

PRO. EXHIBIT# 1
CASE: 2023-0199-V
DATE: 1/25/24

CERTIFICATE OF CORPORATE RESOLUTION

I, **Jill Whittall** (name of secretary), the undersigned, Secretary of **Bay Ridge Civic Association**, (name of corporation), does hereby certify to the Administrative Hearing Officer for Anne Arundel County that:

(a) A meeting of the Board of Directors of the said Corporation was duly called and held on the **12/ 19/ 23 & by email 1/24/23**, a quorum being at all times present, and the following resolution was adopted and recorded in the minute book of said corporation, kept by me;

(b) Such resolution is in accordance with and pursuant to the Articles of Incorporation, Charter and By-Laws of the said Corporation, and

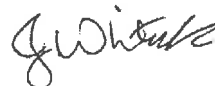
(c) Such resolution is now in full force and effect and has not been revoked or amended in any manner:

WHEREAS, this Corporation having 392 number of members residing or owning property in the following geographical area: Bay Ridge Subdivision and,

WHEREAS, it is in the best interest of the Corporation to oppose the request of the applicant in Case Number(s): **2023-0199-V (AD2, CD 6)**

NOW, THEREFORE, BE IT RESOLVED, that **Lily Openshaw (President)** be and is hereby appointed to speak on behalf of the Corporation at the hearing on the above-referenced case(s) before the Administrative Hearing Officer for Anne Arundel County or the Anne Arundel County Board of Appeals in opposition of the request for the following reason(s):
Please see attached document for reasons

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the Seal of the Corporation on this 24 day of **January**, 2023.



Secretary

(SEAL)

RE: 81 Bay Drive

BRCA **opposes** the granting of the extension on Case Number: 2022-037

- The decision on the variance of 2022-037 took place on 5/17/2022 (now case: 2023-0199-V (AD2, CD 6)).
- Letter not dated admits that property owner did not apply for a Building permit within the required 18 months.
 - Attachment- 22.037v pg 11
- The letter also implies that the property owner still did not have finalized plans as of the filing for the Variance extension
 - Attachment 23.199v
- Letter for the extension also suggests a change in plans from the initial variance.
 - BRCA has an interest in understanding the changes, however, although an extension of the variance was requested, **the application does not provide the changes**
 - Attachment 23.199v
- BRCA also has concerns with the discrepancy between the Deed, Application and SDAT on the actual square footage of the lot
 - Deed and records show a 50' x 145' lot which has a square footage of 7,250 sq/ft.
 - Attachment 07.11.12 Deed.
 - Application shows 8500sq/ft as the lot size. This size is also shown on SDAT.
 - Attachment Pro exhibit VI 6.11.22

Because of these concerns and uncertainties, BRCA **opposes an extension** of the current variance and recommends that applicant be asked to apply for a **new variance**, to allow for these concerns to be more fully addressed.

Subject: Request for Time Extension for Approved Variance CASE: 2022-0037-V

Please accept our request for a time extension for our existing Variance CASE: 2022-0037-V, given exceptional unforeseen circumstances that have caused a delay in our project.

Upon receipt of our variance, we actively engaged and received plans from our Architect for our interior layout configuration. Multiple designs and renderings were provided by our Architect to accommodate our evolving needs as a family, but nothing worked quite right, and the perfect solution was not agreed upon. It was imperative that our home's interior ensured adaptability throughout different life stages, accounting for the presence of children and potential future health challenges.

Unfortunately, a serious health challenge did occur, and set us back significantly, necessitating a pause for months to focus on recovery and subsequent rehabilitation. This crisis prompted a critical reevaluation of the interior layout to ensure its suitability for a progressive health issue, including inevitable mobility challenges. Seeking fresh insights, we engaged a new design team to reconfigure the interior layout while preserving the century-old home's interior charm and character, which entailed substantial work and associated costs for mechanical, electrical, HVAC, Fire Suppression, and plumbing.

I am pleased to report that the revised plans are now complete and seamlessly align with our current and future needs, including provisions for limited mobility. We intend to submit our plans next week and are committed to working closely with the county to address any concerns that may arise during the permitting process. Our request for a time extension will allow us to secure the appropriate permits from the county to begin.

We respectfully request a time extension for our variance. Thank you for your understanding.

Kind regards,



Jennifer Moore

IN THE OFFICE OF ADMINISTRATIVE HEARINGS

CASE NUMBER: 2022-0037-V

JENNIFER W. MOORE

SECOND ASSESSMENT DISTRICT

DATE HEARD: MAY 3, 2022

ORDERED BY:

**DOUGLAS CLARK HOLLMANN
ADMINISTRATIVE HEARING OFFICER**

PLANNER: DONNIE DYOTT, JR.

DATE FILED: MAY 17, 2022

PLEADINGS

Jennifer W. Moore, the applicant, seeks a variance (2022-0037-V) to allow a dwelling addition with less setbacks than required on property with a street address of 81 Bay Drive, Annapolis, MD 21403.

PUBLIC NOTIFICATION

The hearing notice was posted on the County's website in accordance with the County Code. The file contains the certification of mailing to community associations and interested persons. Each person designated in the application as owning land that is located within 300 feet of the subject property was notified by mail, sent to the address furnished with the application. John Bilek and Tobias Sullivan testified that the property was posted for more than 14 days prior to the hearing. Therefore, I find and conclude that there has been compliance with the notice requirements.

FINDINGS

A hearing was held on May 3, 2022, in which witnesses were sworn and the following evidence was presented with regard to the proposed variance requested by the applicant.

The Property

The applicant owns the subject property which has 50 feet of frontage on the north side of Bay Drive, southwest of Bancroft Avenue, Annapolis. It is identified on part of Lot 4 of Parcel 29 in Block 10 on Tax Map 57 in the Bay Ridge subdivision. The property comprises 8,500 square feet and is zoned R2-

Residential District. This lot is designated in the Chesapeake Bay Critical Area as limited development area (LDA). The subject property is developed with a single-family dwelling and associated facilities.

The Proposed Work

The applicant seeks approval to construct a 2 story irregularly shaped dwelling addition measuring approximately 33' by 26' by 32' on the rear of the existing dwelling as shown on the site plan admitted into evidence at the hearing as County Exhibit 2. The proposed dwelling addition will be located as close as 10 feet from the corner side lot line (lot line abutting Bancroft Avenue). The existing pool and at grade deck in the rear yard will be reduced and reconfigured to accommodate the proposed addition.

The Anne Arundel County Code

§ 18-4-601 stipulates that principal structures in an R2 district be set back a minimum of 20 feet from a corner side lot line.

The Variance Requested

The proposal will require a zoning variance of ten (10) feet to the 20-foot corner side lot line setback requirement of § 18-4-601 to allow the proposed dwelling addition to be constructed as close as 10 feet from the corner side lot line (lot line abutting Bancroft Avenue) as shown on the site plan admitted into evidence at the hearing as County Exhibit 2.

The Evidence Submitted At The Hearing

Findings and Recommendations of the Office of Planning and Zoning (OPZ)

Donnie Dyott, Jr., a zoning analyst with OPZ, presented the following:

- The applicant argues that the site contains unique features such as the fact that the lot is both undersized and narrow for the R2 district and the historic location of the existing dwelling within the corner side lot line setback. It is argued that these features make additions to the dwelling difficult without relief from the Code. It is also noted that the applicant was previously granted a variance under Case No. 2012-0252-V for a large rear dwelling addition that is virtually identical to the current proposal. The work on the addition was never completed due to financial circumstances and the applicant now desires to move forward. It is described that the applicant's family has grown to include a husband and two children, and the current size of the dwelling is inadequate.
- The total proposed lot coverage after development of 2,660 square feet appears to comply with the required 10% reduction of the lot coverage overage. Exact lot coverage calculations will be determined at the time of permit.
- The Health Department commented that it has no objection to the request provided a plan is submitted to and approved by the Health Department.
- With regard to the previous variance approval granted under Case No. 2012-0252-V, the proposed addition is slightly different than the footprint

previously approved. While the dwelling addition is generally the same and the addition comes no closer to the corner side lot line, it has been expanded by 3 feet to the southwest to be 7 feet from the side lot line.

Given that OPZ previously supported the variance request and that this slight expansion does not change the relief needed or the character of the proposal, OPZ will support this request as no circumstances have changed.

- The narrow width and undersized nature of the lot in combination with the location of the dwelling within the setback does make expansion of the dwelling difficult without relief from the Code. The addition is in line with the existing wall line of the dwelling and comes no closer to the corner side lot line than the existing house. As such, it is considered the minimum necessary to afford relief and will not alter the essential character of the neighborhood. There is no evidence that the variance would have a negative impact on adjacent properties nor would it be detrimental to the public welfare.
- Based upon the standards set forth in § 18-16-305 under which a variance may be granted, OPZ recommends approval of a zoning variance.

