

Bay Engineering Inc.

Engineers, Planners and Surveyors



September 22, 2023

Anne Arundel County
Office of Planning & Zoning
2664 Riva Road
Annapolis, Maryland 21401

Attention: Ms. Sterling Seay

Re: VARIANCE REQUEST
KLUH PROPERTY
3934 BAYSIDE DRIVE
EDGEWATER, MD 21037
SHOREHAM BEACH
TM 31, GRID 3 PARCEL 387 LOT G PLAT A

Dear Ms. Seay:

On behalf of the applicants, we respectfully request a variance Article 17-8-201 which states in part that 15% slopes or greater in the IDA shall not be disturbed. A variance to Article 18-13-104 which states in part that there shall be no disturbance within the 25 foot buffer to non-tidal wetlands. The lot is not developed and has one single (mulberry) tree on it with the rest of it grass (and a swing set). This lot meets the definition of a buildable lot, although it does not meet the 7,000 s.f. minimum lot requirement for the R5 zone. The property is 5,000 square feet in area. The site is served by private well and public sewer (Mayo System), and a paved road Bayside Drive, a 30' width public right of way. The site drains towards the rear of the lot to Ramsey Lake. The site is located in the IDA (Intensely Developed Area) of the Critical Area. The site is zoned R5 residential.

Please note, this property was the subject of an approved variance decision, 2020-0164-V. This variance has since expired. This application is within the same scope of the previous variance. The porch configuration is slightly different, and the driveway extends to the house underneath the porch.

The applicant wishes to construct a new dwelling 20' from the rear property line. This would allow a modest house to be constructed on the lot with enough room to be able to park two cars in front of the house on a parking pad. The house will be partially placed within the steep slopes (71 s.f.) and the associated steep slope buffer. Due to the location of the slopes and the buffer there is no way to avoid slope disturbance. The proposed lot coverage amounts to 1,785 square feet this is inclusive of a 34.5'x35.5' house and small off-street parking area. The entire rear of the property is within the 25' non-tidal wetland buffer and the south side of the property being in steep slopes and steep slope buffer. There is no way to construct a modest house on this lot and avoid steep slope/steep slope buffer disturbance. A review of the aerial photography shows this house size to be similar to house sizes on other properties nearby.

This plan meets the intent of 18-16-305(a):

1. The subject property is relatively small, and undersized for its zoning. The entire rear of the property is within the non-tidal wetland buffer and there are steep slopes in the side/rear of the property also. Due to this, and the modest nature of the variance request, the dwelling could not be constructed without a variance.

2. The exceptional circumstances and practical difficulties in developing the lot are several. The site is encumbered the non-tidal wetlands buffer, by steep slopes, and its associated 25' buffer. The lot is also undersized, as are many of the lots in this community. The variance request is minimal and allows construction of a new dwelling in conformance with most other properties in the area.

This plan also meets the intent of 18-16-305(b) for critical area variances.

1. The lot is undersized for its zoning, it is encumbered by the non-tidal wetland buffer, steep slopes, and the 25' steep slope buffer. Development of this site is not possible without a variance.

2. A literal interpretation of COMAR would deny the owners use of the property enjoyed by others as the site has steep slopes, and this would provide a modern dwelling on the property similar to other critical area properties on steep slopes. There are numerous houses in this community on steep slopes and in the buffer including both houses on either side of this property.

The site is not in a bog area.

3. This project will not confer special privileges to the owner, as many properties in Shoreham Beach are on steep slopes, and were constructed in the steep slopes and/or steep slope buffer, prior to Critical Area legislation.

4. The request is not a result of actions of the owner. The need for a variance arose during the client's due diligence prior to doing work on the subject property.

5. This project will not result in a denigration of forest or water quality as stormwater management will be provided as required by the Code, and the clearing on the one small tree on site will be mitigated for as per the Code.

6. This site is not in the bog buffer.

7. This plan meets the presumption, as this site is in a developed community, requires minimal disturbance and will not cause undue harm to a slope area.

8. The size of the dwelling and minimal slope disturbance, and keep clearing in the IDA to a minimum.

This plan meets the requirements of 18-16-305(c), as the proposal is the minimum relief necessary. The development will not impair the use of adjoining properties, nor reduce forest cover in the IDA. The work performed will not be contrary to clearing and replacement practices, and will not alter the character of the neighborhood or be detrimental to the public welfare.

