APPLICANT EXHIBIT 1 2023-0155-V 11/07/2023

VARIANCE HEARING

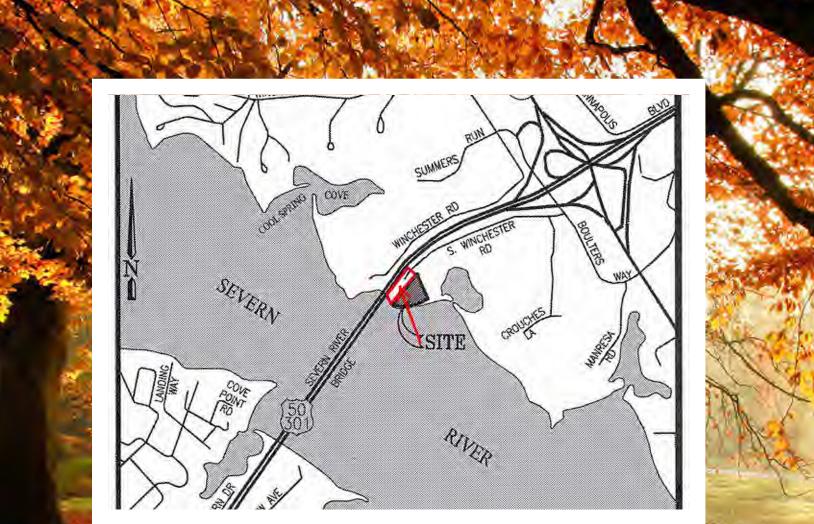
MISKI PROPERTY – 2023-0155-V – NOVEMBER 7, 2023 141 S. WINCHESTER ROAD ANNAPOLIS, MD 21401 ENGINEERS, PLANNERS & SURVEYORS 53 OLD SOLOMONS ISLAND ROAD * SUITE I * ANNAPOLIS, MD 21401 phone: 410-266-1160 * email:terrain@terrainmd.com

PRESENTED BY: ROY C. LITTLE, P.E.

OWNERS/DEVELOPER: AHMAD MISKI 141 S. WINCHESTER ROAD ANNAPOLIS, MD 21401

ATTORNEY FOR OWNER: ANTHONY F. CHRISTHILF, ESQ. 150 SOUTH STREET, SUITE 206 ANNAPOLIS, MD 21401 PHONE: 410-269-6424 FAX: 410-263-8836 AFCHRISTHILF@VERIZON.NET







OTERRAIN

MOWELL COMPANY

March 22, 2023

Planning and Zoning. Zoning Division 2864 Riva Rd. Srd Floor Armspolis, MD 21/101

Re: 141 Winumester Road G02017165 T.A. 303/ 3001-4600

To Whom It May Concern:

The Owner of the property. Mr Ahmad Miski, has been working with Inspections and Permits to address previous Violations on the Site. The proparation of the Grading and Septer Site Priors is required to oblien the nacessary Approvals for continued erempiotion of the project

Based on the location of the Existing Improvements and the extent of the same, the Sitervill recum two (2) Variances:

- A. In accordance with 18-13-104; Buffers, Expanded Buffers, and Buffer Mortification Areas, the Expanded Buller, which affects this Site was determined as follows:
- The Sile contains a 100 ft. Buffor as massived from Muan High Water. The Buffer fails within the Steep Siones, therefore, an expansion of the Buller is required.
- 2. The Buffer in expanded 4 II. for every 1% of the Bloce which is represented by the Average Expended Buffer Line as shown on the Plan. The 50 ft Buffer to the lop of the Slope is also noted for convalison.

Because a majority of the Proposed Improvements are within the Expanded Buffer, a Variance is necessary to Allow Improvementa within the Eulter

B In accordance with 17-8-402. Lot Coverage is limited to 15% of the Site which is 74,592 SF or

- 1.7124 acres of 11,189 SF. Based on the Improvements proposed, the Lot Coverage will be 11,043 SF. The Site exceeds the Lot Coverage Limit by 764 SF or 1%. Therefore, we me requesting that
- Him Proposed Lt? Coverage romain at 11.943 SF per Plan

Specifically, the Request would allow the following to remain in prace

- The Proposed Dock and Periods, adjacent to the vorthside of the pod and extending to the logof the Slope
- An addition on the north side of the House, measuring 11.25 ft, < 8.82 ft.
- Providing a New Septic System on the east side of the House, allowing the abandonment of the
- system between the top of the Slope and the Existing House (Westside). Installation of a New Weil to allow required Health Department Sattacks, from the New Aria ion.
- Entarging the Paving for the Circular Drive to allow seness by delivery vehicles, which provides safe entrance and exiling (eliminated backing up),
- 5. The addition of a Deck over an Existing Potio on the east and south sides of the Llouise