Other Testimony and Exhibits

The applicant was assisted at the hearing by Tobias Sullivan, her architect. Evidence was presented that the applicant is returning to seek the same relief granted her in Case No. 2012-0252-V, with minor changes. The desire to extend

into the rear of the property by continuing in the same line of the northwest side of the existing dwelling requires a zoning variance to maintain that distance.

Neighbors (John and Virginia Vogel, Dorothy Martin, Patrick Winterschladen, Edward Ervin and Jamie Williams) were opposed, although the majority of their concerns were about parking, the applicant's intention to rent the property at various times during the year, and the actual size of the applicant's property.

There was no other testimony taken or exhibits received in the matter. The Hearing Officer did not visit the property.

DECISION

Requirements for Zoning Variances

§ 18-16-305 sets forth the requirements for granting a zoning variance. Subsection (a) reads, in part, as follows: a variance may be granted if the Administrative Hearing Officer finds that practical difficulties or unnecessary hardships prevent conformance with the strict letter of this article, provided the spirit of law is observed, public safety secured, and substantial justice done. A variance may be granted only if the Administrative Hearing Officer makes the following affirmative findings:

- (1) Because of certain unique physical conditions, such as irregularity, narrowness or shallowness of lot size and shape or exceptional topographical conditions peculiar to and inherent in the particular lot, there

is no reasonable possibility of developing the lot in strict conformance with this article; or

- (2) Because of exceptional circumstances other than financial considerations, the grant of a variance is necessary to avoid practical difficulties or unnecessary hardship and to enable the applicant to develop the lot.

The variance process for subsection (1) above is a two-step process. The first step requires a finding that special conditions or circumstances exist that are peculiar to the land or structure at issue which requires a finding that the property whereupon the structures are to be placed or use conducted is unique and unusual in a manner different from the nature of the surrounding properties. The second part of the test is whether the uniqueness and peculiarity of the property causes the zoning provisions to have a disproportionate impact upon the subject property causing the owner a practical difficulty or unnecessary hardship. "Uniqueness" requires that the subject property have an inherent characteristic not shared by other properties in the area. *Trinity Assembly of God of Baltimore City, Inc. v. People's Counsel for Baltimore County*, 178 Md. App. 232, 941 A.2d 560 (2008); *Umerley v. People's Counsel for Baltimore County*, 108 Md. App. 497, 672 A.2d 173 (1996); *North v. St. Mary's County*, 99 Md. App. 502, 638 A.2d 1175 (1994), cert. denied, 336 Md. 224, 647 A.2d 444 (1994).

The variance process for subsection (2) - practical difficulties or unnecessary hardship - is simpler. A determination must be made that, because of exceptional circumstances other than financial considerations, the grant of a

variance is necessary to avoid practical difficulties or unnecessary hardship, and to enable the applicant to develop the lot.

Furthermore, whether a finding is made pursuant to subsection (1) or (2) above, a variance may not be granted unless the hearing officer also finds that: (1) the variance is the minimum variance necessary to afford relief; (2) the granting of the variance will not alter the essential character of the neighborhood or district in which the lot is located, (3) substantially impair the appropriate use or development of adjacent property, (4) reduce forest cover in the limited development and resource conservation areas of the critical area, (5) be contrary to acceptable clearing and replanting practices required for development in the critical area, or (6) be detrimental to the public welfare.

Findings - Zoning Variances

I find, based upon the evidence, that because of the unique physical conditions peculiar to and inherent in the subject property, i.e., the narrow width of the property (50 feet as compared to the required 80 feet for a lot in the R2 district),¹ and, recognizing that the purpose of a corner side lot line is to provide sight distance for automobiles at the intersection of Bancroft Avenue and Bay Avenue and the expansion along Bancroft will be to the rear of the property and not the front where the intersection is located, I will grant the requested variance.

¹ The discussion at the hearing as to whether the applicant's property contained 8,500 square feet of land or 7,250 square feet does not change the decision reached herein as the required minimum area for a lot in the R2 district is 20,000 square feet. By either count, the lot misses the mark.

I further find that the requested variance is the minimum variance necessary to afford relief, that the granting of the variance will not alter the essential character of the neighborhood or district in which the lot is located, will not substantially impair the appropriate use or development of adjacent property, will not reduce forest cover in the limited development area of the critical area, will not be contrary to acceptable clearing and replanting practices required for development in the critical area, or be detrimental to the public welfare.

ORDER

PURSUANT to the application of Jennifer W. Moore, petitioning for a variance to allow a dwelling addition with less setbacks than required on property with a street address of 81 Bay Drive, Annapolis;


PURSUANT to the notice, posting of the property, and public hearing and in accordance with the provisions of law, it is this 17th day of May, 2022,

ORDERED, by the Administrative Hearing Officer of Anne Arundel County, that the applicant is **granted** a zoning variance of ten (10) feet to the 20-foot corner side lot line setback requirement of § 18-4-601 to allow the proposed dwelling addition to be constructed as close as 10 feet from the corner side lot line (lot line abutting Bancroft Avenue) as shown on the site plan admitted into evidence at the hearing as County Exhibit 2.

The foregoing variance is subject to the applicant complying with any instructions and necessary approvals from the Office of Planning and Zoning and/or the Department of Inspections and Permits, the Department of Inspections and Permits, the Department of Health, and/or the Critical Area Commission.

This Order does not constitute a building permit. In order for the applicant to construct the structures permitted in this decision, the applicant must apply for and obtain the necessary building permits, along with any other approvals required to perform the work described herein.

Furthermore, County Exhibit 2, referenced in this decision, is incorporated herein as if fully set forth and made a part of this Order. The proposed improvements shown on County Exhibit 2 shall be constructed on the subject property in the locations shown therein. The decision and order shall not prohibit the applicant from making minor changes to the facilities as presently shown on County Exhibit 2 to adjust for changes made necessary by comments or requirements that arise during plan review or construction, provided those minor changes do not exceed the variance granted herein. The reasonableness of any such change shall be determined by the Office of Planning and Zoning and/or the Department of Inspections and Permits.


Douglas Clark Hellmann
Administrative Hearing Officer

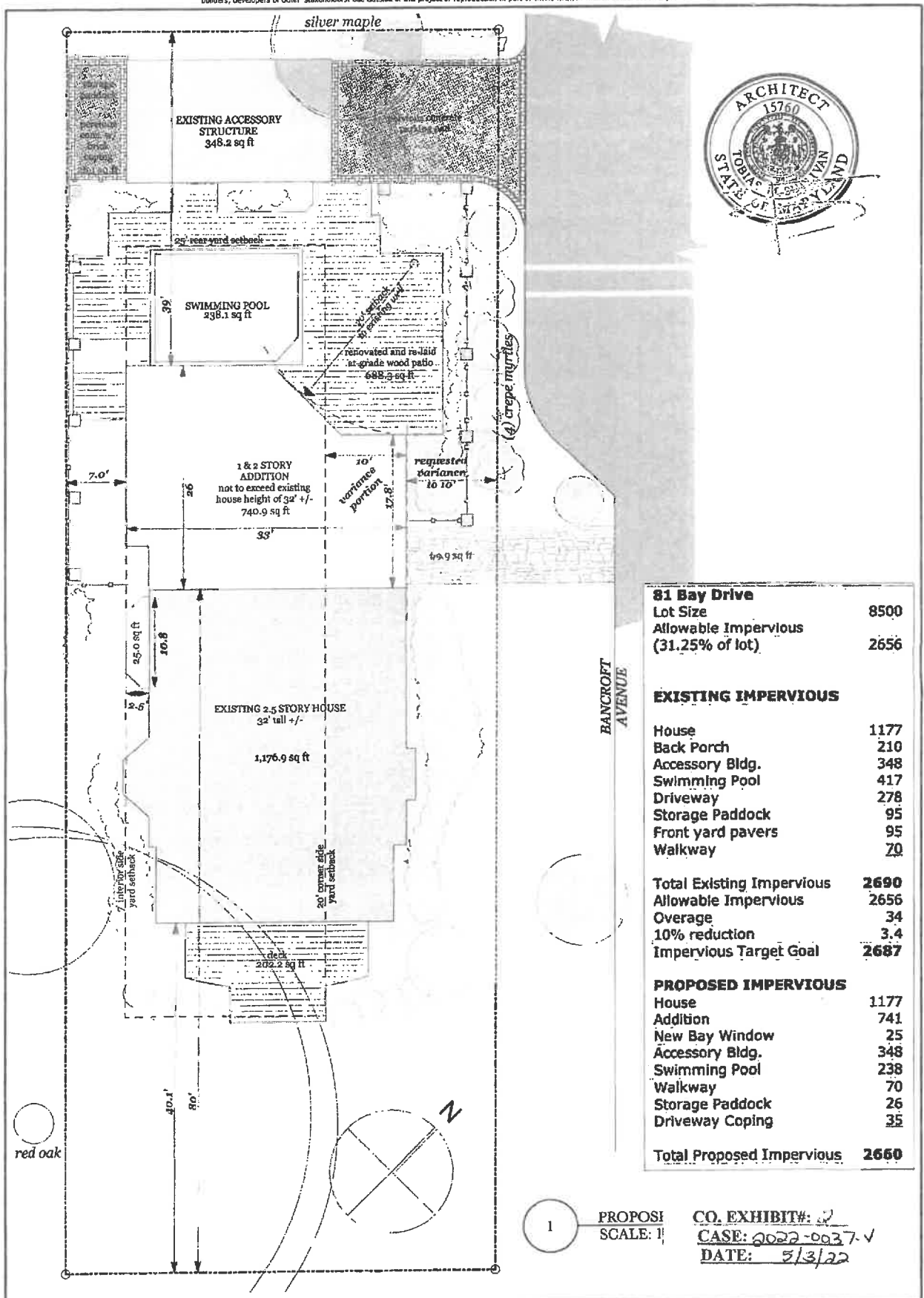
NOTICE TO APPLICANT

This Order does not constitute a building permit. In order for the applicant to perform the work permitted in this decision, the applicant must apply for and obtain the necessary building permits, along with any other approvals required to perform the work described herein.

