

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

APPLICANT: Lindsay Estabrook

ASSESSMENT DISTRICT: 3

CASE NUMBER: 2025-0081-V

COUNCIL DISTRICT: 3

HEARING DATE: July 10, 2025

PREPARED BY: Sara Anzelmo
Planner



REQUEST

The applicant is requesting a variance to allow a pier with less setbacks than required on property located at 92 Johnson Road in Pasadena.

LOCATION AND DESCRIPTION OF SITE

The subject site consists of 13,750 square feet of land and is located on the south side of Johnson Road, approximately 75 feet west of Bar Harbor Road. It is identified as Lot 65 of Parcel 71 in Grid 23 on Tax Map 11 in the Bar Harbor subdivision.

The property is zoned R5 – Residential District. This waterfront lot is located on Rock Creek, lies within the Chesapeake Bay Critical Area overlay, is designated as IDA – Intensely Developed Area, and is mapped as a BMA – Buffer Modification Area. The lot is currently improved with a single-family dwelling and other associated facilities, including a pier.

PROPOSAL

The applicant proposes to replace the existing pier with a 3' by 45' private residential pier.

REQUESTED VARIANCES

§ 18-2-404(b) of the Anne Arundel County Zoning Code provides that a private pier or mooring piling shall be located at least 15 feet from a lot line extended. At its closest points, the proposed pier would be constructed six inches from the east side lot line extended and five feet from the west side lot line extended, necessitating variances of 15 feet and 10 feet, respectively.

FINDINGS

A review of the County 2024 aerial photograph shows extremely tight pier development within the subject cove. The extended property lines converge towards the center of the cove, significantly restricting the buildable water area of the subject lot and of the neighboring lots. The majority of waterfront properties in the area contain piers, many of which also contain pilings and/or boat lifts.

The property was the subject of a prior variance (2017-0317-V) under which the Administrative Hearing Officer conditionally approved a 4' by 55' pier with less setbacks than required and with greater length than allowed. The decision was appealed by a neighbor to the Board of Appeals (BA 30-18V) who dismissed the appeal due to lack of standing. That decision was appealed to the Circuit Court for Anne Arundel County (C-02-CV-18-003361) who reversed the dismissal and ordered the case to be remanded back to the Board of Appeals for a hearing on the merits. Despite the fact that the variance case was still under appeal through June of 2021 and the associated building permit was still under appeal through November of 2022 (BA 40-18A), the applicants proceeded with the construction of a pier prior to the Board of Appeals hearings and final decisions. On June 2, 2021, the Board of Appeals approved a variance to allow a 4' by 40' pier section, but denied an additional 2' by 15' catwalk section; and, on November 9, 2022, the Board denied the associated building permit.

The pier that was constructed does not match the pier location or configuration of the pier shown on the original site plan approved by the Administrative Hearing Officer. Instead, it projects from a different point along the shoreline and angles more toward the adjacent pier to the east. However, it appears that the site plan submitted at the Board of Appeals does match the pier as constructed. The Board approved the existing 4' by 40' pier section, but denied the existing 2' by 15' catwalk section. It is unclear why the applicants did not revise their building permit in accordance with the Board's approval and remove the catwalk. Instead, the current proposal is to remove the entire pier and to construct a new 3' by 45' pier. The proposed pier would be in approximately the same location as, but narrower and shorter than, the pier shown on the site plan that was originally approved by the Administrative Hearing Officer. It would be in a different location than, but narrower and longer than, the pier shown on the site plan that was approved by the Board of Appeals.

There is an open zoning compliance case (Z-2022-0598) associated with the existing pier that has been constructed in violation of the Board of Appeals decisions.

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

The **Development Division (Critical Area Team)** reviewed the proposal and has no objection.

For the granting of a zoning 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 considerations, strict implementation of the Code would result in practical difficulties or an unnecessary hardship. Typically, a lot with at least 50 feet of water frontage can accommodate a six foot wide pier, a platform, and boat lift or mooring pilings within the required 15 foot setbacks. However, because of the extremely narrow 17-foot shoreline and the convergence of the extended lot lines towards the center of the cove, construction of a pier of any size would be impossible without setback relief.

Approval of the variance would not alter the essential character of the neighborhood, as the proposed pier is comparable to, if not smaller than, most existing piers in the immediate area. The variance would not substantially impair the appropriate use or development of the adjacent property to the west, as there would be 17.5 feet between the two piers. However, the variance could impair the appropriate use or development of the adjacent property to the east, as there

