

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


**APPLICANT:** Justin Studebaker

**ASSESSMENT DISTRICT:** 3

**CASE NUMBER:** 2024-0225-V

**COUNCILMANIC DISTRICT:** 3

**HEARING DATE:** February 13, 2025

**PREPARED BY:** Donnie Dyott Jr.   
Planner

**REQUEST**

The applicant is requesting a variance to allow a dwelling addition (deck) with less setbacks than required on property located at 7653 Berry Drive in Pasadena.

**LOCATION AND DESCRIPTION OF SITE**

The subject site consists of 5,000 square feet of land and is located with 50 feet of frontage on the east side of Berry Drive. It is identified as Lot 13 of Parcel 78 in Grid 2 on Tax Map 17 in the Pine Haven subdivision.

The property is zoned R5 – Residential District. The lot is not waterfront, but it is located entirely within the Chesapeake Bay Critical Area and is designated as IDA – Intensely Developed Area. It is improved with a two-story single-family dwelling with a basement, a rear deck, and a shed.

**PROPOSAL**

The applicant proposes to construct an irregularly shaped deck with steps to grade onto the front of the dwelling. The deck would span the full 28.3 foot width of the house and would measure 8 feet deep for 17.4 feet of its length, transitioning to 6 feet deep for the remaining 10.9 feet of length. The total deck area would be approximately 205 square feet including the steps.

**REQUESTED VARIANCES**

§ 18-4-701 of the Anne Arundel County Zoning Code provides that a principal structure in an R5 District shall be set back a minimum of 25 feet from the front lot line. The proposed deck would be constructed 18 feet from the front lot line, necessitating a variance of seven feet.

**FINDINGS**

The subject property is rectangular in shape and is undersized for the zoning district. More specifically, the 50-foot wide lot is narrower than the minimum 60-foot width required, and the 5,000 square foot lot size is less than the minimum 7,000 square foot area currently required for new lots in an R5 District.

The applicant's letter explains that the variance is essential to maximizing the functionality and usability of the property, enhancing its overall livability while maintaining its aesthetic alignment with the surrounding neighborhood.

The **Health Department** commented that the property is served by public water and sewer facilities. Therefore, 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 and inherent in the particular lot or because of exceptional circumstances other than financial, 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 applicant. There does not appear to be anything unique about the subject property nor do exceptional circumstances exist that would prevent the applicant from developing the lot without a variance.

While the lot is undersized by today's Code standards, the size is not unique to this particular property in this older waterfront community and is comparable to many of the nearby lots. The property is already developed with a typical dwelling and associated facilities. The existing rear deck provides an area for outdoor use and enjoyment. More importantly, there is ample room in the rear yard for construction of a much larger deck without a variance. No justification has been provided to support the need for a front deck, especially one that expands the entire 28.3 foot width of the house.

Approval of the variance would not necessarily alter the essential character of the neighborhood, substantially impair the appropriate use or development of adjacent property, or be detrimental to the public welfare. However, because the applicant already has reasonable use of this residential property and because other options exist that would allow for expansion of the existing outdoor amenity area without the need for a variance, the requested variance is not warranted and cannot be considered the minimum necessary to afford relief.

### **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 the requested zoning setback variance.

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.

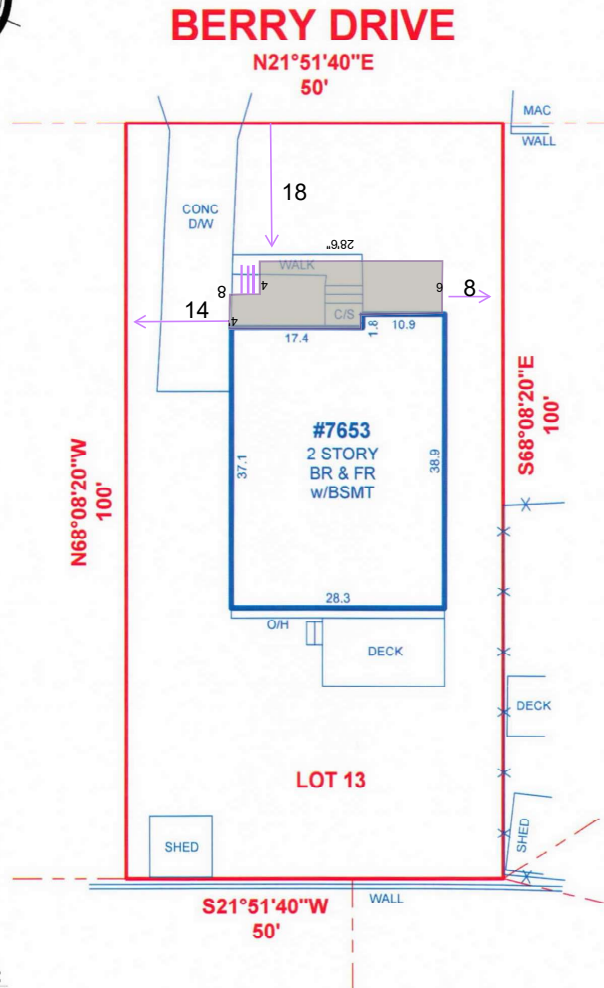
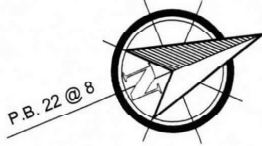
THIS DOCUMENT IS CERTIFIED TO:

