

IN RE: PETITION FOR ADMIN. VARIANCE

SE of Cape May Road, SW corner of
Cape May Road and Ryan Frost Way
15th Election District
6th Councilmanic District
(1617 Cape May Road)

Jerome F. and Alice A. Smith
Petitioners

* BEFORE THE
* DEPUTY ZONING
* COMMISSIONER
* FOR BALTIMORE COUNTY
* **Case No. 2008-0572-A**

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner as a Petition for Administrative Variance filed by the legal owners of the subject property, Jerome F. and Alice A. Smith for property located at 1617 Cape May Road. The variance request is from Section 400.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit an accessory building (proposed above-ground pool) to be located in the side yard on a corner lot in lieu of the required third of the lot farthest removed from any street. The subject property and requested relief are more particularly described on Petitioners' Exhibit No. 1. The Petitioners wish to construct an above-ground swimming pool measuring 15 feet x 30 feet in size. The rear yard contains a vinyl shed measuring 15 feet x 10 ½ feet, a wood and vinyl swing set, wood deck and basement entrance. All these structures preclude locating the proposed above-ground pool in the rear yard. There is an existing solid privacy fence 6 feet high that surrounds the entire rear and side yard. An empty lot is located behind the Petitioners' home.

The Zoning Advisory Committee (ZAC) comments were received and are made part of the record of this case. Comments were received from the Department of Environmental Protection and Resource Management dated June 27, 2008 which indicates that the property must comply with the Chesapeake Bay Critical Area Regulations. The site is in a Limited Development Area of

RECEIVED FOR FILING

7-17-08

pm

the C.B.C.A. and must comply with 25% lot coverage requirements, and 15% afforestation must also be addressed which equates to two trees.

The Petitioners having filed a Petition for Administrative Variance and the subject property having been posted on June 22, 2008 and there being no request for a public hearing, a decision shall be rendered based upon the documentation presented.

The Petitioners have filed the supporting affidavits as required by Section 32-3-303 of the Baltimore County Code. Based upon the information available, there is no evidence in the file to indicate that the requested variance would adversely affect the health, safety or general welfare of the public and should therefore be granted. In the opinion of the Deputy Zoning Commissioner, the information, photographs, and affidavits submitted provide sufficient facts that comply with the requirements of Section 307.1 of the B.C.Z.R. Furthermore, strict compliance with the B.C.Z.R. would result in practical difficulty and/or unreasonable hardship upon the Petitioners.

Pursuant to the posting of the property and the provisions of both the Baltimore County Code and the Baltimore County Zoning Regulations, and for the reasons given above, the requested variance should be granted.

THEREFORE, IT IS ORDERED, by the Deputy Zoning Commissioner for Baltimore County, this 17th day of July, 2008 that a variance from Section 400.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit an accessory building (proposed above-ground pool) to be located in the side yard on a corner lot in lieu of the required third of the lot farthest removed from any street is hereby GRANTED, subject to the following:

1. The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30 day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the

Petitioners would be required to return, and be responsible for returning, said property to its original condition.

2. Development of this property must comply with the Chesapeake Bay Critical Area Regulations (Sections 33-2-101 through 33-2-1004 and other Sections of the Baltimore County Code).
3. The site is in a Limited Development Area of the Chesapeake Bay Critical Area and must comply with 25% lot coverage requirements. 15% afforestation must also be addressed which equates to two trees.
4. There shall be no decking around the pool area.
5. In the event the six foot high wood privacy fence surrounding the area of the proposed pool is removed, the pool shall be removed within 30 days of the removal of said privacy fence.

Any appeal of this decision must be made within thirty (30) days of the date of this Order.


