

Subject: Request for Time Extension for Approved Variance CASE: 2022-0037-V

Please accept our request for a time extension for our existing Variance CASE: 2022-0037-V, given exceptional unforeseen circumstances that have caused a delay in our project.

Upon receipt of our variance, we actively engaged and received plans from our Architect for our interior layout configuration. Multiple designs and renderings were provided by our Architect to accommodate our evolving needs as a family, but nothing worked quite right, and the perfect solution was not agreed upon. It was imperative that our home's interior ensured adaptability throughout different life stages, accounting for the presence of children and potential future health challenges.

Unfortunately, a serious health challenge did occur, and set us back significantly, necessitating a pause for months to focus on recovery and subsequent rehabilitation. This crisis prompted a critical reevaluation of the interior layout to ensure its suitability for a progressive health issue, including inevitable mobility challenges. Seeking fresh insights, we engaged a new design team to reconfigure the interior layout while preserving the century-old home's interior charm and character, which entailed substantial work and associated costs for mechanical, electrical, HVAC, Fire Suppression, and plumbing.

I am pleased to report that the revised plans are now complete and seamlessly align with our current and future needs, including provisions for limited mobility. We intend to submit our plans next week and are committed to working closely with the county to address any concerns that may arise during the permitting process. Our request for a time extension will allow us to secure the appropriate permits from the county to begin.

We respectfully request a time extension for our variance. Thank you for your understanding.

Kind regards,

A handwritten signature in black ink, appearing to read 'Jennifer Moore', with a stylized flourish at the end.

Jennifer Moore

IN THE OFFICE OF ADMINISTRATIVE HEARINGS

CASE NUMBER: 2022-0037-V

JENNIFER W. MOORE

SECOND ASSESSMENT DISTRICT

DATE HEARD: MAY 3, 2022

ORDERED BY:

**DOUGLAS CLARK HOLLMANN
ADMINISTRATIVE HEARING OFFICER**

PLANNER: DONNIE DYOTT, JR.

DATE FILED: MAY 17, 2022

PLEADINGS

Jennifer W. Moore, the applicant, seeks a variance (2022-0037-V) to allow a dwelling addition with less setbacks than required on property with a street address of 81 Bay Drive, Annapolis, MD 21403.

PUBLIC NOTIFICATION

The hearing notice was posted on the County's website in accordance with the County Code. The file contains the certification of mailing to community associations and interested persons. Each person designated in the application as owning land that is located within 300 feet of the subject property was notified by mail, sent to the address furnished with the application. John Bilek and Tobias Sullivan testified that the property was posted for more than 14 days prior to the hearing. Therefore, I find and conclude that there has been compliance with the notice requirements.

FINDINGS

A hearing was held on May 3, 2022, in which witnesses were sworn and the following evidence was presented with regard to the proposed variance requested by the applicant.

The Property

The applicant owns the subject property which has 50 feet of frontage on the north side of Bay Drive, southwest of Bancroft Avenue, Annapolis. It is identified on part of Lot 4 of Parcel 29 in Block 10 on Tax Map 57 in the Bay Ridge subdivision. The property comprises 8,500 square feet and is zoned R2-

Residential District. This lot is designated in the Chesapeake Bay Critical Area as limited development area (LDA). The subject property is developed with a single-family dwelling and associated facilities.

The Proposed Work

The applicant seeks approval to construct a 2 story irregularly shaped dwelling addition measuring approximately 33' by 26' by 32' on the rear of the existing dwelling as shown on the site plan admitted into evidence at the hearing as County Exhibit 2. The proposed dwelling addition will be located as close as 10 feet from the corner side lot line (lot line abutting Bancroft Avenue). The existing pool and at grade deck in the rear yard will be reduced and reconfigured to accommodate the proposed addition.

The Anne Arundel County Code

§ 18-4-601 stipulates that principal structures in an R2 district be set back a minimum of 20 feet from a corner side lot line.

The Variance Requested

The proposal will require a zoning variance of ten (10) feet to the 20-foot corner side lot line setback requirement of § 18-4-601 to allow the proposed dwelling addition to be constructed as close as 10 feet from the corner side lot line (lot line abutting Bancroft Avenue) as shown on the site plan admitted into evidence at the hearing as County Exhibit 2.