Any person, firm, corporation, or governmental agency having an interest in this Decision and aggrieved thereby may file a Notice of Appeal with the County Board of Appeals within thirty (30) days from the date of this Decision. **If the variance or variances granted in this case relate to work in the critical area, a permit for the activity that was the subject of this variance application will not be issued until the appeal period has elapsed.**

Further, § 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 **within 18 months** of the granting of the variance or special exception (1) obtains a building permit or (2) files an application for subdivision. Thereafter, the variance or special exception shall not expire so long as (1) construction proceeds in accordance with the permit or (2) a record plat is recorded among the land records pursuant to the application for subdivision, the applicant obtains a building permit within one year after recordation of the plat, and construction proceeds in accordance with the permit.

If this case is not appealed, exhibits must be claimed within 60 days of the date of this Order, or they may be discarded.



81 Bay Drive	
Lot Size	8500
Allowable Impervious (31.25% of lot)	2656
EXISTING IMPERVIOUS	
House	1177
Back Porch	210
Accessory Bldg.	348
Swimming Pool	417
Driveway	278
Storage Paddock	95
Front yard pavers	95
Walkway	70
Total Existing Impervious	2690
Allowable Impervious	2656
Overage	34
10% reduction	3.4
Impervious Target Goal	2687
PROPOSED IMPERVIOUS	
House	1177
Addition	741
New Bay Window	25
Accessory Bldg.	348
Swimming Pool	238
Walkway	70
Storage Paddock	26
Driveway Coping	35
Total Proposed Impervious	2660

1 PROPOSED SCALE: 1/8" = 1'-0" CO. EXHIBIT#: 2 CASE: 2022-0037-V DATE: 5/3/22

TOBIAS M SULLIVAN ARCHITECTS
 Box 5412
 Annapolis MD 21403
 410.280.1695
 tmsarch.com

The Jennifer Moore Residence
 81 Bay Drive Annapolis MD 21403
 TAX ID # 2047-0308-5600

Revised VARIANCE APPLICATION SET
 March 2022
V3

5/3/22, 7:10 AM

81 Bay Drive SDAT Screenshot.jpeg

District - 02 Subdivision - 047 Account Number - 03085600

Account Number

Owner Name

MOORE JENNIFER W

Owner Information

Use:
Residential
Residential

RESIDENTIAL
YES
2022/00189

Home Address

81 BAY DR
ANNAPOLIS MD 21403-4438

Location & Structure Information

Premises Address

81 BAY DR
ANNAPOLIS 21403-0000
WaterView

Legal Description

PT LT 4 SC 11
81 BAY DR
BAY RIDGE

Map	Grid	Year	Merge/Tract	Block	Sheet	Block	Lot	Assessed	Year	Block	Sheet
0057	0010	0029	2090050.02	047	11		4	2021			0003/004

Town: None

Year structure built
1927

Above-Grade Living Area
2,726 SF

Finished Basement Area

Property Land Area
8,590 SF

Stories
2

Basement
YES

Type
STANDARD UNIT

Exterior
SIDING/

Quality
5

Interior
3 full/1 half

Garage
1 Detached

Value Information

Land:

962,800

Value
As of
01/01/2021

336,500

471,100

Improvements:

1,321,300

1,666,200

1,436,267

1,551,233

WaterView

0

0

Transfer Information

Seller: COSPER GEORGE W
Type: ARMS LENGTH IMPROVED

Date: 07/11/2012
Deed: J24866/00189

Price: \$1,625,000
Deed:

Seller: RUSTGI VINOD K
Type: ARMS LENGTH IMPROVED

Date: 12/01/2011
Deed: J24058/00413

Price: \$1,420,405
Deed:

Seller: BARAGAR EMORY W

Date: 07/10/2005

Price \$1,400,000

PRO. EXHIBIT# 1
CASE: 2022-0037-V
DATE: 5/3/22

PRO. EXHIBIT# 2
CASE: 2022-0037-V
DATE: 5/3/22

IN THE OFFICE OF ADMINISTRATIVE HEARINGS

CASE NUMBER V-98-94

RE: SCARLETT BREEDING AND JOHN ALT

SECOND ASSESSMENT DISTRICT

DATE HEARD: MAY 5, 1994

ORDERED BY: ROBERT C. WILCOX, ADMINISTRATIVE HEARING OFFICER

DATE FILED: MAY 16, 1994

PLEADINGS

The applicants, Scarlett Breeding and John Alt, are petitioning for a variance (V-98-94) to permit an addition with less setbacks than required on property located along the northwest side of Bay Drive, southwest of Farragut Avenue, Annapolis.

PUBLIC NOTIFICATION

At the hearing the Administrative Hearing Officer reviewed the file and ascertained that the case had been advertised in accordance with the provisions of the Code. Scarlett Breeding testified that the property had been posted for more than fourteen (14) days prior to the hearing.

FINDINGS & CONCLUSIONS

The applicants own and occupy a residential dwelling known as 81 Bay Drive which is located in the Bay Ridge Subdivision, Annapolis. The property consists of 7,250 square feet, and it is zoned R-2 residential. This is an improved corner lot which is located within the Chesapeake Bay Critical Area.

The proposal calls for the construction of a one story porch addition measuring 6 X 32 feet to be built onto the rear of the existing dwelling. The addition will be located four (4) feet from the northeast side property line and nine (9) feet from the southwest side property line. The applicants also wish to construct a front porch addition measuring 9 X 20 feet. This structure will be located 28 feet from the front lot line and 15 feet from the northeast side lot line.

The Anne Arundel County Code, Article 28, Section 2-405 requires minimum side yard setbacks of 20 feet for corner lots. The proposed additions will require the following variances:

1. A variance of seven (7) feet to the required 20-foot combined side yard setbacks.
2. A variance of 16 feet to the required 20-foot northwest side property line setback abutting Bancroft Avenue for the rear porch.
3. A variance of two (2) feet to the required 30-foot front property line setback for the front porch.
4. A variance of five (5) feet to the required 20-foot side yard setback for the front porch.

Suzanne Schappert, a zoning analyst with the Office of Planning and Code Enforcement, testified that the property is part of an older subdivision which was developed in the 1920's. The applicants' house was built around 1927. The subject property is nonconforming with regard to lot area and width. The proposal in this case entails the removal of an existing stoop along the front side of the house and replacing it with a wooden deck approximately four (4) feet wider than what currently exists. Wooden decks are deemed to be pervious surfaces.

In addition, the applicants intend to remove a covered entranceway along the side of the house and add a wooden deck. The proposed renovations will result in a net decrease in impervious coverage on site.

The applicants also intend to replace an existing concrete drive with grasscrete, a pervious material. Scarlett Breeding is an

architect and the plans will include the installation of an additional 800 square feet of plantings.

The proposal was not without tepid opposition. Patrick Winterschladen of 6 Bancroft Avenue questioned whether the applicants' property lines were accurate. He suggested that the proposed improvements may actually be closer to the Bancroft right-of-way than what is represented on the site plan. This Hearing Officer had no evidence to suggest that the applicants' site plan was incorrect. The variances granted in this case will be measured from the property lines presented on the site plan. If the applicants' site plan is incorrect, the applicants may build no closer to the property lines than what was represented.

Beverly Jack, a community activist and nearby resident, expressed concern that the applicants may overdevelop the property. Evidently, the applicants plan to build other structural improvements in the future. Ms. Jack felt that this future development may result in impervious surfaces and structural coverages which will exceed current legal limits. This Hearing Officer cannot make a ruling on something which may or may not occur in the future. All that is before me are the improvements already referenced. Despite the generalized and abstract concerns raised by Mr. Winterschladen and Ms. Jack, all of the parties seem to agree that the proposed improvements will aesthetically enhance the property.

