Hurley, Roby

From: Hurley, Roby

Sent: Monday, December 15, 2008 4:14 PM

To: Olivia Vidotto (vidottog@co.cal.md.us)

Subject: Burson Replat- CA 678-08

Dear Olivia, Thank you for sending the subject notification. It appears that the proposed lot line abandonment combines several small, grandfathered parcels of record in order to create one larger lot. It does not appear that any new development is proposed in conjunction with the proposed request. Therefore, this office is not opposed to the replatting and has no additional comments to offer.

Roby Hurley Natural Resources Planner 410/260-3468

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CALVERT COUNTY BOARD OF APPEALS ORDER

Case No. 09-3568
Public Hearing: February 5, 2009

Charles Trace, Landscape Architect, has applied on behalf of the property owners Patrick Burson and Dawn Chapman for a variance in the steep slope requirement; a variance in the lot coverage regulation; and a variance in the extended buffer requirement for construction of a retaining wall, patio, and steps. The property is located at 5169 Larchmont Drive, Chesapeake Beach (Tax Map 16B, Block A, Lot 11R, Holiday Beach) and is zoned RD Residential District.

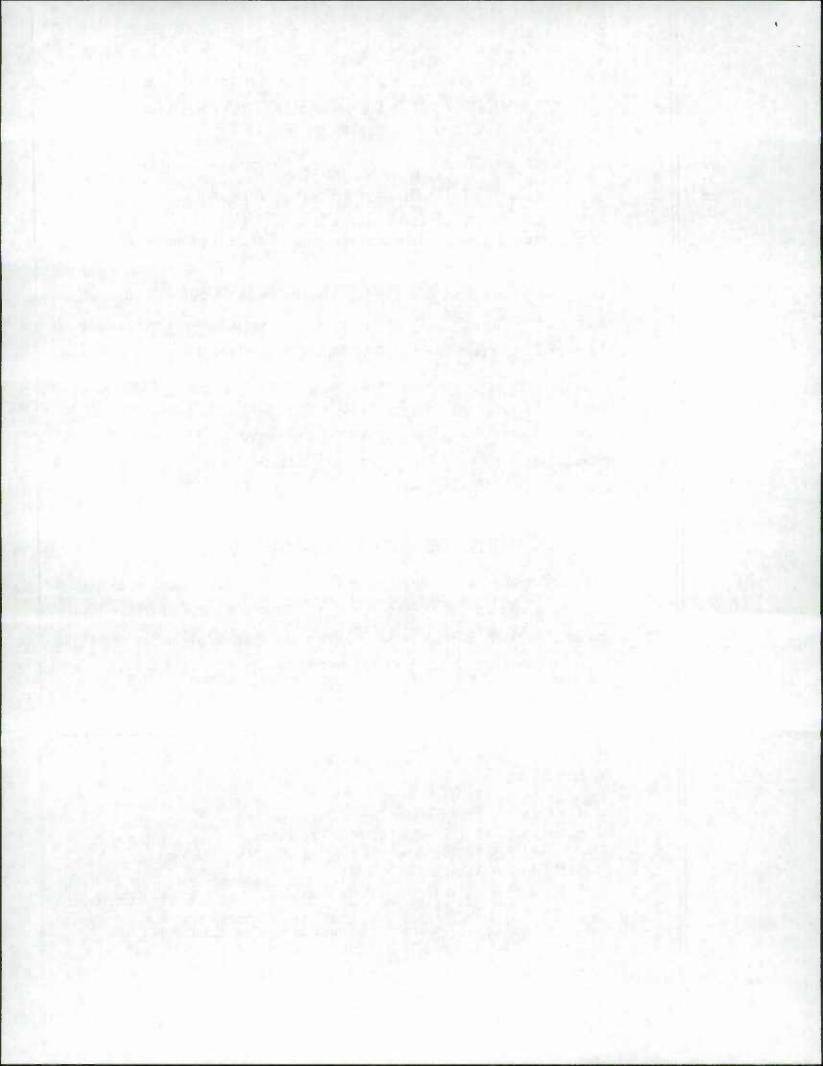
The case was presented February 5, 2009 before Board of Appeals members Mr. Michael Reber, Chairman; Mr. Walter Boynton, Vice Chairman; and Mr. Michael Redshaw, member (the Board). Mr. Carlton Green, Esquire, served as the Board's Counsel. Mr. Charles Trace was present at the hearing and represented the property owners.

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 following Applicants' Exhibits were entered into the record at the February hearing:
 - Exhibit No. 1 Application
 - Exhibit No. 2 Plat Submitted With Application
 - Exhibit No. 3 Special Purpose Plat, Lot 11R, Block A, Holiday Beach Subdivision, submitted on 11/17/08
 - Exhibit No. 4 Lot Coverage Plan, 5169 Larchmont Drive, Chesapeake Beach, MD 20732
 - Exhibit No. 5 Buffer Management Plan, 5169 Larchmont Drive, Chesapeake Beach, MD 20732 w/e-mail from Mary Beth Cook to

