

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

**APPLICANT:** Gerald A. & Deborah K. Beatley

**ASSESSMENT DISTRICT:** 1<sup>st</sup>

**CASE NUMBER:** 2024-0080-V

**COUNCILMANIC DISTRICT:** 7<sup>th</sup>

**HEARING DATE:** July 16, 2024

**PREPARED BY:** Sara Anzelmo  
Planner

**REQUEST**

The applicants are requesting a variance to allow a dwelling addition (roof over patio) with new lot coverage nearer to the shoreline than the closest facade of the existing principal structure<sup>1</sup> on property located at 608 Overhill Drive in Edgewater.

**LOCATION AND DESCRIPTION OF SITE**

The subject site consists of 22,737 square feet +/- of land and is located on the west side of Overhill Drive at the intersection with Outtrigger Drive. It is identified as Lots 38 thru 40 of Parcel 43 in Block 15 on Tax Map 60 in the Holly Hill Harbor subdivision.

The property is zoned R2 – Residential District, as adopted by the comprehensive zoning for Council District 7, effective October 7, 2011. This is a waterfront lot that lies entirely within the Chesapeake Bay Critical Area overlay, is designated as LDA – Limited Development Area, and is mapped as a BMA – Buffer Modification Area. It is currently improved with a part two-story and part one-story, single-family, detached dwelling and associated facilities.

**PROPOSAL**

The applicants propose to construct a roof over two contiguous patio areas (15’ by 16’ and 10’ by 20’) totaling 440 square feet of covered patio area on the waterfront side of the existing dwelling.

**REQUESTED VARIANCES**

§ 17-8-702(b)(1) of the Subdivision and Development Code provides that in a BMA – Buffer Modification Area no new lot coverage shall be placed nearer to the shoreline than the closest façade of the existing principal structure. While the BMA allows for the in-kind replacement of existing coverage, this does not meet the definition of in-kind replacement. Therefore, a variance is required to allow 440 square feet of new lot coverage to project 15 feet nearer to the shoreline.

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<sup>1</sup> The case was initially advertised with additional variances for less setbacks and less buffer than required. This Office has reviewed the proposal and has determined that those additional variances are not required. However, a modification for development within the 25-foot steep slope buffer may be required.

## **FINDINGS**

The subject property is irregular in shape and exceeds the minimum area and width required for the R2 zoning district. The existing and proposed critical area lot coverage is reported as 5,282 square feet (23.23%), which falls below the maximum 5,445 square feet of coverage allowed.

A review of the 2024 County aerial photograph shows a neighborhood consisting of a variety of lot shapes and sizes and containing significant development within the 100-foot BMA – Buffer Modification Area in this older waterfront community. The original subject dwelling and many of the existing structures on nearby waterfront lots were constructed prior to the enactment of Critical Area laws. Some nearby waterfront lots also contain waterfront porches and decks.

The applicants' letter explains that the existing pergola over the patio does not provide sufficient sun protection and that a solid roof is necessary in order for them to be able to use that area during certain times of the day. They considered a retractable canopy, but they rejected that idea because the winds on the waterfront property would create a somewhat hazardous condition.

The **Health Department** does not have an approved plan for this project, but has no objection to the proposed variance as long as a plan is submitted and approved by the Department.

The **Critical Area Commission** took no position on the proposed variance request, but commented that appropriate mitigation is required.

The **Development Division (Critical Area Team)** has no objection, provided that it is a roof structure only with no enclosures and it remains on or within the footprint of the existing patio.

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 lot, strict implementation of the County's Critical Area Program would result in an unwarranted hardship. The original dwelling was constructed within the 100-foot BMA long before the enactment of Critical Area laws. The applicants wish to make efficient and effective use of an existing outdoor amenity area by constructing a solid roof over the patio. Denial of the variance would prevent the applicants from achieving much-needed sun protection over already existing impervious lot coverage.

A literal interpretation of the Critical Area Program would deprive the applicants of rights that are commonly enjoyed by other properties in similar areas. The granting of the variance would not confer on the applicants a special privilege that would be denied by COMAR, Title 27. The variance request is not based on conditions or circumstances that are the result of the applicants and does not arise from any condition relating to land or building use on any neighboring property. The variance would not adversely affect water quality or impact fish, wildlife or plant habitat and would be in harmony with the general spirit and intent of the County's Critical Area Program. By limiting the roofed area to the existing patio area, the applicants have evaluated and implemented site plan alternatives and have overcome the presumption that the specific development does not conform to the general purpose and intent of the Critical Area law.

