

APP. EXHIBIT# 1  
CASE: 2024-0205-V  
DATE: 1/23/25

303 Najoles Road - Suite 114  
Millersville, MD 21108

Phone: 410-987-6901  
Fax: 410-987-0589

January 8, 2025

**CERTIFICATION OF POSTING OF SIGN(S)**

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

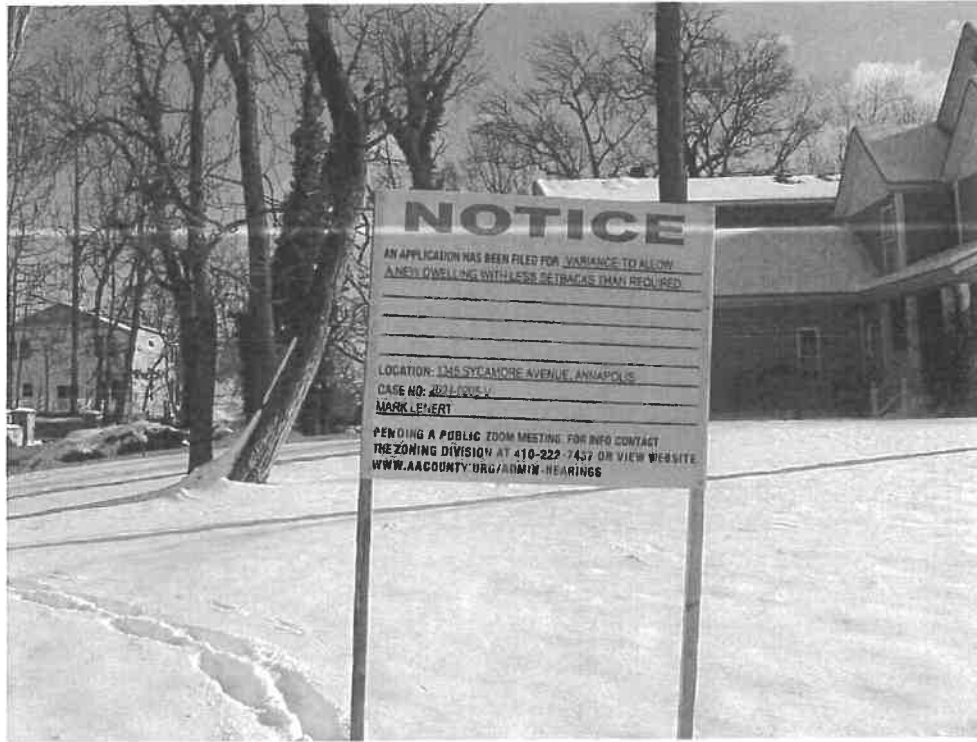
- (1) That the sign(s) in Case Number 2024-0205-V were posted on the 8th day of January, 2025.
- (2) That the location of the posted sign(s) are as follows:

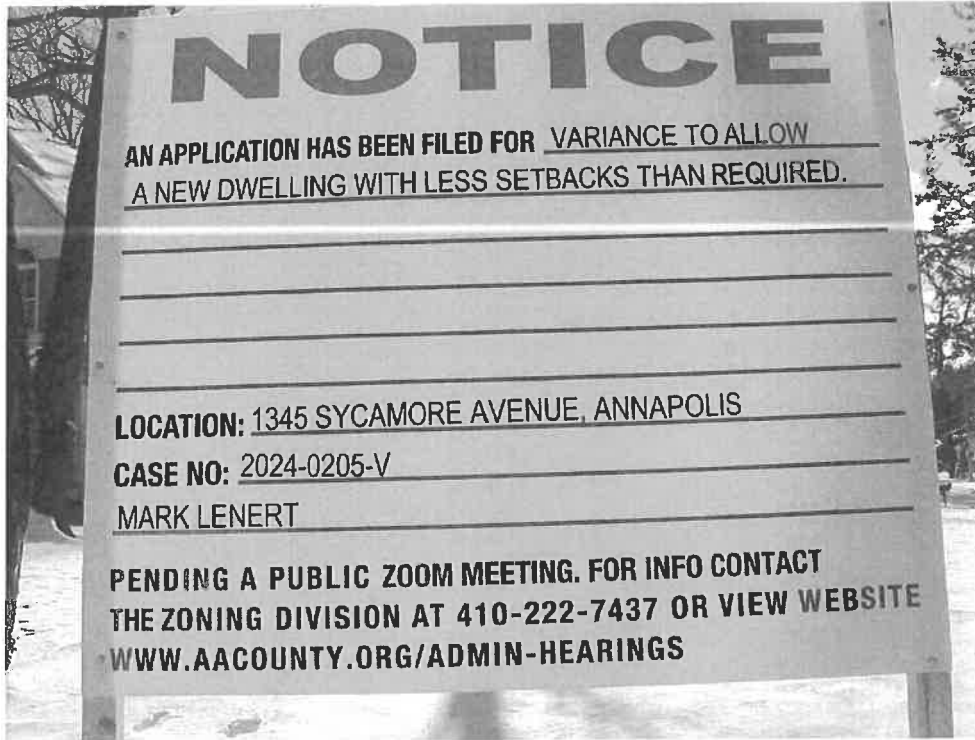
**At the frontage of the property facing Sycamore Avenue and  
at the frontage of the property facing Cohasset Avenue**

Anarex, Inc.

**AFFIANT:**

By: **Michael J. Werner, President**  
**303 Najoles Road Suite 114**  
**Millersville MD 21108-2512**







APP. EXHIBIT# 2

CASE: 2024-0205-1

DATE: 1/23/25

IN THE OFFICE OF ADMINISTRATIVE HEARINGS

**CASE NUMBER: 2024-0053-V**

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**WILLIAM J. MULLIN**

**SECOND ASSESSMENT DISTRICT**

**DATE HEARD: MAY 30, 2024**

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**ORDERED BY:**

**DOUGLAS CLARK HOLLMANN  
ADMINISTRATIVE HEARING OFFICER**

**PLANNER: JENNIFER LECHNER**

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**DATE FILED: JUNE 11, 2024**

## **PLEADINGS**

William J. Mullin, the applicant, seeks a variance (2024-0053-V) to allow a dwelling and associated facilities with less setbacks than required on property with a street address of 3424 Narragansett Avenue, Annapolis, MD 21403.

## **PUBLIC NOTIFICATION**

The hearing notice was posted on the County's website in accordance with the County Code. The file contains the certification of mailing to community associations and interested persons. Each person designated in the application as owning land that is located within 300 feet of the subject property was notified by mail, sent to the address furnished with the application. Michael Gillespie testified that the property was posted for more than 14 days prior to the hearing and submitted a certification to that effect (Applicants' Exhibit 1). Therefore, I find and conclude that there has been compliance with the notice requirements.

## **FINDINGS**

A hearing was held on May 30, 2024, in which witnesses were sworn and the following evidence was presented with regard to the proposed variance requested by the applicant.

### **The Property**

The applicant owns the subject property which has frontage along the west side of Narragansett Avenue, north side of Sycamore Avenue, Annapolis (Tax ID: 2002-0013-8660). It is identified on Lot A in Block 21 of Parcel 15 in Grid 21 on Tax Map 57 in the Arundel on the Bay subdivision. The property comprises 7,525

square feet and is zoned R2-Residential District. This lot is designated in the Chesapeake Bay Critical Area as limited development area (LDA). The subject property is undeveloped.

### **The Proposed Work**

The applicant seeks approval to construct a new 3-story dwelling (approximately 42' by 34' by 33.54'), including an attached one car garage and covered multi-level front porch, and associated site improvements as shown on the site plan admitted into evidence at the hearing as County Exhibit 2.

### **The Anne Arundel County Code**

§ 18-4-601 states that a principal structure in the R2 district must be 20 feet from the corner side lot line. The proposed dwelling will be as close as 8 feet from the corner side lot line.

