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December 21, 2023

Ms. Sterling Seay, Planning Administrator
Zoning Division
Anne Arundel County
Office of Planning and Zoning
2664 Riva Road, Third Floor (MS 6301)
Annapolis MD 21401

Re: Letter of Explanation in Support of Variance Application
724 Skywater Road, Gibson Island, Maryland
Parcel 141, Grid 12, Tax Map 33

Dear Ms. Seay:

This firm represents Peter and Marta Bosworth (collectively, the “Applicant”), the owners of the property known as 724 Skywater Road, Gibson Island, Maryland (the “Property”). The Applicant is seeking to construct a modest addition to their home. The addition will be constructed entirely over an area that currently is developed with an impervious driveway, resulting in zero additional impervious surfaces and no permanent disturbance to any regulated resource beyond what is already disturbed. In addition, the Applicant is proffering the removal of additional impervious surface by reducing a gravel parking area.

We are filing the enclosed application pursuant to § 18-16-305(b) and (c) of the Anne Arundel County Code (the “Code”) for the purpose of requesting critical area variances (for impacts to the expanded buffer and steep slopes), as well as a zoning variance associated with a rear yard setback. The proposed two-story dwelling addition on top of the existing asphalt driveway will have no impact on habitat or water quality. The lot coverage removal (e.g. the reduction in the size of the gravel parking area) will yield positive water quality effects.

THE PROPERTY

The Property is zoned R1 with a lot size of 54,936 square feet (1.26 acres). The current home footprint is approximately 2,754 square feet. The Property is waterfront on the Magothy River and is located within the Critical Area with a designation as LDA – Limited Development Area. The site is not located within the Buffer Modification Area. The Applicant proposes to locate the addition over the existing impervious driveway, and will be providing a reduction in lot coverage. The Applicant is also proposing to remove part of a gravel parking area located mostly within the expanded buffer.

THE PROPOSED ADDITION AND REQUIRED VARIANCE RELIEF

The Applicant is proposing to improve the Property with an addition with an approximate 521 square-foot footprint. A site plan and renderings of the proposed addition are included in **Exhibit A**. The site plan also contains details regarding the proposed variances.

The proposed addition will not increase lot coverage as the addition will be constructed entirely over the current existing asphalt driveway. The proposed addition is a two story 15' x 34.7' addition on the south side of the existing dwelling, approximately 300' from the Magothy River. The proposed height of the addition will be 18.9 feet, which is the same height as the rest of the structure. The existing asphalt driveway and parking area will not only fully accommodate the proposed addition, but also provide a staging area for the construction. The proposed improvements are no closer to the water than the existing improvements and will not negatively impact forest, habitat, or water quality. The Applicant's neighbors and community, the Gibson Island Corporation, support the variance. Indeed, the project has already received approval from Gibson Island's Architectural Review committee and the Gibson Island Corporate Board. Additionally, all adjacent neighbors, as well as others, have provided written letters of support.

The Property currently has a total of 6,370 square feet of lot coverage, or 11.6% percent. This is significantly below the allowable 8,240sf, or 15%. The post-development condition actually reduces the lot coverage to 6,250 sf, or 11% as a result of the voluntary reduction in lot coverage. These lot coverage percentages are significantly less than the surrounding neighborhood. Among the developed properties on Skywater Drive, mean lot coverage is 7,787square feet, and the median lot coverage is 7,160 square feet – both significantly more than the Applicant's property. When lot size is factored in, the mean lot coverage on Skywater Drive is 14.7%, with median coverage of 14% - again significantly more than the Applicant's property.

The Applicant is requesting the following variance relief:

1. A critical area variance request for 2,547 square feet of permanent expanded buffer "disturbance" pursuant to 18-13-104(a) of the Code, as shown on the attached site plan (the "disturbance" consists of constructing an addition over an existing asphalt driveway and removing part of an existing gravel parking pad).
2. A critical area variance for 1,099 square feet of disturbance within slopes of 15% or greater pursuant to 17-8-201 of the Code, as shown on the attached site plan.
3. A variance request of 4.3 feet to the 35-foot rear setback requirement pursuant to 18-4-401 of the Code, as shown on the attached site plan.