With regard to the requirements for all variances, approval would not alter the essential character of the neighborhood, as there are similar waterfront porches on nearby properties. The variance would not substantially impair the appropriate use or development of the adjacent properties, as the proposed roof would exceed the minimum setback requirements from all lot lines. The variance would not reduce forest cover in the limited development area, be contrary to acceptable clearing and replanting practices, or be detrimental to the public welfare.

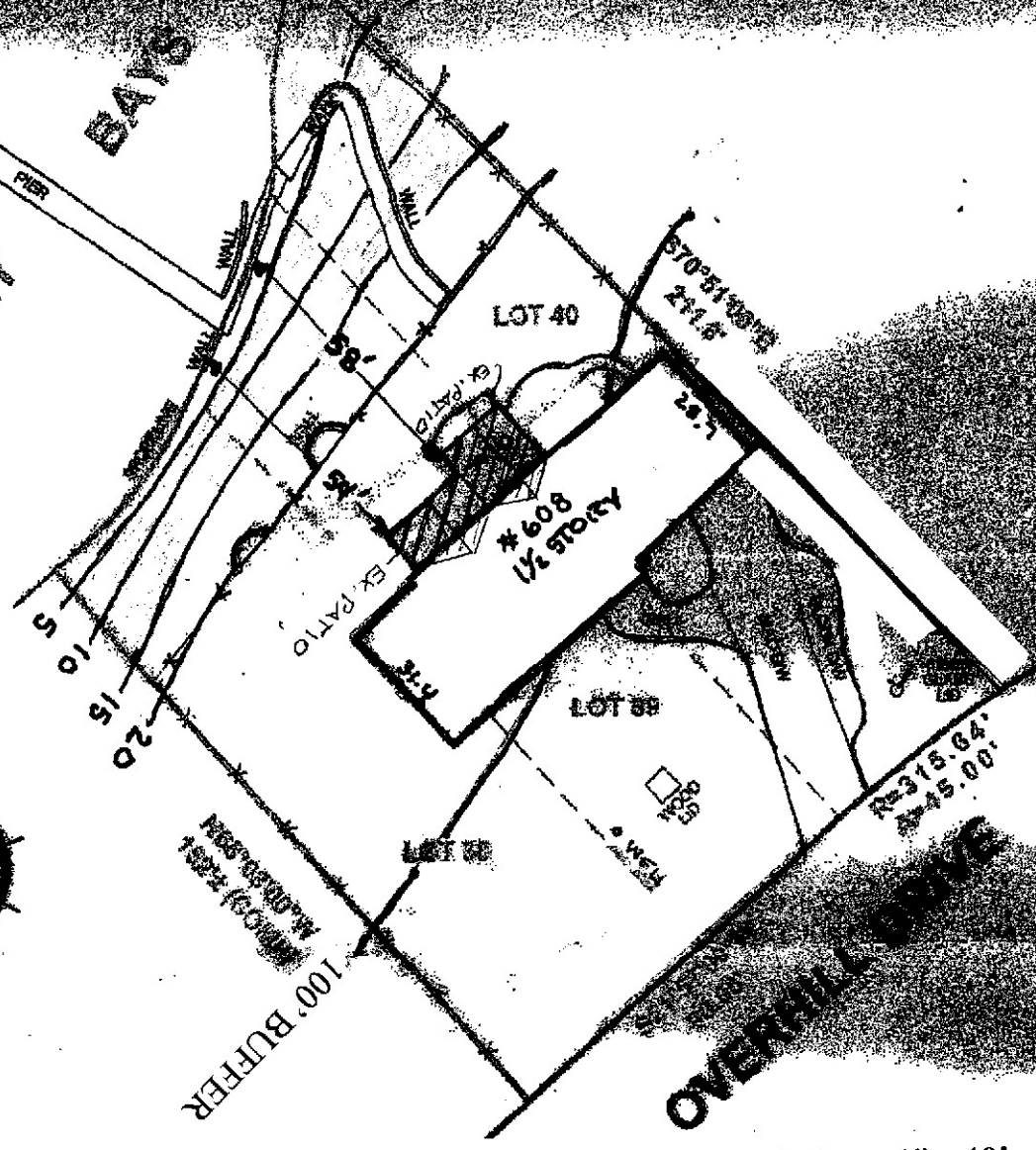
The proposed roofed area with open sides located over the existing impervious patio is considered to be the minimum variance relief necessary to provide reasonable, protected use of the applicants' existing outdoor amenity area.

