

**FINDINGS AND RECOMMENDATION
OFFICE OF PLANNING AND ZONING
ANNE ARUNDEL COUNTY, MARYLAND**

APPLICANTS: Barbara & Stephen Palmer

ASSESSMENT DISTRICT: 2nd

CASE NUMBER: 2024-0237-V

COUNCILMANIC DISTRICT: 6th

HEARING DATE: March 4, 2025

PREPARED BY: Donnie Dyott Jr. 
Planner

REQUEST

The applicants are requesting a variance to allow dwelling additions (porch and deck) with less setbacks than required and greater lot coverage than allowed and with disturbance to slopes of 15% or greater on property located at 215 Nottingham Hill in Annapolis.

LOCATION AND DESCRIPTION OF SITE

The subject site consists of 5,902 square feet of land and is identified as Lot 215 of Parcel 295 in Block 19 on Tax Map 39. The subject property is zoned R2 - Residential District and is currently improved with a single family dwelling and associated facilities. The subject site is a non-waterfront property which lies within the Chesapeake Bay Critical Area and is designated as LDA - Limited Development Area.

APPLICANT'S PROPOSAL

The applicants propose to construct additions on the rear of the existing dwelling consisting of a screened porch and deck.

REQUESTED VARIANCES

§ 17-8-201(a) of the Code stipulates that development in the Limited Development Area (LDA) may not occur within slopes of 15% or greater unless development will facilitate stabilization of the slope; is to allow connection to a public utility; or is to provide direct access to the shoreline. The proposed additions will disturb steep slopes, necessitating a variance to this provision. Exact disturbance will be calculated at the time of permit.

§ 18-4-601 of the Anne Arundel County Zoning Code stipulates that principal structures in an R2 - Residential District shall be set back a minimum of 25 feet from the rear lot line and 7 feet from the side lot lines. The proposed screened porch will be located as close as 0 feet from the west side lot line, necessitating a variance of 7 feet. The proposed deck will be located as close as 3 feet from the rear lot line, necessitating a variance of 22 feet.

§ 17-8-402(b) of the Anne Arundel County Code stipulates that lots created before December 1, 1985 are subject to the lot coverage limits set forth in the chart. This lot was created before that

2024-0237-V

date and with a lot size of 5,902 square feet would have a lot coverage limit of 25% plus 500 square feet, for a total allowance of 1,975 square feet. The existing lot coverage is 2,703 square feet and the applicants are proposing to add 42 square feet of new lot coverage, necessitating a variance of 42 square feet.¹

FINDINGS

The property at 5,902 square feet is severely undersized for a lot not served by public sewer in the R2 District which has a minimum lot size of 20,000 square feet. The subject property was the subject of a prior variance approval under case 2011-0009-V. In that case the applicants were granted variances for setbacks and steep slope disturbance for the construction of an addition on the rear of the dwelling measuring approximately 17' X 18'.

The **Health Department** commented that they have no objection to the request as the proposal does not adversely affect the on-site sewage disposal system.

The **Development Division (Critical Area Team)** commented that the property was the subject of a variance approval in 2011 for the construction of the area depicted as living room on the site plan submitted with this application. At that time, the Hearing Officer found that the proposed addition met the standard for minimum relief with regard to steep slope disturbance. The current application includes development which would further encroach into the steep slopes. No information was provided indicating how this request meets the approval standards established by State and County regulations. This Office cannot support additional coverage or slope disturbance on this site. The applicant contends that the disturbance to the steep slopes will consist solely for the column(s) needed to support the porch and walkway. It should be pointed out that the language of the law prohibits "development" in slopes of 15% or greater and development is defined as including establishment of a use or the improvement of property through construction which means that the entirety of the proposed addition must be considered when making a determination on the approval of this application.

The **Critical Area Commission** commented it appears that the applicant has reasonable and significant use of the entire parcel with the existing improvements, including outdoor amenity space, such as a patio. Additionally, the parcel is already non-conforming, as the property exceeds its allowed lot coverage. It does not appear that the construction of a screened porch with added lot coverage would meet each and every one of the critical area variance standards including unwarranted hardship or that this variance would not adversely affect water quality and wildlife or plant habitat, including disturbance to steep slopes. If this request were to be denied, they would still have reasonable and significant use of their lot. They commented further that they would not oppose the siting of the screened porch constructed within the existing footprint of the current lot coverage.

For the granting of a critical area variance, a determination must be made on the following:

¹ In the letter of explanation the applicants requested a variance to 17-8-403(2) to allow the proposal without the 10% reduction. 17-8-403(3) states that the Planning and Zoning Officer may grant a modification to the reconfiguration requirements of this section. Therefore, the applicant will need to seek a modification to this provision, not a variance.

2024-0237-V

Because of certain unique physical conditions, such as exceptional topographical conditions peculiar to and inherent in the particular lot or irregularity, narrowness, or shallowness of lot size and shape, strict implementation of the County's critical area program would result in an unwarranted hardship or practical difficulty. While it is true that the lot is severely undersized for the R2 District, the applicant currently enjoys reasonable use of a residentially zoned lot. As such, this Office does not believe that there is any condition present that would cause the applicants unwarranted hardship or practical difficulty.

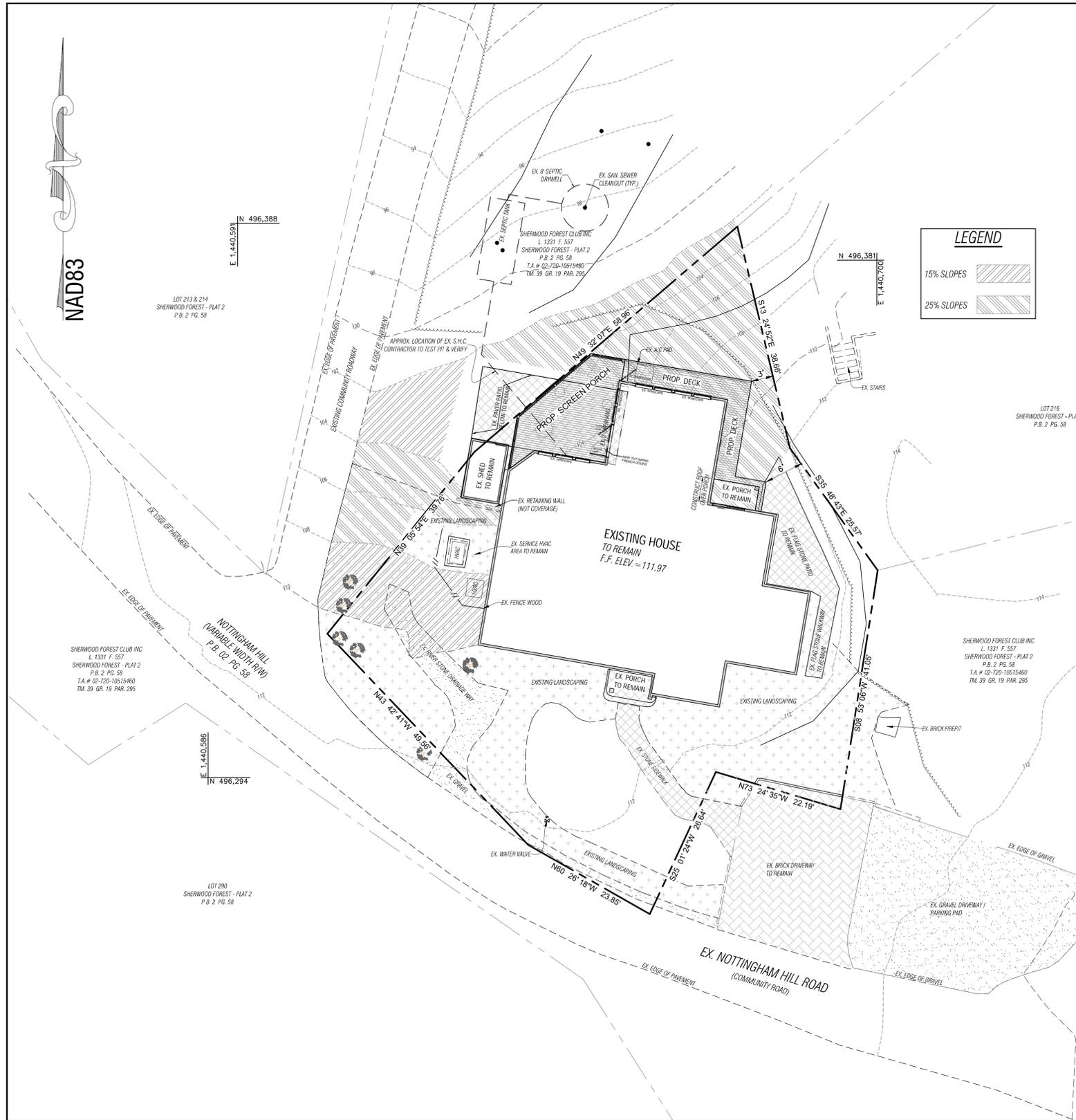
The granting of the variance will not confer on the applicants a special privilege that would be denied by COMAR, Title 27. Per the comments from the Critical Area Commission, the applicants currently enjoy reasonable and significant use of the lot so a literal interpretation of the County's critical area program will not deprive the applicant of rights that are commonly enjoyed by other properties in similar areas.. While this request is not a result of actions by the applicants and does not arise from any condition relating to land or building use on any neighboring property, the proposal is not in harmony with the general spirit and intent of the County's critical area program. When considering the comments from the Critical Area Commission, this Office cannot say that the variances will not impact fish, wildlife, or plant habitat or that it will not be detrimental to the public welfare.

