

IN THE MATTER OF	*	BEFORE THE CECIL COUNTY
THE APPLICATION OF	*	BOARD OF APPEALS
WILLIAM J. VALICHKA, III	*	CASE NO.: 3702
	*	
(Variance)	*	
* * * * * *	*	* * * * *

OPINION

The Cecil County Board of Zoning Appeals (the “Board”) is now asked to consider the application of William J. Valichka, III (the “Applicant”). Applicant seeks a 2 and 1/2 foot variance from building height requirements in the Critical Area District for property located at 748 Second St., Chesapeake City, MD 21915, designated as Parcel 98, on Tax Map 43, in the Second Election District of Cecil County (the “Property”). The Property is Applicant.

Under the provisions of Article XVII, Part I, Section 306, Paragraph 1, variances, as defined in Article II, may be granted by the Board of Appeals. Paragraph 2 of Section 306 requires the Board to examine all facts of the case and render a decision based upon the following criteria:

A. The variance requested is based upon a situation where, because of special circumstances, a literal enforcement of the provisions of the Ordinance would deprive the applicant of a right commonly enjoyed by other parties in the same zone under the terms of this Ordinance.

B. Special conditions and circumstances exist that are peculiar to the land, buildings, or structures involved, and that are not applicable to other lands, buildings, or structures in the same zone, such conditions and circumstances not being the result of actions by the applicant.

C. The granting of the variance will not confer upon the applicant any special privileges that are denied by this Ordinance to other properties in the same zone.

D. The variance request does not arise from any condition to land or building use, either permitted or non-conforming, on any neighborhood property.

Dwight E. Thomey, Esq. appeared on behalf of the Applicant. Testimony established that the Applicant is undertaking new construction on the Property and that in order to minimize the disturbance to the critical area and maintain a smaller footprint for the building while maintaining square footage of the building the height of the building must be increased. David Strouss of McCrone, Inc. measured other buildings in the neighborhood and found that several buildings exceeded the 35' height cap, so Applicant's proposal would not create any architectural dissimilarity. Applicant's goal is to lessen the impact on the critical area by not increasing the amount of impervious surface.

Clifford Houston of the Department of Planning and Zoning testified that the Critical Area Commission approves of Applicant's plan.

From the evidence presented the Board is satisfied that the criteria set forth in Section 306 has been met, and makes the following findings:

1. The variance request is based upon a situation where, because of special circumstances, a literal enforcement of the provisions of the Ordinance would deprive the applicant of a right commonly enjoyed by other parties in the same zone under the terms of this Ordinance. Although the lots are of sufficient size to construct a house such as proposed, Applicant cannot build as proposed and reduce the effect on the critical area without a variance from the height restriction.

2. Special conditions and circumstances exist that are peculiar to the subject land, buildings or structures involved and that are not applicable to other lands, buildings, or structures in

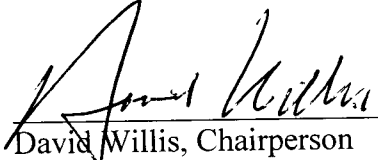
the same zone. Due to the position of the Property in the critical area and the desire to reduce the effect on the critical area, Applicant requires a variance.

3. The granting of the variance will not confer upon the applicant special privileges that are denied by this Ordinance to other properties in the same zone. Other owners of parcels of equal size to the Property are able to construct houses on their property in the manner proposed by Applicant.

4. There is no evidence that the variance request arises from any condition to land or building use, either permitted or non-conforming, on any neighborhood property.

For the reasons stated, by unanimous vote, the Board is satisfied that the criteria set forth in Section 306 have been met, and the application is therefore **APPROVED**.

12/30/2014
Date


David Willis, Chairperson

BOARD OF APPEALS APPLICATION
CECIL COUNTY, MARYLAND

MEET. MONTH NOV 2004
FILE NO. 3702

THIS REQUEST IS FOR:
SPECIAL EXCEPTIONS RENEWAL ()
SPECIAL EXCEPTION ()
VARIANCE (x)
APPEAL ()

DATE FILED: 10/14/04
AMOUNT PD: \$600.00
ACCEPTED BY: [Signature]

A. APPLICANT INFORMATION

William J. Valichka, III
APPLICANT NAME - PLEASE PRINT CLEARLY
93 Penns Grove - Pedricktown Road Pedricktown New Jersey 08067
ADDRESS CITY STATE ZIP CODE
[Signature] 856-299-8240
APPLICANT SIGNATURE PHONE NUMBER

B. PROPERTY OWNER INFORMATION

William J. Valichka, III
PROPERTY OWNER NAME - PLEASE PRINT CLEARLY
93 Penns Grove - Pedricktown Road Pedricktown New Jersey 08067
ADDRESS CITY STATE ZIP CODE
[Signature] 856-299-8240
PROPERTY OWNER SIGNATURE PHONE NUMBER

C. PROPERTY INFORMATION

748 Second Street, Chesapeake City 2nd 02-018845
PROPERTY ADDRESS ELECTION DISTRICT ACCT. NUMBER
43 17 98 2.8502 SR
TAX MAP # BLOCK PARCEL LOT# #ACRES ZONE

D. PURPOSE OF APPLICATION - Indicate reasons why this application should be granted. (attach separate sheet if necessary)

To permit construction of a proposed new home. In order to minimize impervious surface within the critical area, a two and one-half foot height variance is requested to a maximum height of 37.5 feet. The improvements will eliminate some driveway and outbuildings. The house will be screened from neighboring properties by existing trees.

E. On an attached sheet, PLEASE submit a sketch of the property indicating the proposed project. Show distances from the front, side and rear property lines and the dimensions of the project.

F. LAND USE DESIGNATION

Is the property in the Critical Area? Partially (Partially) X YES NO
If yes, Pertinent provision of the Chesapeake Bay Critical Area Program:
Is property in the 100 year floodplain YES X NO
Is property an Agricultural Preservation District? YES X NO

If property is located in the Critical Area, all provisions and requirements must be met as outlined in Article XVII, Part I, II & III of the Zoning Ordinance.

G. PROVISIONS OF ZONING ORDINANCE: Article VI Schedule of Zone Regulations

H. SPECIAL EXCEPTION RENEWAL - PREVIOUS FILE NO. & CONDITIONS FOR APPROVAL:

I. SPECIAL EXECPTION FOR A MANUFACTURED HOME - Please fill out the following information:

Will unit be visible from the road? If yes, distance:
Will unit be visible from adjoining properties? If yes, distance:
Distance to nearest manufactured home: Size/Model/Year of Unit:
Number of units on property at present time:

File # 3702
MH 8 P 98
William J. Valichka, III

