

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

APPLICANT: James P. Wright

ASSESSMENT DISTRICT: 2nd

CASE NUMBER: 2023-0151-V

COUNCILMANIC DISTRICT: 6th

HEARING DATE: October 26, 2023

PREPARED BY: Sara Anzelmo
Planner



REQUEST

The applicant is requesting a variance to allow two accessory structures (garage and detached accessory dwelling unit) in the front yard of a nonwaterfront lot on property located at 87 Bay Drive in Annapolis.

LOCATION AND DESCRIPTION OF SITE

The subject site consists of 25,052 square feet of land and is located with 100 feet of frontage on the northwest side of Bay Drive and 100 feet of frontage on the southeast side Barry Avenue, 200 feet northeast of Bancroft Avenue. It is identified as Lot 3 of Parcel 29 in Block 10 on Tax Map 57 in the Bay Ridge subdivision.

The property is zoned R2 – Residential District, as adopted by the comprehensive zoning for Council District 6, effective October 7, 2011. The site is not waterfront, but it is located entirely within the Chesapeake Bay Critical Area and is designated as LDA – Limited Development Area. It is improved with a single-family dwelling, a detached garage, and other associated facilities.

PROPOSAL

The applicant proposes to remove the existing 400 sf garage and to construct two new accessory structures: a 20' by 20' garage with attic storage above (measuring 15'-5⁷/₈" H at the midpoint of the highest roof surface) and a one-story irregularly-shaped accessory dwelling unit (ADU) with a 736 sf footprint (measuring 16'-3¹/₄" H at the midpoint of the highest roof surface) and attached decks. Also proposed, but not requiring a variance, is a 475 sf pool.

REQUESTED VARIANCES

§ 18-2-204(b) of the Anne Arundel County Zoning Code provides that an accessory structure may not be located in the front yard of a nonwaterfront lot. § 18-1-101 defines a "lot line, front" as the boundary of a lot that abuts the road right-of-way. In the case of the subject property, the lot fronts both Bay Drive to the southeast and Barry Avenue to the northwest, resulting in what is considered to be two front yards. Both the garage and the accessory dwelling unit would be located in the "front yard" as it relates to Barry Avenue, necessitating a variance to this provision.

FINDINGS

The subject property is rectangular in shape and exceeds the minimum 80-foot width and the minimum 15,000 square foot area required for lots served by public sewer in an R2 District. The existing critical area lot coverage is 4,915 square feet. The proposed coverage would increase to 5,310 square feet, which falls within the maximum 5,445 square feet allowed. If approved, the actual coverage would be calculated at permitting.

A review of the County 2023 aerial photograph shows that the orientation of the existing and proposed development on the subject lot is consistent with the pattern of development of many nearby lots along Bay Drive. According to State tax assessment records, the existing dwelling was built in 1926, long before the enactment of zoning or critical area regulations. Most nearby houses face the water, with Bay Drive functioning as the front and with Barry Avenue functioning as the rear. Furthermore, only one of the six houses along this specific block of Bay Drive have driveway access from Bay Drive. All others have access from Barry Avenue.

This property was the subject of a recent variance application (2023-0075-V). The proposal at that time included a significantly larger and taller accessory structure with first floor garage, storage, boat storage, workshop, bathroom, and entryway areas (1,114.1 sf total) and a second floor ADU - accessory dwelling unit (635.9 sf). The proposal also included a pool in a different location than is currently proposed. The Administrative Hearing Officer approved the pool in the front yard, but he did not approve the two-story accessory structure. After giving consideration to the Administrative Decision, which noted that the structure would not be in keeping with the surrounding neighborhood, the applicant has revised the proposal by relocating the pool to the northeast side of the house, by reducing the overall floor area from 1,750 sf to 1,146 sf, and by separating the previously proposed accessory structure into two smaller and shorter structures.

The applicant's letter explains that the location of the proposed accessory structures would comply with the minimum 40-foot front setback required from Barry Avenue and would be located well beyond the front setback of the main dwelling facing Bay Drive. The applicant also notes that a similar variance was granted in April of 2021 (2021-0023-V) to allow an accessory garage with living quarters above at 107 Bay Drive.¹

The **Health Department** does not have an approved plan for this project, but has no objection to the request as long as a plan is submitted and approved by the Department.

