

Wes Moore
Governor

Aruna Miller
Lt. Governor



Erik Fisher
Chair

Katherine Charbonneau
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
CHESAPEAKE AND ATLANTIC COASTAL BAYS

February 22, 2024

Mr. Sade Medina
Anne Arundel County Government
Department of Planning and Zoning
2664 Riva Rd # 3,
Annapolis, MD 21401

Re: **359 Berkshire Drive (Tax Map 55, Parcel Number 54)**

Dear Ms. Medina:

Thank you for providing the information for the above-referenced variance application. The applicant is proposing to construct a 320 square foot second floor deck above an existing deck on the waterfront side of the dwelling. The existing dwelling is 3,136 square feet, with a 1,488 square foot driveway. The property is 0.508 acres and resides in the expanded Critical Area Buffer for steep slopes within the Limited Development Area (LDA). The property has an allowable lot coverage of 5,540 square feet with the overall proposed work totaling 4,624 square feet. The applicant is requesting a variance to Anne Arundel County Code 18-13-104 in order to build on steep slopes of more than 15%.

In order to grant this variance, the Administrative Hearing Officer must find the request meets each and every one of the variance standards, including the standard of unwarranted hardship. This office has reviewed the design plans submitted and believes the applicant has not demonstrated unwarranted hardship.

The applicant already has a deck built on steep slopes along the waterfront side of the property. This deck, as well as the other improvements on the property, demonstrate that the applicant has significant and reasonable use of the property without the addition of the upper deck. It was also noted that the existing lower deck was "substantially expanded" between 2018 and 2020 without approval, as stated during the pre-file meeting of February 9, 2024, between Anne Arundel County Planning and Zoning and the applicant. The applicant should not benefit from an unpermitted expansion with the proposed additional (vertical) expansion of the deck. The addition of a second deck, that is larger than the deck previously expanded without approval, is also not considered the minimum necessary to afford relief, as specified in Anne Arundel County Code 18-16-305(c)(1). The applicant already has relief from the Code with the existing deck in the Buffer.

The granting of this variance would also confer a special privilege that would be denied to other, similar properties as the applicant has justified the proposed deck using the current extent of the bottom deck, which was previously expanded without proper approval from Anne Arundel County Planning and Zoning. Granting the request based on this justification would absolutely infer a special privilege on the applicant.

For the reasons stated above, we believe this variance request should be denied. However, should the Administrative Hearing Officer find that this request, or a modified version of this request that reduces impacts to the Buffer and steep slopes, may be approved, the required mitigation ratio is 3:1 for permanent impacts.

Thank you for the opportunity to provide comments. Please include this letter as part of the record file and provide us with a copy of the Administrative Hearing Officer's decision. If you have any questions about these comments, please feel free to contact me at (410) 260-3481 or jonathan.coplin@maryland.gov

Sincerely,

A handwritten signature in black ink, appearing to read 'Jonathan Coplin', with a stylized flourish extending to the right.

Jonathan Coplin
Natural Resource Planner

2024-0014-V

Menu Cancel Help

Task Details OPZ Critical Area Team

Assigned Date
02/13/2024
Assigned to
Michael Day
Current Status
Complete w/ Comments
Action By
Michael Day

Due Date
03/05/2024
Assigned to Department
OPZ Critical Area
Status Date
03/06/2024
Overtime
No
Start Time

Comments
The proposed second story deck proposal is within the Critical Area expanded buffer.

The applicant has not demonstrated that the proposed 16 x 20 deck is the minimum necessary as this property already has an existing deck on the ground level as well as an additional hexagonal deck on the same ground level. A third deck area on the second story does not seem necessary and the size of the balcony deck seems excessive.

The new balcony deck should not exceed the size or footprint of the deck that existed prior to the unpermitted deck expansion between 2018 and 2020.

If the variance is approved, Mitigation is required at 3:1 for the footprint of the new deck as this is permanent disturbance, and 1:1 for the remaining LOD as this is temporary disturbance. Planting must be maximized onsite and a forest conservation easement will be required to protect the plantings and the existing woodland in the buffer.

The proposed second story deck should be constructed to allow water to pass through the deck so as to not add additional lot coverage. Stormwater management plantings may be required if the deck to be constructed is over 250 sqft.

End Time

Hours Spent
0.0

Billable
No

Action by Department
OPZ Critical Area

Time Tracking Start Date
In Possession Time (hrs)

Est. Completion Date
 Display E-mail Address in ACA
 Display Comment in ACA

Estimated Hours
0.0

Comment Display in ACA

- All ACA Users
- Record Creator
- Licensed Professional
- Contact
- Owner

Task Specific Information

Expiration Date	Review Notes	Reviewer Name
	need mit at 3:1 and 1:1 for perm and temp dist need planting and fce	
Reviewer Phone Number	Reviewer Email	



ANNE
ARUNDEL
COUNTY

MARYLAND
DEPARTMENT OF HEALTH

J. Howard Beard Health Services Building
3 Harry S. Truman Parkway
Annapolis, Maryland 21401
Phone: 410-222-7095 Fax: 410-222-7294
Maryland Relay (TTY): 711
www.aahealth.org

Tonii Gedin, RN, DNP
Health Officer

MEMORANDUM

TO: Sadé Medina, Zoning Applications
Planning and Zoning Department, MS-6301

FROM: Brian Chew, Program Manager
Bureau of Environmental Health *BC*

DATE: February 27, 2024

RE: Larry D. Gandee
359 Berkshire Dr.
Riva, MD 21140

NUMBER: 2024-0014-V

SUBJECT: Variance/Special Exception/Rezoning

The Health Department has reviewed the above referenced variance to allow a dwelling addition (second floor balcony) with less setbacks and buffer than required.

The Health Department has reviewed the above-referenced request. The property is served by public water and sewer facilities. The Health Department has no objection to the above-referenced request.

If you have further questions or comments, please contact Brian Chew at 410-222-7413.

cc: Sterling Seay



365

BERKSHIRE DR

361

Address Points: 359 BERKSHIRE DR, 21140

15

357

355



359 Berkshire Looking South

