



Critical Area Comments_Accinelli 2023-0009-V

Jennifer Esposito <jennifer.esposito@maryland.gov>
To: Sadé Medina <pzmedi22@aacounty.org>
Cc: Charlotte Shearin -DNR- <charlotte.shearin@maryland.gov>

Fri, Feb 2, 2024 at 2:29 PM

Hi Sade,

The Critical Area Commission has reviewed the following variance and we have the comments:

- 2023-0009-V; Accinelli (AA 025-23): This office does not oppose the request to expand the dwelling vertically within the existing footprint. However, we question if the expansion of the footprint meets the unwarranted hardship standard as it appears that the applicant could further minimize the lot coverage on this lot by keeping the expansion within the existing footprint. It is noted that the lot coverage on this lot exceeds the 15% limit and the applicant is required to remove existing lot coverage on the site by 10%. It appears that this site is located in an area that is vulnerable to sea level rise and storm surge. Moreover, it appears that the applicant has an opportunity to further minimize the lot coverage on this site by removing areas of the circular driveway located just feet from the mean high water line. That area could then be planted with conducive native species to help abate impacts from storm surge. If the Administrative Hearing Officer determines that this variance request meets all of the Critical Area variance standards then appropriate mitigation is required.

Thank you for the opportunity to provide comments. If you have any questions or concerns, please let me know.

The above comments have been uploaded to the County's online portal



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 twitter_logo.jpg

dnr.maryland.gov/criticalarea

Jennifer Esposito

Critical Area Commission for the
Chesapeake & Atlantic Coastal Bays

1804 West Street, Suite 100

Annapolis, MD 21401

Office: 410-260-3468

(In office: Mon., Wed., Friday)

Cell: 443-569-1361

(Teleworking: Tues., Thurs.)

jennifer.esposito@maryland.gov

2023-0009-V

Menu Cancel Help

Task Details OPZ Critical Area Team

Assigned Date

01/26/2024

Assigned to

Kelly Krinetz

Current Status

Complete w/ Comments

Action By

Kelly Krinetz

Comments

The proposal results in an overall reduction of 959 sq feet of coverage within the Modified Buffer.

This Office has no objection to the proposal.

End Time

Billable

No

Time Tracking Start Date

In Possession Time (hrs)

Estimated Hours

0.0

Comment Display in ACA

- All ACA Users
- Record Creator
- Licensed Professional
- Contact
- Owner

Due Date

02/16/2024

Assigned to Department

OPZ Critical Area

Status Date

02/01/2024

Overtime

No

Start Time

Hours Spent

0.0

Action by Department

OPZ Critical Area

Est. Completion Date

- Display E-mail Address in ACA
- Display Comment in ACA



**ANNE
ARUNDEL
COUNTY**


M A R Y L A N D
DEPARTMENT OF HEALTH

J. Howard Beard Health Services Building
3 Harry S. Truman Parkway
Annapolis, Maryland 21401
Phone: 410-222-7095 Fax: 410-222-7294
Maryland Relay (TTY): 711
www.aahealth.org

Tonii Gedin, RN, DNP
Health Officer

MEMORANDUM

TO: Sadé Medina, Zoning Applications
Planning and Zoning Department, MS-6301

FROM: Brian Chew, Program Manager 
Bureau of Environmental Health

DATE: February 7, 2024

RE: Patricia Ann Accinelli, Trustee
13 Cedar Point Road
Severna Park, MD 21146

NUMBER: 2023-0009-V

SUBJECT: Variance/Special Exception/Rezoning

The Health Department has reviewed the above referenced variance to allow dwelling additions with less setbacks than required and with new lot coverage nearer to the shoreline than the principal structure and an addition (second story) to an accessory structure with less setbacks than required.

The Health Department has reviewed the above-referenced request. The property is served by public water and sewer facilities. The Health Department has no objection to the above-referenced request.

If you have further questions or comments, please contact Brian Chew at 410-222-7413.

cc: Sterling Seay

2023-0009-V

Menu Cancel Help

Task Details OPZ Cultural Resources

Assigned Date

01/26/2024

Assigned to

Current Status

Complete w/ Comments

Action By

Stacy Poulos

Comments

This property contains a pre-contact period archaeology site, "Cedar Point" (18AN108), recorded in the Maryland State database in the 1960s. The property shall require archaeological evaluation prior to any new disturbance in compliance with Article 17-6-502. The Cultural Resources Section shall require a site visit by a County archaeologist to complete review of any development applications and to determine if there are further archaeological requirements per Article 17-6-502.

End Time

Billable

No

Time Tracking Start Date

In Possession Time (hrs)

Estimated Hours

0.0

Comment Display in ACA

- All ACA Users
- Record Creator
- Licensed Professional
- Contact
- Owner

Due Date

02/16/2024

Assigned to Department

OPZ Cultural Resources

Status Date

02/08/2024

Overtime

No

Start Time

Hours Spent

0.0

Action by Department

OPZ Cultural Resources

Est. Completion Date

Display E-mail Address in ACA

Display Comment in ACA



Address Points: 13 CEDAR POINT RD, 21146

14

9F

11

9

7

13 Cedar Point Rd Looking North



13 Cedar Point Looking West



IN THE OFFICE OF ADMINISTRATIVE HEARINGS

CASE NUMBER 2011-0297-V

JAIME ACCINELLI AND PATRICIA ANN ACCINELLI

THIRD ASSESSMENT DISTRICT

DATE HEARD: JANUARY 12, 2012

ORDERED BY:

DOUGLAS CLARK HOLLMANN
ADMINISTRATIVE HEARING OFFICER

PLANNER: WILLIAM ETHRIDGE

DATE FILED: JANUARY 26, 2012

IN RE: * ANNE ARUNDEL COUNTY
JAIME ACCINELLI, *ET AL.* * ADMINISTRATIVE HEARINGS
THIRD ASSESSMENT DISTRICT * CASE NO. 2011-0297-V

* * * * *

ORDER REVISING DECISION ISSUED JANUARY 26, 2012

The captioned case was heard on January 12, 2012, and a decision and Order was issued on January 26, 2012 (the original Order). The applicants have submitted a request to modify the relief granted in that decision as follows:

1. The original Order directed the applicants to reduce the size of the proposed garage and construct it at 90° to the orientation of the existing garage; and
2. To remove paving that surrounds the southwestern portion of the paved driveway area as indicated on the exhibit attached to the original Order.

The applicants are concerned that the removal of the paving required by No. 2 above will adversely affect the existing vegetation growing in the island, i.e., the work will kill the existing trees. The County agrees. The suggestion has been made that a 10-foot wide portion of driveway remains around the island. In addition, the applicants request that the orientation of the reduced garage be changed back to its original position now that the 10-foot portion of driveway will remain around the traffic island. Both of these suggestions have merit and the original Order will be amended.