### **The Variance Requested**

The proposed work will require a zoning variance of twelve (12) feet to the 20-foot corner side lot line setback requirements of § 18-4-601 to construct the proposed dwelling 8 feet from the corner side lot line as shown on County Exhibit 2.

### **The Evidence Submitted At The Hearing**

#### **Findings and Recommendations of the Office of Planning and Zoning (OPZ)**

Jennifer Lechner, a zoning analyst with OPZ, presented the following:

- The subject property is rectangular in shape and is undersized at 7,525 square feet in area and 50 feet in width, with regard to the 15,000 square foot

minimum area required for new lots served by public sewer, and to the minimum width of 80 feet, in an R2 district. A review of the County 2024 aerial photography shows an eclectic mix of house and lot sizes in this waterfront community.

- The property was the subject of several past decisions and permits.
  - A zoning variance, Case No. 2019-0183-V, to allow a 2.5-story dwelling to be constructed as close as 8 feet from the corner side lot line was granted on November 7, 2019 and expired on May 7, 2021.
  - Grading permit G02018189, for the construction of a single-family dwelling and associated improvements, expired on October 26, 2023.
  - Building permit B02380353, for the construction of a 2.5-story single family dwelling was submitted on February 18, 2020, and remains pending.
  - A Deed of Easement, granting a variable width private permanent use easement within the side yard of 3424 Narragansett Avenue to 3422 Narragansett Avenue, was recorded September 20, 2023.
- The proposed post-construction critical area lot coverage is 1,788 square feet, which is below the lot coverage allowed under § 17-8-402 (25% plus 500 square feet or 2,381.75 square feet). The proposed post-construction coverage by structures is 1,343 square feet, which is below the 30% (2,257.50 square feet) maximum coverage by structures allowed under § 18-4-601.
- The applicant's letter explains that due to the size of the corner lot, and the setbacks for wells (its own and neighboring), public sewer lines, and



stormwater devices, constructing a dwelling while meeting the bulk regulations is difficult. The letter further explains that the proposed dwelling conforms to the general size of other dwellings in the neighborhood, and is smaller than the dwelling which had been granted under Case No. 2019-0183-V.

- The Health Department does not have an approved plan for this project, but has no objection to the variance request as long as a plan is submitted and approved by their department.
- The Inspections & Permits Engineering Section does not support the requested variance.<sup>1</sup>
- For the granting of a variance, a determination must be made as to whether, because of certain unique physical conditions peculiar to and inherent in the particular lot, or because of exceptional circumstances other than financial considerations, strict implementation of the Code would result in practical difficulties or an unnecessary hardship in developing the lot. While it is true that the lot is undersized for the district and is subject to an increased corner side setback, this is not a unique condition of this particular lot within the subdivision; and, the restrictions of the Code do not appear to have a disproportionate effect on the subject property. As evidenced by the other new houses approved by variance on similar nearby corner lots, there is opportunity to design a narrower dwelling that reduces the requested side setback variance while still allowing for a reasonably sized house that is comparable to many

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<sup>1</sup> Refer to the Inspections & Permits Engineering Section's comments for their detailed objection.

others in the neighborhood.

- Approval of the variances would not necessarily impair the appropriate use or development of adjacent properties or be detrimental to the public welfare. However, given the height and the close proximity to the corner side lot line, the development as proposed would alter the essential character of the neighborhood. The proposed dwelling is too large for this small corner lot, and, given the other new houses and additions constructed in Arundel on the Bay via lesser side setback variances, the request cannot be considered the minimum necessary to afford relief in this case.
- OPZ recognizes that a variance does not necessarily require pre-approval of stormwater management and that, if approved, those items would still have to be addressed at the time of permitting. The applicant is advised that, if a zoning variance is approved, any change to the proposed improvements shown on the site plan that are necessary to address the stormwater management issues raised would require a new variance.
- Based upon the standards set forth in § 18-16-305 of the County Code under which a variance may be granted, OPZ recommends denial of the zoning variance.