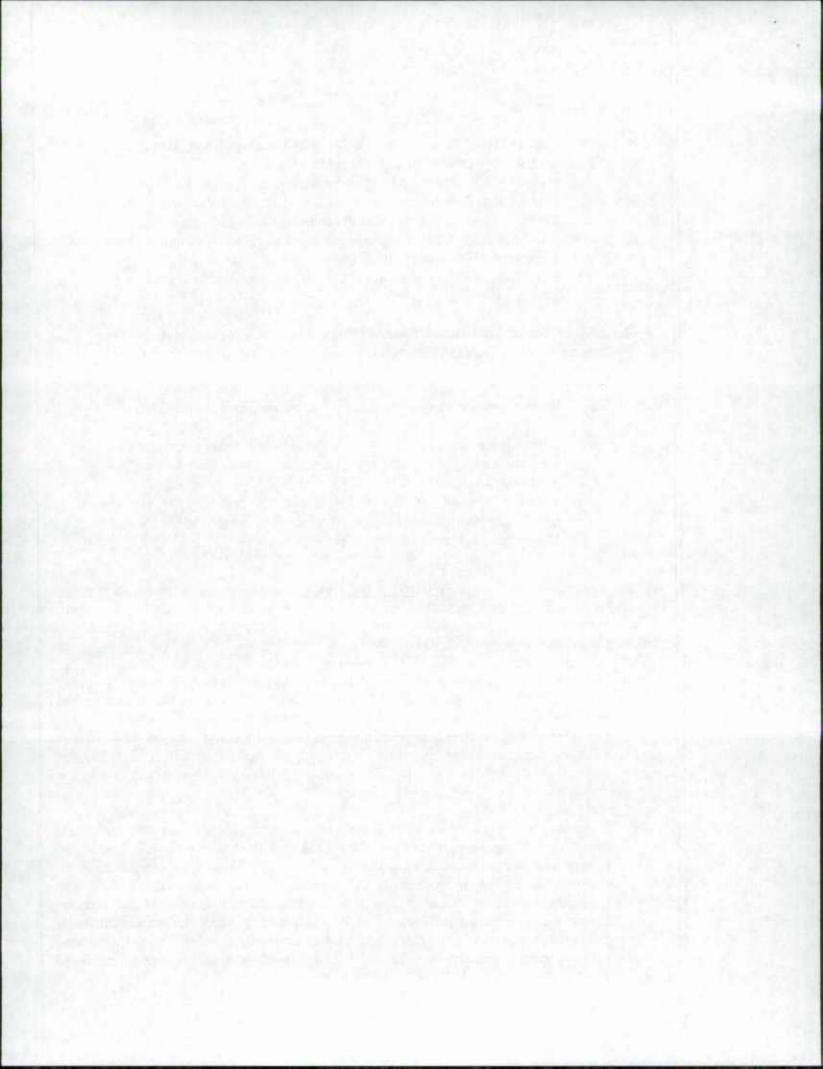


- Pamela Helie, dated December 24, 2008 advising Buffer Management Plan has been reviewed and is acceptable.
- Exhibit No. 6 Photos, 5169 Larchmont Drive, Chesapeake Beach, MD (Steps from Larchmont Drive to SW Corner of House; & Slope Between Larchmont Drive and Front Patio)
- Exhibit No. 7 Buffer Management Plan, 5169 Larchmont Drive, Chesapeake Beach, MD 20732 (with coloring)
- Exhibit no. 8 Photographs 1-12, 5169 Larchmont Drive, Chesapeake Beach, MD
- 2. A Staff Report prepared by Roxana Whitt, Board of Appeals Administrator, was entered into the record at the December hearing and marked Staff Exhibit No. 1.
- 3. The following correspondence was entered into the record at the hearing:
 - Letter dated January 27, 2009 to Roxana Whitt from Roby Hurley, Chesapeake Bay Critical Area Commission, 1804 West Street, Suite 100, Annapolis, MD 21401
 - Board of Appeals Case 09-3567 Review Comments for BOA Hearing on 2-5-09 from John Knopp, Project Engineer, Calvert County Department of Public Works

FINDINGS OF FACT

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

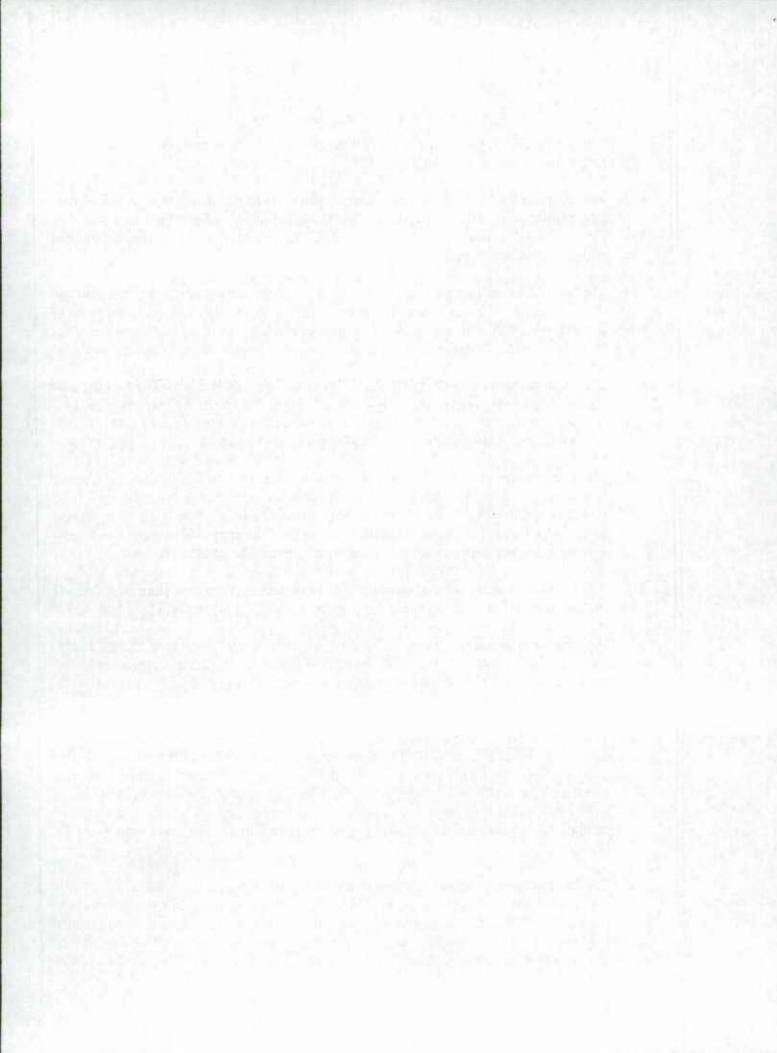
- 1. As shown on applicants' Exhibit No. 2, the property consists of .26 acre and is situated between Larchmont Road and the Chesapeake Bay in the Holiday Beach subdivision. It is located on a cliff of ~80 feet in height; the cliff face is eroded and unstable. The property boundaries do not extend to the waterfront; rather, a strip of land ~85 feet wide separates the rear property line from the edge of the cliff that descends to the Bay front. Nevertheless, that area behind the lot lines is being used as a rear yard by the applicants.
- 2. Steep slopes- defined by the Critical Area law as slopes greater than 15%- are found throughout the property. The 100-foot buffer as measured from mean high tide on the Chesapeake Bay is expanded to include the entire lot as a result of the presence of the steep slopes. On-site improvements include a 2-level house measuring 33' x 33' with a deck on the rear that has a screened porch underneath. Patios and walkways extend around the perimeter of the house. The patio on the northeast corner is an extension of the porch that serves as the entry to the lower level of the house. The strip of land between the rear property line and the cliff edge has a shed, deck and perimeter fence



Case No. 09-3568 Page 3

that are used with the property. A portion of the septic system trench also appears to be located on this strip of land.

