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**STATE OF MARYLAND  
CRITICAL AREA COMMISSION  
CHESAPEAKE AND ATLANTIC COASTAL BAYS**

February 15, 2024

Ms. Sterling Seay  
Planning Administrator  
Anne Arundel County Zoning Division  
2664 Riva Road, MS 6301  
Annapolis, Maryland 21401

**Re: Cottle Variance (2023-0224-V)**

Dear Ms. Seay:

Thank you for providing information on the above-referenced variance request to construct a 425 square-foot open air pavilion and a 160 square-foot pergola on top of a proposed stone patio totaling approximately 641 square feet of lot coverage in the expanded Buffer. The property is a 3.52-acre lot located entirely within the Limited Development Area (LDA). The lot is currently improved with a detached garage, driveway, parking areas, a dwelling with multiple areas of patios and decks, walkways, a pool with separate spa, pool decking, fountain features, a pool shed, and riparian access. The lot coverage limit for a lot of this size is 22,999 square feet. The existing lot coverage on the subject site totals 22,163 square feet square, and if this variance request were to be approved, the lot coverage on the site will total 22,803 square feet.

The Critical Area Commission opposes this variance request as this request does not meet all of the Critical Area variance standards, including that of unwarranted hardship. Furthermore, impacts to sensitive environmental features such as the Critical Area Buffer and steep slopes have not been minimized.

State law defines “unwarranted hardship” to mean that, without the requested variance, an applicant shall be denied reasonable and significant use of the entire parcel or lot. It does not appear that this request can meet this variance standard as the applicant currently has reasonable and significant use of the entire property with the dwelling, patios, decks, pool, spa and pool decks, pool shed, garage, and riparian access. It appears the applicant currently enjoys expansive outdoor amenities. If the request to construct an additional patio with open-air pavilion and attached pergola within the expanded Critical Area Buffer and within steep slopes were to be denied, the applicant would still have reasonable and significant use of the entire lot or parcel. In fact, this office does not consider, and has not previously considered, accessory structures in the Buffer to meet the standard of unwarranted hardship. Such a request is not within the limits of reasonable and significant use of the lot. Therefore, denying this variance request would not result in an unwarranted hardship.

Additionally, the County’s Critical Area program and the State Critical Area regulations place strict limits on disturbance to the Critical Area Buffer, steep slopes, and the steep slope buffer in order to

meet the goals of the Critical Area law. Approving a variance to allow steep slope and Critical Area Buffer disturbance for the construction of additional accessory amenities when there are already expansive areas used for outdoor recreational use, is not a right commonly enjoyed by other, similar properties developed under the County's Critical Area program. No property owner has the right to disturb steep slopes and the Critical Area in order to construct accessory structures. Denying the request to construct accessory structures in the Critical Area Buffer and within steep slopes is not depriving the applicant of a use that would be permitted to others under the local Critical Area program.

Conversely, the granting of this variance would absolutely confer a special privilege upon the applicant. The Anne Arundel County Code and the Critical Area regulations place strict limits on disturbance to steep slopes and to the Critical Area Buffer in order to meet the goals of the Critical Area law. Approval of this variance would grant the applicant a special privilege that would be denied others within the Critical Area, as no individual is permitted to construct accessory improvements on steep slopes and within the Buffer when a site is already improved with expansive outdoor/recreational areas. This office has previously opposed similar variance requests from others; therefore, granting this applicant's request would confer upon the applicant a special privilege denied to others.

Further, the cumulative impact of development in the Critical Area has a substantial and negative impact on the Chesapeake Bay. Given the lot is waterfront to Cool Spring Creek and the request is for additional lot coverage on steep slopes and within the Critical Area Buffer, this request is not in harmony with the spirit and intent of the Critical Area law and regulations or the County's Critical Area program.

Lastly, the request to construct additional accessory structures and associated lot coverage at the top of steep slopes and within the Critical Area buffer can increase the volume and velocity of stormwater runoff flowing down the steep slopes. Especially given that the applicant already enjoys expansive outdoor amenities within the Critical Area Buffer and on steep slopes, this request will absolutely have an adverse effect on water quality and habitat within the Critical Area.

For the reasons explained above, this office opposes this variance and recommends denial of this request. Thank you for the opportunity to provide comments. Please include this letter in your file and submit it as part of the record. Also, please notify the Commission in writing of the decision made in this case. If you have any questions, please contact me at (410) 260-3468 or [jennifer.esposito@maryland.gov](mailto:jennifer.esposito@maryland.gov).

Sincerely,

A handwritten signature in blue ink that reads "Jennifer Esposito". The signature is written in a cursive, flowing style.

Jennifer Esposito  
Natural Resources Planner

cc: Kelly Krinetz, Anne Arundel County  
Charlotte Shearin, CAC