

MINUTES

August 4, 2022

1:30 p.m.

The Kent County Planning Commission met in regular session on Thursday, August 4, 2022, at 1:30 p.m. in the County Commissioners' Hearing Room at 400 High Street, Chestertown, Maryland. It was a hybrid meeting, and the following members were in attendance: Chair F. Joseph Hickman, Vice Chair Paul Ruge, William Sutton, James Saunders, Ray Strong, and President P. Thomas Mason. Cynthia L. McCann, Esq., Planning Commission Attorney was in attendance. Staff in attendance were William Mackey, AICP, Director; Carla Gerber, AICP, Deputy Director; Mark Carper, LEED Green Associate, Associate Planner; and Campbell Safian, Planning Specialist.

Members of the public in attendance included Latonya Cotton, LCSW-C, Clinical Director, Kenah One Health Care Services; Buck Nickerson, LS, Extreme Measures, LLC; Kevin Shearon, P.E., LEED AP, Principal of DMS & Associates; Fred Lint, property owner (remote); Gayle McCormick, property owner; and Robert Hindman, property owner.

Chair Hickman called the meeting to order at 1:30 p.m.

MINUTES

Chair Hickman moved to accept the minutes of July 7, 2022, without correction. Mr. Ruge seconded the motion. The motion passed with all in favor.

APPLICATIONS FOR REVIEW

*#22-41 Kenah One Health Care Services– Special Exception
25000 Lambs Meadow Road – Third Election District – Village (V)*

Mr. Carper presented the staff report, recommending approval with conditions. The Chair swore in Ms. Latonya Cotton, LCSW-C, Clinical Director of Kenah One Health Care Services.

Ms. Cotton stated that the purpose of the Special Exception application is to grant Kenah One, an assisted living facility, permission to operate as a hospital, rehabilitation facility, or a similar institution for health care.

Chair Hickman asked how many patients the facility can support in its current state. Ms. Cotton declared that the facility can support up to 16 patients at any given time.

Mr. Ruge asked how many employees currently work at the facility. Ms. Cotton stated two employees work on each shift, and there are three shifts in total. Mr. Ruge expressed his concern over the facility's ability to accommodate a wider variety of patients with the present number of employees on staff. Ms. Cotton noted that more employees will be hired to support any increase in patients.

Mr. Ruge inquired about the parking arrangements available on site at the facility. Ms. Cotton described the parking layouts and noted that none of the current resident patients have transportation. If the facility is granted permission to expand its services, the facility will continue to serve resident patients. Ms. Cotton stated that

patients who are not interested in residency at the facility, would be given treatment at 521 Washington Avenue. Parking would be used by staff and visitors.

Mr. Ruge expressed his concern over the lack of a site plan to depict the parking arrangements that are available to support an increased number of patients admitted.

Mr. Saunders made a motion to forward a favorable recommendation to the Board of Appeals, based on the fact that the applicant has been in business for 15 years. The application for a special exception is compatible with Article 7.2 of the Land Use Ordinance. The applicant is allowed a special exception per the county code and the Land Use Ordinance. Mr. Sutton seconded the motion.

Mr. Ruge moved to amend Mr. Saunders motion to forward a favorable recommendation to the Board of Appeals with the condition that the applicant provide a site plan for parking.

The motion to amend was seconded by Mr. Saunders, and the motion to amend passed, 4-1.

The original motion was then passed unanimously, 5-0.

22-38 Gary Mundrake – Buffer Variance

4884 Skinners Neck Road – Fifth Election District – Resource Conservation District (RCD)

Ms. Gerber presented the staff report, recommending approval with conditions. Ms. Gerber read a letter into the record from the Critical Area Commission dated July 29, 2022.

The Chair swore in Buck Nickerson, LS, owner of Extreme Measures, LLC, on behalf of Mr. Mundrake.

Mr. Nickerson presented his case regarding the need for the Buffer Variance. Mr. Nickerson stated that in 2019, the existing cottage was flooded on a regular basis due to its location in the floodplain. Through a renovation, Mr. Mundrake raised the house almost seven feet to be above the base flood elevation and avoid this inconvenience. A buffer variance is requested to add a small deck and set of steps as a second means of ingress and egress to the existing dwelling located almost entirely within the 100-foot buffer.

Mr. Ruge made a motion to forward a favorable recommendation to the Board of Appeals finding that the project is in harmony with the intent of the Critical Area Law. The granting of the buffer variance will not adversely impact water quality and wildlife habitats. The applicant's hardship is not shared by other properties, and there is no detriment to adjacent properties. The character of the zoning district will not be changed by the granting of the variance. It is recommended that a Buffer Mitigation Plan be submitted with replanting at a rate of 3:1 mitigation for disturbance within the buffer. The Critical Area Commission did not oppose this application.

The motion was seconded by Mr. Strong, and the motion passed unanimously, 5-0.

*22-47 Fred and Linda Lint – Buffer Variance and Side Setback Variance
13910 Swantown Creek Road – First Election District – Critical Area Residential (CAR)*

Mr. Carper presented the staff report, recommending approval with conditions. Mr. Carper read a letter into the record from the Critical Area Commission.

The Chair swore in Mr. Fred Lint, property owner. Mr. Lint presented his case regarding the need for the buffer variance and side setback variance.

Chair Hickman asked for confirmation that the reason for the variance request was to provide safer access to the applicant's home. Mr. Lint confirmed that a covering for the existing deck will provide protection against the weather.

Chair Hickman expressed his concerns over possibly creating a precedent for future applications from property owners who live in the Critical Area to be granted buffer variances. Chair Hickman further explained that a practical difficulty worthy of a variance approval cannot solely be based on the applicant's justification that their house was constructed before the Critical Area Law was adopted, and the applicant wishes to construct a residential addition. Chair Hickman reiterated that the current applicant's residential additions of a garage and deck covering will create safer access points to the house.

