

APP. EXHIBIT# 1
CASE: 2025-0011-V
DATE: 3/20/25

NOGUEIRA RESIDENCE

115 BAY DRIVE, ANNAPOLIS, MD 21403

VARIANCE 2025-0011-V

HEARING PRESENTATION – McHALE LANDSCAPE DESIGN

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LETTER OF EXPLANATION

115 BAY DR ANNAPOLIS MD 21403

Owners – Jason and Julie Nogueira

Applicant – McHale Landscape Design – Andrew Moore

The following letter of explanation is for the Pre-File application for a Variance Request for 115 Bay Drive, Annapolis, MD 21403 by McHale Landscape Design (*Applicant*) on the behalf of Jason and Julie Nogueira (*Owner*). This project was submitted previously via permit application AACO Record# **B02432233**. On 12/16/24 we received a comment made by **Deepa Sapkota** referencing § 18-2-204 (4) informing us that a variance was required. This application in response to that comment copied below:

- *It's a water view site. Per code Accessory structures § 18-2-204 (4) an accessory structure may not be located in the front yard of a non-waterfront lot. So Barry Ave is considered as front side lot line. You cannot have a pool in front yard of a non-waterfront lot without approved variance. Please contact the Office of Planning and Zoning, Zoning Division at (410) 222-7437 for additional information concerning the variance process and or any questions you may have concerning the setback requirements or you may contact Sterling Seay at 410 222- 6761 for variance process.*

Property Description:

The property at 115 Bay Drive is a 22,622-square-foot rectangular lot with dual front yard classifications along Barry Ave and Bay Drive. These dual frontages create two designated front yards for the property. Access to the site is provided by a two-track driveway from Barry Ave.

The Barry Ave frontage is screened by dense vegetation, giving it the functional and visual characteristics of a traditional rear yard despite its legal classification as a front yard. The property contains an existing two-story residence with a total above-grade living area of 4,838 square feet and an attached garage located near the center of the lot.

Setbacks for the Existing Residence

- 10' from the north side property line.
- 11' from the south side property line.
- 130' from the Barry Ave front property line.
- 70' from the Bay Drive front property line.
- 295' from the Mean High-Water Line.

The lot features a relatively flat area along the Barry Ave frontage, transitioning into a gentle slope toward the Bay Drive frontage, which opens to scenic water views of the Chesapeake Bay. The surrounding Bay Ridge neighborhood is characterized by similarly configured lots with dual front yard classifications, including properties on Bay Drive with pools (e.g., 123 Bay Drive, 42 River Drive, and 85 Bay Drive).

The proposed pool would be situated in the Barry Ave frontage, positioned to minimize its impact on the property's natural features and character. The proposed setbacks for the pool are as follows:

Setbacks to Proposed Pool

- 9'3" from the north side property line.
- 50'10" from the south side property line.
- 77'6" from the Barry Ave front property line.
- 165'1" from the Bay Drive front property line.
- 295' from the Mean High-Water Line.

Project Description:

The proposed project seeks a variance to § 18-2-204(4) to permit the construction of a 16' x 36' swimming pool within the front yard of the property. The proposed pool location will comply with all other applicable zoning requirements, including standard yard setbacks and lot coverage limitations (Net 10% Reduction).

Requirements For All Variances:

§ Article 18-16-305(c)

1) the variance is the minimum variance necessary to afford relief; and

- i. The requested variance is the minimum necessary to afford relief because the property's unique layout and constraints, primarily the presence of two front yards (Barry Ave and Bay Drive), make it impractical to locate the pool in a different area while maintaining compliance with zoning regulations. After careful consideration, the Barry Ave front yard was selected as the most suitable location for the proposed 16' x 36' pool. This decision was made to minimize impacts on the property's overall appearance and functionality while respecting neighborhood compatibility. Additionally, the proposed 16' x 36' pool is a modestly sized pool compared to the standard 20' x 40' pools commonly installed in similar residential neighborhoods. This demonstrates that the request is reasonable and proportionate, ensuring that the pool is appropriately scaled to the property and surrounding context. This solution minimizes the extent of the variance by limiting it solely to the location of the pool, without requiring additional deviations from other zoning standards.