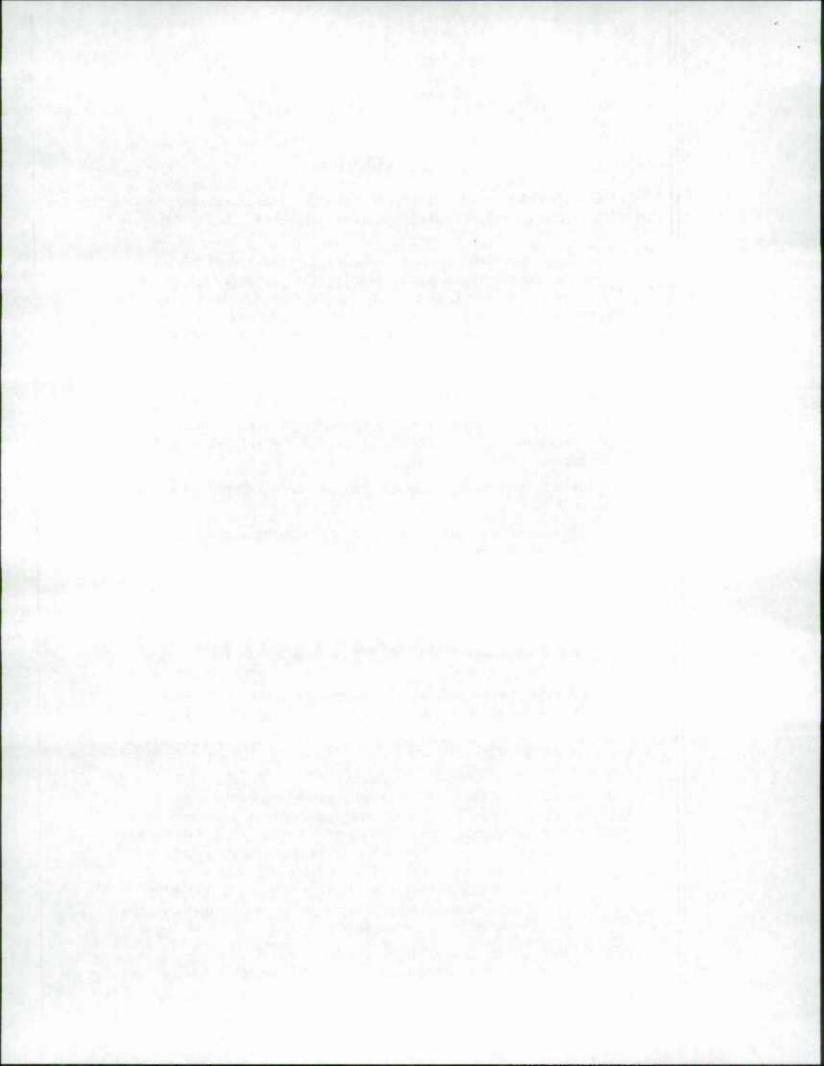
- 3. The property has a Limited Development Area (LDA) Critical Area overlay zone. The regulations for this zone prohibit development on slopes greater than 15%. The regulations also limit lot coverage to 25% and prohibit development within the expanded waterfront buffer.
- 4. The applicants propose to enlarge the existing patio that serves as the entry to the upper level of the house and which is in disrepair. Also proposed is extension of an existing retaining wall, construction of another retaining wall, and relocation of a set of stairs. These features, though minor, impact areas of steep slopes. They also impact the expanded buffer because the buffer encumbers the entire property. Lot coverage on the property is exceeded by the proposed construction. The lot coverage on the subject property is currently 3696 s.f., or 32.8% of the lot area; proposed lot coverage is 3809 s.f., or 33.9% of the lot area. The applicants propose to remove 396 s.f. of impervious area and add 509 s.f., for a net gain of 113 s.f.
- 5. The property owners have experienced water damage, erosion and deterioration of the house's foundation from stormwater that is directed at the house from the roadfront, which is uphill. The house sits 9 feet below the road level. The steps to the house collect water and also channel it toward the house. The proposed construction would eliminate this problem and provide for a safer access to the house.
- 6. The existing property has no stormwater management in place, and stormwater runoff follows the natural contours toward the north side of the property and then toward the Bay. The applicants propose drywells to capture runoff from the roof and the hillside above the house, and a rain barrel to capture runoff from the porch roof. Additionally, the applicants propose to mitigate impacts to the buffer by planting four trees and twelve shrubs. A portion of this planting is located on the strip of land between the subject property and the cliff edge.
- 7. The area of land between the rear property line and the cliff is unbuildable under Critical Area and Zoning regulations. It encompasses ~7200 s.f. The proposed Buffer Management Plan for this project, which the Department of Planning and Zoning has indicated is acceptable, provides for mitigation plantings on this strip of land that is not owned by the applicant. Lot coverage limitations are not exceeded for the entirety of the area that includes the lot acreage plus the undeveloped area shoreward of the lot boundaries.
- 8. The proposed improvements are of reasonable size. Numerous houses throughout Calvert County's Critical Area have porches, patios, walkways and steps that cover more than 509 s.f. The overall proposal, including the additional stormwater management devices and the additional plantings, does not confer upon the applicants a special privilege that is generally denied to other property owners within the Critical Area.



CONCLUSIONS

Based on the above Findings of Fact, the Board concludes the following (in accordance with Section 11-1.01.B of the Calvert County Zoning Ordinance):

- 1. The Board concludes that the development activity that is the subject of this variance request conforms with the Maryland Critical Area Legislation. The development activity will provide safe access to the house, which is not currently available; and will correct significant erosion problems. The property is located completely within the buffer making any improvement to the property impossible without variance relief.
- 2. 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.
- 3. 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.
- 4. The Board concludes that the applicant has met each of the required variance standards as:
 - a. The variances will not result in injury to the public interest. The applicant will invoke a number of best management practices to address and to control stormwater runoff. In addition, terracing design features will be installed on site to control water velocity and prevent erosion.
 - b. Granting the variance will not adversely affect the implementation of the Comprehensive Plan. Providing additional safety features, stormwater management, and erosion control are ideas consistent with the Comprehensive Plan.
 - c. The variances are the minimum adjustment necessary to afford relief from the regulations. The proposed structures will increase lot coverage on site by 113 square feet; however, the applicants have proposed a practical design, which achieves desired goals of providing stormwater management, safe egress from the house, and erosion control.
 - d. Special conditions or circumstances exist that are peculiar to the land or structure within Calvert County and a literal enforcement of provisions within the County's Critical Area Program would result in unwarranted hardship due to the shape and topography of the subject property. In its current configuration there are crosion problems, stormwater problems, and a safety issue with regards to entering and exiting the house. The applicant has provided a plan to increase stormwater control and a plan that addresses erosion issues.
 - e. A literal interpretation of the Critical Area Legislation and the Calvert County Critical Area Program and related ordinances will deprive the



Case No. 09-3568 Page 5

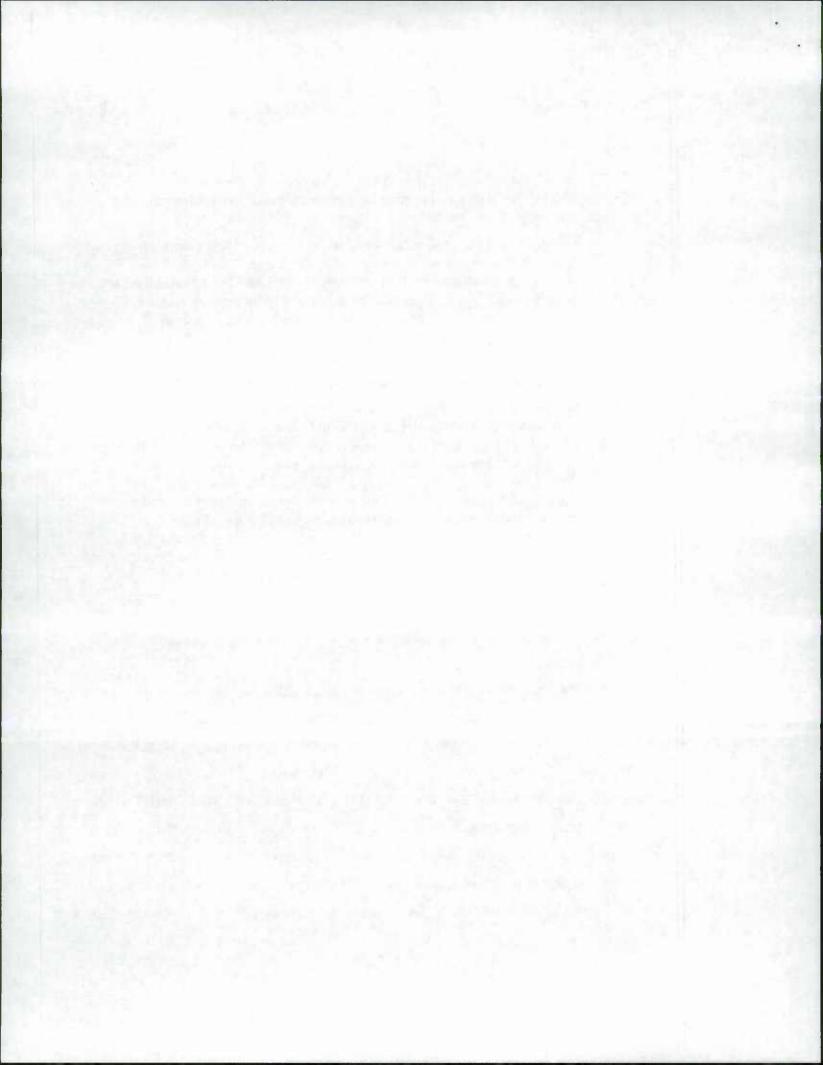
applieant of rights eommonly enjoyed by other properties in similar areas within the Critical Area of the County. The proposed improvements are of reasonable size. Numerous houses throughout Calvert County's Critical Area have porches, patios, walkways and steps that eover more than 509 s.f.

