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

**APPLICANT**: Mark & Genevieve Houston-Ludlam **ASSESSMENT DISTRICT: 1** 

**COUNCILMANIC DISTRICT: 7 CASE NUMBER:** 2024-0138-V

PREPARED BY: Joan A. Jenkins
Planner III **HEARING DATE**: October 3, 2024

## **REQUEST**

The applicants are requesting a variance to allow a new dwelling with less setbacks than required on property located at 1409 Circle Drive in Edgewater.

### **LOCATION AND DESCRIPTION OF SITE**

The subject site consists of 8,532 square feet of land and is a corner lot located with road frontage on the north and east sides of Circle Drive, 1 southwest of Park Road. The property also touches Riverside Drive at a point. The property is identified as Lot 11 of Parcel 113 in Grid 7 on Tax Map 56. The property is zoned R5 - Residential District. This is a nonwaterfront lot located in the Chesapeake Bay Critical Area, designated IDA – Intensely Developed Area. The property is currently improved with a dwelling, a shed, and associated features. The site is served by a private well and septic system.

#### APPLICANT'S PROPOSAL

The applicant is proposing to raze the existing dwelling and shed and construct a new L-shaped dwelling (house 26' x 38', 868 sf with a porch 6' x 38', 228 sf, a 3' wide ADA ramp in three sections, two 3' landings and two 17' ramps, 122 sf; with the overall dwelling height of 32 feet).

#### REQUESTED VARIANCES

§ 18-4-601 of the Code requires that a principal structure be setback 20 feet from the corner side lot line in the R5 - Residential District. The proposed dwelling, without taking the ADA ramp into account because the Code does not require an access ramp to accommodate a person under disability to meet setback requirements, will be located 16 feet from the corner side lot line requiring a variance of 4 feet to the requirement.

<sup>&</sup>lt;sup>1</sup> See plat South River Park "Revised Plat" Plat no. 189, book 5, Folio 4

<sup>&</sup>lt;sup>2</sup> 18-2-301(e) state for "Certain uses or structures. The following uses or structures need not comply with setback requirements contained in this article and are not included in determining requirements relating to maximum coverage by structures: access ramps to accommodate a person under disability, driveways, paved or gravel at-grade surfaces, fences, noise barriers or noise walls, signs, walkways eight inches or less above grade, and walls.

## **FINDINGS**

This Office finds that this is an oddly shaped lot that bulges in the center, is slightly larger than the required area for an R5 District lot, and is narrower than the required width making any development difficult without a variance. Based on the South River Park Revised Plat, Circle Drive is the southwest lot line and the portion of roadway called Circle Drive on the site plan is labeled as a "20 pathway" on the plat.

Development in the IDA may not exceed the lot coverage limitations of the underlying zoning district. The R5 District limits coverage by structure to 40%. The zoning coverage by structure maximum of 40% is being met based on the information on the site plan.

A review of the County 2024 aerial photograph shows an eclectic mix of dwellings on varying sized lots immediately surrounding the subject property. According to the State Department of Assessments and Taxation records the existing dwelling was built c. 1940 prior to the adoption of the critical area or zoning laws.

The applicant's letter explains that the site is constrained by existing wells with radii as shown on the site plan and that the irregularity of the site with the setbacks implemented creates a limited buildable area.

# **Agency Comments**

The **Health Department** commented that the property is not currently served by an adequate water supply. Houses on separate properties cannot share a water supply well. A separate water supply well is required for each house.

## The **Department of Inspections and Permits (Engineering)** commented the following:

- 1. Stormwater management will be addressed through a rain garden.
- 2. All stormwater conveyance systems shall be designed so that no building or habitable structure, either proposed or existing, is flooded or has water impounded against it during the 100-year storm event.
- 3. Please ensure that the rain garden area is setback/offset from property lines so that if it needs maintenance/reconstruction, easements do not need to be obtained from neighboring properties or impact rights-of-way.
- 4. Microscale stormwater facility(ies) design should incorporate safe conveyance for overflow discharges from 2, 10, 100-yr 24-hr storm events; plans should show overland relief paths for these storm events and ensure that no structures, or properties are negatively impacted or have water impounded against during these storm events.
- 5. Design professionals should review site runoff and potential (negative, adverse) impacts to neighboring properties, due to changed grades/elevation on a proposed project.
- 6. Ensure the proposed improvement including runoff, seepage, and slope saturation does not adversely impact the integrity of the slope and potential impact of slope failure.
- 7. A soil boring is required per practice. The suitability, and siting of proposed SWM practices should be reviewed. Soil boring information including verification of the suitability of in-situ

soils for infiltration shall be submitted. Describe the site's hydrologic, and topographic characteristics and provide a recommendation on the feasibility of various BMPs.

