

IN THE MATTER OF	*	BEFORE THE CECIL COUNTY
THE APPLICATION OF	*	BOARD OF APPEALS
RONALD W. ROBUSTO	*	CASE NO.: 3636
	*	
(Variance)	*	
	*	
* * * * *		

OPINION

The Cecil County Board of Zoning Appeals (the “Board”) is now asked to consider the application of Ronald W. Robusto (the “Applicant”). Applicant seeks a variance from the 110 foot buffer requirement for construction of a deck on property located at 365 Blair Shore Road, Elkton, Maryland 21921, designated as Parcel 383 on Tax Map 38, in the Second Election District of Cecil County (the “Property”). The Property is in an area zoned Northern Agricultural Residential (“NAR”) and is owned by the Applicant.

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.

Applicant appeared and requested the variance in order to build a deck on the Property. The Applicant testified that the proposed deck would encroach upon the 110' critical area buffer requirement. He further testified that residence was constructed in 1966 and there exists only 90' between the residence and the marsh area. Based upon the location of the house, it would be impossible to comport with the 110' critical area buffer requirement. There is no opposition from the Critical Area Commission and similar decks exist on residences in the area.

No one appeared 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. Although the Property is of sufficient size, the dimensions of the Property along with the location of the residence on the Property render Applicant unable to construct a deck on the property without a variance from the critical area buffer requirement. Other properties of the size of the Parcel are able to construct decks in the manner proposed by the Applicant and without a variance Applicant will not be able to move forward with construction of the deck.

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. Due to the position of the dwelling on the parcel and the distance to the critical area the deck cannot be constructed without the requested variance.

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 decks on their property in the manner proposed by 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 is satisfied that the criteria set forth in Section 306 have been met, and the application is therefore **APPROVED**.

6/25/2013
Date

David Willis, G.
David Willis, Chairperson

BOARD OF APPEALS APPLICATION
CECIL COUNTY, MARYLAND

MEET. MONTH: May 2013
 FILE NO. 3636

THIS REQUEST IS FOR:

- SPECIAL EXCEPTION RENEWAL ()
 SPECIAL EXCEPTION ()
VARIANCE (X)
 APPEAL ()

DATE FILED: 4/11/13
 AMOUNT PD: \$200.00
 ACCEPTED BY: [Signature]

A. APPLICANT INFORMATION

APR 01 2013

RONALD W. ROBUSTO
 APPLICANT NAME - PLEASE PRINT CLEARLY

Cecil County Office
 of Planning & Zoning

365 BLAIR SHORE ROAD ELKTON MO 21921
 ADDRESS CITY STATE ZIP CODE

[Signature]
 APPLICANT SIGNATURE

410-443-2123
 PHONE NUMBER

B. PROPERTY OWNER INFORMATION

RONALD W. ROBUSTO
 PROPERTY OWNER NAME - PLEASE PRINT CLEARLY

365 BLAIR SHORE ROAD ELKTON MO 21921
 ADDRESS CITY STATE ZIP CODE

[Signature]
 PROPERTY OWNER SIGNATURE

410-443-2123
 PHONE NUMBER

C. PROPERTY INFORMATION

365 BLAIR SHORE ROAD 02 013452
 PROPERTY ADDRESS ELECTION DIST. ACCT. NUMBER

0038 0013 0383 - APPX 10 NAR
 TAX MAP # BLOCK PARCEL LOT # #ACRES ZONE

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

LOCATION OF DECK TO BE BUILT IS ON PREVIOUSLY DISTURBED
PROPERTY WHERE HOUSE HAS EXISTED FOR 47 YEARS (SINCE 1966),
BUT APPARENTLY FAILS WITH 110 FOOT BUFFER