- f. The granting of the variances would not confer upon the applicants a special privilege that would be denied by the Calvert County Critical Area Program to other lands or structures within the County's and the State's Critical Area programs. The expansion in lot coverage is being approved on this small lot to address the problems identified above.
- g. The variance requests are not based upon conditions or circumstances which are the result of actions by the applicant, but due to the lot's location and stormwater problems.
- h. Granting the variances would not adversely affect water quality and adversely impact fish, wildlife, and plant habitat within the County's Critical Area, and granting the variances would be in harmony with the general spirit and intent of the Critical Area law. A Buffer Management Plan, approved by Calvert County's Department of Planning and Zoning, will include native plantings on the applicants' property and the area behind the lot line adjacent to the Chesapeake Bay. These native plantings will reduce runoff and provide natural habitat. Drywells, a gravel trench, and roof drains to drywells are being installed to reduce stormwater runoff. Some of the best management procedures proposed will improve water quality.

ORDER

It is hereby ordered, by a unanimous decision, that the variance in the steep slope requirement; the variance in the lot coverage regulation; and the variance in the extended buffer requirement for construction of a retaining wall, patio, and steps as requested by Charles Trace, Landseape Architect on behalf of the property owners Patriek Burson and Dawn Chapman 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, ageneies, commissions, boards or entities, in accordance with County, State and Federal law, must be obtained before commencing the development activity approved by this Order.



Case No. 09-3568 Page 6

2. 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 the Zoning Ordinance and subject to the enforcement provisions of Section 1-7.

APPEALS

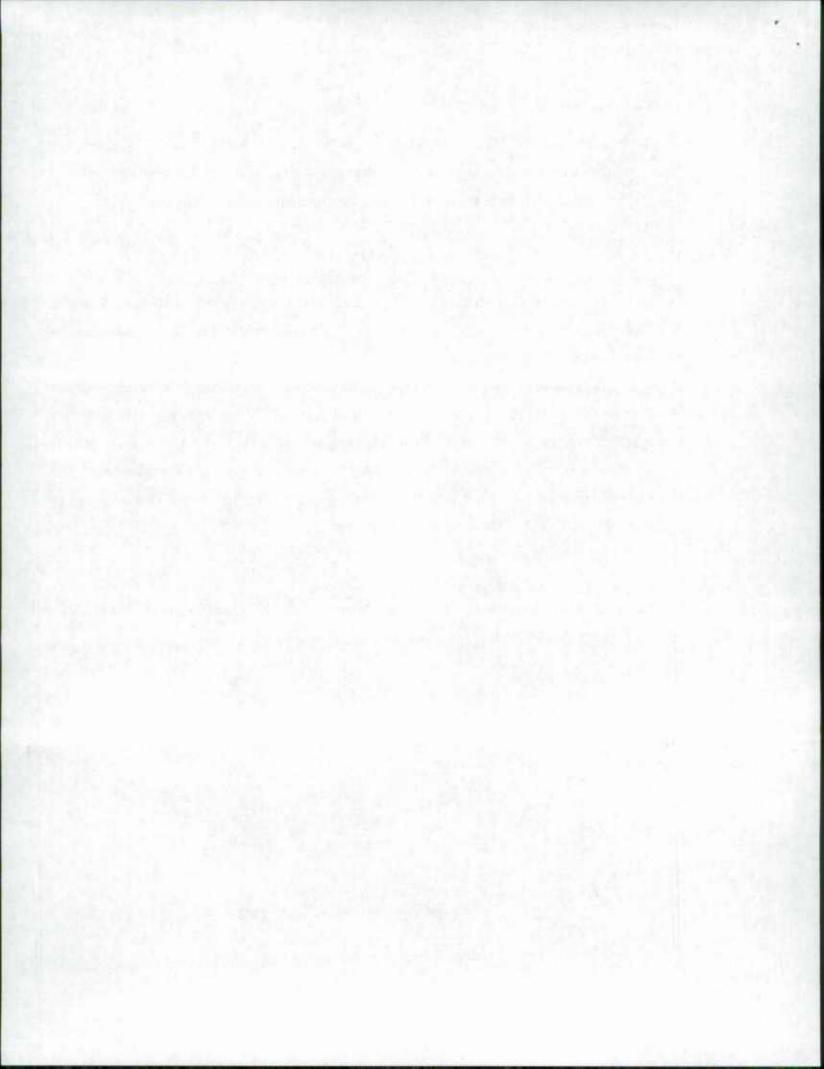
In accordance with Section 6 of the Calvert County Board of Appeals Rules of Procedure, "any party to a case may apply for a reconsideration of the Board's decision no later than 15 days from the date of the Board's Order."

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 24 2009

Pamela P. Helie, Clerk

J. Reber, Chairman



Excepted Lov

PROPERTY DESCRIPTION:

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.: 09-35-6	
Case No.: 09-356	

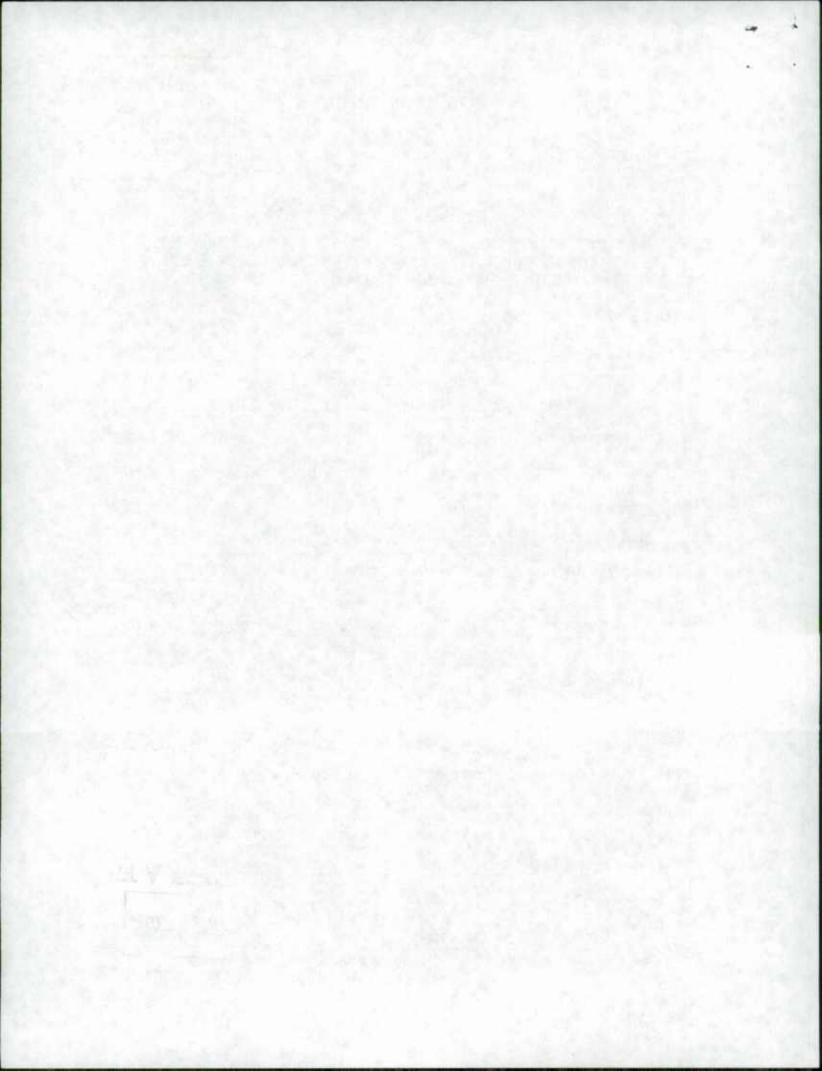
APPLICATION FOR APPEAL

ADDEALS

Replatting of 8-11 1/2-7

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.

