



PRO. EXHIBIT# 1  
CASE: 2024-0040:49V  
DATE: 6/6/24

**2024-0040-V and 2024-0040V**

1 message

G A <ambrose.gina@gmail.com>  
To: zhcolb22@aacounty.org

Fri, May 17, 2024 at 7:51 AM

Hello Ms Colby,

I am writing to express concerns over the request for a variance to build two homes at the proposed addresses of 128 Cresston Rd Arnold MD 21012 and 126 Cresston Rd Arnold, MD. (2024-0040-V and 2024-0040V). The amount of runoff from this area is already substantial and disturbing the soil and removing trees from this steep slope will surely worsen the problem. After heavy rainfall, Dividing Creek's waters are brown and murky for a few days from all of the debris coming from that area. Not only is it an environmental problem for Dividing Creek, but also personally for my yard. I live at the very end of Shore Rd and when there is heavy rain or rain for multiple days, my front frequently floods because the public road storm drains get backed up from all of the soil and debris from the runoff. Review of the county records will show that myself and my neighbors frequently call the county to come out and unclog the storm drains. A few months ago, I needed to call a private plumber to unclog a drain in my front yard because the county drains had been so badly blocked up that they were overflowing into my yard for a few days.

Permits to build in this area have been denied multiple times in the past, and I am hopeful the county will continue to protect this area and the water ways of Dividing Creek. I will be at the hearing on 6/6/2024. Please let me know if there is anything else I can do to support denial of these variance requests by Anne Arundel County.

Best,  
Dr Gina Ambrose



PRO. EXHIBIT# 2  
CASE: 2024-0040-494  
DATE: 6/6/24

## 126/128 Cresston Road - Variance Hearing Comments

1 message

Laura|Matthew Pajerowski <pajerowski@msn.com>  
To: Holly Colby <zhcolb22@aacounty.org>

Tue, May 14, 2024 at 10:30 PM

Hello,

As concerned neighbors near the proposed development of 126/128 Cresston Road, please find below comments which we hope will be considered for the variance hearing on 6/6/24.

As residents that live within yards of the properties proposed to be developed and who walk past it every day, we can provide a perspective that might not be conveyed on a paper application. The property is extremely steep, with many trees and ground vegetation. There are plants on the downhill side of the property characteristic of wetlands, including phragmites, although the builder maintains there are no wetlands present. Shore Road, the street on which the downhill side of the property faces, is marked by consistent runoff issues, especially in heavy storms. Shore Road is a street that literally runs into Dividing Creek, a tributary to the Magothy River. In large storms, the runoff from the properties in the neighborhood turn Shore Road into a brown river which drains directly into the creek. For 1-3 days after large storms, Dividing Creek often remains brown and muddy from the sediment and turbidity; we've been advised that swimming and paddleboarding aren't wise for 48 hours after storms.

Most neighbors assumed the hillside proposed for development was unbuildable since the lots have remained undeveloped for 100 years. We had hoped the county might one day purchase the land to create a stormwater management area to better protect Dividing Creek. If the runoff issues can't be improved, we hope the county will at least deny any building request that would make the situation worse.

The applicant suggested that he is being denied the rights to enjoy his property, as other homeowners in the neighborhood do. We maintain that he does have an option to develop the five lots by utilizing the flat area of 1800sf recommended as a building site by the county in 2022. The modification and the variance requested are only necessary because the applicant wants 2 houses instead of the one previously recommended by the county. Not only does he want 2 houses, but has chosen as the second location a critically steep area on Shore Road that is already suffers from significant stormwater issues, likely because the proposed location is closer to the water, making the house more valuable. It seems to us that the hardship is one of the applicant's own making.

