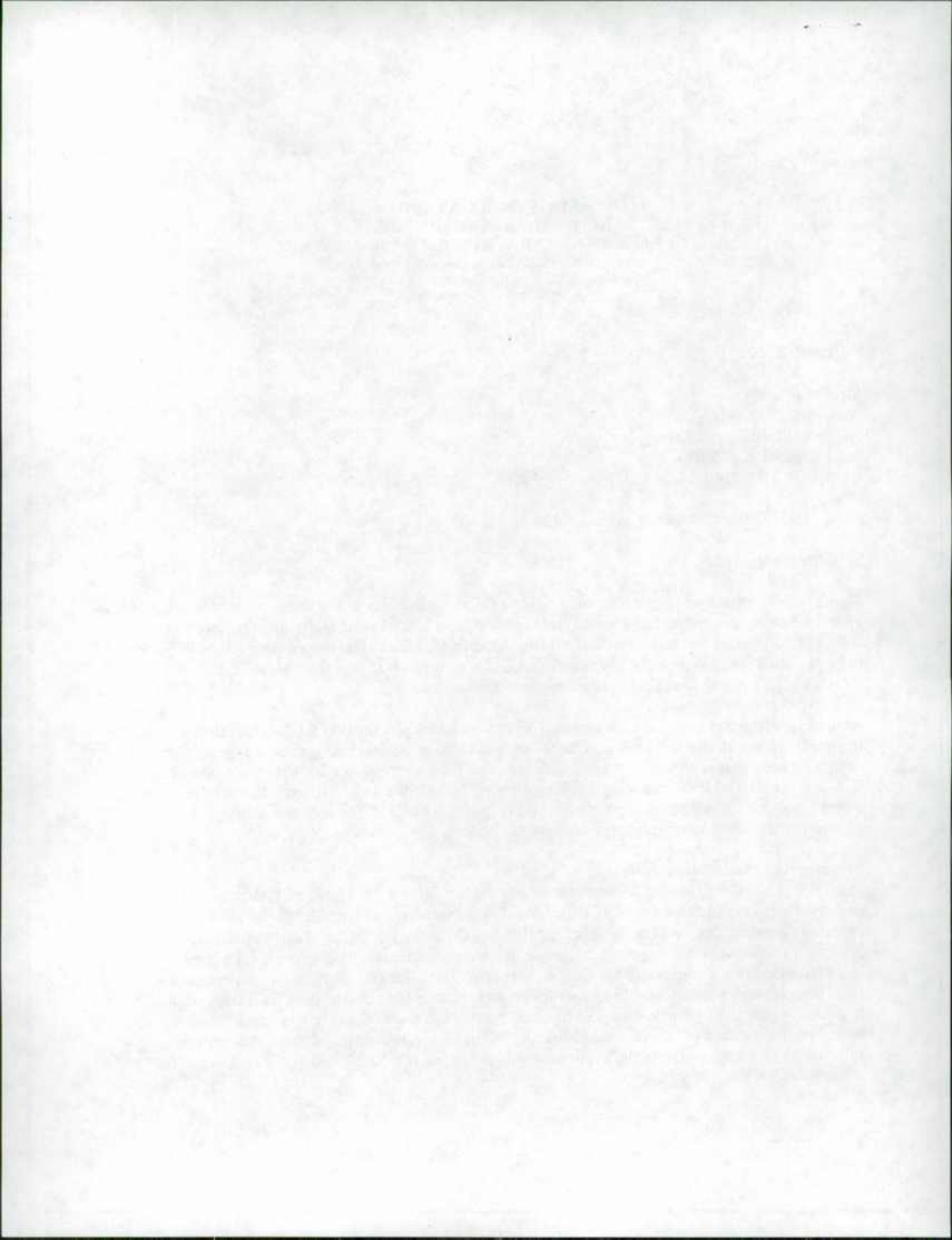
Dear Mr. Fury:

Thank you for providing information on the above referenced variance. The applicant is requesting an after the fact variance to perfect a waterfront deck with less setbacks and Buffer than required. This lot is 7,500 square feet and located in a Buffer-Modified Intensely Developed Area (IDA). The deck to be perfected is approximately 966 square feet and is located 31-35 feet from Mean High Water (MHW). The Critical Area Commission opposes this variance request.

Additionally, there is a nonconforming structure (a wood deck platform) in the 100-foot Buffer. It is unclear when this deck platform was constructed, but based on aerial photographs, it appears that it has been built sometime in the last 3-4 years. We note that the Commission's 2001 review of the site plan and variance request for the existing dwelling does not include the deck/platform. In considering the current variance request, the County should clarify the legal status of the deck platform and take appropriate measures to remedy any additional violations.

Structures in the 100-foot 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, especially emphasizing the importance of the 100-foot Critical Area Buffer. In particular, the General Assembly reaffirmed the stringent standards, which an applicant must meet 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 zoning board finds that an applicant has satisfied its burden to prove that the applicant meets each one 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."



In addition, the State law establishes 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. The State law, including the presumption of non-conformance, applies to all variance decisions in the Critical Area. [2007 Laws of Maryland, Chapter 221(2)].

The Critical Area Law and Criteria are intended to assure that the integrity of the Buffer is not compromised by the individual and cumulative impacts of development. This variance would be in direct contrast to the goals of the General Assembly and the goals for the Buffer, particularly as the applicant has not demonstrated minimization in the construction of this deck. This lot is already subject to reasonable residential use. Accordingly, we do not believe that the applicant can meet the standard of unwarranted hardship, and we oppose this variance request. I have addressed each of the standards as it pertains to this case:

Relevant Variance Standards

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.*

As stated above, the General Assembly defined "unwarranted hardship" to mean that without the requested variance, the applicant would be denied reasonable and significant use of **the entire parcel or lot**. The applicant already enjoys reasonable and significant use of the property by virtue of the large house, driveway, and pier. Based on this information, we do not believe that the County has evidence on which to base a favorable finding of this factor.

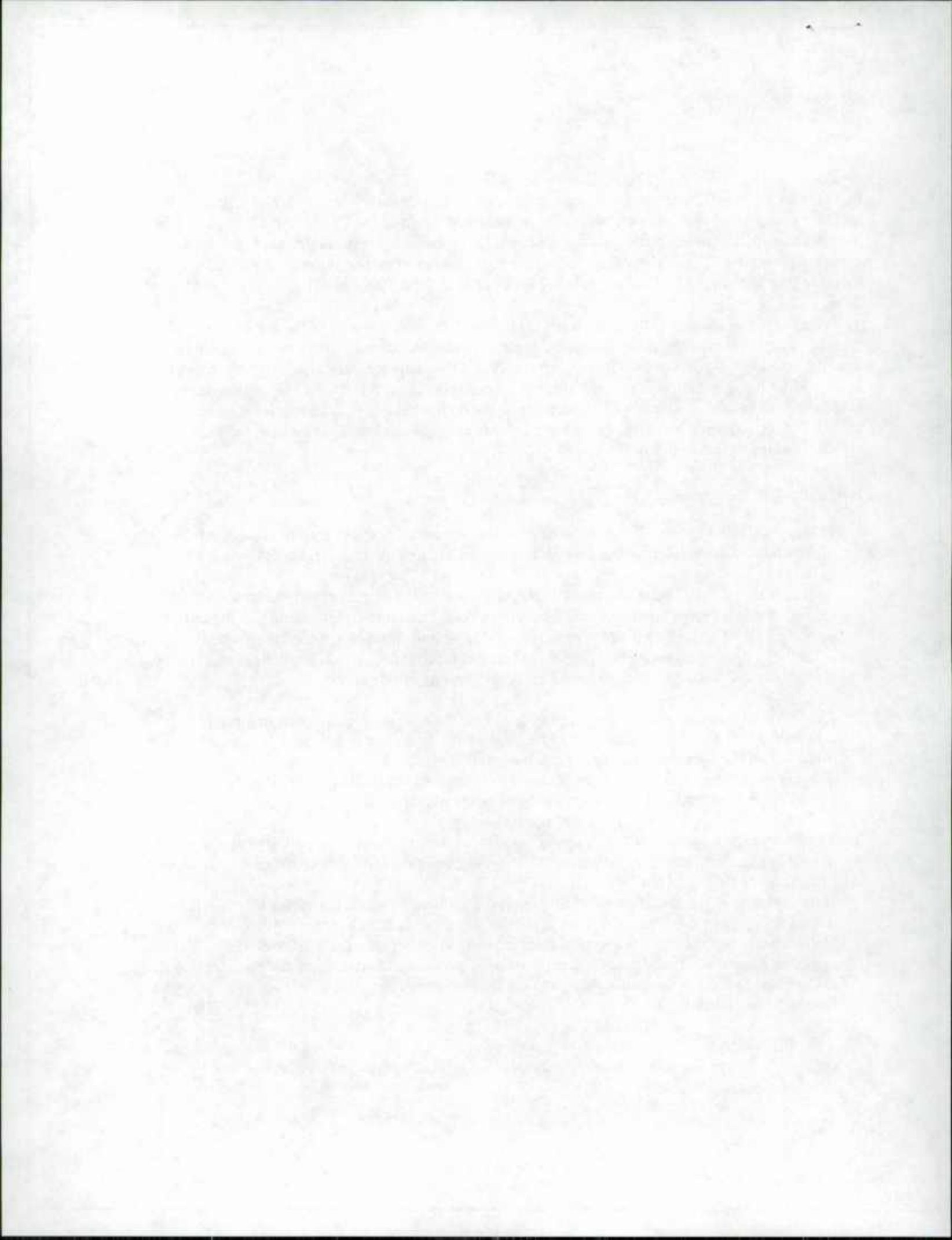
2. *That a literal interpretation of this subtitle or the local Critical Area Program and related ordinances will deprive the applicant of rights commonly enjoyed by other properties in similar areas within the Critical Area of the local jurisdiction.*

There is no inherent right to build an accessory structure in the Buffer. Therefore, denial of this variance would not deny the applicants a right commonly enjoyed.

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.*

If the variance is granted, it would confer upon the applicant a special privilege that would be denied to others in this area, as well as in similar situations in the County's Critical Area. Commission staff would not support similar requests to construct a deck in the Buffer. The applicant has the burden of proof and the burden of persuasion to overcome the presumption that his proposed variance does not conform to the Critical Area Law. We do not believe the applicant has overcome this burden.

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.*



Mr. John Fury
12/27/2007
Page 3 of 3

This variance request appears to be based on conditions and circumstances which are the direct result of the actions of the applicant, as the deck for which the variance is requested has already been built. Therefore, the applicant has not met this standard.

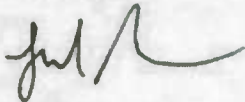
5. *The granting of a variance will not adversely affect water quality or adversely impact fish, wildlife, or plant habitat within the jurisdiction's Critical Area, and that the granting of the variance will be in harmony with the general spirit and intent of the Critical Area law and the regulations.*

In contrast, the granting of this variance is not in harmony with the general spirit and intent of the Critical Area law and regulations. This proposal not only further reduces the functions of the Buffer on this site, but would contribute to the individual and cumulative impacts of development on the Bay. The County law recognizes that a naturally vegetated fully functioning 100-foot Buffer is vital to the water quality of the Chesapeake Bay and its Criteria are intended to assure that the integrity of the Buffer is not compromised by the individual and cumulative impacts of development within the County.

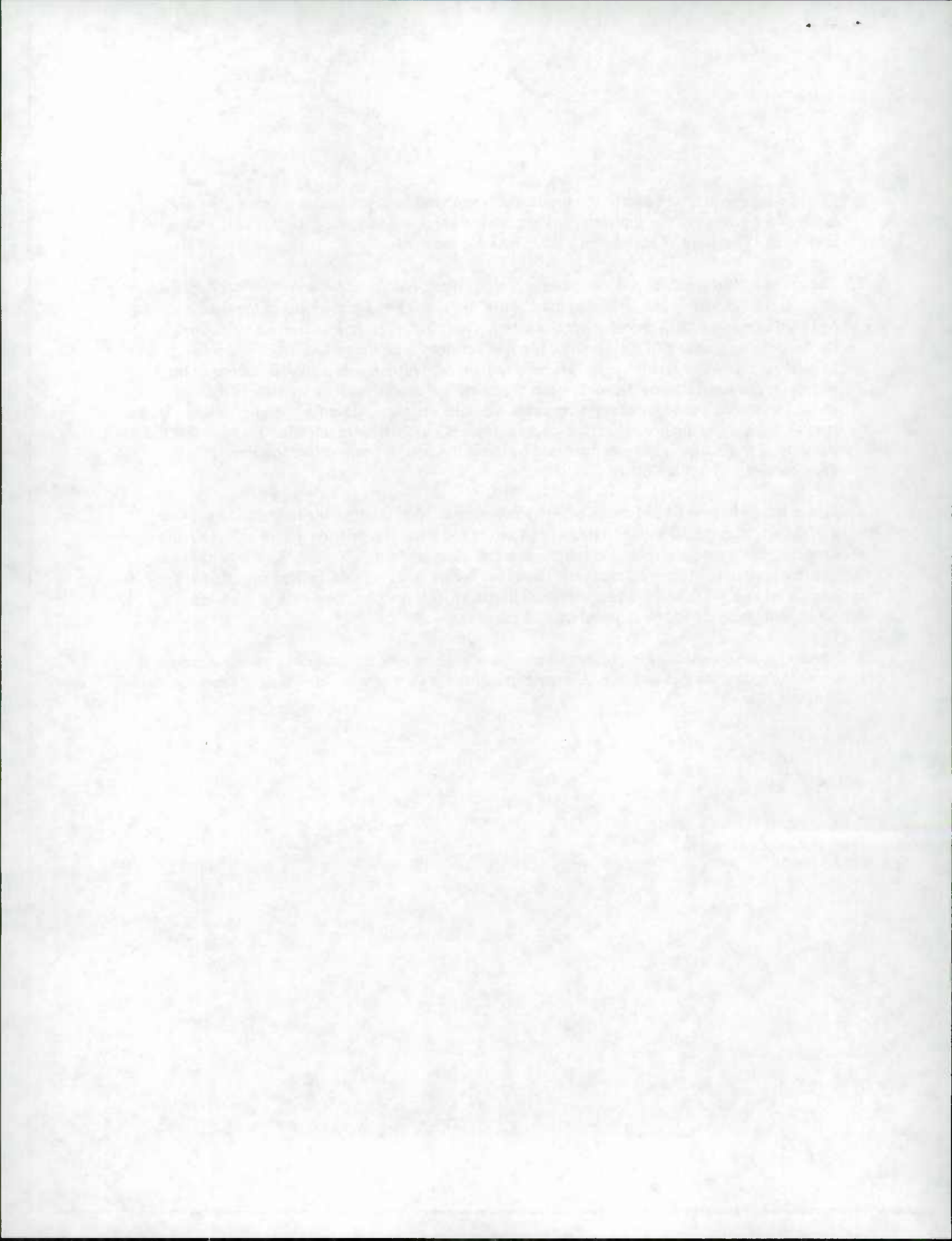
This letter has addressed five of the relevant variance standards. Based on the information provided, none of the five standards have been met. The County and State law provide that in order to grant a variance, the applicant must meet and satisfy each and every variance standard. This applicant has failed to meet all of the County standards. Therefore, we recommend that the Hearing Officer deny the applicant's request for this variance and require that the illegal deck be removed and the Buffer restored. Mitigation should be required at a 3:1 ratio.

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,



Julie Roberts
Natural Resource Planner
cc: AA 446-01



Judge John C. North, II
Chairman



Ren Serey
Executive Director

STATE OF MARYLAND
CHESAPEAKE BAY CRITICAL AREA COMMISSION

1804 West Street, Suite 100, Annapolis, Maryland 21401
(410) 260-3460 Fax: (410) 974-5338

August 20, 2001

Ms. Ramona Plociennick
Anne Arundel Office of Planning & Zoning
3664 Riva Road, MS 6301
Annapolis, Maryland 21401

RE: Variance Case Nos. 2001-0279-V and 2001-0280-V, John Fedas

Dear Ms. Plociennick:

Thank you for providing information on the above referenced variance requests. The applicant is requesting variances to permit dwellings in the Buffer on two adjacent lots. The lots are designated IDA, are Buffer Exempt and are currently developed with one single family dwelling.

Additional information is necessary for this office to provide comments on these variance requests. Information pertaining to the location of the existing dwelling and other improvements is necessary in order to determine if these lots are legally merged. (Tax records show that one house exists on both lots.) Also, the location of the existing house may dictate how close to the water a new house may be permitted. Please provide a site plan showing the existing location of improvements, site topography, and building setbacks.

Thank you for the opportunity to review these requests. Please forward the additional information when it is available. If you have any questions regarding our informational needs, please feel free to contact me at (410) 260-3477.

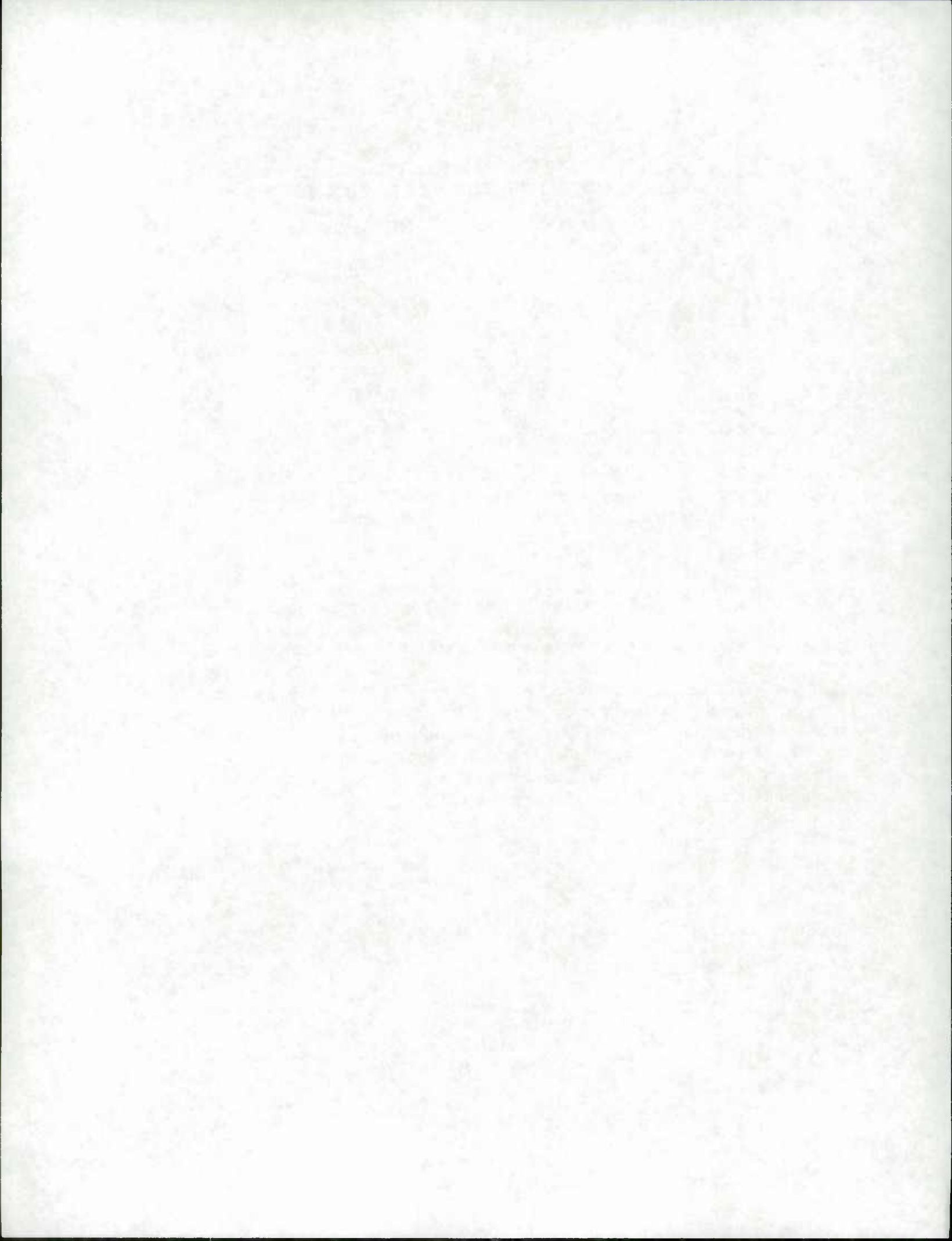
Sincerely,

A handwritten signature in cursive script that reads "LeeAnne Chandler".

