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Governor

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Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
CHESAPEAKE AND ATLANTIC COASTAL BAYS

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www.dnr.state.md.us/criticalarea/

June 10, 2008

Ms. Yvonne Chaillet
St. Mary's County
Land Use and Growth Management

Re: File #07-2594; Leonard
43799 Little Cliffs Road, Hollywood

Dear Ms. Chaillet:

Thank you for submitting the above referenced variance request for review and comment. The applicants are seeking a variance to the 100-foot Buffer to construct a deck on an existing dwelling. The property is 54.17 acres in size and located in the Resource Conservation Area (RCA). It is currently developed with a dwelling, shed, and garage all located within the expanded 100-foot Buffer for steep slopes and highly erodible soils.

In 2002 and 2004, the Maryland General Assembly reiterated its commitment to the protection of the water quality and habitat of the Chesapeake and Atlantic Coastal Bays Critical Area by strengthening and clarifying the Critical Area law, especially emphasizing the importance of the 100-foot Critical Area Buffer. In particular, the General Assembly stated that variances to a local jurisdiction's Critical Area program may be granted only if a zoning board finds that an applicant has satisfied the burden to prove that the request meets **each one** of the County's variance standards, including the standard of "unwarranted hardship." The General Assembly defined that term to mean that without the variance, the applicant would be denied reasonable and significant use of the entire parcel or lot. Furthermore, 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 Board of Appeals must make an affirmative finding that the applicant has overcome this presumption, based on the evidence presented.

In this instance, the applicants have reasonable use of the entire property in that the property is developed with a dwelling that contains a sun room and screened porch and the applicants also enjoy the use of an outdoor concrete patio area. The proposed deck would be over highly erodible soils and adjacent to steep slopes, whose development would impact the adjacent

TTY for the Deaf

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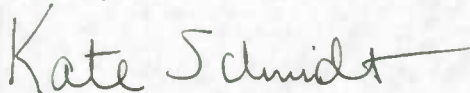


waterway. Further, it is unclear how the applicants would obtain access to the rear of the dwelling in order to construct the deck without impacting the steep slopes and soils.

If the Board approves this variance, it should be the minimum necessary to provide relief and as a condition of approval we recommend the applicant be required to provide mitigation at a ratio of 3:1 for the disturbance to the Buffer.

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,

A handwritten signature in cursive script that reads "Kate Schmidt". The signature is written in black ink and includes a long horizontal flourish at the end.

Kate Schmidt
Natural Resources Planner

SM266-08

ST. MARY'S COUNTY BOARD OF APPEALS

In the Matter of the application of Michael Leonard and Mary Baluss for a variance from Section 71.8.3 of the St. Mary's County Comprehensive Zoning Ordinance (Z02-01) to add impervious surface in the Critical Area Buffer to add a deck.

Case No. VAAP #07-2594
Leonard

ORDER

WHEREAS, Application VAAP #07-2594 – Leonard was duly filed with the St. Mary's County Board of Appeals (the "Board") by Michael Leonard and Mary Baluss (the "Applicants"), on or about December 20, 2007; and

WHEREAS, the Applicants seek a Variance from Section 71.8.3 of the St. Mary's County Comprehensive Zoning Ordinance (Z02-01), as amended, (the "Ordinance"), to add impervious surface in the Critical Area Buffer with the placement of a deck. The property contains 54.17 acres; is zoned Rural Preservation District (RPD), Resource Conservation Area (RCA) Overlay District; and is located at 43799 Little Cliffs Road, Hollywood, Maryland; Tax Map 20, Block 12, Parcel 15 (the "Property"); and

WHEREAS, after due notice, a public hearing was conducted by the Board on Thursday, June 26, 2008 and July 10, 2008 in Room 14 of the Governmental Center in Leonardtown, Maryland, at 6:30 p.m., and all persons desiring to be heard were heard, documentary evidence received, and the proceedings electronically recorded.

NOW, THEREFORE, having reviewed the testimony and evidence presented at the hearing, the following facts, findings, and decision of the Board are noted:

FACTS

The Applicants seek variance to allow a 450 square-foot deck in the 100-foot Critical Area Buffer (Buffer). The Applicants plan to remove and trade the stoop and steps located on the east side of the house for a total of 60 square feet, resulting in 390 square feet of new impervious surface in the Buffer.

The subject property (Property) is a grandfathered lot because it was recorded prior to the adoption of the Maryland Critical Area regulations in December 1985. The Property is served by a well and septic system. The Property is located on St. Thomas Creek and is constrained by the Buffer expanded for highly erodible soils, streams and slopes 15% or greater. The shoreline of the Property is constrained by the 100-year floodplain, Zone AE with a base flood elevation of five feet (5') according to FIRM (Flood Insurance Rate Map) Panel #118E.

The Property contains a single-family dwelling constructed in 1890 and located 59 feet from the mean high water of St. Thomas Creek and three feet from the edge of steep slopes. The Property also contains two sheds, a detached garage, a patio, a chicken coop, and a gravel driveway. Ms. Baluss testified at the hearing that what the site plan showed as a third shed is actually an old chicken coop.

Impervious surface on the Property totals 28,602 square feet or one and two tenths (1.2) percent of the allowable impervious surface limit which is 15 percent of the total lot area or eight and twelve one hundredths (8.12) acres. The Applicants propose to add 430 square feet of additional driveway outside the Buffer and 450 square feet of new decking in the Buffer and to remove 60 square feet of existing stoop and stairs in the Buffer. Total existing and proposed impervious surface equals 29,422 square feet. Approval of this variance would allow an additional 390 square feet of impervious surface to be placed within the 100-Foot Critical Area Buffer.

Approximately 52 acres or 97 percent of the Property is covered in vegetation. The Applicants do not propose to remove any vegetation on the Property.

