



McHALE
LANDSCAPE
DESIGN, INC.

Annapolis Office
911 West Street
Annapolis, MD 21401
(410) 990-0894

Easton Office
29459 Pintail Drive
Easton, MD 21601
(410) 770-9449

Green Gardens Office
23023 Frederick Road
Clarksburg, MD 20871
(301) 972-9090

Virginia Office
6819 Tennyson Drive
McLean, VA 22101
(703) 760-8600

Corporate Office
6212 Leapley Road
Upper Marlboro, MD 20772
(301) 599-8300

mchalelandscape.com
info@mchalelandscape.com

LETTER OF EXPLANATION

115 BAY DR ANNAPOLIS MD 21403

Owners – Jason and Julie Nogueira

Applicant – McHale Landscape Design – Matthew Rhoderick

The following letter of explanation is for the Pre-File application for a Variance Request for 115 Bay Drive, Annapolis, MD 21403 by McHale Landscape Design (*Applicant*) on the behalf of Jason and Julie Nogueira (*Owner*). This project was submitted previously via permit application AACO Record# **B02432233**. On 12/16/24 we received a comment made by **Deepa Sapkota** referencing § 18-2-204 (4) informing us that a variance was required. This application in response to that comment copied below:

- *It's a water view site. Per code Accessory structures § 18-2-204 (4) an accessory structure may not be located in the front yard of a non-waterfront lot. So Barry Ave is considered as front side lot line. You cannot have a pool in front yard of a non-waterfront lot without approved variance. Please contact the Office of Planning and Zoning, Zoning Division at (410) 222-7437 for additional information concerning the variance process and or any questions you may have concerning the setback requirements or you may contact Sterling Seay at 410 222- 6761 for variance process.*

Property Description:

The property at 115 Bay Drive is a 22,622-square-foot rectangular lot with dual front yard classifications along Barry Ave and Bay Drive. These dual frontages create two designated front yards for the property. Access to the site is provided by a two-track driveway from Barry Ave.

The Barry Ave frontage is screened by dense vegetation, giving it the functional and visual characteristics of a traditional rear yard despite its legal classification as a front yard. The property contains an existing two-story residence with a total above-grade living area of 4,838 square feet and an attached garage located near the center of the lot.

Setbacks for the Existing Residence

- 10' from the north side property line.
- 11' from the south side property line.
- 130' from the Barry Ave front property line.
- 70' from the Bay Drive front property line.
- 295' from the Mean High-Water Line.

The lot features a relatively flat area along the Barry Ave frontage, transitioning into a gentle slope toward the Bay Drive frontage, which opens to scenic water views of the Chesapeake Bay. The surrounding Bay Ridge neighborhood is characterized by similarly configured lots with dual front yard classifications, including properties on Bay Drive with pools (e.g., 123 Bay Drive, 42 River Drive, and 85 Bay Drive).

The proposed pool would be situated in the Barry Ave frontage, positioned to minimize its impact on the property's natural features and character. The proposed setbacks for the pool are as follows:

Setbacks to Proposed Pool

- 9'3" from the north side property line.
- 50'10" from the south side property line.
- 77'6" from the Barry Ave front property line.
- 165'1" from the Bay Drive front property line.
- 295' from the Mean High-Water Line.



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Project Description:

The proposed project seeks a variance to § 18-2-204(4) to permit the construction of a 16' x 36' swimming pool within the front yard of the property. The proposed pool location will comply with all other applicable zoning requirements, including standard yard setbacks and lot coverage limitations (Net 10% Reduction).

Requirements For All Variances:

§ Article 18-16-305(c)

1) the variance is the minimum variance necessary to afford relief; and

- i. The requested variance is the minimum necessary to afford relief because the property's unique layout and constraints, primarily the presence of two front yards (Barry Ave and Bay Drive), make it impractical to locate the pool in a different area while maintaining compliance with zoning regulations. After careful consideration, the Barry Ave front yard was selected as the most suitable location for the proposed 16' x 32' pool. This decision was made to minimize impacts on the property's overall appearance and functionality while respecting neighborhood compatibility. Additionally, the proposed 16' x 32' pool is a modestly sized pool compared to the standard 20' x 40' pools commonly installed in similar residential neighborhoods. This demonstrates that the request is reasonable and proportionate, ensuring that the pool is appropriately scaled to the property and surrounding context. This solution minimizes the extent of the variance by limiting it solely to the location of the pool, without requiring additional deviations from other zoning standards.

