

MINUTES

The Kent County Planning Commission met in regular session on Thursday, November 7, 2019, in the County Commissioners' Hearing Room at 400 High Street, Chestertown, Maryland, with the following members in attendance: Elizabeth Morris, Chairman; William Sutton, Vice Chairman; William Crowding; James Saunders; and Joe Hickman. Staff in attendance were William Mackey, Director of Planning, Housing, and Zoning; Stephanie Jones, Environmental Planner; Robert Tracey, Community Planner; G. Mitchell Mowell, Planning Commission Attorney; and Tonya Thomas, Secretary.

Ms. Morris called the meeting to order at 1:30 pm.

APPLICATIONS FOR REVIEW:

19-46 Beverly and Jonathan Jones are requesting a variance to the Critical Area buffer standards in order to demolish and reconfigure an existing 320 square-foot waterfront deck. The proposed 313 square-foot deck consists of an approximate 8-foot by 27-foot covered deck and 8-foot by 13.5-foot sunroom. The proposed construction will sit 62.1 feet from the mean high-water line, but a portion of the proposed deck will be two feet further from the mean high-water line than the existing deck.

Present and duly sworn in were; Jay Silcox, Engineer, representing the applicants; Beverly and Jonathan Jones, applicants; and Ms. Jones, Environmental Planner.

Ms. Jones gave an overview, including a description of the application and cited all applicable laws of the *Kent County Land Use Ordinance* as follows: Article V, Section 2.5 establishes the density, height, width, bulk, and fence requirements; Article V., Section 2.7.B.3 addresses development in the buffer; and Article IX, Section 2.2 authorizes the Board of Appeals to grant variances from the buffer requirements. Correspondence from the Critical Area Commission was read into the record and shared with the Commission.

After some discussion and consideration of the testimony and all applicable laws, Mr. Hickman made a motion to send a favorable recommendation to the Board of Appeals for a variance from the buffer requirements based on the following findings of fact:

- Granting a variance will neither cause a substantial detriment to neighboring properties nor will it change the character of the neighborhood and district.
- The granting of the variance is in harmony with the general spirit and intent of the Critical Area Law, as substantiated by the letter received from Critical Area Commission, and Kent County regulations.
- The variance is consistent with the Comprehensive Plan.
- The granting of the variance will not adversely affect water quality, impact fish, wildlife, or plant habitat. No removal of vegetation is proposed, lot coverage will be reduced by seven square-feet, and a portion of the proposed deck will be 2 feet further from the mean high-water line.
- Due to the location of the dwelling being partially located within the buffer and the location of the well, septic alarms and lid the literal enforcement and strict application of the Ordinance would result in an unwarranted hardship.
- The reasonable use of the entire parcel has been considered.
- Documentation has been provided by a licensed engineer that the existing deck is out of code and unsafe.
- A literal interpretation of the Ordinance could deprive the applicant of rights commonly enjoyed by other properties in similar areas within the Critical Area of Kent County.
- The dwelling was in existence prior to the Critical Area Program and the cause for the variance was not caused by the applicants' own actions.

- In accordance with the Critical Area requirements, staff further recommends that a buffer mitigation plan at a rate of 3:1 be implemented onsite to comply with the critical area variance planting requirements.

Mr. Sutton seconded the motion, and the motion passed unanimously.

19-50 Mr. Robert Strong, representative and co-owner of Strong Associates, II L.P., is requesting a variance to the Critical Area buffer standards in order to construct a 44 square-foot bathroom and storage closet addition on the rear of an existing cottage and an 18 square-foot overhang on the north side of the cottage.

Present and duly sworn in were; Robert Strong, Attorney, Co-Owner and applicant; and Ms. Jones, Environmental Planner.

Ms. Jones gave an overview, including a description and history of the application and cited all applicable laws of the *Kent County Land Use Ordinance* as follows: Article V, Section 2.5 establishes the density, height, width, bulk, and fence requirements; Article V., Section 2.7.B.3 addresses development in the buffer; and Article IX, Section 2.2 authorizes the Board of Appeals to grant variances from the buffer requirements. Correspondence from the Critical Area Commission was read into the record and shared with the Commission.

Mr. Strong stated the cottage was moved to its current location around 1965 or 1967. The house is old and has had some renovations done to it.

