

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/

January 28, 2008

Ms. Roxana Whitt
Calvert County Department of Planning and Zoning
150 Main Street
Prince Frederick, Maryland 20678

Re: Variance 08-3499 Endrusick

Dear Ms Whitt:

Thank you for providing information regarding the above mentioned variance request. The applicant seeks a variance to permit disturbance within the 100-foot Buffer for construction of a single family dwelling. The property is currently undeveloped and it is classified as a Limited Development Area (LDA).

Calvert County's variance standards require that the requested variance be the minimum necessary to afford relief from the regulations. However, it does not appear that the applicant has shown minimization of impacts to the Buffer. Based on the information submitted, it appears that the applicant can make adjustments to the plan that would minimize the extent of proposed disturbance to the Buffer. Accordingly, this office cannot support granting the requested variance unless the applicant shows an attempt to site the dwelling in a way that minimizes these impacts.

Examples of ways in which the applicant can show minimization of the extent of impact on the Buffer are described below:

- It appears that the size of the proposed house could be reduced and reconfigured so that more of the footprint is located outside of the Buffer. Additionally, the proposed garage could be eliminated or entirely incorporated into the dwelling footprint. It is this office's position that a garage is unnecessary on properties with environmentally sensitive features. If the proposed garage were eliminated or incorporated into the dwelling footprint, it could be possible to locate more of the proposed dwelling in that location which is out of the Buffer.
- It seems that if a more space efficient septic treatment system were used, there would be room to pull the majority of the proposed dwelling out of the Buffer. The applicant should address whether alternative septic treatment options are feasible on this property.

January 28, 2008

Ms. Whitt

Page Two

- If less of the property were restricted by the proposed septic treatment area and the house were able to be pulled farther out of the Buffer, the proposed 90 foot long driveway could be reduced as well, which would allow for a reduction in the proposed impervious footprint on the property.
- If a less space intensive septic treatment option is not feasible on this property, then the applicant should address whether the driveway could be located over the septic area so that more of the property that is not in the Buffer would be available for developing the proposed dwelling.
- The applicant has proposed to clear 1,998 square feet of the existing 4,512 square feet of existing forested area on the property, and it does not appear that replacement plantings are proposed on the property at this time. The applicant could provide plantings to reestablish the Buffer, mitigate for the proposed clearing, and to meet the 15% afforestation requirement. Additionally, it appears that there is ample room on the property for plantings that would treat stormwater, instead of creating disturbance in the Buffer for the three proposed drywells. We suggest that proper establishment of the Buffer in three-tiered vegetation may provide water quality benefits equivalent to the proposed drywells.
- The applicant's submitted calculations indicate that the proposed impervious surface area is slightly more than the allowed 15%, which is 4,161 square feet. Therefore, the proposed 4,216 square feet of impervious surface area must be reduced.

Thank you for the opportunity to provide comments regarding this variance request. Please include this letter within the file and submit it as a part of the record for this variance. In addition, please notify the Commission in writing of the decision made in this case. If you have any questions, please call me at 410-260-3481.

Sincerely,



Amber Widmayer
Natural Resource Planner

cc: CA 16-08
Robin Munnikuysen

CA 16-08

RECEIVED

FEB 26 2008

CRITICAL AREA COMMISSION
Chesapeake & Atlantic Coastal Bays

CALVERT COUNTY BOARD OF APPEALS

Case No. 08-3499

**Public Hearing
February 7, 2008**

Thomas & Rita Endrusick have applied for a variance in the 100' waterfront buffer requirement for construction of a well and a single-family dwelling. The property is located at 12960 Spring Cove Drive, Lusby (Tax Map 44, Parcel 416, Section 1, Lot 1, Spring Cove) and is zoned RD/LDA Residential District/Limited Development Area.

AUTHORITY OF THE BOARD OF APPEALS

The jurisdiction of the Board of Appeals is based on Article 66B of the Annotated Code of Maryland, as amended. Article 11 Section 1.01.B of the Calvert County Zoning Ordinance provides that the Board of Appeals shall have the authority to grant variances from the Critical Area requirements of Section 8-1 of the Ordinance.

TESTIMONY & EVIDENCE PRESENTED

1. The case was presented February 7, 2008 before Board of Appeals members Mr. Michael Reber, Chairman, Dr. Walter Boynton, Vice Chairman, and Mr. Michael Redshaw, member, (the Board). Mrs. Rita and Mr. Thomas Endrusick were present at the hearing and were represented by Mr. Jeff Tewell from Collinson, Oliff & Associates, Inc.
2. A Staff Report, including photographs taken on site, was entered into the record and marked Staff Exhibit No. 1.
3. The following Applicant Exhibits were dated and entered into the record at the hearing:
 - Exhibit No. 1 - Application
 - Exhibit No. 2 - Plat submitted with the Application
4. The following correspondence was entered into the record at the hearing:
 - Letter dated January 28, 2008 from Amber Widmayer, Chesapeake Bay Critical Area Commission
 - Memo dated January 24, 2008 from Ron Babcock, Calvert Soil Conservation District