2) the granting of the variance will not

i. alter the essential character of the neighborhood or district in which the lot is located

- The granting of the variance will not alter the essential character of the neighborhood or district in which the lot is located. There are several examples of pools located on comparable dual front yard lots, such as 123 Bay Drive, 42 River Drive, and 85 Bay Drive, demonstrating that the presence of a pool in this location is consistent with the neighborhood's existing character. Additionally, the neighborhood features numerous pools, further supporting that this aligns with the established pattern of development in the area. Moreover, the selected front yard along Barry Ave is sufficiently and naturally screened, ensuring that the pool will not create any visual disruption or negatively impact the character or aesthetics of the neighborhood.

ii. substantially impair the appropriate use or development of adjacent property

- The proposed pool will not substantially impair the appropriate use or development of adjacent properties. (10 Barry Ave, 113 Bay Drive, 117 Bay Drive, and 1 Decatur Ave) The pool will adhere to all standard yard setback requirements for pools within the R2 zoning district, with the sole exception of the requested variance to build in the front yard due to the property's dual front yard configuration. Furthermore, the Barry Ave front yard, where the pool is proposed to be located, is naturally screened, ensuring that the pool will not intrude upon or negatively impact the use, enjoyment, or development potential of neighboring properties.

iii. reduce forest cover in the limited development and resource conservation areas of the critical area;

- 115 Bay Drive is located within the Limited Development Area of the Critical Area. No forest cover will be removed or disturbed as part of this project. Additionally, the scope of work is entirely located outside the 100-foot Critical Area Buffer, ensuring compliance with all relevant environmental protection standards.

iv. be contrary to acceptable clearing and replanting practices required for development in the critical area or a bog protection area; nor

- The proposed work will not, in any manner, be contrary to acceptable clearing and replanting practices required for development in the Critical Area. The only clearing proposed involves turfgrass and existing lot coverage. (Artificial putting green, gravel, etc.) No forested or environmentally sensitive areas will be impacted by the project.



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v. be detrimental to the public welfare.

- The proposed scope of work will not be detrimental to public welfare. As noted in responses to 2.i. and 2.ii., there are at least three examples of pools located in front yards within the neighborhood, as well as numerous other pools throughout the area. This demonstrates that the project is consistent with existing neighborhood characteristics and does not pose any harm to the public welfare.

Requirements for critical or bog protection area variances:

§ Article 18-16-305(b)

- Because of certain unique physical conditions, such as exceptional topographical conditions peculiar to and inherent in the particular lot or irregularity, narrowness, or shallowness of lot size and shape, strict implementation of the County's critical area program or bog protection program would result in an unwarranted hardship, as that term is defined in the Natural Resources Article, § 8-1808, of the State Code, to the applicant;

 - The requested variance to § 18-2-204(4) does not conflict with the Natural Resources Article, § 8-1808, of the State Code, nor does this application seek a variance under that section. The variance request pertains solely to the local zoning regulations and is not related to the provisions of the Natural Resources Article, which govern critical areas and bog protection. As such, there is no unwarranted hardship created by strict adherence to the County's critical area program or bog protection program in relation to this request.
- A literal interpretation of COMAR, Title 27, Criteria for Local Critical Area Program Development or the County's critical area program and related ordinances will 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 critical area of the County; or

 - The requested variance to § 18-2-204(4) is within the critical area; however, it does not seek a variance from COMAR, Title 27, Criteria for Local Critical Area Program Development, or the County's critical area program. The variance request pertains solely to local zoning regulations and does not seek to alter or waive any provisions of the critical area program that would deprive the applicant of rights commonly enjoyed by other properties in similar areas under the established program.
- The granting of a variance will not confer on an 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, or the County's bog protection program to other lands or structures within a bog protection area;

 - The requested variance to § 18-2-204(4) is within the critical area; however, it does not seek a variance from COMAR, Title 27, Criteria for Local Critical Area Program Development, or the County's critical area program. The variance request pertains solely to local zoning regulations and does not seek to alter or waive any provisions of the critical area program that would deprive the applicant of rights commonly enjoyed by other properties in similar areas under the established program.
- The variance request is not based on conditions or circumstances that are the result of actions by the applicant, including the commencement of development before an application for a variance was filed, and does not arise from any condition relating to land or building use on any neighboring property;

 - No development related to this variance request has commenced prior to the submission of this application. Additionally, the request does not arise from any condition related to the land or building use of any neighboring property, nor has it been caused by any actions taken by the applicant.