CRITICAL AREAS

The subject property is located within 1000' of tidal waters. It is, therefore, subject to the Chesapeake Bay Critical Areas Law,

Maryland Code, Natural Resources Article, Section 8-1808 et seq.

The applicants have submitted the required environmental impact reports which were reviewed by the Office of Planning and Zoning and found to be acceptable. Based on the recommendations of the Office of Planning and Zoning, I find that:

1. The proposed additions will not have an adverse impact on water quality resulting from pollutant discharge, and
2. All fish, wildlife and plant habitats have been identified, and the proposal will not threaten or diminish any of the habitats.

After reviewing all of the evidence in this case, I find and conclude that the requested variances comport with the spirit and intent of the zoning law. There was no evidence that the proposed additions will adversely affect any of the adjoining properties or alter the essential characteristics of the neighborhood. Indeed, the opposite appears to be true. The renovations in this case will reduce existing impervious coverages and will add very little to the property which does not already exist. The applicants house is over 60 years old and the proposed improvements are modest. Under the circumstances, I find the variances to be the minimum necessary to afford relief.

Accordingly, the applicants shall be GRANTED the following variances to construct the improvements set forth on the site plan submitted in these proceedings:

1. A variance of seven (7) feet to the required 20-foot combined side yard setback.

2. A variance of 16 feet to the required 20-foot northeast side property line setback (Bancroft Avenue).
3. A variance of two (2) feet to the required 30-foot front property line setback.
4. A variance of five (5) feet to the required 20-foot side property line setback for the front porch.

The foregoing variances shall be subject to the condition that stormwater management must be addresses as per Article 21, Title 3, Subtitle 2, Section 3-203 of the Anne Arundel County Code.

ORDER

PURSUANT to the application of Scarlett Breeding and John Alt, petitioning for a variance to permit an addition with less setbacks than required, and

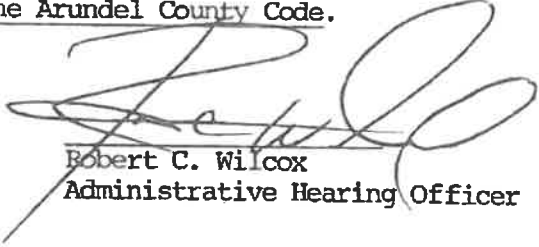
PURSUANT to the advertising, posting of the property, and public hearing and in accordance with the provisions of law, it is this 16 day of May 1994,

ORDERED, by the Administrative Hearing Officer of Anne Arundel County, that the applicants are hereby GRANTED the following variances to construct the improvements set forth on the site plan submitted in these proceedings:

1. A variance of seven (7) feet to the required 20-foot combined side yard setback.
2. A variance of 16 feet to the required 20-foot northeast side property line setback (Bancroft Avenue).
3. A variance of two (2) feet to the required 30-foot front property line setback.

4. A variance of five (5) feet to the required 20-foot side property line setback for the front porch.

The foregoing variances shall be subject to the condition that stormwater management must be addresses as per Article 21, Title 3, Subtitle 2, Section 3-203 of the Anne Arundel County Code.



Robert C. Wilcox
Administrative Hearing Officer

NOTICE

Within thirty (30) days from the date of this decision, any person, firm, corporation, or governmental agency having an interest therein and aggrieved thereby may file a Notice of Appeal with the County Board of Appeals (222-1119).

Further, Section 11-102.2 of the Anne Arundel County Code states:

A special exception or variance granted under the provisions of this Article shall become void unless a building permit conforming to the plans for which the special exception or variance was granted is obtained within one year of the grant and construction is completed within two years of the grant.

If this case is not appealed, exhibits must be claimed within 60 days of the date of this order, otherwise they will be discarded.

FINDINGS AND RECOMMENDATION
PLANNING AND CODE ENFORCEMENT
ANNE ARUNDEL COUNTY, MARYLAND

APPLICANT: Scarlett Breeding ASSESSMENT DISTRICT: Second
Jean Alt
John
CASE NUMBER: V98-94 COUNCILMANIC DISTRICT: Sixth
HEARING DATE: May 5, 1994 PREPARED BY: Suzanne Schappert
Planner

REQUEST

The applicant is requesting a variance to permit additions with less setbacks than required in the R2 District.

LOCATION AND DESCRIPTION OF SITE

The subject property comprises 7,250 square feet in the Bay Ridge subdivision in Annapolis, MD. Known as Lot 4, which is designated as Parcel 29 in Block 10 of Tax Map 57, the site is developed by a single family dwelling located in the Chesapeake Bay Critical Area.

The current R2 classification of the site was received as a result of the comprehensive zoning for the Second Assessment District, effective February 13, 1989.

APPLICANT'S PROPOSAL

The applicant proposes to construct a one story porch addition with steps measuring 6 ft. by 32 ft. on the rear of existing dwelling to be located 4 ft. from the northeast side property line and 9 ft from the southwest side property line.

The front porch addition measures approximately 9 ft by 20 ft. to be located 28 ft. from the front lot line and 15 ft. from the northeast side of the lot line.

REQUESTED VARIANCE

Section 2-405 of the Anne Arundel County Zoning Ordinance requires a side yard a minimum of 7 ft. with total combined side yards of 20 ft., except a corner lot shall have a side yard of 20 ft. parallel to the side street or street right of way.

As such, a variance of 7 ft. is requested for the combined side yards and a variance of 16 ft. is requested for the northeast side yard abutting Bancroft Ave. for the rear porch. A front yard of 30 ft. is required, as such, a variance of 2 ft. is requested for the porch in the front yard and a 5 ft. variance is requested to the side yard for the front porch.

RECOMMENDATION

With regard to the standards by which a variance may be granted, as set forth under Section 11-102.1, this office acknowledges that this site is part of an older cottage type community developed in the 1920's. The existing structure was built

approximately 1927. The subject property is below the zoning requirements for the R2 District with regard to lot area and width.

The subject property is also bounded by a 16 ft. right of way which will actually place the rear porch 20 ft. from Bancroft Ave., the front porch 31 ft. from Bancroft Ave. on the side and 44 ft. from Bay Drive in the front yard.

The proposed renovations will cause a net decrease in impervious area. Concrete drive will be replaced with grasscrete, concrete patio will be replaced with wood decking and masonry front steps and landing will be replaced with wood decking. The proposal will also add an additional 800 sq. ft. of plantings.

The requested variances will not alter the character of the neighborhood nor be detrimental to the public health, safety and welfare.

Due to the unusual features of the site, strict compliance of the zoning ordinance restricts development of the property. The net decrease of impervious surface and the addition of plants is in keeping with the general spirit and intent of the Critical Area Program. Conditioned that the tree to be removed be replaced on a one to one basis and the proposed plantings be native, this office finds the granting of this variance will not adversely affect water quality or impact fish, wildlife or plant habitat. Therefore, we recommend approval of this request.

SS/hs

CASE # 1984-2
FEE PAID 21116/150.00
DATE 3/16/94

ZONE R8 ALEX 26E4
200 MAP 228 1000 MAP _____



2 signs

VARIANCE APPLICATION

Applicant: Scarlett Breeding - John Alt
(All persons having 10% or more interest in property)

Property Address: 81 BAY DR. ANNAPOLIS, MD 21403

Property Location: 50 feet of frontage on the (N, S, E, W) side of BAY DRIVE street, road, lane, etc.; 200 feet (N, S, E, W) of FARRAGUT AVE street, road, lane, etc. (nearest intersecting street).
NORTHWEST
SOUTHWEST

Tax Account Number 2047-0308-5600 Tax District 2 Council District 6

Waterfront Lot Corner Lot Deed Title Reference 5936-749

Zoning of Property R2 Lot # 4 Tax Map 57 Block 10 Parcel 29

Area (sq. ft. or acres) 7,250 Subdivision Name BAY RIDGE

VARIANCE TO PERMIT AN ADDITION WITH LESS SETBACKS THAN REQUIRED

Description of Proposed Variance Requested (Explain in sufficient detail including distances from property lines, heights of structures, size of structures, use, etc.) ADD A 3 STORY PORCH ON REAR OF HOUSE IN LINE WITH EXISTING HOUSE - 26 FEET FROM ROAD AND 10' FROM PROPERTY LINE REPLACE FRONT PORCH WITH NEW PORCH 11'-9" TO SIDE

AND 27'9" TO ROAD

The applicant hereby certifies that he or she has a financial, contractual, or proprietary interest equal to or in excess of 10 percent of the property; that he or she is authorized to make this application; that the information shown on this application is correct; and that he or she will comply with all applicable regulations of Anne Arundel County, Maryland.