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Tax Map No. 16B Parcel Block	A Section Lot 11R
Tax ID No. 029778 Property Zoning Class	ssification RD - Residential District
Property Address 5169 Larchmont Drive, Che	sapeake, MD 20732
Has subject property ever been before the Board of	f Appeals? (yes) X (no)
If yes, give Case No. and date:	
DDODEDTY AWNED (C).	
PROPERTY OWNER(S):	
PRINTED NAME(s): Patrick Burson & Dawr	n Chapman
MAILING ADDRESS: 105 East Severn Road	I, Norfolk, VA 23505
TELEPHONE: HOME: WORK	C 757 443 5209 CELL 703-744-4443
EMAIL ADDRESS patrickanddawn@mac.co	om
18 NOV 08	18NOV08
Owner's Signature and Date	Co-Owner)s Signature and Date
APPLICANT (if different from owner):	
PRINTED NAME: Charles Trace / Landson	pape Architect
MAILING ADDRESS: 2166 Wisconsin Ave	enue, NW, Washington, DC 20007
TELEPHONE NUMBER: 202-338-0027	
EMAIL ADDRESS ctrace@trace-inc.n	et
Daid Age 1/19/08	JAN 8 2009
Applicant's Signature and Date Co-A	pplicant's Signature and Date
	Che lipence & Adamic Coastal Ba



PURPOSE OF APPEAL

JC Not AS

REQUEST	IS FOR: (check all items that apply)
()	Variance (X) 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
()	De Schedule a Case Previously Postnored

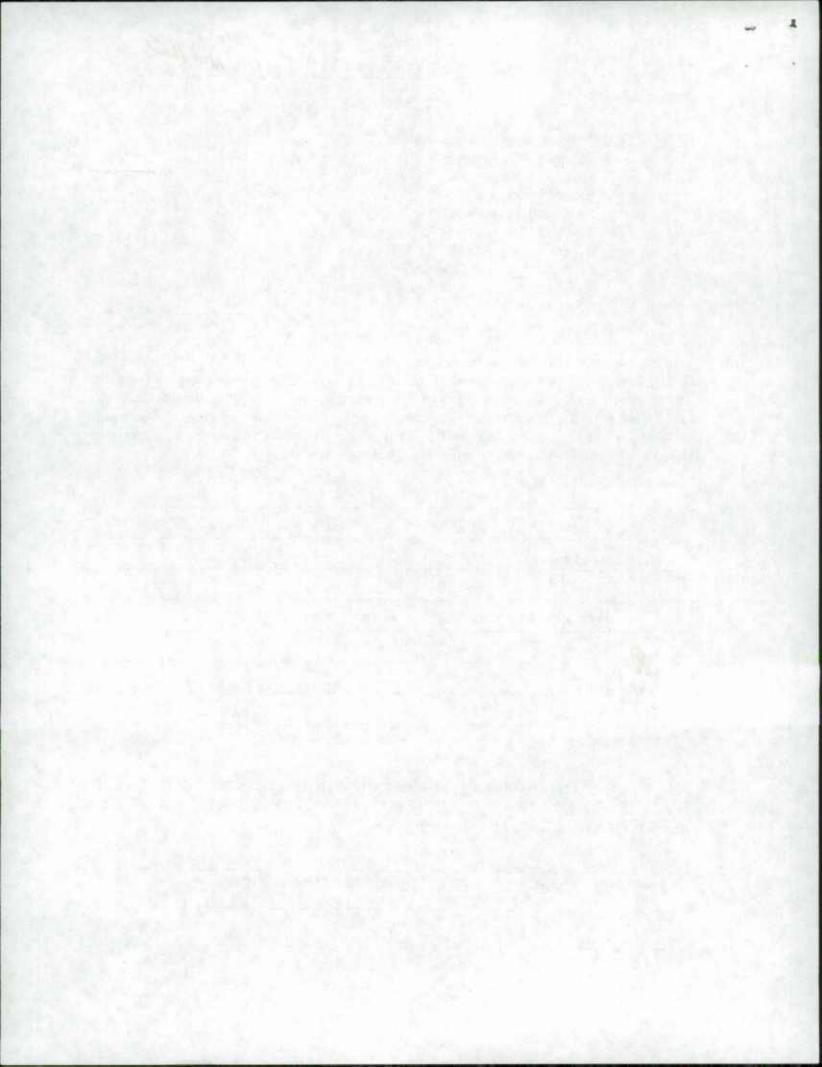
Decision on an Alleged Error made by

state the distance to the waterfront of the proposed structure.

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

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

Rt. 4 North to Rt. 263 which becomes Rt. 261 N. Pass Breezy Pt. & turn right on Beach Drive which becomes Larchmont Drive.

