

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

APPLICANT: Jean Marie Cubello

ASSESSMENT DISTRICT: 3

CASE NUMBER: 2024-0208-V

COUNCILMANIC DISTRICT: 3

HEARING DATE: February 6, 2025

PREPARED BY: Joan A. Jenkins
Planner III



REQUEST

The applicant is requesting variances to allow a dwelling and associated facilities with less setbacks than required, with disturbance to slopes 15% or greater, and with new lot coverage nearer to the shoreline than the existing principal structure; and to allow an accessory structure (detached garage with a second floor accessory dwelling unit) with less setbacks than required on property located at 202 Bar Harbor Road in Pasadena.

LOCATION AND DESCRIPTION OF SITE

The subject property has road frontage on the southeast side of Bar Harbor Road, northeast of Arundel Road and is 10,193 square feet in area, more or less. The site is shown on Tax Map 11, Grid 23, as Parcel 71, Lot 44 in the Bar Harbor subdivision. The property is zoned R5-Residential District. This site is waterfront on Rock Creek, is located in the Chesapeake Bay Critical Area designated IDA-Intensely Developed Area, and is mapped as a buffer modified area at the shoreline. There are steep slopes near the shoreline.

The property is currently developed with a two-story single-family dwelling with a breezeway 15.8 feet long connecting the house and an accessory two-story garage¹, a shed near the shoreline, and a pier. The site is served by public water and sewer.

APPLICANT'S PROPOSAL

The applicant is proposing to raze the entire existing structure containing the dwelling and accessory garage and construct a new dwelling (irregularly shaped, 35' by 54' with a porch 14' by 7' and a waterside deck 18' by 10') and a detached two-story accessory structure containing an accessory dwelling unit (21.5' x 37', 795.5 square feet) on the second floor and storage (21.5' by 37', 795.5 square feet) on the first floor. The shed near the shoreline will remain and is not a subject of the variance application.

¹ §18-2-204(a) A structure located within three feet of a principal structure and a structure connected to a principal structure by an enclosed breezeway less than 15 feet long is part of the principal structure and is not an accessory structure.

REQUESTED VARIANCES

§ 17-8-201(b) of the Anne Arundel County Subdivision Code states that development in the IDA designated area may not occur on lands with a slope of 15% or greater unless development will facilitate stabilization of the slope or the disturbance is necessary to allow connection to a public utility. The proposed LOD will disturb an undetermined amount of lands with a slope of 15% or greater plus a 10-foot limit of disturbance surrounding the installation of a storm water management discharge pipe. The total disturbance will be determined at permitting.

§ 17-8-702 (b) of the Anne Arundel County Subdivision and Development Code prohibits the location of new lot coverage nearer to the shoreline than the closest façade of the existing principal structure in a buffer modification area. The proposed dwelling will be located forward of the existing dwelling façade necessitating a variance to allow 619 square feet of new lot coverage nearer to the shoreline than the closest façade of the existing principal structure within the buffer modified area.

§ 18-4-701 of the Anne Arundel County Zoning Code requires that in an R5-Residential District an accessory structure 8 feet in height or greater shall be set back a minimum of seven feet from the rear and side lot lines. The accessory structure is proposed to be located as close as 3.4 feet from the east side lot line and 3.2 feet from the rear lot line necessitating variances of four feet to both the side and rear lot line setback requirements.

FINDINGS

This Office finds that the subject property does not meet the width requirement (50 feet provided, 60 feet required) for a lot in an R5 District, but does meet the area requirement (10,193 square feet provided, 7,000 square feet required). The size of the lot is not requiring the need for the variance. The property is encumbered by slopes of 15% or greater near the shoreline. Replacement of the dwelling requires disturbance to the steep slopes due to a storm water management drainage pipe, an associated facility. The applicant wishes to make use of the property by redeveloping an existing developed lot with a single-family dwelling, however, denial of the variance will not cause unnecessary hardship in the use of the property.

The R5 District limits coverage by structure to 40%. The site plan shows the proposed coverage by structure as 2,684 square feet (26.3%) therefore meeting the limitation.

A review of the County 2024 aerial photograph shows an eclectic mix of dwellings in this waterfront community. The existing dwelling was built c. 1940 according to the State Department of Assessments and Taxation records.

The applicant cites a neighboring variance regarding average setback within the buffer. The Code does allow an approximate average of the location of principal structures on abutting lots and the dwelling to the west is closer to the shoreline within the buffer modified area. While a setback variance is always preferred over a critical area variance, in this case the locational (setback) variance is required along with a critical area variance for new lot coverage nearer to the

shoreline than the existing principal structure. Redevelopment is an opportunity to comply with the Code and not to create situations that require relief from the Code. The existing house is located outside of the modified buffer so there is no hardship in redeveloping outside of the buffer.

The existing accessory structure is much larger than the proposed accessory structure and the application calls the proposal a replacement-in-kind. However, while there may have been a dwelling unit on the second floor of the existing structure with garage and storage space on the first floor, the dwelling unit was never recognized as either an accessory dwelling unit (ADU) or registered as a second dwelling on the property under a nonconforming use and cannot be considered a replacement-in-kind. There is ample room on the property to either move the proposed structure or reduce the structure to meet the setback requirements.

The **Development Division (Critical Area Team)** commented that the existing dwelling on site is located outside of the 100 foot buffer. Article 17-8-702(b) states that an applicant shall not locate new coverage nearer to the shoreline than the existing dwelling and must design the proposed structures in order to maximize the buffer. The proposed development of this site does neither. The home is not pushed forward due to size, topography or unique characteristics of the lot but because a significant portion of the site will be encumbered by a proposed 22'x38' detached garage. The applicant has referenced the general in line and air, light and view information contained in 18-2-402 as justification for the location of the proposed dwelling within the buffer. While that is a zoning criteria for the location of a structure on a waterfront lot, the application is still subject to the environmental regulations contained in 17-8-702 which requires that new coverage not be located forward of the existing coverage. The applicant has also referenced variance 2009-0223-V for the location of the adjacent home. It should be noted that this variance was to allow the reconstruction of an existing home within the same general footprint within the buffer, not to allow a home that was existing outside of the buffer to be relocated to an area within the buffer. This lot may be "small" by code but it is consistent with a large majority of the lots within this neighborhood. The current improvements are currently located outside of the 100' buffer as are others in the neighborhood. There has been no information provided that justifies moving the proposed home into the 100' buffer. This request cannot be supported.

The **Health Department** commented that the property is served by public water and sewer facilities and has no objection to the request.

The **Critical Area Commission** opposes this request as it fails to meet all of the variance standards. There is ample room for the development to be located outside the Critical Area Buffer. The current conditions demonstrate that it is possible for the parcel to be developed in conformance with the Critical Area development standards while providing reasonable and significant use of the entire parcel. Given that the site is currently constructed with a house and garage entirely outside of the Buffer, it is clear that reasonable and significant use of the parcel can be achieved without a variance and any reconstruction to build a replacement house and ADU can be done in a manner that avoids any impacts to the Buffer. Denial of this request would not deprive the applicant the use of the land or structure permitted to others in the Critical Area. No property owner has the right to build a new dwelling unit within the Buffer when there

is adequate area outside the Buffer to locate it. The granting of this variance would confer a special privilege upon this applicant. This request is solely due to the applicant's desire to redevelop the lot in a nonconforming manner. The applicant has every opportunity to redesign the proposal in a manner that conforms to the Critical Area development standards such as reducing the footprint or eliminating the ADU entirely in order to shift the location of the proposed primarily dwelling and associated improvements outside of the Critical Area Buffer, thereby eliminating the need for this variance request. As proposed, this variance request would adversely affect water quality and impact fish, wildlife, and plant habitat within the Critical Area. Additionally, the proposed increase of lot coverage within the Buffer removes valuable natural habitat. Impacts to these sensitive and protected resources can be avoided by locating the improvements outside of the Buffer. The request is not in harmony with the spirit and intent of the Critical Area law and would be contrary to the goals of the Critical Area law.

The **Cultural Resources Section** commented that tax records indicate a construction date of ca. 1940, which meets the historic age threshold. As required by Code, our office will need to review the demolition permit application for the existing structure once the permit application is submitted. A site visit with photo-documentation may be required prior to demolition approval. Please contact the Historic Sites Planner, Darian Beverungen, pzbeve19@aacounty.org with any questions.

The **Department of Inspections and Permits (Engineering)** made comments regarding stormwater management. Their determination is a recommendation that the development should be redesigned to remain outside of the buffer area.

For the granting of a critical area variance, a determination must be made as to whether, because of certain unique physical conditions such as exceptional topographical conditions peculiar to and inherent to the property, strict implementation of the County's critical area program would result in an unwarranted hardship. In this case, the presence of the BMA and the steep slopes on a portion of the site does make development difficult without relief from the Code for the storm water management discharge pipe. As such some relief may be warranted when redeveloping the lot and a literal interpretation of the County's critical area program will not deprive the applicant of rights that are commonly enjoyed by other properties in similar areas within the critical area of the County by denying the right to develop an existing residential lot with an allowed use. However, denial of the variance requesting more lot coverage in the BMA would not preclude the development of the site and would not cause hardship in the use of the property.

While some relief is warranted due to the presence of steep slopes near the shoreline, the granting of a variance in principle would not confer on the applicant a special privilege that would be denied by COMAR, Title 27.

