BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence

TO: Hon. Paul M. Mayhew; Managing Administrative Law Judge
Office of Administrative Hearings

FROM: Jeff Livingston, Department of Environmental Protection and Sustainability (EPS) - Development Coordination

DATE: July 19, 2022

SUBJECT: DEPS Comment for Zoning Item # 2022-0140-SPHA
Address: 414 Katherine Avenue
(Ogle Property)

Zoning Advisory Committee Meeting of **June 20, 2022**

The subject property is located within the Chesapeake Bay Critical Area. According to BCZR Section 500.14, no decision shall be rendered on any petition for special exception, zoning variance, or zoning special hearing for a property within the Critical Area until the Department of Environmental Protection and Sustainability (EPS) has provided written recommendations describing how the proposed request would:

1. Minimize adverse impacts on water quality that result from pollutants that are discharged from structures or conveyances or that have run off from surrounding lands;

The subject property is located within a Limited Development Area (LDA), and is subject to Critical Area lot coverage requirements. Critical Area lot coverage differs from BCZR lot coverage and is defined in Natural Resources Article §8-1802(a)(17), as follows:

(17) (i) "Lot coverage" means that percentage of total lot or parcel that is:

1. Occupied by a structure, parking area, driveway, walkway, or roadway; or
2. Covered with gravel, stone, shell impermeable decking, a paver, permeable pavement, or any manmade material

(ii) "Lot coverage" includes the ground area covered or occupied by a stairway or impermeable deck.

(iii) "Lot coverage" does not include:

1. A fence or wall that is less than 1 foot in width that has not been constructed with a footer;
2. A walkway in the buffer or expanded buffer, including a stairway, that provides direct access to a community or private pier;

3. A wood mulch pathway; or
4. A deck with gaps to allow the water to pass freely.

The subject waterfront property, comprising approximately 8,678 square feet (sf), is located within a Limited Development Area (LDA) and a Modified Buffer Area (MBA) of the Chesapeake Bay Critical Area. The petitioner is requesting to determine that the subject Lot 10 was not merged with 416 Katherine Avenue, the net lot area is to 8,678 sf be in lieu of the minimum net lot area of 10,000 sf, that the lot width is to be 46 feet in lieu of the minimum lot width of 70 feet, that the sum of the width of the side yards to be 20 feet in lieu of the minimum sum of 25 feet, and for the rear yard depth (to the street) to be 25 feet in lieu of the minimum rear yard depth of 30 feet. In order to minimize impacts on water quality, any building permit and/or development plan will be reviewed for compliance with the LDA lot coverage limits, which, for a property this size is 31 ¼% (2,712 sf), and which cannot be exceeded, with mitigation required for lot coverage between 25% (2,170 sf) and 31 ¼% sf. In addition, the LDA regulations require minimum afforestation of 15%, equating to approximately 3 trees for a property this size. The MBA requirements further restrict lot coverage and structures within the Critical Area Buffer, which on this property is calculated a minimum of 100 feet landward of MHW. No lot coverage or impacts to the buffer are proposed at this time. By allowing the items requested by the petitioner, impacts on water quality will be minimized when a permit or plan is reviewed for compliance with the LDA and MBA regulations.

2. Conserve fish, wildlife, and plant habitat; and

Any development proposal for the property will be reviewed for the application of the Critical Area LDA and MBA requirements, which, if approved, will improve buffer functions, and conserve fish, wildlife and plant habitat in nearby Norman Creek.

3. Be consistent with established land use policies for development in the Chesapeake Bay Critical Area which accommodate growth and also address the fact that, even if pollution is controlled, the number, movement and activities of persons in that area can create adverse environmental impacts.

The request by the petitioner will be consistent with established land use policies, provided that the applicants meet any LDA and MBA requirements applicable, when proposed The request, if granted, will have no environmental impacts.

Reviewer: Thomas Panzarella
Environmental Impact Review