Therefore, it is this 6th day of February, 2012,

ORDERED, by the Administrative Hearing Officer of Anne Arundel County that the original Order issued on January 26, 2012 is hereby amended in its entirety and the following substituted in its place:

REVISED ORDER

PURSUANT to the application of Jaime Accinelli and Patricia Ann Accinelli, trustees of the Jaime Accinelli Living Trust, petitioning for a variance to allow a dwelling addition and an accessory structure (garage) with less setbacks and with new impervious surface nearer to the shoreline than the principal structure, and

PURSUANT to the notice, posting of the property, and public hearing and in accordance with the provisions of law, it is this **26th day of January, 2012¹**,

ORDERED, by the Administrative Hearing Officer of Anne Arundel County, that the applicants are hereby **granted** the following variances:

1. A critical area variance to § 17-8-702 to **remove** the following impervious surfaces shaded in yellow on the portion of County Exhibit 2-Revised attached to this Decision and Order:

- (a) the 9' x 23' pad in the northwest corner of the property.
- (b) the stone patio on the southeast side of the property (132 sq ft).
- (c) the 98 square feet of stone pavers at the entrance to the property.²

¹ § 18-16-401 provides that a "revision does not extend the time for appeal" of the original Order. Thus, the time to appeal this decision began to run on January 26, 2012, not the date of this Amended Order.

² The 128 square-foot of pavers and sidewalk to the dwelling and the proposed addition may remain. The north end of the pavers and sidewalk may be extended in the same material and width to the reduced driveway.

(d) the area of the existing driveway as shown on County Exhibit 2-Revised attached to this Revised Decision.

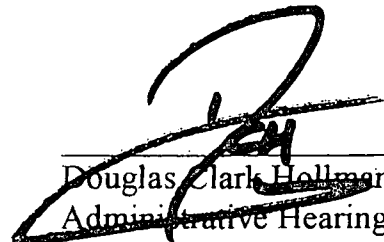
2. A critical area variance to § 17-8-702 to construct a 20' x 24' garage in the location shown on County Exhibit 2-Revised.³

Furthermore, County Exhibit 2-Revised, referenced in this revised decision, is incorporated herein as if fully set forth and made a part of this Order. The proposed improvements shall be constructed in the locations shown therein as modified and explained by this Order.

The foregoing variances are subject to the following conditions:

- A. The applicants shall comply with any instructions and necessary approvals from the Permit Application Center, the Department of Health, and/or the Critical Area Commission, including but not limited to any direction regarding the use of nitrogen removal system technology and mitigation plantings.
- B. This Order does not constitute a building permit. In order for the applicants to construct the structures permitted in this decision, they must apply for and obtain the necessary building permits, along with any other approvals required to perform the work described herein.

In all other respects, the Opinion and Order of January 26, 2012 remains unaltered.



Douglas Clark Hollmann
Administrative Hearing Officer

³ A portion of County Exhibit 2-Revised is attached to this decision.

PLEADINGS

Jaime Accinelli and Patricia Ann Accinelli, trustees of the Jaime Accinelli Living Trust, the applicants, seek a variance (2011-0297-V) to allow a dwelling addition and an accessory structure (garage) with less setbacks than required and with new impervious surface nearer to the shoreline than the principal structure on property located on the southwest side of Cedar Point Road, southwest of Boone Trail, Severna Park.

PUBLIC NOTIFICATION

The hearing notice was posted on the County's web site in accordance with the County Code. The file contains the certification of mailing to community associations and interested persons. Each person designated in the application as owning land that is located within 175 feet of the property was notified by mail, sent to the address furnished with the application. Jaime Accinelli testified that the property had been posted for more than 14 days. I find and conclude that there has been compliance with the notice requirements.

FINDINGS

A hearing was held on January 12, 2012, in which the witnesses were sworn and the following was presented with regard to the proposed variances requested by the applicants.

The Property

The applicants, as trustees, own the subject property which has a street address of 13 Cedar Point Road, Severna Park, Maryland 21146. The site is

identified as Lot 41 in Parcel 84, Block 18, Tax Map 31, in the subdivision of Linstead on the Severn. The property is zoned R2 Residential District and is a waterfront lot designated in the Chesapeake Bay Critical Area as limited development area (LDA). The property is mapped in a buffer modification area (BMA).

The Proposed Work

The applicants propose to add a 24' x 28' addition to their existing home and a 20' x 30' detached garage, for a total of 1,289 square feet of new impervious surface in the buffer, as shown on a site plan admitted into evidence at the hearing as County Exhibit 2.

The Anne Arundel County Code

Article 18, § 18-13-104(b) provides that there shall be a buffer modification area established on all or part of a lot created before December 1, 1985 on which the existing pattern of development prevents the 100-foot buffer from performing its functions. The property is located in a BMA where, according to § 17-8-702, no new impervious surface may be placed nearer to the shoreline than the existing principal structure.

The Variances Requested

The work proposed will require a critical area variance of 1,289 square feet to the prohibition in § 17-8-702 that no new impervious surface may be placed nearer to the shoreline than the existing principal structure.

The Evidence Submitted At The Hearing

William Ethridge, a planner with the Office of Planning and Zoning (OPZ), testified in favor of granting the requested variances with certain conditions. While the lot meets the dimensional requirements for a lot in the R2 district, it is bounded on three sides by water. The BMA overlays the entire property. The property is already developed, which restricts the ability of the applicants to develop the property further. While the amount of impervious surface on the property exceeds permissible limits, the property is grandfathered and the applicants intend to sway out existing impervious to offset the increase in impervious surface that will be created by the proposed work.

Mr. Ethridge testified that the proposed work will not alter the essential character of the neighborhood and is the minimum relief needed. The Critical Area Commission does not object to the granting of the requested variance. However, the Development Division pointed out that the driveway and patio on the waterside of the dwelling was 5,600 square feet which should be reduced. The Department of Health did not object to the granting of the variances because the property is on public water and sewer.

Dr. Accinelli and his wife were assisted at the hearing by Michele Hauf, their architectural designer, and Barbara Schaffer, a permit expediter. The applicants purchased the property in 1977. The dwelling was built in 1963 and is one story. The lot was platted in 1944. The applicants wish to expand the living space of the dwelling and build a three-car garage for their automobiles. The

location and orientation of the garage was subject of much discussion at the hearing. It is apparent that the garage cannot be placed on the south side of the property or on the peninsula that extends into the Severn River. They would like to keep the orientation of the garage as shown on County Exhibit 2 and the existing pavement to park their cars and the cars of visitors. They will remove impervious surface to offset the increase caused by the addition and pointed out that the garage will be located over existing impervious surface.

There was no other testimony taken or exhibits received in the matter. The Hearing Officer did not visit the property.

DECISION

Upon review of the facts and circumstances, I find and conclude that the applicants are entitled to conditional relief from the Code.

State Requirements for Critical Area Variances

§ 8-1808(d)(2) of the Natural Resources Article, Annotated Code of Maryland, provides in subsection (ii), that “[i]n considering an application for a variance [to the critical area requirements], a local jurisdiction shall presume that the specific development in the critical area that is subject to the application and for which a variance is required does not conform to the general purpose and intent of this subtitle, regulations adopted under this subtitle, and the requirements of the jurisdiction’s program.” (Emphasis added.) “Given these provisions of the State criteria for the grant of a variance, the burden on the applicant is very high.”

