

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


APPLICANT: Justin & Cassandra Thomas

ASSESSMENT DISTRICT: 1

CASE NUMBER: 2024-0142-V

COUNCIL DISTRICT: 7

HEARING DATE: October 3, 2024

PREPARED BY: Joan A. Jenkins 
Planner III

REQUEST

The applicant is requesting a variance to perfect an accessory structure (shed) in the front yard of a non-waterfront lot with less setbacks than required on property located at 5255 Ed Prout Road in Lothian.

LOCATION AND DESCRIPTION OF SITE

The subject property consists of 2 acres (87,120 sf) of land and is located with 73 feet of frontage on a private right-of-way¹ that intersects with Ed Prout Road northwest of Rustic Lane. The property is identified as Parcel 65 in Block 20 on Tax Map 67, Lot 1 in the Moore Property subdivision. The property has been zoned RA – Rural Agricultural District since the adoption of comprehensive zoning for the Seventh Councilmanic District, effective October 7, 2011. The site is currently improved with a two-story single-family detached dwelling, a large storage building, the subject shed, and associated facilities.² The property is served by private well and septic facilities.

APPLICANT'S PROPOSAL

The applicants have constructed a 20.2' by 25.2' shed on a concrete pad in the front yard of a non-waterfront lot with an existing principal structure.

REQUESTED VARIANCE

§18-2-204 (b) of the Anne Arundel County Zoning Ordinance provides that “when a new principal structure is constructed in an RA District, an existing barn may be retained in the front yard. Otherwise an accessory structure may not be located in the front yard of a non-waterfront

¹ Tax account number 1000-9010-0161, deed reference 1201/37, owned by Melvin Moore Sr and Doris Moore and see Private Road Statement on the subdivision plat Book 208 Page 17.

² A small shed can be seen in the rear yard on the 2024 aerial photo. This shed has not been shown on the site plan.

lot.” A principal structure already exists; therefore a locational variance is required for the shed to be in the front yard of this nonwaterfront lot.

§18-4-301 requires that an accessory structure in the RA District that is 8 feet in height or greater shall be set back a minimum of 15 feet from the side lot line. The shed has been constructed as close as 5.74 feet from the side lot line requiring a variance of 10 feet.

FINDINGS

The subject property is a flag lot off of a private right-of-way with the main portion of the lot being nearly rectangular, but irregularly-shaped on one side. The property is conforming with respect to the minimum lot area and width requirements for the RA District; this lot was created by subdivision in 1998.

The current County aerial photograph from 2024 reveals large lots with variously sized houses in this area. Accessory garages, pools, and sheds can be seen throughout the neighborhood. The adjacent property at 5257 Ed Prout Road has a large barn that is in the front yard, but it was shown on the subdivision plat to remain. That adjacent property also has a cluster of four accessory buildings on the west side near the location of the subject shed. This Office found a variance case 1997-0159-V for an accessory structure in the front yard with less setbacks at 5259 Rustic Way due to a pending subdivision of that property. The existing dwelling on the subject property was built in 2015 according to State Tax Assessment records.

The letter of explanation describes that the owner constructed the shed in a location where there are at least four accessory structures located on lot 2. This location makes the appearance of a cluster of accessory structures and the letter opines that the shed fits right in with its surroundings.

The property is the subject of a building violation case B-2024-176 opened February 15, 2024 for two accessory structures. One was built in the 2019/2020 timeframe without a building permit. There are no variances necessary for this structure. The newest structure, included in the violation was built without a permit and is the subject of this variance case.

The **Health Department** commented that the proposal does not affect the on-site sewage or well water supply system and therefore has no objection to the variance.

The granting of the variances will not impair the appropriate use or development of adjacent properties as the surrounding properties are already developed. The variances will not be contrary to acceptable clearing and replanting practices and will not be detrimental to the public welfare.

However, to be granted a variance it must be found that because of certain unique physical conditions, such as irregularity, narrowness or shallowness of lot size and shape or exceptional topographical conditions peculiar to and inherent in the particular lot, there is no reasonable possibility of developing the lot in strict conformance with this article; or, because of exceptional circumstances other than financial considerations, the grant of a variance is necessary to avoid

practical difficulties or unnecessary hardship and to enable the applicant to develop the lot. The need sufficient to justify a variance must be substantial and urgent and not merely for the convenience of the applicant. While this lot does have some limiting factors due to the location of existing improvements, septic area, and a well, this lot is not unique to the neighborhood in that other properties also have septic and water wells and the lot has already been developed with a single-family dwelling and a storage shed.

