

CA 476-05
VAR

Matyi, Joseph
05-3207

MSA-S-1829-4871

Comments 7/28/05
Revised 8/30/05

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/

August 30, 2005

Ms. Roxana Whitt
Calvert County Department of Planning and Zoning
150 Main Street
Prince Frederick, Maryland 20678

Re: Variance 05-3207 Matyi-Revised

Dear Ms. Whitt:

Thank you for providing information on the above referenced revised variance. The applicant is requesting a variance from the steep slope requirements in order to construct a primary dwelling. The property is designated a Limited Development Area (LDA) and is currently undeveloped.

Recently, this office reviewed a similar request by the applicant to construct a primary dwelling on an area of steep slopes. As a result of the previous review, this office noted that there is an existing road (Catalpa Road) and right of way on the north side of the property. As previously stated, it remains unclear why the applicant has not chosen to utilize this existing road in order to access the dwelling. By creating a driveway off of the existing Catalpa Road, the applicant could entirely avoid the need to disturb steep slopes and could minimize the amount of clearing within the Critical Area. Given that it appears possible to construct a driveway in a manner that does not require disturbance to steep slopes, it is our belief that the applicant has not met the standard of unwarranted hardship. Based on this information, we oppose the applicant's request for a variance to the steep slope requirements. We recommend that the Board require the applicant to relocate the driveway in a manner that entirely avoids disturbance to the steep slopes.

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 "Kerrie Gallo".

Kerrie L. Gallo
Natural Resource Planner
CA476-05



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July 28, 2005

Ms. Roxana Whitt
Calvert County Department of Planning and Zoning
150 Main Street
Prince Frederick, Maryland 20678

Re: Variance 05-3207 Matyi

Dear Ms. Whitt:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance from the steep slope requirements and a variance to clear greater than 6,000 square feet of tree cover dwelling. The purpose of the variance request is to construct a primary dwelling. The property is designated a Limited Development Area (LDA) and is currently undeveloped.

During a recent site visit, it was noted that there is an existing road (Catalpa Road) and right of way on the north side of the property. It is unclear why the applicant has not chosen to utilize this existing road in order to access the dwelling. By creating a driveway off of the existing Catalpa Road, the applicant could entirely avoid the need to disturb steep slopes and to clear within the Critical Area. In addition, it appears that this alternative design may also eliminate the need for a clearing variance. Given that it appears possible to construct a driveway in a manner that does not require disturbance to steep slopes, it is our belief that the applicant has not met the standard of unwarranted hardship. Based on this information, we oppose the applicant's request for a variance to the steep slope requirements. We recommend that the Board require the applicant to relocate the driveway in a manner that entirely avoids disturbance to the steep slopes.

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 "Kerrie Gallo".

Kerrie L. Gallo
Natural Resource Planner
CA476-05

CA 05-3207-05 ~~XXXXXXXXXX~~

Case No. 05-3207

Public Hearing
September 1, 2005

Bayview Investments has applied on behalf of the property owner Bernadette Matyi for a variance in the steep slope requirements, and a variance in the front setback requirements from Catalpa Road from 25' to 16' for construction of a single-family dwelling with a garage and a driveway. The property is located at 6055 Hill Road, St. Leonard (Lots 1-3 & 14-16, Block 28, Section A, Long Beach on the Bay) and is zoned R-1 Residential.

The matter was presented September 1, 2005 before Mr. Michael J. Reber, Chairman of the Board of Appeals, Mr. Walter Boynton, Vice Chairman and Mr. Daniel Baker. Mr. Jeff Tewell, from Collinson, Oliff & Associates and Mr. Jeff Green were present at the hearing and represented the Applicant/Property Owners. The plat submitted with the application was marked Applicant's Exhibit No. 1, dated and entered into the record at the hearing. A Staff Report was also entered into the record at the hearing.

FINDINGS OF FACT

Through testimony and evidence presented at the hearing, the Board found the following facts to be true:

1. The subject property contains 31,680 s.f. The property is zoned R-1 Residential.
2. The property is wooded throughout, with moderately steep slopes, and drainage toward the Catalpa Road right-of-way. The steepest slopes on site are adjacent to Hill Road. Catalpa Road is not constructed. There is one house that uses the driveway in the Catalpa Road right-of-way access.
3. The applicant is requesting a variance in the steep slope requirements, and a variance in the front setback requirements from Catalpa Road from 25' to 16' for construction of a single-family dwelling with a garage and a driveway.

