

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

APPLICANT: Weston Van Wambeke

ASSESSMENT DISTRICT: 3rd

CASE NUMBER: 2025-0079-V

COUNCILMANIC DISTRICT: 5th

HEARING DATE: July 15, 2025

PREPARED BY: Donnie Dyott Jr. 
Planner

REQUEST

The applicant is requesting a variance to allow a dwelling addition (deck) with less setbacks and buffer than required and with disturbance to slopes of 15% or greater on property located at 866 Twin Harbor Drive in Arnold.

LOCATION AND DESCRIPTION OF SITE

The subject site consists of approximately 24,990 square feet of land and is identified as Lot 18 of Parcel 86 in Block 6 on Tax Map 32H in the Twin Harbors subdivision. The subject property is zoned R2 - Residential District and is a non-waterfront property located within the Chesapeake Bay Critical Area with a designation of 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 deck with stairs to grade on the rear of the existing dwelling measuring approximately 12' X 28'9". Currently on the rear of the house there is an enclosed porch and existing open deck with two sheds next to the existing deck. The new deck will extend to the end of the dwelling and extend over the area where the existing two sheds are located. It appears that the two sheds will be removed should the new deck be approved and constructed.

REQUESTED VARIANCES

§ 17-8-201(a) of the Code stipulates that development in the Limited Development Area (LDA) 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 deck and its associated Limit of Disturbance (LOD) will disturb slopes of 15% or greater, necessitating a variance to this provision. Exact slope disturbance will be determined at the time of permit.

§ 18-13-104(a) of the 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 contiguous steep slopes of 15% or more and is to be expanded by the greater of four feet for every 1% of slope or to the top of the slope and shall include all land within 50 feet from the top of the slopes. § 17-8-301 of the Subdivision Code

states that development on properties containing buffers shall meet the requirements of Title 27 of the State Code of Maryland (COMAR). § 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.” § 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 improvements are located within the expanded stream buffer, necessitating a variance to this provision. Exact buffer disturbance will be determined at the time of permit.

No setback variances are required.

FINDINGS

The property is of adequate size and width for a lot in the R2 District. According to the proposal, the total lot coverage after development will increase by 88 square feet. Exact lot coverage calculations will be determined at the time of permit.

The applicant describes that when the home was purchased in 2024, the deck had no stairs to the backyard and is only accessible through the den and sunroom on the far side of the house. The intent is to extend the deck across the back of the house so it can be accessed from the kitchen and dining room. The added stairs will also allow access to the backyard from the main level of the dwelling. With no current secondary exit from the main level of the dwelling, the applicant feels that there is currently a safety concern that would be alleviated by the new deck and stairs. It is further argued that neighboring homes have decks and porches that extend the full length of the house and in this particular case, the deck would be extending over an area that currently has two sheds and gravel. Thus the impervious surface increase and disturbance is minimal.

The **Health Department** commented that the property is served by public water and sewer facilities and has no objection to the request.

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

The **Critical Area Commission** commented that the Administrative Hearing Officer (AHO) must find that each and every one of the variance standards have been met to grant the variance. Should the AHO find that the applicant has met each standard, appropriate mitigation is required.

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 in combination with the expanded buffer which encompasses nearly the entire property, leaves little to no room for improvements to the dwelling without variance relief. Additionally, no improvements or additions can be made to the rear of the dwelling without a variance. As such, some relief is warranted to allow the applicants to avoid practical difficulties and unwarranted hardship to make modest improvements to the dwelling.

A literal interpretation of the County's critical area program may deprive the applicant of rights that are commonly enjoyed by other properties in similar areas. 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 these modest improvements with appropriate mitigation will adversely affect water quality, impact fish, wildlife or plant habitat. As such, it is the opinion of this Office that the proposal is in harmony with the general spirit and intent of the County's critical area program.

With regard to the requirements for all variances:

There is no evidence that the proposal will alter the essential character of the neighborhood, impair the appropriate use or development of adjacent property or be detrimental to the public welfare. The proposed deck is modest in size, will provide a second exit point to the main level of the dwelling and will be located over a gravel area that currently has two sheds which is already disturbed. Therefore, the variances are considered to be the minimum necessary to afford relief.

RECOMMENDATION

Based upon the standards set forth in § 18-16-305 under which a variance may be granted, this Office recommends **approval** of the proposed variances for the construction of the deck with access steps 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.