

CA 161-06 Randall, Pete
VAR 06-3291

MSA-S-1829-5624

Comments 3/24/89
KZJ

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/

March 23, 2006

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

Re: Variance 06-3291 Randall

Dear Ms. Whitt:

Thank you for providing information on the above referenced variance. The applicant is requesting a variance to permit the re-decking of an existing deck and steps, located within the 100-foot Buffer. The property is designated a Limited Development Area (LDA) and is currently developed.

Based on the information provided, it appears that the applicant is proposing to replace the existing 184 square foot deck and steps in-kind, and to install new rails. The applicant has stated that no new disturbance is proposed and that that proposed deck will remain entirely within the footprint of the existing deck and steps. In general, this office does not oppose the granting of the variance. However, the applicant has also stated that the existing deck and landing will be enclosed with screens. It is not clear whether this enclosure will result in a transition from a pervious deck to an impervious surface. Should the enclosure result in an impervious surface area, please ensure that the applicant provides mitigation to compensate for the loss of Buffer and infiltration area.

Thank you for the opportunity to provide comments. Please include this letter as a 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 L. Gallo".

Kerrie L. Gallo
Natural Resource Planner
CA161-106

CA 161-06

Case No. 06-3291

Public Hearing
April 6, 2006

David Pucciarella has applied on behalf of the property owners Peter and Alexa Randall for a variance in the 100' waterfront buffer requirements to construct a 10' x 12' deck¹. The property is located at 557 Beech Drive, Lusby (Lot 32, Block A, Section 1, Drum Point) and is zoned R-1 Residential.

AUTHORITY OF THE BOARD OF APPEALS

Section 11-1.01.A of the Calvert County Zoning Ordinance provides that the Board of Appeals shall have the authority to grant variances from the strict application of the area, yard, and height requirements of the Ordinance.

Section 11-1.01.B of the Calvert County Zoning Ordinance provides that the Board of Appeals shall have the authority to grant variances from the Critical Area requirements.

TESTIMONY & EVIDENCE PRESENTED

1. The case was presented April 6, 2006 before Board of Appeals members Mr. Mike Reber, Chairman, Mr. Walter Boynton, Vice Chairman, and Mr. Dan Baker (the Board). Mr. David Pucciarella and Mrs. Alexa Randall were present at the hearing. A Staff Report, along with photographs taken on site, was entered into the record at the hearing.

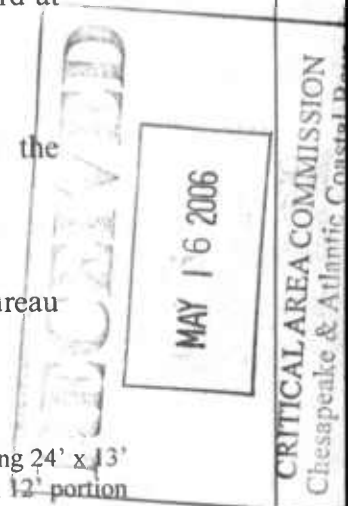
2. The following Exhibit was marked, dated and entered into the record at the hearing:

- Applicant Exhibit No. 1 - Plat Submitted With Application

The following correspondence was entered into the record at the hearing:

- Letter dated 3/23/06 from Kerrie Gallo, Critical Area Commission
- Memo dated 3/27/06 from Stephanie Taylor, Engineering Bureau
- Memo dated 3/21/06 from Ron Babcock, Calvert Soil Conservation District

¹ Applicant originally applied for a variance to replace a 10' x 12' portion of the existing 24' x 13' deck. At the hearing the Applicant also requested a variance to replace and enclose a 14' x 12' portion of this existing deck with a three-season sunroom.



FINDINGS OF FACT

Based on the application, site visit, testimony and evidence presented at the hearing, the Board found the following facts to be true:

1. The property is located at 557 Beech Drive, Drum Point, and is otherwise known as Lot 32, Block A, Section 1 of Tax Map 45A in the Land Records for Calvert County.
2. The property consists of 16,000 s.f. and is situated on Drum Point Lake, which is a tributary of the Chesapeake Bay.
3. The subject property is zoned R-1 with a Limited Development Area (LDA) Critical Area overlay.
4. Section 2-8.02 of the Zoning Ordinance states, with respect to R-1 zoning:

This district is intended to provide for single-family residential development of medium density.

5. Section 8-1.03 of the Zoning Ordinance states, with respect to LDA zoning overlay:

"Limited Development Areas are those areas within the Critical Area District which are currently developed in low or moderate intensity uses. They also contain areas of natural plant and animal habitats, and the quality of runoff from these areas has not been substantially altered or impaired."