REVISED
LIFE-VIEW COURSE

SEP 11 1960

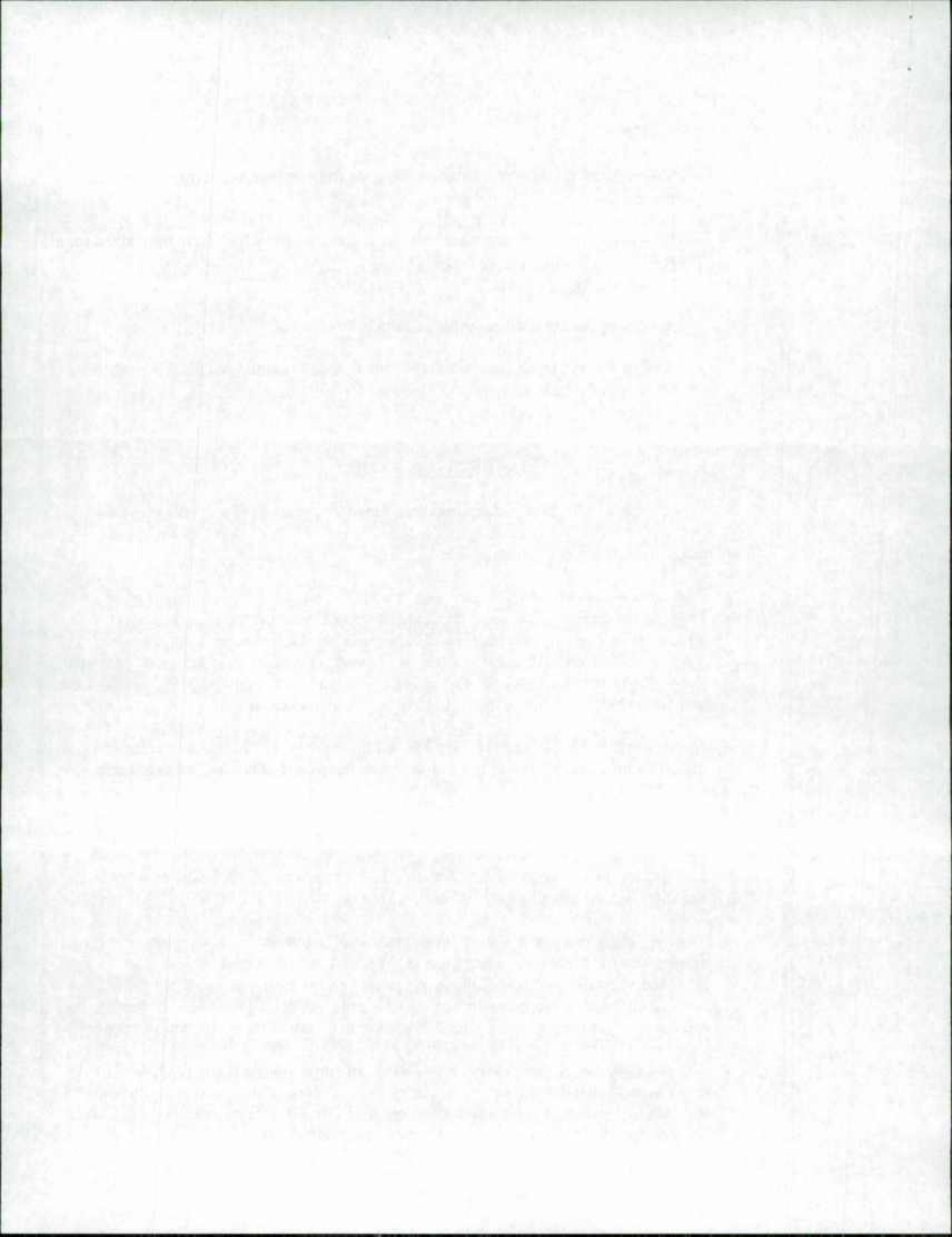
WALTON

- Memo dated January 25, 2008 from Ronald Clark, Calvert County Engineering Bureau
 - Letter, undated, from Frank & Betty Slingland, 12970 Spring Cove Drive, Lusby, Maryland, 20657
 - Letter dated February 1, 2008 from Larry A. Gruver, 12950 Spring Cove Drive, Lusby, Maryland 20657
5. The following person testified at the hearing:
- Amber Widmayer, Chesapeake Bay Critical Area Commission, 1804 West Street, Suite 100, Annapolis, Maryland 21401

FINDINGS OF FACT

Based on the application and testimony and evidence presented at the hearing the Board makes the following Findings of Fact:

1. The property consists of .64 acre and is situated on the south side of Spring Cove Drive in the Spring Cove subdivision. It has waterfront on the Patuxent River. The terrain of the property is level for a distance of 160+ from the roadfront, after which a steep but short bank descends to the waterfront. The shoreline has been protected from erosion with a bulkhead and stone revetment, and retaining walls are located behind the bulkhead within the waterfront buffer and on the bank.
2. Approximately 43% of the property lies within the 100-foot buffer as measured from the Patuxent River; 9.2% of the property lies below the shoreline, as determined by mean high tide.
3. The property has little tree cover, with the primary vegetation on site being a grass lawn. The forested area shown on the plat includes canopy overhang from trees on the neighboring lots. Proposed forested area to be removed is 1998 s.f., or 44% of the woodland on the property. Disturbance within the 100-foot buffer is 3745 s.f.
4. The applicants propose a 2-story house on partial basement, with maximum footprint dimensions of 44' x 60'. The house is proposed to be situated no less than 75 feet from the waterfront. The adjoining properties and the properties within the general community are developed with houses of similar size. The request represents the minimum adjustment necessary for lot development, rather than a special privilege.
5. The proposed development includes 4216 s.f. of impervious surface (15.2% of the lot area), which includes the house and driveway. Proposed impervious surface within the 100-foot buffer is 1362 s.f. According to Table 8-1.1 in Article 8 of the Calvert County Zoning Ordinance, maximum impervious surface allowed for the overall lot is



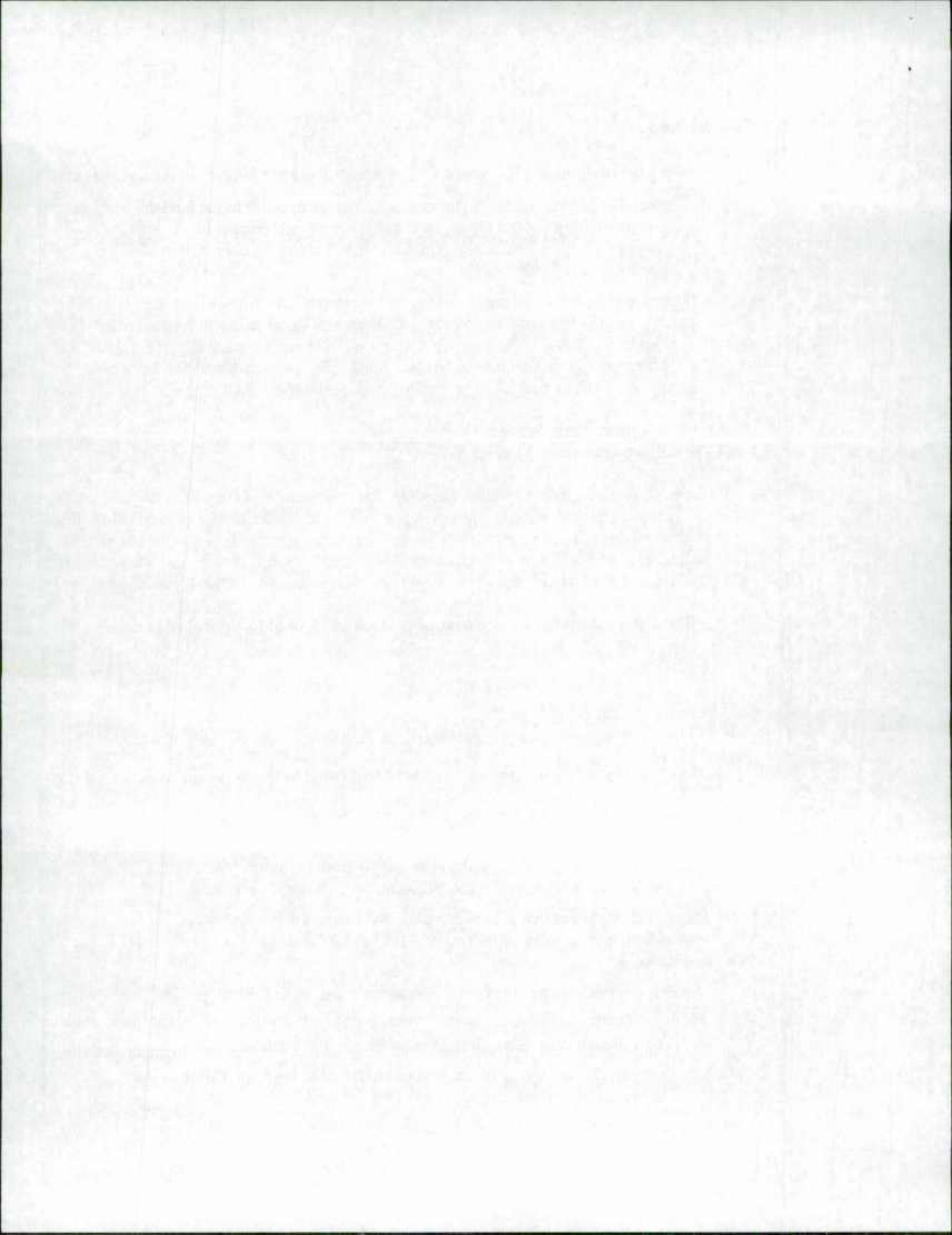
5445 s.f., with mitigation required for the square footage of impervious surface above 15%.