2) the granting of the variance will not

i. alter the essential character of the neighborhood or district in which the lot is located

- The granting of the variance will not alter the essential character of the neighborhood or district in which the lot is located. There are several examples of pools located on comparable dual front yard lots, such as 123 Bay Drive, 42 River Drive, and 85 Bay Drive, demonstrating that the presence of a pool in this location is consistent with the neighborhood's existing character. Additionally, the neighborhood features numerous pools, further supporting that this aligns with the established pattern of development in the area. Moreover, the selected front yard along Barry Ave is sufficiently and naturally screened, ensuring that the pool will not create any visual disruption or negatively impact the character or aesthetics of the neighborhood.

ii. substantially impair the appropriate use or development of adjacent property

- The proposed pool will not substantially impair the appropriate use or development of adjacent properties. (10 Barry Ave, 113 Bay Drive, 117 Bay Drive, and 1 Decatur Ave) The pool will adhere to all standard yard setback requirements for pools within the R2 zoning district, with the sole exception of the requested variance to build in the front yard due to the property's dual front yard configuration. Furthermore, the Barry Ave front yard, where the pool is proposed to be located, is naturally screened, ensuring that the pool will not intrude upon or negatively impact the use, enjoyment, or development potential of neighboring properties.

iii. reduce forest cover in the limited development and resource conservation areas of the critical area;

- 115 Bay Drive is located within the Limited Development Area of the Critical Area. No forest cover will be removed or disturbed as part of this project. Additionally, the scope of work is entirely located outside the 100-foot Critical Area Buffer, ensuring compliance with all relevant environmental protection standards.

iv. be contrary to acceptable clearing and replanting practices required for development in the critical area or a bog protection area; nor

- The proposed work will not, in any manner, be contrary to acceptable clearing and replanting practices required for development in the Critical Area. The only clearing proposed involves turfgrass and existing lot coverage. (Artificial putting green, gravel, etc.) No forested or environmentally sensitive areas will be impacted by the project.

v. be detrimental to the public welfare.

- The proposed scope of work will not be detrimental to public welfare. As noted in responses to 2.i. and 2.ii., there are at least three examples of pools located in front yards within the neighborhood, as well as numerous other pools throughout the area. This demonstrates that the project is consistent with existing neighborhood characteristics and does not pose any harm to the public welfare.

Requirements for critical or bog protection area variances:

§ Article 18-16-305(b)

i. 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 or bog protection program would result in an unwarranted hardship, as that term is defined in the Natural Resources Article, § 8-1808, of the State Code, to the applicant;

- The requested variance to § 18-2-204(4) does not conflict with the Natural Resources Article, § 8-1808, of the State Code, nor does this application seek a variance under that section. The variance request pertains solely to the local zoning regulations and is not related to the provisions of the Natural Resources Article, which govern critical areas and bog protection. As such, there is no unwarranted hardship created by strict adherence to the County's critical area program or bog protection program in relation to this request.

ii. A literal interpretation of COMAR, Title 27, Criteria for Local Critical Area Program Development or the County's critical area program and related ordinances will deprive the applicant of rights commonly enjoyed by other properties in similar areas as permitted in accordance with the provisions of the critical area program within the critical area of the County; or

- The requested variance to § 18-2-204(4) is within the critical area; however, it does not seek a variance from COMAR, Title 27, Criteria for Local Critical Area Program Development, or the County's critical area program. The variance request pertains solely to local zoning regulations and does not seek to alter or waive any provisions of the critical area program that would deprive the applicant of rights commonly enjoyed by other properties in similar areas under the established program.

iii. The granting of a variance will not confer on an applicant any special privilege that would be denied by COMAR, Title 27, the County's critical area program to other lands or structures within the County critical area, or the County's bog protection program to other lands or structures within a bog protection area;

- The requested variance to § 18-2-204(4) is within the critical area; however, it does not seek a variance from COMAR, Title 27, Criteria for Local Critical Area Program Development, or the County's critical area program. The variance request pertains solely to local zoning regulations and does not seek to alter or waive any provisions of the critical area program that would deprive the applicant of rights commonly enjoyed by other properties in similar areas under the established program.