1. The variance request is the minimum to afford relief. The request is relatively small, and the minimum to allow for a new dwelling comparable to other development in the area. Lot coverage is being minimized.

2. i. This variance will not alter the essential character of the neighborhood. There are many houses in the community with construction on steep slopes.

ii. This variance will not impair the use of adjoining properties. The proposed development is in the approximate location of the existing house and should not impact neighbors.

iii. Minimal tree clearing is required and any mitigation necessary during the permit process will be provided in accordance with County regulations.

iv. No work will be performed contrary to approved clearing practices, as a permit will be required, and this permit must meet those requirements.

v. The project will not be detrimental to the public welfare, as it is located on private property.

This plan proposes the minimum relief necessary. The development will not impair the use of adjoining properties, nor reduce forest cover in the IDA. The work performed will not be contrary to clearing and replacement practices, and will not alter the character of the neighborhood or be detrimental to the public welfare.

As this proposal is for construction of a new dwelling, a grading permit will also be submitted for the proposed work. It would appear that this request is consistent with other development in this area. Denial of this request would not allow the owner to enjoy property rights common to other properties in this area.

The enclosed plan represents the location of the proposed work to the dwelling. This plan is consistent with other development in Shoreham Beach community. In closing, the variances requested are the minimum necessary to afford relief, and is not based on conditions or circumstances that are a result of actions by the applicant. We thank you in advance for your consideration to this request.

If you have any questions, or if you require additional information, please feel free to contact me at 410-897-9290.

Sincerely,
Bay Engineering, Inc.