A variance to a local jurisdiction's critical area program may not be granted unless: (1) due to special features of a site, or special conditions or circumstances peculiar to the Property or structure, a literal enforcement of the critical area program would result in unwarranted hardship; (2) the local jurisdiction finds that the Applicant has satisfied each one of the variance provisions; and (3) without the variance, the Applicant would be deprived of a use of land or a structure permitted to others in accordance with the provisions of the critical area program. Nat. Res. § 8-1808(d)(5).

Pursuant to Maryland law, “‘unwarranted hardship’ means that, without a variance, the Applicant would be denied reasonable and significant use of the entire parcel or lot for which the variance is requested.” Nat. Res. § 8-1808(d)(1); COMAR 27.01.12.01. The Court of Appeals, in defining the term “unwarranted hardship,” recently explained that “in order to establish an unwarranted hardship, the Applicant has the burden of demonstrating that, without a variance, the Applicant would be denied a use of the property that is both significant and reasonable.” *Assateague Coastal Trust, Inc. v. Schwabach*, 448 Md. 112, 139 (2016). A “showing of ‘unwarranted hardship,’” emphasized the Court of Appeals, “is not whether, without the variance, the Applicant is denied ‘all reasonable and significant use’ of the property, but whether, without the variance, the Applicant is denied ‘a reasonable and significant use’ that cannot be accomplished somewhere else on the property.” *Id.* at 138–39 (emphasis in original).

For a property located in the critical area, variances to the requirements of the County’s critical area program may be granted if the AHO makes the findings listed in § 18-16-305(b) and (c). *See also* COMAR 27.01.12.04.

Compliance with the County’s Critical Area Variance Requirements

- (1) *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. Code § 18-16-305(b)(1).*

Almost the entire Property is within the expanded buffer and a significant portion of the Property is covered by steep slopes and their buffers. Without variance relief, the unique conditions of the Property make almost any improvement or modification to the Property nearly impossible. Denial of the requested variances to build the two-story addition over an existing paved driveway would constitute an unwarranted hardship and deny the Applicant the use of the entire property.¹

- (2) *A literal interpretation of COMAR, Title 27, Criteria for Local Critical Area Program Development or the County’s critical area program and related ordinances will deprive the applicant of rights commonly enjoyed by other properties in similar areas as permitted in accordance with the provisions of the critical area program within the critical area of the County. Code § 18-16-305(b)(2).*

A literal interpretation of the regulations governing the Critical Area Program will deprive the Applicant of rights commonly enjoyed by nearby property owners. As stated above, nearby lots have significantly higher mean and median lot coverage, both in absolute terms, as well as on a percentage basis. Mean and median lot coverage is higher for other properties, as is the mean and median percentage lot coverage. With the proposed addition, Applicant’s proposed lot coverage will be 6,260 sf, which is less than existing lot coverage and significantly under the permissible 15% lot coverage for the Property.

¹ In *Becker v. Anne Arundel County*, 174 Md. App. 114 at 132-33 (2007), Appellate Court of Maryland discussed the definition of unwarranted hardship found in the MD Natural Resources Article “The amendment changed the definition of unwarranted hardship to mean that, ‘without a variance, an applicant would be denied reasonable and significant use of the entire parcel or lot for which the variance is requested.’”

- (3) *The granting of a variance will not confer on an applicant any special privilege that would be denied by COMAR, Title 27, the County's critical area program to other lands or structures within the County critical area. Code § 18-16-305(b)(3).*

Granting the variances to construct the two-story dwelling addition over an existing asphalt driveway will not confer any special privilege that would be denied to others. As previously stated, surrounding properties are developed with large single-family dwellings within the Critical Area and in some cases were accomplished by critical area variance approvals.

- (4) *The variance request is not based on conditions or circumstances that are the result of actions by the applicant, including the commencement of development before an application for a variance was filed, and does not arise from any condition relating to land or building use on any neighboring property. Code § 18-16-305(b)(4).*

The variance requests are not based on conditions or circumstances that are the result of Applicant's action. Applicant has not started any development on the Property prior to submitting this application. Similarly, the circumstances do not arise from any condition relating to land or building use on any neighboring properties.

