

APP. EXHIBIT# 1
CASE: 2023-0112-V
DATE: 8/29/23

Justification for Variance to 40 foot Set-back Requirement at 112

Re: Gwendolyn Gibson and Joseph K. Gibson – 2023-0112-V (AD 3, CD 5) variance to allow an accessory structure (detached garage) with less setbacks than required.

Introduction:

1128 Long Point Terrace is our (Gwendolyn and Joseph Gibson) residential property where we are proposing to build a 30x32 foot pole barn type garage. There is one existing one story house and two existing 8x8 foot square sheds on the property. We are providing the following documentation to support our justification for a variance for the 40-foot setback requirement along the eastern side of our property to allow us to build the garage.

Background:

In July 2023 our family of four moved into my husband's family home at 1128 Long Point Terrace. My husband's father, Ray Gibson, passed away in August 2022. We bought 1128 Long Point Terrace from Ray in March 2022 to assist him financially, and he passed away unexpectedly shortly after. Our family consists of us (Joe and Gwen Gibson), our 14 year old daughter, our 11 year old son, and the family pets.

Ray Gibson bought 1128 Long Point Terrace in 1975, and the home's footprint has not been significantly altered or expanded since the 1980s. The house consists of 3 bedrooms, 2 bathrooms, a combined living room and kitchen area, and a small den (see the approximate house layout in Attachment 1). There are currently two 8 foot by 8 foot sheds on the property, but one of them is derelict and will be torn down.

It may be important to note that we were added to the 1128 Long Point Terrace deed through a trust several years ago. In 2014 the family began worrying about Ray Gibson living alone, and we (Gwen Gibson in conjunction with Ray Gibson) applied for a Critical Area variance to build 30 foot by 32 foot addition to 1128 Long Point Terrace. The proposed addition consisted of a garage with living space over it. Our purpose was to move in with Ray to help care for him. The dimensions of this addition were very similar to our proposed garage; it was attached because we were going to be expanding living space. This Critical Area Variance (CASE NUMBER 2014-0036-V) was approved in May 2014, and is provided in Attachment 2. However, the family decision changed, and we decided not to pursue the addition. We purchased a home in the same neighborhood so we could be near Ray, and that is when we (Joe and Gwen Gibson) purchased 1227 Hampton Road.

1227 Hampton Road, Annapolis, also in Cape St. Claire, consists of 3 floors with 4 bedrooms, 2 bathrooms, living room, family room, and indoor basement workshop with storage. We bought 1227 Hampton in 2014 and added a 24x24 pole building- garage to the property a few years later (see attachment 3, page 11 for photos). Joe religiously restores cars and boats as a hobby and the garage at 1227 Hampton Road served as his workshop for the project cars, as well as some storage for bikes, outdoor gear, and yard tools. Our children work with their dad on these projects, and the whole family helps with boat and car maintenance. Joe does all the maintenance and repairs on our vehicles.

We applied for a variance to build a 30x32 detached garage at 1128 Long Point Terrace in June 2023 in advance of our family's move to the home in July 2023. The application package (Attachment 4) presents the proposed position and layout of the proposed pole building-garage. Attachment 3 provides photos of the lot and proposed garage location. The garage is proposed to be located on the western

side of our lot, overlapping part of the driveway. Our garage needs to accommodate workbenches and toolboxes, a car lift, 20-to-21-foot boat on a trailer (28 feet total), plus outdoor recreation/ sports gear (bikes, camping equipment, etc.), riding mower and other yard equipment, plus storage for items such as holiday decorations. We proposed a 32 foot by 30 foot garage because that is the minimum size that will provide the functions we need. The parcel shape at 1128 Long Point Terrace is unique because it is narrow and bordered on the east and south side by water. The east and south sides of the lot are considered waterfront and subject to a 40 foot setback, as per Anne Arundel County Zoning regulations. It is important to note that the Cape St. Claire Improvement Association (CSCIA) owns 20 feet landward from MHW. We have tried to position the garage on the property to avoid trees and stay as far away from the waterfront as possible, while complying with the County setbacks. However, our property is only about 76 feet wide behind the house at the top of the driveway, and it gets narrower farther down the driveway. Therefore, the south end of the garage is 39 feet- 8 inches away from the eastern boundary, but the north end of the garage is only 31 feet – 5 inches away from the eastern boundary. Please refer to the Site Plan in Attachment 4.

We are requesting this variance to allow us to build the garage that is the minimum required size to function for our family. We hope the following documentation will demonstrate that we face a unique hardship with the narrowness of our lot, and that most of our other neighbors on the waterfront in Cape St. Claire can build or have built similarly sized garages on similarly sized lots (Attachment 5). We also hope to demonstrate that the proposed size of the garage is the minimum size required to function for its intended purposes, and is the minimum size required for relief.

The following sections provide a response to each of section of the regulations described in § 18-16-305. Variances.

§ 18-16-305. Variances.

(a) Requirements for zoning variances. The Administrative Hearing Officer may vary or modify the provisions of this article when it is alleged that practical difficulties or unnecessary hardships prevent conformance with the strict letter of this article, provided the spirit of law is observed, public safety secured, and substantial justice done. A variance may be granted only if the Administrative Hearing Officer makes the following affirmative findings:

(1) Because of certain unique physical conditions, such as irregularity, narrowness or shallowness of lot size and shape or exceptional topographical conditions peculiar to and inherent in the particular lot, there is no reasonable possibility of developing the lot in strict conformance with this article

Response:

1128 Long Point Terrace is an irregularly narrow and triangular lot which is 50 feet wide at the road, approximately 76 to 68 feet wide at the north side of the house/ top of the driveway (where the garage is proposed), and 100 feet wide at the southern/ waterfront boundary. As noted in the Planning and Zoning recommendation report dated August 22, 2022, our lot meets the minimum area requirements, but does not meet minimum width requirements. In addition to being narrow, 1128 Long Point Terrace has water frontage on both the eastern and southern side, and is subject to a 40-foot setback along both the eastern and southern sides.

We hope we can obtain a variance from the Cape Saint Claire Improvement Association (CSCIA) to reduce the western setback from the CSCIA 10-foot setback requirement to the County standard 7 – foot setback. Table 1 in Attachment 4 provides setback details. Please note that CSCIA has not yet granted or held a hearing regarding adjusting our setback. That paperwork is still pending with the CSCIA and the final details are somewhat dependent on the outcome of this hearing.

Combining the two County setback requirements for the eastern and western boundaries (40 feet plus 7 feet, respectively) leaves 39 feet and 21.5 feet, respectively, of “available” lot width where the garage is proposed (see the Site Plan in Attachment 4). This is the widest part of the lot on the north side of the house, which is why we proposed locating the garage here. One lot continues to get narrowest as it proceeds northward toward the street, and there is no place on the south side of the existing house to build the garage and comply with the 40-foot setback on the south waterfront (the house is 16 feet away from the southern boundary). Please see Site Plan in Attachment 4 which illustrates the dimensions of the lot in relation to the garage position and measurements.

Our lot narrowing to below minimum required lot width and being subject to the waterfront setback of 40 feet on the eastern side creates undue hardship. We selected the proposed location of the garage believing it had the least impact to trees and was as far away from the waterfront boundaries as possible. This location is at least 50 feet away from mean high water.

§ 18-16-305 (a)(2) Because of exceptional circumstances other than financial considerations, the grant of a variance is necessary to avoid practical difficulties or unnecessary hardship and to enable the applicant to develop the lot.

Response:

We believe we have a nonconforming lot, and due to its width and having waterfront setback requirements on two sides we are having difficulty complying with the 40 foot setback anywhere on the property. Our hardship is a unique circumstance in our neighborhood. There are approximately 176 waterfront lots in Cape St. Claire. Only 7 properties (including ours at 1128 Long Point Terrace) have water frontage on two sides. Additionally, 2 of these 7 lots are big enough to be considered “double” lots providing sufficient area outside of the setbacks to build detached garages. Therefore only 5 single sized lots out of 176 waterfront properties in Cape Saint Claire have the water frontage applied on two sides.

Attachment 6 shows an overview of the typical parcel sizes and layout in Cape Saint Claire. 1128 Long Point Terrace is circled in red on this attachment. Attachment 6 shows that the dimensions of our lot at 1128 Long Point Terrace is similar to most of the other waterfront lots, but these other houses are able to have garages of a similar size to the one that we have proposed because they only have waterfront on one side (except for the five lots listed above). Attachment 5 details the lot sizes and sizes of existing detached garages on waterfront lots in Cape Saint Claire, based on the 2016 imagery in Merlin Online. There are approximately 29 lots that are a similar size to our lot, that have detached garages, and all are over 20 feet in both width and depth. These lots all appear to be able to accommodate what might be classified as “oversized” garages. Many of the other lots either have attached garages, or assumably have the room to build garages.

§ 18-16-305 (c) Requirements for all variances. A variance may not be granted unless it is found that:

(1) the variance is the minimum variance necessary to afford relief;

Response:

Justification for Garage Size:

There are currently two sheds on the property, and one of them is unsafe and will be torn down. The usable shed is currently used for yard tools and boat supplies. We are proposing to build the 30x32 garage for workshop space, car parking, vehicle repair and maintenance, and storage. We also need workspace for long term maintenance, repair and restoration of our boats. This is why the dimensions are slightly larger than our former garage at 1227 Hampton Road. Joe also plans to install a consumer-grade car lift, to allow him to safely work underneath cars instead of elevating them with "jack stands".

We were disappointed that the Findings and Recommendation (August 22, 2023) report from the Office of Planning and Zoning recommended denying this variance based on defining our Proposed Garage as oversized. We have carefully planned the garage to be the minimum size required to function for its planned purposes. As stated above, Joe's primary hobby is working on and restoring cars and boats. He also maintains and repairs all of our vehicles and boats himself. Attachment 7 provides our concept layout for the Proposed Garage, and shows the space needed to pull my mini van (our largest car) into the garage to work on, and the space requirements to pull in one of the boats on a trailer. There will be a permanent consumer-grade lift installed in the garage that can accommodate all of our cars for necessary repairs (and example of this lift is in Attachment 8). When we need to work on a boat, the trailer will be moved into bay of the garage where there is no lift. These are the limiting, minimum requirements for the garage size, and we established the size of the garage based on this minimum space needed to provide these functions. Specific vehicles and objects that we need to have in the garage either long term, or for short-term projects include, but are not limited to:

- ***Project cars: Currently a Triumph TR6 (12 ft long, 5 ft wide), Mazda Miata (13 ft long, 5.5 ft wide), and Porsche (15 ft long, 6 ft wide)***
- ***The family's bikes (4)- each are 5.5 to 6 feet long***
- ***Riding lawnmower with small snowplow attachment***
- ***Toyota Sienna Mini Van – 17 ft long, 6.5 ft wide, 6 ft high***
- ***Toyota Sequoia – 17 ft long, 6.5 ft wide***
- ***21 foot Apex Inflatable power boat on a trailer – 28 feet long and 9 feet wide including trailer***
- ***20 foot Bertram power boat on a trailer – approximately 28 feet long and 9 feet wide including trailer***
- ***Several storage bins with camping gear, holiday decorations, outdoor equipment that were formerly stored in the full basement of our 1227 Hampton Road house***
- ***Work benches and tall toolboxes- approximately 2.5 ft deep.***
- ***Shelving for storage – approximately 2.5 ft deep***
- ***Consumer- grade 1000 pound car lift (see Attachment 8 for photo)—12 feet wide***
- ***12 -foot wide garage doors***

Attachment 7 presents the proposed interior layout of the garage and illustrates the rationale behind the selected size of the garage. We proposed the garage be 32 feet deep to accommodate the minimum depth to pull one of the boats in on the trailer (28 feet long) for regular maintenance and restoration. The calculation for the garage depth is the 28 foot trailer, plus 2.5 foot deep work bench/ shelf/ or toolbox equals 30.5 feet. That would leave 1.5 feet for door or other clearances on the ends of the trailer. At 32 feet in length, we may have to step over the metal trailer tongue to walk around the boat, but we are trying to minimize the depth of the garage.

Our selected width of 30 feet is based on the minimum width required to have the boat trailer pulled into the garage next to the lift and still provide 2 to 4 feet on the sides of these objects to move around them. We own a 2013 Toyota Sienna and 2001 Toyota Sequoia that Joe does all the maintenance on, plus our “project cars”. Many of the car maintenance activities will be on the side of the garage where the permanent lift is installed. It should be noted that the boats will not fit in the same garage bay as the lift, and we are installing a lift to be able to safely work on our car maintenance and restoration projects. The lift structure will be 11 to 12 feet wide. Attachment 8 provides an example of a consumer lift. The boat trailer that will be pulled into the garage is 9 feet wide. The 9 foot wide boat trailer plus 11 foot wide lift allows for approximately 10 feet of space to be divided between 3 aisles between objects and walls (see Attachment 7).

Even with the proposed 32 by 30 foot size, our planned garage is not intended to simultaneously accommodate all of the activities/ items on the list above. We expect to rotate vehicles, projects, and boats in and out of the garage at different times. Although we would like the garage to be closer to 40 feet square, we recognize our unique lot restrictions, and tried to make the garage as small as possible while being able to accommodate its functions.