**Maryland**  
**DECKING**



**Maryland**  
**DECKING**

CASE #: \*\*\*\*\*



THE LEVEL OF ACCURACY OF  
DISTANCES TO APPARENT  
PROPERTY LINES IS: **2' ±**

LOCATION DRAWING OF:

**#7653 BERRY DRIVE**  
**LOT 13**  
**BLOCK C**  
**PINE HAVEN ON STONEY CREEK**  
**PLAT BOOK 22, PLAT 8**

ANNE ARUNDEL COUNTY, MARYLAND

SCALE: 1"=20' DATE: 06-17-2022

DRAWN BY: SM FILE #: 226607-761

**LEGEND:**

- X- FENCE
- B/E BASEMENT ENTRANCE
- B/W BAY WINDOW
- BR BRICK
- BRL BLDG. RESTRICTION LINE
- BSMT BASEMENT
- C/S CONCRETE STOOP
- CONC CONCRETE
- D/W DRIVEWAY
- Ex EXISTING
- FR FRAME
- MAC MACADAM
- N/F NOW OR FORMERLY
- O/H OVERHANG
- PUE PUBLIC UTILITY ESMT.
- PIE PUBLIC IMPROVEMENT ESMT.

**COLOR KEY:**

- (RED) RECORD INFORMATION
- (BLUE) IMPROVEMENTS
- (GREEN) ESMTS & RESTRICTION LINES

A Land Surveying Company

**DULEY**  
and  
**Associates, Inc.**

Serving D.C. and MD.

14604 Elm Street, Upper Marlboro, MD 20772

Phone: 301-888-1111

Fax: 301-888-1114

Email: [orders@duley.biz](mailto:orders@duley.biz)

On the web: [www.duley.biz](http://www.duley.biz)

**SURVEYOR'S CERTIFICATE**

I HEREBY STATE THAT I WAS IN RESPONSIBLE CHARGE OVER THE PREPARATION OF THIS DRAWING AND THE SURVEY WORK REFLECTED HEREIN AND IT IS IN COMPLIANCE WITH THE REQUIREMENTS SET FORTH IN REGULATION 12 CHAPTER 09.13.06 OF THE CODE OF MARYLAND ANNOTATED REGULATIONS. THIS SURVEY IS NOT TO BE USED OR RELIED UPON FOR THE ESTABLISHMENT OF FENCES, BUILDING, OR OTHER IMPROVEMENTS. THIS PLAT DOES NOT PROVIDE FOR THE ACCURATE IDENTIFICATION OF PROPERTY BOUNDARY LINES, BUT SUCH IDENTIFICATION MAY NOT BE REQUIRED FOR THE TRANSFER OF TITLE OR SECURING FINANCING OR REFINANCING. THIS PLAT IS OF BENEFIT TO A CONSUMER ONLY INsofar AS IT IS REQUIRED BY A LENDER OR A TITLE INSURANCE COMPANY OR ITS AGENTS IN CONNECTION WITH THE CONTEMPLATED TRANSFER, FINANCING OR REFINANCING. THE LEVEL OF ACCURACY FOR THIS DRAWING IS 2' ±. NO TITLE REPORT WAS FURNISHED TO NOR DONE BY THIS COMPANY. SAID PROPERTY SUBJECT TO ALL NOTES, RESTRICTIONS AND EASEMENTS OF RECORD. BUILDING RESTRICTION LINES AND EASEMENTS MAY NOT BE SHOWN ON THIS SURVEY. IMPROVEMENTS WHICH IN THE SURVEYOR'S OPINION APPEAR TO BE IN A STATE OF DISREPAIR OR MAY BE CONSIDERED "TEMPORARY" MAY NOT BE SHOWN. IF IT APPEARS ENCROACHMENTS MAY EXIST, A BOUNDARY SURVEY IS RECOMMENDED.



**DULEY & ASSOC.**

**WILL GIVE YOU A 100%  
FULL CREDIT TOWARDS  
UPGRADING THIS  
SURVEY TO A  
"BOUNDARY/STAKE"  
SURVEY FOR ONE  
YEAR FROM THE DATE  
OF THIS SURVEY.**

(EXCLUDING D.C. & BALT. CITY)

## **Existing Structure**

The existing house is 37.1 feet by 28.3 feet, totaling 1,706 square feet. It is a two-story structure, positioned 14 feet and 18 feet from the side property lines, 25 feet from the front property line, and 38 feet from the rear property line.

## **Proposed Structure**

The proposed deck will be 28.3 feet wide, with a depth of 8 feet for 17.4 feet of its length, transitioning to a depth of 6 feet for the remaining 10.9 feet. This deck will be built on the front of the home. This structure requires a setback variance as it will extend within 25 feet of the property line.