Further details surrounding our concerns are below:

**-Stormwater:** An excerpt from AA County's 2022 decision said, "Runoff currently passes through the 5 undeveloped lots to Shore Road and then travels down Shore Road directly into Dividing Creek. Removal of the forested area for the development of the homes would have an impact to water quality in an already degraded sub-watershed in need of preservation." Residents on Shore Road routinely observe the road become a "river" when we get a heavy storm. Water quality in Dividing Creek is degraded for a couple days after a big storm, as evidenced by brown water and increased turbidity. Helfrich says with his plans, stormwater issues will not worsen although he also admitted that only water from the roofs will be managed; runoff from driveways will run directly into the roadway. Also, the stormwater management for 126 Cresston (facing Shore Rd) will be done via a small 8'x10' rainwater garden which 1) is located on the uphill side of the property rather than the downhill side and 2) will quickly overflow with the amount of water that we know comes down that hill.

**-Environmental impacts:** AA County stated, "All five lots are extremely sensitive from an environmental point of view. The granting of the variances will adversely affect water quality, impact fish, wildlife and plant habitat. The removal of the forested area for the development of three homes would impact water quality in an already degraded sub-watershed in need of preservation." Yet Michael Helfrich's application states there will be no environmental impacts and that half of the trees on the property are already dead. That statement is simply not true and we would encourage someone from the county to walk the property to verify.

**-Critical Areas:** states that development in a Critical Areas Limited Development Area (LDA) may not occur within slopes of 15% or greater. In 2022, the county described Lots 84-88 as having slopes of 18% to 35%. Yet, Helfrich refers to the Shore House location as a "FLAT AREA" which is obscured by fallen trees. Anyone who has seen the site knows there is no flat area where those lots front on Shore Road. Also, the application states that the development will cause only "minor slope disturbance." Helfrich told us at the community meeting that about 70% of the property will be disturbed and is proposing a house of about 40'x40' which obviously can't happen with only a "minor slope disturbance."

**-Undeveloped for 100 years:** These five lots were created in 1923 and have remained undeveloped for over 100 years, assumably because the steep slopes rendered them unbuildable. All five lots were purchased in 2021 by Chessie Homes for \$35,000, a low price likely because the lots were substandard. With steep slopes ranging from 18% to 35%, the lots have one single area appropriate for building, according to the county. It's about 1800 sq. ft. located at the top corner Lots 84 and 85, next to the Wilsons' home on Cresston Road.

**-Lot Size/Configuration:** Helfrich justifies his request for 2 houses on five lots instead of 1 house by stating that most surrounding houses were built on only 2-3 lots, many with steep slopes just like his property. He says there is only one 4-lot configuration and no 5-lot configuration. Although most houses in Cresston Park are in fact on 2-3 lots, it is also true that most of those lots are flat and most houses in the neighborhood are smaller than those he has proposed. Also, there is actually a 5-lot configuration, the corner house adjacent to his lots. We raised this point during the community meeting and Michael conceded this was true, but only because it's a very unique lot due to its shape. We maintained that his lots are even more unique, given the extremely steep slopes and should be held to the that same 5-lot configuration.

**-AA County recommendation for house location:** (excerpt from AA Co 2022 decision) "All 5 lots are legal lots but not necessarily buildable....only approximately 1,800 square feet of the 5 lots appears to be suitable for development. The five lots should be developed as a single site and any variances or modifications should be to facilitate development in that location, not create developable lots where they do not exist." The county has specifically stated they are not obligated to *create a developable area where one does not exist*. Helfrich claims without a variance, he is denied rights enjoyed by other neighborhood property owners. This is untrue. Michael is purchasing 5 substandard lots on steep slopes within Critical Areas which surely he knows as an experienced builder and engineer come with significant risk; he is also aware that the county has recommended which area of his property is appropriate for building yet he is requesting a second house closer to the water for his daughter.

**-Wetlands:** The builder claims on the application there are no wetlands on the property, which he said he determined by visual observation when walking the site for an hour. Phragmites grow at the bottom of the hill on Lots 86-88) near Shore Road. Phragmites are an invasive wetland grass which grows in fresh, brackish, and saline waters and in the moist soils of tidal and nontidal wetlands. Jewelweed also grows in the same area as the phragmites, which is also a plant that can grow in wetlands. Could this vegetation indicate wetlands and shouldn't the presence of possible wetlands be investigated by a professional?