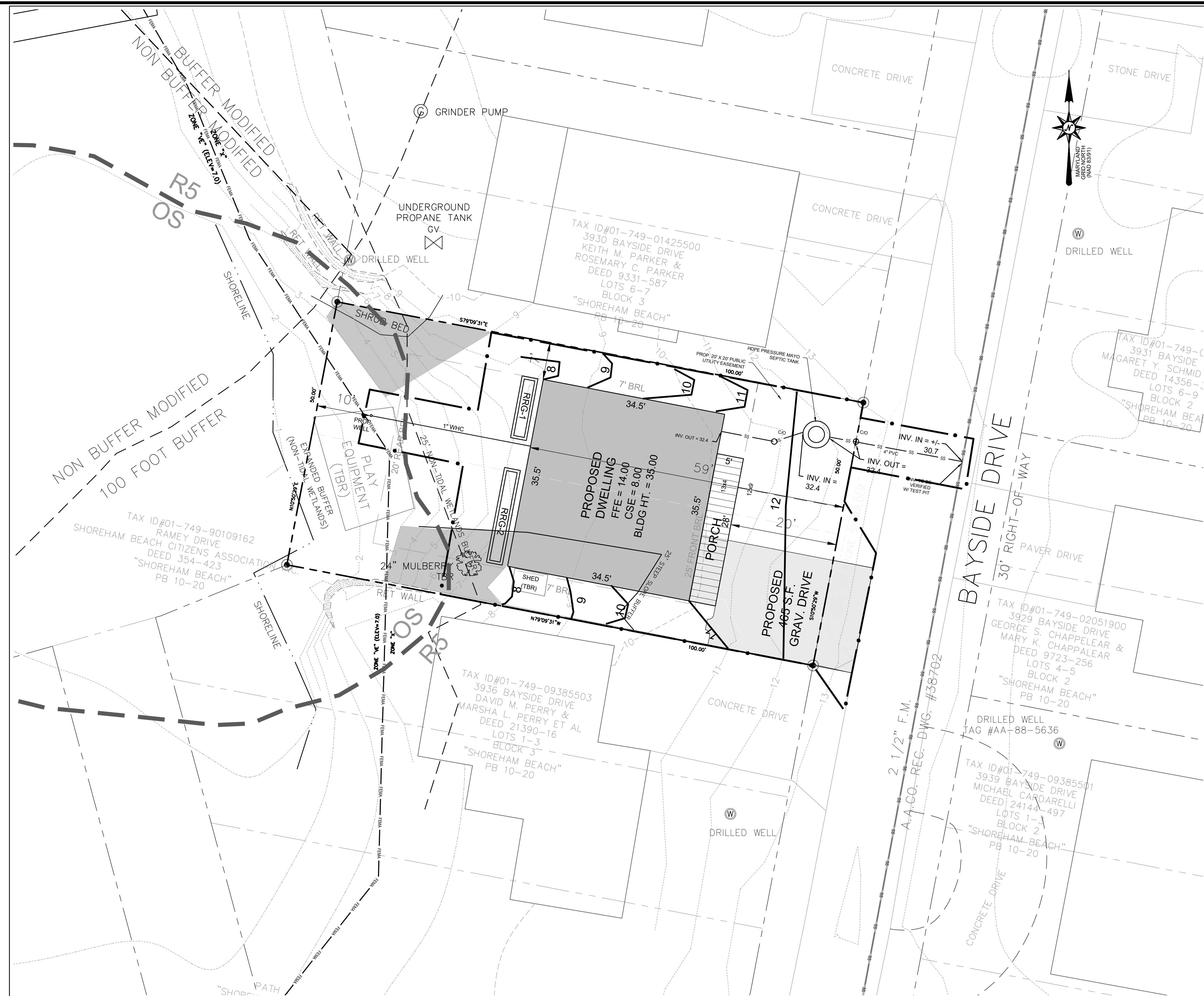
Mike Gillespie

Mike Gillespie
Project Manager

cc: owner, File

PLOTTED: Sep 16, 2023 - 12:58pm

CALL BEFORE YOU DIG!
 MARYLAND LAW REQUIRES 48 HOURS NOTICE
 BEFORE PLANNED WORK TO MARK
 UNDERGROUND UTILITIES PRIOR TO EXCAVATION
 MISS UTILITY: 1-800-257-7777



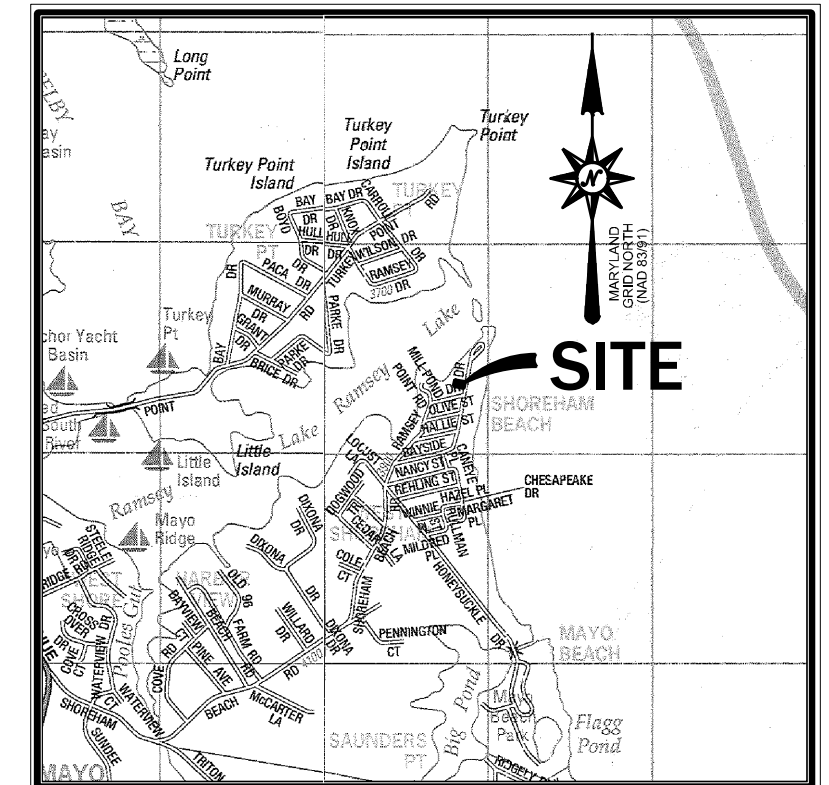
VARIANCE SITE PLAN
 SCALE: 1" = 10'

VARIANCE REQUEST

§ 18-4-701. R5 - RESIDENTIAL DISTRICT BULK REGULATIONS
 FRONT YARD SETBACK 25 FEET
 VARIANCE REQUESTED: FRONT YARD SETBACK 20'

§ 18-9-202. OS - OPEN SPACE DISTRICT PERMITTED USES
 RESIDENTIAL USES, EXISTING
 VARIANCE REQUESTED: ALLOW NEW WELL IN OPEN SPACE FOR PROPOSED HOUSE

