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

APPLICANT: John E. Muller, III

ASSESSMENT DISTRICT: 3

CASE NUMBER: 2024-0132-V COUNCIL DISTRICT: 3

HEARING DATE: September 24, 2024 **PREPARED BY**: Jennifer Lechner

Planner II

REOUEST

The applicant is requesting a variance to allow an accessory structure addition (second story) with less setbacks than required on property located at 8431 Bay Road in Pasadena.

LOCATION AND DESCRIPTION OF SITE

The subject site consists of approximately 20,000 square feet of land and is located east of the intersection of Bay Road and Harlem Road. It is identified as Lots 11-14 of Section Y in the Riviera Beach subdivision, Parcel 178 in Block 11 on Tax Map 11. The property is zoned R5 – Residential District, as adopted by the comprehensive zoning for Region 4, effective September 7, 2024.

This waterfront site abuts a strip of community property on the waterside and is adjacent to the unimproved extension of Harlem Road creating a comer lot. The property lies within the Chesapeake Bay Critical Area - Intensely Developed Area (IDA), and is mapped as a Buffer Modified Area (BMA). It is currently improved with a two-story single-family detached dwelling, a detached garage, two sheds, residential pier, and other associated facilities.

PROPOSAL

The applicant proposes to construct a second story for an Accessory Dwelling Unit (ADU) on the existing detached garage, with exterior steps to grade.

REOUESTED VARIANCES

§ 18-4-701 of the Anne Arundel County Zoning Ordinance provides that an accessory structure in an R5 District shall be set back a minimum of 15 feet from the corner side lot line. The garage addition would be located as close as 9.6 feet from the corner side lot line, necessitating a variance of 6 feet.

§ 18-2-301(b) of the Code provides that steps required for access may extend no more than three feet into a required setback and be located no closer than five feet from any lot line. The proposed steps to grade will extend 8.9 feet into the corner side setback, necessitating a variance of 6 feet.

2024-0132-V page 2

FINDINGS

The subject property is a corner lot, rectangular in shape, nearly triple the minimum lot area of 7,000 square feet, and exceeds the 60 foot minimum lot width for lots in an R5 District. A review of the County's aerial photography shows that the neighborhood contains an eclectic mix of homes and lot sizes in this established waterfront community, with detached garages as a typical amenity along Bay Road.

The applicant had been granted a variance, 2005-0093-V, to allow a one-story detached garage (30 by 30 by 22 feet) in the front yard and with less setbacks than required. Building permit B02219224, to construct said garage, was subsequently issued on August 4, 2005.

Building permit B02428576, to construct a second floor addition over the existing detached garage to create an accessory dwelling unit (ADU) with steps, was submitted on July 15, 2024. Variance approval must be obtained prior to the permit being issued.

The applicants' letter explains that the second floor addition is proposed over the existing garage, which had been constructed to meet the side setbacks at the time. However, the bulk regulations have since changed, and the garage is no longer in compliance with the minimum setbacks. The applicant desires to construct the addition for use as an accessory dwelling unit (ADU), which had not been a permitted use when the garage was initially constructed. The applicant believes that the proposed garage addition is comparable to the other detached structures on their street, including one which had been the subject of 2003-0234-V.

Agency Comments

The **Health Department** noted that the property is served by public water and sewer facilities, and has no objection to the request.

Variance Criteria

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 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.

In this particular case, the applicant had been granted a variance to construct the detached garage in a location which does not comply with the current bulk regulations¹. As such, denying a variance to construct a second story on that structure due to its proximity to the corner side lot line would be an unnecessary hardship.

With regard to the variance for the exterior stairs, there is ample space on the opposite side, or rear, of the structure, which would eliminate the need for that variance. It appears that the

¹ Article 28, Section 2-507(a) required accessory structures to be located in a side or rear yard, and to be at least 50 feet from the front lot line and 10 feet from any side lot line. 2005-0093-V granted modified, conditional relief for a 30' x 30' x 22'H detached garage in the front yard, 25 from the front lot line, and 10 feet from the side lot lines. Bay Road had been considered the front lot line at that time.

2024-0132-V page 3

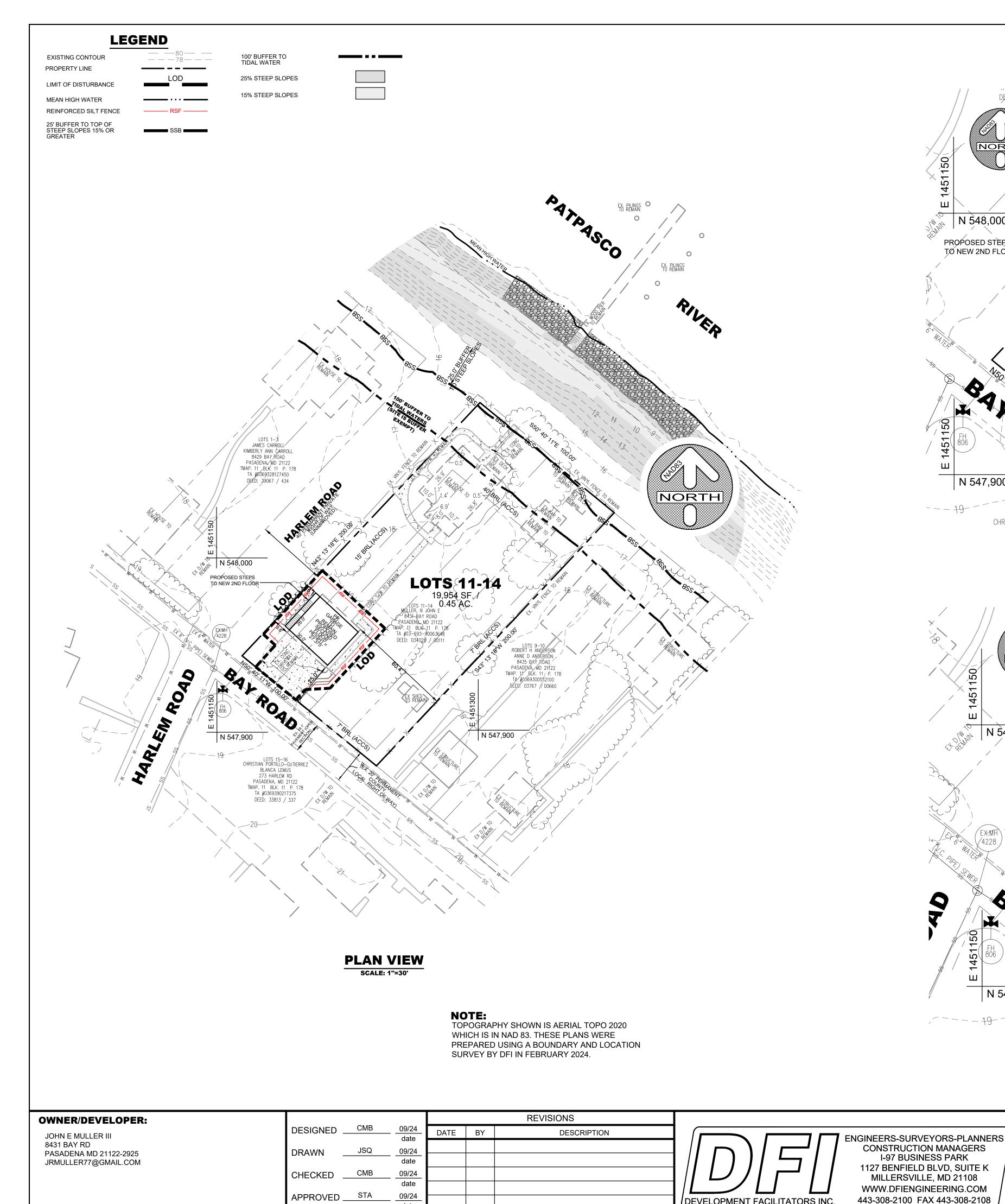
proposed floor plan of the ADU could be flipped, or redesigned, to accommodate exterior stairs while complying with the bulk regulations. Because justification was not provided and alternatives exist which would eliminate the need for relief, this variance cannot be considered the minimum necessary to afford relief.

