



# HOWARD COUNTY DEPARTMENT OF PLANNING AND ZONING

3430 Court House Drive ■ Ellicott City, Maryland 21043 ■ 410-313-2350

Voice/Relay

Amy Gowan, Director

FAX 410-313-3467

February 7, 2022

Chris and Julia Kwak  
10435 White Court  
Laurel, MD 20723

RE: WP-22-048 10435 White Court

Dear Mr. and Mrs. Kwak:

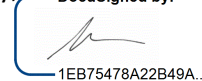
This letter is to inform you that your request for alternative compliance to the Howard County Subdivision and Land Development Regulations for the subject project was reviewed.

On January 27, 2022 and pursuant to Section 16.116(d), the Director of the Department of Planning and Zoning, Director of the Department of Public Works and Administrator of the Office of Community Sustainability considered and **approved** your request for alternative compliance with respect to **Section 16.116(a)(2)(iii)** of the Subdivision and Land Development Regulations to construct a 6' high retaining wall and fence in the rear yard within the 100' stream bank buffer. Please see the attached Final Decision Action Report for more information.

Indicate this alternative compliance petition file number, request, section of the regulations, action, conditions of approval and date on all related site development plans and building permits. This alternative compliance approval will remain valid for one year from the date of this letter or as long as a subdivision or site development plan is being actively processed in accordance with the processing provisions of the Regulations.

If you have any questions, please contact Eric Buschman at (410) 313-2350 or email at [ebuschman@howardcountymd.gov](mailto:ebuschman@howardcountymd.gov).

Sincerely, DocuSigned by:



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Anthony Cataldo, AICP, Chief  
Division of Land Development

cc: Research  
DLD - Julia Sauer  
Rick Dorsey- Stone Strong of MD



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## ALTERNATIVE COMPLIANCE FINAL DECISION ACTION REPORT

DEPARTMENT OF PLANNING AND ZONING  
DEPARTMENT OF PUBLIC WORKS  
OFFICE OF COMMUNITY SUSTAINABILITY

**RE:** **WP-22-048 10435 White Court**  
*Request for an alternative compliance to Section 16.116(a)(2)(iii) of the Subdivision and Land Development Regulations.*

**Applicant:** Chris and Julia Kwak  
10435 White Court  
Laurel, MD 20723

Pursuant to Section 16.116(d), the Director of the Department of Planning Zoning, Director of the Department of Public Works and the Administrator of the Office of Community Sustainability considered and **approved** the applicants request for an alternative compliance with respect to **Section 16.116(a)(2)(iii)** of the Subdivision and Land Development Regulations. The purpose is to construct a 6' high retaining wall and fence in the rear yard within the 100' stream bank buffer. The Directors deliberated the application in a meeting on January 27, 2022.

Each Department hereby determines that the applicant has demonstrated to its satisfaction that strict enforcement of the above-cited regulation would result in unreasonable hardship or practical difficulty. This determination is made with consideration of the alternative compliance application and the seven (7) items the applicant was required to address, pursuant to Section 16.104(a)(1) and Section 16.116(d):

**1. Strict conformance with the requirements will deprive the applicant of rights commonly enjoyed by other in similar areas.**

Strict conformance with the requirements will deprive the applicant of creating a safe and usable rear yard. The subdivision was recorded and developed when the stream bank buffer requirement was 75' and the current regulations require a 100' buffer. The subdivision was designed to place the stream buffer area within an open space lot. The current buffer extends approximately 25' into the rear yard.

The existing slope in the rear yard exceeds 45% at certain locations and is generally above 25% across the rear yard. The home was constructed with an extended footer above grade at the rear and the actual basement floor is 36"+ above grade at the rear of the home. The proposed retaining wall and fence will create a safe usable area at the rear of the home for the residents to enjoy.

**2. The uniqueness of the property or topographical conditions would result in practical difficulty, other than economic, or unreasonable hardship from strict adherence to the regulations.**

The stream bank buffer width has been increased from 75' to 100' since the subdivision was recorded, which extended the buffer into the rear yard of the subject property. The topography in the rear yard is severe and difficult to maintain for the owner. The steep grade creates a hazardous situation for the residents. The stream is

located offsite in county-owned open space and is approximately 50 feet in elevation below the rear yard of Lot 85. Strict adherence to the regulations would prohibit the owner from creating a safe and usable rear yard.

