

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

APPLICANT: Zygmunt & Cheryl Sala

ASSESSMENT DISTRICT: 3

CASE NUMBER: 2023-0171-V

COUNCIL DISTRICT: 5

HEARING DATE: November 28, 2023

PREPARED BY: Sumner Handy
Planner

REQUEST

The applicants seek a variance to allow a dwelling addition (deck) with less buffer than required at 470 Cedar Haven Road in Arnold.

LOCATION AND DESCRIPTION OF SITE

The subject site measures 10,585 square feet in area on the eastern terminus of Cedar Haven Road in Arnold. It is identified as Lot 16 of Parcel 477 in Grid 11 on Tax Map 32 in the subdivision of Cedar Haven. The subject property is zoned R5 - Residential District, and has been since the adoption of comprehensive zoning for the Fifth Council District, effective January 29, 2012.

This waterfront lot is located in the Chesapeake Bay Critical Area and is designated IDA - Intensely Developed Area. The shoreline is not mapped as buffer modified and is subject to the standard buffer regulations. The site is currently improved with a single-family detached dwelling, pier, and associated facilities. The subject property is served by public water and sewer systems.

APPLICANTS' PROPOSAL

The applicants propose to remove an existing brick stoop and wood deck immediately adjacent to and on the water side of the existing dwelling; the existing stoop and deck measure approximately 90 square feet. The applicants propose to replace the removed stoop and deck with a 78-square foot Trex deck with steps to grade.

REQUESTED VARIANCES

Section 18-13-104(a) of the Anne Arundel County Zoning Ordinance establishes that there shall be a minimum 100-foot buffer landward from the mean high-water line of tidal waters, tributary streams and tidal wetlands. Section 17-8-301(b) provides that development on properties containing buffers shall meet the requirements of COMAR, Title 27. Section 27.01.01(B)(8)(ii) of COMAR states a buffer exists "to protect a stream, tidal wetland, tidal waters, or terrestrial environment from human disturbance," and 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.

The proposed deck requires a variance to allow disturbance within the 100-foot buffer. The actual degree of buffer disturbance will be determined at permitting.

FINDINGS

The subject property meets the minimum lot size and width requirements for lots located in the R5 District. The proposed deck will replace the existing failing stoop and deck, and will decrease the amount of impervious surface at this waterfront lot. The applicants state that the existing stoop was originally constructed with the dwelling in about 1940 and is made of bricks that have come loose; its age and that it is failing and presenting a safety hazard indicate that it is time for replacement.

The **Critical Area Commission** offered no objection and noted only that appropriate mitigation shall be provided.

The **Critical Area Team**, Development Division, offered no objection to the request.

The **Health Department** offered no objection to the request.

For the granting of a Critical Area variance, a determination must be made as to whether, because of unique physical conditions, strict implementation of the County's Critical Area program would result in an unwarranted hardship in developing the lot. In this case, the existing deck is aging, failing, and in need of replacement. The replacement deck will comprise less square footage than the extent of existing improvements, and will result in a net decrease in lot coverage in the Critical Area. (The lot is in the Intensely Developed Area of the Critical Area, and so there are no underlying Critical Area-related lot coverage limits established in the Code. However, any reduction in lot coverage in the Critical Area is a benefit to the Bay and its tributaries.) The applicants have minimized the size of the proposed replacement deck as it is smaller than that which it will replace, and its edge will be further from the water than the edge of the existing improvement to be removed. This Office judges that an uncovered deck appended to a single-family detached dwelling is typical of development in the R5 District, and that denial of this variance would constitute an unwarranted hardship in the development of the lot.

This Office finds that a literal interpretation of the County's Critical Area Program would deprive the applicants of a right that is commonly enjoyed by other properties in similar areas. The granting of this variance for the construction of an attached uncovered deck would not confer on the applicants a special privilege that would be denied by COMAR, Title 27, and with proper stormwater management and mitigation, granting of these variances will not adversely affect water quality or adversely impact fish, wildlife, or plant habitat. The variance request is not based on conditions or circumstances that are the result of actions by the applicants, and does not arise from any condition relating to land or building use on any neighboring property. The applicants have met the requirement to evaluate and implement site planning alternatives.