iv. The variance request is not based on conditions or circumstances that are the result of actions by the applicant, including the commencement of development before an application for a variance was filed, and does not arise from any condition relating to land or building use on any neighboring property;

- No development related to this variance request has commenced prior to the submission of this application. Additionally, the request does not arise from any condition related to the land or building use of any neighboring property, nor has it been caused by any actions taken by the applicant.

v. The granting of a variance will not adversely affect water quality or adversely impact fish, wildlife, or plant habitat within the County's critical area or a bog protection area and will be in harmony with the general spirit and intent of the County's critical area program or bog protection program;

- The granting of this variance will not adversely affect water quality or negatively impact fish, wildlife, or plant habitat within the County's Critical Area or a bog protection area. No development will occur on steep slopes, within the 100-foot buffer, or in environmentally sensitive areas. Additionally, the property's lot coverage exceedance will be reduced by a net 10% reduction. Best management practices (BMPs) will be fully implemented to ensure minimal environmental impact, maintaining compliance with all relevant regulations and promoting the protection of water quality and habitat.

vi. The applicant for a variance to allow development in the 100-foot upland buffer has maximized the distance between the bog and each structure, taking into account natural features and the replacement of utilities, and has met the requirements of § 17-9-208 of this Code;

- No development will occur within the 100-foot upland buffer. The proposed project is fully compliant with the requirements of § 17-9-208 of this Code, and no structures or activities will impact this protected area.

vii. The applicant, by competent and substantial evidence, has overcome the presumption contained in the Natural Resources Article, § 8-1808, of the State Code; and

viii. The applicant has evaluated and implemented site planning alternatives in accordance with § 18-16-201(c).

- The requested variance to § 18-2-204(4) does not impact or conflict with the provisions of the Natural Resources Article, § 8-1808, of the State Code, nor does it impede compliance with § 18-16-201(c) regarding site planning alternatives. The variance request is in alignment with all applicable regulations and has been carefully considered to ensure compliance with relevant environmental and zoning standards.

We would like to express our gratitude to all parties involved in the review of this variance application. We look forward to your continued review and to working alongside you throughout this process.

Sincerely,



Applicant Information:

- McHale Landscape Design MHIC #29697
 - o 911 West Street, Annapolis, MD 21401
 - o (410)-990-0894
- Andrew Moore – McHale Landscape Design
 - o (240)-565-4069
 - o Andrewm@mchalelandscape.com

VARIANCE SIGNAGE POSTING – 03/05/25



SIGN POSTING BARRY AVE.



SIGN POSTING BARRY AVE.



