

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

**APPLICANT:** Kathryn & Christopher Burroughs

**ASSESSMENT DISTRICT:** 3

**CASE NUMBER:** 2025-0024-V

**COUNCILMANIC DISTRICT:** 5

**HEARING DATE:** April 24, 2025

**PREPARED BY:** Sara Anzelmo  
Planner



**REQUEST**

The applicants are requesting variances to allow dwelling additions (multiple decks and steps) with less setbacks and buffer than required and with disturbance to slopes of 15% or greater on property located at 1504 Riverdale Drive in Annapolis.

**LOCATION AND DESCRIPTION OF SITE**

The subject property consists of 27,758 square feet of land and is located on the northwest side of Riverdale Drive. It is identified as Lot 128 of Parcel 176 in Grid 23 on Tax Map 39 in the subdivision of Winchester on the Severn.

The property is zoned R2 – Residential District, is located entirely within the Chesapeake Bay Critical Area overlay, and is designated as part LDA – Limited Development Area and part RCA – Resource Conservation Area. The nearby shoreline is not mapped as buffer modified and is subject to the standard buffer and expanded buffer regulations. The lot is currently improved with a one-story, single-family, detached dwelling and other associated facilities.

**PROPOSAL**

The applicants propose to construct two decks and two sets of stairs on the rear/waterview side of the existing dwelling. The larger deck would measure 16' by 49' (784 square feet), and the smaller deck would measure 15' by 18' plus a 4' by 8' landing (302 square feet) for a total deck area of 1,086 square feet.

**REQUESTED VARIANCES**

§ 18-13-104(a) of the Anne Arundel County Zoning Code requires that there shall be a minimum 100-foot buffer landward from the mean high-water line of tidal waters, tributary streams, and tidal wetlands. § 18-13-104(b) provides for an expanded buffer where there are, among other things, steep slopes. § 17-8-301 of the Subdivision and Development Code states that development on properties containing buffers shall meet the requirements of Title 27 of the State Code of Maryland (COMAR). Section 27.01.01(B)(8)(ii) of COMAR states a buffer exists “to protect a stream, tidal wetland, tidal waters, or terrestrial environment from human disturbance.” Section 27.01.09 E.(1)(a)(ii) of COMAR authorizes disturbance to the buffer for a new development activity or redevelopment activity by variance. The proposed decks would be located entirely within the expanded stream buffer, necessitating a variance for the area of the decks plus an additional 10-foot

limit of disturbance (LOD) around the decks required for access during construction. If approved, the actual buffer disturbance would be determined at the time of permitting.

§ 17-8-201(a) of the Subdivision and Development Code provides that development in the limited development area (LDA) or the resource conservation area (RCA) 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 proposed decks would be located within slopes of 15% or greater, necessitating a variance for the area of the decks plus an additional 10-foot limit of disturbance (LOD) around the decks required for access during construction. If approved, the actual slope disturbance would be determined at the time of permitting.

§ 18-4-601 of the Zoning Code provides that a principal structure in an R2 District shall be set back a minimum of seven feet from the side lot line. The deck on the southwest side of the screened porch would be constructed five feet from the southwest side lot line, necessitating a variance of two feet.

## **FINDINGS**

The subject property is irregular in shape and easily exceeds the minimum 80 foot width and 20,000 square foot area required for a lot not served by public sewer in an R2 District. The existing critical area lot coverage was not provided on the Critical Area Project Notification worksheet; however, no additional coverage is proposed with this application.

The property was the subject of a prior variance (2005-0448-V) under which approval was granted to allow for the construction of two rear dwelling additions with disturbance within the buffer and within slopes of 15% or greater. One of the two additions was for construction of the screened porch that currently exists on the rear/waterview side of the dwelling.

The applicants' letter explains that the decks would allow them to better enjoy the outdoors, especially as they continue to age. They attest that the ground is very uneven, which could lead to potential falls. They also believe that the decks would create more opportunities to prevent run off and erosion of the property. The applicants opine that decks can help prevent erosion by effectively directing rainwater away from the ground beneath it, minimizing soil washout and preventing further erosion. However, this Office notes that decks prevent vegetative growth beneath, which contributes to erosion rather than preventing it. No specific justification was provided to support the need for the side setback variance or to demonstrate that the expansive 1,086 square foot combined deck area is the minimum necessary to afford reasonable use of the property.