With regards to the requirements for all variances, the proposal will not alter the essential character of the neighborhood; substantially impair the appropriate use or development of adjacent property; or be detrimental to the public welfare. With proper mitigation, the proposal will not be contrary to

acceptable clearing and replanting practices. Due to the location of the existing improvements, there is no way to repair/replace the small deck and stoop without buffer disturbance, and the proposed deck is modest in size. Therefore, this Office judges the proposal to be the minimum necessary to afford relief, and will recommend approval of the requested variance.

RECOMMENDATION

Based upon the standards set forth under Section 18-16-305 under which a variance may be granted, this Office recommends *approval* of a variance to Section 17-8-301 to allow the construction of an uncovered deck with steps to grade, as shown on the site plan, with less buffer than required.

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.



Jennifer Esposito -DNR- <jennifer.esposito@maryland.gov>

CAC Comments: 2023-0145-V Rotondo, 2023-0171-V Zygmunt, 2023-0174-V Powell

Jennifer Esposito <jennifer.esposito@maryland.gov>
To: Sadé Medina <pzmedi22@aacounty.org>
Cc: Charlotte Shearin -DNR- <charlotte.shearin@maryland.gov>

Thu, Nov 2, 2023 at 4:44 PM

Good afternoon,

The Critical Area Commission has reviewed the following variances and appropriate mitigation is required:

- 2023-0145-V; Rotondo (AA 352-23)
- 2023-0171-V; Zygmunt (AA348-23)
- 2023-0174-V: Powell (AA 340-23)

The above comments have also been submitted to the County's project-review portal.

 facebook_logo.jpg twitter_logo.jpgdnr.maryland.gov/criticalarea***Jennifer Esposito***

Critical Area Commission for the
Chesapeake & Atlantic Coastal Bays
1804 West Street, Suite 100
Annapolis, MD 21401

Office: 410-260-3468**(In office: Mon., Wed., Friday)****Cell: 443-569-1361****(Teleworking: Tues., Thurs.)****jennifer.esposito@maryland.gov**

Task Details OPZ Critical Area Team

Assigned Date 10/02/2023	Due Date 10/23/2023
Assigned to Kelly Krinetz	Assigned to Department OPZ Critical Area
Current Status Complete w/ Comments	Status Date 10/02/2023
Action By Kelly Krinetz	Overtime No
Comments No objection to this request.	Start Time
End Time	Hours Spent 0.0
Billable No	Action by Department OPZ Critical Area
Time Tracking Start Date	Est. Completion Date
In Possession Time (hrs)	<input type="checkbox"/> Display E-mail Address in ACA
Estimated Hours 0.0	<input checked="" type="checkbox"/> Display Comment in ACA
Comment Display in ACA	
<input checked="" type="checkbox"/> All ACA Users	
<input checked="" type="checkbox"/> Record Creator	
<input checked="" type="checkbox"/> Licensed Professional	
<input checked="" type="checkbox"/> Contact	
<input checked="" type="checkbox"/> Owner	

Task Specific Information

Review Notes	Reviewer Name	Reviewer Phone Number	Reviewer Email
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ANNE
ARUNDEL
COUNTY

MARYLAND
DEPARTMENT OF HEALTH

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Annapolis, Maryland 21401
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Maryland Relay (TTY): 711
www.aahealth.org

Tonii Gedin, RN, DNP
Health Officer

MEMORANDUM

TO: Sumner Handy, Zoning Applications
Planning and Zoning Department, MS-6301

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

DATE: 10/20/2023

RE: Zygmunt E. Sala
470 Cedar Haven Rd.
Arnold, MD 21012

CASE
NUMBER: 2023-0171-V

SUBJECT: Variance/Special Exception/Rezoning

The Health Department has received the above referenced variance request to allow a dwelling addition (deck) with less buffer than required. The Health Department offers the following comments:

The Health Department has reviewed the above referenced request. The property is served by public water and sewer facilities. The Health Department has no objection to the above referenced request.

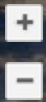
If you have further questions or comments, please contact Jasmine Baldwin at 410-222-1348.

cc: Sterling Seay

12/23/2021

< 1 of 85 >

Select Date ▾



GEDAR HAVEN RD

RIVER RD

RIVER RD