#### **Other Testimony and Exhibits**

William J. Mullin, the applicant, was assisted at the hearing by his wife, Lia Mullin, and his engineer, Michael Gillespie of the Messick Group, Inc., T/A Messick and Associates. Evidence was presented that the current proposal was

reduced from the application conditionally approved in Case No. 2019-0183-V. Lot coverage in this proposal will be less than the proposal in 2019. It will fit in the neighborhood and be farther from the lot line and pavement of the house built across the corner from the subject property.

David Delia testified that he is a long-time resident and member of the community association board of directors who are concerned about safety at the intersection of Narragansett Avenue and Sycamore Avenue.

A letter in opposition to the granting of the requested variance was received from Barbara Madden Swain who lives on Sycamore Avenue.

There was no other testimony taken or exhibits received in the matter. The Hearing Officer did not visit the property.

## **DECISION**

### **Requirements for Zoning Variances**

§ 18-16-305 sets forth the requirements for granting a zoning variance. Subsection (a) reads, in part, as follows: a variance may be granted if the Administrative Hearing Officer finds that practical difficulties or unnecessary hardships prevent conformance with the strict letter of this article, provided the spirit of law is observed, public safety secured, and substantial justice done. A variance may be granted only if the Administrative Hearing Officer makes the following affirmative findings:

- (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

- (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.

The variance process for subsection (1) above is a two-step process. The first step requires a finding that special conditions or circumstances exist that are peculiar to the land or structure at issue which requires a finding that the property whereupon the structures are to be placed or use conducted is unique and unusual in a manner different from the nature of the surrounding properties. The second part of the test is whether the uniqueness and peculiarity of the property causes the zoning provisions to have a disproportionate impact upon the subject property causing the owner a practical difficulty or unnecessary hardship. "Uniqueness" requires that the subject property have an inherent characteristic not shared by other properties in the area. *Trinity Assembly of God of Baltimore City, Inc. v. People's Counsel for Baltimore County*, 178 Md. App. 232, 941 A.2d 560 (2008); *Umerley v. People's Counsel for Baltimore County*, 108 Md. App. 497, 672 A.2d 173 (1996); *North v. St. Mary's County*, 99 Md. App. 502, 638 A.2d 1175 (1994), cert. denied, 336 Md. 224, 647 A.2d 444 (1994).

The variance process for subsection (2) - practical difficulties or unnecessary hardship - is simpler. A determination must be made that, 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.

Furthermore, whether a finding is made pursuant to subsection (1) or (2) above, a variance may not be granted unless the hearing officer also finds that: (1) the variance is the minimum variance necessary to afford relief; (2) the granting of the variance will not alter the essential character of the neighborhood or district in which the lot is located, (3) substantially impair the appropriate use or development of adjacent property, (4) reduce forest cover in the limited development and resource conservation areas of the critical area, (5) be contrary to acceptable clearing and replanting practices required for development in the critical area, or (6) be detrimental to the public welfare.

### **Findings - Zoning Variance**

#### **The Property**

The applicant's property is located at the corner of Narragansett Avenue and Sycamore Avenue in the Arundel on the Bay subdivision. Views of the applicant's property, which is located between Sycamore Avenue and the brick house to the right in the following photograph, are:



And from slightly further along Narragansett Avenue:



And to the southeast across the intersection:



### The 2019 Application

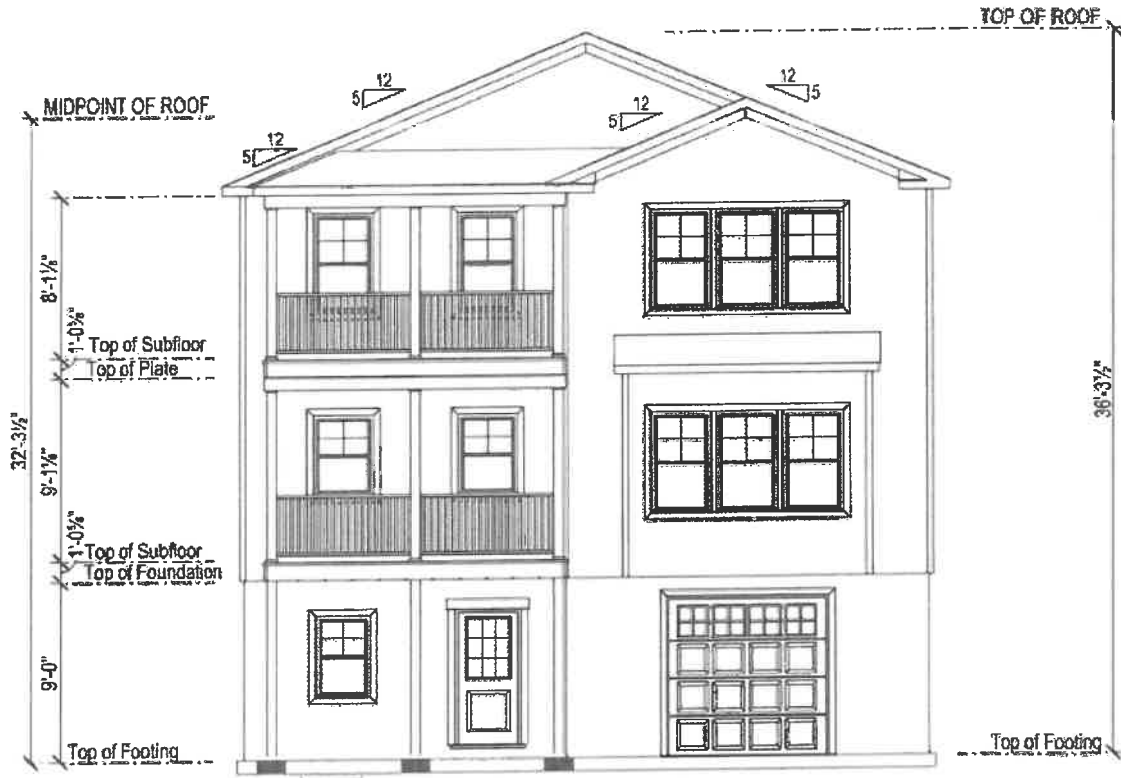
The applicant's property was the subject of an application for variance to build a single-family dwelling in Case No. 2019-0183-V.<sup>2</sup> The dwelling proposed in 2024 is smaller than the one proposed in 2019. The 2019 granted a twelve-foot variance to the 20-foot corner side setback requirement along Sycamore Avenue, the same request made in 2024, but the 2019 decision conditioned the relief on reducing the height of the dwelling to 2.5 stories. The order granted a "zoning variance of twelve (12) feet to the 20-foot corner side lot line setback requirement of § 18-4-601 to allow the proposed dwelling to be constructed as close as 8 feet from the corner side lot line (Sycamore Avenue) as shown on County Exhibit 2 subject to the applicant reducing the height of the proposed dwelling to 2.5 stories."

The property is substandard in area (7,525 square feet as opposed to the required 15,000 square feet for a lot in an R2 district) and width (50 feet in width as opposed to the required 80 feet in width for a lot in an R2 district). I find, therefore, based upon the evidence, that because of the unique physical conditions peculiar to and inherent in the subject property, i.e., its area and width, there is no reasonable possibility of developing the lot in strict conformance with the Code.

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<sup>2</sup> Only one variance is requested in 2024.

The extent of the relief from the Code, however, is a separate matter. The current application is for a three-story building as shown by the following exhibit:



For the reasons set forth in the 2019 decision, which is incorporated as if fully set forth herein, the same relief will be granted in this case in 2024, including eliminating one floor and restricting the height of the proposed dwelling to 2.5 stories.

I further find that the requested variance is the minimum variance necessary to afford relief, that the granting of the variance will not alter the essential character of the neighborhood or district in which the lot is located, substantially impair the appropriate use or development of adjacent property, reduce forest cover in the limited development and resource conservation areas of the critical



area, be contrary to acceptable clearing and replanting practices required for development in the critical area, or be detrimental to the public welfare.

