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

APPLICANT: James Wilson ASSESSMENT DISTRICT: 3

CASE NUMBER: 2024-0189-V COUNCIL DISTRICT: 3

**HEARING DATE:** December 12, 2024 **PREPARED BY:** Joan A. Jenkins

Planner III

## **REQUEST**

The applicant is requesting a variance to allow a dwelling addition (deck) with less setbacks than required on property located at 8449 Bay Road in Pasadena.

#### LOCATION AND DESCRIPTION OF SITE

The subject property consists of 10,000 square feet of land and is located with 50 feet of frontage on the north side of Shore Drive, northwest of Meadow Road. The property is identified as Lots 5 and 6, Block X in the Riviera Beach subdivision, Parcel 178 in Grid 11 on Tax Map 11, and is zoned R5 – Residential District. This is a waterfront property on the Patapsco River that lies entirely within the Chesapeake Bay Critical Area designated as IDA- Intensely Developed Area and is in the mapped buffer modification area. The property is improved with a two-story single-family dwelling with a front deck and a circular above-ground pool, 6-foot high privacy structure along the north side of the existing deck shielding sight to the pool, pier, and a driveway.

### **APPLICANTS' PROPOSAL**

The applicant is proposing to remove an existing waterfront deck and above ground pool and construct a replacement deck in essentially the same location. The 6-foot high privacy structure will also be removed.

#### REQUESTED VARIANCE

§ 18-4-701 of the Anne Arundel County Code requires a principal structure in the R5 District to be set back 25 feet from the front lot line and 7 feet from the side lot line. The proposed addition will be located 13.04 feet from the front lot line and 3.4 feet from the side lot line, requiring a variance of twelve feet to the front setback requirement and 4 feet to the side lot line requirement.

#### **FINDINGS**

The subject property is rectangular in shape. This Office finds that the 10,000 square foot site is larger than the minimum area requirement of 7,000 square feet and at 50 feet in width is narrower than the required 60 feet for a new lot in the R5 District. According to State tax assessment records, the house was built in 1977, well before the enactment of critical area laws in the County. The existing dwelling is non-conforming to current zoning setback standards as the existing pool is 4.58 feet from the front lot line and the northwest side deck is 3.4 feet from the side lot line.

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 that the neighborhood contains an eclectic mix of homes, many on two lots. Waterfront homes appear to be nonconforming as to current setback requirements.

The **Health Department** commented that the property is to be served by public water and sewer facilities and there is no objection to the request subject to the availability of public water and sewer.

The applicant submitted a building permit for the proposed deck as a replacement-in-kind. Although the replacement deck is smaller in area than the original deck, the original deck contained a swimming pool and is being replaced with a deck. Due to the different use of a deck and pool to a deck, the new construction does not meet the in-kind replacement definition and therefore requires a variance. The new deck will be located away from the shoreline and 8.46 feet farther from the front lot line than the existing structures.

Approval of the variance for setbacks will not alter the essential character of the neighborhood as the proposed addition is essentially a replacement of an existing deck. The variance will not have an effect on the use or enjoyment of the property to the southeast as the addition will meet the side setback requirement. The proposed deck area on the northwest side will be in the same location as the existing structure. Approval of the variance will not be detrimental to the public welfare.