### **RECOMMENDATION**

Based upon the standards set forth in § 18-16-305 of the Code under which a variance may be granted, this Office recommends ***approval*** of the proposed Critical Area variance to allow a dwelling addition (roof over patio) with 440 square feet of new critical area lot coverage nearer to the shoreline than the facade of the existing principal structure, as shown on the site plan submitted by the applicants. Any approval should be conditioned on the support posts being set in so that the proposed roof overhang does not extend beyond the edges of the existing patio.

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.

HOLLY BAYS



PROF. ROOF



10 X 20  
15 X 16

(440 sq.ft) COVERED PATIO LDA WELL PUBLIC R-2 1" - 40'

LOCATION DRAWING OF:

**809 OVERHILL DRIVE**  
**LOTS 38-40**  
**HOLLY HILL SECTION OF**  
**SELEY ON THE BAY**  
**PLAT BOOK 9, PLAT 6**  
**ANNE ARUNDEL COUNTY, MARYLAND**

SCALE: 1"=40' DATE: 10-16-16  
 DRAWN BY: CP FILE #: 10700-038

LEGEND:

- Proposed Structure
- Proposed Driveway
- Proposed Walkway
- Proposed Fencing
- Proposed Retention

CONCRETE:

- Proposed
- Existing

A Land Surveying Company

**DULEY**



1000 E. BAY STREET, LITTLE ROCK, AR 72201

BMA

**Atlantic Development Services Group**  
P.O. Box 567  
Crownsville, Maryland 21032-1218

Anne Arundel County  
Office of Planning and Zoning  
2664 Riva Road  
Annapolis, Maryland 21401

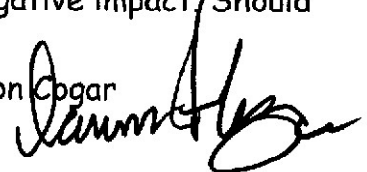
3-7-24

RE: Variance- Beatley Property  
608 Overhill Dr. Edgewater, Md. 21037  
Tax Account# 1411-9003-5617  
Zoning R-2 CA Designation: LDA BMA : Yes

Dear Sir or Madam:

We are applying for a variance to allow for construction of a 15'X16' and a 10'X20' roof over an existing stone patio in the 100' buffer and close to steep slopes.. The house was constructed in 1952 and has been updated over the years. The house is approximately 58' from the MHW. The house and the adjacent properties were constructed to allow for the most part ,a clear view of the waterfront causing them to be close to the "slope" The house location placed in 1952,put the structure close to the slope at a time that "steep slopes" were not an issue they present today. The location of the house causes the water view only to be allowed on the front side of the structure. The site at some point was upgraded with stone patio that allowed for "outdoor living" and a water view. During the life of the patio a pergola was added to assist to block out the sun rays which are very strong at certain times of the day.The pergola does not provide sufficient protection and the owners had hoped to construct a solid roof over the the affected patio area in an effort to be able to use that area during the day. There was consideration to having a retractable canopy but that was rejected as winds on the waterfront property create a somewhat hazardous condition. The adjacent properties have covered decks in order to allow their properties to enjoy the outdoors sans harsh sun rays. The proposed roof will not cover the entire patio but most of it. The lot well cared for,has a substantial vegetative slope with shrubs and plantings designed to protect and enhance the existing slope area which will not be affected in any way.The roof construction will consist of approximately eight post holes about 16" in diameter. The area under the roof over the patio will remain open. There will be no work outside of that area that could affect the slpe area and with appropriate sediment controls there will be no negative impact. Should you have any questions please feel free to contact me.

