

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

APPLICANT: Lyle and Jo Ann Modlin

ASSESSMENT DISTRICT: 2nd

CASE NUMBER: 2023-0197-V

COUNCIL DISTRICT: 6th

HEARING DATE: January 23, 2024

PREPARED BY: Sara Anzelmo
Planner



REQUEST

The applicants are requesting a variance to allow a pier platform and boat lift pilings with less setbacks than required on property located at 3708 Gateshead Drive in Annapolis.

LOCATION AND DESCRIPTION OF SITE

The subject site consists of 28,960 square feet of land and is located on the north side of Gateshead Drive, 0 feet west of Thomas Point Road. It is identified as Lot 5 of Parcel 17 in Grid 2 on Tax Map 61 in the Watergate subdivision.

The property is zoned R2 – Residential District, as adopted by the comprehensive zoning for Council District 6, effective October 7, 2011.

The site is a waterfront lot on Watergate Harbor that lies within the Chesapeake Bay Critical Area overlay, is designated as LDA – Limited Development Area, and is mapped as BMA - Buffer Modification Area. It is improved with a single-family dwelling and associated facilities.

PROPOSAL

The applicants propose to remove two existing pilings and the associated boat lift (attached to the land) and to construct a triangular platform with attached walkway and two boat lift pilings in order to accommodate a new 15' wide +/- boat lift on the west side of the proposed platform.

REQUESTED VARIANCES

§ 18-2-404(b) of the Anne Arundel County Zoning Ordinance requires a private pier or mooring piling to be set back a minimum of 15 feet from a lot line extended. The pier platform would be constructed 0.25 feet from the northeast side lot line extended, necessitating a variance of 15 feet. The two proposed boat lift pilings would be located two feet from the west side lot line extended, necessitating a variance of 13 feet for each piling.

FINDINGS

The subject property meets the minimum area and width for a lot in an R2 District. A review of the County 2023 aerial photograph shows that the majority of properties fronting Watergate Harbor contain piers, most of which also contain platforms and mooring/boat lift pilings.

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

The **Development Division (Critical Area Team)** commented that the existing conditions of this small cove prevent the strict application of any of the four methods for determining property line extensions. The north property line extension is a direct extension. The South property line extension is extended to capture the existing pilings relative to each property. The need for better access from water and land is understood; however, the core concern of the proposed platform and pilings is the potential impedance of navigation to and from the adjacent boat lift. Aerial photographs show a sizable boat docked at 3708 Gateshead Drive, and there is concern about how far past the pilings and into the cove the boat will extend from the new location of the boat lift. The applicant should demonstrate how this proposal will not cause navigational issues. Another option would be to reduce the north side of the platform from the current 13 feet enough to ensure no navigational issues will be caused by this proposal. The Critical Area Team is not opposed to this proposal as long as these comments are sufficiently addressed.

For the granting of a zoning variance, a determination must be made as to whether, because of certain unique physical conditions peculiar to and inherent in the particular lot or because of exceptional circumstances, strict implementation of the Code would result in practical difficulties or an unnecessary hardship. Typically, a lot with at least 50 feet of water frontage can accommodate a six foot wide pier, a platform, and boat lift or mooring pilings within the required 15 foot setbacks. However, the subject property lines narrow toward the shoreline, causing the property line extensions to converge inward into the cove and significantly restricting the buildable water area. Construction of any pier or pilings would be impossible without variance relief. However, not all waterfront properties can accommodate every owner's desired vessel size. There are certain innate limitations of a property with limited water area that should be expected by any purchaser, and the proposed 15-foot wide boat slip is considered to be excessive for this particular location.

Approval of the variance would not alter the essential character of the neighborhood. However, the variance may impair the appropriate use or development of the adjacent property to the immediate west, as the proposed boat lift may impede safe docking of the vessel currently stored on the existing boat lift to the west. The variance would not reduce forest cover in the limited development area, be contrary to acceptable clearing and replanting practices, or be detrimental to the public welfare.

