

MJA-S1829-86

MS
LA
4/22/89

wetlands at its center. This condition limits the developable area. However, the proposed dwelling is located 30 feet from North Carolina Avenue. The witness suggested that the extent of the incursion into the buffer could be decreased by moving the house closer to the minimum 25-foot front setback. The witness noted that the property immediately to the south received a similar variance. See, Case No. 1996-0315-V (January 3, 1997). In the circumstances, she supported the granting of a variance, provided that the applicants minimize the request.

Ed Brown, the applicants' engineer, testified that the dwelling must be located 29 feet from the street in order to accommodate a 1,000 gallon Mayo fiberglass gravity septic tank within a 25' X 25' utility easement, all as required by the County. The State of Maryland Department of the Environment has issued its letter of authorization for the project.

Upon review of the facts and circumstance, I find and conclude that the applicants are entitled to modified, conditional relief from the code. In view of the impact of nontidal wetlands at the center of the site, a strict implementation of the Critical Area Program will result in an unwarranted hardship. To literally interpret the program would deprive the applicants of the right commonly enjoyed by other properties in similar areas within the Critical Area to be developed with a single-family residence. Conversely, the granting of a variance will not confer on the applicants any special privilege that the program denies to other lands within the Critical Area. There was nothing to suggest that the request is based on conditions resultant of actions by the applicants; nor does it arise from conditions relating to

land use on neighboring property. Finally, with conditions, the granting of a modified 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 Critical Area Program.

I further find that the granting of a modified variance of 19 feet represents the minimum relief to the code. The applicants demonstrated that the dwelling must be 29 feet from North Carolina Avenue. There is nothing to suggest that the granting of the modified, conditional 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 approval is consistent with the decision on the adjacent property.

ORDER

PURSUANT to the application of James Robinson and Frances Lamb, petitioning for a variance to permit a dwelling with less buffer than required; and

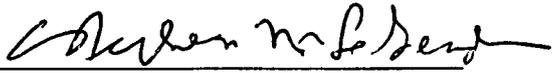
PURSUANT to the advertising, posting of the property, and public hearing and in accordance with the provisions of law, it is this 21st day of June, 1999,

ORDERED, by the Administrative Hearing Officer of Anne Arundel County, that the applicants are hereby **granted a modified** variance of 19 feet to the 25-foot buffer to nontidal wetlands. The foregoing variance is subject to the following conditions:

1. The applicants shall relocate the dwelling 29 feet from North Carolina

Avenue.

2. The applicants shall provide mitigation as required by PACE.



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 22, 1999

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

Re: Robinson & Lamb
1999-0170-V

Dear Mr. Dooley:

I have received the above-referenced request to permit a single family dwelling that will require less setbacks and intrude into the 25-foot buffer to nontidal wetlands. This office has no comment regarding the setback issue. In regard to the nontidal wetland buffer, the applicant should be seeking a permit from the Maryland Department of the Environment (MDE), Nontidal Wetlands Division. That agency is responsible for permitting any development activities that would affect a nontidal wetland or its buffer. In that regard, we defer to MDE as to whether the proposed activity is can be permitted and what mitigation is appropriate.

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: AA205-99

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



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

AA 205-99

NOTIFICATION OF PROJECT APPLICATION

Jurisdiction: ANNE ARUNDEL CO.

Date: 4-7-99

Name of Project (site name, subdivision name, or other): LOCH HAVEN BEACH

Local case number: 1999-0170-V Robinson & Land

Project location/Address: NO. CAROLINA AVENUE LOT 8 BLOCK B-B

Tax map# 60

Block# 3

Lot# 8

Parcel# 24

Type of application:
(Select all applicable)

- SUBDIVISION
- SITE PLAN
- VARIANCE:
Buffer Slope
Imp. Surf. Other
- SPECIAL EXCEPTION
- CONDITIONAL USE
- REZONING
- GRADING PERMIT
- BLDG PERMIT
- INTRAFAMILY
- GROWTH ALLOCATION
- OTHER _____

Type of Project:
(Select all applicable)

- RESIDENTIAL
- COMMERCIAL
- WATER DEPENDENT
FACILITY/PIER/MARINA
- INDUSTRIAL
- MIXED USE
- REDEVELOPMENT
- SHORE EROSION PROTEC.
- AGRICULTURE
- OTHER _____
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
- OTHER _____

