

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

APPLICANT: Lesley Miller

ASSESSMENT DISTRICT: 3rd

CASE NUMBER: 2024-0217-V

COUNCILMANIC DISTRICT: 5th

HEARING DATE: February 4, 2025

PREPARED BY: Donnie Dyott Jr. 
Planner

REQUEST

The applicant is requesting a variance to allow an extension in time for the implementation and completion of a previously approved variance on property located at 64 Boone Trail in Severna Park.

LOCATION AND DESCRIPTION OF SITE

The subject site consists of 17,400 square feet of land and is identified as Lot 166 of Parcel 84 in Grid 18 on Tax Map 31 in the Linstead on Severn subdivision. The property is zoned R2 - Residential District and is improved with a single family dwelling and associated facilities.

The site is not waterfront, but it is located entirely within the Chesapeake Bay Critical Area overlay and is designated as LDA - Limited Development Area.

PROPOSAL

The applicants seek approval for an extension in time for the implementation and completion of a previously approved variances (2023-0050-V) relating to an accessory structure garage/office.

REQUESTED VARIANCES

§ 18-16-405(a) of the Anne Arundel County Zoning Ordinance provides that a variance that is not extended or tolled expires by operation of law unless the applicant obtains a building permit within eighteen months of approval. On May 30, 2023, the Administrative Hearing Officer approved variances under case 2023-0050-V. That approval would have been valid until November 30, 2024. The applicant is requesting a variance to allow an additional 18-month extension in time to obtain a building permit while maintaining the previous approval.

FINDINGS

This application for an extension in time was properly made on November 22, 2024, prior to the expiration of the eighteen month time period.

There is no evidence that this first request for an extension in time would alter the essential character of the neighborhood, substantially impair the appropriate use or development of adjacent property, or be detrimental to the public welfare.

While the County did not support the variances requested in the 2023 case, the merits of the original variance case are not a factor when determining whether or not a time extension is warranted. Rather, a determination must be made as to whether the applicant has been diligently working towards obtaining the necessary approvals in order to proceed with the proposed development. The applicant's letter of explanation explains that during the process of finalizing the permit for the project, the owners purchased another home in the neighborhood while retaining ownership of the subject property. Shortly after purchasing the new home, the owners decided not to pursue the project at the subject property and instructed the architect to cancel the permit which they did and the property was rented out for the rest of 2023 and into 2024. Recently in October 2024 a potential buyer was found who is interested in completing the project approved under case 2023-0050-V. The variance expiration date does not leave enough time for the new buyers to obtain the proper permit approvals and thus the time extension was made.

While the applicant was actively pursuing the necessary approvals after the initial variance approval, it was the decision of the applicant to stop that pursuit and cancel the permit. Given this choice and course of action, this Office cannot find that the applicant has been actively pursuing the necessary approvals and has, to the contrary, purposefully stopped that process. As such the variance for the time extension cannot be supported.

RECOMMENDATION

Based upon the standards set forth in § 18-16-305 of the Code under which a variance may be granted, this Office recommends *denial* of a variance to §18-16-405(a) to allow an additional eighteen months for the implementation and completion of a previously approved variance.

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.

2023-0050-V ; EXTENSION OF TIME VARIANCE
64 BOONE TRAIL, SEVERNA PARK, MD 21146

LETTER OF EXPLANATION:

Once the Variance in question was granted on May 30, 2023, the Owners immediately instructed Studio 3 Architecture to proceed with completing the permit process for the project.

During the process of finalizing the permit approvals for the project, The Owners purchased another house in the neighborhood. They retained ownership of the 64 Boone Trail house, however the renovation project at this address went on hold until they decided what to do. Shortly thereafter they decided not to do the project at 64 Boone Trail and instructed the architects to cancel the permit which they did. The Owners decided to rent the property for the rest of 2023 and into 2024

In late October of 2024, a buyer was found that was interested in purchasing 64 Boone Trail and they are also interested in completing the project for the renovation of the Detached Garage as designed which requires the approval granted in Variance 2023-0050-V. The Variance expires on November 30, 2023 which is obviously not enough time to file for and obtain the building permit for the renovation. It is the intent of the new purchasers to implement the project as designed and reviewed by Mr. Hollman during the previous variance hearing which he granted approval for.

The request of this time extension variance is to grant additional time to make any modifications necessary to the Construction Documents for the purpose of reapplying for the permit along with the time it will take for the approval process.