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- v. The granting of a variance will not adversely affect water quality or adversely impact fish, wildlife, or plant habitat within the County's critical area or a bog protection area and will be in harmony with the general spirit and intent of the County's critical area program or bog protection program;
- The granting of this variance will not adversely affect water quality or negatively impact fish, wildlife, or plant habitat within the County's Critical Area or a bog protection area. No development will occur on steep slopes, within the 100-foot buffer, or in environmentally sensitive areas. Additionally, the property's lot coverage exceedance will be reduced by a net 10% reduction. Best management practices (BMPs) will be fully implemented to ensure minimal environmental impact, maintaining compliance with all relevant regulations and promoting the protection of water quality and habitat.
- vi. The applicant for a variance to allow development in the 100-foot upland buffer has maximized the distance between the bog and each structure, taking into account natural features and the replacement of utilities, and has met the requirements of § 17-9-208 of this Code;
- No development will occur within the 100-foot upland buffer. The proposed project is fully compliant with the requirements of § 17-9-208 of this Code, and no structures or activities will impact this protected area.
- vii. The applicant, by competent and substantial evidence, has overcome the presumption contained in the Natural Resources Article, § 8-1808, of the State Code; and
- viii. The applicant has evaluated and implemented site planning alternatives in accordance with § 18-16-201(c).
- The requested variance to § 18-2-204(4) does not impact or conflict with the provisions of the Natural Resources Article, § 8-1808, of the State Code, nor does it impede compliance with § 18-16-201(c) regarding site planning alternatives. The variance request is in alignment with all applicable regulations and has been carefully considered to ensure compliance with relevant environmental and zoning standards.

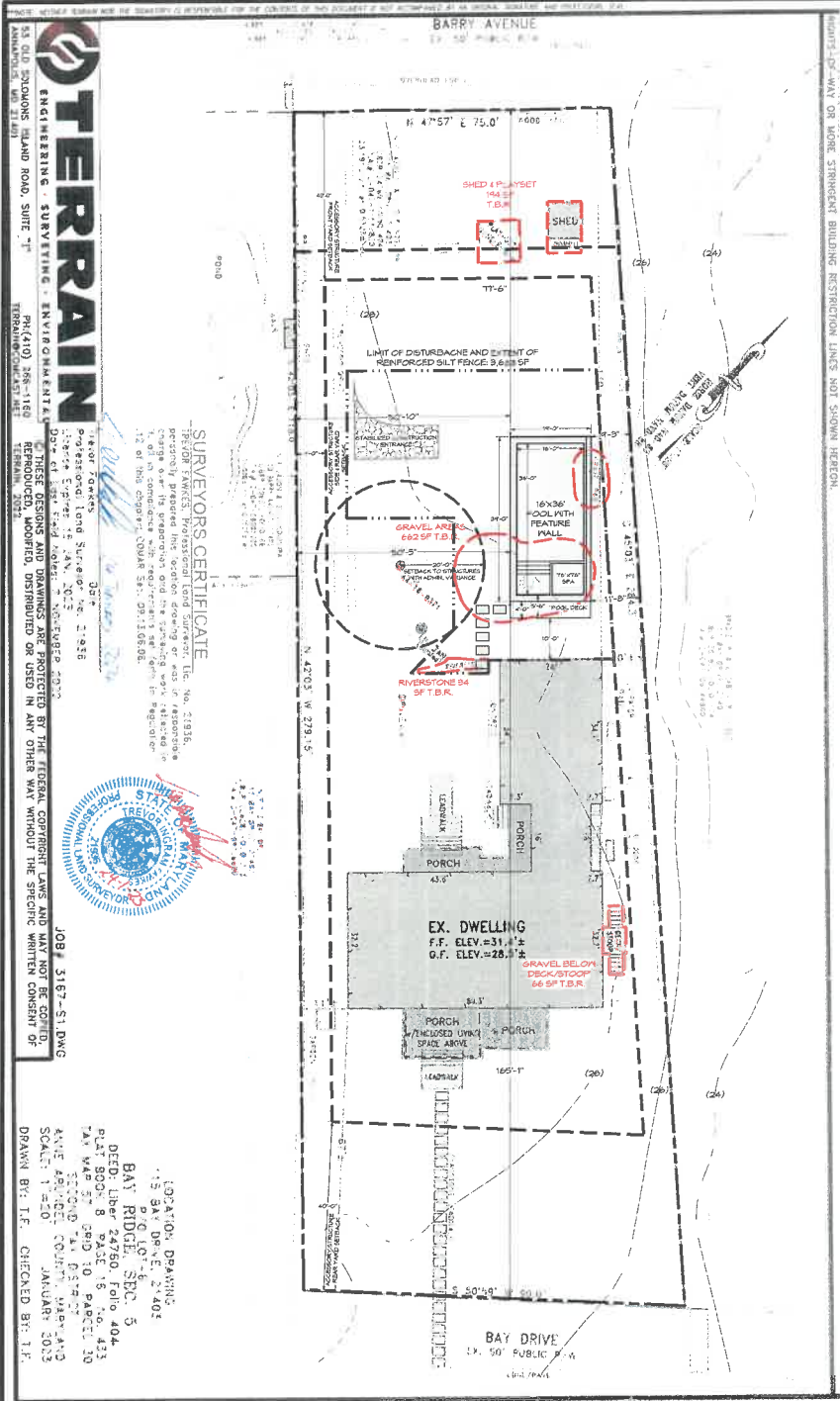
We would like to express our gratitude to all parties involved in the review of this variance application. We look forward to your continued review and to working alongside you throughout this process.