There is no evidence that the variances would alter the essential character of the neighborhood or impair adjacent property. However, given that there is no apparent hardship and the applicants currently have reasonable and significant use of the lot, the proposal is not considered the minimum necessary to afford relief.

RECOMMENDATION

Based upon the standards set forth in § 18-16-305 under which a variance may be granted, this Office recommends ***denial*** of the proposed variances for the construction of the dwelling additions as shown on the site plan.

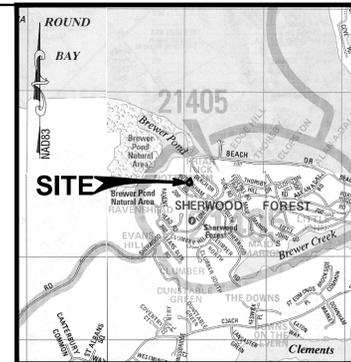
DISCLAIMER: This recommendation does not constitute a building permit. In order for the applicant(s) to construct the structure(s) as proposed, the applicant(s) shall apply for and obtain the necessary building permits and obtain any other approvals required to perform the work described herein. This includes but is not limited to verifying the legal status of the lot, resolving adequacy of public facilities, and demonstrating compliance with environmental site design criteria.



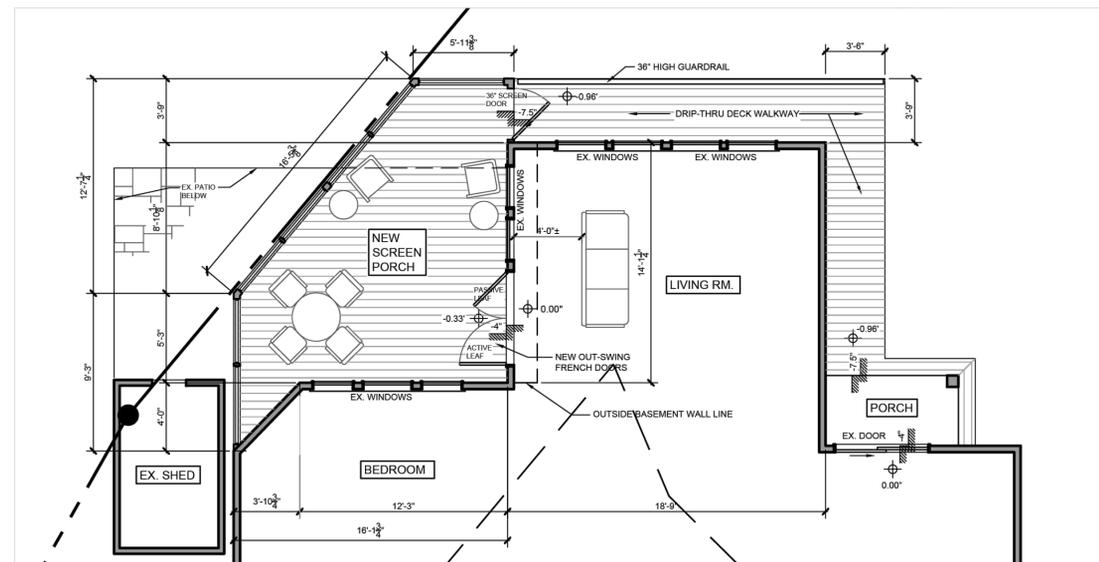
PLAN
SCALE: 1" = 10'

AREA CALCULATION	
TOTAL LOT AREA	5,902 S.F.
EXISTING COVERAGE	
HOUSE	1,920 S.F.
PORCH	34 S.F.
SHED	62 S.F.
BRICK DRIVEWAY	22 S.F.
PATIO / SIDEWALKS	636 S.F.
RETAINING WALLS	12 S.F.
A/C UNITS	17 S.F.
TOTAL	2,703 S.F. (45.7%)
PROPOSED SCREEN PORCH (NOT OVER EXISTING COVERAGE)	42 S.F.
TOTAL PROPOSED COVERAGE	2,745 S.F. (46.5%)

SITE DATA	
PROPERTY ADDRESS:	215 NOTTINGHAM HILL ANNAPOLIS, MD. 21405-0000
OWNER ADDRESS:	PALMER STEPHEN D. PALMER BARBARA J. 215 NOTTINGHAM HILL GENERAL DELIVERY SHERWOOD FOREST, MD. 21405-9999
TAX MAP: 39 GRID: 19 PARCEL: 295	DEED: L: 04039, F: 00829
ASSESSMENT DISTRICT:	SECOND
TAX ACCOUNT NUMBER:	02-720-03883606
EXISTING ZONING:	R-2
PROPOSED ZONING:	R-2 (NO CHANGE)
SETBACK:	FRONT: 30' REAR: 25' SIDES: 7'
MAX BUILDING HEIGHT:	35'
FEMA RATE MAP NUMBERS:	24003C0168F DATED: 2/18/2015
FEMA RATE MAP ZONE:	
CRITICAL AREA MAP:	16
EXISTING USE:	RESIDENTIAL
PROPOSED USE:	RESIDENTIAL
WATERSHED AREA:	SEVERN RIVER
TOTAL SITE AREA:	5,902 S.F. - 0.135 AC.
PROPOSED CLEARING:	0 S.F. - 0.000 AC.
EXISTING IMPERVIOUS AREA:	2,703 S.F. - 0.062 AC.
PROPOSED IMPERVIOUS AREA:	2,745 S.F. - 0.063 AC.
TOTAL DISTURBED AREA:	150 S.F. - 0.003 AC.
AREA VEG. STABILIZED:	75 S.F. - 0.002 AC.
AREA STRUCT. STABILIZED:	75 S.F. - 0.002 AC.
CUT:	0 CY.
FILL:	0 CY.
BORROW:	0 CY.
CONTRACTOR IS ADVISED TO CHECK QUANTITIES	



ADC PERMITTED USE NUMBER 21003176
VICINITY MAP
SCALE: 1" = 2,000'



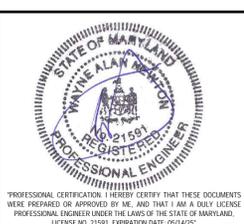
DETAILED DIMENSION PLAN
SCALE: 1" = 5'

- VARIANCES REQUEST TO:**
- ARTICLE 18 SECTION 4-601 TO ALLOW A DECK/SCREEN PORCH ADDITION TO THE CLOSER TO THE SIDE YARD THAN THE 7-FOOT SETBACK REQUIRED AND LESS THAN 25-FEET FROM A REAR LOT LINE.
 - ARTICLE 17-8-402 TO ALLOW COVERAGE ON A LOT TO EXCEED THE ALLOWABLE COVERAGE OF 25% OF THE PARCEL SIZE PLUS 500 SQUARE FEET.
 - ARTICLE 17-8-403 TO ALLOW IMPERVIOUS COVERAGE ON THE LOT WITHOUT THE 10% REDUCTION REQUIRED BY 17-8-403(2)
 - ARTICLE 17-8-201 TO ALLOW DISTURBANCE TO SLOPES GREATER THAN 15% TO ALLOW THE INSTALLATION OF DECK POSTS TO CONSTRUCT THE ELEVATED DECK PORCH

SWM NOTE
THE STORM WATER MANAGEMENT MITIGATION REQUIREMENTS FOR THIS PROJECT WILL BE ADDRESSED WITH VEGETATIVE PLANTINGS IN ACCORDANCE WITH ARTICLE 17-8-102(e) OF THE ANNE ARUNDEL COUNTY CODE.

REVISION DESCRIPTION	BY	DATE

MESSICK & ASSOCIATES*
CONSULTING ENGINEERS,
PLANNERS AND SURVEYORS
7 OLD SOLOMONS ISLAND ROAD, SUITE 202
ANNAPOLIS, MARYLAND 21401
(410) 266-3212 * FAX (410) 266-3502
email: eng@messickandassociates.com



OWNER/DEVELOPER:
PALMER STEPHEN D.
PALMER BARBARA J.
215 NOTTINGHAM HILL
SHERWOOD FOREST, MD. 21405
ANNAPOLIS, MD. 21041

VARIANCE PLAN
PROPOSED DECK / SCREEN PORCH
215 NOTTINGHAM HILL
ANNAPOLIS, MD. 21405-0000

TM.: 39 GRID: 19 PARCEL: 295
SECOND ASSESSMENT DISTRICT
SCALE: AS SHOWN

ZONING: R-2
ANNE ARUNDEL COUNTY, MARYLAND
DATE: DECEMBER 2024
SHEET: 1 OF 1



December 23, 2024

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

Attention: Ms. Sterling Seay

Re: Variance Request
215 Nottingham Hill Sherwood Forest
Tax Map 39 Grid 19 Parcel 295

Dear Ms. Seay:

On behalf of the applicants, Stephen & Barbara Palmer, we respectfully request a variance to

1. Article 18 Section 4-601 to allow a deck/screen porch addition closer to the side yard than the 7-foot setback required and less than 25-feet from a rear lot line.
2. Article 17-8-402 to allow coverage on a lot to exceed the allowable coverage of 25% of the parcel size plus 500 square feet.
3. Article 17-8-403 to allow impervious coverage on the lot without the 10% reduction required by 17-8-403(2)
4. Article 17-8-201 to allow disturbance to slopes greater than 15% to allow the installation of deck posts to construct the elevated deck & porch

The community of Sherwood Forest was platted in 1929, and pre-dates the Anne Arundel County Zoning regulations. While the minimum lot size for a lot in the R-2 Zone is 20,000 square feet, 215 Nottingham Hill is a mere 5,901 square feet, or 29% of the minimum lot size for this zone. It is obvious that it is a severely undersized lot. Not only is it uniquely small for general zoning considerations, it is also oddly-shaped, with seven lot lines, making it even more challenging to meet the guidelines set forth in the Code.

