



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

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September 26, 2013

Michael Balakirsky
11755 Bragdon Wood
Clarksville, Maryland 21029

Re: Balakirsky Property
Waiver Petition WP-14-022

Dear Mr. Balakirsky:

The purpose of this letter is to inform you that the Director of the Department of Planning and Zoning considered your request for a waiver of Subsections 16.116(a)(1), 16.116(a)(3), 16.120(b)(4)(i), 16.120(b)(4)(iii)(b) and 16.120(c)(2) of the Howard County Subdivision and Land Development Regulations. A waiver of these regulations would: 1) allow for grading, removal of vegetative cover and trees, paving and new structures within 25 feet of a wetland; 2) allow wetlands, streams and their buffers to be located on residential lots rather than on required open space or a non-buildable preservation parcel; 3) allow for the design of residential lots having an irregular, non-rectangular shape; 4) allow wetlands, streams and their buffers to be located on residential lots less than 10 acres in size; and, 5) allow for creation of a single-family detached lot not having public road frontage, respectively.

As of the date of this letter, the Planning Director approved your request to waive the aforementioned regulations as they apply to the proposed subdivision of the Balakirsky Property, subject to the following conditions:

1. The petitioner shall obtain authorization of proposed activities in the existing public 20' drainage & utility easement from the applicable agency prior to the start of work.
2. The petitioner shall obtain State and federal authorizations of activities proposed in nontidal wetlands, the 25-foot nontidal wetland buffer and waters of the U.S.
3. The petitioner shall provide a culvert or similar structure as part of the proposed driveway to maintain hydrologic conveyance in the wetland area.
4. The petitioner shall submit a final subdivision plan application to the Department of Planning and Zoning for processing approval in compliance with County and State requirements.
5. The petitioner shall delineate and label the existing recorded driveway access easement for Lot 1 on the final plat submission.
6. Approval of this waiver is solely for the wetlands and buffer disturbance located at Chapel Estates Drive for the new driveway. No clearing, grading or disturbance is approved for the wetlands, stream and buffer located at the western corner of Lot 2.
7. Both Lots 1 and 2 shall comply with the minimum 3-acre lot size requirement with the final plat submission.

Our decision to approve the waiver was made based on the following justification:

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Extraordinary hardship or practical difficulty may result from strict compliance with the regulations.

The petitioner has adequately demonstrated that extraordinary hardship and practical difficulty would be encountered from strict compliance with the regulations. Existing conditions (topography and site access) and perc test results present obstacles to subdivision layout and design. The parcel added to the property in 1988 and providing its sole means of public road access contains a wetland and wetland buffer, and the existing house located on proposed Lot 1 is separated from this access by an ephemeral channel having steep banks. Both sewage easements resulting from passing perc tests are located near the top of the drainage area of the ephemeral channel; these are subsequently closer to the existing house (proposed Lot 2) and essentially bisect the parcel.

Since a number of regulations are being considered, strict compliance would result in the following difficulties: 1) avoidance of activities in wetlands and the wetland buffer would result in neither lot of the subdivision having public road frontage, a condition requiring a waiver of 16.120(c)(2) and presenting difficulties in subdivision layout and design; 2) placement of the environmental features on an open space lot or non-buildable preservation parcel would render the remainder of the parcel not capable of subdivision under the present RC zoning; 3) strictly rectangular lots would result in an imbalance of acreage, again rendering the parcel incapable of subdivision due to the locations of the large sewage easements bisecting the property; and 4) providing public road frontage to the existing house instead of utilizing the existing Bragdon Wood access would require drastically altering the design of the lot, abandoning the existing right-of-way, removing additional forest and potentially specimen trees and having to design the lot driveway to negotiate difficult topography. For these reasons waiver approval is warranted.

Waiver approval is not detrimental to the public interest.

The petitioner has adequately demonstrated that approval of this waiver based on the information submitted, in conjunction with adherence to the conditions of approval, will not be detrimental to the public interest. It will have no adverse effect on adjacent properties, the surrounding community, or Howard County as a whole.

Indicate this waiver petition file number, sections of the regulations, action, conditions of approval, and date on all related plats and building permits. This waiver will remain valid for one year from the date of this letter or as long as the subdivision remains in active processing.

Should you have any questions please 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

CC: DPZ, Research Shanaberger & Lane
DPZ, DED