Because both of the Variances requested are subject to Critical Area Criteria, the following statements address the Requirements as outlined in18-16-305; Variances, as follows:

(b.) Requirements for Critical Area Variances:

- 1. The Lot is narrow on the shoreline and widens as you move eastward. The Site has a flat area extending from Mean High Water, followed by a Steep Slope extending to the top where the Existing and Proposed Development occurs. The Slope is intersected by the 100 ft. Buffer which creates the Expanded Buffer. Due to the significant steepness, the Expanded Buffer extends well into the Lot and encompasses all Existing and Proposed Development. These constraints create an unwanted hardship as they limit the use of the entire property.
- 2(i). A literal interpretation of Title 27 and related ordinances, require expansion of the Buffer which severely restricts the Lot and deprives the Applicant of complete use of his property
- 3. Variances are necessary to allow completion of the project. These Variances would not provide any special privilege to the Applicant as previous Variances have been granted to these provisions by the County.
- 4 The Improvements were implemented by the Owner to enhance the property as the Site was in disrepair.
- Stormwater Management will be provided for all Improvements as required by the Grading Ordinance. Because Stormwater Management addresses all Impervious Surfaces, Water Quality will be enhanced. Currently, all surfaces are untreated.
- 6 NA
 - The presumption that the Site can be developed without a Variance cannot be achieved 7. because Existing Development is within the Expanded Buffer, therefore, any Proposed Improvements will require a Variance.
 - 8. The Owner has provided Improvements to the north and east of the current Improvements, minimizing Buffer Impacts.
- C. Requirements for all Variances:
- 1. Variance is the minimum necessary because the Expanded Buffer encompasses most of the Site and therefore, any Improvements require a Variance.
- 2. The granting of the Variances will not:
 - Alter the essential character of the neighborhood because the Site is already developed with Existing Structures and various Improvements.
 - Adjacent property is developed and therefore, no Impacts will be realized.
- The Site is developed with the Proposed Development and Clearing was not necessary.
- Because no Clearing is needed for the Proposed Improvements, the Site Development is (iv)
- not contrary to acceptable practices.
- (v). The Improvements are consistent with other Waterfront Development. Therefore, it will not be detrimental to public welfare.

(d.) Conditions for Granting a Variance in the Critical Area:

- 1. Because the Site is the subject of a Violation, the Applicant must complete any conditions
- within 90 days as follows;
 - Mitigation can be provided based on the Variance Decision.
 - Critical Area Abatement measures can be provided.
- (iii). All Civil Fines and Court Ordered Decisions will be honored.
- 2. As noted, if a Time Extension is necessary to complete any conditions, an Extension will be

VARIANCE REQUEST LETTER



Based on the constraints of Expanded Buffer and Limits of Lot Coverage, the Proposed Variances will ellow orderly development of the Site.

If you should have any questions or comments or need additional information, please do not hesitate to call our office at (410) 266-1160 or email terrain@terrained.com



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

APPLICANT: Ahmad Miski	ASSESSMENT DISTRICT: 3rd
CASE NUMBER: 2023-0155-V	COUNCILMANIC DISTRICT: 5th
HEARING DATE: November 7, 2023	PREPARED BY: Robert Konowal Planner

REOUEST

The applicant is requesting variances to perfect dwelling additions, accessory structures (decks & pergola), and associated features with disturbance to slopes of 15% or greater, less buffer than required, with more lot coverage than allowed, and with less setbacks than required on property located at 141 S. Winchester Road in Annapolis

LOCATION AND DESCRIPTION OF SITE

The subject site has approximately 123 feet of road frontage on S. Winchester Road, on the east side of Route 50. These lands have an area of 74,592 square feet or 1.71 acres. The property is shown as Parcel 21 in Grid 12 on Tax Map 45. The property has been zoned R1-Residential District since the adoption of the zoning maps for the Fifth Council District on January 29, 2012.

The site is a waterfront lot located in the Chesapeake Bay Critical Area and has been designated "LDA-Limited Development Area". The property is not located along a modified buffer shoreline.