Additionally, our family owns the Baltimore Harbor Lighthouse with three other families. The Lighthouse is located in the Chesapeake Bay off of Gibson Island, about two miles from 1128 Long Point Terrace. Our group has won awards for the ongoing restoration efforts of the lighthouse, and it is a lifelong passion project. We often have special projects for the lighthouse that we need to bring home and complete. For instance, in Winter 2023-2024, we need to bring the ladders (15 to 20 feet each) from the lighthouse back to shore for full restoration. Ideally, we will have a garage where these ladders can be refurbished to modern safety standards.

Please see Attachment 3 for photos portraying our former 24 foot by 24 foot garage. These photos show how the 24 foot square garage functioned with a workbench and the small “project” cars pulled into it. There was no room to install a consumer grade car lift, which is a much safer option for working underneath cars than having them propped up on jack stands. Also, the 24 foot garage was too small to accommodate the cars we use as our “daily drivers” – the Toyota Sequoia and Sienna mini van. There was not room to walk in front or behind the minivan or sequoia within the old garage with the work bench. The photos also show the other storage items that will be kept in the garage including toolboxes, workbenches, shelving, yard tools, and bikes. We also own a riding lawnmower which we would like to store in the garage.

A drawback of the 24-foot garage was that none of the boats could fit inside. When the boats needed to come to the house at 1227 Hampton Road for restoration, repairs, or maintenance, they were kept and worked on in the back yard. While living at 1227 Hampton Road, we actually received a letter from Anne Arundel County notifying us of a violation complaint from the neighbors because they

thought our 21 foot Bertram was an unregistered boat in our yard. The Bertram was fully registered, but Joe was restoring it at our home, and the numbers and registration sticker had been temporarily removed for painting and hull work. We are hoping to avoid being “bad neighbors” by making our garage big enough to bring these projects inside.

Alternatives Analysis:

We evaluated alternative configurations and locations for our garage to make sure our proposed plan was the most compliant with the Zoning and Critical Area requirements while minimizing impacts to natural and neighborhood resources. The Findings and Recommendation report from the Office of Planning and Zoning suggested that two alternatives might be available:

- 1. Findings - Page 2 of the Recommendation Report states “Reducing its width in order to meet the front setback would still result in a sizable garage. The applicants have not provided any justification to demonstrate that the garage could not be constructed in compliance with (or at least closer to) the minimum forty foot setback required from the eastern front lot line.”*

The section above describes the primary function that the proposed garage would serve which requires the proposed minimum dimensions. Altering the width and depth of the garage would prevent it from housing any of the boats on trailers and the car lift.

If we made the garage longer and narrower along the western property boundary, two large oaks would have to be removed as well as other smaller trees. The rectangular shape would not function efficiently and would not be able to accommodate our projects or storage.

- 2. Findings - Page 2 of the Recommendation Report included a footnote stating “if the detached garage were instead made part of the principal structure, the front setbacks would be 25 feet to the front (east) property line. Per § 18-2-204(a), a structure located within three feet of a principal structure and a structure connected to a principal structure by an enclosed breezeway less than 15 feet long is part of the principal structure and is not an accessory structure.”*

As stated earlier, our 2014 variance was for an attached structure. However, we do not need to attach this garage, and the sole purpose of attaching the garage at this time would be to comply with the setback requirement.

We tried to investigate the definition of an enclosed breezeway, but are unsure if an enclosed breezeway would require doors at both ends, or if there are other connection requirements. We have proposed placing the garage about 10 feet from the house because we wanted to minimize obstructing my daughter’s bedroom window (Attachment 1 presents our floor plan). Moving the garage closer or even placing a breezeway roof near that part of the house would obstruct a lot of natural light and viewshed from her room which is already limited.

Adding a breezeway to allow setback compliance seems contradictory to the spirit of Critical Area compliance, because it would add impervious surface to our lot. Additionally, if the addition of a breezeway requires having a door on either end from the home to the garage, this would require placing an egress door in my daughter’s bedroom. The layout of our home doesn’t permit adding an

egress door to a breezeway because we would have to use her room to connect the structure. We also would prefer not to impact the roof (which is fairly low) because it is relatively new.

§ 18-16-305 (c) (2) the granting of the variance will not:

- (i) alter the essential character of the neighborhood or district in which the lot is located;
- (ii) substantially impair the appropriate use or development of adjacent property;
- (iii) reduce forest cover in the limited development and resource conservation areas of the critical area;
- (iv) be contrary to acceptable clearing and replanting practices required for development in the critical area or a bog protection area; nor
- (v) be detrimental to the public welfare.

The Findings and Recommendations Report concluded that “granting of the variance will not alter the essential character of the neighborhood or district in which the lot is located, substantially impair the appropriate use or development of adjacent property, reduce forest cover in the limited development area of the critical area, be contrary to acceptable clearing and replanting practices required for development in the critical area, nor would it be detrimental to the public welfare.”

Attachment 5 provides several examples of similarly sized lots in our neighborhood with detached garages of comparable sizes, so our project will be consistent with current structures in the neighborhood. The garage will be 50 feet away from mean-high water and should not impact the view of the shoreline from the Little Magothy River.

Additionally, our neighbor on the western side, Andy Harden, does not object to us building the garage along his property line. He has provided the statement in Attachment 9 in support of our project.

Conclusion:

As stated in § 18-16-305 “The Administrative Hearing Officer may vary or modify the provisions of this article when it is alleged that practical difficulties or unnecessary hardships prevent conformance with the strict letter of this article, provided the spirit of law is observed, public safety secured, and substantial justice done.” We believe we are complying with the spirit of this regulation. The garage is the same size and very similar location to our approved 2014 variance, although it is no longer attached. Attaching the garage would be an artificial solution that adversely affects and may prevent the appropriate use of my daughter’s bedroom. Attaching the garage also adds more impervious coverage to our lot. Different dimensions would not meet the required function of the garage as described above, and a different location on our property would be even more noncompliant to the waterfront setbacks. The garage is located on the widest available part of the lot and avoids the most trees possible. We have demonstrated that the second waterfront setback along the eastern side of the lot is a unique hardship in this community. Most of our waterfront neighbors would be able to construct similar if not larger garages on same-sized waterfront lots (Attachment 5).

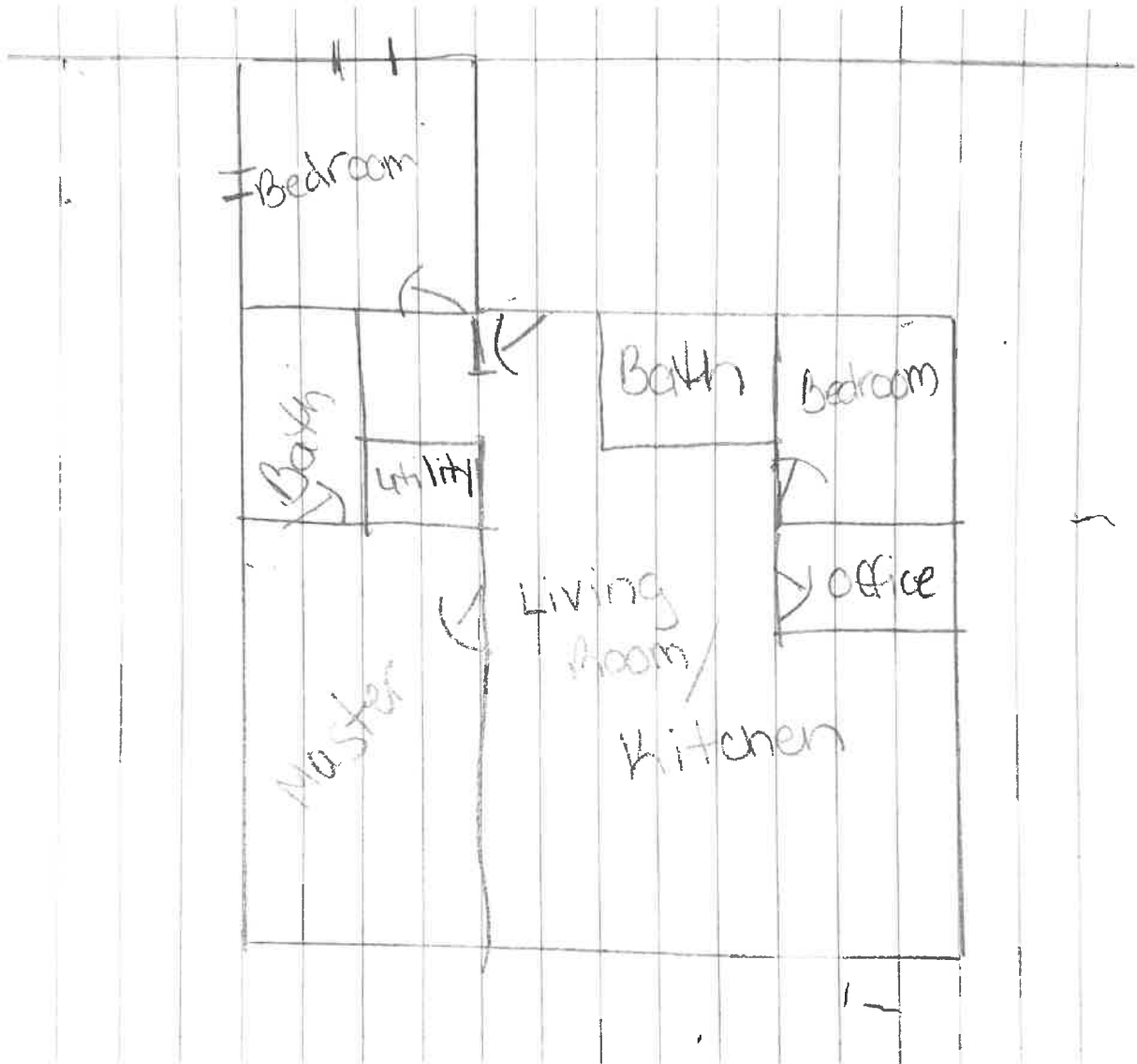
We understand that our initial variance application did not provide complete information regarding whether our proposed garage is the minimum size required and that our variance request was the minimum necessary to avoid relief. We hope that the information contained in this document provides sufficient documentation for the size, position, and need for the variance request. We look forward to presenting this case and discussing this further during our Hearing on August 29, 2023.

References:

MERLIN Online – Maryland’s GIS Data Catalog used to source aerial imagery and measurements.
<https://maryland.maps.arcgis.com/apps/webappviewer/index.html?id=434b195197364344a661da85c9bab3c9>

Findings and Recommendation Report. August 22, 2023. Jennifer Lechner, Anne Arundel County Office of Planning and Zoning

Attachment 1. 1128 Long Point Terrace Home Layout



This plan is not to scale.

APP. EXHIBIT# 3
CASE: 2023-0112-V
DATE: 8/29/23

IN THE OFFICE OF ADMINISTRATIVE HEARINGS

CASE NUMBER 2014-0036-V

RAYMOND E. GIBSON AND GWENDOLYN GIBSON

FIRST ASSESSMENT DISTRICT

DATE HEARD: APRIL 17, 2014

ORDERED BY:

DOUGLAS CLARK HOLLMANN
ADMINISTRATIVE HEARING OFFICER

PLANNER: ROBERT KONOWAL

DATE FILED: MAY 7, 2014

PLEADINGS

Raymond E. Gibson and Gwendolyn Gibson, the applicants, seek a variance (2014-0036-V) to allow a dwelling addition (garage) with less setbacks than required and with new lot coverage nearer to the shoreline than the closest façade of the existing dwelling on property located along the south side of Long Point Terrace, south of Little Magothy View, Annapolis.

PUBLIC NOTIFICATION

The hearing notice was posted on the County's web site in accordance with the County Code. The file contains the certification of mailing to community associations and interested persons. Each person designated in the application as owning land that is located within 175 feet of the property was notified by mail, sent to the address furnished with the application. Gwendolyn Gibson testified that the property was posted for more than 14 days prior to the hearing. I find and conclude that there has been compliance with the notice requirements.

FINDINGS

A hearing was held on April 17, 2014, in which witnesses were sworn and the following evidence was presented with regard to the proposed variance requested by the applicants.

The Property

The applicants own the subject property, which has a street address of 1128 Long Point Terrace, Annapolis, Maryland 21409. The property is identified as Lot 352 of Parcel 31 in Block 12 on Tax Map 40 in the Cape St. Claire

subdivision. This waterfront lot is zoned R5-Residential District. The property is designated in the Chesapeake Bay Critical Area as limited development area (LDA) and is mapped in a buffer modification area (BMA).

The Proposed Work

The applicants propose to construct a 30' by 32' garage and living space addition on the rear of the dwelling that will create ninety-six (96) square feet of lot coverage forward of the front façade of the existing dwelling, as shown on the site plan admitted into evidence at the hearing as County Exhibit 2.

The Anne Arundel County Code

Article 17, § 17-8-702(b) provides that no new impervious surface may be placed nearer to the shoreline than the closest facade of the existing principal structure in a buffer modification area.

The Variance Requested

The proposed work will require a critical area variance to the prohibition in § 17-8-702 that no new **lot coverage** may be placed nearer to the shoreline than the closest facade of the existing principal structure to construct the proposed garage and create 96 square feet of new lot coverage closer to the shoreline as shown on County Exhibit 2.