6. Proposed stormwater management includes three drywells which have been sized for a 1-inch rainfall event.
7. The proposed septic system includes a pre-treatment unit for nitrogen removal. The septic system is designed to provide a minimum 50-foot radius from the drilled well on neighboring Lot 2. The existing shallow well found in the northwest corner of the subject property is to be abandoned and sealed. The proposed well for the subject lot lies in the southeast corner of the property, adjacent to the bank at the waterfront.
8. The nitrogen removing septic system and the stormwater management mitigate potential effects from the development
9. The Board finds that the house cannot be located outside of the buffer as the Health Department has dictated the type of septic system to be installed, the location for the septic fields, and the minimum radius for the septic system from the drilled well on adjoining Lot 2. Denial of a buffer variance would result in unwarranted hardship as the property would not be buildable without a variance in the buffer requirements.
10. The applicants have owned the property since 1984, prior to Critical Area law.

CONCLUSIONS

Based on the above findings of fact, the Board came to the following conclusions (in accordance with Section 11-1.01.B of the Calvert County Zoning Ordinance):

1. The Board concludes that it has the authority to grant the subject variances from the Critical Area requirements of Section 8-1 of this Ordinance.
2. The Board concludes that the applicant has overcome the presumption of nonconformance as required in Section 11-1.01.B.2 &3 of the Zoning Ordinance.
3. The Board concludes that the applicant has met each of the following variance standards:
 - a. The variance will not result in injury to the public interest; and
 - b. Granting the variance will not adversely affect the implementation of the Comprehensive Plan; and
 - c. the variance is the minimum adjustment necessary to afford relief from

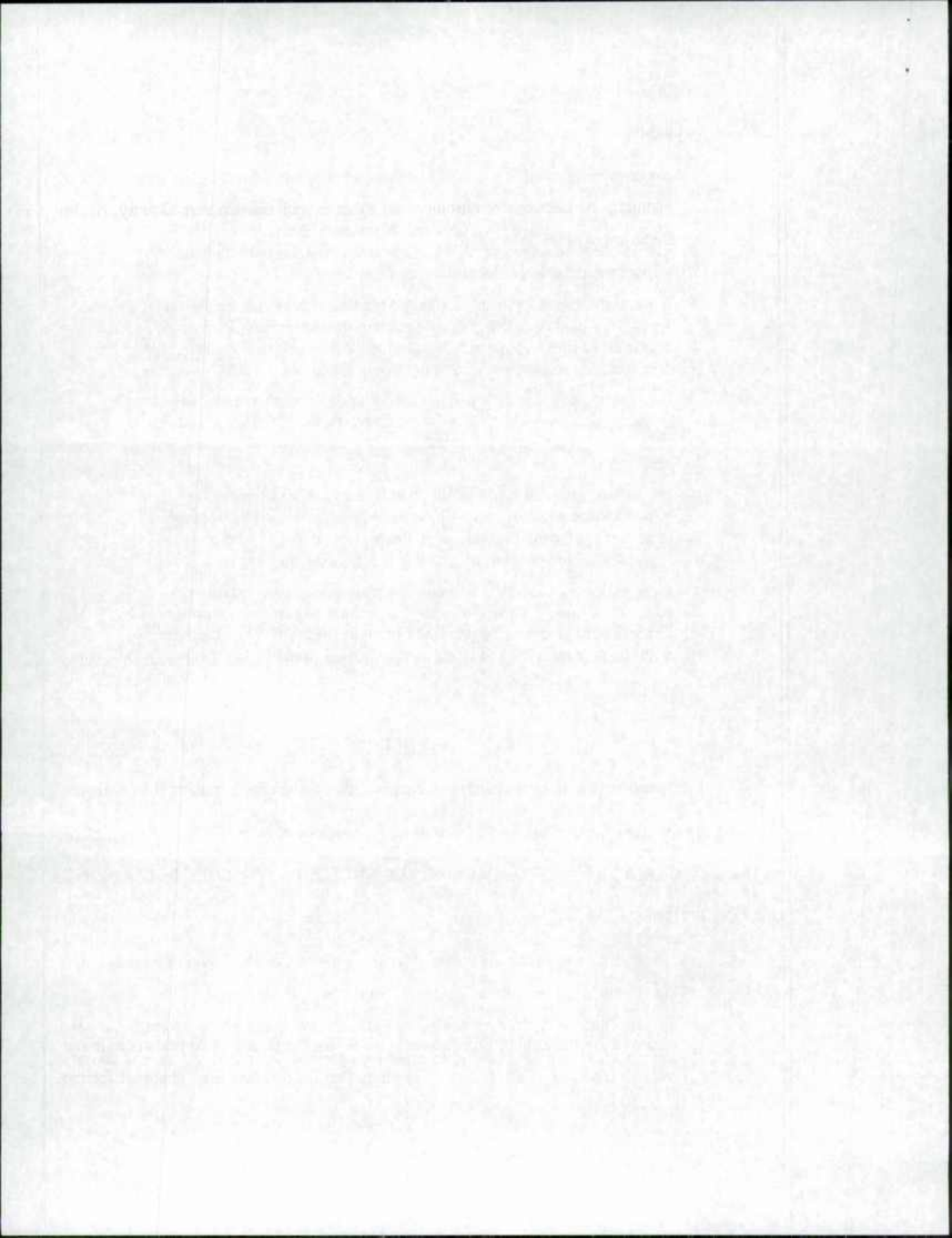


- the regulations; and
- d. special conditions or circumstances exist that are peculiar to the land or structure within Calvert County and that a literal enforcement of provisions within the County's Critical Area Program would result in unwarranted hardship; and
 - e. a literal interpretation of the Critical Area Legislation and the Calvert County 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 County; and
 - f. the granting of a variance will not confer upon an applicant any special privilege that would be denied by the Calvert County Critical Area Program to other lands or structures within the County's Critical Area; and
 - g. the variance request is not based upon conditions or circumstances which are the result of actions by the applicant, nor does the request arise from any condition relating to land or building use, either permitted or non-conforming, on any neighboring property.
 - h. the granting of a variance will not adversely affect water quality or adversely impact fish, wildlife, or plant habitat within the County'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.

