

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

APPLICANT: Leslie Thornton

ASSESSMENT DISTRICT: 2

CASE NUMBER: 2024-0030-V

COUNCILMANIC DISTRICT: 6

HEARING DATE: April 23, 2024

PREPARED BY: Joan A. Jenkins 
Planner II

REQUEST

The applicant is requesting variances to allow a retaining wall and deck/patio with less setbacks and buffer than required on property located at 451 Ferry Point Road in Annapolis.

LOCATION AND DESCRIPTION OF SITE

The subject site consists of 98,818 square feet of land and is located with approximately 68 feet of road frontage on the southeast side of Ferry Point Road, northeast of Saunders Point Lane. The property is identified as 2.17 acres (Parcels 1 and 2) of Parcel 41 in Grid 3 on Tax Map 56. The property has been split-zoned primarily RLD - Residential Low Density District with a sliver of OS - Open Space District near the shoreline since the adoption of comprehensive zoning of the Sixth Councilmanic District zoning maps, effective October 7, 2011. This is a waterfront lot on Aberdeen Creek; located entirely in the Chesapeake Bay Critical Area, designated primarily LDA – Limited Development Area with a small portion of RCA - Resource Conservation Area near the shoreline; and is not mapped in a buffer modified area. The site is encumbered by steep slopes, the buffer to steep slopes, and the RLD 50-foot planted buffer requirement. The property is currently improved with a dwelling, a pool and pool decking, a pier, and associated features. The site is served by a private well and septic system.

APPLICANT'S PROPOSAL

The applicants are proposing to remove a set of steps and construct a retaining wall in the location of the removed steps that will tie in with the existing wall along the front of the raised patio. They also propose to remove a portion of the irregular L-shaped pool to reconfigure the pool into a rectangular pool. The area of the pool being removed will be filled in and will become a concrete deck. The existing raised patio will be removed and replaced with a wood deck (195 square feet). Two sets of steps are proposed between the house and the raised deck/patio. The retaining wall and a portion of the raised patio that is becoming a wood deck are within the expanded buffer to tidal waters. The two sets of new stairs are outside of the buffer and expanded buffer and do not require a variance.

REQUESTED VARIANCES

§ 18-4-401(b) requires that a 50-foot planted buffer area shall be located and maintained between the principal structure and the crest of steep slopes. The proposed improvements will be located in the required 50-foot planted buffer from steep slopes, necessitating a variance to allow construction of a retaining wall and a deck within the required 50-foot planted buffer to steep slopes.

§ 18-13-104(a) of the Code 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. § 17-8-301 of the Subdivision Code states that development on properties containing buffers shall meet the requirements of Title 27 of the State Code of Maryland (COMAR). § 27.01.01 (B) (8) (ii) of COMAR states a buffer exists “to protect a stream tidal wetland tidal waters or terrestrial environment from human disturbance.” § 27.01.09 E. (1) (a) (ii) of COMAR authorizes disturbance to the buffer for a new development activity or redevelopment activity by variance. The proposed retaining wall, renovation of the portion of the raised patio into deck (195 square feet), and replacement of the pool decking all within the expanded buffer, will cause disturbance to the expanded buffer, necessitating a variance to this provision as shown on the site plan. Exact buffer disturbance will be determined at the time of permit.

A variance to setbacks is not necessary for this application.

FINDINGS

This Office finds that this is an oddly shaped lot that is comprised of two parcels.¹ The subject property far exceeds the minimum lot requirement and the minimum lot width requirement for a lot in the RLD District. The property is encumbered by steep slopes east and south of the existing dwelling which require the buffer to be expanded. The dwelling is located partially in the expanded buffer close to the corner side setback making any additions difficult without a variance.

The existing critical area lot coverage of the site is 16,232 square feet. The grandfathered lot coverage after the 10% reduction in lot coverage is 16,017 square feet. The proposed lot coverage is 15,498 square feet which is under the amount allowed with the 10% reduction, however, lot coverage will be determined at permitting.

