

M.A.F. & Associates, LLC
Matthew A. Forgen
55 Jones Station Road, W.
Severna Park, MD 21146
Phone: 443-864-8589

August 28, 2024

Planner
Department of Planning & Zoning
2664 Riva Road
Annapolis MD 21401

RE: Cerdar Point, Lot 5, 991 Magothy Ave. Arnold MD 21012

Dear Planner:

Please accept this submittal of a critical area and zoning variance for the above referenced project. We are proposing the construction of a single-family dwelling addition on the above referenced lot. The proposed multi floor addition over the existing first floor within the existing house footprint. The addition will have a max height of 30' 4-5/8". The addition has an overall footprint of 42'6" x 24'5" and is setback 47.39' from the eastern front property line (Magothy River), 156.20' from the western rear property line (Magothy Ave.), 10.61' from the northern side property line, and 6.53' from the southern side property line. This proposal will require a zoning variance of 1' to allow the dwelling addition to be constructed as close as 6' to the side lot line. We will need a variance to allow construction that is not relatively in line with the approximate average front setback.

Please note this is a R2 zoned property and therefore required to meet the setbacks as required in 18-4-601 of the County Code. For a principal structure, this section of the County Code requires a front setback of 30', a side setback of 7', and a rear setback of 25'. We are proposing a new dwelling addition (2nd and 3rd floors) that are setback 6' from the side property line, therefore necessitating a 1' zoning variance.

Please note that location of a principal structure on a waterfront lot is based on an approximate average of the location of principal structures on abutting lots intended to keep structures relatively in line with one another. We are proposing to construct the proposed multi-floor addition over the existing first floor within the existing house footprint. This addition lies closer to the shoreline than the approximate average (83.20', therefore necessitating a variance of 35.81'.

Profile Comments:

Critical Area Team: No objections.

Our response: N/A

Zoning Administration Section: Revise the Administrative Site Plan to reflect the proposed multi-floor addition, rather than a 2nd story addition.

Correct the Code reference in the Letter of Explanation for setbacks in the R2, 18-4-601 rather than 18-4-701.

The applicants are reminded that, in order for the Administrative Hearing Officer to grant approval of the variances, the proposal must address and meet all of the applicable variance standards provided under Section 18-16-305. The Letter of Explanation should address each of those standards and provide adequate justification for each of the variances required.

Our response: The site plan and letter of explanation have been revised as required. The letter of explanation addresses the standards of Section 18-16-305.

We feel this zoning variance request meets the requirements of Article 18-16-305 (a) & (c) and therefore the variances should be granted. Below is the justification for granting the above noted variances.

18-16-305(a)(1) 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:

This site is an existing, legally platted, R2 lot. This lot was recorded in 1937, prior to the implementation of any critical area laws. The lot is developed with a single-family dwelling and other site improvements. The existing house is located at 47.39' to the water's edge and as close as 6.53' to the side property line. This restricts the owner's ability to construct the addition without being closer than the approximate average and closer to the side property line without the need for a variance. With the size of the site, and the location of the existing house, there is no way of building the proposed addition without the need for these variances. These are the unique characteristics of the lot.

18-16-305(a)(2) 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:

With the unique characteristics of this site, we are not able to develop the property without the need for these variances. With the location of the existing house, there is no way of building the proposed addition without the need for these variances. We feel the owner should have the right to construct the additional floor area over the existing first floor of the dwelling, and that this request is the minimum variance to avoid practical difficulties or unnecessary hardships.

18-16-305(b) (1) Because of certain unique physical conditions, such as exceptional topographical conditions peculiar to and inherent in the particular lot or irregularity, narrowness, or shallowness of lot size and shape, strict implementation of the County's critical area program or bog protection program would result in an unwarranted hardship, as that term is defined in the Natural Resources Article, § 8-1808, of the State Code, to the applicant;

This site is an existing, legally platted, R2 lot. This lot was recorded in 1937, prior to the implementation of any critical area laws. The lot is developed with a single-family dwelling and other site improvements. The existing house is located at 47.39' to the water's edge and as close as 6.53' to the side property line. This restricts the owner's ability to construct the addition without being closer than the approximate average and closer to the side property line without the need for a variance. With the size of the site, and the location of the existing house, there is no way of building the proposed addition without the need for these variances. These are the unique characteristics of the lot. These are the unique characteristics of the lot.