Scarlett Breeding
Applicant's Signature

SCARLETT BREEDING
Print Name

13 DECATUR AVE.
Street Number, Street, PO Box

ANNAPOLIS, MD
City, State, Zip

410-263-5695
Home Phone Work Phone

Scarlett Breeding
Owner's Signature

SCARLETT BREEDING
Print Name

81 BAY DRIVE
Street Number, Street, PO Box

ANNAPOLIS, MD 21403
City, State, Zip

268-7213
Home Phone Work Phone

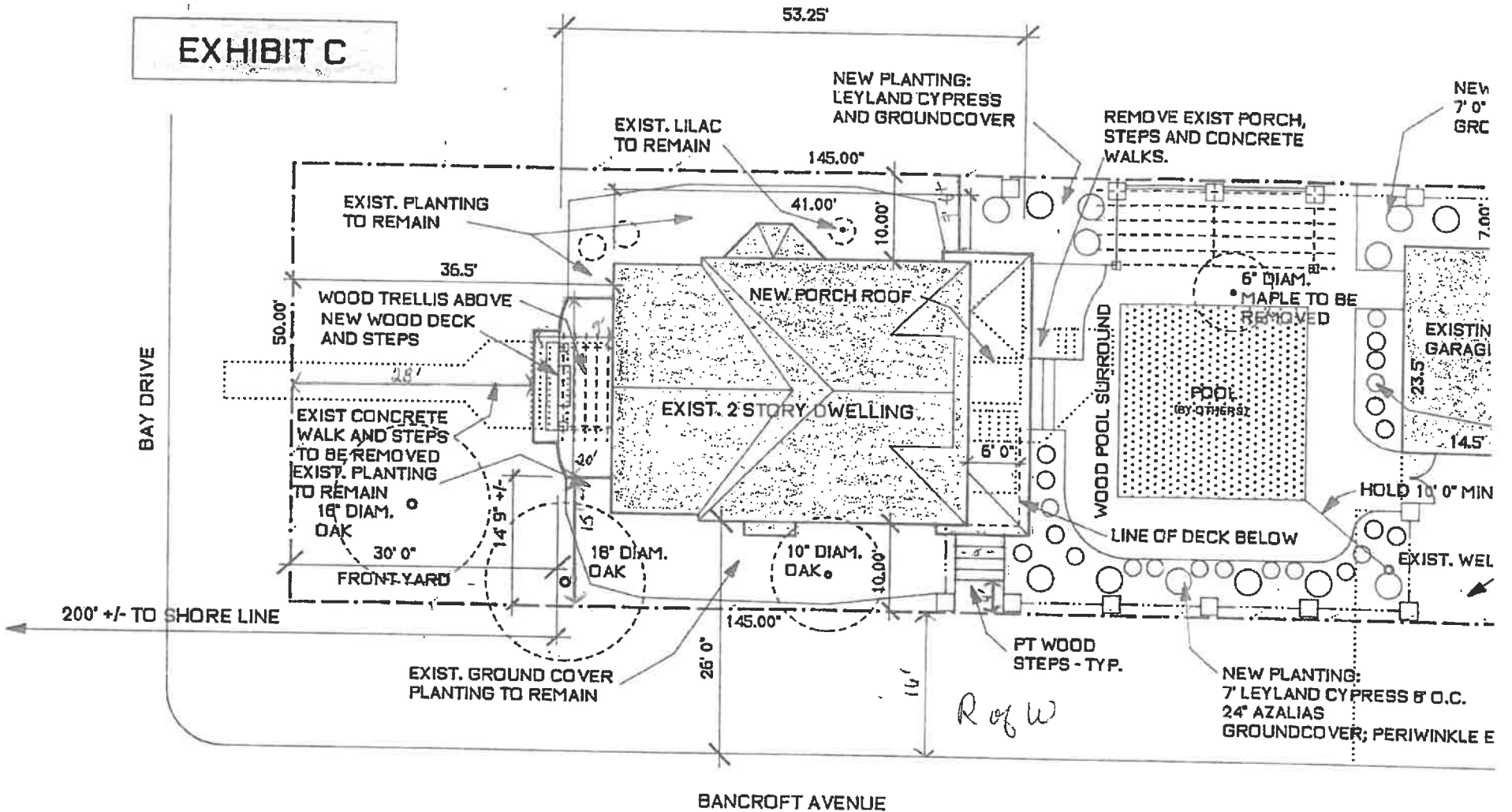
For Office Use Only

Application accepted by Anne Arundel County, Office of Planning and Zoning:

Kevin R. Hadley
Signature

3-9-94
Date

EXHIBIT C



SITE PLAN

READ IN CONJUNCTION WITH SHEET A-1
 1/16" = 1' 0"

TAX MAP 57, PARCEL 29, PART OF LOT 4, SEC. 11, BAY RIDGE
 3/44

IMPERVIOUS AREA CALCULATION

TOTAL SITE AREA = 7250 SF
 EXISTING IMPERVIOUS = 2402.75 (33.14%)

PROPOSED IMPERVIOUS
 GARAGE = 340.75
 GRASSCRETE = 60
 MASONRY PIERS = 46.1
 HOUSE

BK 24866 PG 0189

PRO. EXHIBIT# 3

CASE: 2022-0037-J

DATE: 5/3/22

07/11/12 01:48 PM C 0002 R 0002
Val #: 0002-057536 \$11,375.00
Deed - Recordation Tax
Instrument Type: Deed

Church Circle Title and Escrow, LLC
File No. 12-0485RR
Tax ID # 2047-0308-5600

This Deed, made this 29th day of June, 2012, by and between George W. Cosper and Laura A. Cosper, GRANTORS, and Jennifer W. Moore, GRANTEE.

Witnesseth -

That in consideration of the sum of ONE MILLION SIX HUNDRED TWENTY FIVE THOUSAND DOLLARS 00/100 (\$1,625,000.00), which includes the amount of any outstanding Mortgage or Deed of Trust, if any, the receipt of which is hereby acknowledged, the said Grantors do hereby grant and convey to the said Grantee, as sole owner, in fee simple, all that lot of ground situated in the County of Anne Arundel, State of Maryland and described as follows, that is to say:

LR - Deed (with Taxes) 20.00
Recording Fee 20.00
Grantor/Grantee Name: cosper
LR - Deed with Taxes 40.00
LR - Additional Recording 0.00
LR - Deed State Transfer Tax 4,062.50
LR - Deed County Transfer Tax 16,250.00

BEGINNING for the same at the corner formed by the intersection of the Northerly side of Bay Drive with the Westerly side of Bancroft Avenue, and running thence Westerly, and binding on said Bay Drive 50 feet; thence in a Northerly direction and parallel with Bancroft Avenue 145 feet; thence in an Easterly direction, and parallel with Bay Drive 50 feet to intersect the Westerly side of Bancroft Avenue, thence binding thereon, in a Southerly direction 145 feet to the place of beginning; being Part of Lot 209 as shown on the plat entitled "PART OF BAY RIDGE", recorded among the Plat Records of Anne Arundel County in Plat Book 3, folio 44 (formerly in Plat Book 1, Rod J, folio 13). The improvements thereon being known as 81 Bay Drive, Annapolis, Maryland 21403-4438.

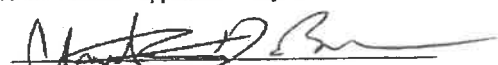
BEING the fee simple property which, by Deed dated November 10, 2011, and recorded in the Land Records of Anne Arundel County, Maryland, in Liber 24058, Folio 413, was granted and conveyed by Vinod K. Rustgi and Eileen B. Rustgi unto George W. Cosper and Laura A. Cosper.


Together with the buildings and improvements thereon erected, made or being; and all and every, the rights, alleys, ways, waters, privileges, appurtenances and advantages thereto belonging, or in anywise appertaining.

To Have and To Hold the said tract of ground and premises above described and mentioned, and hereby intended to be conveyed, together with the rights, privileges, appurtenances and advantages thereto belonging or appertaining unto and to the proper use and benefit of the said Jennifer W. Moore, as sole owner, in fee simple.

And the Grantors hereby covenant that they have not done or suffered to be done any act, matter or thing whatsoever, to encumber the property hereby conveyed; that they will warrant Specially the property hereby granted; and that they will execute such further assurances of the same as may be requisite.

THIS IS TO CERTIFY that the within Deed was prepared by, or under the supervision of the undersigned, an Attorney duly admitted to practice before the Court of Appeals of Maryland.


Christopher D. Buick, Esquire

ACCT. 2047-0308-5600
ALL LIENS ARE PAID AS
OF 7-11-12 A.A. COUNTY.
BY: 

SEMI-ANNUAL PAYMENTS

ANNE ARUNDEL COUNTY CIRCUIT COURT (Land Records) RPD 24866, p. 0189, MSA_CE59_24625, Date available 07/18/2012, P.0001 05/04/2022.