The variance request is not based on conditions or circumstances that are the result of actions by the applicant and does not arise from any condition relating to land or building use on any neighboring property. The granting of the variances as proposed will adversely affect water quality or impact fish, wildlife or plant habitat. The proposal is not in harmony with the general spirit and intent of the County's Critical Area Program.

The applicants have not overcome the presumption that the specific development does not conform to the general purpose and intent of the critical area law. The County made recommendations at the pre-file stage to reduce the house size. However, no effort was made to address these concerns. In order to minimize the environmental impacts, the applicants should evaluate and implement site planning alternatives.

With regard to the requirements for all variances, there is no evidence that the replacement of the existing structures will alter the essential character of the neighborhood as other lots are developed and the neighborhood contains dwellings of varying size. Approval of the variances will not substantially impair the appropriate use or development of adjacent property, as the new dwelling will meet all side setback requirements and will be far enough away from adjacent dwellings so as to have minimal impact and the proposed accessory structure is a replacement of a much larger structure that has been long-standing with the same setbacks. Approval of the variances will not be detrimental to the public welfare and the proposal will not be contrary to acceptable clearing and replanting practices.

The variance for the steep slopes is considered to be the minimum necessary to afford relief to allow for a storm water discharge pipe; however, the variance for the new lot coverage nearer to the shoreline for the dwelling and the variance for rear and side setbacks for the accessory structure are not the minimum necessary to afford relief as the property could be improved with a dwelling that meets the buffer setback and there is ample room on the property for an accessory structure to meet the 7-foot rear and side setback requirements. While a variance to the Critical Area program may be justified in principle, the request for the dwelling is not considered to be the minimum necessary to afford relief as the property is already developed with a dwelling that is outside of the BMA and the applicant has not adequately investigated alternate locations that will minimize the variance to the Critical Area program.

RECOMMENDATION

With regard to the standards by which a variance may be granted as set forth under Article 18, §18-16-305 under the County Code, the Office of Planning and Zoning has ***no objection*** to the temporary disturbance of steep slopes for the installation of a storm water management discharge pipe, however, recommends ***denial*** of the variance for new lot coverage nearer to the shoreline than the closest facade of the existing principal structure and also recommends ***denial*** of the rear and side setback variances for the accessory structure.

DISCLAIMER: This recommendation does not constitute a building permit. In order for the applicant(s) to construct the structure(s) as proposed, the applicant(s) 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.



November 11, 2024

Anne Arundel County
Office of Planning & Zoning
2664 Riva Road
Annapolis, Maryland 21401
Attention: Ms. Sterling Seay

Re: VARIANCE REQUEST
CUBELLO/PULLER PROPERTY
202 BAR HARBOR ROAD
PASADENA, MD 21122
G02019582

Dear Ms. Seay:

On behalf of the applicants, we respectfully request a variance to Article 17-8-201(b) which states in part that 15% slopes or greater in the Intensely Developed Area (IDA) shall not be disturbed. A variance is also requested to Article 17-8-702(b) which states in part that no new lot coverage shall be placed nearer to the shoreline than the façade of the existing structure. The lot is developed with dwelling and associated improvements. This lot meets the definition of a buildable lot, subject to the approvals of the County. The property is 10,193 square feet in area. The site is served by public water and public sewer. It is served by Bar Harbor Road, a 30' right of way. The site drains to the tidal waters of Rock Creek. The site is waterfront. The site is located in the IDA of the Chesapeake Bay Critical Area. The site is located in a Buffer Modification area. The site was in fact zoned MB and proposed under Plan 2040 to change from Maritime to Low-Medium Density Residential. It appears the GIS maps on Anne Arundel County's website, coincidentally, were updated the same day the applicant's pre-file confirmation was received on September 12, 2024. The letter dated September 26, 2024 from the Office of Planning and Zoning has requested the applicant to rewrite the letter as it is now zoned R5. This change should be noted since the original grading permit submitted November 21, 2022 and comments from the county reference the MB zoning. Additionally, the adjacent neighbor's zoning changed as well.

The applicant wishes to raze the existing structures and construct a new dwelling and accessory dwelling unit (ADU). The dwellings were constructed circa 1940 and need to be replaced. The ADU does not require a variance per 18-2-303, a replacement in kind which is smaller than the existing non conforming structure. The need for the ADU is partially due to the fact no basement will be constructed. The clients have heard from neighbors there may be underground springs in the area, and as a precaution are not constructing a basement. The ADU will provide storage needed for lawn care, additional vehicles, a boat, and water dependent use storage. It will also provide a workshop area for the owners. The new structure will be closer to the shoreline than the façade of

the existing structure. To perform this work, there will be a small amount of temporary steep slope disturbance for slopes near the water to install an underdrain for the stormwater device. No slope disturbance is necessary for the construction of the home, nor is disturbance to the steep slope buffer required. The new dwelling will be situated in the 100' buffer, forward of the façade of the existing structure. However, it appears that the new dwelling is approximately in line with the neighboring structures, taking into account variations in the location of the shore line. The neighbor on Lot 45 already blocks any cross-view from Lot 43, and it appears that the location of the dwelling will not impact the light air and view of the neighbor on Lot 43. The bulk of the proposed structure is much less than what currently exists on the subject property. Article 17-8-702(b) further states the design and location take into account the natural features to enhance and protect the environmentally sensitive features on the site. This is why the applicants designed the site for the proposed house to be positioned between the existing trees which are home to squirrels, birds, and other wildlife at the recommended twenty feet distance from the maple tree. The ADU is currently in the rear setback and on both west and east side setbacks of the property. Since the lot is so narrow, the ADU must be demolished in order to construct either dwelling. The applicant's proposed the ADU in-kind to the east side within the current setbacks to allow enough space for construction equipment to access the property without any disturbance to either neighbor and complete the project with a driveway wide enough to accommodate the side load garage doors on the ADU. This will take advantage of the redevelopment opportunity and put the entire west side of the property in compliance with the code with seven foot side setbacks for non-conforming use and now R5 zoning. The construction for the new dwelling will require a revision to the existing grading permit, G02019582.

It should be noted that a variance, 2009-0223-V, was granted for the adjacent neighbor. The owners at the time were granted a variance to 47' to the average setback within the buffer. Variances were granted to the side and front yard setbacks. This case has bearing on the applicant's request, as the dwelling under consideration here was used as part of the reasoning for that variance, and the applicants are requesting much less relief to the Code.

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

1. The subject property is rectangular in shape and is narrow for the district. When the property was zoned MB it was very undersized for the zoning district as outlined in 18-7-106. Now that the property is zoned R5, it is still narrow and does not meet the minimum width of 60 feet as outlined in 18-4-701. The property is waterfront, narrow (50' wide) and subject to a buffer to steep slopes. The owners are also trying to keep the large maple tree shown on the plans. As such, there is no reasonable possibility of developing this property without relief to the Code.

2. The exceptional circumstances and practical difficulties in developing the property have been noted in #1 above to a large degree. As the site is small and narrow, stormwater management is required, and space needs to be available for its installation, even while being MB and IDA (now R5 and IDA), it would not be possible to construct the proposed dwelling without a variance.

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

1. What is peculiar about and inherent to this lot is the size and location of the property. The lot is narrow and undersized, and the owners cannot construct a dwelling in conformance with the neighborhood without relief to the Code.

2. A literal interpretation of COMAR would deny the owners use of the property enjoyed by others. The proposed dwelling is in general conformance with development patterns in this neighborhood. They are meeting the zoning setbacks. For the owners to not be allowed to proceed would be a denial of rights commonly enjoyed by others.

The site is not in a bog area.

3. This project will not confer special privileges to the owners. Similar variances were granted to the adjoiner per the variance case noted above.

4. The request is not a result of actions of the owner. The owners have not started work prior to the issuance of any permits.

5. This project will not result in a denigration of forest or water quality. The overall lot coverage will be decreased, and as the site is located in the IDA, there are no lot coverage limitations per se. The owners designed this program to minimize environmental impacts, by using pervious decking and providing stormwater management where none exists.

6. This site is not in the bog buffer.

7. This plan meets the presumption, as the denial of this variance would deny the owners rights of other owners in the County. The development is not detrimental to the environment as there is a reduction in lot coverage, and modern construction will make the project a benefit not a detriment to the area.

8. The applicant has tried alternative design. However, due to the size of the lot and the stormwater management requirements, design options are limited.

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 in the LDA or RCA (or 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.

1. The variance request is the minimum to afford relief. The request is the minimum to allow for construction of a dwelling, with a decrease in lot coverage proposed.

2. i. This variance will not alter the essential character of the neighborhood. The proposal is consistent with this densely develop area, and will not have an impact on the character of the neighborhood.

ii. This variance will not impair the use of adjoining properties. The proposal will not impact neighbors. The proposed work meets all underlying zoning requirements, and will not impede air light and view of the neighbors.

iii. No tree clearing is proposed and any mitigation necessary during the permit process will not decrease tree cover in the LDA or RCA (or 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 it is located on private property.

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 (or 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.

As this proposal is for construction of a new home, and disturbance has been minimized. A grading permit revision will be required. It appears that this request is consistent with other development in this area. Denial of this request would not allow the owner to enjoy property rights common to other properties in this area.

