

Letter of Explanation

Please accept this letter as explanation and justification for the variance application being made to permit a 10' x 20' open deck in the physical rear yard, waterfront yard, of the existing dwelling located at 942 Long Cove Road, Glen Burnie MD 21060. The proposed deck is free-standing, not attached to the house and approximately 26' behind the existing dwelling.

The proposed deck will be situated on a stair-stepped piece of land that has a 5-foot high retaining wall on the back side, and another 5-foot high retaining wall which is 5 feet lower on the front side. In other words, there is no railing on the 20-foot long side closest to the existing dwelling as that side of the deck is level with grade and access will be made by just walking onto the deck. Directly under that side is the 5-foot high retaining wall as the grade drops down five feet and remains that five feet lower level for the entire area under the deck (thus the other three sides of the deck have a railing). On the front side of the deck, another 5-foot high retaining wall exists again as the ground drops five feet once again (creating the level stair-step area on the lot).

This stair-stepped area of ground was graded and stabilized by retaining walls under all approved and appropriate permits and inspections from the County. However, upon applying for the building permit for this project, the applicant received comments directing the need for three difference variances for this deck. First, a variance is required for the setbacks. In the R2 zoning, the accessory structure needs 7 feet to the side yard and 40 feet to the front yard. Since this is a waterfront lot, the rear lot line is considered the front. The proposed deck will be 5 feet from the side lot line, thus a 2-foot variance is requested. The proposed deck will also be 20 feet from front property line, thus a 20-foot variance is requested. The comments do go on to say that if the deck is less than 8 feet in height, a side setback of 5 feet can be considered. This deck as stated is only 5 feet high, thus if a 5-foot setback is allowed, a variance to the site lot line is not necessary.

The second variance is required pursuant to Article 17-8-702 of County Code which states that no new lot coverage is permitted nearer to the shoreline than the closest façade of the existing dwelling. We will include this in this variance request despite the fact that there is some confusion as to why a 200 square foot, pervious deck is being considered as lot coverage.

Finally, the reviewer stated that the site plan shows the proposed scope of work to cause disturbance to steep slopes and that disturbance within slopes of 15% or greater is prohibited in the critical area (LDA). Again, we will include that variance request here despite showing that the slopes on the property have been removed and graded flat, reinforced and stabilized by engineered retaining walls.

If the fact that the slopes have been removed, the open pervious deck is not considered lot coverage, and the height allows the side setback to be 5 feet, then we would only be requesting a singular variance for the setback reduction from the required 40 feet to the front lot line down to 20 feet.

The Administrative Hearing Officer may vary or modify the provisions of the zoning code when it is alleged that practical difficulties or unnecessary hardships prevent conformance with the strict letter of the article, provided the spirit of law is observed, public safety secured, and

substantial justice done. Each of those provisions apply to this case and the following findings are being presented.

There are certainly unique physical conditions that exist on this lot. Most importantly, the lot, being waterfront, previously had very steep slopes leading to the water. That topography creates the environmental condition that affects the approval of the deck. However, as has been shown and is evidenced by reviewing the site plan, the owner took exceptional expense to grade those slopes in a stair-stepped manner. These areas are now completely flat and level, reinforced and stabilized by engineered retaining walls.

Furthermore, the owner was previously forced to install a non-traditional septic disposal system. This system is a BAT system which does not employ traditional drain fields due to the fact that the lot is too narrow and has no place to put the system. The system was just required in 2019. As you can see from reviewing the site plan, that system blocks any usable area of the water side of the property. The owner therefore cannot place a deck on their existing dwelling like almost every other homeowner can; and this ultimately was due to the lot's narrowness. Because of this, the open stair-stepped location is literally the only location that an open deck could be placed, thus requiring the setback variance. This septic disposal location and condition is completely peculiar and inherent in this particular lot, and there is no reasonable possibility of constructing a deck in conformance with the article.

