

# Minutes

## Town of Rock Hall Board of Appeals Hearing March 16, 2023

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### In Attendance

Members in Attendance: Paul Miller, Chairman and Board Members Laurie Resele and Peter Sorensen  
Also attending were Thomas N. Yeager, Esq. Attorney to the Board and Christopher N. Jakubiak, AICP, Town Planner and Zoning Administrator.

### Call to Order

The hearing was called to order at approximately 7:00 PM. The hearing was held at the St. John Catholic Church Hall, 5621 South Main Street, in Rock Hall, Maryland. Two cases were heard.

### BOA Case # V2023-1 Variance Request, 5660 Main Street

The case involved a request for a variance, by owners Lauren Marks and Charles Totten, to Section 225-5-11E(2)(a) of the Rock Hall Zoning Ordinance to allow construction of a house and site improvements on real property they own (Parcel 203, Tax Map 501) situated on the east side of N. Hawthorn Avenue within a non-tidal wetland creating a wetland removal of 2,299 square feet and an incursion into the required 25-ft wetlands buffer amounting to the removal of 1,237 square feet of wetland buffer.

Mr. Miller opened the hearing on the matter with a brief introduction of the case.

Mr. William Crowding, Surveyor presented the case on behalf of the applicant along with Mr. Peter Bourne, P.E.

The following exhibits which were accepted by the Board:

- Exhibit 1: The Application which contained the State of Maryland Department of the Environment Letter of Authorization, the Proposed Dwelling Location Plat, and the Permit Drawing to Disturb/Fill Non-Tidal Wetland Buffer as approved by the State of Maryland Department of the Environment.
- Exhibit 2: The Staff Report.
- Exhibit 3: Photographs of the subject property.

- Exhibit 4: The Engineer's Plans which include the Site Plan, the Stormwater Management Plan, the Erosion and Sediment Control Plan, the Stormwater Management Details, and the Erosion and Sediment Control Details.
- Exhibit 5: The Survey and Buffer Management Plan

Mr. Jakubiak then testified summarizing his staff report which was accepted as an Exhibit. His testimony centered on the environmental conditions of the property and its location relative to tidal waters, the presence of nontidal wetland on the site, the flooding conditions, and the impact of sea level rise on the suitability of the site for the residential development proposed by the Applicants. Mr. David Whitman, participated in the hearing (virtually) and offered testimony in support of Mr. Jakubiak's observations that there is no driveway on the property despite the site plan's labeling of a driveway as existing.

Neighboring property owner Ed Pickering of 5905 North Hawthorne Avenue indicated that he has no objections to the Application.

Karen Gilbert testified in opposition to the Application. Ms. Gilbert lives on Jamar Road and is not a neighboring property owner. However, she regularly drives on Hawthorne Avenue. She advised that high tide, rain, full moon, and southerly winds are four factors that affect flooding on the subject property and surrounding area. She testified that the "driveway" is a deer trail. She stated that she would like the property to continue to be as is and not built on as it would be difficult to get in the driveway because North Hawthorne Avenue routinely floods.

There were no public comments in support of or opposition to the request. No written correspondence was submitted.

The Board deliberated on the application. On a motion by Mr. Miller, seconded by Ms. Resele, the Board approved the variance as requested on a vote of 2 to 1 with Mr. Sorensen voting against the variance finding the Applicants had not satisfied the standards for granting a variance and the development represented to much wetland disturbance.

### **BOA Case # V2023-2 Variance Request**

The case involved a request for variances to Section 225-5-1D of the Rock Hall Zoning Ordinance by Mr. Rick A. Lincicome, AIA, representative of the property owners Dante and Melissa Cappelli. The Applicants sought a 6.5-foot variance to the required 10-side yard setback and a 16.6-foot variance to the required 30 foot sum-of-sides yard setback, to construct an addition to the house at 5860 Beach Road.

Mr. Miller opened the hearing on the matter with a brief introduction of the case.

Mr. William Crowding, Surveyor (in person), and Rick A. Lincicome, AIA (virtually) appeared on behalf of the Applicant and Mr. Crowding took the lead in presenting the case.

The following exhibits which were accepted by the Board:

- Exhibit 1: The Application and all attachments thereto including the site plans and boundary survey.
- Exhibit 2: Staff Report prepared by Town Planner Christopher Jakubiak.
- Exhibit 3: Letters from neighbors in support of the Application.

Mr. Jakubiak testified summarizing his staff report. He also reviewed each of the applicable variance standards.

There were no public comments in support of or opposition to the request. No written correspondence was submitted.

The Board then deliberated on the application. On a motion by Mr. Miller, seconded by Ms. Resele, the Board approved the variance as requested on a vote of 2 to 1, with Mr. Sorensen voting against.

### **Adjournment**

The Board adjourned the hearing at approximately 8:30 PM.

Submitted by:

Christopher N. Jakubiak, AICP  
Zoning Administrator