The enclosed plan represents the location of the proposed work of additions to the dwelling. In closing, the variances requested are the minimum necessary to afford relief, and is not based on conditions or circumstances that are a result of actions by the applicant. We thank for 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 410-266-3212.

Sincerely,
Messick and Associates

Mike Gillespie

Mike Gillespie
Project Manager

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
16	23	71	44	

FOR RESUBMITTAL ONLY

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

*Complete Only Page 1
 General Project Information

Tax ID: _____

Project Name (site name, subdivision name, or other) 202 Bar Harbor

Project location/Address 202 Bar Harbor Rd

City Pasadena MD Zip 21122

Local case number _____

Applicant: Last name Cubello First name Jean

Company _____

Application Type (check all that apply):

- | | |
|--|--|
| Building Permit <input type="checkbox"/> | Variance <input checked="" type="checkbox"/> |
| Buffer Management Plan <input type="checkbox"/> | Rezoning <input type="checkbox"/> |
| Conditional Use <input type="checkbox"/> | Site Plan <input type="checkbox"/> |
| Consistency Report <input type="checkbox"/> | Special Exception <input type="checkbox"/> |
| Disturbance > 5,000 sq ft <input type="checkbox"/> | Subdivision <input type="checkbox"/> |
| Grading Permit <input type="checkbox"/> | Other <input type="checkbox"/> |

Local Jurisdiction Contact Information:

Last name AACo Zoning Administration Section First name _____

Phone # 410-222-7437 Response from Commission Required By TBD

Fax # _____ Hearing date TBD

SPECIFIC PROJECT INFORMATION

Describe Proposed use of project site:

Raze Ex Structure Construct New Dwelling and ADU as replacement in kind

Intra-Family Transfer	<input type="checkbox"/>	Growth Allocation	<input type="checkbox"/>
Grandfathered Lot	<input checked="" type="checkbox"/>	Buffer Exemption Area	<input checked="" type="checkbox"/>

Project Type (check all that apply)

Commercial	<input type="checkbox"/>	Recreational	<input type="checkbox"/>
Consistency Report	<input type="checkbox"/>	Redevelopment	<input type="checkbox"/>
Industrial	<input type="checkbox"/>	Residential	<input checked="" type="checkbox"/>
Institutional	<input type="checkbox"/>	Shore Erosion Control	<input type="checkbox"/>
Mixed Use	<input type="checkbox"/>	Water-Dependent Facility	<input type="checkbox"/>
Other	<input type="checkbox"/>		

SITE INVENTORY (Enter acres or square feet)

	Acres	Sq Ft	Total Disturbed Area	Acres	Sq Ft
IDA Area	0.234	10,193		0.17	7,503
LDA Area	0	0			
RCA Area	0	0			
Total Area			# of Lots Created	0	

	Acres	Sq Ft		Acres	Sq Ft
Existing Forest/Woodland/Trees	6.109	4,754	Existing Lot Coverage	0.096	4,168
Created Forest/Woodland/Trees	0.684	13,7	New Lot Coverage	0.085	3,267
Removed Forest/Woodland/Trees	0.061	56	Removed Lot Coverage	0.887	3,796
			Total Lot Coverage	0.894	4,085
	4.698				

VARIANCE INFORMATION (Check all that apply)

	Acres	Sq Ft		Acres	Sq Ft
Buffer Disturbance	0.048	2,094	Buffer Forest Clearing	0.665	223
Non-Buffer Disturbance	0.124	5,409	Mitigation	TBD	TBD

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

***CRITICAL AREA
REPORT***

**202 BAR HARBOR ROAD
PASADENA, MD 21122**

November 2024

Prepared for:
Steve and Jean Cubello

Prepared by:
Messick and Associates
7 Old Solomons Island Road
Suite 202
Annapolis, MD 21401

INTRODUCTION

This site is a 10,193 square foot property that is located on the south side of Bar Harbor Road in Pasadena, MD. The proposal is to raze the existing structure and construct a new dwelling. The site is served by public sewer and water. The property is completely inside the Chesapeake Bay Critical Area Boundary and is designated as Intensely Developed Area (IDA). The property is zoned residential, R-5 and is waterfront on Rock Creek.

EXISTING USE

The property consists of 10,193 square foot property. The site is currently developed with a structure covering about half the lot. The property is currently a residential lot developed with a house, shed, and associated improvements. The property is not a corner lot and gains access from Bar Harbor Road.

SURROUNDING LAND USE

The properties that abut the site are relatively small, with the subject property being about the same size as abutting lots, which are also developed as single-family lots. The general area is developed as single-family lots, however east of the site is a commercial marina. The site is bounded by a developed property to the east and west, north with Bar Harbor Road and south the tidal waters of Rock Creek.

PROPOSED WORK

The owners wish to raze the existing dwelling and construct a new dwelling. Part of the non conforming existing structure would be rebuilt 'in kind' as an ADU. This construction will require disturbance to a small area of steep slopes to install an underdrain for the proposed stormwater management. Part of the footprint would be forward of the existing dwelling, which would also require variance. The site is buffer modified.

SOILS

The U.S. Department of Agriculture Soil Survey, defines the property to have a soil type of PgB – Patapsco-Fort Mott Urban Land Complex 0-5% Slopes (A Soils)

FLOODPLAIN

The property described hereon is located in the flood hazard zones "X" - (area of minimal flood hazard) and zone "AE" El=6' as delineated on the firm flood insurance map #24003C0069F dated February 18, 2015 for said county and distributed by the Federal Emergency Management facility.

NON-TIDAL WETLANDS

There appear to be no Non Tidal Wetlands on the site.

TIDAL WETLANDS

There are no Tidal Wetlands on this site.

BODIES OF WATER

The site drains to Rock Creek.

STEEP SLOPES

An area of steep slopes exists towards the waterfront. This area will be partially disturbed for installation of an underdrain for the stormwater management devices.

RARE AND ENDANGERED SPECIES

A review of Federal and/or State listed species of rare, threatened or endangered species of plants or animals has been requested via the enclosed letter to Lori Byrne of the Maryland Department of Natural Resources Fish, Heritage and Wildlife Administration.

STORMWATER MANAGEMENT

Stormwater management will be provided via two micro bioretention devices.

FOREST COVER

The existing forest cover is limited to overstory trees mostly on the waterfront side of the property. A very large maple in the middle of the property is intended to be saved.

The following are typical trees of areas such as this site:

<u>Common Name</u>	<u>Scientific Name</u>
Black Locust	<i>Robinia pseudoacacia</i>
Eastern Sycamore	<i>Platanus occidentalis</i>
American Holly	<i>Ilex opaca</i>
Beech	<i>Fagus grandifolia</i>
White Poplar	<i>Populus alba</i>
Mountain Laurel	<i>Kalmia latifolia</i>

WILDLIFE TYPICAL OF THIS AREA

<u>Common Name</u>	<u>Scientific Name</u>
Eastern Gray Squirrel	<i>Sciurus Carolinensis</i>
Blue Jay	<i>Cyanocitta Cristata</i>
Common Crow	<i>Corvus Brachythynchos</i>
Northern Cardinal	<i>Richmondena Cardinalis</i>

SITE CALCULATIONS

1. Total Site area.....10,193 sq. ft.
2. Site area in IDA Critical area.....10,193 sq. ft
3. Existing lot coverage4,168 sq. ft.
4. Lot coverage to be removed.....3,796 sq. ft.
4. Proposed lot coverage3,73 sq. ft.
5. Total Lot Coverage after Construction...4,085 sq. ft.
6. Proposed Disturbed Area.....7,963 sq. ft.
7. Woodland Clearing.....0 sq. ft.

Real Property Data Search ()
 Search Result for ANNE ARUNDEL COUNTY

[View Map](#) [View GroundRent Redemption](#) [View GroundRent Registration](#)

Special Tax Recapture: None

Account Identifier: District - 03 Subdivision - 065 Account Number - 23689505

Owner Information

Owner Name: PULLER JR EDWARD D **Use:** RESIDENTIAL
 PULLER JEAN M **Principal Residence:** YES
Mailing Address: 202 BAR HARBOR RD **Deed Reference:** /19863/ 00233
 PASADENA MD 21122-3021

Location & Structure Information

Premises Address: 202 BAR HARBOR RD **Legal Description:** LT 44
 PASADENA 21122-0000 202 BAR HARBOR RD
 Waterfront BAR HARBOR

Map: Grid: Parcel: Neighborhood: Subdivision: Section: Block: Lot: Assessment Year: Plat No:
 0011 0023 0071 3130050.02 065 44 2022 Plat Ref: 0015/ 0038

Town: None

Primary Structure Built Above Grade Living Area Finished Basement Area Property Land Area County Use
 1940 3,792 SF 10,694 SF

StoriesBasementType ExteriorQualityFull/Half BathGarageLast Notice of Major Improvements
 1 YES STANDARD UNITFRAME/2 4 full

Value Information

	Base Value	Value		
		As of 01/01/2022	As of 07/01/2023	As of 07/01/2024
Land:	343,400	343,400		
Improvements	142,100	166,300		
Total:	485,500	509,700	501,633	509,700
Preferential Land:	0	0		

Transfer Information

Seller: PULLER JR, EDWARD D **Date:** 02/07/2008 **Price:** \$0
Type: NON-ARMS LENGTH OTHER **Deed1:** /19863/ 00233 **Deed2:**

