

RESOLUTION NO. 18 - 18

FLOODPLAIN MANAGEMENT VARIANCE RESOLUTION

A RESOLUTION OF THE COUNTY COMMISSIONERS OF WORCESTER COUNTY, MARYLAND APPROVING A FLOODPLAIN VARIANCE REQUEST FOR AN EIGHT HUNDRED SQUARE FOOT RESIDENTIAL ACCESSORY STRUCTURE WITH A FINISHED FLOOR BELOW THE REQUIRED BASE FLOOD ELEVATION LOCATED AT 12242 GREENRIDGE LANE, OCEAN CITY, MARYLAND, TAX ACCOUNT # 277833

WHEREAS, pursuant to Section § BR 2-307 of the Building Regulations Article of the Code of Public Local Laws of Worcester County, Maryland, John F. Jarvis, Jr. filed an application for a floodplain variance request to permit an eight hundred square foot residential accessory structure of pole building construction with a finished flood elevation 0.7 feet below the required base flood elevation on his property located at 12242 Greenridge Lane; and

WHEREAS, the Floodplain Administrator requested comments on the application from the Maryland Department of the Environment (National Flood Insurance Program State Coordinator); and

WHEREAS, the County Commissioners reviewed the National Flood Insurance Program State Coordinator's comments and the report of the Department of Development Review and Permitting at their regularly scheduled meeting on June 19, 2018; and

WHEREAS, after careful review of all pertinent information the County Commissioners have determined that the requested variance is the minimum necessary, considering the flood hazard, and, given the site characteristics, is appropriate and will not have adverse impacts on adjacent properties;

NOW, THEREFORE, BE IT RESOLVED by the County Commissioners of Worcester County, Maryland that the aforementioned floodplain management variance request is hereby granted subject to the applicant submitting a corrected "Certificate of Engineered Flood Openings" which details the premises' address and the applicant's submittal and recordation of a "Declaration of Land Restriction/Nonconversion Agreement" to prevent the enclosed area of the subject structure which is below the base flood elevation from being converted into something other than for parking of vehicles and limited residential storage.

AND, BE IT FURTHER RESOLVED that the effective date of this Resolution shall be nunc pro tunc, June 19, 2018.

PASSED AND ADOPTED this 17th day of July 2018.

ATTEST:



Harold L. Higgins
Chief Administrative Officer

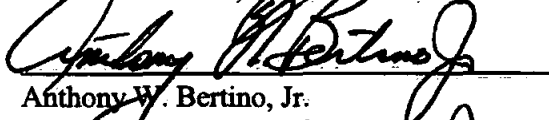
COUNTY COMMISSIONERS OF
WORCESTER COUNTY, MARYLAND



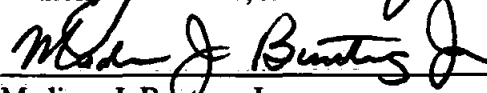
Diana Purnell, President



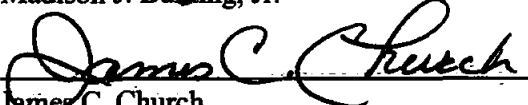
Theodore J. Elder, Vice President



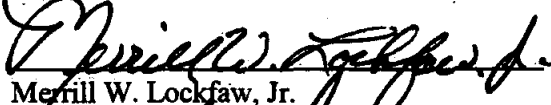
Anthony W. Bertino, Jr.



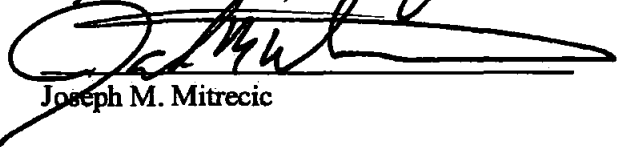
Madison J. Bunting, Jr.



James C. Church



Merrill W. Lockfaw, Jr.



Joseph M. Mitrecic

IN THE MATTER OF *
THE FLOODPLAIN CONSTRUCTION *
VARIANCE REQUEST OF *
JOHN JARVIS, JR. *
12242 GREENRIDGE LANE *
OCEAN CITY, MARYLAND *

FINDINGS OF FACT

Subsequent to a meeting of the County Commissioners held on June 19, 2018 and after a review of the entire record, the Worcester County Commissioners hereby adopt the following as their entire findings of fact as required by the provisions of the Building Regulations Article, Subtitle III Floodplain Management, Subsection BR 2-307(c) of the Code of Public Local Laws of Worcester County, Maryland, on all evaluations, relevant factors, and requirements as specified in the Subtitle for floodplain variance requests.

Regarding the specifics of the Floodplain Variance Request: The subject application seeks to permit the finished floor of an 800 square foot residential accessory building used for storage of vehicles and personal property to be located approximately 0.7 feet below the Ordinance-required based flood elevation of 5 feet, NAVD '88.

