

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

**APPLICANT:** John M. Powell, Jr.

**ASSESSMENT DISTRICT:** 1<sup>st</sup>

**CASE NUMBER:** 2023-0174-V

**COUNCILMANIC DISTRICT:** 7<sup>th</sup>

**HEARING DATE:** December 5, 2023

**PREPARED BY:** Sara Anzelmo  
Planner



**REQUEST**

The applicant is requesting variances to allow a dwelling and associated facilities with less setbacks and buffer than required and with disturbance to slopes of 15% or greater on property located at 23 Leeland Road in Edgewater.

**LOCATION AND DESCRIPTION OF SITE**

The subject property consists of 2.337<sup>1</sup> acres of land and is located on the southwest side of Leeland Road, southeast of Slama Road. It is identified as Parcel 274 in Grid 7 on Tax Map 56.

The property is zoned R1 – Residential District, as adopted by the comprehensive zoning for Council District 7, effective October 7, 2011. The site fronts Warehouse Creek, is located within the Chesapeake Bay Critical Area overlay, and is designated as LDA – Limited Development Area. The shoreline abutting this property is not mapped as buffer modified and is subject to the standard buffer regulations. The property is currently improved with a shed and asphalt paving.

**PROPOSAL**

The applicant proposes to construct a two-story dwelling, measuring 40' by 45' (1,800 square foot footprint), with an integrated two-car garage and an attached 8' by 12' entry porch. The height of the proposed dwelling would be 34 feet.

**REQUESTED VARIANCES**

§ 18-13-104(a) of the Anne Arundel County Zoning Code requires that there shall be a minimum 100-foot buffer landward from the mean high-water line of tidal waters, tributary streams, and tidal wetlands. § 18-13-104(b) provides for an expanded buffer where there are, among other things, steep slopes. Section 17-8-301 of the Subdivision Code states that development on 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 states a buffer exists “to protect a stream, tidal wetland, tidal waters, or terrestrial environment from human disturbance.” Section

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<sup>1</sup> There is a discrepancy between the 2.337 acre lot area shown on the site plan and Critical Area Project Notification, the 2.31 acre area shown on the letter of explanation and the SDAT record, and the 2.26 acre area shown on the variance application form.

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 development would necessitate a variance to disturb an unspecified area of the expanded buffer. If approved, the actual amount of buffer disturbance would be determined at the time of permitting.

§ 17-8-201(a) of the Subdivision and Development Code provides that development in the Limited Development Area (LDA) may not occur within slopes of 15% or greater unless development will facilitate stabilization of the slope; is to allow connection to a public utility; or is to provide direct access to the shoreline. The proposed development would necessitate a variance to disturb an unspecified area of slopes of 15% or greater. If approved, the amount of slope disturbance would be determined at the time of permitting.

A review of the bulk regulations for an R1 District reveals that a setback variance is not required.

### **FINDINGS**

The subject site far exceeds the minimum area and width requirements for an R1 District. The existing critical area lot coverage is 950 square feet; the proposed coverage would increase to 3,794 square feet, which falls well below the maximum 15,270 square feet (15%) allowed.

The **Critical Area Commission** commented that appropriate mitigation is required.

The **Department of Health** has reviewed the on-site sewage disposal and well water supply system and has determined that the proposed request adversely affects the on-site sewage disposal. The Department recommends denial of the variance request. The site plan submitted with the zoning variance does not match the approved septic site plan. The variance request cannot be approved until the correct site plan is submitted for review.

The **Office of Inspections and Permits (Engineering Division)** commented that the applicant indicated that SWM [stormwater management] ESD [environmental site design] to the MEP [maximum extent practicable] is being addressed through the use of four drywells. A SWM report was not provided to show the site finger printing steps and efforts by the applicant to reduce impervious area, avoid environmental resources, utilize nonstructural practices, etc. prior to selecting the use of structural micropractices (Drywells). No soil borings were provided to support the suitability and siting of these facilities. More importantly, the use of structural micro-practices facilities is not allowed within the expanded buffer and **MUST** be located with sufficient setback from steep slopes. In accordance with the SWM practices and procedure manual, in no case shall the phreatic line from the overflow of these facilities intersect the steep slopes. The proposed plans as shown will result in the oversaturation of steep slopes and can lead to catastrophic failure of the slope and erosion in the resource conservation areas. Therefore, the Division recommends denial of the variance application since the site plan as shown cannot be granted a grading permit approval.