4. Staff comments presented at the September hearing regarding the Steep Slope variance request indicated: (1) the critical area line runs through the property, with only the front ~20% lying within the Critical Area; (2) the slopes at the front of the lot are those which are the subject of the steep slope variance; (3) impacts to these slopes could be eliminated by proposing the driveway entrance off Catalpa Road; and (4) it is recommended that the driveway be constructed off Catalpa Road.
5. Staff comments presented at the September hearing regarding the Front Setback Variance request indicated: (1) there is a house on the property across the Catalpa Road right-of-way from the subject property; (2) there is also one other house beyond the subject property that uses Catalpa Road; (3) it is not likely that Catalpa Road will ever be constructed as a through-street; (4) it is unlikely that the reduction in the setback by 9' would impair the Comprehensive Plan or result in injury to the public interest; (5) the applicants could construct a 28' x 40' house without needing a setback variance; and (6) a house of this size would be similar to other houses in the community.
6. The Applicant's Representatives were present at the September hearing and indicated: (1) 20% of the lot is in the Critical Area; (2) the slopes are being disturbed for the proposed driveway; (3) the front setback variance is from Catalpa Road; (4) the proposed driveway cuts diagonally across the lot into the Critical Area line; (5) the proposed driveway location minimizes impact to the critical area and moves it as far as possible out of the steep slopes; (6) the driveway that accesses the adjoining house site would need to be widened if it were used to access this site and would have greater impact to the site than what is proposed; and (7) fill will be added where the driveway is being put in.
7. Neighboring property owners have been notified of the proposed construction and have not opposed the Applicant's request orally or in writing.

CONCLUSIONS

Based on the above findings of fact, the Board came to the following conclusions (in accordance with Section 11-1.01.B of the Calvert County Zoning Ordinance):

1. That without a variance in the steep slope requirements and a variance in the front setback requirements from Catalpa Road from 25' to 16' for construction of a 28' x 49' single-family dwelling with a garage and driveway as shown on the building plat marked as Exhibit No. 1 at the

September hearing peculiar and unusual practical difficulties and undue hardship would be imposed upon the owners due to the size and topography of the property.

2. Granting the variances would not cause injury to the public interest or substantially impair the intent of the Comprehensive Plan, as neighboring property owners have been notified of the proposed construction and have not objected orally or in writing. The Applicants reduced the setback from Catalpa Road from what was originally requested and also reduced clearing as originally proposed.
3. Findings were made which demonstrate that special conditions or circumstances exist that are peculiar to the land and that a literal enforcement of provisions within the County's Critical Area Program would result in unwarranted hardship as the proposed construction will have minimal impact on the Critical Area.
4. A literal interpretation of the Critical Area Legislation and the Calvert County Critical Area Program and related ordinances will deprive the Applicant of rights commonly enjoyed by other properties in similar areas within the Critical Area of the County. The Applicants only seek the right to construct a single-family dwelling with a garage and driveway similar to other properties in the area.
5. The granting of the variances will not confer upon the Applicant special privileges that would be denied by the Calvert County Critical Area Program to other lands or structures within the County's Critical Area. The Applicants only seek the right to construct a single-family dwelling with a garage and a driveway.
6. The variance requests are not based upon conditions or circumstances which are the result of actions by the Applicants, nor does the request arise from any condition relating to land or building use, either permitted or non-conforming, on any neighboring property but due to the physical characteristics of this property and its location within the Critical Area.
7. The granting of the variances will not adversely affect water quality or adversely impact fish, wildlife, or plant habitat within the County's Critical Area, and the granting of the variance will be in harmony with the general spirit and intent of the Critical Area law as there will be minimal impact to the Critical Area.
8. The application for a variance was made in writing to the Board of Appeals with a copy provided to the Critical Area Commission.