This peculiarity creates an exceptional circumstance. Because of this circumstance, which is not a financial consideration, the granting of this variance is necessary to avoid practical difficulties and unnecessary hardships. Not granting the variance would confer upon the owner a constriction that nearly no other homeowner would have. Nearly everyone can improve upon their physical rear amenity space by constructing a similar structure. Specifically on waterfront properties, decks are nearly ubiquitous in order to enjoy the very environmental feature they paid for. Yet in this case, the only way to do that is by requesting the variance.

As this property is waterfront and thus in the critical area, the critical area requirements for a variance are discussed here as well. The explanation above suffices to address the first requirement, which is the fact that the slopes platted on this property no longer exist. Furthermore, the deck is only 200 square feet and pervious in that there are gaps between the deck boards. Therefore, this should not be counted as lot coverage and the need for the variance for lot coverage nearer to the water than the closest façade of the dwelling should not be required. Regardless, if it were required, it is only needed because there is no other place to put the deck due to the other restrictions discussed. The variance for the setback only applies because of the consideration of the water side to be the front yard; otherwise setbacks could be met.

A literal interpretation of COMAR, Title 27, Criteria for Local Critical Area Program Development or the County's critical area program and related ordinances would absolutely deprive the applicant of rights commonly enjoyed by other properties in similar areas as permitted in accordance with the provisions of the critical area program within the county. This is because this property was confined by the septic standards and now has no location to place an open deck like nearly all other owners can. Furthermore, the owner took the expense on themselves to grade and stabilize the slopes; a process that the county reviewed, approved, and inspected, in order to

no longer consider the slopes to exist. This newly flattened stable area is the only place the deck can go.

Conversely, the granting of this variance will not confer on this applicant any special privilege that would be denied by COMAR, Title 27, the County's critical area program to other lands or structures within the County critical area. Mainly this is because very few would have the need for the same variance as very few would find their lot in this circumstance. Most other land owners in the critical area would have the opportunity to construct a similar structure somewhere on their lot without the need to obtain a variance for environmental impact. Furthermore, few have taken the steps to grade their steep slopes.

The variance request is not based on conditions or circumstances that are the result of actions by the applicant. As stated, the owner went through several permit processes to bring the property up to current code. This includes the upgrade to the septic disposal as well as the grading for environmental features. The grading included expensive, engineered retaining walls. But it is the expensive, alternative septic disposal system location that precludes any logical deck location that would not require a variance. None of those unique constrictions are due to the desire of the property owner.

The granting of the variance will not adversely affect water quality or adversely impact fish, wildlife, or plant habitat within the County's critical area in any way. The project will be in harmony with the general spirit and intent of the County's critical area program as it is an open deck structure that is approved on nearly every other property, even those in the critical area. It will be constructed on post and pier foundation specifically to minimize ground disturbance and will be located in a newly graded and level stabilized and reinforced area.

There is no bog or expanded buffer, and has been shown, there are no longer steep slopes on the property. And the applicant has shown here that they have overcome the presumption contained in the Natural Resources Article, § 8-1808, of the State Code in that they have minimized their request to the maximum extent possible. This has been evidenced by the minimized design with little to no ground impact, as well as a location chosen specifically due to its stability which was created and reinforced by the owners themselves. Finally, the applicant did in fact evaluate site planning alternatives in accordance with § 18-16-201 (c), but no alternatives at all exist.

As required for any variance, not just critical area ones, this variance is in fact the minimum necessary to afford relief. The proposed deck is open and pervious, and modest in size. The owner has also chosen a location that is less than ideal. Any homeowner would prefer their deck amenity to be attached to their house, but the applicant cannot place it there. They have instead responsibly chosen the best location for the structure.

The granting of the variance will not alter the essential character of the neighborhood or district in which the lot is located. This is a residential neighborhood and decks are the norm, not the exception. The variance will also not substantially impair the appropriate use or development of adjacent property. As this is an ordinary open deck on a residential property, adjacent properties are not affected in any way. This is not a large boat house or addition which would block light and air; it is an open deck with no effect.