THOMAS H. BOSTWICK
Deputy Zoning Commissioner
for Baltimore County

THB:pz

STAMP RECEIVED FOR FILING
7.17.08
B3



BALTIMORE COUNTY
M A R Y L A N D

JAMES T. SMITH, JR.
County Executive

THOMAS H. BOSTWICK
Deputy Zoning Commissioner

July 17, 2008

JEROME F. AND ALICE A. SMITH
1617 CAPE MAY ROAD
ESSEX MD 21221

Re: Petition for Administrative Variance
Case No. 2008-0572-A
Property: 1617 Cape May Road

Dear Mr. and Mrs. Smith:

Enclosed please find the decision rendered in the above-captioned case. The petition for Administrative Variance has been granted in accordance with the enclosed Order.

In the event the decision rendered is unfavorable to any party, please be advised that any party may file an appeal within thirty (30) days from the date of the Order to the Department of Permits and Development Management. If you require additional information concerning filing an appeal, please feel free to contact our appeals clerk at 410-887-3391.

Very truly yours,

A handwritten signature in black ink, appearing to read "Th. H. Bostwick".

THOMAS H. BOSTWICK
Deputy Zoning Commissioner
for Baltimore County

THB:pz

Enclosure



Petition for Administrative Variance to the Zoning Commissioner of Baltimore County

for the property located at 1617 CAPE MAY RD
which is presently zoned DR 3.5

This Petition shall be filed with the Department of Permits and Development Management. The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section(s) BCZR 400.1

TO PERMIT AN ACCESSORY BUILDING (PROPOSED ABOVE GROUND POOL) TO BE LOCATED IN THE SIDE YARD ON A CORNER LOT IN LIEU OF THE REQUIRED IN THE THIRD OF THE LOT FARTHEST REMOVED FROM ANY STREET.

of the zoning regulations of Baltimore County, to the zoning law of Baltimore County, for the reasons indicated on the back of this petition form.

Property is to be posted and advertised as prescribed by the zoning regulations.

I, or we, agree to pay expenses of above Variance, advertising, posting, etc. and further agree to and are to be bounded by the zoning regulations and restrictions of Baltimore County adopted pursuant to the zoning law for Baltimore County.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser/Lessee:

Name - Type or Print

Signature

Address

Telephone No.

City

State

Zip Code

Attorney For Petitioner:

Name - Type or Print

Signature

Company

Address

Telephone No.

City

State

Zip Code

Legal Owner(s):

JEROME F. SMITH

Name - Type or Print

Signature

Name - Type or Print

Signature

Address

City

State

Telephone No.

Zip Code

Representative to be Contacted:

Name

Address

City

State

Telephone No.

Zip Code

A Public Hearing having been formally demanded and/or found to be required, it is ordered by the Zoning Commissioner of Baltimore County, this _____ day of _____ that the subject matter of this petition be set for a public hearing, advertised, as required by the zoning regulations of Baltimore County and that the property be reposted.

Zoning Commissioner of Baltimore County

CASE NO. 2008-0572-A

Reviewed By A. Tsui Date 06/11/2008

REV 10/25/01

Estimated Posting Date 06/22/08 - 07/07/08

7-17-08

003

Affidavit in Support of Administrative Variance

The undersigned hereby affirms under the penalties of perjury to the Zoning Commissioner of Baltimore County, as follows: That the information herein given is within the personal knowledge of the Affiant(s) and that Affiant(s) is/are competent to testify thereto in the event that a public hearing is scheduled in the future with regard thereto.

That the Affiant(s) does/do presently reside at 1617 CAPE MAY RD.
Address
ESSEX MD 21221
City State Zip Code

That based upon personal knowledge, the following are the facts upon which I/we base the request for an Administrative Variance at the above address (indicate hardship or practical difficulty):

1. Existing deck and existing shed would limit area for 30x15 pool in rear yard.
2. Corner lot limits regulations space
3. Existing fence solid privacy fence 6' that surround entire back yard. Pool cannot be seen from side street or back empty lot.

That the Affiant(s) acknowledge(s) that if a formal demand is filed, Affiant(s) will be required to pay a reposting and advertising fee and may be required to provide additional information.

