

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

APPLICANTS: Paulette and Andrew Ladas

ASSESSMENT DISTRICT: 7

CASE NUMBER: 2023-0160-V

COUNCILMANIC DISTRICT: 7

HEARING DATE: November 14, 2023

PREPARED BY: Joan A. Jenkins 
Planner II

REQUEST

The applicants are requesting a variance to allow an accessory structure (detached garage) with less setbacks than required on property located at 6055 Melbourne Avenue in Deale.

LOCATION AND DESCRIPTION OF SITE

The subject property has an area of approximately 8,120 square feet and is located with road frontage on the southeast side of Jeannette Avenue, a platted road off Melbourne Avenue, west of Clarke Avenue. The site is shown on Tax Map 78, Block 7, as Parcel 272, Lot 2 in the Masons Beach subdivision.

This property has been zoned R5-Residential District since the adoption of Comprehensive Zoning for the Seventh Council District, effective October 7, 2011.

This is a waterfront property on the Chesapeake Bay which lies within the Chesapeake Bay Critical Area and is designated IDA - Intensely Developed Area. The property is currently improved with a one and one-half story single-family detached dwelling, detached one-story workshop, a gravel parking area, and a wrought iron fence.

PROPOSAL

The applicant wishes to construct a detached two-car garage with second story storage, 22 feet wide by 24 feet deep 23 feet in height¹, on the roadside of the lot.

REQUESTED VARIANCE

§18-4-701 of the Anne Arundel County Code requires that an accessory structure in an R5 District shall be set back a minimum of seven feet from the side and rear lot lines. The garage is proposed 3 feet-6 inches from the east side lot line and one foot from the rear lot line requiring variances of four feet and six feet, respectively.

¹ This Office notes that the 23 feet in height is the measurement to the peak. Height is measured as the average height of the highest roof surface. While the application states 23 feet in height for the garage and 33 feet in height for the house, these calculations should be verified at permitting.

FINDINGS

This Office notes that the subject property is trapezoidal in shape. The site meets the width requirement and area requirement for a lot in the R5 District. The lot narrows slightly from the waterfront side to the roadside. The lot is waterfront on Herring Bay and has road frontage on the rear of the lot on a paper road known as Jeannette Avenue which is a gravel surface with access to Melbourne Avenue and a posted speed limit of 20 mph. The lot is a grandfathered lot that was originally platted in 1919 and was revised in 1924.

A review of the County aerial photograph from 2023 shows a neighborhood of various sized lots and detached homes of varying sizes in this waterfront community. Accessory structures abound and rear (roadside) garages are common along the waterfront lots. The existing dwelling was constructed in 1922 according to State of Maryland tax assessment records. While each case must stand on its own merits this Office found a variance (case number 2010-0241-V) at 6063 Melbourne Avenue for an accessory structure with less setbacks than required.

The applicant believes that the lot is small, being narrow and shallow, with an irregular shape. They write that the location of the garage will not interfere with the access to other homes or pedestrian access to the water and that a large majority of the properties in this area have structures that abut their lot lines.

The **Health Department** commented that a revised site plan that shows the location of the neighboring house and neighboring well at 6053 Melbourne as well as the proposed work at 6055 Melbourne must be submitted for Health Department review. The Health Department will consider a variance to allow the replacement water well to be installed 20 feet from the proposed garage and 20 feet to the house at 6055 Melbourne. Please note that the proposed garage must be at least 30 feet from the neighboring well at 6053 Melbourne and no variances are given to encroach on a neighboring well.

The standard for granting a variance is whether strict compliance of the zoning ordinance regulations would result in "practical difficulty or unnecessary hardship". Variances should only be granted if in strict harmony with the spirit and intent of the zoning regulations and only in such a manner as to grant relief without substantial injury to the public health, safety and general welfare. The need sufficient to justify a variance must be substantial and urgent and not merely for the convenience of the applicant. This lot has no unique characteristics and has already been developed for residential use with a principal structure and a detached garage that is used as a workshop. The applicant has proposed a two-car garage that will be located one foot from the rear lot line which does not provide an adequate distance to allow for the maintenance of the garage entirely on the subject property.