For the granting of a zoning variance, a determination must be made as to whether, because of certain unique physical conditions peculiar to or inherent in the particular lot or because of exceptional circumstances, strict implementation of the Code would result in practical difficulties or an unnecessary hardship. The Code did not provide for dual frontage properties when defining a front lot line, an oversight which resulted in two "front yards" and no rear yard on such lots. Given that accessory structures are prohibited in the front yard and that there is no rear yard, the only permitted location for any accessory structures would be in the side yard, which would not be ideal from an aesthetic standpoint or from a functional one.

¹ 2021-0023-V approved an accessory structure (detached garage) in the front yard of a nonwaterfront lot with less setbacks than required. However, the site plan for this variance showed a proposed garage only. The letter of explanation did not mention an accessory dwelling unit (ADU) or any other living space, and the decision only approved a garage. Until the enactment of Bill 6-23, May 27, 2023, ADUs were not permitted in detached structures.

Approval of the variance would not alter the essential character of the neighborhood, as the revised proposal and associated smaller/shorter structure sizes would be more consistent with the existing pattern of development of other nearby properties. Residents have expressed concerns over the potential negative impacts of an ADU on their neighborhood. However, the location variance itself is not the cause of those concerns. The County Council recently passed legislation allowing ADUs within accessory structures for the first time. Second dwellings have not been permitted within detached structures since “rear dwellings, regulated” were allowed in the early 1970s. There is no doubt that Council was aware that additional dwelling units would likely increase people, traffic, parking, and noise within residential communities. However, ADUs are now allowed within accessory structures and should be recognized as such. The proposed ADU would fall below the maximum size limitation, and both accessory structures would meet the minimum required setbacks, leaving only the front yard question to evaluate. Were it not for the dual frontage situation, both structures would be permitted and no variances would be required.

The variance would not substantially impair the appropriate use or development of adjacent property, as the structures would meet the minimum setback requirements from shared lot lines. The variance would not reduce forest cover in the limited development area, would not be contrary to acceptable clearing and replanting practices, and would not be detrimental to the public welfare.

Given the dual road frontage, the existing pattern of development on this portion of Bay Drive, and the overall neighborhood context, practical difficulties do exist. The front yard variance is unavoidable, and the redesigned structures are not considered to be excessive in size. Therefore, the variance is deemed to be the minimum necessary to afford relief in this case.

RECOMMENDATION

Based upon the standards set forth in § 18-16-305 of the Code under which a variance may be granted, this Office recommends *approval* of a zoning variance to § 18-2-204(b) to allow the proposed garage and detached accessory dwelling unit (ADU) to be constructed in the front yard of a nonwaterfront lot, as shown on the site plan submitted by the applicant.

DISCLAIMER: 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.

September 1, 2023

James Wright
87 Bay Drive
Annapolis, MD. 21403

Variance for an Accessory Structure on a Dual Frontage Lot

Dear Sir / Madam,

We seek a variance request for a “through lot” with dual frontage on Bay Drive and Barry Avenue to allow two accessory structures, a detached one story garage, and one story 750 ft.² living quarters in the front yard of a non-waterfront lot. The property currently is a 25,052 ft.² lot, with a 2,751 ft.² residence and a 400 ft.² detached garage. See attached proposed site plan and PDF of site reference photos.

The property for all intents and purposes, except for direct access to the water, is a waterfront lot. The road between the property and the shoreline causes a lot to be treated as if it were an internal lot. However, it is obvious that the main dwelling is facing the bay, and should be treated accordingly, which would allow the proposed garage, without a variance. The proposed work is to demolish the existing garage and replaced with a new one story garage with storage above, and a new one story accessory dwelling unit. Both the proposed detached garage and accessory dwelling unit to be located between the main house and the front lot line that abuts Barry Avenue and consequently requires a variance to be in the front yard of a non-waterfront lot.

