

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

APPLICANTS: John Sheller & Tink Cooper
Sheller, Trustees

ASSESSMENT DISTRICT: 7

CASE NUMBER: 2025-0059-V

COUNCILMANIC DISTRICT: 7

HEARING DATE: June 10, 2025

PREPARED BY: Joan A. Jenkins
Planner III



REQUEST

The applicants are requesting a use variance to allow a private residential pier and pilings in an MA2 – Light Commercial Marina District on property located at 469 Deale Road in Deale.

LOCATION AND DESCRIPTION OF SITE

The subject site consists of 27,399 square feet of land and is located with frontage on the southeast side of Deale Road, north of Herring Bay Road. The property is identified as Parcel 212 in Grid 12 on Tax Map 77 and is zoned MA2 – Light Commercial Marina District.

This waterfront lot is located on Rockhold Creek, lies entirely within the Chesapeake Bay Critical Area, is designated as IDA – Intensely Developed Area, and is mapped as a BMA – Buffer Modification Area. It is currently improved with a single-family detached dwelling, an accessory building, a driveway, and a pier with associated pilings.

APPLICANTS' PROPOSAL

The applicants propose to remove the existing pier and pilings, which currently serve as an existing private residential pier accessory to a nonconforming use (single-family detached dwelling), and replace with a pier comprising a fixed pier (6' by 14'), a gangway (3' by 20'), and a floating pier (6' by 106') with an "L" platform (18' by 11'). Seven existing pilings, four on the north side and three on the south side, will be replaced in-kind.

REQUESTED VARIANCES

§ 18-7-107 of the Anne Arundel County Zoning Ordinance lists the permitted, conditional and special exception uses allowed in the maritime zoning districts. Private residential piers are not among the permitted uses in an MA2 – Light Commercial Marina District; therefore, the pier and associated pilings are not permitted. As such, a use variance is required to construct a new pier and pilings.

FINDINGS

The subject property is a long nearly rectangular shape and is both undersized and narrow for the MA2 District. More specifically, the 27,399 square foot area is significantly smaller than the minimum one acre required, and the approximately 60 feet of shoreline width is far narrower than the minimum 150-foot width required at the shoreline. The State Department of Assessments and Taxation records do not indicate a construction year for the dwelling. The property is adjacent to another nonconforming, residentially used lot to the north and a marina to the south. Waterfront properties on both sides of Rockhold Creek are zoned either MA2 - Light Commercial Marina District or MB - General Commercial Marina District. It is not uncommon to have nonconforming single-family detached dwellings and private residential piers on lots within historically maritime use districts.

The nonconforming use provisions under Title 15 of the Zoning Code do not require a single-family detached dwelling to be registered as a nonconforming use when they are no longer a permitted use in a particular zoning district. While the Code contains specific provisions for the expansion of nonregistered single-family detached dwellings and for the location of accessory structures in a side or rear yard, no such provision exists for private residential piers that are accessory to nonconforming dwellings. Therefore, a use variance is required.

The site plan demonstrates that the proposed pier will meet the 15-foot side setback requirement for a private pier and the length requirement, both under § 18-2-404 of the County Code. The seven mooring pilings that are being replaced in-kind can be seen on an aerial photograph from 2002 therefore, they meet the provisions of § 18-2-303 of the Code that allows an exemption to the bulk regulations for in-kind replacement if the original structure has been in the same location for at least twenty years and if a building permit is obtained within eighteen months after removal or destruction of the original structure.

The letter of explanation states that the existing residential pier requires replacement and that there is no maritime use on the property. This Office notes that any commercial use of the pier, including the rental of slips, would require the appropriate permits and zoning applications to change the use to a commercial pier.

The **Development Division (Critical Area Team)** commented that the proposed scope of work has been reviewed under building permit B02430696, the property line extensions are correctly drawn as parallel to the adjacent piers, and there is no objection to the variance.

The **Health Department** has evaluated the well water supply system for the subject property and has determined that the proposed request does not adversely affect this system. The Department has no objection to the variance request.

