



County Commissioners Hearing Room

400 High Street
Chestertown, Maryland

AGENDA

Monday, October 16, 2023

5:00 p.m.

Members of the public are welcome to attend meetings in person or listen to the meeting via the audio-only phone number and conference identification number listed below.

1. Dial **1-872-239-8359**
2. Enter Conference ID: **600 929 891#**

Members of the public are asked to mute their phones/devices, until the Commission Chair opens the floor for comment.

MINUTES

August 21, 2023

APPLICATIONS FOR REVIEW:

- 23-41 Lawrence and Donna Miller – Variance – Buffer
10129 Cove Road – Sixth Election District – Critical Area Residential (CAR)
- 23-46 Little Neck Farm Homeowners Association Inc. – Variance – Pier Length
Map 45, Parcel 49 – Fifth Election District – Resource Conservation District (RCD)
- 23-56 Cacaway Farm Cooperative Housing Corporation – Appeal of Zoning Administrator’s Decision
Map 52, Parcel 1, Lot 1, Reduced Part 3 – Seventh Election District – Resource Conservation District (RCD)

GENERAL DISCUSSION

ADJOURN

APPLICANT OR REPRESENTATIVE MUST BE PRESENT

**APPLICANTS ARRIVING MORE THAN 10 MINUTES AFTER THE SCHEDULED HEARING WILL NOT BE HEARD
AND WILL BE RESCHEDULED AT THE APPLICANT’S EXPENSE.**

Meetings are conducted in Open Session unless otherwise indicated. All or part of the Board of Appeals meetings can be held in closed session under the authority of the MD Open Meetings Law by vote of the members. Breaks are at the call of the Chairman. Meetings are subject to audio and video recordings.

All applications will be given the time necessary to assure full public participation and a fair and complete review of all projects. Agenda items are subject to change due to cancellations. Other business without assigned times may be discussed during the meeting.



Board of Zoning Appeals
Department of Planning, Housing, and Zoning

MINUTES

Meeting: Kent County Board of Zoning Appeals
 Date: August 21, 2023
 Time: 5:00 P.M.
 Location: County Commissioners Hearing Room, 400 High Street, Chestertown, Maryland

Agenda Item	Sitting for the Board	Action Taken	Vote
<p>22-42 25809a Still Pond Neck, LLC – Extension Request of Special Exception – Utility-Scale Solar in the AZD</p> <p>The applicant is requesting an extension of the special exception approval to construct and operate a utility-scale solar energy system in the Agricultural Zoning District (AZD). The property is located at 26001 Still Pond Neck Road near Still Pond, Maryland.</p> <p>A necessary change in the system size and securing the required third-party decommissioning plan and bond have delayed the construction start.</p> <p>The Kent County Board of Appeals approved the special exception at the September 19, 2022, meeting.</p> <p><u>Applicants/Representatives</u> Anthony Kupersmith, Esquire, with McAllister, DeTar, Showalter & Walker, LLC; Josh Spencer, PE, PMP, and James Morgan with Pivot Energy; and Ted Hastings, PMP, with Becker Morgan Group, Inc., were sworn in on behalf of the applicant, 25809a Still Pond Neck, LLC, and presented a summary of the case.</p> <p><u>Public Comment</u> No correspondence was received on this application.</p>	<p>Dr. Albert Townshend, Chairman</p> <p>John Massey, Member</p> <p>Joan Horsey, Member</p> <p>David Hill, Member</p> <p>Mr. Christopher Drummond, Attorney for the Board</p> <p>Campbell Safian, Clerk</p>	<p>Ms. Horsey moved to grant the extension of the special exception for 25809a Still Pond Neck, LLC, to construct and operate a utility-scale solar energy system in the Agricultural Zoning District (AZD) with the following condition: the extended special exception will lapse after the expiration of 18 months from the date which the extension of the special exception is signed if no substantial construction in accordance with the plans herein presented occurs.</p> <p>The motion was seconded by Mr. Massey; the motion passed 2-1 with Mr. Massey opposed.</p>	<p>2-1</p>

DRAFT

Agenda Item	Sitting for the Board	Action Taken	Vote
<u>Planning Staff</u> Mark Carper, LEED Green Associate, Associate Planner, was sworn in.			
MINUTES: July 17, 2023		Ms. Horsey moved to approve the minutes. Mr. Hill seconded the motion; the motion passed with all in favor.	Approved
Adjourn	DRAFT	Ms. Horsey made a motion to adjourn the meeting, and Mr. Massey seconded the motion; the motion passed with all in favor. The meeting adjourned at 6:16 p.m.	Unanimous Approval

Dr. Albert Townshend, Chairman

/s/ Campbell Safian
Campbell Safian, Planning Specialist



Planning Commission
Department of Planning, Housing, and Zoning

October 10, 2023

Dr. Al Townshend
Kent County Board of Appeals
400 High Street
Chestertown, MD 21620

RE: 23-41 Lawrance and Donna Miller – Variance (Development in Buffer)

Dear Dr. Townshend,

At its meeting on October 5, 2023, the Kent County Planning Commission reviewed the application of Lawrance and Donna Miller, requesting a buffer variance to construct a 468 sq. ft. addition to an existing single-family dwelling that is partially located within the Critical Area 100-foot buffer. The net increase in permanent disturbance in the buffer will be 186 square feet, and the net increase in lot coverage outside of the buffer is 210 square feet. A buffer management plan and a revised site plan with the location of the well were submitted at the meeting.

The purpose of the proposed addition is to accommodate the relocation of the laundry facilities from the basement, to create a home office, and to provide room for therapy equipment needed for post-operative spine rehabilitation. The property is located at 10129 Cove Road in the Sixth Election District and is zoned Critical Area Residential (CAR).

Following discussion, the Planning Commission voted to make a favorable recommendation for the buffer variance to construct the proposed residential addition. The Planning Commission recommends the following conditions should the Board of Appeals grant approval:

- Approval of the Buffer Management Plan.
- The variance will lapse after the expiration of one year if no substantial construction in accordance with the plans herein presented occurs.

The decision was based on the following findings of fact:

- That the variance would be in harmony with the spirit and intent of the Critical Area Law, the Comprehensive Plan, and the Kent County Land Use Ordinance.
- The granting of the variance will not adversely affect water quality or adversely impact fish, wildlife, or plant habitat.
- That denial of the application would produce an unwarranted hardship that's not shared by other properties in the same zoning district in the same vicinity.
- Several neighbors have spoken in favor of the granting of the variance.
- The variance will not cause a substantial detriment to adjacent or neighboring property nor the character of the neighborhood.

Sincerely,
Kent County Planning Commission

Joe Hickman
Chair

FJH/mc

cc: Lawrance and Donna Miller
Lance Young, Esq., MacLeod Law Group, LLC
Buck Nickerson, L.S, Extreme Measures

To: Kent County Planning Commission
From: Mark Carper, Associate Planner
Meeting: October 5, 2023
Subject: Lawrence and Donna Miller
Buffer Variance

Executive Summary

REQUEST BY THE APPLICANT

Lawrence and Donna Miller are requesting a variance to construct a 468 sq. ft. addition to an existing single-family dwelling that is partially located within the Critical Area 100-foot buffer.

PUBLIC PROCESS

Per Article IX, Section 2.2 of the Kent County *Land Use Ordinance*, the Planning Commission shall review and make a recommendation to the Board of Appeals for variances.

SUMMARY OF THE STAFF REPORT

The project includes the removal of a 72 square foot slate patio, 20 square feet of which is in the buffer. Of the proposed 468 square foot addition, 206 square feet will be in the buffer. The net increase in permanent disturbance in the buffer will be 186 square feet. Outside of the buffer, 52 square feet of the existing slate patio is to be removed, and 262 square feet of the 468 square foot addition is to be constructed. The net increase in lot coverage outside of the buffer is 210 square feet.

The purpose of the proposed addition is to accommodate the relocation of the laundry facilities from the basement and to provide room for therapy equipment needed for post-operative spine rehabilitation. The property is located at 10129 Cove Road in the Sixth Election District and is zoned Critical Area Residential (CAR).

STAFF RECOMMENDATION

Staff recommends, with the following conditions, forwarding a favorable recommendation to the Board of Appeals for approval of a variance to construct a 468 sq. ft. addition to an existing single-family dwelling, of which 206 sq. ft. will be in the 100-foot buffer and which will cause 186 sq. ft. of permanent disturbance in the buffer:

- Approval of a buffer management plan that mitigates for the permanent disturbance in the buffer at a ratio of 3:1, mitigates for the increase in lot coverage outside of the buffer at a ratio of 1:1, and installation be located between the improvements and the shoreline.
- Per the requirements of the Kent County Health Department, the location of the well is to be shown on the site plan.
- The variance will lapse after the expiration of one year if no substantial construction in accordance with the plans herein presented occurs.

PRELIMINARY STAFF REPORT

TO: Kent County Planning Commission
SUBJECT: #23-15 – Lawrence and Donna Miller
Buffer Variance
DATE: September 27, 2023

DESCRIPTION OF PROPOSAL

Lawrence and Donna Miller are requesting a variance to construct a 468 sq. ft. addition to an existing single-family dwelling that is partially located within the Critical Area 100-foot buffer. The project includes the removal of a 72 square foot slate patio, 20 square feet of which is in the buffer. Of the proposed 468 square foot addition, 206 square feet will be in the buffer. The net increase in permanent disturbance in the buffer will be 186 square feet. Outside of the buffer, 52 square feet of the existing slate patio is to be removed, and 262 square feet of the 468 square foot addition is to be constructed. The net increase in lot coverage outside of the buffer is 210 square feet.

The purpose of the proposed addition is to accommodate the relocation of the laundry facilities from the basement and to provide room for therapy equipment needed for post-operative spine rehabilitation. The location of the existing septic tank prohibits the addition from being moved back from the water. The property is located at 10129 Cove Road in the Sixth Election District and is zoned Critical Area Residential (CAR).

RELEVANT ISSUES

I. Development in the Buffer

- A. *Comprehensive Plan*: “Maintain, enforce and if necessary, strengthen existing regulations for floodplains and buffers.” (Page 86)
- B. *Applicable Law*: Article V, Section 2.7.B.3.a of the Kent County Land Use Ordinance establishes the standards for development in the buffer:

3.a. Development in the Buffer

- i. Development activities, including structures, roads, parking areas, and other impervious surfaces, mining, and related activities, or septic systems shall not be permitted within the minimum 100-foot buffer. This restriction does not apply to water-dependent facilities that meet the criteria set forth below.
- ii. New or expanded development activities may be permitted in the minimum 100-foot buffer, provided:
 - a) The use is water dependent.
 - b) The project meets a recognized private right or public need.
 - c) Adverse effects on water quality and fish, plant, or wildlife habitats are minimized.
 - d) In so far as possible, non-water dependent structures or operations associated with water dependent projects or activities are located outside the minimum 100-foot buffer.

C. *Staff and TAC Comments*:

- Development activity of this nature is not permitted in the buffer; therefore, the applicant has applied for a buffer variance to construct a 468 sq. ft. addition to an existing single-family dwelling, of which 206 sq. ft. will be within the Critical Area 100-foot buffer.

- The project includes the removal of a 72 square foot slate patio, 20 square feet of which is in the buffer. The net increase in permanent disturbance in the buffer will be 186 square feet. The net increase in lot coverage outside of the buffer is 210 square feet.
- The Critical Area Commission (CAC) has reviewed this application and does not oppose the buffer variance. The CAC recommends that the required 3:1 mitigation be located between the improvements and the shoreline to maximize water quality benefits.

II. Variance

- A. *Applicable Law*: Article IX, Section 2.2, Variances of the Kent County *Land Use Ordinance* authorizes the Board of Appeals to grant variances from the ... buffer requirements so as to relieve practical difficulties or other injustices arising out of the strict application of the provisions of this Ordinance.

...

In the Critical Area, for a variance of 15% slope, impervious surface, or buffer requirements, it being the purpose of this provision to authorize the granting of variation only for reasons of demonstrable and exceptional unwarranted hardship as distinguished from variations sought by applicants for purposes or reasons of convenience, profit, or caprice.

In order to grant a *variance*, the Board of Appeals must find all of the following:

- a. That the *variance* will not cause a substantial detriment to adjacent or neighboring property.
- b. That the *variance* will not change the character of the neighborhood or district.
- c. That the *variance* is consistent with the *Comprehensive Plan* and the general intent of this Ordinance.
- d. That the practical difficulty or other injustice was caused by the following:
 - i. Some unusual characteristic of size or shape of the property.
 - ii. Extraordinary topographical or other condition of the property.
 - iii. The use or *development* of property immediately adjacent to the property, except that this criterion shall not apply in the *Critical Area*.
- e. That the practical difficulty or other injustice was not caused by the applicants own actions.
- f. That within the *Critical Area* for *variances* of 15% *slope, impervious surface, or buffer* requirements:
 - i. The granting of a *variance* will be in harmony with the general spirit and intent of the *Critical Area Law* and the *regulations* adopted by Kent County
 - ii. That the granting of a *variance* will not adversely affect water quality or adversely impact fish, wildlife, or *plant habitat*.
 - iii. That the application for a *variance* will be made in writing with a copy provided to the *Critical Area Commission*.
 - iv. That the strict application of the Ordinance would produce an *unwarranted hardship*.
 - v. Such hardship is not shared generally by other properties in the same zoning district and the same vicinity.
 - vi. The authorization of such *variance* will not be a substantial detriment to adjacent property and that the character of the district will not be changed by the granting of the *variance*.
 - vii. That a literal interpretation of this Ordinance deprives the applicant of rights commonly enjoyed by other properties in similar areas within the *Critical Area* of Kent County.

- viii. That the granting of a *variance* will not confer upon an applicant any special privilege that would be denied by this Ordinance to other lands or *structures*.
- ix. Due to special features of a site, or special conditions or circumstances peculiar to the applicant's land or *structure*, a literal enforcement of this Ordinance would result in *unwarranted hardship* to the applicant.
- x. The Board of Appeals finds that the applicant has satisfied each one of the *variance* provisions.
- xi. Without the *variance*, the applicant would be deprived of a use of land or a *structure* permitted to others in accordance with the provisions of the critical area program.
- g. In considering an application for a *variance*, the Board shall consider the reasonable use of the entire parcel or lot for which the *variance* is requested.
- h. In considering an application for a *variance*, the Board of Appeals shall presume that the specific *development* activity in the Critical Area that is subject to the application and for which a *variance* is required does not conform with the general purpose and intent of this Ordinance and the Critical Area Law.
- i. The Board may consider the cause of the *variance* request and if the *variance* request is the result of actions by the applicant, including the commencement of *development* activity before an application for a *variance* has been filed.

