

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

**APPLICANT:** Kelly F. Poling

**ASSESSMENT DISTRICT:** 3rd

**CASE NUMBER:** 2023-0233-V

**COUNCIL DISTRICT:** 3rd

**HEARING DATE:** March 5, 2024

**PREPARED BY:** Robert Konowal  
Planner

**REQUEST**

The applicant is requesting variances to allow a pier and mooring pilings with less setbacks than required at 850 North Shore Drive in the subdivision of Silver Sands, Glen Burnie.

**LOCATION AND DESCRIPTION OF SITE**

The subject property has approximately 55 feet of road frontage on the northeast side of North Shore Drive, 0 feet southeast of Gunther Road. The property is 5,500 square feet in area and is identified as Lot 27 in Parcel 474, Grid 1 on Tax Map 17. The property has been zoned R2-Residential District since the adoption of the zoning maps for the Third Council District effective January 29, 2012.

This is a waterfront lot located on the south shore of Long Cove off Stoney Creek. 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, 70-foot long pier with a nine-foot wide by 10-foot long platform at pier end. Two pilings are located 13 feet off the northwest side of the pier. An additional two pilings that are used by the subject property are located 14 feet off the southeast side of the pier. These two pilings encroach some 11 feet across the southeast property line extended into the waters of the neighboring property.

**APPLICANT'S PROPOSAL**

The applicant intends to remove the platform section off the existing pier and two mooring pilings that are located 14 feet off the southeast side of the pier and encroach 11 feet into the waters of the neighboring property. The applicant proposes to construct a 30-foot extension to the existing 70-foot pier which will be six feet in width tapering down to three feet at pier end. Two new pilings will be located 14 feet off the existing 70-foot pier and will encroach three feet into the waters of the neighboring property.

## **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. The proposed pier extension is located as close as 10 feet from the east extended property line and 12 feet from the west extended property line necessitating variances of five and three feet to the Code. Two pilings are also proposed to be located three feet beyond the southeast extended property line and require variances.

## **FINDINGS**

### *Background*

A previous variance (2011-0068-V) was granted for the subject property to allow a dwelling with less setbacks and buffer and with disturbance to slopes of 15% or greater.

The subject property (Lot 27) was once part of a two lot site that included Lot 28 (852 North Shore Road) At that time the subject property was vacant while a dwelling was located on Lot 28. The existing pier on Lot 27 served that dwelling on Lot 28 until the existing dwelling on the subject property was constructed in 2013 and assumed the existing pier that formerly served Lot 28.

### *Review of Variance Criteria*

This Office finds that the subject property has 33 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 applicant already has the use of a boatlift on the northwest side of the pier. A lot with only 33 feet of frontage on the water cannot be expected to support boat lifts on both sides of a pier. Aerial photographs indicate that the boatlift on the southeast side of this pier had fallen into disuse by the time the subject property was developed. The existing boat lift on the southeast side of the pier that straddles the two property lines was constructed between 2018 and 2020 without the benefit of a permit. There is no especially unique physical condition that merits a variance to install pilings beyond the extended property line. As the property already enjoys the use of a boatlift, denial of the variance to accommodate a second boatlift that straddles the extended property line would not cause hardship in the use of these lands.

According to the applicant, the proposed pier extension is required to provide for improved navigation to the proposed second boatlift as the adjacent property owner has proposed to locate two pilings and a boatlift one foot from the southeast extended property lines. The applicant states the proposed pier extension will help guide boaters to the subject property's proposed second boatlift. Since the applicant has failed to satisfy the criteria for granting a variance to allow a second boat lift the request for variances related to the pier extension also fails.

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

Variances to allow the installation of pilings to accommodate a boatlift that straddles an extended property line is not a common feature of waterfront properties. Approval of the request will alter the

essential character of the neighborhood. Furthermore, approval of the variances will impair navigation to that adjacent property to the southeast. Finally, the variances will be detrimental to the public welfare (i.e. public safety).

The **Critical Area Team in the Development Division** advised the subject property encompasses 33' of shoreline according to the recorded plat of Silver Sands in Plat Book 21 page 36 in the Maryland Land Records. Article 18-2-404 requires a 15' setback from each property line as it extends channelward. This leaves a 3' wide waterway for the applicant to construct a pier and associated mooring/boat lift pilings, but a variance is necessary. A pier and boatlift exist and were re-constructed under building permit B02288699. The boat lift to the South of the pier was installed between 2018 and 2020 without the benefit of a permit.

The applicant proposes to extend the pier and add two boat lifts, one on either side of the pier. The south boat lift pilings will be located in the waterway of the adjacent property crossing over the property line extensions. Further, the proposed 14' wide boat lift appears to overlap the proposed boat lift of the adjacent property, also requested under a variance, creating a hazardous situation when docking large vessels.

It is the opinion of the Critical Area Team that this proposal is excessive for this type and size of waterfront property and does not meet the requirements of Article 18-16-305(C) as it pertains to the requirement of being the minimum necessary. As such, the critical area team recommends denial of the requested variances.

The **Anne Arundel County Department of Health** advised the subject property is served by public water and sewer and as such have no objection to the application.

### **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.