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

APPLICANT: Eileen Fitzgerald, Trustee **ASSESSMENT DISTRICT: 2**

CASE NUMBER: 2024-0013-V **COUNCILMANIC DISTRICT: 6**

PREPARED BY: Donnie Dyott Jr. Planner **HEARING DATE**: August 15, 2024

REQUEST

The applicant is requesting a variance to allow a dwelling addition with less setbacks than required and with disturbance to slopes of 15% or greater on property located at 236 Nottingham Hill in Annapolis.

LOCATION AND DESCRIPTION OF SITE

The subject site consists of 7,894 square feet of land and is identified as Lot 236 of Parcel 295 in Block 19 on Tax Map 39 in the Sherwood Forest subdivision. The subject property has been zoned R2 - Residential District since the adoption of comprehensive zoning of the Sixth Council District zoning maps effective October 7, 2011.

This is a non-waterfront property which lies within the Chesapeake Bay Critical Area and is designated LDA - Limited Development Area. The site is currently improved with a single family detached dwelling and associated facilities.

APPLICANT'S PROPOSAL

The applicant proposes to construct a 1 story with basement dwelling addition measuring approximately 12' X 32' on the west side of the existing dwelling which is currently improved with a deck and screened porch.

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 addition disturbs approximately 719 square feet of slopes 15% or greater necessitating a variance to this provision. Exact slope disturbance will be determined at the time of permit.
- § 18-4-601 of the Anne Arundel County Zoning Code stipulates that principal structures in an R2 -Residential District shall be set back a minimum of 25 feet from the rear lot line. The dwelling addition will be located as close as 6.1 feet from the rear lot line, necessitating a variance of 19 feet.
- § 18-2-301(b) of the Anne Arundel County Zoning Code stipulates that an architectural feature that does not contain floor area, such as an areaway, bay window, greenhouse window, chimney, cornice, eave, sill, steps required for access, or stoop that does not exceed five feet by five feet,

may extend no more than three feet into a required setback and be located no closer than five feet from any lot line. The proposed eave of the addition will be located as close as 4.7 feet from the rear lot line, necessitating a variance to this provision.

FINDINGS

The applicant describes that the existing dwelling is surrounded by steep slopes which encumber approximately 52% of the lot area. This severely limits and restricts the areas that allow development. It is argued that the addition is modest in size and located in an area that has already been disturbed and improved.

The existing lot coverage of 2,814 square feet is more than the allowable 2,474 square feet. The proposed lot coverage after development of 2,780 square feet appears to comply with the 10% overage reduction requirement, with exact calculations to be determined at the time of permit.

The **Health Department** commented that it does not have an approved plan for the project but does not have an objection as long as a plan is submitted and approved by the Health Department.

The **Department of Recreation and Parks** commented that a portion of this site lies within the Anne Arundel County Green Infrastructure Network, a proposed preservation area considered in the Anne Arundel County Green Infrastructure Master Plan. The proposed development is consistent with the spirit of the Green Infrastructure Master Plan.

The **Cultural Resources Section** commented that the property (c. 1990s) is a non-contributing structure in the Sherwood Forest Historic District (AA-941). The proposal presents no adverse effect to the district and the Cultural Resources Section has no requirements.

The **Development Division** (Critical Area Team) commented that they have no objection to the request.

The **Critical Area Commission** commented that appropriate mitigation is required for the variance at 3:1 for permanent impacts.

For the granting of a critical area variance, a determination must be made on the following:

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 would result in an unwarranted hardship or practical difficulty. In this case the presence of steep slopes, the irregular shape of the lot and the existing location of the dwelling combine in making additions or improvements to the dwelling virtually impossible without variance relief. As such relief is warranted to allow the applicant to make improvements to the dwelling.

