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CHESAPEAKE BAY CRITICAL AREA CONSERVATION PLAN CP-03009 & VC-03009A

Application	General Data
Project Name: Treasure Cove Lots 9 & 10, Block 13 & p/o Belleau Trail Location: Northwest quadrant of the intersection of Belleau Trail and Argonne Trail Applicant/Address: Linda L. Nielson 9116 Belleau Trail Fort Washington, MD 20744-6829	Date Accepted: 09/23/03
	Planning Board Action Limit: N/A
	Plan Acreage: 0.29
	Zone: R-R/L-D-O
	Dwelling Units: 1
	Square Footage: 2,688
	Planning Area: 80
	Council District: 8
	Municipality: N/A
	200-Scale Base Map: 212SW01

Purpose of Application	Notice Dates
This Chesapeake Bay Critical Area Conservation Plan requires Planning Board approval prior to the issuance of a Building Permit. This application is for the construction of a garage and sunroom in the Chesapeake Bay Critical Area. A variance is required because the proposed garage is in front of the residential structure and does not meet the required side yard setback. A variance is required because the existing residential structure does not meet the required rear yard setback and the proposed sunroom will not meet the setback. A variance is required because the existing street frontage is inadequate.	Adjoining Property Owners: (CB-15-1998) N/A
	Previous Parties of Record: (CB-13-1997) N/A
	Sign(s) Posted on Site: 01/27/04
	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-03009 and VC-03009A
Treasure Cove, Lots 9 & 10, Block 13 & p/o Belleau Trail

Council District: 8 Planning Area: 80 Municipality: none

OVERVIEW:

The proposal is for the construction of a freestanding garage and the addition of a sun porch to an existing single-family residential structure on a property 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.

Variances from the Zoning Ordinance are required to (1) permit the construction of an accessory structure in front of the principal residential structure, (2) permit a new accessory structure within the side yard setback, (3) validate the existing structure that has an inadequate rear yard, (4) permit an addition to the existing structure within the rear yard setback, and (5) validate the existing inadequate road frontage. No variance to any Chesapeake Bay Critical Area regulation is required. The Planning Board is the final approving authority for conservation plans and as such is the approval authority for the requested variances.

SITE DESCRIPTION:

The 0.29-acre property is in the northwest quadrant of the intersection of Belleau Trail and Argonne Trail within the Chesapeake Bay Critical Area. The property is triangular with 21.67 feet of frontage on Argonne Trail and is developed with a single-family residential structure that was constructed prior to 1965. There are no streams, wetlands or 100-year floodplain on the property. There are no steep slopes on the property. There is no Chesapeake Bay Critical Area buffer on the property. Current air photos indicate that the site is mostly open. 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 in the general region. A Stormwater Design Plan has been approved by the Prince George's County Department of Environmental Resources. The *Prince George's County Soils Survey* indicates that the principal soils on the site are in the Keyport soil series. The site is in the Developing Tier according to the General Plan.

FINDINGS:

The lots were recorded on August 26, 1927, and are shown on Record Plat 3-62 in the Prince George's County Land Records. The abandoned portion of Belleau Trail that is part of the subject property was created by C-7276 on October 13, 1965. The residential structure appears on M-NCPPC air photos taken in March 1965. Permit #16066-2003 was issued on June 6, 2003, for the installation of the

12-foot x 24-foot concrete slab shown on the plan. A waiver from preparing a conservation plan was granted by the Prince George's County Department of Environmental Resources because the area of disturbance was less than 500 square feet, there would be no disturbance to the buffer, no steep slopes would be affected, no tributary streams would be affected, no Habitat Protection Areas would be affected, no tidal or nontidal wetlands would be affected, and no variances to any Chesapeake Bay Critical Area requirement was needed.

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 surface permitted by Section 27-548.17 of the Zoning Ordinance for the property is 25 percent of the gross tract (3,192.75 square feet). The existing impervious surface is 3,130.9 square feet, and the proposed impervious surface is 2,346.9 square feet. The maximum amount of net lot coverage permitted by the Zoning Ordinance for the property is 25 percent of the net tract (3,192.75 square feet). The existing net lot coverage is 2,784.50 square feet, and the proposed net lot coverage is 3,000.50 square feet.

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 lots are grandfathered because they were 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-R Zone.

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 that could result from the proposed development.

- (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 lots were recorded on August 26, 1927, and are shown on Record Plat 3-62 in the Prince George's County Land Records. The abandoned portion of Belleau Trail that is part of the subject property was created by C-7276 on October 13, 1965. The residential structure appears on M-NCPPC air photos taken in March 1965.

The lot size and vehicular access are in accordance with the requirements of the R-R Zone, and development of this lot requires no use of growth allocation; however, the frontage of 21.67 feet is less than the 35 feet currently required in the R-R zone. Today, staff can only speculate that the building permit was granted without a variance because the permit reviewer at that time considered Belleau Trail to be the front yard. The granting of the variance for road frontage would validate an existing condition that was not created by the current property owner and for which no practicable alternative exists.

Variance Analysis

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 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 27-230(a). The following is an analysis of the application's conformance with the Zoning Ordinance requirements. Because all of the variances requested are similar in nature and are the result of an unusually shaped buildable lot with an existing residential structure, the variances are evaluated as a group below. See Staff Exhibit A for an illustration of the locations of each of the variances requested.

- (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: None of the variances being sought are from provisions related to the Chesapeake Bay Critical Area regulations. Additionally, the variances for road frontage and intrusion into the rear yard setback for the existing structure are sought to validate a condition that has existed for at least 35 years. Because the principal structure was placed far back on the property, almost any accessory structure would require a variance. The triangular shape of the property, when combined with required setbacks, significantly reduces the legal building envelope.

- (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 does not establish a special treatment because the lot contains features not found to this magnitude on other lots.

- (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 requests are 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 significantly 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 that 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-R 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: Because the property is an unusual triangular shape and the principal residential structure was constructed years ago and the definition of the front yard was created after the lots were platted, most of the remaining lot area is in the front or side yards. The addition of any accessory structure would likely require a variance. Because of the configuration of the existing residential structure, any addition would likely require a variance.

- (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: If the variance to the street frontage is not granted, the lot would become unbuildable. If the variance for the existing structure is not granted, a portion of the structure would need to be demolished. The strict application of the Zoning Ordinance restricting construction of accessory structures to the rear yard only would result in the denial of uses typically associated with similar residential properties.

- (3) *The variance 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 August 15, 2003, the Subdivision Review Committee determined that the conservation plan was in general conformance with the requirements of the R-R Zone, the L-D-O Zone and the Conservation Manual; however, the plan required numerous technical revisions. Revised plans were accepted for processing on January 23, 2004. The plan contains all of the information required for a Chesapeake Bay Critical Area Conservation Plan.

The granting of these variances 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-03009A.

RECOMMENDATION:

APPROVAL of CP-03009 and VC-03009A.