## **Justification for Variance Request**

The variance is essential to maximize the functionality and usability of the property, enhancing its overall livability while maintaining its aesthetic alignment with the surrounding neighborhood.

## **Impact on Neighborhood**

The proposed deck is designed to blend with the architectural style of the existing home and neighboring properties. The structure will not obstruct sightlines, impair privacy, or negatively affect the character of the community. Its construction aligns with the common features of homes in the area, many of which include similar additions.

**A. Proposed Use**

The proposed project involves the addition of a deck to the lower floor at the front of a residential property. This development is strictly residential and will enhance the outdoor living space without altering the primary use of the property.

**B. Vegetation**

The property features four trees and minimal shrubbery. None of these trees or existing vegetation will be disturbed by the proposed deck addition. The property is predominantly landscaped with lawn and minimal vegetated coverage with trees and shrubs.

**C. Water Quality and Habitat Impact Minimization**

The proposed deck construction will have no impact on stormwater management or surrounding habitat. Erosion and sediment control methods, such as a silt fence, will be employed during construction to minimize any potential temporary disturbance.

**D. Impervious Surface**

The impervious surface area will remain unchanged as the proposed deck will be constructed in an area that does not currently contribute to additional impermeable coverage.

**E. Habitat Protection Areas**

No habitat protection areas, such as buffers, steep slopes, rare species habitats, or significant plant and wildlife areas, are present on the property. The proposed project does not encroach upon or impact any such areas.

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: 12/5/24

Tax Map #	Parcel #	Block #	Lot #	Section
17	102082	C	13	

Tax ID:	365019061000
---------	--------------

**FOR RESUBMITTAL ONLY**

Corrections	<input type="checkbox"/>
Redesign	<input type="checkbox"/>
No Change	<input type="checkbox"/>
Non-Critical Area	<input type="checkbox"/>

\*Complete Only Page 1  
General Project Information

Project Name (site name, subdivision name, or other)	Pine Haven on Stoney Creek
--	----------------------------

Project location/Address	7653 Berry Dr
--------------------------	---------------

City	Pasadena	Zip	21122
------	----------	-----	-------

Local case number	
-------------------	--

Applicant:	Last name	Studebaker	First name	Justin
------------	-----------	------------	------------	--------

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:

Addition of deck to front of residence.

Intra-Family Transfer	Yes <input type="checkbox"/>	Growth Allocation	Yes <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)

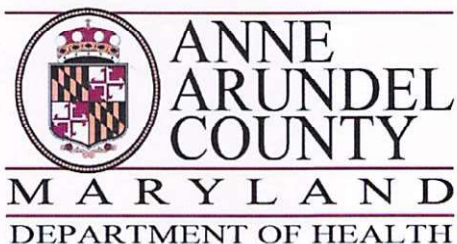
	Acres	Sq Ft	Total Disturbed Area	Acres	Sq Ft
IDA Area		5000			5000
LDA Area					
RCA Area					
Total Area					

	Acres	Sq Ft		Acres	Sq Ft
Existing Forest/Woodland/Trees			Existing Lot Coverage		
Created Forest/Woodland/Trees			New Lot Coverage		
Removed Forest/Woodland/Trees			Removed Lot Coverage		
			Total Lot Coverage		

## VARIANCE INFORMATION (Check all that apply)

	Acres	Sq Ft		Acres	Sq Ft
Buffer Disturbance			Buffer Forest Clearing		
Non-Buffer Disturbance			Mitigation		

<u>Variance Type</u>		<u>Structure</u>	
Buffer	<input type="checkbox"/>	Acc. Structure Addition	<input type="checkbox"/>
Forest Clearing	<input type="checkbox"/>	Barn	<input type="checkbox"/>
HPA Impact	<input type="checkbox"/>	Deck	<input checked="" type="checkbox"/>
Lot Coverage	<input type="checkbox"/>	Dwelling	<input type="checkbox"/>
Expanded Buffer	<input type="checkbox"/>	Dwelling Addition	<input type="checkbox"/>
Nontidal Wetlands	<input type="checkbox"/>	Garage	<input type="checkbox"/>
Setback	<input checked="" type="checkbox"/>	Gazebo	<input type="checkbox"/>
Steep Slopes	<input type="checkbox"/>	Patio	<input type="checkbox"/>
Other	<input type="checkbox"/>	Pool	<input type="checkbox"/>
		Shed	<input type="checkbox"/>
		Other	<input type="checkbox"/>




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](http://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 

DATE: December 16, 2024

RE: Justin D. Studebaker  
7653 Berry Drive  
Pasadena, MD 21122

NUMBER: 2024-0225-V

SUBJECT: Variance/Special Exception/Rezoning

The Health Department has reviewed the above referenced variance to allow a dwelling addition (deck) with less setbacks than required.

The Health Department has reviewed the above-referenced request. The property is served by public water and sewer facilities. The Health Department has no objection to the above-referenced request.

If you have further questions or comments, please contact Brian Chew at 410-222-7413.

cc: Sterling Seay



BERRY DR

7658

7654

7652

7657

7655

7653

7651



7662

7658

7639

763