18-16-305(b) (2) (i) A literal interpretation of COMAR, Title 27, Criteria for Local Critical Area Program Development or the County's critical area program and related ordinances will deprive the applicant of rights commonly enjoyed by other properties in similar areas as permitted in accordance with the provisions of the critical area program within the critical area of the County; or

The applicant would not be able to improve their property if this variance is not approved. The applicant should have the right to build within the existing footprint of the house.

18-16-305(b) (ii) The County's bog protection program will deprive the applicant of rights commonly enjoyed by other properties in similar areas within the bog protection area of the County;

This property is not within the County's bog protection area.

18-16-305(b) (3) The granting of a variance will not confer on an applicant any special privilege that would be denied by COMAR, Title 27, the County's critical area program to other lands or structures within the County critical area, or the County's bog protection program to other lands or structures within a bog protection area;

This proposal is within the existing footprint of the house, The granting of a variance will not confer on an applicant any special privilege that would be denied by COMAR, Title 27, the County's critical area program to other lands or structures within the County critical area.

18-16-305(b) (4) The variance request is not based on conditions or circumstances that are the result of actions by the applicant, including the commencement of development before an application for a variance was filed, and does not arise from any condition relating to land or building use on any neighboring property;

The existing first floor walls will be used for this proposal. The house was constructed in 1940. This variance request is not based on conditions or circumstances that are the result of actions by the applicant, including the commencement of development before an application for a variance was filed, and does not arise from any condition relating to land or building use on any neighboring property.

18-16-305(b) (5) The granting of a variance will not adversely affect water quality or adversely impact fish, wildlife, or plant habitat within the County's critical area or a bog protection area and will be in harmony with the general spirit and intent of the County's critical area program or bog protection program;

This proposal will not increase the total site lot coverage. The granting of a variance will not adversely affect water quality or adversely impact fish, wildlife, or plant habitat within the County's critical area or a bog protection area and will be in harmony with the general spirit and intent of the County's critical area program or bog protection program

18-16-305(b) (6) The applicant for a variance to allow development in the 100-foot upland buffer has maximized the distance between the bog and each structure, taking into account natural features and the replacement of utilities, and has met the requirements of § 17-9-208 of this Code;

This site is not within a bog protection area.

18-16-305(b) (7) The applicant, by competent and substantial evidence, has overcome the presumption contained in the Natural Resources Article, § 8-1808, of the State Code; and

We feel that the applicant, by competent and substantial evidence, has overcome the presumption contained in the Natural Resources Article, § 8-1808, of the State Code.

18-16-305(b) (8) The applicant has evaluated and implemented site planning alternatives in accordance with § 18-16-201(c).

The applicant is proposing to build this addition within the existing footprint to eliminate site grading. Any site planning alternatives would increase the site disturbance.

18-16-305(c)(1): the variance is the minimum variance necessary to afford relief:

This variance is the minimum variance necessary to afford relief in that the proposed dwelling addition will be constructed within the existing footprint utilizing the walls of the existing house, therefore only having a minimum impact to average front setback and only a 1' encroachment into the side lot line setback. We feel this request is the minimum variance necessary to afford relief

18-16-305(c)(2) the granting of the variance will not:

(i) alter the essential character of the neighborhood or district in which the lot is located:

The approval of these variances will not alter the essential character of the neighborhood. The house is in keeping with other homes in the neighborhood.

(ii) substantially impair the appropriate use or development of adjacent property:

This proposed development would not impair the appropriate use or development of adjacent properties. The neighboring properties are currently developed with a single-family dwelling. This proposal does not have an impact on these dwellings nor the ability of the owner to improve or further develop their property.

(iii) reduce forest cover in the limited development and resource conservation areas of the critical area:

The proposed development will not decrease forest cover within Chesapeake Bay Critical Area. There is no clearing required for this improvement.

