

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

APPLICANTS: Brian Rotondo

ASSESSMENT DISTRICT: 3

CASE NUMBER: 2023-0145-V

COUNCILMANIC DISTRICT: 3

HEARING DATE: January 16, 2024

PREPARED BY: Joan A. Jenkins 
Planner II

REQUEST

The applicant is requesting a variance to allow a dwelling addition with less buffer than required on property located at 7710 Pine Haven Drive in Pasadena.

LOCATION AND DESCRIPTION OF SITE

The subject site consists of 19,838 square feet¹ of land and is located with road frontage on the northwest side of Pine Haven Drive, southwest of Briar Lane. The subject property is identified as Lot 9 on Parcel 78 in Block 2 on Tax Map 17 in Block A of the Pine Haven subdivision. The property has been zoned R5 - Residential District since the adoption of comprehensive zoning of the Third Council District zoning maps effective January 29, 2012.

This is a nonwaterfront property which lies within the Chesapeake Bay Critical Area and is designated IDA - Intensely Developed Area. Stony Creek, a perennial stream, and its buffer encompasses the majority of the property. The site is currently improved with a two-story single-family detached dwelling, a shed, and an above-ground pool.

APPLICANTS' PROPOSAL

The applicants propose to construct a garage addition with a second story (27 feet wide by 24 feet deep, 648 sq ft) on the southwest side of the existing dwelling.

REQUESTED VARIANCES

§ 18-13-104(a) of the 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. § 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). § 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." § 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 disturbance associated with the proposed garage will include permanent disturbance of 720 square feet² and

¹ The site plan shows 19,838 sq ft. SDAT shows 19,603 sq ft. For this purpose the site plan area is being used.

² While the garage itself is 648 sq ft, the total disturbance is 720 sq ft as shown on the Project Notification Form.

additional disturbance for the limit of disturbance area, necessitating a variance to this provision as shown on the site plan. Exact buffer disturbance will be determined at the time of permit.

FINDINGS

The property is a rectangular-shaped lot that meets the width and area requirements of a new lot in the R5 - Residential District. The lot is significantly encumbered by the 100-foot stream buffer to Stony Creek.

The IDA does not have a limitation on lot coverage, however, the R5 Zoning District limits coverage by structure to 40%. The zoning coverage by structure maximum of 40% will be met based on the square footage of existing and proposed structures shown on the site plan.

The **Health Department** commented that the property is served by public water and sewer facilities and has no objection to the request.

The **Development Division (Critical Area Team)** commented that they have no objection, that distance to the stream has been maximized and that mitigation will be addressed with the permit.

The **Critical Area Commission** took no position and commented that appropriate mitigation must be provided.

For the granting of a critical area variance, a determination must be made on the following:

Because of certain unique physical conditions, such as exceptional topographical conditions peculiar to and inherent in the particular lot or irregularity, narrowness, or shallowness of lot size and shape, strict implementation of the County's critical area program would result in an unwarranted hardship or practical difficulty. In this case the presence of the stream buffer makes additional development impossible without variance relief. The amenity requested is reasonable, and therefore denial would create an unwarranted hardship.

A literal interpretation of the County's critical area program will deprive the applicants of rights that are commonly enjoyed by other properties in similar areas by denying the applicant the ability to make an improvement to their existing dwelling. The granting of the variance will not confer on the applicants a special privilege that would be denied by COMAR, Title 27. This request is not a result of actions by the applicants and does not arise from any condition relating to land or building use on any neighboring property. There is no evidence that the granting of the variances will adversely affect water quality or impact fish, wildlife or plant habitat and the proposal is in harmony with the general spirit and intent of the County's critical area program. The applicants have overcome the presumption that the specific development does not conform to the general purpose and intent of the critical area law and have evaluated site planning alternatives.

With regard to the requirements for all variances:

The variances as proposed are considered the minimum necessary to afford relief by this Office. The proposal consists of a reasonably sized two-car garage with a second story. The County Critical Area team and the State Critical Area Commission have offered no objection to the proposal. This Office finds that the request comprises the minimum variance necessary to afford relief.

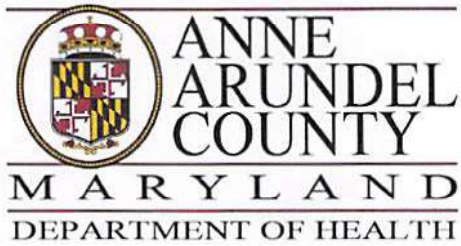
2023-0145-V

There is no evidence that the addition will alter the essential character of the neighborhood, impair the use or development of adjacent property or be detrimental to the public welfare. The proposal will not be contrary to acceptable clearing and replanting practices.

RECOMMENDATION

Based upon the standards set forth in § 18-16-305 under which a variance may be granted, this Office recommends *approval* of variances to construct the structures as shown on the site plan and the accompanying building plans.

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.



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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: Sumner Handy, Zoning Applications
Planning and Zoning Department, MS-6301

FROM: Brian Chew, Program Manager
Bureau of Environmental Health *BC*

DATE: November 1, 2023

RE: Brian Rotondo
7710 Pine Haven Drive
Pasadena, MD 21122

CASE
NUMBER: 2023-0145-V

SUBJECT: Variance/Special Exception/Rezoning

The Health Department has received the above referenced variance request to allow a dwelling addition (garage) with less buffer than required. The Health Department offers the following comments:

The Health Department has reviewed the above referenced request. The property is served by public water and sewer facilities. The Health Department has no objection to the above referenced request.

If you have further questions or comments, please contact Dawn Howard at 410-222-4290.

cc: Sterling Seay

2023-0145-V

Menu Cancel Help

Task Details OPZ Critical Area Team

Assigned Date

10/24/2023

Assigned to

Kelly Krinetz

Current Status

Complete w/ Comments

Action By

Kelly Krinetz

Comments

No objection to this proposal. Distance to the stream has been maximized.

Mitigation will be addressed with permit.

End Time

Billable

No

Time Tracking Start Date

In Possession Time (hrs)

Estimated Hours

0.0

Comment Display in ACA

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

Due Date

11/14/2023

Assigned to Department

OPZ Critical Area

Status Date

10/27/2023

Overtime

No

Start Time

Hours Spent

0.0

Action by Department

OPZ Critical Area

Est. Completion Date

- Display E-mail Address in ACA
- Display Comment in ACA

Task Specific Information

Review Notes

Reviewer Name

Reviewer Phone Number

Reviewer Email



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

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

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.



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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

7710 Pine Haven Dr



Legend

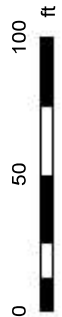
- Foundation:
- Addressing:
- Parcels:
- Parcels - Annapolis City:
- Environment:
 - County Environment:
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Notes

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 GeoTechnologies, Inc, METI/NASA,

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