B. *Staff and TAC Comments:*

- The Comprehensive Plan advocates for the maintenance, enforcement, and, if necessary, strengthening of existing regulations for floodplains and buffers. The intent of the Ordinance is to set the standards for variances from certain enumerated provisions.
- The practical difficulty is that approximately half of the principal structure is within the 100-foot buffer and the location of the existing septic tanks prevent setting the proposed addition outside of the buffer.
- The proposed permanent disturbance proposed, which is to be mitigated at 3:1, will have negligible impact. The granting of the variance will be in harmony with the general spirit and intent of the Critical Area Law and Kent County regulations.
- The granting of the variance will not adversely affect water quality or adversely impact fish, wildlife, or plant habitat.
- Authorization of the variance will not be a substantial detriment to adjacent property, and the character of the district will not be changed.
- The Critical Area Commission has reviewed the application and is not opposed to a variance.

STAFF RECOMENDATION

Staff recommends, with the following conditions, forwarding a favorable recommendation to the Board of Appeals for approval of a variance to construct a 468 sq. ft. addition to an existing single-family dwelling, of which 206 sq. ft. will be in the 100-foot buffer and which will cause 186 sq. ft. of permanent disturbance in the buffer:

- Approval of a buffer management plan that mitigates for the permanent disturbance in the buffer at a ratio of 3:1, mitigates for the increase in lot coverage outside of the buffer at a ratio of 1:1, and installation be located between the improvements and the shoreline.
- Per the requirements of the Kent County Health Department, the location of the well is to be shown on the site plan.
- The variance will lapse after the expiration of one year if no substantial construction in accordance with the plans herein presented occurs.

BOARD OF APPEALS APPLICATION

Kent County Department of Planning, Housing and Zoning

Kent County Government Center
400 High Street • Chestertown, MD 21620
410-778-7475 (phone) • 410-810-2932 (fax)

**IN THE MATTER OF THE APPLICATION OF:
(Name, Address and Telephone Number of Applicant)**

LAWRENCE & DONNA MILLER

10129 COVE ROAD

CHESTERTOWN, MD. 21620

Email: DONNAMILLER88@GMAIL

TO THE KENT COUNTY BOARD OF APPEALS: In accordance with Article _____ Section _____ of the Kent County Zoning Ordinance, as amended, request is hereby made for:

_____ Appealing Decision of Kent County Zoning Administrator Variance
_____ Special Exception _____ Non-conforming Use

DESCRIPTION OF PROPERTY INVOLVED:

Located on: (Name of Road, etc.) 10129 COVE ROAD, GREAT OAK ESTATES

In the SIXTH Election District of Kent County.

Size of lot or parcel of Land: 4.877± Ac.

Map: 26 Parcel: 57 Lot #: N/A Deed Ref: _____

List buildings already on property: 1 STORY FRAME DWELLING WITH WALK-OUT BASEMENT, PORTABLE FRAME SHED, & DETACHED
FRAME GARAGE

If subdivision, indicate lot and block number: N/A

If there is a homeowners association, give name and address of association: _____

PRESENT ZONING OF PROPERTY: CAR - CRITICAL AREA RESIDENTIAL IN THE LDA

DESCRIPTION OF RELIEF REQUESTED: (List here in detail what you wish to do with property that requires the Appeal Hearing.) BUILD ADDITION IN EASTERN PORTION OF HOUSE. APPROXIMATELY 206 FT² WILL BE IN THE 100' CRITICAL AREA
BUFFER, BUT WILL NOT BE ANY CLOSER TO THE APPROXIMATE MEAN HIGH WATER LINE THAN THE EXISTING DECK OR HOUSE.

If appealing decision of Zoning Administrator, list date of their decision: _____

Present owner(s) of property: LAWRENCE & DONNA MILLER Telephone: _____

If Applicant is not owner, please indicate your interest in this property: _____

Has property involved ever been subject to a previous application? _____

If so, please give Application Number and Date: _____

For Office Use Only:

Case Number/Date Filed: _____

Filed by: _____

Applicant: _____

Planning Commission: _____

Date of Hearing: _____

Parties Notified: _____

Notice in Paper: _____

Property Posted: _____

PLEASE FILL IN BELOW, OR ATTACH HERETO, A SKETCH OF THIS PROPERTY.
List all property measurements and dimensions of any buildings already on the property.

Put distances between present buildings or proposed buildings and property lines.

NAMES OF ADJOINING PROPERTY OWNERS:

Owner(s) on the North: LAWRENCE & DONNA MILLER & COVE ROAD

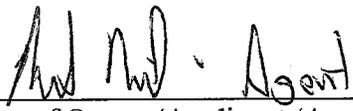
Owner(s) on the South: FAIRLEE CREEK

Owner(s) to the East: LAWRENCE & DONNA MILLER

Owner(s) to the West: ANTHONY MICHEAL MALBA & FOURTH POINT ROAD

Homeowners Association, name and address, if applicable: _____

BY SIGNING THIS APPLICATION I GRANT MEMBERS AND ALTERNATE OF THE BOARD OF ZONING APPEALS THE RIGHT TO ENTER ONTO THE PROPERTY FOR THE PURPOSE OF VIEWING THE SITE OF THE APPLICATION OR APPEAL.


Signature of Owner/Applicant/Agent or Attorney

5-31-23
Date

Please file this form at 400 High Street, Chestertown, MD 21620 accompanied by **\$350.00** filing fee made payable to the Board of Appeals. If you have any questions, contact Clerk at 410-778-7467.

NOTICE: Neither the Board of Appeals or the Planning Office is required to make out this Application. Application should be filled in by applicant or its agent. If the Planning Office assists you, they cannot be held responsible for its contents.

Applicants arriving more than 10 minutes after the scheduled hearing will not be heard and will be re-scheduled at the applicant's expense.

Wes Moore
Governor

Aruna Miller
Lt. Governor



Erik Fisher
Chair

Katherine Charbonneau
Executive Director

**STATE OF MARYLAND
CRITICAL AREA COMMISSION
CHESAPEAKE AND ATLANTIC COASTAL BAYS**

August 18, 2023

Mr. Mark Carper
Kent County
Department of Planning, Housing, and Zoning
400 High Street, 1st Floor
Chestertown, Maryland 21620

Re: Miller Buffer Variance Request (#23-41)
10129 Cove Road, Chestertown (TM 26, P 57)

Dear Mr. Carper:

Thank you for forwarding information regarding the above referenced variance request. The applicant is requesting to remove a patio, and construct an addition, located partially in the 100-foot Buffer. The proposed footprint of the addition includes the area of the existing patio and does not extend further waterward than the existing dwelling. The area of patio proposed to be removed is 72 square feet, of which 20 square feet is located in the Buffer. The proposed addition is 468 square feet, of which 206 square feet is located in the Buffer and 262 square feet is located outside of the Buffer. The removal of the patio and the construction of the addition will result in 186 square feet of permanent impacts to the Buffer and 210 square feet of increased lot coverage outside of the Buffer.

The 4.877-acre parcel is located on lands designated as Limited Development Area (LDA). The allowable lot coverage for a lot this size is 15%, which is 31,865 square feet. The existing lot coverage is 16,688 square feet (7.86%) and the proposed lot coverage is 17,084 square feet (8.04%), an increase of 396 square feet, of which 186 square feet will occur in the Buffer. No clearing is proposed.

Based on the information provided, we do not oppose this Buffer variance request. Mitigation at a 3:1 ratio is required for permanent impacts to the Buffer per COMAR 27.01.09.01-2. Locating the plantings between the new addition and the shoreline is recommended to maximize water quality benefits. The applicant shall provide a Buffer Management Plan per COMAR 27.01.09.01-3 to the County for review and approval that includes species, size, spacing, schedule of plantings, maintenance activities, and survivability assurance.

In addition, when deciding the proposed Buffer variance request, the Board of Appeals shall make its decision based on the variance findings set forth in Article IX, §2.2.3h of the Kent County Land Use Ordinance and COMAR 27.01.12.04.

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. Please notify the Commission in writing of the decision made in this case. If you have any questions, please contact me at 410.260.3477 or kathryn.durant@maryland.gov.

Sincerely,

A handwritten signature in blue ink that reads "Kathryn Durant". The signature is written in a cursive style with a long horizontal stroke at the end.

Kathryn Durant
Natural Resources Planner

KC 0271-23



March 31, 2023

Property Owner: Larry & Donna Miller
10129 Cove Road
Chestertown, MD 21620
Donnamiller88@gmail.com

Subject Property: Tax Map 26, Parcel 57. Created in 1972 as part of Great Oak subdivision.

Size of Property: 212,442ft² (4.877acres)

Existing Lot Coverage = 16,688ft²

Lot Coverage Allowed (15%) = 31,865ft²

Lot Coverage Proposed (total) = 17,084ft²

Limits of Disturbance will be less than 5,000ft² therefore no stormwater management will be required.

A Buffer Enhancement Plan will be prepared with a mitigation ratio of 3:1

Mean height of existing dwelling is approximately 18'. The mean height of the proposed addition is approximately 16'.

The site is currently zoned – Critical Area Residential with an LDA (Limited Development Area) designation.

Minimum Setbacks: Front Yard – 50', Side Yard - 15' and Rear Yard - 30'

This site is in the Critical Area and not in the Floodplain. There are no wetlands on the site, according to DNR wetlands map.

Current Use – Single Family Residential

Proposed Use – Single Family Residential

The property adjoins other lands of Larry & Donna Miller to the west and north, the residence of Anthony Malba to the south and Fairlee Creek to the east. There is no active Homeowners Association.

Mr. & Mrs. Miller would like to build a 468ft² addition to the existing dwelling.

Existing Conditions: The property contains an existing house, frame garage, shed and associated driveway. The property is served by private well and septic. The existing house is a one story frame dwelling with a walkout basement that was built in 1974 (according to assessment records). The closest house corner is 85.4' from the Mean High Water Line. There is also an elevated deck along the full length of the front of the house that is 73.0' from MHWL at its closest point. It is unknown what year the deck was built. The area where the addition is proposed is currently a 72ft² slate patio, flower garden and lawn.

Proposed Conditions: The Miller's would like to construct a 468ft² addition to their house which would be partially in the 100' Critical Area Buffer, with the closest corner being 85.9' from MHWL. The need arises for the addition to relocate the washer/dryer from the basement to the first floor and to allow rehabilitation equipment needed after Mrs Miller's recent back surgery. The existing septic tank in the rear of the house prohibits the addition from being moved back from the water. The topography of the property prohibits the addition from being located in the rear or other side of the house.

Granting this variance will be in harmony with the general spirit and intent of the Critical Area Law and Kent County Zoning Ordinance. The granting of this variance will not adversely affect water quality or adversely impact fish, wildlife or plant habitat. Denying this application would produce an unwarranted hardship that is not shared by other properties in the same zoning district and the same vicinity. The granting of this variance will not be a substantial detriment to adjacent property and the character of the district will not be changed by granting of this variance.

This project should not adversely impact traffic patterns within Great Oak subdivision. This project will not adversely impact any community facilities or services. The nearest public meeting place is Great Oak Marina, 0.6 miles away. Kent County High School is 8 miles away.



PLAT BOOK
W.H.G. 1/8

COVE ROAD (50' WIDE)

283.96'

N 61°39'22" E

628.26'

CRITICAL AREA RCA DESIGNATION
CRITICAL AREA LDA DESIGNATION

15' SIDE YARD SETBACK

Ch'd - N 14°34'12" E 34.06'
R - 23.25' L - 38.21'

N 32°30'58" W

101.77'

30' REAR YARD SETBACK

AREA:
4.877± Ac.

15' SIDE YARD SETBACK

Ch'd - N 24°34'04" W 30.45'
R - 110.12' L - 30.55'

S 61°37'39" W

301.67'

IRON PIPE FOUND

IRON PIPE FOUND

FOURTH POINT ROAD (40' WIDE)

PARCEL 67
LANDS OF
ANTHONY MICHAEL MALBA, et al
M.L.M. 193/197
PLAT REFERENCE: M.L.M. 193/200

EXISTING LOT COVERAGE

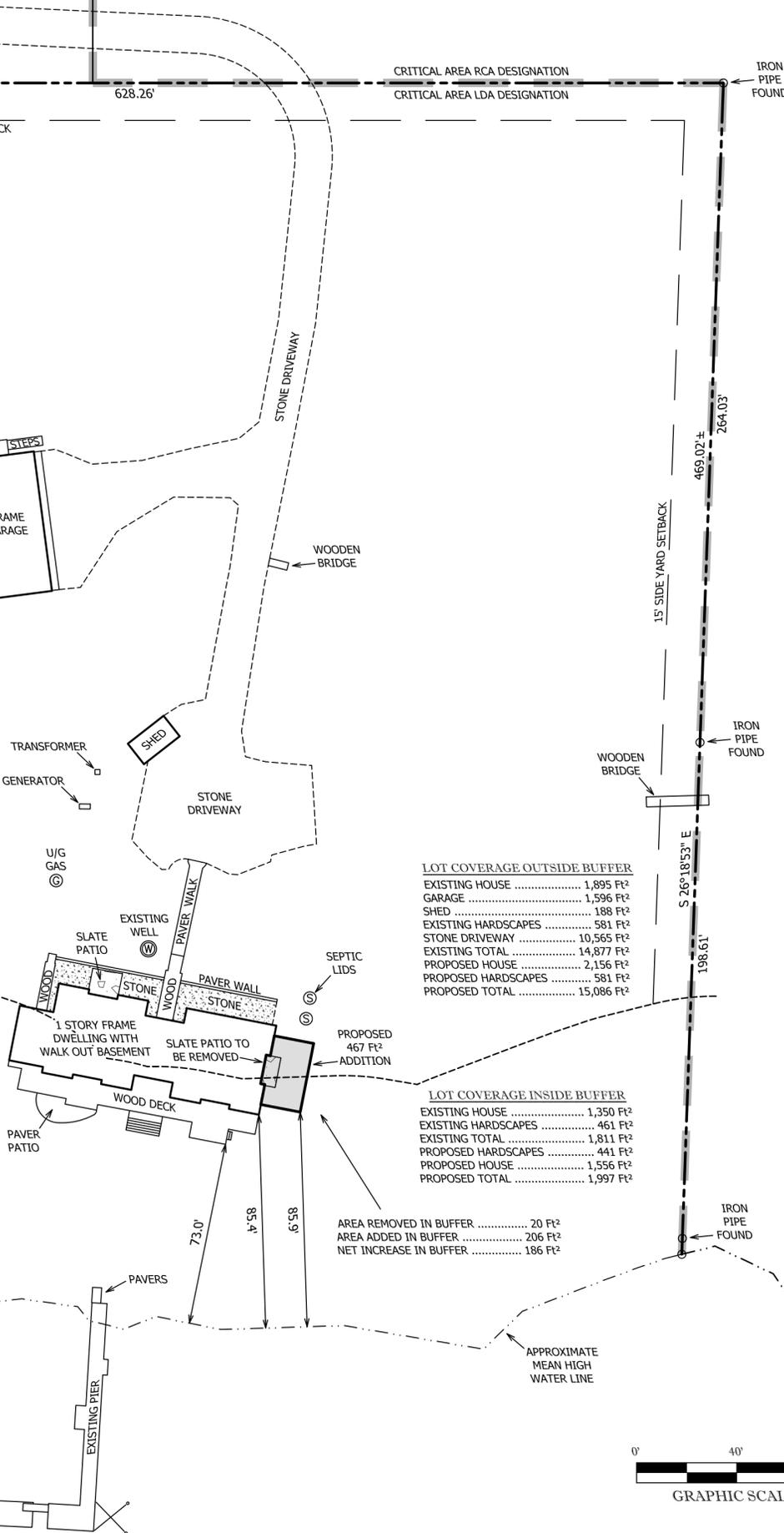
HOUSE	3,245 Ft ²
GARAGE	1,596 Ft ²
SHED	188 Ft ²
HARDSCAPES	1,094 Ft ²
STONE DRIVEWAY	10,565 Ft ²
EXISTING TOTAL	16,688 Ft ²
ALLOWED (15%)	31,865 Ft ²

