



**Planning Commission**  
**Department of Planning, Housing, and Zoning**

**County Commissioners Hearing Room**  
**400 High Street**  
**Chestertown, Maryland**

**AGENDA**  
February 2, 2023  
1:30 p.m.

Members of the public are welcome to attend meetings in person or via conference call. Please note that the County’s live stream video is temporarily unavailable.

Public participation and audio-only call-in number:

1. Dial **1-872-239-8359**
2. Enter Conference ID: **840 314 713#**

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

**ELECTIONS**

**MINUTES** - January 5, 2023

**APPLICATIONS FOR REVIEW**

23-06 Raymond D’Esposito – Variance – Front Yard Setback..... Rec to BOA  
28519 Spring Road – Second Election District – Critical Area Residential (CAR)

22-74 Phillip Gray – Buffer Variance..... Rec to BOA  
23550 Canvasback Road – Third Election District – Critical Area Residential (CAR)

**GENERAL DISCUSSION**

Review of Task Force Recommendations..... Rec to CCs

**STAFF REPORTS**

**CLOSED SESSSION**

Pursuant to the Annotated Code of Maryland, General Provisions Article § 3-305(b) (7), a closed session is proposed to consult with counsel to obtain legal advice.

**ADJOURN**

Meetings are conducted in Open Session unless otherwise indicated. All or part of the Planning Commission 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.



**MINUTES**

January 5, 2023

1:30 p.m.

The Kent County Planning Commission met in regular session on Thursday, January 5, 2023, at 1:30 p.m. in the County Commissioners' Hearing Room at 400 High Street, Chestertown, Maryland. It was a hybrid meeting, and the following members were in attendance: Chair F. Joseph Hickman, Vice Chair Paul Ruge, William Sutton, James Saunders, and William Crowding. Cynthia L. McCann, Esquire, Planning Commission Attorney, was in attendance. Staff in attendance were Carla Gerber, AICP, Deputy Director; Mark Carper, LEED Green Associate, Associate Planner; and Campbell Safian, Planning Specialist.

Members of the public in attendance included Harry Smith Jr., LS, Delmarva Survey; Steven Green, property owner; Bruce M. Wilson, Project Developer of Pivot Energy; Seth Shafer, PE, Project Manager of Pivot Energy; Edward Hastings, PMP, Associate of Becker Morgan Group, Inc.; and Ben Hunter, CPA, Vice President of Madison Energy Investments.

Chair Hickman called the meeting to order at 1:30 p.m.

**MINUTES**

Mr. Ruge moved to accept the minutes of December 1, 2022, without correction. Mr. Saunders seconded the motion. The motion passed with all in favor.

**APPLICATIONS FOR REVIEW**

*22-08 25809a Still Pond Neck, LLC – Major Site Plan (Final)*  
*26001 Still Pond Neck Road – Third Election District – Agricultural Zoning District (AZD)*

25809a Still Pond Neck, LLC, is requesting final site plan approval to construct and operate a utility-scale solar energy system in the Agricultural Zoning District (AZD) on an 85-acre farm owned by Raymond and Joyce Stoltzfus. Preliminary site plan approval was granted at the September 1, 2022, meeting, and a revised landscape plan has been submitted to appropriately address glare issues. On September 19, 2022, the Board of Appeals approved the application for a special exception conditioned on obtaining all state and federal permits, obtaining final site plan approval from the Planning Commission, and compliance with all bond-related requirements as listed in Article VI, Section 11 of the Land Use Ordinance.

The proposed 1 MW array of solar panels will be enclosed within a perimeter fence with an area of 5 acres. All setback, landscaping, stormwater management, glare, visibility, and structural requirements have been addressed in the site plan. The proposal is not inconsistent with the Comprehensive Plan, and there will be no adverse impacts to adjacent properties or the surrounding area. The property is located on the southwest corner of the intersection of Still Pond Neck Road and Still Pond Road in the Third Election District, and it has been assigned the street address of 26001 Still Pond Neck Road. The area is predominantly farmland with scattered residential properties.

Mr. Carper presented the staff report, recommending approval with conditions. The Chair swore in Edward Hastings, PMP, Becker Morgan Group, Inc, and Ben Hunter, CPA, Madison Energy Investments.

Chair Hickman asked the applicant what steps have been taken following the Preliminary Site Plan approval to address the solar panel's emittance of glare to adjacent properties.

Mr. Hastings stated that a row of 14-foot Arborvitae trees will be planted by the entrance road to eliminate the solar panel's glare to adjacent properties.

Ms. McCann asked if the conditions have been met in order to waive the berm requirement.

Mr. Hastings stated that larger trees will be planted in lieu of the berm to protect the natural drainage areas of the site.

Mr. Ruge asked who is responsible for maintaining the landscaping around the solar energy system.

Mr. Hunter reported that Madison Energy Investments is responsible for maintaining the landscaping surrounding the solar energy system. Madison Energy Investments will fulfill the vegetation maintenance plan, in part, by contracting with a local, professional landscaping company to mow the grass and water the trees. A sign will also be placed at the gate which lists Madison Energy Investment's contact information.

Mr. Ruge moved to grant final site plan approval, finding that the application is consistent with the Comprehensive Plan, there will be no adverse effect to traffic patterns, and there are no historic structures on site or within view of the site. The applicants propose to maintain the site to meet certain standards. The application is approved with the requirements that the applicant obtain all state and federal permits. The permits should be completed before any building has started. The applicant must complete and record the Deed of Forest Conservation Easement and Agreement and submit the appropriate sureties for landscaping maintenance and bond-related requirements for decommissioning as listed in Article VI, Section 11 of the Land Use Ordinance.

The motion was seconded by Mr. Saunders, and the motion passed unanimously, 5-0.

*22-79 Green's Septic and Excavation, LLC - Major Site Plan (Preliminary & Final)  
10252 Fairlee Road – Sixth Election District – Village (V)*

Steven Green is requesting final site plan approval to construct a pole building for the storage of equipment used for his septic maintenance and excavation business on a parcel zoned Village. The business office will continue to be located at Mr. Green's home in Chesapeake Landing. The property for the storage of equipment is located at 10252 Fairlee Road in Melitota in the Sixth Election District. The surrounding area is a mix of residential and agricultural uses.

Ms. Gerber presented the staff report, recommending approval with conditions. The Chair swore in Harry Smith Jr., LS, Delmarva Survey, and Steven Green, owner of the property.

Mr. Smith noted that the site plan was approved for Stormwater Management.

Mr. Sutton inquired about the details of the Stormwater Management Plan.

Mr. Smith stated that a wet swale is included in the Stormwater Management Plan. Drainage from the building's rooftop and the proposed gravel area will collect in a swale. The drainage system has three check dams to pond the water, and then it will ultimately dissipate into the wooded area.

Mr. Saunders made a motion to grant approval of the final site plan. The applicant followed all the requirements in order to construct this building. The approval is contingent upon the recordation of the Forest Conservation Easement and Agreement.

The motion was seconded by Mr. Sutton, and the motion passed unanimously, 5-0.

*23-01 Toal Park – Comprehensive Water and Sewer Plan Amendment  
13753 Augustine Herman Hwy, Galena – First Election District – Resource Conservation District (RCD) and  
Agricultural Zoning District (AZD)*

The County Commissioners are requesting an amendment to the Comprehensive Water and Sewerage Plan to allow a connection to a Denied Access Line in order to construct restrooms at Toal Park. The County has applied for Program Open Space funding to design and construct the public restroom facilities. The project proposes installation of a well and grinder pump connection to the sewer line running along MD Route 213. Toal Park was not included in the existing service area of the 2018 Comprehensive Water and Sewerage Plan, and, therefore, an amendment to the plan is necessary.

Ms. Gerber presented the staff report, recommending that the Planning Commission send a favorable recommendation to the County Commissioners for approval of the amendment.

Chair Hickman and Mr. Crowding spoke in support of the amendment to the Comprehensive Water and Sewerage Plan.

Chair Hickman reiterated the public need for restrooms at Toal Park, the environmental concerns of installing a septic system near tidal waters, and the adequate capacity of the treatment and conveyance system to serve the park.

Chair Hickman made a motion to forward a favorable recommendation to the County Commissioners for approval of the Toal Park Water and Sewer Plan amendment finding that the amendment is not detrimental to the agricultural use or the rural character of the Agricultural Zoning District, and it is a community amenity. The addition of public restrooms will not intensify the use, it has been a park for over 20 years, and the property is contiguous to the right-of-way containing the service main. There is adequate capacity in the Galena system and there will be only one allocation. Due to the proximity of tidal waters, the most environmentally friendly way to provide restrooms is for the park to be connected to the sewer plant. Although, the County has not done a percolation test, there is a public need for the service at Toal Park. Waiving the requirement to complete a perc test is respectful of County funds.

Mr. Crowding asked that the Director of Public Works, Mike Moulds', comments be added to the motion which state his preference of the park using the available public sewer service rather than building a septic system due to the proximity to tidal waters.

The motion was seconded by Mr. Sutton, and the motion passed unanimously, 5-0.

*23-02 Town of Millington – Annexation  
172 Sassafras Street, Millington – First Election District – Village (V)*

The Town of Millington is requesting that the Millington Elementary School property be annexed into the Town of Millington. The Millington Elementary School, identified as Tax Map 32, Parcel 49, is located primarily outside of the Town’s boundaries. A small area of the parcel is already located inside the Town. Kent County’s Designated Growth Areas and the municipal proposed annexation area found in Millington’s 2018 Comprehensive Plan both indicate that the subject property is anticipated for annexation into the Town of Millington. The Town is requesting a waiver of the five-year zoning rule, since the Town plans to build the “Millington Senior Village” project on the property and desires the flexibility to rezone the property for that purpose. Since the allowable density under the County’s Village zoning district would permit the project, there is no reason to withhold a waiver.

Ms. Gerber presented the staff report, recommending the Planning Commission forward a favorable recommendation to the County Commissioners.

Mr. Ruge asked if the proposed annexation of the Millington Elementary School property will include the baseball field.

Ms. Gerber confirmed that the baseball field is included in the proposed annexation. The Annexation Agreement states that the Millington Lions Club will continue to maintain a portion of the property for youth sports activities.

Mr. Crowding made a motion to send a favorable recommendation to the County Commissioners for the Town of Millington to annex 24.455 acres of land into the Town, as it is consistent with the Kent County Comprehensive Plan. The Comprehensive Plan states that the County will work with interested incorporated towns to identify and map County designated growth areas for the towns consistent with municipal growth areas. Given this goal of focusing growth in existing population centers, the County will coordinate and support town efforts to manage growth. For these reasons and the others listed, Mr. Crowding recommends that the Planning Commission send a favorable recommendation to the County Commissioners with the five-year waiver. It has been determined that the proposed use that the Town has planned is consistent with the County’s Village zoning district. What the Town would like to develop on the Millington Elementary School property would be allowed under the existing County Ordinance.