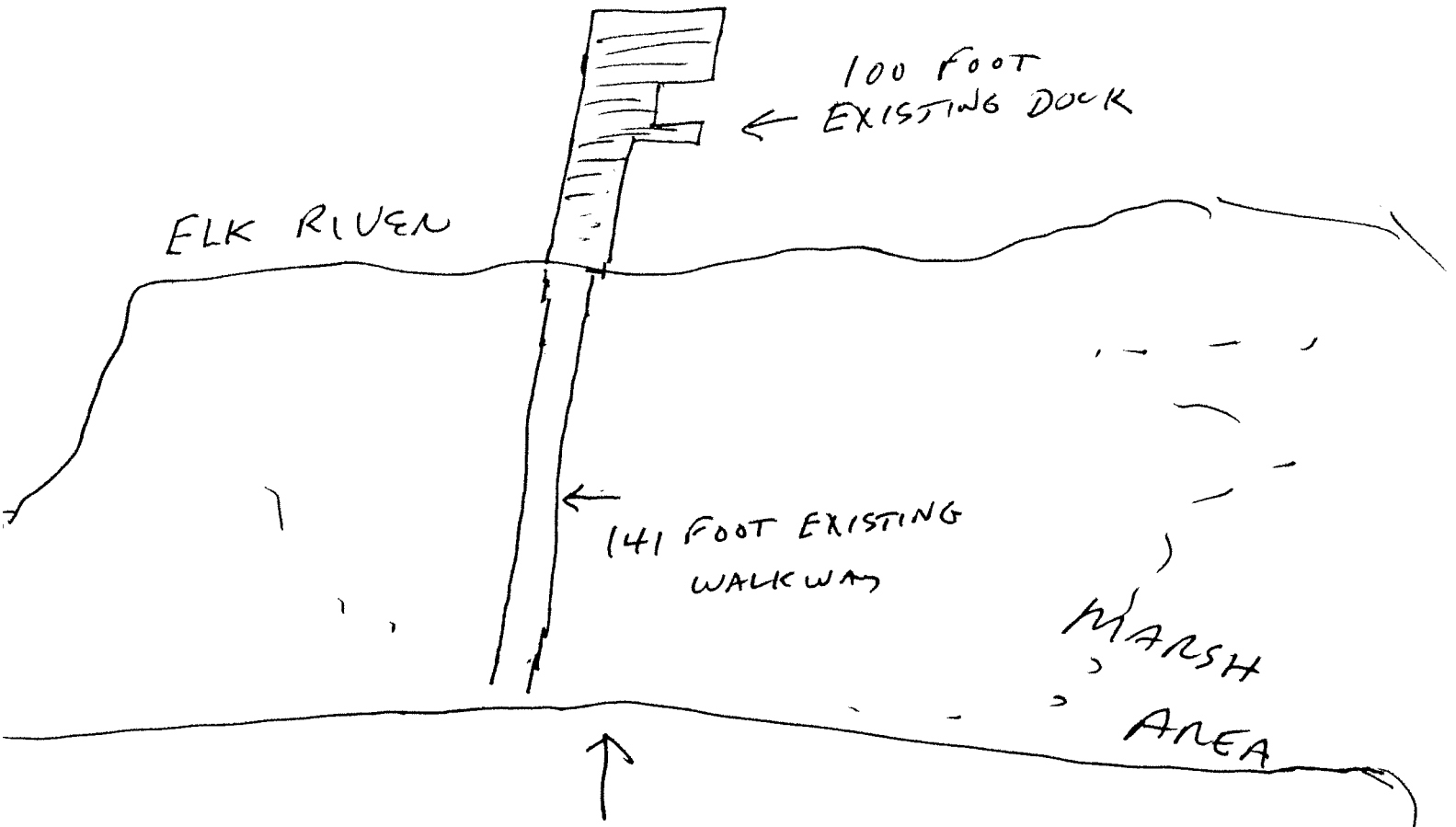
E. On an attached sheet, PLEASE submit a sketch of the property indicating the proposed project. Show distances from the front, side and rear property lines and the dimensions of the project.

