Brown, Cynthia 0369 - AA 711-05 j VAR

MJA-J-1829-4730

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/

October 26, 2005

Ms. Ramona Plociennik Anne Arundel County Dept. of Planning and Code Enforcement 2664 Riva Road, MS 6301 Annapolis, MD 21401

RE: Brown Variance 2005-0369-V

Dear Ms. Plociennik:

Thank you for providing information regarding the above referenced variance request. The applicant is requesting a variance to impact steep slopes in order to demolish an existing home and reconstruct a new one on the same location. This lot is not located within the 100-foot Buffer and the entire site contains slopes 15% or greater.

The Commission does not oppose the requested variance. The lot is designated LDA, grandfathered by the County and predates current zoning and subdivision regulations. The area of disturbance is 58.1 % of the site, however, the home is to be built as close to the road as the County will permit and the amount of impervious surface will be slightly reduced. If the variance request is approved, the Commission recommends that mitigation be provided in accordance with Anne Arundel County Critical Area requirements.

Thank you for the opportunity to review this application. If you have any questions feel free to contact me at (410) 260-3460.

Sincerely,

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Michael A. Paone Program Planner

cc: AA-711-05



IN THE OFFICE OF ADMINISTRATIVE HEARINGS

CASE NUMBER 2005-0369-V

IN RE: JEFFREY AND CYNTHIA BROWN

THIRD ASSESSMENT DISTRICT

DATE HEARD: DECEMBER 1, 2005

ORDERED BY: STEPHEN M. LeGENDRE, ADMINISTRATIVE HEARING OFFICER

PLANNER: SUZANNE SCHAPPERT

,2005 DATE FILED: DECEMBER 0

PLEADINGS

Jeffrey and Cynthia Brown, the applicants, seek a variance (2005-0369-V) to permit a dwelling and associated facilities with less setbacks than required and with disturbance to steep slopes on property located along the east side of Springdale Lane, south of Severn Avenue, Severna Park.

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. Brown testified that the property was 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

The applicants own a single-family residence with a street address of 1051 Rio Lane, in the Severn Heights subdivision, Severna Park. The property comprises 4,332 square feet and is zoned R1-Residential with a Chesapeake Bay Critical Area designation as Limited Development Area (LDA). The request is to raze the dwelling, followed by the construction of a new home. Portions of unimproved Spring Lane and a vacant lot to the rear (Lot 23) have been acquired by the applicants, increasing the site area to 9,710 square feet. The redevelopment proposal disturbs steep slopes. The new dwelling is located 17 feet from the front lot line, 7 feet from the southeast side lot line and 11 feet from the north side boundary.

Anne Arundel County Code, Article 17, Section 17-8-201 prohibits disturbances of slopes of 15% or greater in the LDA. Article 18, Section 18-4-701 requires lots in the R1 district to maintain a front setback in the amount of 40 feet and side yards 15 feet wide with a combined width of 40 feet. Accordingly, the proposal requires a variance to disturb steep slopes and variances of 23 feet to the front setback, 8 feet to the southeast side setback, 4 feet to the north side setback and 22 feet to the combined side yard width.

Suzanne Schappert, a Planner with the Office of Planning and Zoning, testified that the property is below the minimum area and width for the R1 district. The existing septic system is failing and the existing dwelling, which is also nonconforming to the setbacks, is in poor condition. The slope disturbance predominantly relates to new septic facilities. There is a net reduction in impervious coverage, from 2,342 square feet to 2,145 square feet. (The allowance is 3,034 square feet). There were no adverse agency comments. By way of conclusion, Ms. Schappert supported the request, subject to the execution of a lot merger agreement.

Mr. Brown testified that the 1945 cottage, which has been in his wife's family since 1974, is beyond repair. The lot area has been increased to

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accommodate the replacement septic system and greater setbacks. The witness believes the proposal is consistent with the character of the neighborhood. Finally, he indicated that the request is unobjectionable to the neighbors.

Terry Schuman, the applicants' engineering consultant, confirmed the substance of the application. The witness supplied an exhibit showing that the buildable area absent variances to the zoning setbacks is a narrow strip through the center of the merged lots. The witness opined that the variance standards are satisfied. Chris Jakubiak, a land-planning consultant employed by the applicants, submitted several photographs depicting the site and the neighborhood. He also opined that the variance standards are met. More particularly, the relief has been minimized because the project reuses the areas of the site that are already disturbed.

There was no other testimony in the matter.

Upon review of the facts and circumstances, I find and conclude that the applicants are entitled to relief from the code. Considering the Critical Area variance, due to the extent of steep slopes, a strict implementation of the program would deny the applicants the right to redevelop the property with a single-family dwelling and septic system, rights commonly enjoyed by other properties in similar areas of the Critical Area. Conversely, the granting of the variance does not confer any special privilege that the program typically denies. There is no indication that the request results from the actions of the applicants or from land use on neighboring property. Finally, the granting of the variance will not

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adversely impact Critical Area resources and harmonizes with the general spirit and intent of the program.