The Evidence Submitted At The Hearing

Robert Konowal, a planner with the Office of Planning and Zoning (OPZ), testified in favor of granting the variance to allow the construction of the proposed garage. The subject property does not meet the width requirements for a lot in the

R5 district (30 feet as opposed to the required 60 feet) but exceeds the area requirements for a lot in the R5 district (22,105 square feet as opposed to the required 7,000 square feet). The site is currently improved with a one-story single-family dwelling. A circular drive and parking area are located on the rear side of the dwelling. Development on the lot is constrained by the slightly irregular shape of the lot and the length and location of the shoreline.

Furthermore, the application relates to an existing developed lot where practical considerations make it difficult to comply with the Code. Denial of the variance would cause an unnecessary hardship in the use of these lands.

The variance is very minor in size (96 square feet in area) and extends a maximum of 6 feet into the modified buffer at only one point. The variance actually varies from zero feet to 6 feet along a 32-foot length.

Mr. Konowal further testified that the variance is not based on conditions and circumstances that are the result of actions by the applicants, which includes the commencement of development before an application for a variance was filed. The granting of the variance will not adversely affect water quality or impact fish, wildlife or plant habitat and is considered to be in harmony with the general spirit and intent of the critical area program. The variance does not arise from any condition relating to land or building use on any neighboring property.

Approval of the variance will not necessarily alter the essential character of the neighborhood nor negatively impact the use of any adjacent property as the improvements do not violate any established set back pattern and are located well

enough away from dwellings on abutting properties so as to not negatively impact same.

The Department of Health advised they do not have an approved plan for this project. The Department has no objection to the above referenced variance request as long as a plan is submitted and approved by them.

The Development Division indicated they have no objection to the request. The Division noted that the garage will be partially constructed over an existing driveway and lot coverage will be removed resulting in a net reduction of total lot coverage on this property. The applicants have also maximized the buffer.

The Critical Area Commission indicated they have no objection to the application. The Commission also noted that the property is bounded by water on the east and south sides and the development will result in a net reduction of lot coverage of 113 square feet. Finally, the Commission indicated efforts should be taken to avoid removing the 13-inch willow oak tree.

With regard to the standards by which a variance may be granted as set forth in § 18-16-305, Mr. Konowal testified that OPZ recommends approval of the variance request.

Ms. Gibson testified that she and her family need the added interior space which the garage and second floor will add to the existing dwelling. The variance is needed because the property is bordered by shoreline on two sides. Although the garage will be attached to the rear of the existing dwelling, the shoreline along the east side of the property causes a portion of the garage to be considered as

being located forward of the existing dwelling. Lot coverage on the site will be removed to lower the total lot coverage after construction by 113 square feet.

There was no other testimony taken or exhibits received in the matter. The Hearing Officer did not visit the property.

DECISION

State Requirements for Critical Area Variances

§ 8-1808(d)(2) of the Natural Resources Article, Annotated Code of Maryland, provides in subsection (ii), that “[i]n considering an application for a variance [to the critical area requirements], a local jurisdiction shall presume that the specific development in the critical area that is subject to the application and for which a variance is required does not conform to the general purpose and intent of this subtitle, regulations adopted under this subtitle, and the requirements of the jurisdiction’s program.” (Emphasis added.) “Given these provisions of the State criteria for the grant of a variance, the burden on the applicant is very high.” *Becker v. Anne Arundel County*, 174 Md. App. 114, 124; 920 A.2d 1118, 1124 (2007).

The Court of Appeals in *Critical Area Commission for the Chesapeake and Atlantic Coastal Bays, et al. v. Moreland, LLC, et al*, No. 55, September Term 2010, issued January 28, 2011, reaffirmed these factors. See page of slip opinion: “Failure by the applicant to satisfy even one of the variance criteria requires the denial of the variance application. [Citing § 8-1808(d)(4)(ii) and Anne Arundel County Code § 3-1-207.] The proponent of the variance, moreover, bears the

burden of proof and persuasion to overcome the presumption that granting the variance requests do not conform to the critical area law. § 8-1808(d)(3).”¹

The question of whether the applicants are entitled to the variance requested begins, therefore, with the understanding that, in addition to the other specific factors that must be considered, the applicants must overcome the presumption, “that the specific development in the critical area that is subject to the application ... does not conform to the general purpose and intent of [the critical area law].”² Furthermore, the applicants carry the burden of convincing the Hearing Officer “that the applicant has satisfied each one of the variance provisions.”³ (Emphasis added.)

County Requirements for Critical Area Variances

§ 18-16-305(b) sets forth six separate requirements (in this case) that must be met for a variance to be issued for property in the critical area. They are (1) whether a denial of the requested variance would constitute an unwarranted hardship, (2) whether a denial of the requested variance would deprive the applicants of rights commonly enjoyed by other property owners, (3) whether granting the variance would confer a special privilege on the applicants, (4)

¹ The requirements set forth in § 3-1-207 for the Board of Appeals are virtually identical to those that govern variances granted or denied by this office. § 18-16-305.

² § 8-1808(d)(2)(ii) of the Natural Resources Article. References to State law do not imply that the provisions of the County Code are being ignored or are not being enforced. If any difference exists between County law and State law, or if some State criteria were omitted from County law, State law would prevail. *See*, discussion of this subject in *Becker v. Anne Arundel County, supra*, 174 Md. App. at 135; 920 A.2d at 1131.

³ § 8-1808(d)(4)(ii).

whether the application arises from actions of the applicants, or from conditions or use on neighboring properties, (5) whether granting the application would not adversely affect the environment and be in harmony with the critical area program, and (6) whether the applicants have overcome the presumption in Natural Resources Article, § 8-1808(d)(2)(ii), of the State law that the variance request should be denied.

Provided that the applicants meet the above requirements, a variance may not be granted unless six additional factors are found: (1) the variance is the minimum variance necessary to afford relief; (2) the granting of the variance will not alter the essential character of the neighborhood or district in which the lot is located; (3) the variance will not substantially impair the appropriate use or development of adjacent property; (4) the variance will not reduce forest cover in the limited development and resource conservation areas of the critical area; (5) the variance will not be contrary to acceptable clearing and replanting practices required for development in the critical area; or (6) the variance will not be detrimental to the public welfare.

Findings - Critical Area Variance

Subsection (b)(1) - Unwarranted Hardship.

In *Becker v. Anne Arundel County*, *supra*, 174 Md. App. at 132-3; 920 A.2d at 1129, the Court of Special Appeals discussed the definition of unwarranted hardship found in § 8-1808(d)(3)(ii) of the Natural Resources Article in the State Code: “The amendment changed the definition of unwarranted hardship to mean

that, ‘without a variance, an applicant would be denied reasonable and significant use of the entire parcel or lot for which the variance is requested.’”

I find that the denial of the requested critical area variance would constitute an unwarranted hardship that would deny the applicants use of the entire parcel. On these facts, denying the applicants the right to build the proposed dwelling addition because it creates new lot coverage because of the existence of two shorelines would deny the applicants “reasonable and significant use of the entire ... lot” that is the subject of this application. Therefore, I find that the applicants **have met** the requirements of subsection (b)(1).

Subsection (b)(2) - Deprive Applicants Of Rights

I find that the applicants would be deprived of rights commonly enjoyed by other properties in similar areas as permitted in accordance with the provisions of the critical area program, i.e., the right to expand their dwelling on these facts. Therefore, I find that the applicants **have met** the requirements of subsection (b)(2).

Subsection (b)(3) - Special Privilege

I further find that the granting of the requested critical area variance will not confer on the applicants any special privilege that would be denied by COMAR, 27.01, the County’s critical area program, to other lands or structures within the County’s critical area. Therefore, I find that the applicants **have met** the requirements of subsection (b)(3).

Subsection (b)(4) - Actions By Applicant Or Neighboring Property

I find that the requested critical area variance is not based on conditions or circumstances that are the result of actions by the applicants, including the commencement of development before an application for a variance was filed, and do not arise from any condition relating to land or building use on any neighboring property. Therefore, I find that the applicants **have met** the requirements of subsection (b)(4).

Subsection (b)(5) - Water Quality, Intent Of Critical Area Program

The granting of the critical area variance requested will not adversely affect water quality or adversely impact fish, wildlife or plant habitat within the County's critical area or a bog protection area and will be in harmony with the general spirit and intent of the County's critical area program. The proposed work will be offset by stormwater management measures and mitigation that the applicants will undertake. Therefore, I find that the applicants **have met** the requirements of subsection (b)(5).⁴

Subsection (b)(7) - § 8-1808(d)(2)(ii) Presumption

In *Becker v. Anne Arundel County*, *supra*, 174 Md. App. at 133; 920 A.2d at 1129, the Court of Special Appeals discussed the presumption found in § 8-1808(d)(2)(ii) of the Natural Resources Article: "The amendment also created a

⁴ Subsection (b)(6) relates to bogs which are not a factor in this decision.

presumption that the use for which the variance was being requested was not in conformity with the purpose and intent of the Critical Area Program.”

I find that the applicants, by competent and substantial evidence, have overcome the presumption contained in the Natural Resources Article, § 8-1808(d)(2), of the State law (which is incorporated into § 18-16-305 subsection (b)(2)) for the reasons set forth above. Therefore, I find that the applicants **have met** the requirements of subsection (b)(7).⁵

I further find that the critical area variance represents the minimum relief. There was nothing to suggest that the granting of the critical area variance would alter the essential character of the neighborhood, substantially impair the appropriate use or development of adjacent property, reduce forest cover in the limited development and resource conservation areas of the critical area, or cause a detriment to the public welfare.

ORDER

PURSUANT to the application of Raymond E. Gibson and Gwendolyn Gibson, petitioning for a variance to allow a dwelling addition (garage) with less setbacks than required and with new lot coverage nearer to the shoreline than the closest façade of the existing dwelling; and

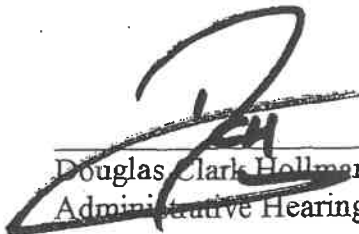
PURSUANT to the notice, posting of the property, and public hearing and in accordance with the provisions of law, it is this **7th day of May, 2014**,

⁵ Subsection (b)(8) relates to § 18-16-201 which sets out requirements for a pre-filing plan and administrative site plan, and other things not relevant here.

ORDERED, by the Administrative Hearing Officer of Anne Arundel County, that the applicants are **granted** a critical area variance to the prohibition in § 17-8-702 that no new **lot coverage** may be placed nearer to the shoreline than the closest facade of the existing principal structure to construct the proposed garage and create 96 square feet of new lot coverage closer to the shoreline as shown on County Exhibit 2.

Furthermore, County Exhibit 2, referenced in this decision, is incorporated herein as if fully set forth and made a part of this Order. The proposed improvements shown on County Exhibit 2 shall be constructed on the subject property in the locations shown therein.

The foregoing variance is subject to the applicants complying with any instructions and necessary approvals from the Permit Application Center, the Department of Health, and/or the Critical Area Commission, including but not limited to any direction regarding the use of nitrogen removal system technology and mitigation plantings.