PROPOSED LOT COVERAGE

HOUSE	3,713 Ft ²
GARAGE	1,596 Ft ²
SHED	188 Ft ²
HARDSCAPES	1,022 Ft ²
STONE DRIVEWAY	10,565 Ft ²
PROPOSED TOTAL	17,084 Ft ²
ALLOWED (15%)	31,865 Ft ²

NOTES:

DEED REFERENCE: E.H.P. 283/158
PLAT BOOK: E.H.P. 3/38
PREMISES ADDRESS: 10129 COVE ROAD
CHESTERTOWN, MD. 21620
SITE ZONING: CAR



LOT COVERAGE OUTSIDE BUFFER

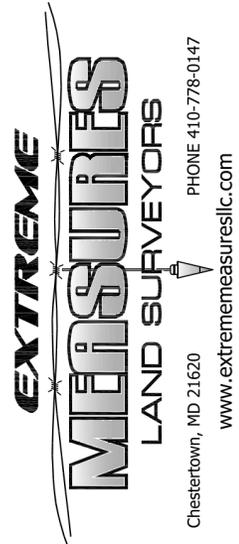
EXISTING HOUSE	1,895 Ft ²
GARAGE	1,596 Ft ²
SHED	188 Ft ²
EXISTING HARDSCAPES	581 Ft ²
STONE DRIVEWAY	10,565 Ft ²
EXISTING TOTAL	14,877 Ft ²
PROPOSED HOUSE	2,156 Ft ²
PROPOSED HARDSCAPES	581 Ft ²
PROPOSED TOTAL	15,086 Ft ²

LOT COVERAGE INSIDE BUFFER

EXISTING HOUSE	1,350 Ft ²
EXISTING HARDSCAPES	461 Ft ²
EXISTING TOTAL	1,811 Ft ²
PROPOSED HARDSCAPES	441 Ft ²
PROPOSED HOUSE	1,556 Ft ²
PROPOSED TOTAL	1,997 Ft ²

AREA REMOVED IN BUFFER 20 Ft²
AREA ADDED IN BUFFER 206 Ft²
NET INCREASE IN BUFFER 186 Ft²

PARCEL 108
LANDS OF
LAWRENCE MILLER, et al
M.L.M. 898/493
PLAT BOOK: M.L.M. 1/117



Chestertown, MD 21620
PHONE 410-778-0147
www.extrememeasuresllc.com

SCALE	1"=40'
DRAWN BY	WJE
DATE	5/31/23
JOB NO.	945-C
REVISIONS	

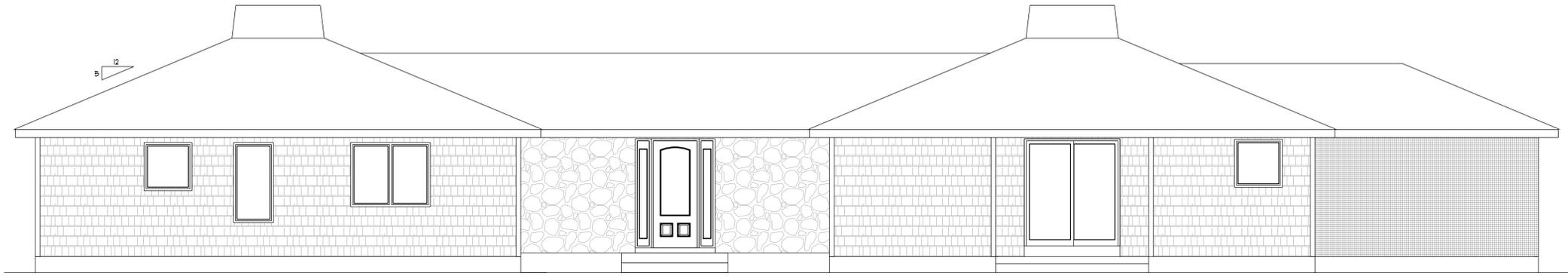
SITE PLAN

OF THE LANDS OF

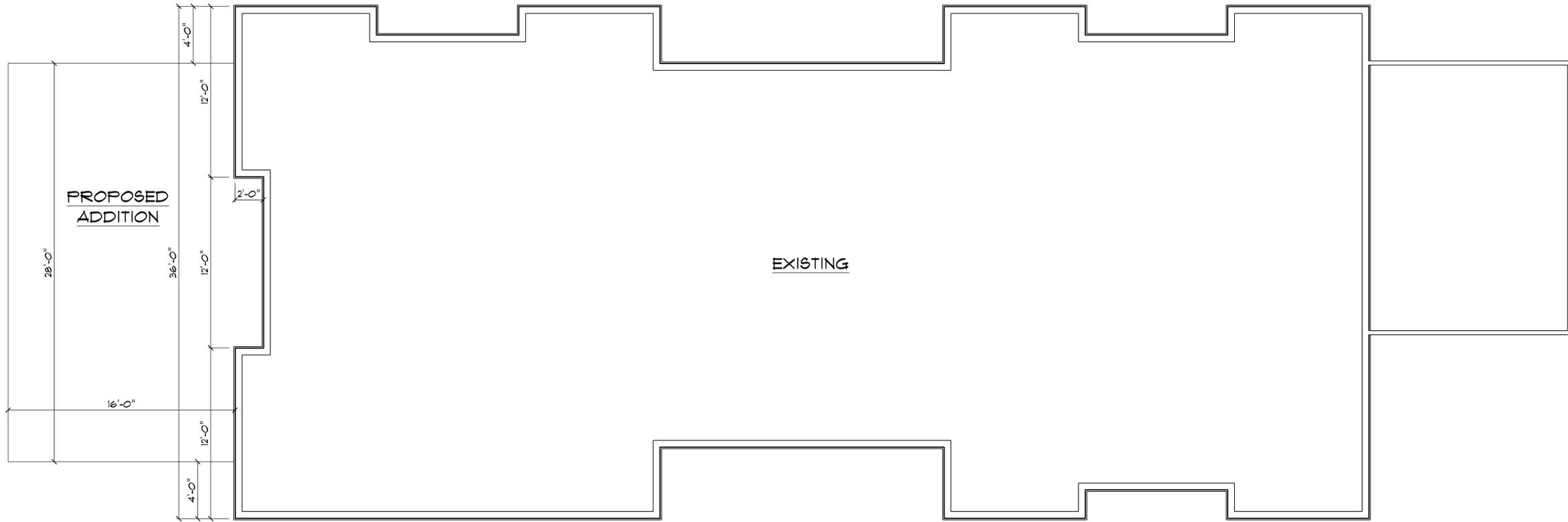
LAWRENCE S. MILLER, et ux

SIXTH ELECTION DISTRICT, KENT COUNTY, MARYLAND

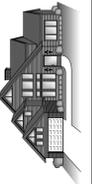
MAP 26 PARCEL 57

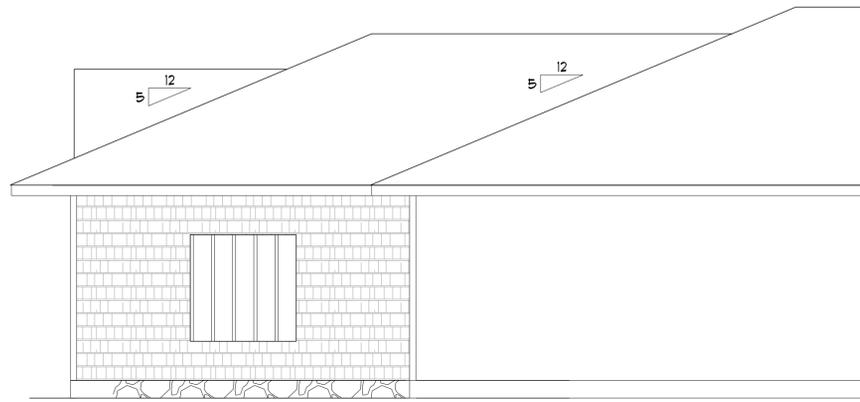


EXISTING ELEVATIONS
SCALE: 1/4" = 1'-0"



EXISTING HOUSE
SCALE: 1/4" = 1'-0"

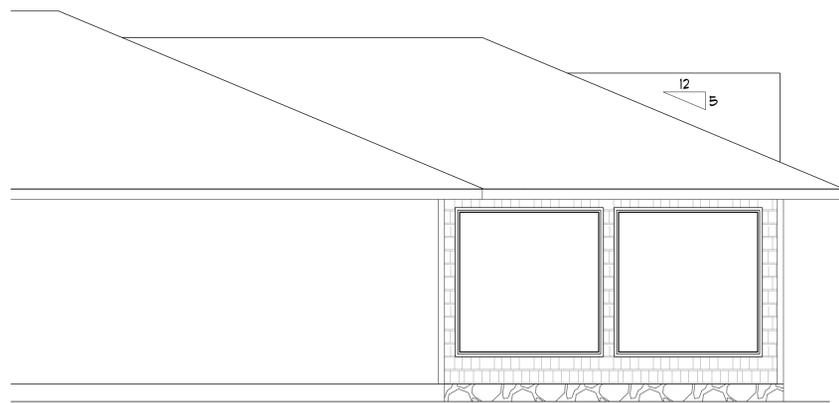




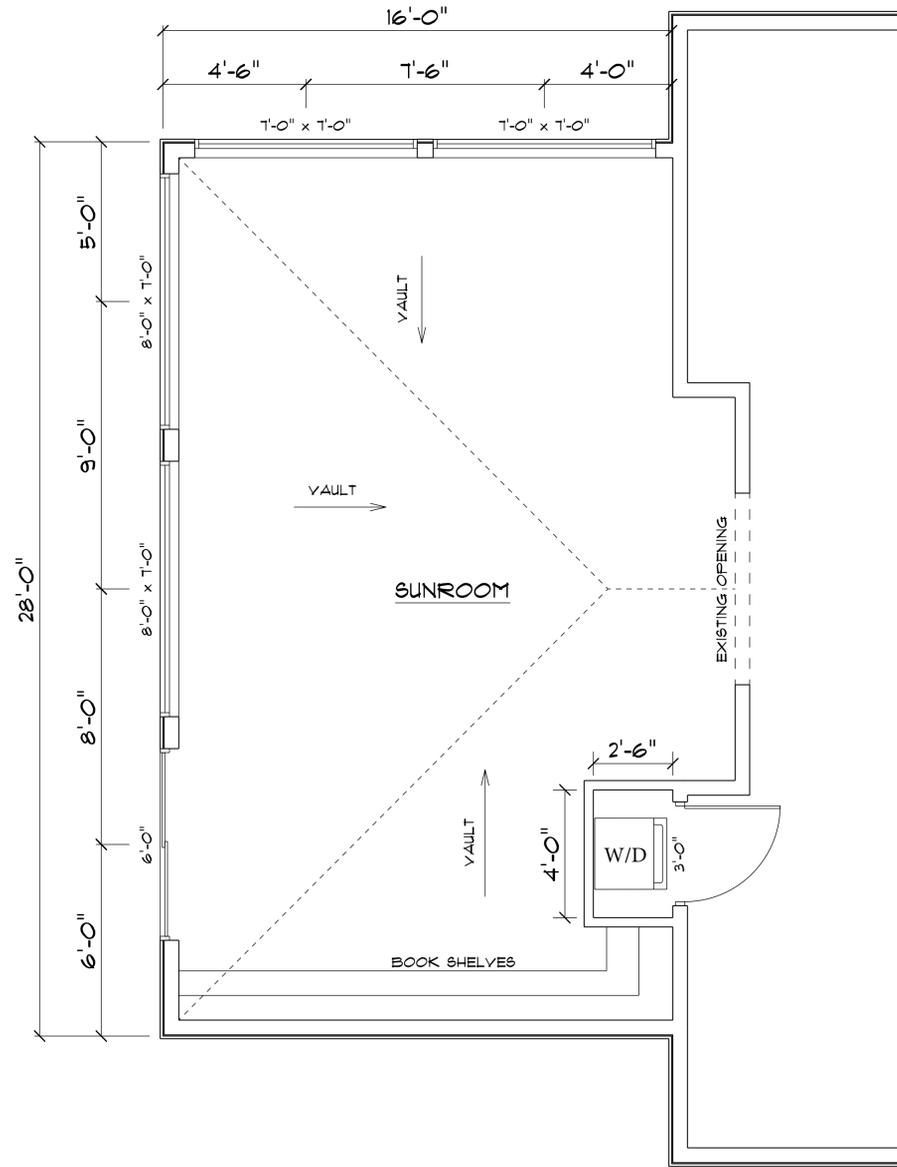
FRONT ELEVATION
SCALE: 1/4" = 1'-0"



LEFT ELEVATION
SCALE: 1/4" = 1'-0"



REAR ELEVATION
SCALE: 1/4" = 1'-0"



FLOOR PLAN
SCALE: 3/8" = 1'-0"



September 8, 2023

Dr. Al Townshend
Kent County Board of Appeals
400 High Street
Chestertown, MD 21620

RE: 23-46 Little Neck Farm HOA – Pier Variance

Dear Dr. Townshend,

At its September 7, 2023, meeting, the Kent County Planning Commission reviewed the application of the Little Neck Farm Homeowners Association (LNFHOA), requesting a variance from the 150-foot pier length limit in order to construct a replacement pier. The applicant is proposing to replace the existing 224-foot pier with a 239-foot pier for use by the lot owners. A variance of 89 feet is needed to exceed the 150-foot pier length limit. The proposed configuration of the pier complex will be similar to that of the existing pier, and the number of slips will not change. The community pier is located off Burris Road in the Fifth Election District and is identified as Map 45, Parcel 49, Lot OS, which is commonly owned by the LNFHOA. The parcel is zoned Resource Conservation District (RCD).

