

**MEETING MINUTES  
BOARD OF ZONING APPEALS  
FOR CAROLINE COUNTY, MARYLAND**

**DATE:** April 16, 2019

**PLACE:** Health & Public Services Building  
403 S. 7<sup>th</sup> Street, 1<sup>st</sup> Floor, Room 110  
Denton, Maryland 21629-1335

**BOARD MEMBERS  
(PRESENT):** René Swafford, Chairman  
Mary Leavell, Vice-Chair  
Mike Mann, Member

**ALSO, PRESENT:** Bob Merriken, Attorney  
Crystal Dadds, Assistant Director of Codes  
Melanie Smith, Board Administrative Assistant

Chairman Swafford called the Caroline County Board of Zoning Appeals to order at 6:00 p.m.

**HARPER VARIANCE #201900002**

Chair Swafford read the Notice of Public Hearing into the record. Mr. Harper has requested an Area Variance to construct an addition within the 100-foot Chesapeake Bay Critical Area Buffer. The property is located at 9506 Quail Run Road, Denton, Maryland.

Ms. Dadds read the exhibits into the record:

- Exhibit 1 – Planning & Codes Staff Report
- Exhibit 2 – Variance Application
- Exhibit 3 – Real Property Data Sheet & Tax Map for M31-G12-P6-L11
- Exhibit 4 – List of Notified Adjoining Property Owners
- Exhibit 5 – Health Department Water & Sewer Verification
- Exhibit 6 – Letter from Critical Area Commission
- Exhibit 7 – Site Plan Prepared by Lane Engineering
- Exhibit 8 – Photographs of the Property taken on 4/2/19
- Exhibit 9 – Aerial Photograph of Property
- Exhibit 10- Notice of Hearing to the Applicant
- Exhibit 11- Notice of Public Hearing in the Star Democrat 4/3/19 and the Times Record 4/10/19

Chair Swafford swore-in Benson Harper.

Mr. Harper had applied to construct a porch and bedroom addition on a property that is entirely within the critical area buffer. The bedroom is proposed to be built above the existing building. He proposes to construct the porch on the front of the house on the property furthest from the water.

Other options to construct a porch would force him to build further into the critical area buffer. The lot has existed since 1977, prior to the critical area law.

It would enhance the neighborhood because most of the other homes have three bedrooms and a porch. His property is screened by trees. They tried to minimize the impact by keeping as close to the home as possible.

Mr. Harper explained that a typical home in the area has three bedrooms, so he does not feel that he is asking for anything out of the ordinary. His circumstances are unique in that his property is 100% within the Critical Area buffer which would prevent him from doing any improvements to his home.

Using the site plan, marked as Exhibit #7, Mr. Harper pointed out exactly where the porch is proposed to be built. He is requesting a 10' x 68.25' porch be added to the front of the home on the east side of the property. Because there is already 34.5 sq. ft. of existing impervious surface that will be replaced, only 530 sq. ft. more is requested.

Mr. Merriken asked about the note at the top of the site plan titled Critical Area Formula for Determining Impervious Surface. Mr. Harper explained that the note at the top of the page was from the 2003 site plan that was used to enclose the wood deck on the west side of the property. The note pertained to the 2003 project and should be disregarded.

Chair Swafford asked why he was requesting 938 sq. ft of disturbance. Ms. Dadds explained that the area includes not only the footprint of the project but also any land that may be disturbed during construction. The porch will be 546 sq. ft.

No trees or habitat would be disturbed during the project. Ms. Dadds explained that a three to one ratio was required for mitigation of any disturbance within the Critical Area buffer.

A letter from the State of Maryland Critical Area Commission (Exhibit 6) noted the following comments:

- The lot must be properly grandfathered.
- The proposed lot coverage is below the allowable lot coverage limit.
- Neither trees nor developed woodland will be disturbed.
- No Habitat Protection Areas (HPA's) will be disturbed including the buffer.

Mr. Harper explained that he trusted the regulations and variance process would screen any concerns that he was not aware of, for the fish wildlife and plant habitat within the Critical Area.

Chair Swafford closed this portion of the meeting for deliberation.

Consulting Chapter 175:152 D the Board discussed their findings.

1. An application was submitted. (See exhibit 2)
2. The meeting was duly advertised April 3 and 10, 2019. (See exhibit 11)

3. A. The Board did not hear any testimony that the request would be out of character for the neighborhood nor be injurious to the public health, safety or welfare. Testimony revealed the neighborhood's character would not be changed.

B. The available area to build on the lot was not a condition that arose from the action of the applicant. The lot existed since 1977 which predated the Critical Area Law and was not a result of any actions of the application.

C. The situation is not of such a recurring nature as to make practicable a general amendment to this chapter. This request does not occur so often as to make it necessary to amend the chapter of the code.

D. The Board heard testimony that the applicant made every effort to minimize the critical area disturbance by building atop existing impervious surface and doing so at the area of the residence farthest from the water.

E. The granting of the application satisfies the requirements of Critical Area Law laid out by the State's letter as evidenced in Exhibit 6.

**Motion:** Ms. Leavell made a motion to grant the application with the conditions that a building permit and/or Zoning Certificate will be required prior to any proposed development and must be accompanied by all the necessary documentation and site plan requirements. A Critical Area Buffer Management Plan will be required for impacts to the 100' Critical Area Buffer. Mitigation will occur at the ratio defined in COMAR 27.01.09-1.C. This plan will be reviewed and approved prior to the issuance of a Building Permit and/or Zoning Certificate.

**Second:** Mr. Mann seconded the motion.

**In Favor:** The motion was approved unanimously (3-0).

## REVIEW AND APPROVAL OF MINUTES AND DECISIONS

The members read the minutes of the March 19, 2019 Board of Zoning Appeals meeting. No corrections or additions were needed.

**Motion:** Ms. Leavell made a motion to approve the minutes as written.

**Second:** Mr. Mann seconded the motion.

**In Favor:** The motion was approved unanimously (3-0).

The members read the Cheesman decision for Variance application #201800020 and approved by signature.

## ADJOURNMENT

**Motion:** Ms. Leavell made a motion to adjourn the meeting at 7 p.m.

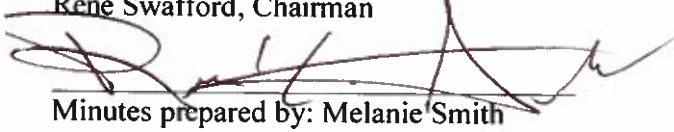
**Second:** Mr. Mann seconded the motion.

**In Favor:** The motion was approved unanimously (3-0).

The meeting was adjourned at 7 p.m.

BOARD OF ZONING APPEALS

René Swafford, Chairman

A handwritten signature in dark ink, appearing to be "René Swafford", written over a horizontal line.

Minutes prepared by: Melanie Smith