The motion was seconded by Mr. Ruge, and the motion passed unanimously, 5-0.

**GENERAL DISCUSSION**

**STAFF REPORTS**

Ms. Gerber noted the upcoming workshop with the County Commissioners to discuss the Comprehensive Rezoning process.

**ADJOURN**

Mr. Saunders moved to adjourn. Mr. Sutton seconded. The meeting adjourned at approximately 2:24 pm.

\_\_\_\_\_  
Francis J. Hickman, Chair

/s/ Campbell Safian  
Campbell Safian, Planning Specialist

**To:** Kent County Planning Commission  
**From:** Mark Carper, Associate Planner  
**Meeting:** February 2, 2023  
**Subject:** Raymond D’Esposito  
Variance – Front Yard

## Executive Summary

### REQUEST BY THE APPLICANT

Mr. Raymond D’Esposito is requesting a variance of 37.5 feet from the required 50-foot front yard setback to construct a 20-foot by 18-foot carport.

### 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. The Board of Appeals may authorize variances from the yard ... requirements so as to relieve practical difficulties or other injustices arising out of the strict application of the provisions of this Ordinance.

### SUMMARY OF THE STAFF REPORT

The principal dwelling was constructed as a replacement in 2014, for which a 20-foot variance was granted to place it 30 feet from the front property line. The property is unique in that it has a waterfront view but is without a shoreline, is irregular in shape, and is steeply sloped save for one portion in the northwest corner near to the road, which is where the home was constructed. This 0.451-acre property is located at 28519 Spring Road in the Second Election District and is zoned Critical Area Residential (CAR).

The proposed 20-foot by 18-foot carport is to be placed over and at the end of the existing driveway, and it will increase the lot coverage by 60 square feet from the portions extending beyond the sides of the drive. At 1,922 square feet, the resultant lot coverage will be well below the allowable maximum. A buffer enhancement plan for the installation of 60 square feet of plantings in the buffer will be required.

### STAFF RECOMMENDATION

Staff recommends forwarding a favorable recommendation to the Board of Appeals for approval of the setback variance with the following conditions:

- Buffer enhancement to offset the increase in lot coverage is to be implemented within two growing seasons and is to be maintained to ensure survivability.
- 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: #23-06– Raymond D’Esposito  
 Variance – Front Yard Setback  
 DATE: January 26, 2023

**DESCRIPTION OF PROPOSAL**

Mr. Raymond D’Esposito is requesting a variance of 37.5 feet from the required 50-foot front yard setback to construct a 20-foot by 18-foot carport 12.5 feet from the front property line. The principal dwelling was constructed as a replacement in 2014, for which a 20-foot administrative variance was granted to place it 30 feet from the front property line. The property is unique in that it has a waterfront view but is without a shoreline, is irregular in shape, and is steeply sloped save for one portion in the northwest corner near to the road, which is where the home was constructed. Many of the surrounding parcels are waterfront properties, and the roadside portion of those yards is considered the rear yard, for which the setback for accessory structures is 5 feet. This 0.451-acre property is located at 28519 Spring Road in the Second Election District and is zoned Critical Area Residential (CAR).

The proposed 20-foot by 18-foot carport is to be placed over and at the end of the existing driveway, and it will increase the lot coverage by 60 square feet from the portions extending beyond the sides of the drive. At 1,922 square feet, the resultant lot coverage will be well below the allowable maximum. A buffer enhancement plan for the installation of 60 square feet of plantings in the buffer will be required.

**RELEVANT ISSUES**

## I. Permitted and Accessory Uses

- A. *Applicable Law:* Article V, Section 5.4 of the Kent County Land Use Ordinance lists the permitted accessory uses and structures within the Critical Area Residential district.
- B. *Staff and TAC Comments:* The applicant is proposing to construct a customary residential accessory structure.

## II. Density, Height, Width, Bulk, and Fence Requirements

- A. *Applicable Law:* Article V, Section 5.5 of the *Kent County Land Use Ordinance* establishes the density, height, width, bulk, and fence requirements for the Critical Area Residential District.

## Minimum Yard

Front	50 feet
Side	15 feet
Rear	30 feet

## Accessory residential structures in the rear yard

Side	3 feet
Rear	5 feet

- B. *Staff and TAC Comments:* The existing replacement home was permitted following the granting of an administrative variance to place it 20 feet within the required 50-foot front yard setback. The driveway extends from the front of the home toward the road and provides the only feasible



location for placement of the proposed structure. Because of its dimensions, the carport is to be constructed 12.5 feet from the front property line.

### III. 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 yard (front, side, or rear), ...so as to relieve practical difficulties or other injustices arising out of the strict application of the provisions of this Ordinance.

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. ...
  - 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*:
- A variance will not cause a substantial detriment to adjacent or neighboring properties nor change the character of the neighborhood or district. Many of the nearby properties, which are waterfront, have accessory structures that are close to the roadside property line.
  - The *variance* is consistent with the *Comprehensive Plan* and the general intent of this Ordinance.
  - The practical difficulty is due to the property's limited size, configuration, and steep slopes, severely limiting the location in which the proposed structure can be placed. This difficulty was not the making of the owner.
  - The environmental impact is minimal, and the increase in lot coverage is to be mitigated through plantings in the buffer.
  - Garages and carports are a common feature of residential properties, and a literal interpretation of this Ordinance would deprive the applicant the right commonly enjoyed by other properties in similar areas.
  - The granting of a variance will not confer upon the applicant any special privilege that would be denied by this Ordinance to other lands or structures.

**STAFF RECOMENDATION**

Staff recommends forwarding a favorable recommendation to the Board of Appeals for approval of the 37.5-foot front yard variance to construct an 20' x 18' carport 12.5 feet from the front property line. Staff further recommends the following:

- Buffer enhancement to offset the increase in lot coverage is to be implemented within two growing seasons and is to be maintained to ensure survivability.
- 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
410-778-7423 (phone) • 410-810-2932 (fax)

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

Raymond D'Esposito
28519 Spring Ad
Kennedyville, MD 21645
410-348-5973

Email: desposito.ray@gmail.com

For Office Use Only:

Case Number/Date Filed:
Filed by:
Applicant:
Planning Commission:
Hearing:
Parties Notified:
Notice in Paper:
y 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:

TO THE KENT COUNTY BOARD OF APPEALS: In accordance with Article IX Section 2.2

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

Appealing Decision of Kent County Zoning Administrator X Variance
Special Exception Nonconforming Use

DESCRIPTION OF PROPERTY INVOLVED:

Located on: (Name of Road, etc.) 28519 Spring Ad
In the Prec-02001 Election District of Kent County.

Size of lot or parcel of Land: 0.451
Map: 0006 Parcel: 0309 Lot #: Deed Ref: E/R 00063/0455

List buildings already on property: primary dwelling & shed

If subdivision, indicate lot and block number:
If there is a homeowner's association, give name and address of association:

PRESENT ZONING OF PROPERTY: Residential

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

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

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

Has property involved ever been subject to a previous application? NO

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/Janice Stump  
28540 Spring Ad

Owner(s) on the South: \_\_\_\_\_

Owner(s) to the East: John/Stephanie Clatworthy  
13922 Turners Point Ad

Owner(s) to the West: Leah McKenzie  
28513 Spring Ad

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.**

Ray D'Esposito  
Signature of Owner/Applicant/Agent or Attorney

12/30/22  
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.

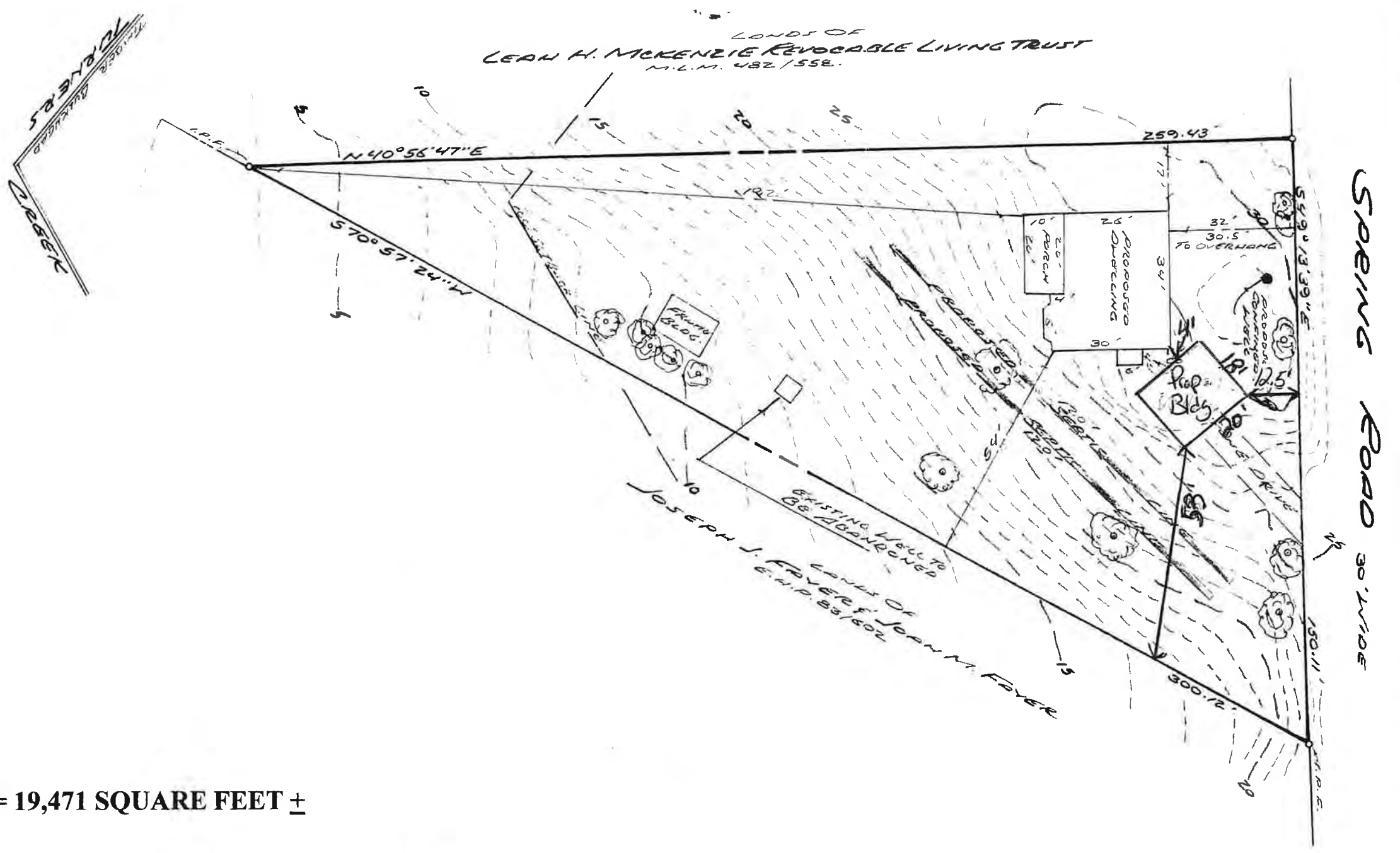
**NOTICE: Neither the Board of Appeals nor the Planning Department is required to make out this Application. If the Planning Department assists you, it cannot be held responsible for its contents.**

**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**

Ray D'Esposito  
28519 Spring Road  
Kennedyville, MD 21645

Due to the size, unusual shape, and topography of my property, it is unfeasible to construct a detached carport over my existing drive without encroaching on the front yard setback. Because of these characteristics, a previous variance was granted just to construct my current home. Many of my neighbors have carports, garages, and sheds placed close to the road, I am asking for a variance to construct a common element on my property in the only place possible. I have I have talked to a couple of my adjoining neighbors about the proposal, and they have no objection. I am willing to plant small trees or bushes if needed to offset the small increase in lot coverage in the Critical Area.