Anne Arundel Cty Cir Crt	
IMP FD SURE	\$40.00
RECORDING FEE	\$20.00
TR TAX STATE	\$4,306.25
TOTAL	\$4,366.25
SAP SMD	
Apr 29, 2022	11:40 am

AFTER RECORDING, RETURN TO:

Attn: S22-20808
Eagle Title
181 Harry S. Truman Parkway
Suite 200
Annapolis, MD 21401

Tax ID No.: 03-490-01048683

DEED

THIS DEED, made this 18th day of April, 2022, by and between SEAN PATRICK DUFFY and MARIT C. DUFFY, Trustees of The Sean Patrick Duffy Revocable Trust, dated January 08, 2021, and any amendments thereto, and MARIT CONNOR DUFFY and SEAN PATRICK DUFFY, Trustees of The Marit Connor Duffy Revocable Trust, dated January 08, 2021, and any amendments thereto, parties of the first part, GRANTORS, and LESLEY W. MILLER and JUSTIN T. MILLER, Trustees of the Miller Family Revocable Trust, dated July 01, 2014, and any amendments thereto, party of the second part, GRANTEE.

WITNESSETH, that for and in consideration of the sum of One Million Seven Hundred Twenty Two Thousand Five Hundred and 00/100 (\$1,722,500.00), which includes the amount of any outstanding Mortgage or Deed of Trust, if any, the receipt whereof is hereby acknowledged, the said Grantors do grant and convey to the said LESLEY W. MILLER and JUSTIN T. MILLER, Trustees of the Miller Family Revocable Trust, dated July 01, 2014, and any amendments thereto as sole owner, its successors and assigns, their successors in trust, in fee simple, all that lot of ground situate in the County of Anne Arundel, State of Maryland and described as follows, that is to say:

BEING KNOWN AND DESIGNATED as Lot #166 on the Plat of Linstead on the Severn, recorded among the Plat Records of Anne Arundel County in Plat Cabinet 3 and E-5, Plat 14, now Plat Book 18, folio 42.

The improvements thereon being known as 64 Boone Trail.

BEING the same property which, by Deed dated January 08, 2021, and recorded among the Land Records of Anne Arundel County, Maryland, in Liber 36112, folio 460, was granted and conveyed by Sean Patrick Duffy and Marit Connor Duffy unto Sean Patrick Duffy and Marit C. Duffy, Trustees of The Sean Patrick Duffy Revocable Trust, dated January 08, 2021, and any amendments thereto, as to a 50% undivided interest, and Marit Connor Duffy and Sean Patrick Duffy, Trustees of The Marit Connor Duffy Revocable Trust, dated January 08, 2021, and any amendments thereto, as to a 50% undivided interest, as tenants in common.

ACCT. 03-490-01048683
ALL REQUIRED LIENS ARE PAID
AS OF 04-21-2022 A.A. COUNTY
BY: LO

Anne Arundel Cty Finance Office
County Transfer Tax \$17,225.00
County Recordation Tax \$12,057.50
04/21/2022 08:20 AM LO

BEING ALSO the same property which, by Deed dated September 13, 2019, and recorded among the Land Records of Anne Arundel County, Maryland, in Liber 33580, folio 489, was granted and conveyed by Jack C. Moore and Christine E. Moore unto Sean Patrick Duffy and Marit Connor Duffy, as tenants by the entirety,

SUBJECT to all easements, covenants and restrictions of record.

TOGETHER with the buildings and improvements thereon erected, made or being; and all and every, the rights, alleys, ways, waters, privileges, appurtenances and advantages thereto belonging, or in anywise appertaining.

TO HAVE AND TO HOLD the said tract of ground and premises above described and mentioned, and hereby intended to be conveyed, together with the rights, privileges, appurtenances and advantages thereto belonging or appertaining unto and to the proper use and benefit of the said **LESLEY W. MILLER** and **JUSTIN T. MILLER, Trustees of the Miller Family Revocable Trust, dated July 01, 2014, and any amendments thereto** as sole owner, its successors and assigns, their successors in trust, in fee simple.

AND the Grantors hereby covenant that they have not done or suffered to be done any act, matter or thing whatsoever, to encumber the property hereby conveyed; that they will warrant specially the property hereby granted; and that they will execute such further assurances of the same as may be requisite.

