

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

**APPLICANT:** John M. Powell, Jr.

**ASSESSMENT DISTRICT:** 1<sup>st</sup>

**CASE NUMBER:** 2023-0174-V

**COUNCILMANIC DISTRICT:** 7<sup>th</sup>

**HEARING DATE:** April 30, 2024

**PREPARED BY:** Sara Anzelmo  
Planner



**REQUEST**

The applicant is requesting variances to allow a dwelling and associated facilities with less setbacks and buffer than required and with disturbance to slopes of 15% or greater on property located at 23 Leeland Road in Edgewater.

**LOCATION AND DESCRIPTION OF SITE**

The subject property consists of 2.337<sup>1</sup> acres of land and is located on the southwest side of Leeland Road, southeast of Slama Road. It is identified as Parcel 274 in Grid 7 on Tax Map 56.

The property is zoned R1 – Residential District, as adopted by the comprehensive zoning for Council District 7, effective October 7, 2011. The site fronts Warehouse Creek, is located within the Chesapeake Bay Critical Area overlay, and is designated as LDA – Limited Development Area. The shoreline abutting this property is not mapped as buffer modified and is subject to the standard buffer regulations. The property is currently improved with a shed and asphalt paving.

**PROPOSAL**

The applicant proposes to construct a two-story dwelling, measuring approximately 40' by 45' (1,800 square foot footprint), with an integrated two-car garage and an 8' by 12' rear bump-out. The height of the proposed dwelling would be 34 feet.

**REQUESTED VARIANCES**

§ 18-13-104(a) of the Anne Arundel County Zoning Code requires that there shall be a minimum 100-foot buffer landward from the mean high-water line of tidal waters, tributary streams, and tidal wetlands. § 18-13-104(b) provides for an expanded buffer where there are, among other things, steep slopes. Section 17-8-301 of the Subdivision Code states that development on properties containing buffers shall meet the requirements of Title 27 of the State Code of Maryland (COMAR). Section 27.01.01(B)(8)(ii) of COMAR states a buffer exists “to protect a stream, tidal wetland, tidal waters, or terrestrial environment from human disturbance.” Section 27.01.09 E.(1)(a)(ii) of COMAR authorizes disturbance to the buffer for a new development

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<sup>1</sup> There is a discrepancy between the 2.337 acre lot area shown on the site plan and Critical Area Project Notification, the 2.31 acre area shown on the SDAT record, and the 2.26 acre area shown on the variance application form.

activity or redevelopment activity by variance. The proposed development would necessitate a variance to disturb an unspecified area of the expanded buffer. If approved, the actual amount of buffer disturbance would be determined at the time of permitting.

§ 17-8-201(a) of the Subdivision and Development Code provides that development in the Limited Development Area (LDA) may not occur within slopes of 15% or greater unless development will facilitate stabilization of the slope; is to allow connection to a public utility; or is to provide direct access to the shoreline. The proposed development would necessitate a variance to disturb an unspecified area of slopes of 15% or greater. If approved, the amount of slope disturbance would be determined at the time of permitting.

A review of the bulk regulations required for development within an R1 District reveals that a setback variance is not necessary.

## **FINDINGS**

The subject site far exceeds the minimum area and width requirements for an R1 District. The proposed critical area lot coverage would be 4,259 square feet, which falls well below the maximum 15,270 square feet (15%) allowed.

The **Office of Inspections and Permits (Engineering Division)** noted that stormwater management will be addressed through rain gardens and non-rooftop disconnection. The stormwater management utility/Engineering design review approval for the site shall occur at the grading permit stage. The Department has no objection to the proposed variance.

The **Department of Health** has reviewed the on-site sewage disposal and well water supply system and has determined that the proposed request does not adversely affect these systems. The Department has no objection to the proposed variance.

The **Development Division (Critical Area Team)** noted that mitigation will be assessed with the applicable permit applications. The Team has no objection to the proposed variance.

The **Critical Area Commission** took no position on the variance request, but noted that appropriate mitigation is required.

The **Cultural Resources Section** commented that, per Article 17-6-502, their Office requires an archaeology site visit to complete this review. This site visit can be scheduled and completed during grading permit review.

For the granting of a Critical Area variance, a determination must be made as to whether, because of certain unique physical conditions peculiar to and inherent in the particular property, strict implementation of the County's Critical Area Program would result in an unwarranted hardship. In this case, the property is subject to standard buffer/expanded buffer requirements; and, there are steep slopes located sporadically throughout the lot. The location of the slopes throughout the site and the expanded buffer prevents development without some steep slope and buffer disturbance. As such, a literal interpretation of the County's Critical Area Program would deprive the applicant of rights that are commonly enjoyed by other properties in similar areas by denying construction of a dwelling on an existing residentially zoned lot.

