

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

APPLICANT: Brian L. & Kendra S. Darnell

ASSESSMENT DISTRICT: 2nd

CASE NUMBER: 2024-0023-V

COUNCILMANIC DISTRICT: 6th

HEARING DATE: April 16, 2024

PREPARED BY: Sara Anzelmo
Planner



REQUEST

The applicants are requesting a variance to allow an extension in time for the implementation and completion of a previously approved variance on property located at 107 Bay Drive in Annapolis.

LOCATION AND DESCRIPTION OF SITE

The subject site consists of 16,923 square feet of land. It is a “through lot” that is located with 70 feet of road frontage on the northwest side of Bay Drive and 50 feet of road frontage on the southeast side of Barry Avenue, 0 feet southwest of Decatur Avenue. It is identified as Half of Lot 8 and Part of Lot 7 of Parcel 30 in Grid 10 on Tax Map 57 in the subdivision of Bay Ridge.

The property is zoned R2 - Residential District, as adopted by the comprehensive zoning for Council District 6, effective October 7, 2011. The site is not waterfront, but it is located entirely within the Chesapeake Bay Critical Area overlay and is designated as LDA - Limited Development Area. It is currently improved with a single-family detached dwelling, a detached garage, and other associated facilities.

PROPOSAL

The applicants propose to construct a pool between the dwelling and the detached garage.

REQUESTED VARIANCES

§ 18-16-405(a) of the Anne Arundel County Zoning Ordinance provides that a variance that is not extended or tolled expires by operation of law unless the applicant obtains a building permit within eighteen months of approval. On September 1, 2022, the Administrative Hearing Officer granted approval of a variance under Case No. 2022-0104-V, which would have been valid until March 1, 2024. The applicants are requesting a variance to allow an additional 18-month¹ extension in time to obtain a building permit while maintaining the previous approval.

¹ The applicants’ letter of explanation only requested an additional six months to obtain a building permit. However, out of an abundance of caution, this Office recommends the full 18-month extension allowed in order to avoid the potential need for any additional time extension variances.

FINDINGS

This application for an extension in time was properly made prior to the expiration of the eighteen month time period.

The applicants' letter explains that several months after the variance was approved, and while the applicants were working on finalizing the pool and associated landscaping designs to comply with the Anne Arundel County Code, their engineer stopped responding to emails and calls. The applicants later learned that their engineer had sold its business to an out-of-state engineering firm. The applicants attempted to proceed with the new owner of the engineering firm, but it has become apparent that their lack of local knowledge is hindering progress and the ability to adhere to the County Code requirements. Accordingly, the applicants have recently engaged the engineering services of Messick & Associates to complete their pool project. The applicants are working closely with Messick & Associates to complete their project, and their goal is to have everything finalized for permits later this spring. The applicants contend that they would have been able to meet the eighteen month timeline, were it not for the unexpected delays.

Based on the above, it appears that the applicants are actively working towards obtaining the necessary approvals to proceed with the proposed development and that a building permit should be reasonably obtainable in the not-too-distant future. Given the unexpected delays from the prior engineer and the additional time necessary for transitioning over to a new engineering firm, exceptional circumstances exist that warrant relief from the Code.

There is no evidence that this request for an extension in time would alter the essential character of the neighborhood, substantially impair the appropriate use or development of adjacent property, or be detrimental to the public welfare.

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 a variance to §18-16-405(a) to allow an additional eighteen months for the implementation and completion of a previously approved variance.

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.

Brian and Kendra Darnell (collectively, the “Applicant”) own the property known as 107 Bay Drive, Annapolis, MD 21403, which is more particularly described as Tax Map 57, Parcel 30 (“Property”). The Property received a variance to allow an accessory structure (pool) in the front yard of a nonwaterfront lot with less setbacks than required (variance No.: 2022-0104-V), which decision is dated September 1, 2022 (the “Variance”). Several months after the Variance was approved, and while the Applicant was working on finalizing the pool and associated landscaping designs to comply with the Anne Arundel County Code (the “County Code”), including the Landscape Manual and Critical Area provisions, the Applicant’s engineer stopped responding to emails and calls. The Applicant later learned that their engineer has sold its business to an out-of-state engineering firm. The Applicant attempted to proceed with the new owner of the engineering firm, but it has become apparent that their lack of local knowledge is hindering progress and the ability to adhere to the County Code requirements. Accordingly, the Applicant has recently engaged the engineering services of Messick & Associates to complete their pool project.

The Applicant is working closely with Messick & Associates to complete their project, and their goal is to have everything finalized for permits later this spring. But for the unexpected delays, the Applicant would have been able to meet the eighteen (18)-month timeline. Given the unexpected delays from the prior engineer and transitioning over to a new engineering firm, the Applicant is hereby respectfully requesting a six (6)-month time extension for their Variance.

Respectfully,

HYATT & WEBER, P.A.



Steven D. Hyatt, Esq.



BAY DR