The existing critical area lot coverage is 16,232 square feet. The proposal will remove raised patio, pool patio, and steps; and will add pool patio and wall resulting in 15,498 square feet of post-construction lot coverage, which is 1,469 square feet above the lot coverage allowed under § 17-8-402 (b) of the Code. The removal of lot coverage appears to meet the 10% overage reduction required by Code, but lot coverage will be verified at permitting.

A review of the County 2024 aerial photograph shows an eclectic mix of dwellings on large lots immediately surrounding the subject property. According to the State Department of Assessments and Taxation records the existing dwelling was built in 1985 prior to the adoption of the critical area laws. A variance was discovered at 439 Ferry Point Rd (2002-0076-V) for a deck addition with less buffer than required.

¹ See plat 3319-319.

The applicant's letter explains the overall project and that the wall is necessary to maintain the stability of the outdoor amenity area. The existing impervious paver and gravel area immediately outside of the existing sliding glass doors to the living area of the existing dwelling will be replaced with a pervious grade level deck.

Agency Comments

The **Health Department** has reviewed the on-site sewage disposal and water supply system for the property and has determined that the proposed request does not adversely affect these systems. The Health Department has no objection to the request.

The **Development Division (Critical Area Team)** commented that there is no objection to the proposed repair/replacement/reconfiguration of the existing pool area.

The **State Critical Area Commission** took no position but commented that appropriate mitigation should be provided.

Variance Requirements

For the granting of a critical area variance, a determination must be made as to whether, because of certain unique physical conditions peculiar to and inherent in the property, strict implementation of the County's critical area program would result in an unwarranted hardship. In this case, this is a lot with an existing dwelling and improvements that is encumbered by steep slopes which expand the buffer. The pool is being decreased in size, the raised patio is being replaced with a deck and the need for a wall is due to the removal of steps. Regarding the RLD planted buffer, the 50-foot buffer line cuts through the existing house and the proposed improvements making the maintenance of a 50-foot planted buffer impossible.

A literal interpretation of the County's critical area program will deprive the applicant of rights that are commonly enjoyed by other properties in similar areas within the critical area of the County by denying them the right to construct an addition onto an existing dwelling. The granting of the variance will not confer on the applicant special privileges that would be denied by COMAR, Title 27. The variance request is not based on conditions or circumstances that are the result of actions by the applicant and does not arise from any condition relating to land or building use on any neighboring property. With stormwater management the granting of the variance should not adversely affect water quality or impact fish, wildlife or plant habitat and will be in harmony with the general spirit and intent of the County's critical area program. The applicant has overcome the presumption that the specific development does not conform to the general purpose and intent of the critical area law and has evaluated and implemented site planning alternatives.

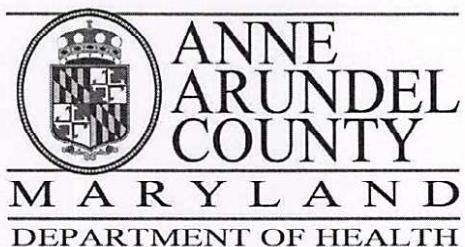
Approval of the variance would not alter the essential character of the neighborhood. Approval of the variance will not substantially impair the appropriate use or development of adjacent property, as the dwelling will be located well away from the dwellings on abutting lots. The variance will not reduce forest cover in the limited development area or the resource conservation area, will not be contrary to acceptable clearing and replanting practices, and will not be detrimental to the public welfare.

The request is considered to be the minimum necessary to afford relief as the request is for a reconfiguration of the existing amenity areas and repair of a wall once stairs are removed.

RECOMMENDATION

With regard to the standards by which a variance may be granted as set forth in § 18-16-305, under the County Code, the Office of Planning and Zoning recommends **approval** of the critical area variance requests to § 18-13-104 (b) to allow less buffer than required. § 18-4-401 to allow less planted buffer than required in the RLD District.

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.