Douglas Clark Hollmann
Administrative Hearing Officer

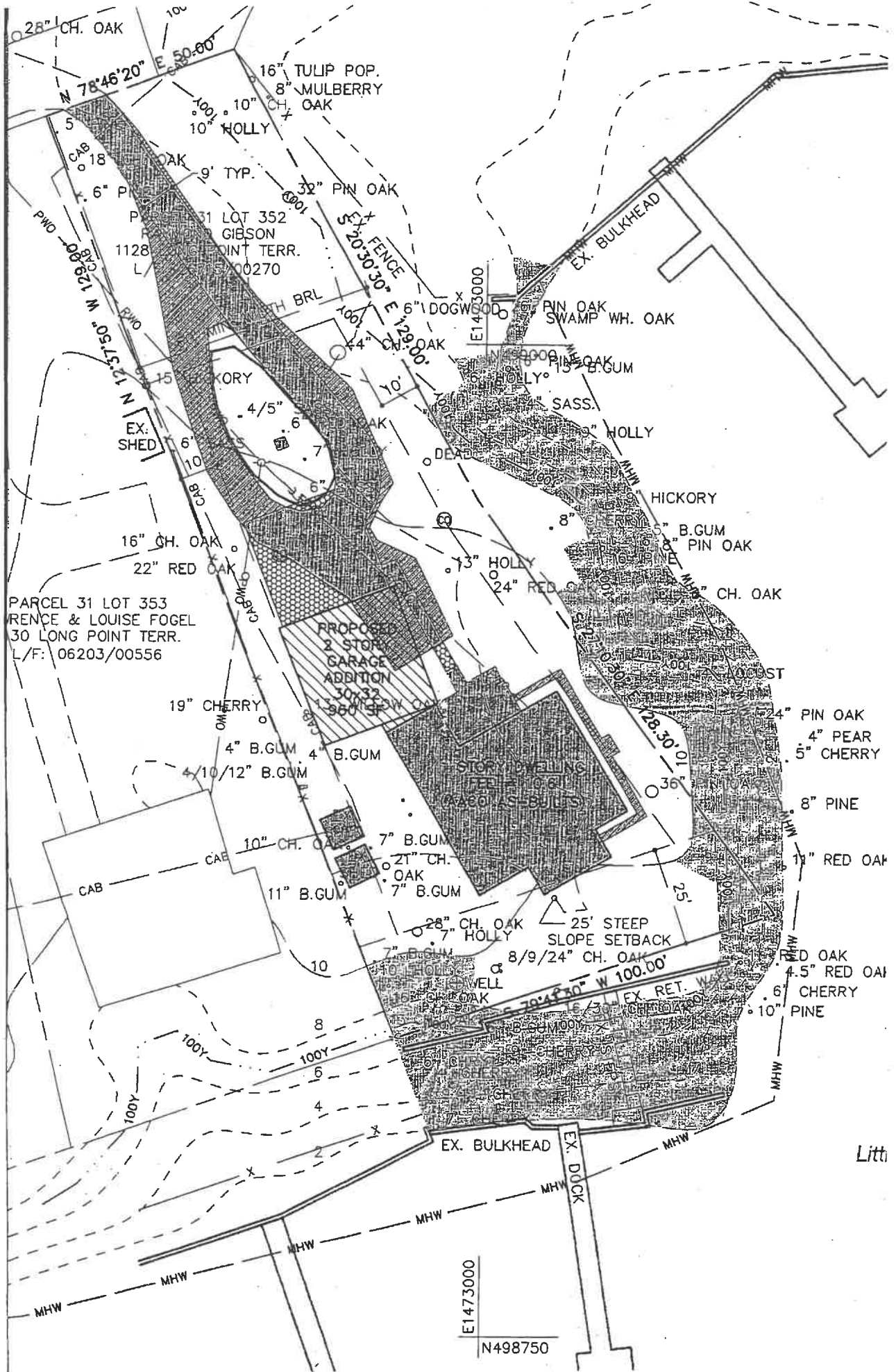
NOTICE TO APPLICANTS

This Order does not constitute a building permit. In order for the applicants to construct the structures permitted in this decision, they must apply for and obtain the necessary building permits, along with any other approvals required to perform the work described herein.

Within thirty days from the date of this Decision, any person, firm, corporation, or governmental agency having an interest therein and aggrieved thereby may file a Notice of Appeal with the County Board of Appeals. **A permit for the activity that was the subject of this variance application will not be issued until the appeal period has elapsed.**

Further, § 18-16-405(a) provides that a variance expires by operation of law unless the applicants obtain a building permit within 18 months. Thereafter, the variance shall not expire so long as construction proceeds in accordance with the permit.

If this case is not appealed, exhibits must be claimed within 60 days of the date of this Order, otherwise they will be discarded.



PARCEL 31 LOT 353
 RENCE & LOUISE FOGEL
 30 LONG POINT TERR.
 L/F: 06203/00556

PROPOSED
 2 STOR.
 GARAGE
 ADDITION
 30' x 32'
 360 SF

1 STORY DWELLING
 28' x 36'
 1008 AS-BUILT

25' STEEP
 SLOPE SETBACK

Litt

E1473000

N498750

10:30
CO. EXHIBIT#: 1
CASE: 2014-0036-✓
DATE: 4-17-14

**FINDINGS AND RECOMMENDATION
OFFICE OF PLANNING AND ZONING
ANNE ARUNDEL COUNTY, MARYLAND**

APPLICANT: Raymond E. Gibson

ASSESSMENT DISTRICT: 3rd

CASE NUMBER: 2014-0036-V

COUNCILMANIC DISTRICT: 5th

HEARING DATE: April 17, 2014

PREPARED BY: Robert Konowal
Planner

REQUEST

The applicant is requesting a variance to allow a dwelling addition with less setbacks than required and with new lot coverage nearer to the shoreline than the principal structure at 1128 Long Point Terrace in the subdivision of Cape St. Claire, Annapolis.

LOCATION AND DESCRIPTION OF SITE

The subject property has 30 feet of road frontage on the south side of Long Point Terrace, 100 feet south of Little Magothy View. These lands have an area of 22,105 square feet. The site is shown on Tax Map 40, Block 12, as Parcel 31, Lot 352 and is zoned "R5-Residential District". The current zoning of the site was adopted by the Comprehensive rezoning for the Fifth Council District, January 29, 2012.

These lands are a waterfront lot and are designated "LDA-Limited Development Area" in the Chesapeake Bay Critical Area. The property is also located in a designated "buffer modification area". Water facilities are provided on-site. Public sewer is available.

The site is currently improved with a one-story single-family detached dwelling. A circular drive and parking area are located on the rear side of the dwelling.

APPLICANT'S PROPOSAL

A two story, 30-foot by 32-foot garage and living space addition is proposed to the rear of the dwelling. Certain impervious features such as the part of the existing driveway, parking area and sidewalks are to be removed to ensure the site complies with the Critical Area lot coverage restrictions.

REQUESTED VARIANCES

Section 18-13-104. (c) of the Anne Arundel County Zoning Ordinance provides for the establishment of mapped buffer modification areas. Development in buffer modification areas is regulated by Article 17 of the Code. More specifically, Section 17-8-702. (b)(1) of the Code

2014-0036-V

states no new lot coverage shall be placed nearer to the shoreline than the closest façade of the existing principal structure whereas approximately 96 square feet of the proposed garage is located closer to the shoreline than the existing principal structure. A variance is required for this improvement.

FINDINGS

The subject property does meet the dimensional requirements for a lot in a R5 District. However, development on the lot is constrained by the slightly irregular shape of the lot and the length and location of the shoreline. Furthermore, the application relates to an existing developed lot where practical considerations make it difficult to comply with the Code. Denial of the variance would cause an unnecessary hardship in the use of these lands.

The variance is very minor in size (96 square feet in area) and extends a maximum of six feet into the modified buffer only at one point. The variance actually varies from 0 feet to six feet along a 32 foot length.

The variance is not based on conditions and circumstances that are the result of actions by the applicant, which includes the commencement of development before an application for a variance was filed.

The granting of the variance will not adversely affect water quality or impact fish, wildlife or plant habitat and is considered to be in harmony with the general spirit and intent of the critical area program.

The variance does not arise from any condition relating to land or building use on any neighboring property.

Approval of the variance will not necessarily alter the essential character of the neighborhood nor negatively impact the use of any adjacent property as the improvements do not violate any established set back pattern and are located well enough away from dwellings on abutting properties so as to not negatively impact same.

The **Anne Arundel County Department of Health** advised they do not have an approved plan for this project. The Department has no objection to the above referenced variance request as long as a plan is submitted and approved by them.

The **Development Division** indicated they have no objection to the request. The Division noted that the garage will be partially constructed over an existing driveway and lot coverage will be removed resulting in a net reduction of total lot coverage on this property. The applicant has also maximized the buffer.

The **Critical Area Commission** indicated they have no objection to the application. The

2014-0036-V

Commission also noted that the property is bounded by water on the east and south sides and the development will result in a net reduction of lot coverage of 113 square feet. Finally, the Commission indicated efforts should be taken to avoid removing the 13 inch willow oak tree.

RECOMMENDATION

With regard to the standards by which a variance may be granted as set forth in Section 18-16-305 under the Anne Arundel County Code, the Office of Planning and Zoning recommends **approval** of the request to allow new lot coverage closer to the shoreline than the existing principal structure in accordance with the attached site plan.

This recommendation does not constitute a building permit. In order for the applicant(s) to construct the structure(s) as proposed, the applicant(s) shall apply for and obtain the necessary building permits, and obtain any other approvals required to perform the work described herein. This includes but is not limited to verifying the legal status of the lot, resolving adequacy of public facilities, and demonstrating compliance with environmental site design criteria.



Robert Konowal
Planner

4/10/14

Date



Lori Rhodes
Planning Administrator

4/10/14

Date

R

CO. EXHIBIT#: 7
CASE: 2014-0036-V
DATE: 4-17-14

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Margaret G. McHale
Chair

Ren Serey
Executive Director

**STATE OF MARYLAND
CRITICAL AREA COMMISSION
CHESAPEAKE AND ATLANTIC COASTAL BAYS**

1804 West Street, Suite 100, Annapolis, Maryland 21401
(410) 260-3460 Fax: (410) 974-5338
www.dnr.state.md.us/criticalarea/

March 10, 2014

Ms. Lori Rhodes
Anne Arundel County
Office of Planning and Zoning
2664 Riva Road, MS 6301
Annapolis, Maryland 21401

Re: Variance Case #2014-0036-V; Gibson, Gwendolyn & Raymond

Dear Ms. Rhodes:

Thank you for submitting information regarding the application referenced above. The applicants request a variance to allow a dwelling addition with less setbacks than required and with new lot coverage nearer to the shoreline than the principal structure. The waterfront property is a 0.505 acre lot and is designated as a Limited Development Area (LDA) and Buffer Modification Area (BMA). It is currently improved with a single family dwelling, driveway, walkway, two sheds and a pier. The proposed development includes reducing the existing driveway and removing the walkway to accommodate the construction of a garage, a portion of which will be over the driveway. Total lot coverage will be reduced by 113 square feet.

Provided that this lot is properly grandfathered, we do not oppose the variance request. The property is bordered by Little Magothy River on its east and south sides. Though the addition is nearer to the shoreline than the principal structure, the shoreline in question is to the west, and two additional dwellings separate this property from that shoreline. Efforts should be taken to avoid removing the 13" willow oak tree. Should the Hearing Officer find that this request meets all of the required standards, mitigation is required in accordance with Anne Arundel County Code 17-8-702 (e). Plantings should be located within 100 feet of the shoreline to the maximum extent possible.

Thank you for the opportunity to provide comment. Please include this letter in your file and submit it as part of the record. Please notify the Commission of the decision made in this case. If you have any questions, please contact me at (410) 260-3479.

Sincerely,
Alexandra Olaya
Alexandra Olaya
Natural Resources Planner
AO/jjd
File: AA 116-14

Gibson Variance Criteria Report
1128 Long Point Terrace, 21409
February 10, 2014

CO. EXHIBIT#: 6
CASE: 2014-0036-V
DATE: 4-17-14

Gibson Variance Criteria Report
1128 Long Point Terrace, 21409
February 10, 2014

A. Describe the proposed use of the subject property and include if the project is residential, commercial, industrial, or maritime.

1128 Long Point Terrace is a residential property. It is one of the original houses in Cape St. Claire and has been little changed since a small addition was constructed during the 1970s. We propose to build a garage connected to the back of the house, with storage space over top. The proposed footprint is in the attached plan, and the goal is to increase add a garage in the most economical fashion.

The plans for the addition consist of adding the garage with a second story storage and a sidewalk alongside the garage. To stay within the impervious surface area limits for the property, the driveway will be modified and reduced in size, and unused existing sidewalks around the original house will be removed. The footprint of the proposed garage is approximately 30 feet by 32 feet in dimension. All sidewalks and paved areas to be added and removed are indicated on the attached site plans

B. Describe the type of predominant trees and shrubs on the subject property. Include a statement addressing the square footage of the property that is vegetated with trees and shrubs, how much of the property will be disturbed by the proposed development, and how the disturbance will be mitigated.

The property consists of a house with a sparse lawn with scattered trees and shrubs that are not manicured. The trees and shrubs within and on the edges of the property are noted on the attached plan, and generally consist of pine, oak, holly, sassafras, hickory, cherry, blackgum, and dogwood. The largest trees on the property are oak, with an understory of the holly, sassafras, cherry, and dogwood. Cherry saplings are common on the slopes.

The proposed footprint of the garage has been located on top of the existing driveway and paved areas to the maximum extent possible to avoid displacing trees and vegetation. However, one tree may be displaced by the construction—a 13" willow oak located on the western edge of the addition footprint. We will be happy to perform mitigation or replacement tree planting as required.

C. Describe the methods to minimize impacts on water quality and habitat from proposed construction (i.e. stormwater management, sediment control, and silt fence).

We intend to install gutters and downspouts onto the new structure as per building codes, and are investigating the use of a raingarden and rain barrels connected to the gutter system to control runoff.

D. Calculate the impervious surface before and after construction, including all structures, gravel areas, driveways, and concrete areas.

The table below lists the "existing" impervious surface coverage, and the "proposed" (post construction) impervious surface coverage, as calculated from the attached plans. Please note the that post-construction impervious surface coverage is reduced compared to the existing impervious surface area, due to an overall reduction in size of the large original circular driveway and removal of unused sidewalks.

IMPERVIOUS COVERAGE QTYS.:

	<u>EXISTING</u>	<u>PROP.</u>
HOUSE	1,818 SF	2,796 SF
PAVEMENT	3,338 SF	2,247 SF
ACCS STR.	140 SF	140 SF
TOTAL	5,296 SF	5,183 SF

E. If applicable, describe any habitat protection areas on the subject property including expanded buffers, steep slopes of 15% or greater, rare and endangered species, anadromous fish propagation waters, colonial water bird nesting sites, historic waterfowl staging and concentration areas, riparian forests, natural heritage areas, and plant and wildlife habitats of local significance.

This property is bordered by the Little Magothy River on two sides, and therefore is almost completely within the Critical Area 100-foot buffer. Also slopes of 15%-25% are present around the shoreline.

