

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

**APPLICANT:** David & Tamela Burt

**ASSESSMENT DISTRICT:** 3

**CASE NUMBER:** 2024-0134-V

**COUNCILMANIC DISTRICT:** 5

**HEARING DATE:** September 26, 2024

**PREPARED BY:** Sara Anzelmo  
Planner

**REQUEST**

The applicants are requesting a variance to allow accessory structures (in-ground pool and patio) with less setbacks than required and with new lot coverage nearer to the shoreline than the closest facade of the existing principal structure on property located at 555 Broadwater Road in Arnold.

**LOCATION AND DESCRIPTION OF SITE**

The subject site consists of 16,114 square feet of land and is located with 50 feet of frontage on the north side of Broadwater Road, approximately 525 feet east of Sunbrite Road. It is identified as Lot 8 of Parcel 18 in Block 13 on Tax Map 33 in the Broadwater Beach subdivision.

The property is zoned R5 – Residential District. This is a waterfront lot on the Magothy River that lies entirely within the Chesapeake Bay Critical Area overlay, is designated as IDA – Intensely Developed Area, and is mapped as a BMA – Buffer Modification Area. It is currently improved with a two-story, single-family, detached dwelling with a basement, a pool, a pier, and other associated facilities.

**PROPOSAL**

The applicants propose to remove the existing pool and patio surround (933 square feet total) and to construct a smaller pool and patio (767 square feet total). The pool and patio would be located approximately 48 feet further from the shoreline than the existing pool and patio being removed.

**REQUESTED VARIANCES**

§ 17-8-702(b)(1) of the Anne Arundel County 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 project does not meet the definition of in-kind replacement. Therefore, even though there will be a reduction of the existing critical area lot coverage between the house and the shoreline, and even though the new coverage will be significantly further from the shoreline than the existing coverage, a variance is required to allow 675 square feet of new lot coverage in the BMA nearer to the shoreline than the facade of the existing principal structure.

A review of the bulk regulations for development within an R5 District reveals that a zoning setback variance is not required.

## **FINDINGS**

The subject property is irregular in shape and far exceeds the minimum 7,000 square foot area required for a lot in an R5 District. The lot width is only 50 feet at the road, but it widens to over 75 feet at the shoreline. The existing critical area lot coverage is 6,017 square feet (37.34%), and the proposed coverage would be reduced to 5,851 square feet (36.31%). A review of the 2024 County aerial photograph shows an eclectic mix of dwellings in this older waterfront community. There are several existing waterfront pools located within the BMA - Buffer Modification Area on nearby lots in the immediate area along the Magothy River.

The applicants' letter explains that the existing pool and patio are located approximately 26' from the high water line and that the proposed relocation would be approximately 74' from the high water line. The current coverage of the existing pool and patio is 933 square feet and is all within the 100-foot buffer. The proposed location would have 675 square feet of coverage in the 100-foot buffer and 92 square feet of new coverage outside of the buffer. As such, coverage within the buffer would be reduced by 258 square feet and overall coverage would be reduced by 166 square feet. Run-off from the existing pool flows directly into the waterway, while the majority of run-off from the relocated pool would flow into two existing micro-bio BMP's. The existing pool is a chlorine system with a backwash filter that flows into the waterway with pumps and filters located in the buffer. The proposed system would be a saltwater pool with filter cartridges, pumps, and filters located outside of the 100-foot buffer. The applicants also note that both adjacent properties have in-ground pools located up close to the buildings, which is similar to what they are proposing.

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

The **Critical Area Commission** noted that it appears that the proposal will result in an overall decrease of coverage in the Buffer, and the proposed location of the replacement pool will increase the distance to the shoreline from the existing pool. Provided that the Administrative Hearing Officer finds that all of the Critical Area variance standards have been met, appropriate mitigation is required to be emplaced within the Critical Area Buffer.

The **Development Division (Critical Area Team)** commented that the Team has no objection to the relocation of the pool further from the shoreline and the reduction of lot coverage on site.

