

AA 225-99
VAR

Egan, Thomas
99-0184

MSA - 51829 - 98

Letter LC
5-4-99

Patricia A. Miley, a zoning analyst with the Department of Planning and Code Enforcement, testified that Building Permit No. B02120320, issued on February 3, 1998, allowed the demolition of an existing dwelling and the reconstruction of a new dwelling within the same footprint. The original dwelling was nonconforming; the permit preserved the extent of the nonconforming status. See, Section 14-108(c). The replacement dwelling enjoys a 9-foot setback from the rear property line. The witness opposed any further encroachment into the rear setback or additional disturbance to steep slopes.

Mr. Egan testified that the lot is an unusual size and shape and abuts community property to the rear. The area of the proposed construction is relatively level, and devoid of vegetation. The proposal enjoys the support of the Board of Directors as well as neighboring lot owners. The witness submitted photographs of the dwelling, depicting sliding door access to the proposed decks. The witness testified that the dimensions of the deck have been reduced as compared to an earlier proposal.

John Lauer, the applicant's builder, testified that the steep slope construction would be limited to four 30-inch square piers, which will be hand dug.

Upon review of the facts and circumstance, I find and conclude that the applicant is entitled to conditional relief to the code. For this Critical Area property, due to the steep slopes, a strict implementation of the program would result in an unwarranted hardship. To literally interpret the program will deprive the applicant of rights commonly enjoyed by other properties in similar areas within the Critical Area. Conversely, the granting of the variance will not confer

any special privilege that the program denies to other lands or structures within the Critical Area. There was nothing to suggest that the request is based on conditions or circumstances resultant of action by the applicant; nor does it arise from conditions relating to land use on neighboring property. Finally, with conditions, 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.

Considering the zoning variance, the property exhibits unique physical conditions, consisting of its size and its modified triangular shape. In the circumstances, there is no reasonable possibility of developing the lot in strict conformance with the code.

I am satisfied that the requests represent the minimum necessary to afford relief. Both the impact to steep slopes and the additional encroachment into the rear setback are relatively minor. There was nothing to suggest that the granting of the variances 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. The approval shall be subject to the conditions in the Order.

ORDER

PURSUANT to the application of Thomas Egan, petitioning for a variance to permit deck additions with less setbacks than required and on steep slopes; and

PURSUANT to the advertising, posting of the property, and public hearing and in accordance with the provisions of law, it is this 2nd day of July, 1999,

ORDERED, by the Administrative Hearing Officer of Anne Arundel County, that the applicant is hereby **granted** a variance to permit disturbance to steep slopes and a variance of 20 feet to the 25-foot rear property line setback to permit first and second floor decks in accordance with the site plan.

The foregoing variances are subject to the following conditions:

1. Disturbance to steep slopes is limited to four 30-inch footers, to be hand dug.
2. Any vegetation which is removed shall be replaced in kind.


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 4, 1999

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

RE: Variance 1999-0184-V, Thomas Egan

Dear Mr. Dooley:

Thank you for providing information on the above referenced variance application. The property owner has applied for a variance to permit a deck addition with less setbacks and on steep slopes. The property is currently developed with a single family dwelling.

This office has no comment on the setback issue. The extent of the proposed impact to the steep slopes is not clear from the information provided. This office recommends that impacts to steep slopes be kept to a minimum through either cantilevering the deck or installing the footers by hand. Any vegetation which is removed should be replaced in kind.

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

Sincerely,

A handwritten signature in cursive script that reads "LeeAnne Chandler".

LeeAnne Chandler
Natural Resources Planner

cc: AA225-99

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



**CHESAPEAKE BAY CRITICAL AREA REPORT
415 ALAN-A-DALE HILL
TAX MAP 33, BLOCK 22, PARCEL 37**

INTRODUCTION

This is a 10,374 sq.ft. or 0.24 acre property that is located on the south side of Alan-A-Dale 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-2. The owners are requesting a 20' variance to the 25' rear building restriction line for the construction of first and second level decks and a variance to disturb steep slopes within the Critical Area per Article 28, 1A 105 (c).

EXISTING LAND USE

The site is improved with a single family dwelling.