Variance to allow a dwelling addition with less setbacks than required and with new lot coverage upper to the structure than the original structure.

4/17/14 10:30

CASE # 2014-0036-V
FEE PAID 250.00
DATE Feb 12, 2014



ZONE RS
CRITICAL AREA: IDA LDA RCA X
BMA: Yes X No
NO. OF SIGNS 2

VARIANCE APPLICATION

Applicant(s): Raymond Gibson (Property Owner)
(All persons having 10% or more interest in property)

Property Address: 1128 Long Point Terrace

Property Location: approx 30 feet of frontage on the (n, s, e, w) side of Long Point Terrace (St, Rd, Ln, etc.);
approx 100 feet (n, s, e, w) of (Nearest intersecting street) Little Magothy View (St, Rd, Ln, etc.).

Tax Account Number 02675355 Tax District 3 Council District 5

Waterfront Lot yes Corner Lot yes Deed Title Reference 26715/ 00270

Zoning of Property R5 Lot # 352 Tax Map 40 Block/Grid 12 Parcel 31

Area (sq. ft. or acres) 22,105 sq. ft. Subdivision Name Cape St. Claire

Description of Proposed Variance Requested (Brief, detail fully in letter of explanation)
Proposed garage with second story storage.
Property is located within the critical area buffer.

The applicant hereby certifies that he or she has a financial, contractual, or proprietary interest equal to or in excess of 10 percent of the property; that he or she is authorized to make this application; that the information shown on this application is correct; and that he or she will comply with all applicable regulations of Anne Arundel County, Maryland.

Applicant's Signature Gwendolyn Gibson Owner's Signature Raymond E. Gibson

Print Name Gwendolyn Gibson Print Name Raymond Gibson

Mailing Address 1319 Colony Drive Mailing Address 1128 Long Point Terrace

City, State, Zip Annapolis, MD 21403 City, State, Zip Annapolis, MD 21409

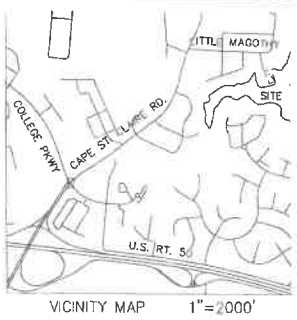
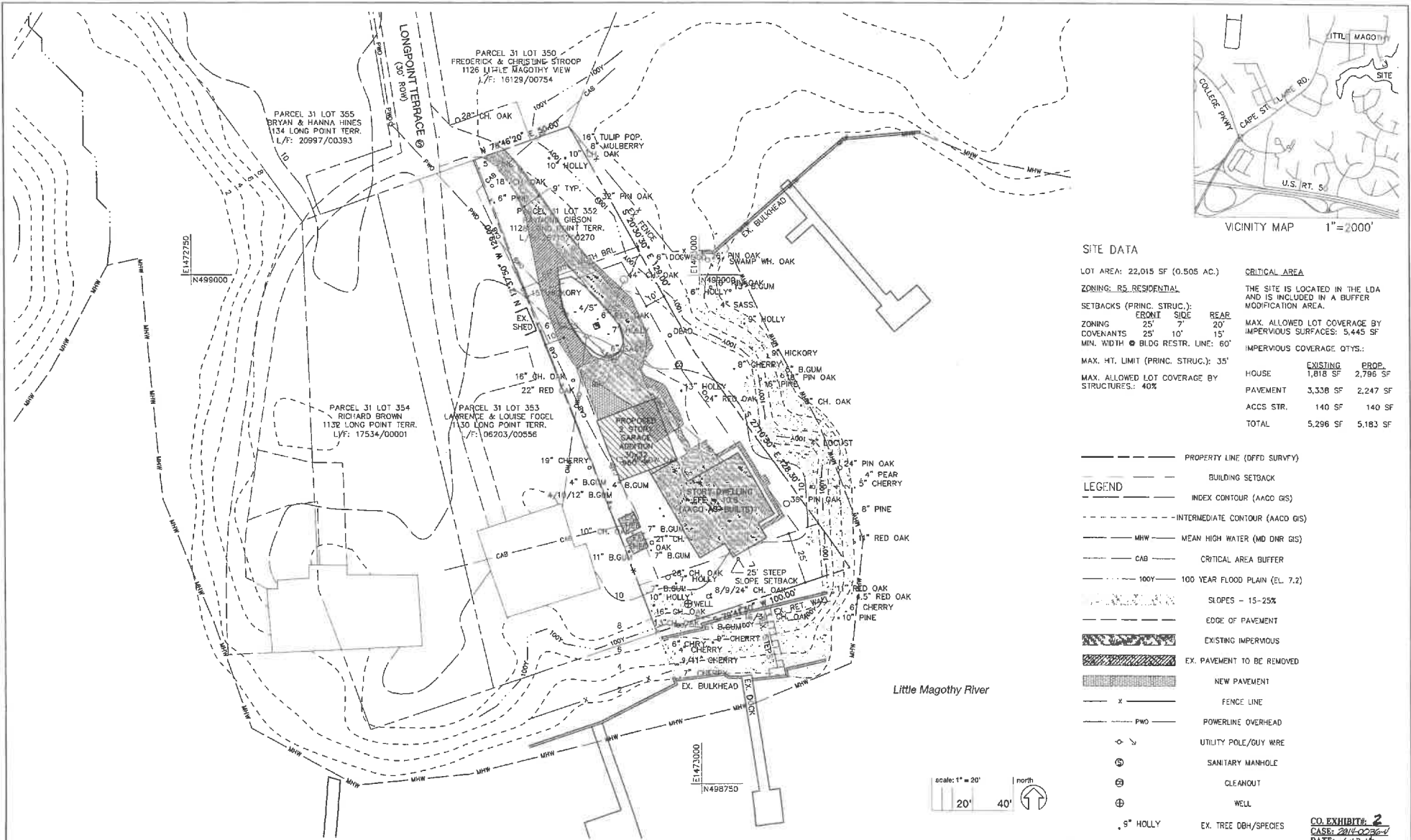
Phone 410-990-0299 410-990-1612 Phone n/a 410-757-7369
(Work) (Home) (Work) (Home)

Cell Phone 443-995-0088 Cell Phone 443-254-0231

Email Address gwengibs@gmail.com Email Address n/a

For Office Use Only

Application accepted by Anne Arundel County, Office of Planning and Zoning:
[Signature] 2014-02-12
Signature Date
(rev. 10/21/13)



SITE DATA

LOT AREA: 22,015 SF (0.505 AC.)	CRITICAL AREA	THE SITE IS LOCATED IN THE LDA AND IS INCLUDED IN A BUFFER MODIFICATION AREA.
ZONING: RS RESIDENTIAL	FRONT	MAX. ALLOWED LOT COVERAGE BY IMPERVIOUS SURFACES: 5.445 SF
SETBACKS (PRINC. STRUC.):	REAR	IMPERVIOUS COVERAGE QTY'S.:
ZONING COVENANTS: 25' 7' 20'		HOUSE: EXISTING 1,818 SF, PROP. 2,796 SF
MIN. WIDTH @ BLDG RESTR. LINE: 60'		PAVEMENT: 3,338 SF, 2,247 SF
MAX. HT. LIMIT (PRINC. STRUC.): 35'		ACCS STR.: 140 SF, 140 SF
MAX. ALLOWED LOT COVERAGE BY STRUCTURES: 40%		TOTAL: 5,296 SF, 5,183 SF

LEGEND

- PROPERTY LINE (DFFD SURVEY)
- BUILDING SETBACK
- INDEX CONTOUR (AACD GIS)
- INTERMEDIATE CONTOUR (AACD GIS)
- MEAN HIGH WATER (MD DNR GIS)
- CRITICAL AREA BUFFER
- 100 YEAR FLOOD PLAN (EL. 7.2)
- SLOPES - 15-25%
- EDGE OF PAVEMENT
- EXISTING IMPERVIOUS
- EX. PAVEMENT TO BE REMOVED
- NEW PAVEMENT
- FENCE LINE
- POWERLINE OVERHEAD
- UTILITY POLE/GUY WIRE
- SANITARY MANHOLE
- CLEANOUT
- WELL
- EX. TREE DBH/SPECIES



DATA DISCLOSURE
 This plan was compiled from field measurements and public records and is provided for informational purposes only. This plan does not constitute a boundary and/or a topography survey. No representation is made as to the accuracy or completeness of the information provided and any reliance thereon or use thereof by the receiver or any other entity or individual shall be at such party's sole risk.

GIS data layers and aerial imagery were obtained from some or all of the following sources: Annapolis County, MD Department of Natural Resources, MD Department of Planning, Google.

REVISIONS				DATE
NO.	DATE	DESCRIPTION	BY	12-16-2013

SCALE: 1"=20'
 DESIGNED BY:
 DRAWN BY: CM

GIBSON RESIDENCE
EXISTING CONDITIONS PLAN

1126 LONG POINT TERRACE, ANNAPOLIS, MD 21409-5307
 TAX MAP: 40 BLOCK: 12 PARCEL: 31 ASSESSMENT DISTRICT: 3

DRAWING NO.
LS-001
 SHEET 1 OF 1
 PROJECT NO.
 13-001-00

CO. EXHIBIT: 2
 CASE: 2014-0056-U
 DATE: 11-17-14

PHOTO LOG

APP. EXHIBIT# 4
CASE: 2023-0112-V
DATE: 8/29/23

1128 Long Point Terrace Property Photos



Photo 1. Southeast corner of lot. Waterfront with "Notice" sign posted (circled).



Photo 2. View from southwest corner of lot, facing east across property.



Photo 3. View from southwest corner of lot facing southwest to pier.



Photo 4. View from southwest corner of lot facing northeast toward house and eastern side of lot.



Photo 5. View from southwest corner of lot facing west.



Photo 6. Photo from southeast corner of lot facing east approximately along property line.



Photo 7. Northern end of property at top of driveway. Showing "Notice" sign. This view looks southward along eastern property line. Double trunk oak tree on the left (at truck) is the approximate Cape St. Claire owned land along the waterfront. A bluff with waterfront is east of the brush/ shrubs.



Photo 8. View from approximate end of driveway facing south to house. The whole width of property is visible. Double trunk oak tree on the left (at truck) is the approximate Cape St. Claire owned land along the waterfront. The white shed visible on the right is on the neighboring (western) property. Trees visible at the top right of the driveway are the approximate western edge of the property.



Photo 9. View from the eastern side of the driveway facing east toward the waterfront. The neighbor's property (Berwanger) and pier are visible in the background. This is an example of the eastern side dropping down to waterfront.



Photo 10. Closer view of the Proposed Garage location. The fence is the neighbor's fence along the western property line. The two trees are the 16" and 22" oaks noted on the Site Plan that are north of the northwest corner of the proposed garage.



Photo 11. View from the house/ top of driveway facing northwest toward neighbor's (Harden) property.



Photo 12. View from the house/ top of driveway facing north.



Photo 13. View from Cape St. Claire owned property from southern end of property, facing northeast along eastern edge toward "notice" sign.



Photo 14. View from pier facing north. The whole width of the property is visible. Left side of photo is approximate western property boundary.



Photo 15. 20 foot Bertram powerboat that we would like to be able to work on inside garage on its trailer.



Photo 16. 21 foot Apex inflatable powerboat that we would like to work on inside of garage on its trailer.

Photos of our former 24x24 ft garage at 1227 Hampton Road



Photo 17. View of garage at old house at 1227 Hampton Road. This is a 24 ft by 24 ft pole barn. It has all of its former contents (pictured below) in it, but is also currently being used for storage for tools, sports equipment, indoor workshop contents, and indoor basement storage from the old house until a new garage can be built. These photos are provided as an example of how the Proposed Garage space will be used.



Photo 18. The 1227 Hampton Road garage approximately one year ago. View from one side of the garage facing the opposite corner with workbench and toolboxes visible along the wall. The cars inside the garage are the “hobby” cars- a Mazda Miata (foreground), Triumph (middle), and Porsche (against wall). Each of these cars is approximately 15 feet long. The Triumph is an ongoing restoration project car that is still being worked on.



Photo 19. View from the opposite corner as Photo 18, facing the garage doors. Photos 18 and 19 show that the 24 foot garage can sometimes limit the available room to walk behind or in front of the cars when there is a workbench and shelving along one wall.



Photo 19. View of a small convertible within the 24x24 ft garage in its normal configuration. This shows the general set up of the workbench along the back wall.



Photo 20. View of the triumph on jack stands with no other cars in the garage. Shelves are located along the far wall for storage. The Proposed Garage is planned to contain a lift which is safer than jack stands, and provides better clearance underneath of the cars to work.



Photo 21. Current view of left side of garage at 1227 Hampton Road. The garage is currently serving as storage for the cars and tools, but also the contents of the 1227 Hampton Road basement, indoor workshop, and yard tool shed that we need storage for at 1128 Long Point Terrace.



Photo 22. Current view of right side of garage at 1227 Hampton Road. The garage is currently serving as storage for the cars and tools, but also the contents of the 1227 Hampton Road basement and workshop and yard tool shed that we need storage for at 1128 Long Point Terrace.



Photo 23. Wide Angle View of former garage with 3 small cars, work benches toolboxes.