The granting of a critical area variance would not confer on the applicant a special privilege that would be denied by COMAR, Title 27. The variance request is not based on conditions or circumstances that are the result of actions by the applicant and does not arise from any condition relating to land or building use on any neighboring property. With proper mitigation and stormwater management, the granting of the variance would not adversely affect water quality or impact fish, wildlife, or plant habitat and would be in harmony with the general spirit and intent of the County's Critical Area Program. After initially receiving negative comments for a previously submitted variance proposal, the applicant has worked with the Health Department and the Engineering Division to design an alternative development proposal to address their prior concerns. As such, the applicant has evaluated and implemented site planning alternatives.

With regard to the requirements for all variances, approval would not alter the essential character of the neighborhood, substantially impair the appropriate use or development of adjacent property, reduce forest cover in the limited development area, be contrary to acceptable clearing and replanting practices, or be detrimental to the public welfare. The proposed dwelling size is not considered to be excessive, and the requested variance is deemed to be the minimum necessary to afford relief.

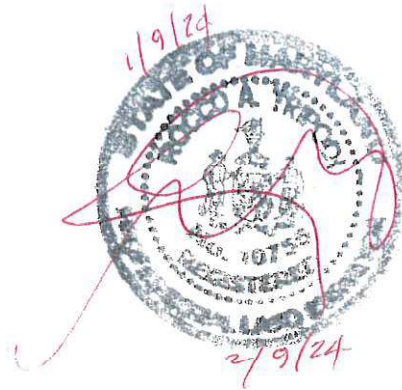
### **RECOMMENDATION**

Based upon the standards set forth in § 18-16-305 of the Code under which a variance may be granted, this Office recommends ***approval*** of critical area variances to § 17-8-301 and § 17-8-201(a) to allow construction of a two-story single-family dwelling and associated facilities with less buffer than required and with disturbance to slopes of 15% or greater.

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.



ROCCO ENTERPRISES, INC.  
130 LUBBRANO DRIVE SUITE 200  
ANNAPOLIS, MD 21401  
PHONE: 301-261-8042



Jan. 8, 2024

Anne Arundel County  
Office of Planning & Zoning  
2664 Riva Road  
Annapolis, MD 21401

RE: 23 Leeland Road Edgewater, MD  
**Variance 2023-0174-V/ Revised Jan. 8, 2024**

*REVISED 2-9-24*

**LETTER OF EXPLANATION**

As stated in the pre-filing dated Aug. 17, 2023 and at the Variance hearing dated Dec. 5, 2023, the subject site is known as 23 Leeland Road Edgewater, MD and as shown on A.A. Tax map 56, Grid 7, Parcel 274. The property is zoned R-1 and it is located within the L.D.A. Critical Area. The property owner is John Powell, Jr. residing at 1108 Niblick Court Arnold, MD 21012 and by Deed recorded in Liber 39714, Folio 25. The 2.31 acre site is partially wooded and clear with 15% and 25 % slopes and their respective 25' and 50' buffers and expanded buffers.

Due to site zoning restrictions there is no area available to construct a residential house without impacting steep slopes and their buffers. Based on the Variance hearing comments and neighbors concerns we placed the proposed house along the road. Leeland Road services the existing Marina to the southeast and therefore is heavily trafficked by cars and trucks. The proposed house location will be 72' from Leeland Road. Also, the primary and approved septic system will remain as originally designed and Re-approved by the Anne Arundel County Health Department on Dec. 28, 2023 with the revised site plan.

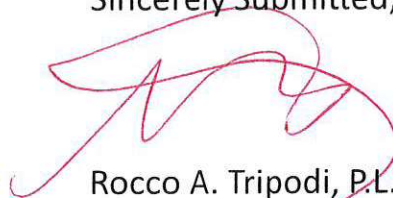
As to Critical Area data please refer to the Revised Notification Worksheet and a copy is attached hereto. As to SWM requirements, ESD to MEP as now Revised will be addressed via rooftop disconnections and raingarden with

complete SWM Comps, report and Revised Final Development Plan and response in writing to Inspections and permits comments dated Oct. 10, 2023. Also in order to minimize disturbance and to accommodate the proposed house, water well, driveway, septic system and SWM devices the total L.O.D. is ~~3,166~~ sq. ft. or 0.302AC.