Sincerely,

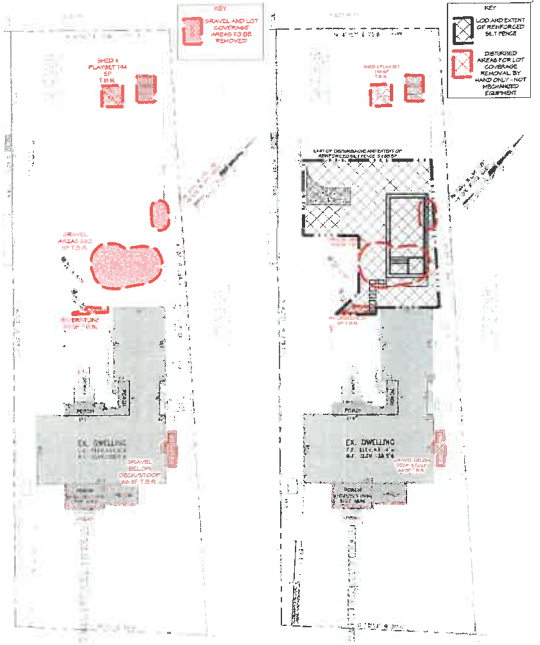
Applicant Information:

- McHale Landscape Design MHIC #29697
 - o 911 West Street, Annapolis, MD 21401
 - o (410)-990-0894
- Matthew Roderick – Registered Landscape Architect, #3731
 - o (301)-512-8234
 - o Mattr@mchalelandscape.com

Revised



VICINITY MAP: SCALE: 1" = 1,000'0"



LOT COVERAGE REMOVAL DIAGRAM: SCALE 1" = 30'0"

LIMIT OF DISTURBANCE AND SILT FENCE DIAGRAM: SCALE 1" = 30'0"

EX. LOT COVERAGE TABULATIONS	
DWELLING AND ATTACHED APPURTENANCES	3,749 SF
DRIVEWAY/TIRE-STRIPS	1,557 SF
BRICKED LEADWALKS	189 SF
SHED & ADJ. PLAYSET	194 SF
GRAVEL AREA (TRAMPOLINE & PUTTING GREEN)	662 SF
FLAGSTONE WALK	121 SF
TOTAL EXISTING LOT COVERAGE:	6,472 SF
TOTAL EXCEEDED LOT COVERAGE:	1,027 SF
REQUIRED 10% NET LOT COVERAGE REDUCTION:	103 SF
TOTAL ALLOWABLE PROPOSED LOT COVERAGE:	6,369 SF