RECEIVED

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CRITICAL AREA COMMISSION

The existing soil types on the Property are Beltsville silt loam (BIB2), Rumford loamy sand (RuB), and Evesboro Westphalia (EwE2). Only the EwE2 soil type is highly erodible according to the 1978 United States Department of Agriculture's Soil Survey of St. Mary's County. The BIB 2 and RuB soils are neither highly erodible nor hydric in nature.

The site plan for the proposed development was approved by the Health Department on April 14, 2008 and by the Soil Conservation District on April 11, 2008. The Board received comments from the Maryland Critical Area Commission (Commission) on March 27, 2008. The Critical Area Commission opposes granting the variance request to allow the Applicants to construct a deck in the Critical Area Buffer as they have not met all the standards for granting a variance. The Commission found that there is no unwarranted hardship because the Applicants will not be deprived full use of their land as a residential lot with the denial of the proposed deck. Additionally, because the development is proposed adjacent to steep slopes and highly erodible soils, it will adversely affect the water quality of the adjacent waterway.

If the variance is granted, the Applicants must comply with Section 24.8 of the Ordinance pertaining to lapse of variance. Variances shall lapse one year from the date of the grant of the variance by the Board of Appeals unless a building permit is obtained

FINDINGS

The Board addresses the Special Standards for Granting Variances, which are set forth in Section 71.8.3 of the Ordinance, finding as follows:

- a. *That special conditions or circumstances exist that are peculiar to the land or structure involved and that strict enforcement of the Critical Area provisions of this Ordinance would result in unwarranted hardship;*

The Board finds the existing dwelling was constructed 1890, prior to the adoption of any environmental, zoning, or building regulations. At its closest point, the house is located 59 feet from the mean high water of St. Thomas Creek and three feet from the edge of steep slopes. The east side of the house has a screened porch which wraps around the south side of the house. There is a small landing or stoop with steps extending from the rear of the screened porch. Additionally, the land in the back of the house (east side) consists of compacted dirt and is uneven. The only vegetation growing in this area is moss.

Any improvements to the east side of the house would require a variance because the house was constructed within what is now the 100-foot Critical Area Buffer.

For these reasons, the Board finds that strict enforcement of the Critical Area provisions of the Ordinance would deny the Applicants the ability to construct a modest improvement to an old dwelling, which would result in unwarranted hardship.

- b. *That strict interpretation of the Critical Area provisions of this Ordinance will deprive the applicant of rights commonly enjoyed by other properties in similar areas within the Critical Area of St. Mary's County;*

Other grandfathered properties containing older dwellings in the Critical Area Buffer have obtained variance approval to construct modest improvements. The Board finds that a strict interpretation of the Critical Area provisions of the Ordinance would prohibit the proposed deck, which would deprive the Applicants of rights commonly enjoyed by other properties in the RCA.

- c. *The granting of a variance will not confer upon an applicant any special privilege that would be denied by the Critical Area provisions of this Ordinance to other lands or structures within the Critical Area of St. Mary's County;*

The Board finds that the granting of a variance will not confer upon the Applicants a special privilege that would be denied by the Critical Area provisions of the Ordinance. Other

owners of grandfathered properties with existing dwellings in the Critical Area Buffer have obtained variances to add modest improvements to those dwellings.

- d. *The variance request is not based upon conditions or circumstances that are the result of actions by the applicant;*

The Property contains a single-family dwelling which was constructed in 1890. At its closest point, the house is 59 feet from mean high water and three feet from the edge of steep slopes. The Property is constrained on three sides by the Critical Area Buffer. Any improvements to the house on any of these three sides would require a variance.

For these reasons and the fact that the deck is deemed a modest improvement, the Board finds that the variance request is not based on conditions or circumstances that are the result of actions by the Applicants.

- e. *The granting of the variance will not adversely affect water quality or adversely impact fish, wildlife, or plant habitat within the Critical Area, and that the granting of a variance will be in harmony with the general spirit and intent of the Critical Area program;*

The Applicants must implement erosion and sediment control measures during construction and they must mitigate for the new impervious surface and use straw bails for erosion control.

A Critical Area Planting Agreement and Buffer Management Plan will be necessary to alleviate any impacts to water quality due to the creation of impervious surface in the Buffer. The Board finds that the required plantings will assist in improving and maintaining the functions of the Buffer. The Planting Agreement requires mitigation at a ratio of three to one (3:1) per square foot of the variances granted in accordance with Section 24.4.2.b of the Ordinance.

The required plantings will improve plant diversity and habitat value for the site and will improve the runoff characteristics for the Property, which should contribute to improved infiltration and reduction of non-point source pollution leaving the site.

For these reasons, the Board finds that the granting of the variance to allow construction of a 450 square-foot deck in the Critical Area Buffer will not adversely affect water quality or adversely impact fish, wildlife, or plant habitat within the Critical Area, and that the granting of the variances will be in harmony with the general spirit and intent of the Critical Area program.

- f. *The variance is the minimum necessary to achieve a reasonable use of the land or structures;*

The Board finds that the variance is the minimum necessary to achieve a reasonable use of the land. The Property is constrained on three sides by the Critical Area Buffer. The back of the existing house, which was constructed in 1890, is only three feet at its closest point from the edge of steep slopes. From this point to the southeast corner of the Property, the area gradually widens to approximately 40 feet from the edge of the steep slopes. This area consists of compacted dirt. Ms. Baluss testified that the surface of this area is uneven and nothing will grow here. The Board finds that the variance will allow the Applicants to construct a deck so that this area of the Property is then usable.