The **Development Division (Critical Area Team)** has no objection to the proposed location of the dwelling from a Critical Area standpoint. However, without an approved septic layout and stormwater management plan, an approval of this application would be premature since the dwelling cannot be constructed without those systems and resolution of any outstanding issues could result in the need for additional relief.

For the granting of a Critical Area variance, a determination must be made as to whether, because of certain unique physical conditions peculiar to and inherent in the particular property, strict implementation of the County's Critical Area Program would result in an unwarranted hardship. In this case, the property is subject to standard buffer/expanded buffer requirements; and, there are steep slopes throughout the lot. The location of the slopes and the associated expanded buffer prevents any development without some slope and buffer disturbance. The house is proposed in a cleared area on a knoll in the center portion of the lot. A literal interpretation of the County's Critical Area Program would deprive the applicant of rights that are commonly enjoyed by other properties in similar areas by denying a dwelling on an existing residentially zoned lot.

The granting of a critical area variance, in principle, would not confer on the applicant a special privilege that would be denied by COMAR, Title 27. The variance request is not based on conditions or circumstances that are the result of actions by the applicant and does not arise from any condition relating to land or building use on any neighboring property. However, based on the comments provided by the Engineering Division and the Health Department, the granting of the variance as proposed may adversely affect water quality or impact fish, wildlife, or plant habitat and would not be in harmony with the general spirit and intent of the County's Critical Area Program. The applicant has not evaluated and implemented site planning alternatives to the satisfaction of the Health Department or the Engineering Division.

With regard to the requirements for all variances, approval would not alter the essential character of the neighborhood, would not reduce forest cover in the limited development area, and would not be contrary to acceptable clearing and replanting practices. However, based on the comments from the Engineering Division and Health Department, the proposal may impair the appropriate use or development of the adjacent property and may be detrimental to the public welfare.

This Office recognizes that a variance does not require pre-approval of stormwater management or septic system layouts and that, if approved, those items would still have to be addressed at the time of permitting. However, any approved variance for slope and buffer disturbance would be tied to this specific site plan. Because the Engineering Division and the Health Department have indicated that this site plan cannot be approved as proposed, this Office cannot support the associated critical area variance. The applicant is advised that any change to the proposed limit of disturbance shown on the site plan that is necessary to address the stormwater management and septic layout issues raised would require a new variance.

### **RECOMMENDATION**

Based upon the standards set forth in § 18-16-305 of the Code under which a variance may be granted, this Office recommends *denial* of critical area variances to § 17-8-301 and § 17-8-201(a) to allow construction of a two-story single-family dwelling and associated facilities with less buffer than required and with disturbance to slopes of 15% or greater.

DISCLAIMER: This recommendation does not constitute a building permit. In order for the applicant to construct the structure(s) as proposed, the applicant 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.



# rocco enterprises, llc

land development, survey & permitting consultant & engineering

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Sept. 26, 2023

Anne Arundel County  
Office of Planning & Zoning  
2664 Riva Road  
Annapolis, MD 21401

RE: 23 Leeland Road Edgewater, MD  
Variance 2023-0174-V

## **LETTER OF EXPLANATION**

As stated in the pre-filing dated Aug. 17, 2023 the subject site is known as 23 Leeland Road Edgewater, MD and as shown on A.A. Tax map 56, Grid 7, Parcel 274. The property is zoned R-1 and it is located within the L.D.A. Critical Area. The property owner is John Powell, Jr. residing at 1108 Niblick Court Arnold, MD 21012 and by Deed recorded in Liber 39714, Folio 25. The 2.31 acre site is partially wooded and clear with 15% and 25 % slopes and their respective 25' and 50' buffers and expanded buffers.