LeeAnne Chandler
Natural Resources Planner

cc: AA446-01
AA447-01

Branch Office: 31 Creamery Lane, Easton, MD 21601
(410) 822-9047 Fax: (410) 820-5093



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IN THE OFFICE OF ADMINISTRATIVE HEARINGS

CASE NUMBER 2007-0406-V

ANAND AND URMIL DHANDA

SECOND ASSESSMENT DISTRICT

DATE HEARD: JANUARY 17, 2008
LAST EVIDENCE: FEBRUARY 8, 2008

ORDERED BY: STEPHEN M. LeGENDRE, ADMINISTRATIVE HEARING OFFICER

PLANNER: JOHN FURY



DATE FILED: FEBRUARY 29, 2008

100

PLEADINGS

Anand and Urmil Dhanda, the applicants, seek a variance (2007-0406-V) to perfect a deck addition with less setbacks and buffer than required on property located along the west side of Friends Road, south of Cape St. John Road, Annapolis.¹

PUBLIC NOTIFICATION²

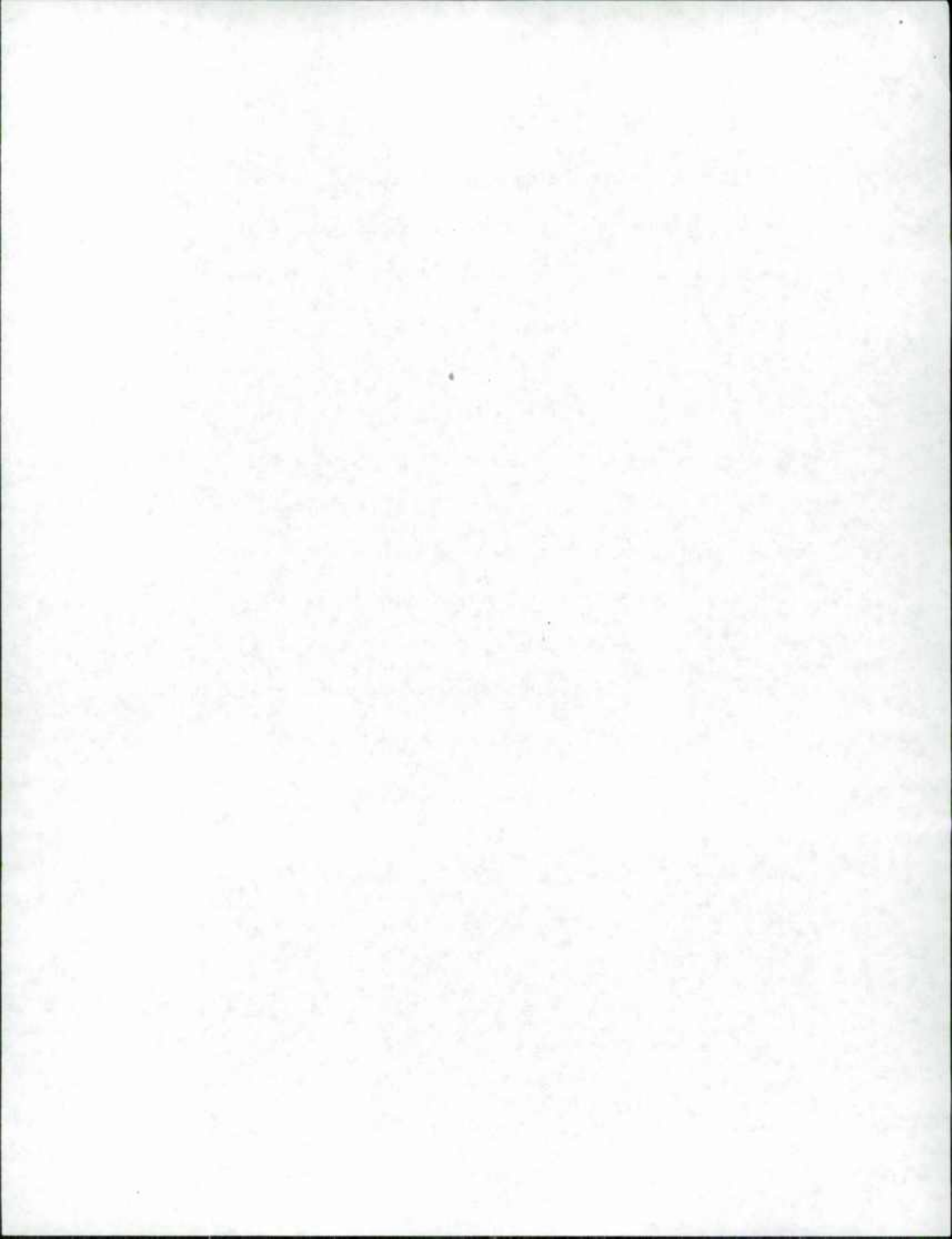
The hearing notice was posted on the County's web site in accordance with the County Code. The file contains the certification of mailing to community associations and interested persons. Each person designated in the application as owning land that is located within 175 feet of the property was notified by mail, sent to the address furnished with the application. Dr. Anand Dhanda 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 3002 Friends Road, also known as Lot 12 in the Cape St. John subdivision, Annapolis.³

¹ The property is also improved with a wood deck platform between the deck addition and the South River. The wood deck platform is not part of the application. This office expresses no opinion on the status of the construction of the wood deck platform.

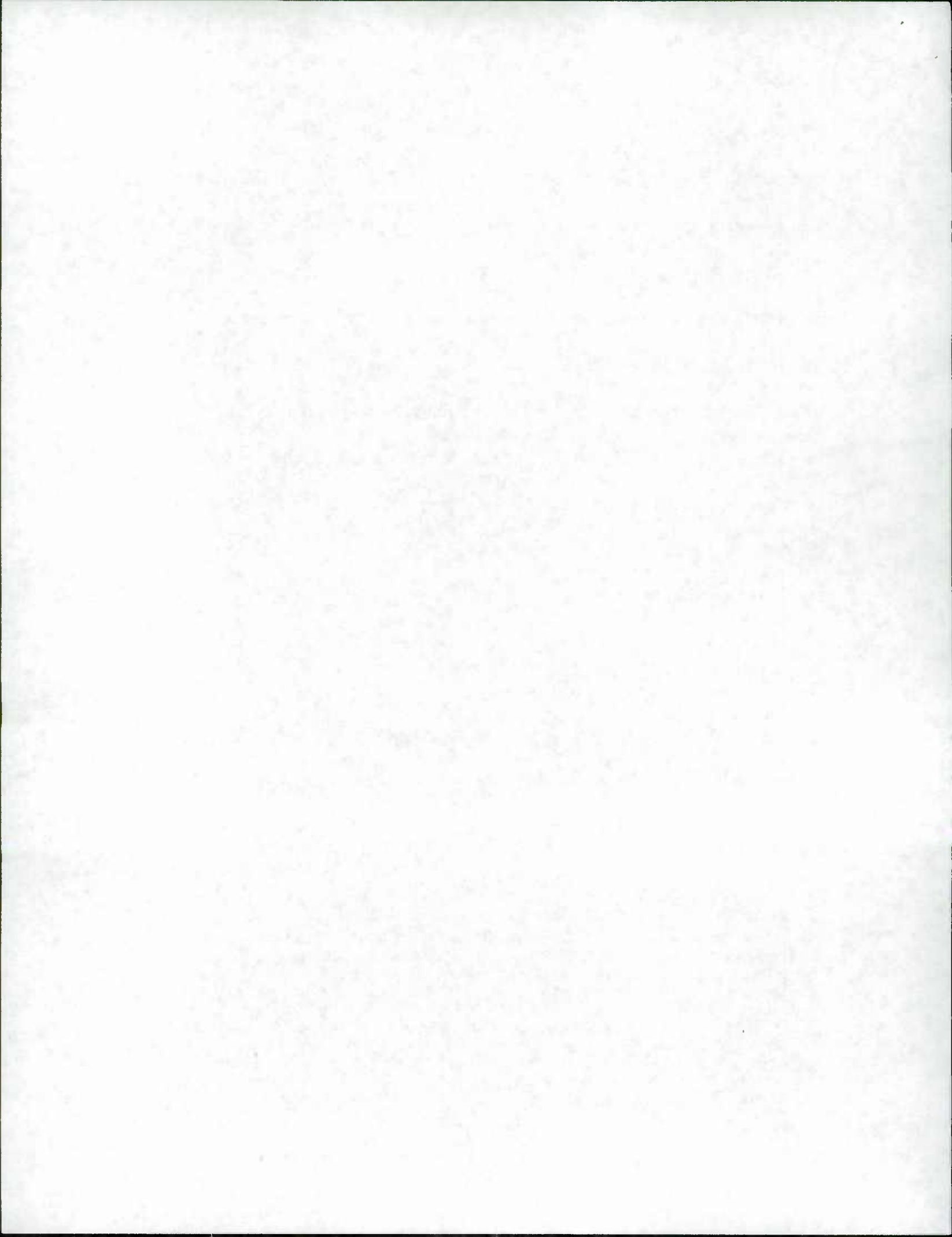
² This case was originally scheduled for hearing on January 17, 2008 but was postponed at the applicants' request in order to give them the opportunity to obtain counsel.



The property comprises 7,590 square feet and is zoned R2 residential with a Chesapeake Bay Critical Area designation as Intensely Developed Area (IDA). This waterfront lot on the South River is mapped as a buffer modification area. The dwelling is located 52 feet from mean high water. The request is to perfect a waterside deck addition. The applicants originally sought to retain a deck measuring 46 by 20 feet with the leading edge of the deck 31 feet from mean high water. However, their final witness (Shep Tullier, a land planning consultant) substituted a revised site plan. Although Mr. Tullier suggested that the irregularly configured deck addition on the revised site plan measures 38 by 12 feet, the projection from the dwelling is actually 15 feet.

Anne Arundel County Code, Article 18, Section 18-13-104(a) establishes a 100-foot buffer from tidal waters. Section 18-13-104(b) creates a buffer modification area on lots platted before December 1, 1985 on which the existing pattern of development prevents the buffer from performing its protective functions. Under Article 17, Section 17-8-301, the expansion of a principal structure in a buffer modification area shall be no closer to the shoreline.

³ Lot 12 and the adjacent Lot 13 (3000 Friends Road) were formerly improved with a dwelling built across the common lot line. The prior owner of the two lots (3000 Friends Road, LLC) requested Critical Area buffer and zoning variances in order to develop each lot with a new dwelling. This office conditionally approved a modified zoning variance for Lot 13 but denied zoning variances for Lot 12 and buffer variances for both lots. See, Case Nos. 2001-0279-V, 2001-0280-V, 2002-0280-V and 2002-0020-V (April 19, 2002). Following a Protestants' appeal to the County Board of Appeals, the petitioner conceded that Lot 12 could be developed without variances and Lot 13 could be developed without a buffer variance. The Board of Appeals affirmed. See, Case Nos. BA 59-02-V and BA 60-02-V (January 7, 2003). The decision by the Board of Appeals was affirmed by the Circuit Court for Anne Arundel County. See, Case No. C-2003-86845AA.



Accordingly, based on the revised site plan, the applicants request a buffer variance in the amount of 15 feet.^{4 5}

John R. Fury, a planner with the Office of Planning and Zoning, testified that the property is below the minimum area and width for the district. The witness questioned the hardship, which is considered self-created. Based on the original site plan, he also disputed that the variance represents the minimum relief. Similarly, the County's Development Division and the Chesapeake Bay Critical Area Commission opposed the application. By way of ultimate conclusion, Mr. Fury recommended that the variance should be denied. However, he offered no objection to stairs to grade from the dwelling.⁶

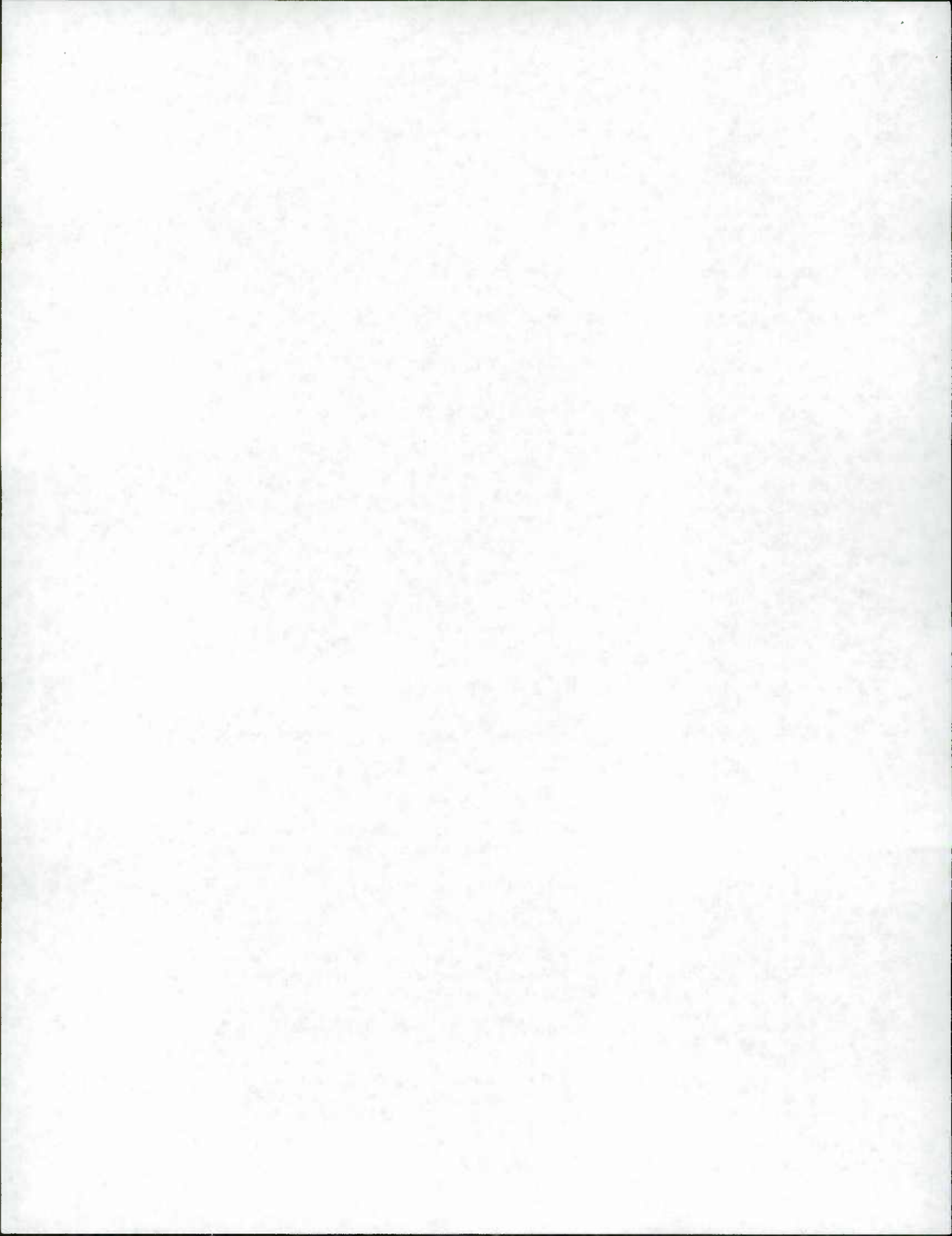
The Chesapeake Bay Critical Area Commission participated in the hearing. Julie Roberts, a natural resources planner for the Commission, submitted a series of site photographs and summarized a letter of opposition dated December 27, 2007.⁷ The witness also indicated that the deck addition - although pervious - is

⁴ At the hearing, counsel to the applicants asserted that the variance is not needed because the deck addition is pervious construction. However, prior to his representation of their interest, the Dhandas apparently consented to the filing of the variance application. The consistent short answer for this office is that any applicant who is refused a permit of right by the County must take a direct appeal of the refusal to the County Board of Appeals. But, in a case like this one, when the applicants continue to pursue the variance application, then any objection that it is not needed is waived.

⁵ Originally, the applicants also sought a variance of 1 foot to the minimum south side setback of 7 feet established by Article 18, Section 18-4-601. However, based on the revised site plan, the variance is not needed and is considered denied. See, Section 18-16-201 (e).

⁶ On questioning by counsel to the applicants, Mr. Fury conceded that the deck addition is pervious construction.

⁷ In view of the late revision of the site plan, the record was left open to give the Commission the opportunity for additional written comment. Ms. Roberts' letter dated February 8, 2008 is appended as Attachment A.

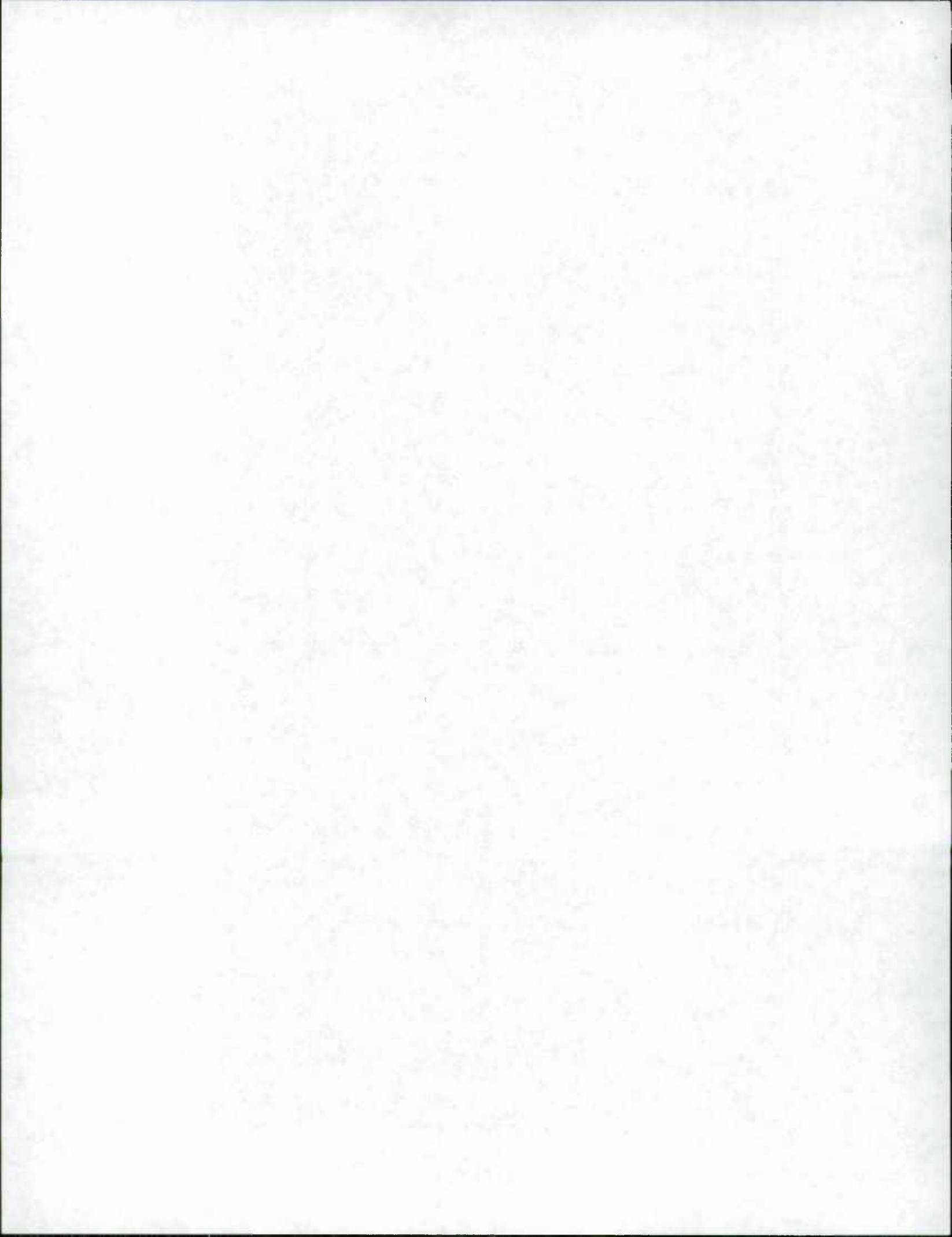


still a non-water dependent structure that is not allowed in the buffer. And, the alternative of stairs to grade would provide reasonable access.

On questioning by counsel to the applicants, Ms. Roberts conceded that aerial photography provided limited evidence of the plant and wildlife habitat that existed prior to construction of the deck addition. She did not make a specific inquiry into the adverse impacts of the deck addition on the critical area assets. In some cases, after-the-fact variances for smaller decks have been supported by the Commission, but the Commission's recommendations are based on the specific site plan. Finally, Ms. Roberts observed a small (200 to 300 square feet), at-grade deck addition on the waterside of the property to the north.

Nancy Matthews, an environmental consultant to the applicants, testified that the deck addition caused little adverse impact to the critical area assets; conversely, the removal of the deck addition and the planting of grasses would have little net benefit to the same assets. She supplied additional photographs of the property and the properties on both sides. Other than the larger size, the applicants' deck addition is similar to the improvements (decks, pavers and platforms) on the waterside of the adjacent properties. Ms. Matthews does not know when the improvements on the waterside of adjacent properties were built or whether they received variances.