DESCRIPTION	AREA
EXISTING LOT AREA	5,000 SQ. FT. ± OR 0.114 AC.
PROPOSED LOD	4,200 SQ. FT. ± OR 0.096 AC.
PROPOSED STEEP SLOPE DISTURBANCE	140 SQ. FT. ± OR 0.003 AC.
PROP. STEEP SLOPE BUFFER DISTURBANCE	402 SQ. FT. ± OR 0.009 AC.
PROP. NON-TIDAL WETLAND DISTURBANCE	0.0 SQ. FT. ± OR 0.000 AC.
PROP. 25' NON-TIDAL BUFFER DISTURBANCE	92 SQ. FT. ± OR 0.002 AC.



GENERAL NOTES

- PROPERTY OWNERS: WILMA KLUH 1239 K ST SE WASHINGTON, DC 20003
- SITE ADDRESS: 3934 BAYSIDE DRIVE EDGEWATER, MD 21037
- THE PROPERTY IS LOCATED ON TAX MAP 60, GRID 18, PARCEL 92 LOT 4-5, BLOCK 3 OF SHOREHAM BEACH
- TAX ACCOUNT NUMBER: 1-749-02051901
- THIS PLAN DOES NOT REFLECT A BOUNDARY SURVEY.
- THIS PLAN WAS PREPARED WITHOUT THE BENEFIT OF A TITLE REPORT, WHICH MAY SHOW ADDITIONAL CONVEYANCES, EASEMENTS, COVENANTS, RIGHTS-OF-WAYS OR MORE STRINGENT BUILDING RESTRICTION LINES NOT SHOWN HEREON.
- ZONING: R-5 SETBACKS PRINCIPAL STRUCTURE: FRONT: 25' SIDE: 7' CORNER SIDE: 20' REAR: 20'
- SITE IS SERVED BY PUBLIC SEWER AND WELL
- TOPOGRAPHICAL INFORMATION PROVIDED BY OTHERS. BOUNDARY AND LOCATIONS PER SAME SURVEY
- SITE IS LOCATED IN THE IDA DESIGNATION OF THE CHESAPEAKE BAY CRITICAL AREA. SITE IS NON BMA.
- SITE IS LOCATED PARTIALLY IN FLOOD ZONE VE-EV7 AND ZONE X PER FEMA MAP AACO 24003C0158F EFFECTIVE DATE 2/18/2015
- DISTURBED AREA = 4,200 SQ. FT.

PROPOSED IMPERVIOUS COVERAGE SUMMARY

DESCRIPTION	AREA
EXISTING LOT AREA	5,000 SQ. FT. ± OR 0.114 AC.
EXISTING LOT COVERAGE	20 SQ. FT. ± OR 0.000 AC.
PROPOSED IMPERVIOUS LOT COVERAGE	1,750 SQ. FT. OR 0.040 AC.
EXISTING WOODLANDS ON SITE	0.0 SQ. FT. ± OR 0.000 AC.

PROPOSED LOT COVERAGE INCLUDES:

PROP. HOUSE/PORCHES	1,365 SQ. FT.
PROP. DRIVEWAY	385 SQ. FT.
TOTAL PROPOSED LOT COVERAGE	1,750 SQ. FT.

LEGEND

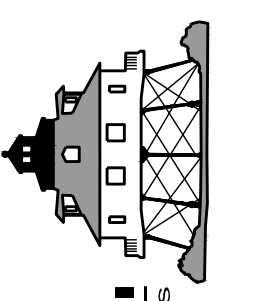
PROPERTY LINE / RIGHT-OF-WAY	---
EXISTING CONTOUR	-142-
EXISTING WOODS	X X X
EXISTING FENCE	X X X
EXISTING UTILITY POLE W/ OVHD WIRE	⊕
EXISTING WATER	W W W
EXISTING SOILS DESIGNATION	ASC
EXISTING SPOT ELEVATION	+ 42.00
EXISTING ZONING	R1
EXISTING PERC/SOIL BORING	FT-3
EXISTING WOODLANDS	200
PROPOSED CONTOUR	12
PROPOSED SPOT ELEVATION	+ 42.00
PROPOSED LIMIT OF DISTURBANCE	---
PROPOSED REINFORCED SILT FENCE	RF
PROPOSED TOP OF WALL	TW
PROPOSED BOTTOM OF WALL	BW
PROPOSED STABILIZED CONSTRUCTION ENTRANCE	SCE
STORMWATER MANAGEMENT DRAINAGE AREA	---

Revisions	Description
Rev. #	Date
By	

I hereby certify that these documents were prepared by me or under my direct supervision and that I am a duly licensed professional engineer under the laws of the State of Maryland.