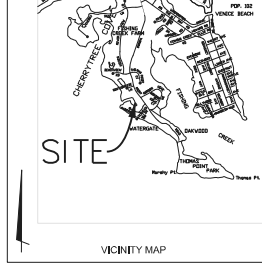
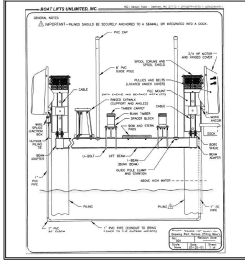
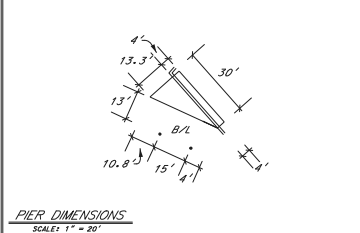
Taking into account the practical limitations caused by the converging lot line extensions and cove location, the request for some variance relief is justifiable. However, it appears that the variance could be minimized by reducing the size of the proposed platform, specifically on the 13' northern end, in order to provide as much separation between the proposed boat lift and the neighboring boat lift to the west. Additionally, the proposed 15' wide boat slip is considered to be excessive for this location. As such, the variance cannot be supported as proposed.

RECOMMENDATION

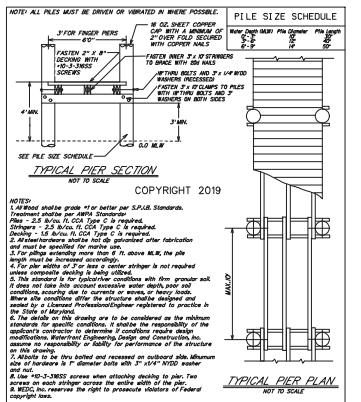
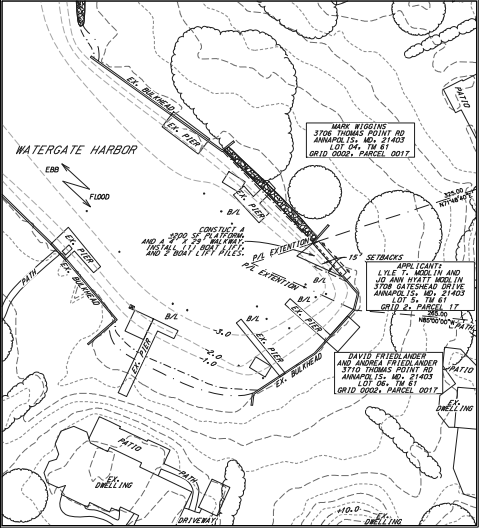
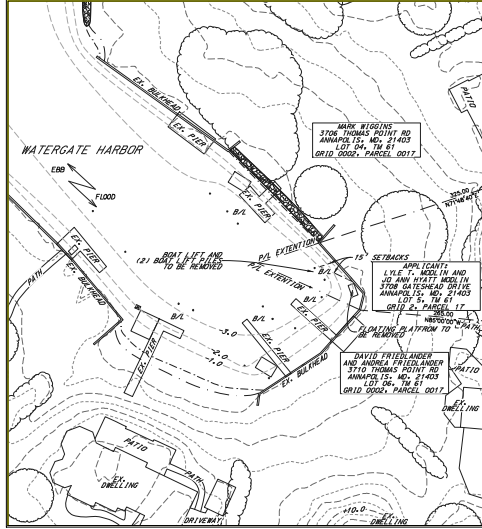
Based upon the standards set forth in § 18-16-305 of the Code under which a variance may be granted, this Office recommends ***denial*** of zoning variances to § 18-2-404(b).

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.

- REQUESTED VARIANCES:
1. A VARIANCE OF 14.79' TO THE NORTHERN PROPERTY LINE EXTENSION TO ALLOW THE INSTALLATION OF A PIER PLATFORM.
 2. A VARIANCE OF 10' TO THE SOUTHERN PROPERTY LINE EXTENSION TO ALLOW THE INSTALLATION OF TWO 20'x10' LIFT PILES.