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", written over the printed name of Brian Chew.

DATE: February 23, 2024

RE: Lesile M. Thornton, Trustee
459 Ferry Point Road
Annapolis, MD 21403

NUMBER: 2024-0030-V

SUBJECT: Variance/Special Exception/Rezoning

The Health Department has reviewed the above referenced variance to allow a retaining wall and deck/patio with less setbacks and buffer than required.

The Health Department has 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 Scay

Menu Cancel Help

Task Details OPZ Critical Area Team

Assigned Date
02/14/2024

Assigned to
Kelly Krinetz

Current Status
Complete w/ Comments

Action By
Kelly Krinetz

Comments
No objection to the proposed repair/replacement/reconfiguration of the existing pool area.

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

Due Date
03/06/2024

Assigned to Department
OPZ Critical Area

Status Date
02/16/2024

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

Task Specific Information

Expiration Date

Reviewer Phone Number

Review Notes

Reviewer Email

Reviewer Name



Jennifer Esposito -DNR- <jennifer.esposito@maryland.gov>

CAC Comments_2024-0030-V Thornton, 2024-0035-V

1 message

Jennifer Esposito <jennifer.esposito@maryland.gov>
To: Sadé Medina <pzmedi22@aacounty.org>
Cc: Charlotte Shearin -DNR- <charlotte.shearin@maryland.gov>

Fri, Mar 1, 2024 at 4:28 PM

Please disregard my previous email as I inserted the incorrect variance number for the Thornton Variance.

Good afternoon,

The Critical Area Commission has reviewed the following variances and appropriate mitigation is required:

- 2024-0030-V: Thornton (AA 46-24);
- 2024-0035-V; Haplin (AA 50-24)

Thank you for the opportunity to provide comments. If you have any questions or concerns, please let me know.

The above comments have been uploaded to the County's online portal.



 facebook_logo.jpg

 twitter_logo.jpg

dnr.maryland.gov/criticalarea

Jennifer Esposito

Critical Area Commission for the
Chesapeake & Atlantic Coastal Bays
1804 West Street, Suite 100

Annapolis, MD 21401

Office: 410-260-3468

(In office: Mon., Wed., Friday)

Cell: 443-569-1361

(Teleworking: Tues., Thurs.)

jennifer.esposito@maryland.gov





H.S. 79-280

Approved as a family conveyance

This plat approved for recording with a deed by virtue of a special exception as to plat size.

LIBER 3319 PAGE 319

to requirements of the A. A. Co. Health Departments have been met.