Becker v. Anne Arundel County, 174 Md. App. 114, 124; 920 A.2d 1118, 1124

(2007).

The question of whether the applicants are entitled to the variances requested begins, therefore, with the understanding that, in addition to the other specific factors that must be considered, the applicants must overcome the presumption, “that the specific development in the critical area that is subject to the application ... does not conform to the general purpose and intent of [the critical area law].”¹ Furthermore, the applicants carry the burden of convincing the Hearing Officer “that the applicant[s have] satisfied each one of the variance provisions.”² (Emphasis added.)

County Requirements for Critical Area Variances

§ 18-16-305(b) sets forth six separate requirements (in this case) that must be met for a variance to be issued for property in the critical area. They are (1) whether a denial of the requested variance would constitute an unwarranted hardship, (2) whether a denial of the requested variance would deprive the applicants of rights commonly enjoyed by other property owners, (3) whether granting the variance would confer a special privilege on the applicants, (4) whether the application arises from actions of the applicants, or from conditions or use on neighboring properties, (5) whether granting the application would not

¹ § 8-1808(d)(2)(ii) of the Natural Resources Article. References to State law do not imply that the provisions of the County Code are being ignored or are not being enforced. If any difference exists between County Code and State law, or if some State criteria were omitted from County Code, State law would prevail. See, discussion on this subject in *Becker v. Anne Arundel County, supra*, 174 Md. App. at 135; 920 A.2d at 1131.

² § 8-1808(d)(4)(ii).

adversely affect the environment and be in harmony with the critical area program, and (6) whether the applicants have overcome the presumption in Natural Resources Article, § 8-1808(d)(2)(ii), of the State law that the variance request should be denied.

Provided that an applicants meet the above requirements, a variance may not be granted unless six additional factors are found: (1) the variance is the minimum variance necessary to afford relief; (2) the granting of the variance will not alter the essential character of the neighborhood or district in which the lot is located; (3) the variance will not substantially impair the appropriate use or development of adjacent property; (4) the variance will not reduce forest cover in the limited development and resource conservation areas of the critical area; (5) the variance will not be contrary to acceptable clearing and replanting practices required for development in the critical area; or (6) the variance will not be detrimental to the public welfare.

Findings - Critical Area Variances

I find, based upon the evidence that, for the reasons set forth below, the applicants are entitled to conditional relief from the Code.

Subsection (b)(1) - Unwarranted Hardship.

In *Becker v. Anne Arundel County*, *supra*, 174 Md. App. at 132-3; 920 A.2d at 1129, the Court of Special Appeals discussed the definition of unwarranted hardship found in § 8-1808(d)(1) of the Natural Resources Article in the State Code: “The amendment changed the definition of unwarranted hardship to mean

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.'”

I find that the denial of the variance would constitute an unwarranted hardship that would deny the applicants use of the entire parcel. The applicants have the right to expand the existing dwelling on this grandfathered lot in order to have “reasonable and significant use of the entire ... lot” that is the subject of this application. The need for a garage is closer, but since there is no garage, I will make a similar finding that having a garage is a reasonable and significant use of the entire lot. Therefore, I find that the applicants **have met** the requirements of subsection (b)(1).

Subsection (b)(2) - Deprive Applicants Of Rights

I find that the applicants would be deprived of rights commonly enjoyed by other properties in similar areas as permitted in accordance with the provisions of the critical area program, i.e., the right to expand the dwelling and construct a garage. Therefore, I find that the applicants **have met** the requirements of subsection (b)(2).

Subsection (b)(3) - Special Privilege

I further find that the granting of the critical area variances requested will not confer on the applicants any special privilege that would be denied by COMAR, 27.01, the County’s critical area program, to other lands or structures within the County’s critical area. There was testimony that the proposed improvements are comparable to other improvements in the neighborhood.

Therefore, I find that the applicants **have met** the requirements of subsection (b)(3).

Subsection (b)(4) - Actions By Applicants Or Neighboring Property

I find that the critical area variances requested are not based on conditions or circumstances that are the result of actions by the applicants, including the commencement of development before an application for a variance was filed, and does not arise from any condition relating to land or building use on any neighboring property. Therefore, I find that the applicants **have met** the requirements of subsection (b)(4).

Subsection (b)(5) - Water Quality, Intent Of Critical Area Program

The granting of the critical area variances requested will not adversely affect water quality or adversely impact fish, wildlife or plant habitat within the County's critical area or a bog protection area and will be in harmony with the general spirit and intent of the County's critical area program. The proposed work will be offset by stormwater management measures and mitigation that the applicants will undertake. Therefore, I find that the applicants **have met** the requirements of subsection (b)(5).

Subsection (b)(7) - § 8-1808(d)(2)(ii) Presumption

In *Becker v. Anne Arundel County*, *supra*, 174 Md. App. at 133; 920 A.2d at 1129, the Court of Special Appeals discussed the presumption found in § 8-1808(d)(2)(ii) of the Natural Resources Article: "The amendment also created a

presumption that the use for which the variance was being requested was not in conformity with the purpose and intent of the critical area program.”

I find that the applicants, by competent and substantial evidence, have overcome the presumption contained in the Natural Resources Article, § 8-1808(d)(2), of the State law (which is incorporated into § 18-16-305 subsection (b)(2)) for the reasons set forth above. Therefore, I find that the applicants **have met** the requirements of subsection (b)(7).

I further find that the critical area variances represent the minimum relief as to the expansion of the dwelling. The existing dwelling was built in 1963 and is one-story. The applicants testified that they did not want to expand the dwelling by adding on a second story because they intend to remain in the dwelling as they age. The garage is another story.

First, as pointed out by the Development Division, there is 4,886 square feet of driveway on this property. Many properties have long driveways to reach the area of a lot that is developed. That is not the case here. The property abuts Cedar Point Road; the paving is almost exclusively for the purpose of providing parking for automobiles. I recognize that automobiles are a necessary part of modern life but the amount of paving on this property is excessive. The proof is the amount of impervious surface existing at the present time – 8,922 square feet. 6,911 would be allowed if this were a new lot being developed now. The lot is grandfathered, of course, and the applicants have agreed to remove impervious

surface on other parts of the property to prevent the 8,911 square feet from being increased. And they cannot be forced to remove the existing impervious surface.

However, swapping out impervious surface so that there is no net gain is not enough when 4,886 square feet of the 8,922 square feet on the property is made up of paved driveway. This is not the minimum required by the law. Recognizing that a garage may be a necessity in these times, two stalls are more than adequate; three stalls are too much for this property which is a sensitive parcel of low-lying land bounded on three sides by the Severn River. The property significantly exceeds the minimum standards for a lot in the R2 district (140 feet of width as opposed to the 80-foot minimum width; 46,609 square feet of area as opposed to the 20,000 square feet minimum area) and thus no relief is needed to accommodate reasonable development because the lot is too small.

There was testimony that there is no room to park or turn around on Cedar Point Road outside the entrance to the subject property. This is true. However, this fact does not mean that the applicants should be able to retain 4,886 square feet of paving to allow the applicants and visitors to park and turn around.