Approval of the variance will not alter the essential character of the neighborhood as accessory structures along the roadside of waterfront lots is common. Approval of the variance will not impair the appropriate use or development of the adjoining lot to the south as the lot is already developed, however the structure being built on the rear lot line may not allow for construction and maintenance entirely on the subject property. The variance, if approved, will not be contrary to acceptable clearing and replanting practices. The location will not be considered to be

detrimental to the public welfare subject to the Health Department granting a variance to the well separation distance.

While there may not be ample room on the property to place another accessory structure within the confines of the Code the fact remains that the applicants already have residential use of the lot and that there is an existing accessory structure that appears to have been constructed as a garage that is now used as a workshop. A second garage of this width encroaching within one foot of the rear lot line is not warranted and cannot be considered to be the minimum necessary to afford relief. It appears the existing garage could be removed and a replacement garage more suited to the needs of the applicant constructed in accordance with the Code.

RECOMMENDATION

With regard to the standards by which a variance may be granted as set forth under § 18-16-305 of the County Code, the Office of Planning and Zoning recommends *denial* of the variance request to construct a detached garage as shown on the site plan.

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.



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 28, 2023

RE: Andrew Ladas
6055 Melbourne Ave.
Deale, MD 20751

NUMBER: 2023-0160-V

SUBJECT: Variance/Special Exception/Rezoning

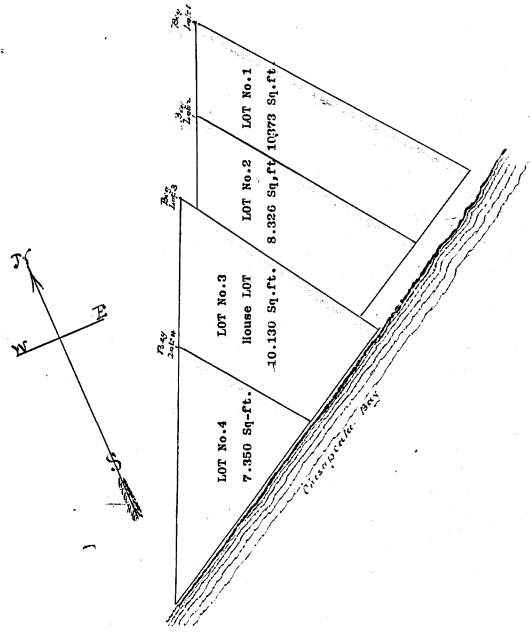
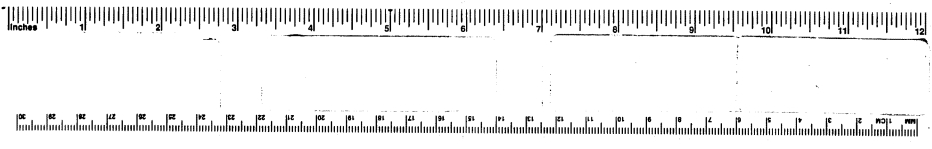
The Health Department has reviewed the above referenced variance to allow an accessory structure (detached garage) with less setbacks than required.

The Health Department has reviewed the water supply system for the above referenced property. The Health Department has determined that the proposed request adversely affects the well water supply systems. The Health Department recommends denial of the above referenced request.

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

cc: Sterling Seay





PLOT of a resurvey made for Dr. John Hadert of a part of Mason's Beach lying and situate near Cedar Grove in the 7th. District of Anne Arundel County in the State of Maryland.
Resurveyed November 1st. 1924.

John Shepherd
Surveyor.