6. Section 8-1.01 of the Zoning Ordinance states, with respect to the Critical Area Buffer:

*The purpose of the Buffer is to:
Provide for the removal or reduction of sediments, nutrients, and potentially harmful or toxic substances in runoff entering the Bay and its tributaries; Minimize the adverse effects of human activities on wetlands, shorelines, stream banks, tidal waters, and aquatic resources; Maintain an area of transitional habitat between aquatic and upland communities; Maintain the natural environment of streams; and Protect riparian wildlife habitat.*

7. The house on the property was built with a permit issued in 1991. The house shown on the approved plan was situated adjacent to the 100-foot buffer. The plan did not show a deck.

8. A deck was constructed on the property without a permit. That deck is attached to the rear of the house and located within the 100-foot buffer.
9. The applicant requested the subject variance to replace a 10' x 12' area of the existing 24' x 23' deck. A building permit plan submitted to the Department of Planning and Zoning also illustrated that a portion of the existing deck would be replaced and enclosed to create a three-season sunroom.
10. The property is properly grandfathered for Critical Area variance consideration.
11. The 41' x 30' house with attached garage is of moderate size for a waterfront lot.
12. The Board determined the proposed 10' x 12' replacement deck and enclosed 14' x 12' three-season sunroom are structures commonly enjoyed on other properties in the Critical Area, and also represent a small intrusion into the buffer.

CONCLUSIONS

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

1. The applicant demonstrated that strict application of the 100' waterfront buffer requirements for construction of a 10' x 12' deck and an enclosed 14' x 12' three season room would impose peculiar and unusual practical difficulties.
2. Granting the variance would not cause injury to the public interest or substantially impair the intent of the Comprehensive Plan.
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.
4. A literal interpretation of the Critical Area Legislation and the Calvert County Critical Area Program and related ordinances would deprive the Applicant of rights commonly enjoyed by other properties in similar areas within the Critical Area of the County.

5. The granting of the variance 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.
6. The variance request 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.
7. The granting of the variance 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.
8. The application for the 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 100' waterfront buffer requirements for construction of a 10' x 12' deck and an enclosed 14' x 12' three-season sunroom as requested by David Pucciarella be **GRANTED** based on the above findings of fact and conclusions subject to the following conditions:


1. The applicant shall provide mitigation to compensate for the loss of Buffer.
2. All permits and approvals required by the Calvert County Zoning Ordinance and the Department of Planning and Zoning, and those required by any other departments, agencies, commissions, boards or entities, in accordance with County, State and Federal law, must be obtained before commencing the development activity approved by this Order.

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: May 15 2006
Pamela P. Helie, Clerk



Michael J. Reber, Chairman

RECEIVED

MAR 8 2006

CRITICAL AREA COMMISSION
Chesapeake & Atlantic Coastal Bays

DRUM

POINT

LAKE

SHORELINE

EASEMENT FOR
INGRESS & EGRESS TO LAKE

LOT 33

LOT 32

LOT 31

Approved as proposed

10-4-91
(Signature)

REDECK AREA

BLUFFER

INFORMATION STATEMENT

30' x 41' CAPE COD W/BSMT
GARAGE ELEV: 20.5'
FIRST FLOOR ELEV: 31.0'
BASEMENT ELEV: 22.0'
DISTURBED AREA: 5,373 \pm FT²
IMPERVIOUS AREA: 2,349 \pm FT²
OWNER: FRANK PRINCIPE
DEED REF: ABE 446-103

THIS LOT IS LOCATED IN TH
CRITICAL AREA.

THIS LOT WAS RECORDED
PRIOR TO JULY 1984 WHEN
STORMWATER MANAGEMENT
WAS NOT A REQUIREMENT

ACREAGE: 16,000 \pm FT²
TREE CANOPY TO BE
REMOVED: 4,122 \pm FT²

APPROVED

SEP 5 1991

CALVERT COUNTY HEALTH DEPT

(Signature)



18" TAR & CHIP

4'x4' landing
4'x12' steps

BEECH DRIVE

Replace 10'x12' section of deck

APPROVED
JAN 31 2006
(Signature)
CALVERT COUNTY HEALTH DEPT

BUILDING PERMIT PLAT
LOT 32 BLOCK A SECTION 1
DRUM POINT
FIRST DISTRICT-CALVERT COUNTY, MD
FOR: CROWN CONSTRUCTION

COLLINSON, OLIFF & ASSOCIATES, INC.
Surveyors • Engineers
Land Planners
PRINCE FREDERICK, MARYLAND

DRAWN BY *FT*
SCALE 1"=30'
DATE 8-12-91
JOB NO. 1-0225
FOLDER DRUM POINT
SEC. 1

FORM NO. 1 FOR JULY 2005