Testimony before the County Commissioners: John Jarvis, Jr., the applicant, was unable to attend the County Commissioners' discussion of the request. The applicant's case was presented by Edward A. Tudor, Director of Worcester County Development Review and Permitting. Mr. Tudor conveyed that the building permit for the subject structure was issued on April 27, 2017. The permit indicated that the proposed building was in the AE flood zone, with a required base flood elevation of 5 feet, NAVD '88. For reasons unbeknownst to the applicant, Diamond State Pole Buildings, the builder of the proposed structure, constructed the pole building and placed the concrete floor of the structure with the finished floor elevation below the base flood elevation. It was not determined until receipt of the elevation certificate that the top of the floor of the structure was indeed below the base flood elevation. Mr. Tudor stated that the new structure was replacing an old smaller accessory building on the site and was located in a place on the lot where the elevation exceeds that of the location of the principal dwelling on the property. He noted that, had the structure been attached to the principal dwelling at the lower elevation, the requested variance would not even be necessary and the property where the improvements are located is very remote and heavily wooded. There are no other dwellings or structures on adjacent properties or public improvements for quite some distance that could be impacted by the subject structure. Additionally, the entire site is constrained by a number of environmental issues. Located in the tidal floodplain of Herring Creek, the development site is in the Atlantic Coastal Bays Critical Area. It is impacted by tidal and nontidal wetlands and their buffers. Potential locations for the accessory structure are limited and the location was chosen to mitigate impacts and reduce the need for fill material.

The County Commissioners' findings regarding the considerations for variances cited in Section BR 2-307(c) of the Building Regulations Article:

(1) The danger that materials may be swept onto other lands to the injury of others: The County Commissioners find that there are no other dwellings or structures on adjacent properties or

public improvements for quite some distance that could be impacted by the subject structure.

(2) The danger to life and property due to flooding or erosion damage: The County Commissioners find that there is minimal possibility of a danger to life and property due to flooding and erosion as the site of the accessory structure is higher in elevation than the principal dwelling. Additionally, the site is heavily wooded and not prone to erosion.

(3) The susceptibility of the proposed development and its contents (if applicable) to flood damage and the effect of such damage on the individual owner: The County Commissioners find that there is very minor susceptibility of the proposed development to flood damage as the accessory structure is provided with flood vents to permit the free flow of any flood waters should such condition ever materialize. Furthermore, any personal property stored in the structure can easily be raised above the base flood elevation.

(4) The importance of the services to the community provided by the proposed development: The County Commissioners find that the subject structure is strictly for personal residential storage and therefore is of no importance to community services.

(5) The availability of alternative locations for the proposed use which are not subject to, or are subject to less, flooding or erosion damage: The County Commissioners find that the site of the accessory structure is higher in elevation than the principal structure, a dwelling, and the site is heavily wooded and not prone to erosion. Additionally, the site is highly constrained by both tidal and nontidal wetlands and their buffers. The elevation and the location of the structure minimize the need for fill material.

(6) The necessity to the facility of a waterfront location, where applicable, or if the facility is a functionally dependent use: The County Commissioners find that the structure is not in a waterfront location nor is it a functionally dependent use.

(7) The compatibility of the proposed use with existing and anticipated development: The County Commissioners find that the structure is intended for personal storage purposes as an accessory to the adjacent single-family dwelling. The County Commissioners conclude that such accessory structures are by their very nature compatible with residential structures. Sited in a remote location, no future development is anticipated on the subject parcel or any other adjacent lands.

(8) The relationship of the proposed use to the Comprehensive Plan and Hazard Mitigation Plan for that area: The County Commissioners find that the subject property is designated as an Existing Developed Area in the County's duly adopted Comprehensive Plan. The Plan states that densities and uses within this category should be consistent with the current development character of the area. The County Commissioners perceive that single-family homes and their accessory structures dominate the area and are properly zoned for such uses and conclude that a new residential accessory structure is completely consistent with the development character of the area. The County Commissioners find that a residential accessory structure is not something specifically discussed in the County's Hazard Mitigation Plan but note that that Plan does not show the property to be located on a road that is subject to flooding or located in an area of greater risk of flooding than any other area located within the floodplain. Additionally, the property is not identified as a repetitive loss property or located in the vicinity of any other such properties.

(9) The safety of access to the property in times of flood for passenger vehicles and emergency vehicles: The County Commissioners find that safe access to the property is provided now and is unaffected by the accessory structure.