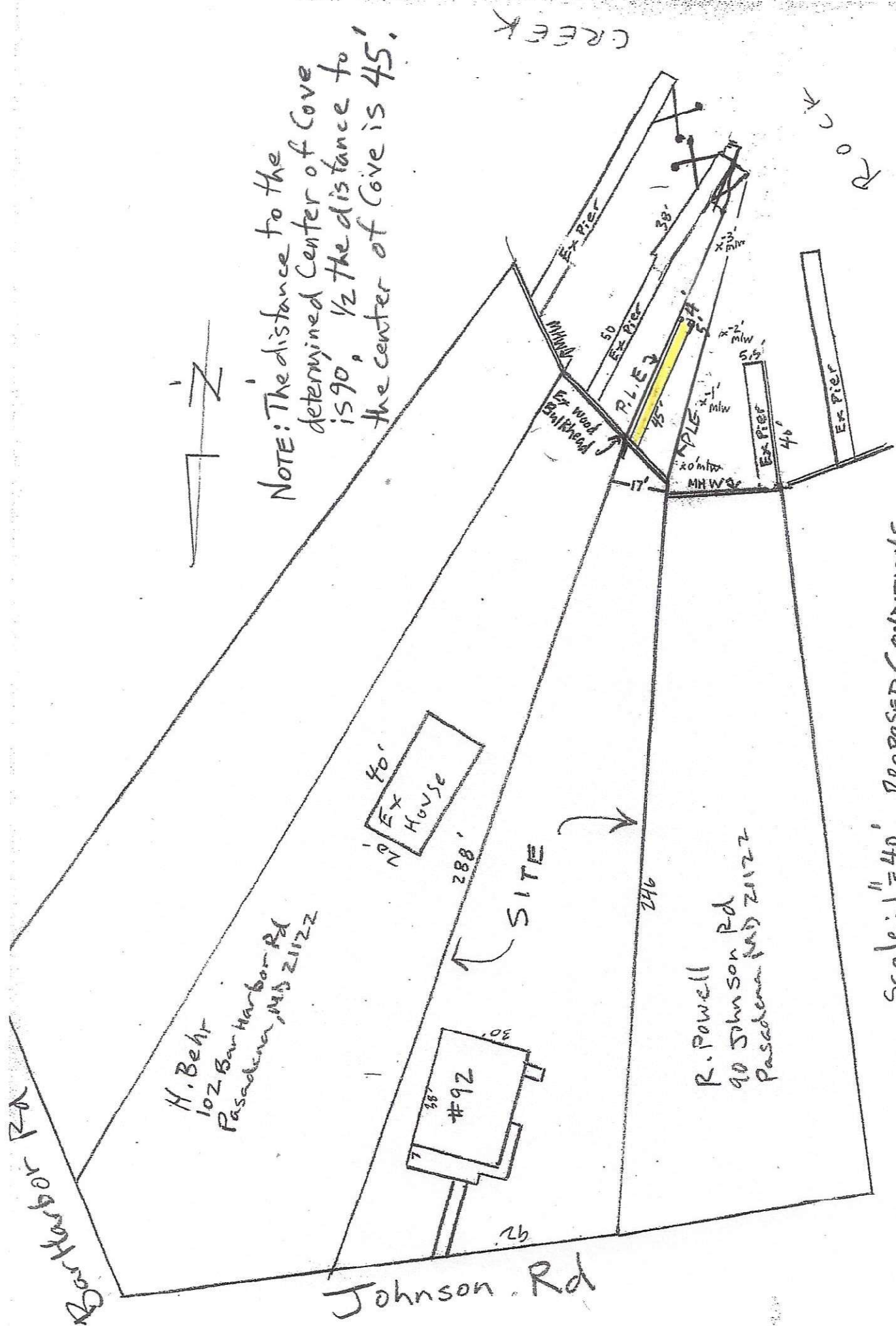
would be only 11 feet between the two piers. This could limit access to the neighboring property's beach area, if a boat is tied to the east side of the proposed pier. There is no evidence to indicate that the proposed variance would be detrimental to the public welfare.

Due to the practical limitations caused by the converging lot line extensions and cove location, and given the modest pier proposal and overall neighborhood context, the request for relief is justifiable. The County supported a 45-foot long pier under the prior variance application and continues to do so today. However, based on the history of the prior variance application and the subsequent appeals, the Board may have established the minimum variance necessary in its decision to limit the pier length to 40 feet. This Office is unsure whether the Administrative Hearing Officer has the authority to grant approval of a variance for a pier five feet longer than the pier approved by the Board, but the fact that the pier locations differ could open the door for that possibility. The Office of Planning and Zoning is making this recommendation based solely on an analysis of the Article 18 variance standards and without regard to that separate legal determination that will need to be made by the Administrative Hearing Officer.

RECOMMENDATION

Based upon the standards set forth in § 18-16-305 of the Code under which a variance may be granted, this Office recommends **conditional approval** of the proposed setback variances. Should the Administrative Hearing Officer decide that a variance is allowed and is warranted, this Office recommends that the approval be subject to the same conditions of the prior variance approval, including the condition that the applicant and his or her successors in interest shall not permit any watercraft to be berthed or tied to the eastern side of the pier.

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.