Leo
Moore
2012

2012 JUL 11 P 2:11
RECEIVED FOR RECORDS
CIRCUIT COURT, A.A. COUNTY, MD

In Witness Whereof, Grantors have caused this Deed to be properly executed and sealed the day and year first above written.

[Handwritten signature]

[Handwritten signature] (SEAL)
George W. Cosper

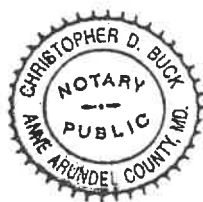
[Handwritten signature]

[Handwritten signature] (SEAL)
Laura A. Cosper

STATE OF MARYLAND }
COUNTY OF ANNE ARUNDEL } ss

I hereby certify that on this 29th day of June, 2012, before me, the subscriber, a Notary Public of the State and County aforesaid, personally appeared George W. Cosper and Laura A. Cosper, the Grantors herein, known to me (or satisfactorily proven) to be the persons whose names are subscribed to the within instrument, and acknowledged the same for the purposes therein contained, and further acknowledged the foregoing Deed to be their act, and in my presence signed and sealed the same, giving oath under penalties of perjury that the consideration recited herein is correct.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.



[Handwritten signature]
Notary Public

My Commission Expires: _____

CHRISTOPHER D. BUCK
NOTARY PUBLIC STATE OF MARYLAND
My Commission Expires August 9, 2013

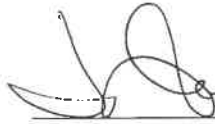
AFTER RECORDING, PLEASE RETURN TO:
Jennifer W. Moore

81 Bay Drive
Annapolis, MD 21403

**AFFIDAVIT OF GRANTEE
PRIMARY RESIDENCE**

THE UNDERSIGNED STATES UNDER OATH AS FOLLOWS:

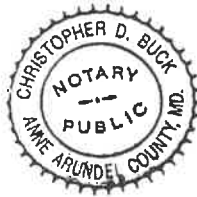
1. The undersigned is the Grantee of residentially improved real property located at 81 Bay Drive, Annapolis, MD 21403 in Anne Arundel County, Maryland.
2. The undersigned state that the above referenced property will be her principal residence which she will occupy.


 _____ {SEAL}
Jennifer W. Moore

_____ {SEAL}

STATE OF MARYLAND
COUNTY OF ANNE ARUNDEL

Subscribed and Sworn to before me, a Notary Public in and for the State of Maryland, County of Anne Arundel, this 29th day of June, 2012.





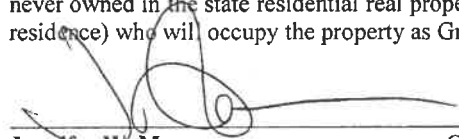
 Notary Public
 My Commission Expires: _____

CHRISTOPHER D. BUCK
NOTARY PUBLIC STATE OF MARYLAND
My Commission Expires August 9, 2013

**AFFIDAVIT OF GRANTEE AS
FIRST-TIME MARYLAND HOME BUYER**

The undersigned states under oath and penalties of perjury that the following is true to the best of the knowledge, information, and belief of each individual:

1. The undersigned is the Grantee of residentially improved real property located at 81 Bay Drive, Annapolis, MD 21403, and being more particularly described as Bay Ridge, Tax ID Number 2047-0308-5600, Anne Arundel County, Maryland.
2. The undersigned is a first-time Maryland home buyer (defined as an individual who has never owned in the state residential real property that has been the individual's principal place of residence) who will occupy the property as Grantee's principal residence.




Jennifer W. Moore Grantee

The undersigned states under oath and penalties of perjury that the following is true to the best of the knowledge, information, and belief of each individual:

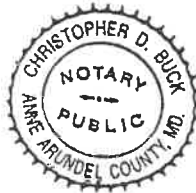
1. The undersigned is the Grantee of residentially improved real property located at 81 Bay Drive, Annapolis, MD 21403, and being more particularly described as Bay Ridge, Tax ID Number 2047-0308-5600, Anne Arundel County, Maryland.
2. The undersigned is a co-maker or guarantor of the purchase money mortgage or purchase money deed of trust as defined in §12-108(i) of the Tax Property Article on the property who will not occupy the property as Grantee's principal residence.

 Guarantor/co-maker

The above oath or affirmation was given under the penalties of perjury before me, a Notary Public in and for the State of Maryland, County of Anne Arundel, this 29th day of June, 2012.



 Notary Public
 My Commission Expires: _____



CHRISTOPHER D. BUCK
 NOTARY PUBLIC STATE OF MARYLAND
 My Commission Expires August 9, 2013

2012
MARYLAND
FORM

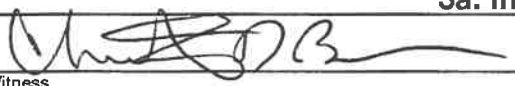

Certification of Exemption from Withholding Upon Disposition of Maryland Real Estate Affidavit of Residence or Principal Residence

Based on the certification below, Transferor claims exemption from the tax withholding requirements of §10-912 of the Tax-General Article, Annotated Code of Maryland. Section 10-912 provides that certain tax payments must be withheld and paid when a deed or other instrument that effects a change in ownership of real property is presented for recordation. The requirements of §10-912 do not apply when a transferor provides a certification of Maryland residence or certification that the transferred property is the transferor's principal residence.

1. Transferor Information	
Name of Transferor	George W. Cospers

2. Reasons for Exemption	
Resident Status	<input checked="" type="checkbox"/> I, Transferor, am a resident of the State of Maryland. <input type="checkbox"/> Transferor is a resident entity as defined in Code of Maryland Regulations (COMAR) 03.04.12.02B(11), I am an agent of Transferor, and I have authority to sign this document on Transferor's behalf.
Principal Residence	<input type="checkbox"/> Although I am no longer a resident of the State of Maryland, the Property is my principal residence as defined in IRC 121 and is recorded as such with the State Department of Assessments and Taxation.

Under penalty of perjury, I certify that I have examined this declaration and that, to the best of my knowledge, it is true, correct, and complete.

3a. Individual Transferors	
 _____ Witness	_____ George W. Cospers Name  _____ Signature

3b. Entity Transferors	
_____ Witness/Attest	_____ Name of Entity _____ By _____ Name _____ Title

2012

MARYLAND
FORM

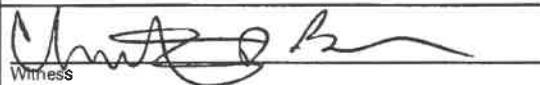
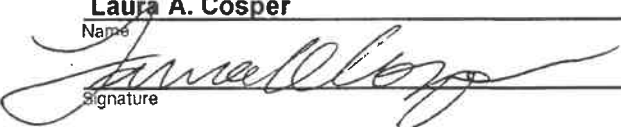
Certification of Exemption from Withholding Upon Disposition of Maryland Real Estate Affidavit of Residence or Principal Residence

Based on the certification below, Transferor claims exemption from the tax withholding requirements of §10-912 of the Tax-General Article, Annotated Code of Maryland. Section 10-912 provides that certain tax payments must be withheld and paid when a deed or other instrument that effects a change in ownership of real property is presented for recordation. The requirements of §10-912 do not apply when a transferor provides a certification of Maryland residence or certification that the transferred property is the transferor's principal residence.

1. Transferor Information	
Name of Transferor	
Laura A. Cospers	

2. Reasons for Exemption	
Resident Status	<input checked="" type="checkbox"/> I, Transferor, am a resident of the State of Maryland. <input type="checkbox"/> Transferor is a resident entity as defined in Code of Maryland Regulations (COMAR) 03.04.12.02B(11), I am an agent of Transferor, and I have authority to sign this document on Transferor's behalf.
Principal Residence	<input type="checkbox"/> Although I am no longer a resident of the State of Maryland, the Property is my principal residence as defined in IRC 121 and is recorded as such with the State Department of Assessments and Taxation.

Under penalty of perjury, I certify that I have examined this declaration and that, to the best of my knowledge, it is true, correct, and complete.

3a. Individual Transferors	
 Witness	Name <u>Laura A. Cospers</u>  Signature

3b. Entity Transferors	
Witness/Attest	Name of Entity
	By
	Name
	Title

State of Maryland Land Instrument Intake Sheet

Baltimore City County: Anne Arundel
Information provided is for the use of the Clerk's Office, State Department of Assessments and Taxation, and County Finance Office Only.

1 Type(s) of Instruments
2 Conveyance Type Check Box
3 Tax Exemptions (if applicable)

4 Consideration and Tax Calculations
Table with columns for Consideration Amount and Finance Office Use Only. Includes rows for Purchase Price, Mortgage, and Transfer Tax.

5 Fees
Table with columns for Amount of Fees, Doc. 1, and Doc. 2. Includes rows for Recording Charge, Surcharge, and State Recordation Tax.

6 Description of Property
SDAT requires submission of all applicable information. A maximum of 40 characters will be indexed in accordance with the priority cited in Real Property Article Section 3-104(g)(3)(i).

