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Anthony G. Brown  
*Lt. Governor*



Margaret G. McHale  
*Chair*

Ren Serey  
*Executive Director*

STATE OF MARYLAND  
CRITICAL AREA COMMISSION  
CHESAPEAKE AND ATLANTIC COASTAL BAYS

1804 West Street, Suite 100, Annapolis, Maryland 21401

(410) 260-3460 Fax: (410) 974-5338

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

July 31, 2008

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

Re: 2008-0214-V – Kanne, Jeffrey

Dear Ms. Cotter:

Thank you for forwarding the above-referenced variance request. Mr. Konowal of your office and I visited the site on July 28, 2008. The applicants request a variance to allow accessory structures (garage and retaining wall) with disturbance to slopes greater than 15%. This lot is 44,047 square feet and is located in the Limited Development Area (LDA). The applicant proposes to remove an existing, failing retaining wall and replace it in a tiered fashion along the hill behind the house. There appears to be heavy sheet flow from this hill. The applicant also proposes to remove an existing, attached garage and plant this area for the purposes of stormwater management. The applicant proposes to build an equivalently sized garage of 25' x 31' (775 square feet) as an accessory structure further landward of the existing dwelling than the current garage. The applicant also has indicated that there will be a net lot coverage reduction of 1,425 square.

Provided the lot is properly grandfathered, we do not oppose a variance request for the construction of the retaining walls and the garage. If the County determines this request, or some variation of this request can be granted, we recommend 3:1 mitigation for the area of disturbance to the steep slopes. These plantings should be configured in a way to maximize stormwater management. The applicant should submit a plantings plan to the County for review and approval. The applicant is also proposing to construct two rain gardens on site for water quality purposes; we support the use of such gardens.

As a reminder, in 2008, the General Assembly passed House Bill 1253 which included a change within the Critical Area from the term impervious surface area to the term lot coverage. It appears from the variance application that the property is being developed in the context of impervious surface area. As such, Section 8, Ch. 119, 2008 Laws of Maryland at 765, contains provisions in regard to the lot coverage requirements of Natural Resources Article §8-1808.3 which may be applicable to this variance application. Under these provisions, a development project whose initial application for

TTY for the Deaf

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



Ms. Pam Cotter  
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7/31/2008

development that satisfies all local requirements is filed by October 1, 2008 and whose development plan is approved (recorded) by July 1, 2010 may utilize Anne Arundel County's approved impervious surface area limitations in effect prior to July 1, 2008 provided that;

- a) The approved development plan remains valid in accordance with Anne Arundel County's procedures and requirements; and
- b) By July 1, 2010, the applicant prepares a detailed lot coverage plan drawn to scale and showing the amounts of impervious surface area, partially pervious area, and developed pervious surface area in the development project.

In addition to (a) and (b) above, Section 8, Ch. 119, 2008 Laws of Maryland at 765 requires the lot coverage plan to be approved by Anne Arundel County and implemented in accordance with the approved lot coverage plan. Should the applicant intend to develop this property in accordance with the County's impervious surface area limitations, please indicate that intent and ensure that the applicant is aware of the requirements of Chapter 119 of the 2008 Laws of Maryland for proceeding as such.

Please include this letter in your file and submit it as part of the record for variance. Please notify the Commission of the decision made in this case. I can be reached at 410-260-3476 should you have any questions.

Sincerely,



Julie Roberts  
Natural Resources Planner

cc: AA ~~379-08~~  
364-08

AA 0364-08

**RECEIVED**

AUG 13 2008

CRITICAL AREA COMMISSION  
Chesapeake & Atlantic Coastal Bays

IN THE OFFICE OF ADMINISTRATIVE HEARINGS

CASE NUMBER 2008-0214-V

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JEFFREY KANNE

THIRD ASSESSMENT DISTRICT

DATE HEARD: AUGUST 7, 2008

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ORDERED BY: STEPHEN M. LeGENDRE, ADMINISTRATIVE HEARING OFFICER

PLANNER: ROBERT KONOWAL

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DATE FILED: AUGUST 11<sup>th</sup>, 2008