Therefore, based on the above and also on the pre-filing and Variance Hearing recommendation we need to seek a Variance to zoning code section 17-8-201(a) to allow disturbance of slopes of 15% or greater within the Limited Development Critical Area and to section 18-13-104(a) to allow disturbance to the buffer and expanded buffers. Due to the site impacted by steep slopes the expanded buffer covers the entire 2.31 acre site.

In conclusion we hope the enclosed Revised information package is satisfactory for your office to proceed with the variance hearing and should you need further information please feel free to contact me.

Sincerely Submitted,



Rocco A. Tripodi, P.L.S.  
FOR ROCCO ENTERPRISES LLC

Cc Mr. John Powell, Jr.

# rocco enterprises, llc

land development, survey & permitting consultant & engineering

RE: 23 LEEHURD ROAD  
EDGEWATER, MD

"VARIANCE"

## CRITICAL AREA DATA/REPORT:

### CRITICAL AREA (L.D.A.) NARRATIVE STATEMENT

a) THE EXISTING SITE CONTAINS 2.33 ACRES AND IS CURRENTLY VACANT WITH AN EXISTING AUXILIARY BUILDING AND IS SURROUNDED WITH PARTIALLY WOODED AND SLOPY FEATURES. THE EXISTING ZONING AND USE IS RESIDENTIAL AND WILL REMAIN RESIDENTIAL.

b) AS STATED THE SITE IS PARTIAL WOODED AND THE PROPOSED USE AND CONSTRUCTION WILL PRESERVE THE EXISTING WOODS EXCEPT 1000 S.F. FOR PROPOSED DRIVEWAY APPROX ENTRANCE.

c) THE S.W.M. METHODS TO MINIMIZE IMPACT ON WATER QUALITY AND HABITAT WILL BE PROVIDED BY THE USE OF (2) DRY WELLS AT EACH CORNER OF THE HOUSE TO MANAGE THE INCREASED LOT COVERAGES WITH COMPLETE ESD TO KEEP COMPUTATIONS WITH GRADING & BUILDING PERMITS.

d) EXISTING IMPERVIOUS / LOT COVERAGE 950 SQ. FT. / PROPOSED: 2844 SQ. FT.  
TOTAL EXISTING & PROPOSED: 3794 S.F.

e) ALL EXISTING WOODLAND TO REMAIN EXCEPT 1000 S.F. FOR DRIVE LANE WILL BE MITIGATED BY TREE OF GRADING & BUILDING PERMITS.

1. SITE AREA: 2.33 ACRES OR 101,800 SQ. FT.
2. CRITICAL AREA: L.D.A.
3. MAXIMUM LOT COVERAGE ALLOWED: 15% OF 15,270 S.F.
4. PROPOSED LOT COVERAGE: 2844 S.F. PLUS EXISTING 950 S.F.  
TOTAL 3794 S.F.
5. WOODLAND REQUIRED 15% OF 15,270 S.F.
6. EXISTING WOODLAND: 45,800 S.F. OR 0.449%
7. EXISTING WOODLAND TO BE REQUIRED: 1000 S.F.

SEE ALSO SITE VARIANCE PLAN

CRITICAL AREA COMMISSION  
FOR THE CHESAPEAKE AND ATLANTIC COASTAL BAYS  
1804 WEST STREET, SUITE 100  
ANNAPOLIS, MD 21401

PROJECT NOTIFICATION APPLICATION

**GENERAL PROJECT INFORMATION**

Jurisdiction: \_\_\_\_\_ Date: 8/16/23

Tax Map #	Parcel #	Block #	Lot #	Section
<u>56</u>	<u>274</u>	<u>7</u>		

**FOR RESUBMITTAL ONLY**

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

\*Complete Only Page 1  
General Project Information

Tax ID: 01-000-9003-7473

Project Name (site name, subdivision name, or other) JOHN M. POWELL JR

Project location/Address 23 LEELAND ROAD

City EDGEWATER MD Zip 21037

Local case number \_\_\_\_\_

Applicant: Last name POWELL First name JOHN

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 TRIPOLI First name ROCCO

Phone # 443-994-4578 Response from Commission Required By \_\_\_\_\_

Fax # ROCCO TRIPOLI@gmail.com Hearing date \_\_\_\_\_



**SPECIFIC PROJECT INFORMATION**

Describe Proposed use of project site:

FOR THE OWNER TO CONSTRUCT HIS RESIDENTIAL HOUSE

Yes	Yes
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"/> 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"/> <u>Residential</u> <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
IDA Area		
LDA Area	2.33	101,000
RCA Area		
Total Area	2.33	101,000