- (5) *The granting of the variances will not adversely affect water quality or adversely impact fish, wildlife, or plant habitat within the County's critical area and will be in harmony with the general spirit and intent of the County's critical area program. Code § 18-16-305(b)(5).*

The granting of the variances will not adversely affect water quality or adversely impact fish, wildlife, or plant habitat within the County's Critical Area. Furthermore, the construction of the proposed addition will be in harmony with the general spirit and intent of the Critical Area program. As stated above, Applicant intends to enhance and improve water quality by reducing on-site lot coverage. There will be no increase in lot coverage, conversely, Applicant is willing to reduce +/- 119 square feet of a parking area in the northeast portion of the Property adjacent to Skywater Road with pervious material, resulting in a net decrease in lot coverage. Although the proposed addition will impact steep slopes (in a technical sense at least), the steep slopes are already completely covered with asphalt. Importantly, the proposed addition is on the side of the home and will not result in further coverage and improvements between the existing dwelling and the water.

- (6) *The applicant for a variance to allow development in the 100-foot upland buffer has maximized the distance between the bog and each structure, taking into account natural features and the replacement of utilities, and has met the requirements of § 17-9-208 of this Code. Code § 18-16-305(b)(6).*

No variance approval is requested for development within the 100-foot buffer and no bogs are affected by this application.

- (7) *The applicant, by competent and substantial evidence, has overcome the presumption contained in the Natural Resources Article, § 8-1808, of the State Code. Code § 18-16-305(b)(7).*

The proposed addition will have no impacts given that there will be no additional lot coverage. Native species and habitats on the Property will not be impacted as the entire addition will be constructed within the existing driveway LOD. Based on the foregoing, and the evidence and testimony that will be provided at the hearing, Applicant will overcome the presumption in the State Code.

(8) *The applicant has evaluated and implemented site planning alternatives in accordance with § 18-16-201(c). Code § 18-16-305(b)(8).*

Applicant has consulted with the Office of Planning and Zoning and complied with this requirement. The Office of Planning and Zoning provided comments dated November 22, 2022.

Requirements for All Variances

A variance may not be granted unless it is found that:

- (1) the variance is the minimum variance necessary to afford relief; and
- (2) the granting of the variance will not:
 - (i) alter the essential character of the neighborhood or district in which the lot is located;
 - (ii) substantially impair the appropriate use or development of adjacent property;
 - (iii) reduce forest cover in the limited development and resource conservation areas of the critical area;
 - (iv) be contrary to acceptable clearing and replanting practices required for development in the critical area or a bog protection area; nor
 - (v) be detrimental to the public welfare.

Code, § 18-16-305(c).

Critical Area Variances

The variances are the minimum variance necessary to afford relief. Code, § 18-17-305(c)(1).

Applicant's proposed addition plan minimizes impacts as it is entirely within the current asphalt driveway limits. The proposed addition is on the side of the house, maximizing the setback from tidal waters. Applicant has minimized the variance requests.

The variances will not alter the essential character of the neighborhood or district in which the lot is located.

The proposed addition entirely constructed on an existing asphalt driveway will not alter the essential character of the neighborhood. Most of the homes in the neighborhood are significantly larger than the Applicant's relatively modest improvements.

The variances will not substantially impair the appropriate use or development of adjacent property.

The proposed addition will not affect in any way the appropriate use or development of adjacent properties. The resulting dwelling size is compatible with other dwellings located in the Critical Area and will be completely contained within the perimeter of the Property.

The variances would not be contrary to acceptable clearing and replanting practices required for development in the critical area.

Applicant will comply with all Critical Area regulations.

The variances will not be detrimental to the public welfare.

The proposed dwelling addition will not negatively affect the public welfare.

Zoning Variance

The variance is the minimum variance necessary to afford relief. Code, § 18-17-305(c)(1).