Mr. Tullicr testified that the property is well below the minimum area and width for the district, steeply sloped to the front and rear and predominantly in the buffer. He opined that the variance standards are satisfied. In particular, the



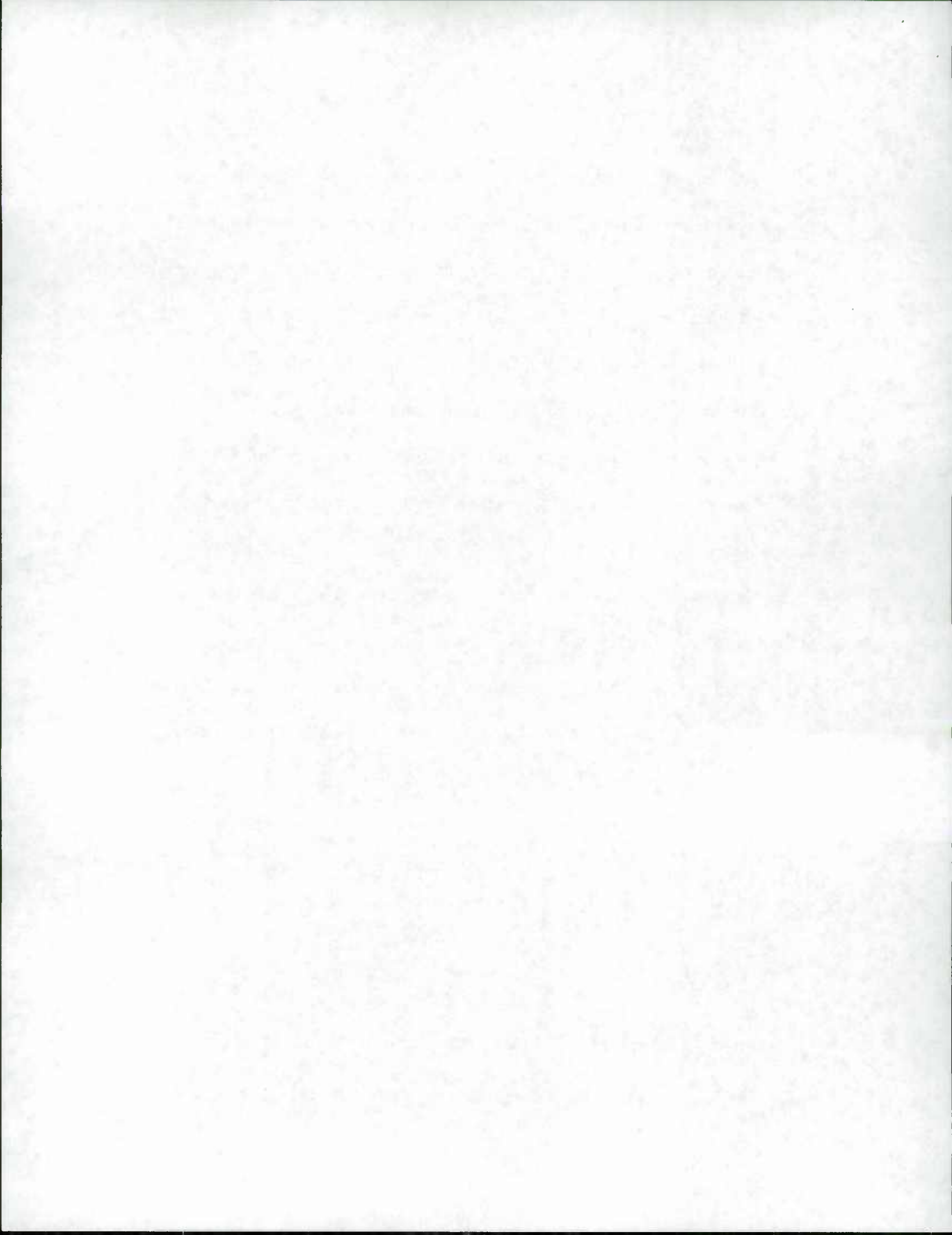
waterside of the dwelling represents the only useable yard area. In the absence of a deck addition, the applicants would be left with a very rough grade. Based on the revised site plan, the deck addition measures approximately 456 square feet⁸, which represents 8% of the yard area. In contrast, the Board of Appeals approved a deck addition representing 3.5% of the yard area in Case No. BA89-02, In Re: Michael Li and Ni Tang (January 7, 2003). And finally, the deck addition was constructed within the limits of disturbance for the dwelling.

On cross-examination by counsel to the Commission, Mr. Tullier insisted that the dwelling by itself does not represent reasonable use for purposes of the variance standards.

Dr. Dhanda testified that the applicants did not participate in the prior variance request for this property. He stated that the platform and stairs across the steep slope received permits. The deck addition was built by the same contractor who built the platform and stairs. The deck addition serves as a sitting area. Prior to the construction of the deck addition, the applicants accessed the dwelling via temporary stairs. They had difficulty crossing from the temporary stairs to the pier due to the irregular grade. The deck addition did not require the removal of trees or vegetation.⁹

⁸ The actual area is approximately 570 square feet.

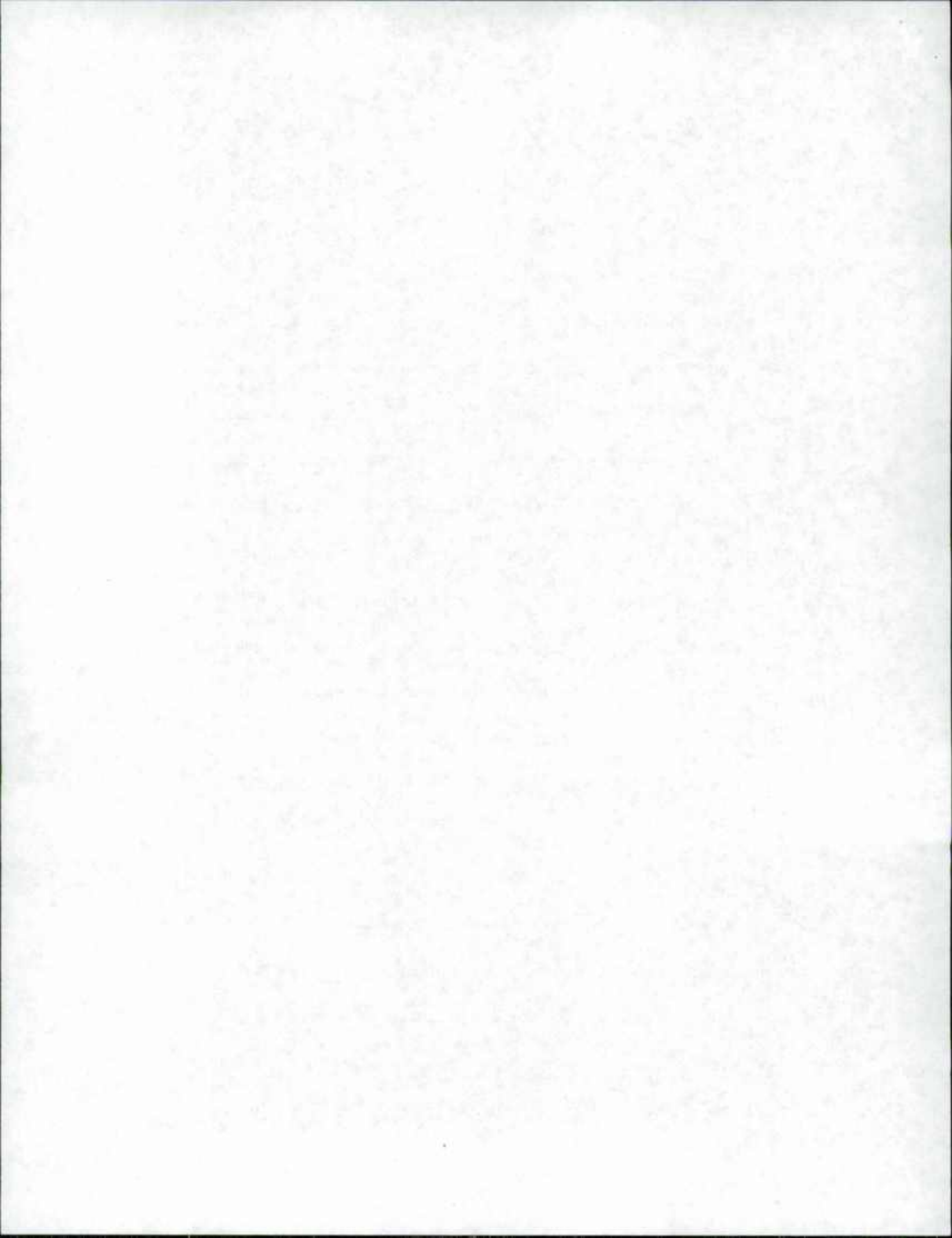
⁹ On cross-examination by the counsel to the Commission, Dr. Dhanda testified that the applicants occupied the dwelling prior to the construction of the stairs and the pier. The stairs and pier were permitted in 2004. The deck addition was built in 2005. The work was done by Wayne Smith.



Sharon Wallace, who resides on the adjacent property to the south, testified that the applicants' dwelling and the deck addition cover the roots of a large tree near the common lot line. The tree is thinning. The witness also indicated that there is a need for increased vegetation to control runoff.

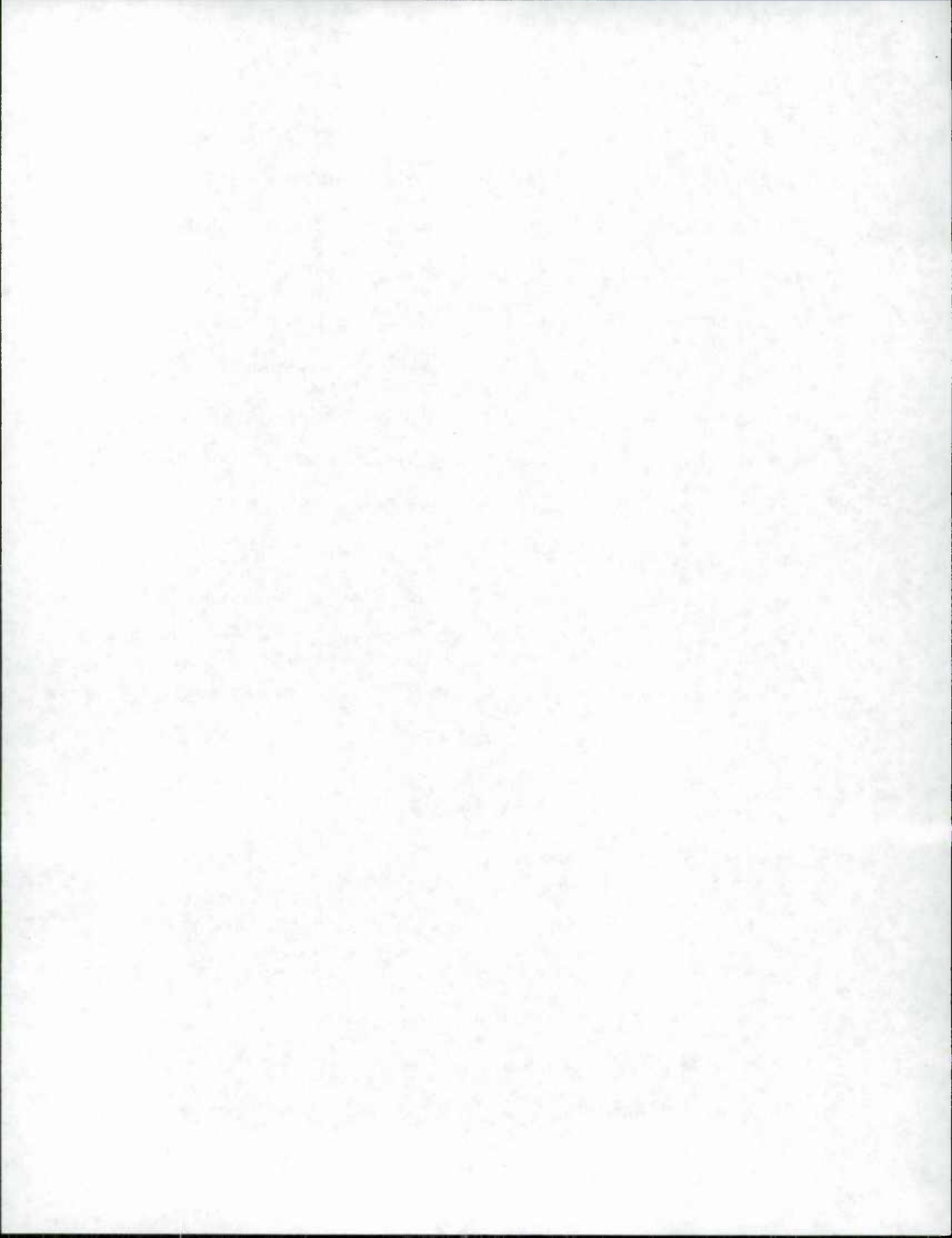
I visited the site and the neighborhood. The dwelling is accessed across a driveway cut between retaining walls. This is a large, three story home with a basement that includes a two-car, integral garage. The grade rises moderately from the road to the water side, then falls gradually to a vegetated bank and then steeply to the shore. Two sets of wide stairs step down from a pair of doors in the front façade of the dwelling to the deck addition, which occupies almost the entire front yard above the bank. The deck addition transitions to stairs and landings across the bank to a pier. The property to the north includes a stone patio and a comparatively small deck addition on the waterside. The property to the south includes a large waterside deck addition that incorporates a pool. The front yards of both properties include areas of level lawn above the continuation of the steep bank down to the water.

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



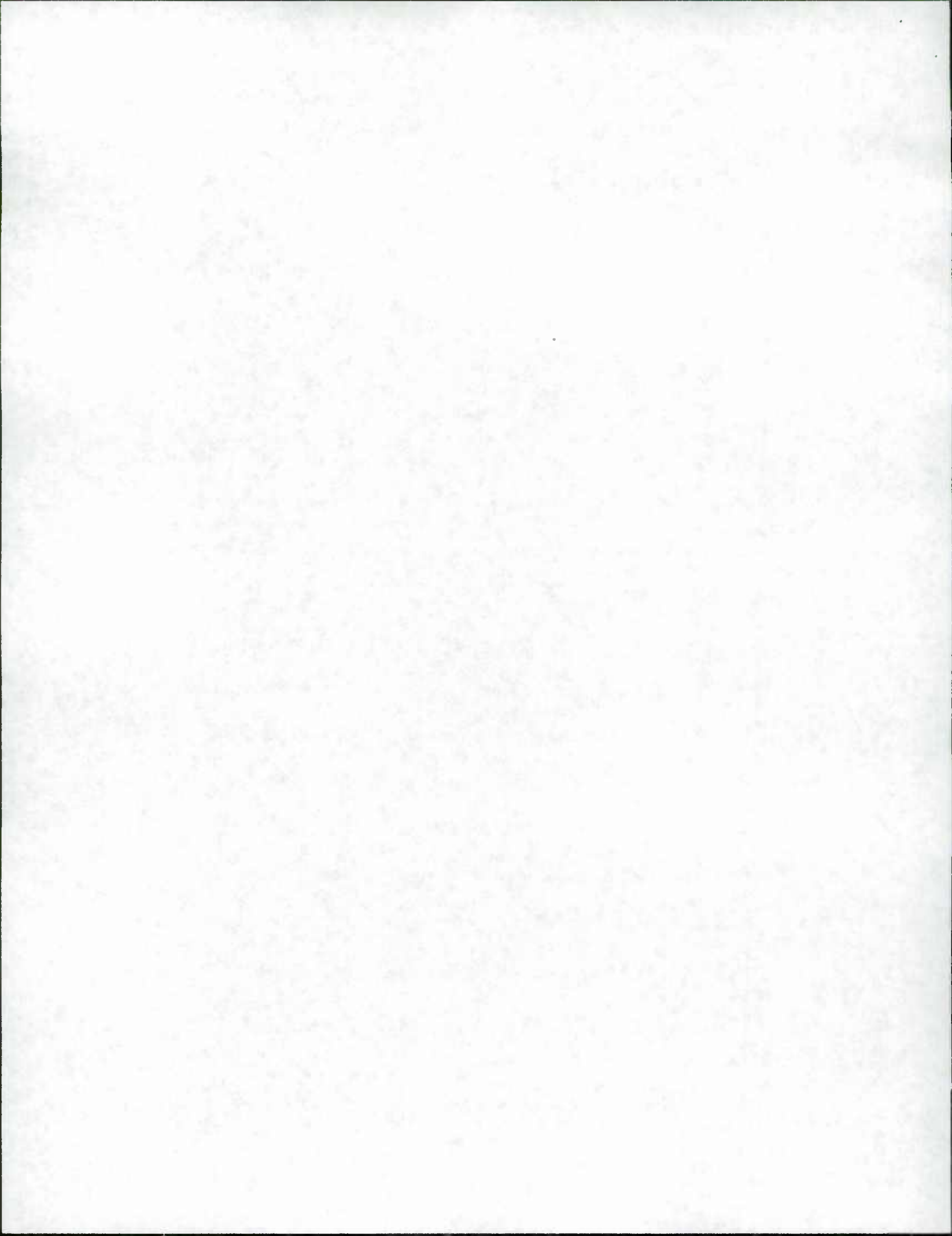
enjoyed by other properties in similar areas within the Critical Area; (3) the granting of the variance will not confer on the applicants any special privilege that would be denied by the program to other lands within the Critical Area; (4) the variance request is not based on circumstances resultant 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.

Although the matter is not free from debate, I find and conclude that the applicants are entitled to modified, conditional relief from the code. My reluctance in this matter is two-fold: (1) the sequence of the development and (2) the failure of the applicants to obtain a permit for the deck addition. With respect to the sequence of development, this office has commented on several prior occasions that in the case of buffer modified lots, the development project should be presented as a whole, including deck additions. In that way, the design can be evaluated for compliance with the Critical Area program before any development, rather than after the property is already substantially developed. Yet, the County continues to issue building permits with dwellings located up to the edge of the



modified buffer and to approve construction plans with access doors in the waterside façade. The present case is a perfect example: although the prior owner of the lot initially requested a buffer variance, following a protestant's appeal, the petitioner conceded that the buffer variance was not needed. The building permit located the dwelling at the edge of the modified buffer. But, the approved building plans incorporated two pairs of access doors in the front façade of the dwelling several feet above grade. It should come as no surprise that the subsequent owners - the present applicants - envisioned a deck addition. But even conceding their ignorance of what came before, the applicants are not blameless because they failed to make application for a permit for the deck addition. If they had made application for a permit, then presumably they would have been required to apply for a variance, which would have spared them the difficulties and expenses associated with enforcement. Be that as it may, at least at present, there is no prohibition against an after-the-fact variance to the Critical Area program.

Turning to the application of the subsection (b) criteria, due to the proximity to water, a strict implementation of the program would be an unwarranted hardship to the applicants. Under a literal application of the program, the applicants would be denied the right to a waterside deck addition, which is a right commonly enjoyed on other properties in similar areas in the Critical Area. This is the case even though the property is located in a buffer modification area and is developed with a very substantial home. Conversely, the granting of some



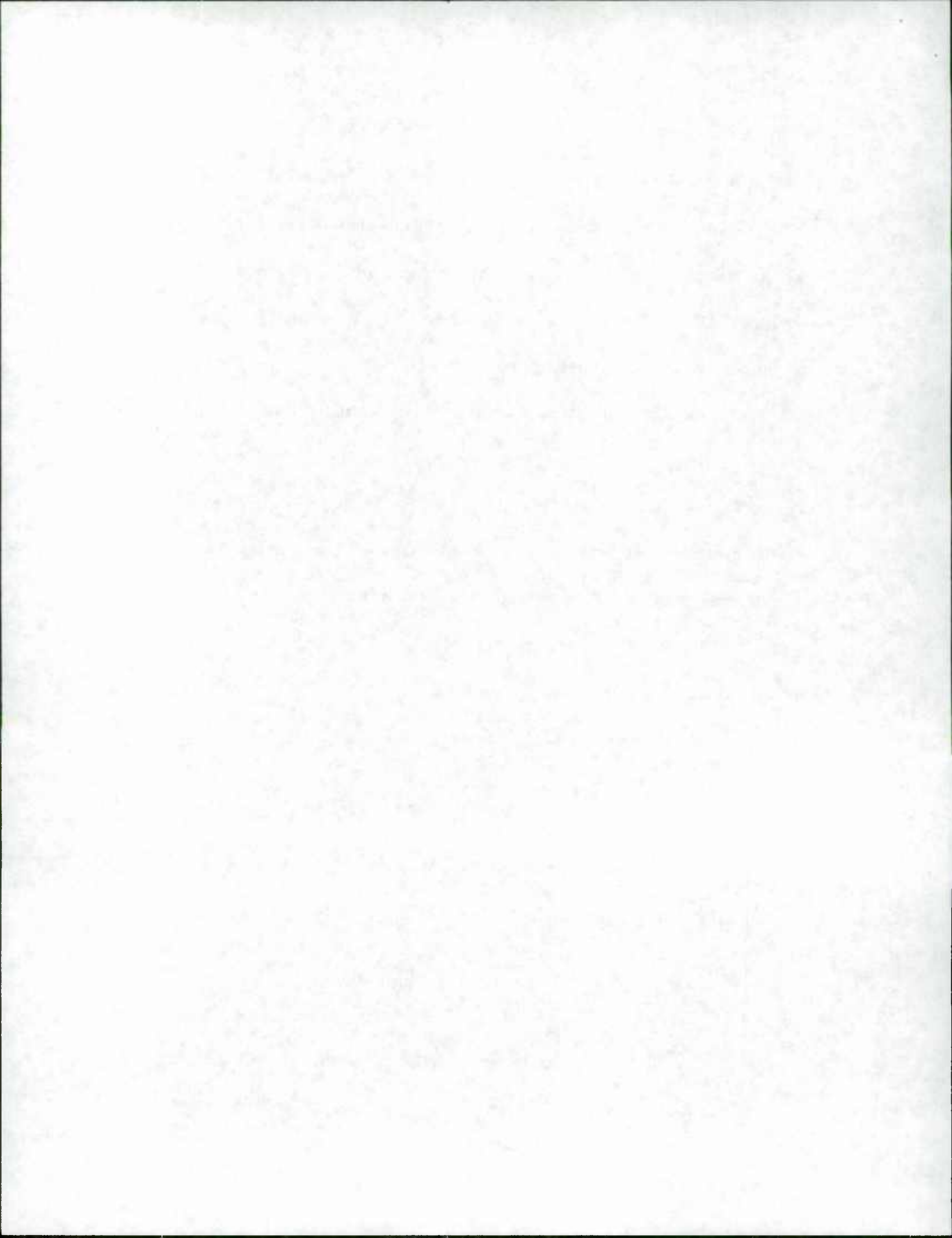
relief is not a special privilege that the program typically denies to other Critical Area lands. Admittedly, the applicants proceeded absent the necessary permit. Nevertheless, the need for relief reflects the physical conditions of the property and does not arise from land use on neighboring property. Finally, with conditions, the modified variance will not adversely impact Critical Area assets and harmonizes with the general spirit and intent of the program.