Due to site zoning restrictions there is no area available to construct a residential house without impacting steep slopes and their buffers. Originally we placed the proposed house along the road but Ms. Powell wishes to place the house in the cleared area at the middle and in line with the existing house to the southeast. Leeland Road services the existing Marina to the southeast and therefore is heavily trafficked by cars and trucks. Also it would be safer for young children to not be closer to Leeland Road. The proposed house location will be on top of an existing knoll and no woodlands will have to be disturbed. Also the primary and approved septic system will remain as originally designed.

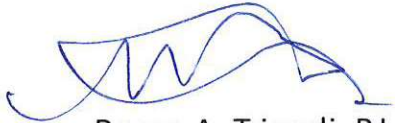
As to Critical Area data please refer to the previous letter of explanation submitted with the pre-filing and a copy is attached hereto. As to SWM requirements, ESD will be met by providing 4 drywells at each corner of the

house, taking care of the increased runoff with more comps and SWM data at the time of grading and building permit submittals. Please see note on Site Plan. Also attached please see letters from property owners.

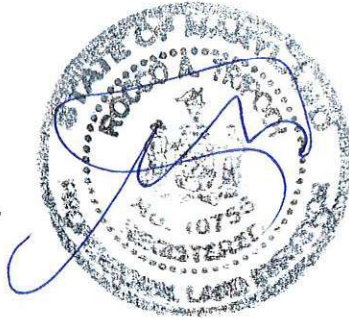
Therefore, based on the above and also on the pre-filing recommendation we need to seek a Variance to zoning code section 17-8-201(a) to allow disturbance of slopes of 15% or greater within the Limited Development Critical Area and to section 18-13-104(a) to allow disturbance to the buffer and expanded buffers. Due to the site impacted by steep slopes the expanded buffer covers the entire 2.31 acre site.

In conclusion we hope the enclosed information package is satisfactory for your office to proceed with the variance hearing and should you need further information please feel free to contact me.

Sincerely Submitted,



Rocco A. Tripodi, P.L.S.



Cc Mr. John Powell, Jr.

# rocco enterprises, llc

land development, survey & permitting consultant & engineering

RE: 23 LEEHURD ROAD  
EDGEWATER, MD

"VARIANCE"

## CRITICAL AREA DATA/REPORT:

### CRITICAL AREA (L.D.A.) NARRATIVE STATEMENT

- a) THE EXISTING SITE CONTAINS 2.33 ACRES AND IS CURRENTLY VACANT WITH AN EXISTING AUXILIARY BUILDING AND IS SURROUNDED WITH PARTIALLY WOODED AND SLOPY FEATURES. THE EXISTING ZONING AND USE IS RESIDENTIAL AND WILL REMAIN RESIDENTIAL.
- b) AS STATED THE SITE IS PARTIAL WOODED AND THE PROPOSED USE AND CONSTRUCTION WILL PRESERVE THE EXISTING WOODS EXCEPT 1000 S.F. FOR PROPOSED DRIVEWAY APPROX ENTRANCE.
- c) THE S.W.M. METHODS TO MINIMIZE IMPACT ON WATER QUALITY AND HABITAT WILL BE PROVIDED BY THE USE OF (2) DRY WELLS AT EACH CORNER OF THE HOUSE TO MANAGE THE INCREASED LOT COVERAGES WITH COMPLETE ESD TO KEEP COMPUTATIONS WITH GRADING & BUILDING PERMITS.
- d) EXISTING IMPERVIOUS / LOT COVERAGE 950 SQ. FT. / PROPOSED: 2844 SQ. FT.  
TOTAL EXISTING & PROPOSED: 3794 S.F.
- e) ALL EXISTING WOODLAND TO REMAIN EXCEPT 1000 S.F. FOR DRIVE LANE WILL BE MITIGATED BY TIPS OF GRADING & BUILDING PERMITS.