Attachment 4

APP. EXHIBIT# 5
CASE: 2023-0112-V
DATE: 8/29/23

To: Office of Planning and Zoning
 2664 Riva Road
 Annapolis, MD 21401

Re: Variance Application Letter of Explanation, 1128 Long Point Terrace, Annapolis, MD
 21409

This is our residential property on which we are proposing to build a 30x32 foot pole barn type garage. There is one existing one story house and two existing 8x8 foot square sheds on the property. Table 1 describes the dimensions, area, and set backs of the existing structures and proposed garage. Our property is unique because it is relatively narrow, and bordered on the east and south side by water. However, it is important to note that the Cape St. Claire Improvement Association (CSCIA) owns approximately 20 feet landward from MHW, but some erosion has altered the shoreline in places.

Table 1. Existing and Proposed Structure Dimensions

Existing Structure	Dimensions	Height	Square Footage
House	Approx. 45 ft x 35 ft w/ a 12x12ft extension on NW corner	One story – approximately 18 ft high at roof peak.	1818 sq ft
Shed 1	8X8 ft	8.5 at peak	64 sq ft
Shed 2	8X8 ft	8.5 at peak	64 sq ft
Proposed Structure			
Garage	30 ft x 32 ft	One story- 18 ft high at roof peak	930 sq ft

The CSCIA has also indicated that they are willing to accept us using the County Zoning setbacks for this property instead of the Covenant Setbacks. We have been told by the county that these setbacks for an accessory structure are 40 foot front, 7 foot side, and 20 foot rear. Table 2 provides the setbacks from MHW and the property lines for the proposed garage.

Table 2. Proposed Garage Setbacks

Garage Side	Zoning Setback Type	Setback from Property Line	Setback from MHW (where applicable)
North	Side	100+ feet	n/a
East	Side/ front? (waterfront)	31 feet 5 inches at closest point	Approx. 66 feet from MHW and end of CSCIA property
South	Front (waterfront)	40+ feet	80+ feet
West	Side	7 feet	n/a

We have tried to position the garage on the property to avoid trees and stay as far away from the waterfront as possible, while complying with the County setbacks. However, because the CSCIA owns approximately 20 feet from MHW, our property is only about 75 feet wide behind

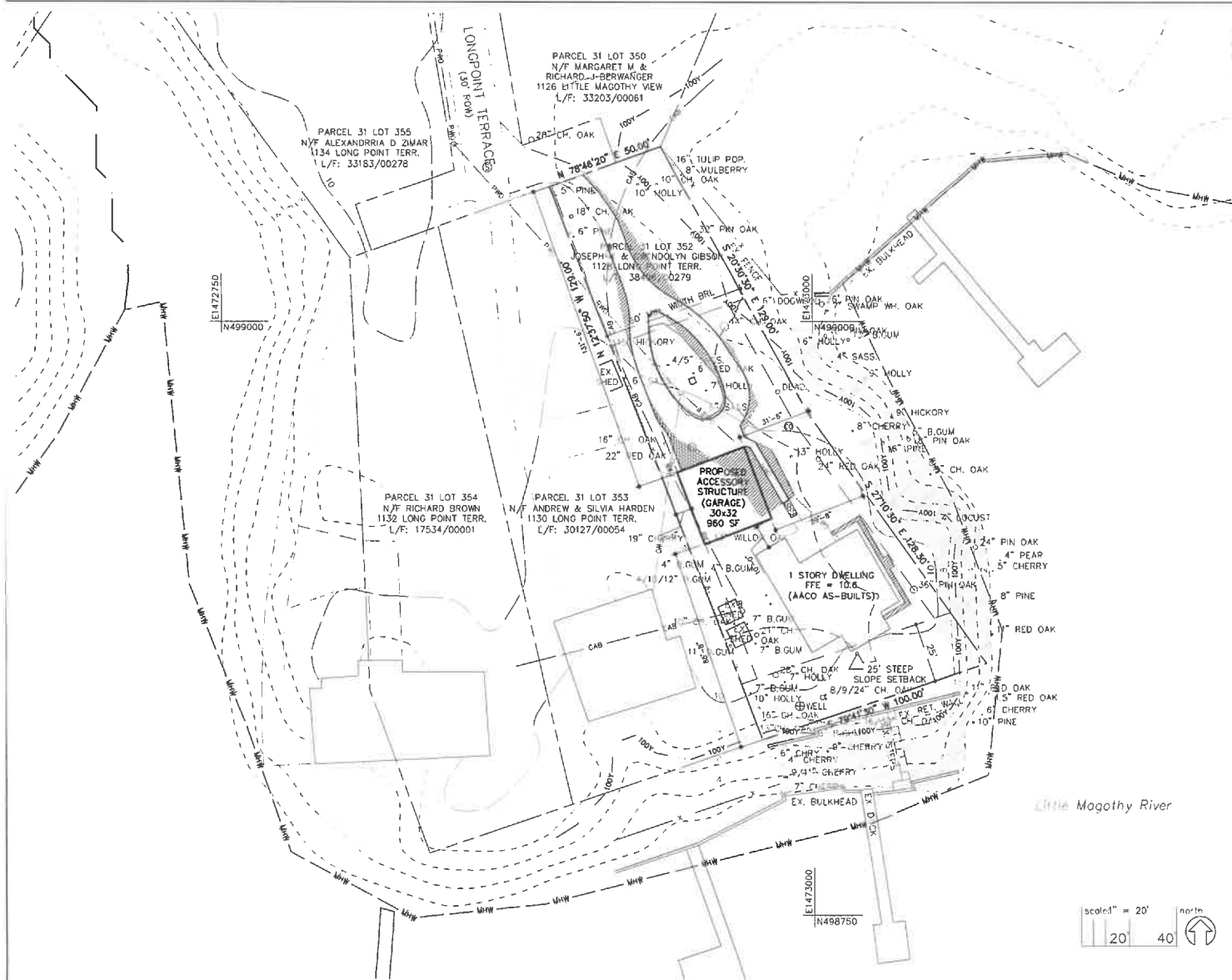
the house at the top of the driveway, and it gets narrower farther down the driveway. We have spoken to Critical Areas (Vanessa Crankfield) who indicated that because of the eastern side setback, we will need a zoning variance. Ms. Crankfield also said that she did not believe a Critical Areas variance was required. We do not have site plans/ building plans for the garage yet. We are in the process of getting a quote from Pioneer Pole Buildings.

Thank you for your consideration of this matter. Please feel free to call or email me to discuss this further at 443-995-0088 or gwengibs@gmail.com.

Sincerely,

A handwritten signature in black ink that reads "Gwen Gibson". The signature is written in a cursive, slightly slanted style.

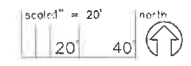
Gwen Gibson



SITE DATA

LOT AREA: 22,015 SF (0.505 AC.)	CRITICAL AREA		
ZONING: RS RESIDENTIAL	THE SITE IS LOCATED IN THE LDA AND IS INCLUDED IN A BUFFER MODIFICATION AREA.		
SETBACKS (PRINC. STRUC.):	MAX. ALLOWED LOT COVERAGE BY IMPERVIOUS SURFACES: 5,445 SF		
FRONT: 25'	REAR: 20'		
COVENANTS: 25' 10'	15'		
MIN. WIDTH @ BLDG RESTR. LINE: 60'	IMPERVIOUS COVERAGE QTY'S.:		
MAX. HT. LIMIT (PRINC. STRUC.): 35'	EXISTING	PROP.	
MAX. ALLOWED LOT COVERAGE BY STRUCTURES: 40%	HOUSE	1,818 SF	1,818 SF
	PAVEMENT	3,338 SF	2,452 SF
	ACCS STR.	134 SF	1,157 SF
	TOTAL	5,290 SF	5,427 SF

- LEGEND**
- PROPERTY LINE (DEED SURVEY)
 - - - BUILDING SETBACK
 - - - INDEX CONTOUR (AACO GIS)
 - - - INTERMEDIATE CONTOUR (AACO GIS)
 - MHW MEAN HIGH WATER (MD DNR GIS)
 - CAB CRITICAL AREA BUFFER
 - 100Y 100 YEAR FLOOD PLAIN (EL. 7.2)
 - SLOPES - 15-25%
 - EDGE OF PAVEMENT
 - EXISTING IMPERVIOUS
 - EX. PAVEMENT TO BE REMOVED
 - NEW PAVEMENT
 - FENCE LINE
 - PWO POWERLINE OVERHEAD
 - UTILITY POLE/GUY WIRE
 - SM SANITARY MANHOLE
 - ⊕ CLEANOUT
 - ⊕ WELL
 - 9" HULLY EX. TREE DBH/SPECIES



DATA DISCLOSURE
 This plan was compiled from field measurements and public records and is provided for informational purposes only. This plan does not constitute a boundary and/or a topography survey. No representation is made as to the accuracy or completeness of the information provided and any reliance thereon or use thereof by the reader or any other entity or individual shall be at such party's sole risk.

GIS data layers and aerial imagery were obtained from some or all of the following sources: Anne Arundel County, MD Department of Natural Resources, MD Department of Planning, Google.

<table border="1"> <thead> <tr> <th colspan="2">REVISIONS</th> <th>DATE</th> </tr> <tr> <th>NO.</th> <th>DESCRIPTION</th> <th>BY</th> </tr> </thead> <tbody> <tr> <td> </td> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> <td> </td> </tr> </tbody> </table>				REVISIONS		DATE	NO.	DESCRIPTION	BY										DATE: 2-28-2023 SCALE: 1"=20' DESIGNED BY: DRAWN BY: CM	GIBSON RESIDENCE SITE PLAN NEW GARAGE - ACCESSORY STRUCTURE 1128 LONG POINT TERRACE, ANNAPOLIS, MD 21409-5307 TAX MAP: 40 BLOCK: 12 PARCEL: 31 ASSESSMENT DISTRICT: 3	DRAWING NO. LS-001 SHEET 1 OF 1 PROJECT NO. 13-001-00
REVISIONS		DATE																			
NO.	DESCRIPTION	BY																			

Critical Area Report Narrative
1128 Long Point Terrace
Annapolis, MD 21409

This is our residential property on which we are proposing to build a garage. There are scattered trees throughout the property—a mix of holly, sassafras, oaks, cherry, hickory, and some other species as noted on the attached site plan. Although we attempted to avoid as many trees as possible, it appears that one 13" willow oak may have to be removed. The garage will be a pole barn structure that is build in one day by professionals who use all appropriate sediment erosion control measures. We tried to avoid tree and habitat impacts by positioning the garage close to the house on/ near the existing driveway, and stayed away from the shoreline and avoided existing trees to the extent possible. The garage will be 960 square feet and the driveway will be "bumped out" to add small parking area in front will be 63 square feet. We plan to remove 886 square feet of old existing sidewalks and unused portions of the old circular driveway. Impervious surface before construction is 5290 square feet, and after construction is 5427 square feet. There are no known sensitive species areas within on our property, but there are some steep slopes within the property boundary that are identified on our site plan.

CRITICAL AREA COMMISSION
 CHESAPEAKE AND ATLANTIC COASTAL BAYS
 1804 WEST STREET, SUITE 100
 ANNAPOLIS, MD 21401

PROJECT NOTIFICATION APPLICATION

GENERAL PROJECT INFORMATION

Jurisdiction: Anne Arundel County/ Cape St. Claire

Date: 6/29/23

Tax Map #	Parcel #	Block #	Lot #	Section
0040	0031	0012	352	E

Tax ID: 02675355

FOR RESUBMITTAL ONLY

- Corrections
- Redesign
- No Change
- Non-Critical Area

*Complete Only Page 1
 General Project Information

Project Name (site name, subdivision name, or other) _____

Project location/Address 1128 Long Point Terrace

City Annapolis Zip 21409

Local case number _____

Applicant: Last name Gibson First name Gwendolyn

Company property owner

Application Type (check all that apply): Applying for a Building Permit for a pole barn/ garage and may require a zoning variance for this.

- | | |
|---|--|
| Building Permit <input checked="" type="checkbox"/> | Variance <input checked="" type="checkbox"/> |
| Buffer Management Plan <input type="checkbox"/> | Rezoning <input type="checkbox"/> |
| Conditional Use <input type="checkbox"/> | Site Plan <input type="checkbox"/> |
| Consistency Report <input type="checkbox"/> | Special Exception <input type="checkbox"/> |
| Disturbance > 5,000 sq ft <input type="checkbox"/> | Subdivision <input type="checkbox"/> |
| Grading Permit <input type="checkbox"/> | Other <input type="checkbox"/> |

Local Jurisdiction Contact Information:

Last name _____ First name _____
 Phone # _____ Response from Commission Required By _____
 Fax # _____ Hearing date _____

SPECIFIC PROJECT INFORMATION

Describe Proposed use of project site:

Request to construct a one story pole barn/ garage. The lot is oddly shaped and the property 20' landward from MHW is owned bay the community and we are applying to AA County Zoning for a setback variance.