For the granting of a variance, a determination must be made as to whether, because of certain unique physical conditions peculiar to and inherent in the particular lot or because of exceptional circumstances other than financial, strict implementation of the Code would result in practical difficulties or an unnecessary hardship and would prevent the applicants from developing the lot.

A use variance is subject to a greater burden of proof than a typical zoning variance such as a setback or height variance. In order to approve a use variance, per case law, three criteria must be met: (1) the applicants must be unable to secure a reasonable return or make any reasonable use of their property, (2) the difficulties or hardships are peculiar to the subject property in contrast to other properties in the zoning district, and (3) the hardship is not the result of the applicants' own actions.

Both commercial and residential waterfront properties have the right to take advantage of their water access and their water areas via piers and pilings. Therefore, the applicants would not have reasonable use of the property if the use variance were to be denied. The hardship is peculiar to the properties in this immediate area in that they contain nonconforming residential dwelling uses in contrast to other waterfront properties in the MA2 District that have been developed with permitted maritime uses. The hardship in this case is not self-created.

Approval of the variance would not alter the essential character of the neighborhood, as other nearby waterfront lots contain private residential piers and associated pilings. The variance would not substantially impair the appropriate use or development of adjacent properties as the proposed pier and pilings will meet the required 15-foot setback for a private residential pier use or are being replaced as in-kind under § 18-2-303 of the Code. While the existing pilings do not meet the minimum setbacks required from the side property lines extended, the long-standing location where they have existed for more than 20 years will remain unchanged with replacement in-kind. The variance would not be contrary to acceptable clearing and replanting practices, and would not be detrimental to the public welfare. This proposal is considered the minimum necessary to afford relief.

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 use variance to § 18-7-107 to allow a private residential pier and associated pilings in an MA2 – Light Community Marina District as shown on the site plan submitted by the applicant.

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.

