

SM 62-99
VAR

Ballard, Robert
98-2926

MSA-S-1829-569

2/19 - Dupes found

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

February 19, 1999

Ms. Christine Holmberg
Department of Planning and Zoning
P.O. Box 3000
Leonardtown, MD 20650

RE: VAR #98-2926, Robert Ballard
CBCAC # 62-99

Dear Ms. Holmberg:

Thank you for providing information on the referenced project. The applicant is seeking approval of a variance to construct a single family dwelling and appurtenances on slopes greater than 15%. The applicant is proposing to disturb 3,959 square feet of steep slopes.

Commission staff are opposed to the variance as it appears that the dwelling is being accommodated on steep slopes due to the location of the pool. According to St. Mary's Critical Area Program, lands that are considered grandfathered by the County "must be brought into compliance with the program insofar as possible.... Applicants shall show that reconfiguration or consolidation is impractical when impacts to steep slopes or Habitat Protection Areas result from the development proposal" (Article III, 38.2.3.c). Staff recommend that the applicant work with the County to reconfigure the location of the proposed dwelling to minimize disturbance to steep slopes.

Thank you for the opportunity to comment. Please include this letter in your file and submit it as part of the record for the variance. Also, please notify the Commission in writing of the decision made in this case. If you have any questions, you can contact me at (410) 260-7073.

Sincerely yours,

A handwritten signature in cursive script that reads "Tracy Batchelder".

Tracy Batchelder
Natural Resources Planner

Branch Office: 31 Creamery Lane, Easton, MD 21601

(410) 822-9047

Fax: (410) 820-5093



SM 62-99

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

NOTIFICATION OF PROJECT APPLICATION

Jurisdiction: St. Mary's Date: 2-8-99

Name of Project (site name, subdivision name, or other): Robert Ballard

Local case number: VAAP # 98-2926

Project location/Address: MD Rt. 243, left on Bull Road, left on Knight Road, right on Helen Lane, go to end

Tax map# 40 Block# 14

Lot# 1 Parcel# 99

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 _____
- 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
- OTHERS _____

Describe Proposed use of project site: Variance request from Section 38.2.15.6.(2)(a) for construction of single-family dwelling and appurtenances on steep slopes

SITE INVENTORY OF AREA ONLY IN THE CRITICAL AREA

TOTAL ACRES IN CRITICAL AREA: .55

IDA ACRES _____

LDA ACRES _____

RCA ACRES .55

AGRICULTURAL LAND: _____

EXISTING FOREST/WOODLAND/TREES: _____

FOREST/WOODLAND/TREES CREATED: _____

EXISTING IMPERVIOUS SURFACE: -0-

TOTAL IMPERVIOUS SURFACE: 3587 sq ft

GROWTH ALLOCATION DEDUCTED: _____

RCA to LDA: _____

RCA to IDA: _____

LDA to IDA: _____

AREA DISTURBED: _____

LOTS CREATED: _____

DWELLING UNITS: _____

FOREST/WOODLAND/TREES REMOVED: 7198

PROPOSED IMPERVIOUS SURFACE: 3587 sq ft

Local Jurisdiction Contact person: Christine Holmberg

Telephone number: 301-475-4670

Response from Commission required by: 2-19-99

Hearing Date: 2-25-99

Jan -
For your
review -
BOA staff

RECEIVED

FEB 19 1999

TO: The St. Mary's County Board of Appeals
FROM: Christine Holmberg, Environmental Planner
DATE: February 18, 1999

CHESAPEAKE BAY
CRITICAL AREA COMMISSION

SUBJECT: VAAP #98-2926, Robert Ballard (Doresy/Chesapeake Builders & Designers, Inc.)
Board of Appeals Meeting of February 25, 1999

I. DEVELOPMENT DATA

REQUEST: Variance from Section 38.2.15.b.(2)(a) of the Zoning Ordinance for construction of single-family dwelling and appurtenances on steep slopes.