ORDER

It is hereby ordered, by a unanimous decision, that the variance in the steep slope requirements and the variance in the front setback requirements from Catalpa Road from 25' to 16' for construction of a single-family dwelling with a garage and driveway as requested by Bayview Investments on behalf of the property owner Bernadette Matyi be **GRANTED** based on the above findings of fact and conclusions subject to the following conditions:

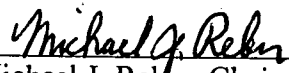
1. The property shall be developed in phases with each phase being stabilized prior to proceeding to the next phase.
2. A phasing plan shall be submitted with the building permit.
3. Prior to work being done on site, the location of the house and the limitation of clearing shall be staked and marked.
4. The Applicant's construction representative shall meet with representatives from the Department of Planning and Zoning and the Department of Public Works to determine the construction grading and limit of clearing prior to construction start.
5. There shall be no stockpiling of excavated materials on site.
6. A foundation location plat prepared by a registered surveyor must be submitted to and approved by the Department of Planning and Zoning prior to framing.
7. A 6" washed gravel bed shall be placed under any decks or deck areas to provide stabilization.
8. All downspouts shall discharge into drywells or other appropriate and approved stormwater management devices as recommended by the Department of Public Works.

9. A final as-built certification by a registered surveyor must be submitted for approval by the Department of Planning and Zoning showing that the grading was performed and structures were built according to the approved plan, prior to final approval of the project.

In accordance with Section 6 of the Calvert County Board of Appeals Rules of Procedure, "any party to a case may apply for a reconsideration of the Board's decision no later than 15 days from the date of the Board's Order."

In accordance with Section 11-1.02 of the Calvert County Zoning Ordinance, "any person or persons, jointly or severally, aggrieved by any decision of the Board of Appeals...may appeal the same to the Circuit Court of Calvert County. Such appeal shall be taken according to the Maryland Rules as set forth in Maryland Rules, Title 7, Chapter 200 within 30 days. If any application for a variance is denied by a final order of the Board, or if appealed, by a final order of the Court, a second application involving substantially the same subject matter shall not be filed within one year from the date of the final order."

Entered: September 26 2005
Pamela P. Helie, Clerk



Michael J. Reber, Chairman

**BOARD OF APPEALS
CRITICAL AREA FORM**

**THE FOLLOWING ADDITIONAL INFORMATION IS REQUIRED FOR ALL
CRITICAL AREA VARIANCE CASES:**

PROPERTY LOCATION AND INFORMATION:

Tax Map # 32A Parcel _____ Lot 314-16 Block 28 Section A
Property Address 6055 HILL ROAD ST. LEONARD MD 20685
Zoning R-1 Critical Area Designation LDA
Total Acreage of Property 16,796 \pm Tax ID 01-043323

PROJECT INFORMATION:

Type of construction proposed SINGLE FAMILY DWELLING
Total square footage of the proposed construction 1,800 \pm
Total square footage of existing impervious surface 0
Total square footage of proposed impervious surface 2,676 \pm (513 within c/a)
Total square footage of existing tree cover 16,796 \pm
Total square footage of disturbed area and/or tree cover to be removed 7,390 \pm (3,210 in c/a)
Is the proposed construction site within the waterfront buffer? NO
Is the proposed construction site on slopes greater than 15%? YES

ALL PLANS MUST CONTAIN THE FOLLOWING INFORMATION:

- Location and dimensions of the proposed construction.
- Location and dimensions of all existing improvements on the property.
- Location and dimensions of driveways, parking areas and accessory structures.
- Distances from proposed construction to all property lines and waterways/wetlands.
- Location of the approved well and the septic system drainfields.
- Location of the tree canopy line and limit of clearing.
- Waterfront and/or wetland buffers.

****For all new and replacement dwellings and for substantial additions, fully engineered plans are required, showing 2-foot contours, grading, and proposed sediment and erosion control measures.**

**NOTE: APPLICATIONS AND PLANS THAT ARE INCOMPLETE MAY BE
RETURNED TO THE APPLICANT FOR COMPLETION BEFORE SCHEDULING
FOR PUBLIC HEARING.**

CAC CA476-05

RECEIVED

AUG 16 2005

CRITICAL AREA COMMISSION



5'x5'x1' 4"-7"
SURGE STONE PAO
ON FILTER CLOTH

NOTE
DISTURBED SLOPES GREATER THAN 15%
WITHIN THE CRITICAL AREA SHALL BE
STABILIZED WITH EROSION CONTROL
MATTING.