1. SITE AREA: 2.33 ACRES OR 101,800 SQ. FT.
2. CRITICAL AREA: L.D.A.
3. MAXIMUM LOT COVERAGE ALLOWED: 15% OF 15,270 S.F.
4. PROPOSED LOT COVERAGE: 2844 S.F. PLUS EXISTING 950 S.F.  
TOTAL 3794 S.F.
5. WOODLAND REQUIRED 15% OF 15,270 S.F.
6. EXISTING WOODLAND: 45,800 S.F. OR 0.449%
7. EXISTING WOODLAND TO BE REQUIRED: 1000 S.F.

SEE ALSO SITE VARIANCE PLAN

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

PROJECT NOTIFICATION APPLICATION

**GENERAL PROJECT INFORMATION**

Jurisdiction: \_\_\_\_\_ Date: 8/16/23

Tax Map #	Parcel #	Block #	Lot #	Section
<u>56</u>	<u>274</u>	<u>7</u>		

**FOR RESUBMITTAL ONLY**

Corrections  
 Redesign  
 No Change  
 Non-Critical Area

\*Complete Only Page 1  
 General Project Information

Tax ID: 01-000-9003-7473

Project Name (site name, subdivision name, or other) JOHN M. POWELL JR

Project location/Address 23 LEELAND ROAD

City EDGEWATER MD Zip 21037

Local case number \_\_\_\_\_

Applicant: Last name POWELL First name JOHN

Company \_\_\_\_\_

**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 TRIPOLI First name ROCCO

Phone # 443-994-4578 Response from Commission Required By \_\_\_\_\_

Fax # ROCCO TRIPOLI@gmail.com Hearing date \_\_\_\_\_



**SPECIFIC PROJECT INFORMATION**

Describe Proposed use of project site:

FOR THE OWNER TO CONSTRUCT HIS RESIDENTIAL HOUSE

	Yes		Yes
Intra-Family Transfer	<input type="checkbox"/>	Growth Allocation	<input type="checkbox"/>
Grandfathered Lot	<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"/> <u>Residential</u> <input checked="" type="checkbox"/> Shore Erosion Control <input type="checkbox"/> Water-Dependent Facility <input type="checkbox"/>
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**SITE INVENTORY (Enter acres or square feet)**

	Acres	Sq Ft
IDA Area		
LDA Area	2.33	101,000
RCA Area		
Total Area	2.33	101,000

Total Disturbed Area 0.21 Acres 9500 Sq Ft

# of Lots Created  

	Acres	Sq Ft		Acres	Sq Ft
Existing Forest/Woodland/Trees	1.05	45,800	Existing Impervious Surface	0.021	950
Created Forest/Woodland/Trees			New Impervious Surface	0.037	3794
Removed Forest/Woodland/Trees	0	0	Removed Impervious Surface		
			Total Impervious Surface		

**VARIANCE INFORMATION (Check all that apply)**

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

Variance Type

Buffer   
 Forest Clearing   
 HPA Impact   
 Impervious Surface   
 Expanded Buffer   
 Nontidal Wetlands   
 Setback   
Steep Slopes   
 Other

Structure

Acc. Structure Addition   
 Barn   
 Deck   
 Dwelling   
 Dwelling Addition   
 Garage   
 Gazebo   
 Patio   
 Pool   
 Shed   
 Other



Jennifer Esposito -DNR- &lt;jennifer.esposito@maryland.gov&gt;

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

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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.jpg[dnr.maryland.gov/criticalarea](https://dnr.maryland.gov/criticalarea)

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***Jennifer Esposito***

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

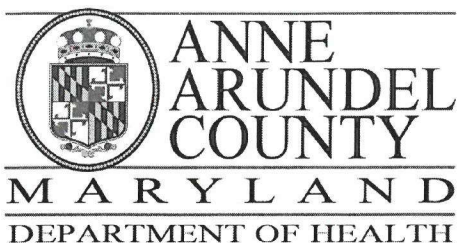
Office: 410-260-3468

(In office: Mon., Wed., Friday)

Cell: 443-569-1361

(Teleworking: Tues., Thurs.)