(iv) be contrary to acceptable clearing and replanting practices required for development in the critical area or a bog protection area:

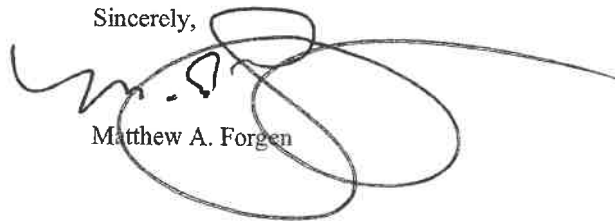
The property is not located within a bog protection area and is not contrary to acceptable clearing and replanting practices required for development in the critical area or a bog protection area.

(v) be detrimental to the public welfare:

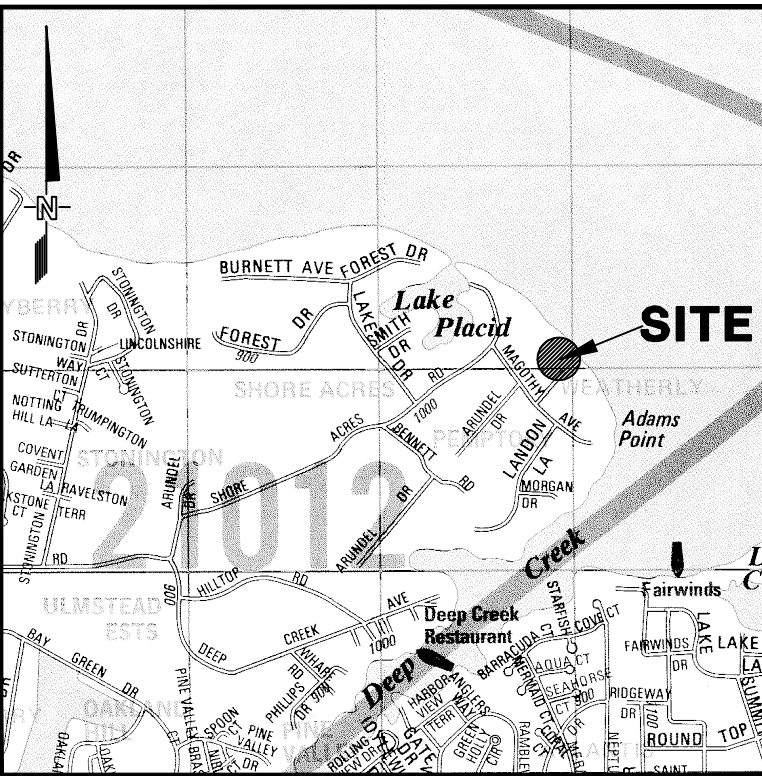
This development is not detrimental to the health and welfare of the community. This proposal does not increase the total lot coverage and does not create additional site runoff.

If you should have any questions regarding this submittal, please feel free to contact me at the number above.