(10) The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site: The County Commissioners find that floodwaters at the site would only be expected to rise to the base flood elevation of 5 feet NAVD '88. Wave action is not anticipated. The rate of rise and velocity of floodwaters are expected to be very slow. Generally, tidal flooding in areas such as this only occur after prolonged periods of easterly or northeasterly winds along the Atlantic Coast. Such winds tend to push water into the Coastal Bays and hold it there. The subject property is located well upstream of the open bay and would be one of the last areas to see an increase in water elevation. The long, slow rise in tidal water and the corresponding slow drop do not provide for any measurable sediment transport. The duration of elevated tides varies greatly with wind speed and direction. Generally speaking, as the winds along the coast diminish or change direction, the accumulated water in the Coastal Bays and their tributaries begin to drain on the following outgoing tide. The rate of receding of the tidal waters is again a function of wind speed, direction, normal tide cycles and the amount of time the water accumulated in the first place.

(11) The costs of providing government services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges: The County Commissioners find that there will be no cost of providing government services and facilities during and after flood conditions. Neither the residential accessory structure nor the residential structure itself are served by public sewer, water, gas or bridges. A private septic system and well provide wastewater and potable water to the site. Electrical service is already provided to the property and access to the site is provided by a private driveway connecting to an existing public road.

(12) The comments provided by the Maryland Department of the Environment (National Flood Insurance Program State Coordinator): The County Commissioners, in making their decision, have considered the comments dated May 4, 2018 provided by the Maryland Department of the Environment's National Flood Insurance Program State Coordinator. In accordance with those comments, the County Commissioners have determined that the applicant must record a declaration of land restriction/nonconversion agreement and revise the Certification of Engineered Flood Openings to identify the building address.

The County Commissioners' findings regarding the limitations for granting variances cited in Section BR 2-307(d) of the Building Regulations Article:

(1) A showing of good and sufficient cause: The County Commissioners find that there is good and sufficient cause to grant the requested variance due to the particular physical characteristics of the property. It is remote, wooded, encumbered with both tidal and nontidal wetlands and their buffers and is located within the Atlantic Coastal Bays Critical Area. These physical characteristics limit the locations available on the property to place the accessory structure and to further elevate the structure would require significant amounts of fill material which is discouraged in these areas.

(2) A determination that failure to grant the variance would result in exception hardship due to the physical characteristics of the property: The County Commissioners find that a failure to grant the variance would result in an exceptional hardship because of the aforementioned environmental constraints.

(3) A determination that the granting of a variance for development within any designated floodway, or flood hazard area with base flood elevations but no designated floodway, will not result in increased flood heights beyond that which is allowed in these regulations: The County Commissioners find that the subject property is not located in a designated floodway but is located in a flood hazard area with base flood elevations but no designated floodway. The granting of the variance will not result in increased flood heights beyond that which is allowed in the regulations because the structure is provided

with flood vents to allow the free flow of flood waters through the structure.

(4) A determination that the granting of a variance will not result in additional threats to public safety, extraordinary public expense, nuisances, fraud or victimization of the public, or conflict with existing laws: The County Commissioners find that the granting of the variance will not result in any of these situations because a building permit has already been issued for the structure which is located on a remote residential property and the subject structure replaced an existing residential accessory structure.


(5) A determination that the building, structure or other development is protected by methods that minimize flood damage: The County Commissioners find that it has been determined that the engineered flood vents in the structure provide protection for the structure. Additionally, any personal property contained therein can easily be raised above the base flood elevation if necessary.

(6) A determination that the variance is the minimum necessary to afford relief, considering the flood hazard: The County Commissioners find that the variance is the minimum relief necessary considering the minimal risk of a flood hazard due in large part to its location and site characteristics.

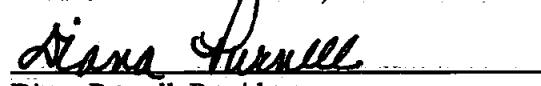
Decision of the County Commissioners: As a result of the testimony and evidence presented before the County Commissioners and the findings as set forth above, the County Commissioners find that the requested variance is the minimum necessary, considering the flood hazard, and, given the site characteristics, is appropriate and will not have adverse impacts on adjacent properties.


Adopted as of June 19, 2018. Reduced to writing and signed July 17, 2018.

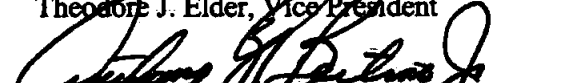
ATTEST:

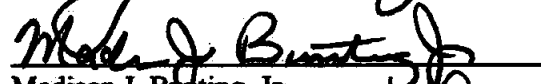

Harold L. Higgins
Chief Administrative Officer


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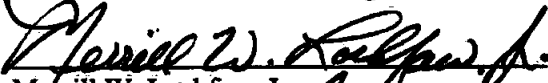

Diana Purnell, President

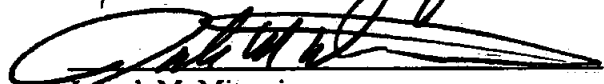

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