

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

**APPLICANT:** Barry R. & Maryann G. Gosnell

**ASSESSMENT DISTRICT:** 2

**CASE NUMBER:** 2024-0025-V

**COUNCIL DISTRICT:** 6

**HEARING DATE:** April 11, 2024

**PREPARED BY:** Jennifer Lechner  
Planner



**REQUEST**

The applicants are requesting variances to allow mooring pilings with less setbacks than required on property located at 48 Poplar Point Road in Edgewater.

**LOCATION AND DESCRIPTION OF SITE**

The subject site consists of 1.25 acres of land and is located with approximately 45 feet of frontage on the north side of Poplar Point Road. It is identified as Lot 32 of Parcel 151 in Grid 20 on Tax Map 51 in the Poplar Point subdivision. The property is zoned R1 – Residential District. The current zoning was adopted by the comprehensive zoning for Council District 6, effective October 7, 2011. The waterfront lot lies entirely within the Chesapeake Bay Critical Area, is designated as RCA – Resource Conservation Area, and is partially mapped as a BMA – Buffer Modification Area. It is improved with a two-story dwelling, an inground pool, a residential pier with a boat lift, and associated facilities.

**PROPOSAL**

The applicants propose to replace in kind 6 pier pilings, remove 4 attached pilings, remove 3 mooring pilings, and install 6 mooring pilings.

**REQUESTED VARIANCES**

§ 18-2-404(b) of the Anne Arundel County Zoning Ordinance provides that a private pier or mooring piling shall be located at least 15 feet from a lot line extended.

- (1) A proposed mooring piling would be located as close as 1 foot from the southeast side lot line extended, necessitating a variance of 14 feet.
- (2) A second proposed mooring piling would be located as close as 2 feet from the southeast side lot line extended, necessitating a variance of 13 feet.
- (3) A third proposed mooring piling would be located as close as 3 feet from the southeast side lot line extended, necessitating a variance of 12 feet.

## **FINDINGS**

The subject property is oversized in relation to the minimum lot size of 40,000 square feet but undersized in relation to the minimum lot width of 125 feet for lots in the R1 District. A review of the 2023 County aerial photography shows that the subject site and nearby waterfront lots on Church Creek contain piers, boat lifts and other associated improvements.

The applicants' letter explains that they own two boats, a center console boat which currently sits on the boat lift, and a 70' Princess Motor Yacht. They assert that docking the yacht on the parallel section of the pier is not a viable option for multiple reasons. Their letter states that the center console boat extends past the boat lift on either side; the yacht is 70' long and the parallel section of the pier is 57' long, which would block the center console boat and/or extend close to the southeast property line, which would also block/make unusable the slip on the southeast side of the primary pier; the parallel section of pier angles in such a way to make it difficult to navigate; the wind and current can affect docking the 70' yacht due to the flybridge and added associated windage; and, entering or exiting from the southeast side of the pier is not feasible without hitting the neighbor's piling or boat lift. The applicants believe that the safest and easiest position to dock the 70' yacht is alongside the perpendicular section of the pier. Their letter further states that, the current distance between the adjacent boat lift pile and the applicants' pile is 44', and the proposed piling will be 38', which they believe will allow ample room to navigate a boat.

### **Agency Comments**

The **Development Division (Critical Area Team)** notes that the property line extensions have been reviewed and are approved as submitted. Their Office believes that the request for a variance seems reasonable, while requiring the applicant to extend the pier for a new boat slip when an existing slip with a boat lift already exists within this water area would be unreasonable. Their Office has no objection to the requested variances.

The **Health Department** has no objection.

### **Variance Criteria**

For the granting of a variance, a determination must be made as to whether, because of certain unique physical conditions peculiar to and inherent in the particular lot, or because of exceptional circumstances other than financial considerations, strict implementation of the Code would result in practical difficulties or an unnecessary hardship. The need sufficient to justify a variance must be substantial and urgent and not merely for the convenience of the applicant.