**3. The variance will not confer to the applicant a special privilege that would be denied to other applicants.**

The slope in the rear of Lot 85 exceeds 45% at certain locations and does not allow for a usable rear yard. Approval of the variance will not confer to the applicant a special privilege since subdivisions are typically designed to allow for safe and usable space in the rear of the homes. Lot 85 is located at the end of the cul-de-sac adjacent to county-owned open space. The current 100' stream buffer width impacts Lot 85 and does not impact the adjacent lots.

**4. The modification is not detrimental to the public health, safety or welfare, or injurious to other properties.**

Construction of the retaining wall within the stream bank buffer will not be detrimental to the public health, safety or welfare, or injurious to other properties. The wall will create a flat usable area in the rear yard of Lot 85 and will be constructed with a fence at the top to prevent falls. The existing severe grade is detrimental to the safety of the residents. The stream is located approximately 50 feet lower than the elevation of the rear yard. The construction of the wall will not impact the adjacent properties.

**5. Any area of disturbance is returned to its natural condition to the greatest extent possible.**

All necessary erosion and sediment control measures will be required to be in place during construction of the retaining wall. The owners intend to plant several native shrubs and ground covers at the base of the wall to prevent erosion. The rear yard will be stabilized and seeded after construction is complete. No existing trees or other vegetation will be removed for construction of the retaining wall.

**6. Mitigation is provided to minimize adverse impacts to water quality and fish, wildlife, and vegetative habitat.**

The proposed retaining wall will help to control the existing erosion in the rear of Lot 85 and will prevent excess sedimentation into the Middle Patuxent River. The downspouts for the home are currently creating erosion due to the severe slope. The owners intend to install small beds of riprap stone at the downspouts to slow the runoff. No disturbance to existing vegetation is proposed and erosion and sediment control measures will minimize runoff during construction.

**7. Grading, removal of vegetative cover and trees, or construction shall only be the minimum necessary to afford relief and to the extent required to accommodate the necessary improvements.**

The proposed grading is the minimum necessary to construct the retaining wall. No removal of existing vegetation is proposed. The rear yard will be stabilized and seeded and the base of the wall will be planted with native shrubs and ground covers to prevent erosion.

**Directors Action:** Approval of alternative compliance of Section 16.116(a)(2)(iii) is subject to the following conditions:

1. A redline revision to the Site Development Plan (SDP-02-087) shall be submitted to add the proposed retaining wall to the plan set. Structural computations shall be submitted with the redline as the height of the wall exceeds 3 feet. All proposed grading for the wall shall be shown and the Limit of Disturbance shall be identified. The redline revision shall be approved, changes drafted on the originals and the retaining wall sheets added to the plan set prior to issuance of a building permit for the proposed retaining wall. Refer to comments from the Development Engineering Division dated January 12, 2022.
2. The applicant shall plant a minimum of 7 native shade trees at least 2-inch caliper onsite within the 100' stream bank buffer. The locations, species and planting specifications (including deer protection) shall be included in the redline revision to SDP-02-087.

3. Native shrubs shall be planted at the base of the retaining wall between the drain outfalls and the rear property line to prevent erosion within the stream buffer. The locations, species and planting and maintenance specifications (including deer protection) shall be included in the redline revision to SDP-02-087.
4. Any existing downspouts in the rear yard shall be retrofitted with rip-rap stone at the outfalls (2' x 2' minimum) to prevent additional erosion within the stream buffer. Any drain outlet pipes proposed below the retaining wall shall be stabilized with rip-rap stone at the outfalls. Details shall be included on the redline revision to SDP-02-087.
5. The proposed retaining wall shall be constructed in the location shown on the alternative compliance plan exhibit. The height of the wall cannot exceed 6 feet within the 10' rear setback for accessory structures in accordance with Sections 108.0.D.4 and 128.0.A.9 of the Zoning Regulations.
6. No removal of existing vegetation or trees is permitted within the 100' stream bank buffer.
7. All disturbed areas shall be stabilized and seeded after construction is complete.
8. The applicant shall comply with all building permit requirements from the Department of Inspections, Licenses & Permits and all requirements in the 'R-20' Zoning District Regulations.

