IN THE MATTER OF	*	BEFORE THE CECIL COUNTY
THE APPLICATION OF	*	BOARD OF APPEALS
RUTH KILLIAN, et ux.	*	CASE NO.: 3771
	*	
(Variance)	*	

* * * * * * * * * * * *

OPINION

The Cecil County Board of Zoning Appeals (the "Board") is now asked to consider the application of Ruth and Carl Killian, (the "Applicants"). The Applicants seek a 5-foot variance from the required front yard setback for property located at 69 Mowbray Lane, North East, Maryland 21901, designated as Parcel 15, Lot 7 on Tax Map 50, in the Fifth Election District of Cecil County (the "Property"), presently zoned Rural Residential ("RR"). The Property is owned by the Applicants.

Under the provisions of Article XVII, Part I, Section 306, Paragraph 1, Variances, as defined in Article II, may be granted by the Board of Appeals. Paragraph 2 of Section 306 requires the Board to examine all facts of the case and render a decision based upon the following criteria:

A. The variance requested is based upon a situation where, because of special circumstances, a literal enforcement of the provisions of the Ordinance would deprive the applicant of a right commonly enjoyed by other parties in the same zone under the terms of this Ordinance.

B. Special conditions and circumstances exist that are peculiar to the land, buildings, or structures involved, and that are not applicable to other lands, buildings, or structures in the same zone, such conditions and circumstances not being the result of actions by the applicant.

C. The granting of the variance will not confer upon the applicant any special privileges that are denied by this Ordinance to other properties in the same zone.

D. The variance request does not arise from any condition to land or building use, either permitted or non-conforming, on any neighborhood property.

Ruth and Carl Killian appeared to testify on behalf of the Application. The Applicants testified that they were seeking a five-foot variance from the fifty-foot front yard setback requirement to "grandfather in" a bathroom they had constructed on the front of the Property in 1997. The Applicants testified that in 1997, they had hired a contractor to add a bathroom onto the front of the house located on the Property. The Applicants testified that, at that time, they owned the Property, but did not reside there. The Applicants testified that the contractor, without their knowledge, completed the work on the bathroom without securing the necessary permits. The Applicants testified that they did not become aware of the problem until they attempted to list the Property for sale.

There were no questions from the Board. No one appeared to speak in favor of or in opposition to the Application.

From the evidence presented the Board is satisfied that the criteria set forth in Section 306 has been met, and makes the following findings:

1. The variance request is based upon a situation where, because of special circumstances, a literal enforcement of the provisions of the Ordinance would deprive the applicant of a right commonly enjoyed by other parties in the same zone under the terms of this Ordinance. Although the lots are of sufficient size to construct a bathroom such as proposed, Applicants' Property is non-conforming and Applicants would have to demolish the addition without a variance from the front yard setback restriction.

2. Special conditions and circumstances exist that are peculiar to the subject land, buildings or structures involved and that are not applicable to other lands, buildings, or structures in the same zone. The Applicants were under the impression that their contractor had secured all necessary permits to construct the addition on the Property.

3. The granting of the variance will not confer upon the applicant special privileges that are denied by this Ordinance to other properties in the same zone. Other owners of parcels of equal size to the Property are able to construct additions on their property.

4. There is no evidence that the variance request arises from any condition to land or building use, either permitted or non-conforming, on any neighborhood property.

For the reasons stated, by unanimous vote, the application is therefore **GRANTED**. [All Applicants are hereby notified that they are required to obtain any and all necessary licenses and permits required for the use described herein.]

8/23/16
Date

Mark Saunders, Chairman

BOARD OF APPEALS APPLICATION
CECIL COUNTY, MARYLAND

MEET. MONTH: July 2016
FILE NO. 3771

THIS REQUEST IS FOR:
- SPECIAL EXCEPTION RENEWAL ( )
- SPECIAL EXCEPTION ( )
- VARIANCE (X)
- APPEAL ( )

DATE FILED: 6/15/16
AMOUNT PD: $200.00
ACCEPTED BY: JB CK# 1357

A. APPLICANT INFORMATION

Carl E + Ruth A Killian
APPLICANT NAME – PLEASE PRINT CLEARLY

69 Mowbray LN | North East | MD | 21901
ADDRESS | CITY | STATE | ZIP CODE

Ruth A Killian | Carl E Killian | 410-287-6592
APPLICANT SIGNATURE | PHONE NUMBER

B. PROPERTY OWNER INFORMATION

Carl E + Ruth A Killian
PROPERTY OWNER NAME – PLEASE PRINT CLEARLY

69 Mowbray LN | North East | MD | 21901
ADDRESS | CITY | STATE | ZIP CODE

Ruth A Killian | Carl E Killian
PROPERTY OWNER SIGNATURE | PHONE NUMBER

C. PROPERTY INFORMATION

69 Mowbray LN North East MD | 05 | 067251
PROPERTY ADDRESS | ELECTION DIST. | ACCT. NUMBER

TAX MAP #	BLOCK	PARCEL	LOT #	#ACRES	ZONE
50	17	15	7	.459	

D. PURPOSE OF APPLICATION – Indicate reasons why this application should be granted. (attach separate sheet if necessary)

Seeking variance from 50' set back of approx. 57 inches. 5' ft front SET BACK VARIANCE

E. On an attached sheet, PLEASE submit a sketch of the property indicating the proposed project. Show distances from the front, side and rear property lines and the dimensions of the project.