The variance will not reduce forest cover in the limited development area of the critical area in any way. There are no trees or shrubs at all on the rear of the property which can be seen on aerial views, so no trees or shrubs of any kind need to be removed for this project. Furthermore, the granting of the variance will also not be contrary to acceptable clearing and replanting practices required for development in the critical area mainly because as has already been stated, no clearing is necessary. Should more planting be required due to this project, the applicant will adhere to whatever is required.

Finally, the granting of the variance will not be detrimental to the public welfare in any way. Again, this is a residential deck. The public have no access to the property and will not be affected by the deck construction.

To note, the property does not have any outstanding violation so the provisions accompanying variance approvals for critical area properties that have violations does not apply to this case. Furthermore, should the Office of Planning and Zoning require planting, any provisions of that requirement such as timing as related to planting seasons will be adhered to by the applicant. There will be no lapse to any critical area requirements made under a variance approval, and this property is entirely in the LDA with no parts in the RCA designation (so no density considerations apply). Also, this property is not within the Odenton Growth Management Area District.

Thank you in advance for your consideration and for the reasons contained herein, we respectfully request your support for this variance application.

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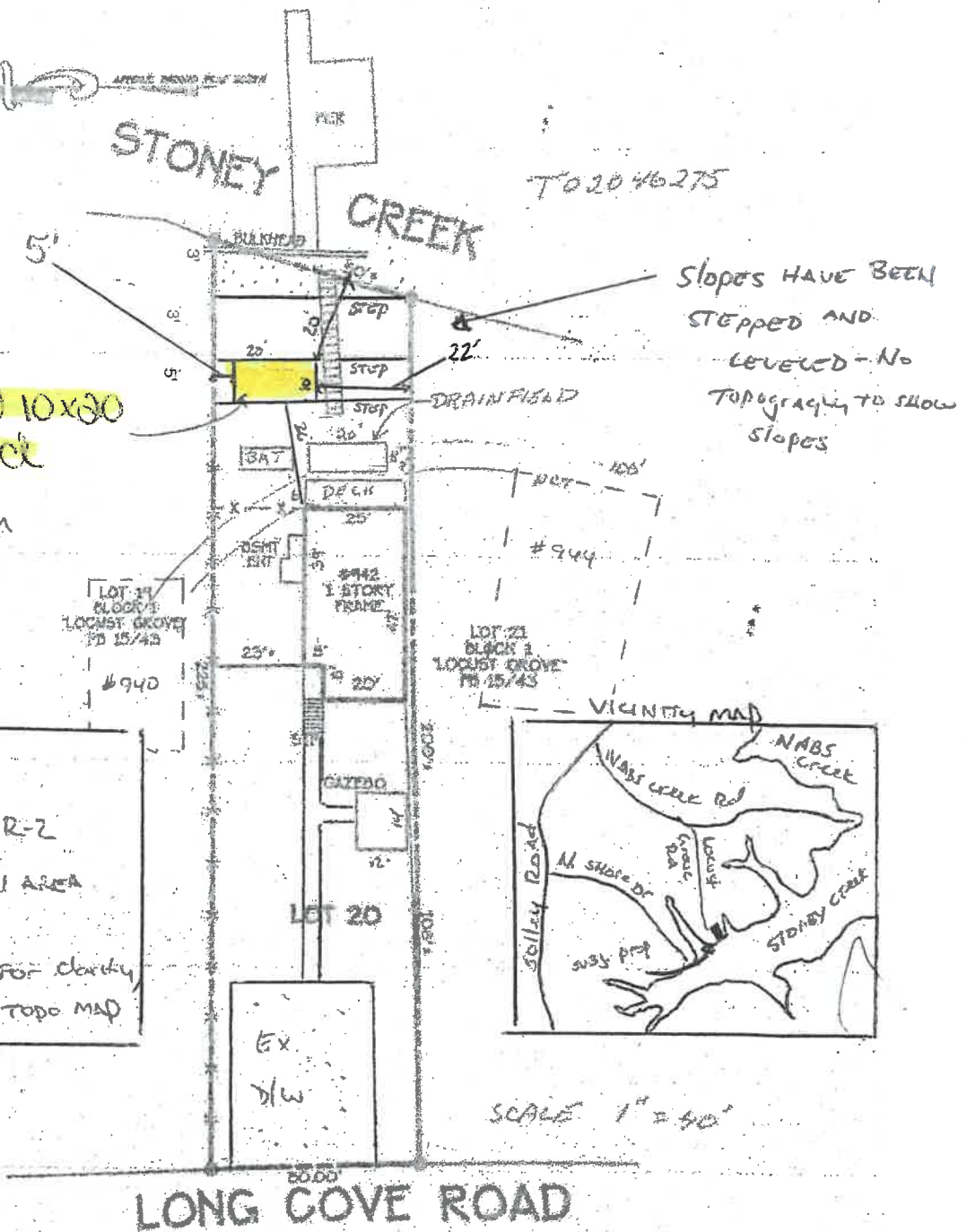
THIS IS A TWO PAGE document and is not valid without both pages. See page two (or reverse) for Survey Notes.