Following discussion, the Planning Commission voted to make a favorable recommendation for the variance for pier length. The Planning Commission recommends the following conditions should the Board of Appeals grant approval:

- The homeowners association return to a status of “good standing” with the Maryland Department of Assessments and Taxation prior to issuance of any permits.
- That a standpipe system be installed, at the applicant’s expense, in accordance with NFPA 303 and that plans be submitted to the Fire Marshal for review and approval prior to any action being taken.

The decision was based on the following findings of fact:

- The variance will not cause a substantial detriment to adjacent or neighboring property.
- The variance will not change the character of the neighborhood or district.
- The variance is consistent with the Comprehensive Plan and general intent of the Land Use Ordinance.
- That the practical difficulty is due to changes in the condition of the property. Siltation and shoreline vegetation affect access to the inside slips of the pier.
- The practical difficulty was not caused by the applicant’s own action.

Sincerely,
Kent County Planning Commission

Joe Hickman
Chair

FJH/mc

cc: George Barnett for Little Neck Farm HOA

To: Kent County Planning Commission
From: Mark Carper, Associate Planner
Meeting: September 7, 2023
Subject: Little Neck Farm HOA
Variance – Pier Length

Executive Summary

Request by Applicant

The Little Neck Farm Homeowners Association is requesting a variance to remove, replace, and further extend a nonconforming community pier. The community pier is located off Burris Road in the Fifth Election District and is identified as Map 45, Parcel 49, Lot OS, which is commonly owned by the LNFHOA. The parcel is zoned Recourse Conservation District (RCD).

Public Process

Per Maryland State Law and Article IX, Section 2.2 of the Kent County *Land Use Ordinance*, the Planning Commission shall review and make a recommendation to the Board of Appeals for variances.

Summary of Staff Report

The Little Neck Farm Homeowners Association (LNFHOA) is requesting a variance to remove, replace, and further extend a nonconforming community pier. The applicant has commented that the pier has existed in its current form since 1989, that the complex encroaches 224 feet into Swan Creek, and that the main 240-foot-long portion runs perpendicular to the shore. The proposed actions will extend the pier and all of its components to 239 feet channelward of the MHW, 15 feet further than that existing.

The practical difficulty is due to the shallow bathymetry of the waterway and the shifting sediments and growth of shoreline vegetation, which have reduced navigability of the inner berths, thus the request to shift the pier complex channelward. The applicant has indicated that increasing deterioration of the pier decking and pilings make piecemeal repair a financially unviable option and that a severe storm could destroy part or all of the existing structure.

The proposal will not adversely impact the environment nor the adjacent properties or the neighborhood. The Comprehensive Plan is neutral on this application. The proposal is a reasonable use of the parcel. The Maryland State Fire Marshal has commented that a standpipe system will be required to be installed in the pier in accordance with NFPA 303.

Staff Recommendation

Staff recommends sending a favorable recommendation to the Board of Appeals for a variance of the pier length with the following condition:

- A standpipe system be installed in the pier in accordance with NFPA 303 and that plans be submitted to the Fire Marshall for review.

PRELIMINARY STAFF REPORT

TO: Kent County Planning Commission
FROM: Mark Carper, Associate Planner
SUBJECT: Little Neck Farm HOA
#23-46, Variance – Pier Length
DATE: August 23, 2023

Description of Proposal

The Little Neck Farm Homeowners Association (LNFHOA) is requesting a variance to remove, replace, and further extend a nonconforming community pier. The community pier is located off Burris Road in the Fifth Election District and is identified as Map 45, Parcel 49, Lot OS, which is commonly owned by the LNFHOA. The parcel is zoned Recourse Conservation District (RCD).

The applicant has commented that the pier has existed in its current form since 1989, that the complex encroaches 224 feet into Swan Creek, and that the main 240-foot-long portion runs perpendicular to the shore. In 2013, the LNFHOA was permitted to do an in-kind replacement of 80 feet of the fixed pier from the mean high-water line (MHW) channelward. The current configuration of the pier includes a ten-foot-wide fixed pier extending 240 feet channelward of the MHW, to which there is perpendicularly attached a 10-foot by 265-foot pier with a 10-foot by 95-foot "T" shaped pier perpendicularly attached. There are twelve finger piers, a boatlift, and associated pilings. At the narrowest point, the existing pier encroaches 224 feet into the waterway. At 1,218 feet to the opposite bank, the existing pier does not exceed 25% of the width of the waterway or the edge of the channel, the center line of which is 609 feet from MHW.

The Maryland Department of the Environment (MDE) and the U.S. Army Corps of Engineers (ACE) has authorized the applicant to remove the exiting pier and associated structures, excluding the 10-foot by 82-foot segment that had been previously replaced; attach a 6-foot-wide by 20-foot-long aluminum gangway to the remaining pier segment; and construct floating piers that include a 10-foot by 180-foot section extending waterward from the aluminum gangway, a 10-foot by 270-foot perpendicular section, a 10-foot by 95-foot "T" shaped section, six finger piers that are to be 4-foot wide by 45 feet long, and six finger piers that are to be 4-foot wide by 40 feet long. The applicant has also been authorized to relocate the existing boat lift, to add three additional boatlifts with associated pilings, and to install 28 mooring piles. The proposed actions will extend the pier and all of its components to 239 feet channelward of the MHW, 15 feet further than that existing.

Relevant Issues

- I. Pier Length
 - A. Comprehensive Plan: "Submerged aquatic vegetation (SAV) serves as an important food, nursery, and habitat for many species of fish and fowl. In recent times, SAV in Kent's tributaries have followed a recurring pattern of abundant beds in some years followed by severe declines and then full recovery in a few years. ... Activities such as pier construction and sewerage outfalls must be limited and those permitted must be designed to minimize their impacts." (Page 63)
 - B. *Applicable Laws*: Article V, Section 2.4.B.7 of the *Kent County Land Use Ordinance*, established that within the Resource Conservation District (RCD) that private piers, community piers, and private shared piers, are not to exceed 25% of the width of the waterway, the edge of the channel, or 150 feet in length, whichever is less and subject to the stipulations of Article VI, Section 3.7 of this Ordinance. Regulations governing community piers may be found in Article VI, Section 3.7.

Article VI, Section 3.7.8 establishes that a community pier, for the use of three or more property owners, shall be permissible provided the site plan demonstrates that such pier does not adversely affect neighboring property owners or the public interest.

C. *Staff and TAC Comments:*

- Maryland’s Environmental Resource and Land Information Network (MERLIN) indicates Submerged Aquatic Vegetation (SAV) is present along the shore where the proposed activity is to occur. As the first 82-feet of the existing fixed pier, which was replaced in 2013, is to remain in place, the existing SAV will not be affected by the proposed action.
- The proposed pier and all of its components will extend 239 feet channelward of the MHW, a 15-foot increase from that existing.
- The applicant has provided comment that the LNFHOA and its member properties control substantial portions of the shoreline surrounding the community pier. There will be no adverse impacts to neighboring property owners.
- The proposal has been reviewed by the Kent County Health Department, the Kent County Office of Emergency Services, the Department of Public Works, and MDOT SHA, and none have objections or concerns.
- The Maryland State Fire Marshal has commented that a standpipe system will be required to be installed in the pier in accordance with NFPA 303 if the extension of the pier measures to be more than 150 feet from the fire department vehicle access. A set of plans will need to be submitted to the Fire Marshal for review.

II. Variance

A. Applicable Law:

Article IX, Section 2.2 of the Kent County Land Use Ordinance authorizes the Board of Appeals to grant variances from the yard (front, side, or rear), height, bulk, parking, loading, shoreline cliff, 15% slope, pier length, impervious surface, stream protection corridor, and buffer requirements so as to relieve practical difficulties or other injustices arising out of the strict application of the provisions of this Ordinance.

Such granting of a variance shall comply, as nearly as possible, in every respect to the spirit, intent, and purpose of this Ordinance; it being the purpose of this provision to authorize the granting of variation only for reasons of demonstrable practical difficulties as distinguished from variations sought for purposes or reasons of convenience, profit, or caprice.

In order to grant a variance, the Board of Appeals must find all of the following:

- a. That the variance will not cause a substantial detriment to adjacent or neighboring property.
- b. That the variance will not change the character of the neighborhood or district.
- c. That the variance is consistent with the Comprehensive Plan and the general intent of this Ordinance.
- d. That the practical difficulty or other injustice was caused by the following:
 - i. Some unusual characteristic of size or shape of the property.
 - ii. Extraordinary topographical or other condition of the property.
 - iii. The use or development of property immediately adjacent to the property, except that this criterion shall not apply in the Critical Area.
- e. That the practical difficulty or other injustice was not caused by the applicant’s own actions.
...
- g. In considering an application for a variance, the Board shall consider the reasonable use of the entire parcel or lot for which the variance is requested.

- h. In considering an application for a variance, the Board of Appeals shall presume that the specific development activity in the Critical Area that is subject to the application and for which a variance is required does not conform with the general purpose and intent of this Ordinance and the Critical Area Law.
- i. The Board may consider the cause of the variance request and if the variance request is the result of actions by the applicant, including the commencement of development activity before an application for a variance has been filed.

C. *Staff Comments:*

- Comments provided by the applicant indicate that the requested variance will not cause a substantial detriment to adjacent or neighboring properties nor change the character of the neighborhood of district. The parcel from which the pier extends is large and has in excess of 4,000 feet of shoreline. The neighboring properties are distant from the location of this pier, and there are no other piers within close proximity to it.
- The Comprehensive Plan is neutral on this application.
- At the June 6, 1988, meeting of the Board of Appeals, the Board concluded that reaching a six-foot depth would require going 260 feet channelward of the MHW, that an “L” shaped pier would minimize the length of the pier into the channel while maximizing the use of the pier, and that there was five miles of shoreline in the development. The Board granted a “special exception”, as it was termed in the decision document, to construct a pier to extend beyond the maximum length and in an “L” configuration.
- Comments provided by the applicant indicate that a practical difficulty is due to the shallow bathymetry of the waterway and the shifting sediments and growth of shoreline vegetation, which have reduced navigability of the inner berths, thus the request to shift the pier complex channelward.
- Comments provided by the applicant indicate that increasing deterioration of the pier decking and pilings make piecemeal repair a financially unviable option and that a severe storm could destroy part or all of the existing structure.
- The proposal is a reasonable use of the parcel.

Staff Recommendation

Staff recommends sending a favorable recommendation to the Board of Appeals for a variance of the pier length with the following condition:

- A standpipe system be installed in the pier in accordance with NFPA 303 and that plans be submitted to the Fire Marshall for review.

BOARD OF APPEALS APPLICATION

Kent County Department of Planning, Housing and Zoning

Kent County Government Center
400 High Street • Chestertown, MD 21620
410-778-7423 (phone) • 410-810-2932 (fax)

IN THE MATTER OF THE APPLICATION OF:
(Name, Address and Telephone Number of Applicant)

George Barnett for Little Neck Farm HOA

6893 Hagy Rd Rock Hall MD 21661

609 513 7071

Email: gbarnett734@gmail.com

For Office Use Only:

Case Number/Date Filed:

Filed by:

Applicant:

Planning Commission:

Date of Hearing:

Parties Notified:

Notice in Paper:

Property Posted:

Please provide the email of the one person who will be responsible for responding to comments. Only this person will be contacted by staff and will be the person responsible for forwarding the comments or requests for additional information to any other interested parties. EMAIL: gbarnett734@gmail.com

TO THE KENT COUNTY BOARD OF APPEALS: In accordance with Article IX Section 2.2.2.

of the Kent County Zoning Ordinance, as amended, request is hereby made for:

_____ Appealing Decision of Kent County Zoning Administration XX Variance
_____ Special Exception _____ Nonconforming Use

DESCRIPTION OF PROPERTY INVOLVED:

Located on: (Name of Road, etc.) Burris Rd

In the District 5 Election District of Kent County.

Size of lot or parcel of Land:

Map: 45 Parcel: 49 Lot #: Deed Ref:

List buildings already on property: N/A

If subdivision, indicate lot and block number:

If there is a homeowner's association, give name and address of association: Little Neck Farm HOA PO Box 622
Rock Hall, MD 21661

PRESENT ZONING OF PROPERTY RCD (we believe)

DESCRIPTION OF RELIEF REQUESTED: The HOA is planning to rebuild the marina located at the end of Burris Rd. It will be rebuilt on the same foot print but we want to push it out channel wise by 15 ft. We are seeking relief of the 150 ft. limit.

If appealing decision of Zoning Administrator, list date of their decision:

Present owner(s) of property: Little Neck Farm Home Owners Association
Telephone: 609 513 7071

If Applicant is not owner, please indicate your interest in this property: Secretary of the Association Board of Directors

Has property involved ever been subject to a previous application? Not for this project

If so, please give Application Number and Date: _____

PLEASE FILL IN BELOW, OR ATTACH HERETO, A SKETCH OF THIS PROPERTY.

List all property measurements and dimensions of any buildings already on the property.

Put distances between present buildings or proposed buildings and property lines.

NAMES OF ADJOINING PROPERTY OWNERS:

Owner(s) on the North: David May and Beth Andrews

Owner(s) on the South: Paddy Tobey (Richard Tobey)

Owner(s) to the East: _____

Owner(s) to the West: _____

Homeowners Association, name and address, if applicable: Little Neck Farm Home Owners Association, Inc
PO Box 622 Rock Hall MD 21661

BY SIGNING THIS APPLICATION, I GRANT MEMBERS AND ALTERNATE OF THE BOARD OF ZONING APPEALS THE RIGHT TO ENTER ONTO THE PROPERTY FOR THE PURPOSE OF VIEWING THE SITE OF THE APPLICATION OR APPEAL.



Signature of Owner/Applicant/Agent or Attorney

7/1/2023

Date

Please file this form at 400 High Street, Chestertown, MD 21620 accompanied by **\$350.00** filing fee made payable to the County Commissioners of Kent County. The filing fee for appeals of a Zoning Administrator's decision is \$250.00. If you have any questions, please contact the Clerk at 410-778-7467.

NOTICE: Neither the Board of Appeals nor the Planning Department is required to make out this Application. If the Planning Department assists you, it cannot be held responsible for its contents.

Applicants arriving more than 10 minutes after the scheduled hearing will not be heard and will be re-scheduled at the applicant's expense.