In this particular case, the subject property has a wide shoreline with its existing pier located relatively close to the southeast property line and the adjacent neighbors' pier. However, the applicants currently have reasonable use of the waterfront property with an existing pier, boat lift, and mooring pilings, some of which are located within the southeast extended property line setback. The applicants' desire to install mooring pilings which encroach further into that setback is a self-inflicted hardship created by purchasing a boat larger than what their pier and pilings

will currently accommodate. The requested variance appears to be for convenience, as there is more than enough water area to the north to redesign/reconfigure the existing pier and pilings to meet the setbacks rather than moving the pilings as close as one foot of the southeast extended property line.

The granting of the variance would not alter the essential character of the neighborhood or district in which the lot is located, would not substantially impair the appropriate use or development of adjacent property, nor would it be detrimental to the public welfare.

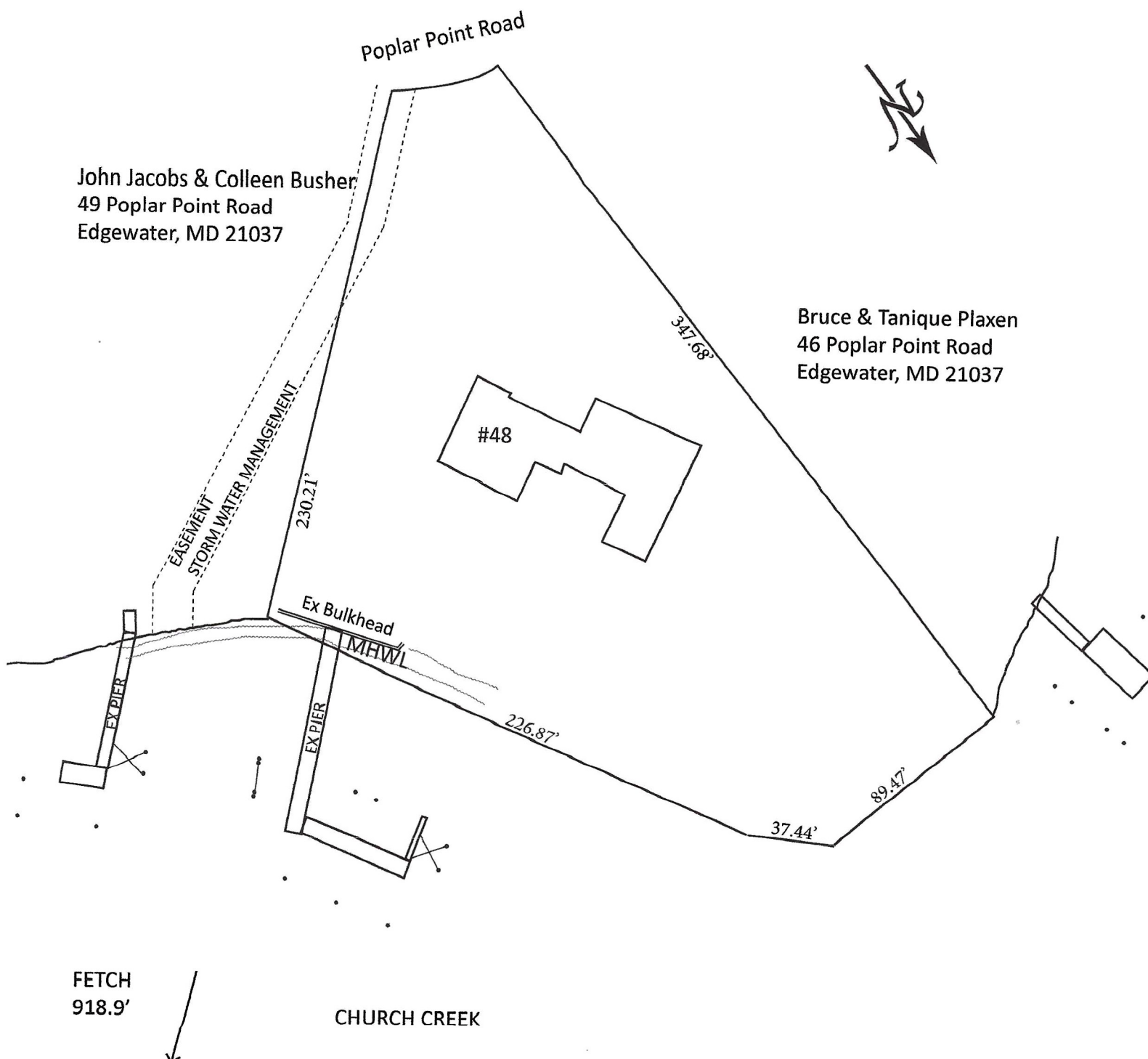
However, the request is not considered to be the minimum necessary to afford relief as there is opportunity to redesign the existing pier and pilings to comply with the Code. Without sufficient justification, the variance request cannot be considered the minimum necessary to afford relief.

