AA 154-99 Dailey, Donald
VAR 99-0112

MSA_51829 - 63

CH
Document
4/2/99

Stan Serwatka, the applicant's engineer, testified that the site plan erroneously reflects that the dwelling on the lot to the east (Lot 676) is one-story. In reality, the center portion of the dwelling is two full stories. The dwelling on Lot 678 contains three stories. The witness testified that the location of the proposed dwelling is fixed by the septic area and a new deep well on the property to the west (Lot 674). He indicated a willingness to adhere to all of Ms. Morgan's conditions with the exception of the height. It was his contention that the proposed two-story dwelling (which does not include a garage) represents the minimum relief.

Mr. Dailey testified that his neighbors to either side are receptive to the proposal. They have benefitted from the removal of the stone pavilion which was closer to the shore and blocked their views.

Upon review of the facts and circumstances, I find and conclude that the applicant is entitled to conditional relief from the code. This case satisfies the test of unique physical conditions, consisting of a small and narrow lot, such that there is no reasonable possibility of developing the lot in strict conformance with the code. A further limitation is the need to accommodate the septic system adjacent to Riverside Drive. Considering the Critical Area aspects of this case, due to the proximity to the shoreline, a strict implementation of the program would result in a hardship to the applicant. That is, to literally interpret the program will deprive the applicant of the right commonly enjoyed by other properties in similar areas within the Critical Area of the County to be developed with a single-family residence.

Conversely, the granting of the Critical Area variances will not confer on the applicant any special privilege that the program denies to other lands or structures within the Critical Area. There is nothing to suggest that the request is based on conditions resultant of actions by the applicant; nor does it arise from conditions relating to land use on neighboring property. Finally, the granting of a conditional variance will not adversely affect water quality or adversely impact fish, wildlife or plant habitat within the Critical Area and will be in harmony with the general spirit and intent of the program.

I further find that the requested variance is the minimum variance necessary to afford relief. A 45' X 30' two-story dwelling is not overly large. There is nothing to suggest that the granting of the variance will alter the essential character of the neighborhood, substantially impair the appropriate use or development of adjacent property or be detrimental to the public welfare. Rather, the proposal appears to be consistent with other dwellings in the immediate neighborhood. The approval shall be subject to the conditions in the Order.

ORDER

PURSUANT to the application of Donald Dailey, petitioning for a variance to permit a dwelling with less setbacks and buffer than required; and

PURSUANT to the advertising, posting of the property, and public hearing and in accordance with the provisions of law, it is this 4th day of June, 1999,

ORDERED, by the Administrative Hearing Officer of Anne Arundel County,

that the applicant is hereby **granted** the following variances:

1. A variance of 62 feet to the 100-foot buffer;
2. A variance of 30 feet to the average setback to the shoreline;
3. A variance of 12 feet to the average setback to the front lot lines; and
4. A variance of 10 feet to the combined side yard width.

The foregoing variances are subject to the following conditions:

1. A non-conventional septic system must be approved.
2. Stormwater management shall be provided.
3. All new impervious area shall be mitigated at a 2:1 planting within the buffer and a 1:1 planting outside the buffer.

Stephen M. LeGendre
Administrative Hearing Officer

NOTICE TO APPLICANT

Within thirty (30) days from the date of this Decision, any person, firm, corporation, or governmental agency having an interest therein and aggrieved thereby may file a Notice of Appeal with the County Board of Appeals.

Further, Section 11-102.2 of the Anne Arundel County Code states:

A variance granted under the provisions of this Article shall become void unless a building permit conforming to the plans for which the variance was granted is obtained within one year of the grant and construction is completed within two years of the grant.

If this case is not appealed, exhibits must be claimed within 60 days of the date of this order, otherwise they will be discarded.

Judge John C. North, II
Chairman

Ren Serey
Executive Director

STATE OF MARYLAND
CHESAPEAKE BAY CRITICAL AREA COMMISSION

45 Calvert Street, 2nd Floor, Annapolis, Maryland 21401
(410) 260-7516 Fax: (410) 974-5338

April 2, 1999

Mr. Kevin Dooley
Anne Arundel County Department of Planning and Code Enforcement
2664 Riva Road, MS 6301
Annapolis, Maryland 21401

Re: Donald Dailey
1999-0112-V

Dear Mr. Dooley:

I have received the above-referenced request to permit a new dwelling that will require less setbacks and Buffer. This office offers no comment regarding the setback issue. In regard to the Buffer issue, it appears the dwelling is setback as far as possible considering the site constraints of this lot. Mitigation of native species should occur at a 3:1 ratio for new disturbance in the Buffer.

Thank you for the opportunity to comment. Please include this letter in your file and submit it as part of the record for variance. Please notify the Commission of the decision made in this case.