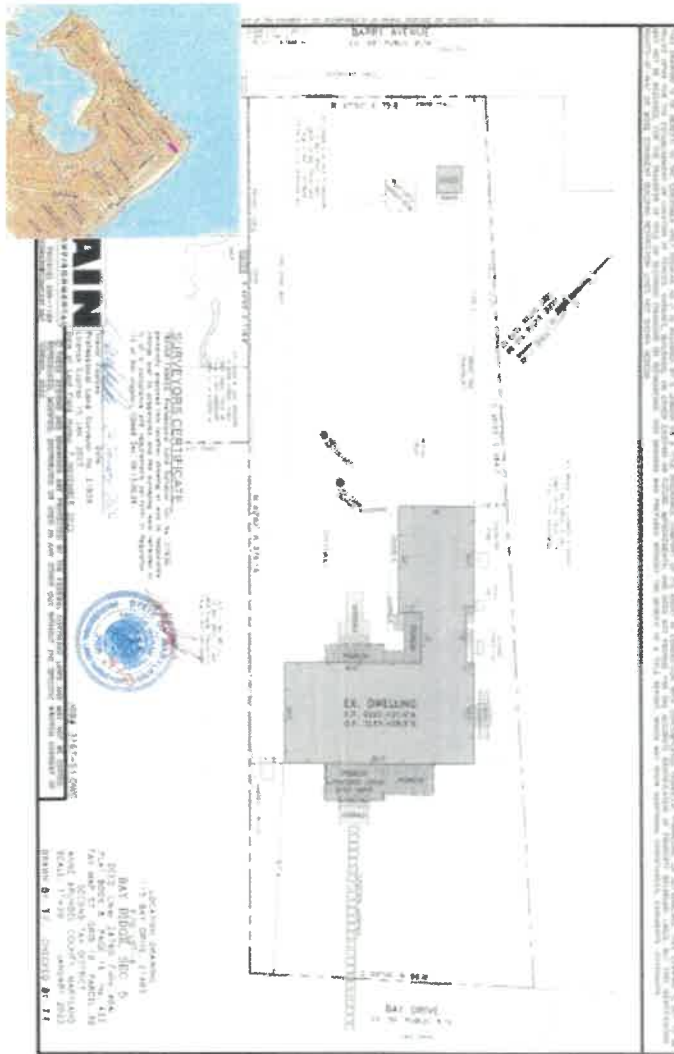
SIGN POSTING BAY DRIVE



SIGN POSTING BAY DRIVE



EXISTING PROPERTY CONDITIONS



VIEW TO HOUSE (WITHIN YARD FROM BARRY AVE)



VIEW TO BARRY AVE (WITHIN YARD FROM HOUSE)



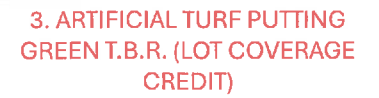
VIEW TO HOUSE (WITHIN YARD FROM DRIVE STRIP)