The granting of the variance will not alter the essential character of the neighborhood or district in which the lot is located because other similar one and a half story detached structures exist nearby. Because the section of Harlem Road that abuts this lot is undeveloped, granting the variance would not substantially impair the appropriate use or development of adjacent property. Nor would it reduce forest cover in the critical area, be contrary to acceptable clearing and replanting practices required for development in the critical area, nor be detrimental to the public welfare.

RECOMMENDATION

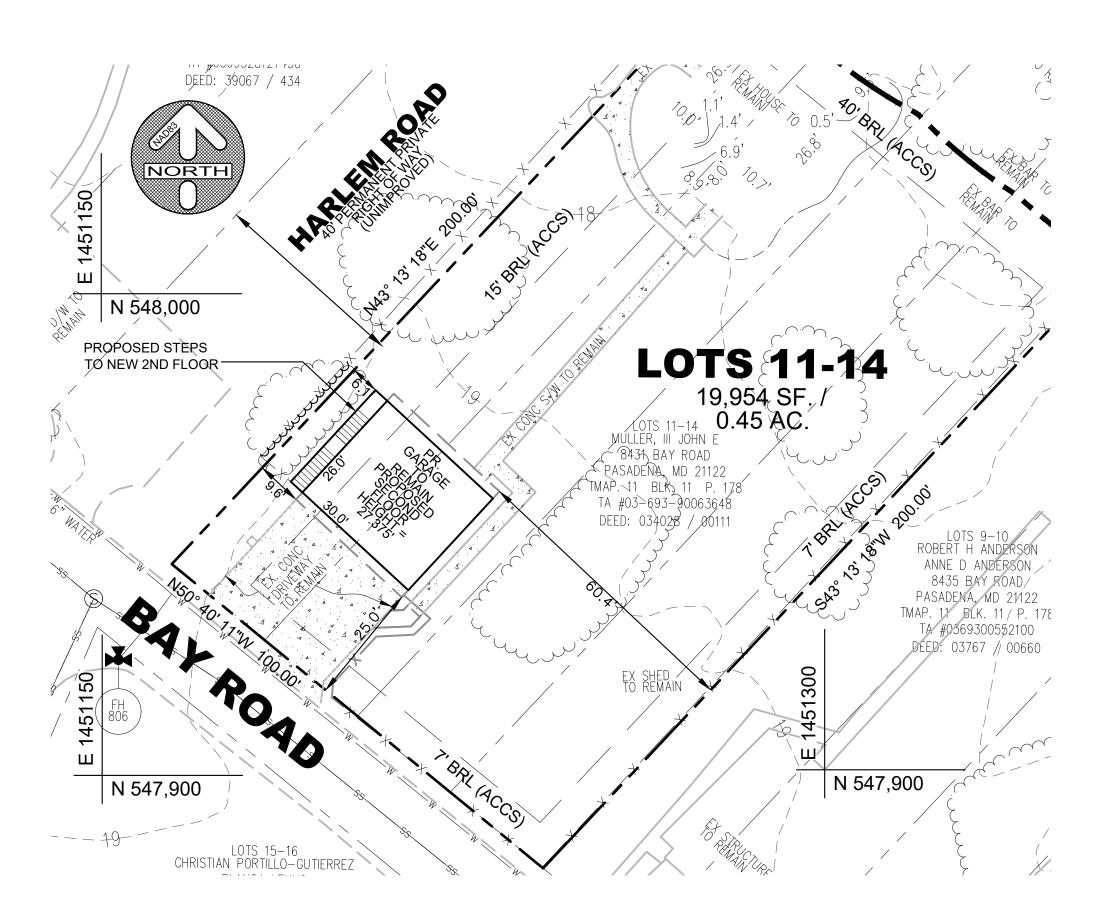
Based upon the standards set forth in § 18-16-305 of the Code under which a variance may be granted, as proposed, this Office recommends *approval* of a zoning variance to § 18-4-701 to allow an accessory structure addition with less setbacks than required, and *denial* of a zoning variance to § 18-2-301(b) to allow steps required for access with more encroachment than allowed.

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.



(DEVELOPMENT FACILITATORS INC.