Narrative addressing the standards by which the Board of Appeals may assess the application

Excerpts from the Land Use Ordinance

The regulation regarding the length of community piers in the Resource Conservation District (RCD) is in Article V, Section 2.4.B.7 (page 33) of the Land Use Ordinance

Private piers, community piers, and private shared piers, not to exceed 25% of the width of the waterway, the edge of the channel, or 150 feet in length, whichever is less and subject to the stipulations of Article VI, Section 3.7 of this Ordinance. Regulations governing community piers may be found in Article VI, Section 3.7.

The regulation regarding the applicability of variance for pier length is Article IX, Section 2.2.2 (page 435):

The Kent County Board of Appeals may authorize, upon application, variances from the yard (front, side, or rear), height, bulk, parking, loading, shoreline cliff, 15% slope, pier length, impervious surface, stream protection corridor, and buffer requirements so as to relieve practical difficulties or other injustices arising out of the strict application of the provisions of this Ordinance

Introduction

The community marina for Little Neck Farms has existed in its present form since 1989. The existing pier complex encroaches 224 feet into Swan Creek (at the creek's narrowest point along the marina) with the main portion of the pier (perpendicular to the shore) being 240 ft long. If this math is confusing, please see the Existing Conditions Exhibit which shows the irregular shape of the shoreline along the subject property.

The proposed condition seeks to lengthen the main pier section to a total of 262 ft while increasing the overall encroachment into Swan Creek to 239 feet (+ 15 ft). Please see the Proposed Pier Exhibit for measurement and encroachment labels.

This increase in length and encroachment is the desire of the community to allow for deeper water access to the inner berths that are closest to the shoreline, giving additional steerage way as well.

With the center of the channel being 609 ft and the opposite channel being 1,218 ft at the narrowest part of the channel along the pier complex, the proposed condition is well short of the 25% width of the channel and 50% of the distance to the channel.

a. That the variance will not cause a substantial detriment to adjacent or neighboring property.

The Little Neck Farm Community and its member properties control substantial portions of the adjacent shoreline upstream of the community marina downstream of the community marina. The closest downstream adjacent property owner with riparian access is 2,270 feet south. The closest upstream adjacent property owner with riparian access is 3,380 feet north (measure along the shoreline). The community marina is the only riparian access point allowed by the Little Neck Farm Covenants. Thus, there is no negative impact to upstream or downstream property owners within the immediate vicinity of the community pier.

b. That the variance will not change the character of the neighborhood or district.

The Little Neck Farm Community Marina has existed since 1989 and is the only pier complex along this reach of Swan Creek. Thus, the character of the neighborhood or district will not be altered by the slightly larger pier complex that is proposed.

c. That the variance is consistent with the Comprehensive Plan and the general intent of this Ordinance.

The Comprehensive Plan does not anticipate a change to the subdivision covenants and the proposed pier complex is keeping with the general intent of the ordinance by maintaining a less than 25% encroachment and keeping the channel clear of obstructions.

d. That the practical difficulty or other injustice was caused by the following:

i. Some unusual characteristic of size or shape of the property.

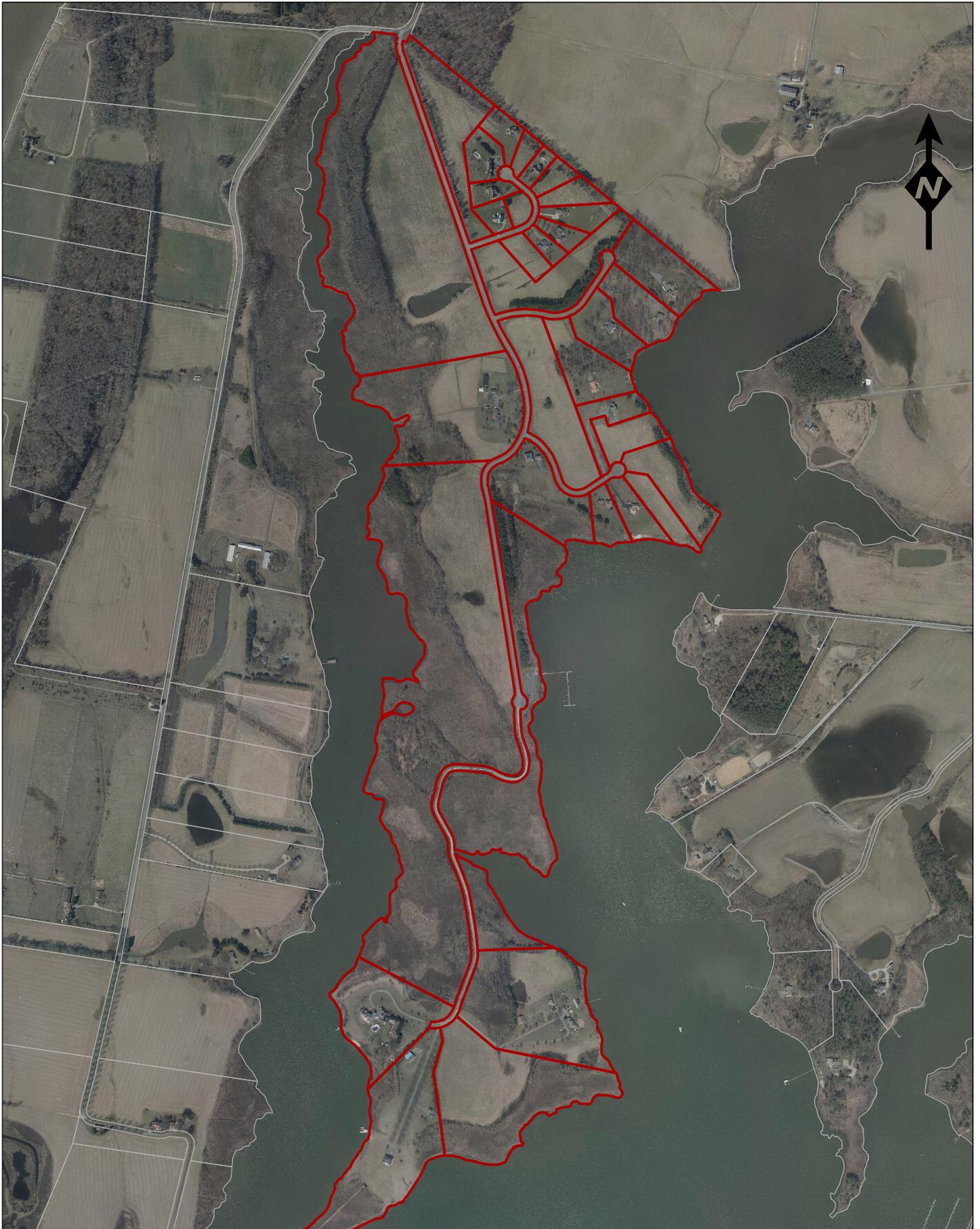
ii. Extraordinary topographical or other condition of the property.

The shallow bathymetry of the waterway and the existing distance between the inner berths and the shoreline within the footprint of the existing community pier (practical difficulty) have created the desire for the shifting channel-ward of the proposed pier complex to accommodate deeper water and more steerage way.

iii. The use or development of property immediately adjacent to the property, except that this criterion shall not apply in the Critical Area.

e. That the practical difficulty or other injustice was not caused by the applicants own action

The shallow bathymetry of the waterway and the existing distance between the inner berths and the shoreline within the footprint of the existing community pier have been caused by shifting sediments and vegetative growth along the shoreline. This is not a direct result of actions by the Applicant.



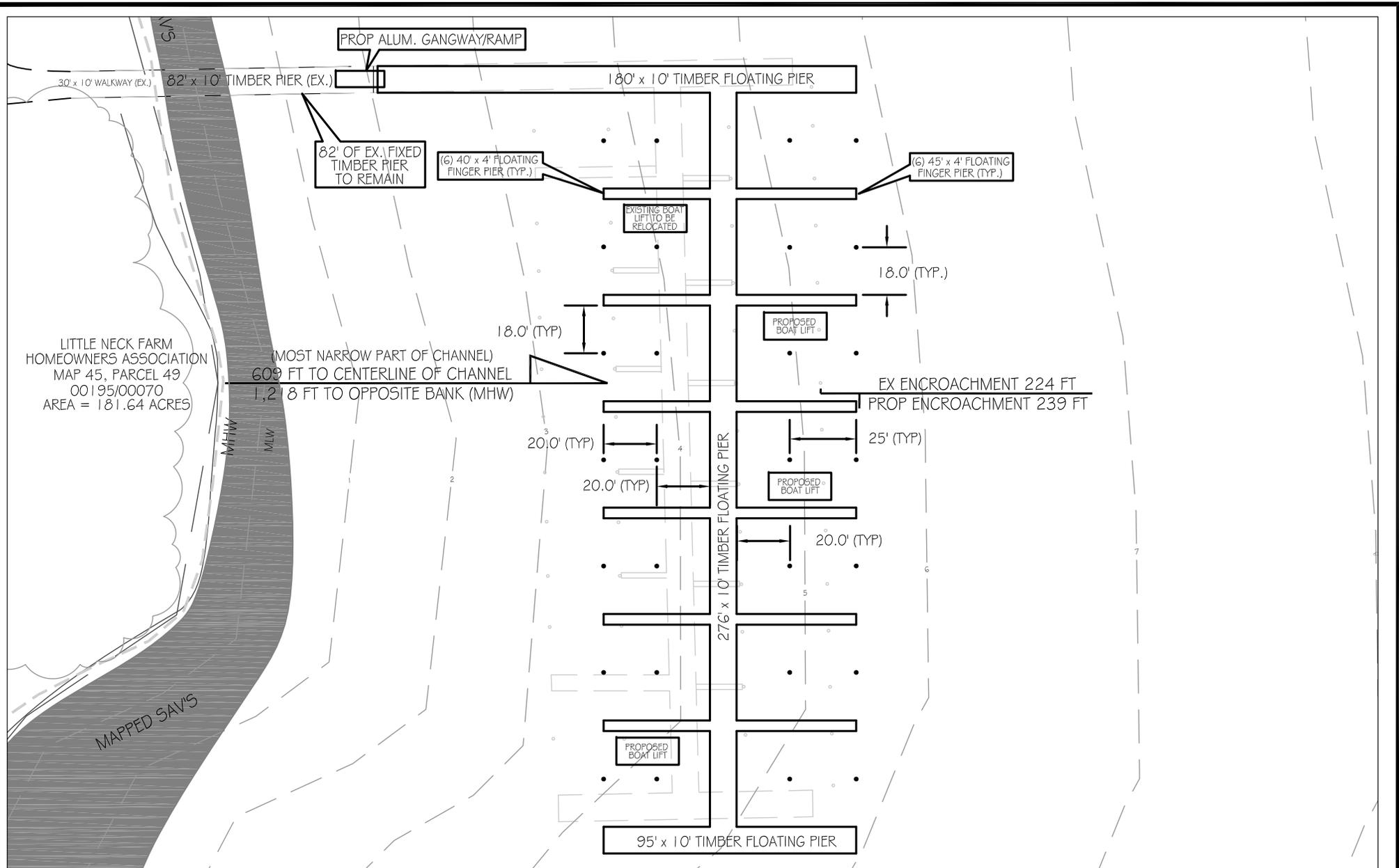
Source: Kent County Department of Planning, Housing, and Zoning.
Aerial taken Spring 2019. Map prepared August 2023.

1 inch = 1,000 feet



Source: Kent County Department of Planning, Housing, and Zoning.
Aerial taken Spring 2019. Map prepared August 2023.

1 inch = 50 feet



REVISED 5-8-23
SHEET 3



NEAR SHORE
ENGINEERING, LLC

117 Kuethe Drive, Annapolis, MD 21403
410.585.7560

SITE PLAN - PROPOSED

LITTLE NECK FARM
HOMEOWNERS ASSOCIATION INC

SWAN CREEK RD ~ LIBRE 00195 FOLIO 00070
MAP 45, PARCEL 49
ROCK HALL, MD 21620

SCALE: 1" = 80'

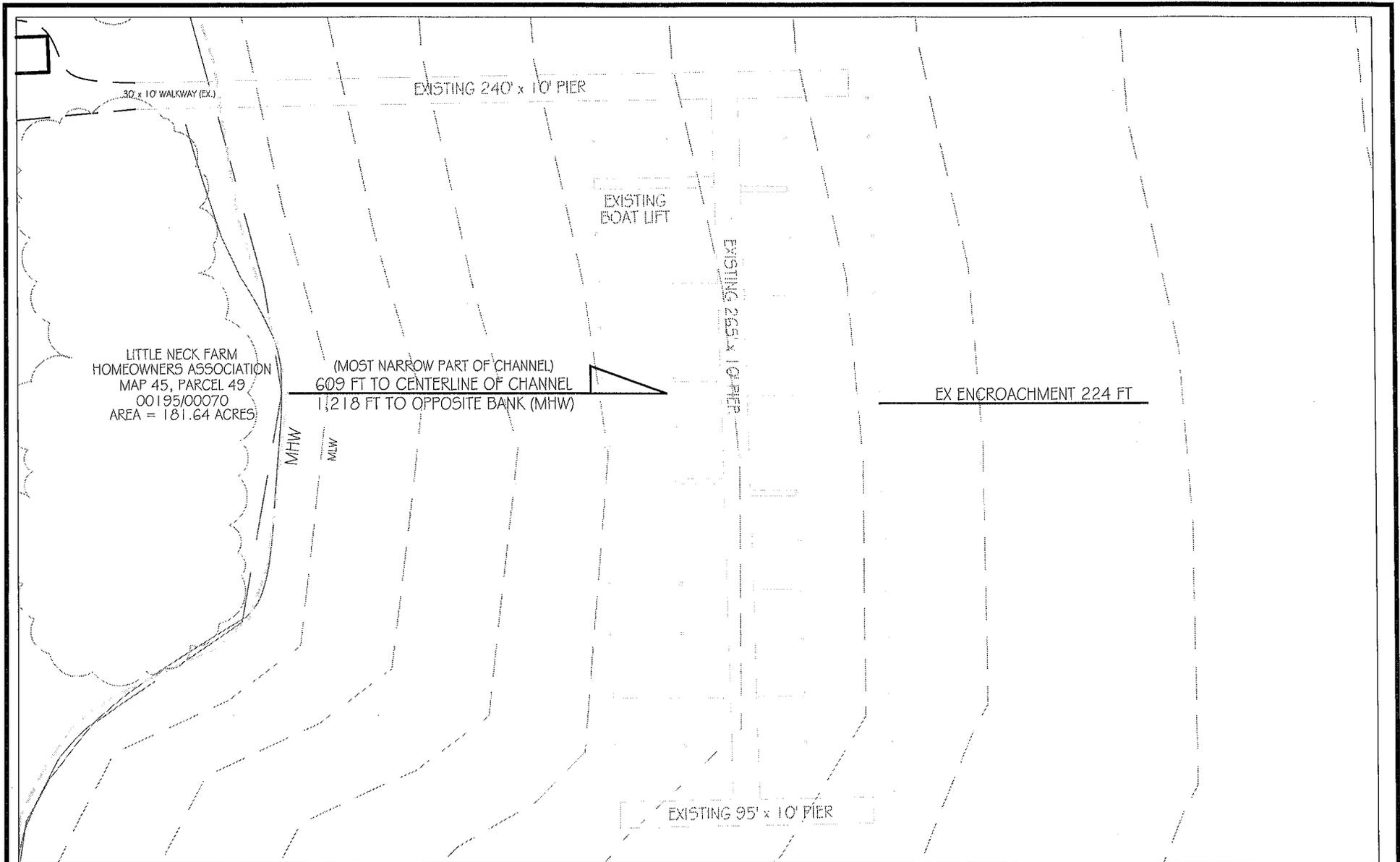
DATE: 11-3-22

DRAWN BY: CRC

CHECKED BY:

JOB NO.: 2225

FOLDER:



REVISED 1-25-23
SHEET 2



NEAR SHORE
ENGINEERING, LLC

117 Kuethe Drive, Annapolis, MD 21403
410.585.7560

SITE PLAN - EXISTING CONDITIONS

LITTLE NECK FARM
HOMEOWNERS ASSOCIATION INC

SWAN CREEK RD ~ LIBRE 00195 FOLIO 00070
MAP 45, PARCEL 49
ROCK HALL, MD 21620

SCALE: 1" = 50'

DATE: 11-3-22

DRAWN BY: CRC

CHECKED BY:

JOB NO.: 2225

FOLDER:

BOARD OF APPEALS APPLICATION

Kent County Department of Planning, Housing and Zoning

Kent County Government Center
400 High Street • Chestertown, MD 21620
410-778-7423 (phone) • 410-810-2932 (fax)

IN THE MATTER OF THE APPLICATION OF:

(Name, Address and Telephone Number of Applicant)

Cacaway Farm Cooperative
Housing Corp. 410-708-6741
23393 Cacaway Farm Ln.
Chestertown, MD 21620

Email: Katylight08@yahoo.com

For Office Use Only:

Case Number/Date Filed: _____
Filed by: _____
Applicant: _____
Planning Commission: _____
Date of Hearing: _____
Parties Notified: _____
Notice in Paper: _____
Property Posted: _____

Please provide the email of the one person who will be responsible for responding to comments. Only this person will be contacted by staff and will be the person responsible for forwarding the comments or requests for additional information to any other interested parties. EMAIL: Katylight08@yahoo.com

TO THE KENT COUNTY BOARD OF APPEALS: In accordance with Article V Section 2

of the Kent County Zoning Ordinance, as amended, request is hereby made for:

Appealing Decision of Kent County Zoning Administrator _____ Variance Due to misunderstood nature of request
 Special Exception _____ Nonconforming Use

DESCRIPTION OF PROPERTY INVOLVED:

Located on: (Name of Road, etc.) Cacaway Farm Ln. off Broadneck Rd.

In the 7th Election District of Kent County.

Size of lot or parcel of Land: 3 existing lots per McCrone drawing attached
Map: 52 Parcel: #3 Lot #: _____ Deed Ref: E.H.P. 2/342
E.H.P. 256/241, E.H.P. 2/325

List buildings already on property: House & garage on 23463 lot, House & garage on 23441 lot, cottage on 23380 lot

If subdivision, indicate lot and block number: _____

If there is a homeowner's association, give name and address of association: Cacaway Farm Cooperative Housing Corp. 23393 Cacaway Farm Ln., Chestertown, MD 21620

PRESENT ZONING OF PROPERTY: Resource Conservation District

DESCRIPTION OF RELIEF REQUESTED: (List here in detail what you wish to do with property that requires the Appeal Hearing.)

The three single family dwellings were in existence with the required density for those three plus the two new subdivided lots in 1989 due to all being a part of 182 acre farm. The three original dwellings were in existence before any land ordinance thus subdivision of them was unnecessary. Please create lots around them now. No new building lots.

If appealing decision of Zoning Administrator, list date of their decision: 9/15/23

Present owner(s) of property: Cacaway Farm Cooperative Telephone: 410-708-6741

Housing Corp. shareholders Michael Macieba, Margaret Footner, Marcy Brown, Beverlee DeLuca, Katy Lightburn

If Applicant is not owner, please indicate your interest in this property: Cacaway Farm Cooperative Housing Corp. wishes to create lot lines around grandfathered three dwellings, no increase in dwellings, no change whatsoever.
Has property involved ever been subject to a previous application? yes

If so, please give Application Number and Date: # 29-89 3/31/89 and # 30-89 3/31/1989

PLEASE FILL IN BELOW, OR ATTACH HERETO, A SKETCH OF THIS PROPERTY.

List all property measurements and dimensions of any buildings already on the property.

Put distances between present buildings or proposed buildings and property lines.

NAMES OF ADJOINING PROPERTY OWNERS:

Owner(s) on the North: Cacaway Farm Corporation

Owner(s) on the South: Langford Creek, Maryland water

Owner(s) to the East: Wilmerding farm across the road

Owner(s) to the West: Cacaway Farm Corporation

Homeowners Association, name and address, if applicable: The Cooperative has by-laws that function as a homeowners association.

BY SIGNING THIS APPLICATION, I GRANT MEMBERS AND ALTERNATE OF THE BOARD OF ZONING APPEALS THE RIGHT TO ENTER ONTO THE PROPERTY FOR THE PURPOSE OF VIEWING THE SITE OF THE APPLICATION OR APPEAL.

Katy M. Tiplatow / owner (shareholder) 9/29/2023
Signature of Owner/Applicant/Agent or Attorney Date

Please file this form at 400 High Street, Chestertown, MD 21620 accompanied by **\$350.00** filing fee made payable to the **County Commissioners of Kent County**. The filing fee for appeals of a Zoning Administrator's decision is \$250.00. If you have any questions, please contact the Clerk at 410-778-7467.

NOTICE: Neither the Board of Appeals nor the Planning Department is required to make out this Application. If the Planning Department assists you, it cannot be held responsible for its contents.

Applicants arriving more than 10 minutes after the scheduled hearing will not be heard and will be re-scheduled at the applicant's expense.

September 1, 2023

Dear Mr. Mackey,

As you know, Cacaway Farm Cooperative Housing Corporation is pursuing all possible avenues to convert the Cooperative structure to Fee Simple. The Cooperative consists of 5 dwelling units. Three of those dwelling units are on one parcel, the boundary of which was narrowed and drawn out of the larger parcel within the farm in 1989. Those three dwelling units have been there on that parcel since the early 1900's, one of which may have been there since the 1600's when the King of England granted it. There is some evidence of that, but it at least has been there since the 1700's. Those three were never technically sub-divided in 1989, but lease area boundary lines were drawn within that parcel creating the three separate units. This was done in order to follow then regulations which stipulated that 5 lots would classify us as a major subdivision with the requirement of paved lanes. Instead of becoming a suburban style subdivision, we wanted to maintain the nature of that farm with clustered homes and gravel lanes so as not to create more impervious surface. Thus the Cooperative structure was used to enable that goal. Since then the regulations have changed making 7 lots or more a major subdivision.

We requested of Carla Gerber and yourself a "lot line adjustment" for those three lease area/ dwelling units using the existing lease area boundary lines in order to change our Cooperative structure to Fee simple with an HOA and a road agreement. The other two lease areas are already subdivided lots. Our understanding from you and Carla is that you have no objection to that. In fact the county assessment office already treats the 5 dwelling unit/ lease areas as if they were fee simple with separate tax accounts and assessments. Each of the 5 separate lots/lease areas and their dwellings are also billed separately by the county for the shared septic facility. We are not asking to change anything with the existing boundary lines between the lease areas, simply record them with the county as fee simple lots. Catherine Charbonneau with the Critical Areas Commission said that it seemed "legitimate to evaluate the proposed plat as akin to drawing lot lines around existing dwellings. But I think I would treat them as a new subdivision in the RCA. So a 200-foot Buffer would be required on those lots. Buffer establishment would be equivalent to the area of lot coverage outside the Buffer as a new lot with an existing dwelling."

We are agreeable to the 200 foot Buffer requirement for those 3 lots. The problem lies with the density requirement for creating a new subdivision. The Cooperative no longer has the benefit of 180 acres of density that it had in 1989 when we were subdividing for the Housing section and we could have easily subdivided into 5 lots, or more, and become a major subdivision, but we chose not to do that. The Cooperative was separated from the Farm Corporation after it was formed.

We are requesting an exception to requiring that this fee simple recording of existing boundaries constitute a new subdivision since there will be nothing new about it. All will remain the same.

Our motivation for requesting this adjustment is our insurance coverage situation. We have been informed by our insurance agent that the Cooperative structure is uninsurable. The only reason they consented to cover the homes in the Cooperative is because they cover the Cacaway Farm Corporation and thus bundled us with the Farm. However, they have also told us that any claim by the Housing Cooperative could cause them to drop us altogether even though they increase our premiums considerably each year.

We are very fearful of anything catastrophic happening that would cause us to lose insurance coverage.

We respectfully request consideration of granting us this fee simple recordation, not a new sub division.

Sincerely,

Katy M. Lightburn

Treasurer, Cacaway Farm Cooperative Housing Corporation



PERIMETER 50' WIDE PRIVATE RIGHT-OF-WAY

BEARING	DISTANCE	ARC	RADIUS
S 41°50'17"W	715.83'		
N 50°35'44"W	373.98'		
S 09°24'16"W	250.27'	271.01'	194.67'
S 49°24'16"W	354.50'		
S 14°27'29"W	114.56'	121.99'	100.00'
S 92°47'29"E	134.79'	138.99'	225.00'
S 14°54'19"W	192.85'		
S 30°36'47"W	129.45'	132.64'	175.00'
S 50°19'14"W	259.97'		
N 20°43'46"N	50.84'		
N 50°19'14"E	240.45'		
N 30°36'47"E	92.47'	94.72'	125.00'
N 14°54'19"E	192.85'		
N 52°47'29"W	100.29'	100.11'	175.00'
N 14°27'29"E	171.84'	102.90'	150.00'
N 49°24'16"E	340.24'		
N 39°24'16"W	461.24'		
N 04°16'54"W	101.85'	117.50'	75.00'
S 50°58'09"W	179.11'		
N 30°39'57"W	50.56'		
N 50°58'09"E	171.48'		
S 04°16'56"E	174.41'	195.04'	125.00'
S 39°24'08"E	464.11'		
S 05°27'55"E	279.76'	297.81'	240.67'
S 08°35'44"E	302.19'		
N 05°41'18"E	24.56'	28.15'	25.00'
N 41°50'17"E	702.44'		
S 01°44'53"W	77.43'		

LEASE AREA NO. 5

BEARING	DISTANCE
S 39°03'56"W	57.84'
S 73°34'14"W	277.90'
N 45°28'10"W	4.87'
N 40°47'20"W	40.32'
N 02°33'09"W	22.37'
N 46°43'18"W	138.40'
N 32°28'47"W	80.24'
N 96°28'33"E	77.43'
N 19°03'39"E	42.04'
N 21°46'48"E	50.45'
N 07°47'20"E	123.24'
N 30°03'18"W	39.02'
S 01°52'44"E	240.00'
S 00°39'57"E	432.43'

Brown cottage
circa 1920

LEASE AREA NUMBER 1

NO.	BEARING	DISTANCE
1	S 52° 37' 20" W	97.28'
2	S 57° 32' 21" W	137.75'
3	S 03° 31' 01" W	51.69'
4	S 33° 31' 55" W	57.76'
5	S 07° 00' 22" W	58.87'
6	N 42° 00' 13" W	30.52'
7	N 19° 33' 39" W	36.32'
8	N 13° 13' 54" W	87.34'
9	N 19° 10' 13" W	31.28'
10	N 04° 00' 30" W	8.31'
11	N 01° 15' 39" W	49.23'
12	N 22° 22' 39" E	82.73'
13	N 23° 53' 02" E	99.55'
14	N 30° 00' 17" E	77.01'
15	N 62° 36' 22" E	210.34'
16	S 28° 47' 40" E	190.41'

LEASE AREA NUMBER 4

NO.	BEARING	DISTANCE	ARC	RADIUS
1	N 61° 26' 29" E	157.81'		
2	S 07° 20' 34" W	243.49'		
3	N 72° 35' 53" W	28.35'		
4	N 74° 17' 59" W	54.72'		
5	N 56° 32' 08" W	72.73'		
6	S 25° 21' 19" W	15.79'		
7	N 61° 26' 29" W	173.40'		
8	N 15° 49' 07" W	36.83'	36.67'	225.00'
9	N 14° 27' 29" E	114.56'	121.99'	100.00'
10	N 49° 24' 16" E	228.31'		

LEASE AREA NUMBER 2

NO.	BEARING	DISTANCE	ARC	RADIUS
1	S 44° 20' 54" W	370.28'		
2	N 64° 26' 02" W	44.67'		
3	N 72° 35' 53" W	216.55'		
4	S 07° 20' 34" E	243.49'		
5	N 41° 20' 34" E	249.00'		
6	S 58° 04' 19" E	50.65'	50.00'	194.67'
7	S 50° 35' 44" E	337.38'		

LEASE AREA NUMBER 3

NO.	BEARING	DISTANCE
1	S 50° 35' 44" E	170.00'
2	S 42° 43' 37" W	317.67'
3	N 57° 35' 36" W	87.28'
4	N 62° 43' 21" W	60.91'
5	N 06° 29' 14" W	32.54'
6	N 04° 26' 02" W	32.49'
7	N 61° 20' 34" E	370.28'
8	S 50° 35' 44" E	40.83'

SCALE 1" = 100'
DATE 11/1/2011
BY [Signature]
PROJECT [Signature]

From: William Mackey
Sent: Friday, September 15, 2023 4:27 PM
To: Katy Lightburn
Cc: Carla Gerber
Subject: response re: Cacaway Farm Cooperative Housing Corporation

Good afternoon, Ms. Lightburn,

Thank you for your correspondence and your inquiry.

I'm responding to the attached letter that was received by the Department via email on September 1, 2023.

I understand that you wrote on behalf of the Cacaway Farm Cooperative Housing Corporation ("Housing Cooperative") concerning the following properties it owns: Parcel 1, Part 2, Lot 1 - 5.402 AC ("Part 2, Lot 1") and Parcel 1, Part 3, Lot 1 - 1.800 AC ("Part 3, Lot 1"), previously subdivided lots, each containing a single-family residence, as shown on the attached Cacaway Farm Minor Subdivision Plat, and Tax ID #07-012187.

Tax ID # 07-012187 consists of the approximate 18 acres of land denoted as "Reduced Part 3," which surrounds Part 3, Lot 1, as shown on the attached Cacaway Farm Adjustment Plat ("Reduced Part 3"). These 18 acres of land contain three single-family residences.