The setback variance is necessary to minimize buffer impacts as the proposed addition will be constructed on the side of the home, not the water side. The proposed addition is on the side of the house, maximizing the setback from tidal waters. The proposed dwelling addition is not excessive in size in relation to the dwellings in the neighborhood. Applicant has minimized the setback variance request.

The variances will not alter the essential character of the neighborhood or district in which the lot is located.

The rear setback variance is relatively minor and is in keeping with the essential character of the neighborhood. The proposed addition is aligned with the dwelling's existing facade. The home will be comparable to other upgraded homes in the area and the addition will still be located +/- 30.7 feet from the road so as to have little impact on the streetscape. The addition will exceed the minimum setback requirement from the front lot line and both side lot lines and will be located well away from the dwellings on neighboring lots.

The variance will not substantially impair the appropriate use or development of adjacent property.

The proposed addition will not affect in any way the appropriate use or development of adjacent properties. The resulting dwelling size is compatible with other dwellings in the surrounding area and will be completely contained within the perimeter of the Property.

The variance would not be contrary to acceptable clearing and replanting practices required for development in the critical area.

Applicant will comply with all Critical Area regulations.

The variance will not be detrimental to the public welfare.

The proposed dwelling addition will not negatively affect the public welfare.

CONCLUSION

The Property is entirely within the Critical Area and severely impacted by physical constraints related to steep slopes and buffer that prevent the reasonable construction of a small two-story addition in strict conformance of the law. Granting variance approval to allow the Applicant to build a two-story addition with a 521 square-foot footprint will conform to the spirit of the Critical Area program, as the house will not negatively affect sensitive environments or wildlife, the entirety of the proposed addition will be on existing asphalt. The variance approvals will not alter the character of the single-family neighborhood. The requested variance is the minimum necessary to afford relief. The proposed addition and resulting total square footage of the entire dwelling is compatible with surrounding homes, and in fact smaller than most homes in the community relative to the size of their lots.

We request that the County and State Critical Area Commission recommend approval of the variances as requested.

Thank you for your consideration of this matter. I look forward to receiving your response and may be reached via telephone at 443-949-3041, via email at bwechsler@yvslaw.com, and via mail at 185 Admiral Cochrane Drive, Suite 130, Annapolis, MD 21401.

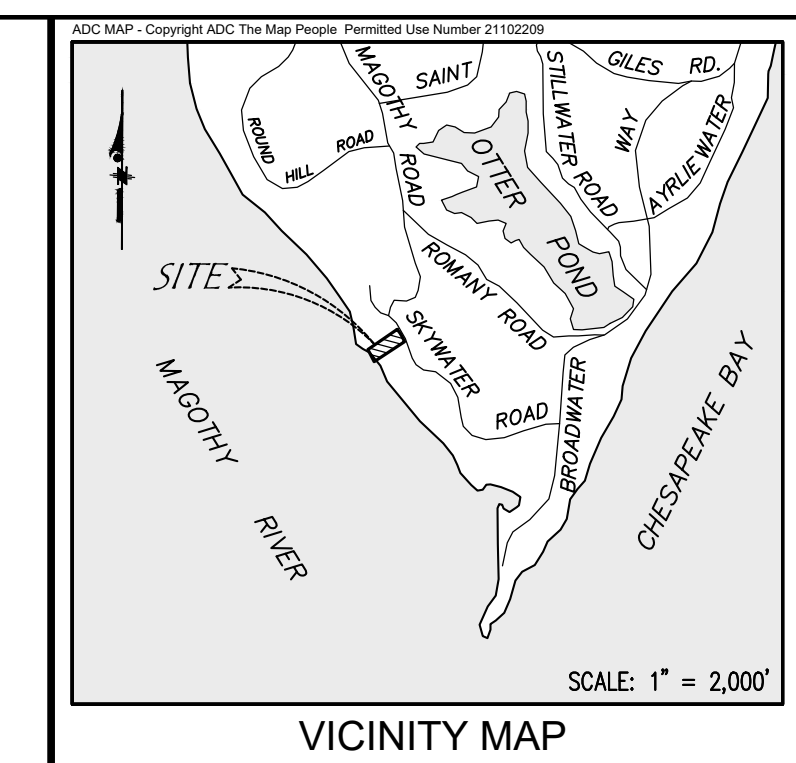
Very truly yours,

YVS LAW, LLC



Benjamin S. Wechsler, Esq.

