

July 16, 2015

Mr. and Mrs. Edward Ludtke
17 Lynbrook Road
Baltimore, MD 21220

Re: 17 Lynbrook Road
Critical Area Administrative Variance
(Tracking #06-15-2008)

Dear Mr. and Mrs. Ludtke:

The Department of Environmental Protection and Sustainability (EPS) has received your variance request to construct an attached 384 square foot deck within 88 feet of the water. 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. The elevated dwelling was constructed with two sets of sliding glass doors and no deck. The house is just beyond the 100-foot buffer, and no variance was necessary for its construction. The deck was not built at the time of the dwelling due to budget constraints. Strict enforcement of these requirements of the Critical Area Regulations would preclude an attached deck on an elevated dwelling with sliding glass doors. Consequently this 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. Similarly encumbered properties have received the same consideration when all variance criteria had been met. Therefore, this criterion has also 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. The lot was created prior to the Critical Area regulations, and the only area

outside the 100-foot buffer contains the dwelling. Granting a variance to impact the buffer for a modest attached deck would not confer special privileges upon the applicant. 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, nor does the request arise from any condition relating to land or building use, either permitted or non-conforming, on any neighboring property. The constraints are attributed to a lot that was created prior to inception of Chesapeake Bay Critical Area regulations. Therefore, the request is not based upon conditions or circumstances that are the result of the applicant's actions, and this criterion has been 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 Chesapeake Bay Critical Area regulations. The deck will be constructed so as to be pervious to minimize water quality impacts and be in harmony with the general spirit and intent of the regulations.

Based upon our review, this Department finds that the first four of the above criteria have been met, and that the fifth criterion can be met by mitigating as specified 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 deck shall be constructed with spaces between the boards to allow water to flow through and with no gravel, concrete, pavers, or storage underneath to facilitate infiltration.
2. Mitigation for the area of the new deck is required at a 3:1 ratio. This shall be accomplished through a fee-in-lieu at \$1.50/square foot, for a total of \$1,728.00, or 1152 square feet of buffer planting or a combination of the two. If selecting the fee, it must be paid before the deck permit will be released. If you choose to do plantings, a buffer management plan must be provided as specified in COMAR 27.01.09.01-2.
3. The following note must appear on all subsequent plans:

“A variance was granted on July 16, 2015 by the Baltimore County Department of Environmental Protection and Sustainability from certain requirements of the Critical Area Regulations.”

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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 sign the statement below, and then return the letter to this Department c/o Ms. Regina Esslinger of Environmental Impact Review. 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 Regina Esslinger at 410-887-3980.

Sincerely,

Vincent J. Gardina
Director

c: Ms. Claudia Jones, Critical Area Commission
Mr. Tom Burbridge

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

Owner's Signature

Date

Co-owner's Signature Date

Owner's Printed Name

Co-owner's Printed Name