The subject property is currently developed with a single family detached dwelling with attached deck over an existing patio along the northwest side of the dwelling. A detached garage is located in the rear yard. Vehicular access from S. Winchester Road is provided by a single driveway ending in a circular turnaround at the dwelling. An inground pool and hard surface patio surrounding the pool is located to the northwest and slightly forward of the dwelling. A deck, pergola and fireplace are also located along the northwest side of the pool and patio. There is a section of this deck that extends further to the southwest and along the top of the slope. Finally, a shed is located down near the water's edge. The property is served by private well and

APPLICANT'S PROPOSAL

The applicant wishes to perfect certain improvements that have been undertaken without the necessary approvals. In particular, these improvements include an enclosed addition to the northwest side of the dwelling; the deck and pergola adjacent to the pool; enlargement of the circular drive; and the installation of a new well and septic system in the rear yard. The applicant



variance may not be based on conditions or circumstances that are the result of actions by the applicants, which includes having commenced development before an application for a variance was filed. In such cases any hardship may be viewed as being self-created.

The requested variances relate to a property that does meet the minimum lot width and area requirements of the Code for a lot in a R1-Residential District. However, more importantly development of the waterfront site is significantly encumbered by the expanded buffer that covers almost % the length of the site making any further development of the site almost impossible without the need for a variance.

A review of the existing development of the subject site indicates the applicant already has reasonable use of the site with a two-story dwelling having a footprint of 1,733 square feet and above grade living area of 2,224 square feet along with a 612 square foot inground pool surrounded by a 1,718 square foot stone patio and a generous driveway leading to a 687 square foot detached garage, all located in the expanded buffer.

Denial of the request for variances to allow the deck/pergola system, expanded driveway, and 99 square foot addition (which is to house a sauna and hot tub) in the expanded buffer would not cause hardship in the use of these lands. These additional improvements would not deprive the applicant of rights commonly enjoyed by other properties in the Critical Area. Rather, the granting of a variance to accommodate these improvements would in fact confer a special privilege that would be denied by the Critical Area program to other lands or structures in the County's Critical Area program. The above variances cannot be considered the minimum necessary to afford relief since relief has been found not to be warranted.

2023-0155-V

abutting property.

Cod

site.

lot coverage

will be detrimental to the public welfare

With regards to the septic and well improvements that have been undertaken, it would be impossible to provide these improvements without a variance as the dwelling is located in the expanded buffer. It should be noted the applicant has abandoned the existing septic field located in the expanded buffer and has now relocated the required septic drain fields outside the expanded buffer. The deck that has been constructed over the stone patio is located in an already developed part of the expanded buffer and will add no additional lot coverage. Denial of the variances required to accommodate these facilities would cause hardship in the use of these lands and would deprive the applicant of rights commonly enjoyed by other properties in the Critical Area. The granting of these variances would not confer any special privilege that would be denied by the Critical area program to other lands or structures in the County's Critical Area program. The deck addition to the dwelling and the well and septic impre ments that have been indertaken do result in the minimum variance necessary to afford relief.

These critical area variances do not arise from any condition relating to land or building use on any neighboring property. However, with the exception of the attached deck over the patio and the well and septic improvements, the only justification for the variances necessary to accommodate the other improvements are based on conditions or circumstances that are the result of actions by the applicants, which includes having commenced development before an application for a variance was filed. Those variances will collectively adversely affect water quality or impact fish, wildlife or plant habitat, and will not be in harmony with the general spirit and intent of the County's Critical Area program. The applicant has not overcome the

OPZ/VARIANCE RECOMMENDATIONS

2023-0155-57

applicant, according to the Commission, has shown complete disregard for the requirements and process. Legalizing these improvements would not be in harmony with the Critical Area law

The Commission did indicate it would not oppose a variance request to retain the deck over the existing patio, the house addition, the septic system, and the drywell and stone level spreader located outside the expanded buffer, provided they do not exceed the lot coverage limits and all other unpermitted lot coverage in the buffer is removed and the area is restored in native

The Engineering Division of the Department of Inspections and Permits advised there are a number of outstanding site plan deficiencies and as such they do not have sufficient information to provide a recommendation for approval or denial.

The Health Department indicated it 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 Health Department

RECOMMENDATION

Based upon the standards set forth under § 18-16-305 in the Anne Arundel County Code by which a variance may be granted, the Office of Planning and Zoning recommends the following:

. Annroyal of variances to disturb the expanded buffer to perfect the attached deck over the existing patie and the web and septer system noted on the site plantsmultioned on the applicant completing the following within 40 days of the aneuty decision, as applicable, its abaanny segmented mitomateries resonator plan

(a) completing the abatement unsenare) in accordance with the Unintly epitical again program: and

Unit paying any group times assessed and timate automiciani and

2. Denial of those variances to disturb the expanded builter to perfect all other improvements which include the deck and pergola system, proposed dwelling addition proposed attached deck, and driveway expansion.

