

AA 286-99  
VAR

Lock, Howard  
99-0223

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LC Letter  
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**RECEIVED**

JUL 29 1999

CHESAPEAKE BAY  
CRITICAL AREA COMMISSION

IN THE OFFICE OF ADMINISTRATIVE HEARINGS

CASE NUMBER 1999-0223-V

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IN RE: HOWARD AND SARAH LOCK

SECOND ASSESSMENT DISTRICT

DATE HEARD: JULY 22, 1999

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ORDERED BY: **STEPHEN M. LeGENDRE**, ADMINISTRATIVE HEARING OFFICER

ZONING ANALYST: **PATRICIA A. MILEY**

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DATE FILED: JULY 26, 1999

## **PLEADINGS**

Howard and Sarah Lock, the applicants, seek a variance (1999-0223-V) to permit dwelling additions with less setbacks and buffer than required on property located along the north side of Merrimac Road, east of Merrimac Court, Davidsonville.

## **PUBLIC NOTIFICATION**

The case was advertised in accordance with the provisions of the County Code. Ms. Lock testified that the property was posted for 14 days prior to the hearing.

## **FINDINGS AND CONCLUSIONS**

The applicants own a single-family residence located at 3415 Merrimac Road, in the subdivision of Harbor Hills, Davidsonville. The property comprises 1.069 acres and is zoned RA Agricultural-Residential with a Chesapeake Bay Critical Area designation as Limited Development Area (LDA). This is a waterfront lot on the South River. The applicants propose to replace a wood deck and sunroom with a two-story addition on the northeast (waterfront) side of the dwelling. They further propose to construct a 15' X 15' two-story addition on the southeast side of the dwelling. The construction will occur in the Chesapeake Bay Critical Area buffer as expanded for steep slopes.

The Anne Arundel County Code, Article 28, Section 1A-104(a)(1)

establishes a minimum 100-foot buffer from the mean high-water line of tidal waters. The buffer expands to include all land within 50 feet of the top of contiguous steep slopes. In this case, the expanded buffer extends to the approximate midpoint of the dwelling. Accordingly, the proposal necessitates a variance to build within the expanded buffer.

Patricia A. Miley, a zoning analyst with the Department of Planning and Code Enforcement, testified that the property is a grandfathered lot. The proposed improvements are no closer to the shoreline than the existing deck area. She opined that the applicants have minimized the disturbance to the buffer by proposing modest improvements. In the circumstances, she supported the request.<sup>1</sup>

There was no public opposition to the request.

Upon review of the facts and circumstances, I find and conclude that the applicants are entitled to conditional relief from the code. For this Critical Area property, due to the extent of the expanded buffer, a strict implementation of the program would result in an unwarranted hardship. To literally interpret the program will deprive the applicants of the right to expand the dwelling, a right commonly enjoyed by other properties in similar areas within the Critical Area. Conversely, the granting of the variance will not confer on the applicants any

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<sup>1</sup>Ms. Miley disagreed with the comment from the Critical Area Commission that the limits of disturbance could be further minimized. She further indicated that mitigation in the form of native plantings should be provided at a 3:1 ratio for all new impervious surfaces within the buffer.

special privilege that the program denies to other lands within the Critical Area Program. There was nothing to suggest that the request is based on circumstances resultant of actions by the applicants; nor does it arise from conditions relating to land use on neighboring properties. Finally, with mitigation, 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. I further find that the variance is the minimum necessary to afford relief. These are comparatively minor additions, and no closer to the water than the existing deck. There was 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.

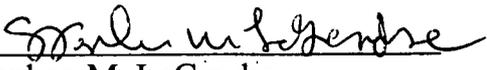
### **ORDER**

PURSUANT to the application of Howard and Sarah Lock, petitioning for a variance to permit dwelling additions 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 26<sup>th</sup> day of July, 1999,

ORDERED, by the Administrative Hearing Officer of Anne Arundel County, that the applicants are hereby **granted** a variance to the expanded buffer to permit dwelling additions in accordance with the site plan.

The forgoing variance is subject to the condition that the applicants shall provide mitigation with native species at a ratio of 3:1 for all new impervious surface within 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

May 25, 1999

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

**RE: Variance 1999-0223-V, Howard Lock**

Dear Mr. Dooley:

Thank you for providing information on the above referenced variance application. The property owners have applied for a variance to permit a dwelling addition with less setbacks and Buffer than required. The property is currently developed with a single family dwelling and is designated LDA.

Because the proposed addition is of reasonable size and is being placed partially over existing impervious surface, this office does not oppose the variance requested. However, impacts to the Buffer should be minimized to the extent possible. From the site plan, it appears that the limit of disturbance could be further minimized. Mitigation in the form of native plantings should be provided at a 3:1 ratio for all new impervious surface within 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 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: AA286-99

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