7 Transferred From
Doc. 1 - Grantor(s) Name(s)
Doc. 2 - Grantor(s) Name(s)

8 Transferred To
Doc. 1 - Grantee(s) Name(s)
Doc. 2 - Grantee(s) Name(s)

9 Other Names to Be Indexed
Doc. 1 - Additional Names to be Indexed (Optional)
Doc. 2 - Additional Names to be Indexed (Optional)

10 Contact/Mail Information
Instrument Submitted By or Contact Person
Name: CCTitle
Firm: Church Circle Title and Escrow, LLC

11 Assessment Information
IMPORTANT: BOTH THE ORIGINAL DEED AND A PHOTOCOPY MUST ACCOMPANY EACH TRANSFER
Will the property being conveyed be the grantee's principal residence?

Assessment Use Only - Do Not Write Below This Line
Table with columns for Terminal Verification, Agricultural Verification, Whole, Part, and Tran. Process Verification. Includes rows for Year, Land, Buildings, and Total.

ANNE ARUNDEL COUNTY CIRCUIT COURT, Land Records, RPD 24866, p. 0195, VSA_CES9_24625, Date available 07/18/2012, Printed 12/12/2023.

Space Reserved for County Validation

Space Reserved for Circuit Court Clerk Recording Validation

IN THE OFFICE OF ADMINISTRATIVE HEARINGS

CASE NUMBER: 2022-0037-V

JENNIFER W. MOORE

SECOND ASSESSMENT DISTRICT

DATE HEARD: MAY 3, 2022

ORDERED BY:

DOUGLAS CLARK HOLLMANN
ADMINISTRATIVE HEARING OFFICER

PLANNER: DONNIE DYOTT, JR.

DATE FILED: MAY 17, 2022

PLEADINGS

Jennifer W. Moore, the applicant, seeks a variance (2022-0037-V) to allow a dwelling addition with less setbacks than required on property with a street address of 81 Bay Drive, Annapolis, MD 21403.

PUBLIC NOTIFICATION

The hearing notice was posted on the County's website in accordance with the County Code. The file contains the certification of mailing to community associations and interested persons. Each person designated in the application as owning land that is located within 300 feet of the subject property was notified by mail, sent to the address furnished with the application. John Bilek and Tobias Sullivan testified that the property was posted for more than 14 days prior to the hearing. Therefore, I find and conclude that there has been compliance with the notice requirements.

FINDINGS

A hearing was held on May 3, 2022, in which witnesses were sworn and the following evidence was presented with regard to the proposed variance requested by the applicant.

The Property

The applicant owns the subject property which has 50 feet of frontage on the north side of Bay Drive, southwest of Bancroft Avenue, Annapolis. It is identified on part of Lot 4 of Parcel 29 in Block 10 on Tax Map 57 in the Bay Ridge subdivision. The property comprises 8,500 square feet and is zoned R2-

Residential District. This lot is designated in the Chesapeake Bay Critical Area as limited development area (LDA). The subject property is developed with a single-family dwelling and associated facilities.

The Proposed Work

The applicant seeks approval to construct a 2 story irregularly shaped dwelling addition measuring approximately 33' by 26' by 32' on the rear of the existing dwelling as shown on the site plan admitted into evidence at the hearing as County Exhibit 2. The proposed dwelling addition will be located as close as 10 feet from the corner side lot line (lot line abutting Bancroft Avenue). The existing pool and at grade deck in the rear yard will be reduced and reconfigured to accommodate the proposed addition.

The Anne Arundel County Code

§ 18-4-601 stipulates that principal structures in an R2 district be set back a minimum of 20 feet from a corner side lot line.

The Variance Requested

The proposal will require a zoning variance of ten (10) feet to the 20-foot corner side lot line setback requirement of § 18-4-601 to allow the proposed dwelling addition to be constructed as close as 10 feet from the corner side lot line (lot line abutting Bancroft Avenue) as shown on the site plan admitted into evidence at the hearing as County Exhibit 2.

The Evidence Submitted At The Hearing

Findings and Recommendations of the Office of Planning and Zoning (OPZ)

Donnie Dyott, Jr., a zoning analyst with OPZ, presented the following:

- The applicant argues that the site contains unique features such as the fact that the lot is both undersized and narrow for the R2 district and the historic location of the existing dwelling within the corner side lot line setback. It is argued that these features make additions to the dwelling difficult without relief from the Code. It is also noted that the applicant was previously granted a variance under Case No. 2012-0252-V for a large rear dwelling addition that is virtually identical to the current proposal. The work on the addition was never completed due to financial circumstances and the applicant now desires to move forward. It is described that the applicant's family has grown to include a husband and two children, and the current size of the dwelling is inadequate.
- The total proposed lot coverage after development of 2,660 square feet appears to comply with the required 10% reduction of the lot coverage overage. Exact lot coverage calculations will be determined at the time of permit.
- The Health Department commented that it has no objection to the request provided a plan is submitted to and approved by the Health Department.
- With regard to the previous variance approval granted under Case No. 2012-0252-V, the proposed addition is slightly different than the footprint

previously approved. While the dwelling addition is generally the same and the addition comes no closer to the corner side lot line, it has been expanded by 3 feet to the southwest to be 7 feet from the side lot line.

Given that OPZ previously supported the variance request and that this slight expansion does not change the relief needed or the character of the proposal, OPZ will support this request as no circumstances have changed.

- The narrow width and undersized nature of the lot in combination with the location of the dwelling within the setback does make expansion of the dwelling difficult without relief from the Code. The addition is in line with the existing wall line of the dwelling and comes no closer to the corner side lot line than the existing house. As such, it is considered the minimum necessary to afford relief and will not alter the essential character of the neighborhood. There is no evidence that the variance would have a negative impact on adjacent properties nor would it be detrimental to the public welfare.
- Based upon the standards set forth in § 18-16-305 under which a variance may be granted, OPZ recommends approval of a zoning variance.

Other Testimony and Exhibits

The applicant was assisted at the hearing by Tobias Sullivan, her architect. Evidence was presented that the applicant is returning to seek the same relief granted her in Case No. 2012-0252-V, with minor changes. The desire to extend

into the rear of the property by continuing in the same line of the northwest side of the existing dwelling requires a zoning variance to maintain that distance.

Neighbors (John and Virginia Vogel, Dorothy Martin, Patrick Winterschladen, Edward Ervin and Jamie Williams) were opposed, although the majority of their concerns were about parking, the applicant's intention to rent the property at various times during the year, and the actual size of the applicant's property.

There was no other testimony taken or exhibits received in the matter. The Hearing Officer did not visit the property.

DECISION

Requirements for Zoning Variances

§ 18-16-305 sets forth the requirements for granting a zoning variance. Subsection (a) reads, in part, as follows: a variance may be granted if the Administrative Hearing Officer finds that practical difficulties or unnecessary hardships prevent conformance with the strict letter of this article, provided the spirit of law is observed, public safety secured, and substantial justice done. A variance may be granted only if the Administrative Hearing Officer makes the following affirmative findings:

- (1) Because of certain unique physical conditions, such as irregularity, narrowness or shallowness of lot size and shape or exceptional topographical conditions peculiar to and inherent in the particular lot, there

is no reasonable possibility of developing the lot in strict conformance with this article; or

- (2) Because of exceptional circumstances other than financial considerations, the grant of a variance is necessary to avoid practical difficulties or unnecessary hardship and to enable the applicant to develop the lot.

The variance process for subsection (1) above is a two-step process. The first step requires a finding that special conditions or circumstances exist that are peculiar to the land or structure at issue which requires a finding that the property whereupon the structures are to be placed or use conducted is unique and unusual in a manner different from the nature of the surrounding properties. The second part of the test is whether the uniqueness and peculiarity of the property causes the zoning provisions to have a disproportionate impact upon the subject property causing the owner a practical difficulty or unnecessary hardship. "Uniqueness" requires that the subject property have an inherent characteristic not shared by other properties in the area. *Trinity Assembly of God of Baltimore City, Inc. v. People's Counsel for Baltimore County*, 178 Md. App. 232, 941 A.2d 560 (2008); *Umerley v. People's Counsel for Baltimore County*, 108 Md. App. 497, 672 A.2d 173 (1996); *North v. St. Mary's County*, 99 Md. App. 502, 638 A.2d 1175 (1994), cert. denied, 336 Md. 224, 647 A.2d 444 (1994).

The variance process for subsection (2) - practical difficulties or unnecessary hardship - is simpler. A determination must be made that, because of exceptional circumstances other than financial considerations, the grant of a

variance is necessary to avoid practical difficulties or unnecessary hardship, and to enable the applicant to develop the lot.