The approval of this variance would not alter the essential character of the immediate neighborhood. The location of the detached garage complies with the required front lot line setback of 40 feet from Barry Avenue frontage for an accessory structure and is located well behind the front setback of the main dwelling facing Bay Drive. Both adjacent neighbors’ lots are through lots and an approval of the variance would not impair the appropriate use and development of any abutting properties. The area of disturbance will not reduce forest cover in the LDA or critical area.

On April 27, 2021 a variance **CASE NUMBER 2021-0023-V** was granted for relief from the code of an similar accessory structure, but with living quarters above for a “through lot” located at **107 Bay Dr.** The evidence showed that because of the unique physical constraints of the subject property, the applicant couldn’t construct the proposed garage behind the main residence in the front setback of Barry Avenue without the required variance.

Please note that there are several other “through lots” on Bay Drive with existing two story accessory structures with dwelling units above in the immediate vicinity, see attached PDF for address and photo reference.

Sincerely,



James P. Wright

JAMES PHILLIP WRIGHT

EMAIL: jpwarchit@gmail.com



James Wright <jpwarchit@gmail.com>

87 Bay Dr. ADU Site

1 message

James Phillip Wright <jpwarchit@gmail.com>

Sat, May 13, 2023 at 1:24 PM

To: James Wright <jpwarchit@gmail.com>

Bcc: JPWarchit@gmail.com





James Phillip Wright Architects

jpwarehitects.com

September 1, 2023

James Wright
87 Bay Drive
Annapolis, MD. 21403

Critical Area Report Narrative

Re: Variance for Accessory Structure on a Dual Frontage Lot

Dear Sir / Madam,

The existing single story residence was built in 1926 in the Bay Ridge Tract on a flat lot overlooking the Chesapeake Bay. The lot is 25,052 square feet having mostly mature trees on the perimeter property lines in the rear and side yards surrounding the lawn areas. The landscaping covers approximately 80% of the property.

The area of disturbance for the accessory structure is approximately 1,246 s.f. with no tree removal required. The existing impervious surface area is 4,913 s.f. and after demolition of the existing garage, construction of the accessory structure and driveway, new pool adjacent the main residence, also with relocated driveway, the impervious area increases 397 s.f. totaling 5,310. s.f. below the maximum allowed of 5,445 s.f.

Storm water management practices of silt fencing will be incorporated during construction to mitigate sediment runoff.

There are no habitat protection areas on the subject property.

Sincerely,

A handwritten signature in black ink, appearing to read 'James P. Wright', with a horizontal line extending to the right.

James P. Wright

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

PROJECT NOTIFICATION APPLICATION

GENERAL PROJECT INFORMATION

Jurisdiction:

Date:

| Tax Map # | Parcel # | Block # | Lot # | Section |
|-----------|----------|---------|-------|---------|
| 57 | 29 | | 3 | 10 |
| | | | | |
| | | | | |

FOR RESUBMITTAL ONLY

Corrections

Redesign

No Change

Non-Critical Area

*Complete Only Page 1
General Project Information

Tax ID: 2047-1273-4100

Project Name (site name, subdivision name, or other) ACCESSORY STRUCTURE

Project location/Address 87 BAY DRIVE

City ANNAPOLIS MARYLAND Zip 21403

Local case number _____

Applicant: Last name WRIGHT First name JAMES

Company OWNER

Application Type (check all that apply):

- | | |
|--|--|
| Building Permit <input 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 WRIGHT First name JAMES

Phone # 925-788-5520 Response from Commission Required By _____

Fax # _____ Hearing date _____

SPECIFIC PROJECT INFORMATION

Describe Proposed use of project site:

RESIDENTIAL ONE STORY ACCESSORY STRUCTURE ADU
AND ACCESSORY STRUCTURE GARAGE

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

Project Type (check all that apply)

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

SITE INVENTORY (Enter acres or square feet)

| | Acres | Sq Ft | Total Disturbed Area | Acres | Sq Ft |
|------------|-------|-------|----------------------|-------|-------|
| IDA Area | | 25052 | | | |
| LDA Area | | 5445 | | | |
| RCA Area | | | | | |
| Total Area | | | | | |

of Lots Created

| | Acres | Sq Ft | | Acres | Sq Ft |
|--------------------------------|-------|-------|-----------------------|-------|-------|
| Existing Forest/Woodland/Trees | | 20849 | Existing Lot Coverage | | 4213 |
| Created Forest/Woodland/Trees | | 0 | New Lot Coverage | | 1146 |
| Removed Forest/Woodland/Trees | | 1217 | Removed Lot Coverage | | 0 |
| | | | Total Lot Coverage | | 5359 |