DISCLAIMER: This recontogradation does not constitute a building remit. In only, for the applicant(s) to construct th structure(s) is proposed, the applicant is shall apply for and obtain the necessary building permitting and obtain any other approach required to perform the work described becels. This includes but is not limited to verifying the legal name of the lot, resolving wet within the littles, and domenstrative compliance with environmental site design erberta

is proposing to remove the deck that has been constructed along the top of the slope and a REQUESTED VARIANCES Section 18-13-104. (a) of the Anne Arundel County Zoning Ordinance requires that there shall

be a minimum 100-foot buffer landward from the mean high-water line of tidal waters, tributary treams and tidal wetlands. Section 18-13-104. (b) also provides for an expanded buffer where there are contiguous steep slopes of 15% or more and is to be expanded by the greater of four feet for every 1% of slope or to the top of the slope and shall include all land within 50 feet of the top of the slopes. Section 17-8-301 of the Subdivision Code states that development or properties containing buffers shall meet the requirements of Title 27 of the State Code of Maryland (COMAR). Section 27.01.01 (B) (8) (ii) of COMAR stipulates a buffer exists "to protect a stream, tidal wetlands, tidal waters or terrestrial environment from human disturbance. Section 27.01.09 E. (1) (a) (ii) of COMAR authorizes disturbance to the buffer for a new development activity or redevelopment activity by variance.

Because of steep slopes located along the shoreline in the 100-foot buffer, the buffer is expanded on this site. The enclosed one-story addition to the northwest side of the dwelling (99 sf); the deck over the patio (110 sf); the deck, pergola and fireplace adjacent to the pool (553 sf); the enlargement of the circular drive (793 sf); and the installation of a new well and septic system in the rear yard permanently disturb a total of approximately 1,555 square feet of the expanded buffer. A variance is required for this disturbance. This disturbance does not include the temporary limits of disturbance required for installation of these improvem

The applicant's proposal indicates the deck located at the top of and on steep slopes is to be removed. A variance to disturb lands with a slope of 15% or greater is therefore no longer required.

The applicant has provided new lot coverage calculations that show lot coverage on the site to be at the allowable lot coverage limits for this site, once certain improvements are removed. A variance is therefore no longer required for greater lot coverage than allowed

A review of the site plan indicates no variances to the setback requirements are required.

FINDINGS

2023-0155-V

portion of an existing sidewalk in the rear yard.

Background subject application

There are two open building (B-2019-43) and grading (E-2015-240) violations related to the

Review of Variance Criteria

In the case of a variance to perfect an unauthorized improvement, when reviewing the request for relief, the improvement is evaluated as if it had not been built and the variance criteria applied accordingly. Furthermore, in the case of an application to perfect, the justification for a significant use of the site The Commission believes approval of these features would grant the applicant a special privilege that would be denied others in the Critical Area. The request for this relief results from actions caused by the applicant, who willfully proceeded on their own accord without the proper permits for the noted improvements as well as the unpermitted clearing of developed woodland. The

umption that the specific development does not conform to the general purpose and intent of

The variance requests will not reduce forest cover in the Limited Development Area and will not

be contrary to acceptable clearing and replanting practices. There is no evidence the variances

development does not violate any established pattern of building setbacks, profiles or massing.

Notwithstanding the above, with the exception of the variances related to the attached deck over

While the applicant has now revised their plans to conform to the lot coverage limits of the Code

unnermitted improvements the lot coverage of the site was 10.245 square feet, which allowed for

we question the practicality of having absolutely no room for error on the ground. Prior to the

a margin of error and possible minor changes to the site in the future in accordance with the

The Development Division (Critical Area Team) advised the proposed pergola and deck are

excessive, and b) the fact that a circular configuration is not necessary to adequately serve the

installation. The Division also had no objection to the addition on the northwest side of the dwelling as it is modest in size, outside the 50-foot slope buffer and maximizes the distance from

the shoreline. This recommendation is conditional on the site being in conformity with the lot

coverage limitations of the Critical Area program. Finally, the Division had no objection to the deck over the existing patio as this area is already developed and will not result in any additional

The Critical Area Commission recommended the variances to legalize the unpermitted deck and covered pergola located on the northwest side of the pool and patio and the driveway

particularly with regard to unwarranted hardship as the applicant already has reasonable and

expansion be denied. Those variances do not meet the Critical Area variance standards