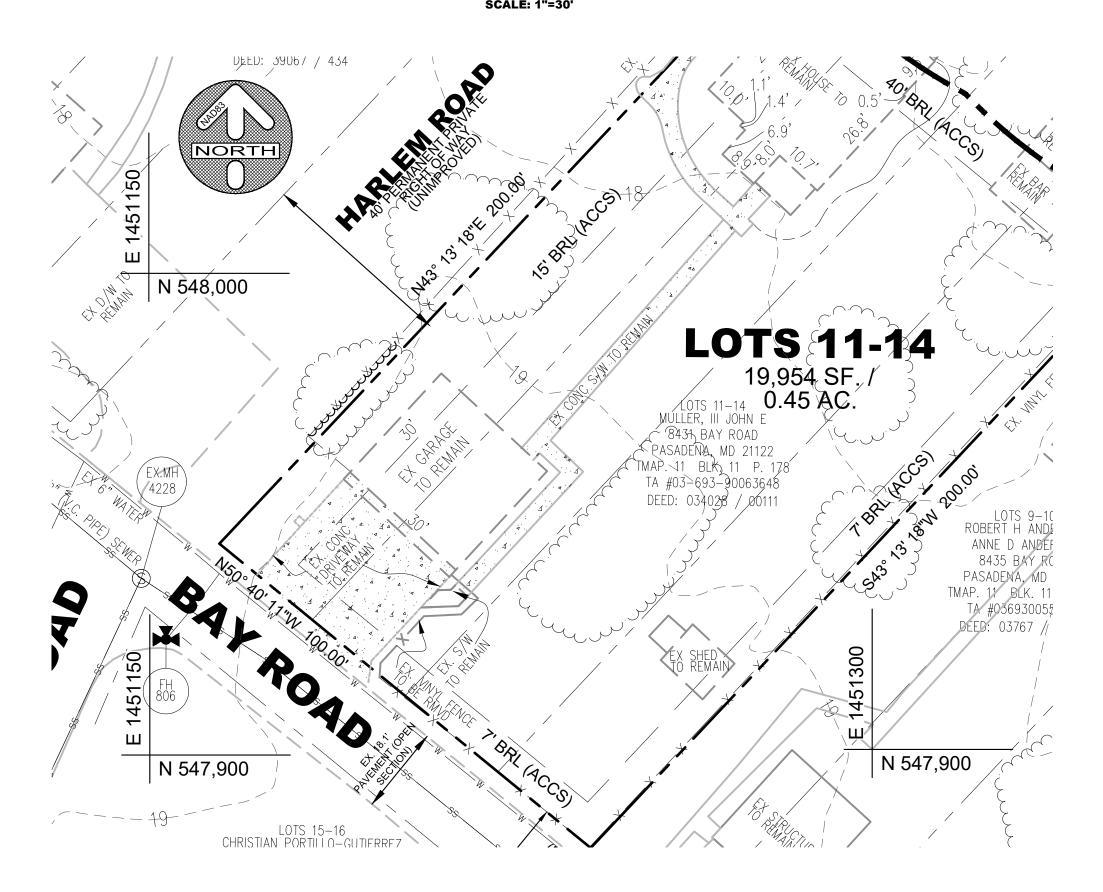
443-308-2100 FAX 443-308-2108



VICINITY MAP

SCALE:1"=2,000'
COPYRIGHT ADC THE MAP PEOPLE
PERMITTED USE NUMBER BJE0713

PROPOSED SITE CONDITIONS



SITE CALCULATIONS LOTS 11-14 19,954 SF. / 0.45 AC. EX. HOUSE TO REMAIN EX. DRIVEWAYS TO REMAIN 770 SF. EX. SIDEWALK TO REMAIN 876 SF. EX. BAR TO REMAIN 346 SF. EX. SHED TO REMAIN 149 SF. EX. GARAGE TO REMAIN 915 SF. 100 SF. EX. DECK TO REMAIN EX. SIDEWALK TO BE REMAIN 25 SF. 4,650 SF. TOTAL EXISTING LOT COVERAGE TO REMAIN (23.30% OF THE SITE) PROPOSED LOT COVERGE PR. STEPS 553 SF. (NOT LOT COVERAGE) TOTAL PROPOSED LOT COVERAGE (0% OF THE SITE) TOTAL LOT COVERAGE AFTER DEVELOPMENT 4,650 SF.

EX. WOODS 3,566 SF. (17.9% OF THE SITE) PR. CLEARING (2.7% OF WOODS ONSITE)

PERMITTED TOTAL COVERAGE (R5 - 40% STRUCTURAL) 7,982 SF. TOTAL DISTURBANCE 2961 SF. / 0.08 AC.

THE SITE IS WITHIN THE CRITICAL AREA (IDA)

CALL MISS UTILTY OR 811 **BEFORE YOU DIG!**

EXISTING SITE CONDITIONS SCALE: 1"=20'

3RD ASSESSMENT DISTRICT

8431 BAY ROAD

BUILDING PERMIT PLAN / VARIANCE PLAN

RIVERA BEACH, LOTS 11 - 14, SECTION Y **ZONING R-5**

TAX MAP 11 BLOCK 11 PARCEL 178 SCALE: AS SHOWN DATE: SEPTEMBER, 2024 ZIP CODE: 21122

ANNE ARUNDEL COUNTY, MARYLAND

SHEET OF

(23.3% OF THE SITE)



ENGINEERS-SURVEYORS-PLANNERS
CONSTRUCTION MANAGERS
I-97 BUSINESS PARK
1127 BENFIELD BLVD, SUITE K
MILLERSVILLE, MD 21108
WWW.DFIENGINEERING.COM
443-308-2100 FAX 443-308-2108

June 27, 2024

Anne Arundel County
Department of Planning and Zoning
2664 Riva Road
Annapolis, MD. 21401

RE: Variance Application – Explanatory Letter 8431 Bay Road, Pasadena, MD 21122 Riviera Beach, Lots 11-14, Section Y Tax Map 11 Block 11, Parcel 178

To whom it may concern.

Please find submitted herewith the variance application and associated required submittal materials requesting a variance to 1) permit an addition to an accessory structure, a second story on an existing garage, with less setbacks than permitted on an R5 lot per Article 18-4-701.

The site is identified as 8431 Bay Road, Pasadena, Maryland, also known as Lots 11-14, Section Y on the recorded plat of "Riviera Beach". This site is a 0.46-acre lot, zoned R5. The site is located within the Chesapeake Bay Critical Area (IDA). This lot is viewed as a waterfront lot, but it is separated from the water by community land known as Riviera Walk. The property is also a corner lot with frontage on Bay Road, an existing 20' public improved right-of-way and Harlem Road, a 40' unimproved private right-of-way owned by the Community Association. The site is served by existing public water and public sewer in Bay Road.