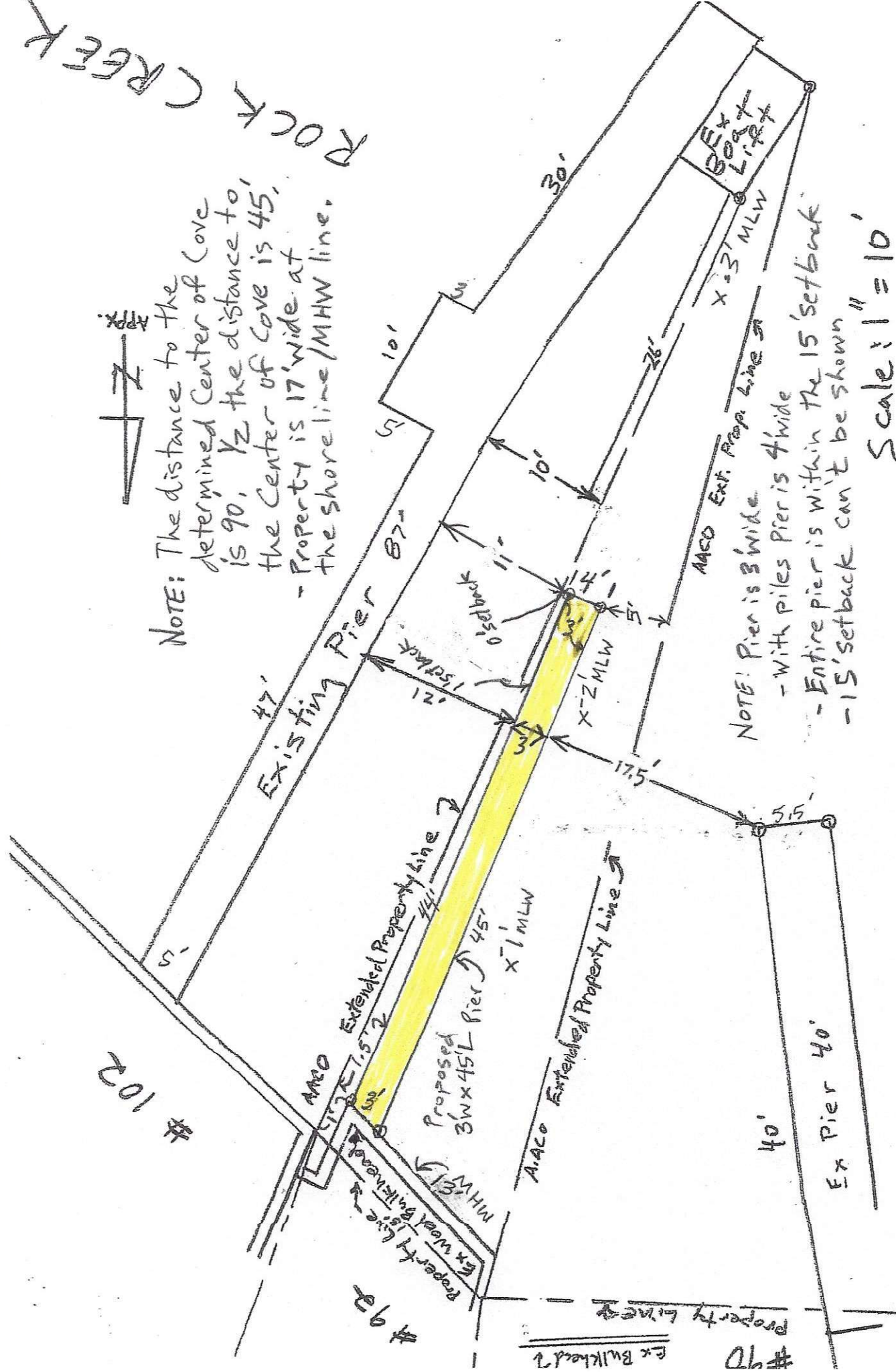
Scale: 1" = 40' PROPOSED CONDITIONS

SITE PLAN
 92 Johnson Road
 Pasadena, MD 21122

Proposed: Pier w/ lift
 County: Anne Arundel
 Waterway: Rock Creek
 Date: 5/20/24 Rev 6/26/25

Owner: Lindsay Estabrook
 92 Johnson Rd
 Pasadena, MD 21122
 Fig 2 of 6

NOTE: The distance to the determined Center of Cove is 90, $\frac{1}{2}$ the distance to the Center of Cove is 45', - Property is 17' wide at the shoreline/MHW line.



Proposed: New Pier
County: Anne Arundel
Waterway: Rock Creek
Date: 5/20/2024 Rev 6/26/25

Proposed Conditions
Site Plan
92 Johnson Road
Pasadena, MD 21122

Owner: Lindsay Estabrook
92 Johnson Road
Pasadena, MD 21122
Fig - of -

Pen Mar Environmental Services, LLC

for your environmental permit needs

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Shady Side, MD 20764

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April 30, 2025

Anne Arundel County
Planning and Zoning Division
2662 Riva Road, 3rd Floor
Annapolis, MD 21401

Re: Proposed Pier
92 Johnson Road
Pasadena, MD 21122
Lot 65, Bar Harbor Subdivision
Tax ID# 3065-9003-7804

Dear Planning and Zoning Reviewer,

On behalf of the property owner, Lindsay Estabrook, I am submitting a Variance request for 14 feet to the required 15-foot setback from the east property line extended and 10 feet to the west property line extended for the construction of a new pier. The proposed pier is 3' wide by 45' long. A previously permitted pier is to be removed prior to construction.