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Warning: This document is an instrument of professional service prepared by Bay Engineering Inc. Alteration of this document by any party other than Bay Engineering Inc. is a violation of law that will be prosecuted to its fullest extent.



Bay Engineering Inc.
 Engineers, Planners and Surveyors
 2861 Riva Road, Building 800
 Annapolis, Maryland 21401
 410.897.9290
 www.bayengineering.com

Date	SEPTEMBER 2023
Job Number	18-6766
Scale	AS SHOWN
Drawn By	J. SLENKER
Approved By	M. GILLESPIE
Folder Reference	KLUH PROPERTY SHOREHAM BEACH

VARIANCE SITE PLAN
 GRADING PERMIT PLANS
 FOR THE
KLUH PROPERTY
 A SINGLE FAMILY RESIDENCE
 TAX MAP 60, GRID 18, PARCEL 92, LOT 4
 3934 BAYSIDE DRIVE
 EDGEWATER, MD 21037
 ZONED: R-5
 FIRST ELECTION DISTRICT - ANNE ARUNDEL COUNTY

(FILE IN DUPLICATE)

(name and address of attorney)

**NOTICE OF APPOINTMENT
NOTICE TO CREDITORS
NOTICE TO UNKNOWN HEIRS**

To all persons interested in the estate of
WILMA J KLUH

ESTATE NO. W105743 *f*

Notice is given that:

MICHAEL A KLUH SR
1239 K STREET, SE
WASHINGTON, DC 20003

was on MARCH 31, 2021 appointed Personal Representative of the estate of WILMA J KLUH
(date)

who died on SEPTEMBER 7, 2011 without a will.
(date)

Further information can be obtained by reviewing the estate file in the office of the Register of Wills or by contacting the personal representative or the attorney.

All persons having any objection to the appointment (or to the probate of the decedent's will) shall file their objections with the Register of Wills on or before the 30th day of SEPTEMBER, 2021.
(6 months from date of appointment)

Any person having a claim against the decedent must present the claim to the undersigned personal representative or file it with the Register of Wills with a copy to the undersigned on or before the earlier of the following dates:

- (1) Six months from the date of the decedent's death, except if the decedent died before October 1, 1992, nine months from the date of the decedent's death; or
- (2) Two months after the personal representative mails or otherwise delivers to the creditor a copy of this published notice or other written notice, notifying the creditor that the claim will be barred unless the creditor presents the claims within two months from the mailing or other delivery of the notice. A claim not presented or filed on or before that date, or any extension provided by law, is unenforceable thereafter. Claim forms may be obtained from the Register of Wills.

Name of newspaper designated by personal representative: GREATER OLNEY NEWS

Michael A. Klueh Sr
MICHAEL A KLUH SR 202 491 5511

Personal Representative

Date of publication: APRIL 14, 2021

Personal Representative

True Test Copy

Name and Address of Register of Wills for Montgomery County

Joseph M. Griffin

JOSEPH M GRIFFIN
50 MARYLAND AVENUE NORTH TOWER 3220
ROCKVILLE, MD 20850-2397

202 -
491 - COPY
5511

CRITICAL AREA COMMISSION
 CHESAPEAKE AND ATLANTIC COASTAL BAYS
 1804 WEST STREET, SUITE 100
 ANNAPOLIS, MD 21401

PROJECT NOTIFICATION APPLICATION

GENERAL PROJECT INFORMATION

Jurisdiction: Anne Arundel County

Date: _____

Tax Map #	Parcel #	Block #	Lot #	Section
<u>60</u>	<u>72</u>	<u>18</u>	<u>4+5</u>	<u>3</u>

Tax ID: 01-749-02251901

FOR RESUBMITTAL ONLY	
Corrections	<input type="checkbox"/>
Redesign	<input type="checkbox"/>
No Change	<input type="checkbox"/>
Non-Critical Area	<input type="checkbox"/>
*Complete Only Page 1 General Project Information	