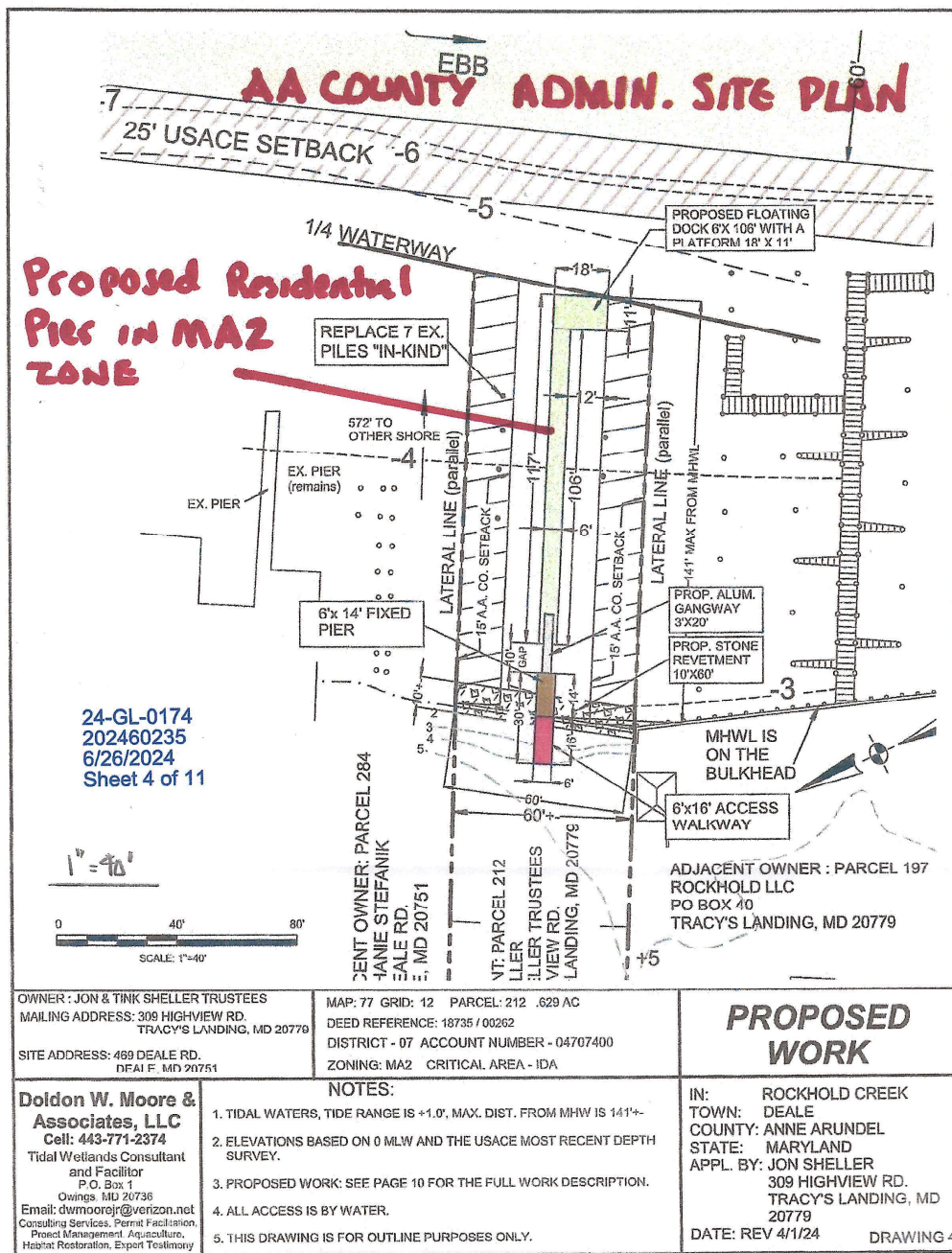


Exhibit 2

**Chesapeake Bay Environmental
2818 Solomons Island Rd
Edgewater, MD 21037**

Letter of Explanation

March 21, 2025

ANNE ARUNDEL COUNTY VARIANCE "PREFILE"

John & Tink Sheller, Trustee

309 Highview Rd

Tracy's Landing, MD 20779

Site Location: 469 Deale Rd

Tax Account: 7000-0470-7400

Map: 77 Parcel: 212 Grid: 12 Subdivision: Rockhold Creek

Prefile Required for a Variance to Anne Arundel County Code Section 18-7-107 to allow improvements to an existing private use residential pier with 15' setbacks in the MA2 Zone.

Letter of Explanation for Variance

Justification for the Variance Request: The property located at 469 Deale Road is zoned MA2. However, the property has been used as a residence and is improved with a residential use pier. Based on a Google Earth aerial analysis, the property, including the pier, has remained unchanged since at least 1994. The parcel was created prior to 1952 and predates zoning codes.

This property is unique because 469 Deale Road and the adjacent property at 471 Deale Road are both are zoned MA2 but are used for residential purposes. The property is surrounded by at least sixteen commercially zoned MA2 properties, many of which exhibit intense maritime use. There is no maritime commercial use on the subject property. The property dimensions are approximately 460 feet long by 60 feet wide. There is no trees to be removed and no additional impervious area to be added.

The applicant seeks to preserve the existing residential use and improve their access to the waters of Rockhold Creek. The existing pier structure is in poor conditions and requires replacement. The existing pier ends in shallow water with a portion of the boat slip in 3' of water. Extending the pier to approximately 5' is preferred over dredging, as dredging would negatively impact shallow-water habitat.

The current pier is 4 feet wide and extends 107.5 feet Channelward of the Mean High Water (MHW) line. The proposed floating pier will adhere to standard residential specifications, with a width of 6 feet and an extension of 141 feet Channelward of the MHW line (a 33.5-foot extension). This extension is essential to avoid impacts on shallow-water habitat. The

proposed pier length is consistent or less impacting than adjacent piers along Rockhold Creek.

Construction disturbance landward of the shoreline will be minimal at 258 sq. ft. which will be mitigated with the planting of one tree and three shrubs for a total sq ft of 300 sq ft.

