

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

**APPLICANT:** Kenneth Vidmar

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

**CASE NUMBER:** 2024-0090-V

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

**HEARING DATE:** July 30, 2024

**PREPARED BY:** Sara Anzelmo  
Planner



**REQUEST**

The applicant is requesting a variance to allow an extension in time for the implementation and completion of a previously approved variance on property located at the intersection of currently unimproved sections of Hawkins Street and Shady Drive in Edgewater.

**LOCATION AND DESCRIPTION OF SITE**

The subject site consists of 29,303 square feet of land and has about 108 feet of road frontage on the west side of Hawkins Street, 0 feet north of Shady Drive. It is identified as Lots 217 through 222 of Parcel 27 in Grid 4 on Tax Map 60 in the North Selby subdivision.

The property is zoned R2 - Residential District, as adopted by the comprehensive zoning for Council District 7, effective October 7, 2011. The site is not waterfront, but it is located entirely within the Chesapeake Bay Critical Area overlay and is designated as RCA - Resource Conservation Area. It is substantially encumbered by the buffer to Brickhouse Creek and is currently unimproved.

**PROPOSAL**

The applicant proposes to construct a new single-family detached dwelling and associated facilities at the subject property.

**REQUESTED VARIANCES**

§ 18-16-405(a) of the Anne Arundel County Zoning Ordinance provides that a variance that is not extended or tolled expires by operation of law unless the applicant obtains a building permit within eighteen months of approval. On May 12, 2022, the Administrative Hearing Officer denied variances under Case No. 2022-0030-V. However, the applicant appealed that decision, and the Board of Appeals ultimately granted the variances on November 18, 2022. That approval would have been valid until May 18, 2024. The applicant is requesting a variance to allow an additional 18-month extension in time to obtain a building permit while maintaining the previous approval.

## **FINDINGS**

This application for an extension in time was properly made on May 10, 2024, prior to the expiration of the eighteen month time period.

While the County did not support the critical area and zoning variances requested in the 2022 case, the merits of the original variance case are not a factor when determining whether or not a time extension is warranted. Rather, a determination must be made as to whether the applicant has been diligently working towards obtaining the necessary approvals in order to proceed with the proposed development. The applicant's letter of explanation provided an extensive timeline detailing the various steps that he has taken towards obtaining his building permit. Based on this timeline, it appears that the applicant has been actively pursuing the necessary approvals.

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

## **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 a variance to §18-16-405(a) to allow an additional eighteen months 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.

Kenneth Vidmar  
USS Sterett  
Unit 100216 Box 1  
FPO AP 96678  
612-990-4626

May 7, 2024

Anne Arundel County  
Office of Planning and Zoning  
Zoning Division  
Attn: Sterling Seay, Zoning Administrator  
2664 Riva Road  
Annapolis, MD. 21401

Mr. Seay:

I am requesting an 18-month extension of my variance granted in BA 21-22V.

All of the reasons for which I originally sought the variance are still equally valid. I and my engineer Doug Bourquin have been pursuing a grading permit since 12 days after the variance was granted and are significantly closer to a grading permit than when we started the application process. Nearly a year and a half later, comments are still being put forward by Anne Arundel County and being addressed by my team, and the county has yet to approve or deny the application. I believe I am entitled to an outcome in the permitting process. The extension is needed for the permitting process to run its course.

--Timeline: --

August 30, 2022: Variance appeal hearing is held.

November 18, 2022: Variance granted; see BA 21-22V.

November 30, 2022: Grading permit application resubmitted. (We had submitted prior to the variance, with no response)

December 14-29, 2022: Comments received from John Bory (I&P), Michael Day (OPZ), and OPZ Cultural Resources Section via Land Use Navigator. Comments included:

- Lot merger will be required.
- Urban planter boxes are not allowed.
- Sight distance calculations and turn template for a backing vehicle are needed for a driveway within 50 ft of an intersection. Clearly labeled setbacks from proposed

Stormwater Management (SWM) measures to property lines, structures, septic, wells, etc. are needed.

- OPZ / Cultural Resources comments are required.
- The County expressed confusion over whether the variance authorized disturbance to non-tidal wetland or to the buffer. (Note: It was to the buffer.) The area is mapped as Forest Interior Dwelling (bird species) habitat.
- The remaining woodland (after clearing) shall be put into a conservation easement.
- The garage will require a non-conversion agreement due to being below the flood elevation of 5 ft.

All of these comments were addressed and no longer marked "Revision Needed" on the Land Use Navigator

January 18, 2023: Doug Bourquin meets with John Bory (I&P) to discuss the grading permit application.

January 23, 2023: OPZ Cultural Resources (CR) archaeologist Stacey Poulos visited the property, determined that there should be no adverse effects to cultural resources, and granted CR approval.

February 9, 2023: Lot merger agreement was executed and delivered to Anne Arundel County OPZ.