This case, like many before it, turns on what constitutes the minimum relief under subsection (c). This is a subjective finding. My judgment is that the minimum relief is accomplished by allowing the deck addition to span the two sets of stairs stepping down from the pair of doors in the front façade of the dwelling and extending no more than 10 feet into the modified buffer. See, Attachment B. So modified, the granting of a conditional variance will not alter the essential character of the neighborhood, impair the use or development of adjacent property, or constitute a detriment to the public welfare. The approval is subject to the conditions in the Order.

ORDER

PURSUANT to the application of Anand and Urmil Dhanda, petitioning for a variance to perfect a deck addition with less setbacks and 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 29th day of February, 2008,



ORDERED, by the Administrative Hearing Officer of Anne Arundel County, that the applicants are **granted a modified** buffer variance of 10 feet to permit a deck addition in accordance with Attachment B. The approval is subject to the following conditions:

1. Attachment B shall be implemented within 60 days of the Order with the areas marked "REMOVE" to be revegetated.
2. The applicants shall provide mitigation as determined by the Permit Application Center.
3. No other new development is allowed in the modified buffer.

FURTHER ORDERED, that the applicants' request for a side setback variance is **denied**.

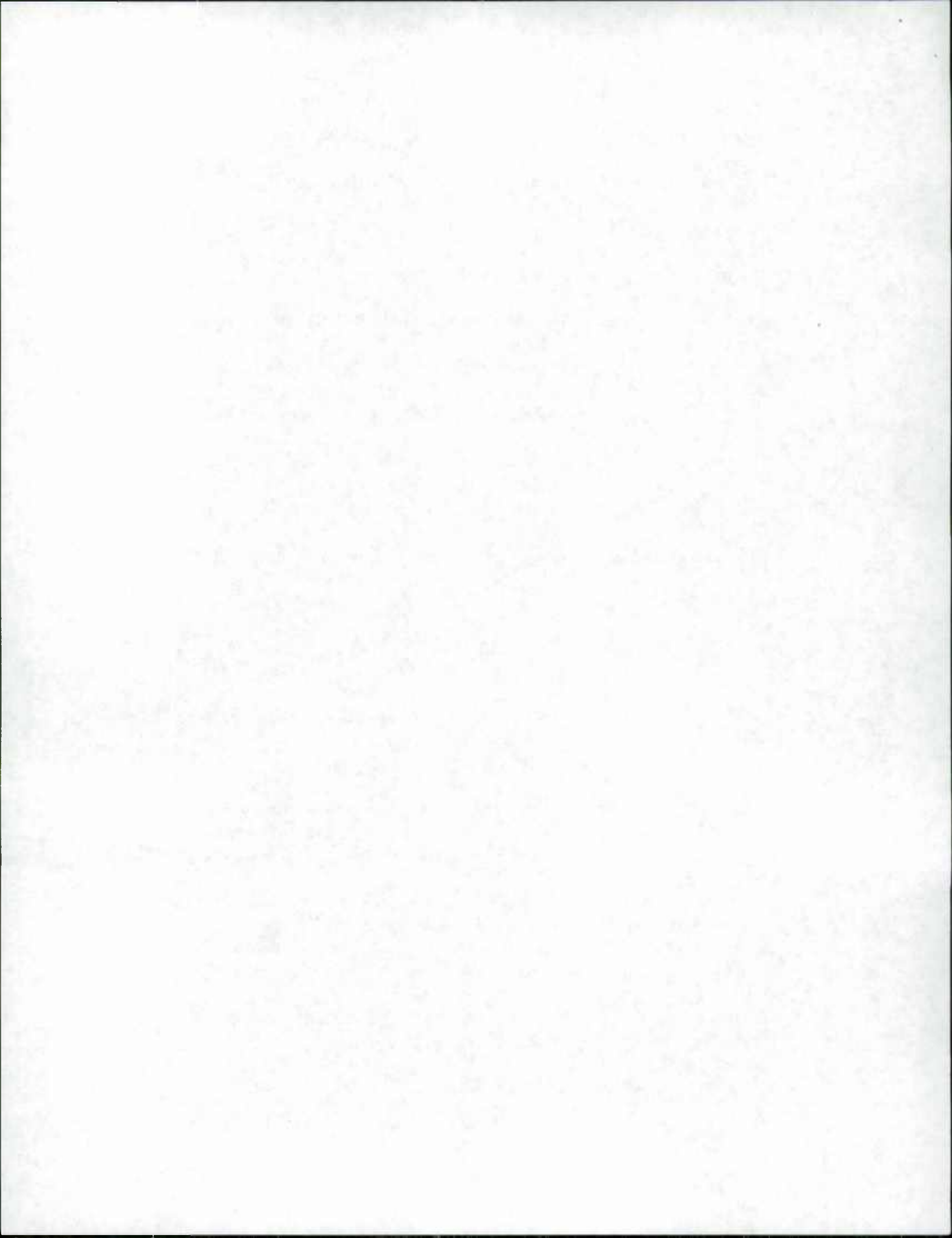

Stephen M. LeGendre
Administrative Hearing Officer

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.

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.





Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor

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STATE OF MARYLAND
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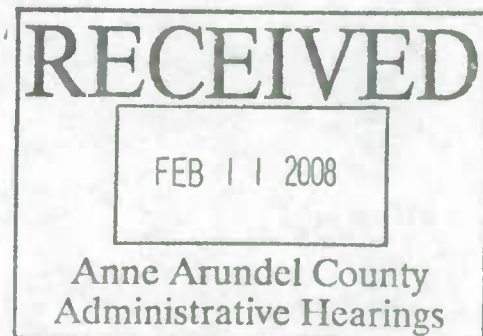
Attachment A

February 8, 2008

Office of Administrative Hearings
Attention: Stephen M. LeGendre, Esq.,
Administrative Hearing Officer
Arundel Center
P.O. Box 2700
Annapolis, MD 21404-2700

By Fax and Mail 410-222-1268

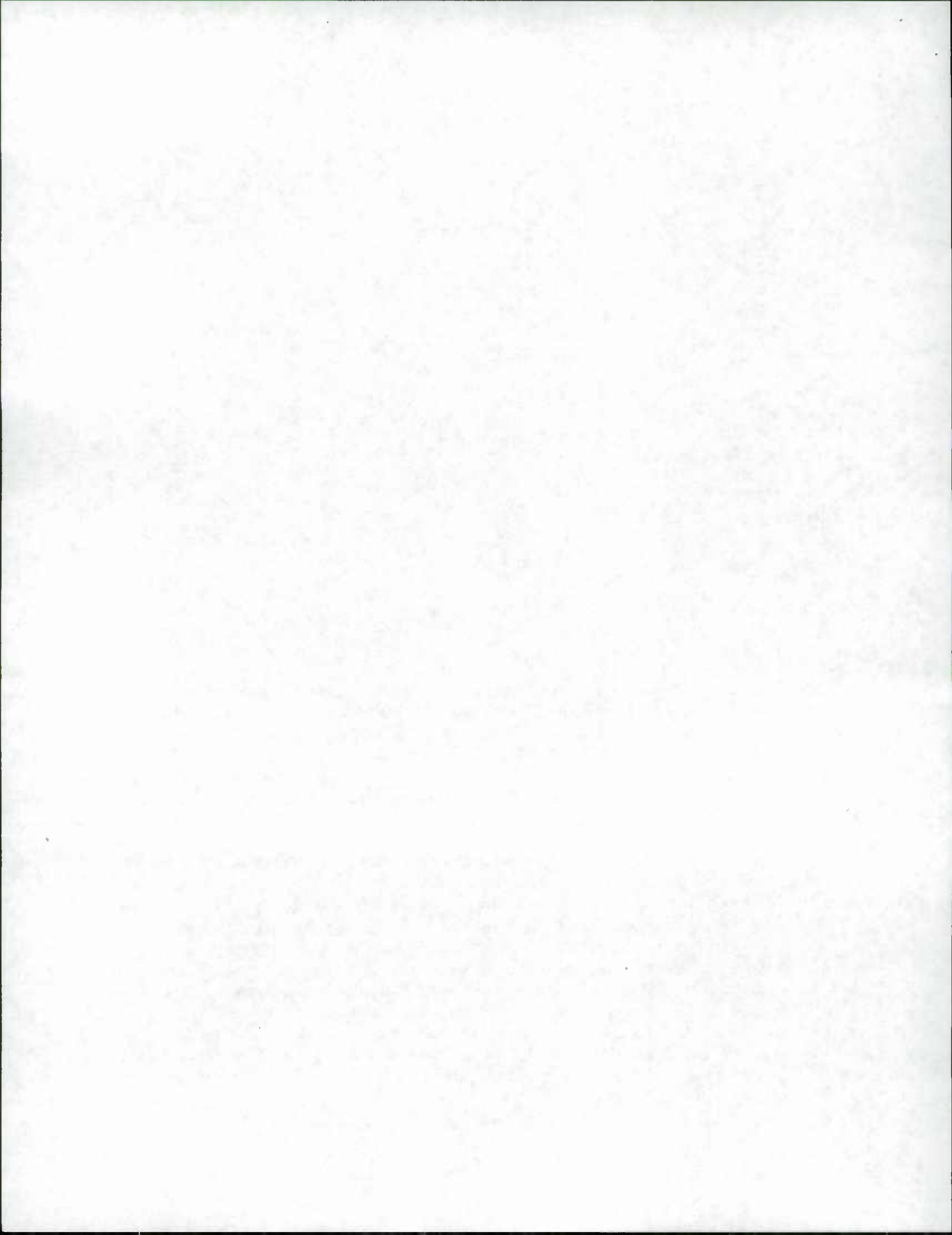
Re: 2007-0406-V – Dhanda, Anand & Urmil



Dear Mr. LeGendre:

A hearing was held on the above-referenced ease on January 29, 2008 at 11:00 a.m. At that hearing, after the Critical Area Commission presented testimony, the applicant withdrew the pending variance application and submitted a new application by submitting a revised site plan. Because the Commission had not been afforded the opportunity to comment on this new application, as is the Commission's right under State law, you afforded this Office a two week time-frame for review and comment. This letter contains my comments on the new site plan (new variance application) in the above-captioned ease.

The applicant is requesting an after-the-fact variance to perfect a waterfront deck with less setbacks and Buffer than required. This lot area totals 7,500 square feet and is located within a Buffer-Modified Intensely Developed Area (IDA). The original proposal was to perfect an approximately 966 square foot deck located 31-35 feet from Mean High Water (MHW). The revised proposal shows a deck that appears in approximately the same location, but appears somewhat smaller than the deck in the original variance application. While no information was provided by the applicant detailing the square feet of deck requested, nor was a scale provided on the revised site plan so as to enable measurement of the revised deck area, I have estimated that that the newly proposed deck has been reduced by approximately one quarter to one third of its previous square footage (for a revised amount of approximately 600 square feet). Based on my review of the revised deck proposal, the Critical Area Commission continues to oppose this variance request, because the proposal does not meet the County's standards for a Critical Area variance.



Structures in the 100-foot 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, especially emphasizing the importance of the 100-foot Critical Area Buffer. In particular, the General Assembly reaffirmed the stringent standards, which an applicant must meet 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 zoning board finds that an applicant has satisfied its burden to prove that the applicant meets each one 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."

In addition, the State law establishes 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. The State law, including the presumption of non-conformance, applies to all variance decisions in the Critical Area. [2007 Laws of Maryland, Chapter 221(2)].

The Critical Area Law and Criteria are intended to assure that the integrity of the Buffer is not compromised by the individual and cumulative impacts of development. This variance would be in direct contrast to the goals of the General Assembly and the goals for the Buffer, particularly as the applicant has not demonstrated minimization in the construction of this deck. This lot is already subject to reasonable residential use. Accordingly, we do not believe that the applicant can meet the standard of unwarranted hardship, and we oppose this variance request. I have addressed each of the standards as it pertains to this case:

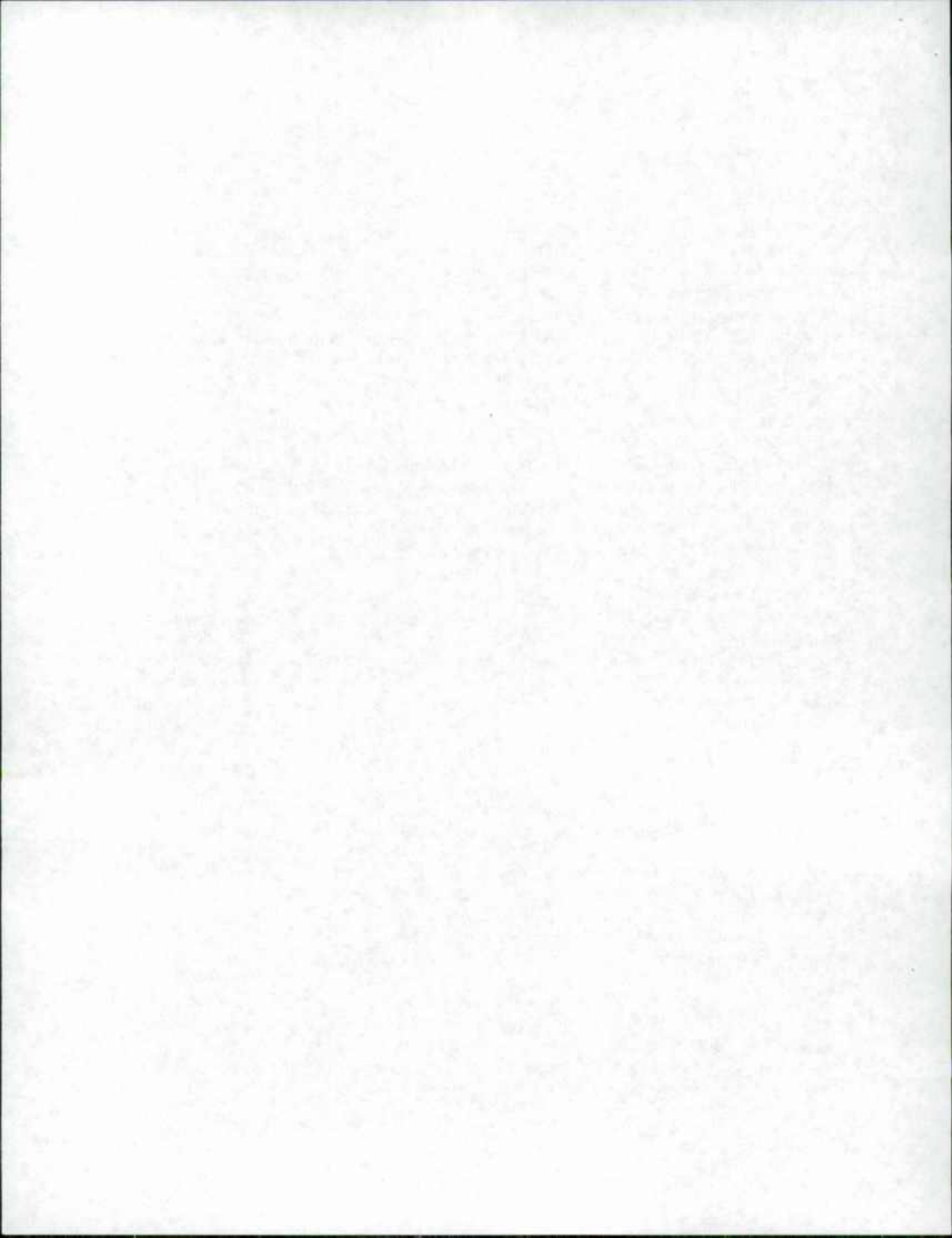
Relevant Variance Standards

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.*

As stated above, the General Assembly defined "unwarranted hardship" to mean that without the requested variance, the applicant would be denied reasonable and significant use of **the entire parcel or lot**. The applicant already enjoys reasonable and significant use of the property by virtue of the large house, driveway, and pier. Based on this information, we do not believe that the County has evidence on which to base a favorable finding of this factor.

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.*

There is no inherent right to build an accessory structure in the Buffer. Therefore, denial of this variance would not deny the applicants a right commonly enjoyed.



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.*

If the variance is granted, it would confer upon the applicant a special privilege that would be denied to others in this area, as well as in similar situations in the County's Critical Area.

Commission staff would not support similar requests to construct a deck in the Buffer. The applicant has the burden of proof and the burden of persuasion to overcome the presumption that his proposed variance does not conform to the Critical Area Law. We do not believe the applicant has overcome this burden.

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.*

This variance request appears to be based on conditions and circumstances which are the direct result of the actions of the applicant, as the deck for which the variance is requested has already been built. Therefore, the applicant has not met this standard.

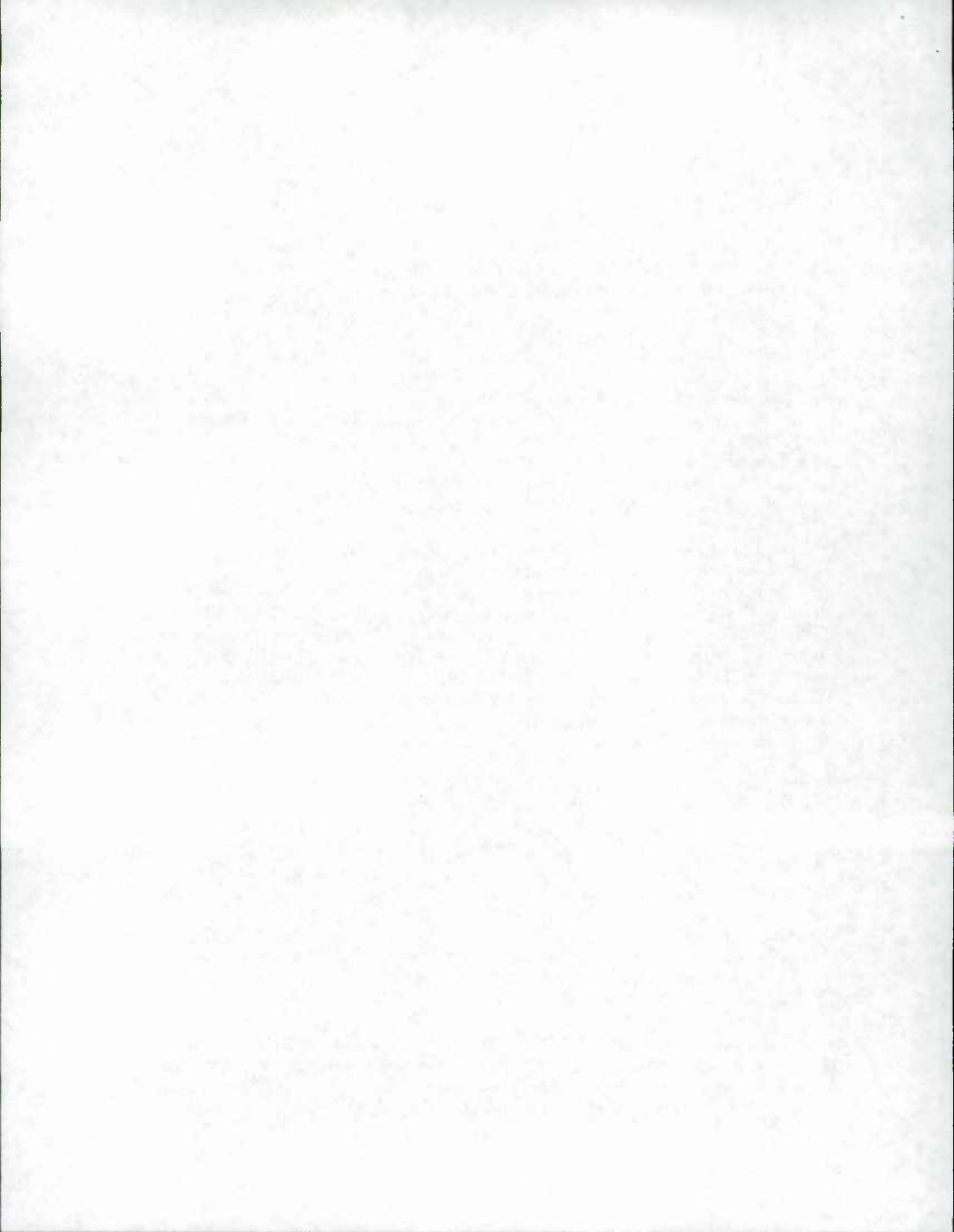
5. *The granting of a variance will not adversely affect water quality or adversely impact fish, wildlife, or plant habitat within the jurisdiction's Critical Area, and that the granting of the variance will be in harmony with the general spirit and intent of the Critical Area law and the regulations.*

In contrast, the granting of this variance is not in harmony with the general spirit and intent of the Critical Area law and regulations. This proposal not only further reduces the functions of the Buffer on this site, but would contribute to the individual and cumulative impacts of development on the Bay. The County law recognizes that a naturally vegetated fully functioning 100-foot Buffer is vital to the water quality of the Chesapeake Bay and its Criteria are intended to assure that the integrity of the Buffer is not compromised by the individual and cumulative impacts of development within the County.

This letter has addressed five of the relevant variance standards. Based on the information provided, none of the five standards have been met. The County and State law provide that in order to grant a variance, the applicant must meet and satisfy each and every variance standard. This applicant has failed to meet all of the County standards. Therefore, we recommend that the Hearing Officer deny the applicant's request for this variance and require that the illegal deck be removed and the Buffer planted. Mitigation should be required at a 3:1 ratio.

In addition to these variance standards, Anne Arundel County Code Article 27-16-305(c)(1) indicates that "a variance may not be granted unless it is found that the variance is the minimum to afford relief." It is the position of this office that the applicant has not met this standard with either the original variance request or the revised request.