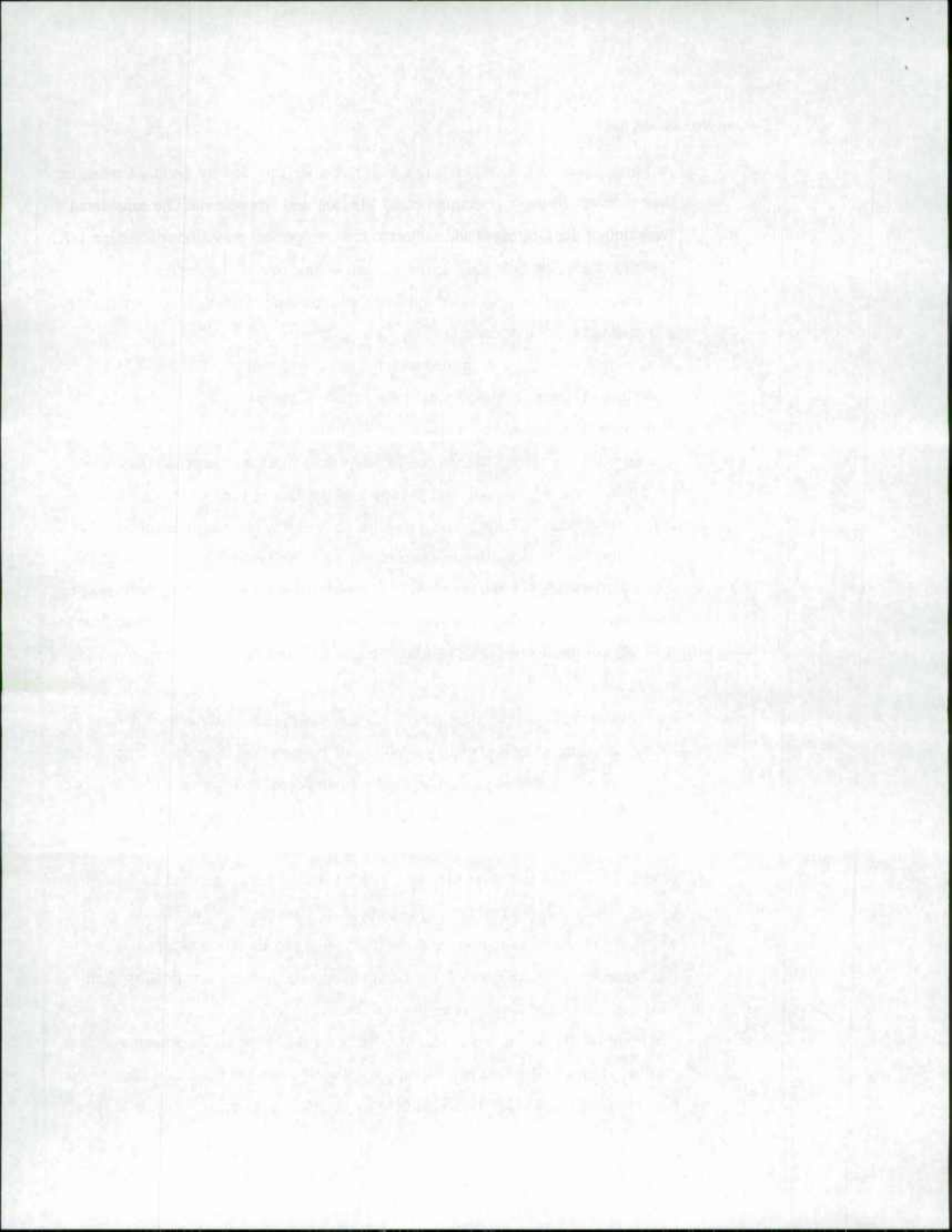
ORDER

It is hereby ordered, by a unanimous decision, that the variance in the 100' waterfront buffer requirement for construction of a well and a single-family dwelling as requested by Thomas & Rita Endrusick be **GRANTED SUBJECT TO THE FOLLOWING CONDITIONS:**

1. All permits and approvals required by the Calvert County Zoning Ordinance and the Department of Planning and Zoning and those required by any other departments, agencies, commissions, boards or entities, in accordance with County, State and Federal law, must be obtained for the development activity approved by this Order.



2. A nitrogen reducing septic system, which has been approved by the Department of Planning & Zoning's Environmental Planner and the Calvert County Health Department, shall be installed.
3. Mitigation requirements shall be determined at time of site plan review.
4. The property shall be developed in phases with each phase being stabilized prior to proceeding to the next phase.
5. A phasing plan shall be submitted with the building permit.
6. Prior to work being done on site, the location of the house and the limitation of clearing shall be staked and marked.
7. The Applicant's construction representative shall meet with representatives from the Department of Planning and Zoning and the Department of Public Works to determine the construction grading and limit of clearing prior to construction start.
8. There shall be no stockpiling of excavated materials on site.
9. A foundation location plat prepared by a registered surveyor must be submitted to and approved by the Department of Planning and Zoning prior to framing.
10. A 6" washed gravel bed shall be placed under any decks and deck areas to provide stabilization.
11. Stormwater management is required and the associated grading permit must be obtained. Both plantings and drywells shall be installed to provide stormwater management. Downspouts shall be directed into drywells, which shall be designed to handle the maximum rainfall as determined by the Department of Public Works (at least 2" if possible).
12. A final as-built certification prepared by a registered surveyor must be submitted for approval by the Department of Planning and Zoning showing that the grading was performed and structures were built according to the approved plan, prior to final approval of the project. A copy of the approved as-built certification shall be filed in the Board of Appeals record for this case.
13. Approval by the Zoning Enforcement Officer for the Board of Appeals is required prior to issuance of a Use and Occupancy Permit, or other final approval for the project, as determined by the Division of Inspection and Permits.



14. In accordance with Section 11-1.02.C.3 of the Calvert County Zoning Ordinance any violation of conditions imposed by the Board of Appeals shall be considered a violation of this Ordinance and subject to the enforcement provisions of Section 1-7.