The property is developed with a single-family home and includes 13,750 square feet of area. It exhibits 17 feet of riparian frontage on Back Creek in northern Anne Arundel County. Due to the limited width of the waterfront coupled with the existing adjacent piers, the requested pier has been minimized to a 3' width and a shorter length of 45'.

Given the narrow nature of this property, which was created by subdivision in 1921, it is not out of character in this neighborhood, and is considered to be a valid request for the requested variances and is the minimum relief necessary.

Please review the attached plans and email or call me at the number above if you have any questions or need any additional information.

Sincerely,

Doug Musser
Environmental Consultant

Attachments
CC: Lindsay Estabrook

**RE: An Appeal From A Decision Of The
Administrative Hearing Officer**

LINDSAY ESTABROOK

Petitioner

BEFORE THE

COUNTY BOARD OF APPEALS

OF ANNE ARUNDEL COUNTY

**CASE NO.: BA 30-18V
(2017-0317-V)**

**Hearing Dates: January 4, 21, and
22, 2020**

MEMORANDUM OF OPINION

Summary of Pleadings

This matter is before the Board as a result of an Order entered on October 17, 2019 from the Circuit Court for Anne Arundel County, Case Number: C-02-CV-18-003361, remanding the matter. This is an appeal of a decision of the Administrative Hearing Officer to grant a variance to allow a pier and pilings with fewer setbacks than required on property known as 92 Johnson Road, Pasadena.

Summary of Evidence

Ms. Lindsay Estabrook, the Petitioner, resides at the subject property with her partner, Chris Beach. The property is located on a small cove on the north side of Rock Creek, close to Riviera Beach. Ms. Estabrook presented photographs of the subject property prior to and following construction of her pier as well as photographs of the surrounding cove. (See, Petitioner's Exhibits 1-4). The property and its improvements were in poor condition when purchased by the Petitioner. Following her acquisition of the property, Ms. Estabrook addressed erosion along the shoreline by constructing a new bulkhead and the pier and pilings were installed. The subject pier is 4 feet wide until the last 15 feet, which measures 2 feet wide, for a total length of 55 feet. The length of the pier was motivated by the shallowness of the waterway

at low tide. Her property is the last in the cove upon which a pier was constructed. There are 10 piers located in the cove. Ms Estabrook's boat is 30 feet long with two outboard engines. The pier is located 10 feet from the adjacent Behr pier. The variance requests were minimized. Navigational issues have not occurred when travelling to and from the pier. When docked at the pier, the boat is approximately 6 to 8 feet from the adjacent Powell pier. The location of the pier does not inhibit the Powell's use of their pier, or their ability to navigate safely the surrounding waterways.

Mr. Doug Musser, the Petitioner's expert environmental consultant, assisted the Petitioner with filing her variance requests. Mr. Musser evaluated the property records for the subject property, the abutting properties, as well as aerials of the surrounding neighborhood and cove. After submission of the application for the pier, the County requested that the proposed lot line extensions be reconfigured. Mr. Musser had extended the property lot lines parallel to the adjacent piers. The neighboring pier, belonging to Mr. Powell, was replaced in-kind in September 2017. Ultimately, the extensions of the lot lines were revised prior to submission of the application to the Administrative Hearing Officer. There is a 17-foot wide bulkhead on the subject property, but the deed states that the waterfront property line is 19 feet wide. The west extended property lot line terminates at the exterior boat lift pile on the Behr's pier. The east extended property lot line terminates at the interior boat lift pile. The Estabrook pier is located 6 feet from the west extended property line. There is 16 feet between the Estabrook pier and the Powell pier. The Petitioner's pier has been located as far from Mr. Powell's pier and into as much deep water as possible. Ms. Estabrook also requested a 10-foot variance to the provision that piers not exceed one-half the distance to the center of the cove. MDE approved the plan on June 15, 2018. The building permit was issued on July 12, 2018 for a 55-foot long pier, zero feet from the east side extended lot line and 6 feet from the west side extended lot line, following

approval of the requested variances. He believes these variances are the minimum necessary to afford relief. Most people prefer a 6-foot wide pier. The State and County allow a 200 square foot platform on a pier, two catwalks, boat lifts and 6 mooring piles. This pier is 4 feet wide with a 40-foot long main stem and a 15-foot long, 2-foot wide catwalk. The water levels are very shallow at mean low water. He does not believe this project will impact the use or enjoyment of the neighboring properties or piers.