[jennifer.esposito@maryland.gov](mailto:jennifer.esposito@maryland.gov)



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  
Bureau of Environmental Health

A handwritten signature in blue ink, appearing to be "BC", written over the printed name of Brian Chew.

DATE: October 16, 2023

RE: John Powell  
23 Leeland Road  
Edgewater, MD 21037

NUMBER: 2023-0174-V

SUBJECT: Variance/Special Exception/Rezoning

The Health Department has reviewed the above referenced variance to allow a dwelling with less setbacks and buffer than required and with disturbance to slopes 15% or greater.

The Health Department has reviewed the on-site sewage disposal and water supply system for the above referenced property. The Health Department has determined that the proposed request adversely affects the on-site sewage disposal. The Health Department recommends denial of the above referenced request. The site plan submitted with the zoning variance does not match the approved septic site plan. This variance request cannot be approved until the correct site plan is submitted for review.

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

cc: Sterling Seay



Mark Wedemeyer, Director

## Memorandum

**To:** Planner, Zoning Administration Section, Office of Planning and Zoning

**From:** Hala Flores, Engineer Manager, Department of Inspections and Permits

**Date:** October 10, 2023

**Subject:** 23 Leeland Road  
2023-0174-V

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**Request – Allow disturbance of slopes 15% or greater in LDA – 17-8-201(a). Also variance to section 18-13-104(a) to allow disturbance to the expanded buffer**

**Review** - This office has reviewed the subject variance application.

The applicant proposes to construct a new single family detached home at 23 Leeland Road. The house will be served by private well and septic. The site is in the LDA designated section within the critical area. The applicant is proposing disturbance to steep slopes and buffers. The existing lot has an existing shed and some paved areas occupying 950 SF. The proposed coverage is 3,794 SF.

- 1- The applicant indicated that SWM ESD to the MEP is being addressed through the use of 4 drywells. A SWM report was not provided to show the site finger printing steps and efforts by the applicant to reduce impervious area, avoid environmental resources, utilize nonstructural practices, etc. prior to selecting the use of structural micro-practices (Drywells). No soil borings were provided to support the suitability and siting of these facilities. More importantly, the use of structural micro-practices facilities is not allowed within the expanded buffer and MUST be located with sufficient setback from steep slopes. In accordance with the SWM practices and procedure manual, In no case shall the phreatic line from the overflow of these facilities intersect the steep slopes. The proposed plans as shown will result in the oversaturation of steep slopes and can lead to catastrophic failure of the slope and erosion in the resource conservation areas.

**Determination:**

This office does not support this request and recommends denial of the variance application since the variance site plan as shown cannot be granted a grading permit approval from this office.

# 2023-0174-V - POWELL

Menu Cancel Help

<b>Task</b> OPZ Critical Area Team <b>Assigned to Department</b> OPZ Critical Area <b>Action by Department</b> OPZ Critical Area <b>Start Time</b>	<b>Due Date</b> 11/15/2023 <b>Assigned to</b> Kelly Krinetz <b>Action By</b> Kelly Krinetz <b>End Time</b>	<b>Assigned Date</b> 11/15/2023 <b>Status</b> Complete w/ Comments <b>Status Date</b> 11/16/2023 <b>Hours Spent</b> 0.0 <b>Comments</b> From a Critical Area standpoint, I have no objection to the proposed location of the dwelling. However, without an approved septic layout and SWM plan, an approval of this application would be premature since the dwelling cannot be constructed without those systems and resolution of any outstanding issues could result in the need for additional relief. <b>In Possession Time (hrs)</b> <b>Comment Display in ACA</b>
<b>Billable</b> No	<b>Overtime</b> No	<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
<b>Time Tracking Start Date</b> Display E-mail Address in ACA No	<b>Est. Completion Date</b> <input checked="" type="checkbox"/> Display Comment in ACA	<b>Workflow Calendar</b>
<b>Estimated Hours</b> 0.0	<b>Action</b> Updated	

Task Specific Information

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Review Notes	Reviewer Name	Reviewer Phone Number
Reviewer Email		