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 type="checkbox"/> |
| Gazebo | <input type="checkbox"/> |
| Patio | <input type="checkbox"/> |
| Pool | <input type="checkbox"/> |
| Shed | <input type="checkbox"/> |
| Other | <input type="checkbox"/> |



James Wright <jpwarchit@gmail.com>

107 Bay Drive

1 message

James Phillip Wright <jpwarchit@gmail.com>
To: James Wright <jpwarchit@gmail.com>
Bcc: JPWarchit@gmail.com

Sat, May 13, 2023 at 12:41 PM



James Phillip Wright Architects

jpwarchitects.com



James Wright <jpwarchit@gmail.com>

65 Bay Drive

1 message

James Phillip Wright <jpwarchit@gmail.com>
To: James Wright <jpwarchit@gmail.com>
Bcc: JPWarchit@gmail.com

Sat, May 13, 2023 at 12:55 PM



James Phillip Wright Architects

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James Wright <jpwarchit@gmail.com>

73 Bay Drive

1 message

James Phillip Wright <jpwarchit@gmail.com>
To: James Wright <jpwarchit@gmail.com>
Bcc: JPWarchit@gmail.com

Sat, May 13, 2023 at 12:52 PM



James Phillip Wright Architects

jpwarchitects.com



James Wright <jpwarchit@gmail.com>

121 Bay Drive

1 message

James Phillip Wright <jpwarchit@gmail.com>
To: James Wright <jpwarchit@gmail.com>
Bcc: JPWarchit@gmail.com

Sat, May 13, 2023 at 12:43 PM



James Phillip Wright Architects

jpwarchitects.com



James Wright <jpwarchit@gmail.com>

77 Bay Drive

1 message

James Phillip Wright <jpwarchit@gmail.com>
To: James Wright <jpwarchit@gmail.com>
Bcc: JPWarchit@gmail.com

Sat, May 13, 2023 at 12:51 PM



James Phillip Wright Architects

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James Wright <jpwarchit@gmail.com>

117 Bay Drive

1 message

James Phillip Wright <jpwarchit@gmail.com>
To: James Wright <jpwarchit@gmail.com>
Bcc: JPWarchit@gmail.com

Sat, May 13, 2023 at 12:46 PM



James Phillip Wright Architects

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James Wright <jpwarchit@gmail.com>

119 Bay Drive

1 message

James Phillip Wright <jpwarchit@gmail.com>
To: James Wright <jpwarchit@gmail.com>
Bcc: JPWarchit@gmail.com

Sat, May 13, 2023 at 12:45 PM



James Phillip Wright Architects

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James Wright <jpwarchit@gmail.com>

123 Bay Drive

1 message

James Phillip Wright <jpwarchit@gmail.com>
To: James Wright <jpwarchit@gmail.com>
Bcc: JPWarchit@gmail.com

Sat, May 13, 2023 at 12:42 PM



James Phillip Wright Architects

jpwarchitects.com



ANNE
ARUNDEL
COUNTY

MARYLAND

DEPARTMENT OF HEALTH

J. Howard Beard Health Services Building
3 Harry S. Truman Parkway
Annapolis, Maryland 21401
Phone: 410-222-7095 Fax: 410-222-7294
Maryland Relay (TTY): 711
www.aahealth.org