### **RECOMMENDATION**

Based upon the standards set forth in § 18-16-305 of the Code under which a variance may be granted, this Office recommends *denial* of the requested variances to § 18-2-404(b) to allow three (3) mooring pilings with less setbacks than required, as shown on the 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.

EXISTING CONDITIONS



SCALE 1" = 60'

**FOR PERMIT USE ONLY**

**RKN**  
 Marine Permits & Services  
 1160 Indian Landing Road  
 Millersville, MD 21108  
 renee.norris@comcast.net

**OWNER**

Barry Gosnell  
 48 Poplar Point Road  
 Edgewater, MD 21037  
 AAC/2624-9004-9139  
 Church Creek/South River  
 1/31/2024

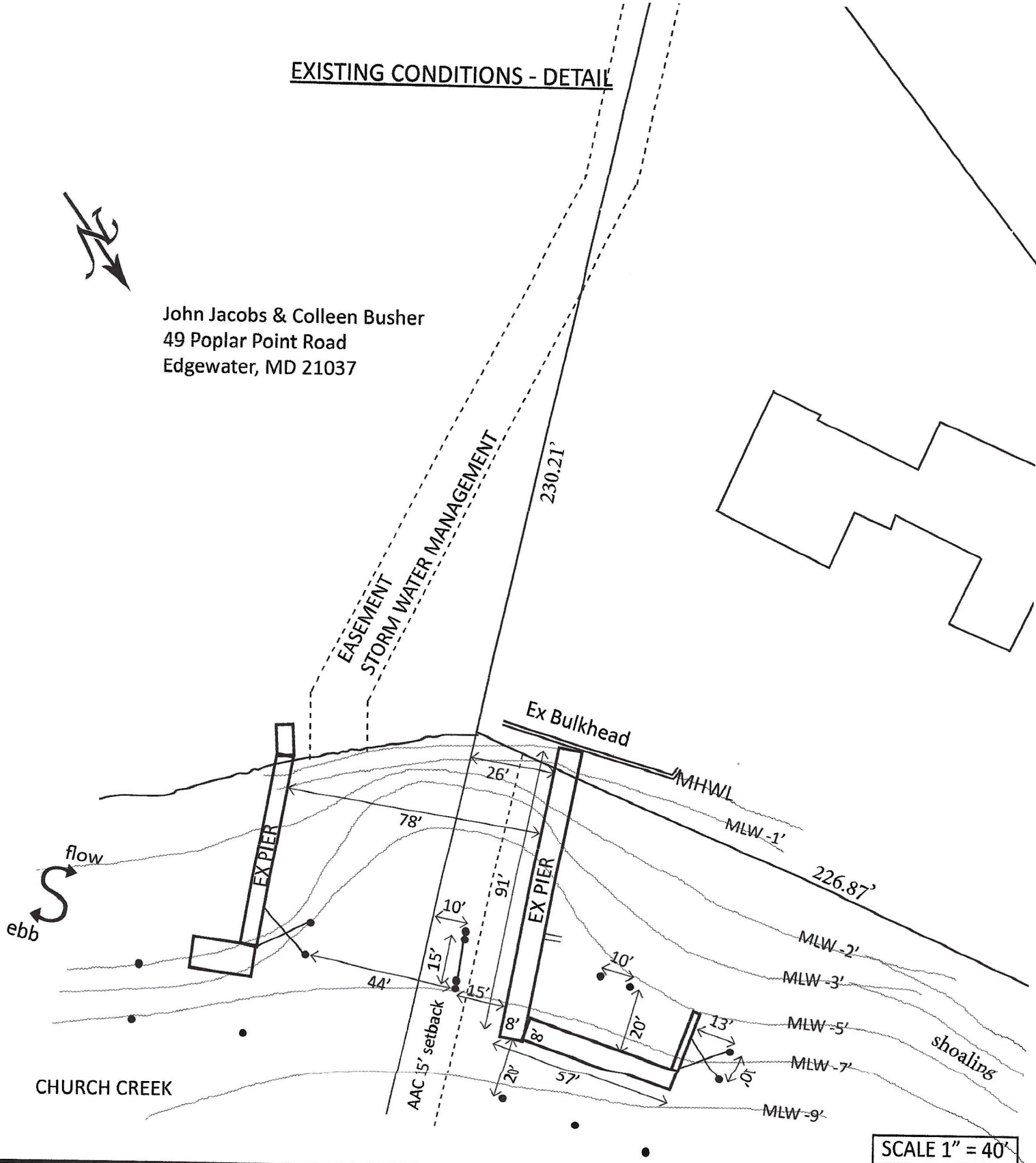
**PROPOSED CONSTRUCTION**

Replace in-kind 6 pier piles.  
 Remove 4 attached piles.  
 Remove 3 mooring piles.  
 Install 6 piles.

**EXISTING CONDITIONS - DETAIL**



John Jacobs & Colleen Busher  
 49 Poplar Point Road  
 Edgewater, MD 21037



SCALE 1" = 40'

**FOR PERMIT USE ONLY**

**RKN**  
 Marine Permits & Services  
 1160 Indian Landing Road  
 Millersville, MD 21108  
 renee.norris@comcast.net

**OWNER**

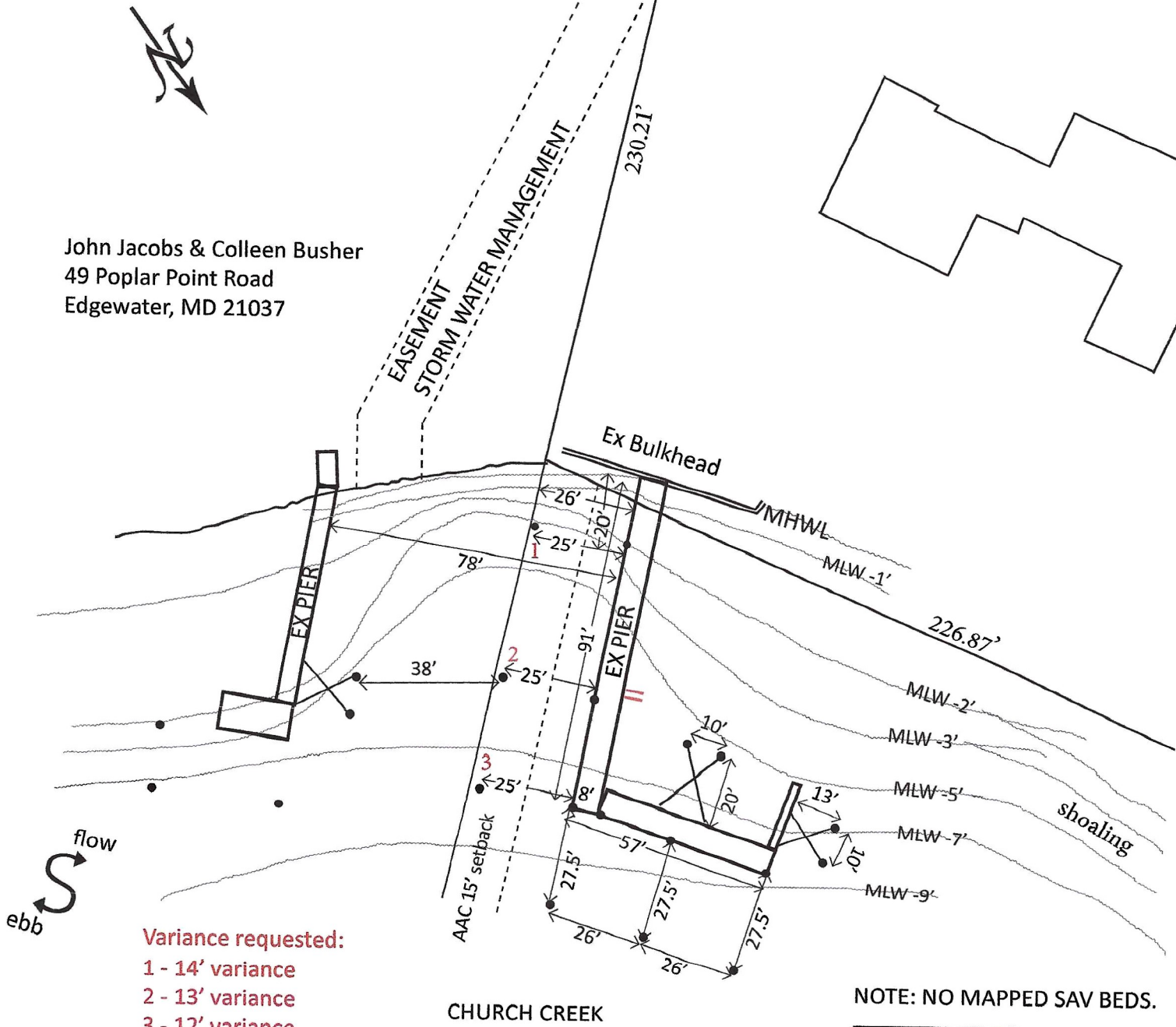
Barry Gosnell  
 48 Poplar Point Road  
 Edgewater, MD 21037  
 AAC/2624-9004-9139  
 Church Creek/South River  
 1/31/2024