A literal interpretation of the County's critical area program will deprive the applicant of rights that are commonly enjoyed by other properties in similar areas by denying the applicant the right to redevelop a portion of the existing dwelling. The granting of the variance will not confer on the applicant a special privilege that would be denied by COMAR, Title 27. This request is not a result of actions by the applicant and does not arise from any condition relating to land or building use on any neighboring property. There is no evidence that the granting of the variances will adversely affect water quality or

impact fish, wildlife or plant habitat and the proposal is in harmony with the general spirit and intent of the County's critical area program. The applicant has overcome the presumption that the specific development does not conform to the general purpose and intent of the critical area law and has evaluated site planning alternatives.

With regard to the requirements for all variances:

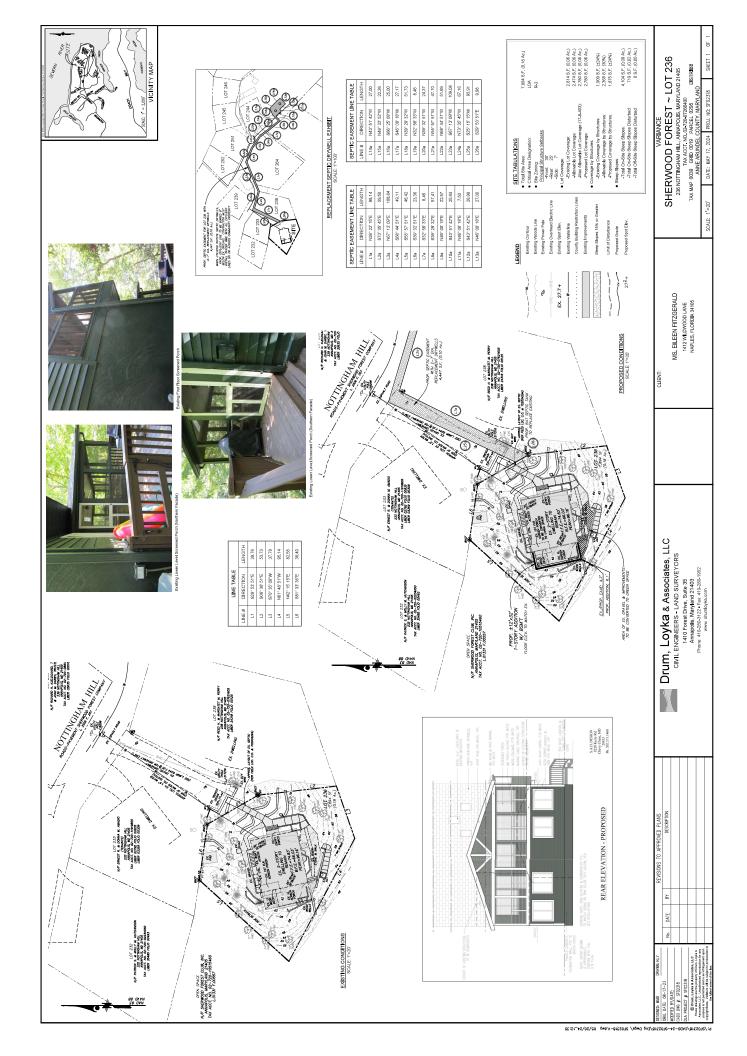
The variances as proposed are considered the minimum necessary to afford relief by this Office. The proposal consists of removing an existing deck/porch and replacing it in the same location with a modestly sized dwelling addition. The addition will be within the footprint of the existing improvements and the majority of the disturbance will be temporary for construction.

There is no evidence that the proposed addition will alter the essential character of the neighborhood, impair the use or development of adjacent property or be detrimental to the public welfare. The proposal will not reduce forest cover in the LDA and will not be contrary to acceptable clearing and replanting practices.

RECOMMENDATION

Based upon the standards set forth in § 18-16-305 under which a variance may be granted, this Office recommends *approval* of variances to construct the addition 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.