Jerome F. Smith
Signature
JEROME F. SMITH
Name - Type or Print

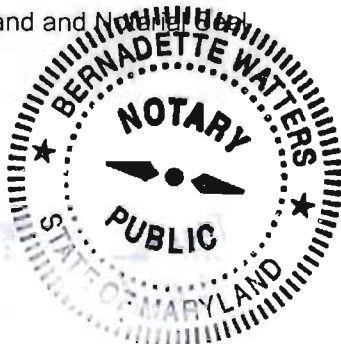
Alice A. Smith
Signature
Alice A. Smith
Name - Type or Print

STATE OF MARYLAND, COUNTY OF BALTIMORE, to wit:

I HEREBY CERTIFY, this 6th day of JUNE, 2008, before me, a Notary Public of the State of Maryland, in and for the County aforesaid, personally appeared

Jerome F. Smith AND Alice Ann Smith
the Affiant(s) herein, personally known or satisfactorily identified to me as such Affiant(s).

AS WITNESS my hand and Notary Seal



Bernadette Waters
Notary Public
My Commission Expires MAY 12, 2009

Affidavit in Support of Administrative Variance

The undersigned hereby affirms under the penalties of perjury to the Zoning Commissioner of Baltimore County, as follows: That the information herein given is within the personal knowledge of the Affiant(s) and that Affiant(s) is/are competent to testify thereto in the event that a public hearing is scheduled in the future with regard thereto.

That the Affiant(s) does/do presently reside at 1617 CAPE MAY RD.
Address
ESSEX MD 21221
City State Zip Code

That based upon personal knowledge, the following are the facts upon which I/we base the request for an Administrative Variance at the above address (indicate hardship or practical difficulty):

1. Existing deck and existing shed would limit area for 30x15 pool in rear yard.
2. Corner lot limits regulations space
3. Existing fence solid privacy fence 6' that surround entire back yard. Pool cannot be seen from side street or back empty lot.

That the Affiant(s) acknowledge(s) that if a formal demand is filed, Affiant(s) will be required to pay a reposting and advertising fee and may be required to provide additional information.

Jerome F. Smith
Signature
JEROME F. SMITH
Name - Type or Print

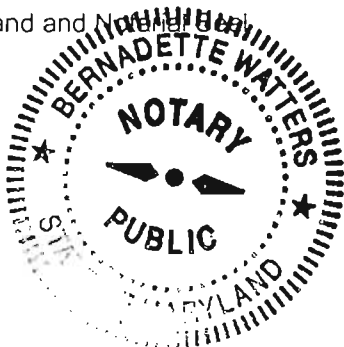
Alice A. Smith
Signature
Alice A. Smith
Name - Type or Print

STATE OF MARYLAND, COUNTY OF BALTIMORE, to wit:

I HEREBY CERTIFY, this 6th day of JUNE, 2008, before me, a Notary Public of the State of Maryland, in and for the County aforesaid, personally appeared

Jerome F. Smith AND Alice Ann Smith
the Affiant(s) herein, personally known or satisfactorily identified to me as such Affiant(s).

AS WITNESS my hand and Notary Seal



Bernadette Waters
Notary Public
My Commission Expires MAY 12, 2009



Petition for Administrative Variance

to the Zoning Commissioner of Baltimore County

for the property located at 1617 CAPE MAY RD
which is presently zoned DR 3.5

This Petition shall be filed with the Department of Permits and Development Management. The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section(s) BCZR 400.1

TO PERMIT AN ACCESSORY BUILDING (PROPOSED ABOVE GROUND POOL) TO BE LOCATED IN THE SIDE YARD ON A CORNER LOT IN LIEU OF THE REQUIRED IN THE THIRD OF THE LOT FARTHEST REMOVED FROM ANY STREET.

of the zoning regulations of Baltimore County, to the zoning law of Baltimore County, for the reasons indicated on the back of this petition form.

Property is to be posted and advertised as prescribed by the zoning regulations.