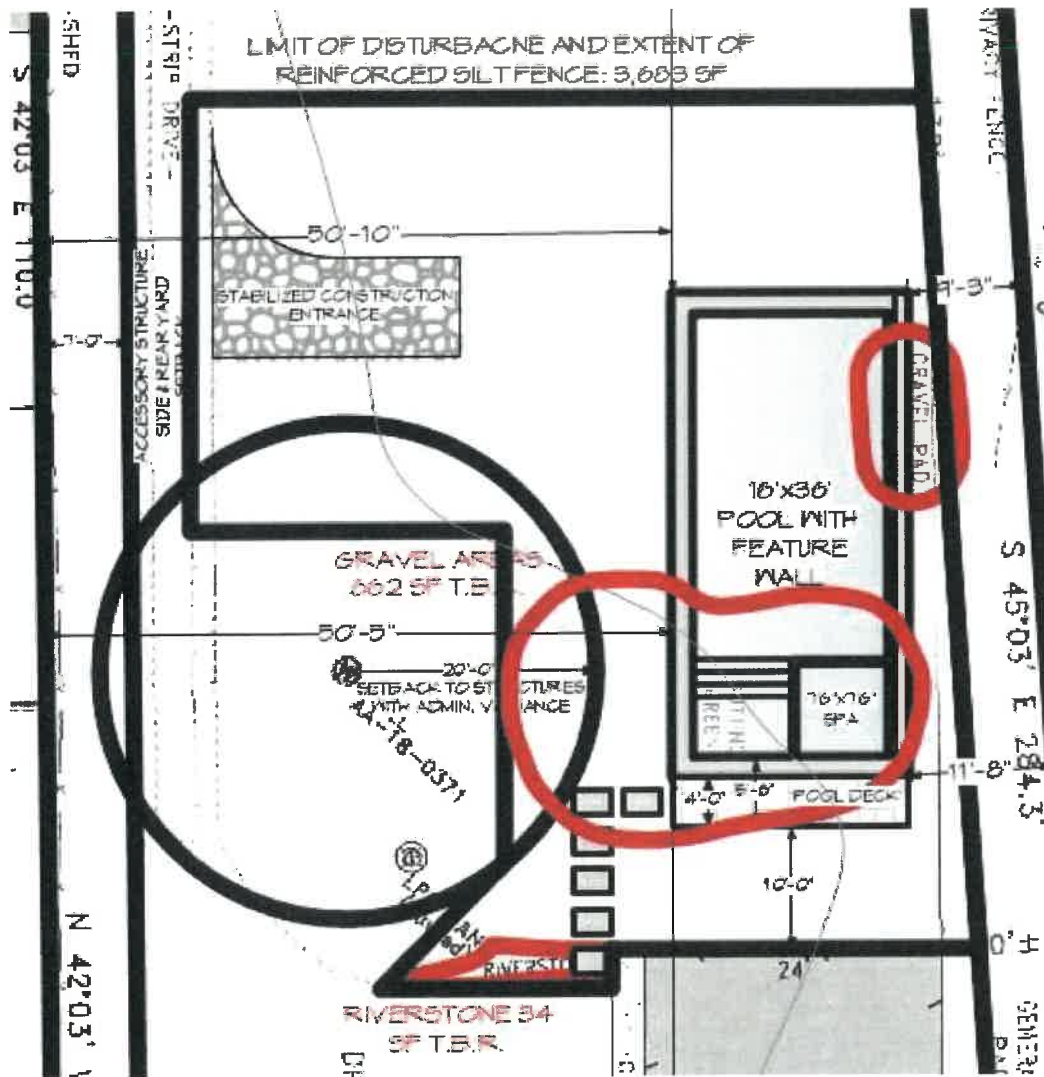
VIEW NORTH SIDE OF HOUSE



VIEW OF PARKING COURT

[illegible]