January 15, 2024

Anne Arundel County, Office of Planning and Zoning 2664 Riva Road, 3rd Floor Annapolis, MD 21401

RE: SHERWOOD FOREST ~ LOT 236
236 Nottingham Hill
Annapolis MD, 21405
Variance Application

Sir/Madam:

Attached is a variance request application and associated submittal documents for the above referenced property. To allow for modest improvements to the subject property, variances to the Anne Arundel County Code are required. The requested variance to the Code relates to Article 17, Section 8-201(a) for redevelopment on slopes 15% or greater in the LDA and to Article 18, Section 2-301(b) and Section 4-601 to setback requirements.

The subject property is a legal non-conforming building lot located in the community of Sherwood Forest, Maryland. The property is currently improved with a single-family dwelling and associated improvements. The lot is zoned R-2 and is served by community water and a private septic system. The property is located entirely within the Chesapeake Bay Critical Area with an LDA land use designation. The existing dwelling is surrounded by steep slopes, which encumber approximately 52% of the lot area, severely limiting and restricting the areas that allow redevelopment. Primary vegetation consists of hardwood and evergreen trees, ornamental shrubs, and creeping ground cover common to wooded areas and the community.

The applicants propose to construct a small addition to the existing dwelling. The building addition is modest in size and proposes to expand the dwelling footprint in an area that has been previously disturbed and is improved with decking and screened porches. To construct the proposed dwelling addition, temporary disturbance is necessary around the building addition. The temporary disturbance accounts for the majority of the steep slope disturbance.

Due to the unique physical conditions inherent to the property, the following variance to the Anne Arundel County Code is being requested: **Article 17, Section 8-201(a)** of approximately 719-sf of disturbance on slopes 15% or greater in the LDA, to **Article 18, Section 2-301(b)** of 18-ft to the requirement of architectural features extending no more than 3-ft into a required setback, and to **Article 18, Section 4-601** of 19-ft to the required 25-ft rear yard setback.

The need for the requested variance arises from the unique physical conditions of the site, specifically the location of the existing structure, and the presence of steep slopes. The community of Sherwood Forest is encumbered with steep slopes and other environmental challenges.

The addition is proposed in the only viable location on the property and is within the limits of existing improvements. It does not require any more disturbance than if the existing improvements were to be removed or maintained. Denial of the requested variance would constitute an unwarranted hardship and deny the applicant's rights commonly enjoyed by other property owners. The variance request is not based on actions by the applicant and would not confer upon the applicant any special privilege that would typically be denied by COMAR or the local Critical Area Program. With the implementation of stormwater management and the nitrogen reducing septic system, the development will not have an adverse effect on water quality or negatively impact fish, wildlife, or plant habitat, and is in conformance with the general purpose and intent of the Critical Area Program. The variance is the minimum necessary to afford relief from the Critical Area legislation. The granting of the variance will not alter the character of the neighborhood, impair the use and development of adjacent properties, reduce forest cover in the LDA, nor be detrimental to the public welfare.

We believe that these requests meet all the requirements for variance, per Article 18-16-305:

Requirements for Critical Area Variances.

- Unique physical conditions Specifically topography, the irregularly shaped lot, the size of the lot, as well as the location of the existing dwelling in relation to the property lines and slopes. Denial of the requested variance would constitute an unwarranted hardship on the applicant and deprive them of the right to redevelop and deny reasonable and significant use of the entire property.
- 2. <u>Rights commonly enjoyed</u> The proposed improvements are similar and in character to those of surrounding properties. To deny the requested variance would deprive the applicant of rights commonly enjoyed by other properties in the area.
- 3. <u>Will not confer special privilege</u> Granting this variance would not confer a special privilege to the applicant. Nearby properties maintain improvements comparable to what is proposed for this project. The applicants have made extensive efforts to design this proposed project in a manner that considers the placement of the existing dwelling and location of surrounding environmental features.
- 4. <u>Not based on conditions or circumstances that are the result of actions by the applicant</u> Conditions and circumstances are based on the small and irregular shape of the site, the presence of steep slopes, and the location of the existing improvements, and are not because of actions by the applicant.

