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CHESAPEAKE BAY CRITICAL AREA CONSERVATION PLAN CP-03008 & VC-03008A

Application	General Data
Project Name: Dennison Property Swan Creek Club, Lot 3, Block C Location: East side of Hatton Point Road approximately 250 feet south of its intersection with Swan Creek Road Applicant/Address: John P. & Donna L. Dennison 12305 Hatton Point Road Fort Washington, MD 20744	Date Accepted: 06/13/03
	Planning Board Action Limit: N/A
	Plan Acreage: 1.61
	Zone: R-E/L-D-O
	Dwelling Units: 1
	Planning Area: 80
	Council District: 8
	Municipality: N/A
	200-Scale Base Map: 215SW02

Purpose of Application	Notice Dates
The proposal is for the construction of additions to an existing single-family detached dwelling and existing detached garage. Variances are needed from the Zoning Ordinance because the existing structures are too close to the side lot line.	Adjoining Property Owners: (CB-15-1998) N/A
	Previous Parties of Record: (CB-13-1997) N/A
	Sign(s) Posted on Site: 07/14/03
	Variance(s): Adjoining Property Owners: N/A

Staff Recommendation		Staff Reviewer: Jim Stasz	
APPROVAL	APPROVAL WITH CONDITIONS	DISAPPROVAL	DISCUSSION
X			

THE MARYLAND-NATIONAL CAPITAL
PARK AND PLANNING COMMISSION

PRINCE GEORGE'S COUNTY PLANNING BOARD

STAFF REPORT

SUBJECT: Chesapeake Bay Critical Area
Conservation Plan and Conservation Agreement CP-03008 and VC-03008A
Dennison Property: Swan Creek Club, Lot 3, Block C

Council District: 8 Planning Area: 80 Municipality: None

OVERVIEW:

The proposal is for additions to an existing single-family detached dwelling and garage on a lot within the Chesapeake Bay Critical Area. A Chesapeake Bay Critical Area Conservation Plan is required prior to the issuance of any permit by the Prince George's County Department of Environmental Resources. The Planning Board is the final approving authority for Chesapeake Bay Critical Area Conservation Plans.

A variance is needed from the Zoning Ordinance because the proposed additions will result in a structure being located less than the 17-foot minimum setback required by Table II of Section 27-442(c) of the Zoning Ordinance. Because the Planning Board is the final approving authority for conservation plans, the Planning Board may rule on the requested variance.

SITE DESCRIPTION:

The lot is on the west side of Hatton Point Road approximately 250 feet south of its intersection with Swan Creek Road. The property is currently developed with a single-family detached residential structure and a freestanding garage. There are no streams or wetlands on the property. Current air photos indicate that the site is partially wooded. 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 in the general region. The Prince George's County Department of Environmental Resources has approved a Stormwater Design Plan. The *Prince George's County Soils Survey* indicates that the principal soils on the site are in the Sassafras series. The site is in the Developing Tier according to the General Plan.

FINDINGS:

This site is not subject to the provisions of the Woodland Conservation Ordinance because the entire site is within the Chesapeake Bay Critical Area. The maximum amount of impervious surfaces permitted by the Zoning Ordinance is 10,461 square feet. The proposed amount of impervious surfaces is 10,450 square feet. The existing residential structure is eight feet from the side yard on the northern property line and the existing garage is ten feet from the northern property line; however, Table II of Section 27-442(c) of the Zoning Ordinance requires a minimum 17-foot side yard setback in the R-E Zone. A variance is needed to allow the resulting structure, both existing and proposed portions, to intrude seven feet into the minimum 17-foot side yard setback established by Table II of Section 27-442(c) of the Zoning Ordinance.

Buildable Lot Analysis

In general, the development of a parcel should not be permitted if it would require a variance from the requirements of the Chesapeake Bay Critical Area Program to develop the site; however, grandfathering provisions were added to the regulations to allow for previously buildable lots to remain buildable lots. The subject lot is grandfathered because it was recorded prior to December 1, 1985. If conformance with the grandfathering provisions can be found, the proposal can move forward. The following is an analysis of the text (shown in *italics*) from the Zoning Ordinance. The lot meets all of the requirements of the Zoning Ordinance to be considered a buildable lot in the R-E Zone. Additionally, the variance sought is not part of the Prince George's County Chesapeake Bay Critical Area Program but is to a provision of the Zoning Ordinance that is applicable to all lots within Prince George's County.

All buildable lots (except outlots) within subdivisions recorded prior to December 1, 1985, shall remain buildable lots, regardless of lot size, provided:

- (1) *The proposed development will minimize adverse impacts on water quality that result from pollutants that are discharged from structures or conveyances or that have runoff from surrounding lands;*

Comment: The proposed Chesapeake Bay Critical Area Plan submitted incorporates stormwater management controls to minimize adverse impacts on water quality.