In addition to replacing the pier, the applicant proposes to add rip rap to an existing vertical stone bulkhead and add environmentally preferred sloped rip rap, which absorbs wave energy rather than reflecting it. The Maryland Department of the Environment (MDE) has approved the proposed pier, pier extension, and rip rap.

There will be no changes to the height of any structure(s) onsite except for the fixed pier, which will be replaced by a floating pier, reducing the height of the existing pier by approximately 3 feet. The proposed pier structure has not been constructed.

Please see the enclosed:

1. Profile Administrative site plan for the Proposed Variance
2. Zoomed in Site Plan Showing Proposed Structures
3. Site Plan showing all Existing Structures
4. Anne Arundel County comment letter requiring a Use Variance.
5. MDE approval,
6. Google Earth aerial imagery 2024 showing the existing structures & waterway
7. Google Earth aerial imagery 1993 showing the existing structures & waterway
8. Anne Arundel County GIS -Engineering Section aerial imagery
9. Anne Arundel County GIS – “Zoomed In” Zoning Map showing MA2 Zoning for the property
10. Anne Arundel County GIS – Showing MC, MB, & MA2 Zoning in close proximity to the property.
11. List of Property Owners within 300’ of the property (469 Deale Rd).
12. Deeds for 469 Deale Rd (Prior deed includes meets and bounds description.
13. Critical Area Map Designation – IDA
14. Site Photos
15. Critical Area Project Notification Form

Sincerely,

David T. Phipps.