PRO. LOT COVERAGE TABULATIONS	
DWELLING AND ATTACHED APPURTENANCES (GRAVEL BELOW DECK/STOOP REMOVED -66 SF)	3,683 SF
DRIVEWAY/TIRE-STRIPS (RIVERSTONE REMOVED -34 SF)	1,523 SF
BRICKED LEADWALKS	189 SF
SHED & ADJ. PLAYSET	0 SF
GRAVEL AREA (TRAMPOLINE & PUTTING GREEN)	0 SF
FLAGSTONE WALK	121 SF
PROPOSED 16'x36' POOL (18" COPING)	741 SF
PROPOSED STEPPERS AND PATIO	112 SF
TOTAL PROPOSED LOT COVERAGE:	6,369 SF
TOTAL ALLOWABLE PROPOSED LOT COVERAGE:	6,369 SF
TOTAL REMAINING LOT COVERAGE WITH 10% NEW REDUCTION:	0 SF
AMOUNT OF DISTURBANCE:	3,683 SF
TOTAL SQUARE FOOTAGE OF CONSTRUCTION:	853 SF

SITE INFORMATION	
TOTAL LOT AREA:	23,191 SF
ANNE ARUNDEL COUNTY ZONING:	R2
ANNE ARUNDEL ACCESSORY STRUCTURE FRONT SETBACK:	40 FT
ANNE ARUNDEL ACCESSORY STRUCTURE SIDE & REAR SETBACK:	7 FT
CRITICAL AREA DESIGNATION:	LDA
ALLOWABLE LOT COVERAGE (21,781 - 26,300 SF):	5,445 SF

PROJECT DESCRIPTION:	
Furnish and Install 16'x36' in ground pool with self contained 7'6"x7'6" Spa and Flagstone patio.	
COST OF WORK BY APPLICANT	\$115,000

OWNER INFORMATION	
TAX ACCT#: 02-047-11517820	
SITE ADDRESS: 115 BAY DRIVE, ANNAPOLIS, MD 21403	
SUBDIVISION: BAY RIDGE	
MAP: 0057	
BLOCK: N/A	
PARCEL: 0030	
LOT: 6	
OWNER: JASON AND JULLIE NOGUEIRA	
MAILING ADDRESS: 115 BAY DRIVE, ANNAPOLIS, MD 21403	
EMAIL: JASON.NOGUEIRA@TROWEPRICE.COM	
TELEPHONE: 410-382-8818	

APPLICANT (CONTRACTOR) INFORMATION	
APPLICANT (CONTRACTOR): McHALE LANDSCAPE DESIGN - ANDREW MOORE	
ADDRESS: 6212 LEAPLEY ROAD, UPPER MARLBORO, MD 20772	
EMAIL: ANDREWMM@MCHALELANDSCAPE.COM	
TELEPHONE: 240-565-4069	
LIC. TYPE & #: MHIC 29697	

SCALE: 1" = 20'0"
DATE: 01.16.24
REVISION DATE
SHEET NO.: 1 OF 1

NOGUEIRA RESIDENCE
115 BAY DRIVE,
ANNAPOLIS, MD 21403

ADMINISTRATIVE SITE PLAN

McHALE
LANDSCAPE DESIGN, INC.

911 WEST STREET
ANNAPOLIS, MD 21401
(410) 990-0894
FAX (410) 990-0897
www.mchalelandscape.com

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: 01.16.25

Tax Map #	Parcel #	Block #	Lot #	Section
0057	0030		6	5

Tax ID: 02-047-11517820

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) NOGUEIRA RESIDENCE

Project location/Address 115 BAY DRIVE

City ANNAPOLIS Zip 21403

Local case number

Applicant: Last name MOORE First name ANDREW

Company McHALE LANDSCAPE DESIGN

Application Type (check all that apply):

- | | | | |
|---------------------------|-------------------------------------|-------------------|-------------------------------------|
| Building Permit | <input checked="" 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:

SINGLE FAMILY RESIDENTIAL - FURNISH AND INSTALL POOL

Intra-Family Transfer <input type="checkbox"/> Yes Grandfathered Lot <input type="checkbox"/>	Growth Allocation <input type="checkbox"/> Yes Buffer Exemption Area <input type="checkbox"/>
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Project Type (check all that apply)

Commercial <input type="checkbox"/> Consistency Report <input type="checkbox"/> Industrial <input type="checkbox"/> Institutional <input type="checkbox"/> Mixed Use <input type="checkbox"/> Other <input type="checkbox"/> _____	Recreational <input type="checkbox"/> Redevelopment <input type="checkbox"/> Residential <input checked="" type="checkbox"/> Shore Erosion Control <input type="checkbox"/> Water-Dependent Facility <input type="checkbox"/>
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SITE INVENTORY (Enter acres or square feet)

