

IN THE MATTER OF  
THE APPLICATION OF  
HENRY CONKLIN  
(Variance)

BEFORE THE CECIL COUNTY  
BOARD OF APPEALS  
CASE NO.: 3617

OPINION

Application of Henry Conklin (hereinafter, “Conklin” or “Applicant”) for a ten (10) foot side yard setback variance for construction purposes at real property located at 31 Halsey Court, Elkton, Maryland 21921 (the “Property”), which is designated as Parcel 295 on Tax Map 25, Fifth Election District, Cecil County, Maryland. The Property is presently zoned Manufactured Home (MH), and is owned by the Village at Cecil Woods, J. Moore, Property Manager (“Cecil Woods” or “Owner”).

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 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.

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.

The Applicant appeared before the Board and testified that he purchased a manufactured home approximately two (2) months ago (June 29, 2012); the Applicant has located the home in the Cecil Woods community, and now desires to install a deck which will be accessed from the side door of the home. The Applicant testified that the proposed deck would extend to the Property line. The Applicant further testified that the Property is located on a cul-de-sac, that there is no home located on the side of the Property on which the proposed deck would be constructed, and that the Property slopes down on that side, is improved by a swale, and is immediately adjacent to a water retention pond that is part of the storm water management system and easement for Cecil Woods. According to the Applicant, a home could never be build on the property adjacent to the deck area, because of the swale and water retention pond; the Applicant testified that, as a result of those conditions and improvements, the adjacent lot is not buildable. The Applicant testified that the next closest house is sixty (60) to seventy (70) feet and on the other side of the swale. The Applicant testified that the deck's footers will not cross the Property line.

There was no testimony in opposition to, or in favor of, 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. The Applicant's plans are for the construction of a side deck; the deck must be constructed on this side of the home because that is where the exit door to the deck is located. The dimensions of the lot make it infeasible to install the proposed deck without a variance, and due to the location of the swale and water retention pond on the side of the Property where the deck will be constructed, the location of the structure on or very near to the Property line will have no affect on adjacent property.

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. As set forth above, the width of the Property is such that the side deck cannot be constructed without a variance. The Property here is unique in that it will never have a dwelling constructed or installed on the adjacent parcel; that land is encumbered by a swale and a water retention pond, and cannot therefore be improved by a dwelling. The closest dwelling to that side of the Property is 60-70 feet away, and will not be impacted by the deck.

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. It is common for dwellings in Cecil Woods, and in this zone, to be improved by decks. The construction of a deck here will not confer any special privilege upon the Applicant.

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 Board finds that the criteria set forth in Section 306 has been met, and the application is, therefore, unanimously **GRANTED.**

10/23/12  
Date

David Willis, Jr.  
David Willis, Chairperson

**BOARD OF APPEALS APPLICATION**  
**CECIL COUNTY, MARYLAND**

MEET. MONTH: Sept. 10/12  
 FILE NO. 3617

THIS REQUEST IS FOR:  
 SPECIAL EXCEPTION RENEWAL  
 SPECIAL EXCEPTION  
 VARIANCE  
 APPEAL

( )  
 (X)  
 ( )

**RECEIVED**  
 JUL 26 2012  
 OFFICE OF PLANNING & ZONING

DATE FILED: 7/26/12  
 AMOUNT PD: \$200.00  
 ACCEPTED BY: CSH

*The McKee Group*  
 CK# 30307

send TO →

**A. APPLICANT INFORMATION**

HENRY Conklin  
 APPLICANT NAME - PLEASE PRINT CLEARLY  
31 HALSEY Court  
 ADDRESS CITY ELKTON STATE MD ZIP CODE 21921  
Henry Conklin  
 APPLICANT SIGNATURE PHONE NUMBER

send TO →

**B. PROPERTY OWNER INFORMATION**

Village of Cecil Woods  
 PROPERTY OWNER NAME - PLEASE PRINT CLEARLY  
1801 W. Pulaski Hwy  
 ADDRESS CITY ELKTON STATE MD ZIP CODE 21921  
Moore / Property Manager  
 PROPERTY OWNER SIGNATURE PHONE NUMBER 410-287-0700