[SIGNATURES BEGIN ON NEXT PAGE]

Witness: [Signature]

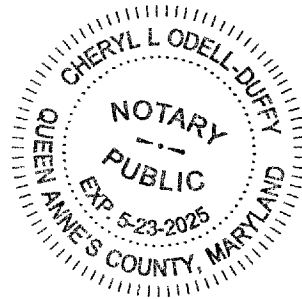
M. Duffy, trustee (SEAL)
MARIT C. DUFFY, Trustee of The Sean Patrick Duffy Revocable Trust, dated January 08, 2021, and any amendments thereto

STATE OF Maryland, COUNTY OF Anne Arundel, to wit:

I HEREBY CERTIFY that on this 12th day of April, 2022, before me, the subscriber, a Notary Public of the aforesaid State, personally appeared **MARIT C. DUFFY**, known to me or satisfactorily proven to be the person whose name is subscribed to the within instrument, and acknowledged the foregoing Deed to be her act as the Trustee of The Sean Patrick Duffy Revocable Trust, dated January 08, 2021, and any amendments thereto (the "Trust"), that she has not received notice of removal as Trustee of the Trust, and in my presence signed and sealed the same.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

[Signature]
NOTARY PUBLIC
My Commission Expires: 5-23-25



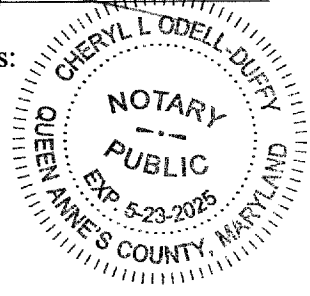
Witness: [Signature]

M. Duffy, trustee (SEAL)
MARIT C. DUFFY, Trustee of The Marit Connor Duffy Revocable Trust, dated January 08, 2021, and any amendments thereto

STATE OF Maryland, COUNTY OF Anne Arundel, to wit:

I HEREBY CERTIFY that on this 12th day of April, 2022, before me, the subscriber, a Notary Public of the aforesaid State, personally appeared **MARIT C. DUFFY**, known to me or satisfactorily proven to be the person whose name is subscribed to the within instrument, and acknowledged the foregoing Deed to be her act as the Trustee of The Marit Connor Duffy Revocable Trust, dated January 08, 2021, and any amendments thereto (the "Trust"), that she has not received notice of removal as Trustee of the Trust, and in my presence signed and sealed the same.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

[Signature]
NOTARY PUBLIC
My Commission Expires: 

Witness:

[Signature]

[Signature] trustee (SEAL)

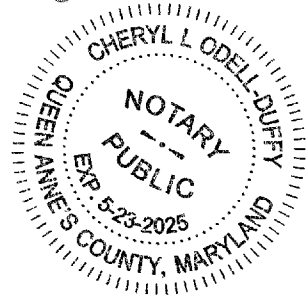
SEAN PATRICK DUFFY, Trustee of The Marit Connor Duffy Revocable Trust, dated January 08, 2021, and any amendments thereto

STATE OF Maryland, COUNTY OF Anne Arundel, to wit:

I HEREBY CERTIFY that on this 13th day of April, 2022, before me, the subscriber, a Notary Public of the aforesaid State, personally appeared **SEAN PATRICK DUFFY**, known to me or satisfactorily proven to be the person whose name is subscribed to the within instrument, and acknowledged the foregoing Deed to be his act as the Trustee of The Marit Connor Duffy Revocable Trust, dated January 08, 2021, and any amendments thereto (the "Trust"), that he has not received notice of removal as Trustee of the Trust, and in my presence signed and sealed the same.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

[Signature]
NOTARY PUBLIC
My Commission Expires: 5-23-25



WITNESS the hands and seals of said Grantors, the day and year first above written.

Witness:

[Handwritten Signature]

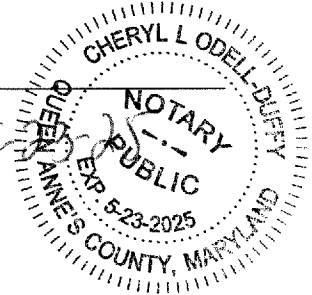
[Handwritten Signature] (SEAL)
SEAN PATRICK DUFFY, Trustee of The Sean Patrick Duffy Revocable Trust, dated January 08, 2021, and any amendments thereto

STATE OF Massachusetts, COUNTY OF Anne Arundel, to wit:


I HEREBY CERTIFY that on this 13th day of April, 2022, before me, the subscriber, a Notary Public of the aforesaid State, personally appeared **SEAN PATRICK DUFFY**, known to me or satisfactorily proven to be the person whose name is subscribed to the within instrument, and acknowledged the foregoing Deed to be his act as the Trustee of The Sean Patrick Duffy Revocable Trust, dated January 08, 2021, and any amendments thereto (the "Trust"), that he has not received notice of removal as Trustee of the Trust, and in my presence signed and sealed the same.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

[Handwritten Signature]
NOTARY PUBLIC
My Commission Expires: 5/23/2025



THIS IS TO CERTIFY that the within Deed was prepared by, or under the supervision of the undersigned, an Attorney duly admitted to practice before the Court of Appeals of Maryland.