Yes Intra-Family Transfer <input type="checkbox"/> Grandfathered Lot <input type="checkbox"/>	Yes Growth Allocation <input type="checkbox"/> Buffer Exemption Area <input type="checkbox"/>
---	---

Project Type (check all that apply)

Commercial <input type="checkbox"/> Consistency Report <input type="checkbox"/> Industrial <input type="checkbox"/> Institutional <input type="checkbox"/> Mixed Use <input type="checkbox"/> Other <input type="checkbox"/>	Recreational <input type="checkbox"/> Redevelopment <input type="checkbox"/> Residential <input checked="" type="checkbox"/> Shore Erosion Control <input type="checkbox"/> Water-Dependent Facility <input type="checkbox"/>
---	---

SITE INVENTORY (Enter acres or square feet)

	Acres	Sq Ft		Acres	Sq Ft
IDA Area			Total Disturbed Area		5427 sf
LDA Area	.505 acres	22,015 SF			proposed
RCA Area			# of Lots Created		
Total Area					

	Acres	Sq Ft		Acres	Sq Ft
Existing Forest/Woodland/Trees			Existing Lot Coverage		5290
Created Forest/Woodland/Trees			New Lot Coverage		1023
Removed Forest/Woodland/Trees			Removed Lot Coverage		886
			Total Lot Coverage		5427

VARIANCE INFORMATION (Check all that apply)

	Acres	Sq Ft		Acres	Sq Ft
Buffer Disturbance			Buffer Forest Clearing		
Non-Buffer Disturbance			Mitigation		

Variance Type

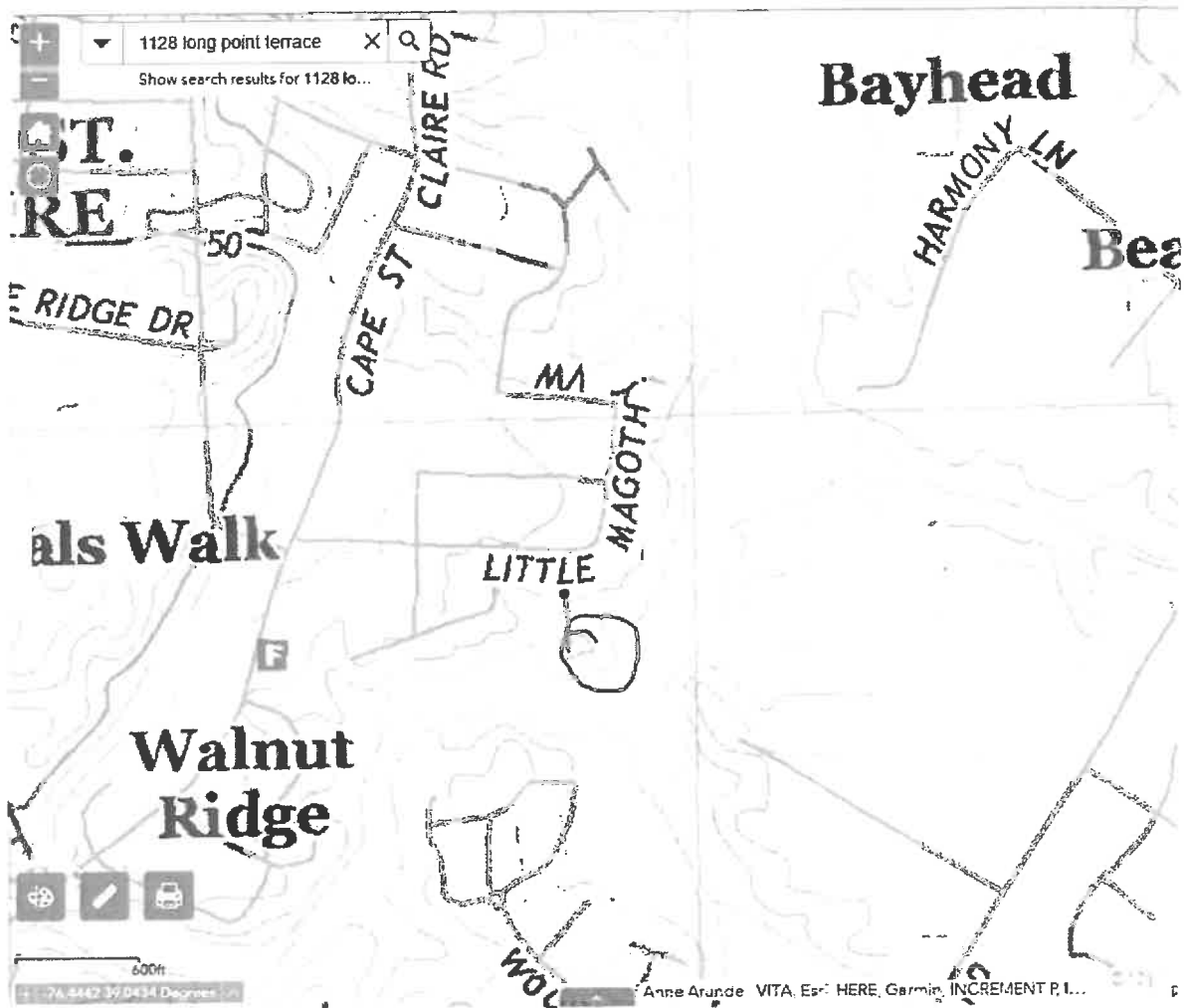
Buffer	<input type="checkbox"/>
Forest Clearing	<input type="checkbox"/>
HPA Impact	<input type="checkbox"/>
Lot Coverage	<input type="checkbox"/>
Expanded Buffer	<input type="checkbox"/>
Nontidal Wetlands	<input type="checkbox"/>
Setback	<input type="checkbox"/>
Steep Slopes	<input type="checkbox"/>
Other	<input type="checkbox"/>

Structure

Acc. Structure Addition	<input type="checkbox"/>
Barn	<input type="checkbox"/>
Deck	<input type="checkbox"/>
Dwelling	<input type="checkbox"/>
Dwelling Addition	<input type="checkbox"/>
Garage	<input checked="" type="checkbox"/>
Gazebo	<input type="checkbox"/>
Patio	<input type="checkbox"/>
Pool	<input type="checkbox"/>
Shed	<input type="checkbox"/>
Other	<input type="checkbox"/>

Topographic Map for 1128 Long Point Terrace

1128 Long Point Terrace is circled in blue below.



Attachment 5

Analysis of Waterfront Lot Sizes

APP. EXHIBIT# 6
CASE: 2023-0112-V
DATE: 8/29/23

As of the [census](#) of 2000, there were 8,022 people, 2,857 households, and 2,179 families residing in the CDP. The population density was 4,066.9 inhabitants per square mile (1,570.2/km²). There were 2,932 housing units (Wikipedia)

Joe and Gwen Gibson Property—1128 Long Point Terrace

Lot is 22,015 sf- 76 to 68 ft wide at garage location 70 ft wide at back of house, 50 ft wide at road.

Number of “waterfront corner lots” (Please note these are manual calculations using Maryland Merlin Online- all imagery and measurements were performed using Merlin Online)

154 waterfront lots up to Lake Claire beach- not counting some of the ones along the lake plus 22 around rolling view = 176 waterfront lots. Didn't include Atlantis.

Of these lots 5 (including 1128 Long Point Terrace) have waterfrontage on two sides that are single lots, and there are two others that could be considered “double lots”. The following lots appear to be the only other lots with water front on two sides.

1. 1132 Long Point Terrace - 21,546 sf – 43-73 ft wide lot



2. 1233 DIETRICH WAY, ANNAPOLIS 21409-0000 - 26,571 SF - 50 ft wide at narrowest



3. 1221 Dietrich Way - 18700 sf - 90 ft wide - ? doesn't show CSCIA owned frontage?



4. 1100 Magothy Circle - 32,516 sf lot - lot ranges from 125 ft to 230 ft wide



5. 1080 Little Magothy View – width ranges from 60-85 ft wide



6. 1074 Little Magothy View - (double lot) - about 106 ft wide by 200 ft long – has detached garage- 30x43 sf.



Garage sizes similar to ours on “narrow” waterfront lots: (many others have smaller or attached garages)