RECEIVED



FEDERAL BUREAU OF INVESTIGATION

U. S. DEPARTMENT OF JUSTICE

## PLEADINGS

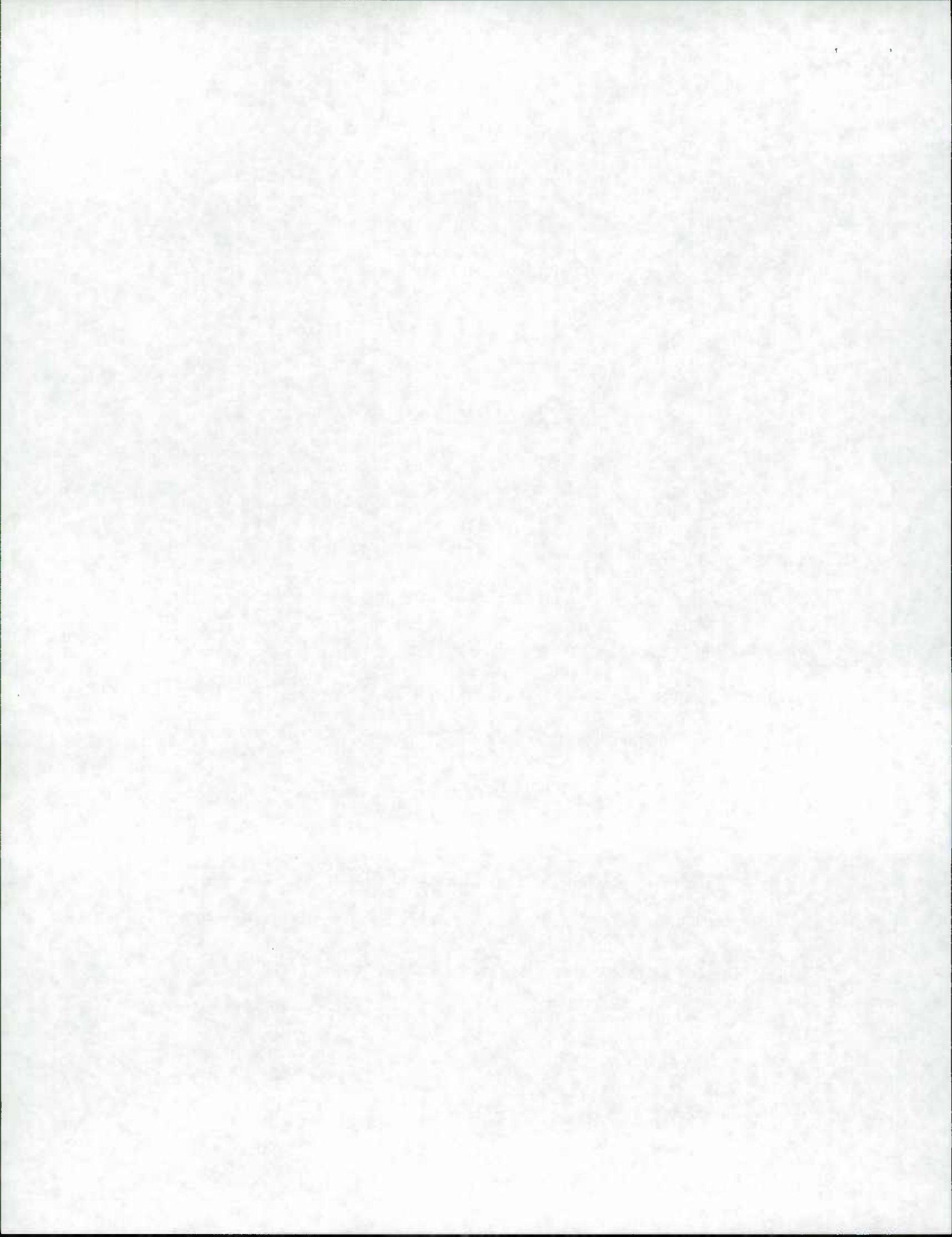
Jeffrey Kanne, the applicant, seeks a variance (2008-0214-V) to allow a garage and retaining walls with disturbance to steep slopes on property located along the west side of Round Hill Road, south of Cooleys Pond Road, Gibson Island.

## 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. Matthew Forgen, the applicant's engineering consultant, 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 applicant owns a single-family residence with a street address 636 Round Hill Road, Gibson Island. The property comprises 43,995 square feet and is zoned R1 residential with a Chesapeake Bay Critical Area designation as Limited Development Area (LDA). This is a waterfront lot on Sillery Bay. The request is to raze the dwelling (includes rear garage addition) and retaining wall.