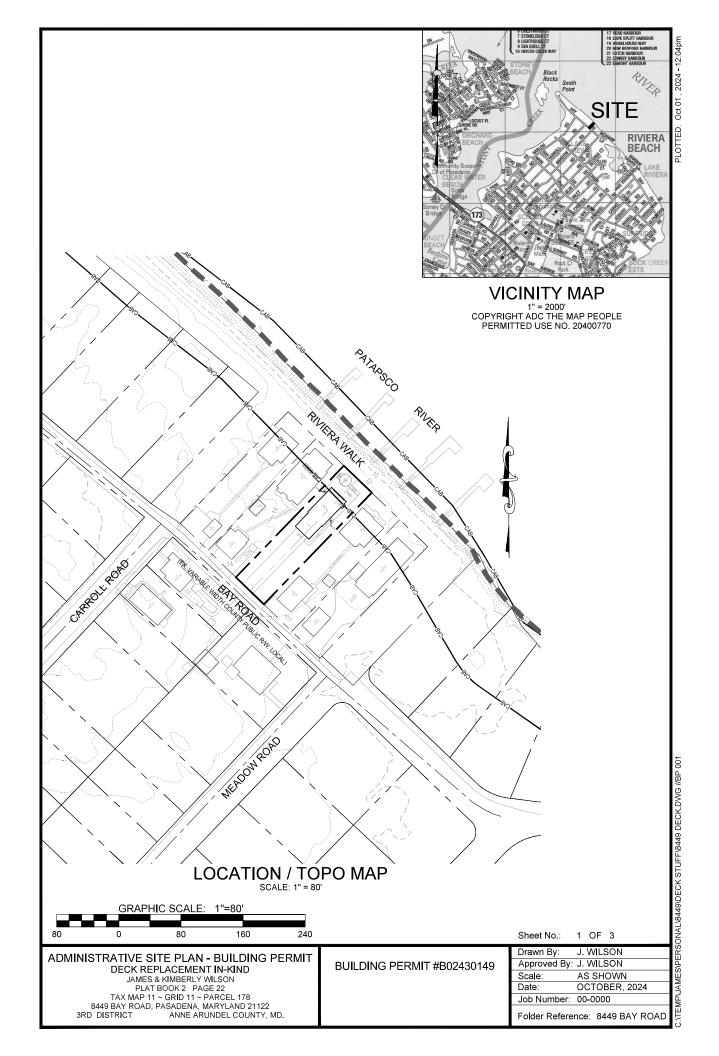
The proposal removes the pool decreasing both coverage by structure and lot coverage and will decrease the setback nonconformity on the lot therefore, the variance as requested is considered to be the minimum variance necessary to allow reasonable use of the site.