**-Curb and storm drains:** Somewhere in the application, Mr. Helfrich mentions that stormwater will run along the curb and be intercepted by county storm drains. This sounds as if the water is managed by appropriate controls. A visual inspection would reveal a very short section of asphalt curb (broken in places, and worsened with recent survey vehicles driving over it) and 3 storm drains that were installed by the county in 2021 to help remediate a dangerous area of ice that forms from stormwater in cold winter temperatures (photo below). Unfortunately, the 3 drains do little to prevent the runoff in heavy rains which simply run right over them. In addition, the drains discharge to a stormwater management area; the pipe daylights on Shore Road and runs right into Dividing Creek.

For all of these reasons, we are in full agreement with the county's assessment from 2022, "Everyone knows that a wooded undeveloped forested lot will always do better than the best development in protecting environmentally sensitive areas in protecting sensitive environmental land." If the five lots must be developed, we request that the property be developed as a single 5-lot configuration using the flattest area at the top of the hill for the property.

Sincerely,

Matthew and Laura Pajerowski





PRO. EXHIBIT# 3  
CASE: 2024-0040 ÷ 49v  
DATE: 6/6/24

## Proposed Construction at 126 and 128 Cresston Road, Arnold, MD 21012

1 message

Robert Moseley <navymose2002@yahoo.com>  
To: zhcolb22@aacounty.org

Tue, May 14, 2024 at 7:59 PM

Hello Holly,

Please see below for our input to this proposed project.

Sincerely,

Bob and Diane Moseley  
126 Shore Rd.  
Arnold, MD 21012  
410-279-6020

Subject: Proposed Construction at 126 and 128 Cresston Road, Arnold, MD 21012

1. My name is Robert Moseley and my wife, Diane Moseley, and myself reside at 126 Shore Road, Arnold, MD 21012.
2. This letter is in response to the proposed building of 2 new construction homes at 126 and 128 Cresston Road, respectively.
3. I attended a community meeting hosted by Michael Helfrich on May 1, 2024, where he provided an overview to interested residents of the local area regarding the proposed construction.
4. Like most other neighbors in the Cresston Park neighborhood who would be affected by this proposed construction, I am opposed to the project for a number of reasons and wish to provide my comments in response to the May 1 meeting and for the upcoming June 6 hearing.

Here the important points that I would like to raise:

**-Stormwater:** An excerpt from AA County's 2022 decision said, "Runoff currently passes through the 5 undeveloped lots to Shore Road and then travels down Shore Road directly into Dividing Creek. Removal of the forested area for the development of the homes would have an impact to water quality in an already degraded sub-watershed in need of preservation." Residents on Shore Road routinely observe the road become a "river" when we get a heavy storm. Water quality in Dividing Creek is degraded for a couple days after a big storm, as evidenced by brown water and increased turbidity. Helfrich says with his plans, stormwater issues will not worsen although he also admitted that only water from the roofs will be managed; runoff from driveways will run directly into the roadway. Also, the stormwater management for 126 Cresston (facing Shore Rd) will be done via a small 8'x10' rainwater garden which 1) is located on the uphill side of the property rather than the downhill side and 2) will quickly overflow with the amount of water that we know comes down that hill.

**-Environmental impacts:** AA County stated, "All five lots are extremely sensitive from an environmental point of view. The granting of the variances will adversely affect water quality, impact fish, wildlife and plant habitat. The removal of the forested area for the development of three homes would impact water quality in an already degraded sub-watershed in need of preservation." Yet Michael Helfrich's application states there will be no environmental impacts and that half of the trees on the property are already dead. Another excerpt from AA Co's 2022 decision: "Everyone knows that a wooded undeveloped forested lot will always do better than the best development in protecting environmentally sensitive areas in protecting sensitive environmental land."