Project Name (site name, subdivision name, or other) Klub Property

Project location/Address 5954 Shropshire Dr

City Edgewater MD Zip 21037

Local case number _____

Applicant: Last name Klub First name Michael

Company _____

Application Type (check all that apply):

- | | | | |
|---------------------------|-------------------------------------|-------------------|-------------------------------------|
| Building Permit | <input checked="" type="checkbox"/> | Variance | <input checked="" type="checkbox"/> |
| Buffer Management Plan | <input type="checkbox"/> | Rezoning | <input type="checkbox"/> |
| Conditional Use | <input type="checkbox"/> | Site Plan | <input type="checkbox"/> |
| Consistency Report | <input type="checkbox"/> | Special Exception | <input type="checkbox"/> |
| Disturbance > 5,000 sq ft | <input type="checkbox"/> | Subdivision | <input type="checkbox"/> |
| Grading Permit | <input checked="" type="checkbox"/> | Other | <input type="checkbox"/> |

Local Jurisdiction Contact Information:

Last name AACo Zoning Administration Section First name _____

Phone # 410-222-7437 Response from Commission Required By TBD

Fax # _____ Hearing date TBD

SPECIFIC PROJECT INFORMATION

Describe Proposed use of project site:

Construct a New Dwelling

Intra-Family Transfer
 Grandfathered Lot

Growth Allocation
 Buffer Exemption Area

Project Type (check all that apply)

Commercial
 Consistency Report
 Industrial
 Institutional
 Mixed Use
 Other

Recreational
 Redevelopment
 Residential
 Shore Erosion Control
 Water-Dependent Facility

SITE INVENTORY (Enter acres or square feet)

	Acres	Sq Ft
IDA Area	0.114	5,000
LDA Area		
RCA Area		
Total Area	0.114	5,000

Total Disturbed Area

Acres	Sq Ft
0.096	4,200

of Lots Created

	Acres	Sq Ft	Acres	Sq Ft
Existing Forest/Woodland/Trees	0	0	Existing Lot Coverage	0.000 20
Created Forest/Woodland/Trees	TBD	TBD	New Lot Coverage	0.040 1750
Removed Forest/Woodland/Trees	0	0	Removed Lot Coverage	0.000 26
			Total Lot Coverage	0.040 1750

VARIANCE INFORMATION (Check all that apply)

	Acres	Sq Ft	Acres	Sq Ft
Buffer Disturbance	0.096	4200	Buffer Forest Clearing	0 0
Non-Buffer Disturbance			Mitigation	TBD TBD

Variance Type

Buffer
 Forest Clearing
 HPA Impact
 Lot Coverage
 Expanded Buffer
 Nontidal Wetlands
 Setback
 Steep Slopes
 Other

Structure

Acc. Structure Addition
 Barn
 Deck
 Dwelling
 Dwelling Addition
 Garage
 Gazebo
 Patio
 Pool
 Shed
 Other

***CRITICAL AREA
REPORT***

**3934 BAY SIDE DRIVE
EDGEWATER, MD 21037**

September 2023

**Prepared for:
Michael Klüh**

**Prepared by:
Bay Engineering, Inc.
2661 Riva Rd. Building 800
Annapolis, MD 21401**

INTRODUCTION

This site is a 5,000 square foot property that is located on Bay Side Drive approximately 65 feet from the intersection of Bay side Drive and Ramsey Drive in the Shoreham Beach neighborhood of Edgewater, MD. The property is Lots 4 and 5 of Section 3. The proposal is to construct a new single family dwelling on the currently vacant lot(s). The site is served by public sewer and private well. The property is completely inside the Chesapeake Bay Critical Area Boundary and is designated as Intensely Developed Area (IDA). The site is considered not waterfront, and is not located in a buffer modification area. The property is zoned R-5.

EXISTING USE

The property consists of 5,000 square feet, Lots 4 and 5 of Section 3 of the Shoreham Beach Subdivision. The site is currently vacant. The property is served by Bay Side Drive, a 30 foot width public right of way.