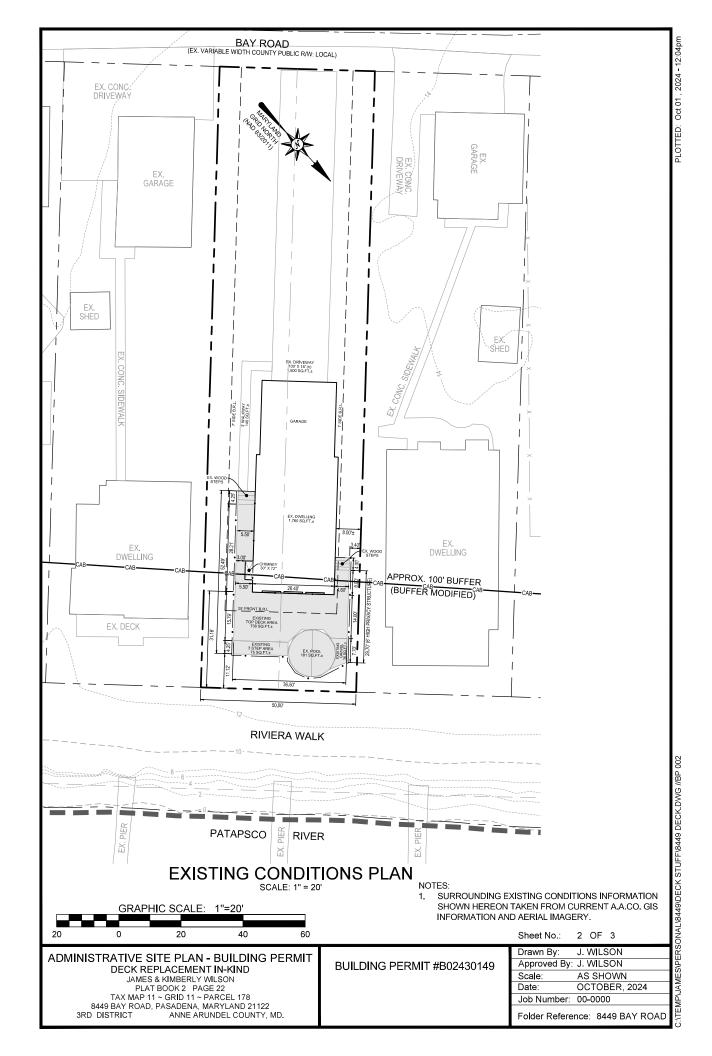
#### **RECOMMENDATION**

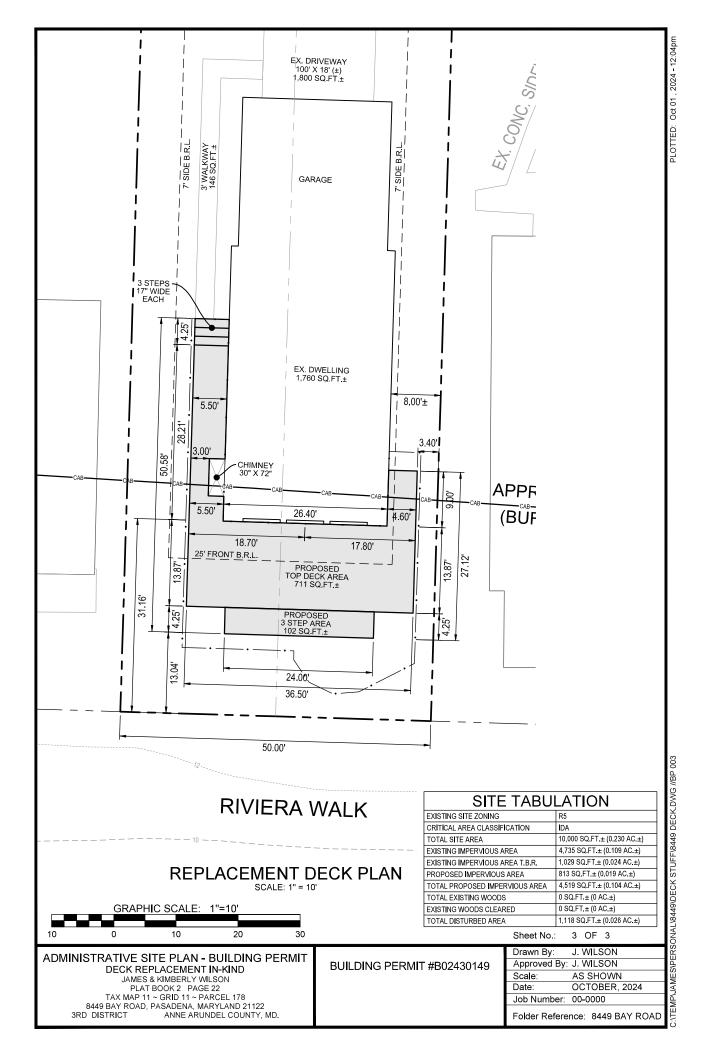
With regard to the standards by which a variance may be granted as set forth under §18-16-305 of the County Code, the Office of Planning and Zoning recommends *approval* of a variance of twelve feet to the required twenty-five foot front lot line setback requirement and 4 feet to the required 7-foot side lot line setback requirement to allow construction of a dwelling addition

(deck) located 13.05 feet from the front lot line and 3.4 feet from the northwestern side lot line as shown on the site plan submitted.

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.