With respect to the zoning variances, this property satisfies the test of unique physical conditions, consisting of its reduced area and width and irregular configuration, such that there is no reasonable possibility of development in strict conformance with the code.

I further find that the variances represent the minimum relief. The applicants are redeveloping in the same location as the existing dwelling. The new dwelling is appropriately sized. The project includes a decrease in impervious coverage, a replacement septic system and storm water management. There was nothing to suggest that the granting of the variances would alter the essential character of the neighborhood, substantially impair the appropriate use or development of adjacent property, or cause a detriment to the public welfare. The approval is subject to the condition in the Order.

ORDER

PURSUANT to the application of Jeffrey and Cynthia Brown, petitioning for a variance to permit a dwelling and associated facilities with less setbacks than required and with disturbance to steep slopes; and

PURSUANT to the notice, posting of the property, and public hearing and in accordance with the provisions of law, it is this 3^{++} day of December, 2005,

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ORDERED, by the Administrative Hearing Officer of Anne Arundel County, that the applicants are granted a variance to disturb steep slopes and variances of 23 feet to the front setback, 8 feet to the southeast side setback, 4 feet to the north side setback and 22 feet to the combined side yard width to permit a dwelling in accordance with the site plan. The approval is subject to the following conditions:

(1) The applicants shall provide mitigation as determined by the Permit Application Center.

(2) The applicants shall execute a lot consolidation agreement.

Mr. 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.

DETAILS & SPECIFICATIONS FOR VEGETATIVE ESTABLISHMENT

ANNE ARUNDEL SOIL CONSERVATION DISTRICT DETAILS AND SPECIFICATIONS FOR

VEGETATIVE ESTABLISHMENT

Following initial soil disturbances or redisturbance, permanent or temporary stabilization shall be completed within seven calendar days fort he surface of all perimeter controls, dikes, swales, ditches, perimeter slopes, and all slopes grater than 3 horizontal to 1 vertical (3:1) and fourteen days for all other disturbed or graded areas on the project site.

1. Permanent Seeding:

A. Soil Tests: Lime and fertilizer will be applied per soil tests results for sites greater than 5 acres. Soil tests will be done at completion of initial rough grading or as recommended by the sediment control inspector. Rates and analyses will be provided to the grading inspector as well as the contractor.

1. Occurrence of acid sulfate soils (grayish black color) will require covering with a minimum of 12 inches of clean soil with 6 inches minimum capping of top soil. No stockpiling of material is allowed. If needed, soil tests should be done before and after a 6-week incubation period to allow oxidation of sulfates.

The Minimum soil conditions required for permanent vegetative establishment are: a. Soil pH shall be between 6.0 and 7.0

b. Soluble salts shall be less than 500 parts per million (ppm). c. The soil shall contain less than 40% clay but enough fine-grained material (> 30% silt plus clay) to provide the capacity to hold a moderate amount of moisture. An exception is if lovegrass or serecia lespedeza is to be planted, then a sandy soil (< 30% silt plus clay) would be acceptable.

d. Soil shall contain 1.5% minimum organic matter by weight. e. Soil must contain sufficient pore space to permit adequate root penetration. f. If these conditions cannot be met by soils on site, adding topsoil is required in accordance with Section 21 Standard and Specification for Topsoil or amendments made as recommended by a certified agronomist.

B. Seedbed Preparation: Area to be seeded shall be loose and friable to a depth of at least 3 inches. The top layer shall be loosened by raking, disking or other acceptable means before seeding occurs. For sites less than 5 acres, apply 100 pounds dolomitic limestone and 21 pounds of 10-10-10 fertilizers per 1,000 square feet. Harrow or disk lime and fertilizer into the soil to a depth of at least 3 inches on slopes flatter than 3:1.

C. Seeding: Apply 5-6 pounds per 1,000 square feet of tall fescue between February 1 and April 30 or between August 15 and October 31. Apply seed uniformly on a mist firm seedbed with a cyclone seeder, cultipacker seeder or hydroseeder (slurry includes seeds and fertilizer, recommended on steep slopes only). Maximum seed depth should be 1/4 inch In clayey soils and 1/2 inch sandy soils when using other than the hydroseeder method. Irrigate where necessary to support adequate growth until vegetation is firmly established. If other mixes are to be used, select from Table 25, entitled "Permanent Seeding For Low Maintenance Areas" from the current Standards and Specifications for Soil Erosion and Sediment Control. Mixes suitable for this are 1, 3 and 5-7. Mixes 5-7 are sultable in non-mowable situations.

D. Mulching: Mulch shall be applied to all seeded areas immediately after seeding. During the time periods when seeding is not permitted, mulch shall be applied immediately after grading.

Mulch shall be unrotted, unchopped, small grain straw applied at a rate of 2 tons per acre or 90 pounds per 1,000 square feet (2 bales). If a mulch-anchoring tool is used, apply 2.5 tons per acre. Mulch materials shall be relatively free of all kinds of weeds and shall be completely free of prohibited noxious weeds. Spread mulch uniformly, mechanically or by hand, to a depth of 1-2 inches.