For these reasons, the request for the garage will be granted except that (1) the garage shall be reduced to two stalls; (2) the garage shall be reoriented 90° so that the doors to the stalls face the dwelling; and (3) the paved area of the driveway shall be reduced by removing the area of paving to the southwest of a line drawn through the island in the middle of the existing driveway as shown on the exhibit attached to this decision. If the applicants believe that these changes

leave them with too little paving to park and turn around, the vegetation in the area northeast of the line through the island as shown on the exhibit attached to this decision may be removed and repaved.

There was nothing to suggest that the granting of the critical area variances would alter the essential character of the neighborhood, substantially impair the appropriate use or development of adjacent property, reduce forest cover in the limited development and resource conservation areas of the critical area, or cause a detriment to the public welfare.

ORDER

PURSUANT to the application of Jaime Accinelli and Patricia Ann Accinelli, trustees of the Jaime Accinelli Living Trust, petitioning for a variance to allow a dwelling addition and an accessory structure (garage) with less setbacks and with new impervious surface nearer to the shoreline than the principal structure, and

PURSUANT to the notice, posting of the property, and public hearing and in accordance with the provisions of law, it is this **26th day of January, 2012,**

ORDERED, by the Administrative Hearing Officer of Anne Arundel County, that the applicants are hereby **granted** the following variances:

1. A critical area variance to § 17-8-702 to **remove** the following impervious surfaces shaded in red on the portion of County Exhibit 2 attached to this Decision and Order:

(a) the 9' x 23' pad in the northwest corner of the property.

- (b) the stone patio on the southeast side of the property (132 sq ft).
- (c) the 98 square feet of stone pavers at the entrance to the property.³
- (d) the area of the existing driveway southwest of the line drawn through the middle of the island as shown on the exhibit attached to this decision, including the cross-hatched 280 square feet of driveway shown.

2. A critical area variance to § 17-8-702, if the applicants agree, to remove the northernmost Holly tree and the northern half of the island of Holly trees shown on the portion of County Exhibit 2 attached to this Decision and Order to pave the area north of the line drawn through the middle of the island to offset the loss of the driveway area to the south of the line drawn through the island of Holly Trees.
3. A critical area variance to § 17-8-702 to construct the 24' x 28' addition to the existing dwelling as shown on County Exhibit 2; and
4. A critical area variance to § 17-8-702 to construct a 20' x 24' garage turned 90° to the location of the proposed garage shown on County Exhibit 2 to be placed in the northwest corner of the existing driveway with the entrance to the garage facing southeast.

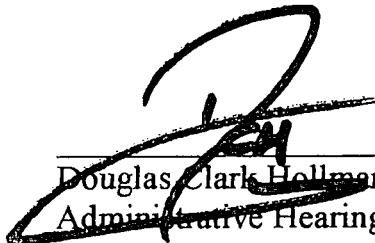
Furthermore, County Exhibit 2, referenced in this decision, is incorporated herein as if fully set forth and made a part of this Order. The proposed

³ The 128 square-foot of pavers and sidewalk to the dwelling and the proposed addition may remain. The north end of the pavers and sidewalk may be extended in the same material and width to the reduced driveway.

improvements shown on County Exhibit 2 shall be constructed on the subject property in the locations shown therein as modified and explained by this Order.

The foregoing variances are subject to the following conditions:

- A. The applicants shall comply with any instructions and necessary approvals from the Permit Application Center, the Department of Health, and/or the Critical Area Commission, including but not limited to any direction regarding the use of nitrogen removal system technology and mitigation plantings.
- B. This Order does not constitute a building permit. In order for the applicants to construct the structures permitted in this decision, they must apply for and obtain the necessary building permits, along with any other approvals required to perform the work described herein.

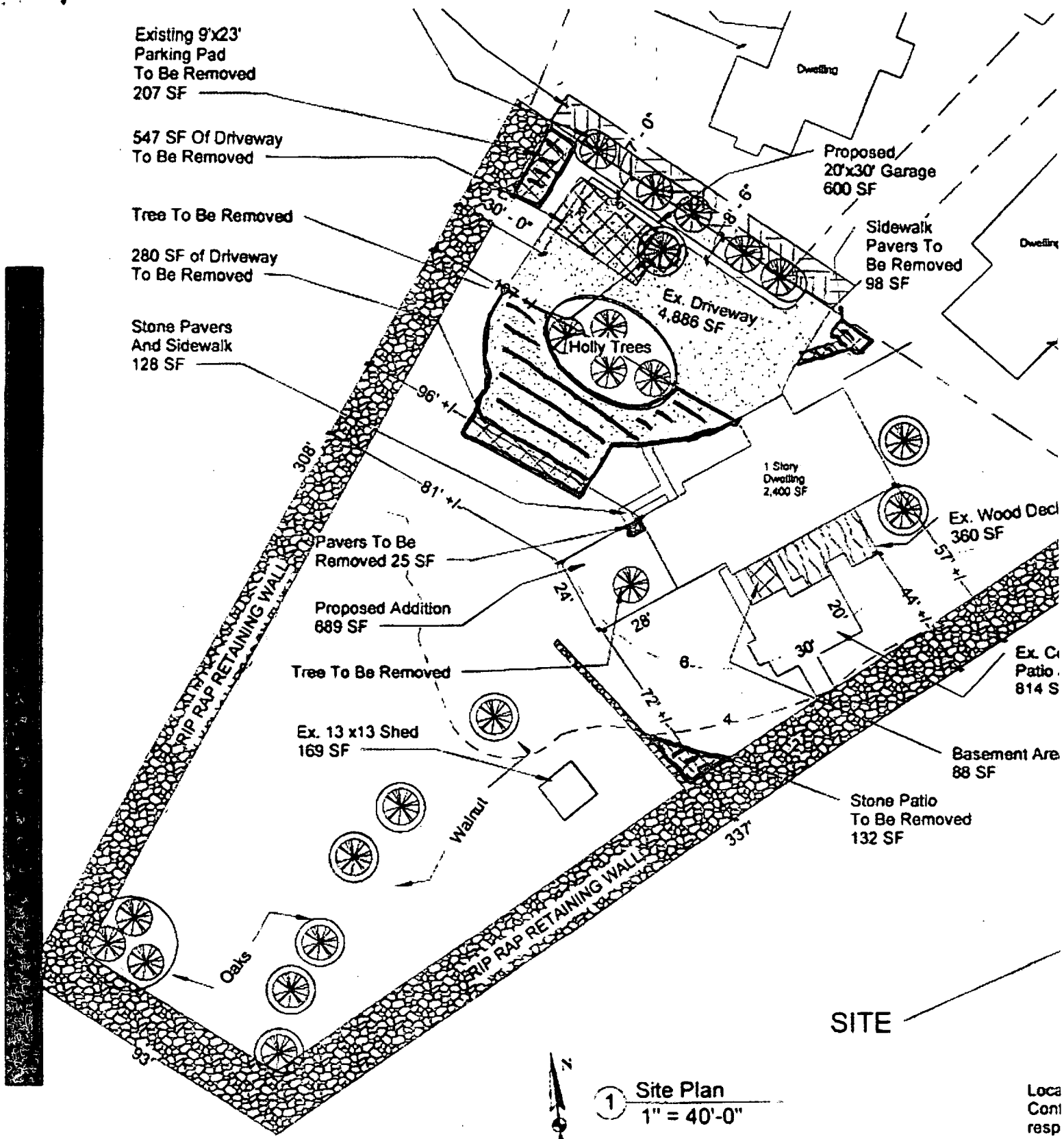

Douglas Clark Hellmann
Administrative Hearing Officer

NOTICE TO APPLICANTS

Within thirty days from the date of this Decision, any person, firm, corporation, or governmental agency having an interest therein and aggrieved thereby may file a Notice of Appeal with the County Board of Appeals. **A permit for the activity that was the subject of this variance application will not be issued until the appeal period has elapsed.**

Further § 18-16-405(a) provides that a variance expires by operation of law unless the applicants obtains a building permit within 18 months. Thereafter, the variance shall not expire so long as construction proceeds in accordance with the permit.

