

R E S O L U T I O N

WHEREAS, a 0.22-acre parcel of land in the 8th Election District of Prince George's County, Maryland, and being zoned R-R/L-D-O; and

WHEREAS, on October 2, 2008, Mrs. Rosslyn Mullen filed an application for approval of a Chesapeake Bay Critical Area Conservation Plan for the purpose of a minor addition to a single-family residence in the Chesapeake Bay Critical Area and a variance from Section 27-442 of the Zoning Ordinance to reduce the rear yard setback; and

WHEREAS, the application for approval of the aforesaid Chesapeake Bay Critical Area Conservation Plan, also known as Conservation Plan CP-08005 for Eagle Harbor, Lots 19-22, including Variance Request VC-08005, was presented to the Prince George's County Planning Board of The Maryland-National Capital Park and Planning Commission by the staff of the Commission on May 14, 2009, for its review and action in accordance with Zoning Ordinance, Subtitle 27, Prince George's County Code; and

WHEREAS, the staff of The Maryland-National Capital Park and Planning Commission recommended APPROVAL of the application with conditions; and

WHEREAS, on May 14, 2009, the Prince George's County Planning Board heard testimony and received evidence submitted for the record on the aforesaid application.

NOW, THEREFORE, BE IT RESOLVED, that pursuant to Section 27-548.11 of Subtitle 27, Prince George's County Code, the Prince George's County Planning Board APPROVED Variance Application No. VC-08005, for a variance; and further APPROVED Conservation Plan CP-08005, Eagle Harbor, for Lots 19-22 with the following condition:

Prior to final inspection for the building permit, the applicant shall remove 842 square feet of the gravel driveway as depicted on the plan dated April 1, 2009, and restore the area with vegetative ground cover.

BE IT FURTHER RESOLVED, that the findings and reasons for the decision of the Prince George's County Planning Board are as follows:

**Site Description**

The subject property is located in the Eagle Harbor community of Aquasco, within the Chesapeake Bay Critical Area and the Patuxent River watershed. There are no streams or wetlands on the property. There is no 100-year floodplain on the property. No historic or scenic roads are affected

by this proposal. There are no significant nearby noise sources and the proposed use is not expected to be a noise generator. No species listed by the State of Maryland as rare, threatened or endangered are known to occur on the subject property or on adjacent properties. *The Prince George's County Soil Survey* indicates that the principal soil on the site is in the Collington series, which poses no significant difficulties for the proposed project. The site is in the Rural Tier according to the 2002 *Prince George's County Approved General Plan*. Current aerial photos indicate that the site contains existing structures and is not wooded.

### **Background**

The lots were recorded June 29, 1925 in the Prince George's County Land Records. The existing net lot area is 10,000 square feet. The original dwelling on the subject site was built prior to 1950, but was completely destroyed in a fire in 1999. The current dwelling received a building permit and was rebuilt between 2000 and 2001. The approved permit met all of the requirements of the Zoning Ordinance that were in effect at the time.

The project has received a waiver from the stormwater concept requirements from the Department of Public Works and Transportation (DPW&T). The site is not subject to the Woodland Conservation and Tree Preservation Ordinance because the entire site is within the Chesapeake Bay Critical Area.

### **Findings**

1. The maximum amount of impervious surfaces permitted per Section 27-548.17, footnote 4A(ii) of the Zoning Ordinance is 25 percent of the gross tract area or 2,500 square feet. The plan proposes to increase the amount of impervious surface area by 240 square feet or two percent, resulting in a total of 17.3 percent of impervious surfaces. All other provisions of the Chesapeake Bay Critical Area regulations have been met on-site.
2. The maximum percentage of lot coverage required by Section 27-442(c), Table II of the Zoning Ordinance is 30 percent of the net lot area or 3,000 square feet. The existing percentage of lot coverage is 3,477 square feet or 34.7 percent. The conservation plan shows the removal of an area of the existing gravel driveway to reduce the lot coverage to 26.4 percent thereby eliminating the need for a variance from this section of the Zoning Ordinance.
3. The minimum rear yard setback according to Section 27-442(e) of the Zoning Ordinance is 20 feet. Enclosing the existing deck creates an encroachment into the setback. A variance request was received on March 31, 2009 to reduce the rear yard setback from the minimum 20 feet required per Section 27-442 of the Zoning Ordinance to 9.2 feet. No variances to any provisions of the Chesapeake Bay Critical Area regulations are needed. Because the Planning Board is the final approving authority for Chesapeake Bay Critical Area conservation plans, it is also the approval authority for the requested variance.