This Office questions the desire to cluster the shed with other sheds on the neighboring property that are not in the front yard as justification for a variance when there appears to be ample space on the lot to locate a shed without the need for a variance. Therefore, the request is not considered to be the minimum necessary to afford relief.

RECOMMENDATION

Based upon the standards set forth in §18-16-305, under which a variance may be granted, the Office of Planning and Zoning recommends that the variance requests to perfect an accessory structure (shed) that has been constructed in the front yard of a non-waterfront lot with less setbacks than required as shown on the site plan, be ***denied***.

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.

July 10, 2024

Department of Planning and Zoning
2664 Riva Road
Annapolis, MD 21401
Attention: Sterling Seay

**RE: THOMAS PROPERTY
5255 ED PROUT ROAD
LOTHIAN, MD 20711
VARIANCE REQUEST LETTER OF EXPLANATION**

Dear Ms. Seay:

The purpose of this letter is to outline the applicant's request for a variance for the above referenced property. The property is located at 5255 Ed Prout Road in Lothian, MD. It consists of 87,120 square feet. The site is not located in the Chesapeake Bay Critical Area. The site is zoned R-A.. The site does not appear to contain steep slopes but the site does slope from north to south generally. The site is currently developed with a home, sheds, well and septic system. The site is served by well and septic. The site is a flag lot, served by a 40' right of way to Ed Prout Road, a 45' wide public right of way.

The owners constructed an accessory structure, a shed, without proper permits. The structure will require a variance to the front and side yard setback. this is the only variance request. As such, the owner is requesting relief to Article 18-4-301:

§ 18-4-301. Bulk Regulations R-A (In Part)

Minimum setbacks for an accessory structure:

Front Lot Line 50 feet

Side Lot Line 15 feet

The owners wish to perfect the construction of a shed. The location of the shed is noted on the site plan. The property is shown as Lot 1 of the Family Conveyance and Administrative Minor Subdivision of the Moore Property, recorded in plat book 208 page 17. The property, as noted as is a flag lot. The lot meets the 40,000 square foot minimum lot size, and was subject to a family conveyance when it was created. The lot is about half wooded, on the west, rear and front of the existing dwelling. The owner constructed the shed in a location that is not wooded, not steep, and in the area of several accessory structures that exist on Lot 2, which happens to be the owners mothers property. The owners sister lives in the residue of the subdivision between the subject property and Ed Prout Road. Said plat shows a front building restriction line typical of flag lots. The new structure encroaches on the platted building restriction line, as well as the side lot line. The owner attempted to meet setbacks, but a mismeasurement put the structure as shown on the site plan.

The owner constructed the shed in a location where there are at least four accessory structures located on lot 2. Some of the improvements on Lot 2 predate the creation of the subdivision, and as such have been on the property for quite some time. The owner of the new shed constructed it on a piece of land that juts out towards these structures, which, in a site visit and review of aerial imagery, make it have the appearance of a cluster of accessory structures. Visually, the shed fits right in with its surroundings, as intended by the owner. The shed does encroach on the front building restriction line, however, as measured perpendicular from the closest corner of the shed, and the existing principal dwelling, the shed is further from Ed Prout Road than the front of the shed. So by this measure, the shed is located behind the principal dwelling. It does appear that the platted front building restriction line could possibly be rotated so the structure is not over the line, but it would still not meet the 50' front setback. The shed is also located 5.74' from the side lot line on the north east corner of the shed, and 10.36' from the southeast corner of the shed. But as noted above it is located in an area of existing accessory structures, and does not look out of place in its current location. As far as the overall context of the shed to the neighborhood, it does conform with current development in the area. Being an RA zoned property, sheds such as this are a common feature, whether built before regulation, or with or without permits. As such, and noting no tree clearing, it was constructed on lawn, and in close conjunction with surrounding accessory uses, the shed has no visual or realistic impact on adjoining properties. The owner is pursuing permits for the work. He has been working diligently with our office to obtain the necessary permits, the variance being the initial step.

This plan meets the intent of 18-16-305(a):

1. The subject property is a flag lot, with about half of the site wooded, and encumbered by existing development and a septic system. The shed was constructed in a location to avoid these issues, and to conform with neighboring development, this location would have been chosen had a permit been applied for to construct the shed.
2. The practical difficulties in the placement of the shed are largely identified above. The shed was constructed in a location where it meets setbacks to the well, is away from the existing dwelling and does not impact the woodlands on the site. It is certainly within the character of the neighborhood, and offers little to no visual impact to adjoining properties or from Ed Prout Road.

This plan meets the requirements of 18-16-305(c), as the proposal is the minimum relief necessary. The development will not impair the use of adjoining properties, nor reduce forest cover. The work performed will not be contrary to clearing and replacement practices, and will not alter the character of the neighborhood or be detrimental to the public welfare.