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. It appears that the original pool and patio were constructed within the 100-foot BMA before the enactment of Critical Area laws. The applicants wish to make efficient and effective use of a long-standing outdoor amenity area by removing the existing pool and patio surround and constructing a smaller pool and patio approximately 48 feet further from the shoreline than the existing structures. In so

doing, they intend to reduce lot coverage within the BMA by 258 square feet and to reduce the overall lot coverage by 166 square feet, while maximizing the distance to the shoreline. It is important to note that the Code would allow for the in-kind replacement of the existing pool and patio within the 100-foot BMA without any variances. The variance is only necessary in order to allow the applicants the flexibility to relocate those structures further from the shoreline and to achieve a much more environmentally friendly design for their waterfront pool and patio areas.

A literal interpretation of the Critical Area Program would deprive the applicants of rights that are commonly enjoyed by other properties in similar areas, by denying them the right to improve upon the existing conditions on their buffer modified lot. 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 actions by 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. In fact, the proposed relocation and coverage reduction would result in a significant environmental benefit. The applicants have evaluated and implemented site planning alternatives and have overcome the presumption that the specific development does not conform to the general purpose and intent of the Critical Area law.

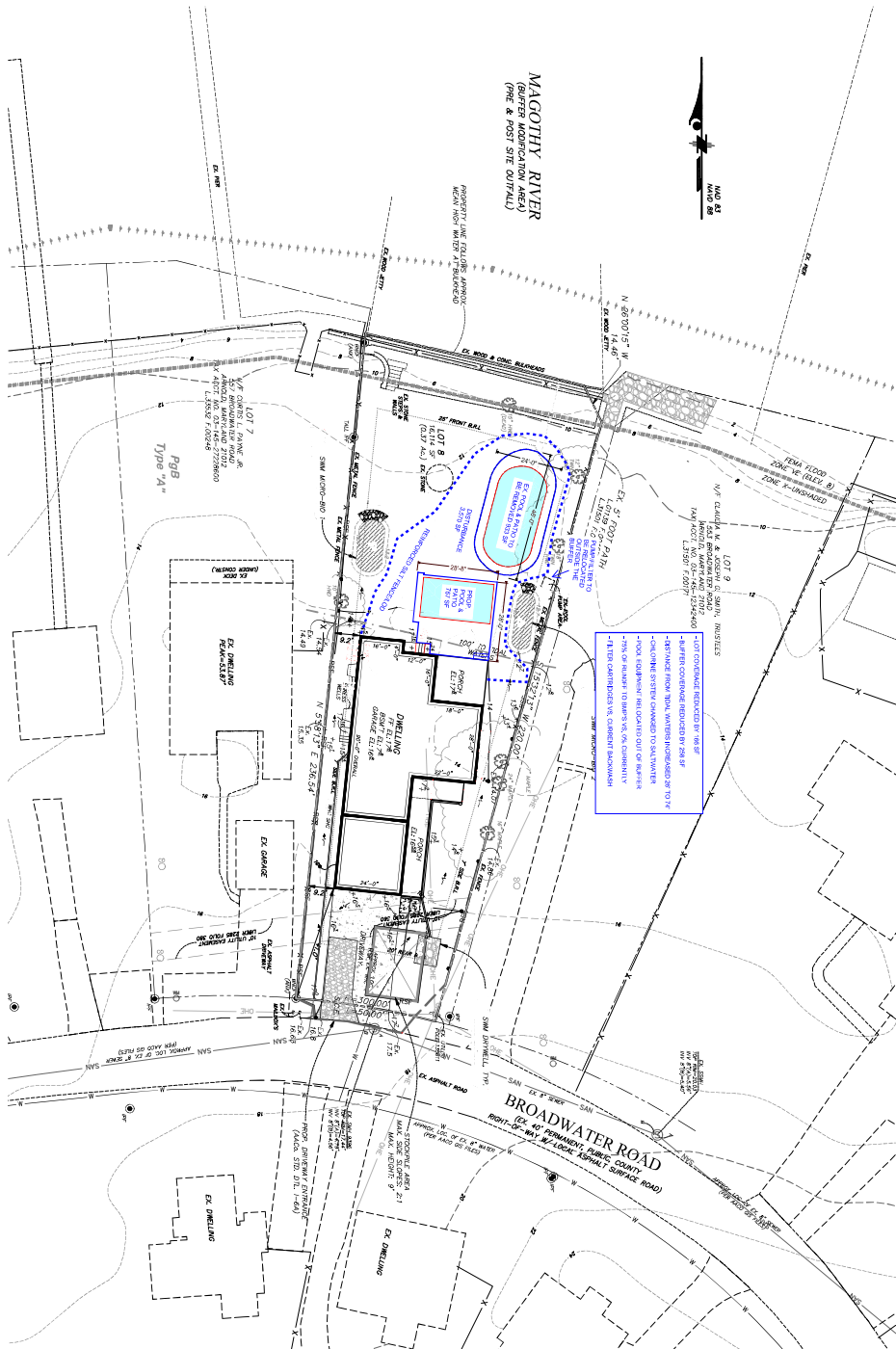
With regard to the requirements for all variances, approval would not alter the essential character of the neighborhood, as there is currently a pool on the subject lot and there are several waterfront pools and patios in the immediate area. The variance would not substantially impair the appropriate use or development of the adjacent properties, as the proposed structures would exceed the minimum setback requirements from all lot lines. The variance would not be contrary to acceptable clearing and replanting practices and would not be detrimental to the public welfare.