Additionally, please note that it remains unclear as to whether the wood deck platform, located amidst the steps in the Buffer, is a conforming structure. Based on aerial photographs, it appears that it has been built sometime in the last 3-4 years. In considering the current variance request, the County should clarify the legal status of the deck platform and take appropriate measures to remedy any additional violations if warranted.



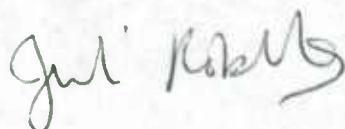
Mr. Stephen LeGendre, Esq.

2/8/2008

Page 4 of 4

Thank you for the opportunity to provide comments. Please notify the Commission in writing of the decision made in this case.

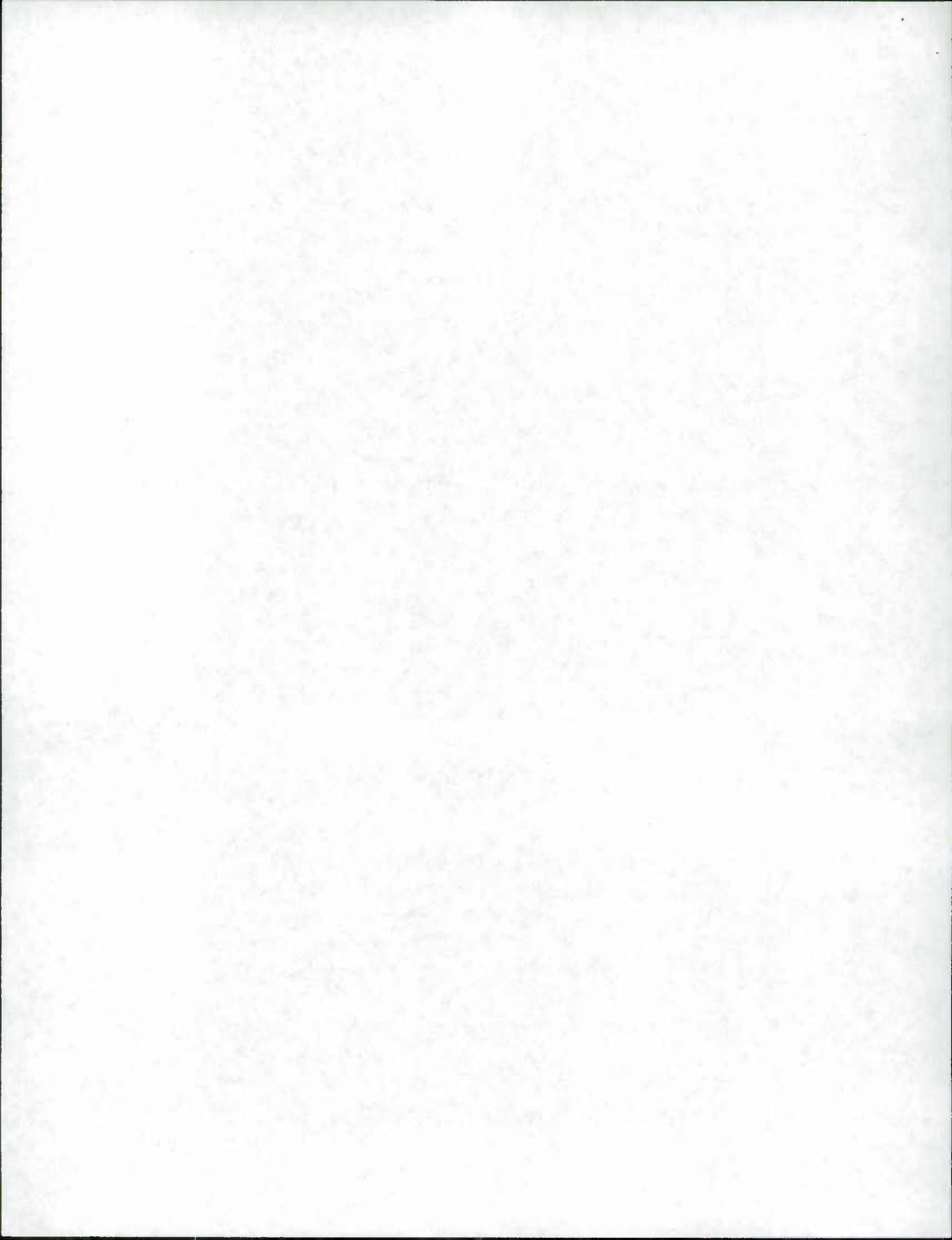
Sincerely,

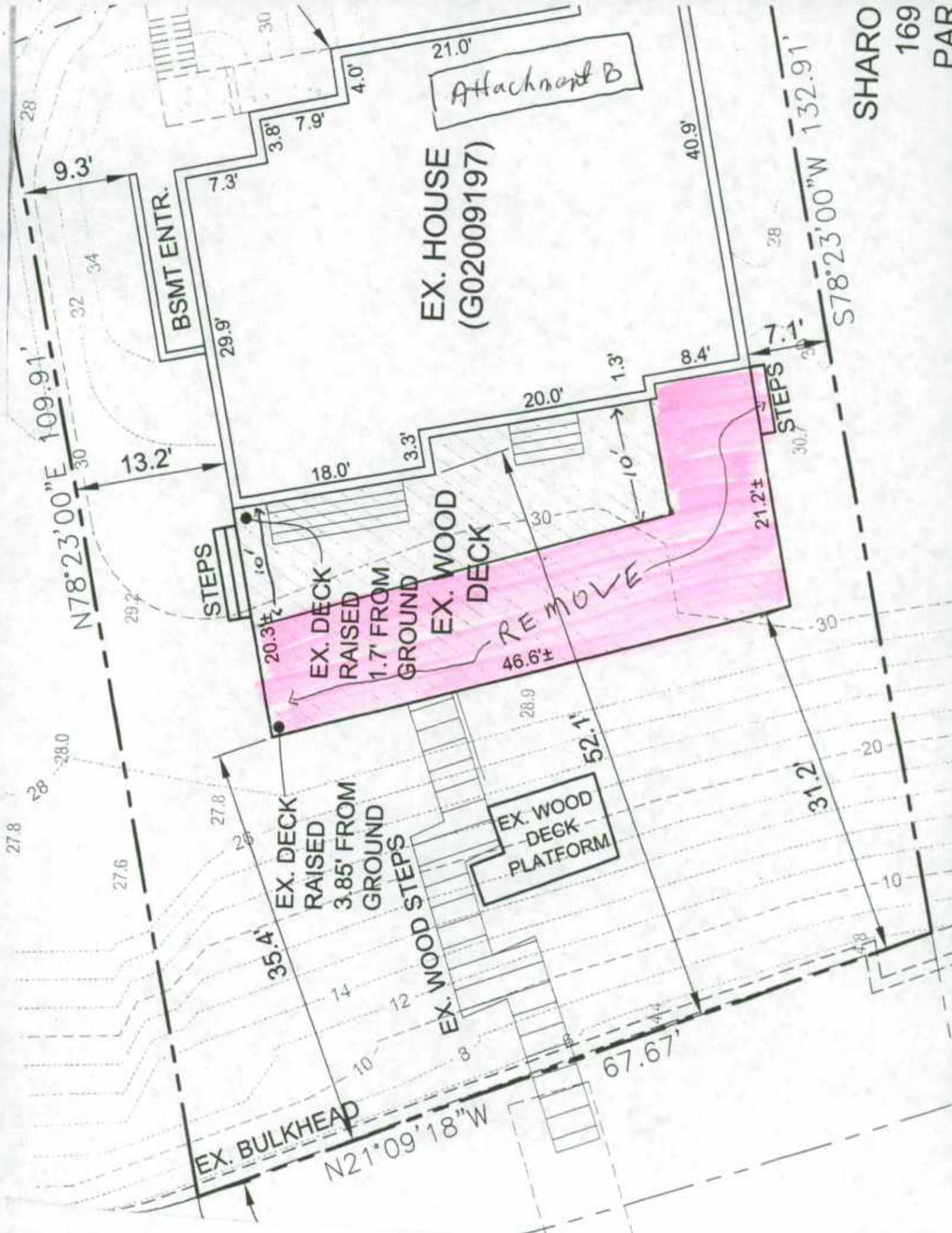
A handwritten signature in black ink, appearing to read "Julie Roberts". The signature is written in a cursive, flowing style.

Julie Roberts

Natural Resource Planner

cc: AA 446-01





EX. HOUSE
(G02009197)

Attachment B

EX. DECK RAISED
1.7' FROM
GROUND

EX. DECK
RAISED
3.85' FROM
GROUND

EX. WOOD
DECK
PLATFORM

EX. BULKHEAD

STEPS

STEPS

SHARO
169
PAR

N78°23'00"E 109.91'

S78°23'00"W 132.91'

N21°09'18"W

67.67'

52.1'

31.2'

40.9'

27.8

28

28.0

27.6

27.8

26

14

12

10

8

4

10

20

30

30

30

28

28

28

30

30

28

32

34

29.2

13.2'

29.9'

7.3'

3.8'

7.9'

4.0'

21.0'

20.0'

1.3'

8.4'

7.1'

21.2±

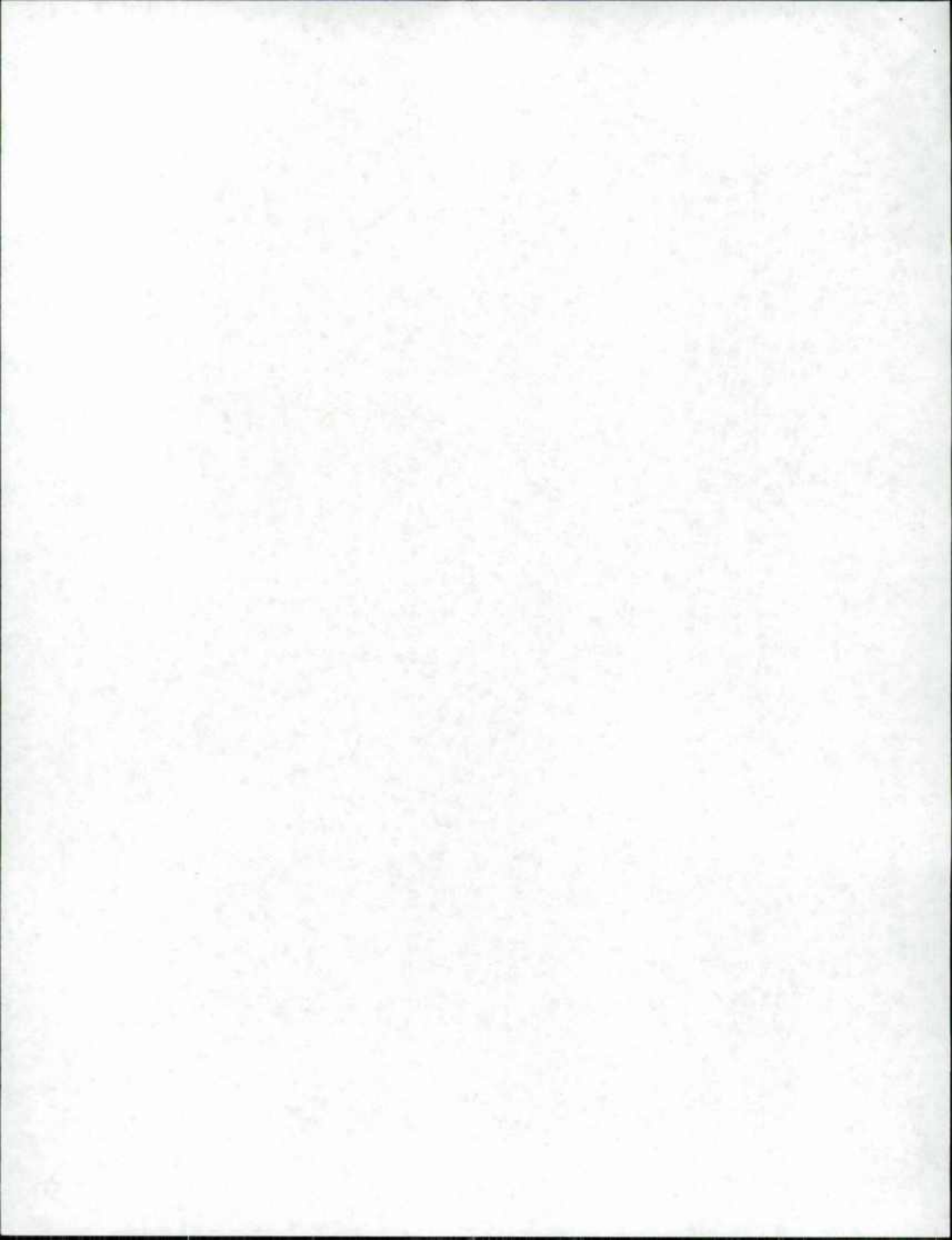
46.6±

28.9

BSMT ENTR.

EX. WOOD
DECK

REMOVE



N/F
Hisa
446-01

RE: An Appeal From A Decision Of The
Administrative Hearing Officer

BEFORE THE
COUNTY BOARD OF APPEALS
OF ANNE ARUNDEL COUNTY

3000 FRIENDS ROAD, LLC.

Petitioner

CASE NO. BA 59-02V, BA 60-02V
(2002-0019-V)

Hearing Date: August 15, 2002
November 12, 2002

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CHESAPEAKE BAY
CRITICAL AREA COMMISSION

MEMORANDUM OF OPINION

Summary of Pleadings

This is an appeal from a decision of the Administrative Hearing Officer. This appeal is taken from the modified granting of variances to permit the construction of a dwelling with fewer setbacks and buffer than required. BA 59-02V is located 75 feet along the west side of Friends Road, 1570 feet south of Cape St. John Road, Annapolis. BA 60-02V is located 70 feet along the west side of Friends Road, 1,500 feet south of Cape St. John Road, Annapolis.

Summary of Evidence

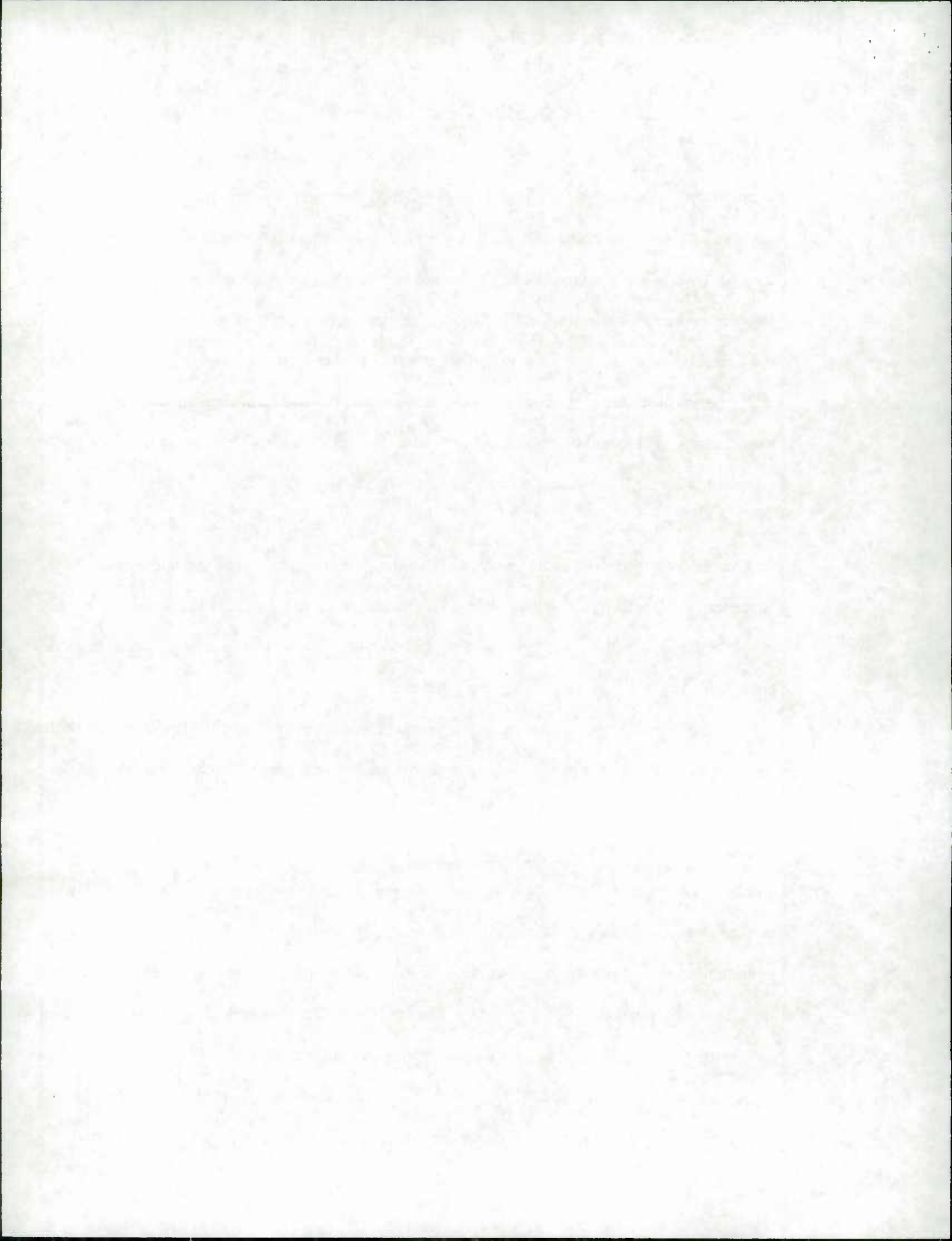
Mr. John Fedas testified that he designs and builds homes. He proposes to build two homes on two lots (lots 12 and 13). He purchased the property in 2001. Prior to his purchase, he obtained a buildable lot letter from the County. He has sold lot 12 and had obtained a building permit for a home on that property. Within the buildable lot letter, one of the conditions for obtaining a building permit included that the existing house on the property be destroyed. He described the community as having an eclectic architecture in nature, size and style. This is a classic old Annapolis neighborhood. The community is very densely developed. He presented the Board with several aerial photographs of the area and a site plan of the variance request. He explained that a curve in the roadway makes lot 13 abnormally shallow. The useable portion of lots 12 and 13 is only 90 feet and 70 feet in depth, respectively. Both homes will be approximately 52 feet from the water's edge. The Administrative Hearing Officer denied his

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requests for variances on lot 12 and granted a four foot rear yard variance for the lot 13 property. The Petitioner would be satisfied if the Board were to grant the same approval as the Administrative Hearing Officer. Mr. Fedas described other homes in the community that violate the rear yard setback criteria. He believes that the proposed variances will be compatible with the character of the neighborhood. The variances will not impair the use and enjoyment of adjacent properties. Clearing and replanting practices will be suitable for development within the Critical Area. There will be no detriment to the public welfare. The variance request will meet the spirit and intent of the Critical Area criteria. He will comply with all grading requirements. There will be no harm to fish, wildlife or plant life. He has also requested a joint use pier variance. If the variance is granted, he will not be required to remove the existing pier and rebuild two piers on each of the two lots. On questioning, Mr. Fedas explained that there was one home constructed across both lots when he purchased the property. He does not know when the house was built. At the time of his purchase of lots 12 and 13, there was one tax account number for the site. Currently, he has sold lot 12 and lot 13 is under contract to a purchaser. The home on lot 12 is currently under construction.