Sherwood Forest is comprised of 519 acres, and is developed with 341 residences, which are clustered on generally undersized lots, with over 250 acres of undeveloped and undevelopable community property. Much of the undevelopable property is densely wooded with waterfrontage, providing habitat for a variety of local species. As a result, the community as a whole, meets the spirit and intent of the Critical Area laws, even though the majority of the individual lots fail to comply with the current criteria.

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

- a. **(1) Because of certain unique physical conditions, such as irregularity, narrowness or shallowness of lot size and shape or exceptional topographical conditions peculiar to and inherent in the particular lot, there is no reasonable possibility of developing the lot in strict conformance with this article:**

The subject property is 5,902 sf in size, and it is zoned R2. This site size is roughly 30% of the minimum lot size required for lots in the R2 district. Given the limited lot size, there are clearly irregularities with the lot size. Knowing screen porches and deck similar in nature to that proposed is proliferate throughout the community, we believe this request is in keeping with the character of the neighborhood. The neighborhood by design has small lots which were intended for development while the natural environment surrounds the development area. The outdoor living spaces like decks and screen porches allow the residents to enjoy and connect to the natural resources of the site.

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

- b. **(1) Because of certain unique physical conditions, such as exceptional topographical conditions peculiar to and inherent in the particular lot or irregularity, narrowness, or shallowness of lot size and shape, strict implementation of the County's critical area program or bog protection program would result in an unwarranted hardship, as that term is defined in the Natural Resources Article, § 8-1808, of the State Code, to the applicant;**

The exceptional circumstances and practical difficulties in this application have been noted in #1 above to a large degree. The lot is small and restrictive. The community itself by its original design sets aside conservation properties outside the individual lot areas intentionally to preserve open areas. Typical R2 lots would incorporate a larger lot area which would allow larger coverage areas from a percentage perspective. However, given the limited lot sizes in this community, meeting the coverage ratios is nearly impossible. The limited lot sizes in this community conflict with the code minimums there by requiring the variances requested.

(2) (i) A literal interpretation of COMAR, Title 27, Criteria for Local Critical Area Program Development or the County's critical area program and related ordinances will deprive the applicant of rights commonly enjoyed by other properties in similar areas as permitted in accordance with the provisions of the critical area program within the critical area of the County;

A literal interpretation of COMAR would deny the owners use of the property enjoyed by others as the site is much smaller than the code minimum lot size. Also given the proliferation of similar facilities in the neighborhood, we believe denial of this request would deprive the applicant of rights commonly enjoyed by others in the neighborhood.

(ii) The County's bog protection program will deprive the applicant of rights commonly enjoyed by other properties in similar areas within the bog protection area of the County;

The site is not in a bog area.

(3) The granting of a variance will not confer on an applicant any special privilege that would be denied by COMAR, Title 27, the County's critical area program to other lands or structures within the County critical area

This project will not confer special privileges to the owner, as the updated structure with the outdoor living area will be consistent with the character of the neighborhood and the overall subdivision coverage is within the spirit and intent of the Critical Area legislation.

(4) The variance request is not based on conditions or circumstances that are the result of actions by the applicant

The request is not the result of actions of the owner. The lot size was created with the original subdivision which pre-dates zoning regulations and the house location on the lot has existed prior to the Palmers ownership. No work has started on the project prior to gaining authorization.

(5) The granting of a variance will not adversely affect water quality or adversely impact fish, wildlife, or plant habitat within the County's critical area

This project will result in a net benefit in planting on the site due to the critical area disturbance mitigation required on the site due to this request. Disturbance mitigation at a higher ratio of planting will be required since this project is the subject of this variance. This project will therefore provide net water quality and plant/wildlife habitat benefit.

(6) The applicant for a variance to allow development in the 100-foot upland buffer has maximized the distance between the bog and each structure

This site is not in the bog buffer.

(7) The applicant, by competent and substantial evidence, has overcome the presumption contained in the Natural Resources Article, § 8-1808, of the State Code

This plan overcomes the presumption, as the denial of this variance would deny the owners rights of other owners in the community. The development is not detrimental to the environment as stormwater management and modern construction will make the project a benefit not a detriment to the area. The Critical area code is not a confiscatory code. Its intent is to allow reasonable and significant development that is in harmony with the environment. The improvement requested is smaller than would be allowed on most R2 LDA lots in the County that meet the minimum lot size.

(8) The applicant has evaluated and implemented site planning alternatives in accordance with § 18-16-201(c).

The applicant has tried alternative design. However, as this site is so small, other alternatives would place the screen porch in a front yard which would require the same or increased relief, and would not meet the project goals.

This plan meets the requirements of 18-16-305(c):

(1) The variance is the minimum variance necessary to afford relief

The majority of the proposed screen porch is above the existing basement areaway/patio and therefore does not add coverage. The 40 sf of coverage added by this project is required to square off the screen porch and connect it to the house. The remainder of the deck is not coverage and

is built above the ground to allow connectivity to the other side of the house. Elevating the deck and porch above existing coverage minimizes the environmental impact. The disturbed area will simply be that area required to install the posts. The deck/porch size has been minimized to that area required to have a small table and chairs.

(2) The grant of the variance will not:

(i) **alter the essential character of the neighborhood or district in which the lot is located;**

The request will make the dwelling more in keeping with the character of the neighborhood since most homes in the community have similar amenities to allow them to connect with the natural environment of the community.

(ii) **substantially impair the appropriate use or development of adjacent property;**

This request will bring the dwelling more in keeping with the character of the neighborhood given that most homes in the neighborhood have similar amenities.

(iii) **reduce forest cover in the limited development and resource conservation areas of the critical area;**

This project will increase forest cover in the critical area due to the plant mitigation required for the critical area disturbance.

(iv) **be contrary to acceptable clearing and replanting practices required for development in the critical area or a bog protection area; nor**

No clearing is required for this request, yet the final project will create additional planting in the critical area. It is therefore consistent with the clearing and replanting practices.

(v) **be detrimental to the public welfare.**

This project will not be detrimental to the public welfare.

The enclosed plan represents the location of the proposed work to the deck/screen porch. In closing, the variances requested are the minimum necessary to afford relief and are not based on conditions or circumstances that are a result of actions by the applicant. We thank you in advance for your consideration of this request.

If you have any questions, or if you require additional information, please feel free to contact me at 410-266-3212.

Sincerely,
Messick Group, Inc
T/A Messick and Associates

Wayne A. Newton

215 Nottingham Hill
Variance Letter of Explanation
December 23, 2024
Page 4
Wayne A. Newton, P.E
President

MMC A6486

Parcel ID: 2-720-03883606

Mail to:

Title Insurer:

This Deed

Made this 13th day of March, Nineteen Hundred and Eighty-six (1986), by and between

THOMAS H. ROSS and ANN S. ROSS, husband and wife

Party of the first part,

AND

STEPHEN D. PALMER and BARBARA J. PALMER, husband and wife

Party of the Second Part:

WITNESSETH

That for and in consideration of the sum of One hundred Thirteen Thousand and 00/100

Dollars (\$ 113,000.00),

the said party of the first part does grant convey unto the said Party of the Second Part, in fee simple, as Tenants by the Entirety

the following described land and premises, with the improvements, easements and appurtenances thereunto belonging, situate, lying and being in ~~Montgomery~~ Anne Arundel County, State of Maryland, namely:

ALL THAT LOT of ground and premises, situate, lying and being in Sherwood Forest, Anne Arundel County, in the State of Maryland aforesaid and designated and known as Lot No. 215, on Plat 2, one of the Official Plats of Sherwood Forest, dated December 6, 1929, and recorded among the Land Records of Anne Arundel County, Maryland, in Plat Book No. 2, folio 58 (current reference - Plat Book No. 7, folio 31).

BEING the same property conveyed in fee simple by The Sherwood Forest Company to Thomas H. Ross and Ann S. Ross, his wife, by Deed dated March 13, 1986, and intended to be recorded immediately preceeding hereto among the Land Records of Anne Arundel County, Maryland.

RECORD FEE 14.00
RECORD TAX 791.00

TRANS. TAX 565.00
COUNTY TAX 1130.00
POSTAGE 50
#17944 0055 R02 115:43
MAR 18 86

~~BEING~~ the ~~same~~ land ~~described~~ in ~~the~~ ~~deed~~ ~~dated~~ ~~March~~ ~~13~~ ~~1986~~

TO HAVE AND TO HOLD the same unto and to the use of the said Party of the Second Part in fee simple.

AND the said Party of the First Part does hereby covenant to warrant specially the property hereby conveyed, and to execute such further assurances of said land as may be requisite.

SUBSCRIBED AND SEALED on the month, day and year first hereinbefore written.

WE HEREBY CERTIFY THAT THE PROPERTY INDICATED IN THIS DEED OF CONVEYANCE HAS BEEN TRANSFERRED ON THE ASSESSMENT RECORDS OF ANNE ARUNDEL COUNTY AS PROVIDED FOR UNDER ART 81, SEC 2-104 OF THE MARYLAND CODE.