February 24 and 28, 2023: New comments were received from John Bory (I&P) and Michael Day (OPZ) via Land Use Navigator. Comments included:

- Due to new construction criteria, the Rainhandler system (being considered at County I&P's suggestion), is not appropriate.
- SWM needs to be redesigned considering that "Qp" is a requirement.
- The remaining woodland shall be placed into an easement. (mentioned by both John Bory and Michael Day) Revised mitigation square footage areas should be 6,747 sq ft of Critical Area buffer disturbance plus 2,872 sq ft outside of the buffer, for a total disturbance area requiring mitigation of 9,619 sq ft. Provide a mitigation plan.

All of these comments were addressed and no longer marked "Revision Needed" on the Land Use Navigator.

February 28, 2023: (second-hand information) John Bory (I&P) spoke with Doug Bourquin by telephone and expressed concerns about a "precedent" being established and that, for that reason, they (I&P) might need to consider the site not buildable.

March 1, 2023: (second-hand information) John Bory (I&P) suggested to Doug Bourquin by phone that we (Doug and I) could set up a meeting with Hala Flores (I&P Engineer Manager).

April 27, 2023: In a phone conversation with Doug Bourquin, Doug and I agree that it would be a good idea to set up a meeting with Hala Flores (I&P) and any members of her staff she would like to have in attendance to discuss remaining issues and ways forward for the grading permit.

May 2, 2023: Doug Bourquin contacts John Bory (I&P) via email to attempt to set up a future meeting with Hala Flores (I&P).

May 10, 2023: I retained Christopher Stepp of Bay Land, Inc. to provide input to Doug Bourquin on the SWM plan being presented to Anne Arundel County I&P.

May 10, 2023: John Bory (I&P) schedules a virtual meeting (via Google) with me, Doug Bourquin, Hala Flores (I&P), himself, and Christopher Stepp (Bay Land, Inc.) to discuss remaining issues and ways forward for the grading permit.

May 26, 2023: The planned meeting takes place with me, Doug Bourquin, Hala Flores (I&P Engineer Manager), John Bory (I&P), and Christopher Stepp, discussing remaining issues and ways forward for the grading permit. County I&P reverses its opposition to the Rainhandler system, with Hala Flores (I&P) specifying that vegetation (such as sod) would need to be planted in the area receiving runoff water from the (Rainhandler) system. Online research after the meeting indicated that the company that produced the Rainhandler system may have gone out of business and stopped producing the system. Those indications later proved true.

June 16, 2023: Received confirmation from Lauer Construction that the manufacturer of the Rainhandler system went out of business.

June 30, 2023: Doug Bourquin uploaded revised grading permit documents addressing remaining concerns discussed in the May 26 meeting to Anne Arundel County's (I&P) Land Use Navigator, including:

- Grading Plan Set
- Grading Resubmission Checklist
- Grading Resubmission Transmittal Cover Letter
- Grading Resubmission Point-by-Point Responses
- Overall Contributing Drainage Area Study Report (regarding a perennial stream to which my property contributes approx. 1% of total drainage)
- A booklet containing photos and cross sections of the above-mentioned stream, as requested by Hala Flores (I&P) in the May 26 meeting.



September 15, 2023: Executed and recorded a planting mitigation plan and agreement with Anne Arundel County.

October 6, 2023: Received new comments from Hala Flores (I&P) via Land Use Navigator. Comments included:

- County I&P raised the issue of obtaining the Rainhandler System mentioned above, which we were already aware of.
- Driveway cross sections and elevations are needed to clarify driveway drainage treatment and disconnection.
- Compost soil amendment is needed.
- Public Works Agreement is needed for the Mayo Tank and shall be executed prior to building permit approval.

All of these comments were addressed and no longer marked "Revision Needed" on the Land Use Navigator.

October 24, 2023: Hala Flores (I&P) emailed Doug Bouquin to ask whether the Right-of-Way containing a portion of the driveway in the plans is public or private. This question was answered. It is entirely a private Right-of-Way.

Week of December 10, 2023: Hala Flores (I&P), who was the primary reviewer for my grading permit application after John Bory's retirement (November), announced she would be leaving her job at the end of December. We did not hear from her after that.

December 18, 2023: Doug Bourquin uploaded revised grading permit documents addressing remaining concerns discussed in the May 26 meeting to Anne Arundel County's (I&P) Land Use Navigator, including:

- Grading Permit Fee and Security Estimate Computation Sheet
- Grading Plan Set (revised)
- Grading Resubmission Checklist
- Grading Resubmission Transmittal Cover Letter
- Grading Resubmission Point-by-Point Responses
- Revised SWM Report

January 30, 2024: Anne Arundel County's (I&P) Land Use Navigator still showed the grading permit application as "Under Review," with no new comments.

February 18, 2024: Received new comments from Raghu Badami (I&P Assistant Director and acting Engineer Manager) and Michael Day (OPZ) via Land Use Navigator. Comments included:

- Additional information on the design of the proposed 65-gallon cistern is needed.
- The area dedicated for cistern runoff should be shown (highlighted).
- It is not clear how the "site ESD to MEP is met with the provided SWM."
- The site design should be reviewed to ensure that existing nuisance flooding conditions are not exacerbated by SWM.
- It is not clear "how SWM Pe is met for this site."
- The finished floor levels need to be a minimum of one foot above the flood base elevation. (Note: This only pertains to the entryway. The plans have been adjusted to Michael Day's satisfaction.) Flood notes should also be included in the plans.
- A non-conversion agreement for the garage will be required at the building permit stage.