A handwritten signature in black ink, appearing to read "Paul A. Skrickus". The signature is written in a cursive style with a long horizontal flourish at the end.

Paul A. Skrickus, Esquire

**MARYLAND
FORM
WH-AR**

**Certification of Exemption from Withholding Upon
Disposition of Maryland Real Estate Affidavit of
Residence or Principal Residence**

2022

Based on the certification below, Transferor claims exemption from the tax withholding requirements of §10-912 of the Tax-General Article, Annotated Code of Maryland. Section 10-912 provides that certain tax payments must be withheld and paid when a deed or other instrument that effects a change

in ownership of real property is presented for recordation. The requirements of §10-912 do not apply when a transferor provides a certification of Maryland residence or certification that the transferred property is the transferor's principal residence.

1. Transferor Information

Name of Transferor The Sean Patrick Duffy Revocable Trust dated January 8, 2021

2. Description of Property (Street address. If no address is available, include county, district, subdistrict and lot numbers).

64 Boone Trail, Severna Park, MD 21146

3. Reasons for Exemption

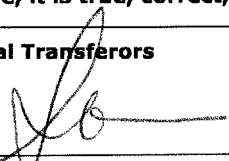
Resident Status As of the date this form is signed, I, Transferor, am a resident of the State of Maryland.

Transferor is a resident entity as defined in Code of Maryland Regulations (COMAR)03.04.12.02B(11), I am an agent of Transferor, and I have authority to sign this document on Transferor's behalf.

Principal Residence Although I am no longer a resident of the State of Maryland, the Property is my principal residence as defined in IRC 121 (principal residence for 2 (two) of the last 5 (five) years) and is currently recorded as such with the State Department of Assessments and Taxation.

Under penalty of perjury, I certify that I have examined this declaration and that, to the best of my knowledge, it is true, correct, and complete.

3a. Individual Transferors


Witness

Sean Patrick Duffy Trustee

Name Sean Patrick Duffy Trustee **Date 4/13/22
Signature

3b. Entity Transferors

Witness/Attest

Name of Entity

By

Name **Date

** Form must be dated to be valid.

Note: Form is only valid if it was executed on the date the Property was transferred and is properly recorded with the Clerk of the Court.

To the Clerk of the Court: Only an un-altered Form WH-AR should be considered a valid certification for purposes of Section 10-912.

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3a. Individual Transferors

Witness

Marit C. Duffy Trustee

Name

**Date

Signature

M. Duffy, trustee

4/12/22

3b. Entity Transferors

Witness/Attest

Name of Entity

By

Name

**Date

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01/22

MARYLAND
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WH-AR

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2022

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64 Boone Trail, Severna Park, MD 21146

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Transferor is a resident entity as defined in Code of Maryland Regulations (COMAR)03.04.12.02B(11), I am an agent of Transferor, and I have authority to sign this document on Transferor's behalf.

Principal Residence

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Under penalty of perjury, I certify that I have examined this declaration and that, to the best of my knowledge, it is true, correct, and complete.

3a. Individual Transferors

Witness

Marit C. Duffy, Trustee

Name

**Date

M. Duffy, Trustee
Signature

4/12/22

3b. Entity Transferors

Witness/Attest

Name of Entity

By

Name

**Date

Title

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MARYLAND FORM WH-AR

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Under penalty of perjury, I certify that I have examined this declaration and that, to the best of my knowledge, it is true, correct, and complete.

3a. Individual Transferors

Witness

Sean Patrick Duffy, Trustee

Name

**Date

Signature

2/13/22

3b. Entity Transferors

Witness/Attest

Name of Entity

By

Name

**Date

Title

** Form must be dated to be valid.

Note: Form is only valid if it was executed on the date the Property was transferred and is properly recorded with the Clerk of the Court.

To the Clerk of the Court: Only an un-altered Form WH-AR should be considered a valid certification for purposes of Section 10-912.

ANNE ARUNDEL COUNTY CIRCUIT COURT (Land Records) SAP 38668, p. 0184, MSA_CE59_39110. Date available 05/03/2022. Printed 11/19/2024.

OWNER OCCUPANCY AFFIDAVIT

Lesley W. Miller and Justin T. Miller, Trustees of The Miller Family Revocable Trust dated July 1, 2014, the Grantee in the within Deed hereby certify under the penalties of perjury, as evidenced by the joinder herein, that the land conveyed in this Deed is residentially improved owner-occupied real property and that the residence will be occupied by me.