Mr. Chris Beach, a witness for the Petitioner, lives at the subject project with Ms. Estabrook. He operates the boat that is moored to the pier. He has been boating since he was about 10 years old. Their current boat is a 30-foot center console with approximately 1600 hours logged. The average boat owner in this area averages 100 hours per season; they average 230 hours. The main goal of the pier was to obtain reasonable and easy access to the boat and access to their home. They must access their home a few times a day when they are out on the boat because they have dogs. The pier is a necessity. They have resided in the neighborhood for 10 years. They were the only dwelling in the neighborhood without a pier. He researched many options with OPZ and MDE. He discussed a railway, a floating boat lift and a pier with pilings. MDE does not like floating structures. The railways are not common in this area. MDE suggested a piled pier and recommended a boat lift. MDE suggested a 65-foot length to access the deepest water. The current pier size is sufficient. If the pier were to be reduced in length, the boat could not be moored at the pier during low tide because of the shallow water. The boat is tied to the pier with tide slides. They are cleats that are on steel poles that bolt to the pilings themselves. The boat only moves up and down with the tide. Entering the cove between their pier and Mr. Powell's pier, the sea floor drops off and there is plenty of deep water. The docking location between Mr. Powell's pier and the subject pier is very shallow. He happens to have a little more water where his boat is moored. The shallow water is focused between the other side

of his pier and the Powell pier. He believes Mr. Powell would only be able to moor a rowboat on the side of his pier facing the Estabrook pier. The water is deeper on the other side of the Powell pier. He has never had any issues navigating his boat in and out of the cove. He usually puts the boat in on Thursday or Friday afternoon and removes it on Monday or Tuesday afternoon. When the boat is moored at the pier, there is about 8 feet between his boat and Mr. Powell's closest piling. The beam of his boat is 7.9 feet. You would add a few inches for the cleat; that would make it approximately 8 feet total for the boat and cleat. He believes that when his boat is docked at this pier, there would be a problem with docking at the Powell pier, but only because there is not enough water depth. If there was adequate water depth on that side of Mr. Powell's pier and the witness's boat was moored, Mr. Powell could moor a boat on the adjoining side of his pier without issue.

Mr. Shep Tullier, the Petitioner's expert in land use, planning and zoning, reviewed the variance application and visited the property. The property is a unique, pie-shaped lot with a shoreline measuring 17 to 18 feet. The Anne Arundel County Code requires a minimum of 15 feet between piers and the side property lines extended into the waterway. A pier cannot be constructed on this property without variances. The Petitioner is requesting a 15-foot variance on the east side (the Behr property side) and a 6-foot variance on the west side (the Powell property side). If the variances are denied, the Petitioner would suffer a hardship in the denial of access to the waterfront. All the neighbors have access in the small cove. It would also be a practical difficulty if they could not proceed. This is a very small, tight cove with small lots and a dense population. Other variances have been granted here. The Behrs do not object to the subject variances if there is no boating activity by the applicant on the Behr side of the pier. He believes that the Behrs could use some of that water area. The applicant understands that Board approval would be conditioned on them not using that area. There are some issues with the contour of the

shoreline and the water depth. He visited when there was an extremely low tide. Some accretion has occurred adjacent to the Powell pier and that area looks suitable for a small boat or one without a motor. The applicant is an experienced boater and will use that side of the pier. When leaving, the Powells will come closer to the Behr pier than the Estabrook pier because it extends farther into the cove. He believes the request is the minimum to afford relief. The pier is only 4 feet wide and narrows to a 2-foot catwalk at 40 feet. The pier is the narrowest pier in the immediate area. They are seeking the minimum necessary given the specific circumstances of this lot. The community is going through rejuvenation with new dwellings and additions. He looked at other waterfront improvements on the cove and there were other variances granted. In cases from 2017 and 2018, one-foot setbacks were granted and the Petitioner is asking for a zero-foot setback. With respect to the essential character of the neighborhood, the adjacent properties are developed with dwellings and piers. There are so many piers in such a small area that there must be a sense of cooperation in the community. Some of the piers are extremely close together. The Behr pier has boat lifts on both sides at the end, and the Wood pier has a boat lift and pilings at the end. If granted, the variance would not result in any loss of forest cover and would not be contrary to acceptable clearing and replanting practices within the Critical Area. It will not be detrimental to the public welfare. This cove has many piers and high levels of boating activity, some relief is warranted. The Estabrook property is the last to construct a pier. This is the narrowest property at the shoreline. The shallow depth creates a practical difficulty. The Petitioner would suffer an unwarranted hardship if the variances were denied since everyone else in the cove has constructed a pier. They originally asked for a 65-foot pier, but are now asking for a 55-foot pier.

