

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

APPLICANTS: Michael & Linda MacWilliams

ASSESSMENT DISTRICT: 2

CASE NUMBER: 2024-0008-V

COUNCILMANIC DISTRICT: 6

HEARING DATE: March 26, 2024

PREPARED BY: Joan A. Jenkins
Planner II



REQUEST

The applicants are requesting a variance to allow an extension in time for the implementation and completion of a previously approved variance on property known as 1010 York Lane in Annapolis.

LOCATION AND DESCRIPTION OF SITE

The subject site consists of 16,443 square feet of land and is located with 42 feet of road frontage on the west side of York Lane, 325 feet south of Ogleton Road. The subject property is identified as Lot 15 of Parcel 21 in Block 2 of Tax Map 57 in the Annapolis Roads subdivision. The subject property has been zoned R2 - Residential District since the adoption of comprehensive zoning of the Sixth Council District zoning maps effective October 7, 2011.

The site is located in the Chesapeake Bay Critical Area overlay, is designated as LDA - Limited Development Area, and is located along a buffer modified area (BMA) shoreline.

The lot is developed with a single-family dwelling, a driveway, walks and patios, a pier, and associated facilities.

PROPOSAL

The applicants seek approval for an extension in time for the implementation and completion of a previously approved variance (Case 2022-0087-V) to allow a single-family dwelling with less setbacks than required and with disturbance to slopes of 15% or greater.

REQUESTED VARIANCE

§ 18-16-405(a) of the Anne Arundel County Zoning Code stipulates that a variance expires by operation of law unless the applicant obtains a building permit within 18 months of approval. On July 21, 2022, a variance approval was granted (Case 2022-0087-V) to allow a dwelling with disturbance to slopes of 15% or greater. The applicants are now requesting a variance to allow an additional 18-month extension in time to obtain a building permit, and maintain the previous

approval, through July 21, 2025.¹

FINDINGS

The prior variance case was granted July 21, 2022 and expired January 21, 2024. This application for an extension in time was made January 10, 2024 prior to the expiration of the variance approval.

The letter of explanation from the applicants' engineer states that, due to unforeseen delays in redesigning the house to meet the applicants' needs without changing the footprint that was approved by the variance and construction cost increases associated with the COVID-19 pandemic, the applicants have not been able to proceed with construction. The letter states that the extension is being requested in order to give the property owner the time needed to continue with the project and obtain permits required for construction. The letter states that a grading permit was not submitted due to potential changes to the design based on the above factors and that it is not possible to have the construction drawings complete and a permit issued by January 21, 2024.

This Office has not found any permit application for the improvements requested with the approved variance.

While the applicants' letter cites unforeseen delays and construction cost increases associated with the COVID-19 pandemic, financial considerations are not a valid reason for granting a variance. The letter of explanation does state that a redesign was necessary to meet the applicant's needs based on the approved footprint. However, the variance approval did not require any changes to be made as a condition of approval. The site plan submitted was the site plan approved. This Office opines that the applicants should have had a reasonable design finalized or nearly finalized prior to the initial variance request.

There is no evidence that the granting of this request for an extension in time will alter the essential character of the neighborhood, substantially impair the appropriate use or development of adjacent property, or be detrimental to the public welfare.

For the granting of a time extension variance, a determination must be made as to whether the applicants diligently pursued permits. A variance for a time extension cannot be granted if the need is caused by the applicants delaying the permitting process. In this case the applicants have not even applied for the grading permit that is required prior to the building permit application. Variances should only be granted if in strict harmony with the spirit and intent of the zoning regulations and only in such a manner as to grant relief without substantial injury to the public health, safety and general welfare. The need sufficient to justify a variance must be substantial and urgent and not merely for the convenience of the applicant. As the applicants have not demonstrated diligence in obtaining a building permit and there have been no unusual factors, this Office cannot support this variance request.

¹ The applicants' letter states 18 months to June 21, 2025, however 18 months is July 21, 2025.

RECOMMENDATION

Based upon the standards set forth in § 18-16-305 under which a variance may be granted, this Office recommends *denial* of a zoning variance to §18-16-405(a) to allow an 18 month extension in time for the implementation and completion of a previously approved variance.

DISCLAIMER: This recommendation does not constitute a building permit. In order for the applicant to construct the structure(s) as proposed, the applicant 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.

2024-0008-V



Legend

Foundation

Addressing



Parcels



Parcels - Annapolis City



Planning

County Planning



Notes

Esri Community Maps Contributors,
County of Anne Arundel, VGIN, ©
OpenStreetMap, Microsoft, Esri,
TomTom, Garmin, SafeGraph,
GeoTechnologies, Inc, METI/NASA,

THIS MAP IS NOT TO BE
USED FOR NAVIGATION



This map is a user generated static output from an Internet mapping site and is for reference only.
Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.

