

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

APPLICANT: Stephen and Suzanne Mazer

ASSESSMENT DISTRICT: 2nd

CASE NUMBER: 2023-0182-V

COUNCILMANIC DISTRICT: 6th

HEARING DATE: December 19, 2023

PREPARED BY: Jennifer Lechner
Planner



REQUEST

The applicants are requesting variances to allow dwelling additions (living space, deck, screened porch, and stairs) with less setbacks and buffer than required and with disturbance to slopes of 15% or greater on property located at 366 Friar Trail in Annapolis.

LOCATION AND DESCRIPTION OF SITE

The subject site consists of 8,544 square feet of land and is located south of the intersection of Friar Trail and Overlook Trail. The property is identified as Lots 4, 5 and 6 of Parcel 41 in Block 36 on Tax Map 45 in the Epping Forest subdivision.

The property is zoned R1 – Residential District, as adopted by the comprehensive zoning for Council District 6, effective October 7, 2011. This site lies entirely within the Chesapeake Bay Critical Area LDA – Limited Development Area. It is currently improved with a two-story dwelling and associated facilities.

APPLICANT'S PROPOSAL

The applicants are proposing to remove the existing upper level decks and construct upper level additions, consisting of a 25.5' x 26' irregular bedroom addition, a 6' x 16' bathroom addition, a 12.67' x 13.55' screened porch, and a 10' x 12' deck with steps to grade.

REQUESTED VARIANCES

§ 18-2-301(f) of the County Code states that a single-family detached dwelling on a lot that does not meet the area or width requirements of this article may be expanded if the expansion is set back at least 25 feet from the front and rear lot lines and seven feet from side lot lines and does not exceed 35 feet in height. The proposed deck, stairs and screened porch additions to the existing dwelling will be as close as 0.9 feet from the front lot line, necessitating a variance of 25 feet.

§ 18-13-104 states that there shall be a minimum 100-foot buffer landward from the mean

high-water line of tidal waters, tributary streams, and tidal wetlands; and, that the 100-foot buffer shall be expanded beyond 100 feet to include slopes of 15% or greater. The proposed construction will disturb approximately 1,659 square feet of the expanded buffer, necessitating a variance. The final amount of disturbance will be determined during permit review.

§ 17-8-201(a) states 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; and, all disturbance shall be limited to the minimum necessary. The proposed construction will disturb approximately 1,074 square feet of slopes of 15% or greater, necessitating a variance. The final amount of disturbance will be determined during permit review.

FINDINGS

This Office finds that the subject property is irregularly shaped and undersized with regard to the minimum lot area requirement of 40,000 square feet and the minimum lot width requirement of 125 feet for a lot in the R1 District. The property is encumbered by steep slopes and the expanded buffer. The existing critical area lot coverage of the site is 2,173 square feet. The proposed post-construction lot coverage is 2,559 square feet, which is below the lot coverage allowed under §17-8-402 (31.25% or 2,670 square feet). The existing coverage by structures is 1,316 square feet. The proposed post-construction coverage by structures is 1,702 square feet, which is well below the 25% (2,136 square feet) maximum coverage by structures allowed under §18-4-501. A review of the County 2023 aerial photography shows an eclectic mix of dwellings and lots in this waterfront community.

The applicants' letter states that the disturbance to the steep slopes and the expanded buffer is required for the proposed construction because the property is encumbered by 15% slopes or greater and lies completely within the expanded buffer. Therefore, the site could not be redeveloped or improved without relief. The proposed upper-level additions will be located within either the footprint of the existing upper level deck or over the lower level of the existing house. The existing deck footings are being utilized for the addition, while only the new steps to the lower level and one side of the new screen porch will require new footings due to their shifted location.

The applicants' letter further states that the northwest property line abuts a 25' unimproved private right of way (Overlook Trail) containing walkways and retaining walls, which in turn, abuts a Forest Conservation Easement to the northwest. Therefore, the applicants believe that, although the proposed additions are close to the front property line, this variance would have no bearing on the neighboring property.