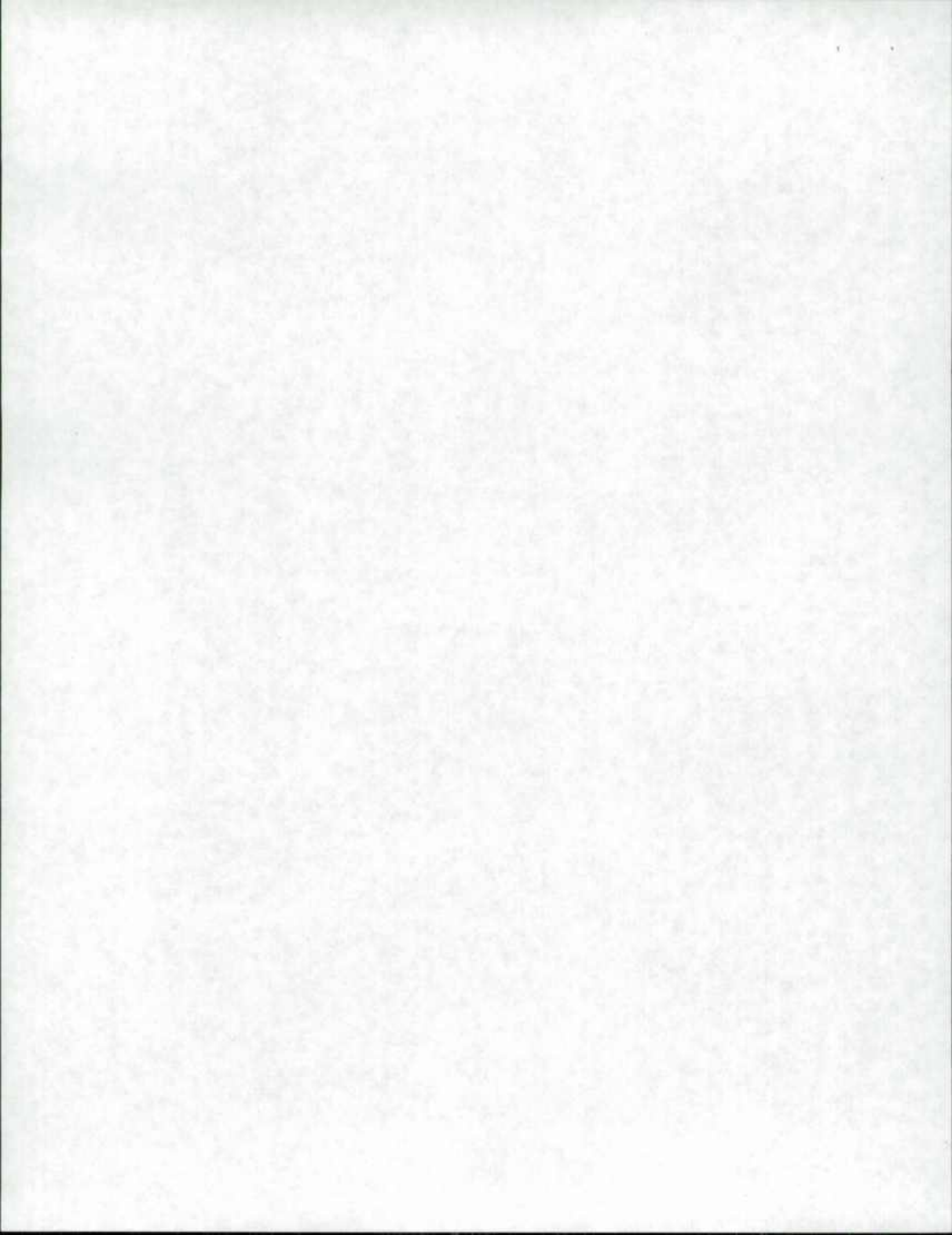


followed by the construction of a new home in the same location along with a detached garage and retaining walls. The new garage and retaining walls are closer to the street in an area of steep slopes.

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

Robert Konowal, a planner with the Office of Planning and Zoning, testified that the property is irregular in configuration and substantially encumbered by slopes. At present, the existing dwelling experiences runoff and erosion at the foundation of the rear façade. The redevelopment will result in improved drainage. The replacement garage is the same size as the existing garage addition. The project also includes revegetation of the area of the existing garage addition and the existing driveway. The witness summarized the agency comments. The County's Development Division suggested that the slope disturbance (4,198 square feet) is excessive. The Chesapeake Bay Critical Area Commission did not oppose the request, subject to mitigation and stormwater management. By way of conclusion, Mr. Konowal supported the request.