Seller: PULLER, MARY E **Date:** 11/05/1998 **Price:** \$0
Type: NON-ARMS LENGTH OTHER **Deed1:** /08787/ 00054 **Deed2:**

Seller: PULLER, MARY E **Date:** 06/30/1998 **Price:** \$0
Type: NON-ARMS LENGTH OTHER **Deed1:** /03451/ 00629 **Deed2:**

Exemption Information

Partial Exempt Assessments: Class 07/01/2023 07/01/2024
County: 000 0.00
State: 000 0.00
Municipal: 000 0.00|0.00 0.00|0.00

Special Tax Recapture: None

Homestead Application Information

Homestead Application Status: Approved 02/16/2010

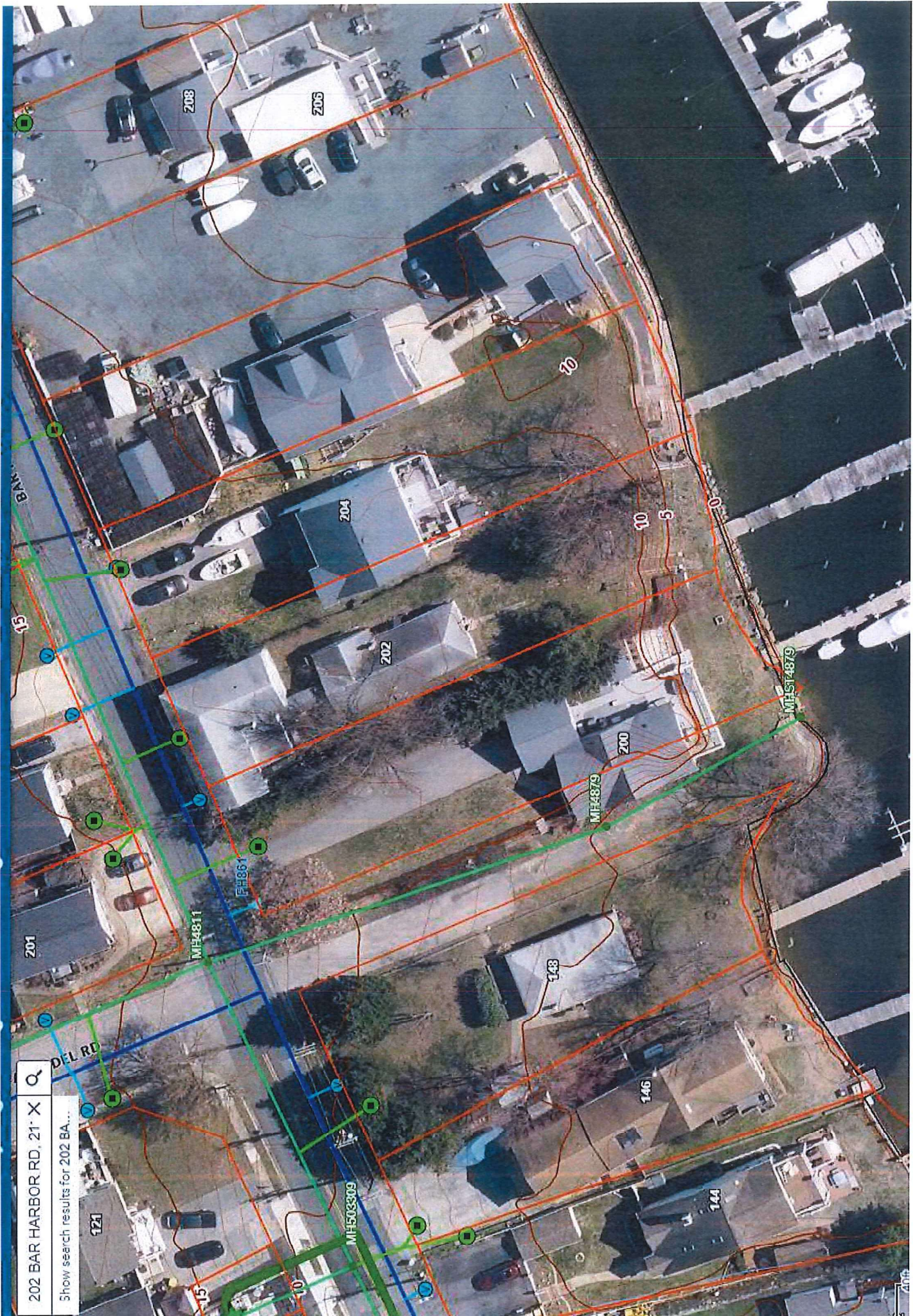
Homeowners' Tax Credit Application Information

Homeowners' Tax Credit Application Status: No Application **Date:**



202 BAR HARBOR RD, 21° X
Show search results for 202 BA...

0 50 100



Q

202 BAR HARBOR RD, 21' X'

Show search results for 202 BA...

208

206

204

202

10

5

0

MH514879

MH4879

200

201

MH4811

PH661

143

DEL RD

121

MH503309

146

144

204



218

216

217

215

208

206

209

202 BAR HARBOR RD, 21122

204

IDA

207



205

200

203

201

148

103

146

121

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104

102

119 F

142

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138



215

209

207

205

203

201

103

121

Rq Residential

3 F

148

200

146

144

216

217

208

202 BAR HARBOR RD, 21122

204

206

MB General Commercial Marina



12

National Flood Hazard Layer FIRMette

76°30'50"W 39°9'32"N



Legend

SEE FIS REPORT FOR DETAILED LEGEND AND INDEX MAP FOR FIRM PANEL LAYOUT

SPECIAL FLOOD HAZARD AREAS

- Without Base Flood Elevation (BFE)
Zone A, V, A99
- With BFE or Depth Zone AE, AO, AH, VE, AR
- Regulatory Floodway

OTHER AREAS OF FLOOD HAZARD

- 0.2% Annual Chance Flood Hazard, Area of 1% annual chance flood with average depth less than one foot or with drainage areas of less than one square mile (Zone I)
- Future Conditions 1% Annual Chance Flood Hazard (Zone X)
- Area with Reduced Flood Risk due to Levee. See Notes. (Zone X)
- Area with Flood Risk due to Levee (Zone D)

OTHER AREAS

- NO SCREEN
- Area of Minimal Flood Hazard (Zone X)
- Effective LOMRS
- Area of Undetermined Flood Hazard (Zone X)

GENERAL STRUCTURES

- Channel, Culvert, or Storm Sewer
- Levee, Dike, or Floodwall

CROSS SECTIONS

- 20.2 Cross Sections with 1% Annual Chance Water Surface Elevation
- 17.5 Coastal Transect
- 8 Base Flood Elevation Line (BFE)
- 59 Limit of Study
- Jurisdiction Boundary