I, or we, agree to pay expenses of above Variance, advertising, posting, etc. and further agree to and are to be bounded by the zoning regulations and restrictions of Baltimore County adopted pursuant to the zoning law for Baltimore County.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser/Lessee:

Name - Type or Print

Signature

Address

Telephone No.

City

State

Zip Code

Attorney For Petitioner:

Name - Type or Print

Signature

Company

Address

Telephone No.

City

State

Zip Code

Legal Owner(s):

JEROME F. SMITH
Name - Type or Print

Jerome F. Smith
Signature

Alice A. Smith
Name - Type or Print

Alice A. Smith
Signature

1617 CAPE MAY RD. 410 238011
Address

Essex MD 21221
City State Zip Code

Representative to be Contacted:

Name

Address

Telephone No.

City

State

Zip Code

A Public Hearing having been formally demanded and/or found to be required, it is ordered by the Zoning Commissioner of Baltimore County, this ___ day of _____ that the subject matter of this petition be set for a public hearing, advertised, as required by the zoning regulations of Baltimore County and that the property be reposted.

Zoning Commissioner of Baltimore County

CASE NO. 2008-0572-A

Reviewed By A. Tsui Date 06/11/2008

REV 10/25/01 7-17-08

Estimated Posting Date 06/22/08 - 07/07/08

ZONING DESCRIPTION FOR 1617 CAPE MAY ROAD

Beginning at a point on the South East side of Cape May Road which is 30ft wide at the distance of 25ft of the centerline of the nearest improved intersecting street Ryan Frost Way which is 50ft wide. Being Lot #3 in the subdivision of Cape May Landing as recorded in Baltimore County Plat Book #63, Folio #4 containing 6942 square feet. Also known as 1617 Cape May Road and located in the 15th Election District, 6 Councilmanic District.

2008-0522-A

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET AND FINANCE
MISCELLANEOUS RECEIPT

No. 10128

Date: 10/1/81

Fund	Agcy	Orgn	Sub Orgn	Rev Source	Sub Rev	Rept Catg	BS Acct	Amount
001	006			6150				65.00

Total: 65.00

Rec

From: ALICE SMITH

For: 16111 CAP MAY RD

ADM. VAR.

2008-0592-A

DISTRIBUTION

WHITE - CASHIER

PINK - AGENCY

YELLOW - CUSTOMER

**CASHIER'S
 VALIDATION**

CERTIFICATE OF POSTING

RE: Case No.: 08-0572-A

Petitioner/Developer: SMITH

Date of Hearing/Closing: 7-7-08

Baltimore County Department of
Permits and Development Management
County Office Building, Room 111
111 West Chesapeake Avenue
Towson, Maryland 21204

ATTN: Kristen Matthews {(410) 887-3394}

Ladies and Gentlemen:

This letter is to certify under the penalties of perjury that the necessary sign(s) required by law were posted conspicuously on the property located at:

1617 CAPE MAY ROAD

The sign(s) were posted on 6-22-08
(Month, Day, Year)

Sincerely,

Robert Black 6-24-08
(Signature of Sign Poster) (Date)

SSG Robert Black

(Print Name)

1508 Leslie Road

(Address)

Dundalk, Maryland 21222

(City, State, Zip Code)

(410) 282-7940

(Telephone Number)



ADMINISTRATIVE VARIANCE INFORMATION SHEET AND DATES

Case Number 08- 0572 -A Address 1617 CAPE MAY ROAD
Contact Person: AARON TSUI Phone Number: 410-887-3391
Planner, Please Print Your Name
Filing Date: 06/11/08 Posting Date: 06/24/08 Closing Date: 07/07/08

Any contact made with this office regarding the status of the administrative variance should be through the contact person (planner) using the case number.