Lot Coverage
 EX. HOUSES = 1175 SF
 EX. GARAGE = 168 SF
 EX. DRIVE = 1462 SF
 EX. SLW = 304 SF
 TOTAL EX. = 3709 SF
 PROP. DECK = 200 SF
 TOTAL EX/PROP = 3909 SF

Proposed 10x30 Open Deck

OWNER: DAVID HOFF - MARIA SZURUM
 942 Long Cove Rd
 Glen Burnie MD 21060
 CONTRACTOR: AM MASTERS HOME SVCS
 7609 Energy Pkwy #801
 Baltimore MD 21226

NOTES:
 1. ENTIRE LOT Zoned R-2
 2. ENTIRE LOT CRITICAL AREA Designation is LDA
 3. Topography omitted for clarity please see provided topo map



I hereby certify that the improvement hereon, to the best of

TITLE BLOCK
 Project: HOFF DECK
 Map: 0011
 Block: 1
 Parcel: 0039
 District: 03
 Date: 11/1/2024

SPECIFIC PROJECT INFORMATION

Describe Proposed use of project site:

Construct 10x20 open deck that does not meet the 40' front setback (waterfront) and which is new lot coverage closer to the water than the closest facade of the ex. dwelling

Intra-Family Transfer	<input type="checkbox"/>	Growth Allocation	<input type="checkbox"/>
Grandfathered Lot	<input type="checkbox"/>	Buffer Exemption Area	<input 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	—	—		.005	200
LDA Area	.248	10,824			
RCA Area	—	—			
Total Area	.248	10,824	# of Lots Created		

	Acres	Sq Ft		Acres	Sq Ft
Existing Forest/Woodland/Trees	.007	300	Existing Lot Coverage	.071	3109
Created Forest/Woodland/Trees	—	—	New Lot Coverage	.005	200
Removed Forest/Woodland/Trees	—	—	Removed Lot Coverage	—	—
			Total Lot Coverage	.076	3309

VARIANCE INFORMATION (Check all that apply)

	Acres	Sq Ft		Acres	Sq Ft
Buffer Disturbance	.05	200	Buffer Forest Clearing	—	—
Non-Buffer Disturbance	—	—	Mitigation	—	—

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 Narrative

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

The existing and proposed use of the subject property is residential. There is an existing single family dwelling with an alternative BAT septic disposal area directly behind the dwelling. Thus the proposed open 10x20 deck will be detached and beyond that system, in the physical rear of the property which is the waterfront side.