This site is currently developed with an existing two-story single-family home with a deck, a detached garage, driveway, walkways, a bar and a deck, all to remain. The proposed development is to construct a second story for an Accessory Dwelling Unit on the existing detached garage with wooden steps to the second floor.

Setbacks

The applicant is seeking a variance to permit an addition to an accessory structure (a second story on an existing detached garage) and steps to have less side corner yard setback than required. The required setback for this lot comes from Article 18-4-701 for R5 Residential Districts.

The property is a corner lot with frontage on Bay Road, an existing 20' public improved right-of-way and Harlem Road, a 40' unimproved private right-of-way such that the side setback for the northwesterly lot line is 15' (from Harlem Road). The existing 30'x30' detached garage was built back in 2005 (B02219224) with less front setbacks than required at the time with an approved variance (2005-0093-V). The variance decision had denied the request to reduce the side yard to 7' and allowed it at 10' which was the required setback at that time per the variance decision. Please note the variance was granted for the garage itself but to be set back 10' from Harlem Road however the current survey of the existing garage shows it sits 9.6' off Harlem Road. The variance was also to front setbacks but because this is a waterfront lot the "front" is the waterside of the lot and this is the rear yard setback. The owners wish to add a 30'x26' second-story to the existing detached garage for an Accessory Dwelling Unit. Given the existing garage does not meet the 15' corner side setback, the addition of the secondstory will require a variance as requested. The addition proposed is a 30'x26' secondstory with 3.5' wide wooden steps to the second floor. We are requesting a variance of 8.9' to the northwesterly side setback (Required 15' to Harlem Road) to allow the wooden stairs to be constructed at 6.1' to the lot line and the second story addition to be 9.6' from the lot line. Per Article 18-10-122 (Accessory Dwelling Units), given the requested setback variance is to a corner side setback for Harlem Road and is not a variance to setbacks to an adjacent lot, this variance maybe be applied for to allow an Accessory Dwelling Unit.

We feel this is the minimum relief necessary given the fact that the second-floor addition is to an existing garage that does not meet the corner side setback already, and given the fact that by allowing the existing garage to have a second floor addition there will be no environmental impact and no new lot coverage created. The garage size is very comparable to the other garages on this street, including 2-story garages located at 8435 Bay Road, 8441 Bay Road and 8451 Bay Road such that it will not alter the essential character of the neighborhood. Additionally, 8451 Bay Road was granted a side setback variance for their 2-story garage (2003-0234-V), so granting this variance will not confer any special privileges on the owner but will grant the owner the same rights that are commonly enjoyed by other properties on this street. This variance request is not based on conditions or circumstances that are a result of actions by the applicant, at the time the original garage was constructed, it was intended to meet the 10' side setback that was required at that time, the 0.4' difference could be the result of more efficient surveying techniques used now or a simple stakeout error during construction. Now that the setbacks / zoning code has changed, the existing garage no longer meets the side setback such that any addition to it will require a variance. Furthermore, at the time the garage was built, ADU's were not allowed on lots of this zoning and size and the owner had no way of knowing that in the future an ADU would be allowed. Granting this variance will not impair the use or development of adjacent property or be detrimental to the public welfare as the side setback variance being requested is adjacent to an unimproved private right-of-way and not a developed residential lot. If this were adjacent to a residential lot a variance would not be required as the setback would only be 7' to an adjacent residential lot. Only because this lot is adjacent to a right-of-way is the setback increased. Another condition peculiar to this lot is that although this lot is technically adjacent to a right-of-way for Harlem Road, it is unimproved and not used as a right-of-way. The adjacent property owners' driveway / landscaping is within this right-of-way and there is no walkway from the street to the water for community access, such that this section of Harlem Road right-of-way is being used as part of the adjacent owner's residential property. It would be an unnecessary hardship on the owner to deny this variance when this variance would not be required if the site was adjacent to a residential lot and not a right-of-way especially given the right-of-way is currently being used as part of a residential lot. Granting this variance will not adversely affect water quality, impact fish, wildlife, or plant habitat in the Chesapeake Bay Critical Area as this development is not creating any additional lot coverage, the proposed steps are wooden, and the second-story addition is on top of exiting garage which creates no new lot coverage. Given the site is within the IDA there is no clearing restrictions, however a very small amount of clearing is proposed (145 sf), but this is determined from the aerial image of the treeline and not that an actual tree needs to be removed for this development, but mitigation is not required.

A building permit will be applied for under separate cover.

Calculations for lot coverage, existing woods, clearing and limits of disturbance are provided on the site plan.

Thank you for your consideration of this request and please do not hesitate to contact me if you have any questions or if you require any additional information.

Sincerely,

Development Facilitators, Inc.

Candice Bateman

Project Manager

Cc: Steve Andraka, P.E., DFI

CHESAPEAKE BAY CRITICAL AREA REPORT

for

8431 Bay Road Pasadena, Maryland, 21122

Riviera Beach, Section Y, Lots 11-14 Anne Arundel County, Maryland

Prepared for:

John Muller III 8431 Bay Road Pasadena Md 21122

Prepared:

June, 2024

Prepared by: DFI

INTRODUCTION

The property is identified as 8431 Bay Road, Pasadena, Maryland, 21122. The site is further identified as Riviera Beach, Section Y, Lots 11-14 and is also known as Tax Map 11, Block 11, Parcel 178. The site is zoned R-5, and is within the Chesapeake Bay Critical area, designated IDA. The site is buffer exempt. The site is served by public water and public sewer. The applicant proposes to construct a new second story on an existing detached garage with new wooden stairs.

PROJECT DESCRIPTION AND EXISTING SITE CONDITIONS

The subject property consists of 19,954 square feet (0.45 acres) of land located entirely within the Chesapeake Bay Critical Area (IDA). Currently, the property is developed with an existing single-family dwelling, detached garage, driveway, shed, bar, walkways and a deck. The site also consists of trees and grass in good condition.

There is 3,566 square feet of existing woods based on the aerial tree line and shrubbery.

There are no impacts to jurisdictional wetlands, 25-foot non-tidal wetland buffer, streams, or 100-year floodplain for this project. Therefore, authorization from the Maryland Department of the Environment and the U.S. Army Corps of Engineers is not required.