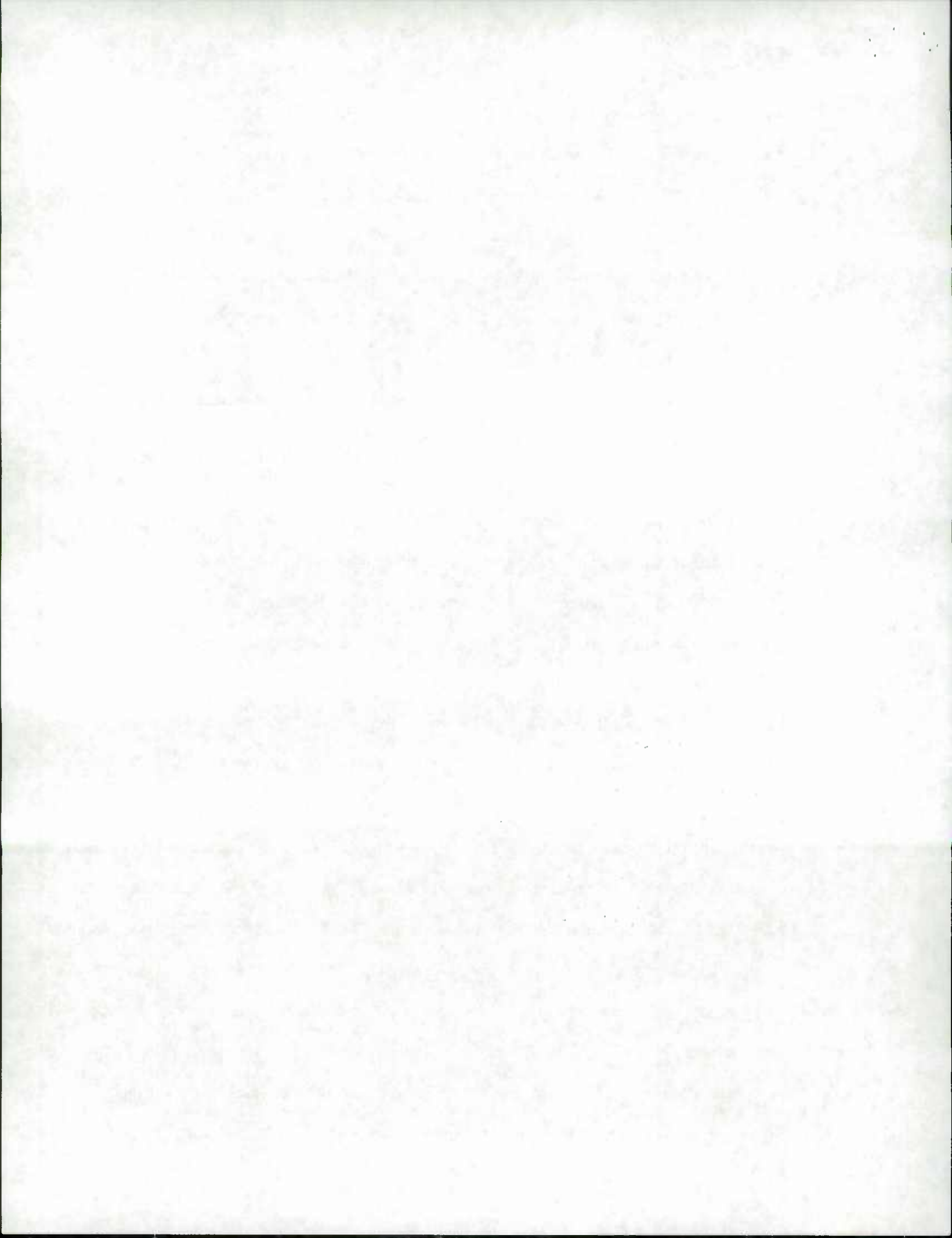
Mr. Terry Schuman testified that he prepared the site plan. He has reviewed the Critical Area Report and believes it to be accurate. The proposed variances will be compatible with the essential character of the community and will not impair the use and enjoyment of adjacent and adjoining properties. The site will be replanted consistent with the Critical Area criteria. There will be no detriment to the public's welfare. All grading permit requirements will be met. There will be no harm to fish, wildlife or plant habitat. He believes the requested variance is the minimum necessary to afford relief to the Petitioner with regard to the rear yard setback request. He also believes that the joint use pier variance request is the minimum to afford relief. There will be required planting mitigation for any impervious surface created on the site.

Mr. Schuman was recalled to describe the revised variance site plan. The revised plan shows the proposed side yard variance eliminated and a reduced request for a rear yard variance.



Ms. Ann Cates testified that she was the former owner of lots 12 and 13 along Friends Road. She designed the house that was previously constructed on the property. That house was located across both lots. She learned about the property from another resident within the community. She planned to construct a rancher style home since she did not want steps in her home. The house design would not fit on one lot so they decided to purchase both lots. The house was built approximately 47 years ago. She presented the Board with the photograph of that home.

Ms. Patricia Miley, a Planner with the Office of Planning and Zoning, testified that the subject property consists of 6,980 square feet and is known as lot 13 within the subdivision of Cape St. John. This is a non-waterfront lot that is within the R2 zone. It is within the Chesapeake Bay Critical Area and is classified as Intensely Developed Area (IDA). It is designated as buffer exempt. The applicant proposes to construct a single family dwelling on the lot. The dwelling is proposed with less rear setback than required and with less buffer than required. Section 1A-104(a)(1) of the Anne Arundel County Zoning Ordinance requires that there shall be a minimum 100 foot buffer landward from the mean high water line of tidal waters, tributary streams and tidal wetlands. However, (Section 1A-109(c)(1)(i)) if property is mapped as buffer exempt, then no new impervious surface shall be placed nearer to the shoreline than the existing principal structure. The closest point of the existing impervious surface on the property is 52 feet from the mean high water line. The dwelling on lot 13 is proposed to be located 51.8 feet from the mean high water line. This development plan would necessitate a variance of one foot. Additionally, Section 2-405(a)(3) requires a rear yard setback of 25 feet. The applicant is proposing a rear yard setback of 21 feet. This would necessitate a variance of four feet. The subject property is non-conforming with respect to the minimum lot size (15,000 square feet) requirement for a lot in the R2-Residential district. There was a single family dwelling constructed on both lots 12 and 13. It was 52 feet from the mean high water line and 21 feet from the rear property line. The dwelling was removed and the applicant now proposes to



construct a dwelling on each of the lots. The applicant originally submitted plans which required a rear yard and buffer variance for lot 12 and a side yard, rear yard and buffer variance for lot 13. The applicant has revised the proposal and the development on lot 12 now meets all the required side and rear yard setbacks and the required 52 foot buffer. It does not require variance approvals. The proposed dwelling on lot 13 is the sole subject of this variance request. Ms. Miley is not opposed to the request for a variance of four feet to the rear yard setback requirement of 25 feet. The proposed dwelling on lot 13 is no closer to the rear yard property line than the former dwelling on lots 12 and 13. However, the revised plans were not submitted in sufficient time for the Critical Area Commission and the Environmental Review Staff of the Permit Application Center to review. The sole environmental issue in this case is a one foot variance to the 52 foot buffer requirement. It is the opinion of Ms. Miley that while one foot is a minimum request, it appears that the proposed dwelling can be redesigned to maintain the 52 foot buffer of the existing dwelling. She recommended that the Board deny the requests for the Critical Area buffer variance, but grant the variance of four feet to the 25 foot rear yard setback.

Mr. Frank E. Proctor, a resident of 2985 Friends Road, testified that he circulated a letter in opposition to the requested variances to 32 of his neighbors. There are stormwater runoff issues within this community. The runoff from the subject property joins with flow along the roadway and flows through the property at 2999 Friends Road. The runoff empties into Boyd's Cove. Mr. Proctor believes that the requested variances and house development would defeat his neighbor's efforts to stabilize their property from stormwater runoff. That drainage area has an 86 percent slope. The riverbank has collapsed near a pool within the neighborhood. He is concerned that the river bank may be unstable on the subject property. Two bay windows are proposed for the homes, which jut into the required side yard setback. The Critical Area Commission recommended denial of the variances in February 2002. He believes that the two lots were merged by a prior owner and cannot be built upon separately. One house on the two lots would be appropriate, but not one house on each of the lots. The development of two houses

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would not be compatible with the neighborhood. The home on lot 12 will not meet the 35 foot height requirement in the Zoning Ordinance.

Ms. Diane Burian testified that she lives directly across the street from the subject property. She is concerned regarding the increase in stormwater runoff from the development plan. She has improved the drainage easement area across her property. The drainage easement is at capacity. The two homes proposed by the applicant will decrease the stormwater infiltration and increase the stormwater runoff. She is concerned regarding the damage that this increased stormwater will inflict on the drainage area and on Boyd's Cove. She wants the integrity of her community to be maintained.

Mr. Bill Webb, an area resident, testified regarding the siltation problems in Boyd's Cove. The cove is not navigable at low tide. Dredging is currently underway, but the siltation is worsening. He has lived in the community for nine years. While there are some large homes on small lots within his neighborhood, that type of land use is not descriptive of the whole neighborhood. He owns a one acre lot (as do the Burians). Another neighbor has a one-third acre lot that is improved only with a bungalow and a gazebo. The construction of two homes on one-third of an acre as proposed defies common sense in his community.

Mr. Terry Schuman testified in rebuttal. He explained that the stormwater management guidelines will control the development of the site. There will be no collapse of a slope on this property. The grade on this property sends the water runoff toward the roadway, not the waterfront. The site is currently unmanaged regarding stormwater runoff. It will be managed once it is developed. The development of this site will be in compliance with the criteria set forth in the stormwater management requirements and pursuant to the sediment and erosion control criteria of the Code. Consequently, this development will not increase siltation in the area. On lot 12, there will be a stormwater management facility under the driveway. On lot 13, plantings and landscaping will manage the stormwater. The stormwater flows across the roadway to the Burian's lot and into Boyd's Cove.

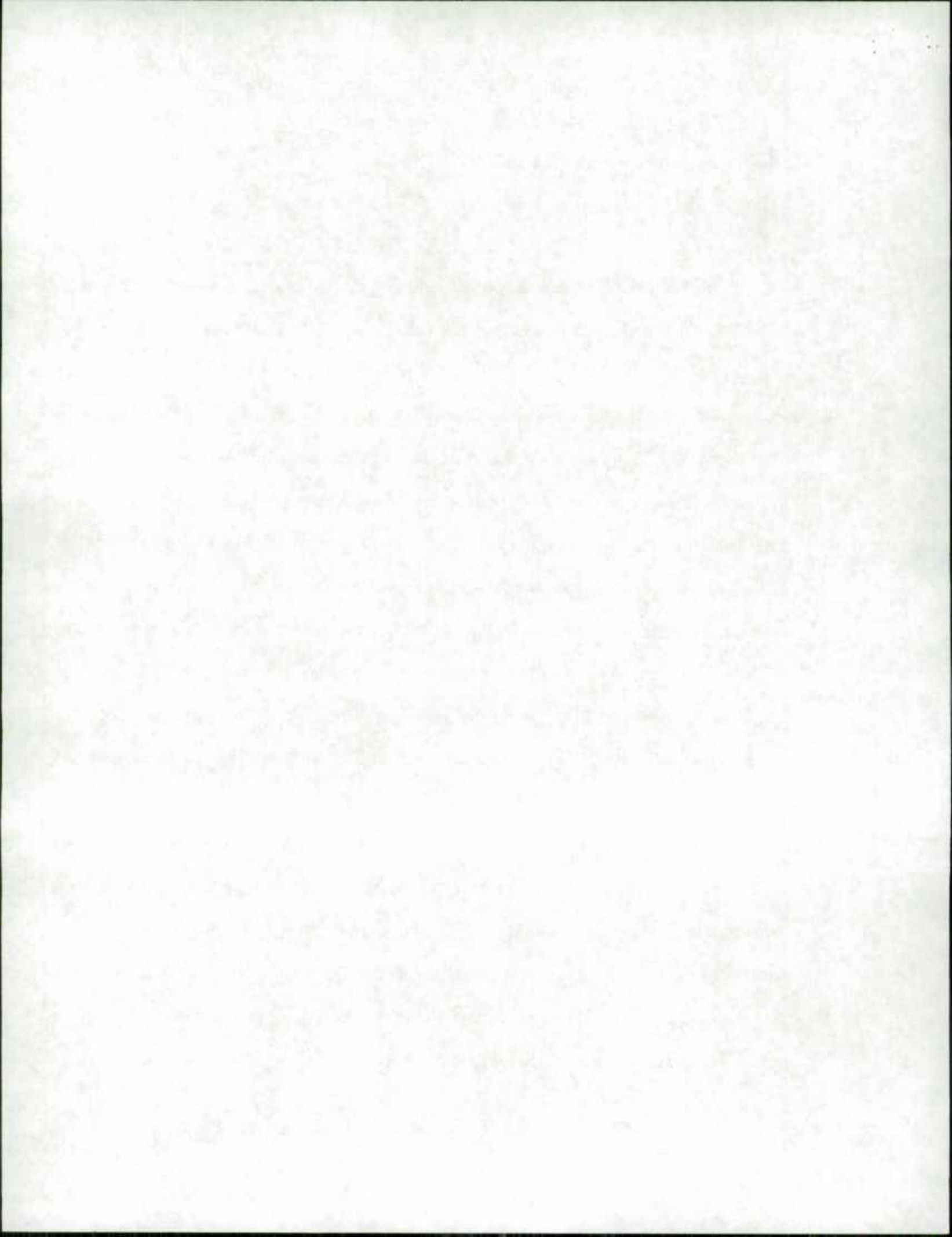
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All testimony was stenographically recorded and the recording is available to be used for the preparation of a written transcript of the proceedings.

Findings and Conclusions

LOT 13 VARIANCES

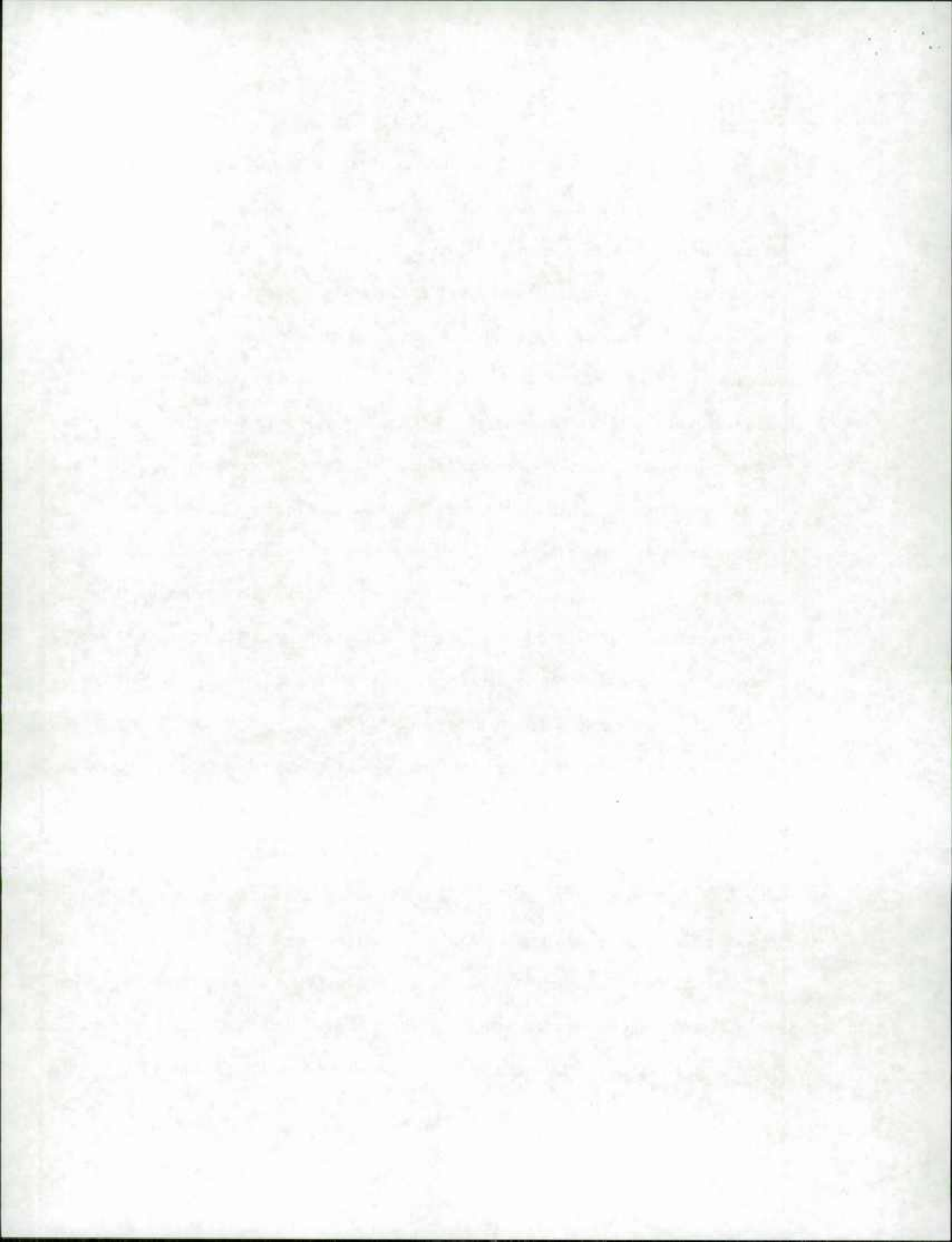
The Petitioner is requesting two variances to permit the construction of a dwelling on Lot 13. The subject property consists of 6,980 square feet and is designated as Lot 13, Section A in the Cape St. John subdivision. The property is within the R2-Residential District and is a non-waterfront lot within the Chesapeake Bay Critical Area. It is classified within the Intensely Developed Area ("IDA") and is designated as buffer exempt. Section 1A-104(a)(1) of the Anne Arundel County Code (the "Code"), Article 28, Zoning, requires that there shall be a minimum 100 foot buffer landward from the mean high water line of tidal waters, tributary streams and tidal wetlands. However, Section 1A-109(c)(1)(i) states if the property is designated as buffer exempt, then no new impervious surface is permitted nearer to the shoreline than the existing principal structure. In this case, the closest point of existing impervious surface of the prior principal structure was 52 feet from the mean high water line. The dwelling on Lot 13 is proposed to be located 51.8 feet from the mean high water line. This would necessitate a variance of one foot to the 52 foot modified buffer requirement. Additionally, Section 2-405(a)(3) requires a rear yard setback of 25 feet. The applicant is proposing a rear yard setback of 21 feet. The Petitioner has requested a variance of four feet to the 25 foot rear yard setback requirements. In order to grant the variances requested the Board must find that the applicant has complied in all respects with the provisions of Article 3, Section 2-107 of the County Code. Since one of the variances requested pertains to the Critical Area Program, we considered these variances according to these differing criteria.



REAR YARD VARIANCE REQUEST

As a threshold matter, the Board must find that due to unique physical conditions or exceptional topographic conditions peculiar to and inherent in this particular lot there is no reasonable possibility of developing the lot in strict conformance with the County Code or because of exceptional circumstances other than financial considerations, the grant of a variance is necessary to avoid practical difficulties or unnecessary hardship and to enable the applicant to develop the lot. See, Code, Article 3, Section 2-107(a). This property is quite small and contains only 6,980 square feet. It is approximately 100 feet deep and 65 feet wide. The first 30 feet of the property near the South River contains slopes. Due to its location within the Critical Area any dwelling proposed for construction on the property cannot be nearer to the shoreline than the improvements originally on this site. Those improvements were 52 feet from the shoreline. The imposition of the Critical Area buffer and the minimum rear yard requirement greatly reduces the developable portion of this property. The physical conditions of the lot size and location proximate to the South River severely impact the development potential. We find that the Petitioner has met the criteria set forth in Section 2-107(a)(1).

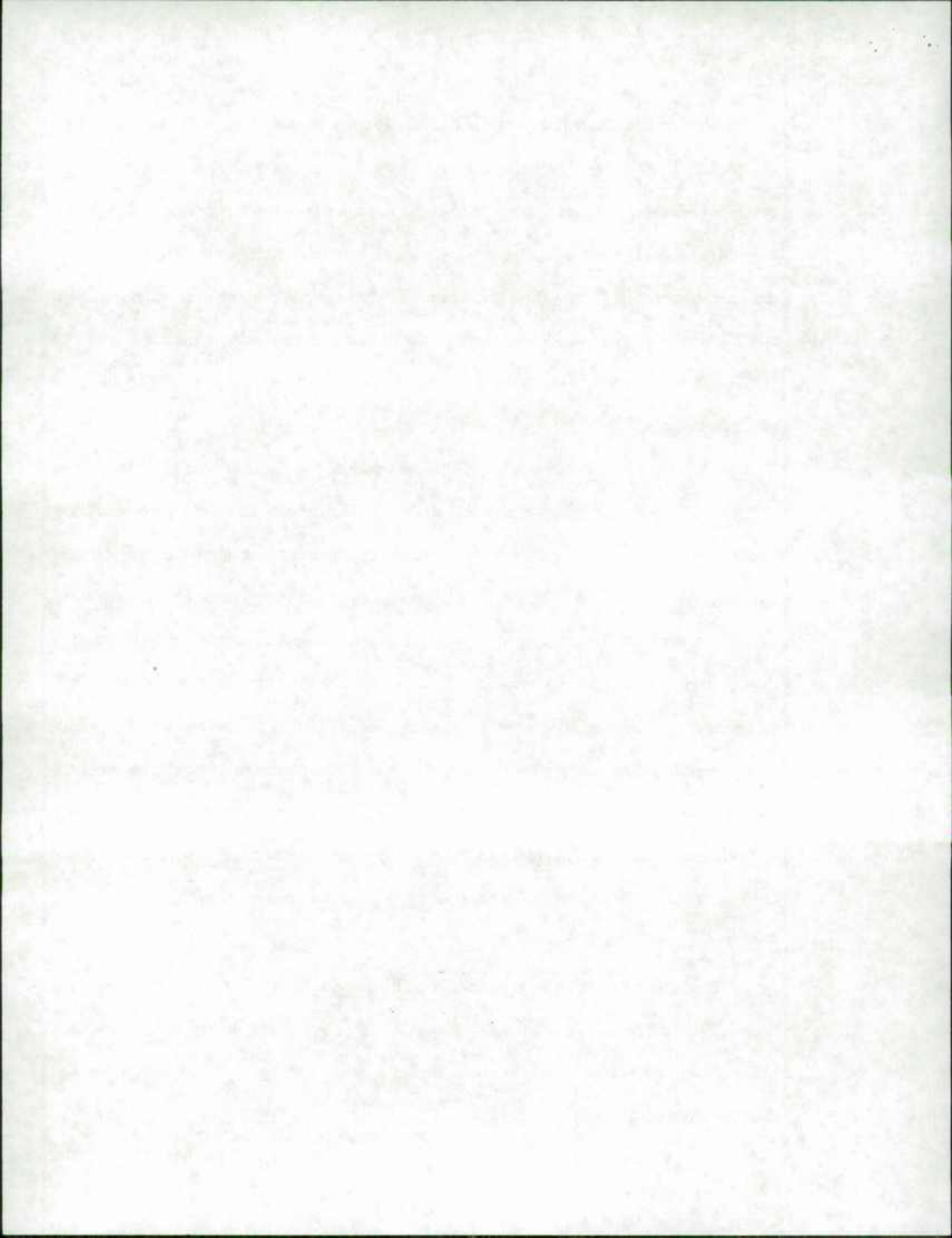
The prior development of this property presents an exceptional circumstance in this appeal. See, id., Section 2-107(a)(2). The home that was previously constructed on this property violated the rear yard setback criteria to the same degree as the Petitioner's proposed new dwelling. The Petitioner makes no proposal that is any different from the location of the residence that was developed on this property 47 years ago. The setback from the road and from the water, both established long ago, will be maintained. Without a variance to the rear yard setback requirements, the Critical Area buffer criteria (adopted well after the house was initially constructed on the lot) and the rear lot setback greatly reduces the currently lawful building envelope on this lot.