INFORMATION STATEMENT

28' X 49' TWO STORY HOUSE ON BASEMENT
19' X 21' GARAGE
6' X 28' PORCH
12' X 16' DECK

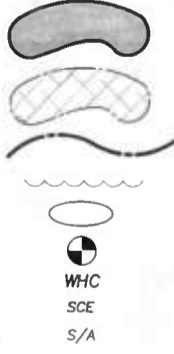
GARAGE ELEVATION: 98.5'
FIRST FLOOR ELEVATION: 99.5'
BASEMENT ELEVATION: 90.5'

LOT AREA: 16,796 SQ. FT. ±
DISTURBED AREA: 5,909 SQ. FT. ±
IMPERVIOUS AREA: 2,235 SQ. FT. ±
FORESTED AREA: 16,796 SQ. FT. ±
FORESTED AREA TBR: 5,909 SQ. FT. ±
FORESTED AREA IN CRITICAL AREA: 3,210 SQ. FT. ±
ACREAGE WITHIN CRITICAL AREA: 3,210 SQ. FT. ±
IMPERVIOUS AREA WITHIN CA: 722 SQ. FT. ± (22.5%)
FORESTED AREA TBR WITHIN CA: 1,654 SQ. FT. ± (51.5%)

OWNER: JOSEPH & BERNADETTE MATYI
OEO: J.L.B. 113 @ 348
TAX I.O.#: 01-043323

SOILS MAP #32
SOIL TYPE: Shc2 SASSAFRAS FINE SANDY LOAM,
5 TO 10 PERCENT SLOPES,
MODERATELY ERODED
ScE SASSAFRAS AND WESTPHALIA SOILS,
STEEP

THIS LOT IS PARTIALLY IN THE CRITICAL AREA.
THIS LOT WAS RECORDED PRIOR TO JULY 1984,
WHEN STORMWATER MANAGEMENT WAS NOT REQUIRED.
CONTACT "MISS UTILITY" AT 1-800-257-7777 AT LEAST
48 HOURS PRIOR TO COMMENCEMENT OF ANY WORK.
DECKS AND OTHER STRUCTURES NOT SHOWN DO NOT
HAVE ZONING APPROVAL FOR CONSTRUCTION.
THE ISSUANCE OF COUNTY PERMITS IS A LOCAL PROCESS
AND DOES NOT IMPLY THE APPLICANT HAS MET STATE &
FEDERAL REQUIREMENTS FOR WETLAND FILLING AND/OR
WETLAND BUFFER DISTURBANCE.
THIS PLAT WAS PREPARED WITHOUT BENEFIT OF A TITLE REPORT
WHICH MAY REVEAL ADDITIONAL CONVEYANCES, EASEMENTS,
RIGHTS-OF-WAY OR BUILDING RESTRICTION LINES NOT SHOWN.



LEGEND

- 25% OR GREATER SLOPES
- 15% TO 25% SLOPES
- CRITICAL AREA LINE
- EXISTING TREELINE
- ASSIGNED HOUSE NUMBER
- PERCOLATION TEST
- WATER HOUSE CONNECTION
- STABILIZED CONSTRUCTION ENTRANCE
- STOCKPILE AREA

RESERVED FOR PROPOSED STATE ROAD
(AS SHOWN ON RECORD PLAT)
A.A.H. 1 @ 38

BUILDING PERMIT PLAT
LOTS 1-3 & 14-16 - BLOCK 28 - SECTION A
LONG BEACH ON THE BAY
FIRST DISTRICT, CALVERT COUNTY, MD.
FOR: BAYVIEW INVESTMENTS

COLLISON, OLIFF & ASSOCIATES, INC.
Surveyors • Engineers
Land Planners
288 MERRIMAC COURT
PRINCE FREDERICK, MARYLAND 20678
301-855-1599 • 410-535-3101 • FAX 410-535-3103

DRAWN BY NJM
SCALE 1" = 30'
DATE 8-10-05
JOB NO. 1-8400
FOLDER LONG BEACH
SECTION A

FOR 9/1/05 BUA HEARING

05-3207 (Revised)