



HOWARD COUNTY DEPARTMENT OF PLANNING AND ZONING

3430 Court House Drive ■ Ellicott City, Maryland 21043 ■ 410-313-2350

Lynda D. Eisenberg, AICP, Director

FAX 410-313-3467

July 22, 2024

Kenneth M. Kruger and Diana L. Kruger
12194 Mount Albert Road
Ellicott City MD 21042

RE: WP-24-079 Kruger Property

Dear Mr. and Mrs. Kruger:

This letter is to inform you that your request for alternative compliance to the Howard County Subdivision and Land Development Regulations for the subject project was reviewed.

On July 3, 2024, and pursuant to Section 16.116(d), the Director of the Department of Planning and Zoning, Director of the Department of Public Works and Administrator of the Office of Community Sustainability considered and **denied** your request for alternative compliance with respect to **Section 16.116(a)(2)(iii)** of the Subdivision and Land Development Regulations to pave within a stream bank buffer for construction of a driveway. Please see the attached Final Decision Action Report for more information.

On July 3, 2024, and pursuant to Section 16.104, the Director of the Department of Planning and Zoning, considered and **approved** your request for alternative compliance with respect to **Section 16.120(b)(4)(iii)(b)** of the Subdivision and Land Development Regulations to allow environmentally sensitive features on residential lots less than 10 acres in size.

The Department of Planning and Zoning hereby determines that you have demonstrated to its satisfaction that strict enforcement of Section 16.120(b)(4)(iii)(b) would result in an unreasonable hardship or practical difficulty. This determination is made with consideration of your alternative compliance application and the four (4) items you were required to address, pursuant to Section 16.104(a)(1):

1. Strict conformance with the requirements will deprive the applicant of rights commonly enjoyed by others in similar areas;

The property has frontage via a stub, informally called "Old Rover Mill Road," from Rover Mill Road that is maintained by the County as public access. The Middle Patuxent River runs south of Old Rover Mill Road and an unnamed perennial stream runs along the eastern portion of the property before converging with the Middle Patuxent River just south of the road. The 100-year floodplain extends over the entire width of the property frontage and along the eastern portion of the property. The 100-foot stream bank buffer extends over portions of the property frontage and in the eastern and northern portions of the property. Wetland areas can be found within this eastern and northern riparian area. The applicant is proposing a two-lot subdivision with a new house proposed to be constructed in front of the existing house. The regulations restrict new residential lots from being encumbered by environmentally sensitive features. The two lots cannot be created with public road frontage without being encumbered with environmental features. Strict conformance with the requirements would deprive the applicant the right to subdivide the property into two lots with public road frontage, a right commonly enjoyed by others in similar areas.

2. Uniqueness of the property or topographical conditions would result in practical difficulty; other than economic, or unreasonable hardship from strict adherence to the regulations;

The 100-year floodplain extends over the entire width of the property frontage and along the eastern portion of the property. The 100-foot stream bank buffer extends over portions of the property frontage and in the eastern and northern portions of the property. Wetland areas can be found within the eastern and northern riparian area. These unique conditions cause a practical difficulty in creating residential lots without environmental features, while providing public road frontage and access.

3. The Variance will not confer to the applicant a special privilege that would be denied to other applicants and;

The variance will not confer to the applicant a special privilege that would be denied to other applicants. When development of a site is restricted due to unique site conditions, alternative compliance requests have been approved to retain environmental features on lots less than 10-acres. Most lots within close proximity to this subdivision predated the environmental regulations and are similarly encumbered with environmental features and less than 10 acres in size.

4. The modification is not detrimental to the public health; safety or welfare, or injurious to other properties.

There is no evidence that this request will be detrimental to the public, health, safety or welfare, or injurious to other properties. The existing house on Lot 2 will remain and no grading or construction will occur within the lot. The proposed house is located as far west from the eastern riparian area, and the only disturbance to the environmental features is minimal for driveway access to the public road.

On July 3, 2024, and pursuant to Section 16.104, the Director of the Department of Planning and Zoning, considered and **partially approved** disturbance within the 100-year floodplain to upgrade only the existing driveway to comply with Design Manual standards for a shared driveway and **denied** disturbance within the 100-year floodplain for the new driveway access point to Old Rover Mill Road for alternative compliance with respect to **Section 16.115(c)(2)** of the Subdivision and Land Development Regulations.