**C. PROPERTY INFORMATION**

31 Halsey Court Lot 161  
 PROPERTY ADDRESS ELECTION DIST. 05 ACCT. NUMBER 013933  
25 18 295 161 .12 MH  
 TAX MAP # BLOCK PARCEL LOT # #ACRES ZONE

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

DECK EXTENDS TO PROPERTY LINE. NO HOMES ON RIGHT SIDE WHERE DECK TO BE BUILT. OPEN DRAIN AREA. SEEK VARIANCE TO BUILD 10' WIDE DECK X 12 FT LONG ON RIGHT SIDE OF HOME. 10' SIDE YARD 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 DESIGNINATION**

Is property in the Critical Area? \_\_\_\_\_ YES \_\_\_\_\_ X NO  
 If yes, Pertinent provision of the Chesapeake Bay Critical Area Program: \_\_\_\_\_  
 Is property in the 100 year Floodplain? \_\_\_\_\_ YES \_\_\_\_\_ X NO  
 Is property an Agricultural Preservation District? \_\_\_\_\_ YES \_\_\_\_\_ X 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: N/A

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

Will unit be visible from the road? N/A 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: \_\_\_\_\_

N=711844.12288  
E=1616335.27133

N=711884.44706  
E=1616308.39567

N33°40'59"W 48.46'

161

Lot 160

WOOD  
Deck

12-0

STEPS  
TO  
GRADE

EXISTING  
1-STORY  
DWELLING  
F.O.P. = 80.24

S56°19'01"W 99.33'

N56°19'01"E 104.84'

