



HOWARD COUNTY DEPARTMENT OF PLANNING AND ZONING

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Ellicott City, Maryland 21043

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Voice/Relay

Valdis Lazdins, Director

FAX 410-313-3467

July 12, 2016

Marilyn Percival
5020 Ten Oaks Road
Clarksville, MD 21029

RE: Percival Property, WP-16-146
(F-16-088 & ECP-16-054)

Dear Mrs. Percival:

The Director of the Department of Planning and Zoning considered your request for a waiver from the Howard County Subdivision and Land Development Regulations.

As of the date of this letter, the Planning Director **approved** your request to waive **Section 16.120(b)(4)(iii)(b) Lot Design and Section 16.120(b)(4)(i) Lot Design. Section 16.120(b)(4)(iii)(b) Lot Design** states that for a lot or buildable preservation parcel of 10 acres or greater in size that floodplains, wetlands, streams, their buffers, and forest conservation easements for afforestation, reforestation, or retention may be located on the lot or parcel if the building envelope is no closer than 35 feet from these environmental features. **Section 16.120(b)(4)(i) Lot Design** which states that residential lots shall be designed to be usable in terms of being regular and generally rectangular in lot shape.

Approval is subject to the following conditions:

1. The Percival Property (F-16-088) and the Kahn Property (ECP-16-064) are separate projects and will need waivers independent of each other. Percival Property (F-16-088) does not require an Alternative Compliance Request for Section 16.120(c)(2) as it has the required frontage specified in the Howard County Subdivision Regulations.
2. A 35 foot Environmental BRL shall be provided from the environmental buffer and forest conservation easements (from whichever extends further into the lots).
3. No grading, removal of vegetative cover and trees, paving, and new structures are permitted within the floodplain, wetlands, stream and buffers for all lots except the essential MD. Route 97 entrance driveway crossing disturbance in accordance with Section 16.116(c) of the Regulations.
4. At the subdivision plan and building permit stages the applicant should make all reasonable efforts to keep the distance between the proposed house sites and the forest conservation easement areas at a maximum to avoid possible future encroachments by the homeowners.
5. Include the alternative compliance request number, description, and decision on all associated and future plans.

Our decision was made based on the following:

Self-Created Hardship:

The applicant would have experienced hardship and practical difficulty with the development of the property through strict compliance with the regulations. The proposed forest conservation easements have been placed to the rear of Lots 2 and 3 in order to meet the forest conservation requirements on-site rather than paying a large fee-in-lieu amount for forest conservation, or purchasing acreage from an off-site forest bank. The locations of the aforementioned environmental features are spread along the western edge of the property. There is still reasonable room for development while maintaining the 35 foot environmental setback for the structures. Due to the shape of the parcel and the existing house within it, the parcel would only allow the development of the property for two (2) lots using generally rectangular lot shapes. Having all the proposed lot be "generally" rectangular in shape would have resulted in the loss of 1 of the 3 lots or demolition of the existing house.

Implementation of Alternative Proposal:

The intent of the regulations is not to include environmental features on lots less than 10 acres, the proposed lots are over 3 acres in size, which creates the ability to retain these features on the lot and still maintain reasonable use and adequate spacing on the lots to protect the environmental features. The environmentally sensitive features remaining in the lots pipestem area after the driveway is constructed will be far from the useable lot areas so they will not be disturbed. The 35 foot environmental setback for the structures will still be maintained from the environmental features and will not be impacted. By allowing the forest conservation area within the lots and placing them into an easement created and added buffer from the stream located on the western edge of the property. The environmental setback and the placement of the existing and proposed forest within a forest conservation easement will protect the existing environmental features on site. The intent of the regulations is also to provide useable lots areas for the use and enjoyment of the owners. The proposed lot layouts still create usable space for the owners with the majority of the unusual layout area containing easement areas.

Detrimental to the Public Interests:

The majority of the existing forest areas on the property will be protected on site and will not be impacted by the proposed development. The public interest will be best served by protecting these features. The useable lot areas will be maintained with the slightly irregular lot shape and still exceed the acreages required by the optional cluster option.

Nullifies the Intent or Purpose of the Regulations:

The intent of the regulations is to protect floodplains, wetlands, streams, their buffers, and forest conservation easements for afforestation, reforestation, and allows development if the building envelope is no closer than 35 feet from these environmentally sensitive features. The petitioner has maintained the 35 foot buffer from these features and is placing the floodplains, streams, and their buffers within forest conservation easements for added preservation. The irregularly shaped lots are still useable and provide an abundance of space for the owner to enjoy. The proposed site layout illustrates that the proposed design is not a nullification of the regulations.

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

If you have any questions, please contact Nicholas Haines at (410) 313-4333 or email at nhaines@howardcountymd.gov.

Sincerely,



Kent Sheubrooks, Chief
Division of Land Development

KS/NH

cc: Research
DED
Real Estate Services
Mildenberg, Boender & Assoc., Inc.