AA 221-99 Ligon, Carol
VAR 99-0173

MSA _ 51829 - 94

GH
Converted
5/6/99

(2) exceptional circumstances such that the grant of a variance is necessary to avoid an unnecessary hardship, and to enable the applicants to develop the lot. Under subsection (b), for a property in the Critical Area, a variance to the Critical Area program requirements may be granted if (1) due to features of the site, a strict implementation of the program would result in an unwarranted hardship to the applicants; (2) a literal interpretation of the program will deprive the applicants of rights commonly enjoyed by other properties in similar areas within the Critical Area; (3) the granting of the variance will not confer on the applicants any special privilege that would be denied by the program to other lands within the Critical Area; (4) the variance request is not based on circumstances resultant of actions by the applicants and does not arise from conditions relating to land use on neighboring property; and (5) the granting of the 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. Under subsection (c), any variance must be the minimum necessary to afford relief; and its grant may 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.

Upon review of the facts and circumstances, I find and conclude that the applicants are entitled to conditional relief to the code. Considering the Critical Area variances, due to the expanded buffer and steep slope features of the site, a strict implementation of the program would result in an unwarranted hardship. To

literally interpret the program will 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 dwelling. Conversely, the granting of the variances 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 circumstances resultant of actions by the applicants; nor does it arise from land use on neighboring property. Finally, with mitigation, the granting of 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.

Considering the zoning variance, in view of the panhandle access and the narrowness of the building envelope, there is no reasonable possibility of developing the lot in strict conformance with the code.

There remains the question of whether the variances are the minimum necessary to afford relief. The applicants have already adjusted the site plan to remove the breezeway and decrease the distance between the dwelling and the garage. Nevertheless, both are substantial structures. To be sure, there are other very large dwellings, at least a few with three-car garages, in the immediate neighborhood. Even if many of the homes are as large, two car garages still appear to be the norm. In the circumstances, I will revise the site plan to permit a 24' X 32' garage. This change will reduce the impervious coverage with respect to the area under roof by 240 square feet and also permit a small reduction in the area

of the driveway apron. With these changes, I find and conclude that the granting of 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 approval shall be subject to the conditions in the Order.[4]

ORDER

PURSUANT to the application of Carol Ligon and Daniel & Hazel Ligon, petitioning for a variance to permit a dwelling within steep slopes with less buffer than required and an accessory structure in the front yard; and

PURSUANT to the advertising, posting of the property, and public hearing and in accordance with the provisions of law, it is this 19 day of July, 1999,

ORDERED, by the Administrative Hearing Officer of Anne Arundel County, that the applicants are hereby **granted** a variances to permit development in the expanded buffer on steep slopes and a garage in the front yard.

The foregoing variances are subject to the following conditions:

1. The site plan shall be revised to reduce the dimension of the garage to 24' X 32'.
2. All disturbance shall be mitigated at a 3:1 ratio with native species.
3. The building permit is subject to the approval of the Health Department.

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[4]After careful consideration, and in light of the sensitive nature of the open space and the surrounding Critical Area resources, I have imposed mitigation at a ratio of 3:1.

4. A sediment control plan shall be approved and implemented as part of the grading permit approval, including preconstruction stake out of the limits of disturbance. The southern stormwater management dry well shall be field located to minimize the impact to old growth Laurels and Holly trees.

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: Carol Ligon
1999-0173-V

Dear Mr. Dooley:

I have received the above-referenced request to permit a single family dwelling that will require less setbacks and Buffer. It appears the lot is properly grandfathered, therefore this office has no objection to siting a single family dwelling on this lot. We recommend that the applicant consider siting the dwelling and attached garage closer together in order to minimize disturbance to the steep slopes. Mitigation should be at a 3:1 ratio with native species.

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 221-99

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

AA221-99

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

NOTIFICATION OF PROJECT APPLICATION

Jurisdiction: Anne Arundel Date: APRIL 9, 1999

Name of Project (site name, subdivision name, or other): LIGON TRUST / MICHAEL

Local case number: 1999 - 0173-V Carol Ligon

Project location/Address: LOT 27, MARTIN'S COVE RD., ANNAPOLIS 21401

Tax map# 46 Block# 9 Lot# 27 Parcel# 369

Type of application: (Select all applicable)	Type of Project: (Select all applicable)	Current Use: (Select all applicable)
☐ SUBDIVISION	☒ RESIDENTIAL	☐ RESIDENTIAL
☐ SITE PLAN	☐ COMMERCIAL	☐ COMMERCIAL
☒ VARIANCE	☐ WATER DEPENDENT FACILITY/PIER/MARINA	☐ AGRICULTURE
Buffer X Slope X	☐ INDUSTRIAL	☒ FOREST/BUFFER/ WOODLAND
Imp.Surf._ Other_	☐ MIXED USE	☐ INDUSTRIAL
☐ SPECIAL EXCEPTION	☐ REDEVELOPMENT	☐ INSTITUTIONAL
☐ CONDITIONAL USE	☐ SHORE EROSION PROTEC.	☐ OPEN SPACE/RECRE.
☐ REZONING	☐ AGRICULTURE	☐ SURFACE MINING
☐ BLDG PERMIT	☐ OTHERS _____ e.g. PUD	☐ VACANT
☐ INTRAFAMILY		☐ WATER DEPENDENT FACILITY/PIER/MARINA
☐ GROWTH ALLOCATION		