The **Development Division (Critical Area Team)** noted that, in addition to being impacted by steep slopes, the entire area also falls within an expanded stream buffer. While the applicants may argue that some relief is warranted, that relief must meet the standards as outlined in the County Code. This request proposes the addition of two decks with a combined area of 1,054 square feet [1,086 square feet including the landing], which would result in permanent disturbance to the buffer. This proposal should be minimized.

The **Critical Area Commission** commented that the applicant already has reasonable and significant use of their lot including outdoor amenities such as an existing screened in porch. The application is not clear with regard to the existing lot coverage, proposed limit of disturbance, and proposed clearing. The Administrative Hearing Officer must find that each and every one of the Critical Area variance standards have been met, including that the proposal meets unwarranted hardship and that this variance would not adversely affect water quality and wildlife or plant habitat.

The **Department of Health** has reviewed the on-site sewage disposal system and has determined that the proposed request would not adversely affect this system. The Department has no objection.

The **Soil Conservation District** reviewed the proposal and provided no comment.

For the granting of a Critical Area variance, a determination must be made as to whether, because of certain unique physical conditions peculiar to and inherent in the particular property, strict implementation of the County's Critical Area Program would result in an unwarranted hardship. In this particular case, the property is encumbered with steep slopes and the expanded buffer, limiting future expansion. However, there is already an existing outdoor amenity area (screened porch) on the waterview side constructed under a prior variance. While some relief to provide an additional uncovered deck area may be warranted, there is opportunity to minimize the requested variances.

A literal interpretation of the County's Critical Area Program would deprive the applicants of rights that are commonly enjoyed by other properties in similar areas, as a deck is a typical amenity in the area. However, the granting of critical area variances for two decks totaling 1,086 square feet would confer on the applicants a special privilege that would be denied by COMAR, Title 27. The request is not based on conditions or circumstances that are the result of actions by the applicants and does not arise from any condition relating to land or building use on any neighboring property. The variances may adversely affect water quality or impact fish, wildlife, or plant habitat and would not be in harmony with the general spirit and intent of the County's Critical Area Program. The applicants have not overcome the presumption that the specific development does not conform to the general purpose and intent of the Critical Area law and have not evaluated or implemented site plan alternatives.

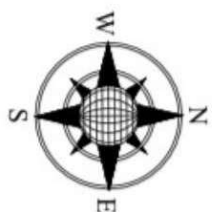
With regard to the requirements for all variances, approval would not necessarily impair the appropriate use or development of adjacent properties, reduce forest cover in the limited development area or resource conservation area, be contrary to acceptable clearing and replanting practices, or be detrimental to the public welfare. However, approval of the proposed expansive rear deck area may alter the essential character of the neighborhood. While some relief may be warranted, the 1,086 square foot combined deck area far exceeds the minimum necessary and cannot be supported.

The location of the smaller proposed deck on the southwest side of the screened porch is supportable. That location would maximize the expanded stream buffer, minimizing the environmental impacts. However, the side setback variance could be eliminated easily by narrowing the deck by a mere two feet. Therefore, the setback variance is unwarranted. The larger (784 sf) deck is excessive and cannot be supported. The elimination of the larger deck and a two-foot reduction of the smaller deck would result in a proposed deck area of 13' by 18' plus a 4' by 8' landing (234 square feet). This would represent the minimum slope and buffer disturbance necessary for a reasonable outdoor amenity area.

### **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 the proposed variances. However, this Office recommends a **modified approval** of Critical Area variances to § 17-8-301 and § 17-8-201(a) to allow disturbance within the expanded buffer and within slopes of 15% or greater as required for the construction of a 13' by 18' deck plus a 4' by 8' landing (234 square feet) on the southwest side of the screened porch.

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.



THIS IS NOT A LEGAL SURVEY. NOR IS IT INTENDED TO BE OR REPLACE ONE.



## Letter of explanation

To whom it may concern:

We are seeking to build a deck on the posterior part of our house. We love to enjoy the outdoors, unfortunately due to the surface structure of our backyard, we have not been able to fully take advantage of the outdoor life. We believe this will be the best solution to our property structure.

(1) because of certain unique physical conditions, such as irregularity, narrowness or shallowness of lot size and shape or exceptional topographical conditions peculiar to and inherent in the particular lot, there is no reasonable possibility of developing the in strict conformance with this article.