The Evidence Submitted At The Hearing

Findings and Recommendations of the Office of Planning and Zoning (OPZ)

Donnie Dyott, Jr., a zoning analyst with OPZ, presented the following:

- The applicant argues that the site contains unique features such as the fact that the lot is both undersized and narrow for the R2 district and the historic location of the existing dwelling within the corner side lot line setback. It is argued that these features make additions to the dwelling difficult without relief from the Code. It is also noted that the applicant was previously granted a variance under Case No. 2012-0252-V for a large rear dwelling addition that is virtually identical to the current proposal. The work on the addition was never completed due to financial circumstances and the applicant now desires to move forward. It is described that the applicant's family has grown to include a husband and two children, and the current size of the dwelling is inadequate.
- The total proposed lot coverage after development of 2,660 square feet appears to comply with the required 10% reduction of the lot coverage overage. Exact lot coverage calculations will be determined at the time of permit.
- The Health Department commented that it has no objection to the request provided a plan is submitted to and approved by the Health Department.
- With regard to the previous variance approval granted under Case No. 2012-0252-V, the proposed addition is slightly different than the footprint

previously approved. While the dwelling addition is generally the same and the addition comes no closer to the corner side lot line, it has been expanded by 3 feet to the southwest to be 7 feet from the side lot line. Given that OPZ previously supported the variance request and that this slight expansion does not change the relief needed or the character of the proposal, OPZ will support this request as no circumstances have changed.

- The narrow width and undersized nature of the lot in combination with the location of the dwelling within the setback does make expansion of the dwelling difficult without relief from the Code. The addition is in line with the existing wall line of the dwelling and comes no closer to the corner side lot line than the existing house. As such, it is considered the minimum necessary to afford relief and will not alter the essential character of the neighborhood. There is no evidence that the variance would have a negative impact on adjacent properties nor would it be detrimental to the public welfare.
- Based upon the standards set forth in § 18-16-305 under which a variance may be granted, OPZ recommends approval of a zoning variance.

Other Testimony and Exhibits

The applicant was assisted at the hearing by Tobias Sullivan, her architect. Evidence was presented that the applicant is returning to seek the same relief granted her in Case No. 2012-0252-V, with minor changes. The desire to extend

into the rear of the property by continuing in the same line of the northwest side of the existing dwelling requires a zoning variance to maintain that distance.

Neighbors (John and Virginia Vogel, Dorothy Martin, Patrick Winterschladen, Edward Ervin and Jamie Williams) were opposed, although the majority of their concerns were about parking, the applicant's intention to rent the property at various times during the year, and the actual size of the applicant's property.

There was no other testimony taken or exhibits received in the matter. The Hearing Officer did not visit the property.

DECISION

Requirements for Zoning Variances

§ 18-16-305 sets forth the requirements for granting a zoning variance.

Subsection (a) reads, in part, as follows: a variance may be granted if the Administrative Hearing Officer finds that practical difficulties or unnecessary hardships prevent conformance with the strict letter of this article, provided the spirit of law is observed, public safety secured, and substantial justice done. A variance may be granted only if the Administrative Hearing Officer makes the following affirmative findings:

- (1) Because of certain unique physical conditions, such as irregularity, narrowness or shallowness of lot size and shape or exceptional topographical conditions peculiar to and inherent in the particular lot, there

is no reasonable possibility of developing the lot in strict conformance with this article; or

- (2) Because of exceptional circumstances other than financial considerations, the grant of a variance is necessary to avoid practical difficulties or unnecessary hardship and to enable the applicant to develop the lot.

The variance process for subsection (1) above is a two-step process. The first step requires a finding that special conditions or circumstances exist that are peculiar to the land or structure at issue which requires a finding that the property whereupon the structures are to be placed or use conducted is unique and unusual in a manner different from the nature of the surrounding properties. The second part of the test is whether the uniqueness and peculiarity of the property causes the zoning provisions to have a disproportionate impact upon the subject property causing the owner a practical difficulty or unnecessary hardship. "Uniqueness" requires that the subject property have an inherent characteristic not shared by other properties in the area. *Trinity Assembly of God of Baltimore City, Inc. v. People's Counsel for Baltimore County*, 178 Md. App. 232, 941 A.2d 560 (2008); *Umerley v. People's Counsel for Baltimore County*, 108 Md. App. 497, 672 A.2d 173 (1996); *North v. St. Mary's County*, 99 Md. App. 502, 638 A.2d 1175 (1994), cert. denied, 336 Md. 224, 647 A.2d 444 (1994).

The variance process for subsection (2) - practical difficulties or unnecessary hardship - is simpler. A determination must be made that, because of exceptional circumstances other than financial considerations, the grant of a

variance is necessary to avoid practical difficulties or unnecessary hardship, and to enable the applicant to develop the lot.