The Department of Planning and Zoning hereby determines that you have demonstrated to its satisfaction that strict enforcement of Section 16.115(c)(2) for disturbance to the 100-year floodplain to upgrade the existing driveway would result in an unreasonable hardship or practical difficulty. Alternatively, the Department of Planning and Zoning finds that strict enforcement of Section 16.115(c)(2) for disturbance to the 100-year floodplain for a new driveway access point to Old Rover Mill Road would not result in an unreasonable hardship or practical difficulty. This determination is made with consideration of your alternative compliance application and the four (4) items you were required to address, pursuant to Section 16.104(a)(1). The following factors were considered in making this determination:

1. Strict conformance with the requirements will deprive the applicant of rights commonly enjoyed by others in similar areas;

The property has frontage via a stub, informally called "Old Rover Mill Road," from Rover Mill Road that is maintained by the County as public access. The Middle Patuxent River runs south of Old Rover Mill Road. The 100-year floodplain extends over the entire existing road and property frontage. The 100-foot stream bank buffer extends over the western portion of the road and property frontage. The regulations prohibit disturbance and paving within these environmental features. The applicant is proposing a two-lot subdivision with a new house proposed to be constructed in front of the existing house. The existing driveway is located at the end of Old Rover Mill Road and will remain to provide access to both lots. The applicant is proposing a new driveway to be

constructed for the proposed house, 200 feet west of the existing driveway. Both areas of paving within the environmental features are at grade and result in 485 SF of disturbance to the floodplain and 275 SF of disturbance to the stream buffer.

Strict compliance with the regulations would not allow a new driveway access point to the public road or allow the existing driveway to be upgraded to current shared driveway standards. Following consultation with the Directors of the Office of Community Sustainability and the Department of Public Works, the Department of Planning and Zoning (DPZ) Director did not find an unreasonable hardship in strict adherence to the regulations. The DPZ Director found it reasonable for the two-lot subdivision to provide one shared driveway for access to both lots, especially if it results in less disturbance to environmental features.

2. Uniqueness of the property or topographical conditions would result in practical difficulty; other than economic, or unreasonable hardship from strict adherence to the regulations;

The 100-year floodplain extends over the entire width of the road and property frontage and the 100-foot stream bank buffer extends over portions of the western road and property frontage. These unique conditions cause a practical difficulty in allowing each residential lot to have individual driveway access to a public road. The applicant's position provided in the justification outlined the applicant's desire to incorporate a specific house on the property. The garage for the proposed house is opposite the existing driveway access point. The applicant designed the driveway system to best serve the house with direct access to the garage. The applicant stated the current property is used for agricultural use and the existing driveway is active with delivery trucks/vans. Because the applicant's child owns the existing house, the applicant would like to create a connection between the properties to facilitate interfamily access. The applicant proposed the new driveway to provide straight access to the proposed garage because the existing driveway would provide a more circuitous route to and from the garage.

Following consultation with the Directors of the Office of Community Sustainability and the Department of Public Works, the Department of Planning and Zoning Director did not find an unreasonable hardship in strict adherence to the regulations. The DPZ Director found that the design appears to be a convenience for the applicant and not an unreasonable hardship or practical difficulty. Given the larger lot size, the Director found it reasonable to provide a circular route on the property and outside of the environmental features.

3. The Variance will not confer to the applicant a special privilege that would be denied to other applicants and;

Creating a lot with two driveway access points could be considered a special privilege if the design does not comply with the Regulations. Allowing the existing driveway to be upgraded to Design Manual standards to provide one vehicular access point for both residential lots is not a special privilege that would be denied to other applicants.

4. The modification is not detrimental to the public health; safety or welfare, or injurious to other properties.

There is no evidence that this request will be detrimental to the public health, safety or welfare, or injurious to other properties. There are currently three users that access Old Rover Mill Road. Upgrading the existing driveway to current Design Manual standards will provide a safer access point to the public road, and result in the least amount of disturbance to the environmental features.

Approval of this Alternative Compliance to Section 16.120(b)(4)(iii)(b) and partial approval to Section 16.115(c)(2) is subject to the following conditions:

1. A 35-foot environmental setback shall be established from the boundary of the floodplain, wetland, stream, their buffers. No principal structures may be permitted within the environmental setback, except that a deck may project ten feet beyond the building envelope. Any future plan or permit must delineate the environmental features and the required 35-foot environmental setback.
2. Disturbance to the 100-year floodplain shall be the minimum necessary to upgrade the existing driveway to comply with Design Manual standards. Any natural vegetation disturbed during the construction of the driveway must be restored to its natural condition to the greatest extent possible once construction is complete. Any disturbance to regulated resources beyond this request will require approval of alternative compliance.
3. The applicant shall obtain all required authorizations and permits from the Maryland Department of the Environment and the U.S. Army Corp of Engineers for disturbance within the 100-year floodplain, prior to approval of the final plat. The authorization number and date of approval shall be included in a note on the final plan.