Sincerely,

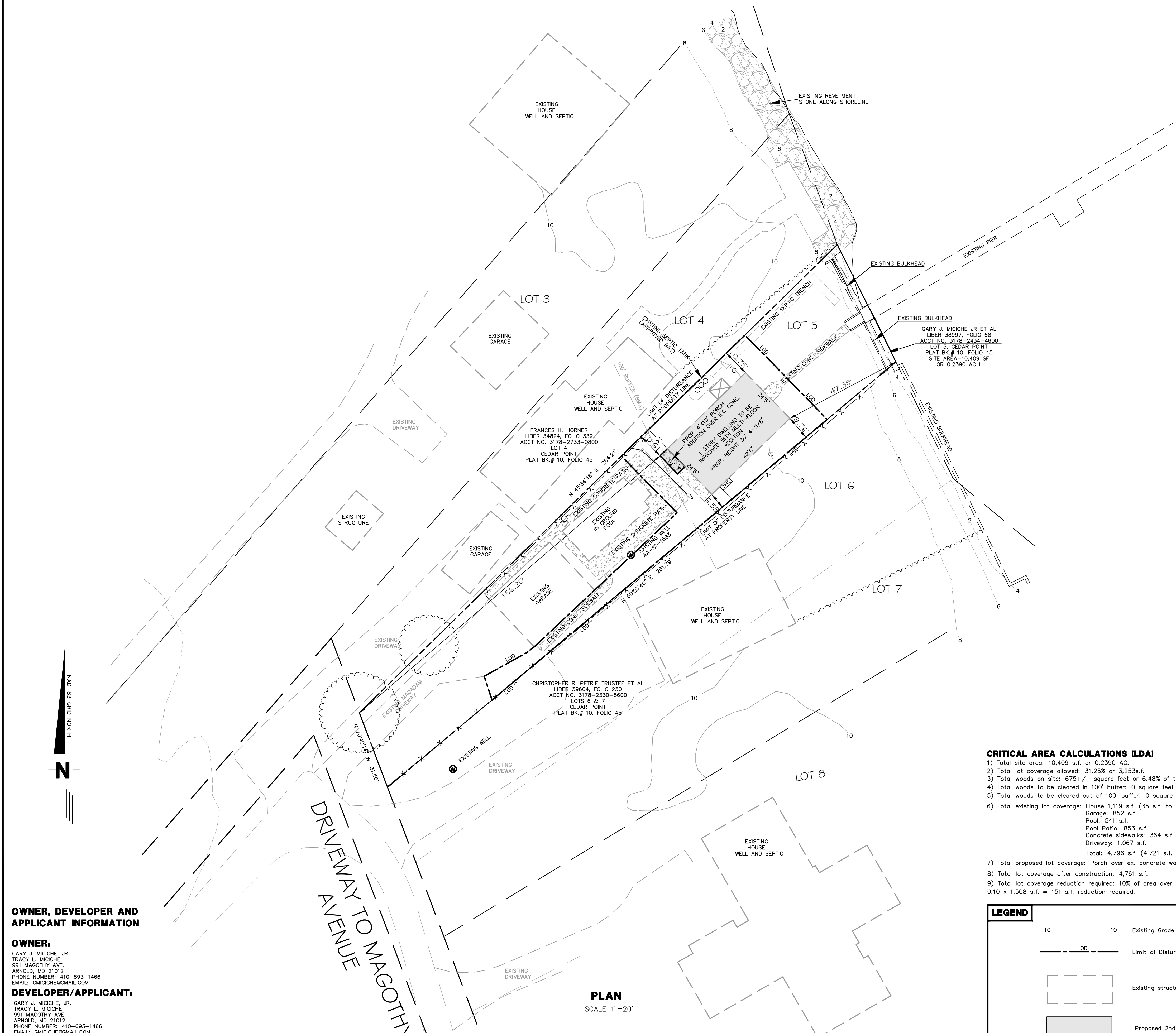


Matthew A. Forgen



VICINITY MAP
 SCALE: 1" = 2,000'
 ADC MAP: 16, GRID: E8
 Copyright ADC The Map People
 Permitted Use Number 2081204

SITE DATA	
PROPERTY ADDRESS:	991 MAGOTHY AVE ARNOLD, MD 21012
OWNER:	GARY J. MICICHE, JR. PHONE NUMBER: 410-693-1466 TRACY L. MICICHE EMAIL: GMICICHE@GMAIL.COM 991 MAGOTHY AVE. ARNOLD, MD 21012
DEVELOPER:	GARY J. MICICHE, JR. PHONE NUMBER: 410-693-1466 TRACY L. MICICHE EMAIL: GMICICHE@GMAIL.COM 991 MAGOTHY AVE. ARNOLD, MD 21012
EXISTING USE:	RESIDENTIAL PROPOSED USE: RESIDENTIAL
EXISTING ZONING:	R2 SETBACKS: FRONT: 30', SIDE: 7', REAR: 25'
TAX MAP:	33 BLOCK: 22 PARCEL: 49 LOT: 5
ASSESSMENT DISTRICT:	THIRD
TAX ACCOUNT NUMBER:	3178-2434-4600
CRITICAL AREA:	LDA
TOTAL SITE AREA:	0.2390 ACRES 10,409 SQUARE FEET
EXISTING IMPERVIOUS:	0.1101 ACRES 4,796 SQUARE FEET
PROPOSED ADDITION OVER EX. CONCRETE WALK:	0.0009 ACRES 40 SQUARE FEET
TOTAL DISTURBED AREA:	0.0863 ACRES 3,760 SQUARE FEET
PROPOSED STRUCTURE HEIGHT:	30' 4-5/8"