October 7, 2024

Anne Arundel County Office of Planning & Zoning 2664 Riva Road Annapolis, Maryland 21401

Attention: Ms. Sterling Seay

Re: Variance Request Wilson Property 8449 Bay Road Pasadena, MD 21122

Dear Ms. Seay:

We are respectfully requesting a variance to Article 18-4-701 which requires a 25' front yard setback and a 7' side yard setback in order to replace an existing deck that is in disrepair and unsafe. The site is zoned R5, classified as Intensely Developed Area (IDA) in the Chesapeake Bay Critical Area and is served by public water and sewer. The site consists of 10,000 square feet and is developed with a residential single-family dwelling and associated improvements including a wood deck that is in disrepair and unsafe for use. The site drains to the tidal waters of the Patapsco River. The site abuts community property that abuts mean high water and, therefore; does not have riparian rights.

We are proposing to remove and replace the existing deck that is in disrepair and unsafe for use due to age and rot. The new deck will be constructed in the same location with a smaller footprint; however, it does not meet the front setback requirement for the R5 zoning district, therefore; we are requesting a variance of 12 feet to the front yard setback and 3 feet to the side yard setback.

The existing lot coverage is 4,735 square feet, which includes the dwelling, concrete driveway, on-grade walkway, above ground pool with gravel area and wood deck. The deck itself is in disrepair due to age and rot and is unsafe for use. The deck is approximately 16' X 36' with partial walkways on two sides of the house, consisting of 1,029 square feet. All 1,029 square feet of coverage is to be removed. The existing deck was removed in September 2024 due to health and safety issues and all entry doors that are accessed from the deck are elevated and no longer accessible.

The proposed deck is approximately 14' X 36' with partial walkways on two sides of the house. The deck not only acts as an outdoor amenity, but will provide ingress/egress to the dwelling, as all points of entry are accessed from the deck. The southeast side provides the main entrance to the dwelling, along with three (3) glass sliding doors on the northeast side and one (1) glass sliding door on the northwest side.

The ultimate decrease in IDA lot coverage is 216 square feet. The new deck will be located within the front yard setback, as is/was the existing deck. The replacement deck will be 1.92' further from the front property line, with the access steps, and there will be no change in distance on the northwest side yard due to existing sliding glass door. A review of the site plan will show the disturbance is minimized, and only the area necessary to perform the work.

This plan also meets the intent of 18-16-305(b) for critical area variances.

- (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 as denial of a variance would be a hardship for the owners, as the existing deck has met its life expectancy and cannot be enjoyed by the owners in its current dilapidated state, as it is unsafe. The work proposed is simply a deck replacement with minimal disturbance.
- (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 as a literal interpretation of COMAR would deny the owners use of the property commonly enjoyed by others. As the structure is existing, being that the existing deck is dilapidated and unsafe for use, not allowing the owners to proceed with deck replacement, would be a denial of rights commonly enjoyed by adjacent properties.

- (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 as this site does not lie within a bog protection area.
- (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 as the proposed deck replacement will not confer special privileges to the owner, as this is simply a replacement of an old dilapidated and unsafe structure.
- (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 as this request is not a result of actions of the owners however; the owners have removed the existing deck prior to the issuance of any permits, as the deck was unsafe for use due to age and rot.
- (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 as the proposed deck replacement will not adversely affect water quality or adversely impact fish, wildlife, or plant habitat, as there will be no clearing or grading and the overall amount of lot coverage will be decreased.
- (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 as this site is not within the 100- foot bog buffer, or a bog contributing drainage area.
- (7) The applicant, by competent and substantial evidence, has overcome the presumption contained in the Natural Resources Article, § 8-1808, of the State Code as the proposed deck replacement is not detrimental to the environment.
- (8) The applicant has evaluated and implemented site planning alternatives in accordance with § 18-16-201(c). Not applicable, as this is a variance to setbacks and not a critical area variance.