Mr. Saunders spoke in agreement when stating that the additions will allow the entrance to the residence to be easier as the homeowners grow in age.

Mr. Strong made a motion to forward a favorable recommendation to the Board of Appeals contingent on the following conditions: buffer mitigation planting at 1:1 for temporary disturbance and at 3:1 for permanent disturbance. The variances will lapse after the expiration of one year if no substantial construction in accordance with the plans occurs. Granting of the variance will not adversely affect adjacent properties or change the character of the neighborhood. The application is consistent with the Comprehensive Plan's goal of providing a wide range of housing solutions to meet the needs of residents. The application is in harmony with the Critical Area Law and will not adversely affect fish, wildlife or plant habitat. The Critical Area Commission does not oppose this application. The practical difficulty was caused by the unusual shape of the property. The original placement of the home was prior to the establishment of the Critical Area Law. Mr. Strong also adopted the findings of the staff report by reference.

Mr. Saunders seconded the motion, and the motion passed unanimously, 5-0.

*22-39 Robert L. Hindman – Slope Variance
Belchester Road, Map 6, Parcel 109 – Second Election District – Critical Area Residential (CAR)*

Mr. Carper presented the staff report, recommending approval with conditions. Mr. Carper read a letter into the record from the Critical Area Commission.

The Chair swore in Mr. Robert Hindman and Mr. Kevin Shearon, P.E., LEED AP, Principal of DMS & Associates. Mr. Shearon presented his case regarding the need for the slope variance. Mr. Shearon stated that the site plan for the proposed driveway was designed specifically to create the least amount of disturbance to steep slopes.

Chair Hickman concurred that the applicant has taken steps by design, to limit the amount of disturbance to steep slopes. Secondly, the proposed construction plan will reduce the potential for erosion.

Chair Hickman made a motion to forward a favorable recommendation to the Board of Appeals finding that the project limits the disturbance of the Critical Area. Granting of the variance will not change the character of the neighborhood or cause detriment to the neighbors. The practical difficulty is that in order to build on this lot, the driveway will have to cross steep slopes. The applicant has minimized the disturbance to steep slopes in their design. Additionally, the Critical Area Commission did not oppose this application. If a variance is not approved, it would produce an unwarranted hardship and deprive the owner use of this buildable lot. The construction activities have the potential to improve erosion. This recommendation to the Board of Appeals includes the staff recommendation of plantings at a 3:1 mitigation rate for disturbance of the steep slopes.

Mr. Strong seconded the motion, and the motion passed unanimously, 5-0.

22-47 Matthew and Gayle McCormick – Slope Variance

Walnut Valley Court, Map 11, Parcel 52, Lot 6 – Third Election District – Critical Area Residential (CAR)

Ms. Gerber presented the staff report, recommending approval with conditions. Ms. Gerber read a letter into the record from the Critical Area Commission dated August 4, 2022.

The Chair swore in Ms. Gayle McCormick, property owner, and Mr. Kevin Shearon, P.E., LEED AP, Principal of DMS & Associates. Mr. Shearon presented his case regarding the need for the slope variance. Mr. Shearon stated the waterfront property's 100-foot buffer had to be expanded because of the steep slopes. More than half of the property is consumed by the expanded buffer. A small strip of land is available to position the house and driveway. A variance is requested to allow development of a new dwelling on a parcel with steep slopes.

Chair Hickman noted that the applicant has minimized the disturbance to this steep sloped lot. The mitigation plan required should improve the Critical Area and the buffer.

Mr. Ruge asked about the impact of using the septic reserve. Mr. Shearon stated half of the septic area would be used and half would be reserved.

Chair Hickman made a motion to forward a favorable recommendation to the Board of Appeals for the applicant's slope variance per the findings of fact that Mr. Shearon and staff presented. The application is consistent with the Comprehensive Plan and development will not cause substantial detriment to the neighborhood. Granting of a variance will not affect the character of neighborhood. The practical difficulty is the steep sloped topography of the lot in the Critical Area. Construction will not affect fish and wildlife habits. If the variance is denied, it would result in an unwarranted hardship for the applicant. The Critical Area Commission did not oppose this application.. As per the Critical Area Commission's and staff's recommendations, the motion recommends mitigation of 3:1 for disturbance of the steep slopes and 1:1 for clearing outside of the steep slopes in the form of Native Maryland tree and understory plantings.

Mr. Ruge seconded the motion, and the motion passed unanimously, 5-0.

GENERAL DISCUSSION

Ms. Gerber reported on the 2021 Annual Report which must be sent to the Maryland Department of Planning every year at this time. The County issued 34 new Residential Permits in the 2021 calendar year.

Mr. Sutton made a motion to adopt the annual report. Mr. Strong seconded the motion, and the motion passed unanimously, 5-0.

STAFF REPORTS

Mr. Mackey introduced Campbell Safian to the Planning Commission, noting his Task Force minute-crafting skills.

Mr. Safian greeted everyone and expressed that he is looking forward to working with the Planning Commission.

Mr. Mackey reported on the upcoming schedule for the Comprehensive Rezoning Update Task Force with the next meeting planned on September 28, 2022. The goal is to work through the consultants' products by end of year.

Ms. McCann reported that that Forest Conservation agreement revisions were presented to the Board of County Commissioners and were approved for use.

ADJOURN

Chair Hickman moved to adjourn. Mr. Strong seconded. The meeting adjourned at approximately 3:15 pm.

Francis J. Hickman, Chair

/s/ Campbell Safian
Campbell Safian, Planning Specialist