- CRITICAL AREA CALCULATIONS (LDAI)**
- 1) Total site area: 10,409 s.f. or 0.2390 AC.
 - 2) Total lot coverage allowed: 31.25% or 3,253s.f.
 - 3) Total woods on site: 675+/- square feet or 6.48% of the site.
 - 4) Total woods to be cleared in 100' buffer: 0 square feet
 - 5) Total woods to be cleared out of 100' buffer: 0 square feet
 - 6) Total existing lot coverage: House 1,119 s.f. (35 s.f. to be removed)
 Garage: 852 s.f.
 Pool: 541 s.f.
 Pool Patio: 853 s.f.
 Concrete sidewalks: 364 s.f. (40 s.f. to be removed)
 Driveway: 1,067 s.f.
 Total: 4,796 s.f. (4,721 s.f. to remain)
 - 7) Total proposed lot coverage: Porch over ex. concrete walk: 40 s.f.
 - 8) Total lot coverage after construction: 4,761 s.f.
 - 9) Total lot coverage reduction required: 10% of area over allowable or 0.10 x 1,508 s.f. = 151 s.f. reduction required.

LEGEND	
	Existing Grade
	Limit of Disturbance
	Existing structure
	Proposed 2nd story

M.A.F. & ASSOCIATES, LLC
 55 JONES STATION ROAD, W.
 SEVERNA PARK, MD 211146
 PHONE: 443-864-8589
 EMAIL: MFORGEN@AOL.COM

ADMINISTRATIVE SITE PLAN

CEDAR POINT LOT 5
991 MAGOTHY AVE., ARNOLD, MD 21012
 TAX MAP 33 BLOCK 22 PARCEL 49 TAX ACCOUNT # 3178-2434-4600 ZONING: R2
 DATE: AUGUST 28, 2024
 THIRD ASSESSMENT DISTRICT ANNE ARUNDEL COUNTY, MARYLAND
SHEET 1 of 1

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

PROJECT NOTIFICATION APPLICATION

GENERAL PROJECT INFORMATION

Jurisdiction: ALHE ARUNDEL Co.

Date: 8-13-2024

Tax Map #	Parcel #	Block #	Lot #	Section
<u>33</u>	<u>49</u>	<u>22</u>	<u>5</u>	

FOR RESUBMITTAL ONLY

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

*Complete Only Page 1
General Project Information

Tax ID: 3178-2434-4600

Project Name (site name, subdivision name, or other) CEEDAR POINT LOT 5

Project location/Address 991 MAGOTHY ROAD

City ARUNDEL MD Zip 21012

Local case number _____

Applicant: Last name MICICHE First name GARY

Company _____

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 _____ First name _____

Phone # _____ Response from Commission Required By _____

Fax # _____ Hearing date _____

SPECIFIC PROJECT INFORMATION

Describe Proposed use of project site:

CONSTRUCT 2ND & 3RD STORY ADDITION WITHIN THE AVERAGE FRONT SETBACK AND SIDE YARD SETBACK

Intra-Family Transfer
 Grandfathered Lot

Growth Allocation
 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		0
LDA Area		10,409
RCA Area		0
Total Area		10,409

Total Disturbed Area Acres Sq Ft 3,760

of Lots Created 0

	Acres	Sq Ft		Acres	Sq Ft
Existing Forest/Woodland/Trees		675 +/-	Existing Lot Coverage		4796
Created Forest/Woodland/Trees		0	New Lot Coverage		40
Removed Forest/Woodland/Trees		0	Removed Lot Coverage		151
			Total Lot Coverage		4645

VARIANCE INFORMATION (Check all that apply)

	Acres	Sq Ft		Acres	Sq Ft
Buffer Disturbance		2679	Buffer Forest Clearing		0
Non-Buffer Disturbance		1081	Mitigation		0