The applicants believe that the relief is minimal, as the contractor has designed the addition to utilize as many of the existing footers as possible, and utilizing the areas that are already disturbed by existing improvements to the property. This lot is very unique due to the slopes and the existing home already being very close to the property line.

Agency Comments

The **Health Department** has no objection to the requested variance.

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

The **Critical Area Team** has no objection as the proposed modifications fall within, or reduce the footprint of the existing dwelling.

Variance Criteria

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. COMAR defines unwarranted hardship as that, without a variance, an applicant shall be denied reasonable and significant use of the entire parcel or lot for which the variance is requested.

In this particular case, the property is unique due to the shape and size of the lot. With much of the property encumbered by steep slopes and entirely within the expanded buffer, redeveloping the property without disturbing these sensitive areas is impossible.

The proposed additions appear to have been designed mostly within the existing footprint of the house and decks, however, the new screen porch and steps project beyond the northwestern facade of the existing house, further encroaching into that front setback. There appears to be an opportunity to design the additions in such a way as to maintain the existing setback encroachment of the house.

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.

Because the proposed screen porch and steps are larger than necessary, the variance may alter the essential character of the neighborhood, and may impair the appropriate use or development of adjacent properties.

With mitigation, the granting of the variance should not adversely affect water quality or impact fish, wildlife or plant habitat, should be in harmony with the general spirit and intent of the County's critical area program, and will not be contrary to acceptable clearing and replanting practices, nor reduce forest cover in the limited development area.

While screen porches and decks are common additions to single family dwellings, the proposed additions are simply too large given the context, and should be reduced. Because there is opportunity to redesign the proposed screen porch, deck and steps to grade, and because there is not sufficient justification, the variance request cannot be considered the minimum necessary to afford relief.

RECOMMENDATION

Based upon the standards set forth in § 18-16-305 of the County Code under which a variance may be granted, as proposed, this Office recommends ***denial*** of a zoning variance to §18-2-301(f) to allow a principal structure as close as zero feet from the northwest front property line; ***approval*** of a zoning variance to § 18-13-104 to allow disturbance to the expanded buffer; and ***approval*** of the Critical Area variance to § 17-8-201(a) to disturb steep slopes. The final amount of disturbances will be determined during permit review.

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.



August 10, 2023
Revised October 2, 2023

Anne Arundel County
Department of Planning and Zoning
2664 Riva Road
Annapolis, MD. 21401

**RE: Variance Application – Explanatory Letter
366 Friar Trail, Annapolis MD, 21401
Map of Epping Forest, Block 36, Section A, Lots 4-6
Tax Map 45 Block 3, Parcel 41**

To whom it may concern.

Please find submitted herewith the variance application and associated required submittal materials requesting a variance to permit an addition to a primary structure, a deck and screen porch with less setbacks than required for a dwelling on a non-conforming R1 lot; and to permit disturbance to 15% slopes or greater in the Chesapeake Bay Critical Area; and to permit disturbance to the Expanded Buffer in the Chesapeake Bay Critical Area.

The site is identified as 366 Friar Trail, Annapolis, Maryland, also known as Lots 4-6, Block 36 on the recorded plat of “Map of Epping Forest, Section A”. This site is a 0.20-acre lot, zoned R1. This lot is non-conforming as it does not meet the minimum lot size of 40,000 SF or a width of 125’ of an R1 lot. The site is located within the Chesapeake Bay Critical Area (LDA). The property fronts a Private 25’ foot improved right-of-way, known as Friar Trail and (2) existing 25’ Private unimproved right of ways known as Overlook Trail and Hickory Trail.

This site is currently developed with an existing two-level single-family home, driveway, walkways, staircases, retaining walls, and two-level deck. The site contains steep slopes and their 25’ buffers, the expanded buffer and is mostly wooded lot in the Chesapeake Bay Critical area (LDA).