**PROPOSED CONSTRUCTION**

Replace in-kind 6 pier piles.  
 Remove 4 attached piles.  
 Remove 3 mooring piles.  
 Install 6 piles.

**PROPOSED CONSTRUCTION**


John Jacobs & Colleen Busher  
 49 Poplar Point Road  
 Edgewater, MD 21037



**Variance requested:**  
 1 - 14' variance  
 2 - 13' variance  
 3 - 12' variance

NOTE: NO MAPPED SAV BEDS.

SCALE 1" = 40'

FOR PERMIT USE ONLY	OWNER	PROPOSED CONSTRUCTION
 <p><b>RKN</b>                      Marine Permits &amp; Services                      1160 Indian Landing Road                      Millersville, MD 21108                      renee.norris@comcast.net</p>	<p>Barry Gosnell                      48 Poplar Point Road                      Edgewater, MD 21037                      AAC/2624-9004-9139                      Church Creek/South River                      1/31/2024</p>	<p>Replace in-kind 6 pier piles.                      Remove 4 attached piles.                      Remove 3 mooring piles.                      Install 6 piles.</p> <p>NOTE: MDE application submitted for boat lift.</p>

LETTER OF EXPLANATION  
AAC Variance Application  
OWNER: Barry Gosnell  
48 Poplar Point Road, Edgewater, MD 21037  
2/1/2024

Property Information: Parcell 151, Block 20, Lot 32, Map 51, Subdivision – Poplar Point.  
Zoned R1, Residential District. The waterfront lot is located on Church Creek on South River.  
Chesapeake Bay Critical Area – Resource Conservation Area (RCA) and mapped as a Modified Buffer Modification area.

Existing Conditions: Existing pier is 8' x 91' and 8' x 49'. Maximum distance channelward of MHWL = 91'. Four attached piles are located 5' inside the AAC 15' setback to the East. There is an existing, functional, bulkhead. There are three mooring piles channelward of the pier and two lift piles landward of the pier. There is one 10' x 13' boat lift on the West side of the pier and one PWC lift. There is shoaling in front of the existing storm water management easement.

Proposed Construction: Replace in-kind 6 pier piles. Remove 4 attached piles. Remove 3 mooring piles. Install 6 mooring piles.

Variance Requested: Owner requests a variance to allow 3 mooring piles to be installed inside the AAC 15' setback to the East: #1 – 14' variance, #2 – 13' variance, #3 – 12' variance.

