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CHESAPEAKE BAY CRITICAL AREA CONSERVATION PLAN CP-04001 & VC-04001A

Application	General Data
Project Name: Funkhouser's Addition to Hyattsville Lot 27 Location: West side of 49 th Avenue approximately 100 feet south of its intersection with Decatur Street, within the Chesapeake Bay Critical Area Applicant/Address: Ms. Evette Williams 3408 Bitterwood Place, #G104 Laurel, MD 20724	Date Accepted: 01/06/04
	Planning Board Action Limit: N/A
	Plan Acreage: 0.09 Ac.
	Zone: R-55/I-D-O
	Dwelling Units: 1
	Square Footage: 3,855 sq. ft.
	Planning Area: 68
	Council District: 5
	Municipality: N/A
	200-Scale Base Map: 206NE04

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 an addition to an existing house in the Chesapeake Bay Critical Area. A variance is required because the existing residential structure does not meet the required rear yard, front yard and side yard setbacks and the proposed Lot Coverage and Net Lot Area are greater than the maximum allowable requirements.	Adjoining Property Owners: (CB-15-1998) N/A
	Previous Parties of Record: (CB-13-1997) N/A
	Sign(s) Posted on Site: 4/28/04
	Variance(s): Adjoining Property Owners: N/A

Staff Recommendation		Staff Reviewer: Robert Metzger	
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-04001 and VC-04001A
Funkhouser's Addition to Hyattsville, Lot 27

Council District: 5 Planning Area: 68 Municipality: none

OVERVIEW: The proposal is for the addition 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.

There are no variances needed to the Chesapeake Bay Critical Area provisions of the Zoning Ordinance. Variances from other requirements of the Zoning Ordinance are requested as stated below. 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 subject property is located on the west side of 49th Avenue approximately 100 feet south of its intersection with Decatur Street, within the Chesapeake Bay Critical Area associated with the Anacostia River. There are no streams or wetlands on the property. There is no floodplain on the property. Current air photos indicate that the site is developed and not 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 in the general region. A Stormwater Management Concept or Technical Plan is under review by DER. The *Prince George's County Soils Survey* indicates that the principal soils on the site are in the Elsinboro soil series. The site is in the Developed Tier according to the *General Plan*.

FINDINGS: The lot was recorded in 1927 and is shown on Record Plat 3-19 in the Prince George's County Land Records. The residential structure appears on M-NCPPC air photos taken in March 1965.

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 100 percent of the gross tract (3,855 square feet). The existing amount of impervious surfaces is 1,040.50 square feet and the proposed amount of impervious surfaces is 1,537.70 square feet. All other provisions of the Chesapeake Bay Critical Area regulations have been met on-site.

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.

Variance Requests

Variances requested to **validate existing conditions**:

- (1) The current Net Lot Area does not meet the minimum requirement of 5,000 square feet. The existing and proposed Net Lot Area is 3,855 square feet. A variance of 1,145 square feet is requested.
- (2) The existing side yard setback is less than the required 8 feet. Existing and proposed conditions are a 3 foot setback from the southern property line. A variance of 5 feet is requested.
- (3) The existing front yard setback is less than the 20 feet required. The covered porch is existing and is proposed to remain 18 feet from the front property line. A variance of 2 feet is requested.

Variances requested to **validate an existing condition and approve an increase** in the variance needed:

- (4) The existing and proposed rear yard setbacks are less than the required 20 feet. The existing setback, which is not proposed to change, is 4 feet. The proposed addition to the house will result in a 3 foot rear yard setback. The existing variance needed without the addition, is 16 feet. With the house addition, the variance request increases to 17 feet.

Variances requested for **proposed construction**:

- (5) The existing house meets the Maximum Percentage of Lot Coverage requirement of 30%; currently, Net Lot Coverage is 960 square feet, or 24.9%. The proposed addition will increase the amount of Lot Coverage to 1,457 square feet, or 37.8%. The variance requested is 300.5 square feet or 7.8% over the maximum allowed.

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 related to the Chesapeake Bay Critical Area. 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 inadequate side yard setback 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 addition to that structure would require a variance. The 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 is shaped in such a way that is 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 applicant will be required to meet the requirements of the Stormwater Management Ordinance which will address issues of water quality for this site.

(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 applicant will be required to meet the requirements of the Stormwater Management Ordinance which will address issues of water quality for this site.

(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-55 and I-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 subject property is an unusual shape in that it is not deep; at its deepest point the lot is only 46.82 feet deep (northern property line). The existing house has been placed back from the front property line a distance of 18 feet, and despite being a rather small existing structure, the house is closer to both the rear and front property lines than is currently allowed in the Zoning Ordinance. Because of the configuration of the lot and 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 variances requested for existing conditions are not approved, it would create a situation where the lot remains in non-conformance with the Zoning Ordinance. If the variances that relate solely to the addition are not approved, an addition of the size proposed could not be built.

(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 *General Plan* and the *Subregion II Master Plan*.

Summary

On January 16, 2004, the Subdivision Review Committee determined that the Conservation Plan was in general conformance with the requirements of the R-R Zone, the I-D-O Zone and the *Conservation Manual*; however, the plan required numerous technical revisions. Revised plans were accepted for processing on March 3, 2004. The plan contains all of the information required for 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-04001A.

RECOMMENDATION:

APPROVAL of CP-04001 and VC-04001A.