1. The variance request is the minimum to afford relief. The request is to perfect a 510 square foot shed constructed on a concrete foundation without a permit, in an area where it has little to no impact on the subject property or its neighbor.

i. This variance will not alter the essential character of the neighborhood. The shed is tucked in among existing accessory structures on the neighboring lot.

ii. This variance will not impair the use of adjoining properties. The location of the shed is perfect for the neighborhood, it just doesn't meet zoning setbacks.

iii. This construction required no tree clearing. The site is not in the Critical Area.

iv. No work will be performed contrary to approved clearing practices, and the site is not located in the Critical Area.

v. The project will not be detrimental to the public welfare, as it is located on private property.

The development shown will provide the least amount of environmental impacts, while allowing the owners to improve their property in a manner in keeping with other accessory structures in the neighborhood.

In closing, the variances requested are the minimum necessary to afford relief. This shed will cause no ill effects to the environment or the neighborhood. This variance will provide the owner with a use that is in harmony with this existing pattern of development.

Should you have any questions, comments, or require any additional information, please do not hesitate to contact me directly at 410-897-9290.

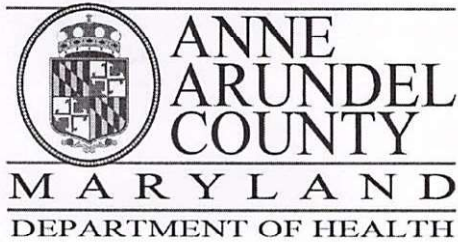
Sincerely,

Atwell LLC

Mike Gillespie

Mike Gillespie

cc. client, file




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 26, 2024

RE: Justin Thomas
5255 Ed Prout Road
Lothian, MD 20711

NUMBER: 2024-0142-V

SUBJECT: Variance/Special Exception/Rezoning

The Health Department has reviewed the above referenced variance to perfect an accessory structure (shed) in the front yard of a non waterfront lot and 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

OWNERS DEDICATION

We the owners of the property shown hereon, hereby accept this plan of subdivision, establish the minimum building restriction lines and dedicate the streets, alleys, walkways and other easements, widening strips and floodplains to public use; such lands to be dedicated to Anne Arundel County or the State of Maryland, as the right of way for the property described herein, this to be a subdivision of all of the property described among the Land Records of Anne Arundel County Md. in Liber 1201 at Page 37.

There are no suits, actions or law, leases, liens, mortgages, judgments, or other claims or interests in the property included in this plan of subdivision, except as shown below, and all parties in interest have herewith affixed their signatures indicating their willingness to join in this plan of subdivision.

Melvin E. Moore Sr. Date 11/4/95 Parcel 65
Donis E. Moore Date 11/4/95 Parcel 65
Margie Elizabeth Moore Thomas Date 11/4/95 Parcel 197

SURVEYORS CERTIFICATE

I hereby certify that the plat shown hereon is correct; that it represents a survey of the property by the surveyor or prepared under the surveyor's direct supervision; and that it is a subdivision of all of the lands conveyed by

Charles Moore Jr. and Elsie Moore to Melvin E. Moore Sr. and Donis E. Moore by deed dated August 19, 1971, in the land records of Anne Arundel County, Maryland, Liber 1201 Folio 37, and that it is a subdivision of all of the property conveyed by Margie Elizabeth Moore Thomas to John Arthur Thomas and Margie Elizabeth Moore Thomas by deed dated November 24, 1981 and recorded among the Land Records of Anne Arundel County, Maryland in Liber 3555 Folio 642.

The requirements of Section 3-108 of the Real Property Article, Annotated Code of Maryland, 1983 replacement volume, (as supplemented) as far as they relate to the making of this plat and the setting of markers have been complied with.

John R. Pickett 1091B 11-6-95 (Date)

Melvin E. Moore Sr. Date 11/4/95 Parcel 65
Donis E. Moore Date 11/4/95 Parcel 65
Margie Elizabeth Moore Thomas Date 11/4/95 Parcel 197

OWNER/DEVELOPER CERTIFICATION

I certify that iron pipes marked 40 and concrete monuments marked will be set in accordance with the Subdivision Regulations of Anne Arundel County, Maryland.