5. Will not adversely affect water quality or adversely impact fish, wildlife, or plant habitat within the County's critical area — The proposed development will not cause adverse impacts to fish, wildlife, or water quality in the Critical Area. Disturbance is minimized only to what is necessary to complete the project. Mitigation will occur in accordance with county regulations and will be addressed during the permitting process. Sediment and erosion controls will be utilized to ensure that construction and grading will not adversely affect the surrounding environmental features located within the Critical Area. These precautions will ensure that water quality, fish, wildlife, and plant habitat will not be adversely affected.

Requirements for all variances.

- 1. <u>Minimum necessary</u> The improvements are minimal and are sited to utilize the footprint of the existing improvements to minimize disturbance.
- 2. The granting of the variance will not:
 - i. alter the essential character of the neighborhood, and all proposed development will be harmonious with other properties of the surrounding area.
 - ii. substantially impair the appropriate use or development of adjacent properties.
 - iii. reduce forest cover in the LDA as appropriate mitigation will be required as part of the permit process.
 - iv. be contrary to acceptable clearing or replanting practices required for development of the Critical Area or Bog Protection Area.
 - v. be detrimental to the public welfare.

Thank you for your attention to this matter. Please contact us if we may be of further service during your review of this variance request.

Sincerely,

DRUM, LOYKA & ASSOCIATES, LLC

Katie Yet/nan

Chesapeake Bay Critical Area Report

Sherwood Forest ~ Lot 236

Tax Map 39, Grid 19, Parcel 295 Tax Account No. 02-720-07266400

Property Address: 236 Nottingham Hill January 15, 2024

Annapolis, Maryland 21405

Property Owners & Variance Applicant: Ms. Eileen Fitzgerald, Trustee

Critical Area Designation: LDA Zoning: R-2 Lot Area: 0.18 Ac.

Site Description

The subject property is a legal building lot located off of Nottingham Hill in the community of Sherwood Forest. The site is currently improved with a single-family dwelling and associated improvements, which are surrounded by steep slopes. The lot is zoned R-2 and is completely within the Chesapeake Bay Critical Area, with an LDA land use designation. Private septic and Sherwood Forest public water service the property.

Description and Purpose of Variance Request

The applicant proposes to construct an addition to the existing single-family dwelling with the associated improvements. Due to the unique physical conditions inherent to the property, the following variance to the Anne Arundel County Code is being requested: **Article 17, Section 8-201(a)** of approximately 719-sf of disturbance on slopes 15% or greater in the LDA, to **Article 18, Section 2-301(b)** of 18-ft to the requirement of architectural features extending no more than 3-ft into a required setback, and to **Article 18, Section 4-601** of 19-ft to the required 25-ft rear yard setback.

The applicant proposes to construct a small addition to the existing dwelling. The building addition is modest in size and proposes to expand the dwelling footprint in an area that has been previously disturbed and is currently improved with decking and screened porches. To construct the proposed dwelling addition, temporary disturbance is necessary around the building addition. The temporary disturbance accounts for the majority of the steep slope disturbance

Vegetative Coverage and Clearing

The property's primary vegetation is woodland and creeping ivy that is common to wooded areas in the community. The existing wooded area totals roughly 6,130-sf. The proposed clearing is approximately 1,300-sf., the majority of which is necessary for access. Reforestation and afforestation requirements for this property will be addressed during the permit phase of this project.

Impervious Lot Coverage

The site currently has 2,814-sf of lot coverage. The proposed impervious lot coverage for this property is 2,780-sf, which is the allowable. The site currently has 1,909-sf of coverage by structures. The proposed coverage by structures is 1,847-sf, which is within the allowable amount.

Steep Slopes (slopes > 15%)

The subject property contains approximately 4,104-sf of steep slopes, or 52% of the site area, all of which are concentrated around the existing improvements. Approximately, 719-sf of slopes will be disturbed as part of the proposed construction. Most of this disturbance is necessary for access and removal of the existing improvements.

