

October 23, 2024

J. Scott Dallas  
J. S. Dallas, Inc.  
P.O. Box 26  
Baldwin, MD 21013

Re: Robinson Property – 8247 Peach Orchard Road  
Critical Area Administrative Variance  
Tracking #07-24-4179

Dear J. Scott Dallas:

A request for a variance from the Baltimore County Code Article 33 Environmental Protection and Sustainability, Title 2 Critical Area was received on August 16, 2024. The request seeks a variance to allow an addition to an existing dwelling be constructed within the 100-foot Critical Area buffer associated with an intermittent stream that runs alongside the property's eastern boundary and drains into Peach Orchard Cove off Bear Creek. The 31,641-sf waterfront lot is located partially within an Intensely Developed Area (IDA) and partially within a Resource Conservation Area (RCA) of the Chesapeake Bay Critical Area. The property is improved with a single-family dwelling and associated infrastructure that have existed on the property since prior to current regulations. There are 3,956 sf of existing impact within the buffer. The proposed addition will also include a new deck and driveway and will total 3,720 sf, although 2,232 sf will be built over existing impact. An additional 1,158 sf of existing impact will be removed and converted to lawn, resulting in an overall net increase of 816 sf of impact within the Critical Area buffer. All newly impacted areas of the buffer are currently maintained as mowed lawn.

The Director of the Department of Environmental Protection and Sustainability 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. A special condition exists in that the majority of the subject property is located within the Critical Area buffer. The existence of the intermittent stream alongside the property's eastern boundary increases the area of the Critical Area buffer on the property beyond the standard 100-foot buffer off the mean high tide line at the property's waterfront. Impact to the buffer would likely be

unavoidable for any proposed development of the subject property. Since Critical Area regulations do not allow construction of any kind within the buffer without an approved variance, the property owners are significantly limited in any new structures or exterior alterations that can be made to their dwelling. To disallow construction of the proposed addition within the buffer would be an unwarranted hardship due to the severe limitations on implementing any kind of improvement to the existing dwelling on this property. 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. Allowing the construction of the proposed addition would allow for the use of this property as other properties are used or could be 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. Construction within the Critical Area buffer when the property is so encumbered has been granted elsewhere, including a property on the same street as the subject property. 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. 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. The granting of this variance will not directly impact any streams, wetlands, or forest, and no impact to existing vegetation alongside the intermittent stream is proposed. The proposed addition will be built over existing impervious areas and areas currently maintained as mowed lawn. 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.

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 construction of an addition to an existing dwelling within the Critical Area buffer, which will be

consistent with the surrounding neighborhood. Appropriate mitigation will be provided for the proposed impact. 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.

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. The following note must be added to all future plans for this property:

“A variance (tracking #07-24-4179) was granted by Baltimore County Department of Environmental Protection and Sustainability from Chesapeake Bay Critical Area requirements to allow construction of an addition to an existing dwelling, including a new deck and driveway, within the 100-foot Critical Area Buffer.”

2. Mitigation for the 3,720 sf of new proposed impact to the Critical Area buffer must be mitigated at a 3:1 ratio, resulting in a mitigation requirement of 11,160 sf. Some of the mitigation requirement will be fulfilled by the removal of 3,390 sf of existing buffer impact, which is either to be replaced with the new impact or converted to maintained lawn. The remaining mitigation requirement after the proposed impact removal is 7,770 sf and can be provided through onsite planting of the Critical Area buffer where possible, in accordance with COMAR 27.01.09.01-2(L). If the entirety of the remaining mitigation requirement cannot be provided via onsite or offsite planting, any remaining mitigation can be provided via fee-in-lieu (\$1.50/sf), as no County-approved Critical Area mitigation banks are currently available. An approved Critical Area Management Plan (CAMP) detailing the proposed mitigation planting is required prior to permit approval. A security equal to 110% the cost of implementing the CAMP must be posted with the Department of Environmental Protection and Sustainability prior to permit approval.
3. A Critical Area Easement (CAE) will be required to protect all proposed buffer mitigation plantings. The CAE must be recorded with the appropriate Declaration of Protective Covenants in the Land Records of Baltimore County prior to approval of any building permits. Be sure to show the proposed easement boundary on the CAMP.

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).

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.

J. Scott Dallas  
Robinson Property  
Critical Area Administrative Variance  
Page 4

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 Libby Errickson 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/lbe

c: Donna Shirrell Robinson & Cecil Robinson, Jr., Owners  
Jonathan Coplin, Critical Area Commission (via email)

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
_____ Printed Name	_____ Date	_____ Printed Name	_____ Date