

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

APPLICANT: Paul Cummings

ASSESSMENT DISTRICT: 3

CASE NUMBER: 2023-0180-V

COUNCIL DISTRICT: 3

HEARING DATE: December 12, 2023

PREPARED BY: Sumner Handy
Planner

REQUEST

The applicant is requesting a variance to allow a dwelling with less setbacks than required at 8195 Orchard Point Road in the Ventnor Subdivision, Pasadena.

LOCATION AND DESCRIPTION OF SITE

The subject property has 151 feet of road frontage on the east side of Orchard Point Road, approximately 1300 feet east of Ventnor Road and a lot area of 31,525 square feet. The site is shown on Tax Map 18, Grid 22, as Parcel 80, Lots 32, 33 and 34, and is and has been zoned “R1-Residential District” since adoption of the comprehensive rezoning for the Third Council District, effective January 29, 2012.

These lands are a waterfront property located on the west side of Wharf Creek and are designated LDA-Limited Development Area and RCA-Resource Conservation Area. The property is located along a buffer modified shoreline.

The subject property is currently developed with a one-story single family detached dwelling with attached garage and pier and pilings. These lands are served by well and septic.

APPLICANT’S PROPOSAL

The applicant is proposing to demolish the existing dwelling and construct a 28-foot high, two-story dwelling measuring approximately 33 feet in depth and 80-feet in width. The home is proposed to be appurtenanced by a front attached garage measuring 24 feet in width and 48 feet in length, and an uncovered deck and swim spa are proposed along the south east corner of the dwelling.

REQUESTED VARIANCES

Section 18-4-501 of the Anne Arundel County Zoning Code requires that a principal structure in the R1 District be set back a minimum of 15 feet from a side lot line. The applicant has proposed to locate the two-story dwelling approximately nine feet from the side lot line, necessitating a variance of six feet.

FINDINGS

The subject property at 151 feet in width and 31,525 square feet in area exceeds the minimum required lot width of 125 feet but does not meet the minimum lot area of 40,000 square feet in the R1 District. The relief in this case has been requested as the applicant wishes to redevelop the property using the existing foundation in this location. As the existing dwelling is being demolished in its entirety, there is ample

opportunity to redevelop this site in accordance with the Code. As noted, the lot width exceeds the Code requirements, which presents a challenge to justifying a request for side setback variance relief in particular. This Office thus concludes that there is no unique physical condition that is denying this applicant “reasonable possibility of developing the lot in strict conformance with the Code.” Given the applicant’s intent to demolish the vast majority of the structure, there is no evidence that denial of the variance would present a practical difficulty or an unnecessary hardship in complying with the Code while redeveloping this lot. Denial of the variance request, which would deny utilization of the existing foundation in this limited location, would not cause a hardship in the use or redevelopment of these lands.

Since the variance is not considered to be warranted, it cannot be understood as the minimum relief necessary. In this case, the plans for the new dwelling could be revised to comply with the required side setback.

Approval of the variance may alter the essential character of the neighborhood: while a number of dwellings in the neighborhood also do not meet their required side lot line setbacks, as a rule those dwellings are but one story in height. The granting of the requested variance would allow a *two-story* dwelling with a deficient side lot line setback that will not be in character. The requested variance will not necessarily impair the appropriate use or development of any adjacent property as the setback for the new dwelling would be deficient in a location that is closest to the attached garage of the dwelling on the adjacent lot to the north and as such would not affect their air, light or view of the street or water. Finally, there is no evidence the granting of the variances will be detrimental to the public welfare.

In summary, the applicant has not demonstrated that the variance is warranted nor is it the minimum necessary to afford relief from the Code.

Agency Comments

The **Engineering Division of the Department of Inspection and Permits** advised their Office has already reviewed and approved the grading plan and has no objection to this request.

The **Anne Arundel County Department of Health** advised they do not have an approved plan for this project but would have no objection provided a plan is submitted to and approved by the Health Department.

RECOMMENDATION

With regard to the standards by which a variance may be granted as set forth under Section 18-16-305 in the County Code, the Office of Planning and Zoning recommends the variance to the side lot line setback as shown on the provided site plan be **denied**.

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.



Mark Wedemeyer, Director

Memorandum

TO: Planner, OPZ Development Division

FROM: Hala Flores, P.E., Engineer Manager, Department of Inspections and Permits

SUBJECT: 8195 Orchard Point Road
Project Number G02019808
Variance 2023-0180-V – Setback Requirements

DATE: October 20, 2023

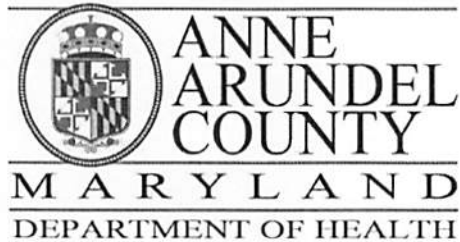
Engineering and Utility Review

The above-referenced modification request(s) has/have been reviewed for Engineering and Utility issues, and the following comments apply:

Project Information: The address is 8195 Orchard Point Road. The property is currently improved with a single family dwelling. The property is zoned R1 and has a split critical area designation of LDA and RCA. The site served by private water well and septic. The applicant is proposing to demo and rebuild the home.

Allow relief of 5.1 feet to the required 15 feet side property line setback (§ 18-4-501)

Determination –This office has already reviewed and approved the grading plan and has no objection to this request.



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 *BC*

DATE: October 27, 2023

RE: Paul A. Cummings, III
8195 Orchard Point Road
Pasadena, MD 21122

NUMBER: 2023-0180-V

SUBJECT: Variance/Special Exception/Rezoning

The Health Department has reviewed the above referenced variance to allow a dwelling with less setbacks than required.

The Health Department does not have an approved plan for this project. The Health Department has no objection to the above referenced variance request as long as a plan is submitted and approved by the Health Department.

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

cc: Sterling Seay



STUART PITTMAN, COUNTY EXECUTIVE
JESSICA LEYS, DIRECTOR
RECREATION AND PARKS
1 HARRY S. TRUMAN PKWY
ANNAPOLIS, MD 21401
AACOUNTY.ORG/RECPARKS



MEMORANDUM

TO: Sadé Medina, Zoning Division
Office of Planning and Zoning

FROM: Pat Slayton
Capital Projects Division

SUBJECT: Variance Case 2023-0180-V

DATE: October 16, 2023

The Department of Recreation and Parks has reviewed the above plans to determine if there may be impacts to the Anne Arundel County Green Infrastructure Network, parks, and trails. Please note our recommendations according to those findings below.

- This site is contiguous to an Anne Arundel County Green Infrastructure Network in the Bodkin Creek watershed.

The Department of Recreation and Parks has no further comments.

cc: File

12/17/2021

1 of 92

Select Date



ORCHARD POINT RD





ORCHARD POINT RD

ORCHARD POINT RD

