

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

**APPLICANT:** Joshua & Emma Progar

**ASSESSMENT DISTRICT:** 3<sup>rd</sup>

**CASE NUMBER:** 2024-0115-V

**COUNCILMANIC DISTRICT:** 5<sup>th</sup>

**HEARING DATE:** August 29, 2024

**PREPARED BY:** Sara Anzelmo  
Planner

**REQUEST**

The applicants are requesting a variance to allow a dwelling addition (second story) with less setbacks than required on property located at 1043 Deep Creek Avenue in Arnold.

**LOCATION AND DESCRIPTION OF SITE**

The subject site consists of 32,944 square feet of land and is located with 125 feet of frontage on the north side of Deep Creek Avenue. It is identified as Lot 71 of Parcel 37 in Block 22 on Tax Map 33 in the Shore Acres subdivision.

The property is zoned R1 – Residential District, as adopted by the comprehensive zoning for Council District 5, effective January 29, 2012. This waterfront site is located entirely within the Chesapeake Bay Critical Area, is designated as LDA – Limited Development Area, and is mapped as a BMA – Buffer Modification Area. It is currently improved with a one-and-a-half story, single-family, detached, cape cod style dwelling and other associated facilities.

**PROPOSAL**

The applicants seek approval to construct a full second story dwelling addition over the existing one-and-a-half story cape cod style house.

**REQUESTED VARIANCES**

§ 18-2-301(f) of the Anne Arundel County Zoning Code allows a single-family detached dwelling on a lot that does not meet the area or width requirements of the Code to be expanded if the expansion is set back at least seven feet from the side lot lines and does not exceed 35 feet in height. At its closest point, the proposed second story dwelling addition would be constructed four feet from the southeast side lot line, necessitating a variance of three feet.

**FINDINGS**

The subject property is roughly rectangular in shape, but it is angled at the road and at the shoreline. While the lot just meets the 125-foot width required, the 32,944 square foot lot size is less than the minimum 40,000 square foot area currently required for a lot in an R1 District. The existing critical area lot coverage is 7,719 square feet, which exceeds the maximum 5,445 square

feet of coverage currently allowed by Code. However, the proposed second story addition would not result in any increase of critical area lot coverage.

A review of the 2024 County aerial photograph shows a neighborhood containing a variety of lot shapes and sizes improved with an eclectic mix of dwellings, several of which do not comply with the current minimum setbacks, in this older waterfront community. According to State tax assessment records, the subject dwelling was constructed in 1946, prior to the enactment of zoning regulations. As such, the existing house does not comply with the minimum southeastern side setback requirement, causing a second story addition to be problematic without zoning relief.

The applicants' letter explains that they recently purchased the property in November of 2023. They intend to rehabilitate the first floor and basement levels; to add square footage via a second story addition that would expand to the full first floor footprint; and to add new mechanical, septic, HVAC, plumbing, and electrical systems to improve the property. The applicants note that the proposal would not encroach on any neighbor's property beyond the inherited site conditions.

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

For the granting of a zoning variance, a determination must be made as to whether, because of certain unique physical conditions peculiar to or inherent in the lot or because of exceptional circumstances, strict implementation of the Code would result in practical difficulties or an unnecessary hardship. In this case, further development of the site is constrained by the practical limitations of an existing developed lot (c. 1946). The need for the variance results from the applicants' desire to make efficient and effective use of their relatively small, outdated, cape cod house by constructing a second story addition.

Approval of the variances would not alter the essential character of the neighborhood, as there are other dwellings in the immediate area that are similarly sized and located. The variances would not substantially impair the appropriate use or development of adjacent properties, as the second story addition would come no closer to the side lot line than the existing first floor. There is no evidence to indicate that the variance would be detrimental to the public welfare.

Given the long-standing nonconforming location of the existing improvements, the reasonable size of the existing dwelling with the proposed addition, and the overall neighborhood context, the request for the side setback variance is justified and is deemed to be the minimum necessary to afford relief in this case.

### **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 zoning variance to § 18-2-301(f) to allow a second story dwelling addition to be constructed as close as four feet from the southeastern side lot line, as shown on the site plan submitted by the applicant.