**AREA = 19,471 SQUARE FEET ±**

- LEGEND:**
- 1. I.P.F. DENOTES IRON PIPE FOUND.
  - 2. DENOTES DECIDUOUS TREE

- NOTES:**
1. PROPERTY ADDRESS:  
28519 SPRING ROAD
  2. BOUNDARY LINE AND TOPOGRAPHIC INFORMATION SHOWN HEREON BASED ON A PLAT PREPARED BY THE DELMARVA SURVEY Co DATED 11-06-03 ENTITLED TOPOGRAPHIC SURVEY OF THE LANDS OF RAYMOND F. D'ESPOSITO, et ux.
  3. THIS PLAT HAS BEEN PREPARED WITHOUT THE BENEFIT OF A TITLE REPORT AND IS SUBJECT TO THE FINDINGS THEREIN. DOCUMENTS OF RECORD MAY EXIST THAT AFFECT THE PROPERTY REFLECTED HEREON INCLUDING BUT NOT LIMITED TO EASEMENTS, ENCUMBRANCES, RESTRICTIVE COVENANTS AND PLAT RESTRICTIONS.



*William M. Crowding, II*  
PROPERTY LINE SURVEYOR

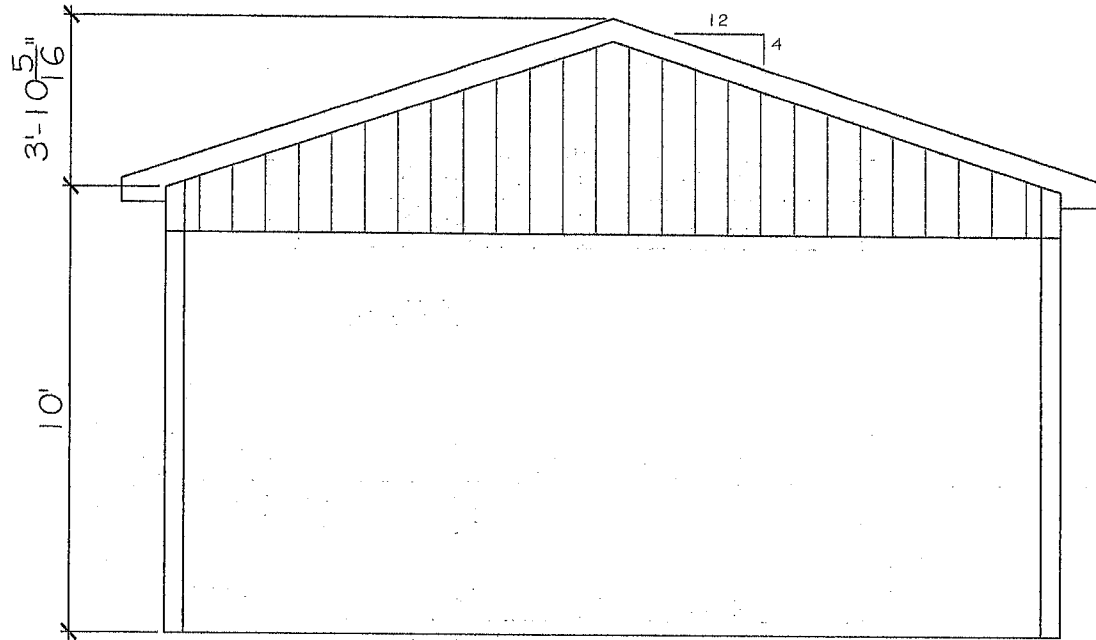
PROPOSED DWELLING LOCATION PLAT  
ON THE LANDS OF  
**RAYMOND F. D'ESPOSITO, et ux.**  
SECOND ELECTION DISTRICT, KENT CO., MARYLAND  
SCALE 1" = 30' OCTOBER 2014

WILLIAM M. CROWDING SURVEYS, LLC  
WILLIAM M. CROWDING, II  
REGISTERED SURVEYOR  
WORTON, MARYLAND  
410-778-2622



# 28519 Spring Road





GABLE ELEVATION

**DELMARVA**  
POLE BUILDING SUPPLY INC.  
317 N. LAYTON AVE  
WYOMING, DE 19934  
(302) 698-3636



Date:  
09-26-2022  
Technician:  
J. Stubbs  
Reviewed By:  
J. Stubbs  
Scale:

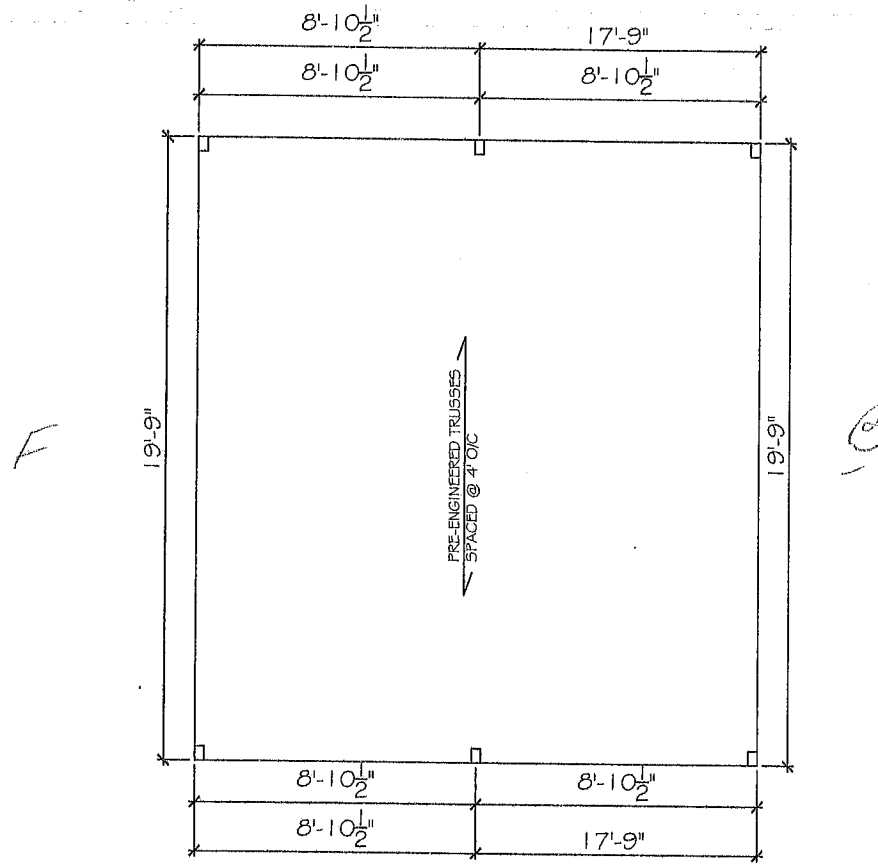
Date:	Modification:

RAY DESPOSITO  
28519 SPRING ROAD  
KENNEDYVILLE, MD 21645

Sheet

A2





FLOOR PLAN

**DELMARVA**  
 POLE BUILDING SUPPLY INC.  
 317 N. LAYTON AVE  
 WYOMING, DE 19934  
 (302) 698-3636



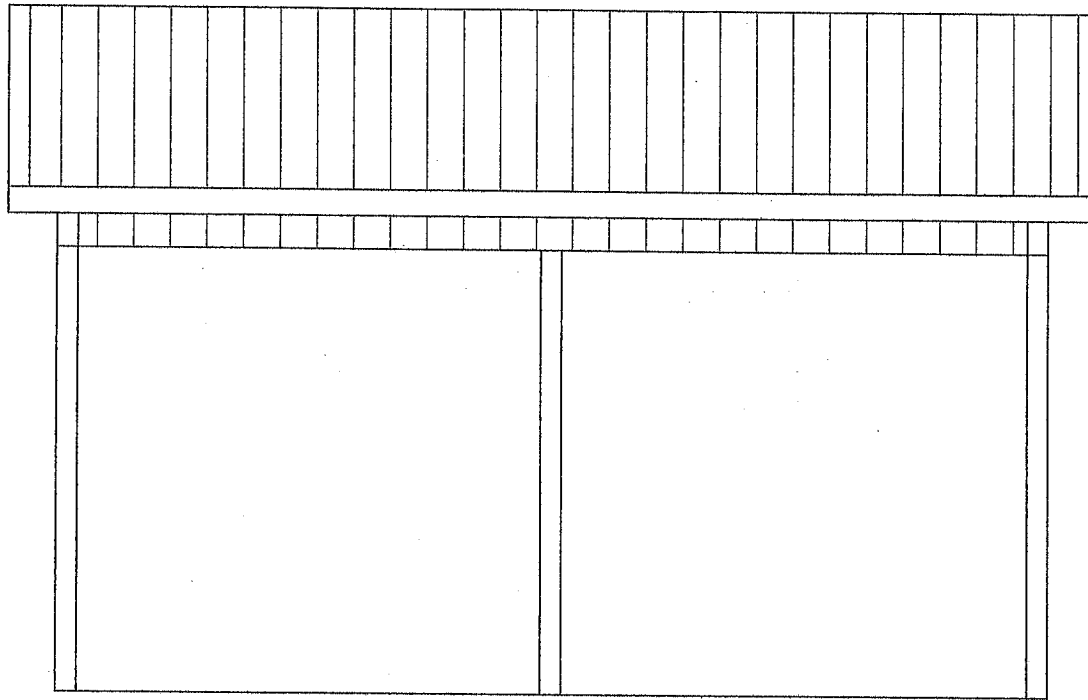
Date:  
 09-26-2022  
 Technician:  
 J. Stubbs  
 Reviewed By:  
 J. Stubbs  
 Scale:  
 1/4"=1'

