



HOWARD COUNTY DEPARTMENT OF PLANNING AND ZONING
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Marsha S. McLaughlin, Director

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January 14, 2013

Kathleen Wissig
2909 Montclair Drive
Ellicott City, Maryland 21043

Re: Chestnut Hill Estates, Lot 21
Waiver Petition WP-13-055 (Reconsideration)

Dear Ms. Wissig:

The Director of the Department of Planning and Zoning reviewed your request for reconsideration of a waiver of Subsection 16.116(a)(2)(ii) of the Howard County Subdivision and Land Development Regulations. Waiver approval would permit house construction and grading to take place within 75 feet of the bank of the perennial stream located on the property referenced. The waiver was initially denied by the Department on November 8, 2012.

Since they were cited by our waiver decision letter of November 8, 2012, the following regulations were addressed by the request for reconsideration and are also cited following:

16.115(c)(2): *"Prohibitions on Use of Floodplain Land: No clearing, excavating, filling, altering drainage, or impervious paving, may occur on land located in a floodplain unless required or authorized by the Department of Planning and Zoning..."*

16.116(a)(1): *"Streams and Wetlands: Grading, removal of vegetative cover and trees, paving, and new structures shall not be permitted within 25 feet of a wetland in any zoning district."*

16.120(b)(5)(ii): *"Excessive noise levels: Where residential lots will be impacted by excessive noise levels from an existing or proposed highway or railroad, and a wall or fence is required for noise mitigation...noise walls and fences shall be located on residential lots..."*

Following reconsideration of the waiver petition based on the request submitted, as of the date of this letter the Planning Director denied your request to waive Subsection 16.116(a)(2)(ii), based on the following reasons:

1. The design alternative submitted with the reconsideration request, consisting of "placing a smaller sized house located at the southwest corner of the property" was rejected by the Petitioner; the reason for rejection was "financial hardship on the Seller." Justification Items 5, 6 and 8 of our denial letter of November 8, 2012 documented failure on the part of Petitioner to:
 - a. Expand the lot building envelope by means of a setback variance;
 - b. Demonstrate why the proposed house *or* a smaller house cannot be located at the southwestern side of the lot;
 - c. Submit design alternatives and reasons for rejection, respectively.

None of the items were adequately addressed by the reconsideration request. Justification Items 5 and 6 offered the option of relocating the house *and* retaining its size and avoiding or minimizing stream buffer impacts.

2. Application of Subsection 16.120(b)(5), "Excessive Noise Levels", although conjectural at this time since no noise study has been performed, would have a significant impact on the design of any site development plan for this lot since long and large noise walls or fences may be required. It would also have a "domino effect" resulting in impacts documented by the previous denial and would necessitate waivers of Subsections 16.115(c)(2) and 16.116(a)(1) and applicable Design Manual requirements. Due to the proximity of the lot to Baltimore National Pike the likelihood of a waiver of Subsection 16.120(b)(5) in order to avoid the impacts resulting from construction of noise walls or fences may be questionable at best.
3. The reconsideration request concludes that "...there is no way not to disturb this stream bank buffer area." This may be true for noise walls or fences required in accordance with 16.120(b)(5), but it has not been tested since the noise mitigation requirement is unknown. No supporting documentation was provided which demonstrates that the stream buffer disturbance is necessary in accordance with the requirements of Subsection 16.116(c).
4. The Development Engineering Division recommended denial of the reconsideration.

You are urged to investigate the option described by Item 5 of our denial letter of November 8, 2012, consisting of obtaining a setback variance to enlarge the lot building envelope outside the 75' streambank buffer. The Planning Director has expressed support for granting a setback variance. Should the variance be obtained, site design requirements should be re-evaluated and appropriate measures be taken to either ensure compliance with applicable regulations or obtain necessary waivers and Design Manual waivers.

Should you have any questions please contact me by telephone at 410-313-2350 or by email at ksheubrooks@howardcountymd.gov or contact Dave Boellner by telephone at 410-313-3956 or by email at dboellner@howardcountymd.gov.

Sincerely,



Kent Sheubrooks, Chief
DPZ, Division of Land Development

KS/DBB:dbb

Attachment (DED comments)

CC: DPZ, Research
DPZ, DED
Raztec Associates
Cindy DelZoppo