Enclosures



LEGEND

- Existing Contour
- Existing Woods Line
- Existing Power Pole
- Existing Overhead Electric Line
- Existing Storm Drain
- Existing Spot Elev.
- Existing Waterline
- County Building Restriction Lines
- 100' Buffer to Tidal Waters
- Expanded Buffer
- 25' Buffer to Top of Steep Slopes
- Limit of Disturbance
- Soil Delineation
- Existing Improvements
- Steep Slopes 15% or Greater
- Expanded Buffer Disturbance
- Steep Slope Disturbance
- Steep Slopes Buffer Disturbance
- Lot Coverage to be Remove (No Variance Required)

SITE TABULATIONS

- Total Site Area: 54,936 S.F. (1.26 Ac.)
- Site Zoning: R1
- Critical Area Designation: LDA
- Total Disturbed Area: 2,666 S.F. (0.06 Ac.)
- Lot Coverage:
 - Existing Lot Coverage: 6,370 S.F. (0.15 Ac.)
 - Allowable Lot Coverage (15%): 8,240 S.F. (0.19 Ac.)
 - Proposed Lot Coverage: 6,250 S.F. (0.14 Ac.)
- R1 Zoning Setbacks for Principal Structures:
 - Front: 40'
 - Rear: 35'
 - Side: 15'/40' Comb.
- Coverage by Structures:
 - Existing Coverage by Structures: 3,894 S.F. (±7%)
 - Allowable Coverage by Structures: 13,734 S.F. (25%)
 - Proposed Coverage by Structures: 4,415 S.F. (±8%)
- Buffer and Expanded Buffer:
 - Total Buffer Site Area: 54,053 S.F. (1.24 Ac.)
 - Total Buffer Disturbance: 2,642 S.F. (0.06 Ac.)
 - Total Buffer Disturbance Requiring a Variance: 2,547 S.F. (0.06 Ac.)
- Steep Slopes:
 - Total Steep Slope Area: 36,311 S.F. (0.83 Ac.)
 - Total Steep Slope Disturbance: 1,009 S.F. (0.02 Ac.)
- Height:
 - Maximum Allowable Height: 45 ft
 - Per Section 18-1-101, the height of the Proposed Addition: 18.9 ft
 - The roof is proposed to match the existing dwelling
 - The addition is 2-story

DESIGNED: RTM DRAWN: KLY
 ORIG. DATE: MODIFIED BY/DATE:
 CADD DWG # GB08912
 DLA PROJECT # GB08912
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REVISIONS TO APPROVED PLANS			
No.	DATE	BY	DESCRIPTION

Drum, Loyka & Associates, LLC
 CIVIL ENGINEERS - LAND SURVEYORS
 1410 Forest Drive, Suite 35
 Annapolis, Maryland 21403
 Phone: 410-280-3122 • Fax: 410-280-1952
 www.drumloyka.com | engineering@drumloyka.com

OWNER:
 MR. & MRS. PETER BOSWORTH
 724 SKYWATER ROAD
 GIBSON ISLAND, MARYLAND 21056

VARIANCE PLAN
GIBSON ISLAND ~ LOT 237
 724 SKYWATER ROAD, GIBSON ISLAND, MD 21056
 TAX MAP 0033 GRID 0012 PARCEL 0141 DISTRICT 3RD
 TAX ACCT. NO. 03-350-06053100
 ANNE ARUNDEL COUNTY, MARYLAND
 SCALE: 1"=20' DATE: DEC. 18, 2023 PROJ. NO: GB08912 SHEET 1 OF 1

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**CRITICAL AREA COMMISSION
FOR THE CHESAPEAKE AND ATLANTIC COASTAL BAYS
1804 WEST STREET, SUITE 100
ANNAPOLIS, MD 21401
PROJECT NOTIFICATION APPLICATION**

