

Letter LC
3-23-99

Map 18 G10/11 Rt. 2 / Lore Rd
Imp Surface / Clearing
Bell Atlantic Switching Station

MSA_S-1829-315

CA 140-99 C & P Telephone
VAR 99-2539

McCrone, Inc. has applied to the Board of Appeals on behalf of the property owner, C&P Telephone Co., for a variance in the impervious surfaces requirements from 25% to 40.4% and a variance in the limit-of-disturbance requirements to disturb more than 30% of the wooded area on site during construction of an addition to the existing switching station. The subject property is located on the northeast corner of the intersection of Route 2 and Lore Road in the Solomons Town Center.

The matter was presented April 1, 1999 before Mr. Michael J. Reber, Chairman of the Board of Appeals, Mr. John Smith, Vice-Chairman, and Mr. H. Wilson Dowell. The property owners were represented by Mr. Richard McGill, of McCrone, Inc. Mr. Gregory Brenner, of William Doggett Architects, and Mr. Steve Winger, Bell Atlantic, Inc., also spoke on the owners' behalf. The plat which was submitted with the application was marked Applicants' Exhibit No. 1, dated, and entered into the record. A staff report, along with photographs taken on-site, were also entered into the record.

FINDINGS OF FACT

Through testimony and evidence presented at the hearing, the Board found the following facts to be true:

1. The subject property contains .46 acre. It is located entirely within the Critical Area and is designated Limited Development Area (LDA). It does not adjoin a waterway or wetlands area.
2. The property is currently developed with a single-story block building and associated parking. The applicants are proposing the construction of an addition containing 1874 square feet. The addition will be used to expand the capacity of the existing telephone switching station.
3. The existing impervious surfaces on-site cover 4696 square feet or 23.6% of the site. The applicants propose a total of 7498 square feet of impervious surfaces or 37.9% of the site.

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CRITICAL AREA COMMISSION

4. Existing tree cover on site is .1 acre. The proposed clearing is .04 acre, or 40% of the site. The tree cover is currently not of high quality, and the applicants propose to replant the site after construction of the addition.
5. The staff report, which was entered into the record, expressed concern that granting a variance was not the most appropriate method of addressing the Critical Areas criteria and recommended that the property be re-designated as Intensely Developed Area (IDA), which would allow the proposed expansion without the need for the requested variances. This recommendation was based on the fact that the IDA category is primarily designed for urban development and includes a requirement for 10% pollutant reduction in stormwater runoff. In addition, the property which borders the subject property on two sides is being developed as a medical office building site and was re-designated from LDA to IDA in 1992.
6. The Critical Area Commission submitted comments which recommended that the applicant apply for growth allocation to change the Critical Area designation from LDA to IDA. The comments indicated that, "given its commercial nature and its proposed level of imperviousness, the character of this property would be consistent with IDA characteristics."
7. At the time of the hearing, the applicants had applied for re-designation from LDA to IDA. The request requires Planning Commission, County Commissioner, and Critical Area Commission approval.
8. There was no one present at the hearing who objected to the applicants' request.

CONCLUSIONS

Based on the above findings of fact, the Board came to the following conclusions (in accordance with Section 7-3.01 of the Calvert County Zoning Ordinance):

1. Strict application of the impervious surfaces and limit-of-disturbance requirements would impose peculiar and unusual practical difficulties and undue hardship upon the owners of the property due to the size of the property and the fact that there is no feasible alternative available for construction of the addition.
2. Granting the variance would not cause injury to the public interest or substantially impair the intent of the Comprehensive Plan as the applicant will be required to apply for re-designation to IDA.

3. Findings were made which demonstrate that special conditions or circumstances exist that are peculiar to the land and that a literal enforcement of provisions within the County's Critical Area Program would result in unwarranted hardship.
4. A literal interpretation of the Critical Area Legislation and the Calvert County Critical Area Program and related ordinances will deprive the applicant of rights commonly enjoyed by other properties in similar areas within the Critical Area of the County.
5. The granting of a variance will not confer upon the applicant special privileges that would be denied by the Calvert County Critical Area Program to other lands or structures within the County's Critical Area.
6. The variance request is not based upon conditions or circumstances which are the result of actions by the applicant, nor does the request arise from any condition relating to land or building use, either permitted or non-conforming, on any neighboring property.
7. The granting of a variance will not adversely affect water quality or adversely impact fish, wildlife, or plant habitat within the County's Critical Area, and the granting of the variance will be in harmony with the general spirit and intent of the Critical Area law; and
8. The application for a variance was made in writing to the Board of Appeals with a copy provided to the Critical Areas Commission.

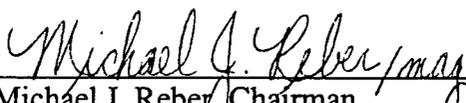
ORDER

It is hereby ordered, by a unanimous decision, that the variance in the steep requirements as requested by McCrone, Inc. on behalf of the property owner, C&P Telephone Co., be granted based on the above findings of fact and conclusions, subject to the following conditions:

1. That an application for re-designation of the property from LDA to IDA be submitted for approval by the appropriate County and State agencies.
2. That the applicant demonstrate a 10% reduction in pollutant and stormwater runoff.

In accordance with Section 7-3.02 of the Calvert County Zoning Ordinance, "any person or persons, jointly or severally, aggrieved by any decision of the Board of Appeals...may appeal the same to the Circuit Court of Calvert County. Such appeal shall be taken according to the Maryland Rules as set forth in Maryland Rules, Title 7, Chapter 200 within 30 days. If any application for a variance is denied by a final order of the Board, or if appealed, by a final order of the Court, a second application involving substantially the same subject matter shall not be filed within one year from the date of the final order."

Entered: May 14, 1999
Miriam A. Gholl, Clerk



Michael J. Reber, Chairman

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
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March 22, 1999

Ms. Roxana Whitt
Calvert County Planning & Zoning
150 Main Street
Prince Frederick, Maryland 20678

RE: Variance Case #99-2539, C & P Telephone

Dear Ms. Whitt:

Thank you for providing information on the above referenced variance application. The applicant is requesting a variance from the impervious surface and clearing limits to permit expansion of an existing commercial use. The property is 0.454 acres, is designated LDA and is developed with a one-story telephone switching station.

The permitted level of imperviousness for this parcel is 25% or 4944 square feet. The proposed level of imperviousness is 40.4% or 7990 square feet. This office opposes the variance requested because the proposed level of impervious surface far exceeds that permitted by the County Program and Zoning Ordinance.

In order to allow the expansion of the existing use on this property, it would be appropriate for the applicant to apply for growth allocation to change the Critical Area designation from LDA to IDA. Given its commercial nature and its proposed level of imperviousness, the character of this property would be consistent with IDA characteristics. The medical office building site which borders this property on two sides was the subject of a growth allocation granted in 1992, which changed the designation of that parcel from LDA to IDA. In addition, according to the Critical Area maps, the property is bordered on the other two sides by federal property.

In addition, it appears that stormwater from this property will be directed into the drainage system being built for the medical office building. Is the stormwater facility for that site of adequate size to accept additional runoff? This office never received information as to stormwater management and 10% calculations for that site.

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: CA140-99

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