F. LAND USE DESIGNATION

Is property in the Critical Area? ✓ YES ___ NO
If yes, Pertinent provision of the Chesapeake Bay Critical Area Program: ___
Is property in the 100 year Floodplain? ___ YES ✓ NO
Is property an Agricultural Preservation District? ___ YES ✓ NO

If property is located in the Critical Area, all provisions and requirements must be met as outlined in Article XVII, Part I, II & III of the Zoning Ordinance.

G. PROVISION OF ZONING ORDINANCE: Section 306

H. SPECIAL EXCEPTION RENEWAL – PREVIOUS FILE NO. & CONDITIONS FOR APPROVAL: ___

I. SPECIAL EXCEPTION FOR A MANUFACTURED HOME – Please fill out the following information:

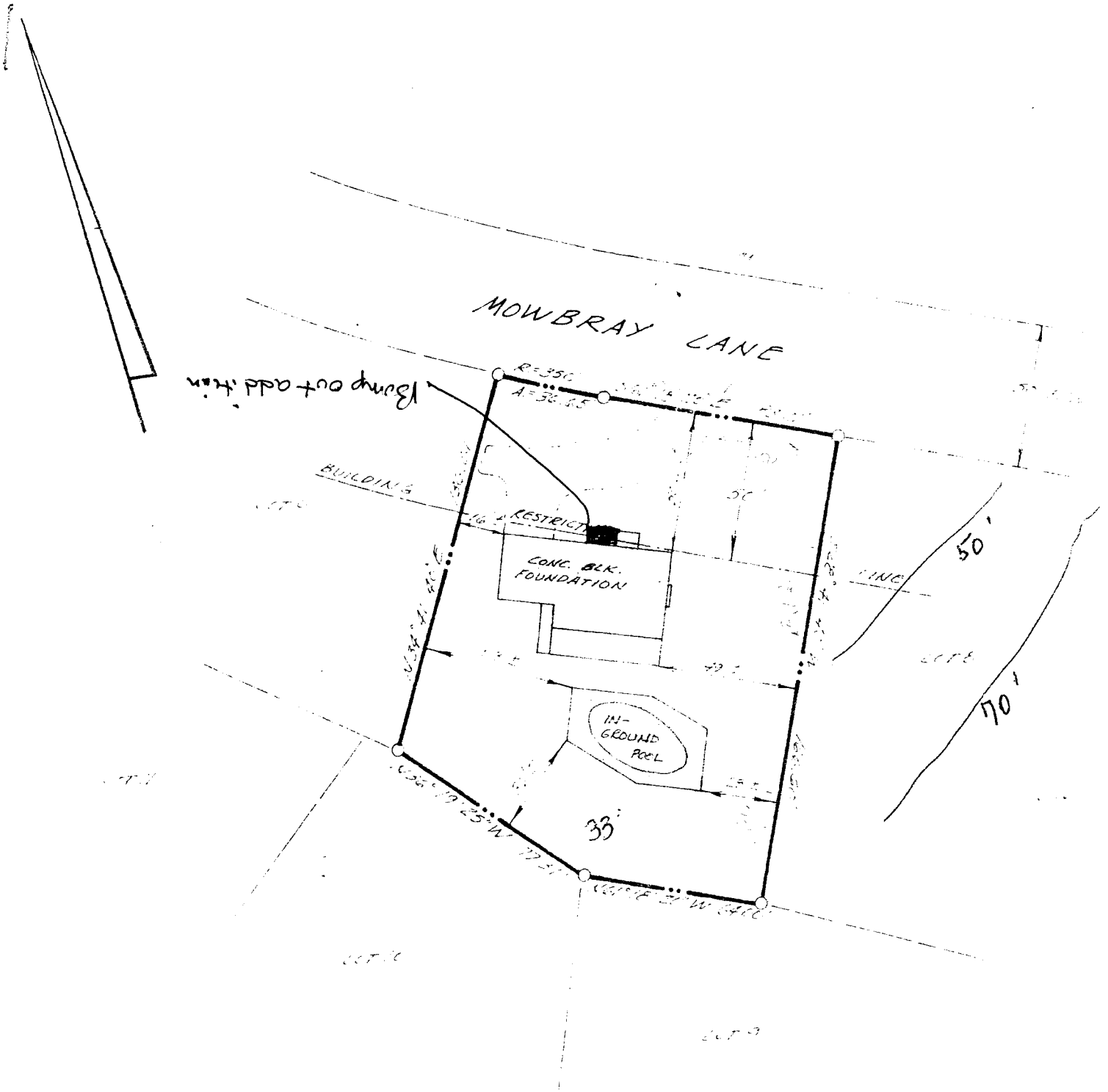
Will unit be visible from the road? ___ If yes, distance: ___