Furthermore, whether a finding is made pursuant to subsection (1) or (2) above, a variance may not be granted unless the hearing officer also finds that: (1) the variance is the minimum variance necessary to afford relief; (2) the granting of the variance will not alter the essential character of the neighborhood or district in which the lot is located, (3) substantially impair the appropriate use or development of adjacent property, (4) reduce forest cover in the limited development and resource conservation areas of the critical area, (5) be contrary to acceptable clearing and replanting practices required for development in the critical area, or (6) be detrimental to the public welfare.

Findings - Zoning Variances

I find, based upon the evidence, that because of the unique physical conditions peculiar to and inherent in the subject property, i.e., the narrow width of the property (50 feet as compared to the required 80 feet for a lot in the R2 district),¹ and, recognizing that the purpose of a corner side lot line is to provide sight distance for automobiles at the intersection of Bancroft Avenue and Bay Avenue and the expansion along Bancroft will be to the rear of the property and not the front where the intersection is located, I will grant the requested variance.

¹ The discussion at the hearing as to whether the applicant's property contained 8,500 square feet of land or 7,250 square feet does not change the decision reached herein as the required minimum area for a lot in the R2 district is 20,000 square feet. By either count, the lot misses the mark.

I further find that the requested variance is the minimum variance necessary to afford relief, that the granting of the variance will not alter the essential character of the neighborhood or district in which the lot is located, will not substantially impair the appropriate use or development of adjacent property, will not reduce forest cover in the limited development area of the critical area, will not be contrary to acceptable clearing and replanting practices required for development in the critical area, or be detrimental to the public welfare.

ORDER

PURSUANT to the application of Jennifer W. Moore, petitioning for a variance to allow a dwelling addition with less setbacks than required on property with a street address of 81 Bay Drive, Annapolis;

PURSUANT to the notice, posting of the property, and public hearing and in accordance with the provisions of law, it is this **17th day of May, 2022**,

ORDERED, by the Administrative Hearing Officer of Anne Arundel County, that the applicant is **granted** a zoning variance of ten (10) feet to the 20-foot corner side lot line setback requirement of § 18-4-601 to allow the proposed dwelling addition to be constructed as close as 10 feet from the corner side lot line (lot line abutting Bancroft Avenue) as shown on the site plan admitted into evidence at the hearing as County Exhibit 2.

The foregoing variance is subject to the applicant complying with any instructions and necessary approvals from the Office of Planning and Zoning and/or the Department of Inspections and Permits, the Department of Inspections and Permits, the Department of Health, and/or the Critical Area Commission.

This Order does not constitute a building permit. In order for the applicant to construct the structures permitted in this decision, the applicant must apply for and obtain the necessary building permits, along with any other approvals required to perform the work described herein.

Furthermore, County Exhibit 2, referenced in this decision, is incorporated herein as if fully set forth and made a part of this Order. The proposed improvements shown on County Exhibit 2 shall be constructed on the subject property in the locations shown therein. The decision and order shall not prohibit the applicant from making minor changes to the facilities as presently shown on County Exhibit 2 to adjust for changes made necessary by comments or requirements that arise during plan review or construction, provided those minor changes do not exceed the variance granted herein. The reasonableness of any such change shall be determined by the Office of Planning and Zoning and/or the Department of Inspections and Permits.