If this case is not appealed, exhibits must be claimed within 60 days of the date of this Order, otherwise they will be discarded.



SEVERN RIVER

① Site Plan
1" = 40'-0"

Existing Impervious Surface

House	2,400 SF
Sidewalks and Patios	98 SF
	814 SF
	132 SF
	128 SF
Basement Areaway	88 SF
Shed	169 SF
Driveway	4,886 SF

Proposed Impervious Surface

TO BE REMOVED	
Sidewalks and Patios	98 SF
	25 SF
	132 SF
	207 SF
Driveway	827 SF

Forest Area 4,345 SF



Property Land Area
46,609 SF

Property Info:
Owner:
Jamie & Patricia Acc
13 Cedar Point Road
Severna Park, MD 2

Local
Control
response
additional
meeting

CO. EXHIBIT#: /
CASE: 2011-0297-V
DATE: 11/2/2012

FINDINGS AND RECOMMENDATIONS
OFFICE OF PLANNING AND ZONING
ANNE ARUNDEL COUNTY, MARYLAND

APPLICANT: Jaime Accinelli

ASSESSMENT DISTRICT: 3rd

CASE NUMBER: 2011-0297-V

COUNCILMAN DISTRICT: 5th

HEARING DATE: January 12, 2012

PREPARED BY: William Ethridge
Planner II

REQUEST

The applicant is requesting a variance to allow a dwelling addition and accessory structure (garage) with less setbacks than required and with new impervious surface nearer to the shoreline than the principal structure.

LOCATION AND DESCRIPTION OF SITE

The subject property contains 1.07 acres or 46,609 sqft and is located 20' along the south west side of Cedar Point Rd, 625' southwest of Boone Trail. It is identified as lot 41, Parcel 84, Tax Map 31 in the subdivision of Linstead on the Severn in Severna Park.

The property has been zoned R2-Residential since the adoption of the Severna Park Small Area Plan effective 5/6/2002.

This is a waterfront lot located in the Chesapeake Bay Critical Area and is designated LDA-Limited Development Area, BMA- Buffer Modified. The property is improved with a 1,725 sqft, one story dwelling with basement, built in 1963, and a 13'x 13' storage shed. The property is served by public water and sewer.

APPLICANT'S PROPOSAL

The applicant wishes to construct a 20'x 30' detached garage, 30' from MHW, and a 24'x 28' addition to the principal dwelling, 72' from MHW.

REQUESTED VARIANCE

Article §17-8-702(b)(1) & (2) of the County Code states that for properties located in the BMA, no new impervious surface shall be placed nearer to the shoreline than the existing principal structure and landscape or retaining walls, pergolas, patios, and swimming pools may not be considered as part of the principal structure, and the structure or expansion shall be designed and located to maximize the distance from the shoreline to enhance and protect the environmentally sensitive features on the site. All of the previously mentioned features will be located within the BMA, waterward of the dwelling therefore a variance is required to construct a 20'x 30' detached garage, 30' from MHW, as well as the 24'x 28' addition, 72' from MHW, a total of 1,289 sqft of new impervious surface as close as 30' from MHW.

FINDINGS

This Office finds that the subject property is irregularly shaped and exceeds the minimum lot size and width for the R2 district¹. The property is a part of the Hidden Point Subdivision, a neighborhood that was platted in December of 1944, prior to the implementation of countywide zoning or the Critical Area program. The attached deed indicates that the owners took possession of the property in December of 1998.

Roughly 95% of the property lies within the BMA. The property is in the Critical Area, and is mapped LDA. The current impervious surface amount for this property is 8,922 sqft. The impervious cap for this property is 6,991 sqft, however the existing amount is grandfathered. The applicants propose to remove 1,289 sqft of existing sidewalks, patios, and driveway to accommodate the additional 1,289 sqft of impervious due to the addition and garage. The proposal would result in no net increase or decrease in impervious for the lot.

The Health Department offered comments in a memo dated 1/9/12 in which they offered no objection the variance.

The Critical Area Team within the Office of Planning and Zoning offered comments in a memo dated 12/29/11: *The proposed development will result in an overall reduction of impervious coverage immediately adjacent to the shoreline. The proposed garage will be located in an area that is already impervious. Mitigation will be determined at the permit stage and must be installed between the existing driveway and proposed garage and the shoreline on the northwest side.*

The Critical Area Commission offered comments in a memo dated 12/6/11; *We oppose this variance request. This lot exceeds the allowable lot coverage limits. Given that this lot is a peninsula and entirely encumbered by the Buffer, this lot coverage overage has increased impacts to tidal waters in the form of stormwater runoff and pollutants. The applicant has not attempted to bring this lot into conformance and has only removed the exact amount of the increase in coverage (swapping). The existing driveway is nearly 5,000 sqft and the existing patio forward of the dwelling is 600 sqft (both of which are less than 30' from the bulkhead with no significant vegetation providing any filtration). Both of these areas of coverage could be decreased significantly. We recommend that the applicant be required to reduce the size of the driveway (which represents 10% of the lot coverage on site) so as this lot is in conformance with the law to the extent practicable. Without bringing this lot into conformance, we question how the applicant can meet each and every one of the strict variance standards, particularly as this lot enjoys multiple amenities.*

In conclusion, it is apparent that the property is located entirely within the LDA and almost entirely within the Buffer. This property exceeds the bulk regulations for the zoning district in which it is located, it is more than twice the minimum size and 60' (average) wider than the minimum required. While the location of the Buffer prohibits reasonable development without a variance the property exceeds the maximum allowable impervious coverage amount by almost 2,000 sqft. As previously stated, it is surrounded on three sides by water, and sparsely vegetated.

¹ 20,000 sqft of area and 80' of width required, 46,609 sqft of area and 140' of width shown.

An improvement such as a detached garage is in many cases, considered a reasonable and necessary improvement. In this case, it is evident that many of the homes in the surrounding neighborhood have been improved with multiple car garages so the County does not contest that such features are commonplace, however it is the location and effect of the garage which bears scrutiny. Most of those homes have garages which are incorporated into the footprint of the home. This garage will be detached.