- NOTES:
- E-100 site lines within E2 zoning
 - E-100 site lines within Chesapeake Bay Critical Area (CA/D4)
 - E-100 site lines within a PUD: Service Area with draft zoning process
 - E-100 site lines within a PUD: Service Area with draft zoning process
 - E-100 site lines within the Chesapeake Bay Watershed



- LEGEND
- - - - - Existing Contour
 - - - - - Existing Property Line
 - - - - - Existing Proposed Improvements
 - - - - - Property Line Setback
 - - - - - 100' Buffer to Tidal Waters
 - - - - - Existing Site Tree Canopy
 - - - - - 14' Distance Line
 - - - - - Contour of Watershed

DESIGNED BY	DRAWN BY	NO.	DATE	BY	REVISIONS TO APPROVED PLANS
DAVID FRIESEN	DAVID FRIESEN				
DAVID FRIESEN	DAVID FRIESEN				

WEDC
Waterfront Engineering, Design and Construction, Inc.
3345 Ritchie Highway
Pasadena, Maryland 21122
Phone: (410) 798-4494
Email: Waterfront@wedc.com
www.waterfrontedc.com

PROPERTY OWNER(S):
Jo Ann Hyatt Modlin
3708 Gateshead Drive
Annapolis, MD 21403
410-343-1708
jajetmodlin@gmail.com

ADMINISTRATIVE SITE PLAN
PROPOSED PIER IMPROVEMENTS
WATERGATE - LOT 5
3708 GATESHEAD DRIVE, ANNAPOLIS, MARYLAND, 21403
TAX MAP 61 GRID 2 PARCEL 17 DISTRICT: 7
ANNE ARUNDEL COUNTY, MARYLAND
SCALE: 1"=30' DATE: November 1, 2023 PROJ. NO: 2023-6-20 SHEET 1 OF 1

Jo Ann and Lyle Modlin (the “**Applicant’s**”) propose to modify an existing private residential pier at their waterfront home, 3708 Gateshead Drive, Annapolis, Maryland, 21403 (the “**Property**”), which has approximately ± 55 linear feet of frontage on Watergate Harbor. The Applicant’s Property is approximately ± 28,960 SF and is zoned R2. Pursuant to the Anne Arundel County Code (the “**Code**”), §18-4-106, “Piers, private residential, if accessory to a dwelling unit” is permitted by right in the R2 zoning district.

The Applicant’s proposed pier modification will consist of removing an existing floating platform and constructing an irregular 200 SF shape platform, a 4’ by 29’ walkway, and installing 1 boat lift that includes 2 supporting pilings. Due to the unique shape of the shoreline and the converging property lines of the Applicant’s Property, the proposed platform, and pilings would require variances to the required 15-foot setbacks. The Applicant’s proposed platform is the minimum necessary to allow the Applicant reasonable access to navigable water at a depth of -3.0 at mean low water (0.0 feet).

The location, setbacks, and length requirements for piers and mooring pilings are spelled out in Code, §18-2-404, “Piers and mooring pilings.” Subsection (b) of said Code provision reads, in pertinent part, as follows:

“(b) **Setbacks.** A pier or mooring piling shall be located at least 15 feet from a lot line extended for a private pier [...]. The Office of Planning and Zoning determines the method of the lot line extension in accordance with one or more of the following methods:

- (1) From the side lot line at a 90 – degree angle to the shoreline;
- (2) From the extension of the last course of the lot line into the waterway;
- (3) From the side lot lines to the center of cove; or
- (4) From the side lot lines generally parallel with existing piers located on adjacent lots.