**ORDER**

PURSUANT to the application of William J. Mullin, petitioning for a variance to allow a dwelling and associated facilities with less setbacks than required on property with a street address of 3424 Narragansett Avenue, Annapolis, MD 21403;

PURSUANT to the notice, posting of the property, and public hearing and in accordance with the provisions of law, it is this **11<sup>th</sup> day of June, 2024**,

**ORDERED**, by the Administrative Hearing Officer of Anne Arundel County, that the applicant is **granted** a zoning variance of twelve (12) feet to the 20-foot corner side lot line setback requirement of § 18-4-601 to allow the proposed dwelling to be constructed as close as 8 feet from the corner side lot line (Sycamore Avenue) as shown on County Exhibit 2, subject to the applicant reducing the height of the proposed dwelling to 2.5 stories.

The foregoing variance is subject to the following conditions:

A. The height of the dwelling shall be reduced from three stories to two stories, eliminating one floor and restricting the height of the proposed dwelling to 2.5 stories.

B. The applicant shall comply with any instructions and necessary approvals from the Office of Planning and Zoning, the Department of Inspections and Permits, the Department of Health, and/or the Critical Area Commission.

This Order does not constitute a building permit. In order for the applicant to construct the structures permitted in this decision, the applicant must apply for and obtain the necessary building permits, along with any other approvals required to perform the work described herein.

Furthermore, County Exhibit 2, referenced in this decision, is incorporated herein as if fully set forth and made a part of this Order. The proposed improvements shown on County Exhibit 2 shall be constructed on the subject property in the locations shown therein. The decision and order shall not prohibit the applicant from making minor changes to the facilities as presently shown on County Exhibit 2 to adjust for changes made necessary by comments or requirements that arise during plan review or construction, provided those minor changes do not exceed the variance granted herein. The reasonableness of any such change shall be determined by the Office of Planning and Zoning and/or the Department of Inspections and Permits.



Douglas Clark Hollmann  
Administrative Hearing Officer

### **NOTICE TO APPLICANT**

**This Order does not constitute a building permit. In order for the applicant to perform the work permitted in this decision, the applicant must apply for and obtain the necessary building permits, along with any other approvals required to perform the work described herein.**

Any person, firm, corporation, or governmental agency having an interest in this Decision and aggrieved thereby may file a Notice of Appeal with the County Board of Appeals within thirty (30) days from the date of this Decision. **If the variance or variances granted in this case relate to work in the critical area, a permit for the activity that was the subject of this variance application will not be issued until the appeal period has elapsed.**

Further, § 18-16-405(a) provides that a variance or special exception that is not extended or tolled **expires by operation of law** unless the applicant **within 18 months** of the granting of the variance or special exception (1) obtains a building permit or (2) files an application for subdivision. Thereafter, the variance or special exception shall not expire so long as (1) construction proceeds in accordance with the permit or (2) a record plat is recorded among the land records pursuant to the application for subdivision, the applicant obtains a building permit within one year after recordation of the plat, and construction proceeds in accordance with the permit.

If this case is not appealed, exhibits must be claimed within 60 days of the date of this Order, or they may be discarded.

CO. EXHIBIT#: 1  
CASE: 2024-0053-✓  
DATE: 5/30/24

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

**APPLICANT:** William J. Mullin

**ASSESSMENT DISTRICT:** 2

**CASE NUMBER:** 2024-0053-V

**COUNCIL DISTRICT:** 6

**HEARING DATE:** May 30, 2024

**PREPARED BY:** Jennifer Lechner  
Planner



**REQUEST**

The applicants are requesting a variance to allow a dwelling with less setbacks than required on property located at 3424 Narragansett Avenue in Annapolis.

**LOCATION AND DESCRIPTION OF SITE**

The subject site consists of 7,525 square feet of land and is located with frontage on the west side of Narragansett Avenue and on the north side of Sycamore Avenue. The property is identified as Lot A in Block 21 of Parcel 15 in Grid 21 on Tax Map 57 in the Arundel on the Bay subdivision.

The property is zoned R2 – Residential District, as adopted by the comprehensive zoning for Council District 6, effective October 7, 2011. This unimproved, corner lot lies entirely within the Chesapeake Bay Critical Area LDA – Limited Development Area.