OTHER FEATURES

- Coastal Transect Baseline
- Profile Baseline
- Hydrographic Feature

MAP PANELS

- Digital Data Available
- No Digital Data Available
- Unmapped

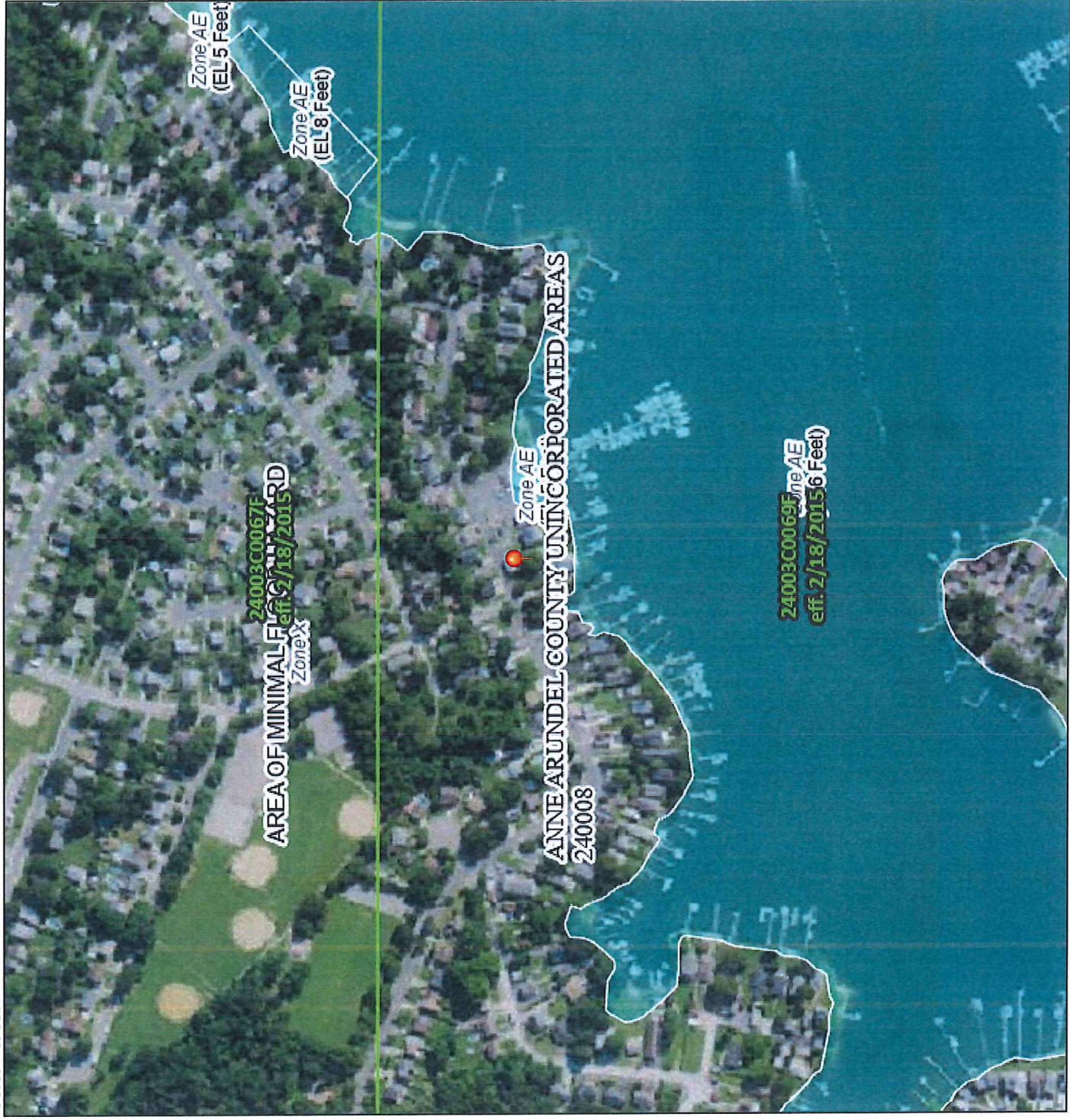


The pin displayed on the map is an approximate point selected by the user and does not represent an authoritative property location.

This map complies with FEMA's standards for the use of digital flood maps if it is not void as described below. The basemap shown complies with FEMA's basemap accuracy standards.

The flood hazard information is derived directly from the authoritative NFHL web services provided by FEMA. This map was exported on **10/30/2024 at 8:04 PM** and does not reflect changes or amendments subsequent to this date and time. The NFHL and effective information may change or become superseded by new data over time.

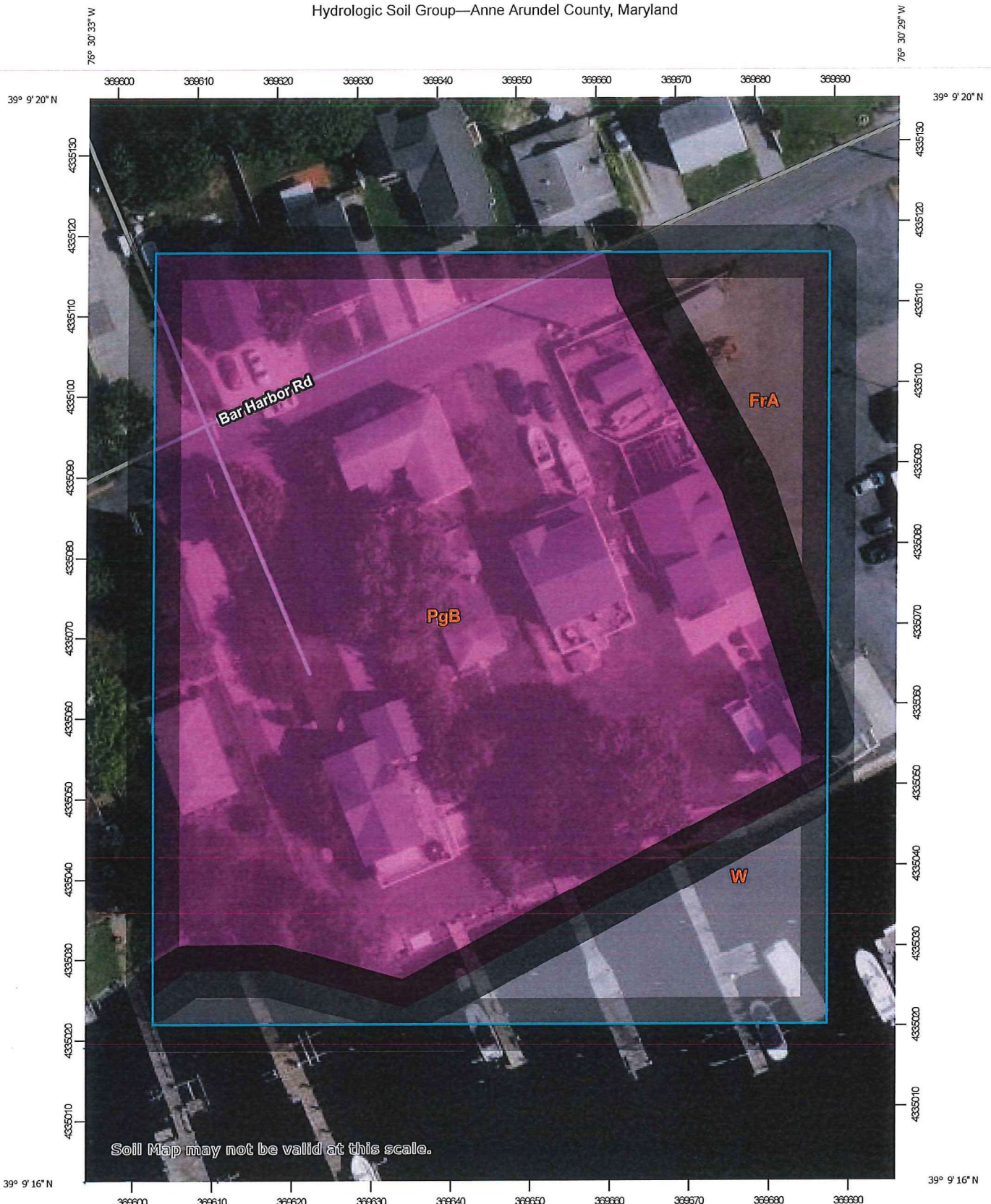
This map image is void if the one or more of the following map elements do not appear: basemap imagery, flood zone labels, legend, scale bar, map creation date, community identifiers, FIRM panel number, and FIRM effective date. Map images for unmapped and unmodernized areas cannot be used for regulatory purposes.



76°30'13"W 39°9'4"N



Hydrologic Soil Group—Anne Arundel County, Maryland



Map Scale: 1:656 if printed on A portrait (8.5" x 11") sheet.

0 5 10 20 30 Meters

0 30 60 120 180 Feet

Map projection: Web Mercator Corner coordinates: WGS84 Edge tics: UTM Zone 18N WGS84



MAP LEGEND

Area of Interest (AOI)	C
Area of Interest (AOI)	C/D
Soils	D
Soil Rating Polygons	Not rated or not available
A	Water Features
A/D	Streams and Canals
B	Transportation
B/D	Rails
C	Interstate Highways
C/D	US Routes
D	Major Roads
Not rated or not available	Local Roads
Soil Rating Lines	Background
A	Aerial Photography
A/D	
B	
B/D	
C	
C/D	
D	
Not rated or not available	
Soil Rating Points	
A	
A/D	
B	
B/D	

MAP INFORMATION

The soil surveys that comprise your AOI were mapped at 1:12,000.

Warning: Soil Map may not be valid at this scale.

Enlargement of maps beyond the scale of mapping can cause misunderstanding of the detail of mapping and accuracy of soil line placement. The maps do not show the small areas of contrasting soils that could have been shown at a more detailed scale.

Please rely on the bar scale on each map sheet for map measurements.

Source of Map: Natural Resources Conservation Service
 Web Soil Survey URL:
 Coordinate System: Web Mercator (EPSG:3857)

Maps from the Web Soil Survey are based on the Web Mercator projection, which preserves direction and shape but distorts distance and area. A projection that preserves area, such as the Albers equal-area conic projection, should be used if more accurate calculations of distance or area are required.

This product is generated from the USDA-NRCS certified data as of the version date(s) listed below.

Soil Survey Area: Anne Arundel County, Maryland
 Survey Area Data: Version 23, Sep 6, 2024

Soil map units are labeled (as space allows) for map scales 1:50,000 or larger.

Date(s) aerial images were photographed: Jun 20, 2022—Aug 13, 2022

The orthophoto or other base map on which the soil lines were compiled and digitized probably differs from the background imagery displayed on these maps. As a result, some minor shifting of map unit boundaries may be evident.

Hydrologic Soil Group

Map unit symbol	Map unit name	Rating	Acres in AOI	Percent of AOI
FrA	Fallsington-Urban land complex, 0 to 2 percent slopes	B/D	0.2	8.3%
PgB	Patapsco-Fort Mott-Urban land complex, 0 to 5 percent slopes	A	1.6	79.1%
W	Water		0.3	12.5%
Totals for Area of Interest			2.0	100.0%

Description

Hydrologic soil groups are based on estimates of runoff potential. Soils are assigned to one of four groups according to the rate of water infiltration when the soils are not protected by vegetation, are thoroughly wet, and receive precipitation from long-duration storms.

The soils in the United States are assigned to four groups (A, B, C, and D) and three dual classes (A/D, B/D, and C/D). The groups are defined as follows:

Group A. Soils having a high infiltration rate (low runoff potential) when thoroughly wet. These consist mainly of deep, well drained to excessively drained sands or gravelly sands. These soils have a high rate of water transmission.

Group B. Soils having a moderate infiltration rate when thoroughly wet. These consist chiefly of moderately deep or deep, moderately well drained or well drained soils that have moderately fine texture to moderately coarse texture. These soils have a moderate rate of water transmission.

