

November 2, 2015

Mr. Devin Leary
Human & Rohde Inc.
512 Virginia Ave.
Towson MD 21286

Re: 2346 Schaffers Road 21221
Critical Area Administrative Variance
Tracking No. 07-15 - 2058

Dear Mr. Leary:

The Department of Environmental Protection and Sustainability (EPS) has completed a review of the variance request for the proposed development on the above referenced property. The property is located within a Resource Conservation Area in the Chesapeake Bay Critical Area. The request proposes to impact the Critical Area buffer for construction of a replacement dwelling, conversion of a separate apartment to guest sleeping quarters, and continued use of yard area. The request includes 1,222 square feet of new buffer impacts while existing lot coverage within the buffer is to be reduced by 13,285 square feet. There are no proposed direct impacts to streams, non-tidal wetlands, tidal wetlands, tidal waters, or forest. The required buffer is 100-foot measured off mean high water and from the tidal wetlands, 25-foot off non-tidal wetlands, and expanded as required for steep slopes and erodible soils and for greater than 5% slopes in areas of highly erodible soils. The required buffer covers about half of the property.

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 an unwarranted hardship. The subject property and the current residential uses existed prior to the Critical Area law. The redevelopment proposal minimizes the buffer impacts by siting the replacement structures in the area of the existing dwelling and apartment footprints, and by removing 13,285 square feet of existing lot coverage from the Critical Area buffer. Literal enforcement of the regulations would not allow for construction of a replacement dwelling and guest quarters, or for the continued existing use of yard area on this grandfathered property. Based on this, special conditions do exist that are peculiar to this site, and literal enforcement of the regulations would result in an unwarranted hardship. Therefore, the first criterion has been met.

Mr. Devin Leary
2346 Schaffers Road 21221
Critical Area Administrative Variance
Tracking No. 07-15 - 2058
November 2, 2015
Page 2

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. Residential property owners in the Critical Area with similar historic uses and site constraints enjoy use of their property like the uses proposed in this application. Literal enforcement of the regulations would deprive the owners from constructing the replacement dwelling and guest quarters, and from continued existing use of yard area. 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 construction of the replacement dwelling and guest quarters, and for the continued existing use of yard area 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. The owners have not started any construction on the property related to this variance request. Also, this variance request is not the result of existing or proposed uses on any of the neighboring properties. Therefore, the fourth 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 Critical Area regulations. The impacts to the buffer have been minimized to the extent possible for the construction of a replacement dwelling and guest quarters on this property. These structures are being placed on or near the footprints of the existing structures. In addition, while there will be continued existing uses of yard area within the buffer, 13,285 square feet of lot coverage is to be removed from the buffer and stabilized with vegetation. A Critical Area Easement will be recorded in Baltimore County Land Records with protective covenants and will remain vegetated as required by the buffer management plan and the Critical Area requirements. Therefore, the buffer impacts to allow for the addition, and for the continued existing residential uses will result in minimal adverse impacts to plants or wildlife. Granting of this variance will be in harmony with the spirit and intent of the Critical Area regulations, and the fifth criterion can be met with mitigation.

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 meeting mitigation requirements for buffer establishment and for the buffer impacts. 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 November 2, 2015, 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 replacement dwelling, conversion of a separate apartment to guest sleeping quarters, and continued use of yard area on this property. Conditions were placed on this variance to reduce water quality impacts. Any revisions to this proposal, or any new development involving buffer impacts will require a new variance application for review".

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

The 1, 222 square feet of new permanent Critical Area buffer impacts shall be mitigated at a rate of 3:1 resulting in a 3,666 square foot buffer mitigation requirement. Buffer establishment is required for the net square footage increase in lot coverage area outside the Critical Area buffer (See condition #3 below).

3. A major buffer management plan outlining the required and proposed mitigation must be submitted to EPS for review. The enclosed Critical Area Buffer assistance guide provides information on plan requirements. This plan must be approved prior to any permit approvals.
4. Upon approval of the buffer management plan by this Department, a security of no less than \$0.25 per square foot of any planting areas shall be submitted to Baltimore County with an Environmental Agreement. Securities for other types of mitigation must be no less than 110% of a cost estimate approved by this office. Securities must be submitted prior to any permit approval. Mitigation shall be completed prior to dates established on the buffer management plan. Any plantings must meet a 100% survivability requirement for two years following the approval of the initial planting by this office.
5. Critical Area "Do Not Disturb" signs shall be installed at the locations shown on the approved buffer management plan. This requirement must be completed prior to permit approval. This note must be added to the buffer management plan (see enclosure for sign specifications).
6. A Critical Area Easement must be recorded in Baltimore County Land Records along with the appropriate declaration of protective covenants. Please contact EPS to discuss procedures required to meet this requirement.

Mr. Devin Leary
2346 Schaffers Road 21221
Critical Area Administrative Variance
Tracking No. 07-15 - 2058
November 2, 2015
Page 4

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 Paul Dennis at 410-887-3980.

Sincerely,

Vincent J. Gardina
Director

VJG: pad

Enclosures: A- Sign Specifications, B- Critical Area Buffer Assistance Guide,
C- Native Plant List

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

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)