

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

APPLICANT: Anthony & Mildred Grieb

ASSESSMENT DISTRICT: 3rd

CASE NUMBER: 2023-0210-V

COUNCILMANIC DISTRICT: 5th

HEARING DATE: March 21, 2024

PREPARED BY: Robert Konowal
Planner

REQUEST

The applicants are requesting variances to allow a dwelling addition with less setbacks and buffer than required and disturbance to slopes of 15% or greater at 922 Arundel Drive in the subdivision of Shore Acres.

LOCATION AND DESCRIPTION OF SITE

The subject property consists of 81,551 square feet of land and is located with 100 feet of frontage on the northwest side of Arundel Drive, approximately 530 feet northeast of Hilltop Road. The property is identified as Lot 243, in Parcel 37, Grid 22, on Tax Map 33. These lands have been zoned R1-Residential District since the adoption of comprehensive zoning for the Fifth Council District, effective January 29, 2012.

The subject property is not a waterfront lot but is located within the Chesapeake Bay Critical Area. The Critical Area designation for these lands is primarily “LDA-Limited Development Area” with a small portion of “RCA-Resource Conservation Area” along the southern side of the lot. A portion of Deep Creek, its associated 100-foot stream buffer, and steep slopes are located on these lands.

The site is currently developed with a one-story single family detached dwelling with attached rear decks. A swimming pool surrounded by a brick patio is located near the northwest corner of the site. The property is served by a paved driveway at the northeast corner of the site. Several sidewalk paths are located on the property.

APPLICANTS’ PROPOSAL

The applicants wish to construct a two-story addition over a portion of the existing dwelling. The applicants are also proposing to locate a new septic tank system on the property.

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. A portion of Deep Creek, a perennial stream, is located on and adjacent to the subject property which results in a 100-foot tributary stream buffer restriction. Section 17-8-301 (b) prohibits disturbance in the 100-foot stream buffer. The proposed septic system will permanently disturb a portion of the stream buffer. Access required during construction of the second story over the existing dwelling will temporarily disturb a portion of the stream buffer. The exact amount of disturbance will be determined during building permit review.

Section 17-8-201. of the Anne Arundel Subdivision Code states that development in LDA or RCA designated areas may not occur on slopes of 15% or greater. Required access during construction of the second story addition to the existing dwelling will temporarily disturb some lands with a slope of 15% or greater. The exact amount of disturbance will be determined during building permit review.

There is no identified need for a variance to the setback requirements of the Code.

FINDINGS

Background

There are three previous cases related to the subject property. Case 2001-0040-V requested a variance to allow an inground pool with less setbacks and buffer than required. That request was revised by the applicant and approved by the Hearing Officer to allow a pool with less setbacks than required. Case 2020-0138-V requested variances to allow a dwelling with less setbacks and buffer than required and with disturbance to slopes of 15% or greater. That application was denied by the Hearing Officer. Case 2021-0120-V pertained to variances to allow a new dwelling and associated facilities with less setbacks and buffer than required and with disturbance to slopes of 15% or greater. That application was approved by the Hearing Officer however the applicant never proceeded with construction.

Review of Variance Criteria

The subject property is an irregularly shaped lot that does meet the minimum lot area requirement for a lot in a R1 District but does not meet the minimum lot width at the building restriction line. More importantly, the subject property is for the most part encumbered by the 100-foot stream buffer and associated steep slopes. Any new development of these lands cannot be undertaken without the need for a variance to the stream buffer. The variance relates to a second story addition over the existing structure and a replacement septic system. 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 proposed second floor addition does not expand the footprint of the dwelling that is located in the stream buffer. The remaining variance relates only to a new septic system. As such the request is believed to be the minimum necessary to afford relief.

The 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 demonstrated they have adequately evaluated and implemented site planning alternatives that minimize the impact on the expanded buffer.

The granting of a variance as submitted 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 will 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 and Resource Conservation Areas of the Critical Area, be contrary to acceptable clearing and replanting practices in the Critical Area nor be detrimental to the public welfare.

Agency Comments:

The **Anne Arundel County Department of Health** advised that the proposed request does not adversely affect the on-site sewage disposal and well water supply systems. The Health Department has no objection to the request.

The **Critical Area Commission for the State of Maryland Critical Area** comments were not available at this time.

The **Development Division (Critical Area Team)** indicated that the existing dwelling is located on a property with various sensitive areas and corresponding buffers. The owner is proposing to construct an addition within the footprint of the existing dwelling. Consequently, the disturbance to sensitive areas and corresponding buffers is reduced. The Critical Area Team has no objection to the variance. To the extent possible, access and material storage shall be via the existing paved and developed areas. The extent of disturbance shall be minimized and will be evaluated during permit review.

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 the 100-foot stream buffer and with disturbance to slopes of 15% or greater to accommodate the second story addition over the existing dwelling 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.