Describe Proposed use of project site: CONSTRUCT A SINGLE FAMILY RESIDE ON THIS VACANT LOT, PLATTED 1974. ENTIRE LOT IS IN EXPANDED BUFFER, CREATED BY STEEP SLOPES. & less s/b

SITE INVENTORY OF AREA ONLY IN THE CRITICAL AREA

TOTAL ACRES IN CRITICAL AREA: 1.28

IDA ACRES: —

LDA ACRES: 1.28

RCA ACRES: —

AGRICULTURAL LAND: —

AREA DISTURBED: ____

LOTS CREATED: ____

DWELLING UNITS: ____

EXISTING FOREST/WOODLAND/TREES: 1.28 FOREST/WOODLAND/TREES REMOVED: 0.38

FOREST/WOODLAND/TREES CREATED: N/A (FEE)

EXISTING IMPERVIOUS SURFACE: 0 PROPOSED IMPERVIOUS SURFACE: 0.18

TOTAL IMPERVIOUS SURFACE: 0.18 (13.8%)

GROWTH ALLOCATION DEDUCTED: N/A

RCA to LDA:____ RCA to IDA:____ LDA to IDA:____

RECEIVED
APR 20 1999
CHESAPEAKE BAY CRITICAL AREA COMMISSION

Local Jurisdiction Contact person: ____

Telephone Number: ____

Response from Commission required by: 6/1/99 Hearing Date: ____

SEE ENVIRONMENTAL
SERVICES, INC.

CHESAPEAKE BAY CRITICAL AREA REPORT

The Ligon Trust (Current Owner)

Michael Strandquist (Contract Purchaser)

RECEIVED
APR 29 1999
CHESAPEAKE BAY
CRITICAL AREA COMMISSION

Variance Application for:

Lot 27, Martins Cove Farm
Tax Map 46, Grid 9, Parcel 369, Lot 27

Critical Area Designation: LDA
Zoning: R-1

I. Purpose of Variance Request:

The contract purchaser is interested in buying and building their own house on this 1.28-acre lot from the current owner if a variance can be obtained. The current owners have owned the lot for four years and have been unable to make use of it or sell it until now.

The property is located entirely within the Chesapeake Bay Critical Area and has an LDA designation, and has R-1 zoning. The Martins Cove Farm subdivision was platted as a cluster subdivision in 1972, well before Critical Area regulations went into effect.

As platted, the lot has a long "panhandle" between the adjoining two lots. The proposed house site is on a wooded ridgetop, bordered by steep slopes on three sides, which drop off towards the upper end of Martins Cove through community open space. The applicant proposes to construct a house and a long driveway through the "panhandle" to the street, with the first part of the driveway being shared with the existing driveway on adjoining lot 28.

When either the 50-foot expansion from top of steep slopes or 4-feet-for-every-one-percent-of slope rules are used, the Expanded Critical Area Buffer covers all of the lot. With minor impacts on the steep slopes themselves, the house and driveway construction require variances to **Article 28, §1A-104(a)(1)** and **§1A-105(c)** of the Anne Arundel County Code. Because the parcel is covered by the Expanded Buffer, moving the proposed improvements elsewhere on the lot would not be sufficient to avoid going through the variance process. This report is based on the April 1999 Variance Site Plan by Centurion Engineering, Inc., a copy of which is provided with the Variance application and is enclosed within the pocket at the rear of this report.

The Woodbridge Center • 2444 Solomons Island Road, Suite 217 • Annapolis, Maryland 21401 • Tel: (410) 266-3828 • Fax: (410) 974-6008

II. Critical Area Narrative - Site Description:

The site is located on the end of a ridge in the Martins Cove Farm subdivision, off St. Margarets Road in St. Margarets. The lot is non-waterfront, and overlooks the upper end of Martins Cove. Steep, forested slopes cover the west, south, and east sides of the lot. The site is mapped in the 1973 Soil Survey for Anne Arundel County, Maryland with the well-drained Collington fine sandy loam with 15-40% slopes (CoE). The field run topography shows that top of the ridge is less steep than mapped, with slopes of 0-15% before reaching steeper slopes.