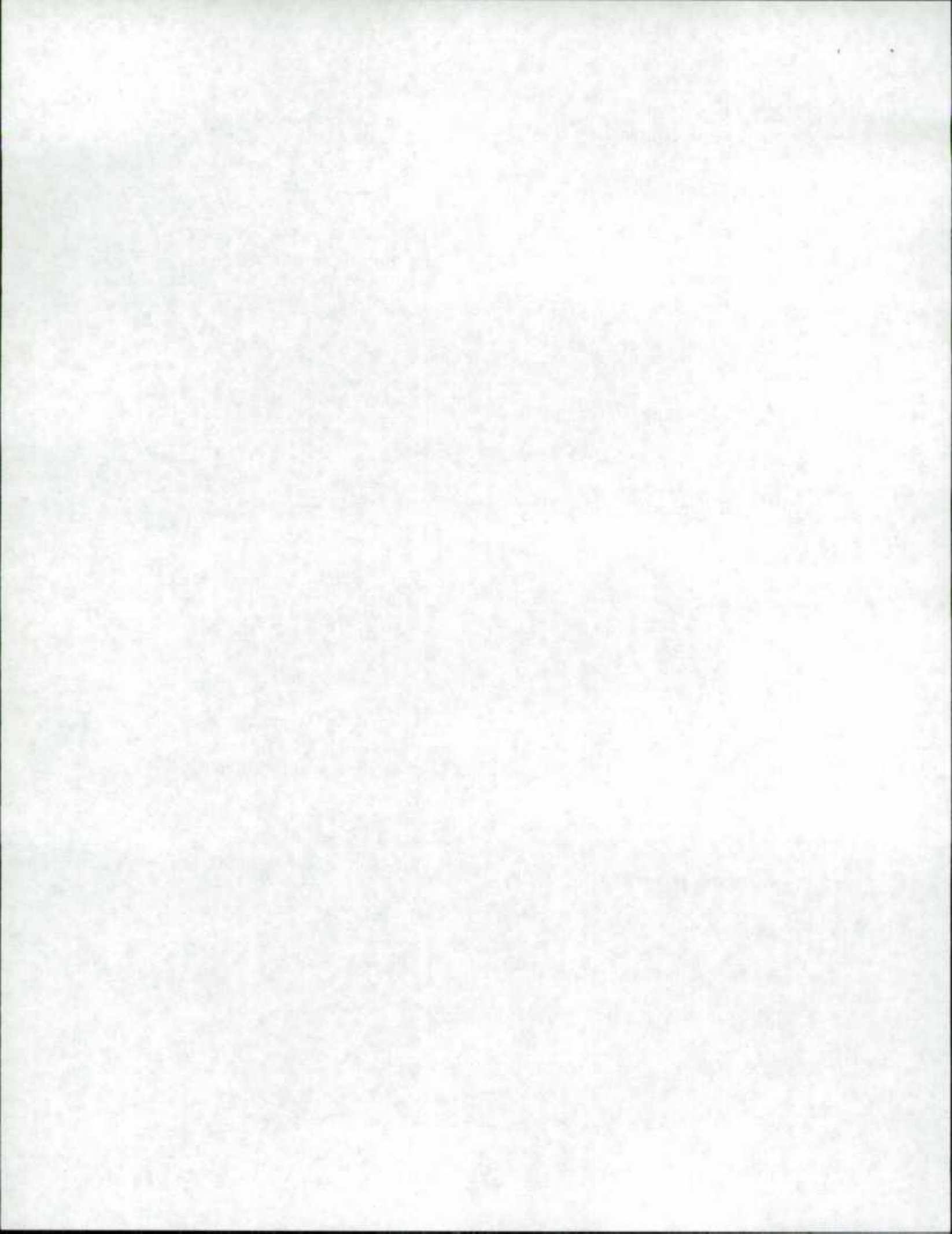
Mr. Forgen submitted a letter from a structural engineer as justification for replacing the existing retaining wall as well as several site photographs showing the extent of the erosion.





Mr. Kanne testified that the wall is more than 50 years old and failing to the point of near collapse. The design slows down the force of water across the rising slope to the road. There was no other testimony in the matter.

Upon review of the facts and circumstances, I find and conclude that the applicant is entitled to conditional relief from the code. For this Critical Area property, due to the extent of the slopes, a strict implementation of the program would result in an unwarranted hardship. Under a literal interpretation of the program, the applicant would be unable to redevelop the property, and to achieve positive drainage, rights commonly enjoyed by other properties in similar areas in the Critical Area. Conversely, the granting of the variance is not a special privilege that the program typically denies. There is no indication that the request results from the actions of the applicant or from land use on neighboring property. Finally, with mitigation and stormwater management, the variance will not adversely impact Critical Area assets and harmonizes with the general spirit and intent of the program. I further find that the variance represents the minimum relief. The applicant has presented a reasonable solution to the erosive condition. There was nothing to suggest that the granting of the variance would alter the essential character of the neighborhood, substantially impair the appropriate use or development of adjacent property or cause a detriment to the public welfare. The approval is subject to the conditions in the Order.



ORDER

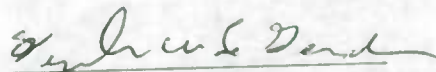
PURSUANT to the application of Jeffrey Kanne, petitioning for a variance to allow a garage and retaining walls with disturbance to steep slopes, and

PURSUANT to the notice, posting of the property, and public hearing and in accordance with the provisions of law, it is this 11<sup>th</sup> day of August, 2008,

ORDERED, by the Administrative Hearing Officer of Anne Arundel County, that the applicant is **granted** a variance to disturb steep slopes to allow a garage and retaining walls in accordance with the site plan.

The foregoing variance is subject to the following conditions:

1. The building permit is subject to the approval of the Department of Health.
2. The applicant shall provide mitigation and stormwater management as determined by the Permit Application Center.

