

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

**APPLICANT:** Timothy & Ariel Horstman

**ASSESSMENT DISTRICT:** 8

**CASE NUMBER:** 2024-0034-V

**COUNCIL DISTRICT:** 7

**HEARING DATE:** April 25, 2024

**PREPARED BY:** Jennifer Lechner  
Planner



**REQUEST**

The applicants are requesting a variance to allow an accessory structure (ground mounted solar panels) with less setbacks than required and in the front yard of a nonwaterfront lot on property located at 64 East Bay Front Road in Deale.

**LOCATION AND DESCRIPTION OF SITE**

The subject site consists of approximately 1.98 acres of land and is located with approximately 124 feet of frontage on the north side of East Bay Front Road, a Scenic and Historic Road. It is identified as Lot 2 of Parcel 12 in Grid 21 on Tax Map 73 in the Tracys Landing subdivision. The property is zoned RA – Rural Agricultural District. The current zoning was adopted by the comprehensive zoning for Council District 7, effective October 7, 2011. The property is not located within the Chesapeake Bay Critical Area. It is currently improved with a two-story dwelling and associated facilities.

**PROPOSAL**

The applicants propose to install two (2) ground mounted solar arrays on their property.

**REQUESTED VARIANCES**

§ 18-2-204(b) of the Anne Arundel County Zoning Ordinance provides that when a new principal structure is constructed in an RA or RLD District, an existing barn may be retained in the front yard. Otherwise, an accessory structure may not be located in the front yard of a nonwaterfront lot.

The southernmost ground mounted solar array will be located in the front yard, necessitating a variance.

§ 18-4-301 provides that an accessory structure in an RA District shall be set back a minimum of 50 feet from the front lot line and 15 feet from the side lot lines.

The southernmost ground mounted solar array would be constructed as close as 26'-8" from the front lot line, necessitating a variance of 24 feet.

The southernmost ground mounted solar array would be constructed as close as 10'-6" from the side lot line, necessitating a variance of 5 feet.

The northernmost ground mounted solar array would be constructed as close as 10'-11" from the side lot line, necessitating a variance of 5 feet.

## **FINDINGS**

The subject property is irregular in shape and exceeds the minimum lot size of 40,000 square feet but is sub-standard with regards to the minimum lot width of 150 feet for lots in the RA District. A review of the 2024 County aerial photography shows that the subject site is almost entirely cleared of trees, besides a line that runs along the southeast property lines. The adjacent lot to the north is heavily wooded and contains a Forest Conservation Easement, while the adjacent lot to the south is primarily cleared for commercial/residential uses.

Building permit B02420856, to install ground mounted solar panels, was submitted on September 18, 2023, prior to the submission of the variance application. Variance approval must be obtained prior to the building permit being issued.

The applicants' letter explains that the proposed location provides the best solar exposure throughout the year and will provide the highest efficiency for solar energy. In addition, the letter states that they are constrained by the septic system and the 20 foot septic setback. The applicants believe that the proposed location isolates the arrays from their children's play area and therefore will be safer for their family.

## **Agency Comments**

The **Health Department** has no objection.

The **Department of Recreation and Parks** has noted that a portion of this development lies within the Anne Arundel County Green Infrastructure Network, a proposed preservation area considered in the Anne Arundel County Green Infrastructure Master Plan, and has no further comments.

## **Variance Criteria**

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 applicant.

In this particular case, the property is uniquely shaped and constrained by the onsite septic system. However, the property is oversized and cleared of trees. There appears to be an area to the east of the replacement drain fields that may suffice for the solar arrays which would eliminate the need for relief. This area appears to be further away from the shade of the tree line and a similar distance from the children's play area. As an added measure, the area around the

solar arrays could be fenced.

The applicants' desire to install the solar arrays in the front yard and closer to the lot lines appears to be for the convenience of having a shorter distance to trench the wires to the house, which is a self-inflicted hardship and not a practical difficulty.

The applicants have not provided adequate justification to demonstrate that the ground mounted solar arrays 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 the minimum 50 foot setback required from the front lot line or the minimum 15 foot setback required from the side lot lines.