Adjacent Property Owners:

John Jacobs & Colleen Busher – 49 Poplar Point Road, Edgewater, MD 21037 (East)  
Brian & Tanique Plaxen – 46 Poplar Point Road, Edgewater, MD 21037 (West)

Justification:

- Mr. Gosnell owns two boats.
  - A center console boat currently sits on the boat lift.
  - He also owns a 70' Princess Motor Yacht.
- Docking the yacht on the parallel section of the pier is not a viable option for multiple reasons.
  - The center console boat extends past the boat lift on either side.
  - The yacht is 70' long and the parallel section of pier is 57' long.
  - The yacht would have to block the center console boat and/or extend close to the property line on the Jacobs' side, which would also block/make unusable the slip on the South side of the primary pier.
  - The parallel section of pier angles in such a way to make it difficult to navigate.
  - Wind and current can affect docking the 70' yacht due to the flybridge and added associated windage.
  - Entering or exiting from the Jacobs' side of the pier is not feasible without hitting their piling or boat lift.
- The safest and easiest position to dock the 70' yacht is alongside the perpendicular section of the pier.
- Currently, the distance between the Jacobs' boat lift pile and the Gosnell's pile is 44'. The proposed piling will be located 38' from the Jacobs' lift pile. This allows ample room to navigate a boat.

Critical Area Report: The property is used for residential purposes. The predominant trees are native, including Poplar, Maple, and Oak. Additional native shrubs were planted and approved by the county. There will be no disturbance as all construction will take place channelward of the MHWL. The impervious surface will remain the same – 7,474 SF. The property is zoned Resource Conservation Area. Some areas along the water have a slope greater than 15%. Approximately 7.5' of the stormwater easement extends on this property.

# 2024-0025-V

Menu Cancel Help

## Task Details OPZ Critical Area Team

### Assigned Date

02/02/2024

### Assigned to

Melanie Mathews

### Current Status

Complete w/ Comments

### Action By

Melanie Mathews

### Comments

The property line extensions have been reviewed and are approved as submitted. The request for a variance to the required 15' setbacks seems reasonable and meets the requirements of 18-16-305(a)(2). It would appear to be unreasonable to require the applicant to extend the pier only to meet the requirements of 18-2-404 for a new boat slip when an existing slip with a boat lift already exists within this water area. The critical area section has no objections to the requested variances.

### End Time

### Billable

No

### Time Tracking Start Date

### In Possession Time (hrs)

### Estimated Hours

0.0

### Comment Display in ACA

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

### Task Specific Information

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### Expiration Date

### Reviewer Phone Number

### Review Notes

### Reviewer Email

PZMATH20@aacounty.org

### Due Date

02/23/2024

### Assigned to Department

OPZ Critical Area

### Status Date

02/06/2024

### Overtime

No

### Start Time

### Hours Spent

0.0

### Action by Department

OPZ Critical Area

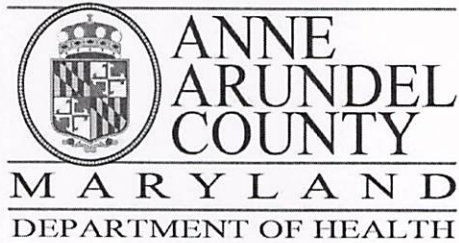
### Est. Completion Date

- Display E-mail Address in ACA
- Display Comment in ACA

### Reviewer Name

MELANIE MATHEWS





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

A handwritten signature in blue ink, appearing to be "BC", located to the right of the "FROM:" line.

DATE: February 13, 2024

RE: Barry R. Gosnell  
RKN Marine Permits & S  
48 Poplar Point Road  
Edgewater, MD 21037

NUMBER: 2024-0025-V

SUBJECT: Variance/Special Exception/Rezoning

The Health Department has reviewed the above referenced variance to allow mooring, piles with less setbacks than required.

The Health Department has reviewed the on-site sewage disposal and well water supply system for the above referenced property. The Health Department has determined 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 above referenced request.

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

cc: Sterling Seay

2024-0025-V (2023 aerial)



### Legend

Foundation

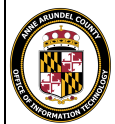
Addressing



Parcels

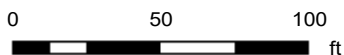


Parcels - Annapolis City



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Notes