Indicate this alternative compliance 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 alternative compliance approval will remain valid for one year from the date of this letter or as long as a subdivision or site development plan is being actively processed in accordance with the processing provisions of the Regulations.

If you have any questions, please contact Julia Sauer at (410) 313-2350 or email at jsauer@howardcountymd.gov.

Sincerely,

DocuSigned by:

1EB75478A22B49A...

Anthony Cataldo, AICP, Chief
Division of Land Development

AC/js

cc: Research
DLD - Julia Sauer
Robert Vogel Engineering + Timmons Group (pdox@vogeleng.com)

Certificate Of Completion

Envelope Id: 0468EB017DD7477A88FDAAC8D47AAE9F	Status: Completed
Subject: Here is your signed document: WP-24-079 Decision Letter.docx	
Source Envelope:	
Document Pages: 4	Signatures: 1
Certificate Pages: 1	Initials: 0
AutoNav: Disabled	Envelope Originator:
Envelopeld Stamping: Disabled	Anthony Cataldo
Time Zone: (UTC-05:00) Eastern Time (US & Canada)	Ellicott City, MD 21043
	acataldo@howardcountymd.gov
	IP Address: 167.102.191.18

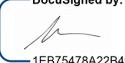
Record Tracking

Status: Original	Holder: Anthony Cataldo	Location: DocuSign
7/22/2024 2:48:50 PM	acataldo@howardcountymd.gov	

Signer Events

Anthony Cataldo
 acataldo@howardcountymd.gov
 Division Chief
 Howard County Government
 Security Level: Email, Account Authentication (None)

Signature

DocuSigned by:

 1EB75478A22B49A...
 Signature Adoption: Uploaded Signature Image
 Using IP Address: 167.102.191.18

Timestamp

Sent: 7/22/2024 2:49:45 PM
 Viewed: 7/22/2024 2:51:19 PM
 Signed: 7/22/2024 2:53:59 PM
 Freeform Signing

Electronic Record and Signature Disclosure:
 Not Offered via DocuSign

In Person Signer Events

Signature

Timestamp

Editor Delivery Events

Status

Timestamp

Agent Delivery Events

Status

Timestamp

Intermediary Delivery Events

Status

Timestamp

Certified Delivery Events

Status

Timestamp

Carbon Copy Events

Status

Timestamp

Julia Sauer
 jsauer@howardcountymd.gov
 Planning Supervisor
 Howard County Government
 Security Level: Email, Account Authentication (None)

COPIED

Sent: 7/22/2024 2:54:00 PM
 Viewed: 7/22/2024 2:56:14 PM

Electronic Record and Signature Disclosure:
 Not Offered via DocuSign

Witness Events

Signature

Timestamp

Notary Events

Signature

Timestamp

Envelope Summary Events

Status

Timestamps

Envelope Sent	Hashed/Encrypted	7/22/2024 2:49:46 PM
Certified Delivered	Security Checked	7/22/2024 2:51:19 PM
Signing Complete	Security Checked	7/22/2024 2:53:59 PM
Completed	Security Checked	7/22/2024 2:54:00 PM

Payment Events

Status

Timestamps



HOWARD COUNTY DEPARTMENT OF PLANNING AND ZONING

3430 Court House Drive ■ Ellicott City, Maryland 21043 ■ 410-313-2350

Lynda D. Eisenberg, AICP, Director

FAX 410-313-3467

ALTERNATIVE COMPLIANCE FINAL DECISION ACTION REPORT

DEPARTMENT OF PLANNING AND ZONING
DEPARTMENT OF PUBLIC WORKS
OFFICE OF COMMUNITY SUSTAINABILITY

RE: **WP-24-079 Kruger Property**
Request for an alternative compliance to Section 16.116(a)(2)(iii) of the Subdivision and Land Development Regulations.

Applicant: Kenneth Kruger

Pursuant to Section 16.116(d), the Director of the Department of Planning Zoning, Director of the Department of Public Works and the Administrator of the Office of Community Sustainability considered and **denied** the applicants request for an alternative compliance with respect to **Section 16.116(a)(2)(iii)** of the Subdivision and Land Development Regulations. The purpose is to disturb stream bank buffer and 100-year floodplain for construction of a driveway. The Directors deliberated the application in a meeting on July 3, 2024.