Lot Coverage allowed in the Critical Area (IDA) is not to exceed the lot coverage limitation of the underlying zoning district, in which this lot is zoned R5 such that the permitted lot coverage is 40% of the gross area. For this site the permitted lot coverage is 7,982 sf. The existing lot coverage is 4,650 sf. This development does not propose any additional lot coverage as the stairs are wooden.

This site has applied for a building permit for the new addition to the accessory structure (second story on an existing garage with wooden stairs for an accessory dwelling unit). Stormwater Management is not required as there is no new lot coverage.

Through the use of reinforced silt fence, the applicant will minimize any impacts on water quality and habitat during construction.

HABITAT PROTECTION AREAS

Nontidal Wetlands

The project area was not investigated for non-tidal wetlands by Development Facilitators, Inc. as all development is away from low lying areas.

Tidal Wetlands

The project area was not investigated for tidal wetlands by Development Facilitators, Inc. as all development is uphill of the tidal waters.

100-foot Buffer and Expanded Buffer

The property does front tidal waters, there is a 100' buffer onsite however this proposed work area is outside of the buffer. The site is buffer exempt.

Rare, Threatened & Endangered Species

A formal request for an environmental review for rare, threatened, or endangered species on the property was submitted to the Maryland Department of Natural Resources on June 27, 2024. A written response is currently pending. No rare, threatened, or endangered species were observed while performing the critical area study field work.

Steep Slopes

Steep slopes are defined as areas with greater than 15% slopes. Steep slopes are present offsite and the 25' buffer to the steep slopes runs along the waterfront side of the site, however no disturbance is proposed.

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ENGINEERS-SURVEYORS-PLANNERS
CONSTRUCTION MANAGERS
1-97 BUSINESS PARK
1127 BENFIELD BLVD, SUITE K
MILLERSVILLE, MD 21108
WWW.DFIENGINEERING.COM
443-308-2100 FAX 443-308-2108

June 27, 2024

MD Department of Natural Resources Wildlife and Heritage Service Attn: Lori Byrne 580 Taylor Avenue Tawes State Office Building E-1 Annapolis, MD 21401

RE: 8431 Bay Road, Pasadena, MD, 21122 Riviera Beach, Section Y, Lots 11-14

Dear Ms. Byrne,

The purpose of this letter is to respectfully request an environmental review for property located at 8431 Bay Road, Pasadena MD, 21122 (see attached site plan). The site is found on Tax Map 11, Block 11, Parcel 178 (ADC Map 5058/J3 is highlighted and enclosed for your reference). A field inspection was done, and no rare, threatened or endangered species appeared to be on site. We are preparing a Critical Area Report for this property and would appreciate a verification of our findings by your office as soon as possible.

Thank you in advance for consideration of the subject request and if you should have any questions or should require additional information, please do not hesitate to call me at your earliest convenience.

Sincerely,

Development Facilitators, Inc.

