

September 15, 2016

Mr. Christopher Riemer
Mrs. Cheri Riemer
6632 Blackhead Rd.
Middle River, MD 21220

Re: 6632 Blackhead Rd.
Critical Area Administrative Variance
Tracking No. 06-16-2274

Dear Mr. and Mrs. Riemer:

The Department of Environmental Protection and Sustainability (EPS) has completed a review of the variance request for the referenced property. The property is located within a Limited Development Area in the Chesapeake Bay Critical Area. The request proposes impacts to the Critical Area buffer for constructing a 98' long by 24" tall vertical retaining wall within the 100-foot buffer. The required buffer is 100-feet measured off mean high water. The buffer covers the majority of the property due to its proximity on a small peninsula. Scattered trees exist on the property, but there is no forest.

The Director of EPS 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 27.01.11. There are five (5) criteria listed in COMAR 27.01.11 that shall be used to evaluate the variance request. All five 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. Special conditions do exist that are peculiar to this site, and literal enforcement of the regulations would result in an unwarranted hardship. The failing septic on the recently purchased property could only be placed within the buffer which is prone to inundation during high tide. The Critical Area buffer covers the majority of the property, and literal enforcement of the regulations would not allow for construction of the retaining wall. Therefore, the first criterion has been met.

The second criterion requires that a literal enforcement of the regulations would deprive the applicant of rights commonly enjoyed by other properties in similar areas within the Critical Area. The uses proposed in this application are enjoyed by owners of other residential properties with similar site constraints. This variance request is to protect a newly installed septic system, in the only available location on site, from tidal

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flooding. Literal enforcement of the regulations would deprive the owners from constructing the retaining wall and protecting the new septic system. 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. Impacts to the Critical Area buffer for the construction of a retaining wall for protection of a septic drain field on the referenced property would not be denied to similar properties with similar constraints in the Critical Area. Therefore, the third 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, nor does the request arise from any condition relating to land or building use, either permitted or non-conforming, on any neighboring property. No work has taken place on the property, no changes have occurred in the use of the property, and this variance request is not the result of existing or proposed uses on any neighboring properties. Therefore, the fourth criterion is met.

The fifth 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. The impacts to the buffer will be minimized to the extent possible for the construction of a retaining wall. The impacted buffer area will be seeded with grasses, and trees will be planted as mitigation to reduce water quality impacts. Additionally, the construction of the retaining wall will protect the septic drain field from inundation during extreme high tide, preventing associated pollutants from entering the bay. Therefore, the buffer impacts to allow for the retaining wall will result in minimal adverse impacts to plants or wildlife and will reduce existing negative impacts to the bay. Granting of this variance will be in harmony with the spirit and intent of the Critical Area regulations.

Based upon our review, this Department finds that all five of the above criteria have been met. 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 appear on all plans associated with this project:

"On September 15, 2016 a variance was granted by the Baltimore County Department of Environmental Protection and Sustainability from Baltimore County Code Article 33, Title 2 Chesapeake Bay Critical Areas Protection to allow for impact to the Critical Area buffer for construction of a retaining wall

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for the protection of a septic drain field. Conditions were placed on this variance to reduce water quality impacts.”

2. Mitigation for approved impacts shall be provided as follows:

The 98 square feet of new permanent buffer impacts shall be mitigated at a rate of 3:1 resulting in a 297 square foot buffer mitigation requirement. This mitigation shall be met by planting three native deciduous trees that are at least 5-feet tall within the Critical Area buffer on-site prior to November 15, 2016. A Critical Area Buffer Management Plan must be provided, showing the location and species to be planted.

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 30 days after variance approval, pursuant to Natural Resources Article § 8-1808(d)(6)(ii).

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.

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

Sincerely,

Vincent J. Gardina
Director

VJG: jps

Enclosure: MD native plant list

c: Ms. M. Claudia Jones, Critical Area Commission

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I/We have read and agree to implement the above requirements to bring my/our property into compliance with Baltimore County Code Article 33. Environmental Protection And Sustainability, Title 2 Chesapeake Bay Critical Areas Protection.

Property Owner Signature(s)

Date

Property Owner Printed Name(s)

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