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

Cedar Point, Lot 5
991 Magothy Ave. Arnold, MD 21012

CRITICAL AREA REPORT

PREPARED BY:
M.A.F. & ASSOCIATES, LLC
55 Jones Station Road, W.
Severna Park, MD 21146

443-864-8589

August 13, 2024

INTRODUCTION

The lot is located at 991 Magothy Avenue, Arnold MD 21012. This is a legal lot as defined by Article 17-1-101 (63). The property owner is proposing a 2-story addition over the existing single-family dwelling that lies partially within the side yard setback and within the average front setback within a R2 zoning district. The lot is an undersized lot for an R2 zoning district and is waterfront. This lot lies entirely within the LDA portion of the Chesapeake Bay Critical Area.

VICINITY MAP

Included in this report and shown on the attached plan is a vicinity map designating the location of the subject site. Also included in the report is a portion of the Critical Area Map with the site located.

NARRATIVE

EXISTING CONDITIONS

The lot is currently an improved single-family dwelling lot. The lot is an undersized R2 zoned lot. The lot is improved with a single-family dwelling, detached garage and an inground swimming pool. The property slopes from the road to the waters edge. The slope is approximately 3%+/- to the water side of the property.

There was no wildlife seen around the property at the time of inspection. It is expected that there is very little to no wildlife use of the property since it is fully developed.

PROPOSED DEVELOPMENT

The property owner is proposing a 2-story addition over the existing single-family dwelling that lies partially within the side yard setback and within the average front setback within a R2 zoning district.

STORMWATER MANAGEMENT

During construction, sediment and erosion control measures will be employed. Storm water management will not be required for this application.

IMPACT MINIMIZATION

Due to the unique lot characteristics and the location of the existing dwelling, we feel that this development plan demonstrates a minimal impact on the environment.

HABITAT PROTECTION AREAS

The habitat protection area on this property is the 100' buffer to tidal waters.

AFTER CONSTRUCTION CONDITIONS AND SITE CALCULATIONS

The proposed conditions of the site include the construction of a new house and driveway. The site calculations are as follows:

Total site area	10,409 sf
Existing woodland	675 sf
Proposed clearing	0 sf
Proposed planting	to be determined.
Existing impervious coverage prior to the proposed lot coverage	4,796 sf
Allowed lot coverage	4,796 sf (grandfathered)
Proposed lot coverage	40 sf
Proposed lot coverage reduction	151 sf
Existing and proposed lot coverage	4,605 sf

CONCLUSIONS

The lot in question is an undersized legal lot located in an established community. It's not possible to construct the proposed dwelling addition without the need for the requested variances based on the location of the existing dwelling.

As proposed, the development of the lot does not have an adverse impact on the plant or wildlife habitat of the Critical Area. The proposed dwelling addition and site improvements will not adversely impact adjacent properties.

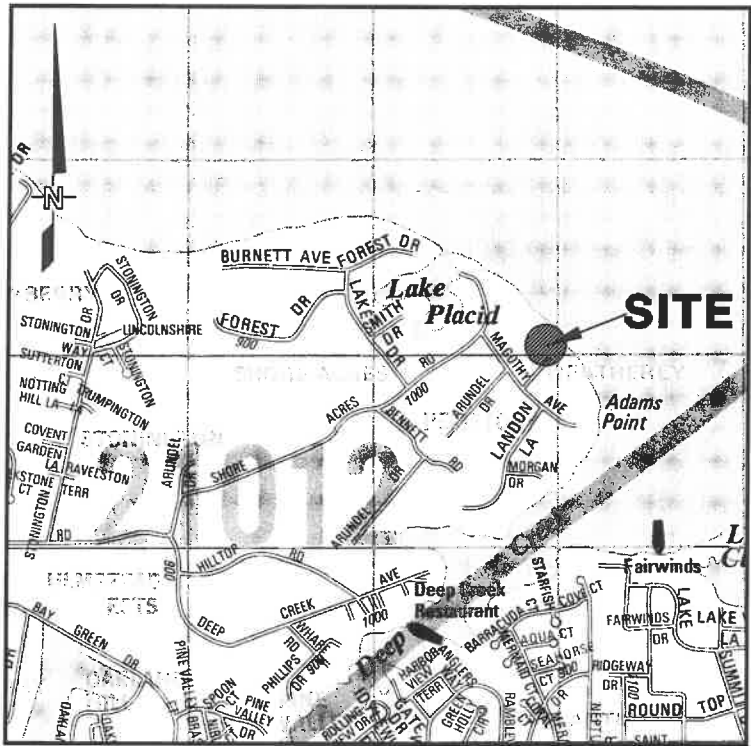
PLANS

A plan showing the site, and its improvements is attached to this report.

