

AA 163-00
VAR

Nuscher, Janice
0113

MSA_S_1829_702

LC letter
9/4/00

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

April 3, 2000

Mr. Kevin Dooley
Anne Arundel County Department of Planning and Code Enforcement
2664 Riva Road, MS 6301
Annapolis, MD 21401

RE: Variance 2000-0113-V, Janice Nuscher

Dear Mr. Dooley:

Thank you for providing information on the above referenced variance application. The applicant is requesting a variance to permit a dwelling addition with less setbacks than required. The property is designated IDA and is currently developed with a single family dwelling.

Because impervious surfaces are not an issue and there are no impacts to Habitat Protection Areas, this office has no comment on this setback variance. Because this property is designated IDA, the 10% pollutant reduction requirement must be addressed. Usually, on lots of this size, plantings are sufficient to satisfy this requirement.

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: AA163-00

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

IN THE OFFICE OF ADMINISTRATIVE HEARINGS

CASE NUMBER 2000-0113-V

IN RE: JANICE NUSCHER

SECOND ASSESSMENT DISTRICT

DATE HEARD: APRIL 27, 2000

ORDERED BY: STEPHEN M. LeGENDRE, ADMINISTRATIVE HEARING OFFICER

ZONING ANALYST: KEVIN DOOLEY

DATE FILED: MAY 4, 2000

PLEADINGS

Janice Nuscher, the applicant, seeks a variance (2000-0113-V) to permit a dwelling addition with less setbacks than required on property located along the east side of Ridge Road, south of Cove Road, Riva.

PUBLIC NOTIFICATION

The case was advertised in accordance with the County Code. The file contains the certification of mailing to community associations and interested persons. Each person designated in the application as owning land that is located within 175' of the property was notified by mail, sent to the address furnished with the application. Ms. Nuscher testified that the property was posted for 14 days prior to the hearing. I find and conclude that the requirements of public notice have been satisfied.

FINDINGS AND CONCLUSIONS

The applicant owns a single-family residence located at 210 Ridge Road, in the subdivision of Sylvan Shores, Riva. The property comprises 2,890 square feet and is zoned R-5 residential with a Chesapeake Bay Critical Area designation as Intensely Developed Area (IDA). The applicant is remodeling the existing one-story cottage and is proposing a second story loft addition. The construction will maintain the existing footprint, which is located five feet from the south side property line, eight feet from the north side property line and 12 feet from the rear

property line.

The Anne Arundel County Code, Article 28, Section 2-506(a) requires side yards seven feet wide, with a combined width of 20 feet, and a rear yard 20 feet deep. Accordingly, the proposal necessitates a variance of two feet to the south side setback, seven feet to the combined side yard width and eight feet to the rear setback.

Kevin Dooley, a zoning analyst with the Department of Planning and Code Enforcement, testified that the property is located in a very old subdivision and is well below the minimum area and width for the R-5 district. The upward extension will not reduce the existing setbacks. The proposal does not require the removal of any vegetation. In the circumstances, he supported the request.

Ms. Nuscher testified that she purchased the dwelling with her daughter at foreclosure. They are in the process of making it habitable for their residence and seek to expand the square footage within the confines of the existing footprint. She stated that the Sylvan Shores community predates zoning and presents a variety of setbacks.

James Hanna, the adjacent owner, sought and received an assurance that the proposal will not block the sunlight to his skylights and that the placement of windows will not compromise his privacy.

Upon review of the facts and circumstances, I find and conclude that the applicant is entitled to relief from the code. This case satisfies the test of unique physical conditions, consisting of a small, narrow lot, such that there is no

reasonable possibility of developing the lot in strict conformance with the code. I further find that the variance is the minimum necessary to afford relief. As noted, the proposal maintains the existing nonconforming setbacks with no further encroachments.

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. The approval shall be subject to the condition in the Order.

ORDER

PURSUANT to the application of Janice Nuscher, petitioning for a variance to permit a dwelling addition with less setbacks than required; and

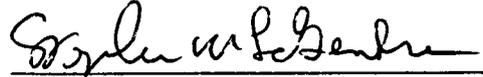
PURSUANT to the advertising, posting of the property, and public hearing and in accordance with the provisions of law, it is this 4 day of May, 2000,

ORDERED, by the Administrative Hearing Officer of Anne Arundel County, that the applicant is hereby **granted** the following variances to permit a dwelling addition in accordance with the site plan:

1. A variance of two feet to the required 7-foot south side setback.
2. A variance of seven feet to the required 20-foot combined side yard width.

3. A variance of eight feet to the required 20-foot rear setback.

As a condition of approval, the applicant shall adhere to the house plan submitted at the hearing.



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.