Thank you, Damon Cogar





**Atlantic Development Services Group**  
P.O. Box 567  
Crownsville, Maryland 21032-1218

## **CHESAPEAKE BAY CRITICAL AREA REPORT**

Beatley Property

608 Overhill Rd.  
Edgewater, Maryland 21037

Tax Map 60; Grid 15; Parcel 43  
Anne Arundel County Zoning: R2  
Critical Area Designation: LDA  
Tax Account #1411-9003-5617

March 3, 2024

### **I. Purpose of Variances**

The applicant owns a 22,737 square foot lot in Holly Hill Harbor in Edgewater. The entire property is located within the Chesapeake Bay Critical Area and has an LDA land use designation. See the County Critical Map at the end of this report. While this site is in critical area, it is also waterfront.

The property owner desires construct a covered roof over a portion of the existing stone patio. Due to zoning setback regulations, a variance is necessary. The existing structure does not conform to County zoning setbacks requiring a variance to the steep slope buffer requirements for any new construction in the 100 foot buffer.

### **II. Critical Area Narrative - Site Description**

The applicant's lot is irregular in shape - 152.0x 135.0x 211.8 x 126.0(see site plan attached) with 1.5-story single family dwelling. The site is mostly mowed lawn with numerous plantings and one large tree.

The County Soil Survey has the site mapped with Keyport Silt Loam complex that is well draining but highly erodable soil complex. No tidal or nontidal wetlands are located directly on the lot.

### **III. Critical Area Narrative**

#### **A. Existing and Proposed Vegetation Coverage:**

Existing Conditions: The lot is mostly lawn with numerous plantings.

Proposed Conditions: Grading performed ( basically 8 post holes) to construct the proposed structure will be regulated by local jurisdiction and proper sediment controls will be implemented. Grading performed will be minimized to provide strict sediment control. Any planting will be implemented as necessary.

#### **B. Stormwater Management and Water Quality:**

Existing Conditions: No stormwater management is currently present on this site.

Proposed Conditions: There is no increase of impervious area is proposed. Any stormwater management requirement would be determined at time of permit issuance process.

#### **C. Aquatic Resources:**

Existing Conditions: Water quality and aquatic resources in the Holly Bays are somewhat degraded by existing surrounding development.

Proposed Conditions: While this is a waterfront lot with local regulations and proper sediment control installation and maintenance, no adverse impact on aquatic resources are anticipated as a result of improvement of this lot.

#### **D. Forest Clearing and Impervious Coverage**

Existing Conditions: No "forest" cover is present on the site. Impervious area is currently approximately 4,895 square feet.

Proposed Conditions: No tree clearing is proposed. Impervious coverage will not be increased , which remains below maximum allowed.

### **IV. Conclusions**

The requested variance is necessary to allow construction of the proposed patio roofs . No adverse impacts to fish, wildlife, and plant habitat and water quality are anticipated.

### **V. Site Investigation**

A site investigation to obtain data to prepare this Critical Area Report was conducted on March 1,2024 by Damon F. Cogar of Atlantic Development Services Group.

CRITICAL AREA COMMISSION  
 CHESAPEAKE AND ATLANTIC COASTAL BAYS  
 1804 WEST STREET, SUITE 100  
 ANNAPOLIS, MD 21401

PROJECT NOTIFICATION APPLICATION

**GENERAL PROJECT INFORMATION**

Jurisdiction: Anne Arundel County

Date: 4-22-24

| Tax Map # | Parcel # | Block # | Lot # | Section |
|-----------|----------|---------|-------|---------|
| 60        | 43       |         | 38    |         |
|           |          |         |       |         |
|           |          |         |       |         |

| FOR RESUBMITTAL ONLY                                 |                          |
|--|--------------------------|
| Corrections  | <input type="checkbox"/> |
| Redesign   | <input type="checkbox"/> |
| No Change  | <input type="checkbox"/> |
| Non-Critical Area                                    | <input type="checkbox"/> |
| *Complete Only Page 1<br>General Project Information |                          |

Tax ID: 1411-9003-5617

Project Name (site name, subdivision name, or other) **BEATLEY PROJECT**

Project location/Address **608 OVERHILL DR**

City **EDGEWATER** Zip

Local case number

Applicant: Last name **BEATLEY** First name **GERALD**

Company

**Application Type (check all that apply):**

- |                           |                                     |                   |                                     |
|---------------------------|-------------------------------------|-------------------|-------------------------------------|
| Building Permit           | <input checked="" type="checkbox"/> | Variance          | <input checked="" type="checkbox"/> |
| Buffer Management Plan    | <input type="checkbox"/>            | Rezoning          | <input type="checkbox"/>            |
| Conditional Use           | <input type="checkbox"/>            | Site Plan         | <input type="checkbox"/>            |
| Consistency Report        | <input type="checkbox"/>            | Special Exception | <input type="checkbox"/>            |
| Disturbance > 5,000 sq ft | <input type="checkbox"/>            | Subdivision       | <input type="checkbox"/>            |
| Grading Permit            | <input type="checkbox"/>            | Other             | <input type="checkbox"/>            |