Not only will this allow us to better enjoy the outdoors, especially as we continue to age –the ground is very uneven, which could lead to potential falls- we believe it will also allow us to create more opportunities to prevent run off and erosion of the property, as we won't need to trek through the areas we shore up along with this process. A deck can help prevent erosion by effectively directing rainwater away from the ground beneath it, minimizing soil washout and preventing further erosion. The project is a win for the environment and provides a safe backyard environment with unable safe space and most importantly soil stability and protecting the surrounding landscape from erosion.

(5) 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.

(1) the granting of the variance will not;

(i) alter the essential character of the neighborhood or district in which the lot is located;

(ii) substantially impair the appropriate use or development of adjacent property;

(iii) reduce forest cover in the limited development and resource conversation areas of the critical area;

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

(v) be detrimental to the public welfare.

Thank you for understanding and considering our application.

Sincerely

The Burroughs.

CRITICAL AREA COMMISSION  
CHESAPEAKE AND ATLANTIC COASTAL BAYS  
1804 WEST STREET, SUITE 100  
ANNAPOLIS, MD 21401

PROJECT NOTIFICATION APPLICATION

**GENERAL PROJECT INFORMATION**

Jurisdiction: Anne Arundel County

Date: 01/17/2025

Tax Map #	Parcel #	Block #	Lot #	Section
390907040503	235062			

Tax ID:

**FOR RESUBMITTAL ONLY**

Corrections ☐  
Redesign ☐  
No Change ☐  
Non-Critical Area ☐

\*Complete Only Page 1  
General Project Information

Project Name (site name, subdivision name, or other)  Cunningham Burroughs

Project location/Address  1504 Riverdale Drive

City  Annapolis Zip  21409

Local case number

Applicant: Last name  Burroughs First name  Cunningham

Company

**Application Type (check all that apply):**

Building Permit ☐  
Buffer Management Plan ☐  
Conditional Use ☐  
Consistency Report ☐  
Disturbance > 5,000 sq ft ☐  
Grading Permit ☐

Variance ☒  
Rezoning ☐  
Site Plan ☐  
Special Exception ☐  
Subdivision ☐  
Other ☐

**Local Jurisdiction Contact Information:**

Last name  AACo Zoning Administration Section First name

Phone #  (240)413-7104 Response from Commission Required By  TBD

Fax #  Hearing date  TBD

## SPECIFIC PROJECT INFORMATION

Describe Proposed use of project site:

Install 15x18 deck

Intra-Family Transfer ☐ Yes  
Grandfathered Lot ☐

Growth Allocation ☐ Yes  
Buffer Exemption Area ☐

### Project Type (check all that apply)

Commercial ☐  
Consistency Report ☐  
Industrial ☐  
Institutional ☐  
Mixed Use ☐  
Other ☐

Recreational ☐  
Redevelopment ☐  
Residential ☒  
Shore Erosion Control ☐  
Water-Dependent Facility ☐

## SITE INVENTORY (Enter acres or square feet)

	Acres	Sq Ft
IDA Area		
LDA Area		
RCA Area		
Total Area		

Total Disturbed Area 

Acres	Sq Ft

# of Lots Created

	Acres	Sq Ft		Acres	Sq Ft
Existing Forest/Woodland/Trees			Existing Lot Coverage		
Created Forest/Woodland/Trees			New Lot Coverage		
Removed Forest/Woodland/Trees			Removed Lot Coverage		
			Total Lot Coverage		

## VARIANCE INFORMATION (Check all that apply)

	Acres	Sq Ft		Acres	Sq Ft
Buffer Disturbance			Buffer Forest Clearing		
Non-Buffer Disturbance			Mitigation		

### Variance Type

Buffer ☐  
Forest Clearing ☐  
HPA Impact ☐  
Lot Coverage ☐  
Expanded Buffer ☐  
Nontidal Wetlands ☐  
Setback ☐  
Steep Slopes ☐  
Other ☐

### Structure

Acc. Structure Addition ☐  
Barn ☐  
Deck ☒  
Dwelling ☐  
Dwelling Addition ☐  
Garage ☐  
Gazebo ☐  
Patio ☐  
Pool ☐  
Shed ☐  
Other ☐