Chesapeake Bay Environmental
443-852-1047
dtphipps@gmail.com

Ex 14 - 1



Ex 14-2



Ex 14-3



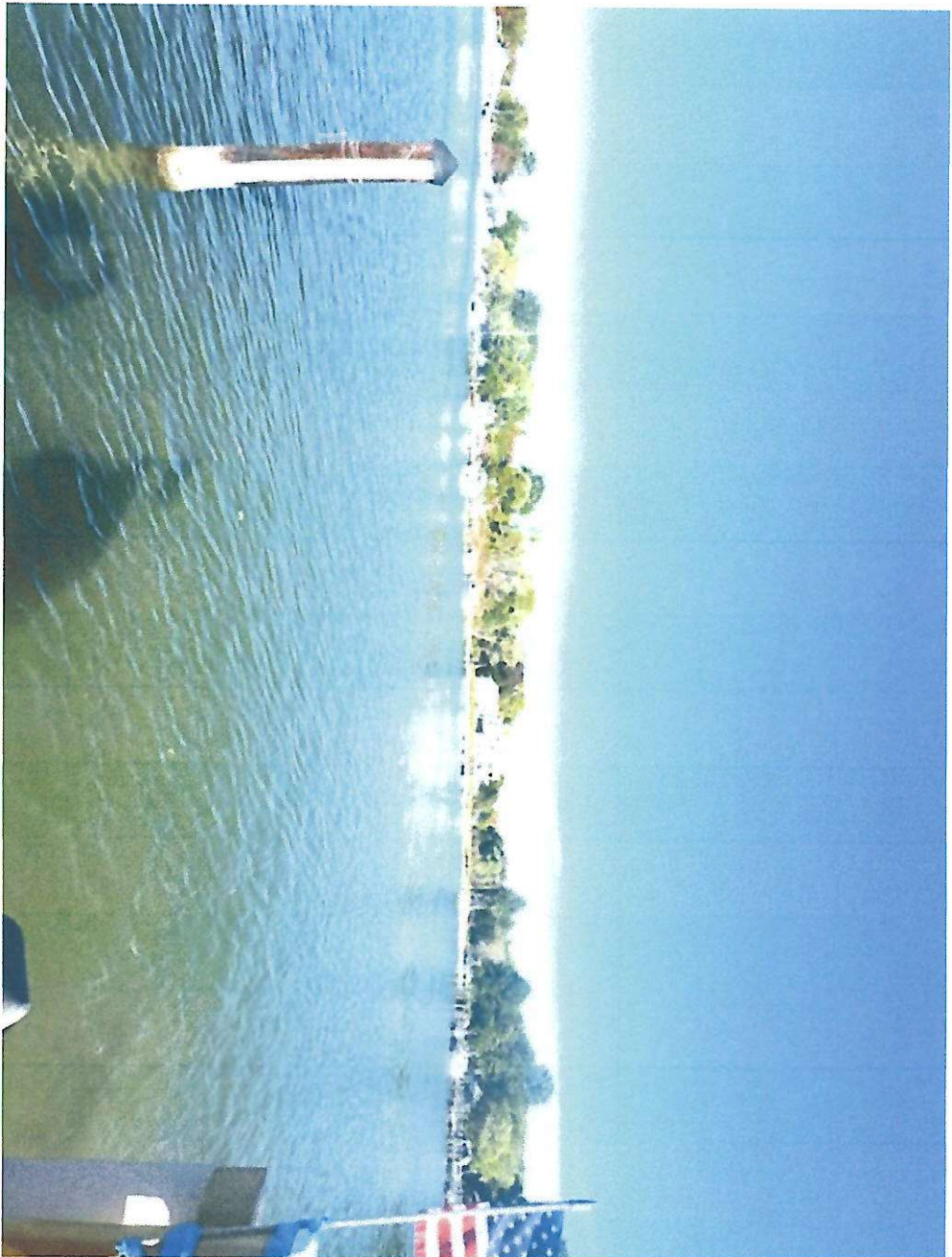