The site is served by an existing private waterline and private onsite sewer disposal system. This site utilizes an existing B.A.T. septic tank as required for development in the Chesapeake Bay Critical Area. Please note, the septic site plan for this development has been **approved** by the Health Department.

Slopes over 15% or greater in the Critical Area

The applicant is seeking a variance to permit disturbance to 15% or greater slopes in the Chesapeake Bay Critical Area, LDA, (Article 17-8-201 (a)). The proposed site plan indicates **1,074 square feet** of disturbance to slopes over 15% or greater. About 64% of the site is encumbered by 15% slopes or greater, there is a small portion of the site not encumbered by

slopes 15% or greater but this is where the existing septic and driveway are located. The disturbance to the steep slopes is for the removal of the upper-level deck and existing stairs, which are being replaced with a new upper level addition (partially over the lower deck and partially over a portion of the existing home on the lower level), a new screen porch, a new smaller deck, and a new set of stairs leading from the new upper deck to the existing lower-level deck. All of the new upper-level additions to the home are located entirely within the footprint of the existing upper deck or lower level of the existing home, even the existing footings are being utilized from the deck for the addition as to not create any actual disturbance to the ground. A majority of the new deck, new screen porch and new steps are within the same location as the existing deck and stairs that are being removed. The new steps to the lower level will require new footing as well as one side of the new screen porch due to how they shifted. But some of the existing footings are being utilized for these also, to lessen the disturbance to the actual ground/grade.

We feel this relief is minimal, as the contractor has designed the addition to utilize as many of the existing footers as possible and is necessary to construct the proposed addition, screen porch and deck on this existing lot and while utilizing the spaces that are already technically disturbed by existing features onsite. Epping Forest is a subdivision where a majority of the lots fight the same battle with the steep slopes, steep slope buffers, and Variances are often required due to this issue.

Expanded Buffer in the Critical Area

The applicant is also seeking a variance to permit disturbance to the Expanded Buffer per Article 18-13-104(b). The 100' buffer is not shown on this site plan but has been expanded to include the many natural features of this site, including the Slopes of 15% or greater, and the 25' Buffer to 15% Slopes or greater. Therefore, the entire site is within the expanded buffer. The proposed site plan indicates **1,659 square feet** of disturbance to Expanded Buffer which is only 19.4% of the total Expanded Buffer on this site. Please note, 100% of the site is encumbered by the expanded buffer and the site could not be redeveloped or improved in any way without some relief to disturbance to the expanded buffer. The expanded buffer is being disturbed for the removal of the upper-level deck and stairs, which are being replaced with a 2nd level addition (partially over the lower deck and partially over a portion of the existing home on the lower level), a new screen porch, a new smaller deck, and a new set of stairs leading from the new upper deck to the existing lower-level deck. All of the new upper-level additions to the home are located entirely within the footprint of the prior deck or lower level of the home, even the existing footings are being utilized from the deck for the addition as to not create any actual disturbance to the ground. A majority of the new deck, new screen porch and new steps are within the same location as the existing deck and stairs that are being removed. The new steps to the lower level will require new footing as well as one side of the new screen porch due to how they shifted. But some of the existing footings are being utilized for these also, to lessen the disturbance to the actual ground/grade. The existing home is entirely in the expanded buffer at this time, the upper-level deck and screen porch only expands past the existing upper-level deck of the house for very small portion. We feel this relief is minimal, as the contractor has designed the addition to utilize as many of the existing footers as possible and is necessary to construct the proposed addition, screen porch and deck on this existing lot and while utilizing the spaces that

are already technically disturbed by existing features onsite. Epping Forest is a subdivision where a majority of the lots fight the same battle with being within the expanded buffer, and Variances are often required due to this issue.