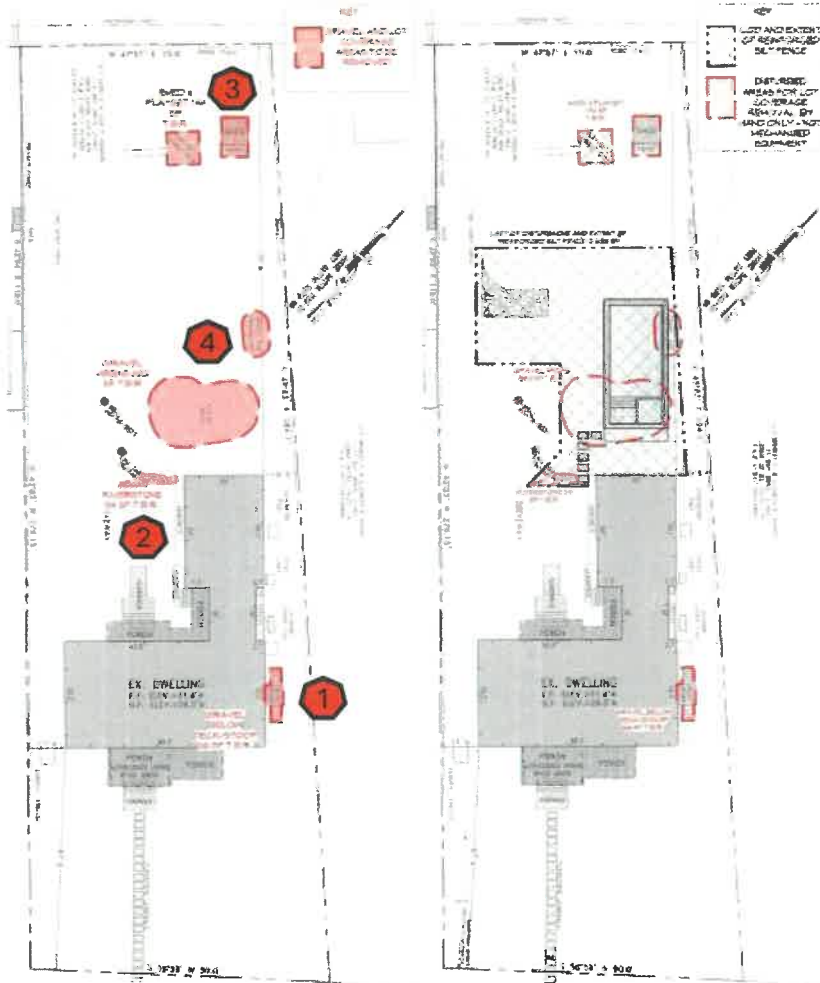
PROPOSED SITE PLAN



- 16X36 POOL (WATER) WITH 18" COPING AND RAISED FEATURE WALL
- POOL DECK LIMITED TO 4'X19' FLAGSTONE PATIO AT REAR OF POOL FOR ACCESS
- (6) 2X3 FLAGSTONE STEPPERS TO ACCESS POOL DECK.
- POOL TO BE SURROUNDED BY LANDSCAPE PLANTINGS OR TURF. NO ADDITIONAL HARDSCAPE SURFACES PROPOSED.
- ALL EXCAVATED SOILS TO BE REMOVED FROM SITE.
- NO CLEARING OF WOODED AREA INCLUDED IN THIS PROJECT.



LOT COVERAGE AND DISTURBANCE TABULATIONS



**LOT COVERAGE
REMOVAL DIAGRAM:**

**LIMIT OF DISTURBANCE
AND SILT FENCE**

EX. LOT COVERAGE TABULATIONS	
DWELLING AND ATTACHED APPURTENANCES	3,749 SF
DRIVEWAY/TIRE-STRIPS	1,557 SF
BRICKED LEADWALKS	189 SF
SHED & ADJ. PLAYSET	194 SF
GRAVEL AREA (TRAMPOLINE & PUTTING GREEN)	662 SF
FLAGSTONE WALK	121 SF
TOTAL EXISTING LOT COVERAGE:	6,472 SF
TOTAL EXCEEDED LOT COVERAGE:	1,027 SF
REQUIRED 10% NET LOT COVERAGE REDUCTION:	103 SF
TOTAL ALLOWABLE PROPOSED LOT COVERAGE:	6,369 SF
PRO. LOT COVERAGE TABULATIONS	
1 DWELLING AND ATTACHED APPURTENANCES	3,683 SF
(GRAVEL BELOW DECK/SLOOP REMOVED -66 SF)	
2 DRIVEWAY/TIRE-STRIPS	1,523 SF
(RIVERSTONE REMOVED -34 SF)	
3 BRICKED LEADWALKS	189 SF
4 SHED & ADJ. PLAYSET	0 SF
GRAVEL AREA (TRAMPOLINE & PUTTING GREEN)	0 SF
FLAGSTONE WALK	121 SF
PROPOSED 16'x36' POOL (18" COPING)	741 SF
PROPOSED STEPPERS AND PATIO	112 SF
TOTAL PROPOSED LOT COVERAGE:	6,369 SF
TOTAL ALLOWABLE PROPOSED LOT COVERAGE:	6,369 SF
TOTAL REMAINING LOT COVERAGE WITH 10% NEW REDUCTION	0 SF
AMMOUNT OF DISTURBANCE:	3,683 SF
TOTAL SQUARE FOOTAGE OF CONSTRUCTION:	853 SF

- IF APPROVED THIS PROJECT WOULD BE WITHIN THE 5,000 SF OF DISTURBANCE FOR A STANDARD GRADING PLAN.
- IF APPROVED THIS PROJECT WOULD REDUCE THE OVERALL LOT COVERAGE BY 103 SF (THIS IS 10% OF THE CURRENT EXCEEDED LOT COVERAGE)



LETTERS OF SUPPORT – 1 DECATUR AVE.

Todd Patton
1 Decatur Avenue
Annapolis, MD 21403

Anne Arundel County Office of Planning and Zoning
266A Riva Road
Annapolis, MD 21401

Subject: Letter of Support for Variance Application Record 2025-0011-V

To Whom It May Concern,

I am writing to express my support for the variance application (Record 2025-0011-V) submitted by McHale Landscape Design to permit the construction of a 16'x36' swimming pool within the front yard of their property.

As a neighboring property owner, I have no objections to the proposed pool location and believe it will be a positive addition to the property and the community. The pool will comply with all applicable zoning requirements, including standard yard setbacks and lot coverage limitations, ensuring that it remains consistent with the character of the surrounding area.

Additionally, I do not foresee any negative impacts on neighboring properties, such as drainage issues, obstruction of views, or disruptions to privacy. I fully support this variance request and respectfully ask the county to approve it.