DECISION

NOW, THEREFORE, BE IT ORDERED, that, having made a finding that the standards for Variance in the Critical Area and the objectives of Section 71.8.3 of the St. Mary's County Comprehensive Zoning Ordinance have been met, the request to add new impervious surface in the Critical Area Buffer with the construction of a 450 square-foot deck is **approved** subject to the following conditions:

1. The Applicants shall move the deck two feet south of its proposed location on the site plan;
2. The spacing between the deck boards shall be a minimum of three sixteenths (3/16") of an inch; and
3. The Applicant shall remove 300 square-foot of existing impervious surface out of the Critical Area Buffer, this being the existing woodshed, chicken coop, the 16 sq. ft. concrete pad and the 88 sq. ft. concrete pad; and
4. The Applicant shall comply with the Critical Area Planting Agreement which requires mitigation at a ratio of three to one (3:1) per square foot of the variance granted in accordance with Section 24.4.2.b of the Ordinance; and
5. The Applicant may build an addition of 120 sq. ft. wood shed to be placed in the Critical Area and work with staff for the proper placement.

This Date: August 14, 2008



 George Allan Hayden
 Chairman

Those voting in favor of the request:

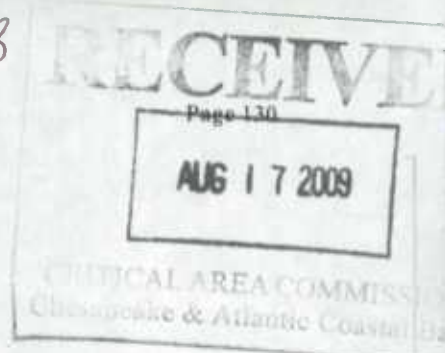
Mr. Delahay, Mr. Edmonds, Mr. Hayden, Mr. Miedzinski and Ms. Neale

Those voting against the requested variance:

Approved as to form and legal sufficiency:


 George R. Sparling
 Attorney

26608



ST. MARY'S COUNTY BOARD OF APPEALS

In the Matter of the application of Michael Leonard and Mary Baluss for a variance from Section 71.8.3 of the St. Mary's County Comprehensive Zoning Ordinance (Z02-01) to add new impervious surface in the Critical Area Buffer to add a deck.

Case No. VAAP #07-2594
Leonard/Baluss

ORDER

WHEREAS, a request to modify the Board of Appeals Variance Order dated August 14, 2008, in VAAP #07-2594 – Leonard/Baluss was duly filed with the St. Mary's County Board of Appeals (the "Board") by Michael Leonard and Mary Baluss (the "Applicants"), on or about June 22, 2009; and

WHEREAS, the Applicants obtained a Variance from Section 71.8.3 of the St. Mary's County Comprehensive Zoning Ordinance (Z02-01), as amended, (the "Ordinance"), to add impervious surface in the Critical Area Buffer to add a deck. The property contains 54.17 acres; is zoned Rural Preservation District (RPD), Resource Conservation Area (RCA) Overlay; and is located at 43799 Little Cliffs Road, Hollywood, Maryland; Tax Map 20, Grid 12, Parcel 15 (the "Property"); and

WHEREAS, the Applicants seek to modify condition number three (3) in the Order dated August 14, 2008; and

WHEREAS, after due notice, a public hearing was conducted by the Board on Thursday, July 23, 2008 in Main Meeting Room, Chesapeake Building, 41770 Baldrige Street, of the Governmental Center in Leonardtown, Maryland, at 6:30 p.m., and all persons desiring to be heard were heard, documentary evidence received, and the proceedings electronically recorded.

NOW, THEREFORE, having reviewed the testimony and evidence presented at the hearing, the following facts, findings, and decision of the Board are noted:

SUMMARY OF TESTIMONY

The Applicants seek to modify the Board of Appeals Variance Order condition number three (3) which was approved on August 14, 2008. Condition number three (3) calls for the removal of the existing woodshed in the Buffer along with an existing chicken coup and 16 and 88 square foot concrete pads. Applicants wish to have the woodshed remain in the Buffer and to only remove the existing chicken coup, 16 square foot concrete pad, and 88 square foot concrete pad. As a concession, the Applicants are reducing the size of the deck that was approved in the Buffer from 450 square feet to 232 square feet. The Applicants propose to remove the existing stoop (60 square feet), concrete pad (16 square feet), concrete pad (88 square feet) and chicken coup (64 square feet) which totals 228 square feet of lot coverage removed from the Buffer. The new deck square footage totals 232 square feet.

SUMMARY OF DOCUMENTARY EVIDENCE

The Board accepted into evidence the following exhibits:

- Exhibit No. 1 – Affidavit of mailing notices and mailing receipts
- Exhibit No. 2 – Affidavit of posting notices
- Exhibit No. 3 – Staff Report

FINDINGS

The Board addresses the Special Standards for Granting Variances, which are set forth in Section 24.4 of the Ordinance, finding as follows:

- a. *That special conditions or circumstances exist that are peculiar to the land or structure involved and that strict enforcement of the Critical Area provisions of this Ordinance would result in unwarranted hardship;*

The Board finds the findings set forth in the Order dated August 14, 2008, also support the requested modification.

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- b. *That strict interpretation of the Critical Area provisions of this Ordinance will deprive the applicant of rights commonly enjoyed by other properties in similar areas within the Critical Area of St. Mary's County;*

The Board finds the findings set forth in the Order dated August 14, 2008, also support the requested modification.

- c. *The granting of a variance will not confer upon an applicant any special privilege that would be denied by the Critical Area provisions of this Ordinance to other lands or structures within the Critical Area of St. Mary's County;*

The Board finds the findings set forth in the Order dated August 14, 2008, also support the requested modification.

- d. *The variance request is not based upon conditions or circumstances that are the result of actions by the applicant;*

The Board finds the findings set forth in the Order dated August 14, 2008, also support the requested modification.