Candice Bateman

Project Manager

APPENDIX A

Project Notification Application

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

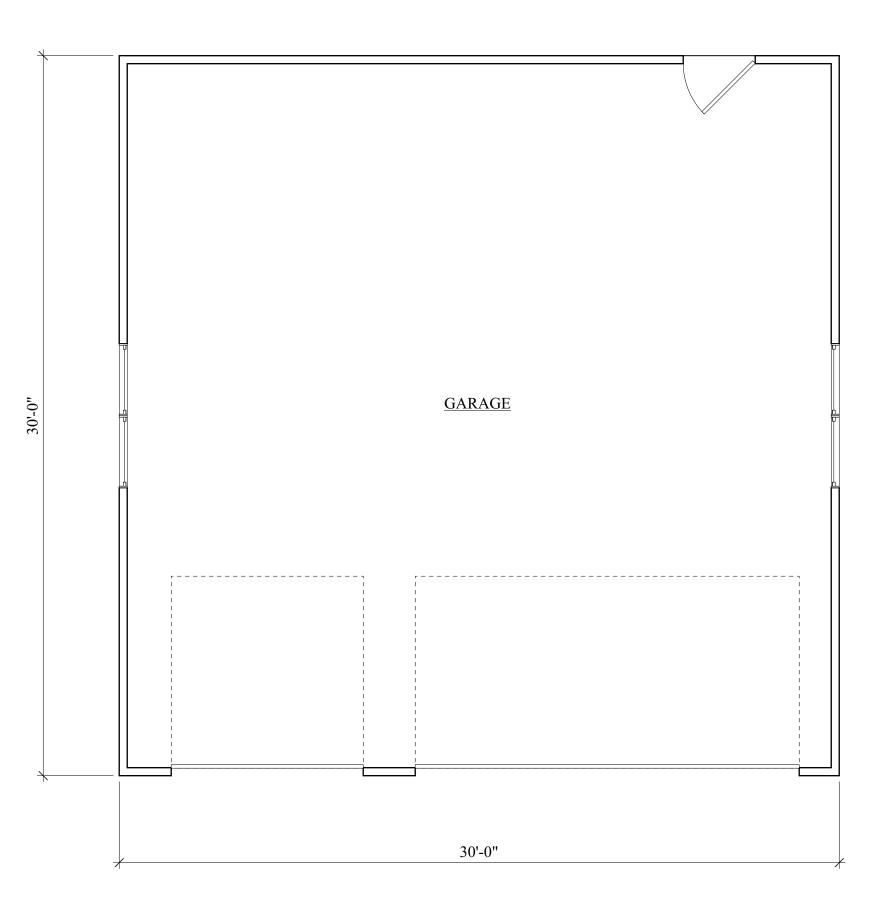
PROJECT NOTIFICATION APPLICATION

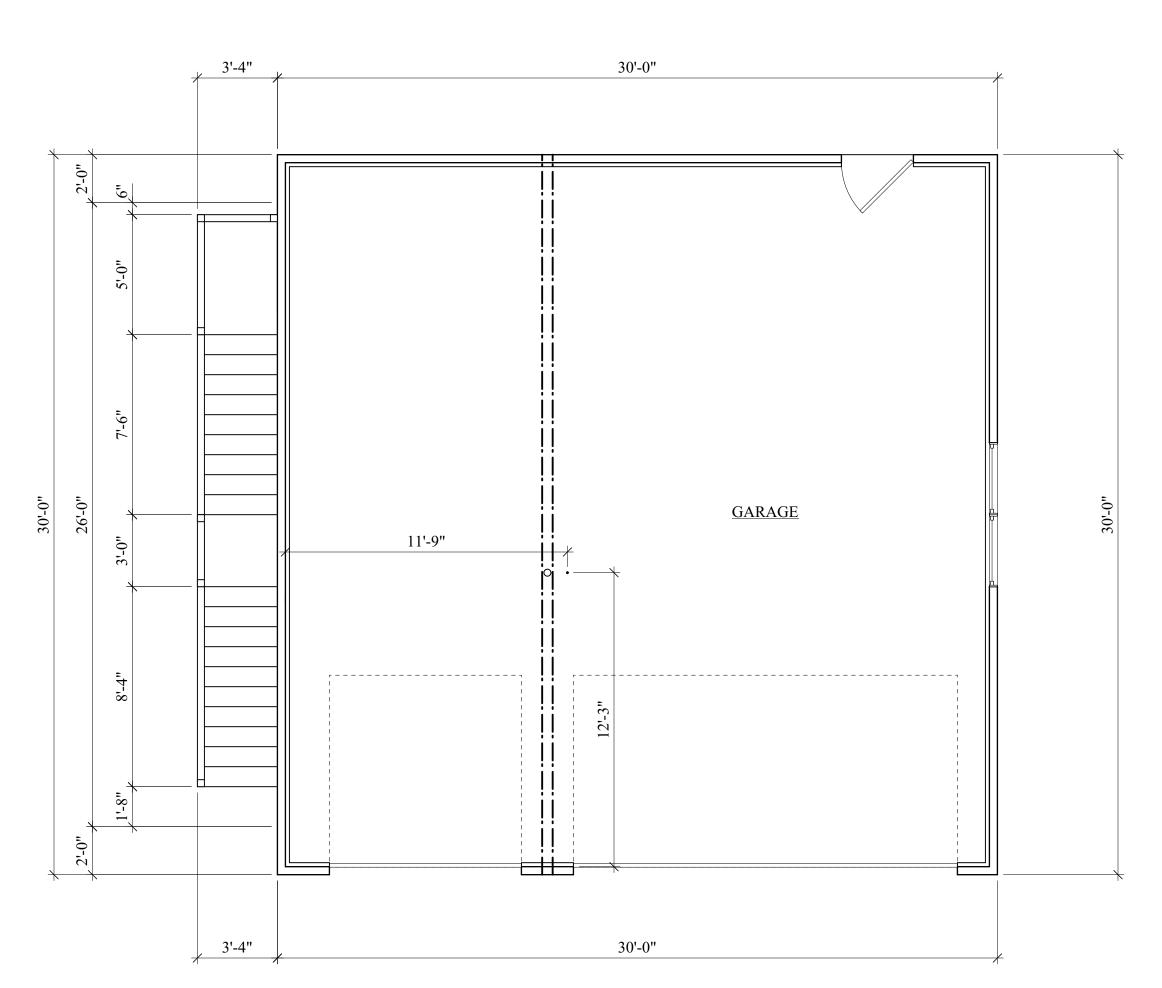
GENERAL PROJECT INFORMATION

Jurisdiction:	Anne Arundel	County	Date: 6-27-24				
			l	T 1	FOR RESUBMITTAL ONLY		
Tax Map #	Parcel #	Block #	Lot #	Section	Corrections		
11	17		11-14	Y	Redesign No Change		
					Non-Critical Area		
Tax ID:	3-693-90063648				*Complete Only Page 1		
14/12/					General Project Information		
Project Name	e (site name, sul	odivision name	e, or other)	8431 Bay	Road		
Project locati	ion/Address	8431 Bay Ro	ad				
City Pas	adena				Zip 21122		
I and and m	vende ou						
Local case no	ımber						
Applicant:	Last name	Muller III			First name John		
Аррисант.	Last name				1 list hame doing		
Company							
Application	Type (check al	l that apply):					
Building Permit							
Buffer Management Plan Rezoning							
Conditional Use Site Plan							
Consistency		H		Special Excep Subdivision			
Grading Perr	> 5,000 sq ft	H		Other	H		
Grading I Cit	IIIt			Other	Ш		
Local Jurisdiction Contact Information:							
Last name	AACo Zoning	Administration	n Section	First name			
	410 222 7427	,		_			
Phone #	410-222-7437		Respo	nse from Comr	mission Required By TBD		
Fax #				_ Hearing date	TBD		

SPECIFIC PROJECT INFORMATION

Describe Proposed use of project site: Addition to an accessory structure (a second story on an existing garage for an accessory dwelling unit) and new wooden stairs Yes Yes Intra-Family Transfer Growth Allocation Grandfathered Lot X **Buffer Exemption Area Project Type (check all that apply)** Commercial Recreational Consistency Report Redevelopment Residential Industrial Institutional **Shore Erosion Control** Mixed Use Water-Dependent Facility Other **SITE INVENTORY (Enter acres or square feet)** Acres Sq Ft Acres Sq Ft Total Disturbed Area 2,961 0.08 IDA Area 0.45 19,954 LDA Area RCA Area # of Lots Created Total Area 19,954 0.45 Sq Ft Acres Sq Ft Acres 0.08 Existing Forest/Woodland/Trees 3,566 Existing Lot Coverage 0.11 4,650 Created Forest/Woodland/Trees New Lot Coverage 0 0 0 0 Removed Forest/Woodland/Trees 0.003 145 Removed Lot Coverage 0 0 Total Lot Coverage 0.11 4,650 **VARIANCE INFORMATION (Check all that apply)** Acres Sq Ft Acres Sq Ft Buffer Disturbance 0 0 **Buffer Forest Clearing** 0 0 0 0 0 Non-Buffer Disturbance Mitigation Variance Type Structure Buffer Acc. Structure Addition Forest Clearing Barn **HPA** Impact Deck Lot Coverage **Dwelling Expanded Buffer Dwelling Addition** Nontidal Wetlands Garage Setback Gazebo Steep Slopes Patio Other **Pool** Shed Other





EXISTING FLOOR PLAN
1/4"=1'-0"

