AA 220-99 Hughes & Pinkston
VAR 99-0157

MSA _ 51829 - 93

LH
Connects
5649

Upon review of the facts and circumstance, including my prior familiarity with the neighborhood,[2] I find and conclude that the applicants are entitled to conditional relief to the code. The narrowness of the sites and the buffer and habitat protection areas mandate variances to avoid unnecessary hardship and to enable the applicants to develop the sites. A strict interpretation of the Critical Area criteria would deny the applicants rights commonly enjoyed by other properties in similar areas within Critical Area to be developed with single-family dwellings. Conversely, granting the variances will not confer any special privilege that the program denies to other lands within the Critical Area. There was nothing to suggest that the request results from actions by the applicants; nor does it arise from conditions relating to land use on neighboring property. Finally, with conditions, the variances 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. The variances are the minimum necessary to afford relief. The side street setback variance for the dwelling on Lots 13 & 26, Block 32 is reasonable given that Berkley Street in unimproved. So long as the applicants adhere to the conditions, the variances will not alter the essential character of the neighborhood, substantially impair the appropriate use or development of adjacent property, or be detrimental to the public welfare. The variances shall be conditioned in accordance with the Order.

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[2]See Real Estate General, Limited, Cases No. 1997-0178-V through 1997-0182-V (September 24, 1997) and Florent Hughes, Clyde Pinkston and James Robinson, Cases No. 1997-0391-V through 1997-0394-V (March 2, 1998).

ORDER

PURSUANT to the application of Real Estate General, Ltd., Florent Hughes and Clyde Pinkston, petitioning for variances to permit dwellings with less setbacks and buffer; and

PURSUANT to the advertising, posting of the property, and public hearing and in accordance with the provisions of law, it is this 16th day of July, 1999,

ORDERED, by the Administrative Hearing Officer of Anne Arundel County, that the applicants are hereby **granted** variances to disturb habitat protection area and nontidal wetlands and a variance of 10 feet to the minimum lot width to permit the construction of seven single-family dwelling. The applicants are also **granted** a variance of seven feet to the side street setback for Lots 13 & 26, Block 32. The foregoing variances are subject to the following conditions:

1. The applicants shall obtain permits from the Maryland Department of the Environment (MDE), Nontidal Wetlands Division.
2. Each site shall comply with the 10 percent Pollutant Reduction Rule.
3. The applicants shall provide positive drainage away from the houses and toward the road for each site.
4. The applicants shall enter into lot consolidation agreements for each site, except Lot 2, Block 42.
5. The building permits are subject to the approval of the Health Department.
6. Lots 7 & 20, Block 31 and 8 & 21, Block 31 shall be served by a joint

driveway.

7. All woodland remaining in accordance with the approved site plan shall be placed in a Forest Conservation Easement benefitting and enforceable by Anne Arundel County. In the event the County will not except such responsibility, then any nonprofit entity established for environmental preservation may be utilized.

8. These conditions are in addition to and an amplification of the conditions contained in the letter July 24, 1995, from Steven R. Cover to Edward Brown.

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

May 6, 1999

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

Re: Hughes & Pinkston
1999-0157-V - 1999-0163-V

Dear Mr. Dooley:

I have received the above-referenced requests to permit the construction of single family dwellings that will require less setbacks and impact the nontidal wetland and its buffer. It appears these lots were platted prior to the adoption of the County's Critical Area Program. As such, this office has no objection to siting single family dwellings these lots.

We recommend the County consider requiring the applicants to combine adjoining lots if they are in the same ownership. Clearing on the lots should be minimized since most of the lots propose to clear approximately 40% or greater. In addition, the applicant must comply with the 10% Pollutant Reduction Rule.

Each variance request involves impacts to the nontidal wetland and its buffer. The applicant should be seeking permits from the Maryland Department of the Environment (MDE), Nontidal Wetlands Division. Mitigation should be performed as required by MDE.

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
Natural Resources Planner

cc: AA 220-99

FRANKLIN MANOR BEACH
CRITICAL AREA REPORT

I. INTRODUCTION

The project known as Franklin Manor Beach, as submitted in this package, is a combination of several lots. Franklin Manor is a previously platted subdivision, located within the Limited Development Area of the Critical Area and zoned R-5. In this case, there will be a total of fourteen lots being combined into seven building lots.