- 8. Based on the plan provided, it appears that the property will be served by a private well and a public sewer.
- 9. The stormwater management, utility/Engineering design additional review, and comments for the site shall occur at the grading permit stage.
- 10. Based on the above comments and proposed site design, this office does not support this request.

The Cultural Resources Section commented that this property includes an undocumented, historic structure from the early 20th century. Our office will need to conduct our review once the demolition permit application is submitted. A site visit with photo-documentation may be required prior to approval. Please contact the Historic Sites Planner, Darian Beverungen, pzbeve19@aacounty.org with any questions.

# Variance Requirements

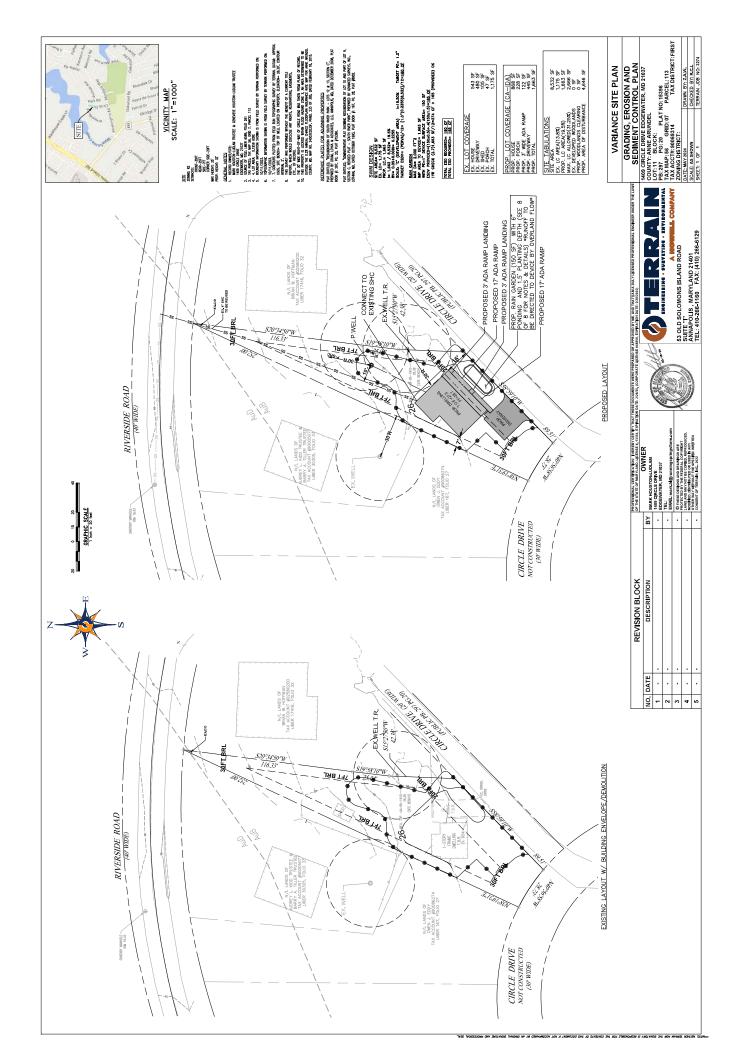
Approval of the variances would not alter the essential character of the neighborhood. Approval of the variances will not substantially impair the appropriate use or development of adjacent property, as the proposed dwelling will be located well away from the dwellings on the abutting lots and meets the setbacks to those lots. The variance will not be contrary to acceptable clearing and replanting practices, and will not be detrimental to the public welfare.