**Local Jurisdiction Contact Information:**

Last name AACo Zoning Administration Section First name \_\_\_\_\_

Phone # 410-222-7437 Response from Commission Required By TBD

Fax # \_\_\_\_\_ Hearing date TBD



**SPECIFIC PROJECT INFORMATION**

Describe Proposed use of project site:

**RESIDENT**

|                       |                              |                       |                              |
|-----------------------|------------------------------|-----------------------|------------------------------|
| Intra-Family Transfer | Yes <input type="checkbox"/> | Growth Allocation     | Yes <input type="checkbox"/> |
| Grandfathered Lot     | <input type="checkbox"/>     | Buffer Exemption Area | <input type="checkbox"/>     |

**Project Type (check all that apply)**

|                    |                          |                          |                                     |
|--------------------|--------------------------|--------------------------|-------------------------------------|
| Commercial         | <input type="checkbox"/> | Recreational             | <input type="checkbox"/>            |
| Consistency Report | <input type="checkbox"/> | Redevelopment            | <input type="checkbox"/>            |
| Industrial         | <input type="checkbox"/> | Residential              | <input checked="" type="checkbox"/> |
| Institutional      | <input type="checkbox"/> | Shore Erosion Control    | <input type="checkbox"/>            |
| Mixed Use          | <input type="checkbox"/> | Water-Dependent Facility | <input type="checkbox"/>            |
| Other              | <input type="checkbox"/> |                          |                                     |

**SITE INVENTORY (Enter acres or square feet)**

|            | Acres | Sq Ft  | Total Disturbed Area | Acres | Sq Ft |
|------------|-------|--------|----------------------|-------|-------|
| IDA Area   |       |        |                      |       |       |
| LDA Area   |       | 22,737 |                      |       | 18'   |
| RCA Area   |       |        |                      |       |       |
| Total Area |       |        | # of Lots Created    |       |       |

|                                | Acres | Sq Ft  |                       | Acres | Sq Ft |
|--------------------------------|-------|--------|-----------------------|-------|-------|
| Existing Forest/Woodland/Trees |       | 12,000 | Existing Lot Coverage |       | 5,202 |
| Created Forest/Woodland/Trees  |       |        | New Lot Coverage      |       | NA    |
| Removed Forest/Woodland/Trees  |       |        | Removed Lot Coverage  |       | NA    |
|                                |       |        | Total Lot Coverage    |       | 5,202 |

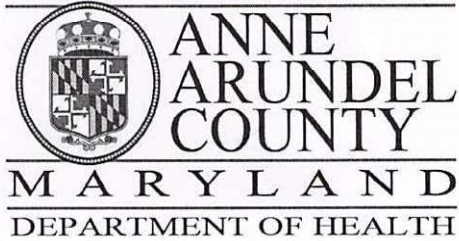
**VARIANCE INFORMATION (Check all that apply)**

|                        | Acres | Sq Ft |                        | Acres | Sq Ft |
|------------------------|-------|-------|------------------------|-------|-------|
| Buffer Disturbance     |       | 500   | Buffer Forest Clearing |       | NA    |
| Non-Buffer Disturbance |       |       | Mitigation             |       | NA    |

|                      |                                     |                         |  |
|----------------------|-------------------------------------|-------------------------|--|
| <u>Variance Type</u> |                                     | <u>Structure</u>        |  |
| Buffer               | <input checked="" type="checkbox"/> | Acc. Structure Addition | <input type="checkbox"/>                                       |
| Forest Clearing      | <input type="checkbox"/>            | Barn                    | <input type="checkbox"/>                                       |
| HPA Impact           | <input type="checkbox"/>            | Deck                    | <input type="checkbox"/>                                       |
| Lot Coverage         | <input type="checkbox"/>            | Dwelling                | <input type="checkbox"/>                                       |
| Expanded Buffer      | <input type="checkbox"/>            | Dwelling Addition       | <input type="checkbox"/>                                       |
| Nontidal Wetlands    | <input type="checkbox"/>            | Garage                  | <input type="checkbox"/>                                       |
| Setback              | <input type="checkbox"/>            | Gazebo                  | <input type="checkbox"/>                                       |
| Steep Slopes         | <input checked="" type="checkbox"/> | Patio                   | <input type="checkbox"/>                                       |
| Other                | <input type="checkbox"/>            | Pool                    | <input type="checkbox"/>                                       |
|                      |                                     | Shed                    | <input type="checkbox"/>                                       |
|                      |                                     | Other                   | <input checked="" type="checkbox"/> <u>ROOF OVER EX. PATIO</u> |