Predominant Soils

The predominant soil type is Annapolis Fine Sandy Loam, 40 to 80 percent slopes (AsG). This soil has a type "C" hydrologic classification, and is considered a hydric soil.

Drainage and Rainwater Control

There appear to be no visible stormwater management devices on site. Stormwater management and sediment and erosion control will be provided for the proposed improvements and the specific design computations will be addressed during the permit phase of the project in accordance with Anne Arundel County design criteria.

Conclusions – Variance Standards

The need for the requested variances arises from the unique physical conditions of the site, specifically the diminutive size of the lot and the presence of steep slopes. The addition is proposed in the only viable location on the property and lies within the footprint of existing improvements. It does not require any more disturbance than if the existing improvements were to be removed or maintained. The entire community of Sherwood Forest is inhabited with steep slopes and most of the lots in Sherwood are well under the required 20,000-sf minimum for lots served by a private septic system. Denial of the requested variance would constitute an unwarranted hardship and deny the applicant's rights commonly enjoyed by other property owners. The variance request is not based on actions by the applicant and will not confer upon the applicant any special privilege that would typically be denied by COMAR or the local Critical Area Program. With the implementation of stormwater management and the nitrogen reducing septic system, the development will not have an adverse effect on water quality or negatively impact fish, wildlife, or plant habitat, and is in conformance with the general purpose and intent of the Critical Area Program. The variance is the minimum necessary to afford relief from the Critical Area legislation. The granting of the variance will not alter the character of the neighborhood, impair the use and development of adjacent properties, reduce forest cover in the LDA, nor be detrimental to the public welfare. Stormwater Management and reforestation requirements will be addressed during the permit phase of the project. Reforestation will be provided on-site to the extent practicable.

Reference:

ADC: The Map People, 2002 Anne Arundel County, Maryland, Street Map Book

Anne Arundel County Office of Planning & Zoning, 2007 Critical Area Map

Anne Arundel County Office of Planning & Zoning, 2007 Buffer Exemption Map

Anne Arundel County, Maryland; Chesapeake Bay Critical Area Mapping Program, 2007, Critical Area Map

Federal Emergency Management Agency, 2015. Flood Insurance Rate Map

First American Real Estate Solutions, 2002, Realty Atlas: Anne Arundel County Maryland

Drum, Loyka and Associates LLC, 2024 Variance Plan

U.S. Department of Agriculture, Natural Resource Conservation Service –2003 Soil Survey of Anne Arundel County Maryland.

State Highway Administration of Maryland, 1989. Generalized Comprehensive Zoning Map: Third Assessment District

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:					Da	te
0039 0	rcel #)295 20-0726640	0019	Lot # 236	Section		FOR RESUBMITTAL ONLY Corrections Redesign No Change Non-Critical Area * Complete only Page 1 General Project Information
Project Name (si		236 Notting		Sherwoo	od Forest ~ L	
Local case numb	ber					
Applicant: L	ast name	Fitzgerald			First name	Eileen
Company						
Application Type	e (check a	ll that apply)):			
Building Permit Buffer Manageme Conditional Use Consistency Repo Disturbance > 5,0 Grading Permit	ort		Variar Rezon Site Pl Specia Subdiv Other	ing lan Il Exception	X	
Local Jurisdiction	on Contact	Information	1:			
Last name:			First name			
Phone #			Response fro	om Commiss	sion Required	1 By
Fax #			Hearing date	e		

SPECIFIC PROJECT INFORMATION

Describe Proposed use of project site:

Describe i roposed use of project site.	
Construct addition to existing single-fami	ly dwelling with associated improvements
	,
Yes	Yes
Intra-Family Transfer	Growth Allocation
Grandfathered Lot X	Buffer Exemption Area
Project Type (check all that apply)	
Commercial	Recreational
Consistency Report	Redevelopment
Industrial	Residential X
Institutional	Shore Erosion Control
Mixed Use	Water-Dependent Facility
Other	

SITE INVENTORY (Enter acres or square feet)