KENNETH H. TERRY
SUPERVISOR OF ASSESSMENTS
5-20-86

Thomas H. Ross (SEAL)
THOMAS H. ROSS

Ann S. Ross (SEAL)
ANN S. ROSS

(SEAL)

(SEAL)

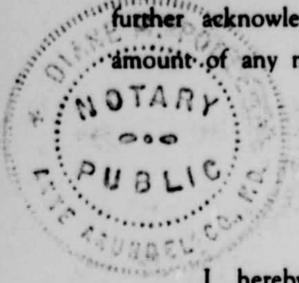
1400 79100 56500 1130.00 50

RECEIVED FOR RECORD
DIRECTOR OF LAND RECORDS
1986 MAR 18 PM 3:41
E. AUBREY COLLISON
CLERK

STATE OF MARYLAND

MONTGOMERY COUNTY, to wit:
Anne Arundel

I hereby certify that on this 13th day of March, 19 86, before the undersigned, a notary public of the state and county aforesaid, personally appeared THOMAS H. ROSS and ANN S. ROSS known to me (or satisfactorily proven) to be the persons whose names are subscribed to the within deed and did each acknowledge the foregoing deed to be his act and deed for the purposes therein contained, and did further acknowledge under penalty of perjury that the consideration as set forth therein is correct, including the amount of any mortgage or deed of trust assumed by the Party of the Second Part.



[Signature]
Diane M. Poole

Notary Public

My commission expires: _____

I hereby certify that this instrument was prepared under the supervision of Diane M. Poole, an attorney duly admitted to practice before the Court of Appeals of Maryland.

[Signature]
Diane M. Poole

Real Property Taxes paid
Utility Assessment none
Water Billing none
All Anne Arundel County Charges levied and on record as of 3/18 1986
Controller, A. A. Co., Md. J.B.
2720-0388-3606

Return to: BARRARD J. PALMER
BRANCH, FRENCH COUNTRY
P.O. BOX 807
ANNAPOLIS, MD
Mail to

To: Anne Arundel County Critical Area Commission

From: Steve and Barbara Palmer
215 Nottingham Hill
Annapolis, MD 21405

Date: December 27, 2024

Re: Narrative Statement for Variance for Screened Porch Addition

This is a request for a setback and lot coverage variance for a screened porch addition to our residential dwelling, located in the R-2 Zoning District, in the Sherwood Forest community. The property is located in the Chesapeake Bay Critical Area, with an LDA designation. The proposed use of the property will not change with the proposed addition.

The community of Sherwood Forest was platted in 1929, and pre-dates the Anne Arundel County Zoning regulations. While the minimum lot size for a lot in the R-2 Zone is 20,000 square feet, 215 Nottingham Hill is a mere 5,902 square feet, or 29% of the minimum lot size for this zone. It clearly is a severely undersized lot. Not only is it uniquely small for general zoning considerations, it is also oddly-shaped, with seven lot lines, making it even more challenging to meet the guidelines set forth in the Code.

The house on the lot, even with the proposed screened porch addition, would result in only 2,745 sq. ft. of impervious coverage. Were 215 Nottingham actually the size of a minimum R-2 lot, less than 14% of the lot would be impervious. The issue for the Critical Area Commission to consider then, is not whether this variance request for lot coverage is excessive or reasonable, it is the applicant's position that this request should be reviewed through a wider lens, and include a consideration for the unique community of Sherwood Forest, with its extensive property which is in the Critical Area, and permanently restricted from any development. Sherwood Forest was platted as a "cluster development", prior to the imposition of zoning regulations. It originated as a summer community, with small lots and a great deal of community open space for all to enjoy. One of the reasons the lots and houses were so small is because the houses did not have kitchens—there were "dining halls" on each hill, so that all meals were taken together. So, while there is no issue that the subsequent zoning overlay for the community is R-2, very few of the lots are conforming, and the majority of those which meet the minimum size are the result of the merger of two or more undersized lots.

Sherwood Forest is comprised of 519 acres, and is developed with 341 residences, which are clustered on generally undersized lots, with over 250 acres of undeveloped and undevelopable community property. Much of the undevelopable property is densely wooded with waterfrontage, providing habitat for a variety of local species. As a result, the community as a whole, meets the intentions of the Critical Area laws, even though the majority of the individual lots fail to comply with the criteria.

The Applicants are requesting a 7-foot variance to the side setback, from the property line shared with community-owned property, which is undevelopable and provides a driveway to two other houses. The Sherwood Forest Board and all neighboring property owners support the requested variances. As proposed, the applicants are seeking 42 sq. ft. of additional coverage.

The proposed screened porch is not on-grade but would extend from the second level of the back of the residence. Therefore, although there would be minimal disturbance in the Critical Area during construction, the proposed design includes support columns in the area affected by this requested variance, so the disturbance would be minimal.

The Sherwood Forest Club property adjacent to this proposed porch is already encumbered with a recorded easement for the benefit of the septic system for 215 Nottingham, because of the size constraints of our lot.

The subject property is wooded, with native trees including holly and tulip poplar. There is a small patch of grass which serves as a front yard. It is anticipated that one holly tree would likely be removed as a result of the proposed construction, however the applicant has already agreed to the planting of three native shrubs, as requested by the community. The applicants also agree to any additional planting required by Anne Arundel County.

The proposed construction will not have any adverse impacts on the watershed or habitat. Sediment control devices and silt fences will be installed prior to any disturbance.

There are no habitat protection areas designated on the subject property; it is not in the expanded buffer however it is located adjacent to steep slopes of 15% or greater. There are no rare or endangered species, anadromous fish propagation waters, colonial waterbird nesting sites, historic waterfowl staging and concentration areas on the site. Although Sherwood Forest contains riparian forest areas, the subject property is not located in the riparian forest. The site does not contain natural heritage areas or plant and wildlife habitats of local significance.

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: December 27, 2024

Tax Map #	Parcel #	Block #	Lot #	Section
0039	0295		215	

Tax ID: 2720 0388 3606

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) Palmer Porch Variance

Project location/Address 215 Nottingham Hill

City Annapolis Zip 21405

Local case number

Applicant: Last name Palmer First name Stephen and Barbara

Company

Application Type (check all that apply):

- | | | | |
|---------------------------|-------------------------------------|-------------------|-------------------------------------|
| Building Permit | <input 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 checked="" type="checkbox"/> | Subdivision | <input type="checkbox"/> |
| Grading Permit | <input type="checkbox"/> | Other | <input type="checkbox"/> |

Local Jurisdiction Contact Information:

Last name AACo Zoning Admin Sec. First name

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

Fax # Hearing date TBD

SPECIFIC PROJECT INFORMATION

Describe Proposed use of project site:

Request for setback and steep slope variance for screened porch addition for our Sherwood Forest home

Intra-Family Transfer Yes
 Grandfathered Lot

Growth Allocation Yes
 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		
LDA Area		
RCA Area		5,902 sq. ft.
Total Area		5,902 sq. ft.

Total Disturbed Area

Acres	
Sq Ft	150 sq. ft.

of Lots Created

	Acres	Sq Ft		Acres	Sq Ft
Existing Forest/Woodland/Trees			Existing Lot Coverage		2,703 sq. ft.
Created Forest/Woodland/Trees			New Lot Coverage		42 sq. ft.
Removed Forest/Woodland/Trees		-0-	Removed Lot Coverage		-0-
			Total Lot Coverage		2,745 sq. ft.

VARIANCE INFORMATION (Check all that apply)

	Acres	Sq Ft		Acres	Sq Ft
Buffer Disturbance			Buffer Forest Clearing		
Non-Buffer Disturbance			Mitigation		

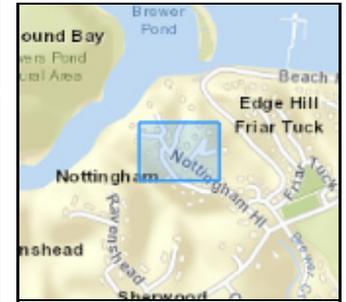
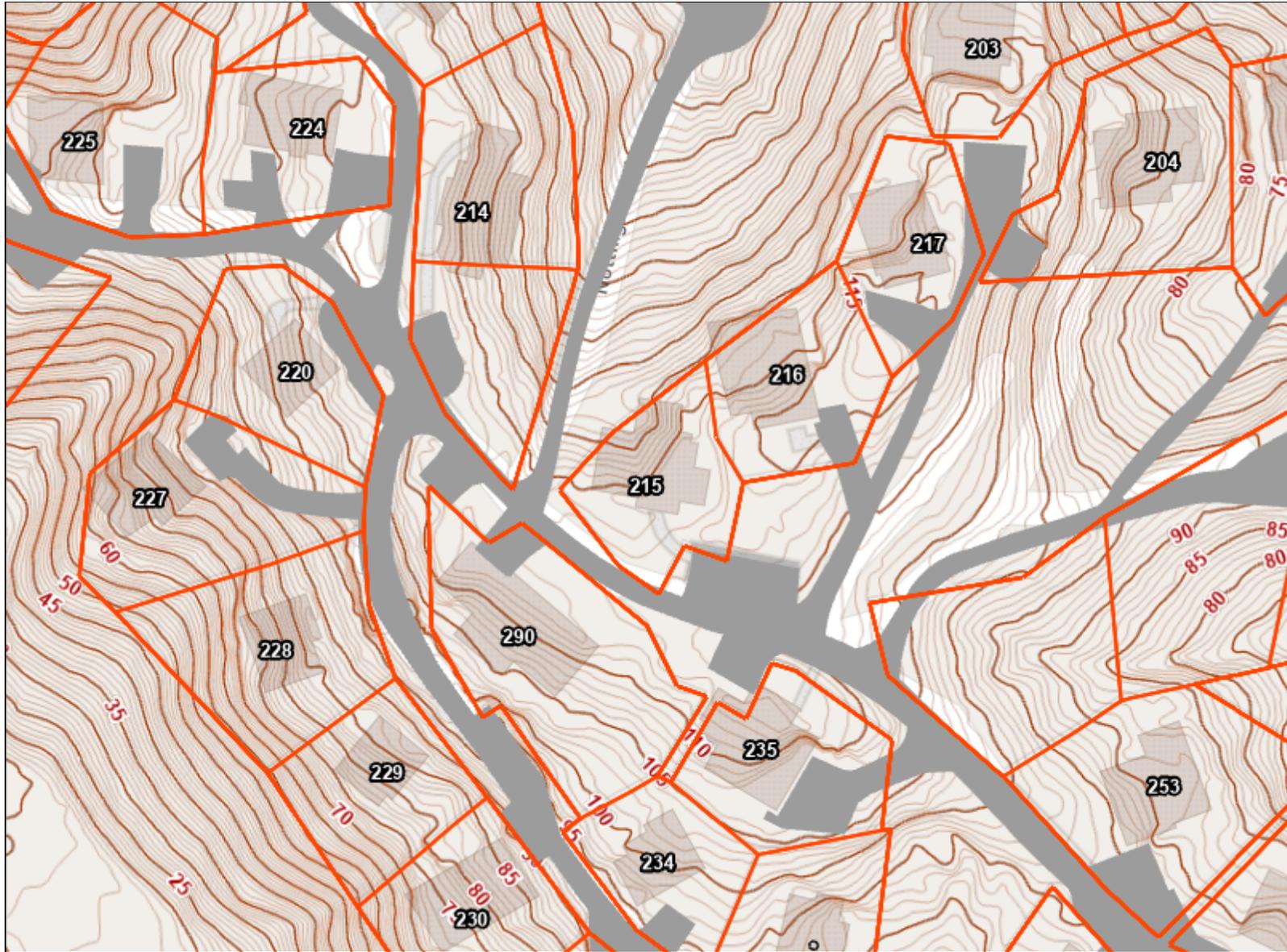
Variance Type