Doug Bourquin responded to the first five of these items via email on April 18, 2024, and as mentioned, of the remaining two, one is resolved, and the other does not require action until the building permit stage. We have not received a response from Raghu, as of the writing of this letter.

--End Timeline--

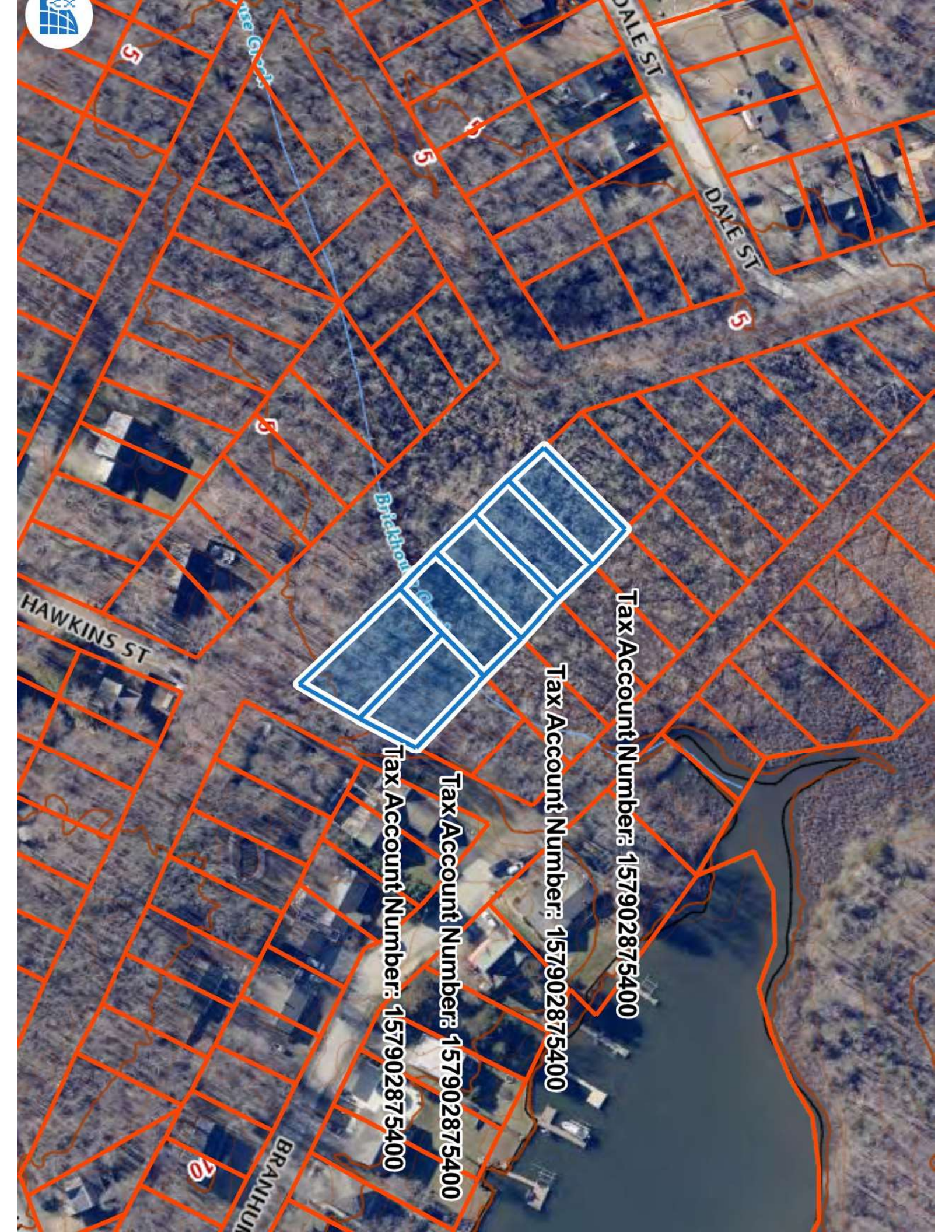
I wish to exercise my property rights under COMAR § 27.01.02.07B and other laws to build a single-family home for my own personal use. I believe I have been doing everything reasonably and humanly possible to comply with the requirements to obtain a grading permit. It still isn't clear how much more time the process will take. It appears to be down to only the SWM calculations not being clear to Mr. Badami (I&P). However, it would not be shocking to see new comments/concerns appear from the county. I am patient, and I ask for the time to ensure that they all are resolved.

Sincerely,

A handwritten signature in cursive script that reads "Ken Vidmar". The signature is written in dark ink and is positioned below the word "Sincerely,".

Kenneth Vidmar





Tax Account Number: 157902875400

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