While this Office does not typically recommend approval of pools in the buffer, this is an extremely unique case in that the applicants already have a right to replace their long-standing pool and patio in-kind without a variance. This Office supports the applicants' alternative plan to improve upon the current situation by reducing the coverage within the buffer and by relocating the pool and patio 48 feet further from the shoreline than the existing pool and patio. Ironically, denial of the variance would force the applicants into an in-kind replacement, which is not preferred from an environmental standpoint. As such, the requested relief is justified and is considered to be the minimum necessary to afford relief.

### **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 pool and patio with new lot coverage nearer to the shoreline than the facade of the principal structure, as shown on the site plan submitted by the applicants.

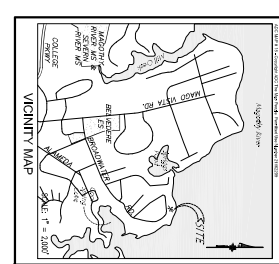
DISCLAIMER: This recommendation does not constitute a building permit. In order for the applicant(s) to construct the structure(s) as proposed, the applicant(s) shall apply for and obtain the necessary building permits and obtain any other approvals required to perform the work described herein. This 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.



**NOT CONTAINED HEREIN BY THIS SET**

- ADDITIONAL CIVIL AND MECHANICAL NOTES
- MECHANICAL SYSTEMS AND ELECTRICAL SYSTEMS DRAWINGS TO BE PROVIDED BY OTHER CONTRACTORS
- 20% CONSTRUCTION COST ESTIMATE

**MAGOTBY RIVER**  
(BUFFER MODIFICATION AREA)  
(PRE & POST SITE OUTFALL)



**FLOODPLAIN NOTES**

The property shown herein lies in the FEMA Flood Zone VE (Special Flood Hazard Area) as shown on the FEMA Flood Insurance Rate Map (FIRM) No. 2309-01-0235-0240. The Flood Hazard Protection Category (FHA) is in effect since 18 February 2015. Flood Hazard Protection Categories (FHA) are based on the FEMA maps and are for informational only.

**STORMWATER MANAGEMENT REGULATION NOTE**

This grading permit requires the owner to meet the 2015 regulations for stormwater management. The owner is responsible for providing for the site in accordance with the 1% SCS/USDA and the final approved through Drainage, re-vegetation areas and a final

SITE DATA	
Total Site Area	0.27 Acs
Site Area of Impervious or Impervious Area Complex (PAI) (Curb Cuts - Type A	100%
Total Existing Impervious Coverage	0.07 Acs
Total Proposed Impervious Coverage	0.12 Acs
Percentage of Proposed Impervious Coverage to Total Site Area	37%

- LEGEND**
- Existing Contour
  - Existing Trench Line
  - Existing Power Pole
  - Existing Overhead Electric
  - Existing Silt Collection
  - Existing Mail
  - Existing Spot Elev.
  - Any Annual County Zoning Subsets
  - Proposed Mail
  - Proposed Spot Elev.
  - Proposed Grade
  - Proposed Spot Elev.
  - Proposed Self Reline

