

January 8, 2025

Lori Larson & James E McNair
9741 Corral Drive
Potomac, MD 20854

RE: 2638 Holly Beach Road
Critical Area Administrative Variance
Tracking Number 07-24-4221

Dear Lori Larson & James E McNair:

A request for a variance from the Baltimore County Code Article 33 Environmental Protection and Sustainability (DEPS), Title 2 Critical Area was received on November 8, 2024. The request seeks a variance to resurface approximately 175 square feet (SF) within the existing footprint of a concrete walkway with wood decking within 25 feet of tidal waters on the residential property at 2638 Holly Beach Road. An amendment to the variance application was received on November 19, 2024, which included the necessary site plan for a variance application. The subject property is 13,639 SF in area and is within the Limited Development Area and a Modified Buffer Area. The property contains a single-family dwelling and approximately 4,262 SF, or 31.25% of lot coverage. There are no forests, wetlands, or streams on the property.

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. The variance seeks to resurface an existing concrete walkway with wood decking within 25 feet of water which existed prior to the effective date. The existing concrete walkway is in disrepair and its degradation causes safety and water quality concerns on the property. Any proposal to replace or alter this walkway would be prevented by literal enforcement of the regulations, which results in 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. Literal enforcement of the regulations would deny the

applicant the ability to replace or alter an existing structure in disrepair within 25 feet of the water. Additionally, the proposed work will result in a net reduction of approximately 187 SF of buffer impact and literal enforcement would deny the landowners the ability to improve overall impact on the property while repairing a failing structure. This variance would allow for the use of this property as other properties are used in the immediate area. A similar variance would be granted to another property owner under similar circumstances. Therefore, this criterion is met.

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 properties within the Critical Area would be permitted to replace an existing structure within 25 feet of the water if the overall impact within the buffer was reduced and there was no expansion of the surface to be replaced. The granting of this variance will not confer upon the applicant any special privilege that would be denied to other lands or structures within the Critical Area. 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. The existing impact within 25 feet of the water predates the landowners and CBCA regulations. This variance is not based upon conditions or circumstances which are the result of actions by the applicant and/or property owners. 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 variance did not arise from any conforming or nonconforming condition on a neighboring property, and this criterion has been 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, and that the granting of the variance will be in harmony with the general spirit and intent of the Critical Area regulations. With implementation of the conditions outlined below, granting of this variance will not adversely affect water quality, or adversely impact fish, wildlife, or plant habitat. Therefore, this criterion has been met.

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. The granting of this variance will allow the reduction of overall impact within the buffer; as such, we find that the granting of this variance would be in harmony with the general spirit and intent of the Critical Area law. Therefore, this criterion has been 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 subsequent plans for this development project:

“A variance (tracking #07-24-4221) was granted by Baltimore County Department of Environmental Protection and Sustainability from Chesapeake Bay Critical Area requirements to allow for the resurfacing of approximately 175 square feet (SF) within the existing footprint of a concrete walkway within 25 feet of tidal waters on the residential property at 2638 Holly Beach Road.”

2. The areas of removal for the remaining walkway not to be resurfaced should be seeded and stabilized according to Baltimore County standards and specifications.

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 subject of the variance application until the applicable 30-day appeal period has elapsed pursuant to COMAR 27.01.12.07 C.

Please have the party responsible for meeting the conditions of this variance sign the statement on the following page and then return a signed copy of this 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 this project.

If you have questions regarding this project, please contact Art Garcia 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,

Horacio Tablada
Director

HT/AYG

c: Jonathan Coplin, Critical Area Commission (via email)

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We have read and agree to implement the above requirements to bring our property into compliance with Chesapeake Bay Critical Area regulations.

_____ Signature	_____ Date	_____ Signature	_____ Date
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_____ Printed Name	_____ Date	_____ Printed Name	_____ Date
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