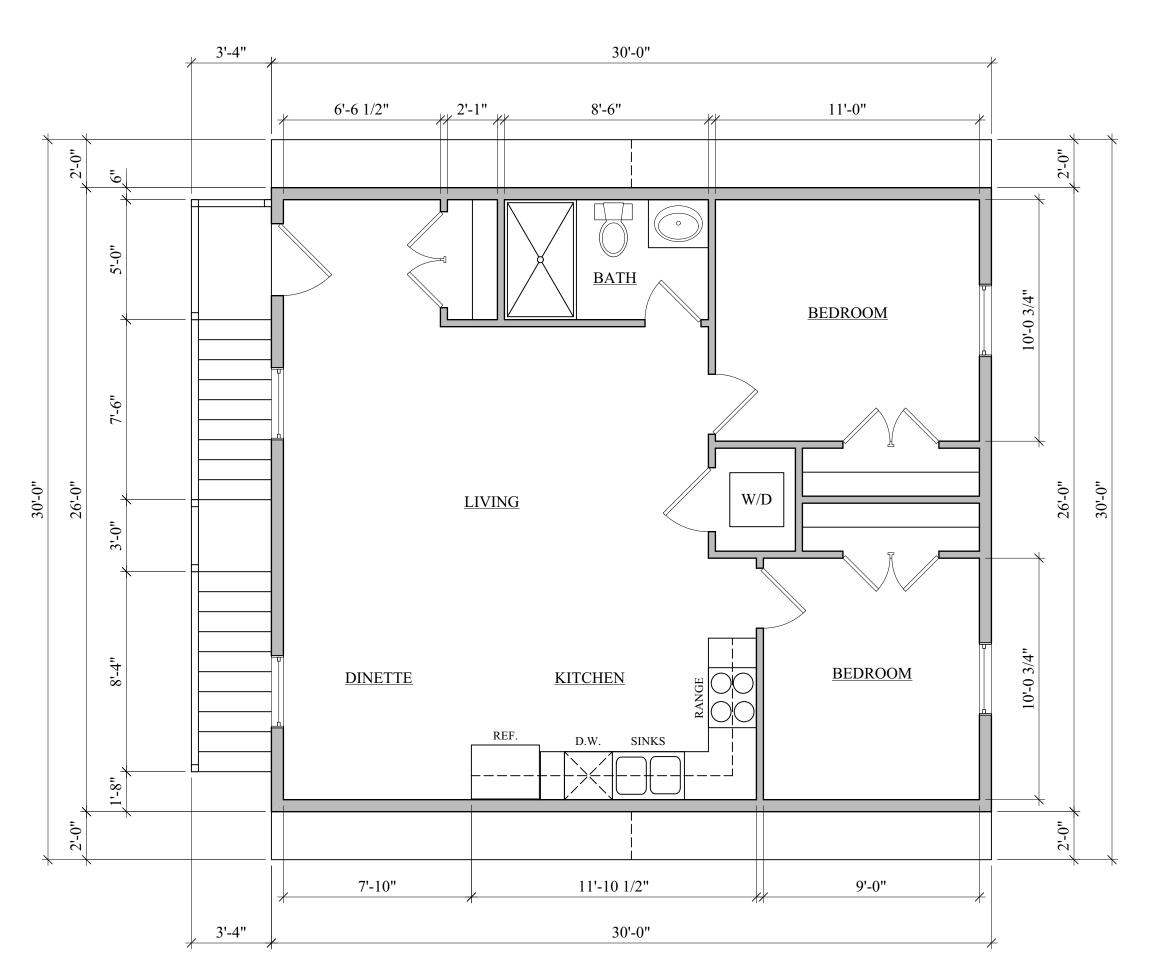
PROPOSED FLOOR PLAN
1/4"=1'-0"

MULLER GARAGE

1/17/24

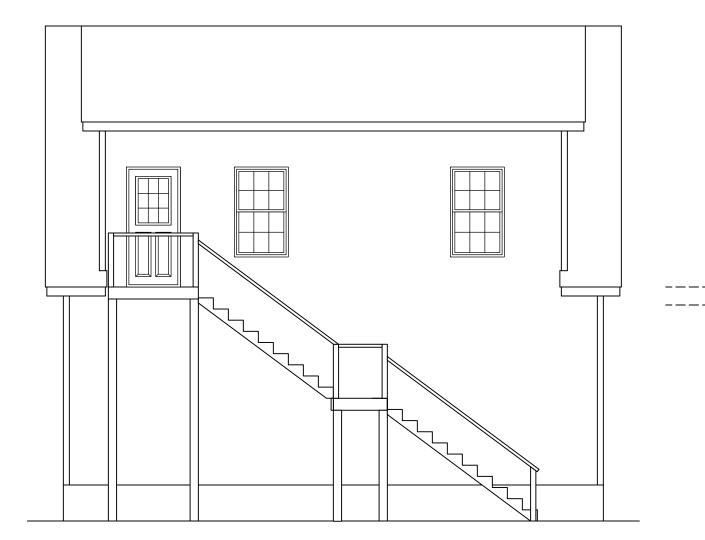
FLOOR PLANS

1 OF 4

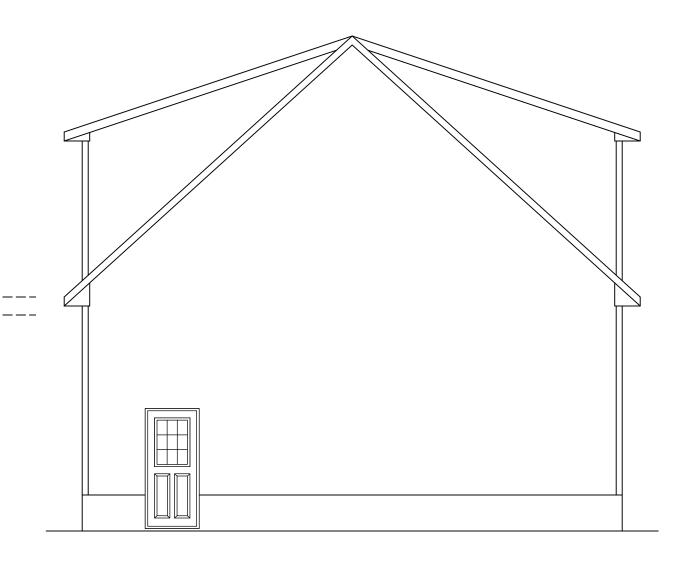


SECOND FLOOR PLAN 1/4"=1'-0"