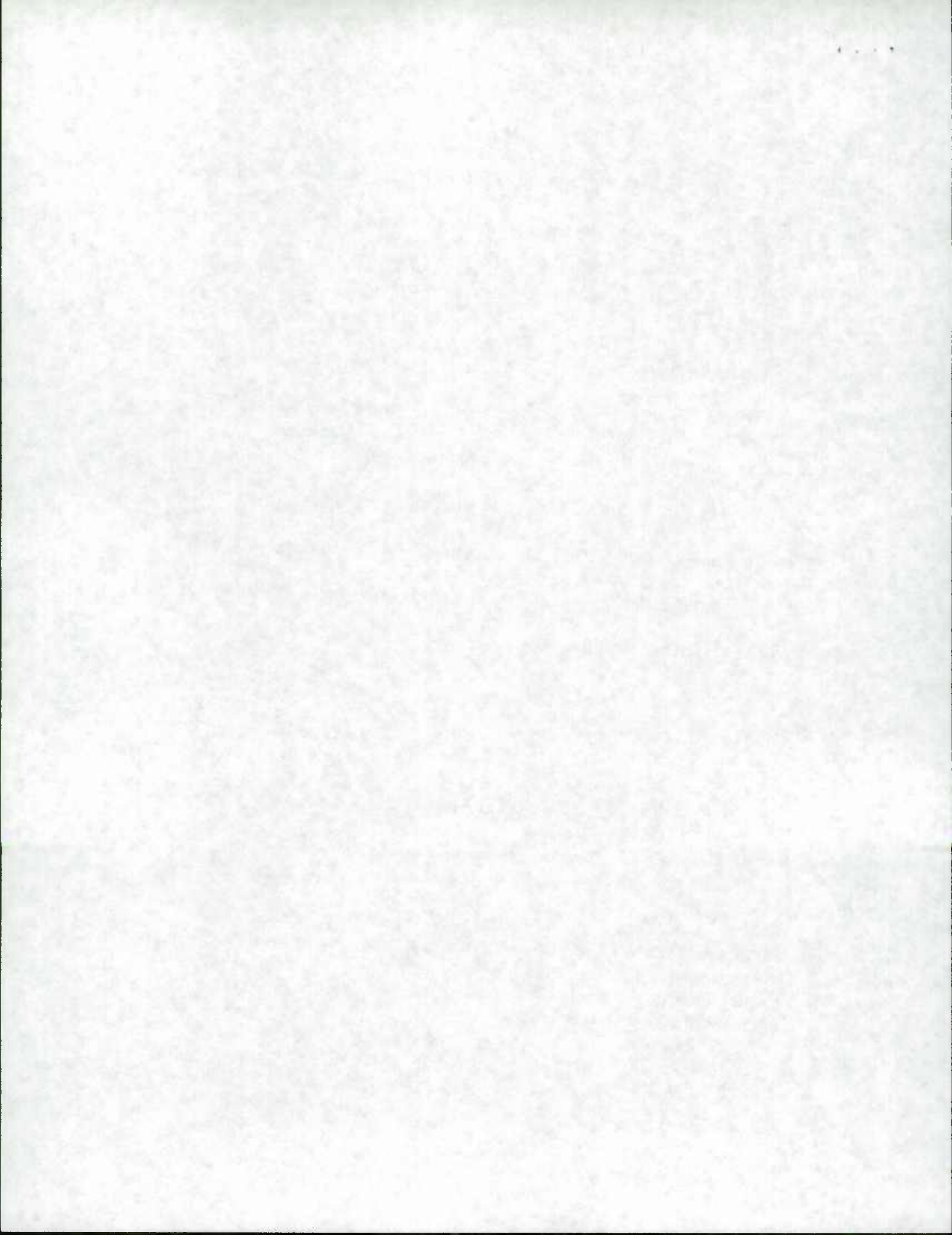
  
Stephen M. LeGendre  
Administrative Hearing Officer

NOTICE TO APPLICANT

Within thirty days from the date of this Decision, any person, firm, corporation, or governmental agency having an interest therein and aggrieved thereby may file a Notice of Appeal with the County Board of Appeals.

Further Section 18-16-405(a) provides that a variance expires by operation of law unless the applicant obtains a building permit within 18 months. Thereafter, the variance shall not expire so long as construction proceeds in accordance with the permit.