1. **POSTING/COST:** The petitioner must use one of the sign posters on the approved list (on the reverse side of this form) and the petitioner is responsible for all printing/posting costs. Any reposting must be done only by one of the sign posters on the approved list and the petitioner is again responsible for all associated costs. The zoning notice sign must be visible on the property on or before the posting date noted above. It should remain there through the closing date.
2. **DEADLINE:** The closing date is the deadline for an occupant or owner within 1,000 feet to file a formal request for a public hearing. Please understand that even if there is no formal request for a public hearing, the process is not complete on the closing date.
3. **ORDER:** After the closing date, the file will be reviewed by the zoning or deputy zoning commissioner. He may: (a) grant the requested relief; (b) deny the requested relief; or (c) order that the matter be set in for a public hearing. You will receive written notification (typically within 7 to 10 days of the closing date) as to whether the petition has been granted, denied, or will go to public hearing. The order will be mailed to you by First Class mail.
4. **POSSIBLE PUBLIC HEARING AND REPOSTING:** In cases that must go to a public hearing (whether due to a neighbor's formal request or by order of the zoning or deputy zoning commissioner), notification will be forwarded to you. The sign on the property must be changed giving notice of the hearing date, time and location. As when the sign was originally posted, certification of this change and a photograph of the altered sign must be forwarded to this office.

(Detach Along Dotted Line)

Petitioner: This Part of the Form is for the Sign Poster Only

USE THE ADMINISTRATIVE VARIANCE SIGN FORMAT

2008- Case Number 0572 -A Address 1617 CAPE MAY ROAD
Petitioner's Name SMITH Telephone 410-238-0113

Posting Date: _____ Closing Date: _____

Wording for Sign: To Permit AN ACCESSORY BUILDING (ABOVE GROUND POOL)
TO BE LOCATED IN THE SIDE YARD IN LIEU OF REQUIRED IN THE
THIRD OF THE LOT FARTHEST REMOVED FROM ANY STREET ON
A CORNER LOT .

WCR - Revised 6/25/04



BALTIMORE COUNTY

M A R Y L A N D

JAMES T. SMITH, JR.
County Executive

TIMOTHY M. KOTROCO, *Director*
Department of Permits and
Development Management

July 7, 2008

Jerome F. Smith
1617 Cape May Rd.
Essex, MD 21221

Dear: Jerome F. Smith

RE: Case Number 2008-0572-A, Address: 1617 Cape May Rd.

The above referenced petition was accepted for processing **ONLY** by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on June 11, 2008. This letter is not an approval, but only a **NOTIFICATION**.

The Zoning Advisory Committee (ZAC), which consists of representatives from several approval agencies, has reviewed the plans that were submitted with your petition. All comments submitted thus far from the members of the ZAC are attached. These comments are not intended to indicate the appropriateness of the zoning action requested, but to ensure that all parties (zoning commissioner, attorney, petitioner, etc.) are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case. All comments will be placed in the permanent case file.

If you need further information or have any questions, please do not hesitate to contact the commenting agency.

Very truly yours,

A handwritten signature in black ink, reading "W. Carl Richards, Jr." in a cursive style.

W. Carl Richards, Jr.
Supervisor, Zoning Review

WCR:lnw

Enclosures

c: People's Counsel

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Timothy M. Kotroco, Director
Department of Permits and
Development Management

DATE: June 25, 2008

FROM: Arnold F. 'Pat' Keller, III
Director, Office of Planning

RECEIVED
JUN 27 2008

BY:

SUBJECT: Zoning Advisory Petition(s): **Case(s) 08-572- Administrative Variance**

The Office of Planning has reviewed the above referenced case(s) and has no comments to offer.

For further questions or additional information concerning the matters stated herein, please contact Laurie Hay in the Office of Planning at 410-887-3480.

Prepared By:
CM/LL

Curtis P. Gussman

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence



TO: Timothy M. Kotroco

FROM: Dave Lykens, DEPRM - Development Coordination JWL

DATE: June 27, 2008

SUBJECT: Zoning Item # 08-572-A
Address 1617 Cape May Road
(Smith Property)

RECEIVED
JUN 27 2008
BY:

Zoning Advisory Committee Meeting of June 23, 2008

_____ The Department of Environmental Protection and Resource Management has no comments on the above-referenced zoning item.