Total Disturbed Area Acres Sq Ft

# of Lots Created

	Acres	Sq Ft		Acres	Sq Ft
Existing Forest/Woodland/Trees	1.05	45,800	Existing Impervious Surface	0.021	950
Created Forest/Woodland/Trees			New Impervious Surface	0.037	3794
Removed Forest/Woodland/Trees	0	0	Removed Impervious Surface		
			Total Impervious Surface		

**VARIANCE INFORMATION (Check all that apply)**

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

Variance Type

Buffer  
 Forest Clearing  
 HPA Impact  
 Impervious Surface  
 Expanded Buffer  
 Nontidal Wetlands  
 Setback  
 Steep Slopes  
 Other

Structure

Acc. Structure Addition  
 Barn  
 Deck  
 Dwelling  
 Dwelling Addition  
 Garage  
 Gazebo  
 Patio  
 Pool  
 Shed  
 Other

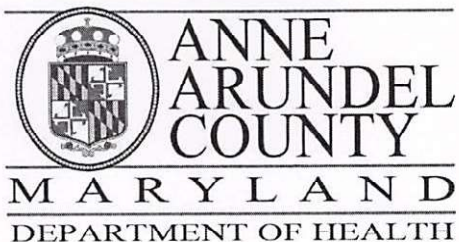
# 2023-0174-V - POWELL

<b>Menu</b>	<b>Cancel</b>	<b>Help</b>
<b>Task</b> I and P Engineering	<b>Due Date</b> 02/19/2024	<b>Assigned Date</b> 02/12/2024
<b>Assigned to Department</b> Engineering	<b>Assigned to</b> Habtamu Zeleke	<b>Status</b> Complete w/ Comments
<b>Action by Department</b> Engineering	<b>Action By</b> Habtamu Zeleke	<b>Status Date</b> 02/16/2024
<b>Start Time</b>	<b>End Time</b>	<b>Hours Spent</b> 0.0
<b>Billable</b> No	<b>Overtime</b> No	<b>Comments</b> 1. Based on the plan provided, it appears that the property will be served by a Private well and septic. 2. Stormwater management will be addressed through Rain gardens and non-rooftop disconnection. 3. The stormwater management utility/Engineering design review approval for the site shall occur at the grading permit stage.
<b>Time Tracking Start Date</b>	<b>Est. Completion Date</b>	<b>Determination/Recommendation</b> – Based on the above, this office has no objection to the above request.
<b>Display E-mail Address in ACA</b> No	<input checked="" type="checkbox"/> <b>Display Comment in ACA</b>	<b>In Possession Time (hrs)</b>
		<b>Comment Display in ACA</b> <input checked="" type="checkbox"/> All ACA Users <input checked="" type="checkbox"/> Record Creator <input checked="" type="checkbox"/> Licensed Professional <input checked="" type="checkbox"/> Contact <input checked="" type="checkbox"/> Owner
<b>Estimated Hours</b> 0.0	<b>Action</b> Updated	<b>Workflow Calendar</b>

Task Specific Information

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Review Notes	Reviewer Name	Reviewer Phone Number
Reviewer Email		



J. Howard Beard Health Services Building  
3 Harry S. Truman Parkway  
Annapolis, Maryland 21401  
Phone: 410-222-7095 Fax: 410-222-7294  
Maryland Relay (TTY): 711  
www.aahealth.org

**Tonii Gedin, RN, DNP**  
**Health Officer**

**MEMORANDUM**

TO: Sadé Medina, Zoning Applications  
Planning and Zoning Department, MS-6301

FROM: Brian Chew, Program Manager  
Bureau of Environmental Health

A handwritten signature in blue ink, appearing to be "BC", written over the name "Brian Chew" in the FROM field.

DATE: October 16, 2023

RE: John Powell  
23 Leeland Road  
Edgewater, MD 21037

NUMBER: 2023-0174-V

SUBJECT: Variance/Special Exception/Rezoning

The Health Department has reviewed the above referenced variance to allow a dwelling with less setbacks and buffer than required and with disturbance to slopes 15% or greater.