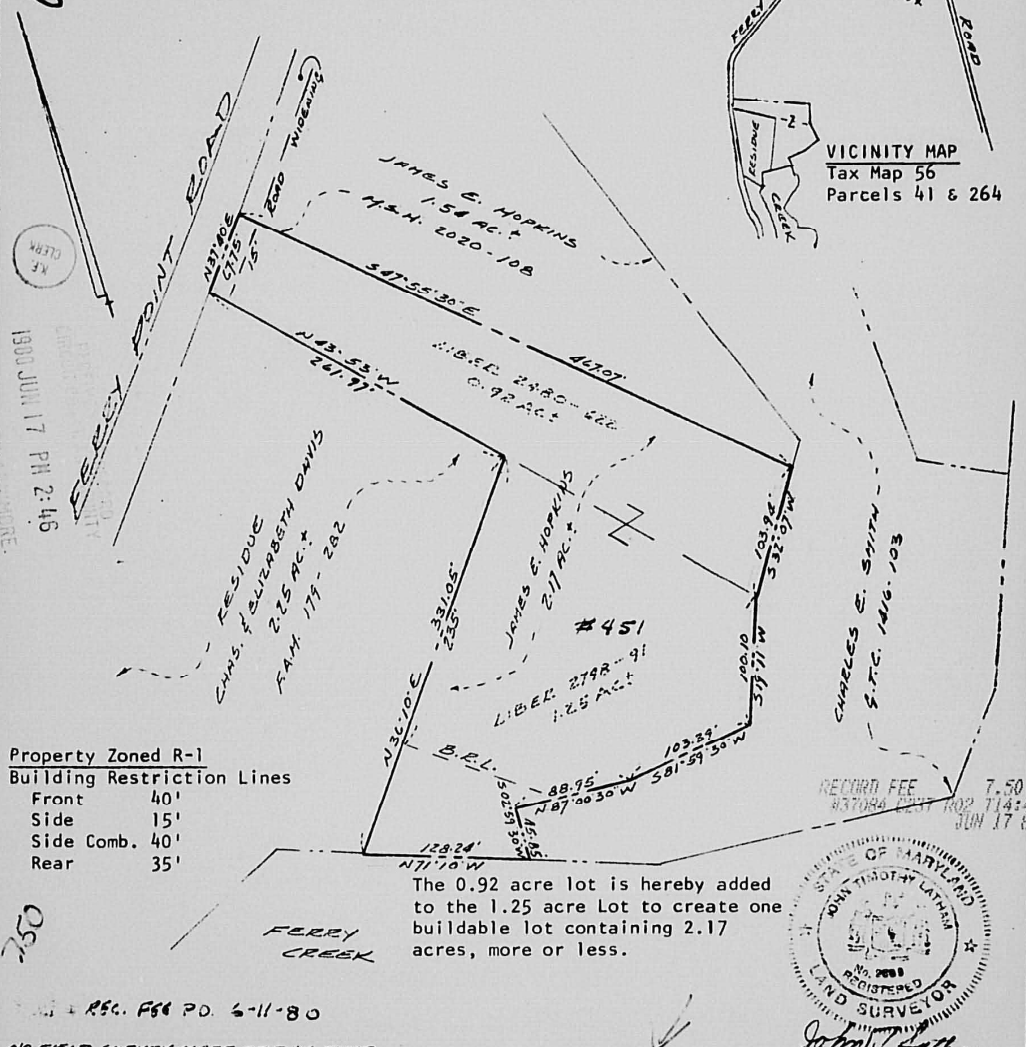
Thomas Bush Kunkle 6-16-80
Planning & Zoning Officer of A. A. Co. (Date)

J. Howard Reed B-280
Health Officer of A. A. Co. (Date)

We, the owners of the property shown hereon, hereby adopt this plan of subdivision and declare it to be a subdivision of all the property described among the Land Records of A.A. Co., MD in Liber 2480-622 and Liber 2798-91. We also dedicate the 15' road widening area to public use and which will be deeded to A.A. Co. upon request.

James E. Hopkins

Elizabeth J. Hopkins



Property Zoned R-1
 Building Restriction Lines
 Front 40'
 Side 15'
 Side Comb. 40'
 Rear 35'

The 0.92 acre lot is hereby added to the 1.25 acre Lot to create one buildable lot containing 2.17 acres, more or less.



NO FIELD SURVEY MADE AT THIS TIME.
PLAT OF 2.17 AC. ±
THE JAMES E. HOPKINS PROP.
FERRY POINT ROAD
NEAR WILD ROSE SHORES
2ND DIST. A.A. CO. MD.

J. R. McCrone, Jr., Inc.
 REGISTERED PROFESSIONAL ENGINEERS
 AND SURVEYORS
 ANNAPOLIS, MARYLAND
 PRINCE FREDERICK CHESTERTOWN
 TRAPPE LEONARDTOWN BOWIE

DRAWN BY *K*
 SCALE 1" = 100'
 DATE 9/15/80
 JOB NO. 1212075
 FOLDER C. DAVIS

SUBDIVISION PLAT RECORDED IN PLAT BOOK PAGE

Mailed to:

FORM NO. 6

2024-0030-V



Legend

Foundation

Parcels

Parcels - Annapolis City

Elevation

Topo 2020

Index

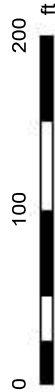
Intermediate



Notes

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