All of the lots in question are completely wooded and several have existing nontidal wetlands on them. The wetlands have been delineated, field surveyed, and verified by the Army Corps of Engineers (see the enclosed letter). A permit to disturb the wetlands will be submitted under separate cover.

II. VICINITY MAP

Several maps are included in this package to aid the review of the project: 1" = 2000' vicinity map, a soil survey, nontidal wetlands map, and Critical Area Map.

III. NARRATIVE

A. EXISTING CONDITIONS

All of the lots are part of a contiguous woodland comprised of similar species throughout. The overstory species include southern red oak, white oak, and, to a lesser degree, scattered willow oak. These trees are mainly in the 10-16" diameter size class. Understory species include red maple, sweetgum and American holly in the 4-8" diameter size class. Shrubs found onsite are greenbriar, spicebush, sweet pepperbush and highbush blueberry.

B. STORMWATER MANAGEMENT

At this time the lots are not developed so there is no stormwater management. When the proposed construction is done, sediment control and stormwater management will be addressed as required.

C. IMPACT MINIMIZATION

Methods to minimize the impacts of this development include keeping the amount of woodland clearing to the minimum necessary to construct the house and associated improvements; keeping disturbance of the wetlands and buffers to a minimum; and

addressing sediment and stormwater management.

D. HABITAT PROTECTION AREAS

The Habitat Protection Areas found onsite include the nontidal wetlands and the buffers. The purpose of this variance request is to allow disturbance to those areas. Disturbance will be kept to the minimum needed for the construction of small single family houses and the driveways.

E. PROPOSED CONDITIONS

The lots sizes, proposed clearing and impervious coverage, as well as the wetland and buffer disturbance are shown in the following table:

		EXISTING	PROPOSED		IMPACTS	
LOT:BLOCK	SIZE	WOODLAND	CLEARING	IMPERVIOUS	WETLAND	BUFFER
1/2:42	13075	13075	3700/28%	1530/12%	1080	2620
19/6:31	9000	9000	3750/42%	1650/18%	375	1500
20/7:31	9000	9000	3750/42%	1650/18%	875	1000
18/5:32	9000	9000	3750/42%	1650/18%	3750	-0-
21/8:32	9000	9000	3750/42%	1650/18%	3750	-0-
23/10:32	9000	9000	3750/42%	1650/18%	2875	875
26/13:32	9000	9000	3800/42%	1650/18%	50	1875

All figures shown in square feet.

IV. PLAN

A plan at 1" = 50' for each lot is attached and shows the existing woodland, nontidal wetlands and buffers, as well as the proposed limit of disturbance and improvements.

V. NOTIFICATION LETTER

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

The field work for the variance was conducted on 11/25/98.

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

NOTIFICATION OF PROJECT APPLICATION

Jurisdiction: Anne Arundel County Date: 11/25/98

Name of Project (site name, subdivision name, or other): Franklin Manor Beach

Local case number: _____

Project location/Address: Gwynne Avenue, Franklin Manor

Tax map# 74 Block# 16 Lot# several Parcel# 30

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
- ☐ OTHERS _____

Type of Project: (Select all applicable)

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

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: Combination of 14 existing legal lots into 7 building lots to construct 7 single family houses; impacts to nontidal wetlands & buffers.

SITE INVENTORY OF AREA ONLY IN THE CRITICAL AREA

TOTAL ACRES IN CRITICAL AREA: 670755 SF

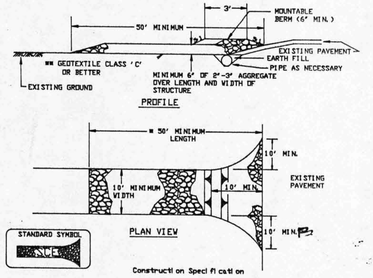
IDA ACRES _____
LDA ACRES 670755 SF
RCA ACRES _____
AGRICULTURAL LAND: _____

AREA DISTURBED: 26250 SF
LOTS CREATED: 7
DWELLING UNITS: 7

EXISTING FOREST/WOODLAND/TREES 670755 SF FOREST/WOODLAND/TREES REMOVED: 26250 SF 39%
FOREST/WOODLAND/TREES CREATED: -0-
EXISTING IMPERVIOUS SURFACE: -0- PROPOSED IMPERVIOUS SURFACE: 11430 SF
TOTAL IMPERVIOUS SURFACE: 11430 SF 17%
GROWTH ALLOCATION DEDUCTED: _____
RCA to LDA: _____ RCA to IDA: _____ LDA to IDA: _____

Local Jurisdiction Contact person: _____
Telephone number: _____
Response from Commission required by: 6/1/99 Hearing Date: _____

DETAIL 24 - STABILIZED CONSTRUCTION ENTRANCE



Construction Specification

1. Length - Minimum of 50' (*30' for single residence lot).

2. Width - 10' minimum, should be flared at the existing road to provide a turning radius.

3. Geotextile Fabric (filter cloth) shall be placed over the existing ground prior to placing stone. **The plan approval authority may not require single family residences to use geotextile.