The Health Department has reviewed the on-site sewage disposal and well water supply system for the above referenced property. The Health Department has determined that the proposed request does not adversely affect the on-site sewage disposal and well water supply systems. 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

# 2023-0174-V - POWELL

<b>Menu</b>	<b>Cancel</b>	<b>Help</b>
<b>Task</b> OPZ Critical Area Team	<b>Due Date</b> 02/19/2024	<b>Assigned Date</b> 02/12/2024
<b>Assigned to Department</b> OPZ Critical Area	<b>Assigned to</b> Kelly Krinetz	<b>Status</b> Complete w/ Comments
<b>Action by Department</b> OPZ Critical Area	<b>Action By</b> Kelly Krinetz	<b>Status Date</b> 02/13/2024
<b>Start Time</b>	<b>End Time</b>	<b>Hours Spent</b> 0.0
<b>Billable</b> No	<b>Overtime</b> No	<b>Comments</b> No objection. Mitigation will be assessed with applicable permit applications.
<b>Time Tracking Start Date</b>	<b>Est. Completion Date</b>	<b>In Possession Time (hrs)</b>
<b>Display E-mail Address in ACA</b> No	<input checked="" type="checkbox"/> <b>Display Comment in ACA</b>	<b>Comment Display in ACA</b> <input checked="" type="checkbox"/> All ACA Users <input checked="" type="checkbox"/> Record Creator <input checked="" type="checkbox"/> Licensed Professional <input checked="" type="checkbox"/> Contact <input checked="" type="checkbox"/> Owner
<b>Estimated Hours</b> 0.0	<b>Action</b> Updated	<b>Workflow Calendar</b>
<b>Task Specific Information</b>		
<b>Review Notes</b>	<b>Reviewer Name</b>	<b>Reviewer Phone Number</b>
<b>Reviewer Email</b>		



Jennifer Esposito -DNR- <jennifer.esposito@maryland.gov>

**CAC Comments: 2023-0145-V Rotondo, 2023-0171-V Zygmunt, 2023-0174-V Powell**

Jennifer Esposito <jennifer.esposito@maryland.gov>  
To: Sadé Medina <pzmedi22@aacounty.org>  
Cc: Charlotte Shearin -DNR- <charlotte.shearin@maryland.gov>

Thu, Nov 2, 2023 at 4:44 PM

Good afternoon,

The Critical Area Commission has reviewed the following variances and appropriate mitigation is required:

- 2023-0145-V; Rotondo (AA 352-23)
- 2023-0171-V; Zygmunt (AA348-23)
- 2023-0174-V: Powell (AA 340-23)

The above comments have also been submitted to the County's project-review portal.



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[dnr.maryland.gov/criticalarea](http://dnr.maryland.gov/criticalarea)

*Jennifer Esposito*

Critical Area Commission for the  
Chesapeake & Atlantic Coastal Bays

1804 West Street, Suite 100

Annapolis, MD 21401

Office: 410-260-3468

(In office: Mon., Wed., Friday)

Cell: 443-569-1361

(Teleworking: Tues., Thurs.)

[jennifer.esposito@maryland.gov](mailto:jennifer.esposito@maryland.gov)

# 2023-0174-V - POWELL

<b>Menu</b>	<b>Cancel</b>	<b>Help</b>	
<b>Task</b> OPZ Cultural Resources	<b>Due Date</b> 02/19/2024	<b>Assigned Date</b> 02/12/2024	
<b>Assigned to Department</b> OPZ Cultural Resources	<b>Assigned to</b> Stacy Poulos	<b>Status</b> Complete w/ Comments	
<b>Action by Department</b> OPZ Cultural Resources	<b>Action By</b> Stacy Poulos	<b>Status Date</b> 02/16/2024	
<b>Start Time</b>	<b>End Time</b>	<b>Hours Spent</b> 0.0	
<b>Billable</b> No	<b>Overtime</b> No	<b>Comments</b> Per Article 17-6-502, the Cultural Resources Section requires an archaeology site visit to complete this review. This site visit can be scheduled and completed during grading permit review.	
<b>Time Tracking Start Date</b>	<b>Est. Completion Date</b>	<b>In Possession Time (hrs)</b>	
<b>Display E-mail Address in ACA</b> No	<input checked="" type="checkbox"/> <b>Display Comment in ACA</b>	<b>Comment Display in ACA</b>	
		<input checked="" type="checkbox"/> All ACA Users	
		<input checked="" type="checkbox"/> Record Creator	
		<input checked="" type="checkbox"/> Licensed Professional	
		<input checked="" type="checkbox"/> Contact	
		<input checked="" type="checkbox"/> Owner	
<b>Estimated Hours</b> 0.0	<b>Action</b> Updated	<b>Workflow Calendar</b>	
<b>Task Specific Information</b>			

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<b>Review Notes</b>	<b>Reviewer Name</b>	<b>Reviewer Phone Number</b>
<b>Reviewer Email</b>		



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