**-Critical Areas:** states that development in a Critical Areas Limited Development Area (LDA) may not occur within slopes of 15% or greater. In 2022, the county described Lots 84-88 as having slopes of 18% to 35%. Yet, Helfrich refers to the Shore House location as a "FLAT AREA" which is obscured by fallen trees. Anyone who has seen the site knows there is no flat area where those lots front on Shore Road. Also, the application states that the development will cause only "minor slope disturbance." Helfrich told us at the community meeting that about 70% of the property will be disturbed and is proposing a house of about 40'x40' which obviously can't happen with only a "minor slope disturbance."

**-Undeveloped for 100 years:** These five lots were created in 1923 and have remained undeveloped for over 100 years, assumably because the steep slopes rendered them unbuildable. All five lots were purchased in 2021 by Chessie Homes for \$35,000, a low price likely because the lots were substandard. With steep slopes ranging from 18% to 35%, the lots have one single area appropriate for building, according to the county. It's about 1800 sq. ft. located at the top corner Lots 84 and 85, next to the Wilsons' home on Cresston Road.

**-Lot Size/Configuration:** Helfrich justifies his request for 2 houses on five lots instead of 1 house by stating that most surrounding houses were built on only 2-3 lots, many with steep slopes just like his property. He says there is only one 4-lot configuration and no 5-lot configuration. Although most houses in Cresston Park are in fact on 2-3 lots, it also true that most of those lots are flat and most houses in the neighborhood are smaller than those he has proposed. Also, there is actually a 5-lot configuration, the corner house adjacent to his lots. We raised this point during the community meeting and Michael conceded this was true, but only because it's a very unique lot due to its shape. We maintained that his lots are even more unique, given the extremely steep slopes and should be held to the that same 5-lot configuration.

**-AA County recommendation for house location:** (excerpt from AA Co 2022 decision) "All 5 lots are legal lots but not necessarily buildable...only approximately 1,800 square feet of the 5 lots appears to be suitable for development. The five lots should be developed as a single site and any variances or modifications should be to facilitate development in that location, not create developable lots where they do not exist."

The county has specifically stated they are not obligated to *create a developable area where one does not exist*. Helfrich claims without a variance, he is denied rights enjoyed by other neighborhood property owners. This is untrue. Michael is purchasing 5 substandard lots on steep slopes within Critical Areas which surely he knows as an experienced builder and engineer come with significant risk; he is also aware that the county has recommended which area of his property is appropriate for building yet he is requesting a second house closer to the water for his daughter.

**-Wetlands:** The builder claims on the application there are no wetlands on the property, which he said he determined by visual observation when walking the site for an hour. Phragmites grow at the bottom of the hill on Lots 86-88) near Shore Road. Phragmites are an invasive wetland grass which grows in fresh, brackish, and saline waters and in the moist soils of tidal and nontidal wetlands. Jewelweed also grows in the same area as the phragmites, which is also a plant that can grow in wetlands. Could this vegetation indicate wetlands and shouldn't the presence of possible wetlands be investigated by a professional?

## **VARIANCE REQUIREMENTS**

There are a number of requirements that must be met for a county to grant a variance. A couple relevant ones are below:

***"Is there an unwarranted hardship to applicant by denying a use of their property that cannot be accomplished elsewhere on their property?"*** The only hardship that exists has been created because the developer is unwilling to accept the county's prior recommendation for a single house built on the flattest area of the five lots (the 1800 sq.ft. at the top of the hill on Lots 84/85.)

***"Does the variance application arise from the action of applicant?"*** Yes! The variance request for the Shore Road house is only necessary because the builder wants 2 houses instead of the 1 recommended by county on these 5 lots. Any hardship is of his own making by insisting that the five lots will accept a second house, on steep slopes, in much closer proximity to Dividing Creek.