E. Securiwng Straw Mulch: Straw mulch shall be secured immediately following mulch application to minimize movement by wind or water. The following methods are permitted:

(i) Use a mulch-anchoring tool, which is designed to punch and anchor mulch Into the soll surface to a minimum depth of 2 inches. This is the most effective method for securing mulch, however, it is limited to relatively flat areas where equipment can operate safely.

(ii) Wood cellulose fiber may be used for anchoring straw. Apply the fiber binder at a net dry weight of 750 pounds per acre. If mixed with water, use 50 pounds of wood cellulose fiber per 100 gallons of water.

(iii) Liquid binders may be used. Apply at higher rates at the edges where wind catches mulch, such as in valleys and in crests of slopes. The remainder of the area should appear uniform after binder application. Binders listed in the 1994 Standards and Specifications for Soil Erosion and Sediment Control or approved equal shall be applied at rates recommended by the manufactures

(iv) Lightweight plastic netting may be used to secure mulch. The netting will be stapled to the ground according to manufacturer's recommendations.

2. Temporary Seeding:

Lime: 100 Pounds of dolomitic limestone per 1,000 square feet.

Fertilizer: 15 pounds of 10-10-10 per 1,000 square feet.

Seed: Perennial rye-0.92 pounds per 1,000 square feet (February 1 through April 30 or August 15 through November 1).

Millet-0.92 pounds per 1,000 square feet (May 1 through August 15)

Mulch: Same as 1 D and E. above.

3. No fills may be placed on frozen ground. All fill to be placed in approximately horizontal layers, each layer having a loose thickness of net more than 8 inches. All fill In roadways and parking areas is to be classified Type 2 as per Anne Arundel County Code -Article 21, Section 2-308, and compacted to 90% density; compaction to be determined by ASTMD-1557-66T) (Modified Proctor). Any fill within the building area Is to be compacted to a minimum of 95% density as determined by methods previously mentioned. Fills for pond embankments shall be compacted as per MD-378 Construction Specifications. All other fills shall be compacted sufficiently so as to be stable and prevent erosion and slippage.

4. Permanent Sod:

Installation of sod should follow permanent seeding dates. Seedbed preparation for sod shall be as noted in section (B) above. Permanent sod is to be tall fescue, state approved sod; lime and fertilizer per permanent seeding specifications and lightly irrigate soil prior to laying sod. Sod is to be laid on the contour with all ends tightly abutting. Joints are to be staggered between rows. Water and roll or tamp sod to insure positive root contact with soil. All slopes steeper than 3:1, as shown, are to be permanently sodded or protected with approved erosion control netting. Additional watering for establishment may be required. Sod is not to be installed on frozen ground. Sod shall not be transplanted when moisture content (dry or wet) and/or extreme temperature may adversely affect its survival. In the absence of adequate rainfall, irrigation should be performed to ensure establishment of sod.

5. Mining Operations:

Sediment control plans for mining operations must include the following seeding dates and mixtures.

For seeding dates of:

February 1 through April 30 and August 15 through October 31, use seed mixture of tail fescue at the rate of 2 pounds per 1,000 square feet and sericea lespedeza at the minimum rate of 0.5 pounds per 1,000 square feet.

6. Topsoil shall be applied as per the Standard and Specifications for Topsoil from the current Maryland Standards and Specifications for Soil Erosion and Sediment Control.

NOTE: Use of this information does not preclude meeting all of the requirements of the current Maryland Standards and Specifications fowr Soil Erosion and Sediment Control.

NOTE: Projects within 4 miles of the BWI Airport will need to adhere to Maryland Aviation Administration's seeding specification restrictions.









CONSTRUCTION NOTES:

2. All erosion and sediment control practices and measures shall be constructed, applied and maintained in

3. Topsoil required for the establishment of vegetation shall be stockpiled in the amount necessary to complete finished grading of all exposed areas.

4. Areas to be filled shall be cleared, grubbed and stripped of topsoil, remove trees, vegetation, roots or other objectionable materials.

5. Areas which are to be top soiled shall be scarified to a minimum depth of three (3) inches prior to placement of topsoil.

moisture as required to reduce erosion, slippage, settlement, subsidence or other related problems. Fill intended to support buildings, structures and conduits, etc. shall be compacted in accordance with above stated or local requirements and codes, whichever are more stringent.

7. All fill shall be placed and compacted in layers not to exceed eight inches (8") in thickness.

building debris and other objectionable materials that would interfere with, or prevent, construction of satisfactory fills.

structural fills. Fill shall not be placed on a frozen foundation.

staturated employ a design professional for foundation design and construction inspections. Require a final certification after foundation cure period and prior to first floor decking is placed.

11. Stockpiles, borrow areas, and spoil areas shall be shown on the plans and shall be subject to the provisions of all applicable local, state, and federal Standard and Specifications.

13. Footers for building or house construction to be in virgin soil or on compacted soils designed and specified by a Registered Engineer.

14. Trees shall not be removed from building pad locations unless approval for building pad grading has been acquired or until such time as Grading plans for each lot are completed, submitted, and approved with each building permit application.







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