Setbacks (Dwellings on Nonconforming Lots)

The applicant is also seeking a variance to permit a structure to have less front yard setback than required. The required setback for this particular lot comes from Article 18.2.301(d) Dwellings on non-conforming lots, from a front (Overlook Trail, Side Street, Unimproved) is 25 feet. We are requesting a variance of **24.1' feet to the front yard setback**, allowing the new screen porch to be constructed as close as **1.1' to the Northwest to the property line**, and the new upper-level deck and steps to be constructed as close as **0.9' to the Northwest to the property line**. This property line abuts a 25' unimproved private right of way, which contains improvements (ie. walkway and retaining walls) that were assumed to be associated with this home when the owners purchased it until such time that the survey was prepared and revealed those improvements were actually in the unimproved right of way, and then on the opposite site of this right of way the portion of the adjacent property abutting this right of way is entirely preserved under a Forest Conservation Easement. Therefore, even with the proposed additions being close to the front property line (Overlook Trail, side street), this variance would have no bearing on the neighboring property in this location as there is a 25' right of way between them and the property adjacent is under Forest Conservation. We feel this relief is minimal, as the contractor has designed the addition to utilize as many of the existing footers as possible and is necessary to construct the proposed addition, screen porch and deck on this existing lot and while utilizing the spaces that are already technically disturbed by existing features onsite. This lot is very unique due to the slopes and the existing home already being very close to the property line.

We feel that the variances requested above will not alter the essential character of the existing neighborhood, but in fact will mimic the existing character of the neighborhood and provide for a home that is suited for the neighborhood. We feel that granting these variances will not confer on the applicant any special privileges, as the Epping Forest consist of Lots of the same uniqueness throughout the community. We also feel that denial of the variances will deprive the applicant of the rights commonly enjoyed by other properties in the neighborhood and cause unwarranted hardship that would deny the applicant reasonable and significant use of the lot. The owner is not requesting these variances based on conditions or circumstances that are the result of actions by the applicant. Lastly, the granting of these variances will not adversely affect water quality or adversely impact fish, wildlife or plant habitat in the Chesapeake Bay Critical Area, as all new lot coverage is providing stormwater management by way of plantings.

Below are a few Variances granted for similar issues in the nearby area for reference and to show that this is a common occurrence in this neighborhood:

- 2012-0197-V, 371 Friar Trail, Setback and Slope Variances for additions and porches.
- 2016-0200-V, 1656 Chinford Trail, Setbacks, expanded buffer and slopes for dwelling, garage and shed.
- 2007-0316-V, Friar Trail, Setback for deck and porches.
- 2015-0099-V, 357 Sherwood Trail, Setback for addition.

- 2015-0190-V, Overlook Trail, Setbacks and slopes for a deck and screen porch.
- 2008-0287-V, 365 Friar Trail, Setback for Deck.
- 2008-0280-V, 360 Sherwood Trail, Setbacks and Slope Disturbance for deck addition.

Calculations for lot coverage, existing woods / clearing and disturbances to the buffers onsite are provided on the site plan. The site is served by private water and a private onsite sewage disposal system.

The existing and proposed lot coverage will total 2,559 square feet, which equates to 29.9% of the site, which is well under the permitted lot coverage of 31.25% of the site or 2,670 square feet.

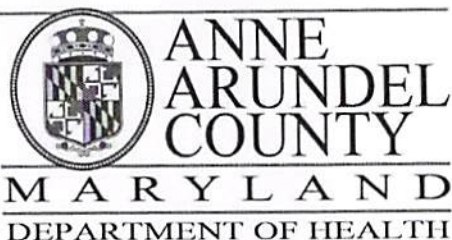
Thank you for your consideration of this request and please do not hesitate to contact me if you have any questions or if you require any additional information.

Sincerely,
Development Facilitators, Inc.



Candice Bateman
Project Manager

Cc: *Steve Andraka, P.E., DFI*
Stephen and Suzanne Mazer, Owner



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 26, 2023

RE: Stephen A. Mazer
366 Friar Trail
Annapolis, MD 21401

NUMBER: 2023-0182-V

SUBJECT: Variance/Special Exception/Rezoning

The Health Department has reviewed the above referenced variance to allow dwelling additions (living space, deck, screened porch, and stairs) 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 for the above referenced property. The Health Department has determined that the proposed request does not adversely affect the on-site sewage disposal. The Health Department has no objection to the above referenced request.