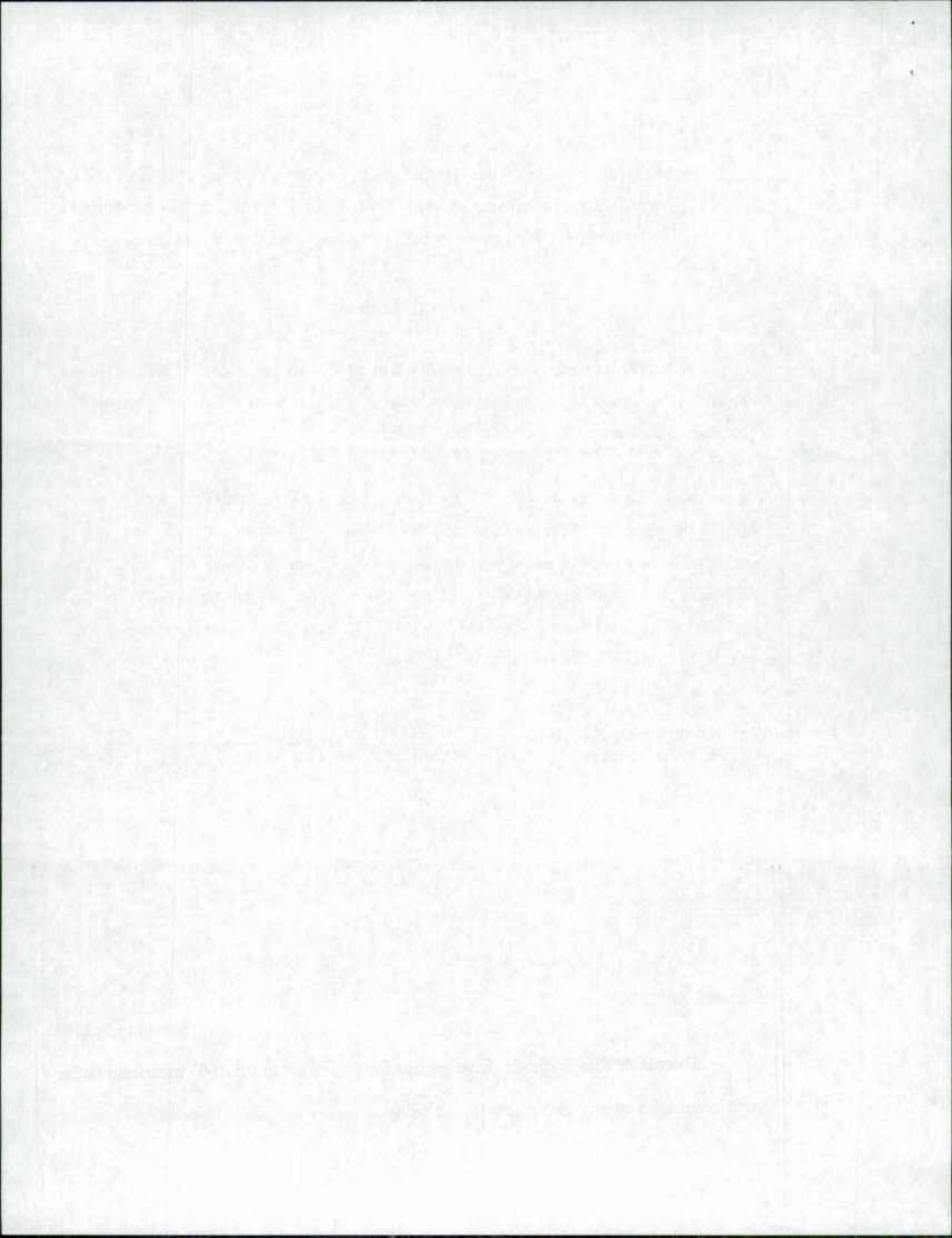
APPEALS

In accordance with Section 6 of the Calvert County Board of Appeals Rules of Procedure, "any party to a case may apply for a reconsideration of the Board's decision no later than 15 days from the date of the Board's Order."

In accordance with Section 11-1.07 of the Calvert County Zoning Ordinance, Board of Appeals decisions may be appealed to the Circuit Court of Calvert County by (1) any person aggrieved by any decision of the Board of Appeals or (2) any taxpayer, or (3) any officer, department, board or bureau of Calvert County. Such appeal shall be taken according to the Maryland Rules as set forth in Maryland Rules, Title 7, Chapter 200, as amended from time to time, within 30 days of the Board of Appeals Order.

Entered: February 25 2008
Pamela P. Helie, Clerk

Michael J. Reber
Michael J. Reber, Chairman



CAC 16-08

CALVERT COUNTY BOARD OF APPEALS

150 Main St.
Prince Frederick, MD 20678
410-535-2348 * 301-855-1243
TDD 800-735-2258

(P&Z USE ONLY)	
FEES: PER FEE SCHEDULE	
Date Filed:	_____
Fees Paid:	_____
Receipt No.:	_____
Rec'd By:	_____
Case No.:	08-3499

APPLICATION FOR APPEAL

NOTE: IN SUBMITTING THIS APPLICATION, YOU GRANT THE BOARD OF APPEALS PLANNER THE RIGHT OF UNSCHEDULED ENTRY ONTO THE PROPERTY FOR PURPOSES OF OBTAINING INFORMATION AND PHOTOGRAPHS FOR A STAFF REPORT.

PROPERTY DESCRIPTION:

Tax Map No. CA Parcel 416 Block _____ Section 1 Lot 1

Tax ID No. 01-052071 Property Zoning Classification RD/LDA

Property Address 12960 SPRING COVE DRIVE LUBEX MD 20657

Has subject property ever been before the Board of Appeals? _____ (yes) (no)

If yes, give Case No. and date: _____

PROPERTY OWNER(S):

PRINTED NAME(S): THOMAS & RITA ENDRUSICK

MAILING ADDRESS: 8010 HARTOWN RD LAUREL MD 20723

TELEPHONE: HOME: 301-490-6747 WORK _____ CELL 301-351-2245

EMAIL ADDRESS TENDRUSICK@COMCAST.NET

Thomas Endrusick 12/4/07

Rita Endrusick 12/4/07

Owner's Signature and Date

Co-Owner's Signature and Date

APPLICANT (if different from owner):