**REVISIONS TO APPROVED PLANS**

No.	DATE	BY	DESCRIPTION

**ENGINEER, ARCHITECT, PLANNING, ETC.**

REG. NO. 12-03  
 REGISTERED PROFESSIONAL ENGINEER  
 PROJECT # B806120

**Drum, Loyka & Associates, LLC**  
 CIVIL ENGINEERS - LAND SURVEYORS

1440 Broadwater Road  
 Annapolis, Maryland 21403  
 Phone: 410-258-3122 • Fax: 410-258-1892  
 www.drumloyka.com

**CLIENT:**

**MRS. MRS. DAVID BURT**  
 555 BROADWATER ROAD  
 ANNAPOLIS, MARYLAND 21402

**SITE DEVELOPMENT PLAN**  
**BROADWATER BEACH ~ LOT 8**  
 555 BROADWATER ROAD, ANNAPOLIS, MARYLAND 21402  
 TAX ACCT. NO. 05445259108 - OF NO. 02018882  
 TAX MAP 0033 ANNE ARUNDEL COUNTY, MARYLAND DISTRICT 38D  
 ANNE ARUNDEL COUNTY, MARYLAND

SCALE: 1"=20'  
 DATE: MAY 24, 2021  
 SHEET 3 OF 5

July 11, 2024

Anne Arundel County  
Office of Planning and Zoning  
Zoning Administration

RE: 555 Broadwater Road - Buffer Restriction Variance

To whom it may concern:

I am writing this Letter of Explanation to outline the specifics of my application for a variance to the requirements for work in the 100' buffer. We would like permission to remove an existing in-ground pool and replace it with a smaller in-ground pool located further from the river than the pool that is being removed. My belief is that this request is justified as it will result in reduced coverage in the buffer, reduced overall lot coverage, reduced chlorine use, most run-off into BMP's and reduced visibility from the waterway and neighboring properties.

The existing pool and patio is located approximately 26' from the high water line and the proposed relocation will be approximately 74' from the high water line. Coverage of the existing pool and patio is 933 square feet and is all within the 100' buffer. The proposed location will have 675 square feet of coverage in the 100' buffer and 92 square feet of new coverage outside the buffer. Coverage in the buffer is reduced by 258 square feet and overall coverage is reduced by 166 square feet. Run-off from the existing pool flows directly into the waterway, while the majority of run-off from the relocated pool will flow into two existing micro-bio BMP's. The existing pool is a chlorine system with a backwash filter that flows into the waterway with pumps and filters located in the buffer. The proposed system will be a saltwater pool with filter cartridges, pumps and filters located outside of the 100' buffer. Both adjacent properties have in-ground pools located up close to the buildings similar to what we are proposing. The site plan included with this application has detailed dimensions and locations of both the existing and proposed structures. Feel free to contact me if further information is needed.

Sincerely,

David Burt  
Owner  
(301) 525-1706

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: 07/11/2024

Tax Map #	Parcel #	Block #	Lot #	Section
33	0018	18	8	

**FOR RESUBMITTAL ONLY**

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

\*Complete Only Page 1  
 General Project Information

Tax ID: 314525050108

Project Name (site name, subdivision name, or other) Burt Residence Pool Relocation

Project location/Address 555 Broadwater Road

City Arnold Zip 21012

Local case number \_\_\_\_\_

Applicant: Last name Burt First name David

Company Owner

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

- |  |  |
|--|--|
| Building Permit <input 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:

Current use is an in-ground chlorine pool and concrete deck located within the buffer. Proposed use is a smaller in-ground saltwater pool resulting in reduced coverage in the buffer and reduced overall lot coverage.

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

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

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

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

	Acres	Sq Ft		Acres	Sq Ft
IDA Area	0.37	16,114	Total Disturbed Area	0.082	3,570
LDA Area					
RCA Area			# of Lots Created		
<b>Total Area</b>	<b>0.37</b>	<b>16,114</b>			

	Acres	Sq Ft		Acres	Sq Ft
Existing Forest/Woodland/Trees	0	0	Existing Lot Coverage	0.138	6,017
Created Forest/Woodland/Trees	0	0	New Lot Coverage	0.018	767
Removed Forest/Woodland/Trees	0	0	Removed Lot Coverage	0.022	933
			<b>Total Lot Coverage</b>	<b>0.134</b>	<b>5,851</b>

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

	Acres	Sq Ft		Acres	Sq Ft
Buffer Disturbance	0.075	3,292	Buffer Forest Clearing	0	0
Non-Buffer Disturbance	0.006	278	Mitigation	0	0

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

## **Critical Area Report Narrative for 555 Broadwater Road, Arnold, MD 21012**

The proposed use for the property is a Residential Accessory Structure in the form of an existing in-ground pool and patio which is being relocated and reduced in size.

