

AA 597-05 Gallimore, Charles
VAR 0311

MSA-5-1829-4704

Comments 11/15/05
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Comments
1/2/07 KS

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

**STATE OF MARYLAND
CRITICAL AREA COMMISSION
CHESAPEAKE AND ATLANTIC COASTAL BAYS**

1804 West Street, Suite 100, Annapolis, Maryland 21401
(410) 260-3460 Fax: (410) 974-5338
www.dnr.state.md.us/criticalarea/

November 15, 2005

Ms. Ramona Ploceinnik
Anne Arundel County
Office of Planning and Zoning
2664 Riva Road, MS 6301
Annapolis, MD 21401

RE: Variance 2005-0311-0314-V Charles Gallimore

Dear Ms. Ploceinnik:

Thank you for providing information on the above referenced variance applications. The applicant is requesting variances to permit three (3) dwellings with less Buffer and setbacks than required and a variance to exceed impervious surfaces on a residential lot in order to construct a road. The properties have split designations of LDA and RCA and are currently undeveloped. A shed that was located on Lot B on 2001 site plan has been removed on the current site plan.

Usually, for properly grandfathered lots, this office does not oppose minimal variances in order to allow the lot to be developed with a single family dwelling. This office previously submitted comments on variances requested on Lots A and C in April 2000 and again on March 2001. Total disturbances for Lots A, B, and C are 21.8%, 22.2%, and 22.4% respectively. Lots 58 and 59 approach 53%. Based on the current site plans, the applicant has reduced impacts to these lots with the exception of the road on Lots 58 and 59.

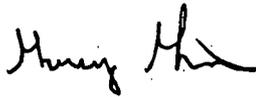
As noted in the March 2001 letter, the proposed road goes through a residential building lot. Is this a legal means of providing access to these lots? Is it a permissible use of a residential lot? In the January 2001 Critical Area Report, the report stated that a portion of the existing right-of-way of Bay View Drive had been taken over by a nearby homeowner. The past report and the current report do not provide any information as to how the excessive impervious surface (much of it in the Buffer) on this lot will be mitigated and how will stormwater be addressed for the road.

Ms. Ramona Plociennik
Variance 2005-0311-0314-V Charles Gallimore
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If the above issues are resolved and if the variances are approved, this office recommends mitigation at a 3:1 ratio for all disturbances within the 100-foot Buffer and reforestation at a 3:1 ratio for the remainder of the clearing of Lots 58 and 59. Stormwater management must also be addressed.

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 request. Also, please notify the Commission in writing of the decision made in this case.

Sincerely,



Gary Green
Environmental Analyst
C c: AA597-05

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



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January 2, 2007

Ms. Ramona Plociennik
Anne Arundel County
Office of Planning and Zoning
2664 Riva Road, MS 6401
Annapolis, Maryland 21401

Re: 2006-0414-V; Lot A, 1710 Bay View Drive, Snug Harbor
Charles Gallimore

Dear Ms. Plociennik:

Thank you for providing information on the above referenced variance. The applicant is requesting an extension in time for the implementation and completion of a previously approved variance. The previous variance was to permit a dwelling within the 100-foot Buffer and the buffer to nontidal wetlands. It would appear the request remains substantially the same as was previously approved.

This office does not oppose the extension in time provided the conditions previously applied remain the same.

Thank you for the opportunity to provide comments. 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 "Kate Schmidt".

Kate Schmidt
Natural Resource Planner

cc: AA597-05
AA132-01

0597-05

RECEIVED

DEC 19 2005

CRITICAL AREA COMMISSION

IN THE OFFICE OF ADMINISTRATIVE HEARINGS

CASE NUMBERS 2005-0311-V, 2005-0312-V, 2005-0313-V AND 2005-0314-V

IN RE: CHARLES GALLIMORE

SEVENTH ASSESSMENT DISTRICT

DATE HEARD: DECEMBER 8, 2005

ORDERED BY: STEPHEN M. LeGENDRE, ADMINISTRATIVE HEARING OFFICER

PLANNER: LIZ WEST

DATE FILED: DECEMBER 14, 2005

PLEADINGS

Charles Gallimore, the applicant, seeks a variance [2005-0314-V (Lot 58)] to permit an access road with less buffer than required and greater impervious coverage than allowed on property located along the south side of Lake Avenue, east of Duck Drive. He also requested variances [2005-0311-V (Lot A), 2005-0312-V (Lot B), and 2005-0313-V (Lot C)] to permit dwellings and associated facilities with less setbacks and buffers than required on properties located along the south side of Bay View Drive, south of Lake Drive. The project is located in Shady Side.