1114 Little Magothy View – 27,840 sf lot – approx. 80 ft wide

detached garage – 32x32 ft



1266 Swan Drive- 8800sf – 50 ft wide

Detached garage- 46 x 28 ft



1248 Riverbay rd - 11,232 SF – 52 ft wide

Detached garage- 20x32 ft



1206 Riverbay Road

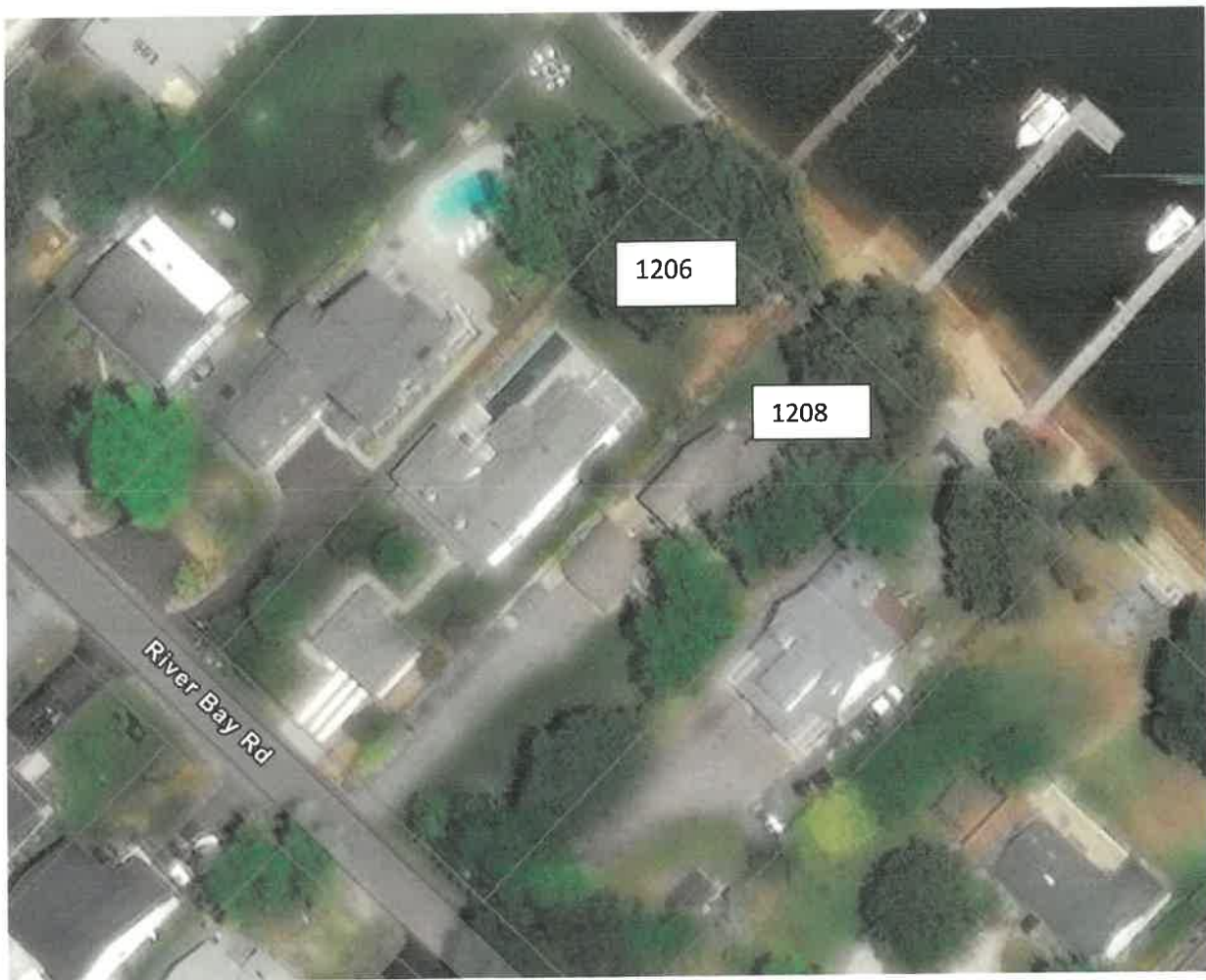
17,290 sf, 72 ft wide

Has attached **and** detached garage- detached garage = 35x28 ft

1208 Riverbay Road

17710 sf, 70 ft wide

Has detached garage – 26x25 ft



1200 Riverbay Rd - 17,640 SF – 70 ft wide

Detached garage - 24x26 ft



1194 Riverbay Rd - 21,280 SF - 70 ft wide

Detached garage - 24x 27 ft



1180 RiverBay Rd – 21,350 sf - property is 70 ft wide

1 detached garage-25x30 ft

1178 Riverbay Rd – 1 attached, 1 detached garage- 30x30 ft

21350 sf – property is about 64 feet wide

1172 Riverbay Rd – 1 detached garage 30x31 ft

20510 sf prop – approx. 70 ft wide



1164 Riverbay Rd - 21,980 sf prop – 72 ft wide

Detached garage – 46x35 ft



1160 Riverbay Rd - 21,000 sf – 68 ft wide

Detached garage – 30 x 20 ft

1152 Riverbay Rd - 16,996 SF – 58-65 ft wide

Detached garage – 28x22 ft

1158 Riverbay Rd - 26,173 sf – 114 ft – 80 ft wide

44x30 ft

1148 Riverbay Rd - 20,230 SF- 70 ft wide

Detached garage – 32x30 ft

1156 Riverbay Rd - 20,037 sf – 74-83 ft wide

Detached garage – 26x 36 ft

1144 Riverbay Rd - 15,565 SF - 68 -75 ft wide

Detached Garage - 24x44 ft



1140 Riverbay - 15,180 SF – 33-66 ft wide

Detached garage – 22x33 ft “L” shaped



1104 River Bay Rd - 25,160 SF- 86 ft wide

Detached garage – 25 x 26 ft

1100 River Bay Rd - 28,184 sf – 97 feet wide

Detached garage – 23x27 ft

1098 River Bay Rd - 23,328 sf – 82 ft wide

Detached garage - 32x15 ft

1094 River Bay - 43,992 SF – 154 wide

Detached garage – 32 x 32 ft

1088 River Bay Rd - 19,800 SF – 72 ft wide

Detached garage - 36x25 ft



1078 River Bay Rd - 13,114 SF – 79 ft wide

Detached garage - 30x25 ft

1074 River Bay Rd - 13,430 SF – 79 ft wide

Detached garage - 27x25 ft

1072 River Bay Rd – 17,052 SF - 85 ft wide

Detached garage - 48x24 ft



1056 Lake Claire Dr - 35,350 SF – 100 ft wide

Detached garage - 37x30 ft

ss or place



1056

844 Harbor View Terrace - 9,660 SF – 69 ft wide

Detached garage - 26x27 ft w/ bump out



743 Rolling View - 24,325 SF – 95 ft wide

Detached garage - 27x27 ft

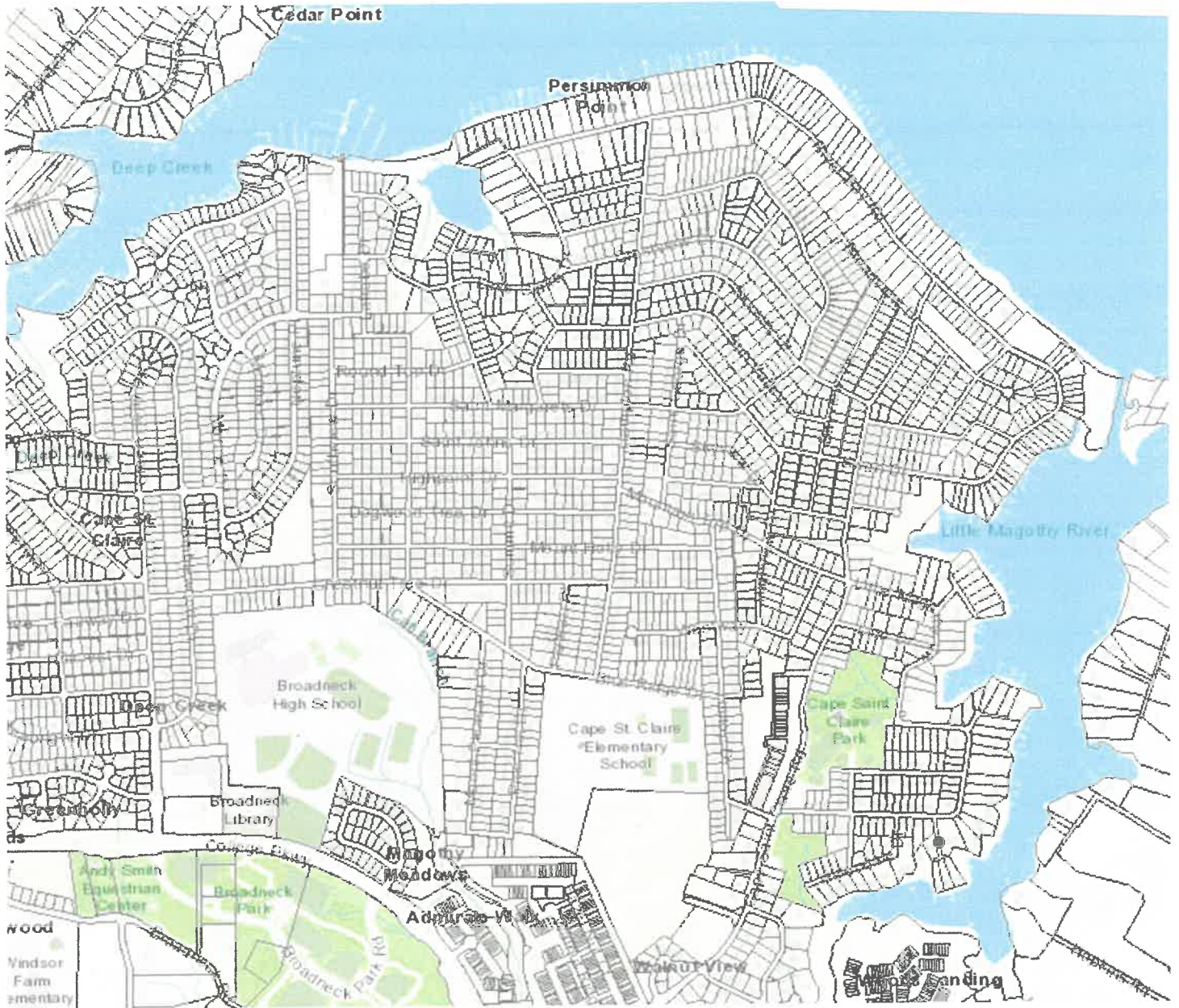


APP. EXHIBIT# 7

CASE: 2023-0112-V

DATE: 8/29/23

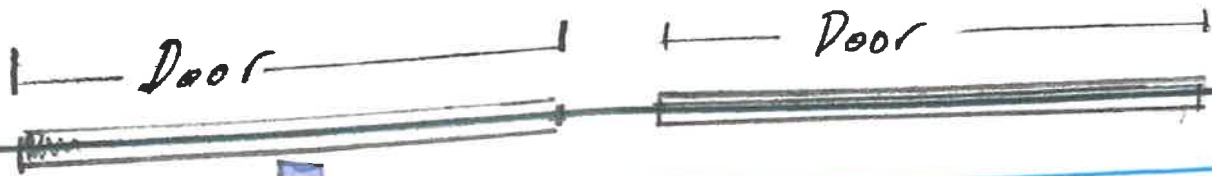
Attachment 6. Parcel Boundaries in Cape St. Claire



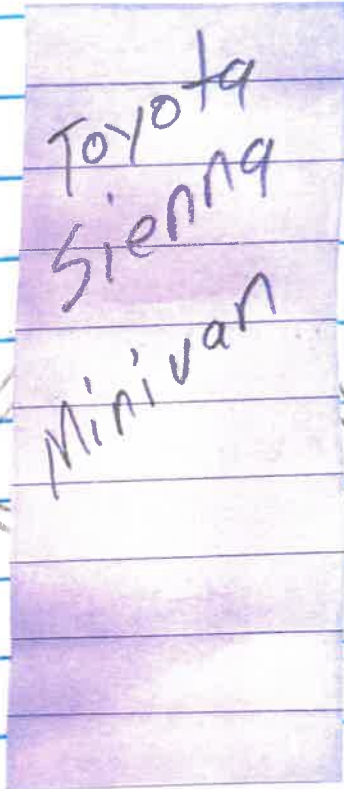
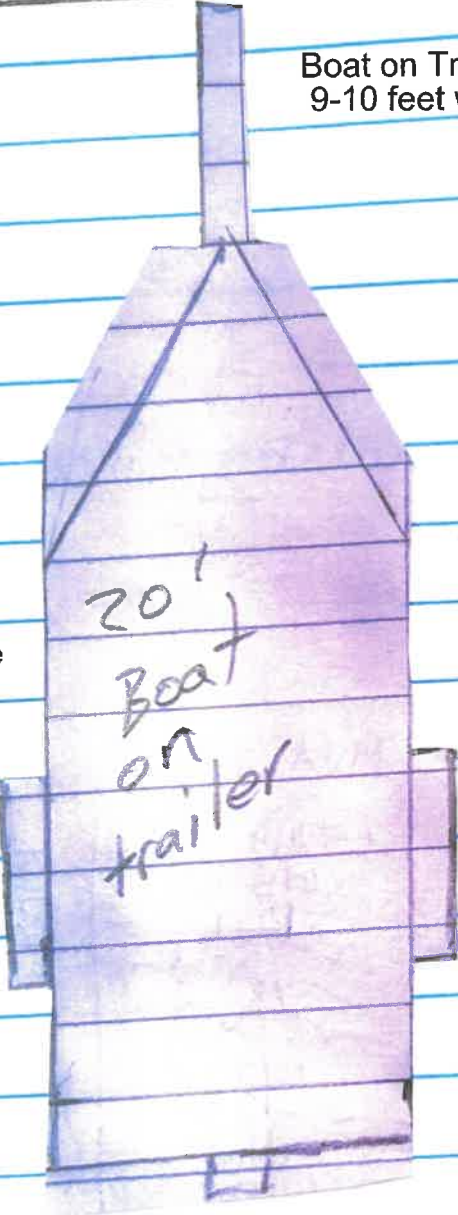
Attachment 7

12'

12'



Boat on Trailer is 9-10 feet wide



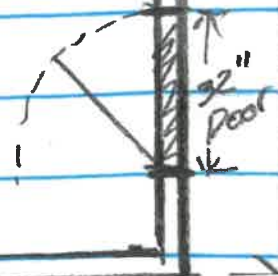
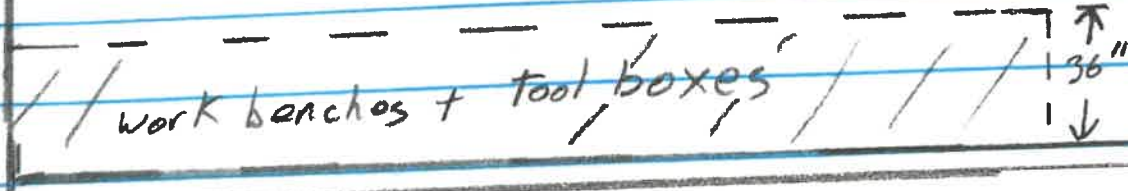
3 ft aisle space

3 ft aisle space

3 ft aisle space

32

mini van is 6.5 ft wide and lift structure is 11-12 ft wide.



30'

APP. EXHIBIT# 8
 CASE: 2023-0112-V
 DATE: 8/29/23

PLEASE NOTE-- THESE DRAWINGS MAY NOT BE TO SCALE

12'

12'

Door

Door

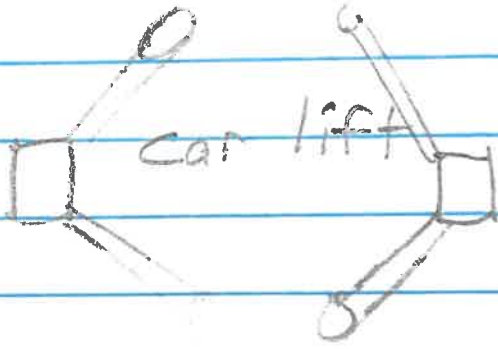
BOAT TRAILER IS
9-10 FEET WIDE

12'

3 ft
aisle
space

20'
Boat
on
trailer

3 ft aisle
space



Car lift

32'

3 ft aisle
space

work benches + tool boxes

36"

32"
Door

30'

PLEASE NOTE- THESE DRAWINGS MAY NOT BE TO SCALE

Attachment 8. Consumer Grade Lift example



10000 lbs Capacity Car Lift 220V Two Post Auto Lift Truck Hoist Safety Lock, Hydraulic Cylinders Symmetric Arms Two Post Lift HP-L5



SOLD BY [Baiton Tools](#)

TPN: 260DU51NZ

SALE **FREE SHIPPING**

Price **\$2,558.07**

IN STOCK Fulfilled By Twotot.
WARRANTY: 90-Days Warranty



- High Capacity Lifting:** Two post auto Car Lift L5-with 10,000 lbs lifting capacity . equipped with 220V 60Hz.1Ph 2HP Motor, the lifting height can be adjusted freely, the lift column Height about 143.3",maximum lifting height is about 72".Overall Width about 131". Strong support capacity.
- Simple and Safe Operation:** The car lifts both sides are equipped with single release safety lock design, which is easy and convenient to operate, with protective rubber door guards, double-column symmetrical arm chassis is stable enough to run smoothly and worry-free, and the design of hydraulic chain drive cylinders is safe and reliable.

APP. EXHIBIT# 9
CASE: 2023-0112-V
DATE: 8/29/23



Fwd: Variance approval

joe gibson <joegibson73@gmail.com>
To: Gwen Gibson <gwengibs@gmail.com>

Mon, Aug 28, 2023 at 1:06 PM

Sent from my iPhone

Begin forwarded message:

APP. EXHIBIT# 10
CASE: 2023-0112-V
DATE: 8/29/23

From: Andy Harden <drewharden@gmail.com>
Date: August 28, 2023 at 11:48:54 AM EDT
To: joegibson73@gmail.com
Subject: Variance approval

As the immediate neighboring property owner, I approve of the variance submitted by Joe Gibson for a new garage at [1128 Long Point Terrace, Annapolis MD 21409](#). Joe does a great deal of work on his personal cars and boats and this added space will be of great value to him while providing no hard ships to the surrounding area.

Regards,
Andrew Harden
[1130 Long Point Terrace, Annapolis, MD 21409](#)
443-202-3169