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

The predominant vegetation on the subject property are all native to the county. Most of the vegetation are shrubs such as azaleas. The property is 10,824 square feet with very little vegetation coverage. It is calculated that there are 300 square feet of vegetation. No trees or shrubs will need to be cleared for this replacement project.

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

There will be no impact on water quality and habitat from the proposed construction. The new deck is proposed to occupy a recently graded, stabilized and reinforced level area created by retaining walls. The deck will utilize post/pier foundation to minimize ground disturbance. Regardless, should silt fence or other methods be required, the owner will comply.

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

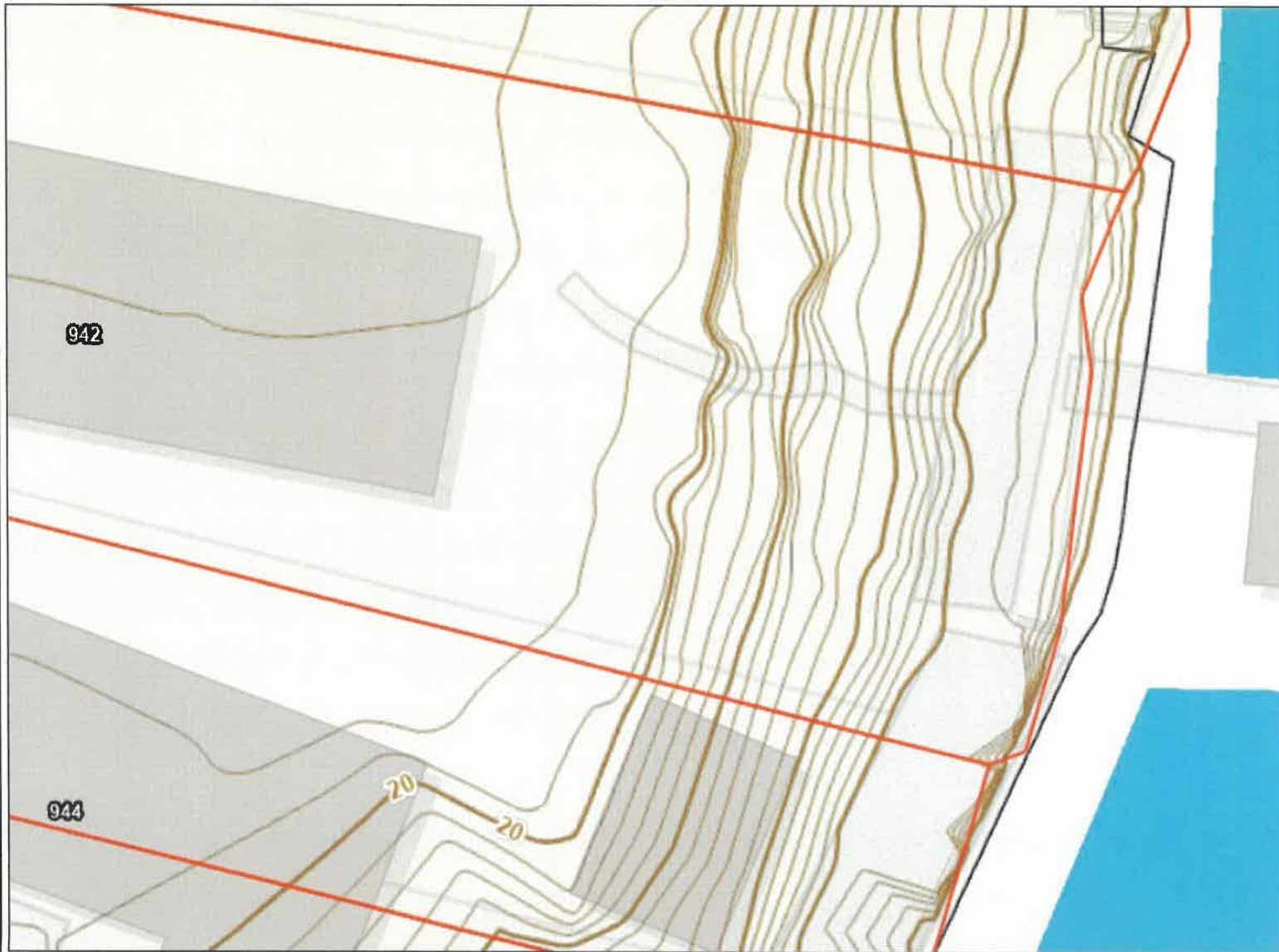
The existing impervious surface calculation is 3,109 square feet. The 10x20 proposed open deck is pervious, thus no new impervious is proposed.