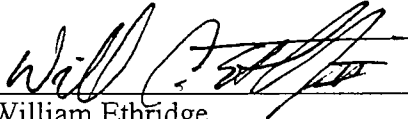
This property is excessively over the coverage maximum, and in a location where the impact would be felt almost immediately. There are other locations on the property where the garage could be placed which would have a reduced effect on the environment and allow for removal of additional impervious surfaces. Therefore, this Office is in partial agreement with the position of the Critical Area Commission, that if the Hearing Officer grants the variance for the garage and addition, it be conditioned that a 10% net reduction in impervious coverage be required.

RECOMMENDATION

Based upon the standards set forth in Article §18-16-305 under which a variance may be granted, this Office recommends the following:

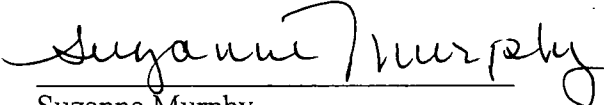
- 1) A variance to construct a 20'x 30', 1-story, detached garage, 30' from MHW, be **APPROVED**;
- 2) A variance to construct a 24'x 28' 1-story addition, 72' from MHW, be **APPROVED**;
- 3) A variance to allow 1,289 sqft of new impervious surface as close as 30' from MHW, be **APPROVED**;
- 4) The total amount of impervious surface at the property be reduced to 8,030 sqft (10% net reduction);
- 5) Mitigation will be determined at the permit stage and must be installed between the existing driveway and proposed garage and the shoreline on the northwest side;

This recommendation does not confirm the legal status of a lot. The legality of a lot is determined through a building permit process.



 William Ethridge
 Planner II

1-9-12
 Date



 Suzanne Murphy
 Planning Administrator

1.9.12
 Date

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

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

1804 West Street, Suite 100, Annapolis, Maryland 21401
(410) 260-3460 Fax: (410) 974-5338
www.dnr.state.md.us/criticalarea/

December 6, 2011

Ms. Patricia Cotter
Anne Arundel County
Office of Planning and Zoning
2664 Riva Road, MS 6301
Annapolis, MD 21401

RECEIVED
DEC 12 2011
ZONING DIVISION

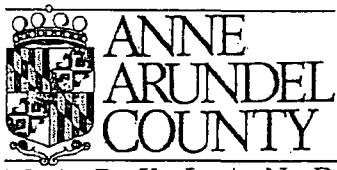
Re: Local Case No. 2011-0297-V: Accinelli, Jaime

Dear Ms. Cotter:

Thank you for forwarding information on the above-referenced project. This lot is 1.070 acres and is located in the Limited Development Area (LDA). The applicants request a variance to allow a dwelling addition and accessory structure (garage) with less setbacks than required and with new impervious surface nearer to the shoreline than the principal structure. The report indicates that this is a Buffer Modification Area (BMA). The applicants propose to construct an accessory garage structure over an area of existing driveway and an addition to the main dwelling. The allowable lot coverage on a lot of this size is 6,991 square feet (15%) and the proposed and existing lot coverage on site is 8,922 square feet (19%). The applicant proposes to remove an equivalent amount of lot coverage as is proposed, so that the net lot coverage remains the same.

We oppose this variance request. This lot exceeds the allowable lot coverage limits. Given that this lot is a peninsula and entirely encumbered by the Buffer, this lot coverage overage has increased impacts to tidal waters in the form of stormwater runoff and pollutants. The applicant has not attempted to bring this lot into conformance and has only removed the exact amount of the increase in coverage (swapping). The existing driveway is nearly 5,000 square feet and the existing patio forward of the dwelling is 600 square feet (both of which are less than 30' from the bulkhead with no significant vegetation providing any filtration). Both of these areas of coverage could be decreased significantly. We recommend that the applicant be required to reduce the size of the driveway (which represents 10% of the lot coverage on site) so as this lot is in conformance with the law to the extent practicable. Without bringing this lot into conformance, we question how the applicant can meet each and every one of the strict variance standards, particularly as this lot enjoys multiple amenities.

See Pam for Details!



MARYLAND

OFFICE OF PLANNING AND ZONING

CONFIRMATION OF PRE-FILING MEETING

- VARIANCE IN CRITICAL AREA
- VARIANCE FOR A BOG
- CRITICAL AREA RECLASSIFICATION
- NEW SINGLE FAMILY DWELLING
- DISTURBANCE greater than 5000sqft.

- REZONING
- SPECIAL EXCEPTION
- COMMERCIAL DEVELOPMENT
- ENVIRONMENTALLY sensitive area

DATE OF MEETING 10-11-11

SITE LOCATION 13 Cedar Point Rd S.P

P & Z STAFF Pam Cotter

ZONING R2

APPLICANT/REPRESENTATIVE Bobbi Schaeffer

LOT ACREAGE 1.07 acre

CA DESIGNATION LDA

*** ENGINEERS PLEASE BE AWARE PRELIMINARY CHECKLIST MUST BE INCLUDED WITH ALL VARIANCES (environmentally sensitive) AT TIME OF SUBMITTAL TO ZONING DIVISION.

NOTES:

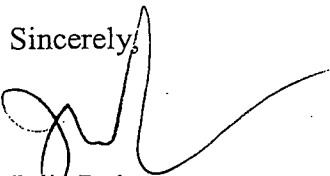
1. Site plan must be drawn ~~at~~ at 1" = 40' scale
2. Applicant proposes 24'6" x 28' addition on an existing dwelling and a 20' x 30' detached garage
3. Addition Property is a waterfront peninsula.
 - a) must address average front yard setback from both sides ^{Lot 40 has 42'10" addition is 71'11" (need variance)}
^{Lot 42 is 53'4" addition is 80'10" (ok)}
 - b) Lot is mapped Buffer Modified. No new impervious closer to shoreline ^{East side 56'5" addition is 71' (ok)}
^{West side 96.5' addition is 80'10" (variance)}
5. Detached Garage will need variance for impervious closer to the shoreline even though it is over an existing driveway. Also will need variance to 7' rear yard setback. It is also in the $\frac{1}{4}$ front yard.

"This pre-filing meeting does not constitute approval or confirm that a positive staff report will be presented regarding this variance/special exception/rezoning/critical area reclassification. The purpose of this meeting is to review administrative site plan development issues and establish that the application and the administrative site plan contain the required information. This meeting is also to bring to attention potential concerns/issues that may arise at the Administrative Hearing."

6. Site plan must be revised to address these issues.

Ms. Cotter
Page 2 of 2
12/6/2011

Please include this letter in your file and submit it as part of the record for variance. Please notify the Commission of the decision made in this case. I can be reached at 410-260-3476 should you have any questions.