After much discussion and consideration of the testimony and all applicable laws, Mr. Hickman made a motion to send a favorable recommendation to the Board of Appeals for a variance from the buffer requirements based on the following findings of fact:

- Granting a variance will neither cause a substantial detriment to neighboring properties nor will it change the character of the neighborhood and district.
- The granting of the variance is in harmony with the general spirit and intent of the Critical Area Law, as substantiated by the letter received from Critical Area Commission, and Kent County regulations.
- The variance is consistent with the Comprehensive Plan.
- The granting of the variance will not adversely affect water quality, impact fish, wildlife, or plant habitat as the addition is in the location of what was an area of existing bricks.
- Due to the location of the dwelling being entirely located within the Critical Area Buffer the literal enforcement and strict application of the Ordinance would result in an unwarranted hardship. The applicant cannot construct an addition for the cottage in another location outside of the buffer.
- The reasonable use of the entire parcel has been considered and the size of the addition and overhang are minimal.
- A literal interpretation of the Ordinance could deprive the applicant of rights commonly enjoyed by other properties in similar areas within the Critical Area of Kent County.
- The dwelling was in existence prior to the Critical Area Program.

In accordance with the Critical Area requirements, staff further recommended that a buffer mitigation plan at a rate of 3:1 be implemented onsite to comply with the Critical Area variance planting requirements.

Mr. Crowding seconded the motion, and the motion passed unanimously.

Staff Reports

Stephanie Jones:

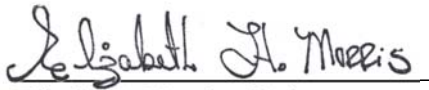
- The following were reviewed by the Board of Appeals in September:
 - The Board of Appeals granted approval for an extension of a special exception for Alexander Sporting Farms to continue to operate as a rifle and pistol range.
 - The Board of Appeals denied a setback variance request for waste management structure due to the lack of practical difficulty.
- On October 22nd Ms. Jones attended an Extreme Participation Workshop held by the Eastern Shore Climate Adaptation Partnership. The workshop addressed a study that is in the process of being completed with the University of Maryland by using models to simulate precipitation in the future, 2041 – 2070. Policy recommendations were also discussed including upgrading of infrastructure, green vs. gray infrastructure, flood mitigation, and funding and grant opportunities.
- An Administrative Special Exception Hearing was held on Monday, October 28 for an accessory structure in the front yard of a waterfront parcel including a patio, pavilion, and fire pit. The applicant was granted the special exception and the associated building permit has been approved.
- A buffer violation for building in the expanded buffer was cited along Mills Creek. The applicant has since removed the structure outside of the expanded buffer and met all requirements to amend the violation.
- A buffer violation for building a deck in the 100-foot buffer was cited along Swantown Creek. The property owner is in the process of working with the County to possibly keep the deck. It will be required to meet building code and the buffer modified provisions.
- Rob, Carla, and Stephanie will be attending a Critical Area Planner Training November 20th.
- An administrative special exception and variance will be held Thursday, November 21st for installation of a solar array in the front yard of a waterfront parcel and the request for a variance from the front yard setback requirements.
- The Critical Area Commission has been directed by the Chairman to draft regulations for development of commercial, industrial, and utility scale solar in the Critical Area. A new chapter will be inserted into COMAR addressing solar energy generating systems with definitions and development standards.


Robert Tracey:

- On October 10th, I traveled to Salisbury to attend a workshop titled, “What’s That Smell? What Officials Need to Know About Modern Agriculture.” The workshop was organized by the University of Maryland and was very informative and education:
 - Some of the relevant topics that were discussed in the workshop:
 - Right to Farm Issues
 - Ag-tourism
 - CBD and Hemp industry
 - Diffused or Dissolved Air Flotation (DAF) and manure storage
 - Rules and regulations regarding applying fertilizer and manure
 - Water usage in farming
- On October 28, the Kent County Historic Preservation Commission held a meeting to consider the Certificate of Appropriateness application for exterior renovations to the Ashbury Method Church.
- On October 29, I attend the Complete Count Census Committee meeting. The meeting discussed ideas on possible initiatives to include in the FY2020 Maryland Supplemental Census Grant Proposal.
- On November 5th, I attended the County Commissioners meeting for the creation of two ag preservation districts.

- Received an application requesting an approximately six-foot administrative variance from the rear yard setback requirement. The applicant constructed a 512-square foot deck that exceeds the rear yard setback by approximately 6 feet.
- Received an application from Richardson Fresh Ponds, LLC requesting a variance to build six (6), eight by four signs located along the U.S. Route 301 corridor in Millington (tax map 31, parcel 6). The application will come before the Planning Commission to provide a recommendation to the Board of Appeals.

There being no further business for the good of the organization, the meeting was adjourned at 2:25 p.m.


Elizabeth Morris, Chairman


Tonya L. Thomas, Clerk