ADDITIONAL INFORMATION

A Notification of Project Application for the Critical Area Commission is included in this package.

The fieldwork was conducted on August 1, 2024



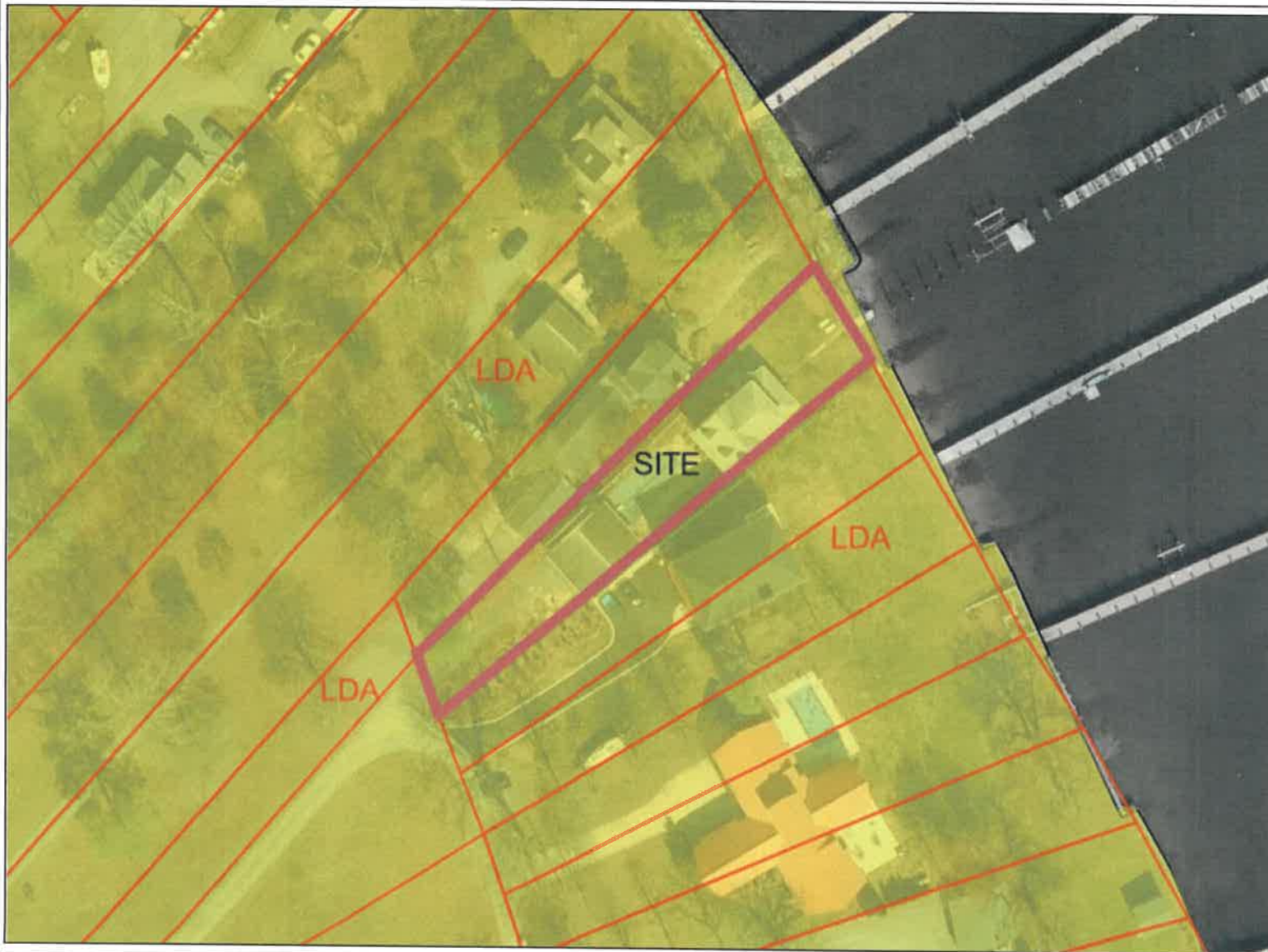
VICINITY MAP

SCALE: 1" = 2,000'

ADC MAP: 16, GRID: E8

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CRITICAL AREA MAP



Legend

Parcels



Critical Areas

-  IDA - Intensely Developed Area
-  IDA - Intensely Developed Area
-  LDA - Limited Development Area
-  RCA - Resource Conservation Area

Labels

- State Road Label
- Interstate US Road Label
- Local Road Label
- Fire Police Label
- Streams Label

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.

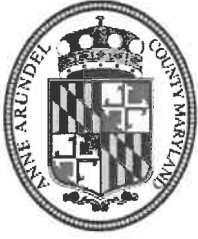
Esri Community Maps Contributors,
County of Anne Arundel, VGIN, ©
OpenStreetMap, Microsoft, Esri,
TomTom, Garmin, SafeGraph,
GeoTechnologies, Inc, METI/NASA,



THIS MAP IS NOT TO BE
USED FOR NAVIGATION

Notes





OFFICE OF PLANNING AND ZONING

CONFIRMATION OF PRE-FILE

PRE-FILE #: 2024-0077-P
DATE: 08/21/2024
OPZ STAFF: Jennifer Lechner
Kelly Krinetz

APPLICANT/REPRESENTATIVE: Gary Miciche / M.A.F. & Associates, LLC

EMAIL: GMICICHE@GMAIL.COM / mforgen@aol.com

SITE LOCATION: 991 Magothy Avenue, Arnold

LOT SIZE: 0.239 acres

ZONING: R2 **CA DESIGNATION:** LDA **BMA:** YES **BUFFER:** n/a **APPLICATION TYPE:** Variance

The applicant is proposing to construct a multi-floor addition (42' 6" x 24' 5", max height of 30' 4-5/8") over the existing first floor within the existing house footprint. B02414397 submitted 01/05/2023.

The following variances are requested:

- Article 18-4-601 to allow the dwelling addition to be constructed as close as 6 ft to the southern side lot line.
- Article 18-2-402(1) to allow a principal structure on a waterfront lot which will not be relatively in line with principal structures on abutting lots.