Sincerely,



Todd Patton



115 BAY DRIVE – PROJECT SITE



1 DECATUR AVE. - TODD PATTON – NEIGHBOR IN SUPPORT



LETTERS OF SUPPORT – 113 BAY DRIVE

Sam A Alrub
113 Bay dr.
Annapolis, Md 21403
02/13/2025

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

Subject: Letter of Support for Variance Application Record 2025-0011-V

To Whom It May Concern,

I am writing to express my support for the variance application (Record 2025-0011-V) submitted by McHale Landscape Design to permit the construction of a 16' x 36' swimming pool within the front yard of their property.

As a neighboring property owner, I have no objections to the proposed pool location and believe it will be a positive addition to the property and the community. The pool will comply with all applicable zoning requirements, including standard yard setbacks and lot coverage limitations, ensuring that it remains consistent with the character of the surrounding area.

Additionally, I do not foresee any negative impacts on neighboring properties, such as drainage issues, obstruction of views, or disruptions to privacy. I fully support this variance request and respectfully ask the county to approve it.

Sincerely,

Sam A. Alrub

Sam A. Alrub



115 BAY DRIVE – PROJECT SITE



113 BAY DRIVE – SAM ALRUB – NEIGHBOR IN SUPPORT



LETTERS OF SUPPORT – 107 BAY DRIVE

Brian and Kendra Darnell
107 Bay Drive
Annapolis, MD 21403
(443) 223-0203

February 13, 2025

Anne Arundel County Office of Planning And Zoning
2664 Riva Rd
Annapolis, MD 21401

RE: 115 Bay Drive Zoning
Variance 2025-0011-V

To Whom it May Concern,

I own the residence at 107 Bay Drive in the community of Bay Ridge, 2 lots down from the above referenced property. I am writing in support of the above referenced Zoning application.

I have reviewed the site plan and the details of the Zoning Variance and have no objections to the proposed pool addition. I believe that the proposed pool would be a valuable addition to the character of the community. It also appears to meet guidelines and requirements set forth by Anne Arundel County.

I hereby fully support the application and ask that the County approve the variance request.

Sincerely,

Brian and Kendra Darnell



1

115 BAY DRIVE – PROJECT SITE

2

107 BAY DRIVE – BRIAN & KENDRA DARNELL – NEIGHBOR
IN SUPPORT



LETTERS OF SUPPORT – 10 BARRY DRIVE

IT SHOULD BE NOTED, JASON NOGUEIRA (APPLICANT OF 115 BAY DRIVE) OWNS THE PROPERTY AT 10 BARRY DRIVE AND IS IN SUPPORT OF THE VARIANCE AT 115 BAY DRIVE.



115 BAY DRIVE – PROJECT SITE



10 BARRY DRIVE – JASON NOGUEIRA – NEIGHBOR IN SUPPORT



COMPARABLE PROPERTIES IN NEIGHBORHOOD



85 BAY DRIVE

- FRONTAGE ON BAY DRIVE & BARRY AVE.
- APPROXIMATE EXISTING 20X40 POOL ON BARRY AVE FRONTAGE
- APPROXIMATELY 12 HOUSES DOWN OR 1,000 FEET FROM 115 BAY DRIVE



COMPARABLE PROPERTIES IN NEIGHBORHOOD



42 RIVER DRIVE

- FRONTAGE ON RIVER DRIVE & DECATUR AVE.
- APPROXIMATE EXISTING 20X32 POOL ON DECATUR AVE FRONTAGE
- APPROXIMATELY 19 HOUSES DOWN OR 1,400 FEET FROM 115 BAY DRIVE



COMPARABLE PROPERTIES IN NEIGHBORHOOD



123 BAY DRIVE

- FRONTAGE ON BAY DRIVE & BARRY AVE.
- APPROXIMATE EXISTING 12X18 POOL ON BARRY AVE. FRONTAGE
- APPROXIMATELY 4 HOUSES DOWN OR 250 FEET FROM 115 BAY DRIVE



- CLIENT TESTIMONIAL: JASON NOGUEIRA