			_	Acres Sq Ft
	Acres	Sq Ft	Total Disturbed Area	0.05
IDA Area				
LDA Area	0.18		# of Lots Created	0
RCA Area				
Total Area	0.18			

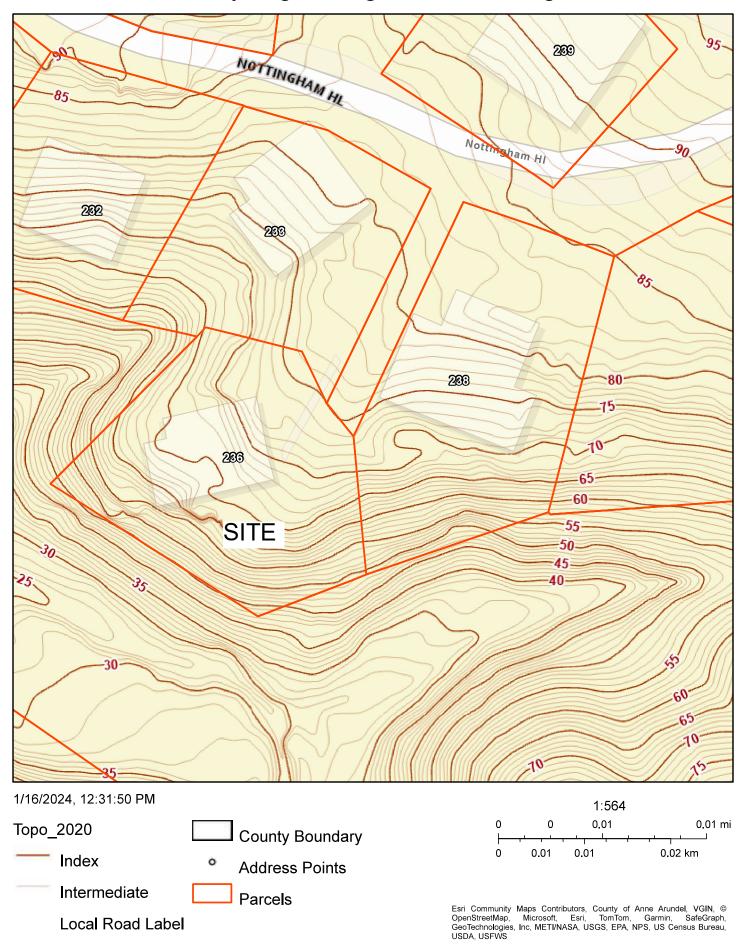
	Acres	Sq Ft		Acres	Sq Ft
Existing Forest/Woodland/Trees	0.14		Existing Impervious Surface	0.06	
Created Forest/Woodland/Trees	0.00		New Impervious Surface	0.00	
Removed Forest/Woodland/Trees	0.03		Removed Impervious Surface	0.00	
			Total Impervious Surface	0.06	

VARIANCE INFORMATION (Check all that apply)

	Acres	Sq Ft	_	Acres	Sq Ft
Buffer Disturbance	0.00		Buffer Forest Clearing		
Non-Buffer Disturbance	0.05		Mitigation		

<u>Variance Type</u>		<u>Structure</u>	
Buffer		Acc. Structure Addition	
Forest Clearing		Barn	
HPA Impact		Deck	
Impervious Surface		Dwelling	
Expanded Buffer		Dwelling Addition	\mathbf{X}
Nontidal Wetlands		Garage	
Steep Slopes	\mathbf{X}	Gazebo	
Setback	X	Patio	
Other		Pool	
		Shed	
		Other	

Anne Arundel County Engineering Record Drawing and Monuments



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Task Details OPZ Critical Area Team
Assigned Date Due Date 01/24/2024 Assigned to Kelly Krinetz 02/14/2024
Assigned to Department
OPZ Critical Area Current Status Complete w/ Comments **Status Date** 02/01/2024 Action By Overtime Kelly Krinetz
Comments No Start Time No objection. End Time Hours Spent 0.0 Billable Action by Department
No OPZ Critical Area
Time Tracking Start Date Est. Completion Date
In Possession Time (hrs) Display E-mail Address in ACA Estimated Hours Display Comment in ACA Comment Display in ACA All ACA Users Record Creator Licensed Professional Contact Owner Task Specific Information