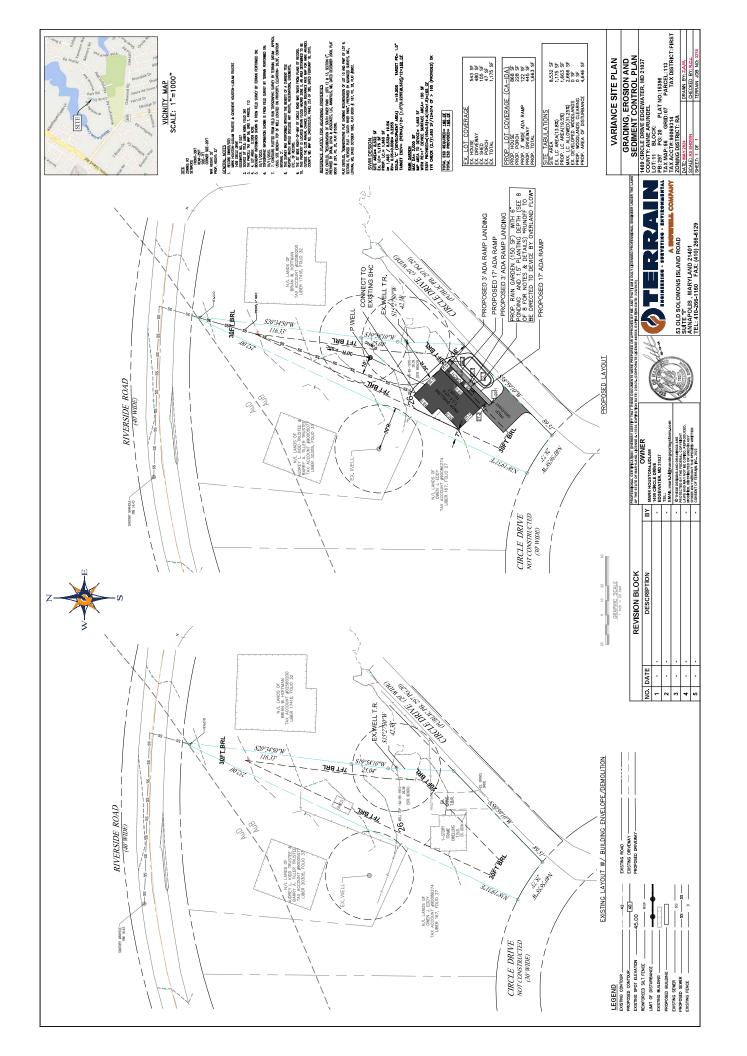
The existing dwelling is currently nonconforming to current setback requirements as a corner of the existing house is within the 20-foot corner side setback. However, redevelopment of a property is an opportunity to comply with the code. The proposed dwelling includes a porch that spans the entire side of the house four feet into the required corner side setback. Simply eliminating the porch would remove the need for the variance. As the variance is unnecessary this proposal cannot be considered to be the minimum necessary to afford relief.

## **RECOMMENDATION**

With regard to the standards by which a variance may be granted as set forth in § 18-16-305, under the County Code, the Office of Planning and Zoning recommends *denial* of the variance request to § 18-4-701 to allow a dwelling with less setbacks than required.

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.







May 10, 2024

Anne Arundel County
Office of Planning and Zoning
2664 Riva Road, 3<sup>rd</sup> Floor
Annapolis, MD 21401

Re:

1409 Circle Drive Variance Request

To Whom It May Concern:

We are requesting a Variance to Setbacks for the above referenced Site to Allow Construction of a Modest Dwelling on an Irregularly Shaped Lot.

In accordance with Article 18, section 18-4-601; R2 Bulk Regulations, the Setbacks for a Corner Side is 20 ft. We are requesting a reduction in the Corner Side Setback as noted below.

# A. Existing Site Conditions:

- 1. The Site is .1959 acres or 8,533 SF.
- 2. The Site is zoned R2 and Critical Area Designation IDA.
- 3. The Site is irregularly shaped and contains a small house.
- 4. The House, which is currently located on the property is in need of modernization and it has been determined that demolition is the best alternative.
- 5. The current house does not meet Zoning Setbacks.
- 6. The Site is constrained by Existing Wells with Radii as shown on the Site Plan.