We find that this request is the minimum necessary to grant relief to the applicant. See, id., Section 2-107(c)(1). The Petitioner has requested a variance so that the property can be developed with the same rear yard setback as the previous home on this property. Due to the enactment of more recent legislation, the long standing location of the improvements cannot be maintained on this property without a variance. The Petitioner asks for no more relief than what was established 47 years ago. The requested variance would not maximize the development of the lot, but rather maintain the same minimum building area that was established by the prior development.

The requested variance would not alter the essential character of the neighborhood. See, id., Section 2-107(c)(2)(i). Several other homes in the community also have small rear yards. The variance would also not substantially impair the appropriate use or development of adjacent property. See, id., Section 2-107(c)(2)(ii). The adjacent property on Lot 14 is fully developed. Lot 12 is under development currently. Neither development would be impacted by the grant of the requested rear yard setback variance. The new residence would have the same setback from the roadway as was established 47 years ago. From the site plan, it appears that only one, eight-foot evergreen would be required to be removed in order to accommodate the proposed construction. Any removal of vegetation requires replanting and mitigation in the Critical Area. There is ample area on this property to provide the requisite plantings. The proposal is not contrary to acceptable clearing and replanting practices for development within the Critical Area. See, id., Section 2-107(c)(2)(iii).

The grant of this variance would not be detrimental to the public's welfare. See, id., Section 2-107(c)(2)(iv). The requested variance would simply permit the redevelopment of the property with a structure having the same road and water setbacks as the residence that was constructed on this property 47 years ago.



CRITICAL AREA BUFFER VARIANCE (LOT 13)

The Petitioner had originally requested a one-foot variance to the modified 52 foot required buffer from the mean high water line of tidal waters, tributary streams and tidal wetlands to construct the new home on Lot 13. The Administrative Hearing Officer denied this variance request. At the hearing before the Board, the Petitioner conceded that the 52 foot buffer requirement for this property designated as buffer exempt could be met. The Petitioner revised its site plan (Petitioner's Exhibit 14) to show the site could comply with the required setback. Since the Petitioner can meet the required setback, it is clear a reasonable and significant use of this property can be made without the need for a variance. Additionally, the one-foot variance originally requested cannot be the minimum necessary to afford relief to this Petitioner. This Petitioner simply needs no relief from this buffer setback requirement. Therefore, we will deny the original one-foot variance request as did the Administrative Hearing Officer.

VARIANCE REQUESTS REGARDING LOT 12

The Petitioner originally requested several variances regarding the plans to develop Lot 12. The Administrative Hearing Officer denied these variances. Although it is procedurally unusual, the Protestants appealed the denial of the applicant's request for variances. At the hearing before the Board, the Petitioner conceded that it can develop Lot 12 without variances (the property is currently under construction) and did not present any evidence regarding variance requests. The Petitioner has the obligation and burden of proof to present testimony and evidence for any variance that it seeks. Since the Petitioner presented no such evidence and testimony, we will not disturb the decision of the Administrative Hearing Officer in denying these variances and will affirm his decision.

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ORDER

For the reasons set forth in the foregoing Memorandum of Opinion, it is this 7th day of January, 2003, by the County Board of Appeals of Anne Arundel County, ORDERED, that:

1. The Petitioner's request for a variance of one foot from the required 52 foot Critical Area buffer on Lot 13 is **denied**;
2. The Petitioner's request for variances to the side and combined side yard width requirements to permit the construction of a dwelling on Lot 13 is hereby **denied**;
3. The Petitioner's request for a variance of four foot to the required 25 foot minimum rear yard setback for the construction of a dwelling on Lot 13 is hereby **granted**; and
4. A variance to the rear yard setback requirements on Lot 12 is hereby **denied**.

Any appeal from this decision must be in accordance with the provisions of Section 604 of the Charter of Anne Arundel County, Maryland.

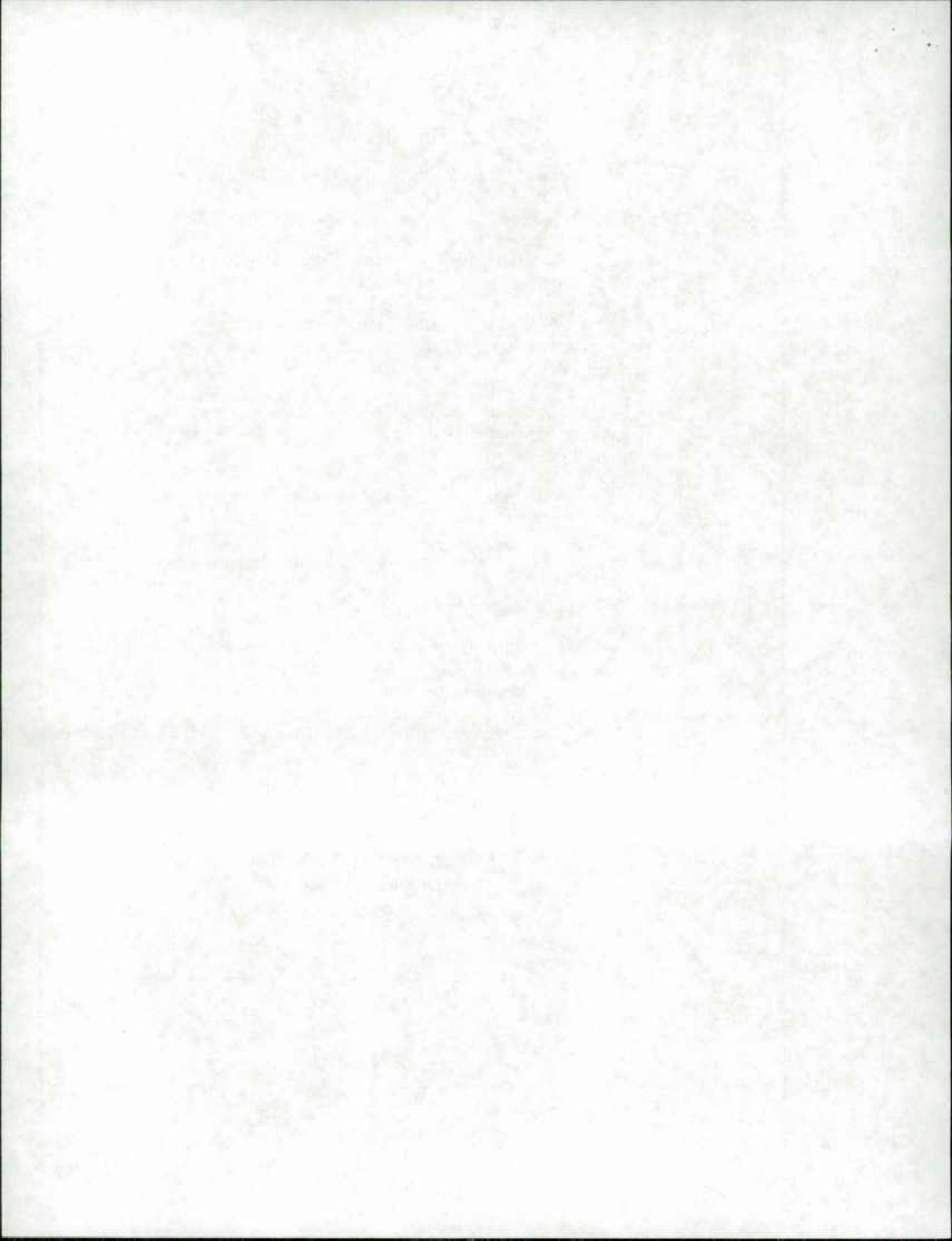
If this case is not appealed, exhibits must be claimed within 60 days of date of the expiration of the appeals period; otherwise, they will be discarded.

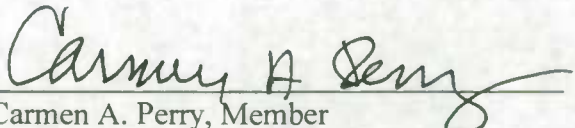
Any notice to this Board required under the Maryland Rules shall be addressed as follows: Anne Arundel County Board of Appeals, Arundel Center, P.O. Box 2700, Annapolis, Maryland 21404, ATTN: Mary M. Leavell, Clerk.

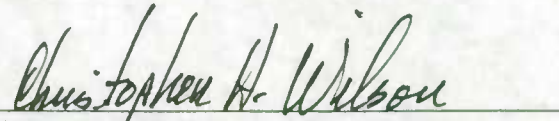
COUNTY BOARD OF APPEALS
OF ANNE ARUNDEL COUNTY


Ray J. Jicka, Member


William C. Knight, III, Member




Carmen A. Perry, Member

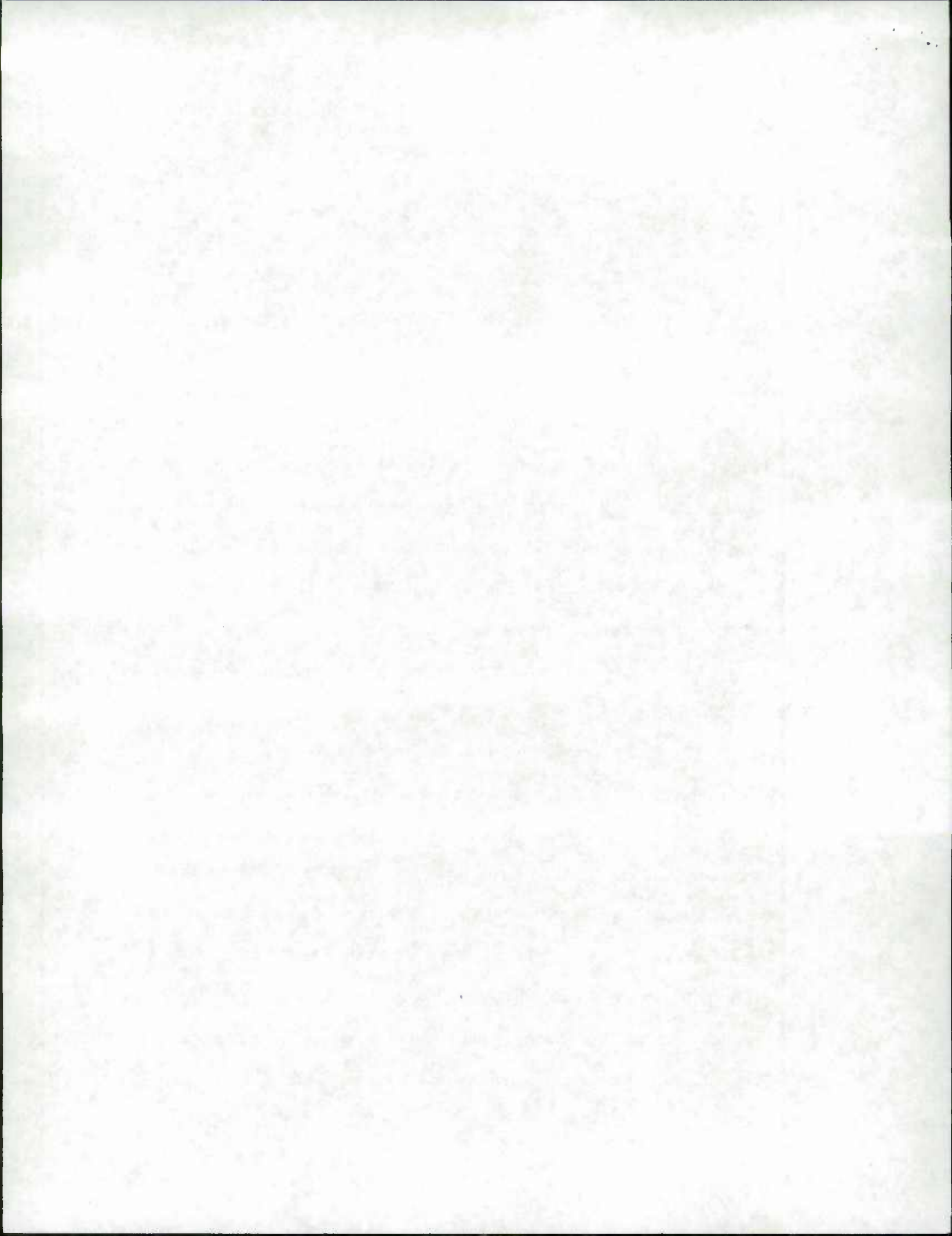

Christopher H. Wilson, Member

(C. Ann Abruzzo, Vice Chairman, did not participate in this appeal).

DISSENT

The Petitioner's request for a variance of four feet to the 25 foot rear yard setback requirements for Lot 13 does not meet the standards for the grant of a variance. There are no unique physical conditions or exceptional topographic conditions peculiar to and inherent to this particular lot that prevent the development of this lot in strict conformance with the County Code. See, Code, Article 3, Section 2-107(a). There are also no exceptional circumstances (other than financial considerations) for which the grant of a variance is necessary to avoid practical difficulties or unnecessary hardship and to enable the applicant to develop the lot. See, id., Section 2-107(a).

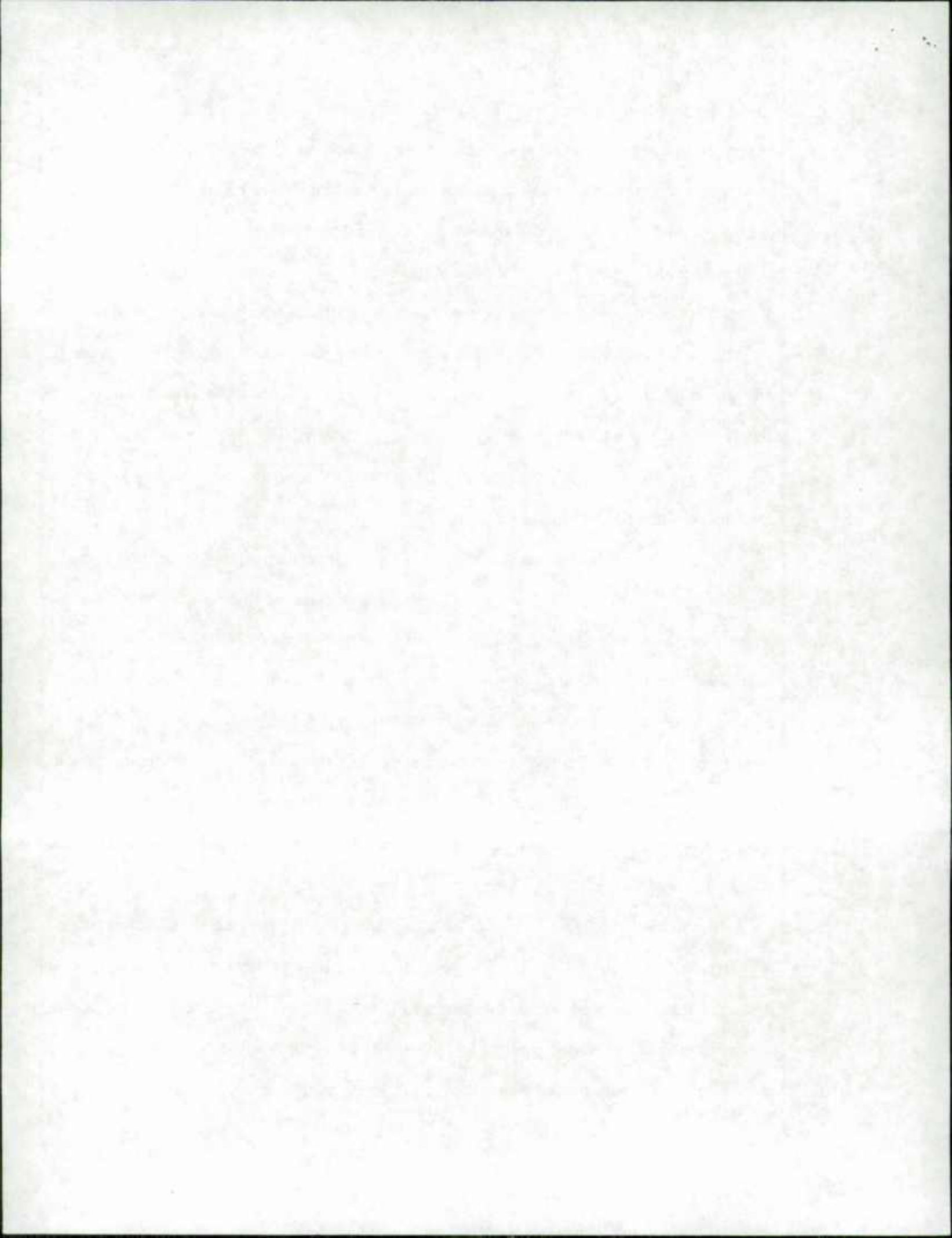
This property comprises 6,980 square feet. It is more than 100 feet deep and 65 feet wide. Although a property along the water would typically be required to maintain a 100 foot setback of all improvements this property need only meet a 52 foot setback from the mean high water line. Once the 52 foot mean high water line setback and the 25 foot minimum required rear yard setback is applied to this lot, a building envelope of greater than 24 by 40 feet remains. This building envelope would accommodate a house with 960 square feet per floor. A house on that footprint with two stories and a basement would have 2,880 square feet of living space. It is clear that the physical conditions of this site do not prevent its development. Therefore, the Petitioner has failed to meet the criteria set forth in Section 2-107(a)(1).



The Petitioner argues that this proposed new home should be permitted to violate the minimum 25 rear yard requirement because the previous home (constructed across the two lots that formerly comprised the homestead) violated the rear yard setback criteria. Unlike the buffer exemption program for the Critical Area setback provisions, there is no Code authority that permits a property owner to ignore the rear yard setback criteria merely because a prior structure did so. Here, we believe the Petitioner is proposing to construct the largest home possible on this property and would like to violate the minimum rear yard size requirements in order to accomplish a greater financial gain. There are no exceptional circumstances presented in this appeal other than financial considerations. See, id., Section 2-107(a)(2). Without a variance there remains a building envelope at least 24 by 40 feet. A reasonably sized home can be constructed within this building envelope.

The Code requires that variance requests be the minimum necessary to grant relief to the applicant. See, id., Section 2-107(c)(1). This Petitioner has requested a variance not so that the property can be developed, but rather, so that the property can be developed with a larger home. There has been no showing of any need for the increased size in the dwelling other than to provide a larger home than the parcel can lawfully sustain. A house with a footprint of at least 960 square feet can be constructed on this property. If a two-story home is constructed, it can measure at least 1,920 square feet. A three-story home could have 2,880 square feet of living space. A request for a variance where there is no need to grant one cannot be the necessary to afford relief to any applicant.

It is not in the public's interest to have variances granted where there is no need to do so. See, id., Section 2-107(c)(2)(iv). The property can be developed with a reasonably sized structure. There is no need to grant the variance. The County Council has established the zoning setback criteria to protect the public. The public has the right to rely on the sanctity of those criteria unless an applicant can show that it fully meets all the variance requirements. In this

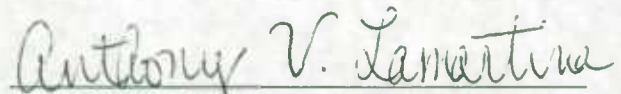


instance, the Petitioner simply does not meet all the variance requirements and should not be granted a variance to the rear yard setbacks.

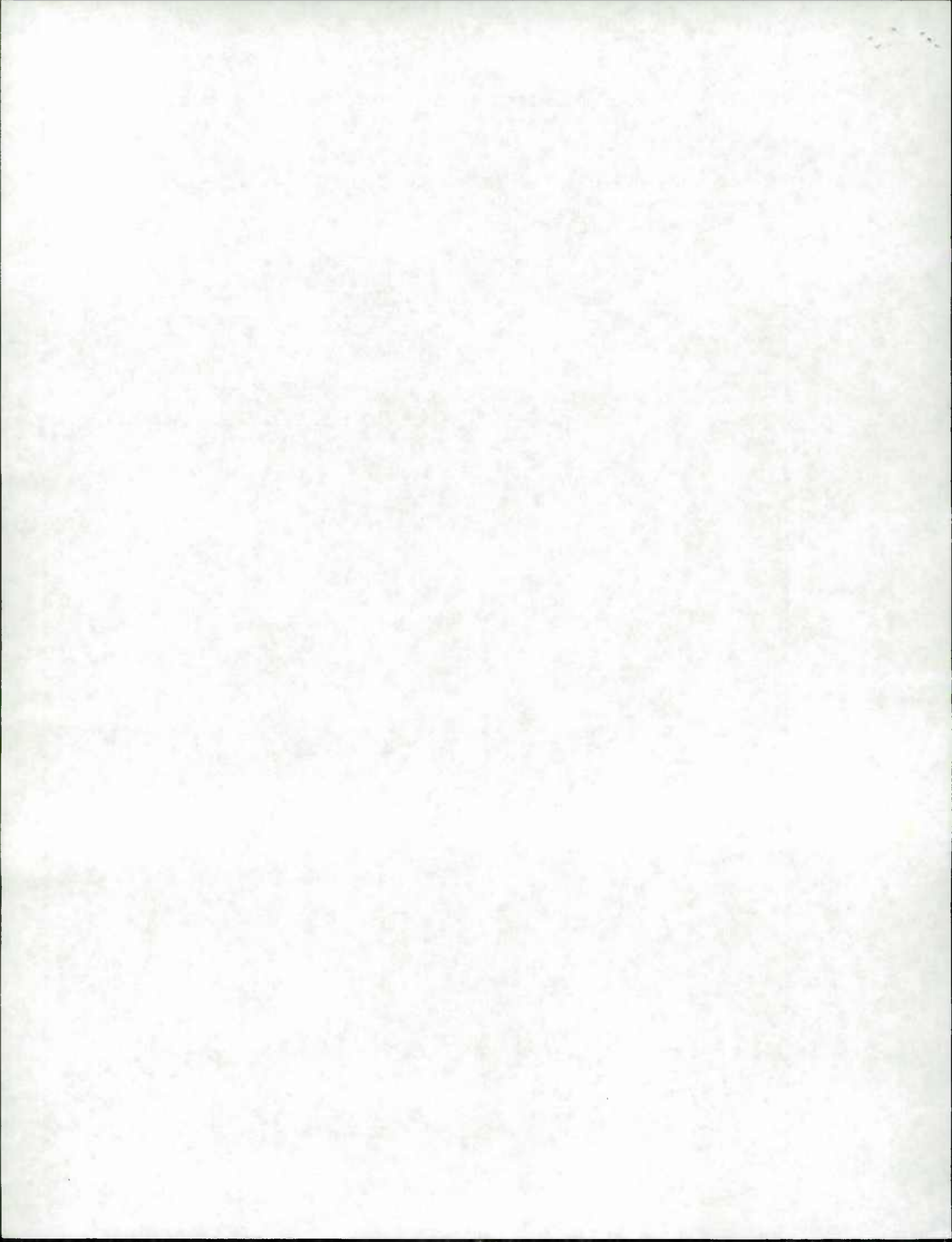
In order to grant a variance, this Board must find an applicant has met all the requirements. It is clear this Petitioner does not.