In the Applicant's case, method (2) is being utilized on the northern property line extensions, and method (1) is being utilized on the southern property line extensions because of the unique shape of the shoreline and surrounding piers. Strict compliance with the provisions of the Code results in practical difficulties for the Applicant due to the unique physical conditions of the Applicant's Property. Accordingly, the Applicant is requesting two (2) variances to Code, **§18-2-404(b)**. The variances requested are:

1. 14.75 feet to the required 15-foot side yard setback on the northern side of the proposed platform to construct 200 SQFT of platform space.
2. 13 feet to the 15-foot side yard setback on the southern side of the proposed platform, to install 2 boatlift pilings.

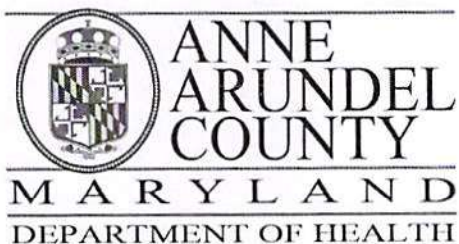
The requested variances satisfy the general variance requirements of Code, **§18-6-305(a) and (c)**. The Applicants cannot construct the platform and associated boat lift pilings without the requested variances, which are the minimum variance necessary to afford the Applicant's relief.

The requested variances will not substantially impair the appropriate use or development of adjacent properties. The Applicants currently only have a small floating platform while several of the surrounding properties have existing small piers and boat lifts. Access to and from the neighboring piers will remain unaffected by the construction and use of the Applicant's proposed platform and boat lift pilings.

The variances requested by the Applicants will have no impact on the forest cover in the Critical Area, and there will not be any clearing or replanting in the Critical Area or bog protection area.

The requested variances will help ensure safe boating practices to and from the Applicant's proposed platform and will not be detrimental to the public welfare.

For all the foregoing reasons, the variances requested by the Applicants are necessary to avoid practical difficulties. Granting the variances maintains the intent and spirit of the law, secures public safety, and ensures that substantial justice is done.



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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: Sadé Medina, Zoning Applications
Planning and Zoning Department, MS-6301

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

DATE: November 14, 2023

RE: Jo Ann Modlin
3708 Gateshead Drive
Annapolis, MD 21403

NUMBER: 2023-0197-V

SUBJECT: Variance/Special Exception/Rezoning

The Health Department has reviewed the above referenced variance to allow a pier-platform and boat lift piles with less setbacks than required.

The Health Department has reviewed the well water supply system for the above referenced property. The Health Department has determined that the proposed request does not adversely affect the well water supply system. 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

Menu Cancel Help

Task
OPZ Critical Area Team
Assigned to Department
OPZ Critical Area
Action by Department
OPZ Critical Area
Start Time

Due Date
11/28/2023
Assigned to
Melanie Mathews
Action By
Melanie Mathews
End Time

Assigned Date
11/07/2023
Status
Complete w/ Comments
Status Date
11/20/2023
Hours Spent
0.0

Billable
No

Overtime
No

Comments
The existing conditions of this small cove prevent the strict application of any of the four methods for determining property line extensions. The North PLE is a direct extension. The South PLE is extended to capture the existing pilings relative to each property. The need for better access from water and land is understood, however, the core concern of the proposed platform and pilings is the potential impedance of navigation to and from the adjacent boat lift. Aerial photographs show a sizeable boat docked at 3708 Gateshead Drive and there is concern about how far past the pilings and into the cove the boat will extend from the new location of the boat lift. The applicant should demonstrate how this proposal will not cause navigational issues. Another option would be to reduce the North side of the platform from the current 13' enough to ensure no navigational issues will be caused by this proposal.

Time Tracking Start Date
Display E-mail Address in ACA
No

Est. Completion Date
 Display Comment in ACA

The critical area team is not opposed to this proposal with the above comments sufficiently addressed.