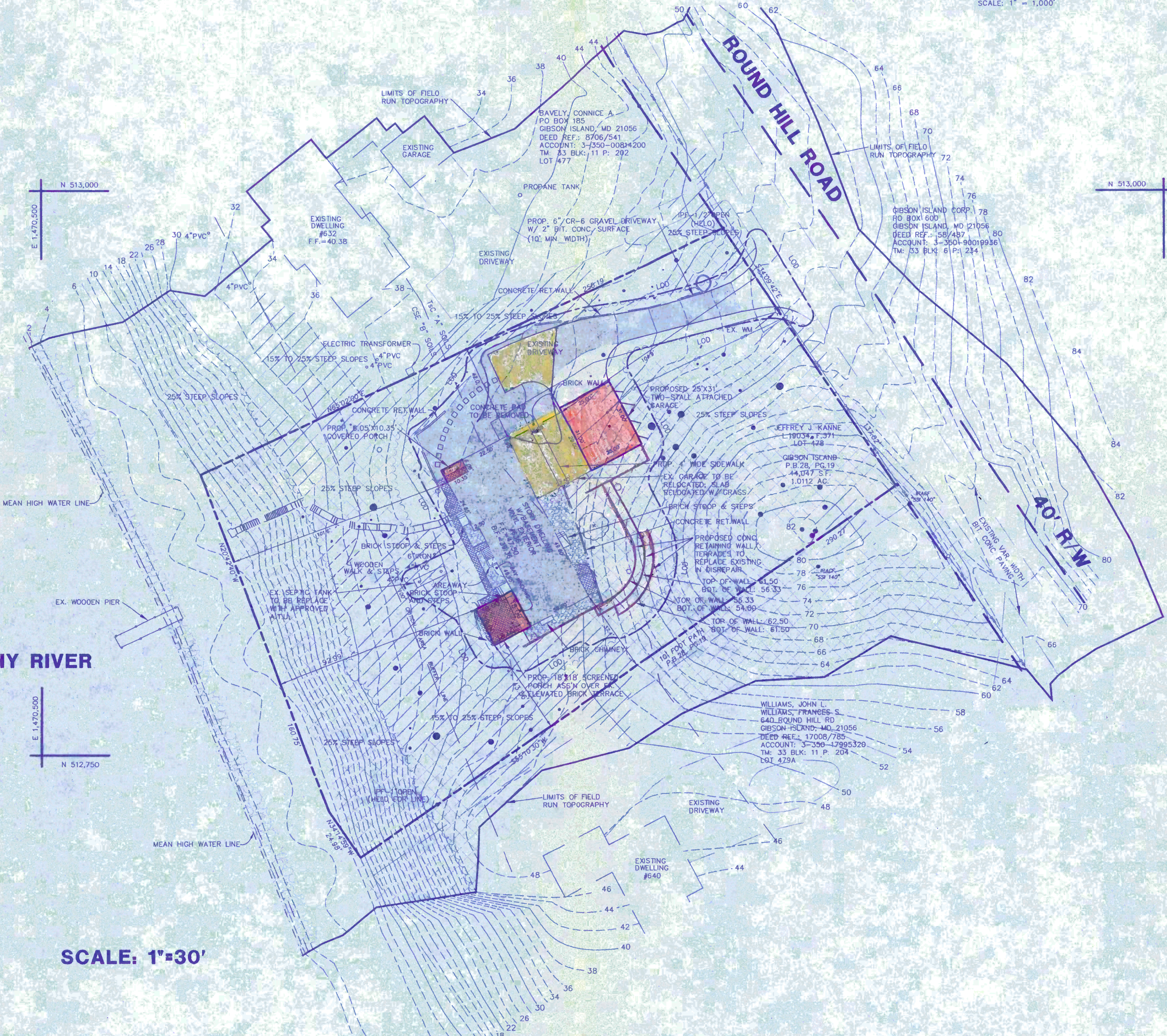
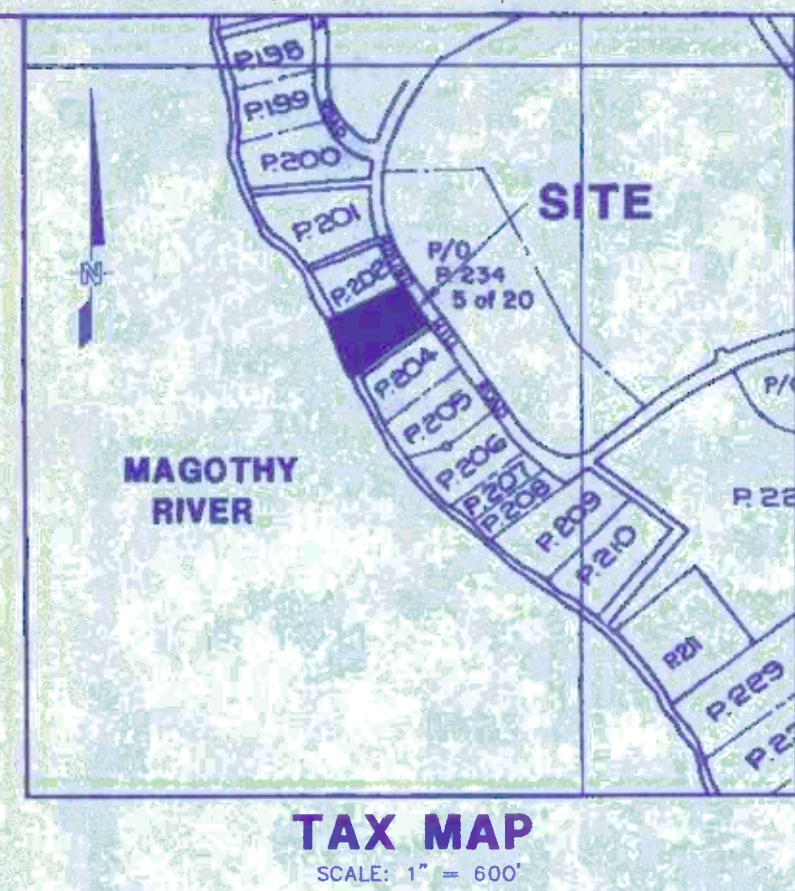
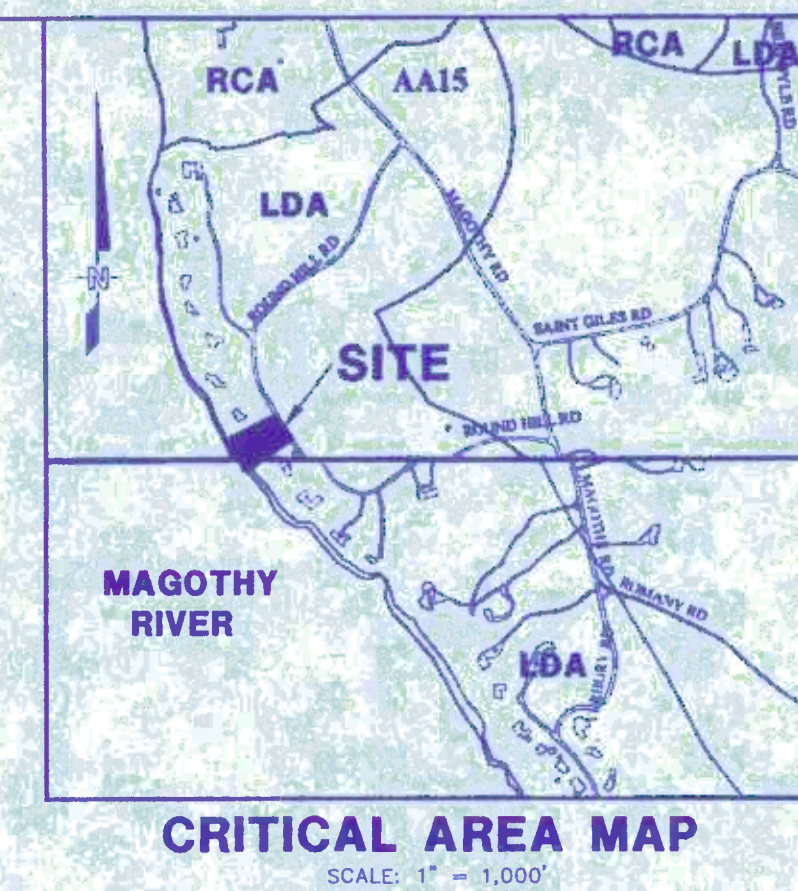
If this case is not appealed, exhibits must be claimed within 60 days of the date of this Order, otherwise they will be discarded.