Furthermore, whether a finding is made pursuant to subsection (1) or (2) above, a variance may not be granted unless the hearing officer also finds that: (1) the variance is the minimum variance necessary to afford relief; (2) the granting of the variance will not alter the essential character of the neighborhood or district in which the lot is located, (3) substantially impair the appropriate use or development of adjacent property, (4) reduce forest cover in the limited development and resource conservation areas of the critical area, (5) be contrary to acceptable clearing and replanting practices required for development in the critical area, or (6) be detrimental to the public welfare.

Findings - Zoning Variances

I find, based upon the evidence, that because of the unique physical conditions peculiar to and inherent in the subject property, i.e., the narrow width of the property (50 feet as compared to the required 80 feet for a lot in the R2 district),¹ and, recognizing that the purpose of a corner side lot line is to provide sight distance for automobiles at the intersection of Bancroft Avenue and Bay Avenue and the expansion along Bancroft will be to the rear of the property and not the front where the intersection is located, I will grant the requested variance.

¹ The discussion at the hearing as to whether the applicant's property contained 8,500 square feet of land or 7,250 square feet does not change the decision reached herein as the required minimum area for a lot in the R2 district is 20,000 square feet. By either count, the lot misses the mark.

I further find that the requested variance is the minimum variance necessary to afford relief, that the granting of the variance will not alter the essential character of the neighborhood or district in which the lot is located, will not substantially impair the appropriate use or development of adjacent property, will not reduce forest cover in the limited development area of the critical area, will not be contrary to acceptable clearing and replanting practices required for development in the critical area, or be detrimental to the public welfare.

ORDER

PURSUANT to the application of Jennifer W. Moore, petitioning for a variance to allow a dwelling addition with less setbacks than required on property with a street address of 81 Bay Drive, Annapolis;

PURSUANT to the notice, posting of the property, and public hearing and in accordance with the provisions of law, it is this **17th day of May, 2022**,

ORDERED, by the Administrative Hearing Officer of Anne Arundel County, that the applicant is **granted** a zoning variance of ten (10) feet to the 20-foot corner side lot line setback requirement of § 18-4-601 to allow the proposed dwelling addition to be constructed as close as 10 feet from the corner side lot line (lot line abutting Bancroft Avenue) as shown on the site plan admitted into evidence at the hearing as County Exhibit 2.

The foregoing variance is subject to the applicant complying with any instructions and necessary approvals from the Office of Planning and Zoning and/or the Department of Inspections and Permits, the Department of Inspections and Permits, the Department of Health, and/or the Critical Area Commission.

This Order does not constitute a building permit. In order for the applicant to construct the structures permitted in this decision, the applicant must apply for and obtain the necessary building permits, along with any other approvals required to perform the work described herein.

Furthermore, County Exhibit 2, referenced in this decision, is incorporated herein as if fully set forth and made a part of this Order. The proposed improvements shown on County Exhibit 2 shall be constructed on the subject property in the locations shown therein. The decision and order shall not prohibit the applicant from making minor changes to the facilities as presently shown on County Exhibit 2 to adjust for changes made necessary by comments or requirements that arise during plan review or construction, provided those minor changes do not exceed the variance granted herein. The reasonableness of any such change shall be determined by the Office of Planning and Zoning and/or the Department of Inspections and Permits.



Douglas Clark Hollmann
Administrative Hearing Officer

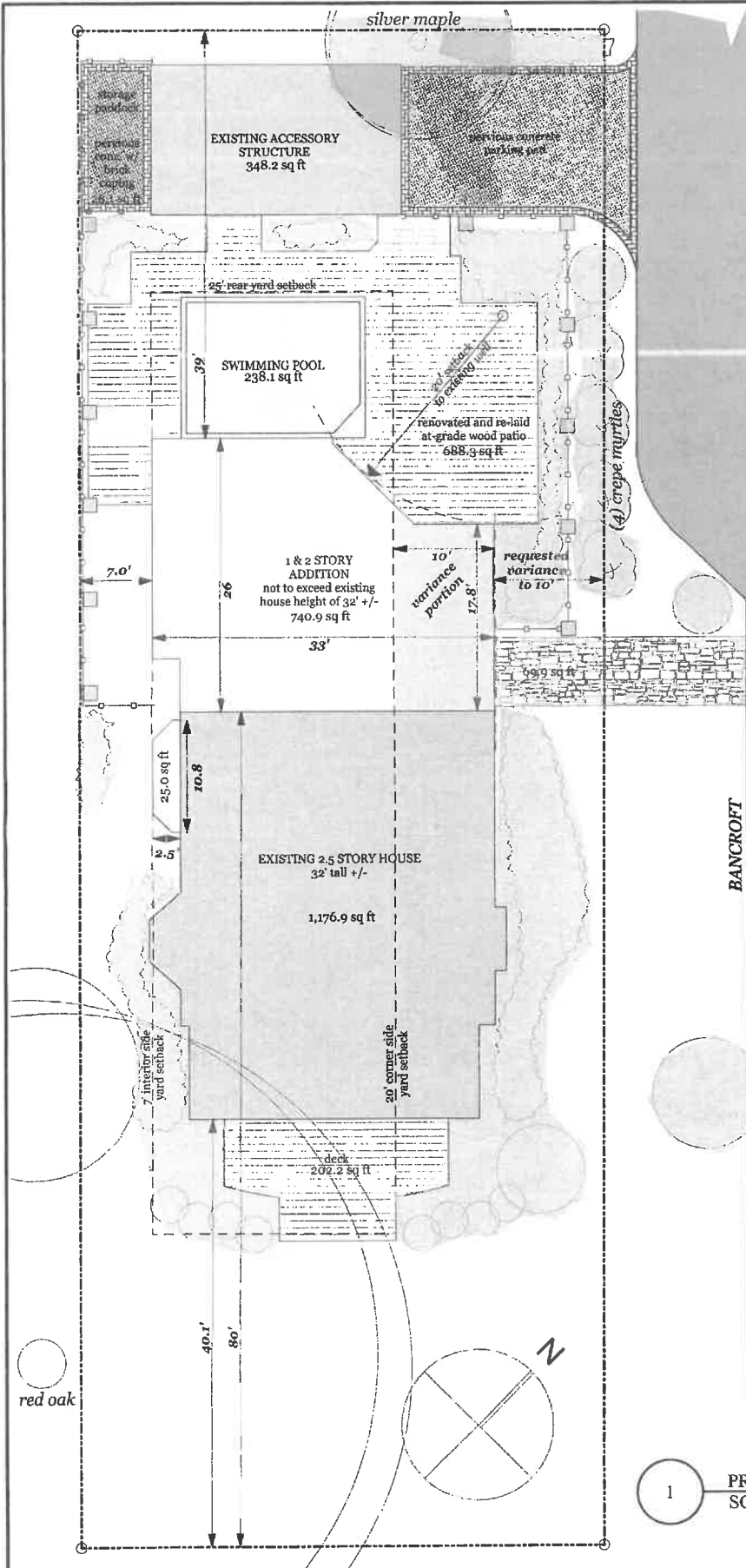
NOTICE TO APPLICANT

This Order does not constitute a building permit. In order for the applicant to perform the work permitted in this decision, the applicant must apply for and obtain the necessary building permits, along with any other approvals required to perform the work described herein.

Any person, firm, corporation, or governmental agency having an interest in this Decision and aggrieved thereby may file a Notice of Appeal with the County Board of Appeals within thirty (30) days from the date of this Decision. **If the variance or variances granted in this case relate to work in the critical area, a permit for the activity that was the subject of this variance application will not be issued until the appeal period has elapsed.**

Further, § 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 **within 18 months** of the granting of the variance or special exception (1) obtains a building permit or (2) files an application for subdivision. Thereafter, the variance or special exception shall not expire so long as (1) construction proceeds in accordance with the permit or (2) a record plat is recorded among the land records pursuant to the application for subdivision, the applicant obtains a building permit within one year after recordation of the plat, and construction proceeds in accordance with the permit.

If this case is not appealed, exhibits must be claimed within 60 days of the date of this Order, or they may be discarded.



81 Bay Drive	
Lot Size	8500
Allowable Impervious (31.25% of lot)	2656
EXISTING IMPERVIOUS	
House	1177
Back Porch	210
Accessory Bldg.	348
Swimming Pool	417
Driveway	278
Storage Paddock	95
Front yard pavers	95
Walkway	70
Total Existing Impervious	2690
Allowable Impervious	2656
Overage	34
10% reduction	3.4
Impervious Target Goal	2687
PROPOSED IMPERVIOUS	
House	1177
Addition	741
New Bay Window	25
Accessory Bldg.	348
Swimming Pool	238
Walkway	70
Storage Paddock	26
Driveway Coping	35
Total Proposed Impervious	2660

1 PROPOSED SCALE: 1/8" = 1'-0"

CO. EXHIBIT#: 2
CASE: 2022-0037-V
DATE: 5/3/22

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Revised VARIANCE APPLICATION SET
March 2022
V3