Tonii Gedin, RN, DNP
Health Officer

MEMORANDUM

TO: Sadé Medina, Zoning Applications
Planning and Zoning Department, MS-6301

FROM: Brian Chew, Program Manager *BC*
Bureau of Environmental Health

DATE: September 26, 2023

RE: James P. Wright
87 Bay Drive
Annapolis, MD 21403

NUMBER: 2023-0151-V

SUBJECT: Variance/Special Exception/Rezoning

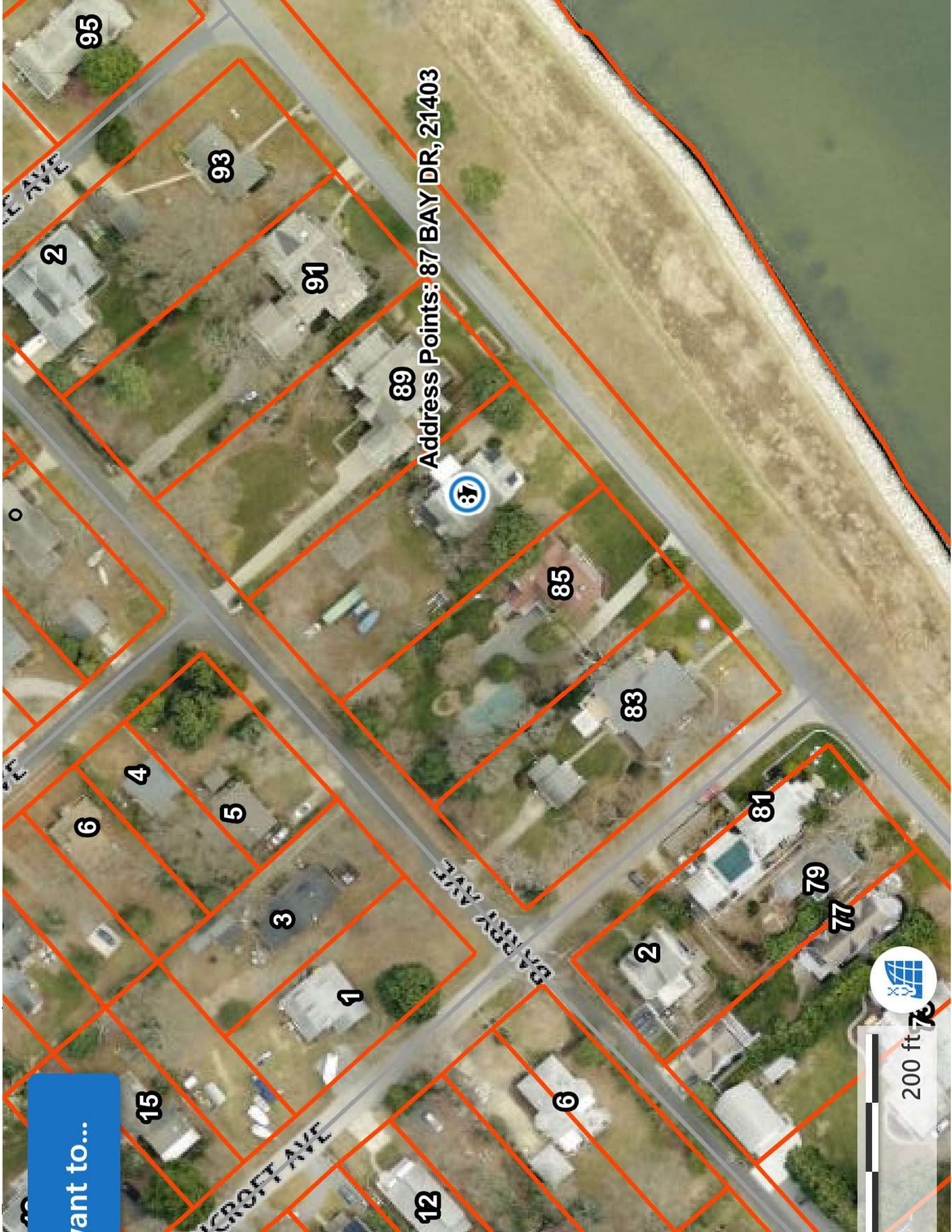
The Health Department has reviewed the above referenced variance to allow two accessory structures (garage and detached accessory dwelling unit) in front yard of a nonwaterfront lot.

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

If you have further questions or comments, please contact Brian Chew at 410-222-7413.

cc: Sterling Seay

want to...



Address Points: 87 BAY DR, 21403

87



200 ft