This plan meets the requirements of 18-16-305(c), as the proposal is the minimum relief necessary. The deck replacement will not impair the use of adjoining properties, nor reduce forest cover in the LDA or RCA. 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 the minimum to allow for construction of a new deck.
- 2. (i) This variance will not alter the essential character of the neighborhood. The new deck will be located in the same footprint as the existing structure, and will be reduced in total square footage from the original structure.
  - (ii) This variance will not impair the use of adjoining properties. The proposal will not impact neighbors. The new deck will be located in the same footprint as the existing structure, and will be reduced in total square footage from the original structure.
  - (iii) No tree clearing is required and any mitigation necessary during the permit process will increase cover in the LDA or RCA, as the site is in the IDA.
  - (iv) No work will be performed contrary to approved clearing practices, as a permit will be required, and this permit must meet those requirements.
  - (v) The project will not be detrimental to the public welfare, as this proposal is to replace an existing deck that is unsafe.

This plan proposes the minimum relief necessary. The development will not impair the use of adjoining properties, nor reduce forest cover in the LDA or RCA, as it is located in the IDA. 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.

The enclosed plan represents the location of the proposed replacement deck. In closing, the variance requested is the minimum necessary to afford relief and is not based on conditions or circumstances that are a result of actions by the owners. We thank you in advance for your consideration to this request.

If you have any questions, or if you require additional information, please feel free to contact me at 443-962-3611.

Sincerely,

James Wilson

## 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:					
Tax Map #	Parcel # Block # Lot # Section	FOR RESUBMITTAL ONLY  Corrections  Redesign  No Change  Non-Critical Area					
Tax ID:	3693-0759-6501	*Complete Only Page 1 General Project Information					
1	ie (site name, subdivision name, or other)	roperty					
Project locat	tion/Address 19449 Bay Kd						
City You	adene Zi	p 21122					
Local case n	umber						
Applicant:	Last name W SW Fin	est name James of Kember					
Company							
Application Type (check all that apply):							
Conditional Consistency	Rezoning Use Site Plan Report Special Exception > 5,000 sq ft Subdivision						
Local Juriso	diction Contact Information:						
Last name	AACo Zoning Administration Section First name						
Phone #	410-222-7437 Response from Commission	n Required ByTBD					
Fax #	Hearing date _TBI	)					

## **SPECIFIC PROJECT INFORMATION**

Describe Proposed use of project site:									
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	Yes					Yes			
Intra-Family Transfer					Growth Allocation				
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Grandfathered Lot					Buffer Exemption Are	:a			
Project Type (check all that apply)									
Commercial	Commercial		Recreational						
Consistency Report					Redevelopment	П			
Industrial					Residential				
Institutional	H				Shore Erosion Control				
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Created Forest/Woodland/Trees				0	New Lot Coverage		813		
Removed Forest/Woodland/Trees			>	_6	Removed Lot Coverage		1,029		
					Total Lot Coverage		4,519		
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		0	-	0	Buffer Forest Clearing	0	0		
Non-Buffer Disturbance		0		0	Mitigation				
Variance Tymo					Structure				
Variance Type	7				Structure				
Buffer					Acc. Structure Addition				
Forest Clearing					Barn $\square$				
HPA Impact De		Deck							
1 =		Dwelling							
_	_		Dwelling Addition						
•		_							
			Garage						
		Gazebo							
	Steep Slopes		Patio 🔲						
Other				Pool					
			-		Shed				
					Other				
					Outer				

# CRITICAL AREA REPORT NARRATIVE

FOR
WILSON PROPERTY
8449 Bay Road
Pasadena, MD 21122
T.M. 11, BLK. 11, Parcel 178, Lots 5 & 6

 Describe the proposed use of the subject property and include if the project is residential, commercial, industrial, or maritime.

The is no proposed use. This is an existing developed residential lot. The proposed improvements are to R.I.K. existing wood deck that is unsafe for use due to age and rot. Proposed deck sq.ft. area will be decreased and will be in the same location as original deck.

Describe the type of predominant trees and shrubs on the subject property. Include a
statement addressing the square footage of the property that is vegetated with trees and
shrubs, how much of the property will be disturbed by the proposed development, and how
the disturbance will be mitigated.