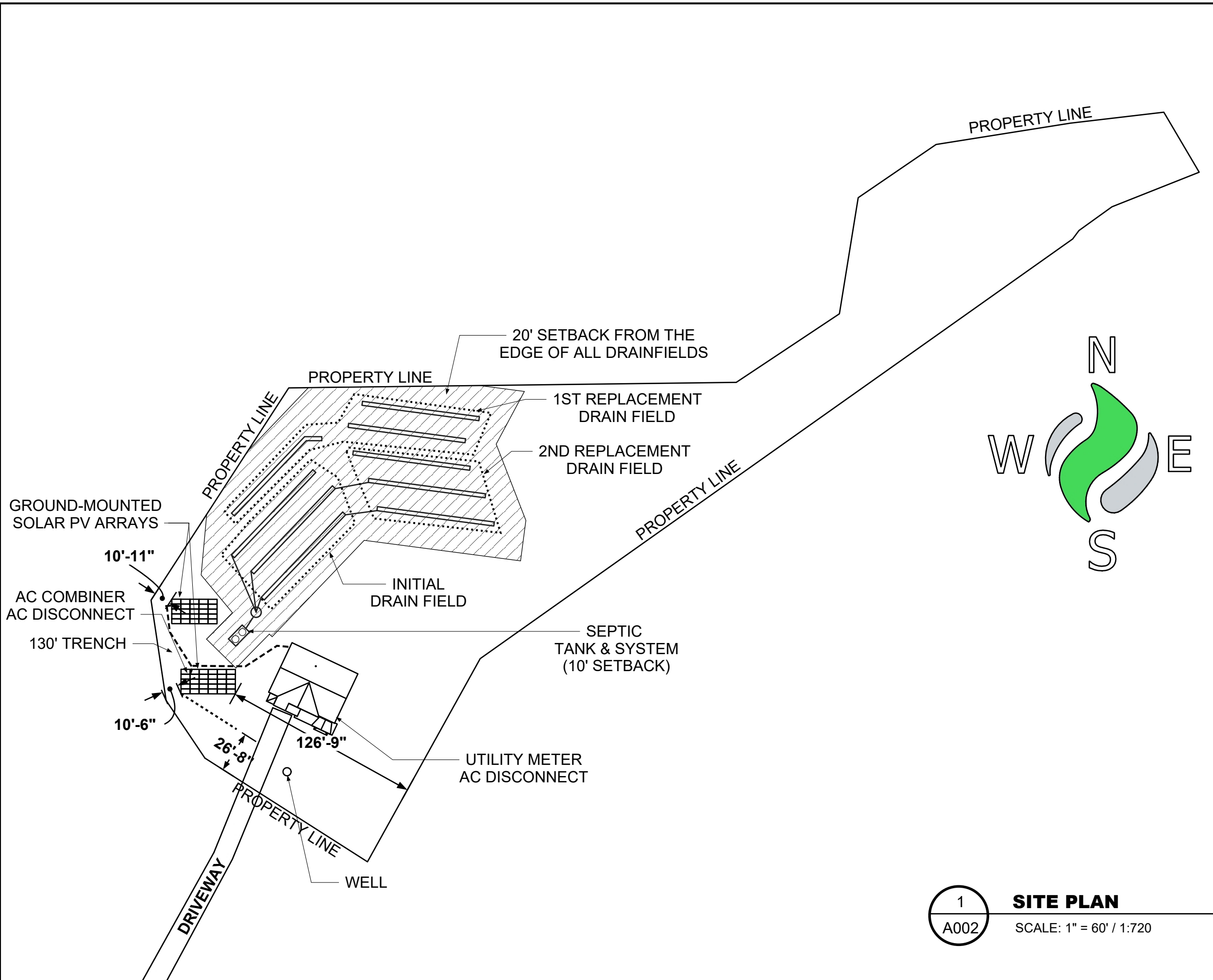
The granting of the variance would not alter the essential character of the neighborhood or district in which the lot is located, would not substantially impair the appropriate use or development of adjacent property, nor would it be detrimental to the public welfare.

However, it appears that alternative options exist that would eliminate the need for variances. Without sufficient justification, the variance request cannot be considered the minimum necessary to afford relief. As such, this Office does not support the requested variances for the proposed ground mounted solar arrays.

### **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 zoning variance to § 18-2-204(b) to allow a ground mounted solar array in the front yard of a nonwaterfront lot, ***denial*** of the proposed 24 foot setback variance to § 18-4-301 to allow a ground mounted solar array closer to the front property line than allowed, and ***denial*** of the proposed 5 foot setback variances to § 18-4-301 to allow two (2) ground mounted solar arrays closer to the side property line than allowed.

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.



FOR PERMITTING USE ONLY

PROJECT ADDRESS:

**TIM HORSTMAN**  
 64 E BAY FRONT ROAD  
 DEALE, MD 20751

CONTRACTOR INFO:



3600 COMMERCE DR  
 SUITE 601  
 BALTIMORE, MD  
 21227  
 (443) 955-0779

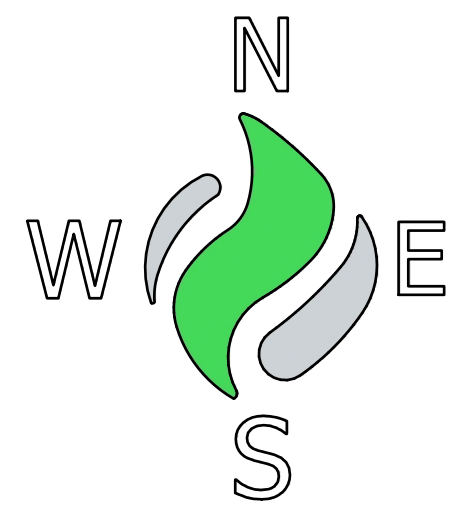
LICENSE NUMBER:

MHIC-30991

REV	DATE
IFC	02/06/2024

SITE PLAN

**A002**



1  
 A002

**SITE PLAN**

SCALE: 1" = 60' / 1:720

*Timothy Horstman  
64 E Bay Front Rd  
Deale, MD 20751*

To Whom it May Concern,

I am writing this letter to request a variance for us to put a ground mounted solar array on our property. At this time, the only existing structure is our house which has a 1246 square foot footprint and is 28 feet two inches high. The house is setback 40 feet or greater from all of the property lines. There is no concern for high water or critical area at our location. The panels themselves are angled and are 24 inches high at the lowest and 113 inches high at the highest. They will account for approximately 992 square feet in two arrays. One is approximately 448 square feet and the other is 544 square feet.

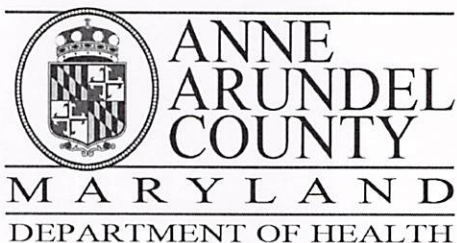
In consultation with Lumina Solar, our solar contractor, we evaluated several different locations on the property and settled on the current location due to it being the optimal location for solar production. The location provides for the best solar exposure throughout the year compared to the other locations and, in turn, will provide the highest efficiency for solar energy. The neighboring property completely surrounds our tract and all of the wooded area surrounding is in property conservation. Our neighbor who owns that property has been out to see the proposed location and has not voiced any concerns that she has. Our original location would have been set back a little further and potentially avoided protruding into the front yard, however we are confined to an area so as to not encroach on the septic system and the 20 foot septic setback.

Finally, this location is also ideal because we will be able to relatively isolate it from the play area. We want the ability to isolate the array from the yard to keep our kids from being enticed into playing on or around the arrays. Although they are intrinsically safe, we do not want potential injuries from climbing or falling from any of the equipment. The proposed location puts the arrays away from the kids' play area and therefore will be safer for our family.

Thank you for considering our request and please feel free to reach out to us with any questions regarding our proposal.

Respectfully,

Timothy Horstman




J. Howard Beard Health Services Building  
3 Harry S. Truman Parkway  
Annapolis, Maryland 21401  
Phone: 410-222-7193 Fax: 410-222-7479  
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  
Sanitary Engineering Program 

DATE: March 15, 2024

RE: Timothy Horstman  
64 Bay Front Road  
Deale, MD 20751

CASE  
NUMBER: 2024-0034-V

SUBJECT: Variance/Special Exception/Rezoning

The Health Department has reviewed the above referenced variance request to allow accessory structures (ground mounted solar panels) with less setbacks than required and in the front yard of a nonwaterfront lot. The Health Department offers the following comments:

The Health Department has reviewed the onsite sewage disposal and well 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 systems. The Health Department has no objection to the above referenced request.

If you have further questions or comments, please contact Brian Chew at 410-222-7024.

cc: Sterling Seay



STUART PITTMAN, COUNTY EXECUTIVE  
JESSICA LEYS, DIRECTOR  
RECREATION AND PARKS  
1 HARRY S. TRUMAN PKWY  
ANNAPOLIS, MD 21401  
AACOUNTY.ORG/RECPARKS



## MEMORANDUM

TO: Sadé Medina, Zoning Division  
Office of Planning and Zoning

FROM: Pat Slayton  
Capital Projects Division

SUBJECT: Variance Case 2024-0034-V

DATE: March 7, 2024

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The Department of Recreation and Parks has reviewed the above plans to determine if there may be impacts to the Anne Arundel County Green Infrastructure Network, parks, and trails. Please note our recommendations according to those findings below.

- A portion of this development lies within the Anne Arundel County Green Infrastructure Network, a proposed preservation area considered in the Anne Arundel County Green Infrastructure Master Plan.

The Department of Recreation and Parks has no further comments.

cc: File



# 64 Bay Front Road - 2024-0034-V



## Legend

Foundation

Parcels



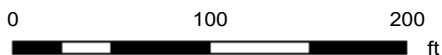
Parcels - Annapolis City



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.

Nearmap

Notes February 2024 aeial



THIS MAP IS NOT TO BE USED FOR NAVIGATION