Describe Proposed use of project site: CONSTRUCTION OF ONE SINGLE FAMILY
HOUSE ON A LEGAL LOT WITH MINIMAL IMPACTS
TO A ADJACENT WETLAND & ITS BUFFER

SITE INVENTORY OF AREA ONLY IN THE CRITICAL AREA

TOTAL ACRES IN CRITICAL AREA: <u>11,250</u> ϕ		AREA DISTURBED: <u>4320</u> ϕ	
IDA ACRES	_____	# LOTS CREATED:	_____
LDA ACRES	<u>11,250</u> ϕ	# DWELLING UNITS:	<u>1</u>
RCA ACRES	_____		
AGRICULTURAL LAND:	_____		
EXISTING FOREST/WOODLAND/TREES: <u>1105</u> ϕ		FOREST/WOODLAND/TREES REMOVED: <u>4320</u> ϕ	
FOREST/WOODLAND/TREES CREATED: <u>0</u> ϕ			
EXISTING IMPERVIOUS SURFACE: <u>0</u> ϕ		PROPOSED IMPERVIOUS SURFACE: <u>1952</u> ϕ	
TOTAL IMPERVIOUS SURFACE: <u>1952</u> ϕ			
GROWTH ALLOCATION DEDUCTED: _____			
RCA to LDA: _____	RCA to IDA: _____	LDA to IDA: _____	

RECEIVED

APR 30 1999

Local Jurisdiction Contact person: _____
Telephone number: _____
Response from Commission required by: _____

Hearing Date: _____

CHESAPEAKE BAY
CRITICAL AREA COMMISSION

LOCH HAVEN BEACH CRITICAL AREA REPORT

I. INTRODUCTION

The project known as Lot 8, Block B-B, Loch Haven Beach, is located on North Carolina Avenue, south of Loch Haven Road. The property is one-quarter acre in size, is located in the Limited Development Area of the Critical Area, and is proposed to have one single family residence built on it. The majority of the site is wooded and there is a nontidal wetland on the lot.

II. VICINITY MAP

A vicinity map at 1" = 2000' is included in this report, as are several other maps, e.g. soil survey, nontidal wetlands, and Upland Natural Area.

III. NARRATIVE

A. EXISTING CONDITIONS

Presently the lot is mostly wooded and has a nontidal wetland at the rear of it. The woodland is dominated by yellow poplar in the 4-12" diameter size class. Understory species include white oak and sweetgum, with holly, red maple and dogwood. There are several small beech and scattered greenbriar and Japanese honeysuckle.

The wetland area is mainly unvegetated. An application for a permit to disturb the wetland for placement of the well has been submitted to the Department of the Environment and the Corps of Engineers. A copy of the permit will be forwarded to PACE upon its receipt. None of the house or driveway will be placed in the wetland; however, a portion of the house will be in the buffer.

B. STORMWATER MANAGEMENT

At this time there is no stormwater management on the lot since there are no improvements. With construction of the house and driveway, stormwater management will be addressed as required.

C. IMPACT MINIMIZATION

The impacts to the wetland and its buffer have been minimized to the extent possible yet still meet all the other required setbacks. Due to the distance from a house that the

well must be placed, the only available space is in the wetland. Currently, the house has been situated at the frontyard building restriction line to lessen its impact in the wetland buffer.

D. HABITAT PROTECTION AREAS

The two Habitat Protection Areas found on the property are the nontidal wetland and its buffer. Because of the extent of the wetland and the size of the lot, it is not possible to build a house without having an impact on at least the buffer, if not the wetland itself.

E. PROPOSED CONDITIONS

The proposed construction for this lot includes a single family house and associated driveway. The existing woodland, proposed clearing and proposed impervious are shown in the following table.

Total lot size	11,250 sqft	
Existing woodland	11,105 sqft	
Proposed clearing	4,320 sqft	38.9%
Proposed impervious coverage	1,952 sqft	17.3%

Because the lot is almost completely wooded at this time, it is not possible to do reforestation onsite and either a fee-in-lieu of reforestation or payment into a mitigation bank will be proposed at the time of building permit application.

IV. PLANS

Attached to this report is a plan at 1" = 20' scale that shows the proposed development of the lot, i.e. the limit of disturbance, house and driveway locations. Also shown are the nontidal wetland (the delineation has been field surveyed) and the buffer.

V. ADDITIONAL INFORMATION

A Notification of Project Application for the Critical Area Commission is included in this report.

The field work was conducted on 3/12 and 3/30/99.

LOD 41600
Buffer disturbance 15600