GENERAL PROJECT INFORMATION

Jurisdiction: Anne Arundel County

Date 12/22/23

Tax Map #	Parcel #	Block #	Lot #	Section
0033	0141	0012	237	

FOR RESUBMITTAL ONLY

- Corrections
- Redesign
- No Change
- Non-Critical Area

* Complete only Page 1
General Project Information

Tax ID 03-350-06053100

Project Name (site name, subdivision name, or other) Gibson Island ~ Lot 237

Project location/Address 724 Skywater Road

City Gibson Island, Maryland Zip 21056

Local case number

Applicant: Last name Bosworth First name Peter

Company

Application Type (check all that apply):

- | | |
|--|--|
| Building Permit <input type="checkbox"/> | Variance <input checked="" type="checkbox"/> |
| Buffer Management Plan <input type="checkbox"/> | Rezoning <input type="checkbox"/> |
| Conditional Use <input type="checkbox"/> | Site Plan <input type="checkbox"/> |
| Consistency Report <input type="checkbox"/> | Special Exception <input type="checkbox"/> |
| Disturbance > 5,000 sq ft <input type="checkbox"/> | Subdivision <input type="checkbox"/> |
| Grading Permit <input type="checkbox"/> | Other <input type="checkbox"/> |

Local Jurisdiction Contact Information:

Last name: _____ First name _____

Phone # _____ Response from Commission Required By _____

Fax # _____ Hearing date _____

SPECIFIC PROJECT INFORMATION

Describe proposed use of project site:

Part of existing driveway will be removed and addition will be constructed to existing single-family dwelling.

	Yes		Yes
Intra-Family Transfer	<input type="checkbox"/>	Growth Allocation	<input type="checkbox"/>
Grandfathered Lot	<input checked="" type="checkbox"/>	Buffer Exemption Area	<input type="checkbox"/>

Project Type (check all that apply)

Commercial	<input type="checkbox"/>	Recreational	<input type="checkbox"/>
Consistency Report	<input type="checkbox"/>	Redevelopment	<input type="checkbox"/>
Industrial	<input type="checkbox"/>	Residential	<input checked="" type="checkbox"/>
Institutional	<input type="checkbox"/>	Shore Erosion Control	<input type="checkbox"/>
Mixed Use	<input type="checkbox"/>	Water-Dependent Facility	<input type="checkbox"/>
Other	<input type="checkbox"/>		

SITE INVENTORY (Enter acres or square feet)

	Acres	Sq Ft		Acres	Sq Ft
			Total Disturbed Area	0.06	
IDA Area			# of Lots Created	0	
LDA Area	1.26				
RCA Area					
Total Area	1.26				

	Acres	Sq Ft		Acres	Sq Ft
Existing Forest/Woodland/Trees	0.50		Existing Impervious Surface	0.15	
Created Forest/Woodland/Trees	0.00		New Impervious Surface	0.00	
Removed Forest/Woodland/Trees	0.00		Removed Impervious Surface	0.01	
			Total Impervious Surface	0.14	

VARIANCE INFORMATION (Check all that apply)

	Acres	Sq Ft		Acres	Sq Ft
Buffer Disturbance	0.06		Buffer Forest Clearing	0.00	
Non-Buffer Disturbance	0.00		Mitigation	0.00	

<u>Variance Type</u>		<u>Structure</u>	
Buffer	<input checked="" type="checkbox"/>	Acc. Structure Addition	<input type="checkbox"/>
Forest Clearing	<input type="checkbox"/>	Barn	<input type="checkbox"/>
HPA Impact	<input type="checkbox"/>	Deck	<input type="checkbox"/>
Impervious Surface	<input type="checkbox"/>	Dwelling	<input type="checkbox"/>
Expanded Buffer	<input checked="" type="checkbox"/>	Dwelling Addition	<input checked="" type="checkbox"/>
Nontidal Wetlands	<input type="checkbox"/>	Garage	<input type="checkbox"/>
Steep Slopes	<input checked="" type="checkbox"/>	Gazebo	<input type="checkbox"/>
Setback	<input checked="" type="checkbox"/>	Patio	<input type="checkbox"/>
Other	<input type="checkbox"/>	Pool	<input type="checkbox"/>
		Shed	<input type="checkbox"/>
		Other	<input type="checkbox"/>

