

November 14, 2024

Devin Leary  
Human and Rohde, Inc.  
512 Virginia Avenue  
Towson MD 21286

Re:

915 Middle Road  
Critical Area Administrative Variance  
Tracking Number 05-24-4171

Dear Devin Leary:

A request for a variance from the Baltimore County Code Article 33 Environmental Protection and Sustainability (EPS), Title 2 Critical Area was received on August 9, 2024. The request seeks a variance to clear greater than 30% of the forest and developed woodland at 915 Middle Road for the construction of a new single family dwelling. The property, which is undeveloped, is an existing lot of record totaling 16,511 square feet in area. The property owner will mitigate for the excess forest clearing by paying a fee-in-lieu. The remaining forest and developed woodland will be permanently protected with a Critical Area Easement (CAE).

The Director of EPS may grant a variance to the Chesapeake Bay Critical Area (CBCA) regulations in accordance with regulations adopted by the Critical Area Commission concerning variances as set forth in COMAR 27.01.12.04. There are seven (7) criteria listed in COMAR 27.01.12.04 that shall be used to evaluate the variance request. All seven of the criteria must be met in order to approve the variance.

The first criterion requires that special conditions exist that are peculiar to the land or structure, and that literal enforcement of the regulations would result in unwarranted hardship. The 16,511 square-foot property was created in 1920 as part of the Revolea Beach subdivision. The lot contains a small lawn area adjacent to Middle Road, but the majority of the property (70%) consists of forest and developed woodland. The property owner examined other alternatives for the size and location of the proposed house, but these alternatives were either impractical or resulted in greater forest clearing. The preferred alternative will result in the construction of a modest house with a practical front and rear yard, but will require clearing more than 30% of the forest and developed woodland onsite. The inability to build a modest house with a reasonable-sized front and rear yard given the extent of forest and developed woodland onsite represents an unwarranted hardship for the property owner. Therefore, the first criterion is met.

The second criterion requires that a literal enforcement of the regulations would deprive the applicant of a use of land or a structure permitted to others in accordance with the provisions

of the local Critical Area program. This proposed variance request will result in the removal of 4,791 square of forest and developed woodland to build a residential home on an existing lot that consists mostly of forest and developed woodland. There are other residential properties in the Critical Area with similar forest constraints. These property owners have been granted variances to clear more than 30% of the forest and developed woodland on their properties to build single family homes. Not allowing the applicant to clear more than 30% of the forest and developed woodland onsite to construct a residential dwelling would deprive the applicant of rights regularly enjoyed by other property owners. Therefore, this criterion is met.

The third criterion requires that granting of a variance will not confer upon an applicant any special privilege that would be denied to other lands or structures within the Critical Area. Granting this variance will not confer upon the applicant any special privilege that would be denied to other properties or structures within the Critical Area. Other property owners with similar forest constraints would be granted variance approval to clear more than 30% of the forest and developed woodland on their properties to build a house. Therefore, this criterion has been met.

The fourth criterion requires that a variance is not based upon conditions or circumstances which are the result of actions by the applicant. The need for this variance is not the result of any actions undertaken by the property owner. This variance request is a result of the extent of forest and developed woodland onsite. Therefore, the fourth criterion has been met.

The fifth criterion requires that the variance request does not arise from any conforming or nonconforming condition on any neighboring property. The variance did not arise from any conforming or nonconforming condition on a neighboring property.

The sixth criterion requires that granting of the variance will not adversely affect water quality or adversely impact fish, wildlife, or plant habitat within the Critical Area. The property owner has requested a variance to clear 41.6% of the forest and developed woodland onsite to build a single family home. There are no streams or wetlands or their associated buffers onsite that will be impacted by the proposed clearing. More than half of the forest and developed woodland onsite will remain and be permanently protected in a CAE. As a result, granting of this variance will not adversely affect water quality, or adversely impact fish, wildlife, or plant habitat.

The seventh criterion requires that the granting of the variance would be in harmony with the general spirit and intent of the Critical Area law. The property owner is limiting the extent of forest clearing onsite to build their proposed home by locating the new house 26 feet from the road and establishing a rear yard 35 feet deep. In addition, the property owner will mitigate at a 3:1 ratio for the forest and developed woodland to be cleared by paying a fee-in-lieu. The remaining forest will be permanently protected in a CAE. As a result, we find that the granting of this variance would be in harmony with the general spirit and intent of the Critical Area Law.

Based upon our review, this Department finds that the above criteria have been met, or will be met through implementation of the conditions outlined below. Therefore, the requested

variance is hereby approved in accordance with Section 33-2-205 of the Baltimore County Code with the following conditions:

1. The applicant shall mitigate for the 4,791 square feet (41.6%) of forest and developed woodland clearing onsite at a 3:1 ratio. The total mitigation requirement is 14,373 square feet and will be addressed with a fee-in-lieu payment of \$7,905.15. The payment must be made to Baltimore County and received prior to building permit approval.
2. A Critical Area Management Plan (CAMP) detailing the mitigation must be submitted to Environmental Impact Review for review and approval prior to approval of the building permit.
3. A Critical Area Easement (CAE) must be recorded in the Land Records of Baltimore County to protect the 6,742 square feet of forest and developed woodland to remain. The CAE must be recorded in the Land Records of Baltimore County prior to building permit approval.
4. CAE signs must be installed along the easement boundary to delineate the limits of the CAE. The CAE sign locations must be shown on the CAMP and installed prior to permit approval.
5. This note must be added to all future plans:

“A variance (Tracking Number 05-24-4171) was granted by Baltimore County Department of Environmental Protection and Sustainability from Chesapeake Bay Critical Area requirements to clear more than 30% of the forest and developed woodland onsite to build a single family home. Conditions were placed on this approval to mitigate for the excess forest clearing including payment of a fee-in-lieu and installation of easement signs to protect the remaining forest.”

Changes in site layout may require submittal of revised plans and an amended variance request. Please be advised that Baltimore County may not issue a permit for the activity that was the subject of the variance application until the applicable 30-day appeal period has elapsed pursuant to COMAR 27.01.12.07 C.

Please sign the statement on the following page and then return the signed, original letter to this Department c/o Mr. Gris Batchelder of Environmental Impact Review. Failure to return a signed copy of this letter may result in delays in processing of permits or other development plans for the subject property, and/or may render this variance null and void.

If you have questions regarding this project, please contact Gris Batchelder at 410-887-3980.

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This variance is approved by the Director of the Department of Environmental Protection and Sustainability on \_\_\_\_\_. Any changes to site layout may require submittal of revised plans and a new variance request.

Sincerely,

Horacio Tablada  
Director

HT/cgb

cc: Jonathan C. Coplin, Critical Area Commission  
Jerry R. Dewald  
Mike Homa, Point Group LLC

We have read and agree to implement the above requirements to bring our property into compliance with Chesapeake Bay Critical Area regulations.

_____ Signature	_____ Date	_____ Signature	_____ Date
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_____ Printed Name	_____ Date	_____ Printed Name	_____ Date
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