X The Department of Environmental Protection and Resource Management offers the following comments on the above-referenced zoning item:

_____ Development of the property must comply with the Regulations for the Protection of Water Quality, Streams, Wetlands and Floodplains (Sections 33-3-101 through 33-3-120 of the Baltimore County Code).

_____ Development of this property must comply with the Forest Conservation Regulations (Sections 33-6-101 through 33-6-122 of the Baltimore County Code).

X Development of this property must comply with the Chesapeake Bay Critical Area Regulations (Sections 33-2-101 through 33-2-1004, and other Sections, of the Baltimore County Code).

Additional Comments:

The site is in a Limited Development Area (LDA) of the Chesapeake Bay Critical Area and must comply with 25% lot coverage requirements. 15% afforestation must also be addressed; this equates to two trees.

Reviewer: Regina Esslinger

Date: June 26, 2008



BALTIMORE COUNTY
M A R Y L A N D

JAMES T. SMITH, JR.
County Executive

JOHN J. HOHMAN, *Chief*
Fire Department

County Office Building, Room 111
Mail Stop #1105
111 West Chesapeake Avenue
Towson, Maryland 21204

July 3, 2008, 2008

ATTENTION: Zoning Review Planners

Distribution Meeting Of: June 23, 2008

Item Number: 0572, 0573, 0574, 0576, 0577, 0578, 0579, 0580

Pursuant to your request, the referenced plan(s) have been reviewed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

1The Fire Marshal's Office has no comments at this time.

Lieutenant Roland P Bosley Jr.
Fire Marshal's Office
410-887-4880 (C) 443-829-2946
MS-1102F

cc: File

BALTIMORE COUNTY, MARYLAND
INTEROFFICE CORRESPONDENCE

TO: Timothy M. Kotroco, Director
Department of Permits &
Development Management

DATE: June 26, 2008

FROM: Dennis A. Kennedy, Supervisor
Bureau of Development Plans
Review

SUBJECT: Zoning Advisory Committee Meeting
For June 30, 2008
Item Nos. 08-0572, 0573, 0574, 0576,
0577, 0578, and 0579

The Bureau of Development Plans Review has reviewed the subject-zoning items, and we have no comments.

DAK:CEN:lrk

cc: File

ZAC-06262008-NO COMMENTS



Martin O'Malley, Governor
Anthony G. Brown, Lt. Governor

State Highway
Administration

John D. Porcari, Secretary
Neil J. Pedersen, Administrator

Maryland Department of Transportation

Date: 6-23-2008

Ms. Kristen Matthews
Baltimore County Office of
Permits and Development Management
County Office Building, Room 109
Towson, Maryland 21204

RE: Baltimore County
Item No 2008-0572-A
1617 CAPE MAY ROAD
SMITH PROPERTY
ADMIN. VARIANCE

Dear Ms. Matthews:

Thank you for the opportunity to review your referral request on the subject of the above captioned. We have determined that the subject property does not access a State roadway and is not affected by any State Highway Administration projects. Therefore, based upon available information this office has no objection to Baltimore County Zoning Advisory Committee approval of Item No. 2008-0572-A.

Should you have any questions regarding this matter, please contact Michael Bailey at 410-545-2803 or 1-800-876-4742 extension 5593. Also, you may E-mail him at (mbailey@sha.state.md.us).

