

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

APPLICANT: James M. New

ASSESSMENT DISTRICT: 3rd

CASE NUMBER: 2023-0185-V

COUNCILMANIC DISTRICT: 3rd

HEARING DATE: January 9, 2024

PREPARED BY: Robert Konowal
Planner

REQUEST

The applicant is requesting a variance to permit an extension in time for the implementation and completion of a previously approved variance for lands located along 814 Broadwater Way on Gibson Island.

LOCATION AND DESCRIPTION OF SITE

The subject property has 425 feet of frontage on the west side of Broadwater Way, 325 feet southwest of Bywater Road, Gibson Island. The site is shown on Tax Map 33, Grid 18 as Parcel 156, Lots 251, 252 and a 15 foot wide portion of Parcel 156. The property is split-zoned R1-Residential District and OS-Open Space District. These lands have an area of 2.87 acres. The current zoning was adopted by the Comprehensive zoning for the Third Council District January 29, 2012.

This lot is located in the Chesapeake Bay Critical Area. The eastern two-thirds of the site is designated LDA-Limited Development Area and the rear third RCA-Resource Conservation Area. The site is encumbered by tidal and nontidal wetlands, the 100-foot buffer to tidal wetlands, the 25-foot buffer to nontidal wetlands, and the expanded buffer.

The property is currently developed with a one and one-half story single family dwelling and a driveway. The property is served by public water and private septic facilities.

APPLICANT'S PROPOSAL

The applicant is requesting an extension in time for the implementation and completion of a previously approved variance (2021-0213-V) that relates to the construction of a new dwelling with less setbacks and buffer than required.

REQUESTED VARIANCE

Section 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 obtains a building permit or files an application for subdivision within 18 months of approval. The previous variance (2021-0213-V) was

approved by the Administrative Hearing Officer April 14, 2022 with an expiry date of October 16, 2023 since October 14, 2023 was a Saturday (Ref Section 1-1-103. Computation of Time).

The applicant did not expect a building permit to be issued by the expiry date and is requesting an additional 18 months to obtain a building permit for the proposed development to maintain the variance approval.

FINDINGS

The agent for the applicant has stated that due to unforeseen delays, requirements for geo-technical borings and archaeological studies, and other permit requirements the applicants have not been able to receive approvals and proceed with construction. A time extension is being requested in order to give the property owners the time needed to continue with the project requirements and obtain permits needed for construction.

This application was correctly filed October 12, 2023 prior to the expiry of the previous variance approval. This is the first request for an extension in time. The applicant has made an application for both Grading (G02019756) and Building (B02421201) permits. An updated perc test (PAT02051017) is also being pursued.

The applicant does appear to have been diligently pursuing approval of the necessary permits to implement the variance. The request for an additional 18 months is not considered to be excessive and is believed to be the minimum variance necessary to afford relief. Approval of the variance for a time extension will not be detrimental to the public welfare nor will it alter the essential character of the neighborhood or impair the use or development of any adjacent property.

RECOMMENDATION

With regard to the standards by which a variance may be granted as set forth under Section 18-16-305 under the County Zoning Ordinance, the Office of Planning and Zoning recommends the application for a time extension be **approved** for an additional period of 18 months.

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.