PRINTED NAME: _____

MAILING ADDRESS: _____

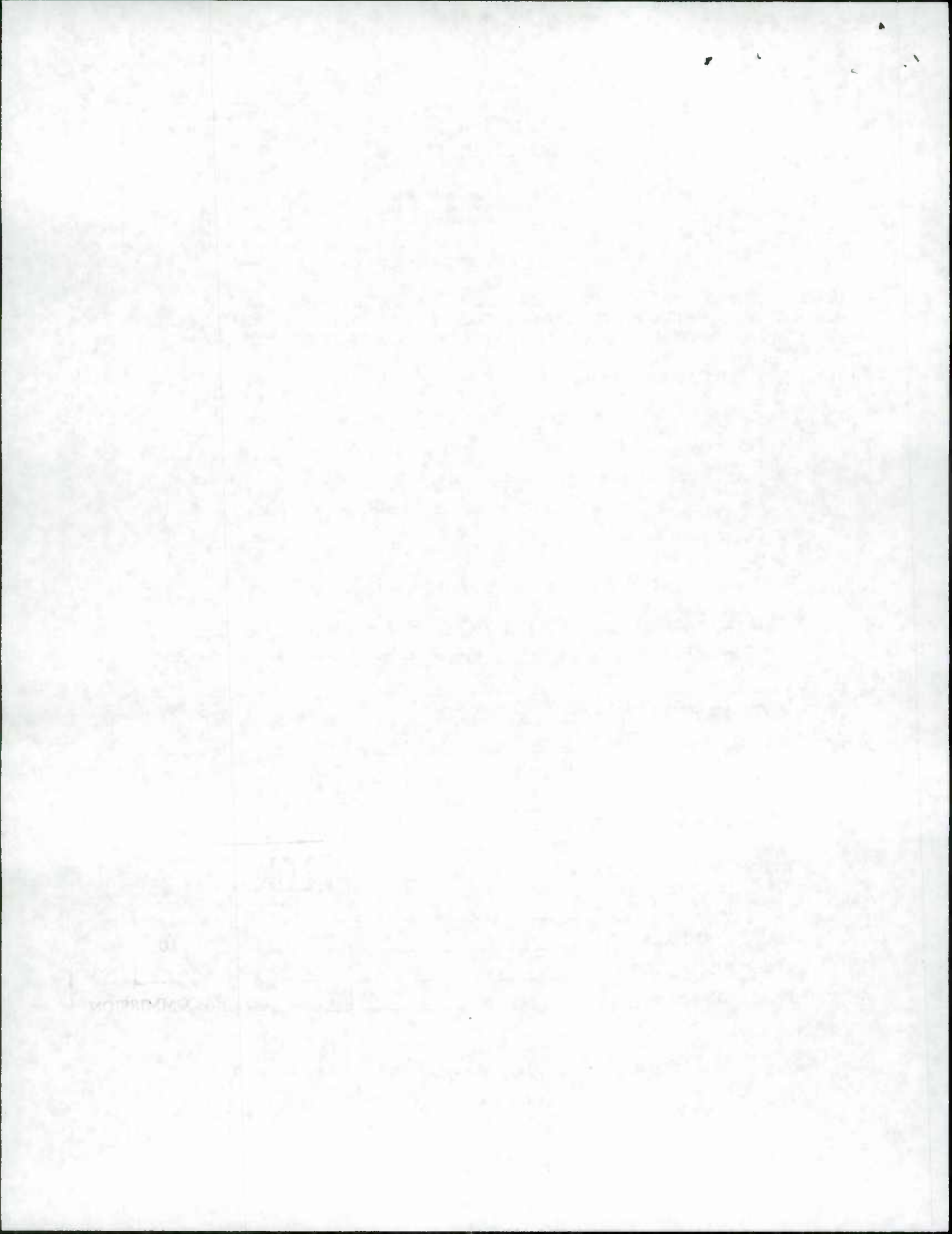
TELEPHONE NUMBER: _____

EMAIL ADDRESS _____



Applicant's Signature and Date

Co-Applicant's Signature and Date



PURPOSE OF APPEAL

REQUEST IS FOR: (check all items that apply)

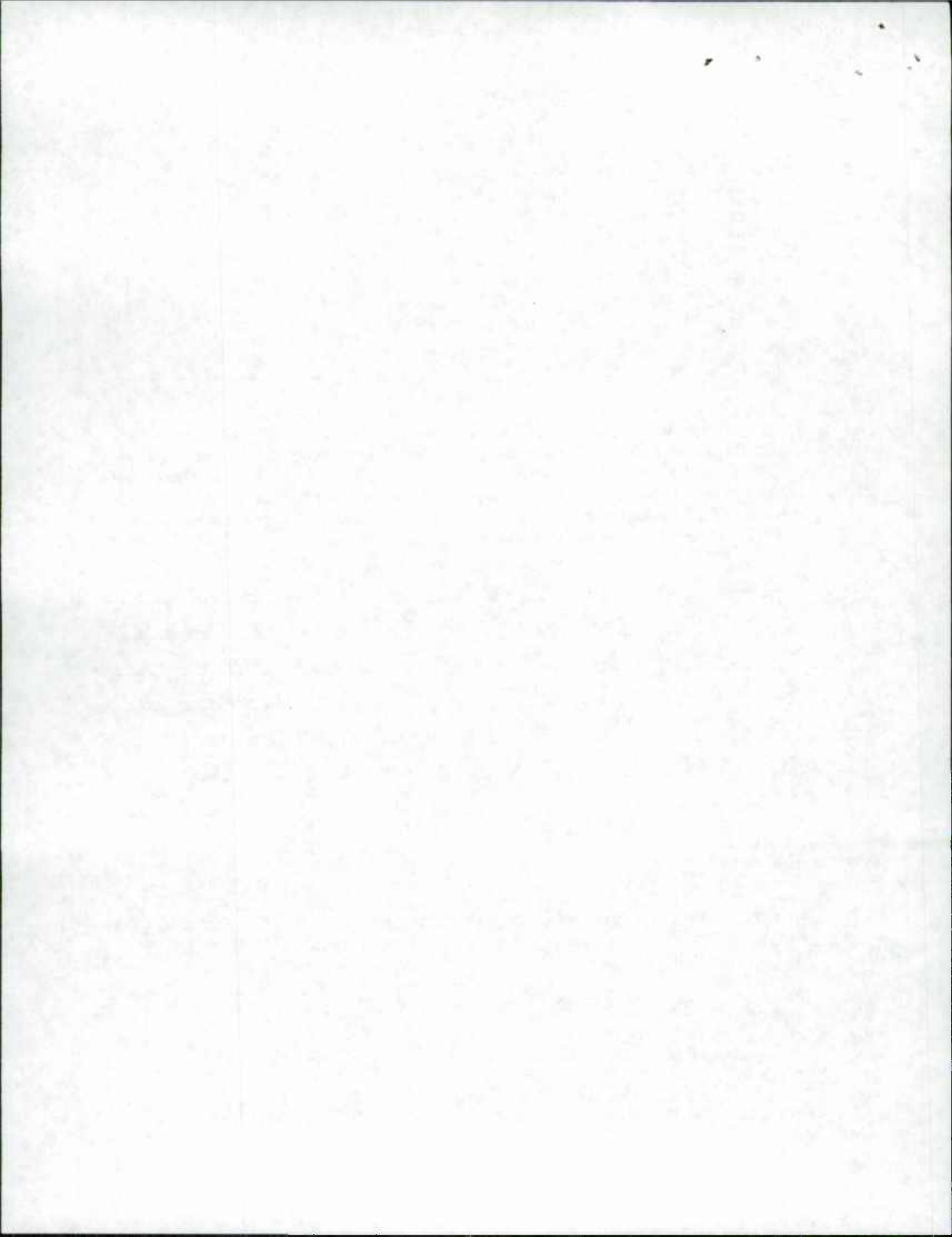
- Variance Multiple Variances
- Revision to a Previously Approved Variance
- Special Exception
- To Extend Time Limit on a Special Exception
- Revision/Modification of a Special Exception
- Expansion or Revision of a Non-Conforming Use
- Reconsideration of Previous Decision by Board
- Re-Schedule a Case Previously Postponed
- Decision on an Alleged Error made by _____

Describe in specific detail the reason each item is requested. Building Restriction Line (BRL) variances must state which BRL is at issue (i.e., front/side/rear) and indicate distances required and proposed (Example: A variance in the front setback from 60 feet to 25 feet for construction of a garage). Impervious surface variances must state existing % impervious surface and % requested. Waterfront buffer variances must state the distance to the waterfront of the proposed structure.