Melvin E. Moore Sr. Date 11/4/95 Parcel 65
Donis E. Moore Date 11/4/95 Parcel 65
Margie Elizabeth Moore Thomas Date 11/4/95 Parcel 197



ENGINEERING & ENVIRONMENTAL SCIENCES
LAND PLANNING & SURVEYING & CONSTRUCTION SERVICES
20 RIDGELY AVENUE, 21081
ANNAPOLIS, MARYLAND 21401-2871-8521

RECORDED
COURT HOUSE, ANNE ARUNDEL COUNTY
\$8 JUN 4 11:11:31

ANNE ARUNDEL COUNTY - ELECTIONS - RECORDS - PRIVATE - REGISTER

PRIVATE ROAD STATEMENT

The 40' private roadway is a private roadway intended to provide access to and from Lot 1, Lot 2, and the Residue. The owners of these lots are responsible for maintenance of the roadways and are not eligible to receive County services provided for maintenance of lot owners abutting County roads. Further subdivision or acceptance of any other subdivision of the property shall be subject to the approval of the Board of Supervisors of Anne Arundel County, Maryland, at the lot owner's expense.

STANDARD RIGHT TO DISCHARGE

Melvin E. Moore Sr., Donis E. Moore, John A. Thomas, and Margie E. Moore Thomas for self, and legal representatives, personal representatives, successors and assigns hereby grant the perpetual right-to-discharge the flow of water from such necessary drainage facilities and appurtenances to adequately drain the natural watershed and adjacent properties into existing waterways and/or natural drainage courses and/or upon the existing ground. Such discharge points are indicated by the symbols -> and ->> respectively as shown graphically on this plat.

We assent to this plan of subdivision.
Deed of Trust dated Dec. 22, 1972 and recorded in Liber 2918, Folio 353.

John A. Thomas
Margie Elizabeth Moore Thomas
John Arthur Thomas
Margie Elizabeth Moore Thomas

Melvin E. Moore Sr. Date 11/4/95 Parcel 65
Donis E. Moore Date 11/4/95 Parcel 65

John Arthur Thomas Date 11/4/95 Parcel 197
Margie Elizabeth Moore Thomas Date 11/4/95 Parcel 197



VICINITY MAP SCALE: 1"=3000'

GENERAL NOTES

- *1. The purpose of this subdivision is to create a 2,000 acre...
2. The 10,000 square foot septic area shall remain unencumbered by buildings, easements, rights of way and other...
3. Lot 1 and the residue shall be subject to intra-family declaration of intent letters that are on file with the Department of Planning and Code Enforcement.
4. Lots 12 and the residue are exempt from any stormwater...
5. There is no future subdivision potential for lots 1 and 2 and lot and one (1) family conveyance lot.
6. CDDP and recreation fees of \$175.00 were paid on 11-4-88.
7. As per Bill 19-90, there shall be less than 15,000 sq. ft. of woodland disturbed. Clearing may be permitted as follows:
Left - 15,000 Square Feet
Residue - 0

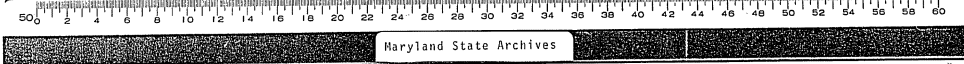
8. The deed hereon shall contain a provision which shall be subject to a deed to be recorded in Liber 10404 Folio 111 on June 11, 1998.

ZONING & SETBACKS

- 1. The property is zoned RA.
2. The property is located on tax map 61, grid 20, parcels 65, 197 and 197A.
3. Building restriction lines
front: 40'
rear: 35'
side: 15' (combined 40')
setback: 10'
front: 50'
side: 15'
rear: 10'

APPROVED: ANNE ARUNDEL COUNTY, MARYLAND DEPARTMENT OF PLANNING AND CODE ENFORCEMENT
PLANNING AND CODE ENFORCEMENT DIRECTOR DATE 5/14/98
THE REQUIREMENTS OF THE ANNE ARUNDEL COUNTY HEALTH AND SAFETY DEPARTMENT HAVE BEEN MET
I HEREBY CERTIFY THAT THIS PLAN OF SUBDIVISION COMPLIES WITH THE REQUIREMENTS OF THE ANNE ARUNDEL COUNTY HEALTH AND SAFETY DEPARTMENT.
Margie Elizabeth Moore Thomas 5/26/97
PRIVATE WATER AND SEWER SYSTEMS

MOORE PROPERTY
FAMILY CONVEYANCE AND ADMINISTRATIVE MINOR SUBDIVISION
MSB # 1994-100
TAX MAP 67 ~ BLOCK 20 ~ PARCEL 65, & 197
GRAPHIC SCALE
MAY 100 FT. MILLER THOMAS/SHOPS JUNE 30 1994 JOB 104176661
FIRST DISTRICT ~ A.A. Co. MARYLAND
MBA 55U 135 - 5391-1





Tax Account Number 100090100614

Branch 3