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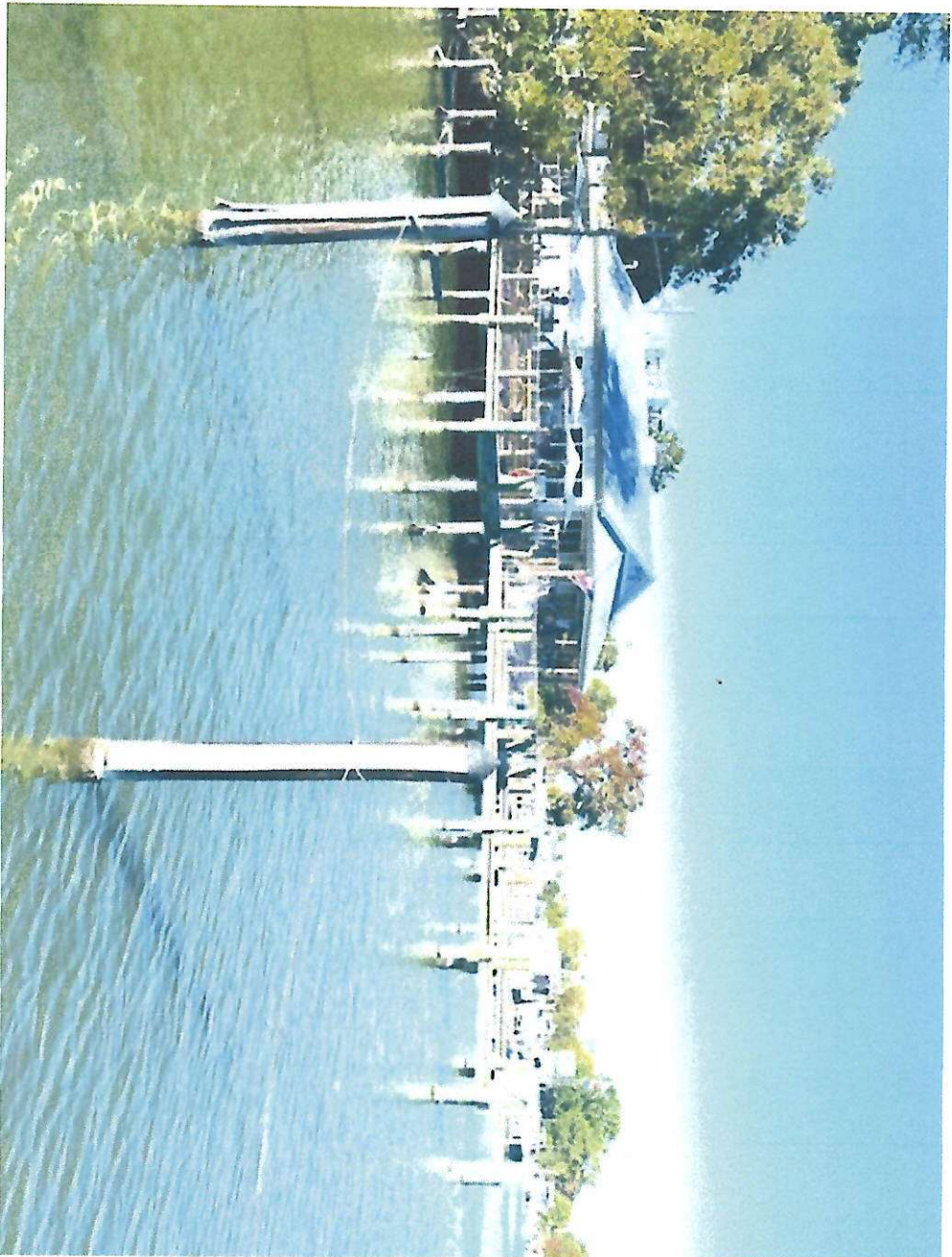
Ex 14-5