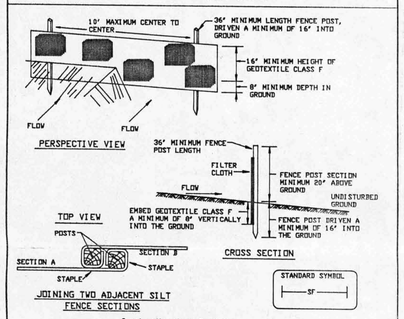
4. Stone - crushed aggregate (2" to 3") or recl aimed or recycled concrete equivalent shall be placed at least 6" deep over the length and width of the entrance.

5. Surface Water - all surface water flowing to or diverted toward construction entrances shall be piped through the entrance, maintaining positive drainage. Pipe installed through the stabilized construction entrance shall be protected with a mountable berm with 5:1 slopes and a minimum of 6" of stone over the pipe. Pipe has to be sized according to the drainage. When the SCE is located at a high spot and has no drainage to convey, a pipe will not be necessary. Pipe should be sized according to the amount of runoff to be conveyed. A 6" minimum will be required.

6. Location - A stabilized construction entrance shall be located at every point where construction traffic enters or leaves a construction site. Vehicles leaving the site must travel over the entire length of the stabilized construction entrance.

U.S. DEPARTMENT OF AGRICULTURE SOIL CONSERVATION SERVICE	PAGE F-17-3	MARYLAND DEPARTMENT OF ENVIRONMENT WATER MANAGEMENT ADMINISTRATION

DETAIL 22 - SILT FENCE



Construction Specifications

1. Fence posts shall be a minimum of 36" long driven 16" minimum into the ground. Wood posts shall be 11/2" x 11/2" square (minimum) cut, or 13/4" diameter (minimum) round and shall be of sound quality hardwood. Steel posts will be standard T or U section weighting not less than 1.00 pond per linear foot.

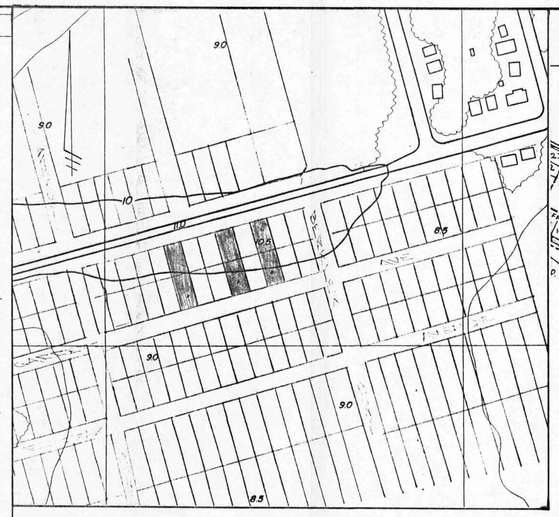
2. Geotextile shall be fastened securely to each fence post with wire ties or staples at top and mid-section and shall meet the following requirements for Geotextile Class F:

Tensile Strength	30 lbs/in (min.)	Test MSMT 509
Tensile Modulus	20 lbs/in (min.)	Test MSMT 509
Flow Rate	0.3 gal ft²/ minute (max.)	Test MSMT 322
Filtering Efficiency	75% (min.)	Test MSMT 322

3. Where ends of geotextile fabric come together, they shall be overlapped, folded and stapled to prevent sediment bypass.

4. Silt fence shall be inspected after each rainfall event and maintained when bulges occur or when sediment accumulation reached 50% of the fabric height.

U.S. DEPARTMENT OF AGRICULTURE SOIL CONSERVATION SERVICE	PAGE E-15-3	MARYLAND DEPARTMENT OF ENVIRONMENT WATER MANAGEMENT ADMINISTRATION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