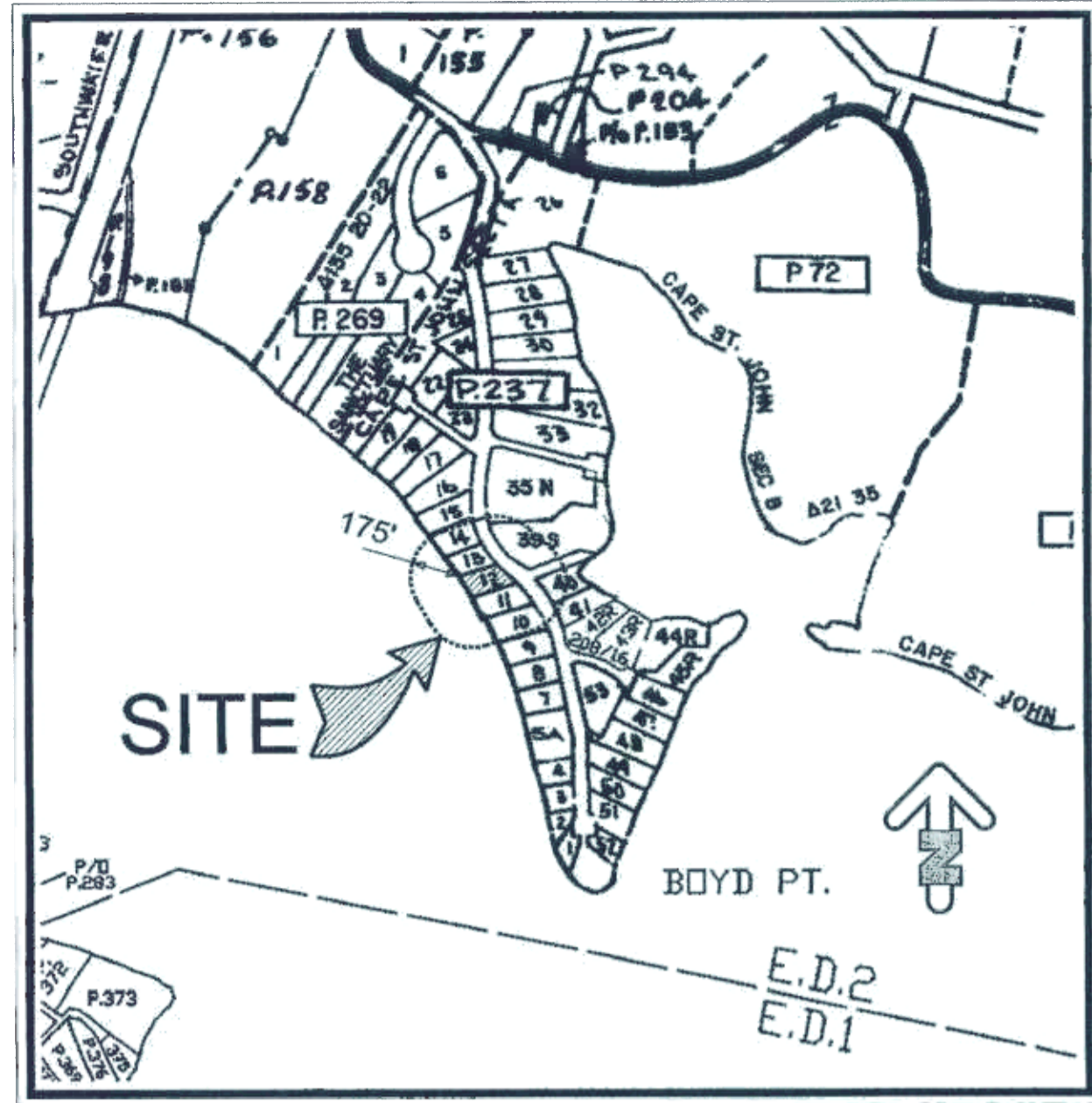


William Moulden, Chairman



Anthony V. Lamartina, Member





PROPERTY OWNERS MAP
SCALE: 1" = 600'

PROPERTY OWNERS LIST
PROPERTY OWNERS WITHIN 175 FEET
OF TAX MAP 50, GRID 23, PARCEL
237, LOT 12

- | | |
|--|---|
| TM 50, G. 23, P. 237, LOTS 9 & 10
KANTER, WILLIAM R.
GROSS, SHARON C.
3006 FRIENDS RD
ANNAPOLIS MD 21401-7224 | TM 50, G. 23, P. 237, LOT 35N
WEBB, WILLIAM F
WEBB, LINDA H
2995 FRIENDS RD
ANNAPOLIS MD 21401-7221 |
| TM 50, G. 23, P. 237, LOT 11
WALLACE, SHARON K
3004 FRIENDS RD
ANNAPOLIS MD 21401-7224 | TM 50, G. 23, P. 237, LOT 39
ANNE ARUNDEL COUNTY
DEPT. OF PUBLIC WORKS
1 HARRY S TRUMAN PKWY
ANNAPOLIS MD 21401 |
| TM 50, G. 23, P. 237, LOT 13
EDWARDS, DOROTHY T
EDWARDS, JOHN W
3000 FRIENDS RD
ANNAPOLIS MD 21401-7224 | TM 50, G. 23, P. 237, LOT 39S
PHEASANT, DONALD
2999 FRIENDS RD
ANNAPOLIS MD 21401-7221 |
| TM 50, G. 23, P. 237, LOT 14
2996 FRIENDS ROAD ONE, LLC
2824 SOLOMONS ISLAND RD
EDGEWATER MD 21037-1424 | TM 50, G. 23, P. 237, LOT 40
SPARER, GERALD
CAHN, MARJORIE
3005 FRIENDS RD
ANNAPOLIS MD 21401-7223 |
| TM 50, G. 23, P. 237, LOT 15
2996 FRIENDS ONE LLC
2824 SOLOMONS ISLAND RD
EDGEWATER MD 21037-1424 | TM 50, G. 23, P. 237, LOT 41
FITZPATRICK TRUSTEE, R HERBERT
FITZPATRICK TRUSTEE, LOIS R
3007 FRIENDS RD
ANNAPOLIS MD 21401-7223 |
| TM 50, G. 23, P. 237, LOT 42R
LODRIGE, DUANE
3009 FRIENDS ROAD
2824 SOLOMONS ISLAND RD
EDGEWATER MD 21037-1424 | |

S.W.M. COMPLIANCE NOTE

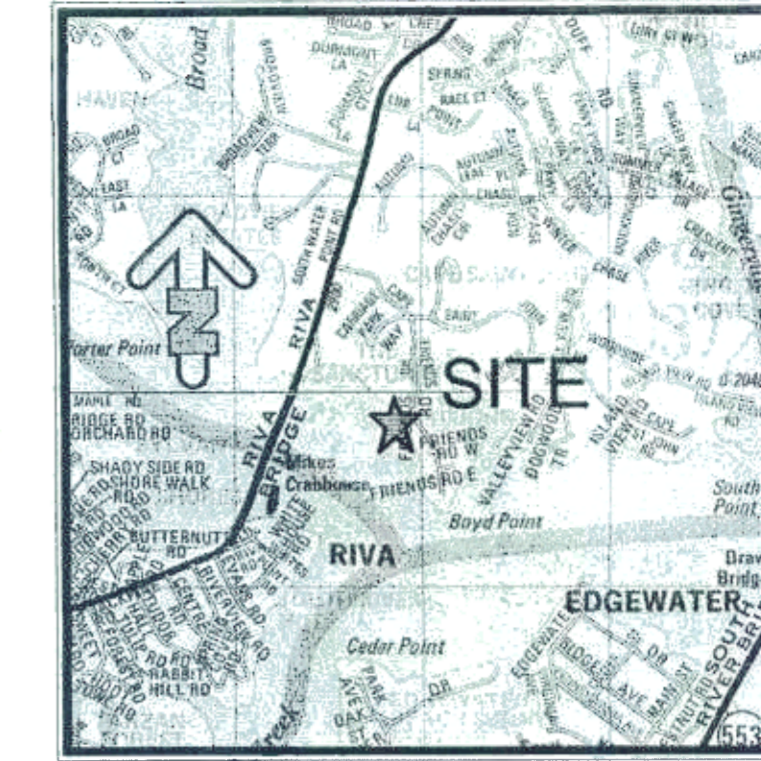
IN ACCORDANCE WITH CHAPTER 3, PAGE 15, SECTION D OF THE ANNE ARUNDEL COUNTY "S.W.M. PRACTICES AND PROCEDURAL MANUAL" AND JOHN P. PEACOCK LETTER TO WALTER N. CHITWOOD, DIRECTOR DATED AUGUST 9, 2001 THE DEVELOPMENT OF THIS LOT MUST COMPLY WITH THE QUALITATIVE AND QUANTITATIVE STORMWATER MANAGEMENT CRITERIA CONTAINED IN THE STORMWATER MANAGEMENT PRACTICES AND PROCEDURES MANUAL. THIS PROJECT IS CONSIDERED REDEVELOPMENT SINCE THE DEVELOPMENT TAKES PLACE ON A SITE THAT CURRENTLY IS DEVELOPED WITH GREATER THAN 15% IMPERVIOUSNESS (ACTUAL IMPERVIOUSNESS = 32.7%, SEE PROJECT SUMMARY TABLE ABOVE).

IN ACCORDANCE WITH THE APPLICANTS GUIDE FOR 10% RULE COMPLIANCE THE PLANS HEREON WILL SERVE AS THE RESIDENTIAL WATER QUALITY MANAGEMENT PLAN. THE WATER QUALITY FEATURES PROVIDED BY THE OWNER OF THIS LOT PROPOSES THE FOLLOWING:

- PERVIOUS DECK DESIGN WITH GAPS BETWEEN THE BOARDS TO ACHIEVE PERVIOUSNESS, 6 INCHES MINIMUM OF UNCOMPACTED GRAVEL BENEATH THE DECK AND PLANTINGS 3 FEET MINIMUM WIDTH AT 24-36" O.C. USING LOW-GROWING EVERGREEN SHRUBS OR WOODY, DECIDUOUS PLANT MATERIAL.

VARIANCE PLANS OF DHANDA RESIDENCE 3002 FRIENDS ROAD

TAX MAP 50, GRID 23, PARCEL 237, LOT 12
ANNAPOLIS, MARYLAND 21401
SECOND DISTRICT • ANNE ARUNDEL COUNTY



VICINITY MAP
SCALE: 1"=2000'
COPYRIGHT ADC THE MAP PEOPLE
PERMITTED USE NO. 20400770

PROJECT SUMMARY
(IMPERVIOUS AREA)

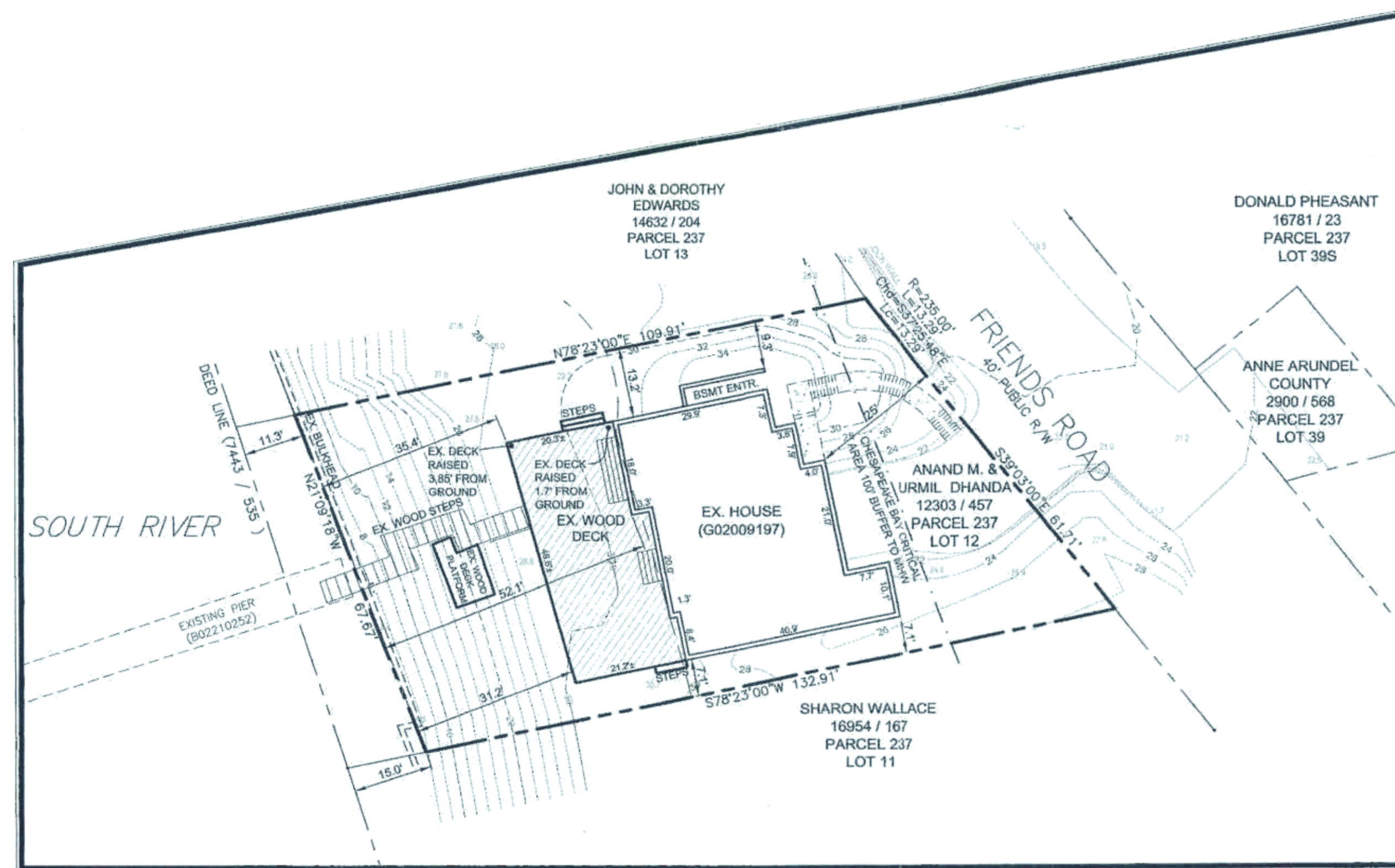
DESCRIPTION	LOT 12
EXISTING LOT AREA	7,590 SQ. FT. ±
EXISTING IMPERVIOUS AREA	
- WIN 100' BUFFER	2,029 SQ. FT. ±
- OUTSIDE 100' BUFFER	456 SQ. FT. ±
TOTAL	2,485 SQ. FT. ± OR 32.7%
EXISTING IMPERVIOUS TO BE REMOVED	
- WIN 100' BUFFER	0 SQ. FT. ±
- OUTSIDE 100' BUFFER	0 SQ. FT. ±
TOTAL	0 SQ. FT. ±
PROPOSED IMPERVIOUS AREA	
- WIN 100' BUFFER	0 SQ. FT. ±
- OUTSIDE 100' BUFFER	0 SQ. FT. ±
TOTAL	0 SQ. FT. ±

LOT 12 NOTES

- BREAKDOWN OF IMPERVIOUS AREAS ARE AS FOLLOWS:
LOT 12 (WIN 100' BUFFER)
 - HOUSE = 1,762 SQ. FT.
 - DRIVEWAY = 192 SQ. FT.
 - PORCH / SIDEWALK = 30 SQ. FT.
 TOTAL = 2,029 SQ. FT.

LOT 12 (OUTSIDE 100' BUFFER)
 - HOUSE = 0 SQ. FT.
 - DRIVEWAY = 411 SQ. FT.
 - PORCH / SIDEWALK = 45 SQ. FT.
 TOTAL = 456 SQ. FT.

 2. THE LOT IS LOCATED WITHIN THE IDA AND IS BUFFER EXEMPT, THEREFORE **NO** IMPERVIOUS AREA LIMITATION IS REQUIRED.



OVERALL LOCATION MAP
SCALE: 1"=20'

• Wood platform on slopes not on '01' site plan-when was this constructed?
 • No way on the deck- they already have a path

GENERAL NOTES

- APPLICANT / OWNER / DEVELOPER :
ANAND M. & URMIL DHANDA
3002 FRIENDS ROAD
ANNAPOLIS, MARYLAND 21401
- THE PROPERTY IS KNOWN AS TAX MAP 50, GRID 23, PARCEL 237, LOT 12, PART OF THE CAPE ST. JOHN SUBDIVISION IN ANNAPOLIS, MD BY DEED 12303 / 457. TOTAL TRACT AREA = 7,590 SQ. FT. OR 0.17 ACRES ±.
- EXISTING ZONING OF THE SITE IS R2 - RESIDENTIAL DISTRICT.
- SITE ADDRESS: 3002 FRIENDS ROAD, ANNAPOLIS, MD 21401.
- TAX ACCOUNT NO. 02-154-06942950.
- EXISTING TOPOGRAPHY AND FEATURES SHOWN HEREON WERE TAKEN FROM A FIELD SURVEY PERFORMED IN SEPTEMBER, 2001 BY BAY ENGINEERING INC. AND UPDATED FOR FIELD LOCATION OF DECK IMPROVEMENTS IN JUNE, 2007. ALL ELEVATIONS ARE REFERRED TO MVD 27 DATUM.
- THE SITE IS LOCATED WITHIN THE CHESAPEAKE BAY CRITICAL AREAS DESIGNATION "INTENSELY DEVELOPED AREA (IDA)" AND DESIGNATED AS "BUFFER EXEMPT".
- PROPOSED SITE UTILITIES ARE AS FOLLOWS :
WATER - PUBLIC WIN FRIENDS ROAD
SEWER - PUBLIC WIN FRIENDS ROAD
- THE PROPERTY IS AFFECTED BY A COASTAL FLOODPLAIN AND/OR A COASTAL HIGH HAZARD AREA AS ESTABLISHED BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) ON THE FLOOD INSURANCE RATE MAP 0938C ZONE A6. THE ELEVATION IS 7 FEET. THE FIRST FLOOR ELEVATIONS OF ALL STRUCTURES LOCATED WITHIN THESE AREAS OR LOTS SHALL BE CONSTRUCTED IN ACCORDANCE WITH THE PROVISIONS OF ARTICLE 21, TITLE 1 OF THE ANNE ARUNDEL COUNTY CODE.
- THE EXISTING UTILITIES AND OBSTRUCTIONS SHOWN ARE FROM THE BEST AVAILABLE RECORDS AND SHALL BE FIELD VERIFIED BY THE CONTRACTOR TO HIS OWN SATISFACTION PRIOR TO ANY CONSTRUCTION. ANY UTILITIES DAMAGED DUE TO THE CONTRACTOR'S NEGLIGENCE SHALL BE REPAIRED IMMEDIATELY AT THE CONTRACTOR'S EXPENSE.

DRAWING INDEX

AS-100 COVER SHEET
AS-101 VARIANCE SITE PLAN



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Civil Engineer
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190 Admiral Cochran Drive
Suite 175
Annapolis, MD 21401
410.897.9290

I CERTIFY THAT THESE DOCUMENTS WERE PREPARED OR APPROVED BY ME AND THAT I AM A DAILY LICENSED ARCHITECT UNDER THE LAWS OF THE STATE OF MARYLAND. LICENSE NUMBER 11569. EXPIRATION DATE MARCH 22, 2009.

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DHANDA RESIDENCE
3002 FRIENDS ROAD
TAX MAP 50, GRID 23, PARCEL 237, LOT 12
ANNAPOLIS, MARYLAND 21401

DRAWING DATE

RECEIVED

NOV 29 2007

CRITICAL AREA COMMISSION
Chesapeake & Atlantic Coastal Bays

REVISION DATE

JOB NO: 07-032

DRAWN BY: DD

COVER SHEET

AS-100