The approximate 155 acres of land (Tax ID #07-007566) shown on the Minor Subdivision Plat as Parts 2 and 3 of Parcel 1, located between Part 2, Lot 1, to the north, and Part 3, Lot 1 and the surrounding "Reduced Part 3" 18 acres of land, to the south, are owned by the Cacaway Farm Corporation ("Farm Corporation"). Currently, the owners of the Housing Cooperative and the Farm Corporation are no longer the same people; previously, they were.

It's my understanding that the Housing Cooperative would like to submit an application for a lot line adjustment in order to create three separate lots, one for each of the three single-family residences on Reduced Parcel 3 (#07-012187) and has asked for an exception to the County's subdivision requirements and associated density requirement in the Resource Conservation District (RCD). Per Article VI. Subdivision, Section 6 General Requirements, Sub-section 6.2, the Department may not approve an adjustment of lot lines between adjoining property owners which create additional building lots. Furthermore, there are no existing boundary lot lines between the residences that can be adjusted. The Housing Cooperative would have to apply for a minor subdivision which is subject to the applicable density requirement in the RCD.

Per Article V. District Regulations, Section 2. Resource Conservation District, Sub-section 2.5 Density, Area, Height, Width and Yard Requirements of the Kent County Land Use Ordinance (LOU), the density allowed is one dwelling unit per 20 acres. In order to allow for three single-family residences on separate parcels, at least 60 acres and/or density rights for 60 acres are needed in a new subdivision to create fee simple lots for each of the three single-family residences located on Reduced Parcel 3's approximate 18 acres. It's my further understanding from conversation, that the owners of the Farm Corporation and the Housing Cooperative have been unable to agree on an approach to allow for a division of properties whereby the three single-family residences could each be assigned 20 acres of

Redacted to remove email addresses and phone numbers

land as required for density. It is for this reason that the Housing Cooperative is seeking an exception to the density requirement.

Per the requirements set forth in COMAR 27.01.02.05 related to the Critical Area in which all three single-family residences are located, a variance for density may not be granted by a local jurisdiction. The County team has checked with the Critical Area Commission staff who have confirmed this.

As a result, the Department would be unable to make an exception to the County's subdivision and density requirements and approve a lot line adjustment as proposed in your letter of September 1, 2023, which you submitted so that I may respond with an appealable determination. It is my determination that the Department can only accept an application for a minor subdivision which, per LUO Art. V, Section 2.5, and COMAR 27.01.02.05, C. (4), cannot be approved in the absence of the Housing Cooperative acquiring additional property and or density rights from the Farm Corporation to provide at least 60 acres of land and/ or density rights to create fee simple lots for each of the three single-family residences.

Please note that this email represents an administrative determination. If you wish to appeal this determination, you may do so by filing an appeal within thirty (30) days from the date of the determination. Please note that such an appeal may be sent directly to planning@kentgov.org. Appeals are reviewed by the Kent County Board of Appeals.

Sincerely,

Bill



William A. Mackey, AICP

Director, Department of Planning, Housing, and Zoning

Kent County, Maryland

400 High Street, Suite 103

Chestertown, MD 21620

410-778-7423, ext. 9

wmackey@kentgov.org

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-----Original Message-----

From: Katy Lightburn

Sent: Friday, September 1, 2023 10:12 AM

Redacted to remove email addresses and phone numbers

To: William Mackey
Cc: Carla Gerber; Marcy Brown; Katy Lightburn
Subject: Cacaway Farm Cooperative Housing Corporation

ATTENTION!

This email originated from an external source. DO NOT CLICK any links or attachments unless you recognize the sender and know the content is safe.
- KCIT Helpdesk

Dear Mr. Mackey,

Please find attached my request for Cacaway Farm Cooperative Housing Corporation per your suggestion to email you with it.

Thanks,
Katy Lightburn

27.01.02.05

.05 Resource Conservation Areas.

A. Resource conservation areas are those areas characterized by nature-dominated environments (that is, wetlands, forests, abandoned fields) and resource-utilization activities (that is, agriculture, forestry, fisheries activities, or aquaculture). These areas shall have at least one of the following features:

- (1) Density is less than one dwelling unit per 5 acres; or
- (2) Dominant land use is in agriculture, wetland, forest, barren land, surface water, or open space.

B. In developing their Critical Area programs, local jurisdictions shall follow these policies when addressing resource conservation areas:

- (1) Conserve, protect, and enhance the overall ecological values of the Critical Area, its biological productivity, and its diversity;
- (2) Provide adequate breeding, feeding, and wintering habitats for those wildlife populations that require the Chesapeake Bay, its tributaries, or coastal habitats in order to sustain populations of those species;
- (3) Conserve the land and water resource base that is necessary to maintain and support land uses such as agriculture, forestry, fisheries activities, and aquaculture; and
- (4) Conserve the existing developed woodlands and forests for the water quality benefits that they provide.

C. In developing their Critical Area programs, local jurisdictions shall use all of the following criteria for resource conservation areas:

(1) Land use management practices shall be consistent with the policies and criteria for habitat protection areas in COMAR 27.01.09, the policies and criteria for agriculture in COMAR 27.01.06, and the policies and criteria on forestry in COMAR 27.01.05.

(2) Agricultural and conservation easements shall be promoted in resource conservation areas.

(3) Local jurisdictions are encouraged to develop tax or other incentive/disincentive programs to promote the continuation of agriculture, forestry, and natural habitats in resource conservation areas.

(4) Land within the resource conservation area may be developed for residential uses at a density not to exceed one dwelling unit per 20 acres. A local jurisdiction may not authorize a variance to the maximum density of one dwelling unit per 20 acres. Within this limit of overall density, minimum lot sizes may be determined by the local jurisdiction. Local jurisdictions are encouraged to consider such mechanisms as cluster development, transfer of development rights, maximum lot size provisions, and/or additional means to maintain the land area necessary to support the protective uses.

(5) Existing industrial and commercial facilities, including those that directly support agriculture, forestry, aquaculture, or residential development not exceeding the density specified in §C(4), of this regulation, shall be allowed in resource conservation areas.

(6) Additional industrial or commercial facilities may not be located in the resource conservation area unless the use is authorized by a local program.

(7) Institutional facilities may not be located in the resource conservation area unless the use is authorized by a local program.

(8) A commercial, institutional, or industrial solar energy generating system may be permitted in accordance with COMAR 27.01.14.

(9) Local jurisdictions shall develop a program to assure that the overall acreage of forest and woodland within their resource conservation areas does not decrease.

(10) Development activity within the resource conservation area shall be consistent with the criteria for limited development areas in Regulation .04 of this chapter.

(11) Limitations on lot coverage on a parcel shall be in accordance with the following maximums:

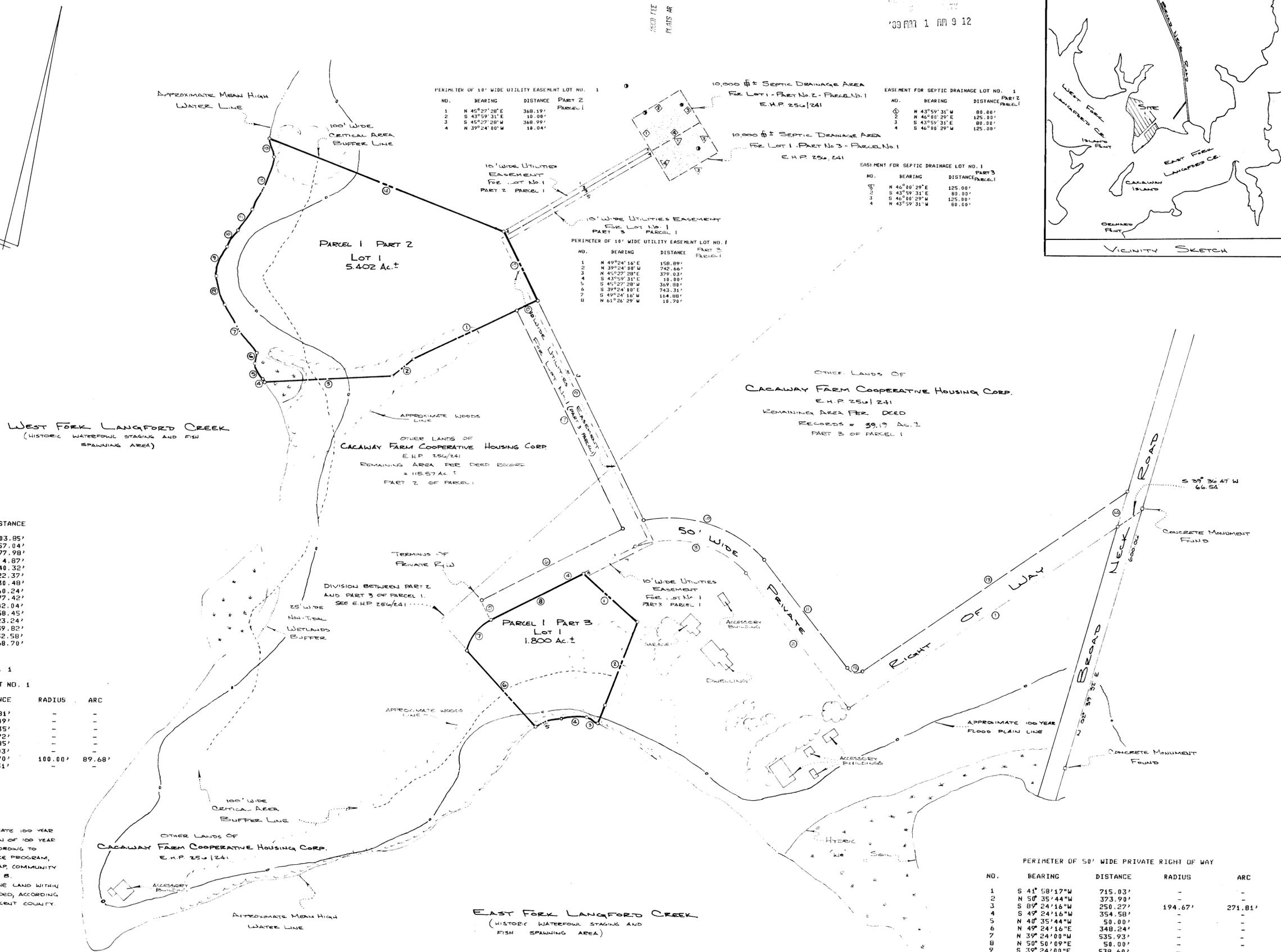
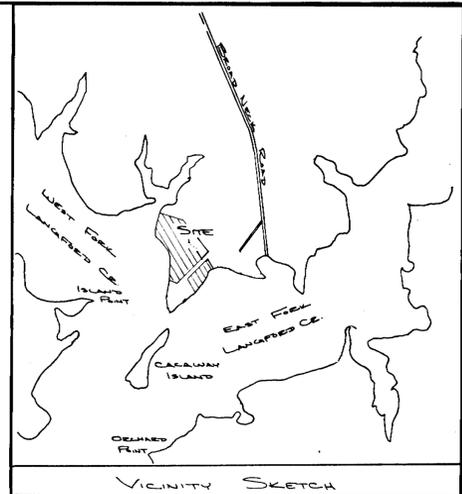
(a) When a site is mapped entirely as a resource conservation area, 15 percent of the total site; and

(b) When a portion of a lot or parcel is mapped as a resource conservation area, 15 percent of that portion of the lot or parcel.

D. Nothing in this regulation shall limit the ability of a participant in the Agricultural Easement Program to convey real property impressed with such an easement to family members provided that no such conveyance will result in a density greater than 1 dwelling unit per 20 acres.



DEED BOOK 256/241
 '03 MAR 1 AM 9 12



PARCEL NO. 1
 PART NO. 2 LOT NO. 1

NO.	BEARING	DISTANCE
1	S 50° 50' 09" W	303.85'
2	S 37° 03' 56" W	57.04'
3	S 73° 36' 14" W	277.98'
4	N 45° 20' 10" W	4.87'
5	N 40° 47' 20" W	40.32'
6	N 05° 33' 09" W	22.37'
7	N 46° 43' 10" W	130.48'
8	N 32° 20' 47" W	60.24'
9	N 06° 28' 33" E	77.42'
10	N 19° 03' 30" E	42.04'
11	N 21° 46' 40" E	58.45'
12	N 07° 47' 28" E	123.24'
13	N 30° 03' 10" W	39.82'
14	S 81° 53' 44" E	552.58'
15	S 39° 24' 00" E	168.70'

PARCEL NO. 1
 PART NO. 3 LOT NO. 1

NO.	BEARING	DISTANCE	RADIUS	ARC
1	S 61° 26' 29" E	157.81'	-	-
2	S 87° 20' 34" W	243.49'	-	-
3	N 72° 35' 53" W	28.35'	-	-
4	S 74° 17' 59" W	54.72'	-	-
5	S 56° 32' 08" W	59.85'	-	-
6	N 55° 24' 28" W	226.03'	-	-
7	N 25° 42' 52" E	86.70'	100.00'	89.68'
8	N 49° 24' 16" E	228.31'	-	-

NOTE:
 1) ——— DELINEATES APPROXIMATE 100 YEAR FLOOD PLAIN LINE ELEVATION OF 100 YEAR FLOOD IS ELEVATION 7, ACCORDING TO NATIONAL FLOOD INSURANCE PROGRAM, FLOOD INSURANCE RATE MAP, COMMUNITY PANEL NO. 240045 0225 B.
 2) APPROXIMATELY 19% OF THE LAND WITHIN THE CENTRAL AREA IS WOODED, ACCORDING TO WETLANDS MAPS OF KENT COUNTY.