Each Department hereby determines that strict enforcement of Section 16.116(a)(2)(iii) would not result in a practical difficulty or unreasonable hardship. The following factors were considered in making this determination:

Section 16.104(a) of the Subdivision and Land Development Regulations states:

“So that substantial justice may be done and the public interest secured, the Department of Planning and Zoning may grant waivers of the requirements of this subtitle, except as prohibited in subsection (d), in situations where the Department finds that unreasonable hardship or practical difficulties may result from strict compliance with this subtitle and for requests to waive or alter the requirements in article II and article III of this subtitle all of the following criteria are met:

- 1. Strict conformance with the requirements will deprive the applicant of rights commonly enjoyed by others in similar areas;*
- 2. The uniqueness of the property or topographical conditions would result in practical difficulty, other than economic, or unreasonable hardship from strict adherence to the regulations;*
- 3. The variance will not confer on the applicant a special privilege that would be denied to other applicants; and*
- 4. The modification is not detrimental to the public health, safety or welfare or injurious to other properties.”*

Section 16.116(d) of the Subdivision and Land Development Regulations states:

“The Director of the Department of Planning and Zoning, the Administrator of the Office of Community Sustainability and the Director of the Department of Public Works may grant waivers which allow for alternative compliance to this Section if the applicant can demonstrate in sufficient detail through evidence that the project meets the criteria set forth in section 16.104 and the following additional criteria:

- 5. Any area of disturbance is returned to its natural condition to the greatest extent possible;*
- 6. Mitigation is provided to minimize adverse impacts to water quality and fish, wildlife, and vegetative habitat; and*
- 7. Grading, removal of vegetative cover and trees, or construction shall only be the minimum necessary to afford relief and to the extent required to accommodate the necessary improvements. In these cases, the least damaging designs shall be required, such as bridges, bottomless culverts or retaining walls, as well as environmental remediation, including the planting of the areas where grading or removal of vegetative cover or trees has taken place, utilizing best practices for ecological restoration and water quality enhancement projects.”*

The Directors reviewed the justification and exhibit supplied by the applicant prior to the meeting and met to deliberate the merits of the applicant’s justification and plan exhibit in the context of Sections 16.104(a) & 16.116(d) of the Subdivision and Land Development Regulations. During deliberation, the Directors found the following:

- The applicant’s position provided in the justification outlined the applicant’s desire to incorporate a specific house on the property. The garage for the proposed house is opposite the existing driveway access point. The applicant designed the driveway system to best serve the house with direct access to the garage. The applicant stated the current property is used for agricultural use and the existing driveway is active with delivery trucks/vans. Because the applicant’s child owns the existing house, the applicant would like to create a connection between the properties to facilitate interfamily access. The applicant proposed the new driveway to provide straight access to the proposed garage because the existing driveway would provide a more circuitous route to and from the garage. The Directors find that the design appears to be a convenience for the applicant and not an unreasonable hardship or practical difficulty. Given the larger lot size, the Directors do not find uniqueness of the property or topographical conditions would result in practical difficulty. They find it reasonable to use a shared access point to reduce additional impacts to floodplain, provide a circular route on the property, and include the access that is outside of the stream buffer.
- The Directors reviewed the applicant’s written justification and plan exhibit and determined that it fails to demonstrate why compliance with the regulations would constitute an unreasonable hardship or practical difficulty since the property proposes access to, and, from the existing driveway.
- The Directors discussed the potential actions and determined that denial of the request to allow disturbance to the stream buffer and floodplain for a new driveway would not be denial of the development of the property and is not required to accommodate the necessary improvements. The applicant may revise the final subdivision plan to meet the regulations and resubmit for County review.

The meeting concluded with the Director of the Department of Planning and Zoning, Director of the Department of Recreation and Parks and the Administrator of the Office of Community Sustainability finding that the applicant’s criteria justifications have not met the unreasonable hardship or practical difficulty threshold. After considering the alternative compliance application and the items required to be addressed pursuant to Sections 16.104(a) and 16.116(d), they find enforcement of the subtitles would not result in an unreasonable hardship and agreed unanimously to **deny** the request for an alternative compliance to Section 16.116(a)(2) of the Subdivision and Land Development Regulations.

During the meeting, the directors also discussed and consulted with the Director of DPZ on the request for alternative compliance to Section 16.115(c)(2) as the individual section requests were interconnected.

DocuSigned by:

Lynda Eisenberg

4220B635863942E...

Lynda Eisenberg, AICP, Director
Department of Planning and Zoning

DocuSigned by:

Yosef Kebede

7436E489C7824F6...