#### B. Proposed Site Conditions:

- The New House will be constructed to accommodate the needs of the Owners' handicapped daughter, providing her independent living via handicap accessibility (i.e. handicap ramp(s), etc.
- 2. Access will be via the Existing Public Road, which is the current access point.
- 3. Because the Site abuts Circle Drive (front), the Circle Drive (corner side) and the side and rear yards, a Variance to the corner side is necessary.
- 4. The New House has been located to minimize Impacts to neighboring properties and is similarly located to the Existing House.

# C. Requested Variance:

- 1. The House has been oriented to minimize the Variance Request. The location conforms to the Front and Side Setbacks.
- 2. The Variance is necessary to the Corner Side Setback. The Required Setback is 20 ft. and the Proposed Setback is 14 ft., requiring a Variance of 6 ft.
- 3. The House Design and Orientation allow Offstreet Parking to provide Safe Ingress and Egress from the Handicap Ramp.

#### D. Justification for the Variance:

- 1. As the Well creates the restrictions as shown, the buildable area for the Lot is substantially reduced. (See Plan.)
- 2. A Modest Size Dwelling with the Requirement for Offstreet Parking and Handicap Access limit the orientation of the House.

- 3. Based on the Irregular Lot Shape creates a small buildable area which creates the need for Variance Relief.
- 4. The Lot is a Non-Conforming Size for the Zone and is an Irregular Shape, as noted above.

### E. Article 18-16-305: Variances:

The Site meets the requirements for Variances because Practical Difficulties and Hardships are as follows:

- 1. The Site exhibits Unique Physical Conditions of Extreme Irregularity as the Site is characteristic of an Arrowhead. Thus, the application of the Setback for Corner Side restricts the use of the Lot.
- 2. An unnecessary hardship exists because of the implementation of the Setbacks on the Irregular Lot which create a very Limited Buildable Area.

# F. Requirements for all Variances:

- 1. The Variance is the minimum necessary to afford relief due to the Irregular Shape of the Lot.
- 2. The granting of this Variance will not:
  - (i). Alter the essential character of the neighborhood as this is a Replacement of an Existing House.
  - (ii). The adjacent Lots are currently developed and will not be impacted as the Proposed House moves to the southeast allowing additional space between dwellings.
  - (iii). The development as proposed does not impact vegetation as no clearing is proposed.
  - (iv). As no clearing is proposed, the Proposed Development is not contrary to Acceptable Environmental Practices.
  - (v). The proposed redevelopment will not impact Public Welfare as the New House is a Replacement Dwelling.

We believe the Proposed Placement of the New House is consistent with Infill Development and should receive support and subsequent Approval.

Should you require any additional information, please do not hesitate to contact our office at (410) 266-1160 or at roy@terrainmd.com.

Sincerely, TERRAIN

Roy C. Little, P.E. Director of Engineering

RCL/II.3274





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

Brian Chew, Program Manager FROM:

Bureau of Environmental Health

DATE: August 2, 2024

RE: Mark Hudson-Ludlam- Trustee

> 1409 Circle Drive Edgewater, MD 21037

NUMBER: 2024-0138-V

SUBJECT: Variance/Special Exception/Rezoning

The Health Department has reviewed the above referenced variance to allow a dwelling and associated facilities with less setbacks than required.

The Health Department has determined that the above referenced property is not currently served by an adequate water supply. Houses on separate properties cannot share a water supply well. A separate water supply well is required for each house.

If you have further questions or comments, please contact Brian Chew at 410-222-7413.

Sterling Seay cc:

## 2024-0138-V

Menu Cancel Help

Task Details I and P Engineering
Assigned Date
07/24/2024
Assigned to
Habtamu Zeleke
Current Status
Complete w/ Comments
Action By
Habtamu Zeleke

Due Date 08/12/2024 Assigned to Department Engineering Status Date 08/12/2024 Overtime No Start Time

**Comments**Variance request: Variance to allow a dwelling and associated facilities with less setbacks than required.

Comments:

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End Time

Billable

No

Time Tracking Start Date In Possession Time (hrs)

**Estimated Hours** 

0.0

Comment Display in ACA

- All ACA Users
- Record Creator
- Licensed Professional
- Contact
- Owner

Task Specific Information

Hours Spent
0.0
Action by Department
Engineering
Est. Completion Date
Display E-mail Address in ACA

Display Comment in ACA

Expiration Date
Reviewer Phone Number

Review Notes Reviewer Email Reviewer Name