WITNESS:

The Miller Family Revocable Trust dated July 1, 2014

By: Lesley W. Miller Trustee (SEAL)
Lesley W. Miller, Trustee

[Handwritten Signature]

By: Justin T. Miller Trustee (SEAL)
Justin T. Miller, Trustee

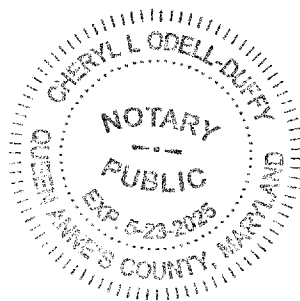
STATE OF MARYLAND
COUNTY OF ANNE ARUNDEL, to wit:

I hereby certify that on the 18th day of April, 2022, before me, the subscriber, a Notary Public of the State of Maryland, in and for the County aforesaid, personally appeared Lesley W. Miller and Justin T. Miller, Trustees of The Miller Family Revocable Trust dated July 1, 2014, known to me or satisfactorily proven to be the person whose name is subscribed to the within instrument and made oath in due form of law that the matters and facts set forth herein are true.

As witness, my hand and notarial seal.

[Handwritten Signature]
Signature of Notary Public

My Commission Expires: 5-23-25



Owner Occupancy Affidavit

File No.: S22-20808

Page 1 of 1

ANNE ARUNDEL COUNTY CIRCUIT COURT (Land Records) SAP 38668, p. 0185, MSA_CE59_39110. Date available 05/03/2022. Printed 11/19/2024.

**AFFIDAVIT OF GRANTEE
PRIMARY RESIDENCE**

THE UNDERSIGNED STATE UNDER OATH AS FOLLOWS:

1. The undersigned is the Grantee of residentially improved real property located at 64 Boone Trail in City of Severna Park.
2. The undersigned state that the above referenced property will be its principal residence which they will occupy.

The Miller Family Revocable Trust dated July 1, 2014

By: Lesley W. Miller, Trustee
Lesley W. Miller, Trustee

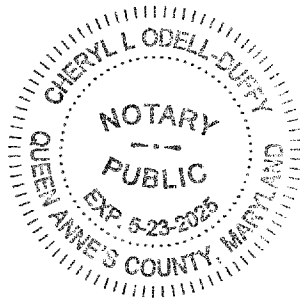
By: Justin T. Miller, Trustee
Justin T. Miller, Trustee

STATE OF MARYLAND
COUNTY OF ANNE ARUNDEL, to wit:

Sworn to and subscribed before me by Lesley W. Miller and Justin T. Miller, Trustees of The Miller Family Revocable Trust dated July 1, 2014 on this 18th day of April, 2022.

[Signature] (SEAL)
Signature of Notary Public

My Commission Expires: 5-23-25



**AFFIDAVIT OF GRANTEE AS
FIRST-TIME MARYLAND HOME BUYER**

The undersigned state under oath and penalties of perjury that the following is true to the best of the knowledge, information, and belief of the individual:

1. The undersigned is Grantee of residentially improved real property located at 64 Boone Trail, Severna Park, MD 21146.
2. The undersigned is first-time Maryland home buyer (defined in §14-104-c(6)(i) as an individual who has never owned in the state residential real property that has been the individual's principal place of residence) who will occupy the property as Grantee's principal residence.

The Miller Family Revocable Trust dated July 1, 2014

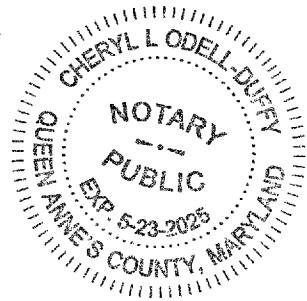
By: Lesley W. Miller Trustee
Lesley W. Miller, Trustee

By: Justin T. Miller Trustee
Justin T. Miller, Trustee

OR, the undersigned state _____ under oath and penalties of perjury that the following is true to the best of the knowledge, information, and belief of the individual:

1. The undersigned is/are Grantee(s) of residentially improved real property located at 64 Boone Trail, Severna Park, MD 21146.
2. The undersigned is/are co-maker(s) or guarantor(s) of the purchase money mortgage or purchase money deed of trust as defined in §12-108(i) of the Tax Property Article on the property who will not occupy the property as Grantee's principal residence.

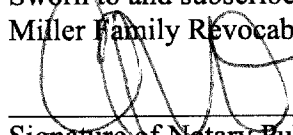
Printed Name of Co-Signer:



ANNE ARUNDEL COUNTY CIRCUIT COURT (Land Records) SAP 38668, p. 0187, MSA_CE59_39110. Date available 05/03/2022. Printed 11/19/2024.