**CRITICAL AREA CALCULATIONS (LDA)**

- 1) Total site area: 44,047 s.f. or 1.01 AC.
- 2) Total impervious area allowed: 5,607 s.f.
- 3) Total woods on site: 30,295 square feet or 68.68% of the site.
- 4) Total woods permitted to be cleared: 30% or 9,076 square feet
- 5) Total woods to be cleared in 100' buffer: 0 square feet
- 6) Total woods to be cleared out of 100' buffer: 900 square feet
- 7) Total woods required on site: 15% or 6,599 square feet.
- 7) Total existing impervious: House: 2,368 s.f. to remain  
Garage: 776 s.f. to be removed  
Drive: 3,387 s.f. to remain (1,514 to be removed)  
Brick Walk: 272 s.f. to remain  
Total: 6,801 s.f. (4,511 s.f. to remain)
- 8) Total proposed impervious: Garage: 776 s.f. = 1.76% of the site.  
Drive: 2,273 s.f. = 5.16% of the site.  
Walk: 240 s.f. = 0.54% of the site.  
Screened Porch: 324 s.f. = 0.73% of the site.  
Covered Porch: 31 s.f. = 0.07% of the site.  
Total: 3,643 s.f. = 8.27% of the site
- 9) Total impervious after construction: 6,281 s.f. = 14.25% of the site
- 10) Total impervious reduction after construction: 520 s.f. = 14.25% of the site
- 11) Total steep slopes disturbed: 4,189.41 s.f.