Group C. Soils having a slow infiltration rate when thoroughly wet. These consist chiefly of soils having a layer that impedes the downward movement of water or soils of moderately fine texture or fine texture. These soils have a slow rate of water transmission.

Group D. Soils having a very slow infiltration rate (high runoff potential) when thoroughly wet. These consist chiefly of clays that have a high shrink-swell potential, soils that have a high water table, soils that have a claypan or clay layer at or near the surface, and soils that are shallow over nearly impervious material. These soils have a very slow rate of water transmission.

If a soil is assigned to a dual hydrologic group (A/D, B/D, or C/D), the first letter is for drained areas and the second is for undrained areas. Only the soils that in their natural condition are in group D are assigned to dual classes.

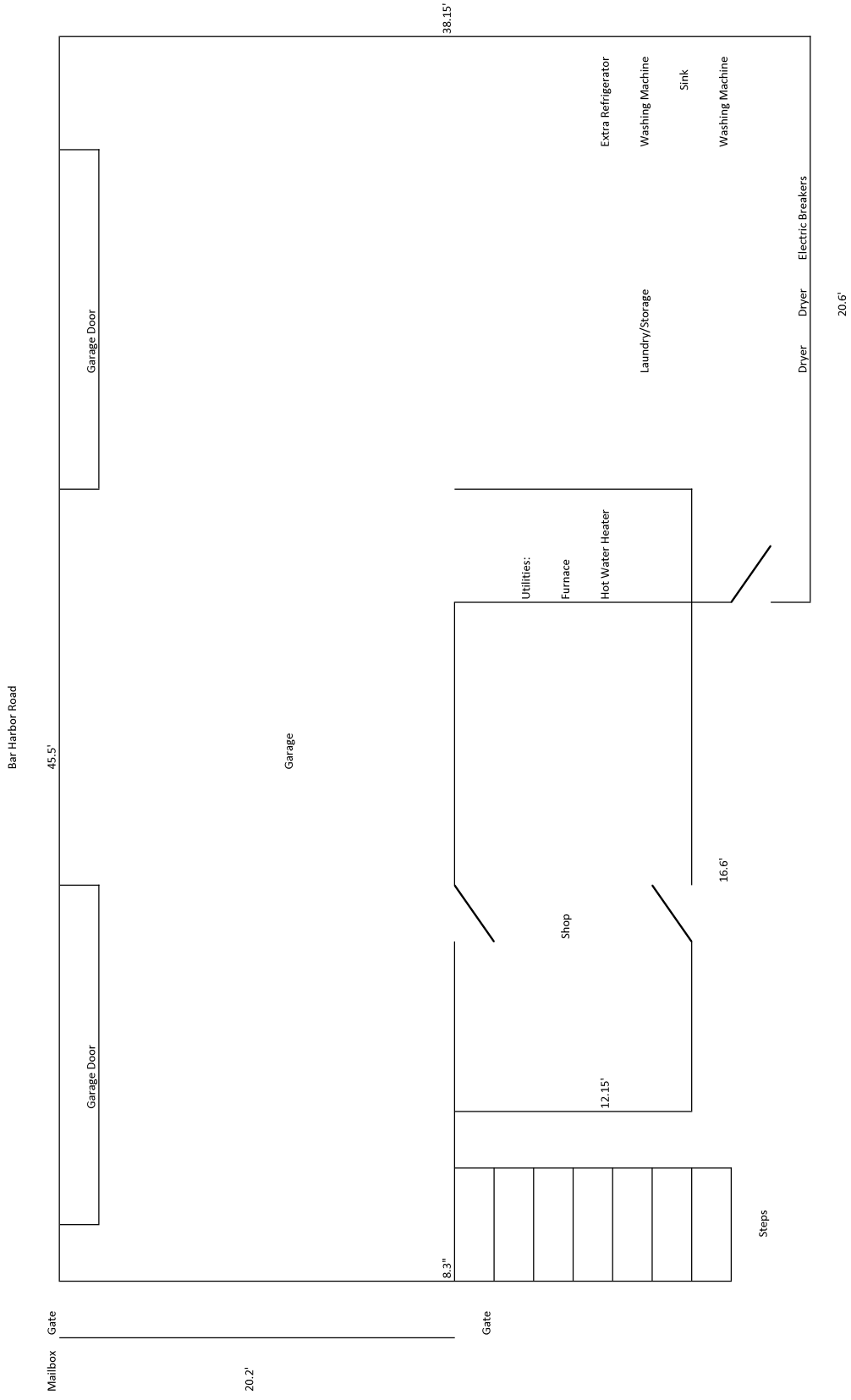
Rating Options

Aggregation Method: Dominant Condition

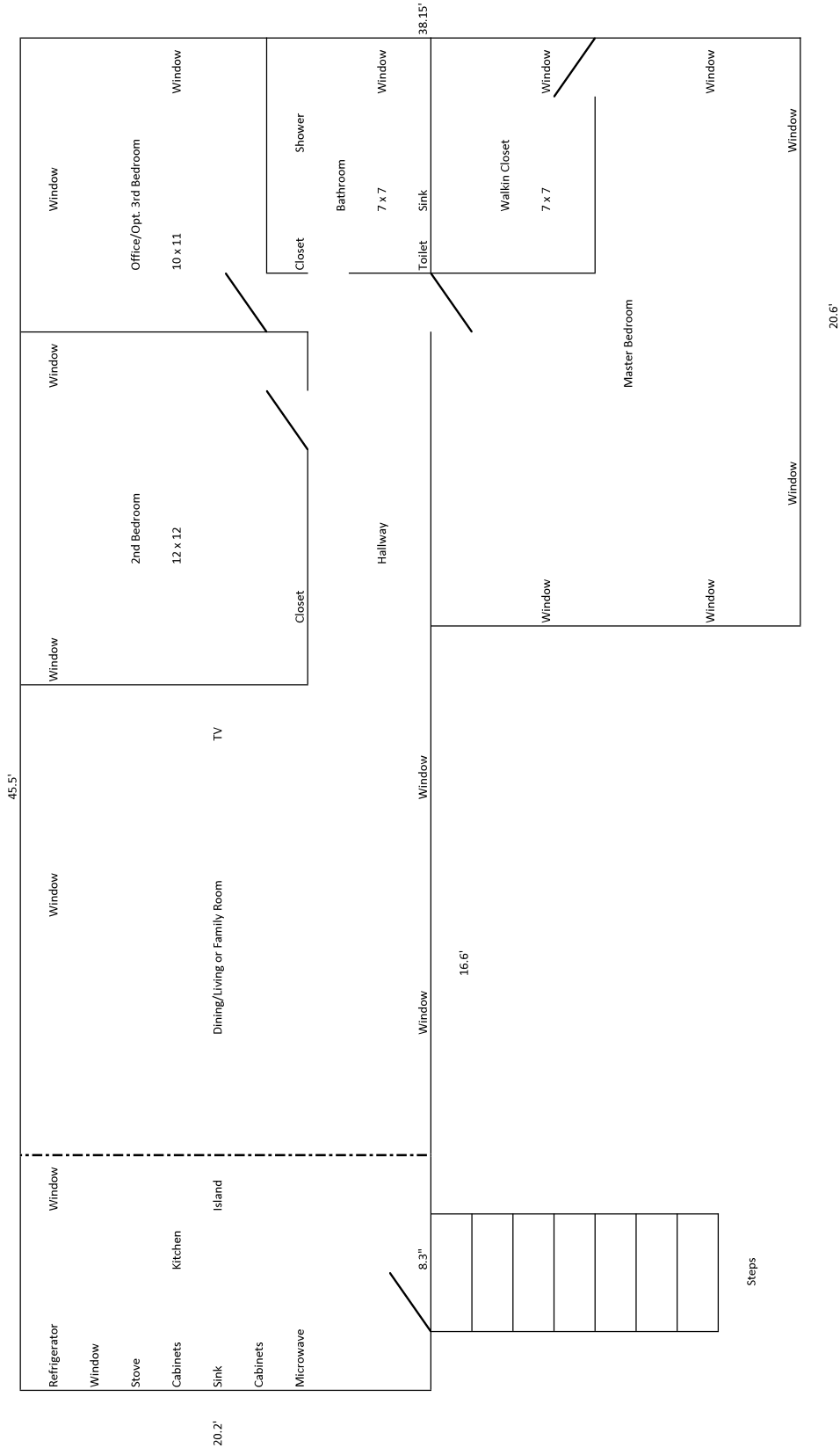
Component Percent Cutoff: None Specified

Tie-break Rule: Higher

1st Floor



2nd Floor



2024-0208-V

Menu Cancel Help

Task Details OPZ Critical Area Team

Assigned Date

11/25/2024

Assigned to

Kelly Krinetz

Current Status

Complete w/ Comments

Action By

Kelly Krinetz

Comments

The existing dwelling on site is located outside of the 100 foot buffer. Article 17-8-702(b) states that an applicant shall not locate new coverage nearer to the shoreline than the existing dwelling and must design the proposed structures in order to maximize the buffer. The proposed development of this site does neither. The home is not pushed forward due to size, topography or unique characteristics of the lot but because a significant portion of the site will be encumbered by a proposed 22'x38' detached garage.