4. The property meets all other requirements of the Zoning Ordinance.

**Section 27-230(a)**

5. The extraordinary condition of this lot is that it was platted in 1925 and the original structure was built prior to 1950; before the Zoning Ordinance was adopted and the Chesapeake Bay Critical Area requirements were envisioned. The exceptional shallowness of the lot, the location of the private septic system, and setbacks thereto dictate where any additions to the original structure could reasonably be placed. No new buildings are proposed.
6. The plan as submitted reflects a reasonable use of the property and is in keeping with the character of the existing neighborhood.
7. The use of the site as a residentially-improved property is in complete conformance with the General Plan and master plan.
8. Section 27-230(b) permits that variances may be granted from the provisions of the Zoning Ordinance or the Conservation Manual for properties within the Chesapeake Bay Critical Area only where an applicant demonstrates that provisions have been made to minimize any adverse environmental impacts of the variance and where the Prince George's County Planning Board (or its authorized representative) has found conformance with subparagraphs 1 through 9, in addition to the findings set forth in Section 27-230(a). The following is an analysis of the application's conformance with the Zoning Ordinance requirements based on the variance requested.

**Section 27-230(b)**

9. None of the variances being sought are from provisions related to the Chesapeake Bay Critical Area regulations. This lot is peculiar in that it was platted in 1925 and developed prior to 1950; before the Chesapeake Bay Critical Area regulations were envisioned.
10. Other properties nearby are similarly developed and the existing building is in keeping with the character of the surrounding neighborhood.
11. The granting of the variance serves to validate structures that would normally be granted approval through the variance process. Approval of the variances will allow the continuation of existing conditions and permit repair; however, any new structures will be required to adhere to the provisions of the Zoning Ordinance.
12. The applicant made attempts in good faith to obtain permission prior to making the described improvements. The variance request is based upon circumstances which are at least in part the result of actions by the county. The current request is not related to uses on adjacent properties.

13. The proposed Chesapeake Bay Critical Area conservation plan is required to be in conformance with the stormwater management requirements of Prince George's County. This project has received a waiver from the Department of Public Works and Transportation.
14. This project has received a waiver from Stormwater Management from the Department of Public Works and Transportation.
15. The Chesapeake Bay Critical Area conservation plan includes an inventory that indicates that there are no fish, plant, or wildlife habitats as described in the Chesapeake Bay Critical Area Conservation Manual that could be adversely impacted by the proposed improvements.
16. The use as proposed in this submittal is in conformance with the R-R and L-D-O Zones. No adverse impact will result from the requested setback variance.
17. No use of growth allocation is needed to proceed with the proposed development.
18. In general, the addition to an existing single-family residence in the Chesapeake Bay Critical Area is permissible if found to be in conformance with the Section 27-548.10 of the Zoning Ordinance.
19. The proposed Chesapeake Bay Critical Area conservation plan is in conformance with the stormwater management requirements of Prince George's County because a waiver has been granted from the Department of Public Works and Transportation (DPW&T).
20. The subject property was recorded prior to December 1, 1985 and at that time was a "legally buildable lot," platted and built before the Chesapeake Bay Critical Area regulations were in effect.

BE IT FURTHER RESOLVED, that an appeal of the Planning Board's action must be filed with Circuit Court for Prince George's County, Maryland within thirty (30) days following the adoption of this Resolution.

\* \* \* \* \*

This is to certify that the foregoing is a true and correct copy of the action taken by the Prince George's County Planning Board of The Maryland-National Capital Park and Planning Commission on the motion of Commissioner Vaughns, seconded by Commissioner Clark, with Commissioners Vaughns, Clark, Squire, Cavitt and Parker voting in favor of the motion at its regular meeting held on Thursday, May 14, 2009, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 4th day of June 2009.

Oscar S. Rodriguez  
Executive Director

By Frances J. Guertin  
Planning Board Administrator

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