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.



June 3, 2024

Anne Arundel County Zoning Administration  
2664 Riva Road, Suite #3  
Annapolis, MD 21401

**Letter of Explanation for Variance**

1043 Deep Creek Avenue, Arnold, MD 21012

To Whom it may Concern,

I am writing to you to request a variance associated with permit application #B02426046 for our home renovation at our property at 1043 Deep Creek Avenue in Arnold, MD. During the review of the building permit application process, the existing structure on our Zoned R1, non-conforming lot does not meet the minimum 7-foot setback from the side lot line required of the zoning of the property per Section 18-2-301(f). The existing structure is approximately 4-feet off the side property line and therefore falls within the 7-foot setback.

In November 2023, we purchased this existing structure which was built in 1946 and was reaching the end of its expected 75-year lifespan. We are submitting for a building permit that includes a complete rehabilitation and vertical expansion of the existing structure to extend the life of the house another 50 years, improve the condition of the structure and property, and most importantly, this project does not expand the footprint of this home. We are building completely within the footprint of the existing structure, at its original location, maintaining all critical area considerations for a waterfront property.

The scope of the renovation project includes the complete rehabilitation of the first floor and basement levels. On the second-floor, we are staying within the existing building footprint but we are adding square footage by expanding to the first floor footprint. Additionally, we will be adding new mechanical, septic, HVAC, plumbing, and electrical systems to improve the property. Importantly, the expansion does not encroach on any neighbor's property beyond the inherited site conditions.

Please consider that the non-conforming Shore Acres property (lot #71 in Shore Acres, parcel no. 03-749-09921800) is very thin, only roughly 60-70 feet wide. The waterfront lot is approximately 32,944 sq ft or 0.7563 acres with an existing 26.5' wide by 45.5' long (or 1,225 sq ft footprint) by approximately 16' high existing structure. As you can see from the included site improvement plan, the existing structure is located anywhere from approximately 6' down to 4' away from the east side property line.

Please note that the variance will meet all requirements included in Article 18-16-305c. We have attached the latest site improvement plan and renovation drawings to support the request for this variance.

Sincerely,

**Josh and Emma Progar**  
1043 Deep Creek Avenue

Arnold, MD 21012



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

PROJECT NOTIFICATION APPLICATION

GENERAL PROJECT INFORMATION

Jurisdiction: Shore Acres

Date: 6/5/24

Tax Map #	Parcel #	Block #	Lot #	Section
	<u>233861</u>		<u>70</u>	

Tax ID: 3749 099 23200

FOR RESUBMITTAL ONLY

Corrections ☐  
Redesign ☐  
No Change ☐  
Non-Critical Area ☐

\*Complete Only Page 1  
General Project Information

Project Name (site name, subdivision name, or other)

Project location/Address 1093 Deep Creek ave

City Arnold MD 21012

Zip

Local case number

Applicant: Last name Whentley

First name Steve

Company SO East LLC.

Application Type (check all that apply):

Building Permit ☐  
Buffer Management Plan ☐  
Conditional Use ☐  
Consistency Report ☐  
Disturbance > 5,000 sq ft ☐  
Grading Permit ☐

Variance ☒  
Rezoning ☐  
Site Plan ☐  
Special Exception ☐  
Subdivision ☐  
Other ☐

Local Jurisdiction Contact Information:

Last name Progar

First name Joshua

Phone # 814-470-6407 Response from Commission Required By

Fax # Hearing date



## SPECIFIC PROJECT INFORMATION

Describe Proposed use of project site:

2nd Floor expansion within existing Foot Print of home.