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 Screened Porch

215 Nottingham Hill topo map



Legend

Foundation

Addressing



Parcels



Structure

County Structure



Elevation

Topo 2020

Index

Intermediate

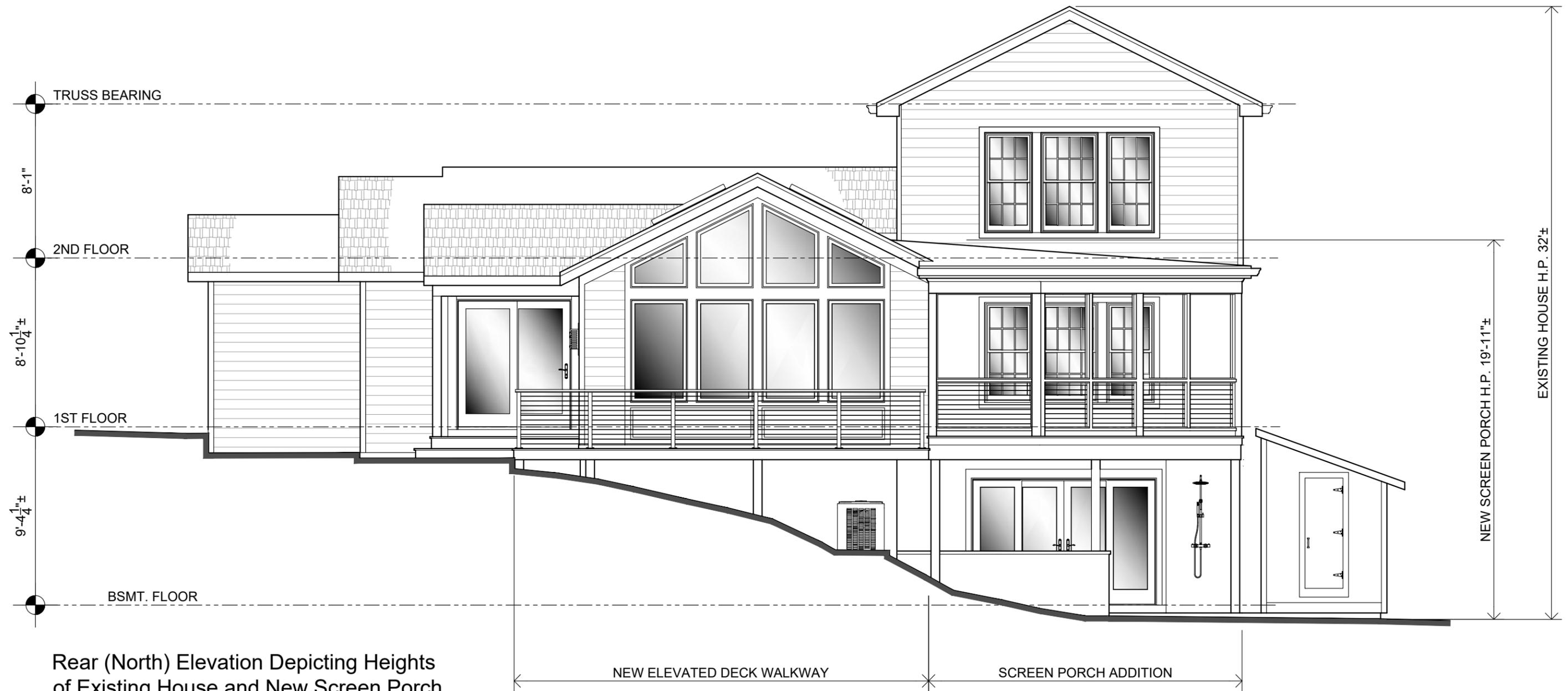
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Notes 1"=100'

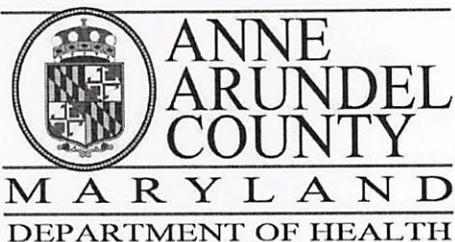


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Rear (North) Elevation Depicting Heights of Existing House and New Screen Porch

Owners: Stephen D. and Barbara J. Palmer			FLOOR PLAN OPTION	
Tax Acct. Identifier: District - 02 Subdivision - 720 Account Number - 03883606			Palmer Screen Porch Addition	
LOT: 215	ZONING: R2	PLAT REF: 0007/0031	215 NOTTINGHAM HILL SHERWOOD FOREST, MD 21405	
CRITICAL AREA DESIGNATION: LDA		WATER: Public	SEPTIC: Private	DATE: 04 September 2024
BUFFER EXEMPT: N/A				SCALE: 1/4" = 1'-0" DWG. A-3



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 *BC 1/9/25*

DATE: January 8, 2025

RE: Stephen D. Palmer
215 Nottingham Hill
Annapolis, MD 21405

NUMBER: 2024-0237-V

SUBJECT: Variance/Special Exception/Rezoning

The Health Department has reviewed the above referenced variance to allow dwelling additions (porch and deck) with less setbacks than required and greater coverage than allowed and with disturbance to slopes 15% or greater.

The Health Department has reviewed the on-site sewage disposal system for the above referenced property. The Health Department has determined that the proposed request does not adversely affect the on-site sewage disposal system. 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

2024-0237-V

Menu Cancel Help

Task Details OPZ Critical Area Team

Assigned Date

12/31/2024

Assigned to

Kelly Krinetz

Current Status

Complete w/ Comments

Action By

Kelly Krinetz

Comments

This property was the subject of a variance approval in 2011 for the construction of the area depicted as living room on the site plan submitted with this application. At that time, the Hearing Officer found that the proposed addition met the standard for minimum relief with regard to steep slope disturbance. The current application includes development which would further encroach into the steep slopes.

No information was provided indicating how this request meets the approval standards established by State and County regulations. This office cannot support additional coverage or slope disturbance on this site.

The applicant contends that the disturbance to the steep slopes will consist solely for the column(s) needed to support the porch and walkway. It should be pointed out that the language of the law prohibits "development" in slopes 15% or greater and development is defined as including establishment of a use or the improvement of property through construction which means that the entirety of the proposed addition must be considered when making a determination on the approval of this application.

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

01/21/2025

Assigned to Department

OPZ Critical Area

Status Date

01/28/2025

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

Task Specific Information

Expiration Date

Reviewer Phone Number

Review Notes

Reviewer Email

Reviewer Name



Jamileh Soueidan -DNR- <jamileh.soueidan@maryland.gov>

CAC Comments: 2024-0223-V; Beer (AA 0350 - 24), 2024-0236-V; Buckley (AA 0001 - 25), 2024-0237-V; Palmer (AA 0002-25), 2024-0101-V; Bahen (AA 0329-24), 2024-0220-V; Tucker (AA 0354-24)

1 message

Jamileh Soueidan -DNR- <jamileh.soueidan@maryland.gov>

Tue, Jan 14, 2025 at 3:18 PM

To: Sadé Medina <pzmedi22@aacounty.org>

Cc: Jennifer Esposito -DNR- <jennifer.esposito@maryland.gov>

Good Afternoon,

The Critical Area Commission has reviewed the following variances and we provide the following comments:

- **2024-0223-V; Beer (AA 0350 - 24):** It appears that the applicant has reasonable and significant use of the entire parcel with existing improvements, including a deck and screened porch and a recently permitted walkway for riparian access. The proposed project would result in disturbance to the Critical Area Buffer. Were this proposed deck expansion to be denied, the applicant will still enjoy reasonable and significant use of the entire property with the existing improvements. Additionally, the Administrative Hearing Officer (AHO) must find that each and every one of the Critical Area Variance standards have been met, including that the proposal meets unwarranted hardship, and that this variance would not adversely affect water quality and wildlife or plant habitat.
- **2024-0236-V; Buckley (AA 0001 - 25):** The project proposes an in-kind replacement of an existing deck and the addition of access stairs within the 25' steep slope buffer. It appears that the applicant has reasonable and significant use of the entire parcel with existing improvements, including a deck and porch. Furthermore, the parcel is currently non-conforming, exceeding the allowable lot coverage limit. The Administrative Hearing Officer (AHO) must find that each and every one of the Critical Area Variance standards have been met, including that the proposal meets unwarranted hardship, and that this variance would not adversely affect water quality and wildlife or plant habitat.
- **2024-0237-V; Palmer (AA 0002-25):** It appears that the applicant has reasonable and significant use of the entire parcel with the existing improvements, including outdoor amenity space, such as a patio. Additionally, the parcel is already non-conforming, as the property exceeds its allowed lot coverage limit by 300 square feet. It does not appear that the construction of a screened porch with added lot coverage would meet each and every one of the Critical Area variance standards including unwarranted hardship or that this variance would not adversely affect water quality and wildlife or plant habitat, including disturbance to steep slopes. If this request were to be denied, they would still have reasonable and significant use of their lot. Our office would not oppose the siting of the screened porch constructed within the existing footprint of the current lot coverage.
- **2024-0101-V; Bahen (AA 0329-24):** See Attached Letter
- **2024-0220-V; Tucker (AA 0354-24):** See Attached Letter

The above comments and attached letters have been uploaded to the County's online portal.

Best,
Jamileh

--

Critical Area Commission for the
Chesapeake & Atlantic Coastal Bays
dnr.maryland.gov/criticalareaJamileh Soueidan (she/her)
Natural Resources Planner
1804 West Street, Suite 100
Annapolis, MD 21401
Office: 410-260-3462
Cell: 667-500-4994 (preferred)
jamileh.soueidan@maryland.gov

2 attachments



2024-0101-V Bahen (AA 0329 - 24) Variance Letter.pdf
146K



2024-0220-V; Tucker (AA 0354 - 24) Variance Letter.pdf
153K

Map Title



Legend

Foundation

Addressing



Parcels



Parcels - Annapolis City



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none

Notes



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USED FOR NAVIGATION

IN THE OFFICE OF ADMINISTRATIVE HEARINGS

CASE NUMBER 2011-0009-V

STEPHEN D. PALMER AND BARBARA J. PALMER

SECOND ASSESSMENT DISTRICT

DATE HEARD: MARCH 15, 2011

ORDERED BY:

DOUGLAS CLARK HOLLMANN
ADMINISTRATIVE HEARING OFFICER

PLANNER: ROBERT KONOWAL

DATE FILED: MARCH 16, 2011

PLEADINGS

Stephen D. Palmer and Barbara J. Palmer, the applicants, seek a variance (2011-0009-V) to allow a dwelling addition with less setbacks than required, with disturbance to slopes 15% or greater, and with greater critical area lot coverage than allowed on property located along the north side of Nottingham Hill, west of Sherwood Forest Road, Annapolis.

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. Ms. Palmer testified that the property was posted for more than 14 days prior to the hearing and introduced a photograph of the sign (Applicants' Exhibit 1). I find and conclude that there has been compliance with the notice requirements.

FINDINGS

A hearing was held on March 15, 2011, in which witnesses were sworn and the following evidence was presented with regard to the proposed variances requested by the applicants.

The Property

The applicants own the subject property, which has a street address of 215 Nottingham Hill, Annapolis, Maryland 21405. The property is also known as Lot

215 in the Sherwood Forest subdivision. The property is zoned R2 Residential District and is classified in the Chesapeake Bay Critical Area as both resource conservation area (RCA) and limited development area (LDA).

The Proposed Work

The applicants propose to construct a 17' x 18' addition and other improvements to the rear of the existing dwelling. The proposed work will disturb approximately 194 square feet of slopes greater than 15%, as shown on County Exhibit 2. The proposed work at the northwest corner of the existing dwelling will be located 4 feet from the west side lot line. The proposed 17' x 18' addition will be located 6 feet from the west side lot line.¹

The Anne Arundel County Code

Article 17, § 17-8-201 provides that development in the LDA may not occur within slopes of 15% or greater unless development will facilitate the stabilization of the slope or the disturbance is necessary to allow connection of a public utility. There is no evidence that the work proposed is for the purpose of facilitating the stabilization of slopes, except for a retaining wall discussed below, or necessary to allow connection of a public utility. Article 18, § 18-4-601 provides that a principal structure in an R2 district shall be located at least 7 feet from a side lot line.

¹ The evidence shows that a variance to the lot coverage requirements of the Anne Arundel County Code is not required for the applicants to carry out the proposed work.

The Variances Requested

The work proposed will require the following variances:

1. A critical area variance of 194 square feet from § 17-8-201 because the work will disturb slopes 15% or greater; and
2. A zoning variance of three (3) feet to the 7-foot west side lot line setback requirements of § 18-4-601 to allow the proposed work at the northwest corner of the existing dwelling; and
3. A zoning variance of one (1) foot to the 7-foot west side lot line setback requirements of § 18-4-601 to allow the proposed 17' x 18' addition.

The Evidence Submitted At The Hearing

Robert Konowal, a planner with the Office of Planning and Zoning (OPZ), testified in favor of granting the requested variances. The property does not meet the area and width requirements of the R2 district. It is an odd shape and burdened by steep slopes. The location of the existing single-family dwelling limits where the applicants can add onto their home.

The proposed addition and other improvements will be offset by the removal of impervious surface such that lot coverage will not be increased. The addition will be built overtop of an existing deck. However, the work will encroach into the side lot line setback and disturb 194 square feet of steep slopes. The disturbance to steep slopes is needed for the work to be performed but not for the additions.

The subject property is a grandfathered critical area lot that is considerably below the minimum lot width and area for a property in an R2 zone. The lot is irregularly shaped and significantly encumbered by steep slopes. Review of County aerial photography for 2007 shows that the site is heavily vegetated with a mix of trees, evergreens and shrubs. The neighborhood consists of a variety of dwelling sizes with the majority painted forest green that are nestled in woods and mostly on steep slopes.

The Critical Area Commission offered comments that they do not oppose the granting of the variances as long as mitigation is provided. The Development Division agreed. The Department of Health has no objection to the proposed work provided a plan is submitted and approved.

Mr. and Mrs. Palmer were assisted at the hearing by their engineer, Michael Drum. They testified that they have worked hard to limit the disturbance to the property in their effort to improve the existing dwelling with new living space they need. The proposed improvements are modest in size and are located over existing impervious surface. The disturbance will be only for the removal of the existing deck and for the purpose of installing stormwater management devices.

Mr. Drum pointed out that the retaining wall that will be installed between the proposed addition and the west side lot line will not alter the grade of the property. The wall is intended to help control the slopes in this area. As such, the wall does not need a variance. § 17-8-201. Mr. Konowal agreed.

Bart Key, General Manager of the Sherwood Forest Club, Inc., submitted a Resolution of the Board of Directors authorizing him to speak for the Club. Mr. Key testified that the Club is not a co-applicant on this application because no work will take place on Club land where the existing septic system is located. Mr. Key testified that the applicants have complied with all the provisions of the community rules and that the Club has approved the proposed work.

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 Court of Appeals in *Critical Area Commission for the Chesapeake and Atlantic Coastal Bays, et al. v. Moreland, LLC, et al*, No. 55, September Term 2010, issued January 28, 2011, reaffirmed these factors. See page of slip opinion: “Failure by the applicant to satisfy even one of the variance criteria requires the denial of the variance application. [Citing § 8-1808(d)(4)(ii) and Anne Arundel County Code § 3-1-207. The proponent of the variance, moreover, bears the burden of proof and persuasion to overcome the presumption that granting the variance requests do not conform to the critical area law. § 8-1808(d)(3).”²

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].”³ Furthermore, the applicants carry the burden of convincing the Hearing Officer “that the applicant has satisfied each one of the variance provisions.”⁴ (Emphasis added.)

² The requirements set forth in § 3-1-207 for the Board of Appeals are virtually identical to those that govern variances granted or denied by this office. § 18-16-305.

³ § 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 law and State law, or if some State criteria were omitted from County law, 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.

⁴ § 8-1808(d)(4)(ii).

The variances sought are variances from the critical area law (buffers and steep slopes) and from the zoning law (setback requirements). “[A number of requests in the *Becker* decision] were for variances from the stringent critical area law. The request for a variance from the setback, however, is a request under the more lenient general zoning requirements. As indicated above, the criteria for a general zoning variance and the criteria for a critical area variance are not the same.” *Becker v. Anne Arundel County, supra*, 174 Md. App. at 141; 920 A.2d at 1134.

Therefore, the critical area variances must be considered separately from the general zoning or setback variances.⁵ I will first analyze the facts in light of the critical area variances requested, and then analyze the facts in light of the zoning variances requested.

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

⁵ “We agree that the Board should have distinguished between the critical area variance and the setback variance.” *Becker v. Anne Arundel County, supra*, page 174 Md. App. at 141; 920 A.2d at 1134.

use on neighboring properties, (5) whether granting the application would not 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 law:

“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 variances would constitute an unwarranted hardship that would deny the applicants use of the entire parcel. The applicants have the right to add on to the 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 proposed modifications and additions are modest. 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 modestly expand a grandfathered dwelling. 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 houses 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 mitigation that the applicants will undertake. Mr. Konowal and Mr. Drum testified in support of this conclusion. 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).