There are no predominant trees or shrubs on the subject property. The proposed disturbance will be limited to the area of the existing deck (1,118 sq.ft.). There will be no clearing or grading. Silt fence will be provided if necessary. No mitigation required.

• Describe the methods to minimize impacts on water quality and habitat from proposed construction (i.e. stormwater management, sediment control, and silt fence).

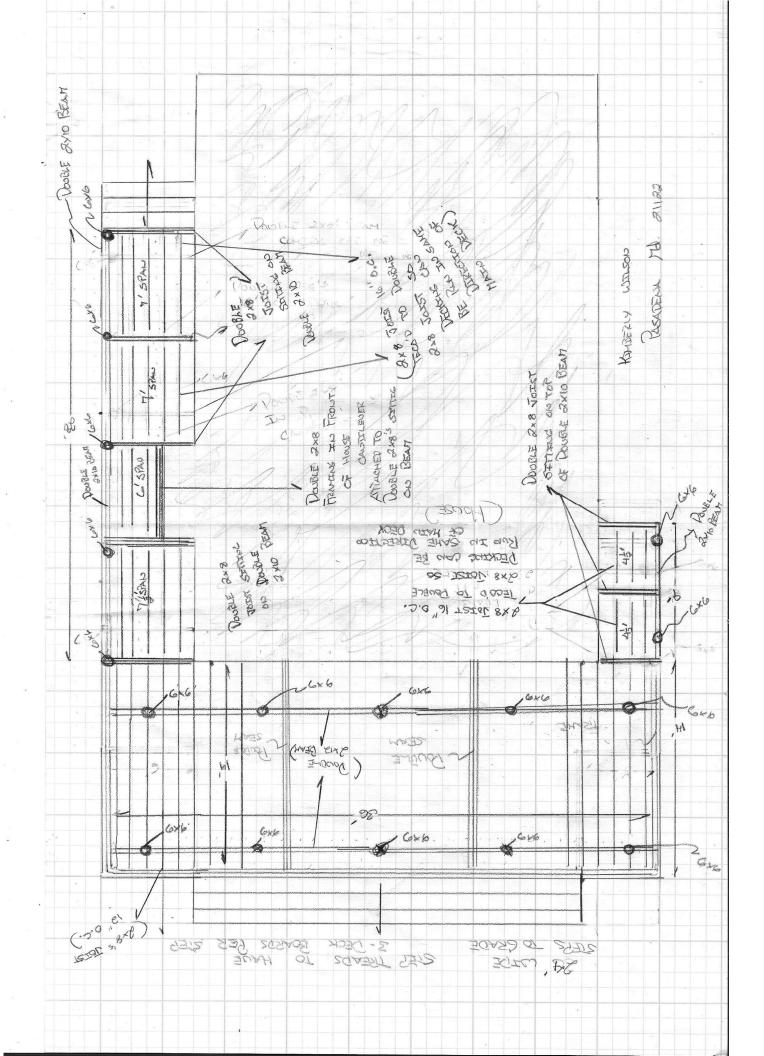
Stormwater management is not required for this project. There will be no clearing or grading. Silt fence will be provided if necessary.

• Calculate the impervious surface before and after construction, including all structures, gravel areas, driveways, and concrete areas.

Existing impervious area: 4,735 Sq.Ft.± (0.109 Ac.±)
Existing impervious area removed: 1,029 Sq.Ft.± (0.024 Ac.±)
Proposed impervious area: 813 Sq.Ft.± (0.019 Ac.±)
Total overall impervious area: 4,519 Sq.Ft.± (0.104 Ac.±)
Decreased impervious area: 216 Sq.Ft.± (0.005 Ac.±)

 If applicable, describe any habitat protection areas on the subject property including expanded buffers, steep slopes of 15% or greater, rare and endangered species, anadromous fish propagation waters, colonial waterbird nesting sites, historic waterfowl staging and concentration areas, riparian forests, natural heritage areas, and plant and wildlife habitats of local significance.

