

MSA-S-1829-928

BC 584-00  
VAR

Connelly, Anthony  
00-15

In 11/09  
Due asap



Judge John C. North, II  
Chairman

Ren Serey  
Executive Director

**STATE OF MARYLAND  
CHESAPEAKE BAY CRITICAL AREA COMMISSION**

1804 West Street, Suite 100, Annapolis, Maryland 21401

(410) 260-3460

Fax: (410) 974-5338

December 15, 2000

Mr. Keith Kelley  
Baltimore County  
Department of Environmental Protection  
and Resource Management  
401 Bosley Avenue, Suite 416  
Towson, Md 21204

RE: 00-15: Mr & Mrs Anthony Connelly Critical Area Administrative  
Variance  
Screen House and Auxiliary Pier Platform

Dear Mr. Kelley,

The Critical Area Commission concurs with the DEPRM Director's findings in his November 22, 2000 decision regarding the construction activities referenced above.

If you should have any questions regarding these comments, please feel free to contact me at 410-260-3481.

Sincerely,

A handwritten signature in cursive script that reads "Wanda Cole".

Wanda Cole  
Natural Resources Planner

cc: BC 584-00

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

TTY FOR DEAF ANNAPOLIS-974-2609 D.C. METRO-586-0450

584-00

Ward



Baltimore County  
Department of Environmental Protection  
and Resource Management

Office of the Director  
401 Bosley Avenue, Suite 416  
Towson, Maryland 21204

RECEIVED

November 22, 2000

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CHESAPEAKE BAY  
CRITICAL AREA COMMISSION

Mr. and Mrs. Anthony Connelly  
2814 12<sup>th</sup> Street  
Baltimore, MD 21219

Re: 2814 12<sup>th</sup> Street  
Critical Area Administrative Variance

Dear Mr. and Mrs. Connelly:

The Department of Environmental Protection and Resource Management (DEPRM) has received your variance request to construct an 13.5' x 14' auxiliary pier platform and a 10.5' x 12' screen house on an existing pier at the above referenced address. The Director of DEPRM may grant a variance to the Chesapeake Bay Critical Area regulations in accordance with regulations adopted by the Critical Area Commission concerning variances as set forth in COMAR 27.01.11. There are five (5) criteria listed in COMAR 27.01.11 that shall be used to evaluate the variance request. All five of the criteria must be met in order to approve the variance.

The first criterion requires that special conditions exist that are peculiar to the land or structure, and that literal enforcement of the regulations would result in unwarranted hardship. A pier is considered a water-dependent use, given that it is dependent upon the water by reason of its intrinsic nature or use. The purpose of a pier is to provide a property owner with means of accessing the water. Auxiliary structures to the pier; such as platforms, "T's", "L's" and steps; are limited to 200 square feet, which facilitate water access. Additional platforms and screen houses do not facilitate water access, and are not considered water-dependent structures. As such, they are not permitted, per Sections 26-455 and 26-456 of the Baltimore County Code. Given that you still have reasonable use of the property without the screen house or this additional platform, including use of your pier as a water-dependent structure, a literal enforcement of the regulations does not result in unwarranted hardship. Therefore, this criterion is not met.

The second criterion requires that a literal enforcement of the regulations would deprive the applicant of rights commonly enjoyed by other properties in similar areas within the Critical Area. As previously stated, screen houses and additional platforms exceeding a cumulative total of 200 square feet are not permitted per Baltimore County Code. A check of aerial photographs of your property from 1986 and 1995, and a site visit in November of 1999 for a Use & Occupancy inspection revealed that no screen house or "T's", "L's", and stepdown platforms exceeding 200 square feet existed on the pier of your property. Given this information, and the fact that nonwater-dependent structures and excessive platform structures are not permitted as a matter of right, denial



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Mr. And Mrs. Anthony Connelly

November 22, 2000

Page 2

of this variance does not deprive you, the applicant, of rights commonly enjoyed by similar properties in the Critical Area. Therefore, this criterion is not met.

The third criterion requires that granting of a variance will not confer upon an applicant any special privilege that would be denied to other lands or structures within the Critical Area. Granting of this variance would confer upon you, the applicants, the privilege of having a screen house over a pier and an accumulation of platforms exceeding the maximum allowable 200 square foot size. This same privilege would be denied to other waterfront property owners proposing similar non-water dependent structures or oversized platforms in the Critical Area. Therefore, this criterion is not met.

The fourth criterion requires that a variance 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. The screen house and platform on which it is located currently exist and were placed on the property prior to obtaining County approvals. Therefore, this after-the-fact variance request is the result of actions by you, the applicants. Therefore, this criterion is not met.

The fifth criterion requires that granting of the variance will not adversely affect water quality or adversely impact fish, wildlife, or plant habitat within the Critical Area, and that the granting of the variance will be in harmony with the general spirit and intent of the Critical Area regulations. Back River has been designated as anadromous fish propagation waters by the Maryland Department of Natural Resources. Protection of such habitat and minimization of adverse impacts to water quality from development are required per the Chesapeake Bay Critical Area Regulations (COMAR 27.01.09.05) within these waters. Anadromous fish depend upon waters with high water quality in order to propagate successfully. Placement of a non-water-dependent structure, such as a screen house and/or an oversized platform on a pier over the tidal water in Back River is inconsistent with the protection of anadromous fish spawning habitat in this river. Therefore, this criterion has not been met.

Based upon our review, it is this Department's findings that none of the above criteria have been met, and the requested variance is hereby denied in accordance with Section 26-445(c) of the Baltimore County Code.

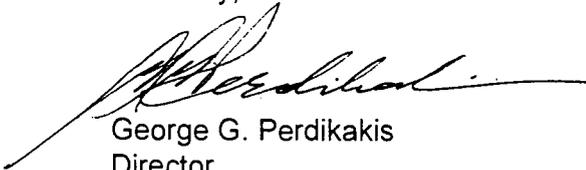
If you do not concur with the above decision, you may file an appeal with the Baltimore County Board of Appeals within thirty (30) calendar days of the date of this letter. The appeal must be in writing and state concisely why you believe the decision was improper. Address the appeal to the Baltimore County Board of Appeals and send it to the address listed on the next page, accompanied by a \$75.00 check payable to Baltimore County Government to cover the appeal fee.

Mr. And Mrs. Anthony Connelly  
November 22, 2000  
Page 3

Environmental Impact Review  
Baltimore County Department of  
Environmental Protection and Resource Management  
401 Bosley Avenue, Suite 416  
Towson, Maryland 21204  
Attention: Ms. Patricia M. Farr

If you have questions regarding this project, please contact Mr. Keith Kelley at  
410-887-3980.

Sincerely,



George G. Perdikakis  
Director

GGP: KDK

c: Ms. Wanda Cole, CBCA Commission  
Mr. Leroy H. List

J:\keith\connelly