SURROUNDING LAND USE

The surrounding properties consist of single family dwellings in the Sherwood Forest Subdivision.

SOILS

The U.S. Department of Agriculture SCS 1973 Soil Survey of Anne Arundel County, sheet 19, shows the subject property to contain the soil type:

MvE- Monmouth Fine Sandy Loam

FLOODPLAIN

The property is shown on the Federal Emergency Management Agency (FEMA) panel 240008 0033 C. The site is shown as Zone "C". All proposed work is above the 100 year flood elevation of 7.0

NON-TIDAL WETLANDS

Non-tidal wetlands do not exist on-site.

BODIES OF WATER

The property does not front on any body of water.

STEEP SLOPES

Steep slopes of 15% and greater do exist on this site.

FOREST COVER

The predominant tree types are identified at the end of this report. The site consists of grass, areas with a few trees and shrubs.

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 proposed runoff will be collected by gutters and downspouts and conveyed to a stabilized area.

FOREST MITIGATION

Replanting/fee-in-lieu of will be addressed with Anne Arundel County Permit Application Center at time of building permit for any woodlands removed on-site.

DATES OF FIELD WORK

January 19, 1999

FOREST COVER

The Balance of the vegetation on the site is indicated below:

COMMON NAME

Sweet Gum
Oak Species
Maple

SCIENTIFIC NAME

Liquidamber Styraciflua
Quercus Spp.
Acer Rubrum

SHRUBS/HERBACEOUS

COMMON NAME

Poison Ivy
Wild Honey Suckle

SCIENTIFIC NAME

Txicodendron Radicans
Lonicera Dioica

SITE CALCULATIONS

1.	Site Area	10,374 Sq.Ft.
2.	Site Area in the Critical Area	10,374 Sq.Ft.
3.	Site Area Outside Critical Area	0 Sq.Ft.
4.	Existing Impervious Area	3,141 Sq.Ft.
5.	Proposed Impervious Area	0 Sq.Ft.
6.	Total Proposed Disturbance	3,500 Sq.Ft.
7.	Total Forested Area in Critical Area	1,293 Sq.Ft.
8.	Total Forested Area to Remain in Critical Area	1,293 Sq.Ft.
9.	Total Forested Area to be removed in Critical Area	0 Sq.Ft.

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

NOTIFICATION OF PROJECT APPLICATION

Jurisdiction: ANNE ARUNDEL Date: 4-19-99
 Name of Project (site name, subdivision name, or other): THOMAS EGAN
 Local case number: 1999-184-V
 Project location/Address: 415 ALAN-A-DOVE HILL, ANNAPOLIS MD 21405
 Tax map# 39 Block# 19 Lot# 415 Parcel# 295

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

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

Describe Proposed use of project site: VARIANCE TO PERMIT THE CONSTRUCTION OF TWO DECKS WITH 655 SETBACKS THAN REQUIRED AND ON STEEP SLOPES

SITE INVENTORY OF AREA ONLY IN THE CRITICAL AREA

TOTAL ACRES IN CRITICAL AREA: <u>10,374⁺</u>	
IDA ACRES _____	AREA DISTURBED: <u>3,500⁺</u>
LDA ACRES <u>10,374⁺</u>	# LOTS CREATED: _____
RCA ACRES _____	# DWELLING UNITS: _____
AGRICULTURAL LAND: _____	
EXISTING FOREST/WOODLAND/TREES: <u>1,293⁺</u>	FOREST/WOODLAND/TREES REMOVED: <u>1,293⁺</u>
FOREST/WOODLAND/TREES CREATED: <u>1,293⁺</u>	
EXISTING IMPERVIOUS SURFACE: <u>3,141⁺</u>	PROPOSED IMPERVIOUS SURFACE: <u>0</u>
TOTAL IMPERVIOUS SURFACE: <u>3,141⁺</u>	
GROWTH ALLOCATION DEDUCTED: _____	
RCA to LDA: _____	RCA to IDA: _____
	LDA to IDA: _____

RECEIVED

APR 29 1999

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

CHESAPEAKE BAY
 CRITICAL AREA COMMISSION