Intra-Family Transfer ☐ Yes  
Grandfathered Lot ☐

Growth Allocation ☐ Yes  
Buffer Exemption Area ☐

### Project Type (check all that apply)

Commercial ☐  
Consistency Report ☐  
Industrial ☐  
Institutional ☐  
Mixed Use ☐  
Other ☐

Recreational ☐  
Redevelopment ☐  
Residential ☒  
Shore Erosion Control ☐  
Water-Dependent Facility ☐

## SITE INVENTORY (Enter acres or square feet)

	Acres	Sq Ft
IDA Area		
LDA Area		
RCA Area		
Total Area		

Total Disturbed Area        Acres        Sq Ft

# of Lots Created

	Acres	Sq Ft		Acres	Sq Ft
Existing Forest/Woodland/Trees	<u>      </u>	<u>      </u>	Existing Lot Coverage		<u>7719</u>
Created Forest/Woodland/Trees	<u>      </u>	<u>      </u>	New Lot Coverage	<u>      </u>	<u>      </u>
Removed Forest/Woodland/Trees	<u>      </u>	<u>      </u>	Removed Lot Coverage	<u>      </u>	<u>      </u>
			Total Lot Coverage		<u>7719</u>

## VARIANCE INFORMATION (Check all that apply)

	Acres	Sq Ft		Acres	Sq Ft
Buffer Disturbance			Buffer Forest Clearing	<u>      </u>	<u>      </u>
Non-Buffer Disturbance			Mitigation		

### Variance Type

Buffer ☐  
Forest Clearing ☐  
HPA Impact ☐  
Lot Coverage ☐  
Expanded Buffer ☐  
Nontidal Wetlands ☐  
Setback ☒  
Steep Slopes ☐  
Other ☐

### Structure

Acc. Structure Addition ☐  
Barn ☐  
Deck ☐  
Dwelling ☐  
Dwelling Addition ☐  
Garage ☐  
Gazebo ☐  
Patio ☐  
Pool ☐  
Shed ☐  
Other ☐

June 6, 2024

Anne Arundel County Zoning Administration  
2664 Riva Road, Suite #3  
Annapolis, MD 21401

**Critical Area Report - Narrative Statement**  
1043 Deep Creek Avenue, Arnold, MD 21012

To Whom it may Concern,

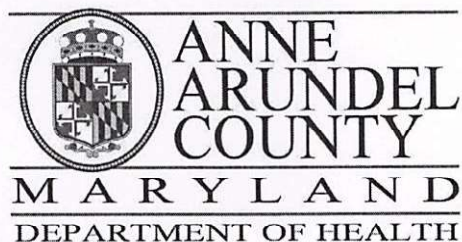
The Owners, Joshua and Emma Progar, intend to use their 1043 Deep Creek Avenue property in Arnold, MD for residential purposes, rehabilitating an existing 1940's single family dwelling on the property.

The waterfront property is on Deep Creek, with roughly 0.75 total acres of land (or 32,944 sq ft) including 7,719 sq ft of impervious surface due to a nearly 0.08-mile-long existing, paved driveway (roughly 70% of the impervious surface) on the narrow non-conforming property. The existing home footprint accounts for roughly 1,250 sq ft of impervious surface, includes a 187 sq. ft shed, and nearly 1,000 sq ft of paver sidewalks. The property does include a steep slope (greater than 15% grade) with existing retaining walls, dropping roughly 15 feet down to the dock and waterway. Please reference the attached site improvement plan which includes topographic details for the property.

The property has an estimated 2,000 – 3,000 sq ft of existing vegetation (within flower beds) consisting mostly of local Maryland shrubs, trees, and annual plants. Renovation of the existing structure will be contained within the existing 1,250 sq ft. footprint with no planned expansion of the building footprint or added impervious surfaces. Therefore, we do not intent to disturb more than the existing 1,250 sq ft. within the building footprint during the renovation of the house.

The contractor plans to install a silt fence for erosion, water quality, and environmental controls across the entirety of the property on the water side of the house to protect the Chesapeake Bay. Additionally, no native trees or plants on the existing retaining walls on the steep sloped surface will be removed during construction to protect against erosion or habitat disruption. There are no special considerations required for this property for habitat protection although measures described above will be taken to ensure that there is minimal disruption to the property.






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 

DATE: July 1, 2024

RE: Joshua P. Progar  
1043 Deep Creek Ave.  
Arnold, MD 21012

NUMBER: 2024-0115-V

SUBJECT: Variance/Special Exception/Rezoning

The Health Department has reviewed the above referenced variance to allow a dwelling addition (second story) 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

