

November 14, 2024

David Billingsley
Central Drafting & Design LLC
601 Charwood Ct.
Edgewood MD 21040

Re: Cedar Beach Section I, Lots 158, 159, 160, 161
1129 Maple Rd., Essex MD 21221
Critical Area Administrative Variance
Tracking Number 07-24-4192

Dear David Billingsley:

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 to construct a single-family dwelling with 3,285 square feet of nontidal wetlands impacts, 2,460 square feet of wetland buffer impacts, greater than 30 percent forest clearing (6,500 square feet of forest, 43.3%), and the reduction of the required 35-foot principal structure setback from the proposed Critical Area Easement to 15 feet on the southern side of the dwelling. The wetland and wetland buffer cover about 90% of the completely forested 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. Because the nontidal wetland and nontidal wetland buffer cover the majority of the property, the construction of a dwelling and a practical residential yard cannot be accomplished without wetland and wetland buffer impacts. In addition, a reasonable single family residential development cannot be accomplished without clearing greater than 30% of the forest on the property, and reducing the principal structure Critical Area Easement setback off one side of the dwelling. Literal enforcement of the regulations would not allow construction of a dwelling with related residential uses on this property. This represents an unwarranted hardship for the property owner. 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

David Billingsley
Cedar Beach Section I, Lots 158, 159, 160, 161
1129 Maple Rd., Essex MD 21221
Critical Area Administrative Variance
Tracking Number 07-24-4192
Page 2

the local Critical Area program. Other residential property owners in the Critical Area with similar wetland, wetland buffer, and forest constraints enjoy uses of their property like the uses proposed in this application. Therefore, the second criterion has been 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 property owners with similar Critical Area nontidal wetland, nontidal wetland buffer, and forest constraints would be granted variance approval to build a home and maintain a yard as proposed in this application. 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. This variance request is a result of the extent of the nontidal wetlands and nontidal wetlands buffer on the property, and the forest requirements. The need for this variance is not the result of any actions taken by the property owner. 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 significant wetland, wetland 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. Wetland, wetland buffer, and forest impacts have been minimized when considering the proposed dwelling has been located 30-feet from the road, and the Critical Area Easement setback has been reduced on the southern side of the dwelling. With this layout, about 56 percent of the property will be required to be 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 buffer and forest impacts as there are no mitigation areas available 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 Critical Area buffer and forest mitigation, and the recordation of a Critical Area Easement. 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:

David Billingsley
Cedar Beach Section I, Lots 158, 159, 160, 161
1129 Maple Rd., Essex MD 21221
Critical Area Administrative Variance
Tracking Number 07-24-4192
Page 3

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

“A variance (Tracking Number 07-24-4192) was granted by Baltimore County Department of Environmental Protection and Sustainability (DEPS) from Chesapeake Bay Critical Area requirements to impact the Critical Area buffer, clear greater than 30 percent forest, and reduce the principal structure setback to the Critical Area Easement for construction of a dwelling with associated residential uses. Mitigation for the buffer and forest impacts will be addressed by payment of a fee-in-lieu to Baltimore County DEPS.”

2. Mitigation for the Critical Area buffer impacts (5,745 square feet) must be provided at 4:1 (22,980 square feet). With no proposed off-site mitigation site, and no area on-site to mitigate, a fee-in-lieu of \$34,470.00 shall be paid to Baltimore County to be placed in the DEPS Critical Area buffer mitigation fund prior to permit approval.
3. Mitigation for the forest clearing outside the buffer (755 square feet) must be provided at 3:1 (2,265 square feet). A fee-in-lieu of \$1,245.75 shall be paid to Baltimore County to be placed in the DEPS Critical Area forest mitigation fund prior to permit approval.
4. A Critical Area Management Plan detailing the proposed mitigation for the buffer impacts, and the protection of the Critical Area Easement must be submitted to EIR for review and approval prior to building permit approval.
5. A Critical Area Easement must be recorded in the Land Records of Baltimore County to protect the buffer and forest area required to be retained. The Critical Area Easement must be recorded in the land records prior to approval of any building or grading permit.
6. Critical Area Easement signs must be installed along the easement boundary to delineate the limit. The sign locations must be shown on the Critical Area Management Plan and installed prior to building permit approval.
7. Any required state and federal authorizations must be submitted to this office prior to 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(s) 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.

David Billingsley
Cedar Beach Section I, Lots 158, 159, 160, 161
1129 Maple Rd., Essex MD 21221
Critical Area Administrative Variance
Tracking Number 07-24-4192
Page 4

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: Mark A. Fuchsluger Sr.
Mark Fuchsluger Jr.
Jonathan Coplin, Critical Area Commission

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

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