Sincerely,


Julie Roberts
Natural Resources Planner

cc: AA 484-11

Department of Health
J. Howard Beard Health Services Building
3 Harry S. Truman Parkway
Annapolis, MD 21401
PHONE: 410-222-7363
FAX: 410-222-7678
TTY: 410-222-7153
www.aahealth.org

Angela M. Wakhweya, M.D., MScEcon.
Health Officer

MEMORANDUM

TO: Suzanne Schappert, Zoning Applications
Planning and Code Enforcement
MS-6301

FROM: Gerry Zitnik, Program Manager
Bureau of Environmental Health

DATE: January 9, 2012

RE: Jaime Accinelli
13 Cedar Point Rd.
Severna Park, MD 21146

CASE
NUMBER: 2011-0297-V

SUBJECT: Variance

The Health Department has reviewed the above referenced variance request to allow a dwelling addition and accessory structure (garage) with less setbacks than required and with new impervious surface nearer to the shoreline than the principal structure.

The above referenced property is served by public water and sewer facilities. The Health Department has no objection to the above referenced request.

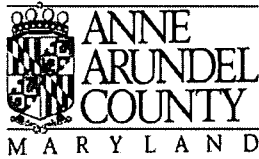
If you have further questions or comments, please contact me at 410-222-7053.

cc: John Fury

Variance to allow a dwelling addition and accessory structure (garage) with low setbacks than required and with new impervious surface nearer to the shoreline than the principal structure

New impervious surface nearer to the shoreline than the principal structure

CASE # 2011-0297-V
FEE PAID 250-
DATE 11/9/11



ZONE R2 ALEX 4/12/12 @ 10:00
200 MAP _____ 1000 MAP _____
CRITICAL AREA: IDA _____ LDA RCA _____
SAP: Severna Park
No. of Signs 2

JAIME VARIANCE APPLICATION BMA

Applicant: Jamie Accinelli
(All persons having 10% or more interest in property)

Property Address: 13 Cedar Point Rd

Property Location: 20 feet of frontage on the (n, s, e, w) side of Cedar Point Rd street, road, lane, etc.; 625 feet (n, s, e, w) of Boone Trail street, road, lane, etc. (nearest intersecting street).

Tax Account Number 3490-0932-3500 Tax District 3 Council District 5

Waterfront Lot 2 Corner Lot NO Deed Title Reference 9038/448

Zoning of Property R2 Lot # 41 Tax Map 31 Block 18 Parcel 84

Area (sq.ft. or acres) 1.07 AC Subdivision Name LINSTEAD ON THE SEVERNA

Description of Proposed Variance Requested (Explain in sufficient detail including distances from property lines, heights of structures, size of structures, uses, etc.) SEE ATTACHED LETTER

The applicant hereby certifies that he or she has a financial, contractual, or proprietary interest equal to or in excess of 10 percent of the property; that he or she is authorized to make this application; that the information shown on this application is correct; and that he or she will comply with all applicable regulations of Anne Arundel County, Maryland.

Applicant's Signature _____ Owner's Signature Same

Print Name JAMIE ACCINELLI Print Name _____

Street Number, Street, P.O. Box 13 Cedar Point Rd Street Number, Street, P.O. Box _____

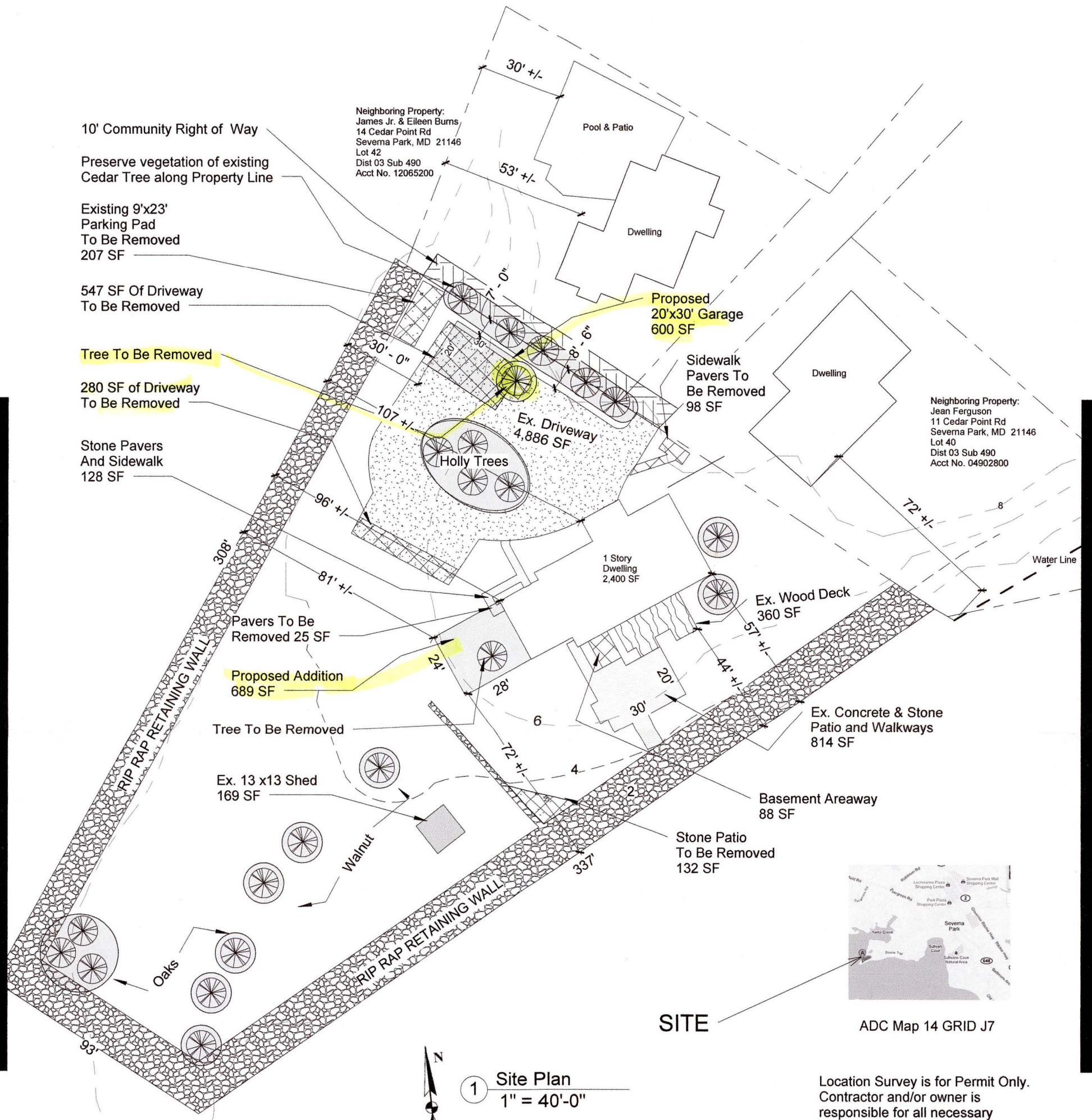
City, State, Zip SEVERNA PARK MD 21446 City, State, Zip _____

Phone 410 647-3303 Phone _____
(WK) (HM) (WK) (HM)

For Office Use Only

Application accepted by Anne Arundel County, Office of Planning and Zoning:

Signature SS SS Date 11/14/11
(Rev. 07/21/2008)



SEVERN RIVER

1 Site Plan
1" = 40'-0"

SITE

ADC Map 14 GRID J7

Location Survey is for Permit Only. Contractor and/or owner is responsible for all necessary additional information to build job and meet local and state requirements before starting construction.