DocuSigned by:

*Amy Gowan*

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Amy Gowan, Director

Department of Planning and Zoning

DocuSigned by:

*Thomas Meunier*

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Thomas Meunier, Director

Department of Public Works

DocuSigned by:

*Joshua Feldmark*

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Joshua Feldmark, Administrator

Office of Community Sustainability

cc: Research  
OCS, Joshua Feldmark  
DPW, Thomas Meunier  
Rick Dorsey- Stonestrong

**Certificate Of Completion**

Envelope Id: EFC8B5E09D324FB3B5B0AC2EEFBC551A	Status: Completed
Subject: Please DocuSign: WP-22-048 Approval.docx, WP-22-048 DAR_signed.pdf	
Source Envelope:	
Document Pages: 4	Signatures: 1
Certificate Pages: 1	Initials: 0
AutoNav: Disabled	Envelope Originator:
Enveloped Stamping: Disabled	Anthony Cataldo
Time Zone: (UTC-05:00) Eastern Time (US & Canada)	Ellicott City, MD 21043
	acataldo@howardcountymd.gov
	IP Address: 167.102.191.18

**Record Tracking**

Status: Original 2/7/2022 11:07:41 AM	Holder: Anthony Cataldo acataldo@howardcountymd.gov	Location: DocuSign
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**Signer Events**

Anthony Cataldo  
acataldo@howardcountymd.gov  
Division Chief  
Howard County Government  
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**Signature**

DocuSigned by:  
  
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**In Person Signer Events**

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**Intermediary Delivery Events**

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**Carbon Copy Events**

**Status**

**Timestamp**

**Witness Events**

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**Timestamp**

**Notary Events**

**Signature**

**Timestamp**

**Envelope Summary Events**

**Status**

**Timestamps**

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Certified Delivered	Security Checked	2/7/2022 11:08:00 AM
Signing Complete	Security Checked	2/7/2022 11:08:32 AM
Completed	Security Checked	2/7/2022 11:08:32 AM

**Payment Events**

**Status**

**Timestamps**





**Howard County Maryland**  
**Department of Planning and Zoning**  
 3430 Courthouse Drive, Ellicott City, MD 21043

(410) 313-2350

DPZ Office Use only:  
 File No. *WP-22-048*  
 Date Filed *11/15/21*

**ALTERNATIVE COMPLIANCE APPLICATION**

**Site Description:** Lot # 85 Warfield's Range II , 10435 White Court Way, Steep hill at rear portion of lot behind home

**Subdivision Name/Property Identification:** Warfield's Range II Lot # 85

**Location of property:** 10435 White Court Way

**Existing Use:** Residential **Proposed Use:** Residential

**Tax Map:** 0041 **Grid:** 0024 **Parcel No:** 0454 **Election District:** 06

**Zoning District:** RS 69 **Total site area:** 14911 sq ft

Please list all previously submitted or currently active plans on file with the County (subdivision plans, Board of Appeals petitions, alternative compliance petitions, etc.). If no previous plans have been submitted, please provide a brief history of the site and related information to the request:

SDP-02-087

In the area below, the petitioner shall enumerate the specific numerical section(s) from the Subdivision and Land Development Regulations for which an alternative compliance is being requested and provide a brief summary of the request. Please use the additional page if needed.

Section Reference No.	Brief Summary of Request
16.116.a.2.iii	Request to build a retaining wall at rear of home inside the current stream buffer to correct non-compliant severe grade and place a fence at top of wall to provide a safer environment for the homeowner / occupants of the property and neighbors. Applicant would like to be able to maintain and enjoy their property as others do with similar topography.

Section Reference No.	Brief Summary of Request

Signature of Property Owner:  Date: 11/09/2021

Signature of Petitioner Preparer:  Date: 11/08/2021

Name of Property Owner: Chris and Julie Kwak Name of Petition Preparer: Rick Dorsey

Address: 10435 White Court Address: 7860 Kabik Court

City, State, Zip: Laurel, MD 20723 City, State, Zip: Woodbine, MD 21797

E-Mail: juliehchung@gmail.com E-Mail: rick@modernfoundations.com

Phone No.: 714-745-4275 Phone No.: 410-970-8121

Contact Person: Chris Kwak Contact Person: Rick Dorsey

Owner's Authorization Attached



Section Reference No.	Brief Summary of Request