



Note: Staff reports can be accessed at www.mncppc.org/pgco/planning/plan.htm.

Chesapeake Bay Critical Area Conservation Plan Variance Request

CP-09002
VC-09002

Application	General Data	
Project Name: Fex and Galloway Property Location: Located on the west side of Mariner Drive, 500 feet south of its intersection with Riverview Road. Applicant/Address: Cecilia Fex and Dana Scott Galloway 10935 Mariner Drive Fort Washington, MD 20744	Planning Board Hearing Date:	06/17/10
	Memorandum Date:	06/10/10
	Date Accepted:	01/08/10
	Planning Board Action Limit:	N/A
	Most Recent Revision:	04/28/10
	Plan Acreage:	0.81
	Zone:	R-R/L-D-O
	Square Footage of Additional Lot Coverage Proposed:	55 sq. ft.
	Planning Area:	80
	Council District:	08
	Municipality:	NA
	200-Scale Base Map:	214SW01

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 reconstruction of a freestanding carport in the Chesapeake Bay Critical Area. The applicant also seeks a variance from Section 27-442(i) of the Zoning Ordinance to allow an accessory building in the front yard.	Adjoining Property Owners: (CB-15-1998)	10/08/09 01/08/10
	Previous Parties of Record: (CB-13-1997)	NA
	Sign(s) Posted on Site:	05/18/10
	Variance(s):	Section 27-442(i)

REVISED Staff Recommendation		Staff Reviewer: Tom Lockard Phone Number: 301-952-3410 E-mail: Thomas.Lockard@ppd.mncppc.org	
APPROVAL	APPROVAL WITH CONDITIONS	DISAPPROVAL	DISCUSSION
VC-09002	CP-09002		

June 10, 2010

MEMORANDUM

TO: The Prince George's County Planning Board

VIA: Jimi Jones, Zoning Supervisor

FROM: Tom Lockard, Planning Coordinator

SUBJECT: **Chesapeake Bay Critical Area Conservation Plan CP-09002**
Varian Request VC-09002
Fex and Galloway Property—Revised Findings and Conditions

As a result of a referral received from the State of Maryland Critical Area Commission following the release of the technical staff report in this case, Zoning staff would like to make several revisions to the conditions and findings contained in the report. Staff from the Environmental Planning Section had been operating under the understanding that a stream on the property was ephemeral in nature and not a tributary to the Potomac River basin. As an ephemeral stream, it would require a 50-foot buffer, which is shown on the plan. The Environmental Planning Section and the Critical Area Commission have now decided that the stream is a tributary and thus, needs a 100-foot buffer rather than the 50-foot buffer shown on the plan. This affects the plan in three ways:

1. The conservation plan will have to be amended to show the 100-foot tributary stream buffer. A condition to that effect has been added.
2. Because the reconstructed carport is now within the Chesapeake Bay Critical Area (CBCA) buffer, a variance to the buffer is required. Previously, the only variance had been from code requirements that an accessory building not be located in the front yard. The applicant has addressed the variance criteria in their statement of justification, and staff has found compliance. Additional findings taking the wider buffer and variance from the CBCA buffer requirements into account would be:
 - (b) **Variances may only be granted from the provisions of this Subtitle or the Conservation Manual for property located within the Chesapeake Bay Critical Area Overlay Zones where an appellant 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 certified, in addition to the findings set forth in Subsection (a), that:

- (1) Special conditions or circumstances exist that are peculiar to the subject land or structure and that a literal enforcement of the Overlay Zone provisions would result in unwarranted hardship;**

Comment: The carport improvement on the subject property is a replacement of an existing structure that was built prior to the adoption of the Chesapeake Bay Critical Area regulations and demonstrates a minimization of environmental impacts by not expanding the limits of disturbance and only requiring a minor increase to lot coverage on the property. If the variance were not approved, the carport would have to be removed.

- (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 Overlay Zones;**

Comment: Other properties nearby were similarly developed prior to 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 Overlay Zones;**

Comment: The granting of this variance neither creates a need for another variance nor establishes a special treatment.

- (4) The variance request 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 nonconforming, on any neighboring property;**

Comment: The location of existing improvements on the property, and not the actions of the applicant created the need for the variance.

- (5) The granting of a variance would not adversely affect water quality or adversely impact fish, wildlife, or plant habitat within the Chesapeake Bay Critical Area, and that the 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 enclosure and slight enlargement of the carport will not adversely impact water quality due to the limited additional lot coverage and the avoidance of disturbance to woody vegetation during construction.

- (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 enclosure and slight enlargement of the carport will not adversely impact water quality due to the limited additional lot coverage.

- (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 conservation plan demonstrates a minimization of disturbance and does not require the removal of trees or woody vegetation, thereby protecting fish, plant, or wildlife habitats which 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 existing single-family residence is in conformance with the Chesapeake Bay Critical Area Limited Development Overlay (L-D-O) Zone.

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

Comment: The application does not request or require growth allocations.

Staff recommends that the Planning Board make the required findings and approve the additional CBCA variance.

3. The applicant is required to submit a buffer management plan that shows a buffer planting at a 3:1 ratio rather than the 1:1 ratio required for mitigation outside the buffer. A condition to this effect is included.

REVISED RECOMMENDATION

APPROVAL of Chesapeake Bay Critical Area Conservation Plan CP-09002, Fex and Galloway Property, subject to the following conditions (new language to be added **bold and underlined** and old language to be removed *[bracketed and in italics]*):

1. Prior to signature approval of the conservation plan, the plan shall be revised to remove any references to future construction.
2. Prior to signature approval of the conservation plan, the plan shall be revised to show *[the planting of a minimum of 55 square feet of vegetation within the 100-foot critical area primary buffer. All necessary plant schedules, details, and notes regarding buffer management shall be included on the plan.]* **the stream buffer drawn to 100 feet from the bank and labeled as the Critical Area secondary buffer. The revised conservation plan shall include a buffer management plan with all necessary plant schedules, details, and notes requiring buffer planting at a 3:1 ratio for the amount of 55 square feet of increased lot coverage, equaling 165 square feet of vegetation to be planted within the 100-foot Critical Area primary buffer.**
3. The abandoned shallow well behind the house shall be backfilled and sealed, in accordance with COMAR 26.04.04, by a licensed well driller or witnessed by a representative of the Health Department.

- 4. The conservation agreement that is required to be executed and signed prior to permit approval, shall state the required 3:1 planting ratio and specify that the mitigation is to be planted within the Critical Area primary buffer.**

APPROVAL of Variance Request VC-09002.