Date:	Modification:

RAY DESPOSITO  
 28519 SPRING ROAD  
 KENNEDYVILLE, MD 21645

Sheet  
**A1**

*H-P Printer settings  
 scale - custom 66%  
 paper size - letter*



EAVE ELEVATION

**DELMARVA**  
POLE BUILDING SUPPLY INC.  
317 N. LAYTON AVE  
WYOMING, DE 19934  
(302) 698-3636



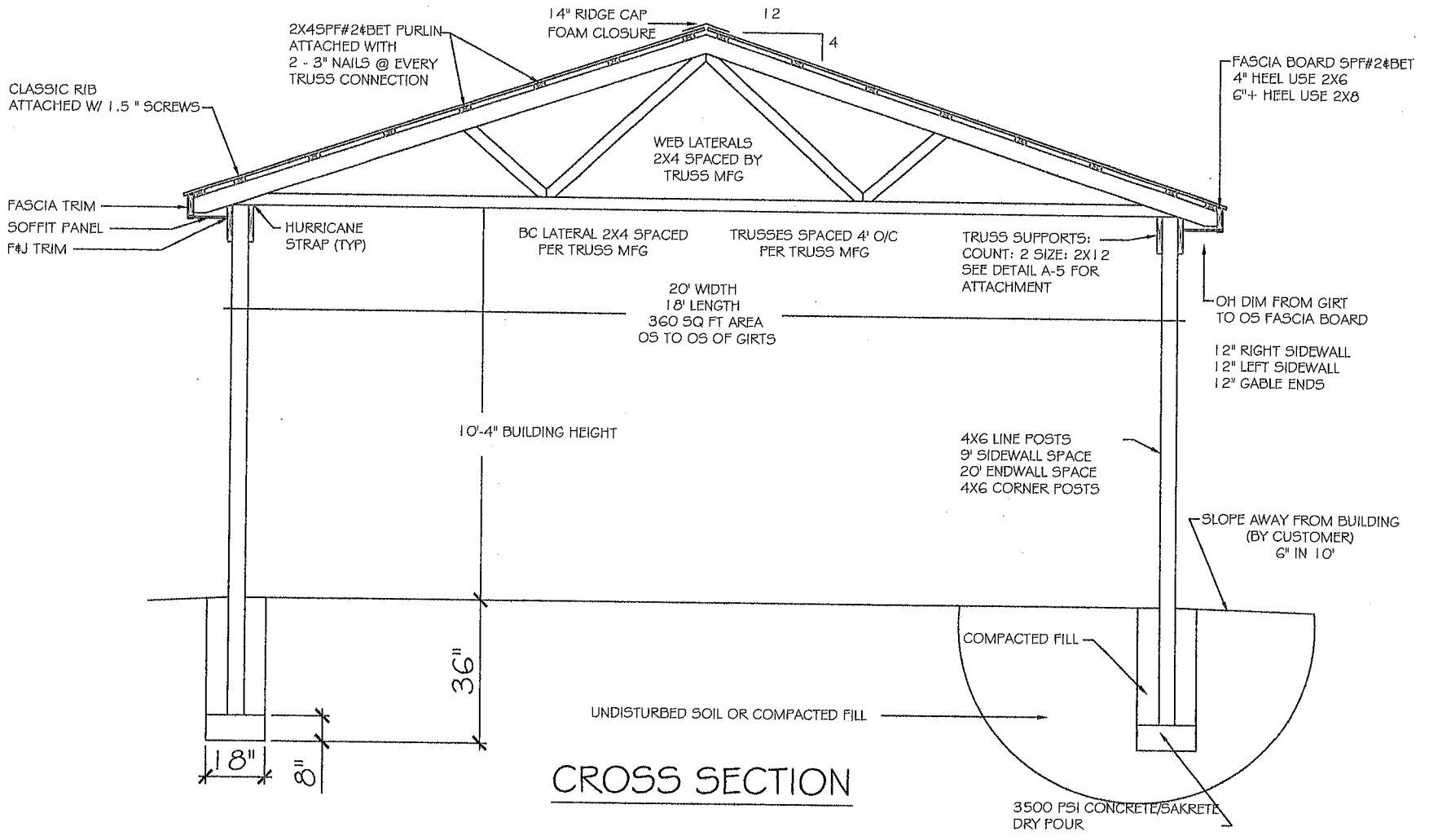
Date:  
09-26-2022  
Technician:  
J. Stubbs  
Reviewed By:  
J. Stubbs  
Scale:

Date:	Modification:

RAY DESPOSITO  
28519 SPRING ROAD  
KENNEEDYVILLE, MD 21645

Sheet

**A3**



**CROSS SECTION**

**DELMARVA**  
POLE BUILDING SUPPLY INC.  
317 N. LAYTON AVE  
WYOMING, DE 19934  
(302) 698-3636



Date:  
09-26-2022  
Technician:  
J. Stubbs  
Reviewed By:  
J. Stubbs  
Scale:

Date:	Modification:

RAY DESPOSITO  
28519 SPRING ROAD  
KENNEDYVILLE, MD 21645

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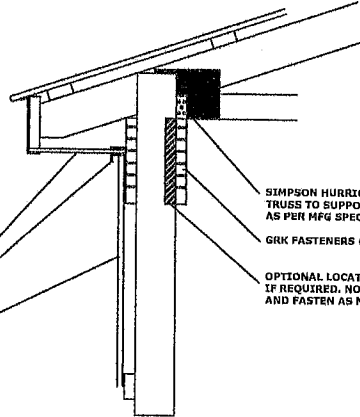
**A**  
**5** **TRUSS TO SUPPORT CONNECTION DETAILS**

**CONNECTION AT POST LOCATIONS**

INSTALL SOFFIT PANEL INTO F & J TRIM  
NAIL INTO BOTTOM OF FASCIA BOARD

INSTALL F & J TRIM TO SUPPORT  
WITH FLAT HEAD ROOFING NAIL

INSTALL WALL PANELS, ATTACH  
TO GIRTS WITH 1" SCREWS



SIMPSON HURRICANE TRUSS TIE AT EACH  
TRUSS TO SUPPORT CONNECTION, FASTEN  
AS PER MFG SPECS.

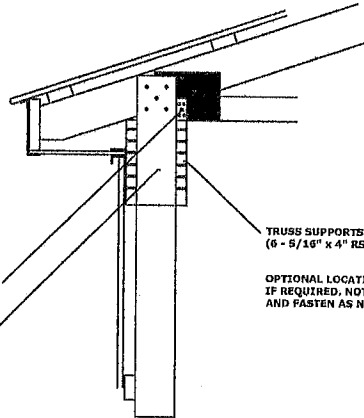
GRK FASTENERS (6 - 5/16" x 4" RSS & (6) 10D NAILS INSIDE & OUT)

OPTIONAL LOCATION OF THIRD SUPPORT  
IF REQUIRED. NOTCH INTO POST AS SHOWN  
AND FASTEN AS NOTED ABOVE

**CONNECTION AT INTERMEDIATE TRUSS**

SIMPSON HURRICANE TRUSS TIE @ EACH  
TRUSS TO SUPPORT CONNECTION, FASTEN  
AS PER MFG SPECS.

2X6X18" TRUSS CONNECTION BLOCK  
INSTALLED BETWEEN SUPPORTS  
FASTENED WITH (6) NAILS ON EACH SIDE



TRUSS SUPPORTS FASTENED WITH GRK FASTENERS  
(6 - 5/16" x 4" RSS & (6) 10D NAILS INSIDE & OUT)

OPTIONAL LOCATION OF THIRD SUPPORT  
IF REQUIRED. NOTCH INTO POST AS SHOWN  
AND FASTEN AS NOTED ABOVE

**CONNECTION DETAILS**

**DELMARVA**  
POLE BUILDING SUPPLY INC.  
317 N. LAYTON AVE  
WYOMING, DE 19934  
(302) 698-3636



Date:  
09-26-2022

Technician:  
J. Stubbs

Reviewed By:  
J. Stubbs

Scale:

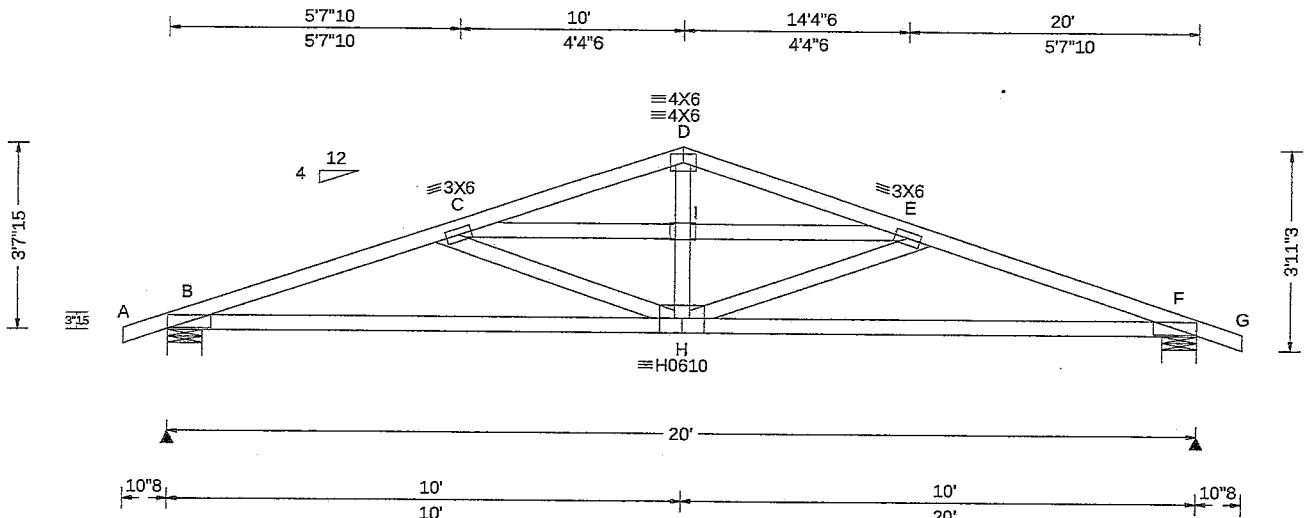
Date:      Modification:


RAY DESPOSITO  
28519 SPRING ROAD  
KENNEDYVILLE, MD 21645

Sheet

**A5**





<b>Loading Criteria (psf)</b> TCLL: 30.00 TCDL: 5.00 BCLL: 0.00 BCDL: 5.00 Des Ld: 40.00 NCBCLL: 10.00 Soffit: 2.00 Load Duration: 1.15 Spacing: 48.0 "	<b>Wind Criteria</b> Wind Std: ASCE 7-16 Speed: 125 mph Enclosure: Part. Enc. Risk Category: II EXP: C Kzt: NA Mean Height: 20.00 ft TCDL: 3.0 psf BCDL: 3.0 psf MWFRS Parallel Dist: 0 to h/2 C&C Dist a: 3.00 ft Loc. from endwall: Any GCpi: 0.55 Wind Duration: 1.60	<b>Snow Criteria (Pg,Pf in PSF)</b> Pg: 30.0 Ct: 1.2 CAT: II Pf: 25.2 Ce: 1.0 Lu: - Cs: 0.94 Snow Duration: 1.15  Building Code: IBC 2018 TPI Std: 2014 Rep Fac: No FT/RT/PT:2(2)/2(2)/0 Plate Type(s): WAVE, HS	<b>Defl/CSI Criteria</b> PP Deflection in loc L/def L/# VERT(LL): 0.172 H 999 240 VERT(CL): 0.230 H 999 180 HORZ(LL): 0.061 F - - HORZ(TL): 0.082 F - - Creep Factor: 2.0 Max TC CSI: 0.615 Max BC CSI: 0.954 Max Web CSI: 0.491  VIEW Ver: 22.01.01B.0530.21	<b>Maximum Reactions (lbs)</b> Gravity Non-Gravity Loc R+ /R- /Rh /Rw /U . /RL B 1792 /- /- /729 /795 /123 F 1792 /- /- /729 /795 /- Wind reactions based on MWFRS B Brg Wid = 8.0 Min Req = 2.3 (Truss) F Brg Wid = 8.0 Min Req = 2.3 (Truss) Bearings B & F are a rigid surface. Members not listed have forces less than 375# <b>Maximum Top Chord Forces Per Ply (lbs)</b> Chords Tens.Comp. Chords Tens. Comp. B - C 3506 -3665 D - E 1959 -2019 C - D 1959 -2019 E - F 3506 -3665
--	---	--	--	--

**Lumber**  
Top chord: 2x4 SPF 2100F-1.8E;  
Bot chord: 2x4 SPF 2100F-1.8E;  
Webs: 2x4 SPF Stud;

**Special Loads**  
---(Lumber Dur.Fac.=1.15 / Plate Dur.Fac.=1.15)  
TC: From 141 plf at -0.88 to 141 plf at 20.88  
BC: From 8 plf at -0.88 to 8 plf at 0.00  
BC: From 20 plf at 0.00 to 20 plf at 20.00  
BC: From 8 plf at 20.00 to 8 plf at 20.88  
BC: 50 lb Conc. Load at 2.00,18.00

**Plating Notes**  
All plates are 3X10(B1) except as noted.

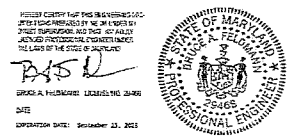
**Purlins**  
In lieu of structural panels or rigid ceiling use purlins to laterally brace chords as follows:

Chord	Spacing(in oc)	Start(ft)	End(ft)
TC	24	-0.88	10.00
TC	24	10.00	20.88
BC	69	0.15	19.85

Apply purlins to any chords above or below fillers at 24" OC unless shown otherwise above.

**Loading**  
Bottom chord checked for 10.00 psf non-concurrent live load.

**Wind**  
Wind loads based on MWFRS with additional C&C member design.  
Wind loading based on both gable and hip roof types.



09/23/2022

**\*\*WARNING\*\* READ AND FOLLOW ALL NOTES ON THIS DRAWING!**  
**\*\*IMPORTANT\*\* FURNISH THIS DRAWING TO ALL CONTRACTORS INCLUDING THE INSTALLERS**  
Trusses require extreme care in fabricating, handling, shipping, installing and bracing. Refer to and follow the latest edition of BCSI (Building Component Safety Information, by TPI and SBCA) for safety practices prior to performing these functions. Installers shall provide temporary bracing per BCSI. Unless noted otherwise, top chord shall have properly attached structural sheathing and bottom chord shall have a properly attached rigid ceiling. Locations shown for permanent lateral restraint of webs shall have bracing installed per BCSI sections B3, B7, or B10, as applicable. Apply plates to each face of truss and position as shown above and on the Joint Details, unless noted otherwise. Refer to drawings 160A-Z for standard plate positions. Refer to job's General Notes page for additional information.  
Alpine, a division of ITW Building Components Group Inc. shall not be responsible for any deviation from this drawing, any failure to build the truss in conformance with ANSI/TPI 1, or for handling, shipping, installation and bracing of trusses. A seal on this drawing or cover page listing this drawing, indicates acceptance of professional engineering responsibility solely for the design shown. The suitability and use of this drawing for any structure is the responsibility of the Building Designer per ANSI/TPI 1 Sec.2.  
For more information see these web sites: Alpine: [alpineitw.com](http://alpineitw.com); TPI: [tpinst.org](http://tpinst.org); SBCA: [sbcacomponents.com](http://sbcacomponents.com); ICC: [iccsafe.org](http://iccsafe.org); AWC: [awc.org](http://awc.org)



**To:** Kent County Planning Commission  
**From:** Mark Carper, Associate Planner  
**Meeting:** February 2, 2023  
**Subject:** Phillip and Una Gray  
Variance – Buffer

## Executive Summary

### REQUEST BY THE APPLICANT

Phillip and Una Gray are requesting a buffer variance to construct 448 square feet of exterior decking attached to their dwelling and 30 square feet of stairway to this deck, all within the 100-foot Critical Area 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. The Board of Appeals may authorize variances from ... buffer requirements so as to relieve practical difficulties or other injustices arising out of the strict application of the provisions of this Ordinance.

### SUMMARY OF THE STAFF REPORT

The entirety of the principal structure and the proposed deck are in the 100-foot buffer, and the proposed deck is to be on the waterward side. The 1.529-acre property is located at 23550 Canvasback Road in the Third Election District and is zoned Critical Area Residential (CAR).

The existing lot coverage is in excess of the 15% of allowable, and the property will need to come into compliance with Critical Area regulations. Mitigation of 3:1 will be required for the proposed permanent disturbance in the buffer.

The purpose of the proposed deck is to improve access to exterior amenities of the property for one of the applicants for whom mobility is limited. The house sits on a slope with the main living area on the top floor where there is also the main entry door. The existing entryway porch looks landward and into the woods. Access to the proposed deck would be from that porch. The shoreline is accessible by a steep pathway, which is unmanageable by the occupant.

### STAFF RECOMMENDATION

Staff recommends forwarding a favorable recommendation to the Board of Appeals for approval of the buffer variance with the following conditions:

- The site plan is to be updated prior to the Board of Appeals hearing to show removal of existing lot coverage to bring the property into compliance with the 15% lot coverage limit.
- Buffer mitigation of 3:1 for the permanent disturbance to include the 30 square feet for the proposed steps and the area required for the footings to support the proposed deck.
- 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: #22-74 – Phillip and Una Gray  
 Variance – Buffer  
 DATE: January 27, 2023

**DESCRIPTION OF PROPOSAL**

Phillip and Una Gray are requesting a buffer variance to construct 448 square feet of exterior decking attached to their dwelling and 30 square feet of stairway to this deck. The entirety of the principal structure and the proposed decking are in the 100-foot buffer, and the proposed decking is to be on the waterward side. The 1.529-acre property is located at 23550 Canvasback Road in the Third Election District and is zoned Critical Area Residential (CAR).

The decking will have adequate spacings in the slats for water to pass through and will not count as additional lot coverage. The proposed 30 square feet of steps as well as the area of footings required to support the deck is considered permanent disturbance and is lot coverage. According to the site plan, the existing lot coverage of 10,209 square feet is in excess of the 15% limit (9,997 square feet) for this property. Lot coverage must come into compliance with Critical Area regulations, and a sufficient amount of existing lot coverage must be removed to meet this requirement while accommodating the proposed additions. This includes 212 square feet of current coverage, 30 square feet for the proposed steps, and the amount of area necessary for the footings to support the proposed deck. The mitigation requirement for permanent disturbance in the buffer is 3:1 of plantings within the buffer.

The purpose of the proposed deck is to improve access to exterior amenities of the property for one of the applicants for whom mobility is limited. The house sits on a slope with the main living area on the top floor where there is also the main entry door. The existing entryway porch looks landward and into the woods. Access to the proposed deck would be from that porch. The shoreline is accessible by a steep pathway, which is unmanageable by the occupant.

**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 448 square feet of exterior decking attached to their dwelling and 30 square feet of stairway to this deck.
- The existing lot coverage exceeds the allowable amount and will need to be reduced to reach compliance with Critical Area regulations.
- 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. Furthermore, the CAC recommends that a revised site plan showing compliance with lot coverage requirements be provided prior to the Board of Appeals hearing.

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 the entirety of the principal structure is within the 100-foot buffer.
- The proposed decking will allow for water to freely flow through, and the 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.
- Based on aerial imagery, it appears that other homes in the area also within the 100-foot buffer have attached decks that extend waterward.
- Authorization of the variance will not be a substantial detriment to adjacent property, and the character of the district will not be changed.
- Decks are a common feature of waterfront homes, and a literal interpretation of this Ordinance would deprive the applicants the rights commonly enjoyed by other properties in similar areas.
- Without a variance, the applicant would be deprived of use of a structure permitted to others in accordance with the provisions of the critical area program.
- The Critical Area Commission has reviewed the application and is not opposed to a variance.

**STAFF RECOMENDATION**

Staff recommends forwarding a favorable recommendation to the Board of Appeals for approval of the buffer variance to construct 448 square feet of exterior decking attached to the dwelling and 30 square feet of stairway to this deck, all within the 100-foot Critical Area buffer. Staff further recommends the following:

- The site plan is to be updated prior to the Board of Appeals hearing to show removal of existing lot coverage to bring the property into compliance with the 15% lot coverage limit.
- Buffer mitigation of 3:1 for the permanent disturbance to include the 30 square feet for the proposed steps and the area required for the footings to support the proposed deck.
- The variance will lapse after the expiration of one year if no substantial construction in accordance with the plans herein presented occurs.