Mr. Robert Powell, the Protestant, resides at 90 Johnson Road, next door to the Estabrook property. His wife and daughter own the property with him. His property has 36 feet of

waterfront and his pier is 40 feet long. He uses a jon boat for crabbing. The Estabrook pier interferes with his use of the jon boat when he turns into his pier. If he were to tie-up on the other side of his pier, his boat would interfere with his other neighbor's pier. The angle of the Estabrook pier and boat make it difficult to navigate. He could never get a larger boat in there. The jon boat is 4 feet wide, but it has outriggers so it does not tip over while crabbing. He used to be able to launch from his bulkhead. The Estabrook pier limits his access. He has hardly used his pier since the Estabrook pier was built. Water depth was previously not an issue. He thinks the water depth is the same on both sides of his pier. Dredging was done when the Estabrook pier was constructed which affected the sediment. He could put a boat on the western side of his pier, but he does not want to encroach on his neighbor. His pier is about 2 feet from the property line of 88 Johnson Road. Any boat on that side would interfere with their riparian rights.

Ms. Karen Powell, Mr. Powell's daughter, is one of the owners and has lived at 90 Johnson Road for over 40 years. She agrees with her father's testimony regarding the depth at the pier. The dredging caused problems. There was no previous issue with water depth. The Estabrook property is now higher than her property. They have to wait until Ms. Estabrook's boat is out in order to launch any boat. There is not enough room to navigate her father's boat past Ms. Estabrook's boat and her pier.

Mr. John Dowling is the Protestant's expert in land title abstracts and research and as a surveyor regarding riparian rights. He visited the site and performed surveys of 90 and 92 Johnson Road. He determined the riparian envelope for the Estabrook property from the property corner to the outside of the boat lift on the Behr property and from the Behr/Estabrook property line to the inside. The point-of-cove method was used. It is the riparian envelope depicted by OPZ for the original variance. OPZ had also used the parallel method to an existing pier. The subject pier is 38.5 feet by 4 feet intersecting the eastern property line and a 2-foot catwalk

coming out another 12.5 feet. The request for a 55-foot pier cannot fit inside the building envelope. The pier was supposed to hug the east property line and the original configuration was on the east line. He surveyed the pier as built. It does not conform to the variances requested and is over the 6-foot setback line. Approving the pier as built would violate the requested variances, a zoning violation. There is less than 4 feet between the pier and the riparian line. The Estabrook pier impacts the use of the Powell property.

Mr. Lee Mayer, the Protestant's expert in navigation and civil engineering regarding piers, has visited the site and reviewed the plans for the variance. He believes the Estabrook plan interferes with the Powell's ability to approach and depart from their dock. He does not believe this is a navigational issue as much as it is a mariner issue; the ability to get in and out of the location as it is now. There is 8 feet of distance between the Estabrook boat and the Powell pier. Vessels here range from 7.5 to 8.5 feet wide. He would not attempt to dock a vessel while a vessel is moored at the Estabrook pier. On questioning, Mr. Mayer stated that he is not familiar with the topography of the cove and had not done depth imagery.

Mr. Henry Behr, a Protestant, has lived at 102 Bar Harbor Road for approximately 38 years. His current pier was constructed approximately 25 years ago. Prior to the development of the Estabrook pier, it was very easy to access the west side of his pier. If he wanted to, he could back his boat up on that side and work on his boat on the beach. The east side of his pier is closer to the extended property line. Prior to any installation on the Estabrook's side, he was restricted on the east side of his pier. The variance granted by the AHO was a variance of 15 feet to allow a setback of 0 feet from his extended property line. Also, the AHO set restrictions that there be no vessels on the east side of the Estabrook pier, the pier can be no closer than 10 feet to his pier and be no longer than 55 feet. As the pier is built now, he can get his boat down to the pier and beach on the Estabrook's side. It is a little tight, but he can make it. He just wants to make sure

he can have access to his beach and can get to the boat if he has to work on it. Getting to his boat lifts is a little more difficult now that the pier is installed. He does not object to the pier as built. However, if anything is moved closer, he would lose approximately two-thirds the use of the west side of his pier. He would not be able to get his boat with less area.

Mr. Robert Konowal, a planner for the Anne Arundel County Office of Planning and Zoning, reviewed the Petitioner's application. The Petitioner is proposing a 55-foot long pier. It has already been constructed under building permit (B02345690) pursuant to variances granted under Case 2017-0317-V. The pier is 4 feet wide for the first 40 feet from the shore and then 2 feet wide for the final 15 feet of length. The Petitioner has located the pier as close as 0 feet from the east extended property line and 6 feet from the west extended property line, necessitating variances of 15 feet and 9 feet, respectively. The Code requires a 15-foot setback from the extended property lines. The second variance is to pier length. The Code states that a pier or mooring piling may not extend into the water any further than one-half the distance from the mean high water line to the center point of the cove. In this case, one-half the distance from the mean high water line to the center point of the cove is 45 feet, whereas the applicant is constructing a 55-foot long pier, necessitating a variance of 10 feet. The subject property is located in an older subdivision in the County that was platted around 1920. There are a lot of sub-standard lots, particularly in width. This lot has only 17 feet of frontage at the water's edge. The lands are also located within a cove where the property lines converge towards the center of the cove. These conditions create a practical difficulty in complying with Code requirements for piers and mooring pilings. Typically, docking and mooring facilities require 46 to 48 feet of frontage on the water to provide for a 6-foot wide pier and a 10 to 12-foot wide boat lift set back 15 feet from the extended side property lines. Denying the requested variances would deny the Petitioner reasonable use of these lands; mainly access to the water, which is a common right