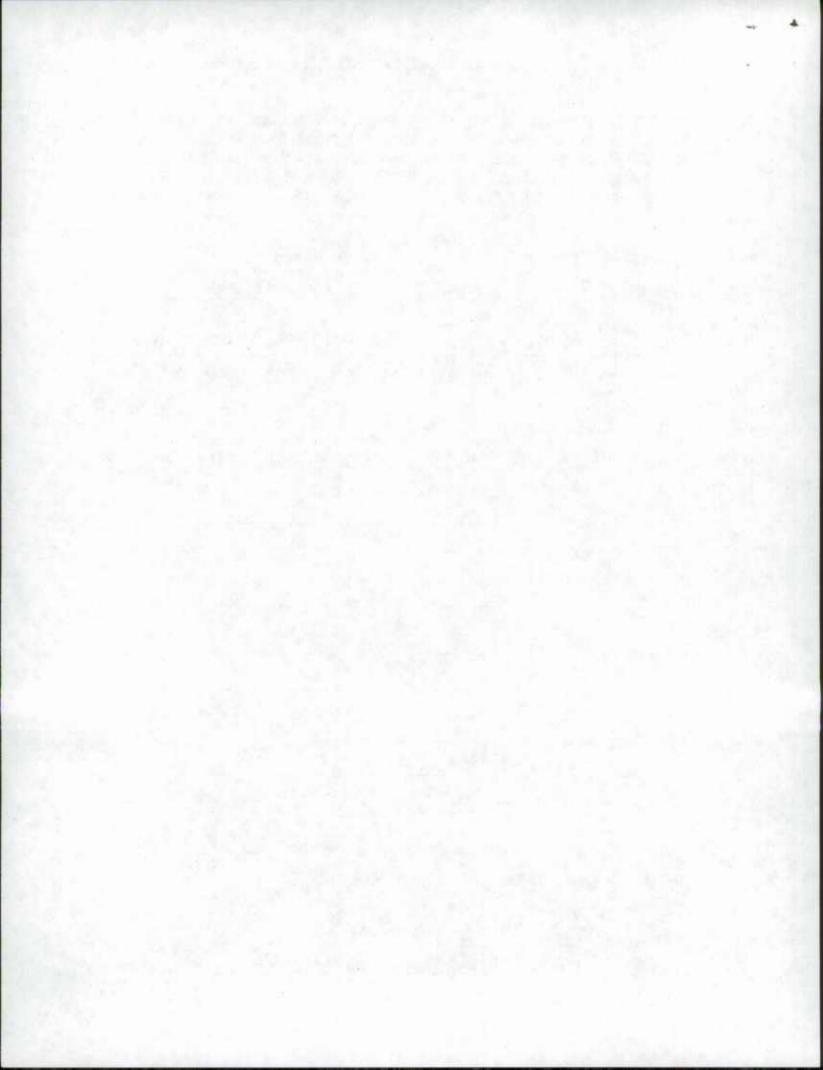


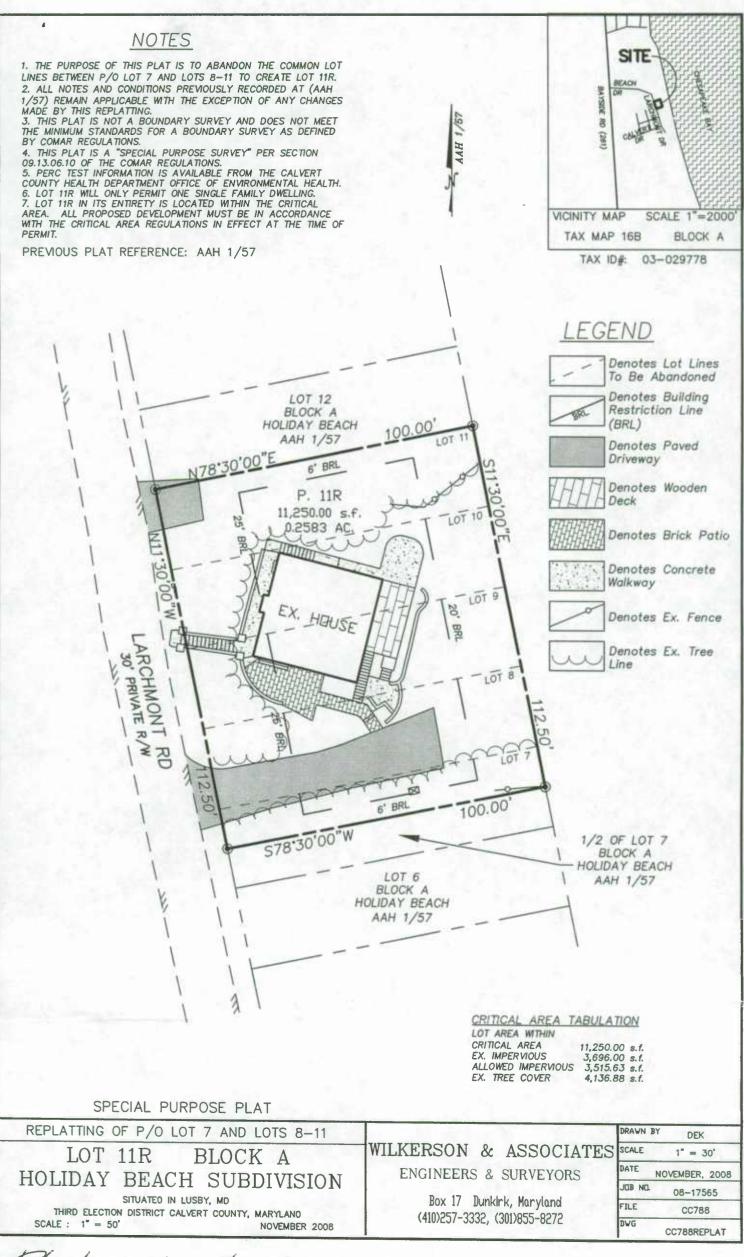
AFFECTED PROPERTY OWNERS LIST



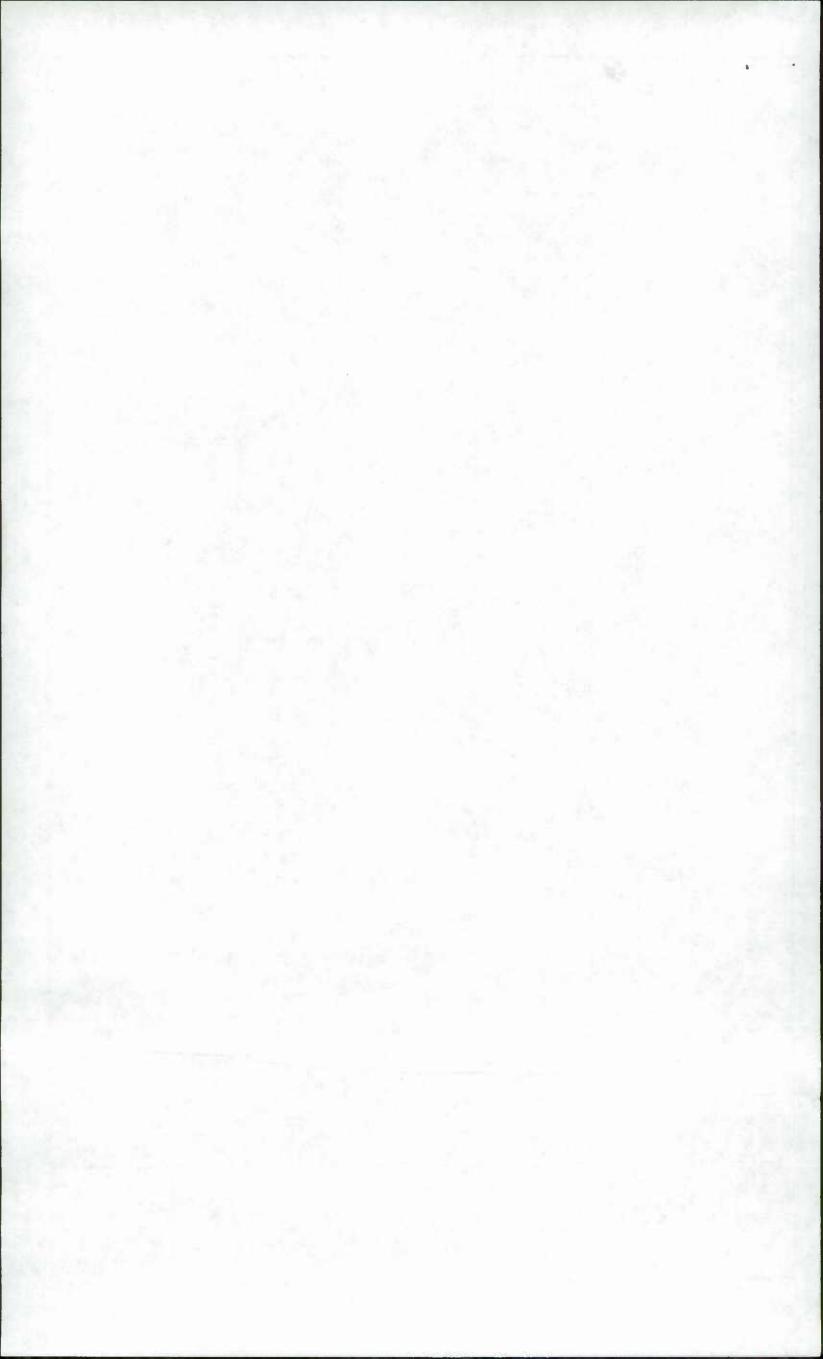
YOU MUST LIST THE NAMES AND ADDRESS OF ALL ADJOINING PROPERTY OWNERS AND THE OWNERS OF THOSE PROPERTIES DIRECTLY ACROSS ALL ADJACENT STREETS AND/OR RIGHTS OF WAY. NOTE: FAILURE TO CORRECTLY LIST NAMES AND ADDRESSES OF ALL AFFECTED PROPERTY OWNERS MAY RESULT IN A DELAY TO YOUR CASE.

