

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

APPLICANT: Dawn Miller/Linda V. Flury Living Trust **ASSESSMENT DISTRICT:** 7th

CASE NUMBER: 2023-0228-V

COUNCIL DISTRICT: 7th

HEARING DATE: February 29, 2024

PREPARED BY: Robert Konowal
Planner

REQUEST

The applicants are requesting variances to allow mooring pilings with less setbacks than required at 1358 McDonald Road in the McDonald subdivision, Shady Side.

LOCATION AND DESCRIPTION OF SITE

The subject property has 45 feet of road frontage on the north side of McDonald Road, 750 feet northwest of East West Shady Side Road. The property is 8,811 square feet in area and is identified as Lot 6 in Parcel 44, Grid 4 on Tax Map 69. The property has been zoned R1-Residential District since the adoption of the zoning maps for the Seventh Council District effective October 7, 2011.

This is a waterfront lot located on the south shore of the West River. These lands are located in the Chesapeake Bay Critical Area and have been designated LDA-Limited Development Area. The shoreline of the property is also located in a designated buffer modification area.

The subject property is currently developed with a single-family detached dwelling. These lands also enjoy a six foot wide, 36 foot long pier with a 12 foot wide by 22 foot long platform at pier end. There is also a side platform on the west side of the pier measuring seven feet in width and 20 feet in length. There is a small boat launch located along the shoreline to the east of the pier. The shore line has been bulkheaded.

APPLICANT'S PROPOSAL

The applicants are proposing to construct a six-foot wide by 20-foot pier extension to the existing pier/platform along with two mooring pilings along the east side of the pier/platform and two mooring pilings along the west side of the pier/platform. The boat launch is to be removed.

REQUESTED VARIANCE

Section 18-2-404(b) of the Anne Arundel County Zoning Code stipulates that a private pier or mooring piling must be setback at least 15 feet from property lot lines extended. Two boat lift pilings are proposed to be located four feet from the extended eastern lot line requiring variances of 11 feet to the Code.

FINDINGS

There are two previous variances related to the subject property (2000-0059-V, 1995-0549-V) that pertained to dwelling additions.

This Office finds that the subject property has 50 feet of frontage on the water. Typically, a lot with 50 feet of water frontage can accommodate both a six foot wide pier and 14 foot wide boat lift and pilings within the required 15 foot side property line extension setback. The applicants have in fact proposed two pilings in accordance with the Code on the west side of the new 20-foot long pier extension which provides for reasonable use of and access to the water. The applicants' desire to keep two boats on opposite sides of the pier in this case is causing the need for a variance. The applicants could simply lengthen the proposed pier extension further into the water and add additional mooring pilings if desired on the west side of an extended pier all in accordance with the Code. Consequently, there is no justification for the requested variances that pertain to the two pilings proposed on the east side of the pier. Denial of the requested variances would not cause hardship in the use of these lands.

Since the variances are not warranted they cannot be considered the minimum necessary to afford relief.

There is no evidence that the requested variances will alter the essential character of the neighborhood or substantially impair navigation to any adjacent property. Finally, the variances will not be detrimental to the public welfare.

The **Critical Area Team in the Development Division** provided the following comments issued for the associated building permit application:

"The proposed scope of work does not meet the requirements of a "replacement-in-kind" as defined in Article 17-1-101(60). The permit description must be revised to describe a new pier or the extension must be removed to meet the requirements of "in-kind" replacement. Please make the appropriate revisions and submit them as a revision to the permit application". Because the proposed boat lift pilings are directly associated with the pier extension, the Critical Area Team cannot recommend approval of the variance for boat lift pilings until all comments are addressed through the building permit.

The **Anne Arundel County Department of Health** advised they have reviewed the well water supply system for the above referenced property and determined that the request does not adversely affect the well water supply system. The Health Department has no objection to the above referenced request.

RECOMMENDATION

Based upon the standards set forth in Section 18-16-305, under which a variance may be granted, the Office of Planning and Zoning recommends the requested variances be **denied**.

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.