- e. *The granting of the variance will not adversely affect water quality or adversely impact fish, wildlife, or plant habitat within the Critical Area, and that the granting of a variance will be in harmony with the general spirit and intent of the Critical Area program;*

The Board finds the findings set forth in the Order dated August 14, 2008, also support the requested modification.

- f. *The variance is the minimum necessary to achieve a reasonable use of the land or structures;*

The Board finds the findings set forth in the Order dated August 14, 2008, also support the requested modification.

DECISION

NOW, THEREFORE, BE IT ORDERED, that, having made a finding that the standards for Variance and the objectives of Section 71.8.3 of the St. Mary's County Comprehensive Zoning Ordinance have been met, the REQUEST TO MODIFY CONDITION THREE OF THE Board of Appeals Order dated August 14, 2008 to allow the woodshed to remain in its current location in the Buffer is **approved**, subject to the following conditions: (1) reduction in proposed deck size from 450 square feet to 232 square feet; and (2) adherence to the Critical Area Planting Agreement (including any revisions); **AND IT IS FURTHER ORDERED**, that condition number five (5) in the Order dated August 14, 2009, is stricken.

This Date: August 13, 2009

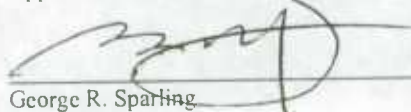

Wayne Miedzinski
Vice-Chairman

Those voting in favor of the request:

Mr. Thompson, Mr. Guy, Mr. Edmonds, Mr. Miedzinski and Ms. Neale

Those voting against the requested variance:

Approved as to form and legal sufficiency:


George R. Sparling
Attorney

Lee M. Stevens Construction, Inc.

23449 By the Mill Way California, MD 20619

MHIC #22717 301 862 4713

Jennifer Ballard
Land Use and Growth Management

4/8/08

Dear Ms. Ballard,

Please find enclosed letter addressing Variance Standards for the deck *07-2594* proposal composed by the owners Mary Baluss and Micheal Leonard. Please accept this for your records for consideration along with my earlier letter.

I hope that you are now in receipt of the finished house plat showing tidal limit. When you are able to schedule our meeting I can be reached at 301-481-6878.

Thank You,

Kevin Stevens



Leonard - 07-2594

Critical Areas Variance Standards to be addressed by the Applicant

The Proposed Variance

Our house was constructed in 1890 (per county tax records). At the time there was no Critical Area concept. The house was sited on the edge of a bluff that slopes down to the water. One rear corner of the house is only three feet from the bluff edge. All, or almost all, of the house is within the Critical Area and is "grandfathered" into the current zoning requirements. Without a variance, we would be unable to do anything to improve access to the house.

The purpose of the present application is to improve access to the house by expanding the existing rear steps into a small low decking patio that will cover only the infertile "yard" surface where no significant vegetation has taken hold.

The Proposal is Reasonable in Light of the Variance Standards

The following sections address this proposal in light of the variance standards.

1. *Special conditions or circumstances that exist that are particular to the land or structure involved (particular physical surroundings such as exceptional narrowness, shallowness, size, shape, or topographical conditions of the property involved) that strict enforcement of the Critical Areas provisions of this Ordinance will result in unwarranted hardship.*

At the rear of the house is a small, grandfathered, steps, which we propose to expand into a low deck that would not be visible from the water. Almost nothing is growing in patio area—the soil long ago eroded away leaving hard pan that is covered in part by lichen and in part by exposed dirt and occasional weeds. Efforts at planting grass and small shrubs have been failures. In addition, the ground is uneven and somewhat sloping, making it difficult to use lawn chairs or tables there. Bringing in topsoil would be virtually impossible because access to the rear is, on one side too narrow for even a large wheelbarrow, and on the other, very steep. To remedy these problems, we propose to cover this small area between the house and the bluff with decking and planters. The bluff itself is heavily planted with some mature trees and a number of smaller trees and shrubs. None of these would be disturbed.

Because of the shape of the lot, there is nothing that can be done to the rear without encroaching on the Critical Area. As things presently stand, the area is rough and irregular as well as unsightly from the house.

2. *That strict interpretation of the Critical Area provisions of this Ordinance will deprive the applicant of rights commonly enjoyed by other properties in similar areas within the Critical area of St. Mary's County.*

Our immediate neighbor has a large deck on the rear of his house. We do not know a great deal about other properties, but in kayaking on St. Thomas Creek we have observed that there are a number of older structures on Drum Cliffs Road that have rear decks high above, but very close to, the Creek. It therefore appears to us that our neighbors enjoy waterside use of their properties in much the same way that we envision using the proposed rear patio.

3. *The granting of a variance will not confer upon an applicant any special privilege that would be denied by the critical area provisions of the Ordinance to other lands or structures within the Critical area of St. Mary's County.*

We have no information on this criterion, except the observation regarding neighbors' decks noted in response to Criterion #2.

4. *The variance request is not based upon conditions or circumstances that are the result of actions by the applicant.*

As noted above, the house was constructed in 1890. Previous residents put in steps from the rear of the house. We propose only to expand that structure along the length of the house and to extend it.

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

We have three points to make regarding this criterion:

- a. The proposed variance will have no effect on water, fish or wildlife. Although we plan to use decking, which we concede is impermeable under county standards, the bluff is heavily planted with some mature trees and abundance of shrubs and smaller trees. Run off from the deck will not cause erosion or otherwise impact the creek. The deck will not be visible from the creek.
- b. Plant habitat in the area we propose to deck is very sparse, consisting primarily of lichen, common gorse (*ulex europaeus*) and buckhorn plaintain (*plantago lanceolata*) and a number of common, small composites that I have not identified. In short, there is nothing distinguished about the plant habitat we propose to cover. In contrast, the adjacent undisturbed area includes laurel, arbutus, blueberry, additional gorse and many other plant varieties.