- 5. If applicable, describe any habitat protection areas on the subject property including expanded buffers, steep slopes of 15% or greater, rare and endangered species, anadromous fish propagation waters, colonial waterbird nesting sites, historic**

waterfowl staging and concentration areas, riparian forests, natural heritage areas, and plant and wildlife habitats of local significance.

The lot has platted steep slopes of 15% or greater, however these have been graded and removed. The retaining walls and grading was reviewed, approved, and inspected by the county. Beyond this there are no areas of rare and endangered species, anadromous fish propagation waters, colonial waterbird nesting sites, historic waterfowl staging and concentration areas, riparian forests, natural heritage areas, or plant and wildlife habitats of local significance.

Topographic Map - Lot outline ref only NOT exact



Legend

Foundation
Addressing



Parcels



Elevation

Topo 2023

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Intermediate

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Notes 1" = 20 ft



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Structure

County Structure



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Notes 1" = 200 ft



OFFICE OF PLANNING AND ZONING

CONFIRMATION OF PRE-FILE (2024-0109-P)

DATE OF MEETING: 11/22/2024

P&Z STAFF: Sara Anzelmo, Kelly Krinetz

APPLICANT/REPRESENTATIVE: D. Hoff/Applied and Approved Permits EMAIL: michelle@appliedandapproved.com

SITE LOCATION: 942 Long Cove Road, Glen Burnie LOT SIZE: 25,537 sf ZONING: R2, MA2, OS

CA DESIGNATION: LDA BMA: N/A or BUFFER: Expanded APPLICATION TYPE: Critical Area Variance

The applicant seeks approval to construct a detached 10' by 20' (200 square foot) deck in the front (waterfront) yard. The proposal would necessitate variances to allow new Critical Area lot coverage nearer to the shoreline than the closest facade of the existing principal structure, to allow disturbance to slopes of 15% or greater in the LDA, and to allow an accessory structure with less setbacks than required.

COMMENTS

The **Critical Area Team** commented that they cannot support this request. COMAR defines lot coverage as the percentage of a lot that is covered with gravel, stone, shell, decking, etc. The proposed improvement qualifies as decking and does not qualify for the exemption for a deck.

The **Zoning Administration Section** concurs with the Critical Area Team that a detached deck is considered critical area lot coverage and that the critical area variance to allow 200 square feet of new critical area lot coverage between the house and the shoreline (and only 20 feet from the shoreline) cannot be supported. If all portions of the proposed deck (including the deck rails) are less than eight above grade, then the side setback requirement would be reduced to five feet. In order for a Critical Area variance to be approved, the applicant must demonstrate and the Hearing Officer must find that the proposal complies with each and every one of the Critical Area variance standards provided under Section 18-16-305(b) and (c) of the Anne Arundel County Zoning Ordinance.

INFORMATION FOR THE APPLICANT

Section 18-16-201 (b) Pre-filing meeting required. Before filing an application for a variance, special exception, or to change a zoning district, to change or remove a critical area classification, or for a variance in the critical area or bog protection area, an applicant shall meet with the Office of Planning and Zoning to review a pre-file concept plan or an administrative site plan. For single lot properties, the owner shall prepare a simple site plan as a basis for determining what can be done under the provisions of this Code to avoid the need for a variance.

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

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.