MULLER GARAGE				
1/17/24				
SECOND	2 OF 4			



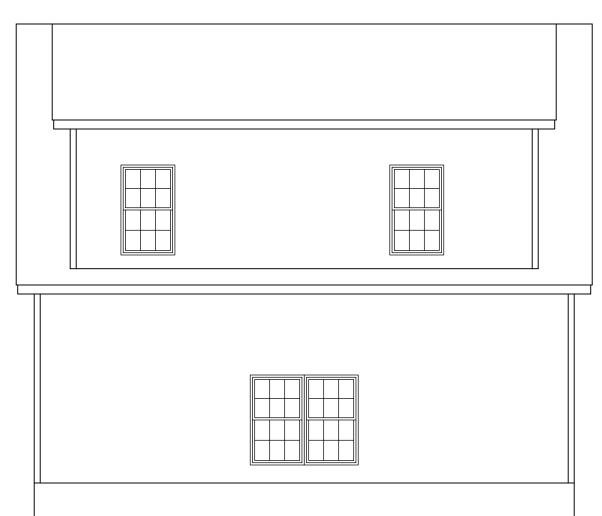
LEFT SIDE ELEVATION 3/16"=1'-0"



REAR ELEVATION
3/16"=1'-0"

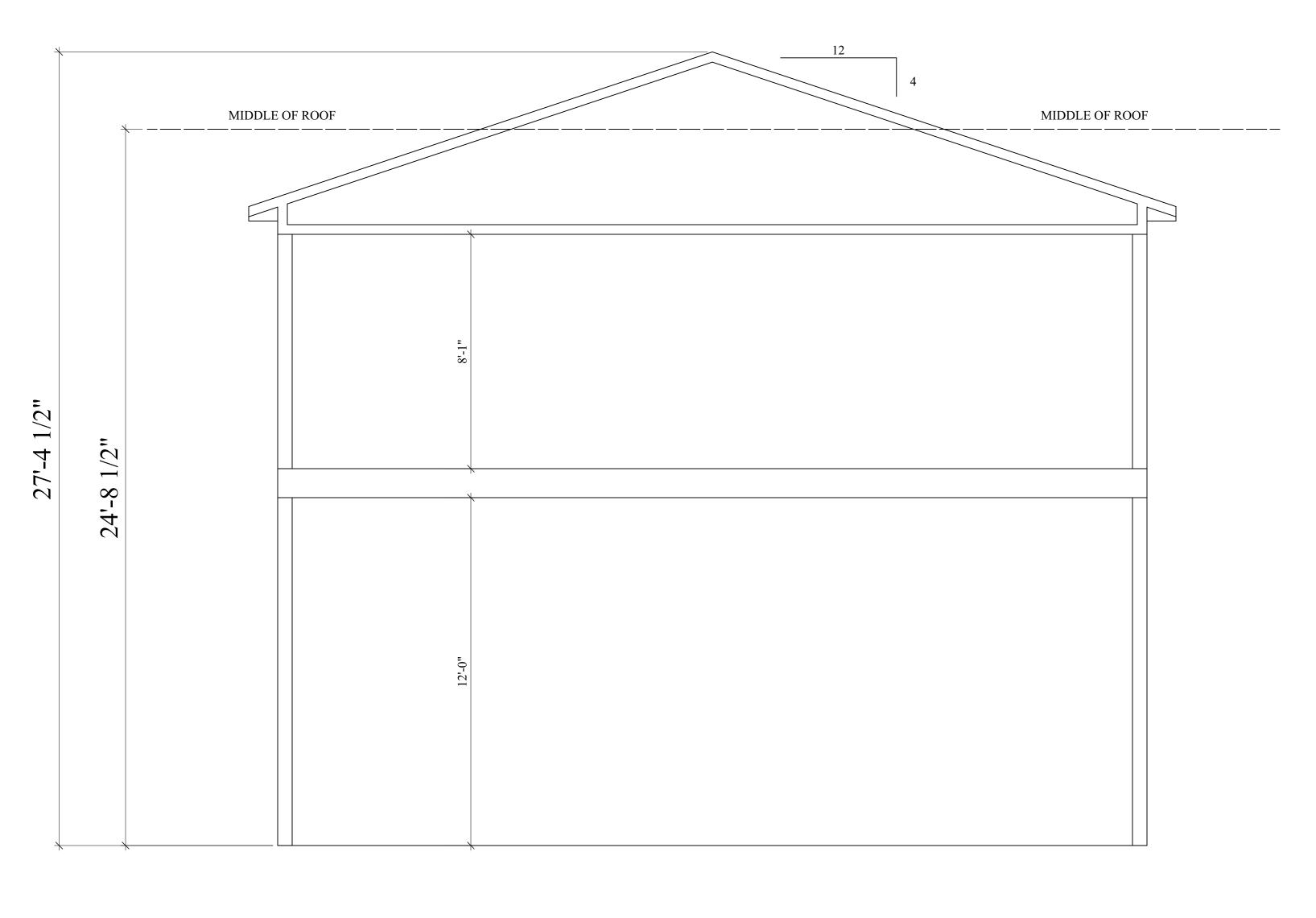


FRONT ELEVATION 3/16"=1'-0"

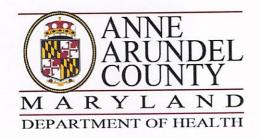


RIGHT SIDE ELEVATION
3/16"=1'-0"

MULLER GARAGE				
1/17/24				
ELEVATIONS		3 OF 4		



MULLER GARAGE				
1/17/24				
CROSS SECTION		4 OF 4		



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 19, 2024

RE: John E. Muller III

8431 Bay Road

Pasadena, MD 21122

NUMBER: 2024-0132-V

SUBJECT: Variance/Special Exception/Rezoning

The Health Department has reviewed the above referenced variance to allow an accessory structure addition (second story) with less setbacks than required.

The Health Department has reviewed the above-referenced request. The property is served by public water and sewer facilities. 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

8431 Bay Road (2024-0132-V) Lake Riviera Legend Foundation Addressing 0 Parcels Parcels - Annapolis City Notes This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable. THIS MAP IS NOT TO BE 100 200 USED FOR NAVIGATION