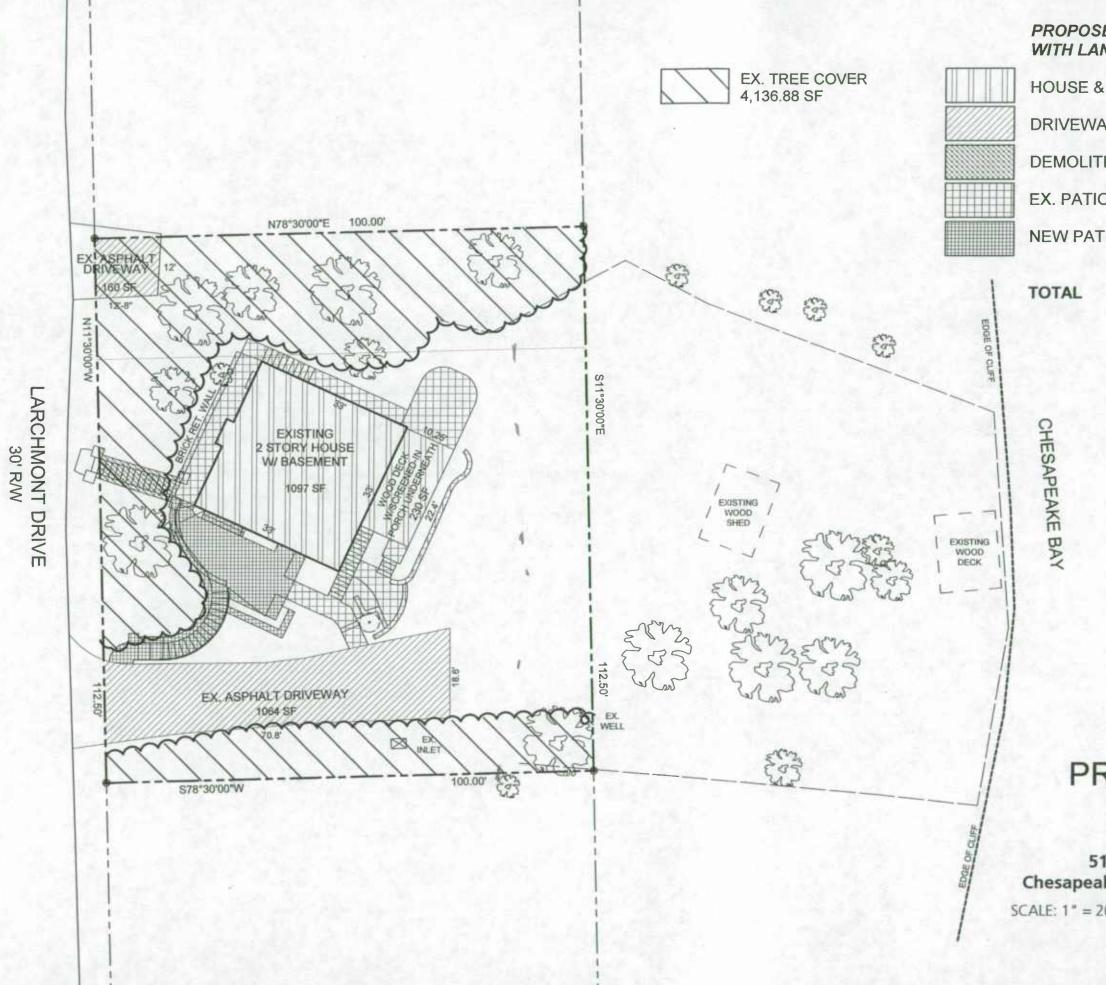
Name: Mary Beeka PH: 301-249-1650
Name: Mary Beeka PH: 301-249-1650 Address: 5187 Larchmont Dr., Ches Bch, MD 20732
Name: Fred & Penny Chanteau PH: 443-550-3613
Name: Fred & Penny Chanteau PH: 443-550-3613 Address: 5145 Larchment Dr., Ches Beh, MD 20732
Name: Dave Young PH: Address: 5172 Larchmont Dr., Ches Beh, MD 20732
Address: 5/12 Larchmont Dr., Ches Beh, MD 20732
Name:
Address:
IF YOUR PROPERTY ADJOINS A PRIVATELY OWNED ROAD, YOU MUST LIST THE NAME AND ADDRESS OF THE OWNER BELOW:
Name: Wilford Petrie (son, Ray)
Name: Wilford Petrie (sor, Ray) Address: 2570 Newland Rd, Warsaw, VA 22572





Plat submitted on 11/17/08





PROPOSED IMPERVIOUS AREA WITH LANDSCAPE IMPROVEMENTS:

HOUSE & PORCH = 1,327 SF

DRIVEWAY / PARKING = 1,224 SF

DEMOLITION = (80 SF)