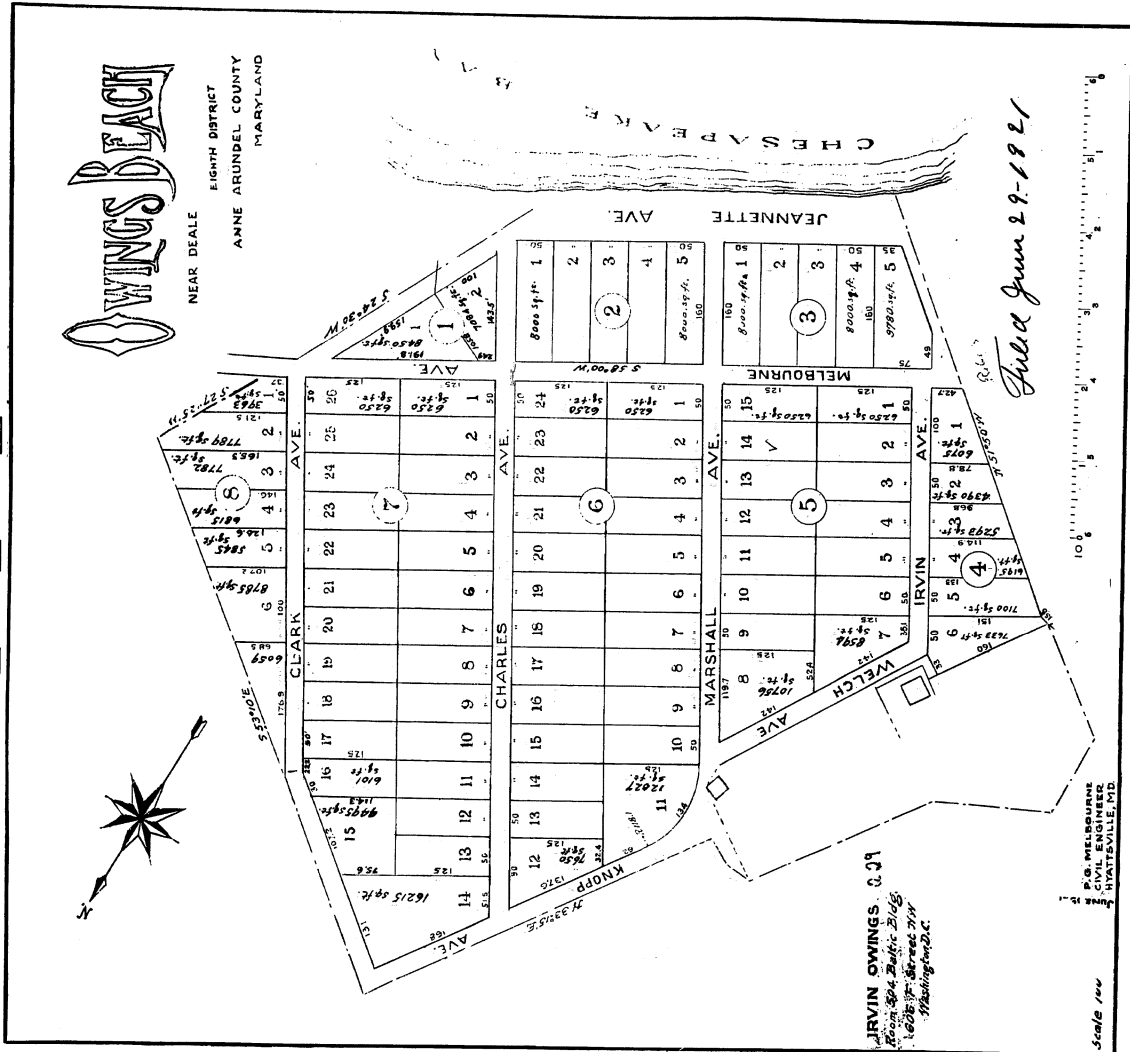
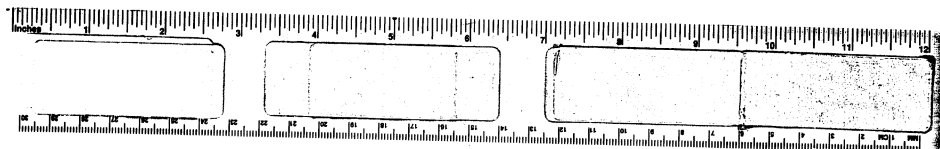
Handwritten: \$322 Paid Feb 13 1925

MSA SSU1235-916

PLAT NO B183 BOOK NO. 15 FOLIO 26 SPEED 22

WINGS BEACH

NEAR DEALE
EIGHTH DISTRICT
ANNE ARUNDEL COUNTY
MARYLAND



FILED JUN 29 1921

IRVIN OWINGS, C.E.
CIVIL ENGINEER
HYATTSVILLE, MD.

Scale new