There are a handful of hardwood maple trees on the property as well as two micro-bio retention BMP's with native plants and shrubs. Further landscaping and shrubs are planned outside the 100' buffer following completion of the project. Approximately 2,000 square feet of the property is vegetated with trees and shrubs, none of which will be impacted by the project works. Approximately 3,570 square feet of the property will be disturbed by the project which is currently turf and the existing pool. The plan is to stabilize all disturbed areas with sod upon completion and prior to removal of the silt fence.

Disturbed areas will be enclosed with reinforced silt fence and then stabilized with sod upon completion. Silt fence will also be used to protect the existing micro-bio BMP's during the project. Access is limited so small track machines will be utilized and concrete will be pumped from the road. Access is downhill across existing turf that will also be replaced with sod and other landscaping following completion of the project.

Current impervious surface prior to the project is 6,017 square feet and will be reduced to 5,851 square feet upon completion of the project due to the smaller size of the relocated pool and patio.

There are not any habitat protection areas or steep slopes on the site.





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 *bc*

DATE: July 19, 2024

RE: David H. Burt  
555 Broadwater Rd.  
Arnold, MD 21012

NUMBER: 2024-0134-V

SUBJECT: Variance/Special Exception/Rezoning

The Health Department has reviewed the above referenced variance to allow an accessory structure (in-ground pool) with less setbacks than required and with new lot coverage nearer to the shoreline than the closest façade of the existing principal structure.

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



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

---

## CAC Comments\_Two by Two 2024-0111-V, Burt 2024-0134-V

---

Jennifer Esposito <jennifer.esposito@maryland.gov>

Tue, Aug 13, 2024 at 2:24 PM

To: Sadé Medina <pzmedi22@aacounty.org>

Cc: Joan Jenkins <pzjenk00@aacounty.org>, Charlotte Shearin -DNR- <charlotte.shearin@maryland.gov>

Good afternoon,

The Critical Area Commission has reviewed the following variances and we provide the following comments:

- 2024-0134-V; Burt (AA 175-24); It appears the proposal will result in an overall decrease of coverage in the Buffer and the proposed location of the replacement pool will increase the distance to the shoreline from the existing pool. Provided that the Administrative Hearing Officer finds that all of the Critical Area variance standards have been met, appropriate mitigation is required to be emplaced within the Critical Area Buffer.
- 2024-0111-V; Two By Two, LLC. (AA 192-24); The proposed request does not appear to be a variance to the Critical Area variance development standards. Therefore, we have no comments to provide at this time.

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](https://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)

# 2024-0134-V

Menu Cancel Help

<b>Task</b> OPZ Critical Area Team	<b>Due Date</b> 08/06/2024	<b>Assigned Date</b> 07/16/2024
<b>Assigned to Department</b> OPZ Critical Area	<b>Assigned to</b> Kelly Krinetz	<b>Status</b> Complete w/ Comments
<b>Action by Department</b> OPZ Critical Area	<b>Action By</b> Kelly Krinetz	<b>Status Date</b> 07/25/2024
<b>Start Time</b>	<b>End Time</b>	<b>Hours Spent</b> 0.0
<b>Billable</b> No	<b>Overtime</b> No	<b>Comments</b> The Critical Area Team offers no objection to the relocation of the pool further from the shoreline and the reduction of lot coverage on site.
<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> No	<input checked="" type="checkbox"/> <b>Display Comment in ACA</b>	<b>Comment Display in ACA</b> <input checked="" type="checkbox"/> All ACA Users <input checked="" type="checkbox"/> Record Creator <input checked="" type="checkbox"/> Licensed Professional <input checked="" type="checkbox"/> Contact <input checked="" type="checkbox"/> Owner
<b>Estimated Hours</b> 0.0	<b>Action</b> Updated	<b>Workflow Calendar</b>

Task Specific Information

---

Expiration Date  
Reviewer Phone Number

Review Notes  
Reviewer Email

Reviewer Name



567

563

561

559

557

~~555~~

553

549

547

543

552

550

548

546