336  
76  
272  
240  
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2273



MAGOTHY RIVER

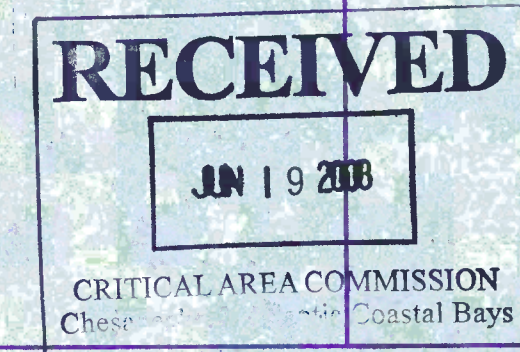
SCALE: 1"=30'

**LEGEND**

	Existing Grade
	Proposed Grade
	Limit of Disturbance
	Reinforced Silt Fence
	Stabilized Construction Entrance
	Temporary Stockpile Area
	25% Steep Slopes
	15% to 25% Steep Slopes

**VARIANCE NOTE**

WE ARE REQUESTING A VARIANCE TO ARTICLE 17-8-201 THAT STATE THAT NO DEVELOPMENT IN THE LDA MAY NOT OCCUR WITHIN SLOPES OF 15% OR GREATER.



**SHEET 1 of 1**

**VARIANCE PLAN**

**KANNE PROPERTY**  
LOT 478  
SINGLE FAMILY DWELLING

3rd DISTRICT SCALE: AS SHOWN TAX MAP 33 BLOCK 11 PARCEL 203  
ANNE ARUNDEL COUNTY, MARYLAND JUNE, 2008  
G.P. NO.: ZONING: R1 ZIPCODE: 21056

**M.A.F. & ASSOCIATES, LLC**  
526 HOODS MILL ROAD  
WOODBINE MD. 21797  
PHONE: 410-552-5541  
FAX: 410-562-5546

- GENERAL NOTES:**
1. THIS SITE CONSISTS OF 1.01 ACRES = 44,047 SQUARE FEET
  2. EXISTING ZONING: R1
  3. SETBACKS: FRONT: 40', SIDE: 15', REAR: 35'
  4. EXISTING USE: SINGLE FAMILY DWELLING
  5. PROPOSED USE: SINGLE FAMILY DWELLING
  6. PROPERTY ADDRESS: 636 ROUND HILL RD 21056
  7. OWNER: JEFFREY J. KANNE 4118 WOODBINE ST CHEVY CHASE, MD 20815
  8. DEVELOPER: JEFFREY J. KANNE 4118 WOODBINE ST CHEVY CHASE, MD 20815
  9. NO PROPERTY LINE SURVEY HAS BEEN MADE AT THIS TIME.
  10. THE EXISTING UTILITIES HAVE NOT BEEN FIELD VERIFIED AT THE TIME.
  11. IT IS THE RESPONSIBILITY OF THE CONTRACTOR TO OBTAIN THE LOCATION OF THE EXISTING UTILITIES PRIOR TO COMMENCEMENT OF ANY GRADING ACTIVITY.
  12. TWO (2) STREET PAVING SPACES REQUIRED AND PROVIDED.
  13. PROPOSED DWELLING COVERAGE: SQUARE FEET = % OF SITE.
  14. PROPOSED DWELLING HEIGHT: \_\_\_\_\_

- OWNERS WITHIN 175'**
- GIBSON ISLAND CORP.  
PO BOX 600  
GIBSON ISLAND, MD 21056  
DEED REF: 58/487  
ACCOUNT: 3-350-90019936  
TM: 33 BLK 6 P: 234
- BAVELY, CONNICE A.  
PO BOX 185  
GIBSON ISLAND, MD 21056  
DEED REF: 6706/541  
ACCOUNT: 3-350-00814200  
TM: 33 BLK 11 P: 202  
LOT 477
- WILLIAMS, JOHN L.  
WILLIAMS, FRANCES S.  
640 ROUND HILL RD  
GIBSON ISLAND, MD 21056  
DEED REF: 17008/785  
ACCOUNT: 3-350-17995320  
TM: 33 BLK 11 P: 204  
LOT 479A
- DUNCAN, ROBERT M.  
DUNCAN, NANCY J.  
2268 48TH ST NW  
WASHINGTON DC 20007  
DEED REF: 4935/494  
ACCOUNT: 3-350-24663808  
TM: 33 BLK 11 P: 201  
LOT 478
- KEENE, LEE T.  
KEENE, CAROLYN M.  
PO BOX 146  
GIBSON ISLAND, MD 21056  
DEED REF: 2900/32  
ACCOUNT: 3-350-02163900  
TM: 33 BLK 11 P: 205  
LOT 480