PUBLIC NOTIFICATION

The hearing notice was posted on the County's web site 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 feet of the property was notified by mail, sent to the address furnished with the application. Mr. Gallimore testified that the properties were posted for more than 14 days prior to the hearing. I find and conclude that the requirements of public notice have been satisfied.

FINDINGS AND CONCLUSIONS

These cases concern the same properties the subject of a decision by this office in Case No. 2001-0024-V through 2001-0027-V (May 7, 2001). The prior

Order conditionally approved variances to permit an access road and dwellings in accordance with a revised site plan. In all, there were 11 conditions. At the time of the approval, Anne Arundel County Code, Article 28, Section 11-102.2 provided that a variance becomes void unless a building permit conforming to the plans is obtained within one-year and construction is completed within two years. The variances having expired, the applicant refiled the same requests.

Liz West, a planner with the Office of Planning and Zoning, reiterated the testimony from the prior hearing. There were additional agency comments as follows: the Anne Arundel County Soil Conservation District requested alternative stormwater management; the Chesapeake Bay Critical Area Commission and the Development Division questioned the legality of the access; and the Development Division also questioned the width of the access, and the proposal for stormwater management. By way of conclusion, Ms. West supported the applications, subject to the same conditions in the prior Order and additional conditions as reflected in the present agency comments.

Mr. Gallimore asserted that he has acquired title to a portion of Lot 59 as necessary for access.

Richard Sellers, the applicant's engineering consultant, testified that the stormwater management proposal is unchanged. Although there is a disagreement with the County reviewer, Mr. Sellers believes that all requirements are satisfied. (There is no dispute that the project is subject to stormwater management regulations adopted since the prior Order).

Upon review of the facts and circumstances, I will again approve the applications, subject to the same conditions. It is noted that condition C of the prior Order required stormwater management to the satisfaction of the Permit Application Center. So that the record is clear, the applicant shall comply with the new regulations, which became effective in September, 2001. I have added the additional conditions requested by Ms. West.

ORDER

PURSUANT to the application of Charles Gallimore, petitioning for a variance to permit an access road with less buffer than required and greater impervious coverage than allowed and variances to permit dwellings and associated facilities with less setbacks and buffers than required; and

PURSUANT to the notice, posting of the property, and public hearing and in accordance with the provisions of law, it is this 14th day of December, 2005,

ORDERED, by the Administrative Hearing Officer of Anne Arundel County, that the applicant is **granted** the following variances to permit an access road and dwellings in accordance with the site plan:

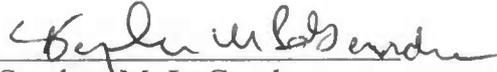
1. For all four properties, variances to the tidal wetlands buffer.
2. For Lot A and the access road on Lot 58, variances to the nontidal wetlands buffer.
3. For Lot A, a setback variance of 13 feet from the property boundary in the Open Space zone.

4. For Lot 58, an impervious surface variance in the amount of 327 square feet.

The approvals are subject to the following conditions:

- A. Mitigation is required at a 3:1 ratio for all disturbance with plantings maximized on-site before planting elsewhere in the Critical Area.
- B. Conservation Easements shall be placed on the remainders of the properties. There shall be no other site improvements.
- C. Stormwater management shall be provided to the satisfaction of the Permit Application Center in accordance with the Stormwater Management Regulations effective September, 2001.
- D. Development shall satisfy the County Flood Plain Management Ordinance for construction in Zone A 7, elevation 8.
- E. Lot A: Relocate and redesign proposed driveway/off street parking spaces consistent with what is shown for Lots B and C.
- F. Lot B: Relocate the structure to the minimum setback of 7 feet to the east property line.
- G. The applicant must enter into and record in the Land Records of Anne Arundel County a Private Road Maintenance Agreement satisfactory to the Permit Application Center.
- H. The applicant shall obtain the requisite State authorization to impact nontidal wetlands.
- I. There shall be no alterations to the site plan except as provided by the conditions.

- J. Lots A, B, and C shall not be eligible for further variances.
- K. The conditions of the approval run with and bind the properties. The applicant shall provide a copy of this decision to the subsequent purchasers of Lots A, B and C.
- L. The applicants shall show clear title to Lot 58 and 59 for purposes of access.
- M. The width of the access is subject to the approval of the Permit Application Center.
- N. The building permits are subject to the approval of the Department of Health.


Stephen M. LeGendre
Administrative Hearing Officer

NOTICE TO APPLICANT

Within thirty 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 18-16-405(a) provides that a variance expires by operation of law unless the applicant obtains a building permit within one year. Thereafter, the variance shall not expire so long as construction proceeds in accordance with the permit.