2025-0024-V

<div>Menu</div>		<div>Cancel</div>	<div>Help</div>
<div>Task</div> <div>OPZ Critical Area Team</div> <div>Assigned to Department</div> <div>OPZ Critical Area</div> <div>Action by Department</div> <div>OPZ Critical Area</div> <div>Start Time</div>		<div>Due Date</div> <div>03/25/2025</div> <div>Assigned to</div> <div>Kelly Krinetz</div> <div>Action By</div> <div>Kelly Krinetz</div> <div>End Time</div>	<div>Assigned Date</div> <div>03/04/2025</div> <div>Status</div> <div>Complete w/ Comments</div> <div>Status Date</div> <div>03/19/2025</div> <div>Hours Spent</div> <div>0.0</div> <div>Comments</div> <div>In addition to being impacted by steep slopes, the entire area also falls within an expanded stream buffer. While the applicants may argue that some relief is warranted, that relief must meet the standards for as outlined in the County Code. This request proposed the addition of two decks with a combined area of 1054 sq. ft. which would result in permanent disturbance to the buffer. This proposal should be minimized.</div>
<div>Billable</div> <div>No</div>	<div>Overtime</div> <div>No</div>	<div>In Possession Time (hrs)</div> <div>0.0</div>	
<div>Time Tracking Start Date</div> <div>No</div>	<div>Est. Completion Date</div> <div><input checked="" type="checkbox"/> Display Comment in ACA</div>	<div>Comment Display in ACA</div> <div><input checked="" type="checkbox"/> All ACA Users</div> <div><input checked="" type="checkbox"/> Record Creator</div> <div><input checked="" type="checkbox"/> Licensed Professional</div> <div><input checked="" type="checkbox"/> Contact</div> <div><input checked="" type="checkbox"/> Owner</div>	
<div>Estimated Hours</div> <div>0.0</div>	<div>Action</div> <div>Updated</div>	<div>Workflow Calendar</div>	
<div>Task Specific Information</div>			
<div>Expiration Date</div> <div>Reviewer Phone Number</div>		<div>Review Notes</div> <div>Reviewer Email</div>	<div>Reviewer Name</div>



Sara Anzelmo <pzanze99@aacounty.org>

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## Comments re: 2025-0024-V

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**Jamileh Soueidan -DNR-** <jamileh.soueidan@maryland.gov>

Mon, Mar 31, 2025 at 3:17 PM

To: Sara Anzelmo <pzanze99@aacounty.org>

Hi Sara,

Thanks for checking and catching that. Please see my revised comments below:

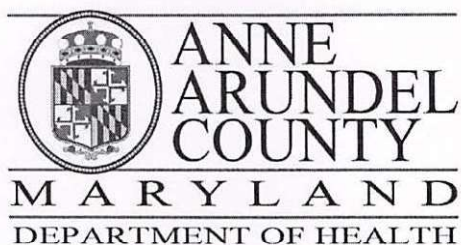
The applicant is proposing the addition of a 15' x 18' deck and a 16' x 49' deck within the expanded Buffer from a stream that runs north of the property and with disturbance to steep slopes within the LDA. The applicant already has reasonable and significant use of their lot including outdoor amenities such as an existing screened in porch. It is unclear from the application the existing lot coverage, proposed limit of disturbance, and proposed clearing. The Administrative Hearing Officer (AHO) must find that each and every one of the Critical Area Variance standards have been met, including that the proposal meets unwarranted hardship, and that this variance would not adversely affect water quality and wildlife or plant habitat.

Sincerely,

Jamileh

[Quoted text hidden]






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: March 11, 2025

RE: Maxine B. Cunningham  
1504 Riverdale Drive  
Annapolis, MD 21409

NUMBER: 2025-0024-V

SUBJECT: Variance/Special Exception/Rezoning

The Health Department has reviewed the above referenced variance to allow installation new deck 15x18 wide deck wide deck with 8x4 wide cat walk, with stairs that will lead to a 49x16 deck.

The Health Department has reviewed the on-site sewage disposal system for the above referenced property. The Health Department has determined that the proposed request does not adversely affect the on-site sewage disposal system. The Health Department has no objection to the above referenced request.

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

cc: Sterling Seay























50 ft



OLD RIVER RD

Tax/Assess Count Number: 390907040503