***"Variance must be the minimum variance necessary to afford relief."*** Since there is an acceptable building area on the property, the variance for the Shore Road house goes beyond the minimum necessary to render his lots buildable.

***"Variance must not reduce forest cover."*** Builder's application makes a blanket statement that he will not be reducing forest cover and that approximately half of the trees are already dead. Both statements

are false. His plans indicates that about 70% of the lots will be disturbed, which would be impossible without reducing forest cover. Regarding dead trees, neighbors agree they only observed 2-3 dead trees, both of which were cut down by BGE and left on site this week (see final observation below for an update).

***“Variance will not be detrimental to public welfare” and “Variance should not affect the environment.”*** For reasons stated above, most especially with regard to stormwater runoff, the neighborhood and Dividing Creek will be affected by the added runoff. From AA County’s 2022 decision, “Everyone knows that a wooded undeveloped forested lot will always do better than the best development in protecting environmentally sensitive areas in protecting sensitive environmental land.”

One final observation: the builders have already apparently begun the clearing of land in anticipation of possible granting of their request to build. During the week of May 6, Asplundh contractors removed several large trees which were located in the approximate locations of the proposed dwellings. While acknowledging property owner rights to modify property in accordance with county and environmental regulations, this act demonstrates quite clearly the property owner’s confidence in the future building plans and ultimately disrespects the known public opposition to this project. No prior notification was provided, effectively silencing our right to oppose the work in advance.

Sincerely,

Robert and Diane Moseley  
126 Shore Road  
Arnold, MD  
21012  
410-279-6020







**126 & 128 Cresston Road Comments per meetings taken place to 8 pm – Council District #5 – Amanda Fiedler**

**From: Jeffrey Little and Maria Victoria Rivas-Torres – 128 Shore Road, Arnold, 21012 MD.**

Michael Helfrich's application seems to reside on fact accommodating rather than fact checking. Based on what I heard during the community meeting, the following is a summary of our understanding based on the research we have done, and arguments presented in past hearings vs. asseverations made by Mr. Helfrich:

- 1) Helfrich justifies his request for 2 houses on 5 lots instead of 1 house by stating that most surrounding houses were built on only 2-3 lots, many with steep slopes just like his property.
  - Most homes were built on 2-3 lots. However, most of these lots **are flat**. His property exhibits slopes ranging from 18% to 35% and most houses in the neighborhood are smaller than the construction he is proposing.
- 2) Helfrich claims that without a variance, he is denied rights enjoyed by other neighborhood property owners:
  - Chessie Homes, an experienced building company purchased 5 lots at substantially below market value (\$35k) with slopes ranging from 18% to 35% and the idea of developing them and making substantial profit. These five lots were created in 1923 and have remained undeveloped for over 100 years, probably because the steep slopes rendered them unbuildable and accurately so due to the challenge of building in a critical area in lots with over 15% slope and at odds with critical area laws and regulations. Furthermore, they knew that only approx. 1,800 square feet of the 5 lots were suitable for development. But Mr. Helfrich decided that given the profit at stake, it was worth taking a gamble and testing the resolve of an entire neighborhood to defend the harmony and the core of what a critical stand for.
  - He is also aware that the county has recommended which area of his property is appropriate for building and yet as an experienced engineer, he is requesting a second house closer to the water for his daughter. So, as an experienced builder there seems to be no regard for the County's law and regulations that govern the critical area.
  - Additionally, most property owners are not able to execute smaller improvement projects (i.e. sheds, swimming pools, patios, etc.) because of the strict laws of the critical area. As we ALL care, we ALL comply. If, however, this were to change due to one individual, then it would need to change for the ENTIRE community in detriment of the overall critical area.
- 3) Helfrich refers to the 128 Cresston Road location (per Letter of Explanation provided to the Office of Planning & Zoning Feb 2023) as a "FLAT AREA" obscured by fallen trees:
  - In 2022, the County described Lots 84-88 as having slopes of 18% to 35%. One does not require an engineering degree to deduce that these ranges are far from a "FLAT AREA". He claimed he had walked through the lots. However, it is unclear how the assessment of a flat area was arrived at.
  - Most vegetation in the area is intact. In fact, it has been a deterrent to erosion and a mitigant to water runoff. Furthermore, Helfrich claimed on the application that there were no wetlands on the property which he said he determined by visual observation when walking the site for an hour. Phragmites grow at the bottom of the hill on Lots (86-88) near Shore Road. Phragmites are an invasive wetland grass which grows in fresh, brackish, and saline waters and in the moist soils of