Zoning Variances

The evidence shows that the proposal will need two zoning variances from § 18-4-601 of the Code.

Requirements for Zoning Variances

§ 18-16-305 sets forth the requirements for granting a zoning variance. Subsection (a) reads, in part, as follows: a variance may be granted if the Administrative Hearing Officer finds that practical difficulties or unnecessary hardships prevent conformance with the strict letter of this article, provided the spirit of law is observed, public safety secured, and substantial justice done. A variance may be granted only if the Administrative Hearing Officer makes the following affirmative findings:

- (1) Because of certain unique physical conditions, such as irregularity, narrowness or shallowness of lot size and shape or exceptional topographical conditions peculiar to and inherent in the particular lot, there is no reasonable possibility of developing the lot in strict conformance with this article; or

(2) Because of exceptional circumstances other than financial considerations, the grant of a variance is necessary to avoid practical difficulties or unnecessary hardship and to enable the applicant to develop the lot.

The variance process for subsection (1) above is a two-step process. The first step requires a finding that special conditions or circumstances exist that are peculiar to the land or structure at issue which requires a finding that the property whereupon the structures are to be placed or use conducted is unique and unusual in a manner different from the nature of the surrounding properties. The second part of the test is whether the uniqueness and peculiarity of the property causes the zoning provisions to have a disproportionate impact upon the subject property causing the owner a practical difficulty or unnecessary hardship. "Uniqueness" requires that the subject property have an inherent characteristic not shared by other properties in the area. *Trinity Assembly of God of Baltimore City, Inc. v. People's Counsel for Baltimore County*, 178 Md. App. 232, 941 A.2d 560 (2008); *Umerley v. People's Counsel for Baltimore County*, 108 Md. App. 497, 672 A.2d 173 (1996); *North v. St. Mary's County*, 99 Md. App. 502, 638 A.2d 1175 (1994), cert. denied, 336 Md. 224, 647 A.2d 444 (1994).

The variance process for subsection (2) - practical difficulties or unnecessary hardship - is simpler. A determination must be made that, because of exceptional circumstances other than financial considerations, the grant of a variance is necessary to avoid practical difficulties or unnecessary hardship, and to enable the applicants to develop the lot.

Furthermore, whether a finding is made pursuant to subsection (1) or (2) above, a variance may not be granted unless the hearing officer also finds that: (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) substantially impair the appropriate use or development of adjacent property, (4) reduce forest cover in the limited development and resource conservation areas of the critical area, (5) be contrary to acceptable clearing and replanting practices required for development in the critical area, or (6) be detrimental to the public welfare.

Findings - Zoning Variances

I find, based upon the evidence, that because of the unique physical conditions peculiar to and inherent in the subject property, i.e., steep slopes in close proximity to the dwelling addition, the below-minimum size of the property for a lot in the R2 district, and the pre-existing location of the existing dwelling addition so close to the side lot line, there is no reasonable possibility of developing the lot in strict conformance with the Code. Also, I find that because of exceptional circumstances other than financial considerations, the grant of the variances are necessary to avoid practical difficulties or unnecessary hardship and to enable the applicants to develop the lot.

I further find that the granting of the critical area and zoning variances will not alter the essential character of the neighborhood or district in which the lot is located, 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, be contrary to acceptable clearing and replanting practices required for development in the critical area, or be detrimental to the public welfare.

ORDER

PURSUANT to the application of Stephen D. Palmer and Barbara J. Palmer, petitioning for a variance to allow a dwelling addition with less setbacks than required, with disturbance to slopes 15% or greater, and with greater critical area lot coverage than allowed, and

PURSUANT to the notice, posting of the property, and public hearing and in accordance with the provisions of law, it is this **16th day of March, 2011**,

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

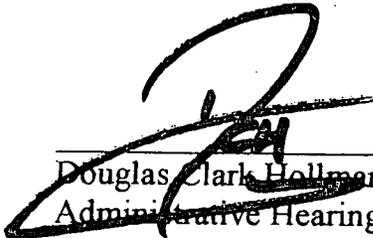
1. A critical area variance of 194 square feet from § 17-8-201 because the work will disturb slopes 15% or greater; and
2. A zoning variance of three (3) feet to the 7-foot west side lot line setback requirements of § 18-4-601 to allow the proposed work at the northwest corner of the existing dwelling; and
3. A zoning variance of one (1) foot to the 7-foot west side lot line setback requirements of § 18-4-601 allow the proposed 17' x 18' addition.

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

improvements shown on County Exhibit 2 shall be constructed on the property in the locations shown therein.

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 Hollmann
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.

Further § 18-16-405(a) provides that a variance expires by operation of law unless the applicants obtain 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.

CO. EXHIBIT#: 1

CASE: 2011-0009V

DATE: 3/15/2011

**FINDINGS AND RECOMMENDATION
OFFICE OF PLANNING AND ZONING
ANNE ARUNDEL COUNTY, MARYLAND**

APPLICANT: Stephen & Barbara Palmer

ASSESSMENT DISTRICT: 2nd

CASE NUMBER: 2011-009-V

COUNCILMANIC DISTRICT: 6th

HEARING DATE: March 15, 2011

PREPARED BY: Robert Konowal
Planner

REQUEST

The applicant is requesting variances to allow a dwelling addition with less setbacks and with disturbance to slopes greater than 15% and with greater lot coverage than allowed on lands located at 215 Nottingham Hill in the subdivision of Sherwood Forest, Annapolis.

LOCATION AND DESCRIPTION OF SITE

The subject property has approximately 163 feet of road frontage on the north side of Nottingham Hill, 800 feet west of Sherwood Forest Road. These lands have an area of 6,037 square feet. The site is shown on Tax Map 39, Block 19, as Parcel 295, lot 215 and is zoned "R2-Residential District". The current zoning was adopted by the Crownsville Small Area Plan on October 20, 2000. The subject property is located within the Chesapeake Bay Critical Area and is designated "LDA-Limited Development Area".

The subject property is developed with a 1-1/2 story single family detached dwelling. An existing deck is located off the rear of the dwelling. A shed straddles the west property line.

APPLICANT'S PROPOSAL

The applicant is proposing to renovate and construct a 17 foot by 18 foot addition to the rear of the existing dwelling. Minor additions are also proposed on the east and west sides of the dwelling.

VARIANCES

Section 17-8-201. of the Subdivision Code states that development in LDA or RCA designated areas may not occur on slopes of 15% or greater. The location of the addition will disturb 194 square feet of steep slopes.

Section 18-4-601. of the Anne Arundel County Code requires that the principal dwelling be setback minimum of 7 feet from the side lot line whereas the applicant has proposed the principal structure be setback as close as four feet to side lot line necessitating a variance of as much as

2011-0009-V

three feet.

A review of the site plan indicates there is no net increase in coverage by structures therefore a variance is not required. Most of the new construction is to be located in the area of an existing deck thereby resulting in no increase in building coverage.

FINDINGS

This Office finds that the subject property is an irregular shaped severely undersized lot. Development of the site is also constrained by the practical limitations of existing located construction that predates the Code (c.1950). In this case, the only opportunity for a substantial addition is in the rear yard. Denial of the variances sought would result in an unwarranted hardship to the applicant as they would deny reasonable and significant use of the property. Many homes in the Sherwood Forest community do not meet the setback or steep slope requirements of the Code. Approval of the variances would not therefore constitute a special privilege but would only allow for similar development rights enjoyed by others in the Critical Area.

The variances requested result in the minimum variances necessary to afford relief. The proposed additions occur in an area already occupied by a deck and only small corner areas of these additions actually penetrate the required side lot line setback. The variance to disturb steep slopes relates primarily to the limits of disturbance that provides access to the dwelling during construction and not the proposed structure.

The variances requested are not based on conditions or circumstances that are the result of actions by the applicant and does not arise from any condition relating to land or building use on any neighboring property;

The granting of the variances will not adversely affect water quality or impact fish, wildlife or plant habitat and will be in harmony with the general spirit and intent of the critical area program.

Approval of the variances will not necessarily alter the essential character of the neighborhood nor impair the use of any adjacent property as the improvements result in development that is consistent with and located well away from dwellings on adjacent properties.

The **Development Division** advised that the applicant has made every effort to stay within the existing development envelop on the lot. Every effort must be made to save the 30" hardwood adjacent to the proposed addition and the grading should be revised so that runoff is not channelized. Sherwood Forest has experienced several slope failures recently and every effort must be made to protect existing vegetation and slopes in an effort to prevent future erosion.

The **Anne Arundel Department of Health** indicated they do not have an approved plan for this project. The Health Department has no objection to the above referenced request so long as a

2011-0009-V

plan is submitted and approved by the Health Department.

The **Critical Area Commission** advised they do not oppose this request. Mitigation should be required at a ratio determined by the County for any slope disturbance and tree removal.

RECOMMENDATION

With regard to the standards by which a variance may be granted as set forth under Section 18-16-305, under the County Zoning Ordinance, the Office of Planning and Zoning recommends the application be *approved*.

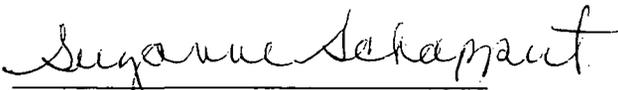
This recommendation does not confirm the legal status of a lot. The legality of a lot is determined through the building permit process.