Wes Moore  
Governor  
Aruna Miller  
Lt. Governor



Charles C. Deegan  
Chairman  
Katherine Charbonneau  
Executive Director

STATE OF MARYLAND  
CRITICAL AREA COMMISSION  
CHESAPEAKE AND ATLANTIC COASTAL BAYS

January 27, 2023

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

**Re: Phillip and Uma Gray - Revised  
Buffer Variance Request (22-74)  
23550 Canvasback Road  
(TM 27, P 504)**

Dear Mr. Carper:

Thank you for submitting information regarding the above-referenced Buffer variance request. The applicant requests a Buffer variance to construct a deck and an accompanying staircase on a parcel 1.53 acres in size, located on lands designated as Resource Conservation Area (RCA) and zoned Critical Area Residential (CAR). The entire principal structure and the proposed deck and stairway are located in the Critical Area Buffer. The proposed development activities comprise a 14' by 32' deck with gaps to allow water to pass freely and therefore is not defined as lot coverage per Natural Resources Article § 8-1808(17). However, the footings are considered permanent disturbance to the Buffer. In addition, the applicant proposes to construct a 5' by 6' staircase, which is defined as lot coverage per Natural Resources Article § 8-1808(17). No clearing is proposed. The existing lot coverage is 10,209 square feet (sf) (15.3%). The proposed lot coverage is 10,239 sf (15.4%); however, the permitted lot coverage for a property of this size is 9,997 sf (15%).

This office cannot support a variance that requests exceeding the 15% lot coverage limit. However, in speaking with the County, it is our understanding that prior to the variance hearing, the applicant will update the site plan to show removal of existing lot coverage so that the property will be in conformance with the 15% lot coverage limit. This is why a lot coverage variance is not requested by the applicant. Therefore, our comments are based on the understanding that the lot will conform to the 15% lot coverage limit and that only a Buffer variance is required. We ask that a copy of this revised plan be submitted to this office as soon as it is available.

Maryland's Critical Area Law provides that variances to a local jurisdiction's Critical Area program may be granted only if the Board of Appeals finds that an applicant has satisfied the burden to prove that the request meets each and every one of the State's variance standards, which can be found in Kent County Land Use Article, Article 9, §2.2. Furthermore, State law establishes the presumption that a proposed activity for which a Critical Area variance is sought does not conform to the purpose and intent of the Critical Area law. In order for the Board of Appeals to grant this variance, the applicant must address, and the Board of Appeals must find that each and every one of the County's

KC Phillip and Uma Gray Buffer Variance

January 27, 2023

Page 2

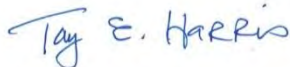
variance standards, including the standard of unwarranted hardship, are met. Unwarranted hardship is defined as such “that without a variance, an applicant would be denied reasonable and significant use of the *entire* parcel or lot for which the variance is requested.”

In this case, the Board must consider whether the applicant can meet the standard of unwarranted hardship and whether the variance request is the minimum necessary to provide relief. Specifically, the Board must determine whether the applicant has the opportunity to construct the deck and stairway in a manner that minimizes permanent disturbance to the Buffer and whether the proposed and existing lot coverage on a parcel comprising 1.53 acres is also minimized given that the existing and proposed improvements are located in the Critical Area Buffer.

We do not oppose this Buffer variance request if the applicant removes the equivalent amount of proposed lot coverage to conform with the 15% lot coverage limit, as noted above. Mitigation at a 3:1 ratio is required for permanent Buffer disturbance as per COMAR 27.01.09.01-2. Locating the plantings between the improvements and the shoreline is recommended to maximize water quality benefits. The applicant shall provide a Buffer Management Plan as per COMAR 27.01.09.01-3 to the County for review and approval that includes species, size, spacing and schedule of plantings, and maintenance activities and survivability assurance.

Please include this letter in your file and submit it as part of the record for the variance and notify the Commission of the decision made in this case. Again, thank you for the opportunity to review and provide comments. As requested above, please provide the updated site plan that shows that the site will conform to the 15% lot coverage limit as soon as it is available. If you have any questions, please feel free to contact me at 410-260-2481 or [tay.harris@maryland.gov](mailto:tay.harris@maryland.gov).

Sincerely,



Tay E. Harris

File: KC 19-23



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)

PHONE 610 322 6292
PHILLIP GRAY
23550 CANVASBACK RD
CHESTERTOWN MD 21620
Email: PHILGRAY11750@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: PHILGRAY11750@GMAIL.COM

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.) 23550 CANVASBACK RD CHESTERTOWN MD 21620
In the Election District of Kent County.

Size of lot or parcel of Land:

Map: 0027 Parcel: 0504 Lot #: Deed Ref:

List buildings already on property: HOME AND GARAGE

If subdivision, indicate lot and block number:

If there is a homeowner's association, give name and address of association:

PRESENT ZONING OF PROPERTY:

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

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

Present owner(s) of property: PHILLIP + UNA GRAY Telephone: 610 322 6292

If Applicant is not owner, please indicate your interest in this property: \_\_\_\_\_ 31

Has property involved ever been subject to a previous application? No

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: \_\_\_\_\_

Owner(s) on the South: \_\_\_\_\_

Owner(s) to the East: \_\_\_\_\_

Owner(s) to the West: \_\_\_\_\_

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.**

*Philip Gray* \_\_\_\_\_ 9.19.22  
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**. If you have any questions, please contact the Clerk at 410-778-7467.

**NOTICE: Neither the Board of Appeals nor the Planning Office 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**

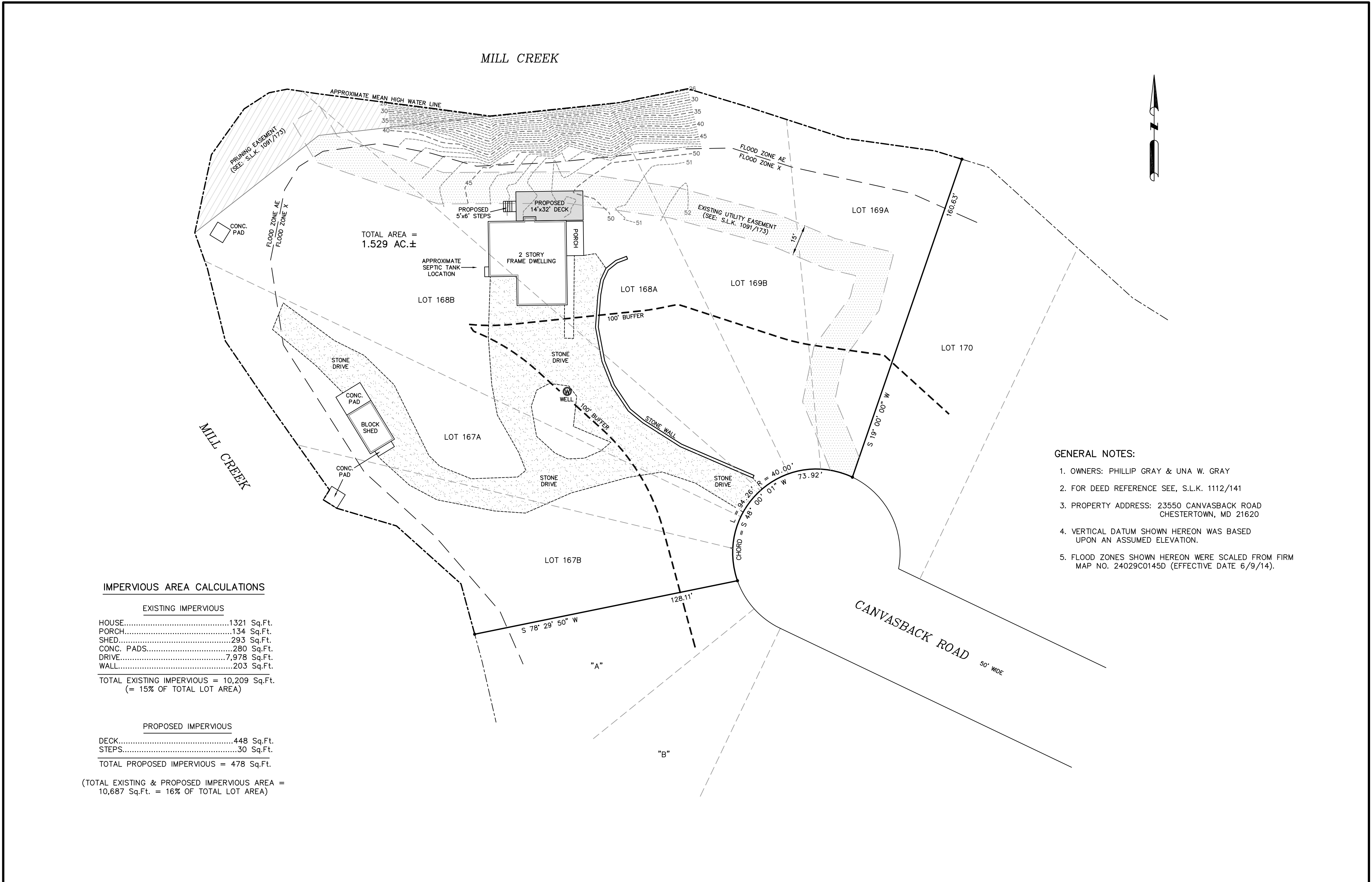
To whom it may concern,

The request for a variance to build a deck at 23550 canvasback Road is being filed as the property sits on a slope with no other practical location for a deck. The main living area is on the top floor with the main entrance on the east side, and there is a walkout basement with entryways on the south, where there is parking, and west sides. There is a steep pathway to the west to the shoreline.

My wife has rheumatoid arthritis and is not able to climb many stairs, and this deck in its requested position would enable her to enjoy the newly purchased home and water view in our retirement. Access to the deck from the home would be from the porch on the main floor.

It would be built using quality materials and in the style matching both house and neighborhood without causing any detriment to adjacent properties. The deck will have small gaps between the planks, allowing for rainwater to easily pass through, and it will be out of view from the drive and neighboring properties.





TOTAL AREA =  
1.529 AC.±

**IMPERVIOUS AREA CALCULATIONS**

**EXISTING IMPERVIOUS**

HOUSE.....	1321 Sq.Ft.
PORCH.....	134 Sq.Ft.
SHED.....	293 Sq.Ft.
CONC. PADS.....	280 Sq.Ft.
DRIVE.....	7,978 Sq.Ft.
WALL.....	203 Sq.Ft.

TOTAL EXISTING IMPERVIOUS = 10,209 Sq.Ft.  
(= 15% OF TOTAL LOT AREA)

**PROPOSED IMPERVIOUS**

DECK.....	448 Sq.Ft.
STEPS.....	30 Sq.Ft.

TOTAL PROPOSED IMPERVIOUS = 478 Sq.Ft.