**PROPOSAL**

The applicant is proposing the construction of a new 3-story dwelling (approximately 42' x 34' with a mean height of 33.54'), including an attached one car garage and covered multi-level front porch, and associated site improvements.

**REQUESTED VARIANCES**

§ 18-4-601 of the Anne Arundel County Zoning Ordinance states that a principal structure in the R2 District must be 20 feet from the corner side lot line. The proposed dwelling will be as close as 8.8 feet from the corner side lot line, necessitating a variance of 12 feet.

**FINDINGS**

The subject property is rectangular in shape and is undersized at 7,525 square feet in area and 50 feet in width, with regard to the 15,000 square foot minimum area required for new lots served by public sewer, and to the minimum width of 80 feet, in an R2 District. A review of the County 2024 aerial photography shows an eclectic mix of house and lot sizes in this waterfront community.

The property was the subject of several past decisions and permits.

- A zoning variance, 2019-0183-V, to allow a 2.5-story dwelling to be constructed as close as 8 feet from the corner side lot line was granted on November 7, 2019 and expired on May 7, 2021.
- Grading permit G02018189, for the construction of a single family dwelling and associated improvements, expired on October 26, 2023.
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- A Deed of Easement, granting a variable width private permanent use easement within the side yard of 3424 Narragansett Avenue to 3422 Narragansett Avenue, was recorded September 20, 2023.

The proposed post-construction critical area lot coverage is 1,788 square feet, which is below the lot coverage allowed under § 17-8-402 (25% plus 500 square feet or 2,381.75 square feet). The proposed post-construction coverage by structures is 1,343 square feet, which is below the 30% (2,257.50 square feet) maximum coverage by structures allowed under §18-4-601.

The applicants' letter explains that due to the size of the corner lot, and the setbacks for wells (its own and neighboring), public sewer lines, and stormwater devices, constructing a dwelling while meeting the bulk regulations is difficult. The letter further explains that the proposed dwelling conforms to the general size of other dwellings in the neighborhood, and is smaller than the dwelling which had been granted under 2019-0183-V.

#### Agency Comments

The **Health Department** does not have an approved plan for this project, but has no objection to the variance request as long as a plan is submitted and approved by their department.

The **Inspections & Permits Engineering Section** does not support the requested variance.<sup>1</sup>

#### Variance Criteria

For the granting of a variance, a determination must be made as to whether, because of certain unique physical conditions peculiar to and inherent in the particular lot, or because of exceptional circumstances other than financial considerations, strict implementation of the Code would result in practical difficulties or an unnecessary hardship in developing the lot.

While it is true that the lot is undersized for the district and is subject to an increased corner side setback, this is not a unique condition of this particular lot within the subdivision; and, the restrictions of the Code do not appear to have a disproportionate effect on the subject property. As evidenced by the other new houses approved by variances on similar nearby corner lots, there is opportunity to design a narrower dwelling that reduces the requested side setback variance while still allowing for a reasonably sized house that is comparable to many others in the neighborhood.

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<sup>1</sup> Refer to the Inspections & Permits Engineering Section's comments for their detailed objection.

Approval of the variances would not necessarily impair the appropriate use or development of adjacent properties or be detrimental to the public welfare. However, given the height and the close proximity to the corner side lot line, the development as proposed would alter the essential character of the neighborhood. The proposed dwelling is too large for this small corner lot, and, given the other new houses and additions constructed in Arundel on the Bay via lesser side setback variances, the request cannot be considered the minimum necessary to afford relief in this case.

This Office recognizes that a variance does not necessarily require pre-approval of stormwater management and that, if approved, those items would still have to be addressed at the time of permitting. The applicant is advised that, if a zoning variance is approved, any change to the proposed improvements shown on the site plan that are necessary to address the storm water management issues raised would require a new variance.

### **RECOMMENDATION**

Based upon the standards set forth in § 18-16-305 of the County Code under which a variance may be granted, this Office recommends *denial* of a zoning variance to § 18-4-601 to allow a dwelling as close as 8 feet to the corner side lot line, as proposed.

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.