- c. Our property is approximately 54 acres. The proposed deck is approximately 440 square feet. We have placed the bulk of our property is dedicated to recreational/wildlife management use. Our overall use of the property is wholly consistent with the general spirit and intent of the Critical Area program.

6. *The variance is the minimum necessary to achieve a reasonable use of the land.*

We have planned the patio to cover only the hard-pan, infertile part of the rear portion of the house.

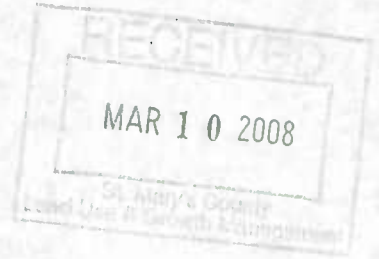
Additional Considerations

Coincident with the proposed deck construction we intend to improve plantings in other portions of the area adjacent to the house. This will include planting ground cover that will reduce run off, adding arable soil where now there is only hard pan and installing shrubs and bedding. The area of increased plantings will exceed and will far offset in quality the newly covered area represented by decking.

Lee M. Stevens Construction, Inc.

23449 By the Mill Way California, MD 20619

MHIC #22717 301 862 4713



JENNIFER B. BALLARD

ST. MARY'S DEPARTMENT
OF LAND USE AND GROWTH
MANAGEMENT

Permit Application 07-2594 for construction in the Expanded Critical Area Buffer Zone – addressing standards.

Proposal is to provide an attached outdoor deck. The following addresses the standards as understood by the applicant in the interest of the Leonard family.

1. The conditions that exist on this property create difficulties that can best be overcome with the construction of the proposed deck surface.
 - a) Yard grade is 32" below floor level of house and slopes in all directions.
 - b) Edge of yard has steep slopes to be avoided surrounding walking path to promontory overlooking St. Thomas Creek.
 - c) Subject area bears heavy use as it offers only outdoor area with its particular views and access to nature trail.

Proposed deck would create a best use for the homeowners by insuring a connection to walking path while discouraging activities close to steep slopes. Gradual descent to grade can be achieved over the deck span.

2. Strict interpretation of the Critical Area provisions of this Ordinance has insured the responsible construction of homes in similar areas. Although this house was constructed at a time before environmentally suitable site location was considered, it is our hope that it won't prevent needed improvements, if responsibly performed.
3. No special privilege is requested in the granting of this variance that does not seem appropriate for this particular site and its unique conditions.
4. Applicant is not responsible for conditions for which solutions are proposed in this variance request. Subject house was purchased in state of extreme disrepair. We have worked to improve the property by properly addressing unfavorable conditions as mentioned.
5. The granting of this variance should not adversely affect water quality or impact fish, wildlife, or plant habitat.

- a) Structure will require the digging of 7 holes; 20 inches by 20 inches and 20 inches deep. Soil will be replaced around 6" diameter posts.
- b) Existing moss and weedy grass will remain intact.
- c) Framing will be rot-resistant as required.
- d) Deck surface to be synthetic material that eliminates leaching of contaminants by rain water. Spacing of decking allows water to permeate soil below deck.
- e) This is an alternative to development of a lawn requiring regular treatments to overcome poor soil conditions.

Granting of this variance will be in harmony with the general spirit and the intent of the Critical Area program by specifically;

- a) Encouraging engagement with the outdoors in an area rich in natural beauty.
- b) Providing safe access and passage to other natural areas on property.
- c) Providing area for people, furniture and equipment that would otherwise be in direct, unfavorable contact with ground cover.
- d) Allowing better access to outdoors by handicapped and aged members of family.

6. We feel this variance is necessary to allow reasonable use of this exceptional area of natural beauty. Please consider that the site is 54 acres of undeveloped woods and fields with more than 1,000 feet of shoreline. The owners have proved fit stewards of this treasure through their efforts to preserve it and correct years of costly neglect.

Revision of site plan to satisfy variance requirements includes improvements to the driveway on west side of house. It is our intent to remedy the problem that exists by providing an adequate parking area, thereby preventing intrusions onto yard areas and resulting erosion.

Respectfully,



Kevin Stevens
Lee M. Stevens Const., Inc.