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

cc: Sterling Seay



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

CAC Comments: Zwirlein 2023-0165-V, Grande 2023-0181-V, Frandson 2023-0159-V, Galloway 2023-0177-V, Mazer 2023-0182-V

Jennifer Esposito <jennifer.esposito@maryland.gov>

Mon, Oct 23, 2023 at 4:18 PM

To: Sadé Medina <pzmedi22@aacounty.org>

Good afternoon,

The Critical Area Commission has reviewed the following variances and we provide the following comments :

- **2023-165-V; Zwirlein (AA 339-23):** The applicant is requesting an after-the-fact variance to disturb the Critical Area Buffer to perfect a 336-square foot shed approximately 63-feet from the mean high water line. The property is located within the Intensely Developed Area (IDA) and is mapped as Buffer Modified. While the unpermitted replacement shed is in the same location as the original shed, this office opposes the variance request as this proposal does not meet each and every one of the Critical Area variance standards such as unwarranted hardship and that this proposal minimizes impacts to water quality and habitats. On the contrary, the unpermitted shed is more than double the size of the original shed. The applicant currently has reasonable and significant use of the lot with the existing improvements which include a dwelling, porch, patio, an accessory structure, riparian access, driveway, and walkways. If the unpermitted and larger shed were to be denied, the applicant would still have reasonable and significant use of the entire lot. Moreover, the applicant had the ability to replace the shed in-kind without the need for a variance. Replacing the existing shed with a new shed of similar size would show minimization to water quality and habitat impact. However, if the Administrative Hearing Officer finds that the applicant satisfied the burden of proof and persuasion that each and every one of the Critical Area variance standards are met, then appropriate mitigation is required. This includes mitigation at a 4:1 ratio for the unpermitted Buffer impacts and at a 3:1 ratio for the square footage of Buffer impacts approved under this variance request. Additional mitigation is required at 1:1 ratio if canopy coverage was removed as a result of the shed replacement. Moreover, given that the property is located in the IDA, the Critical Area 10% pollutant removal requirements apply to this site.
- **2023-0181-V; Grande (AA 335-23):** Appropriate mitigation is required. This includes mitigation at a 4:1 ratio for the unpermitted improvements, and at a 3:1 ratio should the variance request be approved. Additional mitigation is required at a 1:1 ratio for the square footage of tree canopy coverage removed. Further, we note that if the areas noted for gravel/pavement removal on the plan are located within the Critical Area Buffer or expanded

Buffer, then those areas should be stabilized and planted in natural vegetation.

Additionally, appropriate mitigation is required for the following variances:

- 2023-0159-V; Frandson (AA 338-23)
- 2023-0177-V; Galloway (AA 034-23)
- 2023-0182-V; Mazer (AA 336-23)

Thank you for the opportunity to provide comments. The above-comments have also been submitted through the County's online portal. Please feel free to contact me should you have any questions.



 facebook_logo.jpg

 twitter_logo.jpg

dnr.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

2023-0182-V

Menu Cancel Help

Task

OPZ Critical Area Team

Assigned to Department

OPZ Critical Area

Action by Department

OPZ Critical Area

Start Time

Billable

No

Time Tracking Start Date

Display E-mail Address in ACA

No

Due Date

11/03/2023

Assigned to

Kelly Krinetz

Action By

Kelly Krinetz

End Time

Overtime

No

Est. Completion Date

Display Comment in ACA

Assigned Date

10/13/2023

Status

Complete w/ Comments

Status Date

10/19/2023

Hours Spent

0.0

Comments

The proposed modifications fall within, or reduce the footprint of the existing dwelling. I have no objection to the proposal.

In Possession Time (hrs)

Comment Display in ACA

- All ACA Users
- Record Creator
- Licensed Professional
- Contact
- Owner

Workflow Calendar

Estimated Hours

0.0

Action

Updated

Task Specific Information

Review Notes

Reviewer Phone Number

2023 AERIAL