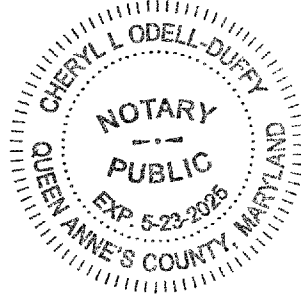
STATE OF MARYLAND
COUNTY OF ANNE ARUNDEL, to wit:

Sworn to and subscribed before me by Lesley W. Miller and Justin T. Miller, Trustees of The Miller Family Revocable Trust dated July 1, 2014 on this 18th day of April, 2022.

 (SEAL)

Signature of Notary Public

My Commission Expires: 5-23-25



State of Maryland Land Instrument Intake Sheet

Baltimore City County: Anne Arundel
Information provided is for the use of the Clerk's Office, State Department of Assessments and Taxation, and County Finance Office Only.
(Type or Print in Black Ink Only - All Copies Must Be Legible)

Space Reserved for Circuit Court Clerk Recording Validation

1 Type(s) of Instruments
2 Conveyance Type Check Box
3 Tax Exemptions (if applicable) Cite or Explain Authority

4 Consideration Amount
Finance Office Use Only
Transfer and Recordation Tax Consideration

5 Fees
Amount of Fees Doc. 1 Doc. 2
Recording Charge
Surcharge
State Recordation Tax
State Transfer Tax
County Transfer Tax
Other

6 Description of Property
SDAT requires submission of all applicable information. A maximum of 40 characters will be indexed in accordance with the priority cited in Real Property Article Section 3-104(g)(3)(i).

7 Transferred From
Doc. 1 - Grantor(s) Name(s)
Doc. 2 - Grantor(s) Name(s)

8 Transferred To
Doc. 1 - Grantee(s) Name(s)
Doc. 2 - Grantee(s) Name(s)
New Owner's (Grantee) Mailing Address

9 Other Names to Be Indexed
Doc. 1 - Additional Names to be Indexed (Optional)
Doc. 2 - Additional Names to be Indexed (Optional)

10 Contact/Mail Information
Instrument Submitted By or Contact Person
Name: Anika Jackson
Firm Eagle Title
Address: 181 Harry S. Truman Parkway, Suite 200
Annapolis, MD 21401 Phone: (410) 266-3600

11 IMPORTANT: BOTH THE ORIGINAL DEED AND A PHOTOCOPY MUST ACCOMPANY EACH TRANSFER
Assessment Information
Will the property being conveyed be the grantee's principal residence?
Does the transfer include personal property? If yes, identify:
Was property surveyed? If Yes, attach copy of survey (if recorded, no copy required).

Assessment use only - Do Not Write Below This Line
Terminal Verification Agricultural Verification Whole Part Tran. Process Verification
Transfer Number Date Received: Deed Reference: Assigned Property No.:

REMARKS:

ANNE ARUNDEL COUNTY CIRCUIT COURT (Land Records) SAP 38668 p. 0189, MSA CE59_39110 Date available 05/03/2022 Printed 11/19/2024.

Map Title



Legend

Foundation

Addressing



Parcels



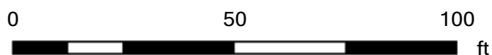
Parcels - Annapolis City



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.

none

Notes



THIS MAP IS NOT TO BE USED FOR NAVIGATION

IN THE OFFICE OF ADMINISTRATIVE HEARINGS

CASE NUMBER: 2023-0050-V

**LESLEY W. MILLER AND JUSTIN T. MILLER, TRUSTEES OF THE MILLER
FAMILY REVOCABLE TRUST**

THIRD ASSESSMENT DISTRICT

DATE HEARD: MAY 23, 2023

ORDERED BY:

**DOUGLAS CLARK HOLLMANN
ADMINISTRATIVE HEARING OFFICER**

PLANNER: **JENNIFER LECHNER**

DATE FILED: **MAY 30, 2023**

PLEADINGS

Lesley W. Miller and Justin T. Miller, Trustees of the Miller Family Revocable Trust, the applicants, seek a variance (2023-0050-V) to allow an accessory structure (detached garage) in the front yard of a nonwaterfront lot and with less setbacks than required on property with a street address of 64 Boone Trail, Severna Park, MD 21146.

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. The applicants testified that the property was posted for more than 14 days prior to the hearing. Therefore, I find and conclude that there has been compliance with the notice requirements.

FINDINGS

A hearing was held on May 23, 2023, in which witnesses were sworn and the following evidence was presented with regard to the proposed variance requested by the applicants.

The Property

The applicants own the subject property which has 380 feet of frontage on the south side of Boone Trail, east of Cedar Point Road, Severna Park. It is identified as Lot 166 of Parcel 84 in Block 18 on Tax Map 31 in the Linstead on

the Severn subdivision. The property comprises 17,400 square feet and is zoned R2 - Residential District. This lot is designated in the Chesapeake Bay Critical Area as limited development area (LDA).

