

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

**APPLICANT:** Richard Gatti III

**ASSESSMENT DISTRICT:** 1st

**CASE NUMBER:** 2023-0213-V

**COUNCILMANIC DISTRICT:** 7<sup>th</sup>

**HEARING DATE:** February 13, 2024

**PREPARED BY:** Robert Konowal  
Planner

**REQUEST**

The applicant is requesting a variance to allow a dwelling addition with less setbacks and buffer than required at 3095 Stratford Court in the subdivision of Berkshire, Riva.

**LOCATION AND DESCRIPTION OF SITE**

The subject lands consist of 15,361 square feet of land and are located with approximately 25 feet of frontage on the east side of Stratford Court, 180 feet west of Berkshire Drive. The property is identified as Lot 59, in Parcel 445, Grid 4, on Tax Map 55. These lands have been zoned R2-Residential District since the adoption of comprehensive zoning for the Seventh Council District, effective October 7, 2011.

The subject property is a waterview but not a waterfront lot and is located within the Chesapeake Bay Critical Area. The Critical Area designation for these lands is “LDA-Limited Development Area”. These lands are served by public sewer and water.

The site is currently developed with a single family detached dwelling with a front attached garage and rear attached deck. There is a shed in the south side yard.

**APPLICANTS’ PROPOSAL**

The applicants wish to remove a 8-foot-2-inch by 13-foot-8-inch portion of the existing rear deck and construct a 16-foot by 15-foot-5-inch (247 sf) screened porch over a portion of the remaining existing deck. The screened porch will be one story reaching 17 feet-1 inch in height.

**REQUESTED VARIANCES**

Section 18-13-104. of the Anne Arundel County Zoning Ordinance requires that there shall be a minimum 100-foot buffer landward from the mean high-water line of tidal waters, tributary streams and tidal wetlands. The buffer is expanded where there are contiguous steep slopes of 15% or more and the buffer is expanded to include the contiguous slopes and land within 50 feet of the top of slopes. Section 17-8-301 (b) prohibits disturbance in the 100-Ft. Buffer and the expanded buffer.

The applicants are seeking a variance to allow 556 square feet of disturbance to the expanded buffer of which 247 square feet will be permanent disturbance to accommodate the proposed screened porch. The balance of disturbance will be temporary to allow access during construction.

No setback variance is required.

## **FINDINGS**

The subject property does meet the minimum lot width and area requirements of the Code for a lot in a R2 District. However, the lot is almost entirely encumbered by the expanded buffer due to steep slopes surrounding the site. Any new development of these lands cannot be undertaken without the need for a variance to the expanded buffer. A literal interpretation of the County's Critical Area program in this case would deprive the applicants of rights that are commonly enjoyed by other properties in similar areas. The granting of the variances to allow a screened porch would not necessarily confer on the applicants a special privilege that would normally be denied by the Critical Area Program.

The requested variance to the expanded buffer is considered to be the minimum necessary to afford relief as it occurs in an already disturbed area of the buffer that is occupied by a deck. The applicant has also proposed to remove a section of the existing deck so as to further minimize the impact of this screened porch on the expanded buffer.

This request is not the result of actions by the applicants, including commencement of development before obtaining required approvals. Neither does the variance arise from any condition relating to land or building use on any neighboring property. The applicants have overcome the presumption that the specific development does not conform to the general purpose and intent of the Critical Area law. The applicants have adequately evaluated and implemented site planning alternatives that minimize the impact on the expanded buffer.

The granting of a variance 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.

Approval of the variances would not alter the essential character of the neighborhood nor substantially impair the appropriate use or development of any adjacent property. Finally, the request will not reduce forest cover in the Limited Development Area of the Critical Area, be contrary to acceptable clearing and replanting practices in the Critical Area nor be detrimental to the public welfare.

The **Anne Arundel County Department of Health** indicated the subject property is served by public water and sewer and they have no objection to the request.

The **Critical Area Commission for the State of Maryland Critical Area** had no objection to the application but did indicate appropriate mitigation will be required.

The **Development Division (Critical Area Team)** indicated they had no objection to the application.

**RECOMMENDATION**

Based upon the standards set forth in Section 18-16-305 of the Anne Arundel County Code under which a variance may be granted, the Office of Planning and Zoning recommends **approval** of the variances to disturb 556 square feet of disturbance to the expanded buffer to accommodate a screened porch as shown on the attached site plan.

**DISCLAIMER:** This recommendation does not constitute a building permit. In order for the applicant(s) to construct the structure(s) as proposed, the applicant(s) shall apply for and obtain the necessary building permits and obtain any other approvals required to perform the work described herein. This includes but is not limited to verifying the legal status of the lot, resolving adequacy of public facilities, and demonstrating compliance with environmental site design criteria.