

September 19, 2024

Leonard Sligh
L & R Traditional Homes LLC
2043 Sue Ave.
Baltimore MD 21221

Re: Cedar Beach, Parcel 100, Lot 520
Baltimore MD 21221
Critical Area Administrative Variance
Tracking Number 07-24-4124

Dear Leonard Sligh:

The Department of Environmental Protection and Sustainability (DEPS) has completed a review of the variance request for the proposed development on the above referenced property. The property is located within a Limited Development Area in the Chesapeake Bay Critical Area. The variance request proposes a principal structure setback off the outer limits of the Critical Area Easement from 16-feet to 33-feet in lieu of the required 35 feet in order to maintain a 42 to 46-foot zoning setback off the centerline of Holly Neck Road. There are no proposed impacts to the Critical Area buffer and the required forest retention area. The proposed forest clearing meets requirements, and will be mitigated.

The Director of DEPS 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 27.01.12.04. There are seven (7) criteria listed in COMAR 27.01.12.04 that shall be used to evaluate the variance request. All seven 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. An existing Critical Area Easement for protection of the Critical Area buffer and forest covers about 80 percent of the property. The applicant has proposed a dwelling location with impacts to the principal structure setback to avoid buffer impacts, and to allow for a safe setback from a collector road (Holly Neck Road). If there is no reduction to the principal structure setback off the Critical Area Easement, the applicant would be denied a reasonable use of this residential property. This represents an unwarranted hardship. Therefore, the first criterion is met.

The second criterion requires that a literal enforcement of the regulations would deprive the applicant of a use of land or a structure permitted to others in accordance with the provisions of the local Critical Area program. Other residential property owners in the Critical Area with similar buffer and forest constraints enjoy uses of their property with principal structure setback relief like that proposed in this application. Therefore, the second criterion has been met.

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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. Other property owners with similar Critical Area buffer and forest constraints would be granted variance approval to develop a residential property as proposed for this site. Therefore, this criterion has been met.

The fourth criterion requires that a variance is not based upon conditions or circumstances which are the result of actions by the applicant. No activity has taken place on the property that required this variance request. Therefore, the fourth criterion has been met.

The fifth criterion requires that the variance request does not arise from any conforming or nonconforming condition on any neighboring property. The request for the variance involves Critical Area buffer and forest constraints on the property and is not related to any conditions on adjacent properties. Therefore, the fifth criterion is met.

The sixth 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. The dwelling has been located and principal structure setbacks reduced to avoid buffer impacts and limit forest clearing to comply with Critical Area requirements while also considering zoning setback requirements. About 80 percent of the property has been retained in easement and protected by a declaration of protective covenants, conditions, and restrictions recorded in Baltimore County Land Records. In addition, a fee-in-lieu will be required to provide mitigation for forest impacts as there are no mitigation areas on the site. As a result, granting of this variance will not adversely affect water quality, or adversely impact fish, wildlife, or plant habitat.

The seventh criterion requires that the granting of the variance would be in harmony with the general spirit and intent of the Critical Area law. Development of this property must comply with all Critical Area requirements for the proposed residential construction, including payment of a fee-in-lieu for forest mitigation. In addition, the Critical Area Easement for protection of the buffer and retained forest has been recorded in Baltimore County Land Records along with a declaration of protective covenants, conditions, and restrictions. By meeting these requirements, the granting of the variance request will be in harmony with the general spirit and intent of the Critical Area regulations and the seventh criterion can be met.

Based upon our review, this Department finds that the above criteria have been met, or will be met through implementation of the conditions outlined below. Therefore, the requested variance is hereby approved in accordance with Section 33-2-205 of the Baltimore County Code with the following conditions:

1. This note must be added to all future plans:

“A variance (Tracking Number 07-24-4124) was granted by Baltimore County Department of Environmental Protection and Sustainability (DEPS) from Chesapeake Bay Critical Area requirements to reduce the principal structure setback to the Critical Area Easement for

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construction of a dwelling. Conditions were placed on this approval to minimize water quality impacts.”

2. Blaze orange fence shall be manually installed along the outer limits of the Critical Area Easement prior to any building or grading permit approval. No clearing is to take place until the fence has been installed, approved by DEPS, and a permit approved for the project.
3. Critical Area Easement signs must be installed along the easement boundary to delineate the limits. The sign locations must be shown on the Critical Area management plan and installed prior to building or grading permit approval.
4. A Critical Area management plan detailing the proposed mitigation for forest and all other Critical Area requirements must be submitted to DEPS for review and approval prior to building permit approval.

It is the intent of this Department to approve this variance subject to the above conditions. Changes in site layout may require submittal of revised plans and an amended variance request. Please be advised that Baltimore County may not issue a permit for the activity that was the subject of the variance application until the applicable 30-day appeal period has elapsed pursuant to COMAR 27.01.12.07 C.

The property owner and the contract purchaser must sign the statement at the end of this letter, and then return the signed letter to this Department. Failure to return a signed copy of this letter may result in delays in processing of permits or other development plans for the subject property, and/or may render this variance null and void.

If you have questions regarding this project, please contact Paul Dennis at 410-887-3980.

This variance is approved by the Director of the Department of Environmental Protection and Sustainability on _____. Any changes to site layout may require submittal of revised plans and a new variance request.

Sincerely yours,

Horacio Tablada
Director

HT: pad

c: Deborah Cascio and James Taylor
Jonathan Coplin, Critical Area Commission

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I/We have read and agree to implement the above requirements to bring this property, Cedar Beach Parcel 100, Lot 520, into compliance with Chesapeake Bay Critical Area laws and regulations.

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| Signature of Property Owner | Date | Printed Name of Property Owner |
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| Signature of Contract Purchaser | Date | Printed Name of Contract Purchaser |
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