

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

APPLICANT: Wabash Capital, LLC

ASSESSMENT DISTRICT: 2nd

CASE NUMBER: 2022-0145-V

COUNCILMANIC DISTRICT: 6th

HEARING DATE: November 17, 2022

PREPARED BY: Donnie Dyott Jr.
Planner



REQUEST

The applicant is requesting a variance to allow dwelling additions (living space, screened porch, and deck) with disturbance to slopes of 15% or greater on property located at 124 Edge Hill Road in Annapolis.

LOCATION AND DESCRIPTION OF SITE

The subject site consists of approximately 14,667 square feet of land and is located with 88 feet of frontage on the west side of Edge Hill Road, 215 feet north of Sherwood Forest Road. The subject property is identified as Lot 124 of Parcel 295 in Block 19 on Tax Map 39 in the Sherwood Forest subdivision. The subject property is zoned R2 - Residential District as adopted by the comprehensive zoning of the Sixth Council District zoning maps effective October 7, 2011.

The subject site is not waterfront, but it lies entirely within the Chesapeake Bay Critical Area and is designated as LDA - Limited Development Area. The site is currently improved with a one story with basement single family detached dwelling and associated facilities.

APPLICANT'S PROPOSAL

The applicant seeks to construct a one story with basement living space addition on the northeast side of the existing dwelling along with an expansion of the existing screened porch and entry deck. Additionally the existing steps leading to the lower level of the dwelling from the driveway will be relocated along the side of the addition.

REQUESTED VARIANCES

§ 17-8-201(a) of the Anne Arundel County Subdivision and Development Code states that development in the LDA or RCA designated areas 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 limit of disturbance associated with the proposed dwelling additions will disturb approximately 528 square feet of slopes 15% or greater necessitating a variance to this provision as shown on the site plan. Exact slope disturbance will be determined at the time of permit.

FINDINGS

The subject property is undersized for a lot in the R2 District; and, according to state tax records, the dwelling was constructed in 1984. The proposed critical area lot coverage after redevelopment of 3,877 square feet appears to comply with the 31.25% limit. Exact lot coverage will be determined at the time of permit.

The applicant describes that the dwelling is centrally located on the lot and surrounded by steep slopes on three sides. The northeastern portion of the site is most suitable for expansion due to a storm drain easement along the west side of the property, riprap and storm drains to the northwest, a septic tank to the southwest, and a septic drywell to the east. It is described that the applicant's family is growing necessitating the need for supplemental living space.

The **Health Department** commented that it has no objection provided a plan is submitted and approved by the Health Department. Two replacement drywells will be required to be shown for the septic for this proposed work.

The **Critical Area Commission** commented that it appears the applicant currently has reasonable and significant use of the entire property with the dwelling, several decks, screen porch, walkways, and driveway. While the additions are proposed to be constructed mainly over existing lot coverage, the office questions if this proposal meets the unwarranted hardship standard and if the impacts have been minimized to the extent necessary.

The **Development Division (Critical Area Team)** indicated that comments were generated at the prefile stage which indicated that the applicant should "investigate ways to expand the living space without expanding the footprint." The recommendation went on to indicate that the appropriate justifications needed to be provided and that the access steps along the side of the property would not be supported. Minimal justification was provided for the need for the expansion and why renovations within the existing footprint would not address the owner's needs. In addition, the steps to the side of the home were not removed from the proposal. The applicant states that the addition is modest, however the use for the addition is living space and a playroom which are not necessarily the minimum improvements to afford relief. In addition the disturbance to the slopes to relocate the steps, while convenient, is not a necessity.

The current home is 2,750 square feet and is located within an environmentally sensitive feature that is protected by current regulations. The slopes on the north east side of the home slated for disturbance average approximately 33% and are contiguous to slopes in the rear of the yard in excess of 80%. The site sits at the top of a very steep ravine that flows directly into the Severn River.

In addition, the Critical Area Team advised that a modification will be required for the disturbance of the required slope buffer. Approval of a variance does not guarantee the approval of the modification. The modification decision will be subject to the requirements of 17-2-108.

The **Soil Conservation District** deferred to the Office of Planning and Zoning.

For the granting of a critical area variance, a determination must be made as to whether, because of certain unique physical conditions such as exceptional topographical conditions peculiar to and inherent to the property, strict implementation of the County's critical area program would result in an unwarranted hardship. In this case, the presence of steep slopes, the location of the existing improvements, and the undersized nature of the lot all combine to make improvements to the existing

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dwelling difficult without relief from the Code. As such, a literal interpretation of the County's critical area program may deprive the applicant of rights that are commonly enjoyed by other properties in similar areas within the critical area of the County by denying them the ability to make effective use of the property, and some relief is warranted.

The granting of a variance for slope disturbance will not confer on the applicant special privileges 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, the granting of the variance will not necessarily adversely affect water quality or impact fish, wildlife or plant habitat and is in harmony with the general spirit and intent of the critical area program. However, the applicant should further evaluate site planning alternatives and explore ways to minimize the variance request.

With regard to the requirements for all variances, there is no evidence that the approval of the variance will alter the essential character of the neighborhood or impair the appropriate use of adjacent properties. The variance will not reduce forest cover in the limited development area, will not be contrary to acceptable clearing and replanting practices, and will not be detrimental to the public welfare.

While this Office does recognize that some relief is warranted to allow the applicant to expand the existing dwelling, the proposal is not considered to be the minimum necessary to afford relief. Both the State Critical Area Commission and the Critical Area Team presented concerns over the proposal being the minimum necessary, and the applicant was advised at the prefile stage to explore ways to expand the dwelling without expanding the footprint. The justification provided did not adequately address why enlarging the footprint is the only feasible method of expansion, nor did it touch on any alternatives such as expanding upward. As such, it is the opinion of this Office that the applicant has not met their burden of proof as outlined in § 18-16-301(c).

RECOMMENDATION

Based upon the standards set forth in § 18-16-305 under which a variance may be granted, this Office recommends *denial* of the critical area variance for steep slopes disturbance for the proposed dwelling additions as shown on the site plan.

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.