The Division had no objection to the well and septic as no clearing is required for their

excessive in size and, given the other various other amenities on-site, cannot be supported. The Division also objected to the expansion of the circular driveway as a) the 35-foot width is

the existing patio and the well and septic facilities, the requested variances for the deck/pergola

Approval of the variances will not alter the essential character of the neighborhood as the

There is no evidence that approval of the variances will impair the appropriate use of any

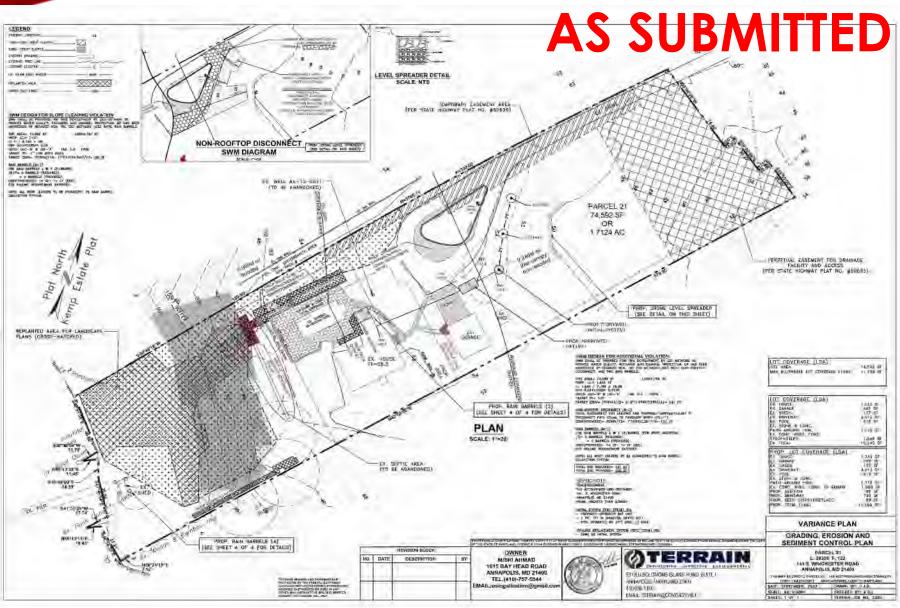
system, dwelling addition, attached deck, and driveway expansion have been found to be

unwarranted and not the minimum necessary to afford relief

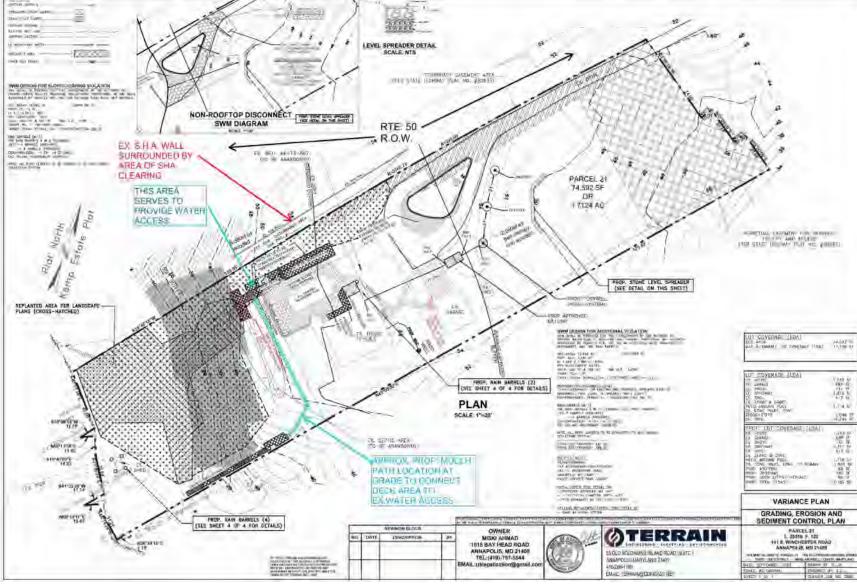
the Critical Area Law and has not evaluated and implemented site planning alternatives.

VARIANCE PLAN





VARIANCE PLAN MARKED



LEGEND



PHOTOGRAPHS BEFORE SHA CLEARING



PHOTOGRAPHS AFTER SHA CLEARING



AREA CLEARED BY SHA FOR WALL ELIMINATING MATURE TREES W/ CANOPY COVER FOR SHADE



1. ADJOINING LOTS W/LARGE CLEARED WATERFRONT YARDS & SUBSTANTIAL DEVELOPMENT 2. SITE WATER FRONT SIDE PLANTED BUFFER