(TOTAL EXISTING & PROPOSED IMPERVIOUS AREA =  
10,687 Sq.Ft. = 16% OF TOTAL LOT AREA)

**GENERAL NOTES:**

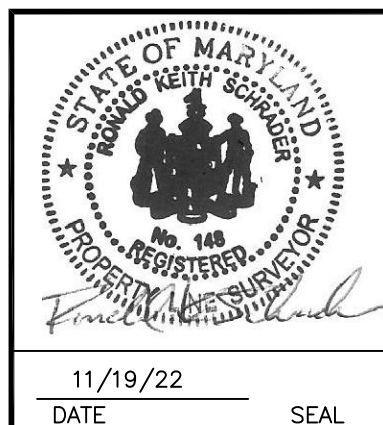
1. OWNERS: PHILLIP GRAY & UNA W. GRAY
2. FOR DEED REFERENCE SEE, S.L.K. 1112/141
3. PROPERTY ADDRESS: 23550 CANVASBACK ROAD  
CHESTERTOWN, MD 21620
4. VERTICAL DATUM SHOWN HEREON WAS BASED  
UPON AN ASSUMED ELEVATION.
5. FLOOD ZONES SHOWN HEREON WERE SCALED FROM FIRM  
MAP NO. 24029C0145D (EFFECTIVE DATE 6/9/14).

**SURVEYORS CERTIFICATION:**

I, HEREBY CERTIFY THAT TO THE BEST OF MY KNOWLEDGE, INFORMATION AND BELIEF, THE SITE PLAN SHOWN HEREON WAS PREPARED BY THE UNDERSIGNED REGISTERED SURVEYOR AND IS IN COMPLIANCE WITH THE REQUIREMENTS STATED IN REGULATION 09.13.06.12 OF THE MINIMUM STANDARDS OF PRACTICE FOR LAND SURVEYORS.

*Ronald K. Schrader*

RONALD K. SCHRADER  
REGISTERED PROPERTY LINE SURVEYOR #148 (EXP./RENEWS 4/21/24)



11/19/22  
DATE SEAL

**SCHRADER**  
**Surveys, LLC**  
120 EVELYN LANE  
CHESTERTOWN, MARYLAND 21620  
PHONE No. 410-778-0364  
E-MAIL : rkssurveys@live.com

DATE	REVISION

SITE PLAN OF PROPOSED IMPROVEMENTS  
ON LOTS 167, 168 & 169, SPORTSMANS SECTION,  
**CHESAPEAKE LANDING**  
THIRD ELECTION DISTRICT,  
KENT COUNTY, MARYLAND  
TAX MAP 27, GRID 1B, PARCEL 504  
PREPARED FOR: PHILLIP GRAY

DATE	SCALE
11/19/22	1"=30'
JOB No. TM27-P504sp	DRAWN BY RKS
FOLDER Ref. Gray	DESIGNED BY
SHEET No. - 1 OF 1	
CADD FILE - M27-P504sp	

**Philip Gray**

**23550 Canvasback Road**



North side of home, where deck is to be placed







South side of home



West side of home





East side of home



## PROPOSED TASK FORCE RECOMMENDATIONS

### MAY 26 – ECONOMY

- P4. Request to create two, new floating zones to allow for (a) planned mixed-use development and (b) planned neighborhoods, including specific criteria for such designations, as well as (c) to combine the Commercial and Employment Center districts and (d) to allow residential uses in the newly combined district

**Recommendation: The Task Force expressed that it was uncomfortable expressing support for the proposed change, since the Town of Millington had expressed that it was not supportive. Of the two members who spoke, both expressed concern with the use of floating zones and how the zoning could affect other properties Countywide. The discussion is considered moot, since the Town expressed that it was not supportive, and the Task Force withdrew its support.**

- P5. Request to allow truck stops, truck parking lots, gas sales, convenience stores and restaurants with or without drive-through in the Industrial district

**Recommendation: The Task Force expressed that it was uncomfortable expressing support for the proposed change, since the Town of Millington had expressed that it was not supportive. There were two meetings with discussions, of the seven members who spoke at the first meeting, four were in support with concern that development be local in flavor; three members expressed concern that other areas of the County be included in discussions. At the second meeting, the discussion involved the pros and cons of including drive-through restaurants. The original support of the staff's recommendation by those who spoke in favor is considered moot, since the Town expressed that it was not supportive, and the Task Force withdrew its support.**

- TF13. Review streamlining the Cottage Industry process.

**Recommendation: The Task Force directed staff to incorporate changes into the LUO that would allow for an administrative hearing for cottage industries. Of the two members that spoke, both were in favor, one with a concern that neighbors be notified and one with a concern that the Planning Director be able to waive certain bonding requirements to ease business starts.**

- TF18. Review timelines. Currently, projects scheduled before Planning Commission and Board of Appeals must be submitted 20 days before meetings. For projects that require concept, preliminary and final review, this allows only a week for applicants to address comments and resubmit for the following meeting. // S4. Consider standardizing 10-day, 15-day, and 20-day notices to one standard

**Recommendation: The Task Force directed staff to work with a local designer and incorporate revised timelines into the LUO. Of the three members who spoke, two suggested that a flow chart as a handout could be helpful tool for applicants.**

### JUNE 9 - TOWNS & VILLAGE

- TF3. Review landscaping to reduce the requirements for trees (for example, one business site was required to have 185 trees and bushes on a 1.3-acre site).

## PROPOSED TASK FORCE RECOMMENDATIONS

**Recommendation:** The Task Force directed staff to consider using buffer yards (Queen Anne’s County was cited as the model) and standardizing the landscaping with consistency in mind. Of the four members who spoke, three were in support of standardizing landscaping as noted.

- TF7. Review setbacks and required rights-of-way for roads, so the County, State or utilities do not have to maintain vegetation planted along rights-of-way.

**Recommendation:** The Task Force did not come to an agreement. Of the four members who spoke, two expressed concerns on encroachment, and two expressed concerns on enforcement.

### JUNE 23 – TOWNS & VILLAGE

- S2. Consider re-evaluating 25-foot setbacks for recreational uses such as pools in Village

**Recommendation:** During discussion, one member spoke, and the Task Force did not object to staff including these changes in the LUO. Per the Questionnaire, more tallies were for *yes* (6) than *no* (2). In this case, the item already appeared on an agenda prior to the Questionnaire.

- S3. Consider clarifying how accessory structures can be located in front yards

**Recommendation:** During the discussion, the Task Force did not direct staff to incorporate changes into the LUO. Accessory structures would therefore continue to be allowed in the area between the required front yard and the main building on lots that are not waterfront. Of the two members who spoke, one expressed a desire to leave the LUO as it stands, and the other expressed concern about the overall permitted size of accessory structures in the current LUO.

### JULY 14 – HOUSING, TRANSPORTATION, AND HISTORIC & CULTURAL RESOURCES

- P9. Request to review standards related to subdivisions accessing private roads

**Per the Questionnaire, it was not necessary to discuss this item further, as there were only four tallies to *discuss*. The narrow agreement would appear to be that no action to change the LUO is required. Per the Questionnaire, more tallies were for *no* (5) than for *yes* (4).**

- S1. Consider adding accessory dwelling units to the Village zoning district

**Recommendation:** The Task Force expressed its concurrence that accessory dwelling units be allowed in the Village zoning district with conditions similar to those in other residentially oriented zoning districts. Of the six members who spoke, each had questions about the process.

- S9. Consider reviewing demolition process as it relates to age of structure

**Recommendation:** The Task Force expressed that the current 75-year threshold is appropriate. Of the five members who spoke, each asked clarifying questions.

- S13. Consider discussing an overall approach to short-term vacation rentals (STVR)



## PROPOSED TASK FORCE RECOMMENDATIONS

**Recommendation:** The Task Force expressed agreement that short-term vacation rentals be added to the Land Use Ordinance as permitted uses with the condition that the County taxes be paid. Of the eight members who spoke, two supported changes in the regulations, and six expressed concerns about regulating it in the LUO; however, after additional information was brought forward regarding best practices from a MACo seminar, agreement was then formed.

### JULY 28 - ENVIRONMENT

- P7. Request to review lot coverage standards and other Critical Area provisions, lot line adjustments on parcels under 5 acres, and wastewater treatment

**Recommendation:** No action was needed, and no action was requested by the Task Force. Two members asked clarifying questions about the process and the State's requirements in this area.

- P10. Request for modified buffer in RCD for campgrounds, as defined in § 2.2 (18)

**Recommendation:** The Task Force supported the staff recommendation to formulate changes per State standards and to include graphics in the LUO. Of the seven members who spoke, five requested that staff look into whether illustrative graphics could be included to help the public.

- TF9. Review elimination of the County's maximum pier length of 150 feet.

**Recommendation:** The Task Force did not come to an agreement on this matter. Of those who spoke, there were three members who spoke in support of flexibility to the regulations, and two members who spoke in support of keeping the 150-foot maximum in place, as is.

- S10. Consider reviewing the definition of waterway width versus State approach

**Recommendation:** Per the Questionnaire, more tallies were for *yes* (6) than *no* (3).

- S14. Consider discussing climate change, resilience, and the floodplain regulations by potentially requiring Base Flood Elevation plus three feet for new projects

**Recommendation:** The Task Force expressed agreement to require three feet of freeboard. Of the five members who spoke, each expressed different questions regarding the process; one member concluded with direct support, and there was no objection following this statement.

### AUGUST 11 – COUNTRYSIDE

- P1. Request to change farm definition so a shed could be built without a dwelling

**Recommendation:** The Task Force expressed agreement that the definition of a farm should not be reduced to five acres. Of the four members who spoke, all spoke in favor of not reducing a farm to five acres; four spoke in favor of a special exception to allow non-farms under 20 acres in AZD to apply for accessory sheds; one member clarified providing this could be by the shorter path towards a special exception review, which does not include Planning Commission review; one member expressed support via an email for farms to be allowed at ten to 20 acres in size.

- P2. Request to allow utility-scale energy systems in the Agricultural Zoning District

## PROPOSED TASK FORCE RECOMMENDATIONS

**Recommendation: The Task Force did not support utility-scale solar arrays in AZD beyond the currently permitted five acres. Of the two members who spoke, both opposed allowing an expansion of utility-scale solar within AZD; one member expressed that referring to this number of solar arrays (five acres) as utility-scale is a misnomer, and that the term should not be utilized.**

P3/TF8 Request to continue to exclude data centers from Agricultural Zoning District // TF8. Review allowing data centers on land in AZD at 0.5% of total land (about 630 acres) in order to let the landowners decide if they want to look at this option.

**Recommendation: Per the Questionnaire, more tallies were against allowing data centers in AZD (8 in both cases) than for adding them to AZD (3 and 2, respectively).**

TF1/TF17. Review the concept of reducing setbacks for agricultural structures to 200 feet except near current housing developments, incorporated towns, and villages. // TF17. Review setbacks for buildings containing animals. Currently, this is 600 feet. Review for more flexibility. Maybe 600 feet from residential zoning districts or provide for an administrative variance process to reduce the required setback.