SURROUNDING LAND USE

The properties that abut the site are developed as single-family lots. The general area is developed as single-family lots that are part of the Shoreham Beach subdivision. Most, if not all homes are constructed on at least two combined lots within the subdivision. The site is bounded by a developed property on either side and a tidal wetland/community area to the rear of the lots. Lot frontage is along Bay Side Drive.

SOILS

The U.S. Department of Agriculture Soil Survey, defines the property to have a majority soil type of MRD – Matapeake and Mattapex 10 - 15% Slopes (C Soils) and MyB – Mattapex-Butlertown-Urban Land Complex 0 - 5% slopes (D Soils)

FLOODPLAIN

The property described hereon is mostly located in the flood hazard zones "X" - (area of minimal flood hazard) as delineated on the firm flood insurance map #24003C0363F dated February 18, 2015 for said county and distributed by the Federal Emergency Management facility. A small portion of the rear of the property is located in the flood hazard zone "VE" – (flood elevation 7'-0"). Not structures are being placed in this zone/portion of the property.

NON-TIDAL WETLANDS

There appears to be a small portion (21 s.f.) on the "waterside" of the property that contains Non-Tidal Wetlands. This has been field verified by Bay Environmental per the attached letter dated October 12, 2020.

TIDAL WETLANDS

There appears to be a small amount of Tidal Wetlands area (21 s.f.) on this site.

BODIES OF WATER

The site ultimately drains into Ramsey Lake.

STEEP SLOPES

There are steep slopes on the property, defined as 15% or greater in the Critical Area.

RARE AND ENDANGERED SPECIES

A review of Federal and/or State listed species of rare, threatened or endangered species of plants or animals has been requested via the enclosed letter to Lori Byrne of the Maryland Department of Natural Resources Fish, Heritage and Wildlife Administration.

STORMWATER MANAGEMENT

Stormwater management will be provided as required during the permit process.

FOREST COVER

The existing forest cover is limited to one tree on the site. All forestation requirements will be addressed with the grading permit process and will meet all requirements of Anne Arundel County Code.

SITE CALCULATIONS

1. Total Site area.....5,000 sq. ft.
2. Site area in Critical area.....5,000 sq. ft
3. Existing lot coverage20 sq. ft.
4. Proposed lot coverage1,750 sq. ft.
5. Total Lot Coverage after Construction...1,750 sq. ft.
6. Proposed Disturbed Area.....4,200 sq. ft.



BAY ENVIRONMENTAL, INC.
↔

October 12, 2020

Ms. Kim Burke
Bay Engineering, Inc.
2661 Riva Road, Building 800
Annapolis, Maryland 21401

Re: 3934 Bayside Drive Property - Anne Arundel County, Maryland
Bay Env. Project #20-380

Dear Ms. Burke:

At your request, I conducted a site visit to the above referenced property on September 21, 2020, to determine if the open water system, situated to the west of the 0.11-acre property, would be considered tidal or non-tidal. The property consists of Parcel 92, Lots 3 and 4, and is located at 3934 Bayside Drive in Edgewater, Anne Arundel County, Maryland. I performed a formal wetland assessment using the methodologies outlined in the *1987 Corps of Engineers' Wetlands Delineation Manual* and the *Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Atlantic and Gulf Coastal Plain Region*. Currently, I am a Professional Wetland Scientist (#2878) with the Society of Wetland Scientists.

The property is almost entirely comprised of maintained grass and stored boats and trailers. The open water system in question is situated immediately to the west of the property. This area is mapped as an estuarine wetland on the National Wetlands Inventory Map. At a first glance it is difficult to determine whether or not it is tidal. The pond does not contain a discernable connection to tidal waters, at its west end, and the vegetation around the edge of the pond is not comprised of a strong tidal vegetation plant community. The small ditch which leads to tidal waters has been cut off by a lip of sand and beach from past storm events. It is possible that tidal flushing may occur but only during large storm events and astronomical high tides. It is my understanding that a permit was in place years ago to clean out the ditch connection to tidal waters but that permit has not been pursued in years and the ditch has filled in naturally.

Based on my investigation, it is my professional opinion that this pond is no longer tidal due to the inability of the pond to flush with tidal water on a regular basis. Therefore, it is the opinion of Bay Environmental, Inc. that this pond is non-tidal. If you have any questions or if I can be of further assistance, please do not hesitate to contact me.

Sincerely,

Kenneth R. Wallis, P.W.S.
Senior Environmental Principal