The site is currently developed with a one and a half-story single-family dwelling, a detached garage, and other associated facilities.

The Proposed Work

The proposal calls to renovate the existing garage to allow the use as an office, a 100 square-foot stairwell addition to access the upper level, and a proposed outdoor shower as shown on the site plan admitted into evidence at the hearing as County Exhibit 2. The proposed garage addition would be located in the front yard of a non-waterfront lot; and 7 feet from the northwest front lot line, and the proposed outdoor shower would be located 4.5 feet from the rear lot line. The building height would remain 22.9'.

The Anne Arundel County Code

§ 18-2-204(b) provides that an accessory structure may not be located in the front yard of a nonwaterfront lot. The proposed garage/office renovation would be located between the principal dwelling and Boone Trail, necessitating a variance.¹

§ 18-4-601 of the Code provides that an accessory structure 8 feet in height or greater in an R2 district shall be set back a minimum of 40 feet from the front lot line, and 7 feet from side and rear lot lines.

¹ Although the detached garage is existing, the change in use to add the office and the stairwell addition necessitates the variance. Had the renovation been proposed within the existing structure, or as a replacement in-kind, the variance to 18-2-204(b) would not be required.

The Variances Requested

The proposed work will require the following zoning variances:

1. A zoning variance to the prohibition in § 18-2-204(b) against accessory structures in the front yard of non-waterfront lots to allow the proposed garage/office renovation to be built as shown on County Exhibit 2; and
2. A zoning variance of thirty-three (33) feet to the 40-foot front lot line setback requirement of § 18-4-601 to allow the proposed garage/office renovation to be located as close as 7 feet from the front lot line as shown on County Exhibit 2.²

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 irregular in shape with the majority of the lot abutting Boone Trail along the northwest property line and around to the southeast property line, and exceeds the minimum 15,000 square foot area and 80-foot width requirements for the R2 district. A review of the County 2022 aerial photograph shows that the nearby developed lots on the same side of Boone Trail contain dwellings located at various distances, ranging from 25 to 50 feet, from the front lot line; the lots across Boone Trail appear to have been developed with houses at various distances, ranging from 0 to 35 feet, from the

² The applicants modified their application at the hearing to remove the shower enclosure, thus eliminating that variance request.

front lot line. None of these lots appear to have detached garages. The subject dwelling's rear elevation sits approximately 26 feet from the front lot line. The existing detached garage sits approximately 8 feet from the front lot line.

- Per § 17-8-402(b), the allowable lot coverage for lots 8,001 - 21,780 square feet located in the critical area LDA may not exceed 31.25% of the parcel. The total existing lot coverage of the subject property is 4,138 square feet (23.78%), the total proposed lot coverage is 5,078 square feet (29.18%), of which, 2,000 square feet is new and 1,060 square feet is to be removed.
- The applicants' letter explains that the garage is being renovated to be used as an office with a proposed stairwell addition. The addition was located on the north side of the existing garage because the proposed pool would be placed to the south between the existing garage, existing screen porch and a large Red Oak tree. The applicants also note that the overall plan is to modernize the function of the property.
- The Health Department commented that the property is served by public water and sewer facilities. The Department has no objection to the request.
- For the granting of a zoning variance, a determination must be made as to whether, because of certain unique physical conditions peculiar to or 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. The need sufficient to justify

a variance must be substantial and urgent and not merely for the convenience of the applicants.

- In this particular case, the property is unique in that it has frontage on three sides of the dwelling, resulting in what is essentially three front yards, and the dwelling is 11 feet from the rear lot line. This creates a hardship by significantly restricting the potential locations that would meet the required 40-foot front lot line setback for accessory structures of any kind. In fact, the pool is proposed in the only location which will meet this setback. If not for the proposed pergola, adjacent to the pool, there appears to be ample room on the south elevation of the existing garage where the proposed stairwell addition and outdoor shower could be constructed without the need for a variance.
- The applicants have not provided any justification to demonstrate that the garage/office stairwell addition could not be constructed in compliance with the prohibition of an accessory structure located in the front yard of a nonwaterfront lot or in compliance with (or at least closer to) the minimum forty foot setback required from the northwest front lot line. Nor has the applicants provided any justification to demonstrate that the outdoor shower could not be constructed in compliance with (or at least closer to) the minimum seven foot setback required from the northeast side lot line. It appears that alternative options exist that would minimize or eliminate the need for variances. Without sufficient justification, the variance request cannot be considered the minimum necessary to afford relief. As such, OPZ does not

support the proposed variances to § 18-2-204(b) and 18-4-601 for the garage stairwell addition, nor the proposed variance to § 18-4-601 for the outdoor shower.