	Acres	Sq Ft		Acres	Sq Ft
IDA Area			Total Disturbed Area	0.085	3,683
LDA Area	0.519	22,622	# of Lots Created		
RCA Area					
Total Area	0.519	22,622			

	Acres	Sq Ft		Acres	Sq Ft
Existing Forest/Woodland/Trees	0	0	Existing Lot Coverage	0.149	6,472
Created Forest/Woodland/Trees	0	0	New Lot Coverage	0	0
Removed Forest/Woodland/Trees	0	0	Removed Lot Coverage	0.002	103
			Total Lot Coverage	0.146	6,369

VARIANCE INFORMATION (Check all that apply)

	Acres	Sq Ft		Acres	Sq Ft
Buffer Disturbance	0	0	Buffer Forest Clearing	0	0
Non-Buffer Disturbance	0.085	3,683	Mitigation	0	0

<p><u>Variance Type</u></p> Buffer <input type="checkbox"/> Forest Clearing <input type="checkbox"/> HPA Impact <input type="checkbox"/> Lot Coverage <input type="checkbox"/> Expanded Buffer <input type="checkbox"/> Nontidal Wetlands <input type="checkbox"/> Setback <input checked="" type="checkbox"/> Steep Slopes <input type="checkbox"/> Other <input checked="" type="checkbox"/> <u>variance to § 18-2-204(4)</u>	<p><u>Structure</u></p> Acc. Structure Addition <input type="checkbox"/> Barn <input type="checkbox"/> Deck <input type="checkbox"/> Dwelling <input type="checkbox"/> Dwelling Addition <input type="checkbox"/> Garage <input type="checkbox"/> Gazebo <input type="checkbox"/> Patio <input type="checkbox"/> Pool <input checked="" type="checkbox"/> Shed <input type="checkbox"/> Other <input type="checkbox"/> _____
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CRITICAL AREA NARRATIVE

115 BAY DR ANNAPOLIS MD 21403

Owners – Jason and Julie Nogueira

Applicant – McHale Landscape Design – Matthew Rhoderick

The subject property located at 115 Bay Drive, Annapolis, MD, is designated for **residential use**. The proposed project involves the request of a variance to install a pool in the front yard of the property, as the subject property has 2 designated front yards. The intent of the project is to enhance the livability and functionality of the property while adhering to environmental regulations and minimizing impacts on the critical area. Efforts will be made to ensure compliance with local ordinances, including the incorporation of appropriate mitigation measures to protect the Chesapeake Bay Critical Area.

The predominant trees and shrubs on the subject property include, but are not limited to, the following species: Crape Myrtle, Hydrangea, Boxwood, Japanese Maple, Sweetbay Magnolia, Arborvitae, Viburnum, Spruce, and Silver Maple. The property currently features approximately **3,100 square feet of tree canopy and shrub vegetation**. The proposed Limit of Disturbance (L.O.D.) for this project is **3,683 square feet**, which will primarily affect areas covered by turfgrass. No significant vegetation, including trees or shrubs, will be disturbed during the construction process. To mitigate potential impacts from the disturbance, the following Best Management Practices (BMPs) will be implemented:

1. **Reinforced Silt Fence** - A reinforced silt fence will be installed around the entire L.O.D. to prevent sediment runoff and protect adjacent areas.
2. **Construction Entrance** - A stabilized construction entrance will be established to minimize the transport of sediment onto adjacent roadways.

These methods are designed to minimize impacts on water quality and nearby habitats, ensuring compliance with local environmental regulations and critical area standards.

The total existing lot coverage (impervious surface) on the site is 6,472 square feet. The proposed scope of work includes the removal of an artificial turf putting green, a shed, a playset, and gravel areas to offset the additional lot coverage associated with the construction of a pool and a modest pool deck. These removals will result in a net reduction of impervious surface by 103 square feet, bringing the total lot coverage to 6,369 square feet. This represents an approximate 10% decrease in exceeded lot coverage.