J. Howard Beard Health Services Building  
3 Harry S. Truman Parkway  
Annapolis, Maryland 21401  
Phone: 410-222-7193 Fax: 410-222-7479  
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 *BC*  
Sanitary Engineering Program

DATE: April 29, 2024

CASE  
NUMBER: 2024-0080-V  
Gerald A. Beatley, Trustee  
608 Overhill Drive  
Edgewater, MD 21037

SUBJECT: Variance/Special Exception/Rezoning

The Health Department has reviewed the above referenced variance to allow dwelling additions (roof over patio) with less setbacks and buffer than required and with new lot coverage nearer to the shoreline than the closest façade of the principal structure. The Health Department offers the following comments:

The Health Department does not have an approved plan for this project. The Health Department has no objection to the above reference variance request as long as a plan is submitted and approved by the Health Department.

If you have further questions or comments, please contact Brian Chew at 410-222-7024.

cc: Sterling Seay



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

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**CAC Comments: 2024-0078-V Bentley, 2024-0080-V Beatley, 2024-0081-V Rattner, 2024-0085-V Beer**

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Jennifer Esposito <jennifer.esposito@maryland.gov>

Fri, May 10, 2024 at 4:01 PM

To: Sadé Medina <pzmedi22@aacounty.org>

Good afternoon,

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

- 2024-0078-V; Bentley (AA 102-24);
- 2024-0080-V; Beatley (AA 103-24);
- 2024-0081-V; Rattner (AA 104-24); and
- 2027-0085-V; Beer (AA 110-24)

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](http://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](mailto:jennifer.esposito@maryland.gov)

# 2024-0080-V

Menu Cancel Help

|  |   |   |
|--|---|---|
| <b>Task</b><br>OPZ Critical Area Team              | <b>Due Date</b><br>05/14/2024                                     | <b>Assigned Date</b><br>04/23/2024  |
| <b>Assigned to Department</b><br>OPZ Critical Area | <b>Assigned to</b><br>Kelly Krinetz                               | <b>Status</b><br>Complete w/ Comments   |
| <b>Action by Department</b><br>OPZ Critical Area   | <b>Action By</b><br>Kelly Krinetz                                 | <b>Status Date</b><br>04/25/2024  |
| <b>Start Time</b>                                  | <b>End Time</b>   | <b>Hours Spent</b><br>0.0   |
| <b>Billable</b><br>No                              | <b>Overtime</b><br>No   | <b>Comments</b><br>No objection provided it a roof structure only with no enclosures and it remains on or within the footprint of the existing patio.   |
| <b>Time Tracking Start Date</b>                    | <b>Est. Completion Date</b>                                       | <b>In Possession Time (hrs)</b>   |
| <b>Display E-mail Address in ACA</b><br>No         | <input checked="" type="checkbox"/> <b>Display Comment in ACA</b> | <b>Comment Display in ACA</b><br><input checked="" type="checkbox"/> All ACA Users<br><input checked="" type="checkbox"/> Record Creator<br><input checked="" type="checkbox"/> Licensed Professional<br><input checked="" type="checkbox"/> Contact<br><input checked="" type="checkbox"/> Owner |
| <b>Estimated Hours</b><br>0.0                      | <b>Action</b><br>Updated  | <b>Workflow Calendar</b>  |

Task Specific Information

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**Expiration Date**  
**Reviewer Phone Number**

**Review Notes**  
**Reviewer Email**

**Reviewer Name**



612

610

608

606

606A

604

609

3833

607

Tax Account Number: 141190035617

Tax Account Number: 141190035617

Tax Account Number: 141190035617

OUTRIGGER DR

OVERHILL DR

603

600