If this case is not appealed, exhibits must be claimed within 60 days of the date of this Order, otherwise that will be discarded.

597-05

IN THE OFFICE OF ADMINISTRATIVE HEARINGS

CASE NUMBER 2006-0414-V

IN RE: CHARLES GALLIMORE

SEVENTH ASSESSMENT DISTRICT

DATE HEARD: JANUARY 16, 2007

ORDERED BY: STEPHEN M. LeGENDRE, ADMINISTRATIVE HEARING OFFICER

PLANNER: JOHN FURY

RECEIVED

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DATE FILED: JANUARY 17, 2007

CRITICAL AREA COMMISSION

PLEADINGS

Charles Gallimore, the applicant, seeks a variance (2006-0414-V) to allow an extension in time for the implementation and completion of previously approved variances on properties located along the south side of Bay View Drive, south of Lake Drive, Shady Side.

PUBLIC NOTIFICATION

The hearing notice was posted on the County's web site 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 feet of the property was notified by mail, sent to the address furnished with the application. Mr. Gallimore testified that the properties were posted for more than 14 days prior to the hearing. I find and conclude that the requirements of public notice have been satisfied.

FINDINGS AND CONCLUSIONS

These cases concern the same properties the subject of a decision by this office in Case Nos. 2005-0311-V through 2005-0314-V (December 14, 2005). The prior Order conditionally approved variances to permit an access road and three dwellings. In all, there were 14 conditions. At the time of the approval, Anne Arundel County Code, Article 18, Section 18-16-405(a) provided that a variance becomes void unless a building permit conforming to the plans is

obtained within one-year with construction in accordance with the permit. The present request is a timely application for an extension of the approved variances.

John Fury, a planner with the Office of Planning and Zoning, testified that the project was delayed by the road and sewer plans. There were no adverse agency comments. By way of conclusion, Mr. Fury supported the application, subject to the same conditions in the prior Order.

Mr. Gallimore testified that the road and sewer are approved and the conditions of the prior approval are unchanged. The houses are in the design phase. There was no other testimony in the matter.

Upon review of the facts and circumstances, I will again approve the applications. There is still no indication of any change in the underlying rationale. The approval incorporates the same conditions appended to the prior Order.

ORDER

PURSUANT to the application of Charles Gallimore, petitioning for a variance to extend the time for the implementation and completion of previously approved variances; and

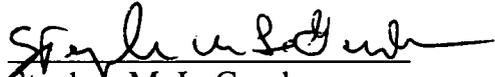
PURSUANT to the notice, posting of the property, and public hearing and in accordance with the provisions of law, it is this 17th day of January, 2007,

ORDERED, by the Administrative Hearing Officer of Anne Arundel County, that the applicant is **granted** a variance to extend the time for permits until July 17, 2008 with completion in accordance with the permits.

The approval is subject to the following conditions:

- A. Mitigation is required at a 3:1 ratio for all disturbance with plantings maximized on-site before planting elsewhere in the Critical Area.
- B. Conservation Easements shall be placed on the remainders of the properties. There shall be no other site improvements.
- C. Stormwater management shall be provided to the satisfaction of the Permit Application Center in accordance with the Stormwater Management Regulations effective September, 2001.
- D. Development shall satisfy the County Flood Plain Management Ordinance for construction in Zone A 7, elevation 8.
- E. Lot A: Relocate and redesign proposed driveway/off street parking spaces consistent with what is shown for Lots B and C.
- F. Lot B: Relocate the structure to the minimum setback of 7 feet to the east property line.
- G. The applicant must enter into and record in the Land Records of Anne Arundel County a Private Road Maintenance Agreement satisfactory to the Permit Application Center.
- H. The applicant shall obtain the requisite State authorization to impact nontidal wetlands.
- I. There shall be no alterations to the site plan except as provided by the conditions.
- J. Lots A, B, and C shall not be eligible for further variances.

- K. The conditions of the approval run with and bind the properties. The applicant shall provide a copy of this decision to the subsequent purchasers of Lots A, B and C.
- L. The applicants shall show clear title to Lot 58 and 59 for purposes of access.
- M. The width of the access is subject to the approval of the Permit Application Center.
- N. The building permits are subject to the approval of the Department of Health.


Stephen M. LeGenre
Administrative Hearing Officer

NOTICE TO APPLICANT

Within thirty 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.

If this case is not appealed, exhibits must be claimed within 60 days of the date of this Order, otherwise that will be discarded.