OWNER: Walter Dorsey

LOCATION: Helen Lane, Mulberry South Cluster Subdivision

TAX MAP 40 BLOCK 14 PARCEL 99 CLUSTER 3 LOT 1

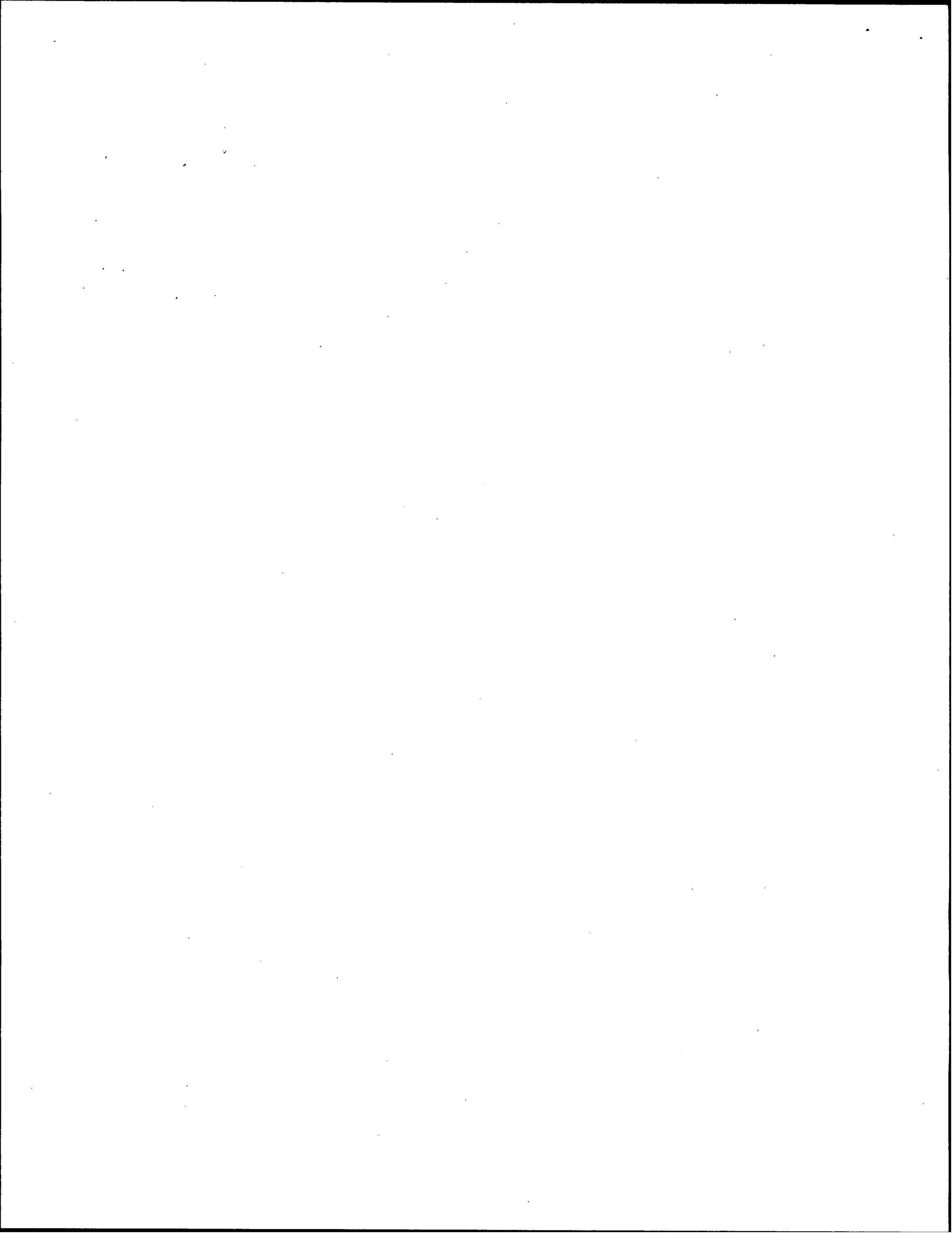
ELECTION DISTRICT THIRD ACREAGE: 0.55 acres

ZONING: RPD(RCA Overlay) USE: Vacant

II. APPLICABLE REGULATIONS:

Section 38.2.15b(2)(a) of the St. Mary's County Zoning Ordinance prescribes:

- a. Prohibit development on slopes greater than 15 percent (as measured before development) in Resource Conservation Areas unless the project is the only effective way to maintain or improve the stability of the slope and is consistent with the following:
 - i) Maintenance or, if possible, improvement of the quality of runoff and groundwater entering the Chesapeake Bay and its tributaries;
 - ii) Maintenance, to the extent practicable, of existing areas of natural habitat; and
 - iii) Conformance of the development to water quality and habitat protection criteria established in this ORDINANCE.



St. Mary's Board of Appeals
VAAP# 98-2926, Ballard/Dorsey/Chesapeake Builders
For Decision on February 25, 1999
Page 2 of 5

III. STAFF COMMENTS:

1. The Mulberry South Subdivision was recorded on August 5, 1991, however, as preliminary subdivision design and Planning Commission approval predate the Critical Area regulations, this subdivision is "grandfathered" from density but not performance standards.
2. The variance request is to disturb 3,959 sq. ft of disturbance of steep slopes on the lot.
- 3.
4. Approximately 65% of the lot is encumbered by steep slopes.
4. The property is to be served by public water and an individual septic system.
5. Attachment #3 is the applicant's Letter of Intent addressing the standards for variance. Staff analysis of the applicant's compliance with the standards is provided below:

Per Section 38.2(7) of the Zoning Ordinance, Variances: The following standards for variance are provided:

a. That special conditions or circumstances exist that are peculiar to the land or structure involved and that a literal enforcement of the provisions of the Critical Area program would result in unwarranted hardship.

Staff analysis of field run topography and a field visit indicate that approximately 65% of the lot is encumbered by slopes in excess of 15%. The lot is part of a grandfathered subdivision which received preliminary approval prior to the effective date of the Critical Area regulations. A literal enforcement of the provisions of the Critical Area program would result in unwarranted hardship if the applicant was not allowed to build on this lot of record.

b. That the literal interpretation of the Critical Area program and related ordinances will deprive the landowner rights commonly enjoyed by other properties in similar areas within the Critical Area.

Staff finds that the literal interpretation of the Critical Area program and related ordinances will deprive the land owner rights commonly enjoyed by other properties in similar areas within the Critical Area. In fact owners of other lots in the subdivision have requested and received variances for disturbance of steep slopes. Other properties not so encumbered would be allowed a single-family dwelling, through the issuance of a standard building permit.

c. That the granting of a variance will not confer upon the land owner any special privilege that would be denied by the Critical Area program to other

15% SLOPES OR GREATER

PUMP
FIT

N42°42'
79.17'

N47°17'49"W
80.05'

HEI

S42°42'
111.11'

BRACH

N63°39'43"E
31.83'

N26°20'17"W
30.00'

15% SLOPES OR GREATER



STEEP SLOPES

105.87'

S41°17'49"
114.94'

BANKS
CONES

SCREEN
PORCH

POOL

N63°39'43"E
63.76'

SPACE PARCEL "E"

RECEIVED

FEB 10 1999

CHESAPEAKE BAY
CRITICAL AREA COMMISSION

RECEIVED