**Recommendation: The Task Force did not come to an agreement. An approach to regulating the setbacks was brought forth. For the most intense uses (poultry houses, AFO, CAFO, and dairies) the current 600 feet was seen as appropriate; opinions varied on waste management structures. Of the seven members who spoke, two supported the 600-foot setback for waste management structures, and two were opposed to the 600-foot setback.**

### AUGUST 25 – COUNTRYSIDE CONTINUED

TF2. Review elimination of the 10% rule (related to new agricultural subdivisions).

**Recommendation: The Task Force did not come to an agreement on this matter. Of the six members who spoke, three supported retaining the 10% rule with the purpose of preserving agriculture in its current context, and three members supported elimination of the rule with the purpose of allowing more diverse farming outcomes. Two members supported the staff recommendation to create an exception process.**

TF5. Review concept of a reset to allow building sites up to 1 unit per 30 acres as of the approval of new zoning regardless of what has been subdivided previously.

**Recommendation: The Task Force expressed support for the retention of the current date for density with the purpose of supporting the agricultural context and preventing widespread subdivision. Of the four members who spoke, all were opposed to resetting the density clock.**

TF6. Review allowing sustainable agricultural operations for production for farmers markets, personal use, or commercial sale on homesites in ag zoning districts where such homesites do not meet the current requirements for 20 acres.

**Recommendation: Per the Questionnaire, more tallies were in support of allowing sales from small-scale, sustainable agricultural operations and ag production (7) than opposed (1).**

P17. A. Request to add Agritourism, as defined by the State of Maryland, as a permitted use in AZD



## PROPOSED TASK FORCE RECOMMENDATIONS

**Recommendation: The Task Force did not express opposition to the proposed definition in the staff report for agritourism. One member spoke to ask a clarifying question on traffic concerns.**

### SEPT 8 – ADMINISTRATIVE MATTERS

B. Inclusion of Weddings as Special Exceptions within the Agricultural Zoning District

**Recommendation: The Task Force expressed itself in favor of weddings as special exceptions in AZD and also expressed that a broader topic such as social engagements for compensation could be considered. Of the four members who spoke, two supported including maximum numbers of participants and events; one supported an approach to regulate noise related to such events; and one supported open-ended standards to allow for the free market and for public choice. One member who was unable to attend the meeting spoke in support at a subsequent meeting.**

S6. Consider removing the renewal requirements for sand and gravel pits

**Recommendation: The Task Force raised no objection to removal of provisions that conflicted with State law. Of the two members who spoke, both asked clarifying questions on the process.**

S7. Consider reviewing the definition of structures, especially considering fences

**Recommendation: The Task Force did not object to the changes proposed by staff. One member stated they were straightforward. One member spoke in support of staff's recommendation.**

S8. Consider reviewing the definition of accessory structure and accessory use

**Recommendation: The Task Force expressed a preference for removing provisions that limit the size of accessory structures and uses to be smaller than principal structures and uses. Of the three members who spoke, two expressed concerns about application of the standards in some of the zoning districts, requesting that there be language to address this in individual districts.**

S11. Consider reviewing the conditions related to hunting trailers on farms

**Recommendation: Per the Questionnaire, there were more tallies in support of staff reviewing conditions related to hunting trailers (8) than not (0). Based on the prior discussion of hunting trailers, this would include protecting hunting and extending the season for trailers in the LUO.**

S12. Consider reviewing the side setbacks and rear setbacks of three feet and five feet, respectively, for accessory structures in rear yards, which occur throughout the LUO.

**Recommendation: The Task Force expressed agreement to support 10-foot side and 10-foot rear setbacks. Of the four members who spoke, three supported the increased setbacks; one member objected to increased setbacks; and one member questioned their effectiveness in preventing the storage of materials between accessory structures and adjacent property lines.**

### SEPT 22 – ADMINISTRATIVE MATTERS

## PROPOSED TASK FORCE RECOMMENDATIONS

- P6. Request to consider adjacent lots under same ownership in order to meet the minimum requirements related to rules for the keeping of backyard chickens

**Recommendation: The Task Force expressed agreement in support of the staff recommendation not to take any action on this specific request. Eight Task Force members spoke in support.**

- P18. (NEW) Request to consider allowing backyard goats with provisions similar to backyard chickens

**Recommendation: The Task Force expressed support of the staff recommendation to allow for small ruminants with conditions as listed. Three members spoke in support. Three members spoke in support and raised issues regarding enforcement concerns. One member discussed including a definition of grazable land. One member asked about including other animals such as lamas and alpacas, and one member asked about different standards for different zoning districts with the idea that more could be permitted in AZD while less might be permitted in Village districts.**

- TF4. Review allowing nonconforming structures that were conforming when built (to be granted a fully legal status as conforming vs. as legal, nonconforming).

**Recommendation: The Task Force did not express agreement on this item. One member raised concerns over too much being opened up by such a process. One member expressed concern over the precedents that would be created. One member was in support, and one member mentioned that this would be a complement to the many nonconforming accessory structures that would be created, if the setbacks for accessory structures were to change to ten feet (S12).**

- TF14. Review waterfront regulations. Waterfront is now considered the Front Yard. This causes issues such as pools are not allowed in the front yard and since the road is now considered the rear yard, accessory sheds can be 5' from the road.

**Recommendation: Per the Questionnaire, more tallies were in support of the former review without further discussion (6) than opposed (2). It was noted in the prior discussion on April 28, that in order to keep the waterfront as the front yard, an exception should stipulate pools are allowed in the front yard and sheds must be more than five feet from the road in the other yard.**

- TF15. Review size limitations on accessory structures currently limited to 1,200 ft<sup>2</sup> in most properties under five acres. This could be enlarged to at least 2,000 ft<sup>2</sup> as long as stormwater management and screening regulations are met.

**Recommendation: Per the Questionnaire, more tallies were in support of the former review without further discussion (7) than opposed (1). In the prior discussion on April 28, one member stated stormwater management regulations may have to be met for structures over 1,200 feet, as the sitework is usually more than the building area. There was no opposition expressed to allow at least 2,000 ft<sup>2</sup> as long as stormwater management and screening regulations were met.**

- TF16. Review Front Yard definition on corner lots; currently, it's the side with the smallest dimension. Review of the side where the driveway entrance is located is a better option. If there are two driveways, one could then be removed.

## PROPOSED TASK FORCE RECOMMENDATIONS

**Recommendation:** Per the Questionnaire, more tallies were in support of the former review without further discussion (8) to (0). In the prior discussion on May 12, one member expressed that there is a need for better definitions related to what constitutes the front of a property, as there are cases with corner lots and three-sided lots, and these lots can have varying frontages.

S5. Consider removing renewal language for telecommunications

**Recommendation:** The Task Force expressed agreement with the staff recommendation. Five members spoke in support with one requesting added language when a tower is no longer used.

### OCTOBER 13 – ENVIRONMENT CONTINUED

TF10. Review how to better define establishing a Modified Buffer, keeping in mind that not all waterfront properties are in a straight line.

**Recommendation:** The Task Force did not object to establishing clear standards and a set measuring point for determining the average setbacks, subject to the approval of the Critical Area Commission.

TF11/12. Review how to better define an Expanded Buffer. // TF12. Review how to better define the term Structure (in the definitions section), as it applies to the establishment of the aforementioned Buffers.

**Recommendation:** The Task Force did not object to using Critical Area Commission approved graphics and whole numbers for percentage calculations, when addressing slopes in the buffer. Top of slope needs to be more clearly defined, and a 20-foot setback provided as a minimum.

### MAY 25 – NEW REQUESTS

Request to amend the Forest Conservation provisions of the Land Use Ordinance (Article VI. Special Provisions, Section 8. Forest Conservation, beginning on page 373 of the current Land Use Ordinance under Part 8 [here](#))

**Recommendation:** The Task Force supported an increase in the requirements for bonding and other surety requirements as well as an increase in the fee-in-lieu.

Request to revise Marine zoning district provisions (Article V. District Regulations, Section 13. Marine District, beginning on page 219 under Part 4 and Article VII. Special Exceptions, beginning on page 413 under Part 9 [here](#))

**Recommendation:** The Task Force supported maintaining the current requirements for special exceptions related to the multi-level storage of boats.

Request to the parking regulations for parking maximums instead of parking minimums (Article VI. Special Provisions, Section 1. Parking and Loading Requirements, beginning on page 309 under Part 6 [here](#))

**Recommendation:** The Task Force did not support changes for maximum parking standards.

## PROPOSED TASK FORCE RECOMMENDATIONS

Request to amend setbacks in the Village District for agricultural uses on Village zoned land (Article V. District Regulations, Section 7. Village District, beginning on page 109 under Part 3 [here](#))

**Recommendation: The Task Force did not support changes to allow roadside stands or roosters.**

Request to amend setbacks in the Village District for accessory structures in the front yard to be closer to the street than the house and to allow for small farms within Village District (Article V. District Regulations, Section 7. Village District, beginning on page 109 under Part 3 [here](#))

**Recommendation: The Task Force did not support changes to allow structures to be closer than 20 feet from the street. Regarding the term *farm*, it was suggested that instead of regulating what is allowed by using the term *farm*, another term could be used to reduce confusion.**

### JULY 27 – NEW REQUESTS CONTINUED

Review the concept and permitted use of an enclave in AZD as it relates to the 10% rule (Article V. District Regulations, Section 1. Agriculture Zoning District, beginning on page 18 under Part 1 [here](#))

**Recommendation: Some Task Force members requested elimination of the enclave standards.**

Request to consider a general noise ordinance in the zoning code

**Recommendation: The Task Force did not support changes to add additional noise provisions.**

### INITIAL REQUESTS RECOMMENDED FOR ELIMINATION BY STAFF

From the Task Force agenda of January 14, 2021:

#### List of Proposed Text Changes where discussion may not be required

1. Request to make no changes to the current zoning code as response on form
2. Request for increased property maintenance standards (Chestertown zoning)
3. Request to allow small businesses in accessory structure (Chestertown zoning)
4. *Principal residence as residence status* in the Rural Residential zoning district (This is Tax Office related. The property isn't considered a principal residence.)
5. Request to recognize certain uses on land over an acre without a residence (State determines what is assessed agricultural and taxed at the value rate.)
6. Request for water and sewer service areas for lots in Village zoning district (This request is related to mapping and the Water and Sewer Master Plan.)

### LISTED REQUESTS RECOMMENDED FOR ELIMINATION BY STAFF

- P8. Request to allow Class 8 Farm Breweries in the Agricultural Zoning District (already in progress)
- P11. Request to review lot sizes and required setbacks in property owner's district (related to map)
- P12. Request to review subdivision density standards related to zoning map request (rezoning to a different district is preferred option)