Review Notes Reviewer Name

Expiration Date

Reviewer Phone Number Reviewer Email



Fwd: Fitzgerald AV - AA 0024-24

Sadé Medina <pzmedi22@aacounty.org> To: Jennifer Lechner <pzlech23@aacounty.org> Fri, Feb 2, 2024 at 2:37

Good afternoon,

-------Forwarded message -------From: Jonathan C. Coplin -DNR- <jonathan.coplin@maryland.gov> Date: Wed, Jan 31, 2024 at 10:03 AM

Subject: Fitzgerald AV - AA 0024-24 To: <pzmedi22@aacounty.org>

Cc: Charlotte Shearin -DNR- <charlotte.shearin@maryland.gov>

Good morning Sade,

Please see my below response to the Fitzgerald variance request.

2024-0013-V; Fitzgerald (AA0024-24) Appropriate mitigation is required for the variance at 3:1 for permanent impacts.

Jon



Critical Area Commission Chesapeake & Atlantic Coastal Bays dnr.maryland.gov/criticalarea

Jonathan Coplin Natural Resource Planner 1804 West Street, Suite 100 Annapolis, MD 21401 410-260-3481 (office) Jonathan.Coplin@maryland.gov

The Best Place For All

Sadé Medina

Secretary II, Zoning Administration Section Office of Planning and Zoning MS 6301 p: (410) 222-7437

f: (410) 222-4483



www.aacounty.org



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Task Details OPZ Cultural Resources Assigned Date 01/24/2024 Assigned to Stacy Poulos Current Status Complete w/ Comments Action By Stacy Poulos Comments This property (c. 1990s) is a non-contributing structure in the Sherwood Forest Historic District (AA-941). This proposal presents no adverse effect to the district	Due Date 02/14/2024 Assigned to Department OPZ Cultural Resources Status Date 02/08/2024 Overtime No Start Time
and the Cultural Resources Section has no requirements. End Time	Haura Chant
End Time	Hours Spent 0,0
Billable	Action by Department
No Time Tracking Start Date	OPZ Cultural Resources Est, Completion Date
In Possession Time (hrs)	Display E-mail Address in ACA
Estimated Hours 0.0	Display Comment in ACA
Comment Display in ACA	
All ACA Users	
Record Creator	
☑ Licensed Professional	
✓ Contact	
Owner Owner	
Task Specific Information	

Review Notes

Reviewer Email

Reviewer Name

Expiration Date

Reviewer Phone Number



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

DATE: January 29, 2024

RE: Eileen L. Fitzgeralj, Trustee

236 Nottingham

Annapolis, MD 21405

NUMBER: 2024-0013-V

SUBJECT: Variance/Special Exception/Rezoning

The Health Department has reviewed the above referenced variance to construct addition to existing dwelling in location of existing deck and porches. Variances to steep slopes and zoning setback requirements.

The Health Department does not have an approved plan for this project. The Health Department has no objection to the above referenced variance request as long as a plan is submitted and approved by the Health Department..

If you have further questions or comments, please contact Brian Chew at 410-222-7413.

cc: Sterling Seay



STEUART 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 2024-0013-V

DATE: January 31, 2024

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 site lies within the Anne Arundel County Green Infrastructure Network, a
proposed preservation area considered in the Anne Arundel County Green Infrastructure
Master Plan. The proposed development is consistent with the spirit of the Green
Infrastructure Master Plan.

The Department of Recreation and Parks has no further comments.

cc: File

Addressing Parcels Parcels Parcels Parcels Legend Notes THIS MAP IS NOT TO BE USED FOR NAVIGATION none 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. 100 2024-0013-V Aerial 20