Chesapeake Bay Critical Area Report

Gibson Island ~ Lot 237

Tax Map 33, Grid 12, Parcel 141, Lot 237

Tax Account No. 03-350-06053100

Property Address: 724 Skywater Road
Gibson Island, Maryland 21056

December 22, 2023

Property Owner & Variance Applicant: Mr. & Mrs. Peter Bosworth

Critical Area Designation: LDA **Zoning:** R-1 **Lot Area:** 1.26 Ac.

Site Description

The subject property is a 1.26-acre legal building lot located on Skywater Road in the community of Gibson Island. The site is currently improved with a single-family dwelling, deck, porch, pool, and associated improvements. A private septic system and public water serve the property. The lot is zoned R-1 and is completely within the Chesapeake Bay Critical Area, with an LDA land use designation.

Description and Purpose of Variance Request

The homeowners propose to construct an addition to the existing single-family dwelling and to remove a small portion of an existing parking area. There are many development restrictions on the property including steep slopes and expanded buffers. The existing dwelling and its associated improvements are located directly adjacent to the steep slopes and within the expanded buffer. Therefore, the proposed development will require the following variances to the Anne Arundel County Code: to **Article 18, Section 13-104(b)** for 2,547-sf of permanent expanded buffer disturbance, to **Article 17, Section 8-201** for 1,099 square feet of disturbance to slopes of 15% or greater, and to **Article 18, Section 4-501** of 4.3-ft to 35-foot rear setback for the proposed addition.

Vegetative Coverage and Clearing

The property's primary vegetative covering is a combination of lawn areas and mature trees/vegetation closer to the shoreline. The existing canopy area totals roughly 0.5 acres. There will be no vegetative clearing for the project. Mitigation requirements for this property will be reviewed and addressed during the permit phase of this project.

Impervious Lot Coverage

The site currently has 6,370-sf of lot coverage. The proposed impervious lot coverage is 6,250-sf, which is less than the allowable of 8,240-sf.

Steep Slopes (slopes > 15%)

The subject property contains approximately 36,311-sf of steep slopes, which run between the existing improvements and the shoreline. The location of the steep slopes directly adjacent to the existing dwelling necessitates the need for disturbance to the slopes to construct the

addition. Disturbance will be kept to a minimum needed to construct the proposed improvements.

Predominant Soils

The predominant soil types are Collington, Wist, and Westphalia soil and Tinton loamy sand. These soils have a type "A" hydrologic classification.

Drainage and Rainwater Control

Stormwater management is currently accomplished on site using a rainwater harvesting cistern and dry wells. Additional stormwater management is not required for the proposed improvements as the limit of disturbance will be less than 5,000 square feet and the impervious area will be reduced. Sediment and erosion control will be addressed during the permit phase of the project in accordance with Anne Arundel County design criteria.

Conclusions – Variance Standards

The need for the requested variances arises from the unique physical conditions of the site, specifically the presence of steep slopes and location of the existing improvements in relation to the buffer and shoreline of the Magothy River. The proposed addition is located on top of an area that is already improved with lot coverage, and lot coverage is being reduced overall as a result of this project. The variance request is not based on actions by the applicant, and will not confer upon the applicant any special privilege that would typically be denied by COMAR or the local Critical Area Program. The development will not have an adverse effect on water quality or negatively impact fish, wildlife, or plant habitat, and is in conformance with the general purpose and intent of the Critical Area Program. The variance is the minimum necessary to afford relief from the Critical Area legislation. The granting of the variance will not alter the character of the neighborhood, impair the use and development of adjacent properties, reduce forest cover in the LDA, nor be detrimental to the public welfare.