Very truly yours,

Foster

Steven D. Foster, Chief
Engineering Access Permits
Division

SDF/MB

My telephone number/toll-free number is _____
Maryland Relay Service for Impaired Hearing or Speech: 1.800.735.2258 Statewide Toll Free

Street Address: 707 North Calvert Street • Baltimore, Maryland 21202 • Phone: 410.545.0300 • www.marylandroads.com



Plat to accompany Petition for Zoning ☒ Variance ☐ Special Hearing

see pages 5 & 6 of the CHECKLIST for additional required information

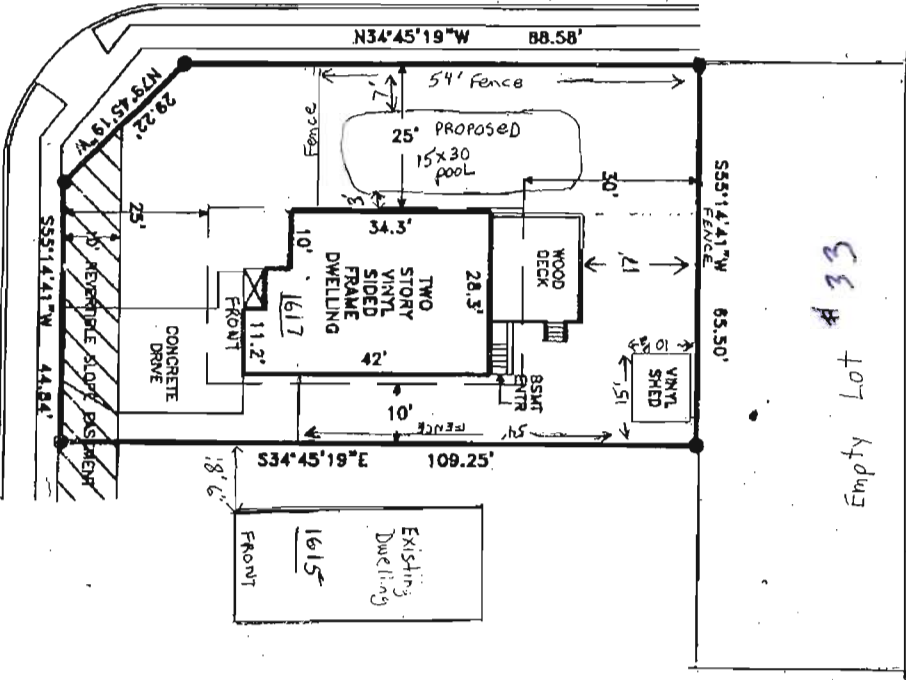
PROPERTY ADDRESS: 1617 Cape May Road

Subdivision name: Cape May Landing

plat book # 63, folio # 4, lot # 3, section #

OWNER: Jerome + Alice Smith

CAPE MAY ROAD (30' R/W)

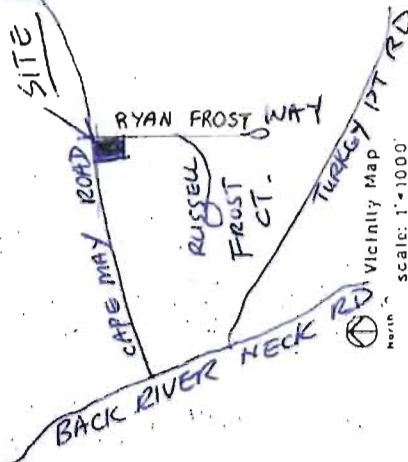


North

date: 6/2/08

prepared by: dr

Scale of Drawing: 1" = 20'



LOCATION INFORMATION

Election District: 15 ED

Councilmanic District: 6 CD

1"-200' scale map: 097C2

Zoning: DR 3.5

Lot size: 6942 acreage

square feet

Public

SEWER: ☒

WATER: ☒

Chesapeake Bay Critical Area: ☒

Prior Zoning Hearings: NONE

HISTORIC 100 YR FLOOD PLAN: NO

Zoning Office USE ONLY:

reviewed by: A. TSW

ITEM #: 0572

CASE #: 2008-0572-A

1615

1617
↓

RYAN FROST WAY
← →



REAR YARD

#1617

CAPE MAY RD

EX. FENCE