EX 14-6



Ex 14-7



2025-0059-V

Menu Cancel Help

Task Details OPZ Critical Area Team

Assigned Date

04/04/2025

Assigned to

Melanie Mathews

Current Status

Complete w/ Comments

Action By

Melanie Mathews

Comments

The proposed scope of work has been reviewed under building permit B02430696. The property line extensions are correctly drawn as parallel to the adjacent piers. The critical area section of the Office of Planning and Zoning has no objections to the requested variance.

End Time

Billable

No

Time Tracking Start Date

In Possession Time (hrs)

Estimated Hours

0.0

Comment Display in ACA

☒ All ACA Users

☒ Record Creator

☒ Licensed Professional

☒ Contact

☒ Owner

Due Date

04/25/2025

Assigned to Department

OPZ Critical Area

Status Date

04/30/2025

Overtime

No

Start Time

Hours Spent

0.0

Action by Department

OPZ Critical Area

Est. Completion Date

☐ Display E-mail Address in ACA

☒ Display Comment in ACA

Task Specific Information

Expiration Date

Review Notes

Reviewer Name

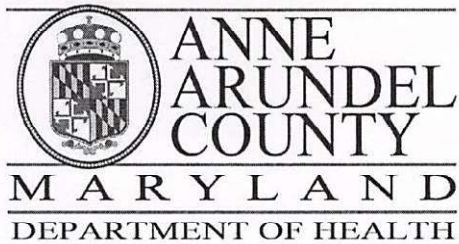
Melanie Mathews

Reviewer Phone Number

410-222-6136

Reviewer Email

PZMATH20@aacounty.org




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: April 22, 2025

RE: Jon Sheller, Trustee
469 Deale Road
Deale, MD 20751

NUMBER: 2025-0059-V

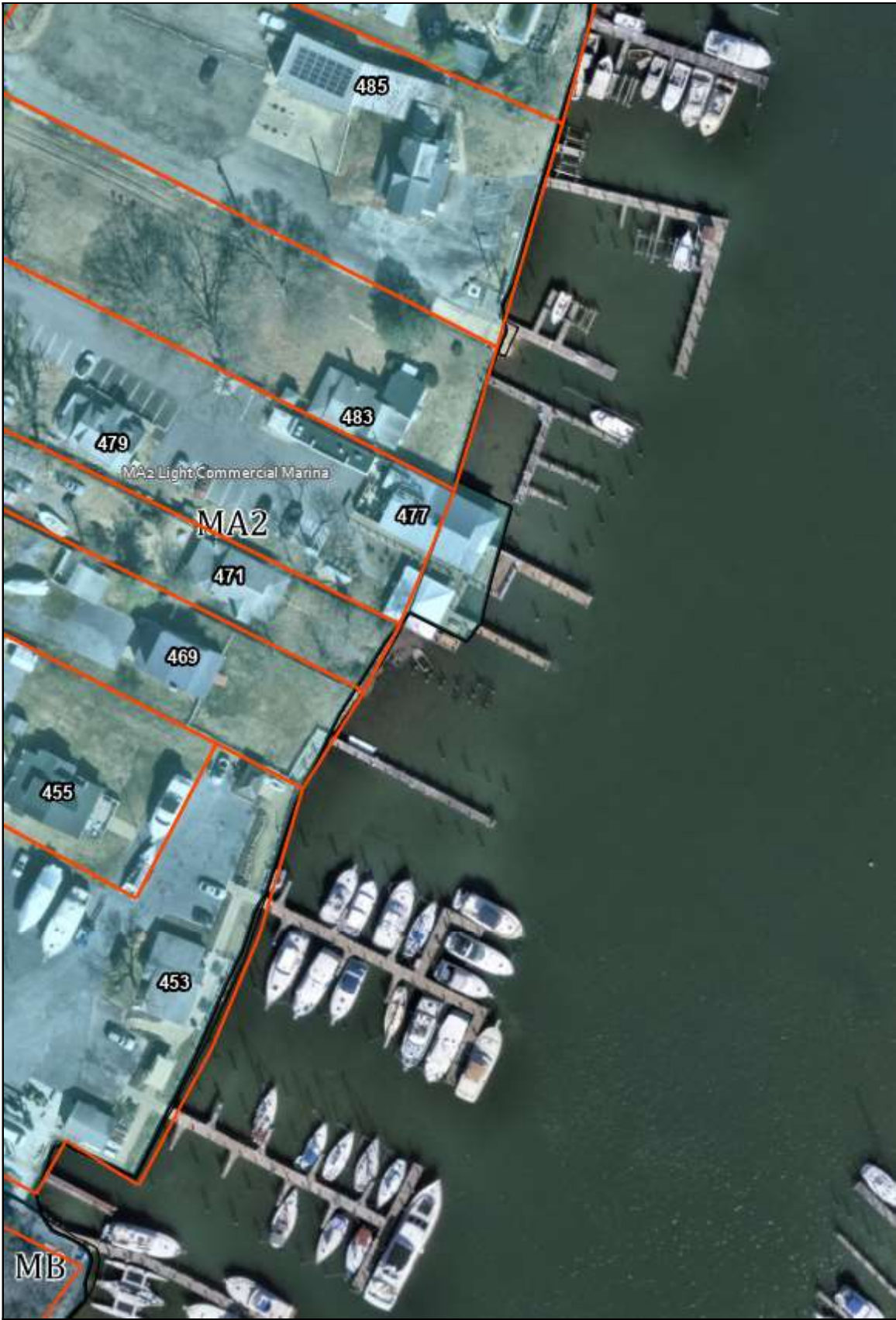
SUBJECT: Variance/Special Exception/Rezoning

The Health Department has reviewed the above referenced variance to allow a private residential pier in an MA2 - Light Commercial Marina District.

The Health Department has reviewed the well water supply system for the above referenced property. The Health Department has determined that the proposed request does not adversely affect the well water supply 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



Legend

Foundation

Addressing



Parcels



Parcels - Annapolis City



Planning

County Planning

C1 Commercial - Local

C2 Commerical - Office

C3 Commercial - General

C4 Commercial - Highway

City of Annapolis

MA1 Community Marina

MA1-B Neighborhood Marina

MA2 Light Commercial Marina

MA3 Yacht Club

MB General Commercial Marina



0 100 200 ft

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.

DO NOT USE FOR NAVIGATION.

Nearmap



Notes



Legend

Foundation

Addressing



Parcels



Parcels - Annapolis City



Streets



Planning

County Planning



C1 Commercial -
Local

C2 Commercial -
Office

C3 Commercial -
General


C4 Commercial -
Highway

City of Annapolis

MA1 Community
Marina

MA1-B
Neighborhood
Marina

MA2 Light
Commercial Marina



0 350 700 ft

This map is a user generated static output from an Internet mapping site and is for reference only.
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none

Notes