- The variance would not necessarily alter the essential character of the neighborhood, impair the appropriate use or development of adjacent properties, or be detrimental to the public welfare.
- Based upon the standards set forth in § 18-16-305 of the Code under which a variance may be granted, OPZ recommends denial of the variances.

Other Testimony and Exhibits

The applicants were assisted at the hearing by their engineer, Roy Little of Terrain, Inc., and their architect, Jay Huyett of Studio 3 Architecture, Inc. The applicants withdrew their request for a variance to allow a shower enclosure on northwest rear wall of the proposed garage.

Evidence was presented that the applicants want to rebuild the second floor on the existing garage, add an extension to the northwest to expand the garage, and provide stair access to the second floor. They opposed moving the new stair access to the current location of the existing stairs in order to have more usable space in their rear yard for the pool and patio they propose to build there. Neighbors are in favor of granting the requested variance.

The existing garage already intrudes into the 40-foot setback. The proposed improvements would be approximately the same distance from the northwest lot line and more than 10 feet further from the paving on Boone Trail.

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

DECISION

§ 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 applicants wish to rebuild and improve the existing garage on their property by expanding it to the northwest side. This is how their garage looks now:



The expansion will be to the left of the garage. The Code defines this side of the applicants' property as a front lot line, which requires structures to be located 40 feet from the lot line that runs along Boone Trail, show above. But the evidence shows that the property has been developed with the front facing the southeast side. The front door of the applicants' home faces the southeast side; the rear door faces the driveway shown above. The applicants find themselves in need of a variance to rebuild their garage because Boone Trail wraps around their

property, making the south, west, and north side of their property a front lot line. In such a case, the applicants need a variance to the 40-foot front setback requirement.

This case raises the question of the purpose of a rule that prohibits accessory structures in the front yard of a residential dwelling. The County Council, when it enacted § 18-2-204(b), was obviously thinking of the typical subdivision where the houses are uniform and set back the same distance from the street. Filling in the front yard with sheds, gazebos, and garages would change the neighborhood. That concern is not present in this case where the subject property has already been developed with the front on the other side of the property from where the applicants wish to renovate and expand the existing garage.

Zoning restrictions on property are “bulk” regulations, i.e., they are applied to all properties as if there were no differences among them. The mechanism to vary the Code to take into account the characteristics of individual properties lies in this Office. § 18-16-305(a) allows the Administrative Hearing Officer to vary or modify the provisions of the Code when it is alleged that practical difficulties or unnecessary hardships prevent conformance with the strict letter of the Code. That is the case in this application. The requested variance will be granted.

The applicants have also successfully explained that they cannot expand and add certain improvements to the rear yard of their property because of large trees growing there, thereby showing that their request is the minimum needed to obtain relief.

I further find that the granting of a zoning variances 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 area 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 Lesley W. Miller and Justin T. Miller, Trustees of the Miller Family Revocable Trust, petitioning for a variance to allow an accessory structure (detached garage) in the front yard of a nonwaterfront lot and with less setbacks than required on property with a street address of 64 Boone Trail, Severna Park, MD 21146;

PURSUANT to the notice, posting of the property, and public hearing and in accordance with the provisions of law, it is this **30th day of May, 2023**,

ORDERED, by the Administrative Hearing Officer of Anne Arundel County, that the applicants are **granted** the following variances:

1. A zoning variance to the prohibition in § 18-2-204(b) against accessory structures in the front yard of non-waterfront lots to allow the proposed garage/office renovation to be built in the location shown on County Exhibit 2; and ³

³ The request for a variance to allow the proposed shower enclosure to be built was withdrawn at the hearing and is not allowed by this decision. On the other hand, the front setback variance

2. A zoning variance of thirty-three (33) feet to the 40-foot front lot line setback requirement of § 18-4-601 to allow the proposed garage/office renovation to be located as close as 7 feet from the front lot line as shown on County Exhibit 2.

The foregoing variances are subject to the condition that the applicants 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 applicants to construct the structures permitted in this decision, they 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 applicants 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 variances granted herein. The reasonableness of any such change shall be determined by the Office of Planning and Zoning and the

includes the entire footprint of the proposed garage and stairwell as well as the dormers or any other improvement to the roof of the proposed rebuilt garage.

Department of Inspection and Permits and the Department of Inspection and Permits.



Douglas Clark Hollmann
Administrative Hearing Officer

NOTICE TO APPLICANTS

This Order does not constitute a building permit. In order for the applicants to perform the work permitted in this decision, the applicants 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 applicants **within 18 months** of the granting of the variance or special exception (1) obtain 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 applicants obtain 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.