COMMENTS

Zoning Administration Section:

Revise the Administrative Site Plan to reflect the proposed multi-floor addition, rather than a 2nd story addition. Correct the Code reference in the Letter of Explanation for setbacks in the R2, 18-4-601 rather than 18-4-701.

The applicants are reminded that, in order for the Administrative Hearing Officer to grant approval of the variances, the proposal must address and meet all of the applicable variance standards provided under Section 18-16-305. The Letter of Explanation should address each of those standards and provide adequate justification for each of the variances required.

OPZ Critical Area Team:

No objection to this request.

INFORMATION FOR THE APPLICANT

Section 18-16-301 (c) Burden of Proof. The applicant has the burden of proof, including the burden of going forward with the production of evidence and the burden of persuasion, on all questions of fact. The burden of persuasion is by a preponderance of the evidence.

A variance to the requirements of the County's Critical Area Program may only be granted if the Administrative Hearing Officer makes affirmative findings that the applicant has addressed all the requirements outlined in Article 18-16-305. Comments made on this form are intended to provide guidance and are not intended to represent support or approval of the variance request.

A preliminary plan checklist is required for development impacting environmentally sensitive areas and for all new single-family dwellings. A stormwater management plan that satisfies the requirements of the County Procedures Manual is required for development impacting environmentally sensitive areas OR disturbing 5,000 square feet or more. State mandates require a developer of land provide SWM to control new development runoff from the start of the development process.