SUBJECT LOT IS WATERFRONT. A VARIANCE IS
REQUESTED TO CONSTRUCT A DRILLED WELL, PORCH
AND A PORTION OF A SINGLE FAMILY DWELLING
WITHIN THE 100' WATERFRONT BUFFER. WELL WILL
BE 53' FROM THE SHORELINE AND DWELLING WILL
BE 73' FROM THE SHORELINE.

DIRECTIONS TO PROPERTY FROM COURTHOUSE: (NOTE: FAILURE TO PROVIDE COMPLETE AND ACCURATE DIRECTIONS MAY RESULT IN A DELAY TO YOUR CASE)

RT 2 1/4 SOUTH, RT COSTER RD, RT SPRING
COVE DRIVE, LOT ON LEFT JUST PRIOR TO
CUL-DE-SAC.



AFFECTED PROPERTY OWNERS LIST

YOU MUST LIST THE NAMES AND ADDRESS OF ALL ADJOINING PROPERTY OWNERS AND THE OWNERS OF THOSE PROPERTIES DIRECTLY ACROSS ALL ADJACENT STREETS AND/OR RIGHTS OF WAY. NOTE: FAILURE TO CORRECTLY LIST NAMES AND ADDRESSES OF ALL AFFECTED PROPERTY OWNERS MAY RESULT IN A DELAY TO YOUR CASE.

Name: FRANK & BETTY SLINGLAND

Address: 12970 SPRING COVE DR. LUSBY MD 20657

Name: ALBERT & SANDRA BROCKMAN

Address: P.O. Box 221 LUSBY MD 20657

Name: LARRY & LINDA GEULER

Address: 12950 SPRING COVE DR. LUSBY MD 20657

Name: _____

Address: _____

Name: _____

Address: _____

Name: _____

Address: _____

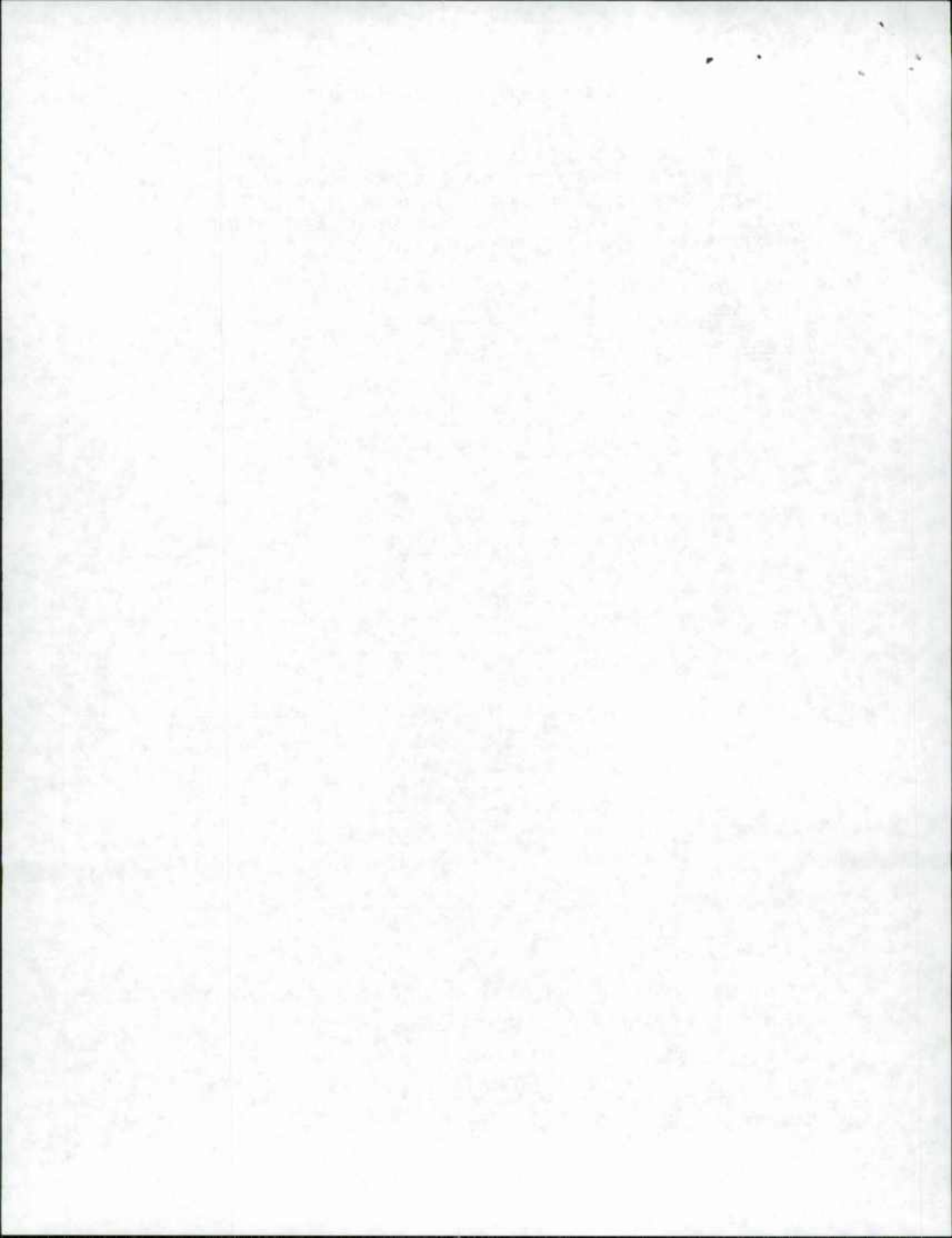
Name: _____

Address: _____

IF YOUR PROPERTY ADJOINS A PRIVATELY OWNED ROAD, YOU MUST LIST THE NAME AND ADDRESS OF THE OWNER BELOW:

Name: _____

Address: _____



SPRING COVE DRIVE
(AKA RIVERVIEW DRIVE)

50' R/W

LEGEND

- 25% OR GREATER SLOPES
- EXISTING SHORELINE
- 100' BUFFER
- SILT FENCE
- LIMIT OF DISTURBANCE
- WELL EASEMENT
- EXISTING TREELINE
- ASSIGNED HOUSE NUMBER
- PERCOLATION TEST
- PROPOSED WELL
- STABILIZED CONSTRUCTION ENTRANCE

INFORMATION STATEMENT

44' X 60' TWO STORY HOUSE
ON PARTIAL BASEMENT
24' X 28' GARAGE
12' X 20' ENCLOSED PORCH

GARAGE ELEVATION: 22.5
FIRST FLOOR ELEVATION: 24.5
BASEMENT ELEVATION: 15.5

LOT AREA: 27,741 SQ. FT. ±
DISTURBED AREA: 10,810 SQ. FT. ±
IMPERVIOUS AREA: 4,216 SQ. FT. ±
AREA WITHIN 100' BUFFER: 12,007 SQ. FT. ±
IMPERVIOUS AREA WITHIN 100' BUFFER:
1,362 SQ. FT. ±
DISTURBED AREA WITHIN 100' BUFFER:
3,745 SQ. FT. ±
FORESTED AREA: 4,512 SQ. FT. ±
FORESTED AREA TBR: 1,998 SQ. FT. ±
AREA ABOVE SHORELINE: 25,185 SQ. FT. ±

OWNER: THOMAS & RITA ENDRUSICK
DEED: A.B.E. 312 © 52
TAX I.D.#: D1-D52D71

SOILS MAP #44
SOIL TYPE: **MnB2** MATAPEAKE SILT LOAM,
2 TO 5 PERCENT SLOPES,
MODERATELY ERODED
MnC3 MATAPEAKE SILT LOAM,
5 TO 10 PERCENT SLOPES,
SEVERELY ERODED
Co COASTAL BEACHES

THIS LOT IS IN THE CRITICAL AREA.