Douglas Clark Hollmann
Administrative Hearing Officer

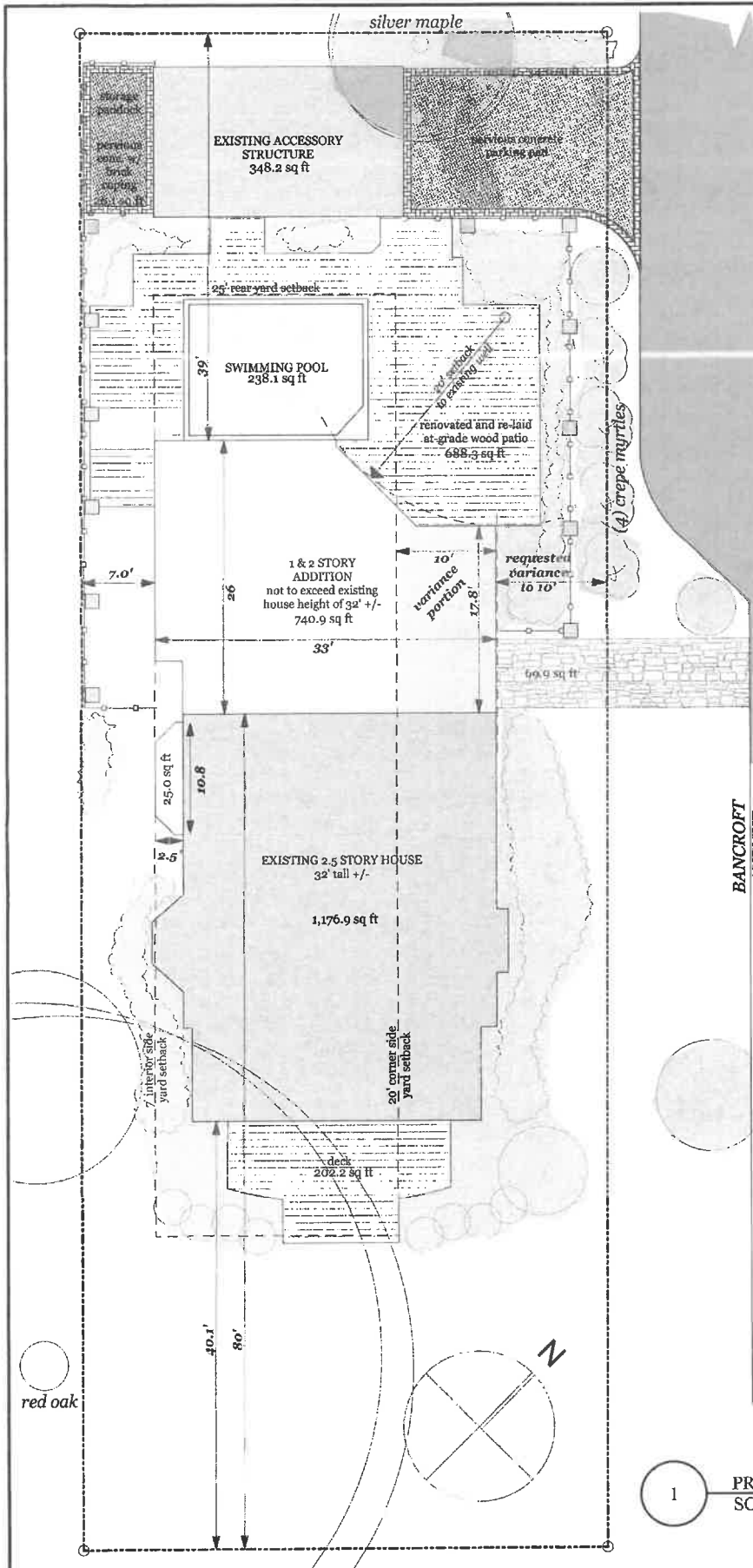
NOTICE TO APPLICANT

This Order does not constitute a building permit. In order for the applicant to perform the work permitted in this decision, the applicant must apply for and obtain the necessary building permits, along with any other approvals required to perform the work described herein.

Any person, firm, corporation, or governmental agency having an interest in this Decision and aggrieved thereby may file a Notice of Appeal with the County Board of Appeals within thirty (30) days from the date of this Decision. **If the variance or variances granted in this case relate to work in the critical area, a permit for the activity that was the subject of this variance application will not be issued until the appeal period has elapsed.**

Further, § 18-16-405(a) provides that a variance or special exception that is not extended or tolled **expires by operation of law** unless the applicant **within 18 months** of the granting of the variance or special exception (1) obtains a building permit or (2) files an application for subdivision. Thereafter, the variance or special exception shall not expire so long as (1) construction proceeds in accordance with the permit or (2) a record plat is recorded among the land records pursuant to the application for subdivision, the applicant obtains a building permit within one year after recordation of the plat, and construction proceeds in accordance with the permit.

If this case is not appealed, exhibits must be claimed within 60 days of the date of this Order, or they may be discarded.



81 Bay Drive	
Lot Size	8500
Allowable Impervious (31.25% of lot)	2656
EXISTING IMPERVIOUS	
House	1177
Back Porch	210
Accessory Bldg.	348
Swimming Pool	417
Driveway	278
Storage Paddock	95
Front yard pavers	95
Walkway	70
Total Existing Impervious	2690
Allowable Impervious	2656
Overage	34
10% reduction	3.4
Impervious Target Goal	2687
PROPOSED IMPERVIOUS	
House	1177
Addition	741
New Bay Window	25
Accessory Bldg.	348
Swimming Pool	238
Walkway	70
Storage Paddock	26
Driveway Coping	35
Total Proposed Impervious	2660

1 PROPOSED SCALE: 1/8"

CO. EXHIBIT#: 2
 CASE: 2022-0037-V
 DATE: 5/3/22

TOBIAS M SULLIVAN ARCHITECTS
 Box 5412
 Annapolis MD 21403
 410.280.1695
 tmsarch.com

The Jennifer Moore Residence
 81 Bay Drive Annapolis MD 21403
 TAX ID # 2047-0308-5600

Revised VARIANCE APPLICATION SET
 March 2022

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