enjoyed by waterfront properties. The variances requested are the minimum necessary to afford relief. The Petitioner has minimized the variances by constructing a pier with less width than the typical 6-foot width. The applicant has located the pier to maximize the area that is available to dock a boat within the extended property lines mainly on the west side of the pier. The requested variance to pier length is also the minimum necessary so as to provide for adequate water depth. The variances are in keeping with the confined character of docking facilities in the neighborhood. He does not believe the facility would hamper navigation to adjacent piers. It is recommended that the maximum beam of any boat that may be accommodated on the west side of the pier, be limited to 6 feet to ensure any docked boat remains inside the extended property line of the subject property. The Office of Planning and Zoning recommends approval of the variances, subject to the condition that the maximum beam of any watercraft that may be accommodated on the west side of the pier be limited to 6 feet and that no watercraft may be docked on the east side of the pier.

Mr. Chris Beach testified on rebuttal that the bulkhead was built for soil retention on the subject property. The water depths between the Powell and the Behr pier have changed since owning the subject property as a result of a tidal surge from a hurricane. Mr. Dowling's drawing shows the pier less than 6 feet from the corner of the bulkhead, which is an inaccurate depiction of the as-built condition of 7 feet, 4 inches. The survey also shows a fence line, which he believes is the common lot line. He has observed the Powells launch the jon boat off their pier. They tend to launch it in spring and not pull it out until fall, keeping it docked at the end of the pier throughout the summer. He has not observed them confronted with any difficulty in this process. The Powells never put a boat in the water until Ms. Estabrook began making improvements to the waterfront.

Mr. Doug Musser testified on rebuttal that he prepared the building permit application for the subject property. The building plan as approved is the same as the variance plan that is the subject of this appeal. The County has inspected the pier and issued its final inspection approval. The County used two different methods to determine the extended lot lines, parallel with the Behr's pier, and the point of the cove. Similar methods have been used for other piers located within this cove, and 0-foot setback variances were granted. Mr. Dowling's exhibit has inaccuracies in that the pier was shifted 6 inches to the west from where it was constructed. The distance of the pier from the Behr pier is also off by 18 inches, and the end of the 2-foot section is not correct. The distance from the bulkhead to the pier is also incorrect. Those inaccuracies shift the pier 4 to 6 inches to the east based on Mr. Dowling's drawings. Mr. Musser's drawing is a true depiction of the as-built pier, which complies with the setbacks and variance approvals.

All testimony was stenographically recorded and the recording is available to be used for the preparation of a written transcript of the proceedings.

Findings and Conclusion

This appeal is taken from the conditional granting of a variance to permit a pier with fewer setbacks than required. The Petitioner must meet all of the requirements of Section 3-1-207 (a) and (e) of the Anne Arundel County Code (the "Code") to obtain the requested variances. The proposed pier would measure 55 feet long, consisting of a 4-foot by 40-foot main pier, with a 15-foot by 2-foot catwalk at the end. Section 18-2-404(b)(3) of the Code requires that a pier or piling for a private pier be located at least 15 feet from the lot line extended into the water. The proposal requires a 15-foot variance to the east side riparian lot line, and a 9-foot variance to the west side riparian lot line. Section 18-2-404 (c)(2) requires that a pier or mooring piling may not extend into the water any further than one-half the distance from the mean high water line to the center point of the cove. In this instance, one-half the distance from the mean high water line to

the center point of the cove is 45 feet; thus, the Petitioner requires a 10-foot variance to the center of the cove pier length restriction.

The Petitioner must first establish "that 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 lot in strict conformance with this article." Code, Section 3-1-207(a). The community consists of substandard lots, particularly in width and was platted in the 1920s. The property is pie-shaped and the shoreline measures approximately 17 to 18 feet. A minimum of 36 feet would be required to meet the minimum setback requirements for the extended lot lines. A pier cannot be constructed on this property without variances. The property is located on a densely populated, small cove and is the last of the properties in the cove to be developed with a pier. The existing piers dictate how the lot lines are extended. The narrowness of the lot, limited water frontage and location of the surrounding piers necessitates the variance requests. The pier cannot be shifted any closer to the east side lot line, or it would impact navigability, and is located as far from the neighboring pier on the west side. Without the variances, adherence to the setback requirements would not permit the Petitioner to develop reasonably the pier. To maximize the navigability of the waterway, the Petitioner would be conditioned on limiting any vessel docked at her pier to a 6-foot beam width, so as to not cross the riparian lot lines. We find that strict conformance with the Code would not allow for the reasonable possibility of developing this lot to include any pier; therefore, we find that the Petitioner has satisfied the first requirement necessary for the variance requests to the extended lot lines. The Board; however, finds that the inclusion of the catwalk at the end of the proposed pier is unwarranted. The contour of the shoreline and the water depth do not require additional footage for the Petitioner to be able to reach the mean high water line. The Petitioner and Mr. Beach both testified that they were

able to moor their boat along the main section of the pier without the necessity of the catwalk, which means that mean high water can be met along the main section of the pier. The variance request to extend the pier more than one-half the distance to the center of the cove is unwarranted.