tidal and nontidal wetlands. Jewelweed also grows in the same area as the phragmites, which is also a plant that can grow in wetlands. Therefore, it is unclear how thorough was the visual observation that was conducted. Could this vegetation indicate wetlands, and shouldn't the presence of possible wetlands be investigated by a professional? During the call, he stated that he had gone above and beyond. Yet no independent or unbiased party has corroborated any and all of his claims.

- 4) Helfrich stated during the community meeting that about 70% of the property would be disturbed and is proposing a house of about 40'x40' which evidently cannot be built with only a "minor slope disturbance."

Again, these lots have slopes ranging from 18% to 35%. Therefore, it needs to be explained to the community how the proposed construction would represent only a "minor slope disturbance".

- 5) Helfrich says with his plans, stormwater issues will not worsen. Although he also admitted that only water from the roofs will be managed and runoff from driveways will run directly into the roadway.

- An excerpt from AA County's 2022 decision said, "Runoff currently passes through the 5 undeveloped lots to Shore Road and then travels down Shore Road directly into Dividing Creek. Removal of the forested area for the development of the homes would have an impact to water quality in an already degraded sub-watershed in need of preservation." Residents on Shore Road routinely observe the road become a "river" whenever a heavy storm occurs. Water quality in Dividing Creek is degraded for a couple days after a big storm, as evidenced by brown water and increased turbidity.
- Also, the stormwater management for 126 Cresston (facing Shore Rd) will be done via a small 8'x10' rainwater garden which 1) is located on the uphill side of the property rather than the downhill side and 2) will quickly overflow with the amount of water that we know comes down that hill.

Again, it will need to be explained to the community how compounding the damage from water runoff will be mitigated by small rainwater garden and roof water management when the most stringent laws apparently have not been sufficient to explain what is at stake. Mitigation and stormwater management must be effectively addressed. The proposed solutions are substandard at best.

- 6) Helfrich's application claims that there will be no environmental impact and that half of the trees on the property are already dead.

- AA County stated, "All five lots are extremely sensitive from an environmental point of view. The granting of the variances will adversely affect water quality, impact fish, wildlife, and plant habitat. The removal of the forested area for the development of two homes would impact water quality in an already degraded sub-watershed in need of preservation." Mr. Helfrich has created a situation that will have the most negative impact in the area.
- Another excerpt from AA Co's 2022 decision: "Everyone knows that a wooded undeveloped forested lot will always do better than the best development in protecting environmentally sensitive areas in protecting sensitive environmental land."
- Last but not least, for anyone asking about "unwarranted hardship", these lots were created in 1923 and have remained undeveloped for over 100 years, presumably because the steep slopes rendered them unbuildable. All five lots were purchased in 2021 by Chessie Homes at substantially below market value (\$35k) with the idea of developing them and making substantial profit. So, this is a low investment with high returns. Furthermore, they knew that only approx. 1,800 square feet of the 5 lots were suitable for development. But Mr. Helfrich decided

that given the profit at stake, it was worth taking a gamble and testing the resolve of an entire neighborhood to defend the harmony and the core of what a critical stand for.

Therefore, the concept of "unwarranted hardship" is incredibly inaccurate. The variance requests are based on the conditions created as a result of the actions by Mr. Helfrich not by any condition relating to land or building use on any neighboring property. Hence, the "unwarranted hardship" concept does not apply here.