PERIMETER OF 50' WIDE PRIVATE RIGHT OF WAY

NO.	BEARING	DISTANCE	RADIUS	ARC
1	S 41° 58' 17" W	715.03'	-	-
2	N 50° 35' 44" W	373.98'	-	-
3	S 89° 24' 16" W	250.27'	194.67'	271.81'
4	S 49° 24' 16" W	354.58'	-	-
5	N 40° 35' 44" W	58.00'	-	-
6	N 49° 24' 16" E	348.24'	-	-
7	N 39° 24' 00" W	535.93'	-	-
8	N 50° 50' 09" E	58.00'	-	-
9	S 39° 24' 00" E	538.60'	-	-
10	S 85° 27' 55" E	279.76'	244.67'	297.81'
11	S 50° 35' 44" E	302.19'	-	-
12	N 85° 41' 16" E	34.56'	25.00'	38.15'
13	N 41° 58' 17" E	782.44'	-	-
14	S 01° 44' 53" W	77.43'	-	-

DATE: 1/19/12
 SEAL: [Signature]
 DATE: [Blank]
 DATE: [Blank]

SEAL: [Blank]
 DATE: [Blank]

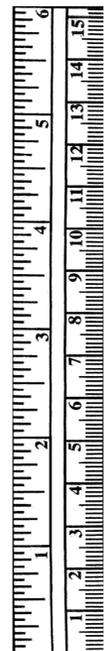
MCRONE
 ENGINEERS ■ PLANNERS ■ SURVEYORS
 ANNAPOLIS, MARYLAND
 CENTREVILLE - CHESTERDOWN - DINTON - EASTON - ELKTON - LEONARDTOWN - PRINCE FREDERICK

DATE	SCALE	BY	DATE
10/15/11	1" = 100'	MM	10/15/11
10/15/11	1" = 100'	MM	10/15/11
10/15/11	1" = 100'	MM	10/15/11

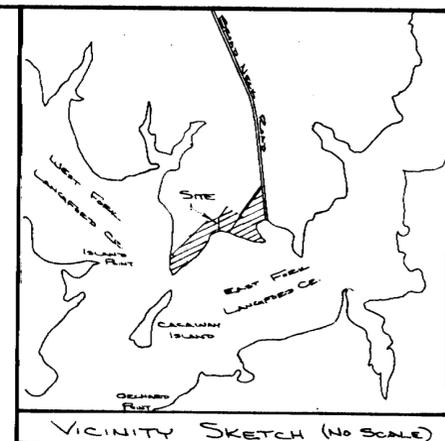
MINOR SUBDIVISION
 OF PART OF THE LANDS OF
 CACAWAY FARM COOPERATIVE HOUSING CORP.
 7TH ELECTION DISTRICT, KENT COUNTY, MD.
 FOR - MICHAEL MACIELAGA

SHEET NO.
 FILE NO. 2251B

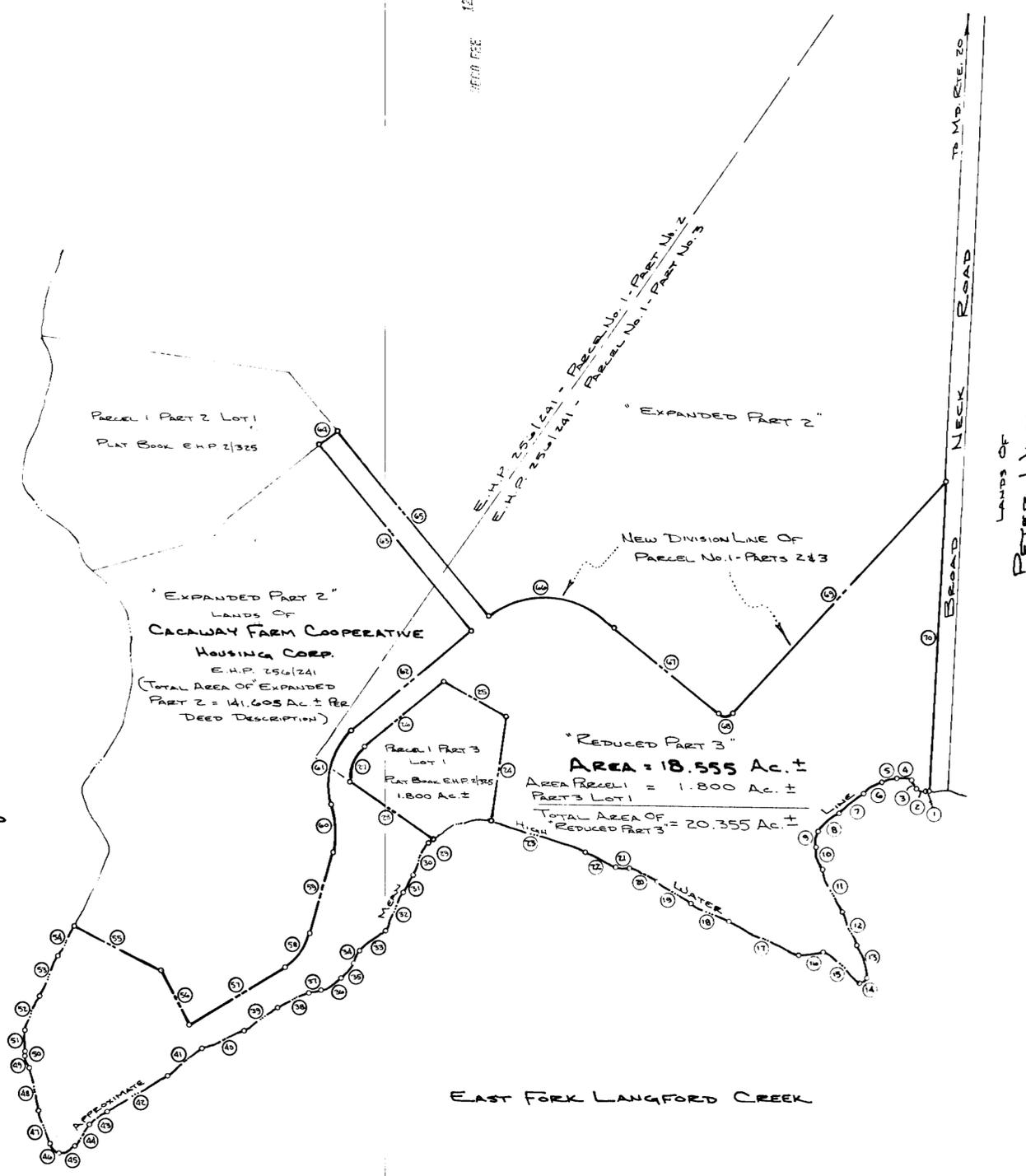
Site 2119 in Plat Book EHP # 2 256 # 325.



MAGNETIC MERIDIAN 1988



VICINITY SKETCH (NO SCALE)



NO.	BEARING	DISTANCE	RADIUS	ARC
1	N 83° 25' 23" W	6.90'		
2	N 78° 29' 49" W	23.34'		
3	N 29° 18' 18" W	22.31'		
4	N 84° 03' 29" W	34.21'		
5	S 73° 25' 23" W	36.61'		
6	S 55° 01' 05" W	44.54'		
7	S 50° 33' 03" W	71.58'		
8	S 48° 29' 51" W	61.44'		
9	S 88° 47' 49" W	33.31'		
10	S 17° 36' 11" E	53.91'		
11	S 24° 21' 19" E	103.44'		
12	S 24° 09' 44" E	81.57'		
13	S 15° 41' 51" E	75.71'		
14	S 48° 03' 02" W	19.50'		
15	N 49° 20' 29" W	107.29'		
16	S 82° 10' 06" W	54.07'		
17	N 63° 36' 05" W	173.31'		
18	N 64° 07' 55" W	95.08'		
19	N 57° 35' 36" W	87.28'		
20	N 63° 43' 21" W	68.91'		
21	N 86° 29' 14" W	32.54'		
22	N 64° 26' 02" W	77.17'		
23	N 72° 35' 53" W	216.55'		
24	N 87° 20' 34" E	243.49' ±		
25	N 61° 26' 29" W	157.81'		
26	S 49° 24' 16" W	228.31'		
27	S 24° 42' 52" W	86.70'	100.00'	89.68'
28	S 52° 24' 20" E	226.03' ±		
29	S 56° 32' 08" W	12.88'		
30	S 25° 21' 19" W	79.72'		
31	S 27° 08' 15" W	45.54'		
32	S 25° 51' 04" W	93.32'		
33	S 51° 23' 27" W	72.24'		
34	S 25° 23' 23" W	32.12'		
35	S 38° 06' 21" W	42.77'		
36	S 59° 32' 27" W	51.77'		
37	S 74° 49' 10" W	28.37'		
38	S 63° 41' 23" W	76.84'		
39	S 55° 01' 47" W	88.73'		
40	S 66° 48' 41" W	100.83'		
41	S 52° 57' 20" W	97.26'		
42	S 57° 32' 21" W	157.75'		
43	S 53° 31' 01" W	51.69'		
44	S 33° 31' 55" W	57.76'		
45	S 67° 09' 22" W	38.87'		
46	N 42° 06' 15" W	30.52'		
47	N 19° 33' 39" W	76.32'		
48	N 13° 13' 54" W	97.54'		
49	N 19° 10' 13" W	31.28'		
50	N 04° 08' 36" W	8.11'		
51	N 01° 16' 29" E	49.22'		
52	N 22° 22' 59" E	82.73'		
53	N 23° 33' 02" E	99.55'		
54	N 28° 00' 17" E	77.01'		
55	S 62° 36' 22" E	216.54' ±		
56	S 28° 47' 40" E	139.29'		
57	N 58° 19' 14" E	248.45'		
58	N 36° 36' 47" E	92.47'	125.00'	94.72'
59	N 14° 54' 19" E	192.85'		
60	N 02° 47' 29" W	186.39'	175.00'	108.10'
61	N 14° 27' 29" E	171.84'	150.00'	182.98'
62	N 49° 24' 16" W	348.24'		
63	N 39° 24' 00" W	535.93'		
64	N 50° 50' 09" E	50.00'		
65	S 39° 24' 00" E	538.60'		
66	S 85° 27' 55" E	279.76'	244.67'	297.81'
67	S 50° 35' 44" E	302.19'		
68	N 85° 41' 16" E	34.56'	25.00'	38.15'
69	N 41° 58' 17" E	702.44'		
70	S 02° 39' 32" W	696.83' ±		

NOTE

- 1) FOR TITLE REFERENCE TO THE PARCEL SHOWN HEREON SEE LIBER E.H.P. 256/241.
- 2) THE INDICATED ADJUSTMENT IS SOLELY FOR REALIGNING THE PARCEL BOUNDARIES WITHIN THE LANDS OF CACAWAY FARM COOPERATIVE HOUSING CORP. FUTURE DEVELOPMENT WILL BE IN ACCORDANCE WITH EXISTING SUBDIVISION REGULATIONS.
- 3) THIS SURVEY PREPARED WITHOUT THE BENEFIT OF A TITLE REPORT.

APPROVED BY:

4-24-88 Date Gail Webb Owens
Kent County Director of Planning

4/20/88 Date John A. Brandt
Kent County Health Officer
This signature does not include approval under C.O.M.A.R. 26.04 .03 or 26.04.04 for the disposal of sewerage.

DATE	SCALE
9-88	1"=200'
JOB NO	DRAWN BY
202410866	JOHNER
FOLDER REF	APPROVED
1818	
DATE	REVISION
3-89	AREA REVISED

MCRONE

ENGINEERS ■ PLANNERS ■ SURVEYORS

ANNAPOLIS, MARYLAND

CENTREVILLE - CHESTERTOWN - DENTON - EASTON - ELKTON - LEONARDTOWN - PRINCE FREDERICK

ADJUSTMENT OF PARCEL BOUNDARIES

WITHIN THE LANDS OF

CACAWAY FARM COOPERATIVE HOUSING CORP.

7TH ELECTION DISTRICT, KENT COUNTY, MARYLAND

FOR - MICHAEL MACIELAG

DATE 4-24-88 SFA.

SHEET NO.

FILE NO. 1182

Filed 4/24/88 in Plat Book EHP #2 1818 # 342.

Wes Moore
Governor

Aruna Miller
Lt. Governor



Erik Fisher
Chair

Katherine Charbonneau
Executive Director

**STATE OF MARYLAND
CRITICAL AREA COMMISSION
CHESAPEAKE AND ATLANTIC COASTAL BAYS**

October 10, 2023

Carla Gerber
Planning, Housing and Zoning
Kent County Government
R. Clayton Mitchell, Jr. Kent County Government Center
400 High Street
Chestertown, MD 21620

Re: **Cacaway Farm Cooperative (TM 52, P 3)**
Appeal of Decision of Kent County Planning Director

Dear Ms. Gerber:

We are in receipt of an appeal from the Cacaway Farm Cooperative Housing Corporation of the Kent County Planning Director (William A. Mackey)'s determination that a lot line revision is not applicable to create three separate lots on Tax Map 52, Reduced Parcel 3. Instead, the Planning Director determined that a subdivision is required per the County's Land Use Ordinance and COMAR 27.01.02.05. Reduced Parcel 3 is approximately 18 acres in size, contains three single-family residences, and is located within the Critical Area's Resource Conservation Area (RCA).

The County reached out to Critical Area staff about this preliminary request several times over the past year. In addition, we are in receipt of the applicant's request letter, Mr. Mackey's response to the applicant, and the associated site plans. Based on this information and on our conversations with County staff, we concur with the Planning Director's determination for the reasons outlined below.

Kent County's Critical Area Program was first approved on March 12, 1988. As of that date, the original parcel contained sufficient Resource Conservation Area (RCA) to allow for eight development rights that met the one dwelling unit per twenty acre density restriction. In 1989, a subdivision plat created two lots, each less than 20 acres, consistent with COMAR 27.01.02.05.C(4), using two of the eight development rights. The three dwellings that are the subject of this request were not subdivided in 1989 and instead were shown as Part 3 of Parcel 1 in an area totaling 18 acres. The 1989 plat did not violate the County's Critical Area Program because the three dwellings shown on Part 3 were part of a Parcel that totaled more than 60 acres of Resource Conservation Area.

Therefore, in order to create three new fee-simple lots for each existing dwelling, and remain consistent with Critical Area law, a new subdivision plat is required that demonstrates each lot

can meet the density standard of one dwelling unit per twenty acres for the RCA. This can be achieved by showing sufficient acreage is restricted on Parcel 1 from future development as part of a new subdivision plat¹.

Thus, it is our opinion that Mr. Mackey correctly outlined in his response, “at least 60 acres and/or density rights for 60 acres are needed in a new subdivision to create fee simple lots for each of the three single-family residences located on Reduced Parcel 3’s approximate 18 acres.” It appears that the Housing Cooperative has not settled on an approach to meet this density using other acreage owned by the applicants on this property, based on Mr. Mackey’s response. If the applicant can develop a plan to meet the above-mentioned density requirements, a 200-foot Buffer would be required to be fully established on all three lots, as the Commission’s Executive Director noted to the County and applicant previously.²

Thank you for the opportunity to provide comments. Please include this letter as part of the record in this application. Also, please notify the Commission in writing of the decision made in this case. If you have any questions, please contact me at (410) 260-3483.

Sincerely,



Nick Kelly
Regional Program Chief

cc: William A. Mackey, Kent County
Kate Charbonneau, Critical Area Commission

¹ See COMAR 27.01.02.05.C.4 for more information on subdivision density and the prohibition for density variances in the RCA.

² This conversation is noted in the applicant’s September 1, 2023 letter to Mr. Mackey. The required 200-foot Buffer for an RCA subdivision and its full establishment can also be found in COMAR 27.01.09.01 E(5) and COMAR 27.01.09.01-1(C), respectively.