Reference:

Anne Arundel County Office of Planning & Zoning, 2015 Critical Area Map

Anne Arundel County Office of Planning & Zoning, 2010 Buffer Exemption Map

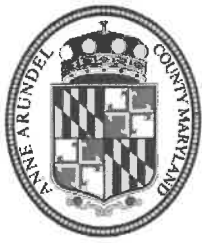
Anne Arundel County Office of Planning & Zoning, 2022 Land Use and Zoning Map

Federal Emergency Management Agency, 2015. Flood Insurance Rate Map

First American Real Estate Solutions, 2002, Realty Atlas: Anne Arundel County Maryland

Drum, Loyka and Associates LLC, 2023 Variance Plan

U.S. Department of Agriculture, Natural Resource Conservation Service –2015 Soil Survey of Anne Arundel County Maryland.



OFFICE OF PLANNING AND ZONING

CONFIRMATION OF PRE-FILE MEETING

DATE OF MEETING__11/22/2022 (via email)_____

P&Z STAFF__Donnie D. / Kelly K._____

APPLICANT/REPRESENTATIVE__Peter Bosworth_____ EMAIL__peterbosworth51@gmail.com_____

SITE LOCATION__724 Skywater Road Gibson Island_____ LOT SIZE__54,936 SF__ ZONING __R1_____

CA DESIGNATION__LDA_____ BMA_____ or BUFFER__X__ APPLICATION TYPE__Variance_____

The applicant was previously denied a variance for an upper level dwelling addition on the waterside of the existing dwelling under case 2021-0210-V. The applicant now proposes to construct a two story dwelling addition measuring 15' X 34.7' on the south side of the existing dwelling over an existing asphalt driveway. The proposal will require a variance for expanded buffer disturbance and a rear setback variance. The applicant claims that there will be no steep slope disturbance as the addition will be constructed over existing asphalt.

COMMENTS

From Zoning: The site plan shows shaded steep slopes in the area of the proposed addition. No limit of disturbance (LOD) is shown on the site plan and will need to be shown on the plan submitted with the variance. The applicant claims that no steep slopes will be disturbed. If that is accurate, and no steep slopes are located in the proposed addition or LOD, the site plan should be revised to show those conditions. If the current topo shown is accurate, it is likely that a steep slope variance will be required. The site plan should also label the number of stories that the addition is proposed to be and what the proposed height will be. The justification provided does not address the variance criteria or give any detail on why the proposed addition and variance is needed, nor how it is the minimum variance necessary. The applicant will be required to show compliance with the variance standards and make a case on why the current dwelling does not provide adequate use of a residential lot as referenced in the CA team comments below.

From Critical Area: While the revised location does provide additional distance to the water, it is still within the expanded buffer and the required steep slope buffer. The current home provides 2,754 square feet of living space. The applicant will need to provide adequate justification for the need for an expansion of a home of this size in order to meet the standards for approval.

INFORMATION FOR THE APPLICANT

Section 18-16-201 (b) Pre-filing meeting required. Before filing an application for a variance, special exception, or to change a zoning district, to change or remove a critical area classification, or for a variance in the critical area or bog protection area, an applicant shall meet with the Office of Planning and Zoning to review a pre-file concept plan or an administrative site plan. For single lot properties, the owner shall prepare a simple site plan as a basis for determining what can be done under the provisions of this Code to avoid the need for a variance.

*** A preliminary plan checklist is required for development impacting environmentally sensitive areas and for all new single-family dwellings. A stormwater management plan that satisfies the requirements of the County Procedures Manual is required for development impacting environmentally sensitive areas OR disturbing 5,000 square feet or more. State mandates require a developer of land provide SWM to control new development runoff from the start of the development process.

Section 18-16-301 (c) Burden of Proof. The applicant has the burden of proof, including the burden of going forward with the production of evidence and the burden of persuasion, on all questions of fact. The burden of persuasion is by a preponderance of the evidence.

A variance to the requirements of the County's Critical Area Program may only be granted if the Administrative Hearing Officer makes affirmative findings that the applicant has addressed all the requirements outlined in Article 18-16-305. Comments made on this form are intended to provide guidance and are not intended to represent support or approval of the variance request.