Will unit be visible from adjoining properties? ___ If yes, distance: ___

Distance to nearest manufactured home: ___ Size/Model/Year of Unit: ___

Number of units on property at present time: ___

Revised 10-05-gd



NOTE: SEE PLAT BOOK WAS 1-88

MICHAEL S. McALLISTER
SURVEYOR
23 COURTHOUSE PLAZA
ROOM 303
ELKTON, MD

CERTIFICATE OF SURVEY

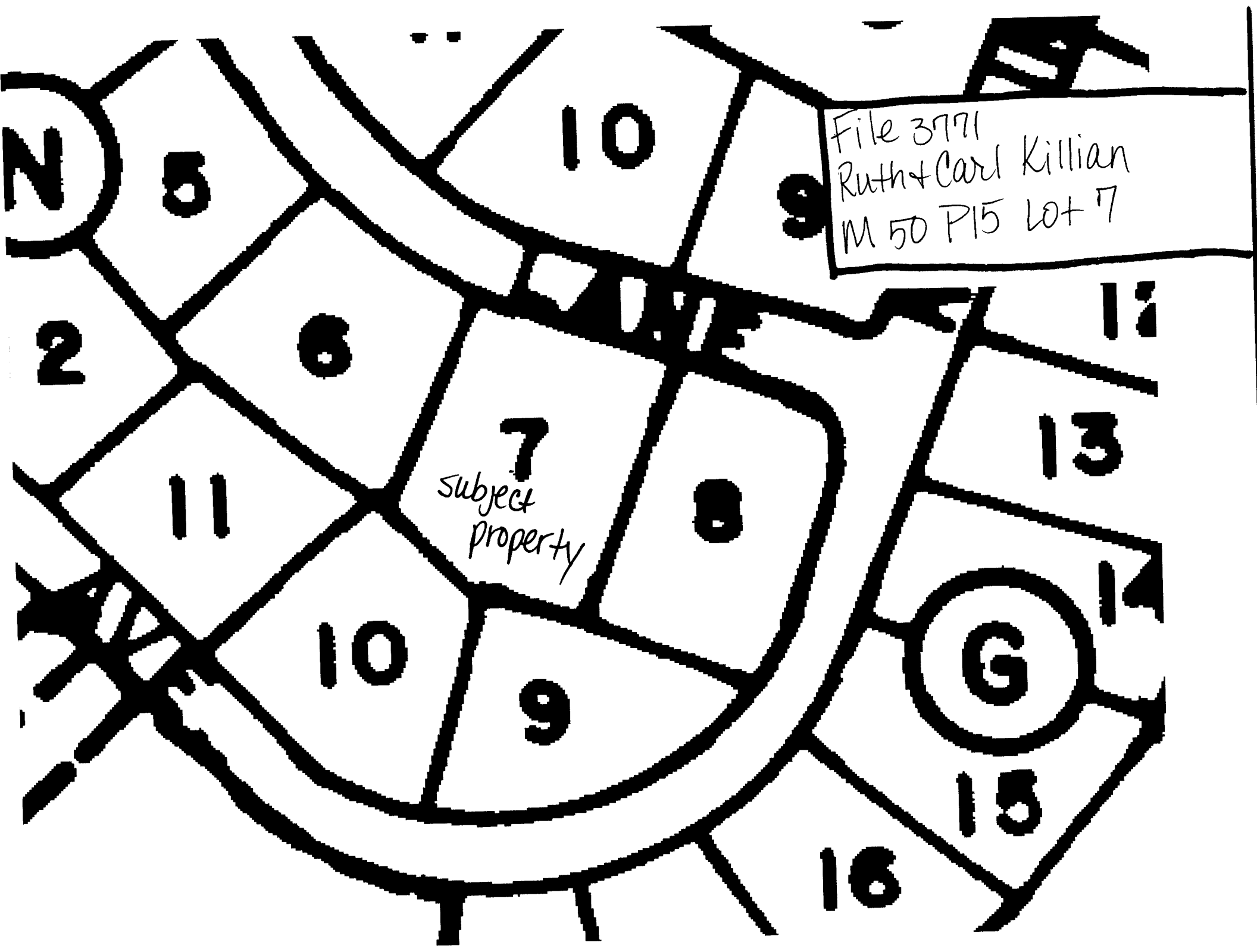
5/20/87

CERTIFICATE SURVEY
LOT 7, BLOCK N, SECTION FOUR

ROLLING HILLS
(CHESAPEAKE ISLE)

FIFTH ELECTION DISTRICT
CECIL COUNTY, MARYLAND

SCALE 1:20	FILE 209	5-20-87


File 3771
Ruth + Carl Killian
M 50 P15 Lot 7
N
5
10
9
2
6
7
subject property
8
11
13
14
10
9
G
15
16