The lot entire site is completely forested with a mature mixed hardwood forest, with chestnut and white oaks and tulip poplar dominating the canopy. The forest understory is fairly open, with flowering dogwood, beech, mountain laurel, and American holly. Patches of Christmas fern are present, but otherwise there was little ground cover during the March 31, 1999, site visit.

No tidal or nontidal wetlands are located on the lot or within 100 feet. No rare, threatened or endangered species were observed on or adjacent to the site during the field investigation.

III. Critical Area Narrative:

A. Existing and Proposed Vegetation Coverage:

Existing Conditions: The subject lot is vegetated forested with mature hardwoods.

Proposed Conditions: Construction of the house and driveway will require approximately 16,660 acre of tree clearing, or 29.9% of the forest on the parcel. The relatively large percentage of clearing is in large part due to the need to clear most of the long "panhandle", which is the only driveway access. Vegetative stabilization would replace some of the trees cleared, with the remainder to be addressed with a fee-in-lieu. Equal amounts of tree clearing would be required wherever the house is placed on the lot, but the proposed location would minimize impacts to the roots of two specimen chestnut oak trees (36" and 38" in diameter) located near the top of the steep slopes on the west side of the house.

B. Stormwater and Water Quality:

Existing Conditions: The fine sandy loam soils on the plateau on this lot probably allow for infiltration of runoff from most storm events, and no erosion is present.

Proposed Conditions: Two private stormwater management drywells are proposed as part of the project, to treat runoff from the new impervious surfaces. A sediment control plan will be approved and implemented as part of the Grading Plan.

C. Aquatic Resources:

Existing Conditions: Aquatic resources in Martins Cove and the Severn River and its tributaries are in moderate condition.

Proposed Conditions: The proposed house and out buildings will have stormwater management and should cause no changes to the lot's runoff characteristics. Combined with sediment control during construction, no adverse impacts to aquatic resources are anticipated.

D. Forest Clearing and Impervious Coverage:

Existing Conditions: As noted above, the site has approximately 1.3 acres of forest over. There is no existing impervious coverage.

Proposed Conditions: Approximately 16,66 square feet, or 0.4 acre, of forest, which is 29.9% of the forest on this lot, would be cleared. Proposed impervious coverage would be 7,700 square feet, or 13.8% of the lot, under the 15% allowed for lots in LDA larger than 36,300 square feet. Tree clearing and impervious coverage have been slightly reduced by connecting the proposed driveway to the existing driveway on Lot 28.

E. Habitat Protection Areas:

Existing Conditions: The subject property was required by the County staff to go through the variance process because of proposed impacts to "habitat protection areas", in the form of the Expanded Buffer from tidal waters. Because of steep slopes, this Buffer would be expanded on to cover virtually the entire parcel. No other special conditions were observed that would warrant special protection measures.

Proposed Conditions: Development has been designed to minimize impacts to steep slopes only to the driveway. The existing driveway on adjoining Lot 28 will be used to minimize tree clearing and impacts to steep slopes necessary to cross the upper end of a shallow ravine located between the cul-de-sac of Martins Cove Road and the only buildable portion of the lot. No impacts to wetlands or stream channels will result from the development of this lot with a single-family residence. Runoff from the improvements will be directed to a stormwater trench. A sediment control plan will be approved and implemented as part of the Grading permit approval, including pre-construction stake-out of the limits of disturbance.

IV. Conclusions - Variance Standards

Because this parcel is completely within the expanded Critical Area Buffer, any proposed development will require a variance. The house have been located on relatively level land on top if the hill to avoid steep slopes for the building, well, septic, and stormwater management drywell, but no location on site would avoid the expanded Buffer.

Because small areas of steep slopes are found on the platted "panhandle", no development of the site is possible without impacting some area of steep slopes. The driveway has been designed to minimize these impacts within the framework of developing the site for residential use.

With the other requirements set at time of Grading Permit including the stormwater management, a sediment control plan, and a reforestation plan or fee-in-lieu, the proposed development will not cause adverse impacts to fish, wildlife, or water quality, and will not reduce forest cover in the Critical Area. Impervious coverage will be kept under the 15% maximum allowed in LDA, and stormwater management provided. Without the two variances required for any development on the lot, the current owner will be deprived of all practical use of the property.

V. SITE INVESTIGATION

A site investigation for this Critical Area Report was conducted on March 31, 1998, by Eric E. See of See Environmental Services, Inc.

REFERENCES

Anne Arundel County, Dept. of Planning & Code Enforcement. Critical Area Map #17.

Centurion Engineering, Inc., 1999. Variance site plan.

Kirby, R.M. and E.D. Matthews. 1973. Soil Survey of Anne Arundel County, Maryland. U.S. Government Printing Office, Washington D.C.

Maryland Dept. of Natural Resources. Aquatic Areas Handbook (no date).

U.S.G.S., 1957/1979. Gibson Island 7.5 Minute Quadrangle

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