Robert Konowal
Planner

3.8.11

Date

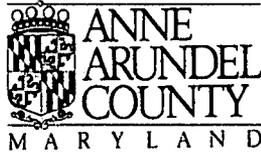


Suzanne Schappert
Planning Administrator

3.8.11

Date

CASE # 2011-0009-V
FEE PAID 21500
DATE 1/18/11



ZONE _____ ALEX _____
200 MAP _____ 1000 MAP _____
CRITICAL AREA: IDA _____ LDA _____ RCA
SAP: _____
No. of Signs 1

VARIANCE APPLICATION

Applicant: Stephen D. Palmer & Barbara J. Palmer
(All persons having 10% or more interest in property)

Property Address: 215 Nottingham Hill, Annapolis, MD 21405

Property Location: 163' +/- feet of frontage on the (n, s, e, w) side of Nottingham Hill street, road, lane, etc.; 800 feet (n, s, e, w) of Nottingham Hill street, road, lane, etc. (nearest intersecting street).
Sherwood Forest

Tax Account Number 02-720-03883606 Tax District 2nd Council District 6th

Waterfront Lot No Corner Lot No Deed Title Reference 4039 : 829

Zoning of Property R 2 Lot # 215 Tax Map 39 Grid 19 Parcel 295

Area (sq. ft. or acres) 0.13 Ac. Subdivision Name Sherwood Forest

Description of Proposed Variance Requested (Explain in sufficient detail including distances from property lines, heights of structures, size of structures, uses, etc.) A variance to Article 17, Section 8-201 of the AACo. Code for development on slopes 15% or greater in the LDA. A variance to Article 18, Section 4-601 of the AACo. Code of 3' to the required 7' side yard setback and 6% to the required 30% maximum coverage by structures.

and with less setbacks and greater coverage than allowed

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 [Signature] Owner's Signature [Signature]
Print Name Stephen D. Palmer Print Name Stephen D. Palmer
Barbara J. Palmer

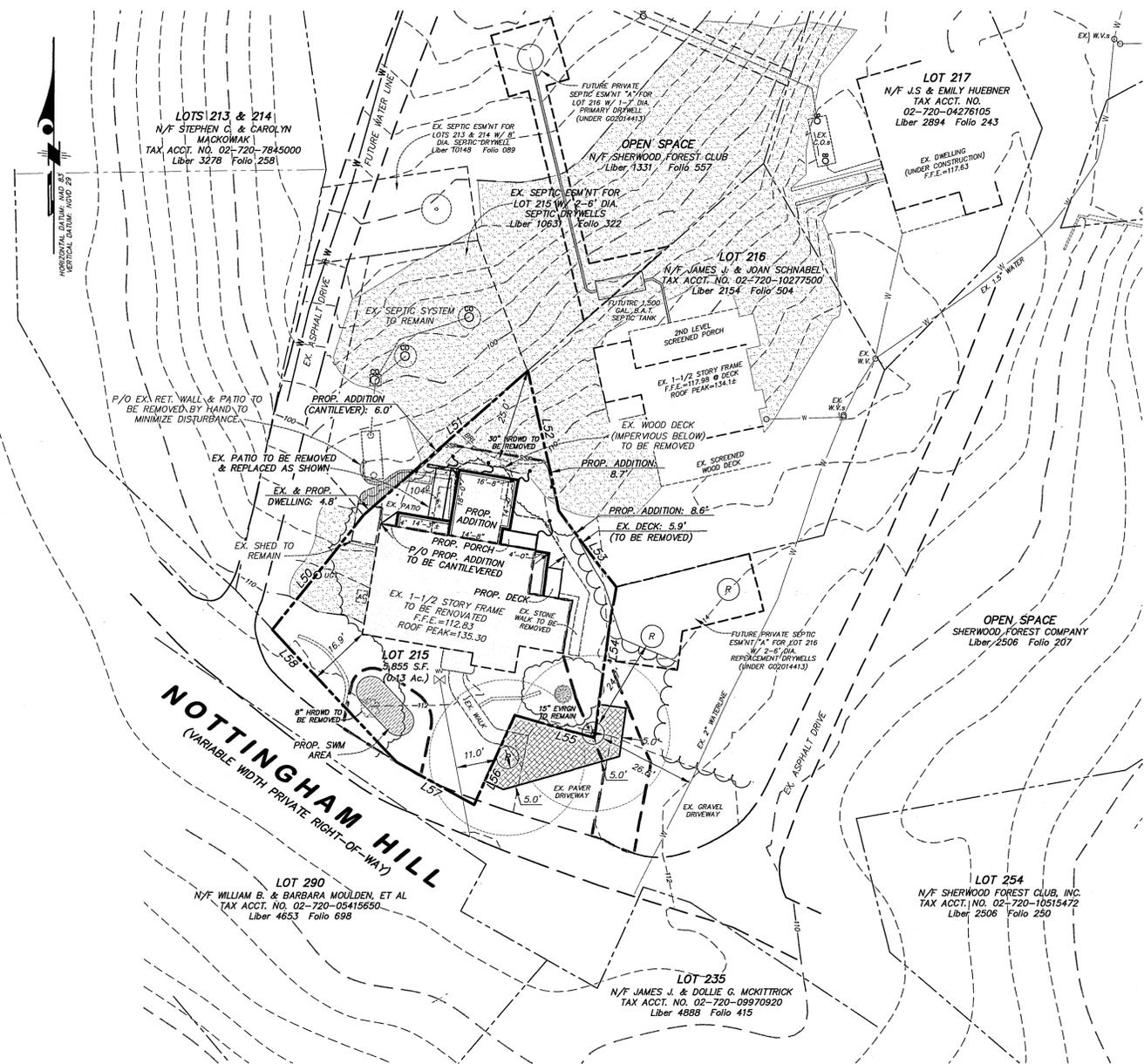
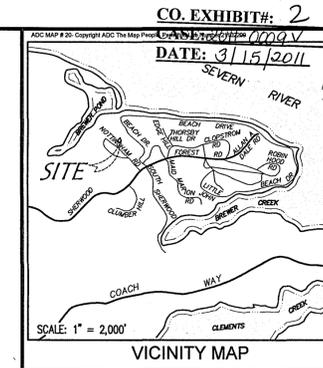
Street Number, Street, P.O. Box 215 Nottingham Hill Street Number, Street, P.O. Box 215 Nottingham Hill

City, State, Zip Annapolis, MD 21405 City, State, Zip Annapolis, MD 21405

Phone 410-849-2150 Phone 410-849-2150
(WK) (HM) (WK) (HM)

For Office Use Only

Application accepted by Anne Arundel County, Office of Planning and Zoning:
[Signature] Date 1/18/11
Signature Date



LINE #	DIRECTION	LENGTH
L50	N 38°34'33" E	39.72'
L51	N 48°56'33" E	58.98'
L52	N 12°33'27" W	38.50'
L53	N 36°30'27" W	25.71'
L54	S 8°10'33" W	41.10'
L55	N 73°54'27" W	22.31'
L56	S 24°23'33" W	26.65'
L57	N 61°17'27" W	24.04'
L58	N 43°16'27" W	48.94'

- LEGEND**
- - - - - EXISTING CONTOUR
 - ▨ 15%-25% STEEP SLOPES
 - EX. WOODS LINE
 - ▭ EX. IMPERVIOUS COVERAGE
 - - - - - LIMIT OF DISTURBANCE
 - - - - - PROPOSED GRADE
 - 27⁺ PROPOSED SPOT ELEV.
 - SS — SS SUPER SILT FENCE
 - ▭▭▭▭ FUTURE SEPTIC EASEMENT

SITE TABULATIONS

• TOTAL SITE AREA (LOT 215):	5,855 S.F. (0.13 Ac.)
• IMPERVIOUS LOT COVERAGE:	
-EXISTING IMPERVIOUS LOT COVERAGE:	2,307 S.F. (0.05 Ac.)
-ALLOWABLE IMPERVIOUS LOT COVERAGE:	2,307 S.F. (0.05 Ac.)
-PROPOSED IMPERVIOUS LOT COVERAGE:	2,300 S.F. (0.05 Ac.)
• COVERAGE BY STRUCTURES:	
-EXISTING COVERAGE BY STRUCTURES:	2,119 S.F. (+/- 36%)
-PROPOSED COVERAGE BY STRUCTURES:	2,105 S.F. (+/- 36%)
• SLOPE DISTURBANCE TABULATIONS:	
-TOTAL SLOPE DISTURBANCE:	194 S.F. (0.00 Ac.)
-ON-SITE SLOPE DISTURBANCE:	194 S.F. (0.00 Ac.)
-EX. IMPROVEMENTS DEMOLITION:	194 S.F. (0.00 Ac.)
-OFF-SITE SLOPE DISTURBANCE:	0 S.F. (0.00 Ac.)
• ZONING R-2	

DESIGNED: MMD	DRAWN: KLY	REVISIONS TO APPROVED PLANS			
ORIG. DATE: 11-23-10		No.	DATE	BY	DESCRIPTION
MODIFIED BY/DATE:					
CADD DWG # SP07901-V					
D.L.A. PROJECT # SP07901					

Drum, Loyka & Associates, LLC
 CIVIL ENGINEERS - LAND SURVEYORS
 1410 Forest Drive, Suite 35
 Annapolis, Maryland 21403
 Phone: 410-280-3122 • Fax: 410-280-1952
 www.drumloyka.com

OWNER:
 MR. & MRS. STEPHEN D. PALMER
 215 NOTTINGHAM HILL
 ANNAPOLIS, MARYLAND 21405

VARIANCE PLAN
SHERWOOD FOREST ~ LOT 215
 215 NOTTINGHAM HILL, ANNAPOLIS, MARYLAND 21405
 TAX ACCT. NO. 02-720-03883606
 TAX MAP 39 GRID 19 PARCEL 295 DISTRICT 2ND
 ANNE ARUNDEL COUNTY, MARYLAND

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