Existing Impervious Surface	
House	2,400 SF
Sidewalks and Patios	98 SF
	814 SF
	132 SF
	128 SF
Basement Areaway	88 SF
Shed	169 SF
Driveway	4,886 SF
Parking Pad	207 SF
Total	8,922 SF

Proposed Impervious Surface	
TO BE REMOVED	
Sidewalks and Patios	98 SF
	25 SF
	132 SF
	207 SF
Driveway	827 SF
PROPOSED ADDITIONS	
Garage	600 SF
House	689 SF
Total	8,922 SF

Forest Area 4,345 SF

Impervious Surface To Be Removed

Property Land Area 46,609 SF

Buffer Modified Critical Area Des. - LDA

Allowable Impervious Surface 8,922 SF

Property Info:
Owner:
Jamie & Patricia Accinelli
13 Cedar Point Road
Severna Park, MD 21146
Lot 41
Linstead on Severn
Map 0031 Grid 0018
Parcel 0084
Dist 03 Sub 490
Acct No. 09323500

CO. EXHIBIT#: 2
CASE: 2011-0297-V
DATE: 1/12/2012

driveway as shown

Preserve vegetation of existing Cedar Tree along Property Line

Dist 03 Sub 490
Acct No. 12065200

Existing 9'x23'
Parking Pad
To Be Removed
207 SF

547 SF Of Driveway
To Be Removed

Tree To Be Removed

280 SF of Driveway
To Be Removed

Stone Pavers
And Sidewalk
128 SF

Remove

Dwelling

Proposed
20'x30' Garage
600 SF

Sidewalk
Pavers To
Be Removed
98 SF

Dwelling

Neighboring Property:
Jean Ferguson
11 Cedar Point Rd
Severna Park, MD 21146
Lot 40
Dist 03 Sub 490
Acct No. 04902800

Ex. Driveway
4,886 SF

Holly Trees

1 Story
Dwelling
2,400 SF

Water Line

Ex. Wood Deck
360 SF

Pavers To Be
Removed 25 SF

Proposed Addition
689 SF

Tree To Be Removed

Ex. Concrete & Stone
Patio and Walkways
814 SF

Ex. 13 x13 Shed
169 SF

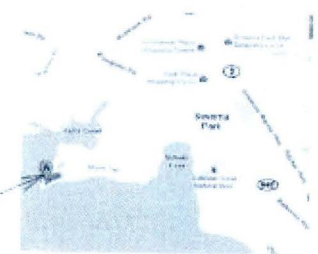
Basement Areaway
88 SF

Stone Patio
To Be Removed
132 SF

Walnut

Oaks

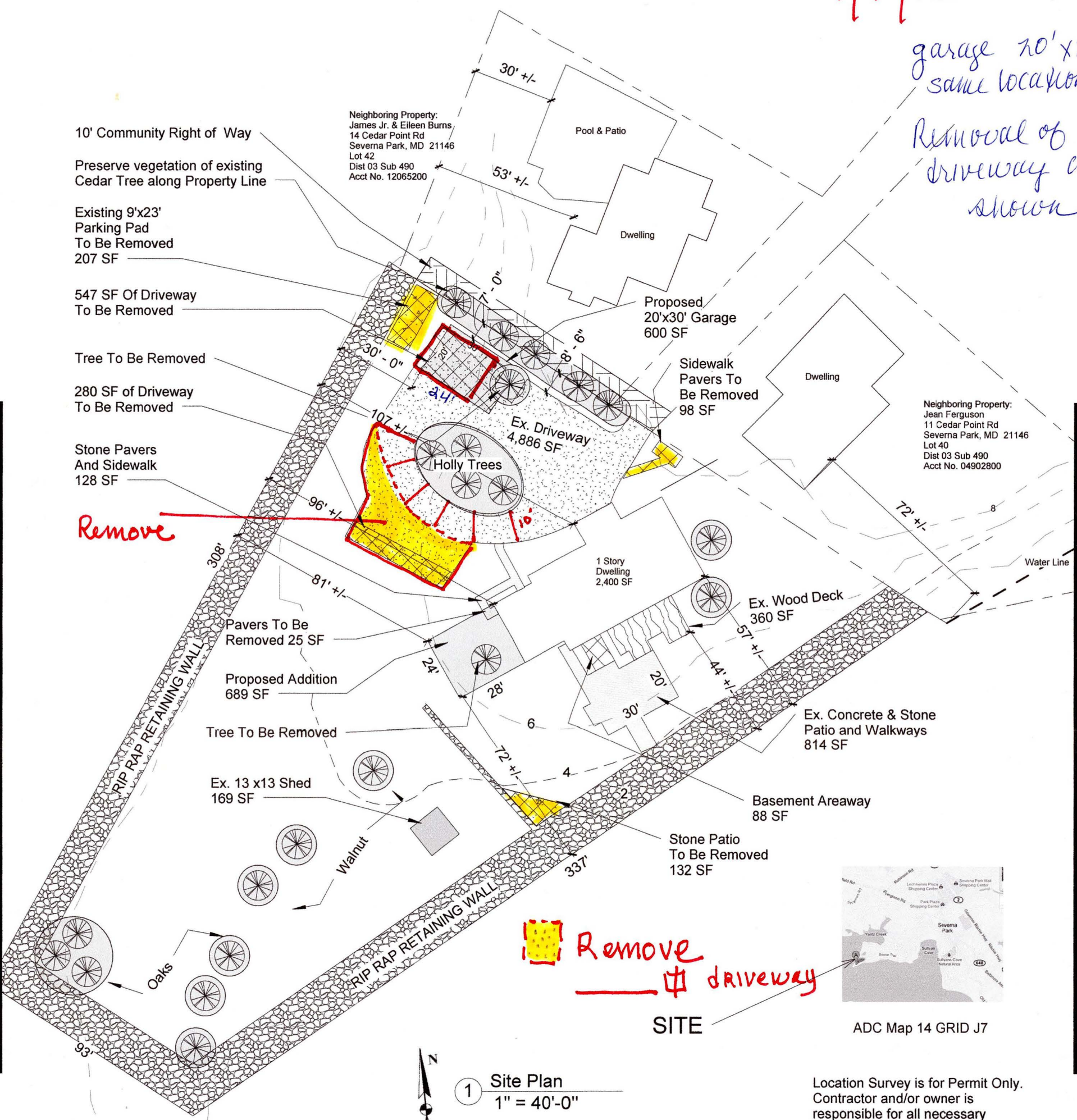
Remove driveway



SITE

CO. EXHIBIT#: *2-Resub Modified Site Plan*
CASE: *2011-02972*
DATE: *1/26/12*
1/31/12

*garage 20'x30'
 same location
 Removal of
 driveway as
 shown*



Remove

Remove
driveway



ADC Map 14 GRID J7

1 Site Plan
 1" = 40'-0"

Location Survey is for Permit Only. Contractor and/or owner is responsible for all necessary additional information to build job and meet local and state requirements before starting construction.

SEVERN RIVER

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 Acct No. 09323500