In Possession Time (hrs)
Comment Display in ACA

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

Estimated Hours
0.0

Action
Updated

Workflow Calendar

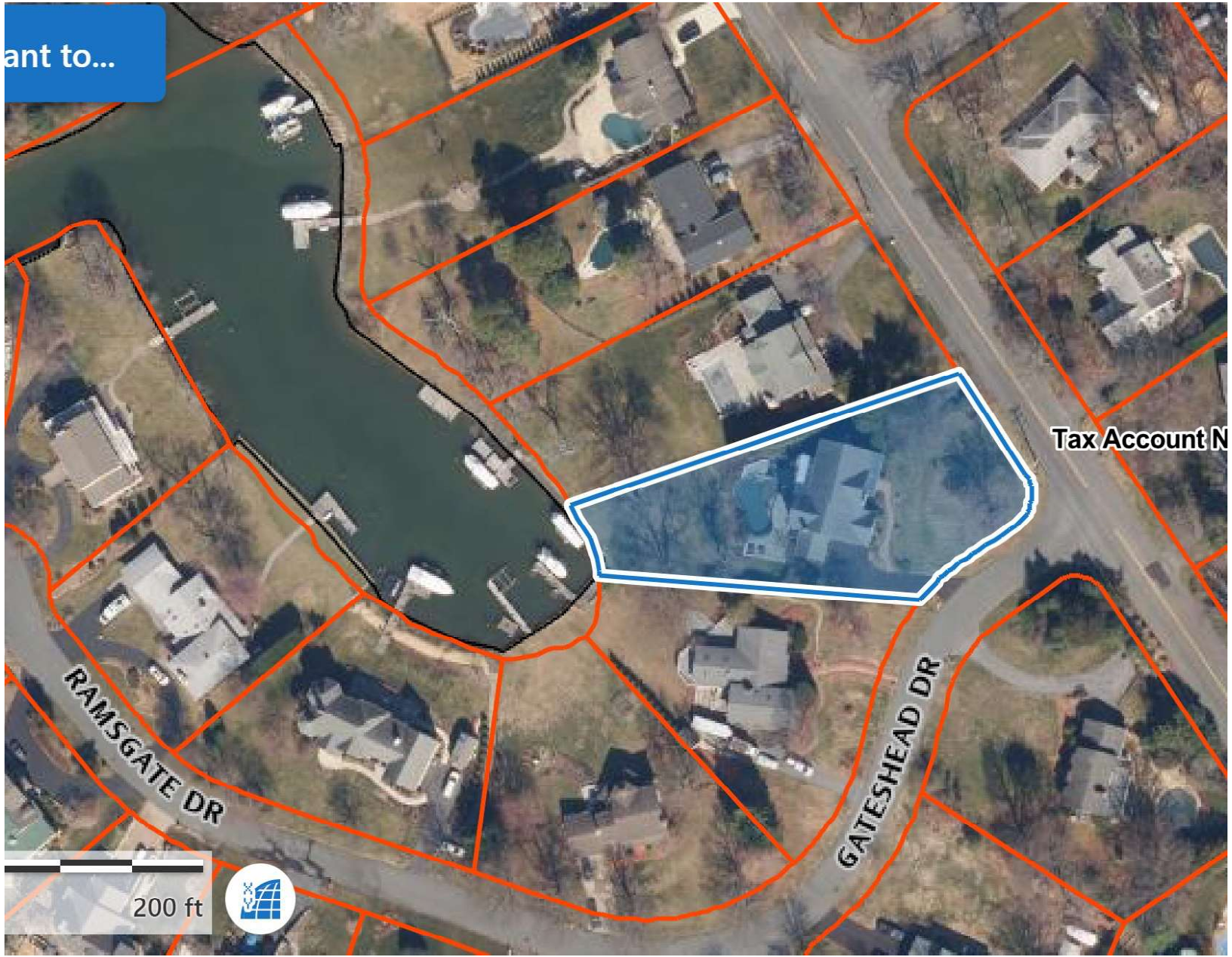
Task Specific Information

Review Notes
Reviewer Email
PZMATH20@aacounty.org

Reviewer Name
MELANIE MATHEWS

Reviewer Phone Number
410-222-6136

ant to...



Tax Account N

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