EX. PATIOS / WALLS / WALKS / STEPS = 829 SF

NEW PATIOS / WALLS / WALKS / STEPS = 509 SF

TOTAL 3,809 SF

PROPOSED COVERAGE

5169 Larchmont Drive Chesapeake Beach, MD 20732

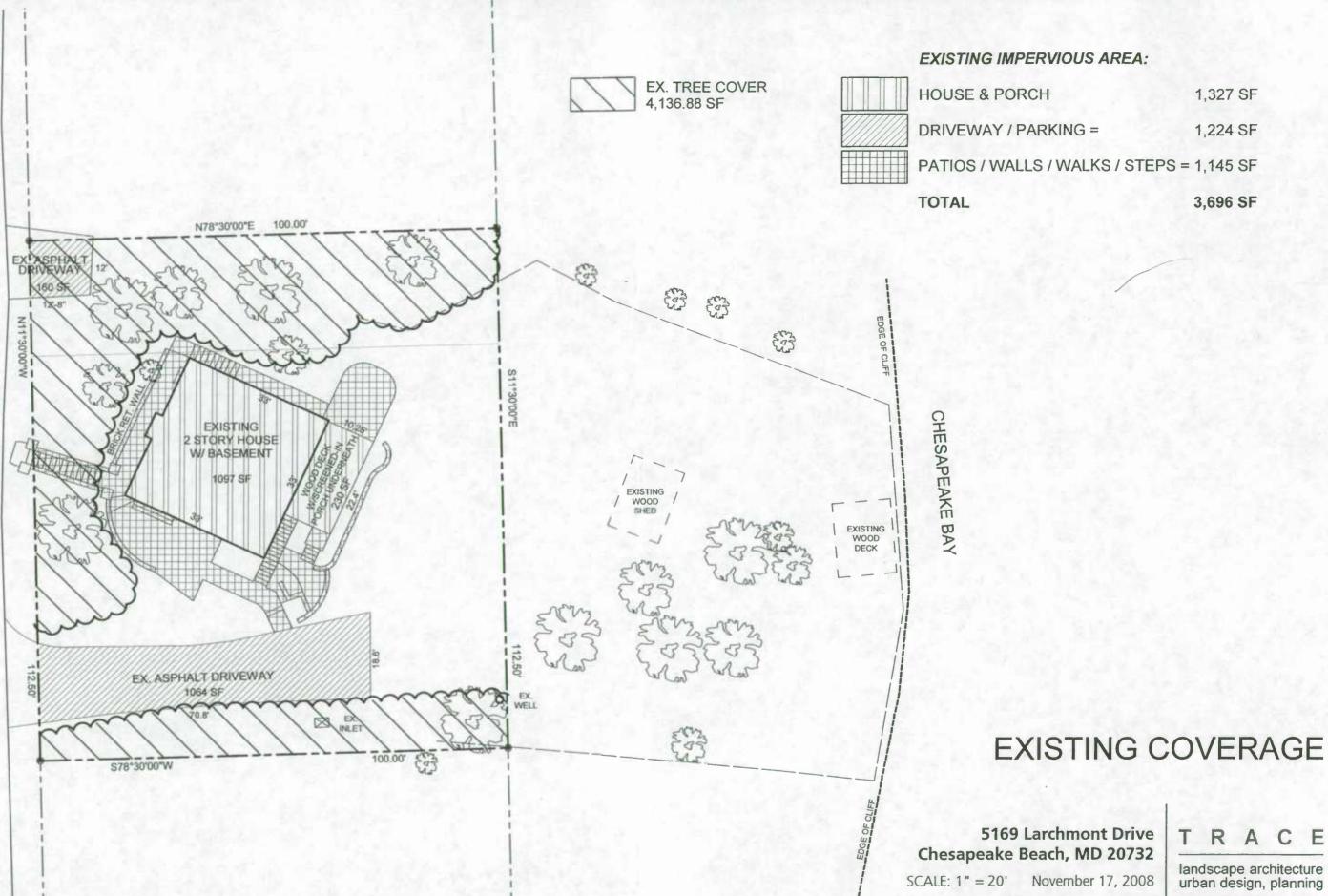
SCALE: 1" = 20' November 17, 2008

TM 16B, BLOCK A, Lots 8-11 & N 1/2-7 (Re-platting to LOT 11R) TAX ACCOUNT# 029778

TRACE

landscape architecture urban design, planning

2166 Wisconsin Avenue, NW Washington, DC 20007-2280 T 202 338 0027 www.trace-inc.net



LARCHMONT DRIVE 30' R/W

TRACE

landscape architecture urban design, planning

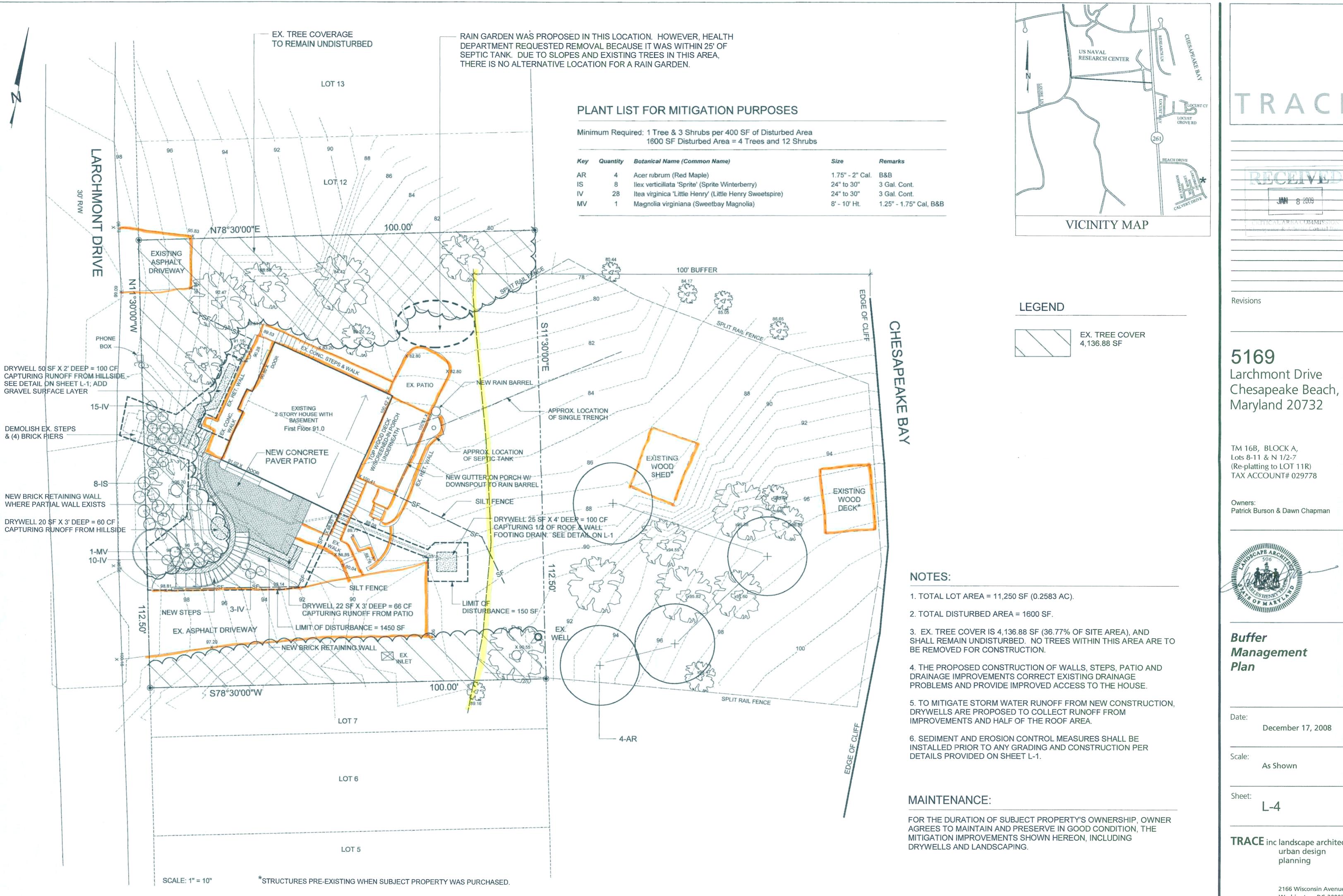
TM 16B, BLOCK A,

Lots 8-11 & N 1/2-7

(Re-platting to LOT 11R)

TAX ACCOUNT# 029778

2166 Wisconsin Avenue, NW Washington, DC 20007-2280 T 202.338.0027 www.trace-inc.net



5169 Larchmont Drive

TM 16B, BLOCK A, Lots 8-11 & N 1/2-7 (Re-platting to LOT 11R)

Patrick Burson & Dawn Chapman



Management

December 17, 2008

As Shown

TRACE inc landscape architecture urban design planning

2166 Wisconsin Avenue, NW Washington, DC 20007-2280 **202.338.0027** FAX 202.333.4626