General Notes

- This site is located on Tax Map 65, Grid 17, Parcel 15 & 45.
- The SITE AREA = 1.5799 Ac.
- Area in RL/IDA overlay = 1.5799 Acres
SITE AREA Density Calculations:
RL/IDA overlay = 1.5799 / 5 = 7.89 units
Proposed: 0 units
Remaining Density in SITE AREA: 6.89 units
- Present zoning: RL/IDA
- Adjoining properties are Zoned RL/IDA, unless otherwise shown herein.
- Building Restriction Lines (BRL's) and Minimum Yard Requirements are established as per the St. Mary's County Zoning Ordinance as follows: 25' Front, 10' Side, and 20' Rear. B.R.L.'s may be superceded by limits of Resource Protection areas (identified in accordance with Chapter 71.00 of the Zoning Ordinance) as shown and labeled on this subdivision plat.
- Water supply shall be from a central public water system.
- Sewage flow shall be to a central public sanitary sewer system.
- This subdivision is in compliance with the St. Mary's County Comprehensive Water and Sewer Plan.
- There shall be a ten (10) foot utility easement along all lot lines. These easements are to include use by the St. Mary's County Metropolitan Commission, its successors and assigns, for construction, installation, maintenance, repair, inspection, and operation of public water and sewer facilities, should such facilities ever be installed.
- No restrictions affecting this site are known, subject to title search.
- Areas established for resource protection on this site, in accordance with required protection levels, must remain in undisturbed open space and undeveloped.
- Outparcel A shown hereon has not been evaluated for compliance with Chapter 70 of the St. Mary's County Zoning Ordinance (Adequate Facilities) and cannot be used as legal building site until the Outparcel is further subdivided in accordance with the St. Mary's County Subdivision Regulations and the St. Mary's County Zoning Ordinance.
- CAUTION:** The Rights-of-Way shown herein do not necessarily provide access from these lots to a County or State Road at this time. Road and utility construction and maintenance are the responsibility of the buyer of these lots, unless otherwise provided herein.
- There are existing nonconforming structures in accordance with Chapter 52.4 of the St. Mary's County Zoning Ordinance.
- Present Sewer Category: S-1
- Present Water Category: W-1
- This plan is in compliance with the St. Mary's County Comprehensive Water and Sewerage Plan.
- There are no additional plans to develop this property by the landowner at this time.
- Lot 1 & Outparcel A shown hereon to be served by the Private Right-of-way shown hereon. This 20' Private Right-of-Way (unnamed) providing ingress and egress for said lot is private as defined in the St. Mary's County Zoning Ordinance, and as such shall not be maintained by the County, nor shall said private right-of-way be considered for acceptance into the County Highway Maintenance System until such is improved to the appropriate County Road Standard(s) at the individual lot-owners expense. The above lot is to be served by an R-20 (R-19 if urban) multiple driveway entrance as per the St. Mary's County Road Ordinance. The Developer shall be responsible for the installation/banding of the multiple driveway entrance(s) prior to recording of this plat. There are 1 existing and 0 proposed users served by the Private Right-of-way shown hereon.
- Premise addresses are shown as thus: ~~XXXX~~
- Trip Generation Rates are 10.0 trips/unit. Affected road is Maryland Route 249.
- Resource Protection Standards are superseded by Critical Area Standards within the Critical Area portion of each lot.
- Lot 1 is exempt from stormwater management pursuant to the St. Mary's County Comprehensive Zoning Ordinance. Any further development shall be subject to the provisions of the Stormwater, Management, Grading, Erosion and Sediment Control Ordinance.
- This site is exempt from the Forest Conservation Act per Section 75.2.2.h. of the St. Mary's County Zoning Ordinance and a Declaration of Intent shall be filed with the Department of Land Use and Growth Management.
- Subject Property appears to be in the 100 Year Flood Boundary, as delineated on Flood Hazard Boundary Maps for St. Mary's County, Maryland, and distributed by the Federal Emergency Management Agency per F.I.R.M. Community Panel #24037C0319E. The 100 year flood is at elevation 5' based on NGVD 1929. No improvement shall be made in the floodplain easement shown hereon without specific authorization from St. Mary's County.
- Hydric Soil types do not appear to be present per the Soil Survey of St. Mary's County, Maryland, as distributed by the U. S. Department of Agriculture, Soil Conservation Service, as shown herein.
- Resource Protection Standards are superseded by Critical Area Standards within the Critical Area portion of each lot.
- The Maryland Grid coordinates shown hereon are for the exclusive use of the St. Mary's County Department of Land Use and Growth Management and are to be used as an aid in placement of the property shown hereon on the St. Mary's County Tax Maps.

NOTE:

The purpose of this plat is to correct a parcel of record issue.

Critical Area Notes

- Approximately 1.5799 Acres of this site lie within Maryland's Critical Area. Any and all activities proposed within this area are subject to Critical Area Regulations and will not be permitted until all appropriate local, state and federal agencies have conducted a thorough environmental and have approved the development plan.
- The Critical Area Buffer must remain in natural vegetation and may not be disturbed except as provided under Chapter 71, Section 8 (Habitat Protection Standards) of the St. Mary's County Comprehensive Zoning Ordinance (02-01, as amended).
- No development is permitted in Tidal or Non-tidal Wetlands or their associated buffers without approval from the appropriate local, state and federal agencies. This site has not been field evaluated for tidal or non-tidal wetlands.
- All existing forest shown hereon shall remain undisturbed except as permitted under the provisions of Chapter 72 (Forest and Woodland Resources, in the Critical Area) of the St. Mary's County Comprehensive Zoning Ordinance on this plat shall be preserved from future disturbance. Any and all afforested or reforested areas created under the provisions of the St. Mary's County Critical Area Ordinance and designated on this plat shall be preserved from future disturbance.
- Locations of natural heritage areas, habitats of threatened or endangered species, and habitats of significant plants or wildlife are identified on this plat in accordance with Section 71.8 of the St. Mary's County Comprehensive Zoning Ordinance.
- Existing area of impervious surface within 100' Buffer: 0.00 Sq. Ft.
- Existing area of impervious surface within 1,000' Boundary: 8,090 Sq. Ft.
- Proposed area of impervious surface within 100' Buffer: 0.00 Sq. Ft.
- Proposed area of impervious surface within 1,000' Boundary: 0.00 Sq. Ft.
- Areas with slopes of 15 percent (15%) or greater: 0.00 Sq. Ft.
- Existing trees or forested areas: 0.00 Sq. Ft.
- Proposed areas of vegetation clearing: 0.00 Sq. Ft.
- Afforestation Threshold Area: 0.00 Sq. Ft.
- Afforestation Area Required: 0.00 Sq. Ft.
- Afforestation Area Provided: 0.00 Sq. Ft.
- Reforestation Area Required: 0.00 Sq. Ft.
- Reforestation Area Provided: 0.00 Sq. Ft.
- Proposed area of soil disturbance: 0.00 Sq. Ft.
- There are no known natural heritage areas, habitats of threatened or endangered species, or habitats of significant plants or wildlife identified within the Site Area in accordance with Chapter 41 of the St. Mary's County Critical Area Ordinance (Chesapeake Bay Critical Area Program).