F. LAND USE DESIGNATION

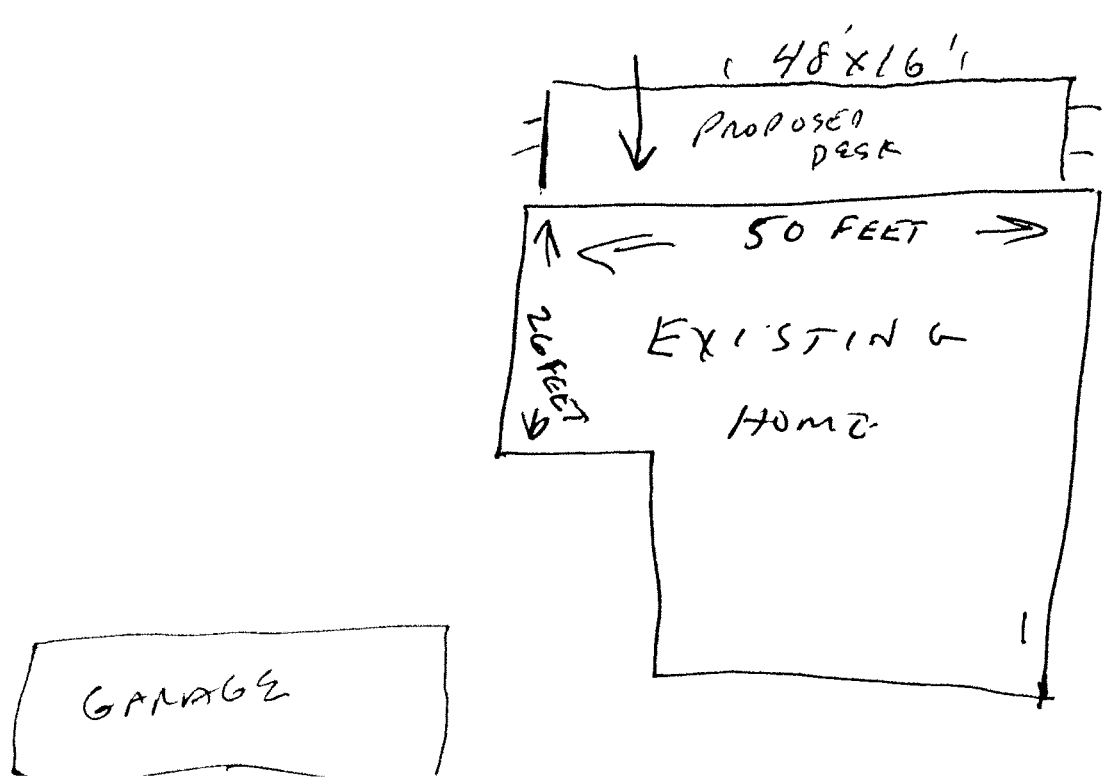
Is property in the Critical Area? YES NO
 If yes, Pertinent provision of the Chesapeake Bay Critical Area Program: Sec. 196.3.b.
 Is property in the 100 year Floodplain? N/A YES NO
 Is property an Agricultural Preservation District? YES NO

Send to Critical Area LOD → LDA

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.