Does not apply.





#### Joan Jenkins <pzjenk00@aacounty.org>

# 2024-0189-V 8449 Bay Rd

James Wilson < jwilson@atwell.com>

Wed, Nov 20, 2024 at 2:07 PM

To: "pzjenk00@aacounty.org" <pzjenk00@aacounty.org>

Cc: Kehyannah Hayley <khayley@atwell.com>

Hi Joan,

The distance from the property line to the existing pool is 4.58' and the privacy structure on the north side will be removed. However, the pool has been removed due to rust and stability issues. Also, the privacy structure which some of it, sat on top of the deck was removed when the deck was removed and will not be replace.

Thanks

James Wilson Senior Designer ATWELL, LLC 410-897-9290 Desk 443.962.3611 Mobile

From: Kehyannah Hayley <khayley@atwell-group.com>

Sent: Wednesday, November 20, 2024 12:54 PM

To: James Wilson <jwilson@atwell.com> Subject: FW: 2024-0189-V 8449 Bay Rd

Kehyannah L. Hayley Project Coordinator ATWELL, LLC 410,897,9290 Desk

From: Joan Jenkins <pzjenk00@aacounty.org>
Sent: Wednesday, November 20, 2024 12:51 PM

To: JWKW22@gmail.com

Cc: Kehyannah Hayley <khayley@atwell-group.com>

**Subject:** 2024-0189-V 8449 Bay Rd

Good afternoon,

I am reviewing the variance documents to write the staff recommendation report for the variance that was submitted for 8449 Bay Rd for a waterfront deck. Could you please provide the distance from the existing pool to the waterfront lot line? Also, is the privacy structure on the north side remaining?

Joan A. Jenkins
Office of Planning and Zoning
Planner III, Zoning Administration Section
O: 410-222-7437
www.aacounty.org

The Best Place For All

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3 attachments



**001.jpg** 65K



**002.jpg** 32K





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 Bureau of Environmental Health FROM:

DATE: October 16, 2024

RE: James L. Wilson

8449 Bay Road

Pasadena, MD 21122

NUMBER: 2024-0189-V

Variance/Special Exception/Rezoning SUBJECT:

The Health Department has reviewed the above referenced variance to allow a dwelling addition (deck) 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.

Sterling Seay cc:



# LETTER OF TRANSMITTAL

2661 Riva Road, Building 800 Annapolis, MD 21401

							D	ATE	: 1	1/22/	24
ТО	: -	Anne Arundel County	8449 Bay Road								
	Dept. of Inspections & Permits		2024-0189-V								
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		Annapolis, MD 21401									-1
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		ATTENTION OF: Kehyannah Hayley	ا ا	ا پير ا	Щ	[5]		띰			
	(S)	PHONE: 410.897.9290 FAX: 410.897.9295					/MΞ	ΪF	TAI		
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SIGNATURE

CERTIFICATIONS OF POSTING OF SIGNS: In this package you will find a Certification of Posting of Signs for case number 2024 - 0189-V

# Anne Avandel County CERTIFICATION OF POSTING OF SIGNS FOR THE CITY OF ANNAPOLIS

To be presented at the time of your public hearing.

I, the undersigned, being over the age of eighteen (18) and competent to testify to the matters contained herein do solemnly declare and affirm under the penalties of the perjury the following:

(1) That I posted the sign(s) in Case Number 2024-0/89-V
(2) That the sign(s) were posted on the 21 day of November 2024

(3) That the location of the sign(s) posted by me are as follows:

The first sign is Posted on Bay Road, The Second Sign is Posted on Riview WALK.

AFFIANT S

(Signature of individual filling out affidavit)

Name: James Wilson

Atwell-Group

2661 Riva Road, Building 800

Annapolis, MD 21401

(Address of Affiant)