Yosef Kebede, Director
Department of Public Works

DocuSigned by:

Timothy Lattimer

AEB60003A8F04A0...

Timothy Lattimer, Administrator
Office of Community Sustainability

cc: Research
OCS
DPW



HOWARD COUNTY DEPARTMENT OF PLANNING AND ZONING

3430 Court House Drive ■ Ellicott City, Maryland 21043 ■ 410-313-2350

Lynda D. Eisenberg, AICP, Director

FAX 410-313-3467

March 26, 2024

Kenneth M. Kruger and Diana L. Kruger
12194 Mount Albert Road
Ellicott City MD 21042

RE: WP-24-079 Kruger Property

Dear Mr. and Mrs. Kruger:

This letter is to inform you that your request for alternative compliance to the Howard County Subdivision and Land Development Regulations for the subject property was reviewed and no action can be taken until the enclosed comments have been addressed, and the following additional information is provided.

Two copies of the exhibit/plan and the supplemental information and a response letter to the comments should be submitted to this Division for distribution.

The requested information and revised plans must be submitted within **45 days** of the date of this letter (**on or before May 10, 2024***), or this Division will recommend that the Planning Director or Director Committee deny this alternative compliance petition.

Once the requested information has been received and reviewed, this office will coordinate agency comments and will prepare a recommendation for the Planning Director's action. If you have any questions regarding a specific comment, please contact the review agency prior to preparing the revised plans and information. Compliance with all items indicated above is required before the revised plans and information will be accepted.

In accordance with adopted Council Bill 51-2016, effective 10/05/16, if the deadline date is a Saturday, Sunday or holiday or if the County offices are not open, the deadline shall be extended to the end of the next open County office business day.

Submissions can be mailed to Howard County Planning and Zoning, 3430 Court House Drive, Ellicott City, MD 21043 or dropped in the bin labeled 'DLD' at the Department of Planning and Zoning Public Service Counter located on the first floor of the George Howard Building. Submission materials must be received on or before the due date. Submission materials can also be emailed to planning@howardcountymd.gov for processing. **Please include this letter with your submission as it will serve as the checklist for staff.**

If you have any questions, please contact Julia Sauer at (410) 313-2350 or email at jsauer@howardcountymd.gov.

Sincerely,

DocuSigned by:


1EB75478A22B49A...

Anthony Cataldo, AICP, Chief
Division of Land Development

AC/js

cc: Research
Robert Vogel Engineering + Timmons Group (pdox@vogeleng.com)



ALTERNATIVE COMPLIANCE APPLICATION

Site Description: Kruger Property

Subdivision Name/Property Identification: Kruger Property Lots 1 and 2

Location of property: 14132 Rover Mill Road

Existing Use: Residential SFD **Proposed Use:** Residential SFD

Tax Map: 15 **Grid:** 7 **Parcel No:** 206/241 **Election District:** 3rd

Zoning District: RC-DEO **Total site area:** 11.11 AC +/-

Please list all previously submitted or currently active plans on file with the County (subdivision plans, Board of Appeals petitions, alternative compliance petitions, etc.). If no previous plans have been submitted, please provide a brief history of the site and related information to the request:

ECP-23-009
 F-24-005

In the area below, the petitioner shall enumerate the specific numerical section(s) from the Subdivision and Land Development Regulations for which an alternative compliance is being requested and provide a brief summary of the request. Please use the additional page if needed.

Section Reference No.	Brief Summary of Request
16.115(c)(2)	Driveway Connection within 100-year floodplain
16.116(a)	Driveway connection within 100' of a perennial stream bank Locate wetlands, streams, and their buffers on residential lots

Section Reference No.	Brief Summary of Request
16.120(b)(4)(ii)(b)	Locate floodplain, wetlands, streams and their buffers on lots less than 10 acres

Signature of Property Owner: *Kenneth Kruger* Date: *3/4/2024*

Signature of Petitioner Preparer: *John* Date: *3/4/24*

Name of Property Owner: Kenneth Kruger Name of Petition Preparer: Vogel Engineering + Timmons Group

Address: 14132 Rover Mill Road Address: 3300 North Ridge Road - Suite 110

City, State, Zip: West Friendship, MD 21794 City, State, Zip: Ellicott City, Maryland 21043

E-Mail: kmk19651@verizon.net E-Mail: rob.vogel@timmons.com

Phone No.: 410-340-9008 Phone No.: 410-461-7666

Contact Person: Kenneth Kruger Contact Person: Robert H. Vogel

Owner's Authorization Attached