The applicant has referenced the general in line and air, light and view information contained in 18-2-402 as justification for the location of the proposed dwelling within the buffer. While that is a zoning criteria for the location of a structure on a waterfront lot, the application is still subject to the environmental regulations contained in 17-8-702 which requires that new coverage not be located forward of the existing coverage.

The applicant has also referenced variance 2009-0223-V for the location of the adjacent home. It should be noted that this variance was to allow the reconstruction of an existing home within the same general footprint within the buffer, not to allow a home that was existing outside of the buffer to be relocated to an area within the buffer.

This lot may be "small" by code but it is consistent with a large majority of the lots within this neighborhood. The current improvements are currently located outside of the 100' buffer as are others in the neighborhood. There has been no information provided that justifies moving the proposed home into the 100' buffer.

This request cannot be supported.

End Time

Billable

No

Time Tracking Start Date

In Possession Time (hrs)

Estimated Hours

0.0

Comment Display in ACA

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

Due Date

12/16/2024

Assigned to Department

OPZ Critical Area

Status Date

12/12/2024

Overtime

No

Start Time

Hours Spent

0.0

Action by Department

OPZ Critical Area

Est. Completion Date

- Display E-mail Address in ACA
- Display Comment in ACA

Task Specific Information

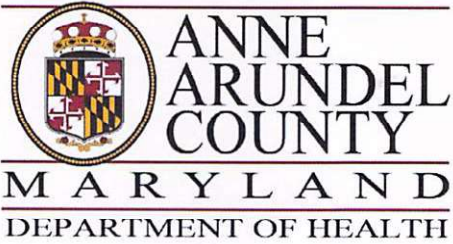
Expiration Date

Reviewer Phone Number

Review Notes

Reviewer Email

Reviewer Name



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 *BC*

DATE: December 4, 2024

RE: Jean Marie Cubello
202 Bar Harbor Road
Pasadena, MD 21122

NUMBER: 2024-0208-V

SUBJECT: Variance/Special Exception/Rezoning

The Health Department has reviewed the above referenced variance to allow a dwelling and associated facilities with less setbacks than required, disturbance to slopes of 15% or greater and with new lot coverage nearer to the shoreline than the principal structure, and to allow an accessory structure (2-story garage with ADU) 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.

cc: Sterling Seay

Wes Moore
Governor

Aruna Miller
Lt. Governor



Erik Fisher
Chair

Katherine Charbonneau
Executive Director

STATE OF MARYLAND
CRITICAL AREA COMMISSION
CHESAPEAKE AND ATLANTIC COASTAL BAYS

January 6, 2025

Ms. Sterling Seay
Anne Arundel County Government
Department of Planning and Zoning
2664 Riva Rd #3,
Annapolis, MD 21401

Re: Cubello Variance: **202 Bar Harbor Road** (2024-0208-V)

Dear Ms. Seay,

Thank you for providing information on the above referenced variance request. The applicant requests a variance to allow a dwelling within the 100-foot Critical Area Buffer. The application material indicates that the property is a 0.234-acre lot entirely within the Intensely Developed Area (IDA) and the Buffer Modification Area (BMA). The applicant proposes to raze an existing primary dwelling and detached garage with a second story accessory dwelling unit (ADU) that are currently located entirely outside of the Critical Area Buffer, and to construct a new primary dwelling unit with attached garage and associated stormwater features partially within the Critical Area Buffer. Additionally, the applicant wishes to construct a new two-story accessory dwelling unit outside of the Critical Area Buffer.

The Critical Area Commission opposes this request as it fails to meet all of the variance standards. The proposed development is non-water dependent and there is ample room for the development to be located outside the Critical Area Buffer. The site is currently conforming to the Critical Area development standards as the existing primary dwelling and the ADU are located entirely outside of the Critical Area Buffer. Therefore, the current conditions demonstrate that it is possible for the parcel to be developed in conformance with the Critical Area development standards while providing reasonable and significant use of the entire parcel.

In 2002 and 2004, the General Assembly strengthened the Critical Area law, and reiterated its commitment to the Chesapeake Bay Critical Area's water quality and wildlife habitat values, especially emphasizing the importance of the 100-foot and expanded Critical Area Buffer. In particular, the General Assembly reaffirmed the stringent standards, which an applicant must meet in order for a local jurisdiction to grant a variance to the Critical Area law. The state law provides that variances to a local jurisdiction's Critical Area program may be granted only if a zoning board finds that an applicant has satisfied its burden to prove that the applicant meets each and every one of the county's variance standards. Furthermore, the State Law establishes a presumption that a proposed activity for which a Critical Area variance is requested does not

conform to the purpose and intent of the Critical Area Law. The County must make an affirmative finding that the applicant has overcome this presumption, based on the evidence presented.

In this instance, the applicant's request for a variance to build a new primary dwelling unit partially within the Critical Area Buffer is in direct conflict the Anne Arundel County's Critical Area provisions regarding new development in a BMA. In particular, the County has enacted a specific set of provisions to recognize the importance of the BMA and maintain its integrity by prohibiting any new lot coverage nearer to the shoreline than the closest façade of the existing principal structure and any new structure must maximize the distance between the shoreline and the structure (Anne Arundel County Code § 17-8-702). Currently, there is no existing principal structure in the 100-foot Buffer to establish an allowance into the Buffer and there is clear evidence that any new structure can be located outside of the 100-foot Buffer.

Variance Standards

- 1. That special conditions or circumstances exist that are peculiar to the land or structure within the jurisdiction's Critical Area program that would result in an unwarranted hardship to the applicant.*

The General Assembly defined "unwarranted hardship" to mean that the applicant must prove that, without the requested variance, they would be denied reasonable and significant use of the entire parcel or lot. Given that the site is currently constructed with a house and garage entirely outside of the Buffer, it is clear that reasonable and significant use of the parcel can be achieved without a variance and any reconstruction to build a replacement house and ADU can be done in a manner that avoids any impacts to the Buffer. Doing so would conform with the County's Critical Area code. Therefore, without the requested variance to develop within the 100-foot Buffer, the applicant would not be denied reasonable and significant use of the entire lot.

- 2. That a literal interpretation of this subtitle or the local Critical Area Program and related ordinances will deprive the applicant of rights commonly enjoyed by other properties in similar areas within the Critical Area of the local jurisdiction.*

Denial of this request would not deprive the applicant the use of the land or structure permitted to others in the Critical Area. On the contrary, the applicant has the ability to have reasonable and significant use of this property for residential purposes by locating the new dwelling unit, the two-story ADU, and associated accessory improvements entirely outside the Buffer. By doing so, the applicant would not be denied a right commonly enjoyed by neighboring properties. No property owner has the right to build a new dwelling unit within the Buffer when there is adequate area outside the Buffer to locate it. Therefore, the rejection of the variances requested above would not deny the applicants a right commonly enjoyed.

- 3. The granting of a variance will not confer upon an applicant any special privilege that would be denied by this subtitle or the local Critical Area program to other lands or structures within the jurisdiction's Critical Area.*

The granting of this variance would confer a special privilege upon this applicant.

The Anne Arundel County Code and the Critical Area law place strict limits on lot coverage and disturbance in the Critical Area Buffer in order to meet the goals of the Critical Area law. Approval of this variance would grant the applicant the ability to redevelop their property in a manner that would be denied to others within the Critical Area, as no individual is permitted to construct non-water dependent structures or improvements within the Buffer when there is an opportunity to redevelop the lot in a way that is conforming to the Critical Area development standards (and as it currently exists today).

4. *The variance request is not based upon conditions or circumstances, which are the result of the actions, by the applicant;*

This request is solely due to the applicant's desire to redevelop the lot in a nonconforming manner. The applicant has every opportunity to redesign the proposal in a manner that conforms to the Critical Area development standards such as reducing the footprint or eliminating the ADU entirely in order to shift the location of the proposed primary dwelling and associated improvements outside of the Critical Area Buffer, thereby eliminating the need for this variance request.

5. *The variance request does not arise from any conforming or nonconforming condition on any neighboring property.*

While the request is not the result of any conforming or nonconforming conditions on a neighboring property, it is based on the fact the applicant desires to redevelop the lot in a manner that is inconsistent with the Critical Area development standards when the existing improvements on the lot are conforming to such standards.

6. *The granting of the variance would not adversely affect water quality or adversely impact fish, wildlife, or plant habitat within the jurisdiction's local Critical Area;*

As proposed, this variance request would adversely affect water quality and impact fish, wildlife, and plant habitat within the Critical Area.

The Critical Area law and regulations are designed to foster more sensitive development for shoreline areas so as to minimize damage to water quality and habitat as well as improve these attributes when possible. The cumulative impact of development activity in the Critical Area, even if minimal, has a substantial and negative impact on the Chesapeake Bay. Development which places non-water dependent lot coverage in the Buffer increases the volume and velocity of stormwater runoff flowing into Rock Creek. Additionally, the proposed increase of lot coverage within the Buffer removes valuable natural habitat. Impacts to these sensitive and protected resources can be avoided by locating the improvements outside of the Buffer.

7. *The granting of the variance would be in harmony with the general spirit and intent of the Critical Area law, the regulations in this subtitle, and the local Critical Area program.*

The goals of the Critical Area law are to:

- (1) Minimize adverse impacts on water quality that result from development,
- (2) Conserve fish, wildlife, and plant habitat, and
- (3) Establish land use policies that accommodate development while recognizing that development adversely affects the first two goals.