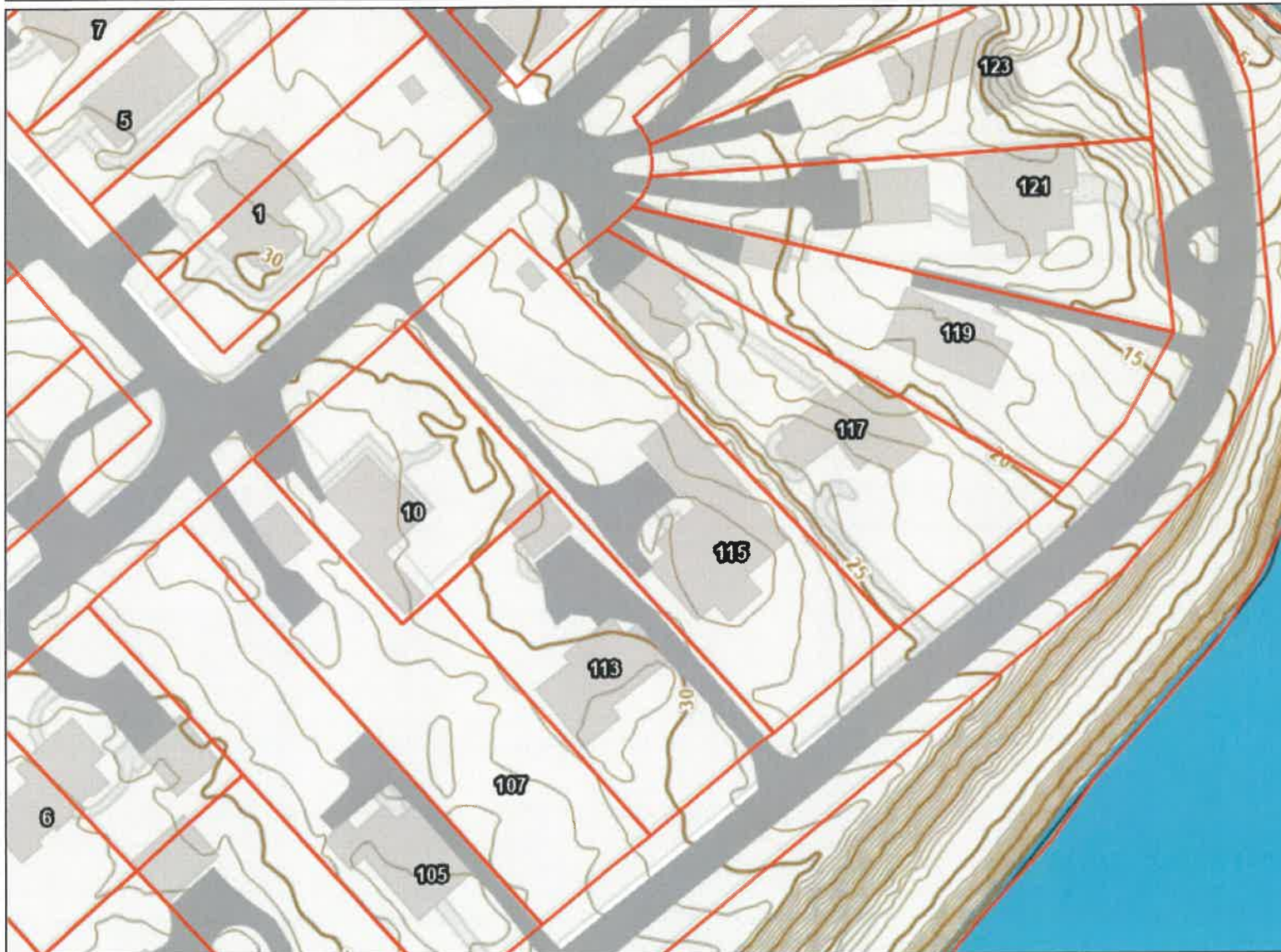
No habitat protection areas on the subject property will be affected by the proposed project. The project area does not contain expanded buffers, steep slopes, rare or endangered species, anadromous fish waters, colonial bird nesting sites, waterfowl areas, riparian forests, natural heritage areas, or significant plant and wildlife habitats.

Sincerely,

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115 Bay Drive topographic map



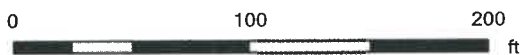
Legend

- Foundation
- Addressing
 -
- Parcels
 - ▭
- Structure
- County Structure
 - ▭
- Elevation
 - Index
 - Intermediate

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.

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GeoTechnologies, Inc, METI/NASA.

Notes 1"=100'



THIS MAP IS NOT TO BE
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