Lot 161

EXISTING  
GRINDER  
PUMP

78.3

EXISTING  
VERIZON

78.91

EXISTING  
SS MH  
TOP=77.92

EXISTING  
CABLE

EXISTING  
ELECTRIC  
BOX

EXISTING  
SIDEWALK

78.85

78.98

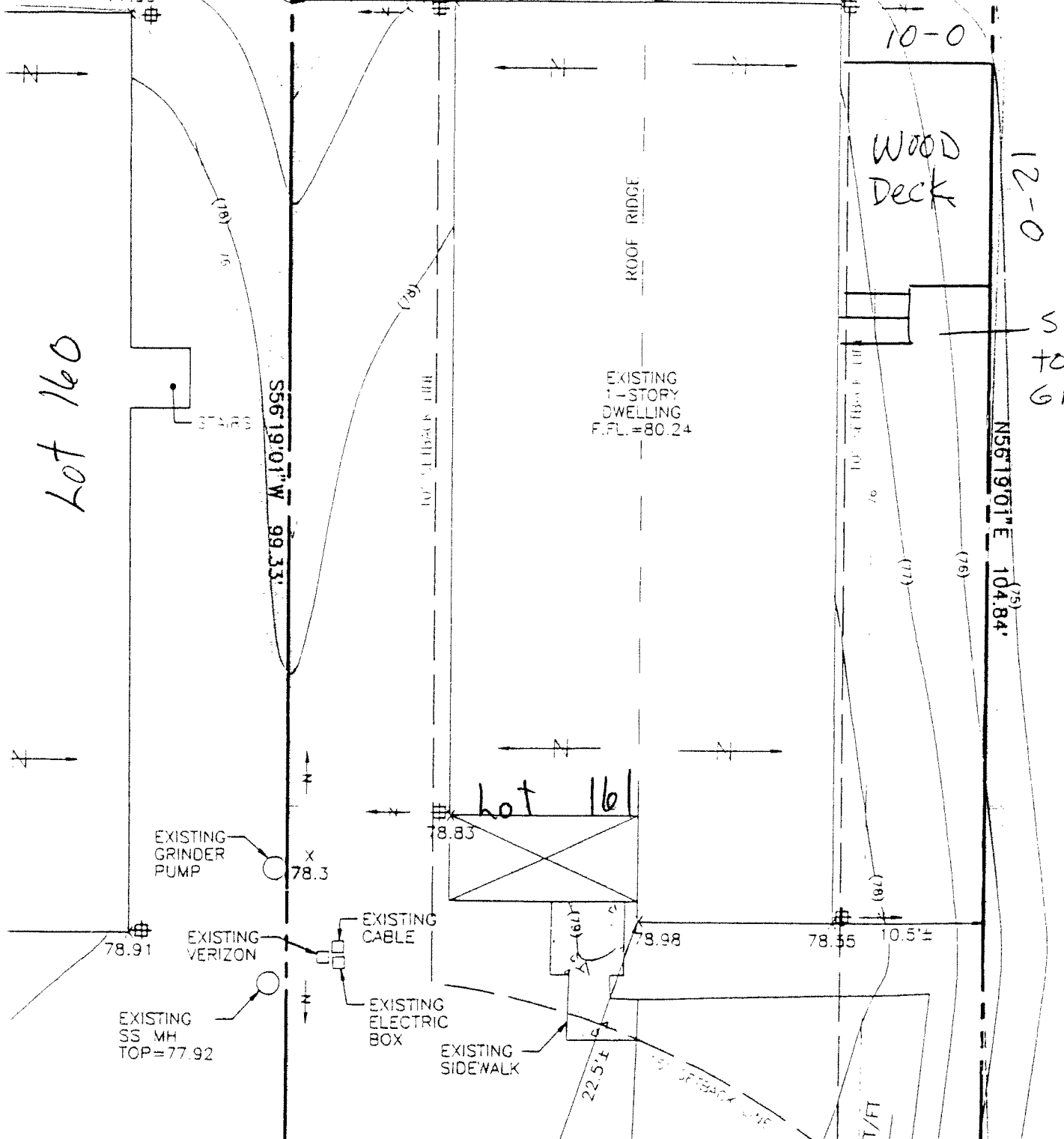
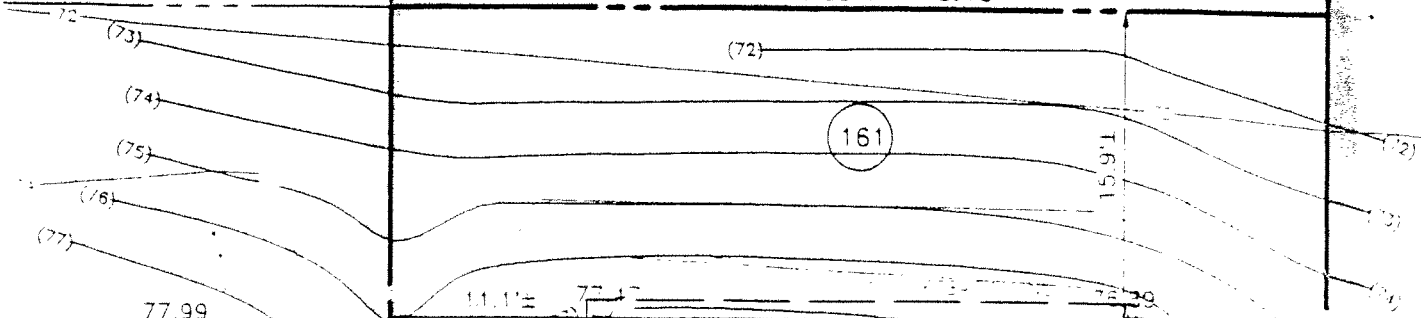
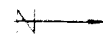
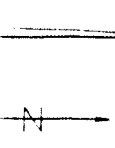
78.55

10.5±

22.5±

15' SETBACK LINE

17/FT



H  
O  
M  
E