Sincerely,

Lisa A. Hoerger
Environmental Specialist

cc: AA 154-99

Branch Office: 31 Creamery Lane, Easton, MD 21601
(410) 822-9047 Fax: (410) 820-5093

TTY FOR DEAF ANNAPOLIS-974-2609 D.C. METRO-586-0450

AA 154-99

CHESAPEAKE BAY CRITICAL AREA COMMISSION
45 CALVERT STREET, 2ND FLOOR
ANNAPOLIS, MD 21401

NOTIFICATION OF PROJECT APPLICATION

Jurisdiction: A.A. CO. Date: 2/26/99

Name of Project (site name, subdivision name, or other): PINEHURST LOT 675

Local case number: 1999-0112-V Donald Dailey

Project location/Address: 8128 RIVERSIDE DRIVE

Tax map# 18 Block# 23 Lot# 275 Parcel# 219

Type of application: (Select all applicable)

- ☐ SUBDIVISION
- ☐ SITE PLAN
- ☒ VARIANCE:
  Buffer X Slope__
  Imp.Surf.__ Other__
- ☐ SPECIAL EXCEPTION
- ☐ CONDITIONAL USE
- ☐ REZONING
- ☐ GRADING PERMIT
- ☐ BLDG PERMIT
- ☐ INTRAFAMILY
- ☐ GROWTH ALLOCATION
- ☐ OTHERS _____

Type of Project: (Select all applicable)

- ☒ RESIDENTIAL
- ☐ COMMERCIAL
- ☐ WATER DEPENDENT FACILITY/PIER/MARINA
- ☐ INDUSTRIAL
- ☐ MIXED USE
- ☐ REDEVELOPMENT
- ☐ SHORE EROSION PROTEC.
- ☐ AGRICULTURE
- ☐ OTHERS _____
  e.g. PUD

Current Use: (Select all applicable)

- ☐ COMMERCIAL
- ☒ RESIDENTIAL
- ☐ AGRICULTURE
- ☐ FOREST/BUFFER/WOODLAND
- ☐ INDUSTRIAL
- ☐ INSTITUTIONAL
- ☐ OPEN SPACE/RECRE.
- ☐ SURFACE MINING
- ☐ VACANT
- ☐ WATER DEPENDENT FACILITY/PIER/MARINA
- ☐ OTHERS _____

Describe Proposed use of project site: CONSTRUCT NEW SINGLE FAMILY DWELLING w/ less slb & buffer

SITE INVENTORY OF AREA ONLY IN THE CRITICAL AREA

TOTAL ACRES IN CRITICAL AREA: _____

IDA ACRES _____ AREA DISTURBED: _____

LDA ACRES .266 # LOTS CREATED: _____

RCA ACRES _____ # DWELLING UNITS: _____

AGRICULTURAL LAND: _____

EXISTING FOREST/WOODLAND/TREES: 1300 ft² FOREST/WOODLAND/TREES REMOVED: 0

FOREST/WOODLAND/TREES CREATED: 2250 ft²

EXISTING IMPERVIOUS SURFACE: 380 ft² PROPOSED IMPERVIOUS SURFACE: 2250 ft²

TOTAL IMPERVIOUS SURFACE: 2250 ft²

GROWTH ALLOCATION DEDUCTED: _____

RCA to LDA: _____ RCA to IDA: _____ LDA to IDA: _____

BEAD ✓

RECEIVED
MAR 1 1999

Local Jurisdiction Contact person: _____

Telephone number: _____

Response from Commission required by: 4/22 Hearing Date: _____

CHESAPEAKE BAY CRITICAL AREA COMMISSION

CHESAPEAKE BAY CRITICAL AREA REPORT
Pinehurst lot 675
TAX MAP 18, BLOCK 23, PARCEL 219

INTRODUCTION

This is a 11,625 S.Q.F.T. property that is located on the north side of Riverside Drive in Anne Arundel County, Maryland. The property is completely inside the Chesapeake Bay Critical Area Boundary and is designated as Limited Development Area (LDA). The property is zoned R-1. A variance is necessary because development is proposed within the 100-foot buffer to Bodkin Creek and a variance to the average waterfront setbacks to adjacent developed properties.
A variance also to the side setback requirements in an R-1 zone.

EXISTING LAND USE

The site is currently developed with a screened-in structure. The proposed use is the construction of a new single family dwelling served by a proposed well and private sewage disposal system.

SURROUNDING LAND USE

The surrounding properties consist of single family dwellings.

SOILS

The U.S. Department of Agriculture SCS 1973 Soil Survey of Anne Arundel County, sheet 10 shows the subject property to contain the soil type:

ErB- Evesboro Loamy Sand

FLOODPLAIN

The property is shown on the Federal Emergency Management Agency (FEMA) panel 240008 0015 C. The site is shown as Zone A9 and C. Elevation 8.0

TIDAL WETLANDS

Tidal wetlands do exist within this site.

FOREST COVER

The site is mostly lawn area and has a few trees that will remain.

BODIES OF WATER

The property fronts on Bodkin Creek.

STEEP SLOPES

Steep slopes of 15%+ do exist on this site.

RARE AND ENDANGERED SPECIES

There are no federally or state listed species of rare, threatened or endangered species of plants or animals on this site.

STORMWATER MANAGEMENT

The existing runoff is conveyed via sheet flow over a vegetated surface to a stable outfall with ultimate outfall to Bodkin Creek. The proposed runoff will be collected by gutters and downspouts and conveyed to splash blocks. Planting will be provided for the increase in impervious area.

FOREST MITIGATION

A reforestation fee will not be required for this project.

DATES OF FIELD WORK

February, 1999

SITE ANALYSIS

TOTAL SITE AREA =11,625 SQ.FT.

TOTAL EXISTING WOODLANDS ON-SITE = 1,300 SQ. FT.

TOTAL WOODLANDS TO BE CLEARED = 0 SQ. FT.

EXISTING IMPERVIOUS = 380 SQ. FT. (3.3%)

EXISTING IMPERVIOUS AREA TO BE REMOVED = 380 SQ. FT.

PROPOSED IMPERVIOUS AREA =2,250 SQ.FT. (19%)

TOTAL IMPERVIOUS AREA = 2,250 SQ.FT.

MAXIMUM IMPERVIOUS ALLOWED = 3,632 SQ.FT. (31.25%)