THIS LOT WAS RECORDED PRIOR TO JULY 1984,
WHEN STORMWATER MANAGEMENT WAS NOT REQUIRED.

CONTACT "MISS UTILITY" AT 1-800-257-7777 AT LEAST
48 HOURS PRIOR TO COMMENCEMENT OF ANY WORK.

DECKS AND OTHER STRUCTURES NOT SHOWN DO NOT
HAVE ZONING APPROVAL FOR CONSTRUCTION.

THE ISSUANCE OF COUNTY PERMITS IS A LOCAL PROCESS
AND DOES NOT IMPLY THE APPLICANT HAS MET STATE &
FEDERAL REQUIREMENTS FOR WETLANDS UNDER COMAR;
THE FEDERAL WATER POLLUTION CONTROL ACT; OR THE
RIVERS AND HARBORS ACT.

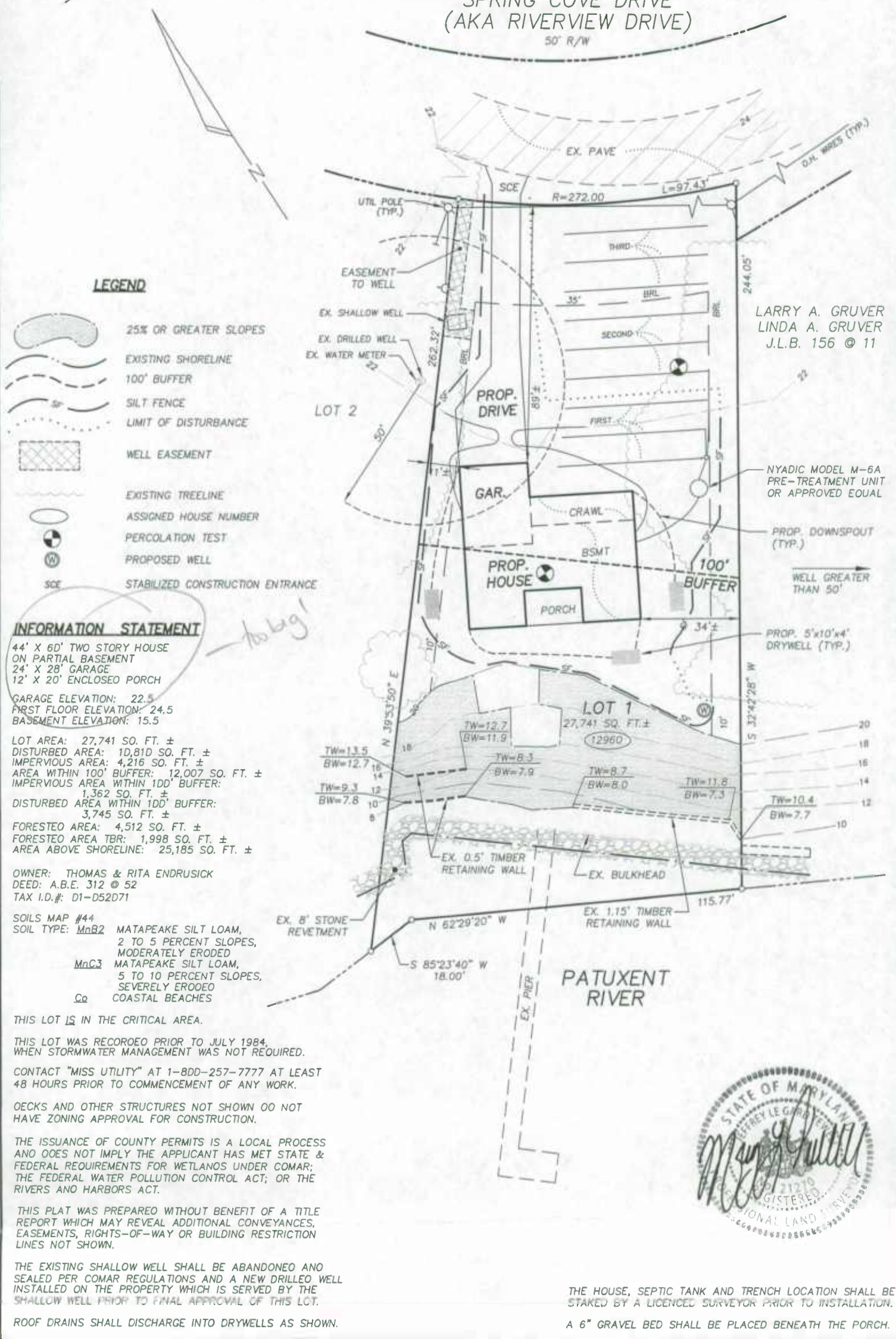
THIS PLAT WAS PREPARED WITHOUT BENEFIT OF A TITLE
REPORT WHICH MAY REVEAL ADDITIONAL CONVEYANCES,
EASEMENTS, RIGHTS-OF-WAY OR BUILDING RESTRICTION
LINES NOT SHOWN.

THE EXISTING SHALLOW WELL SHALL BE ABANDONED AND
SEALED PER COMAR REGULATIONS AND A NEW DRILLED WELL
INSTALLED ON THE PROPERTY WHICH IS SERVED BY THE
SHALLOW WELL PRIOR TO FINAL APPROVAL OF THIS LOT.

ROOF DRAINS SHALL DISCHARGE INTO DRYWELLS AS SHOWN.

THE HOUSE, SEPTIC TANK AND TRENCH LOCATION SHALL BE
STAKED BY A LICENSED SURVEYOR PRIOR TO INSTALLATION.

A 6" GRAVEL BED SHALL BE PLACED BENEATH THE PORCH.



LARRY A. GRUVER
LINDA A. GRUVER
J.L.B. 156 © 11



BUILDING PERMIT PLAT
LOT 1 ~ SECTION ONE
SPRING COVE
FIRST DISTRICT, CALVERT COUNTY, MD.
FOR: THOMAS & RITA ENDRUSICK

COLLISON, OLIFF & ASSOCIATES, INC.
Surveyors • Engineers
Land Planners
110 MAIN STREET
PRINCE FREDERICK, MARYLAND 20678
301-855-1599 • 410-535-3101 • FAX 410-535-3103

DRAWN BY _____ RCJ
SCALE _____ 1" = 40'
DATE _____ 12-4-07
JOB NO. _____ 1-9434
FOLDER _____ SPRING COVE