- (2) *The applicant has identified fish, plant, and wildlife habitat which may be adversely affected by the proposed development and has designed the development so as to protect those identified habitats whose loss would substantially diminish the continued ability of affected species to sustain themselves; and*

Comment: The Chesapeake Bay Critical Area Plan submitted includes an inventory that indicates there are no fish, plant, or wildlife habitats that could be adversely impacted by the proposed development.

- (3) *The lot size, frontage, and vehicular access are in accordance with the requirements of the underlying zone. Development of these lots shall not count towards the growth allocation of the applicable Overlay Zone.*

Comment: The lot size, frontage, and vehicular access are in accordance with the requirements of the R-E Zone, and development of this lot requires no use of growth allocation.

Variance Analysis

Section 27-230(b) permits that variances may be granted from the provisions of the Zoning Ordinance or the *Conservation Manual* for property within the Chesapeake Bay Critical Area only where an applicant demonstrates that provisions have been made to minimize any adverse environmental impact 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 (a). The following is an analysis of the application's conformance with the Zoning Ordinance requirements.

- (1) *Special conditions or circumstances exist that are peculiar to the subject land or structure and that a literal interpretation of provisions within the Chesapeake Bay Critical Area would result in unwarranted hardship;*

Comment: The existing residential structure and the existing garage are closer to the side lot line than allowed by Table II of Section 27-442(c) of the Zoning Ordinance. Additionally, the existing garage is located in front of the residential structure contrary to the Zoning Ordinance. The additional construction will attach the garage to the residential structure and bring that portion of the development into conformance with the Zoning Ordinance. The proposed new outline of the structure will be no closer to the side yard than the existing structures.

- (2) *A literal interpretation of this Subtitle would deprive the applicant of rights commonly enjoyed by other properties in similar areas within the Chesapeake Bay Critical Area;*

Comment: Other properties nearby were similarly developed after the enactment of the Chesapeake Bay Critical Area Program.

- (3) *The granting of a variance would not confer upon an applicant any special privilege that would be denied by this Subtitle to other lands or structures within the Chesapeake Bay Critical Area;*

Comment: The granting of these variances neither creates a need for other variances nor establishes a special treatment.

- (4) *The variance requests are 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;*

Comment: The applicant has taken no action on this property to date, and the current request is not related to uses on adjacent properties.

- (5) *The granting of a variance would not adversely affect water quality or adversely impact fish, plant, or wildlife habitat within the Chesapeake Bay Critical Area, and that granting of the variance would be in harmony with the general spirit and intent of the applicable laws within the Chesapeake Bay Critical Area;*

Comment: The Chesapeake Bay Critical Area Plan submitted incorporates stormwater management controls to minimize adverse impacts on water and does not significant impact fish, plant, or wildlife habitat.

- (6) *The development plan would minimize adverse impacts on water quality resulting from pollutants discharged from structures, conveyances, or runoff from surrounding lands;*

Comment: The approved Chesapeake Bay Critical Area Plan incorporates stormwater management controls to minimize adverse impacts on water quality.

- (7) *All fish, wildlife, and plant habitat in the designated Critical Areas would be protected by the development and implementation of either on-site or off-site programs;*

Comment: The Chesapeake Bay Critical Area Plan includes an inventory that indicates there are no fish, plant or wildlife habitats that could be adversely impacted by the proposed development.

- (8) *The number of persons, their movements and activities, specified in the development plan, are in conformity to established land use policies and would not create any adverse environmental impact; and*

Comment: The use of a single-family residence is in complete conformance with the R-E and L-D-O Zones.

- (9) *The growth allocations for Overlay Zones within the County would not be exceeded by the granting of the variance.*

Comment: No use of growth allocation is needed to proceed with the proposed development.

Section 27-230(a) of the Zoning Ordinance contains the findings required for all variances. The following is an analysis of the application's conformance with these requirements.

- (1) *A specific parcel of land has exceptional narrowness, shallowness, or shape, exceptional topographic conditions, or other extraordinary situations or conditions;*

Comment: The lot is approximately five times longer than wide.

- (2) *The strict application of this Subtitle will result in peculiar and unusual practical difficulties to, or exceptional or undue hardship upon, the owner of the property; and*

Comment: The strict application of Table II of Section 27-442(c) of the Zoning Ordinance would result in requiring the demolition of the existing structures rather than adaptive reconstruction.

- (3) *The variances will not substantially impair the intent, purpose, or integrity of the General Plan or Master Plan.*

Comment: The use of the site for a single-family residence is in complete conformance with the General Plan and the Subregion VII master plan.

Summary

On July 7, 2003, the Subdivision Review Committee determined that the Conservation Plan was in general conformance with the requirements of the R-E Zone, the L-D-O Zone, and the *Conservation Manual*. The granting of this variance is appropriate to permit reasonable development of the site with a single-family residence that is similar in character to those in the neighborhood. Staff recommends approval of VC-03008A.

RECOMMENDATION:

APPROVAL of VC-03008A and CP-03008.