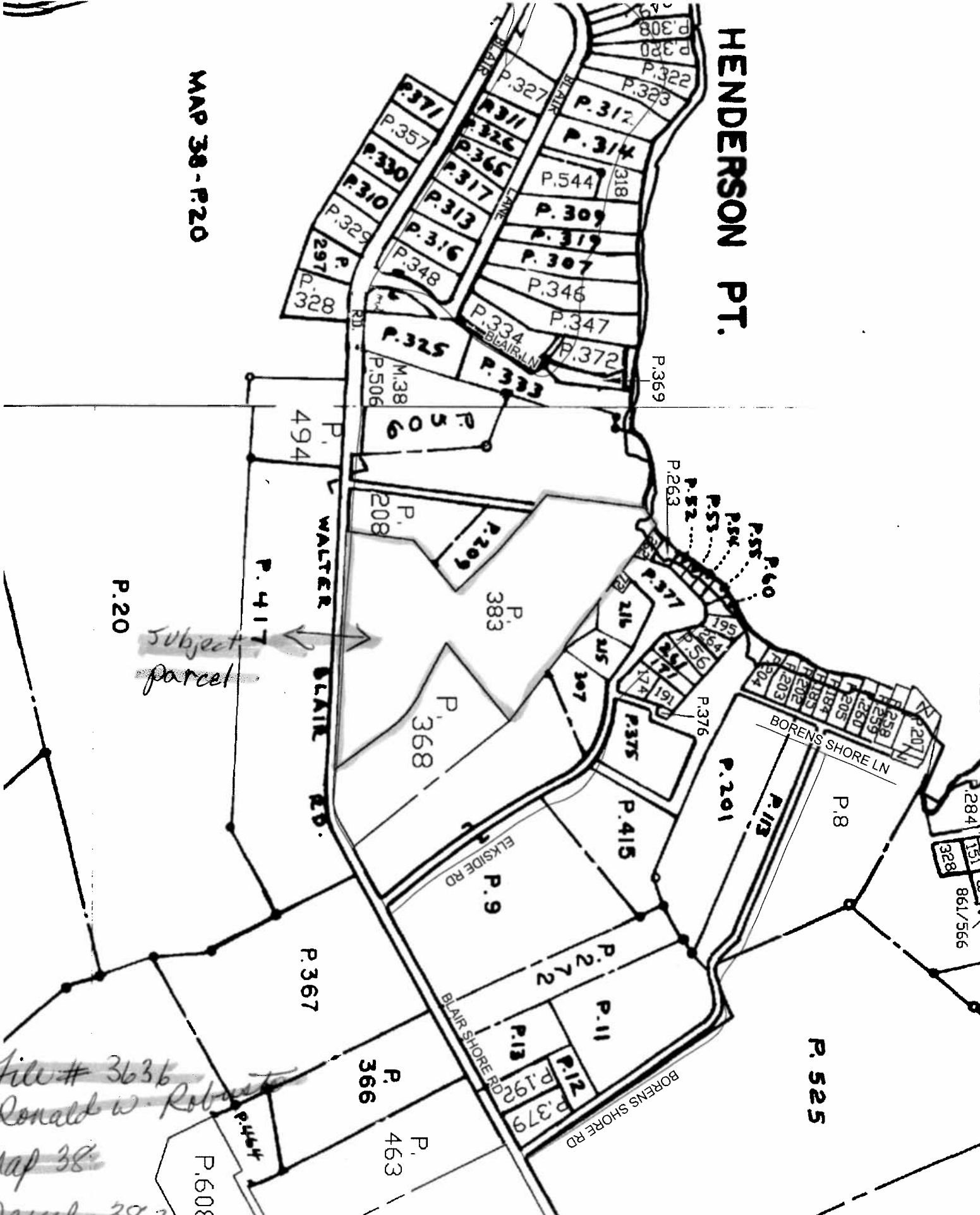


90 FEET FROM HOUSE TO MARSH AREA



HENDERSON PT.

MAP 38 - P.20



Subject parcel

File # 3636
Ronald W. Roberts
Map 38
Parcel 383

CRITICAL AREA COMMISSION
FOR THE CHESAPEAKE AND ATLANTIC COASTAL BAYS
1804 WEST STREET, SUITE 100
ANNAPOLIS, MD 21401

PROJECT NOTIFICATION APPLICATION

GENERAL PROJECT INFORMATION

Jurisdiction: Cecil

Date: 04/01/13

Tax Map #	Parcel #	Block #	Lot #	Section
0038	0383	0013	N/A	N/A

FOR RESUBMITTAL ONLY

Corrections
Redesign
No Change
Non-Critical Area

*Complete Only Page 1
General Project Information

Tax ID: 02-013452

Project Name (site name, subdivision name, or other) Ronald W. Robusto

Project location/Address 365 Blair Shore Road

City Elkton Zip 21921

Local case number 3636

Applicant: Last name Robusto First name Ronald W.

Company N/A

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 type="checkbox"/>	Subdivision	<input type="checkbox"/>
Grading Permit	<input type="checkbox"/>	Other	<input type="checkbox"/>

Local Jurisdiction Contact Information:

Last name Johnson First name Joseph

Phone # 410-996-5225 Response from Commission Required By 05/17/13

Fax # 410-996-5305 Hearing date 5/28/2013

SPECIFIC PROJECT INFORMATION

Describe Proposed use of project site:

Variance from the Zoning Ordinance pertaining to the critical area buffer requirements within the 110' buffer zone for construction purposes. See attached:

Intra-Family Transfer <input type="checkbox"/> Yes Grandfathered Lot <input checked="" type="checkbox"/>	Growth Allocation <input type="checkbox"/> Yes Buffer Exemption Area <input type="checkbox"/>
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Project Type (check all that apply)

Commercial <input type="checkbox"/> Consistency Report <input type="checkbox"/> Industrial <input type="checkbox"/> Institutional <input type="checkbox"/> Mixed Use <input type="checkbox"/> Other <input type="checkbox"/>	Recreational <input type="checkbox"/> Redevelopment <input type="checkbox"/> Residential <input checked="" type="checkbox"/> Shore Erosion Control <input type="checkbox"/> Water-Dependent Facility <input type="checkbox"/>
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SITE INVENTORY (Enter acres or square feet)

	Acres	Sq Ft		Acres	Sq Ft
IDA Area			Total Disturbed Area		672 sq. ft.
LDA Area		672 sq.ft.			
RCA Area					
Total Area					

of Lots Created

	Acres	Sq Ft		Acres	Sq Ft
Existing Forest/Woodland/Trees			Existing Impervious Surface		
Created Forest/Woodland/Trees			New Impervious Surface		
Removed Forest/Woodland/Trees			Removed Impervious Surface		
			Total Impervious Surface		

VARIANCE INFORMATION (Check all that apply)

	Acres	Sq Ft		Acres	Sq Ft
Buffer Disturbance		672 sq. ft.	Buffer Forest Clearing		
Non-Buffer Disturbance			Mitigation		

Variance Type

Buffer
 Forest Clearing
 HPA Impact
 Impervious Surface
 Expanded Buffer
 Nontidal Wetlands
 Setback
 Steep Slopes
 Other

Structure

Acc. Structure Addition
 Barn
 Deck
 Dwelling
 Dwelling Addition
 Garage
 Gazebo
 Patio
 Pool
 Shed
 Other