Granting a variance to construct non-water dependent lot coverage in the Buffer when the applicant can construct their desired amenities outside of the Buffer is not in harmony with the spirit and intent of the Critical Area law and would be contrary to the goals of the Critical Area law.

The Administrative Hearing Officer must find that the applicant has overcome the burden to meet each and every one of the County's variance standards in order to grant a variance. Additionally, the applicant has the burden of proof and the burden of persuasion to overcome the presumption that his proposed variance does not conform to the Critical Area Law. For the reasons explained above, this office opposes this variance request as the applicant has not overcome this presumption or met their burden. Therefore, this variance application should be denied.

Thank you for the opportunity to provide comments on this variance request. Please include this letter of opposition as part of the record in this variance application. Also, pursuant to Md. Code Ann., Nat. Res., § 8-1808(d)(5)(i), please notify the Commission in writing of the decision made in this case. Should you have any questions regarding this letter of opposition, please call me at (410) 260-3467.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael Macon", with a long horizontal flourish extending to the right.

Michael Macon
Natural Resources Planner

2024-0208-V

Menu Cancel Help

Task Details OPZ Cultural Resources

Assigned Date

11/25/2024

Assigned to

Stacy Poulos

Current Status

Complete w/ Comments

Action By

Stacy Poulos

Comments

Tax records indicate a construction date of ca. 1940, which meets the historic age threshold. As required by Code, our office will need to review the demolition permit application for the existing structure once the permit application is submitted. A site visit with photo-documentation may be required prior to demolition approval. Please contact the Historic Sites Planner, Darian Beverungen, pzbeve19@aacounty.org with any questions.

End Time

Billable

No

Time Tracking Start Date

In Possession Time (hrs)

Estimated Hours

0.0

Comment Display in ACA

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

Due Date

12/16/2024

Assigned to Department

OPZ Cultural Resources

Status Date

11/25/2024

Overtime

No

Start Time

Hours Spent

0.0

Action by Department

OPZ Cultural Resources

Est. Completion Date

- Display E-mail Address in ACA
- Display Comment in ACA

Task Specific Information

Expiration Date

Reviewer Phone Number

Review Notes

Reviewer Email

Reviewer Name

2024-0208-V

Menu Cancel Help

Task Details I and P Engineering

Assigned Date

11/30/2024

Assigned to

Habtamu Zeleke

Current Status

Complete w/ Comments

Action By

Habtamu Zeleke

Comments

Variance request: Variance to allow a dwelling and associated facilities with less setbacks than required, disturbance to slopes of 15% or greater and with new lot coverage nearer to the shoreline than the principal structure, and to allow an accessory structure (2-story garage with ADU) with less setbacks than required. Comments:

1. Stormwater management will be addressed through two Micro-bioretenion and non-rooftop disconnections.
2. All stormwater conveyance systems shall be designed so that no building or habitable structure, either proposed or existing, is flooded or has water impounded against it during the 100-year storm event.
3. Per 6.1.4 (G) of the County Stormwater Practices and Procedures manual, SWM facilities shall not be located in areas that are off-limits to development, e.g., natural resource areas and their steep slopes and buffers.
4. Ensure the proposed improvement including runoff, seepage, and slope saturation does not adversely impact the integrity of the slope and potential impact of slope failure.
5. The site is located in the IDA of the Chesapeake Critical Area and a Buffer Modification area.
6. Approximately 50% of the proposed house is located in the 100 feet-modified buffer Area.
7. Two microbio facilities are proposed for stormwater management, and one is located in the modified buffer area.
8. The SWM, utility/Engineering design review for the site shall occur at the grading permit stage.
9. A soil boring is required per practice. The suitability, and siting of proposed SWM practices should be reviewed. Soil boring information including verification of the suitability of in-situ soils for infiltration shall be submitted.
10. The soil boring results, including the seasonal high groundwater elevation, need to be added to the plan. The calculations will not be reviewed until the siting and suitability are first confirmed to be adequate.
11. The proposed grading and spot elevations on the plan must corroborate the information on the cross-section.
12. All disconnection areas must be shaded. The length and width of disconnection must be shown. The width of non-roof disconnection areas must be the same as the width of the contributory area.
13. Based on the plan provided, it appears that the property will be served by a public water and sewer.
14. Determination. We recommend that the development should be redesigned to remain outside of the buffer area.
15. The decision is deferred to the Zoning Administration.

End Time

Billable

No

Time Tracking Start Date

In Possession Time (hrs)

Estimated Hours

0.0

Comment Display in ACA

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

Due Date

12/16/2024

Assigned to Department

Engineering

Status Date

12/16/2024

Overtime

No

Start Time

Hours Spent

0.0

Action by Department

Engineering

Est. Completion Date

Display E-mail Address in ACA

Display Comment in ACA

Task Specific Information

Expiration Date

Reviewer Phone Number

Review Notes

Reviewer Email

Reviewer Name



OFFICE OF PLANNING AND ZONING

CONFIRMATION OF PRE-FILE

PRE-FILE #: 2024-0091-P
DATE: 09/26/2024
STAFF: Joan A. Jenkins (OPZ)
Kelly Krinetz (OPZ)
Subhash Dhr (I&P)

APPLICANT/REPRESENTATIVE: Jean Cubello/Mike Gillespie (Messick & Assoc)

EMAIL: mgillespie@messicandassociates.com

SITE LOCATION: 202 Bar Harbor Rd, Pasadena

LOT SIZE: 10,193

ZONING: MB

CA DESIGNATION: IDA

BMA: yes or **BUFFER:**

APPLICATION TYPE: Variance

DESCRIPTION:

The applicant proposes to raze the existing building and 1-story house and construct a new dwelling with an integrated garage and waterside deck, and also to construct a detached garage 22'x38' labeled as 'in kind' on the site plan. The detached garage is in the place of part of an existing building. The new dwelling will be within the 100-foot BMA buffer, forward of an adjacent house and the construction will create temporary disturbance of steep slopes to install an underdrain for SWM.

COMMENTS:

I & P Engineering:

1. The site is located in the IDA of the Chesapeake Critical Area and in a Buffer Modification area.
 2. Approximately 50% of the proposed house is located in the 100 feet modified buffer Area.
 3. Two micro bio facilities are proposed for the stormwater management and one micro bio facility is located in the modified buffer area.
 4. The SWM, utility/Engineering design review for the site shall occur at the grading permit stage.
- Determination. We recommend that the development should be redesigned to remain outside of the buffer area. The decision is deferred to the Zoning Administration.

Critical Area Team: Defer to Zoning Administration with regard to all nonconforming and in-kind replacement determinations.

The existing dwelling on site is located outside of the 100 foot buffer. Article 17-8-702(b) states that an applicant shall not locate new coverage nearer to the shoreline than the existing dwelling and must design the proposed structures in order to maximize the buffer. The proposed development of this site does neither. The home is not pushed forward due to size, topography or unique characteristics of the lot but because a significant portion of the site will be encumbered by a proposed 22'x38' detached garage.

The improvements should be redesigned to remain outside of the buffer.

Zoning Administration Section:

The letter of explanation for the pre-file indicates that this property is zoned MB when in fact it is zoned R5. The letter of explanation will need to be rewritten for the variance application.

Redevelopment of a site is an opportunity to comply with the Code.

“In-kind replacement” means the removal of a permanent structure and the construction of another permanent structure in the same location that is smaller than or identical to the original structure in use, footprint, area, height, width and length.

The applicant must verify how the entire structure is currently used so that we can determine if this is indeed an in-kind replacement. Please provide an existing floor plan. Replacement in kind must be of the same or a less intense use. If the use is different then the new detached garage will require a variance to the rear and side setbacks for R5 accessory structures. Additionally, the applicant should indicate in the letter of explanation why a new structure would not be able to meet the current setbacks on the lot and why an additional detached garage is necessary when there is an integrated garage in the dwelling. Of course, the garage could be moved to meet setbacks without any explanation.

Site Plan: Indicate the number of stories and the height (in feet) in the area of both the proposed house and the detached garage.

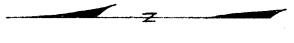
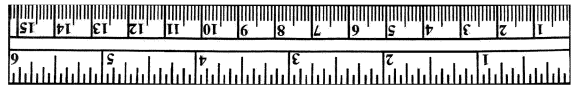
Provide calculations for coverage by structure and percentage. The R5 district allows a maximum of 40% coverage by structure. The IDA does not have an impervious cover limitation so it is unnecessary.

The proposed use says MB (General Commercial Marine). Is this not a residence/dwelling? The use of the property must conform to the use chart in 18-4-106 for the R5 District.

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.



CREEK

ROCK

ROAD

COUNTY

BAR HARBOR
 ENOCH P. JOHNSON
 10 DISTRICT ANNE ARUNDEL CO., MD.
 Scale 1"=200'
 J. Carson Bowsh
 County Surveyor
 12/15/20

2024-0208-V



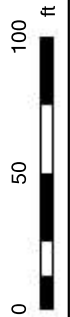
Legend

Foundation
Addressing
Parcels
Parcels - Annapolis City
Planning
County Planning
C1 Commercial - Local
C2 Commercial - Office
C3 Commercial - General
C4 Commercial - Highway
City of Annapolis
MA1 Community

Notes

none

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.



THIS MAP IS NOT TO BE
USED FOR NAVIGATION