

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

APPLICANT: Clifton Galloway

ASSESSMENT DISTRICT: 3rd

CASE NUMBER: 2023-0177-V

COUNCILMANIC DISTRICT: 3rd

HEARING DATE: December 7, 2023

PREPARED BY: Robert Konowal
Planner

REQUEST

The applicant is requesting variances to allow a dwelling addition with less setbacks than required and with disturbance to slopes of 15% or greater at 1020 Nabbs Creek Road in the subdivision of Viewpoint Park, Glen Burnie.

LOCATION AND DESCRIPTION OF SITE

The subject property has 50 feet of frontage on the north side of Nabbs Creek Road, 60 feet east of Stoneyview Drive. These lands have an area of 5,037 square feet. The site is described as Lot 8 in Parcel 52, Grid 15, on Tax Map 11 and is zoned "R5-Residential District". The current zoning of the site was adopted by the Comprehensive zoning for the Third Council District, January 29, 2012.

The subject site is a waterfront lot located on the south side of Nabbs Creek. The site is subject to the Chesapeake Bay Critical Area Overlay and is designated "LDA-Limited Development Area". The shoreline of the subject property is buffer modified.

The site is currently developed with a two-story single-family detached dwelling with basement. There are a number of retaining walls and wood landing on the street side of the dwelling accessed via a stepped walkway.

APPLICANT'S PROPOSAL

The applicant is proposing to install an elevator and shaft on the west side of the dwelling. The elevator shaft will measure five feet in width and length and 35 feet in height. A five-foot wide by approximately 30 foot long bridge/deck ramp will be constructed to access the elevator.

REQUESTED VARIANCES

Section 17-8-201.(a) of the Anne Arundel Subdivision and Development Code states that development in LDA or RCA designated areas may not occur on slopes of 15% or greater. The proposed elevator shaft and bridge walkway will permanently disturb approximately 175 square feet of land with a slope of 15% or greater and a variance is required for this disturbance. The exact amount of disturbance which will include temporary limits of disturbance to allow construction will be established during building permit review.

Section 18-4-701. of the Code requires that a principal structure in a R5 District be set back a minimum of

seven feet from a side property line. The elevator shaft and a 15 foot length of the elevated walkway will be located as close as five feet from the west side lot line necessitating a variance of up to two feet.

Section 18-4-701. of the Code requires that a principal structure in a R5 District be set back a minimum of 20 feet from the rear lot line whereas the elevated walkway which is attached to the principal structure will be located as close as 10 feet from the rear lot line necessitating a variance of 10 feet.

FINDINGS

Critical Area Variance Criteria

The subject property at approximately 50 feet in width and 5,037 square feet in area does not meet either the required minimum lot width of 60 feet or minimum lot area of 7,000 square feet for a lot in the R5 District. More importantly, steep slopes cover approximately one-third of the lot. These steep slopes surround most of the dwelling and are also located between the dwelling and the roadway making it impossible to construct any new access to the dwelling from the road without the need for a variance. These lot conditions are unique to this area and do make compliance with the Critical Area Overlay difficult. Denial of a variance to allow disturbance to steep slopes would cause hardship in the use of these lands.

The proposed elevator shaft is located in the most practical location next to the dwelling stairwell and is of a typical size which results in the minimum variance necessary to afford relief. The same may be said for the elevated walkway which is limited to five feet in width.

A literal interpretation of the County's Critical Area program in this case would deprive the applicant reasonable access that is a right commonly enjoyed by other properties in similar areas. The granting of the variance to disturb steep slopes would not confer on the applicant a special privilege that would normally be denied by COMAR, Title 27. This request is not the result of actions by the applicant including commencement of development before obtaining required approvals. The variance does not arise from any condition relating to land or building use on any neighboring property.

This Office believes the requested variance minimizes potential adverse effect on water quality, and it would be in harmony with the general spirit and intent of the County's Critical Area program. The applicant has overcome the presumption that the specific development does not conform to the general purpose and intent of the Critical Area law. The applicant has adequately evaluated and implemented site planning alternatives regarding the location of the elevator shaft and walkway.

Approval of the variance would not alter the essential character of the neighborhood nor would it impair the appropriate use or development of any adjacent property. There is no evidence that approval of the variance will reduce forest cover in the Limited Development Area of the Critical Area, be contrary to acceptable clearing and replanting practices required for development in the Critical Area nor be detrimental to the public welfare.

Setback Variance Criteria

As stated earlier, the subject property is undersized with respect to both minimum lot width and lot area. In addition to the substandard lot width of 50 feet, the site is an existing developed lot (c.2006) where the location of existing construction makes compliance with the Code difficult. Denial of the variance to allow the elevator shaft would cause an unnecessary hardship in the use of this existing building and lands.

The proposed elevator shaft is located in the most practical location adjacent to the dwelling stairwell. The size and shape of the elevator shaft is typical and does result in the minimum variance necessary to afford relief.

Approval of the setback variances would not alter the essential character of the neighborhood as the deviation requested is negligible in their effect and would not impair the appropriate use or development of any adjacent property. There is no evidence that approval of the variance will reduce forest cover in the Limited Development Area of the Critical Area, be contrary to acceptable clearing and replanting practices required for development in the Critical Area or be detrimental to the public welfare.

Agency Comments

The **Anne Arundel County Department of Health** indicated the property is served by public water and sewer facilities and as such has no objection to the request.

The **Development Division Critical Area Team** indicated they had no objection to the request.

The **Engineering Division, Department of Inspections and Permits** requested that a photo tour be provided of the steep slopes/buffers where construction is proposed to document stability. The Division also advised that stormwater management will need to be addressed per Section 17-8-405 for any added imperviousness within the expanded buffer. The Office had no objection to the request provided the above is addressed with the building permit application.

The **State of Maryland Critical Area Commission** indicated appropriate mitigation is required.

RECOMMENDATION

With regard to the standards by which a variance may be granted as set forth in Section 18-16-305 under the Anne Arundel County Code, the Office of Planning and Zoning recommends ***approval*** of the requested variances to disturb approximately 175 square feet of slopes 15% or greater and reduced rear and side lot line setbacks of nine feet and two feet respectively as shown on the attached 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.