N 174009.5236
E 1452893.8326

N/F
Potomac Beach
Subdivision
Plat Book 45 Folio 27
Use: Residential
Zoned RL

N/F
Lot 1
Russell's Subdivision
Plat Book 25 Folio 50
Use: Residential
Zoned TMX

N/F
Mary E. & Charles Cobb
EWA 1283 Folio 61
Use: Residential
Zoned RL

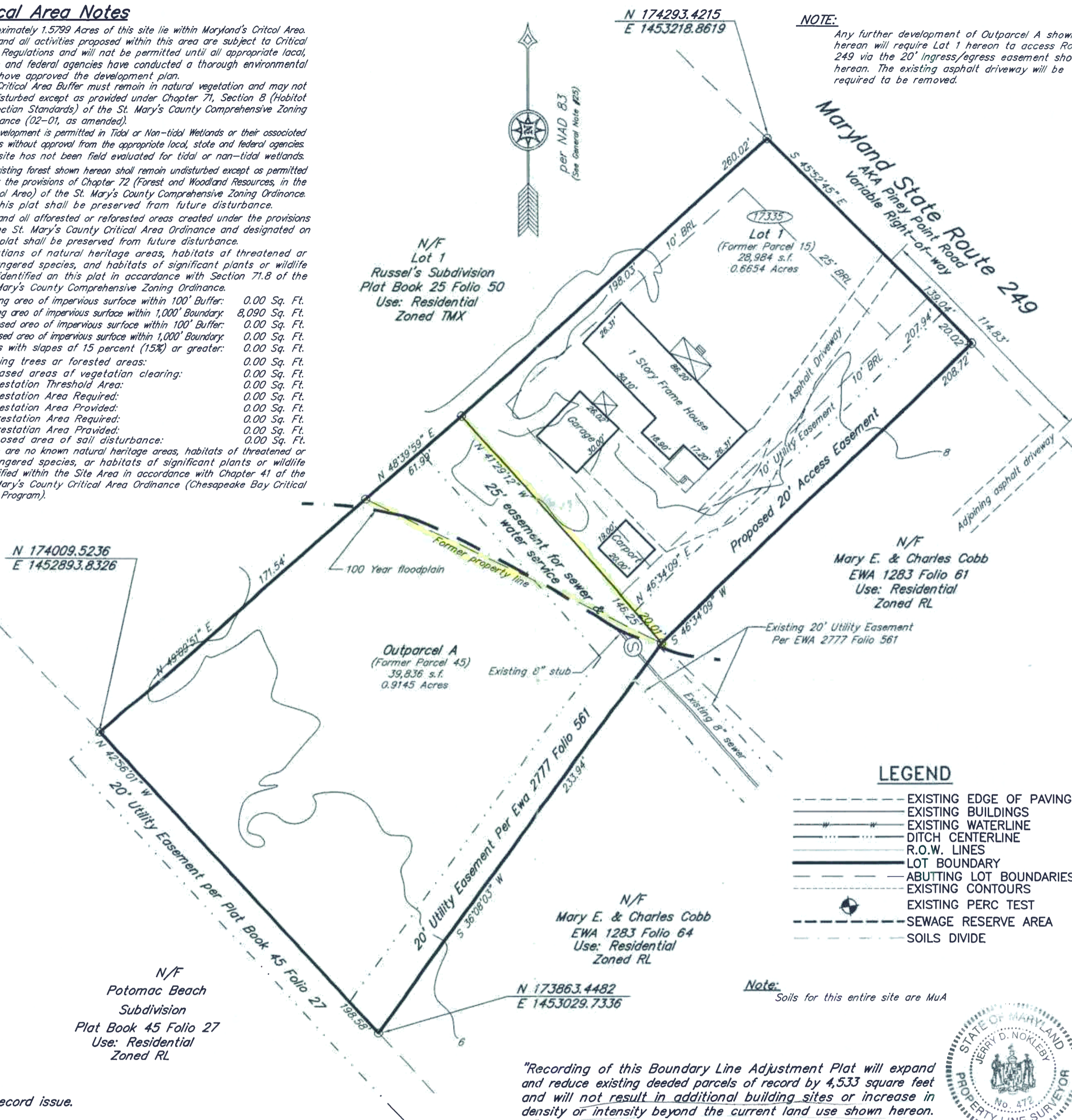
N/F
Mary E. & Charles Cobb
EWA 1283 Folio 64
Use: Residential
Zoned RL

N 173863.4482
E 1453029.7336

"Recording of this Boundary Line Adjustment Plat will expand and reduce existing deeded parcels of record by 4,533 square feet and will not result in additional building sites or increase in density or intensity beyond the current land use shown hereon.

NOTE:

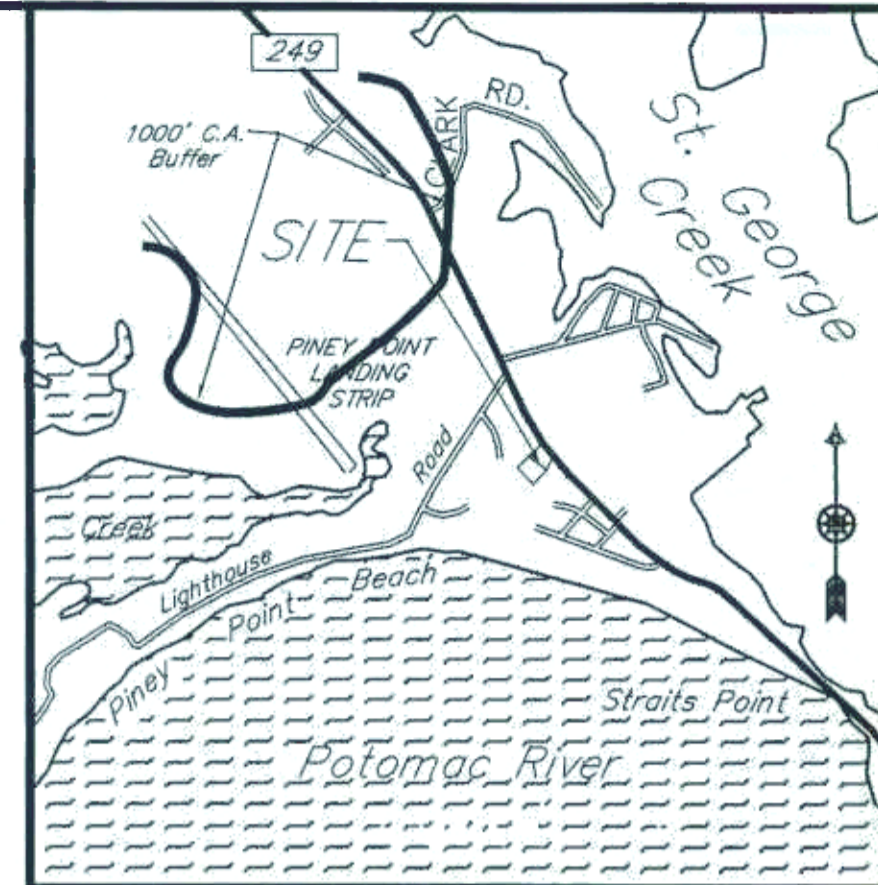
Any further development of Outparcel A shown hereon will require Lot 1 hereon to access Route 249 via the 20' Ingress/Egress easement shown hereon. The existing asphalt driveway will be required to be removed.



LEGEND

- EXISTING EDGE OF PAVING
- EXISTING BUILDINGS
- EXISTING WATERLINE
- DITCH CENTERLINE
- R.O.W. LINES
- LOT BOUNDARY
- ABUTTING LOT BOUNDARIES
- EXISTING CONTOURS
- EXISTING PERC TEST
- SEWAGE RESERVE AREA
- SOILS DIVIDE

Note: Soils for this entire site are MuA



Vicinity Map Scale: 1" = 2000'

Owner's Certificate

We, Michael L. Adams, Elizabeth S. Adams and John A. Adams, owners of the property shown hereon and described in the Surveyors Certificate offered hereto, hereby adopt this plan of Boundary Line Adjustment & Subdivision upon its approval by all required agencies.

There are no pending suits or actions at law, leases, liens, mortgages or deeds of trust affecting this subdivision except as noted or shown hereon. All parties in interest hereto have indicated their assent to this plan of Boundary Line Adjustment & Subdivision. We further establish the minimum building restriction lines as required by the St. Mary's County Zoning Ordinance and dedicate the streets, walkways, easements, rights-of-way and other improvements, where applicable, to public use.

We hereby grant unto the St. Mary's County Metropolitan Commission, its successors and assigns, a right of ingress and egress over, and a perpetual easement in, the 10 foot water line, and/or sewer line easement (along all lot lines), as well as others that may be shown herein, for construction, installation, maintenance, repair, inspection, and operation of any public water and sewer facilities, should such facilities ever be installed. The requirements of Section 3-108 of the ANNOTATED CODE OF MARYLAND (Real Property Article) as far as it concerns the making of the plat and setting of the markers required therein have been or will be complied with to the best of our knowledge, information and belief.

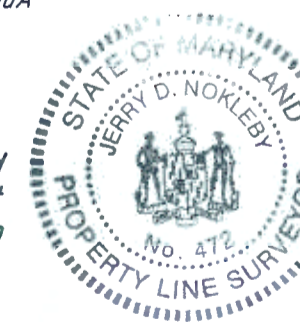
Michael L. Adams _____ Date

Elizabeth S. Adams _____ Date

John A. Adams _____ Date

Surveyor's Certificate

I hereby certify, to the best of my knowledge, information and belief, that the plat shown hereon is correct and conforms to the specifications; that this is a subdivision of all of the lands conveyed unto Michael L. Adams, Elizabeth S. Adams and John A. Adams from Charles W. Cobbs and Vicki J. Cobbs by deed dated May 11, 2006 as recorded among the Land Records of St. Mary's County, Maryland in Liber E.W.A. 2777 Folio 559. The requirements of Section 3-108 of the ANNOTATED CODE OF MARYLAND (Real Property Article) as far as it concerns the making of the plat and setting of the markers required therein have been or will be complied with to the best of my knowledge, information and belief. This plat was prepared without the benefit of a title report which could reveal additional conveyances, easements, rights-of-way and building restriction lines not shown hereon.



Jerry D. Nokleby, Property Line Surveyor
Maryland Certificate No. 472
_____ Date

Land Use and Growth Management Control Number:

Metropolitan Commission	Department of Public Works	Health Department	Department of Land Use and Growth Management				
Date	Date	Date	Date				
Director	Director	Sanitarian	P.C. Chairman				
				No.	Date	Description	By
						REVISION	

RECEIVED
MAY 06 2008
ST. MARY'S COUNTY
LAND USE & GROWTH MANAGEMENT

NOKLEBY SURVEYING INCORPORATED

46925-B Shangri-La Drive, S.
Lexington Park, Maryland 20653
Phone: (301) 862-3135 * FAX: (301) 862-4360

Boundary Line Adjustment Plat & 2 Lot Minor Subdivision Plat
M & J's Subdivision
Formerly Parcels 15 & 45
Tax Map 65 Grid 17
Second Election District
St. Mary's County, Maryland

Contract # 65-17-15&45 Drawing: 6501SRP3 Chkd by: JDN Dwn. by: FAB
Date: 04/15/08 Scale: 1" = 40' Page 1 of 1