The Petitioner also must show that “the variance is the minimum variance necessary to afford relief.” *Id.* §3-1-207(e)(1). The proposed pier would be approximately 40 feet long by 4 feet wide with a 15-foot by 2-foot catwalk. Given the closeness of the adjoining piers, the Petitioner would have 6 feet of water area adjacent to the proposed pier within which a boat can be moored without crossing the west side extended lot line. Any lesser variance would reduce the mooring area below 6 feet in width and negatively impact navigation. Therefore, we find that the Petitioner’s variance requests to the extended lot lines are the minimum necessary to afford relief. The extended catwalk, however, is unnecessary to access safely the pier, or the mean high water line. The Petitioner presently moors her boat along the main stem of the pier, and thus the catwalk is not needed where a variance is not necessary it cannot be the minimum necessary to afford relief.

Next, the Petitioner must show that “the granting of the variance will not alter the essential character of the neighborhood or district in which the lot is located.” *Id.* § 3-1-207(e)(2)(i). The character of the neighborhood is a typical waterfront residential community. It is densely populated and the majority of the waterfront properties have piers, including all of the adjacent properties. This property is in a small cove and the Petitioner is the last to construct a pier. As stated by Mr. Tullier, use of this cove requires cooperation among the neighboring properties. Piers are expected in waterfront neighborhoods and are typical here. The Petitioner’s proposal, as conditioned by this Board’s approval, conforms to the essential character of the neighborhood (water oriented, pier focused) and does not detract from it or alter it.

The Petitioner presented sufficient evidence to convince us that the variance requests to the extended side lot lines would not substantially impair the appropriate use or development of adjacent property. See, *Id.* § 3-1-207(e)(2)(ii). As stated above, the properties on either side of the subject property are already developed with piers. There is no impact to the property to the east and, provided the Petitioner's vessel does not exceed a 6-foot beam width, we find that the development will not impact the use of the adjacent lots. Therefore, the Board finds that the requested variances to the extended lot lines will not substantially impair the appropriate use or development of adjacent properties. We find that the addition of the catwalk may have an impact on the navigability of the waterway and is unnecessary, and thus, we find that the evidence presented for variance limiting piers to one-half the distance to the center of the cove is insufficient to meet this criteria.

The granting of the variances will "not reduce forest cover", and will not be "contrary to acceptable clearing or replanting practices," for the obvious reason that the pier construction will occur in the water. Furthermore, the variances, as conditioned by this Board, "will not be detrimental to the public welfare." As described previously, safe navigation is assured providing ample, navigable waterways between the proposed pier and the neighboring property to the west within the Petitioner's riparian lot lines. In sum, we find that the Petitioner's requests to the extended side lot lines meet all of the Code criteria necessary to grant approval. (See §§ 3-1-207(e)(2)(iii), (e)(2)(iv), and (e)(2)(v)). However, we find that the catwalk extension could impact the navigable waterway and there was insufficient evidence to demonstrate its necessity, and find that it does not meet the criteria for Section 3-1-207(e)(2)(v).

ORDER

For the reasons set forth in the foregoing Memorandum of Opinion, it is this 2nd day of JUNE, 2021, by the County Board of Appeals of Anne Arundel County, ORDERED, that the Petitioner's request to construct a pier 4 feet wide by 40 feet long, which requires a 15-foot variance to the east extended property line, and a 9-foot variance to the west extended property line minimum setback requirements of 15 feet are hereby **GRANTED**, conditioned that the maximum beam of any watercraft that may be accommodated on the west side of the pier be limited to six feet and that no watercraft may be docked on the east side of the pier. The Petitioner's request for a 10-foot variance to the requirement that the piers be no longer than one-half distance from the mean high water line to the center point of the cove is hereby **DENIED**, and the Petitioner is required to remove the 15-foot by 2-foot catwalk at the end of the subject pier.

Any appeal from this decision must be in accordance with the provisions of Section 604 of the Charter of Anne Arundel County, Maryland.

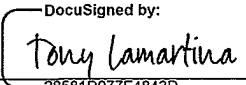
If this case is not appealed, exhibits must be claimed within 90 days of the date of this Order; otherwise, they will be discarded.

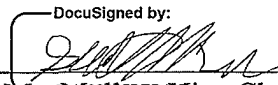
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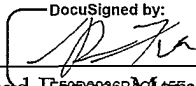
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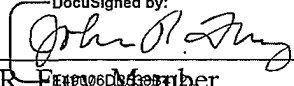
any other approval that may be required to perform the work described herein within the time allotted by law or regulation.

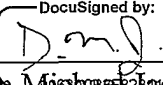
COUNTY BOARD OF APPEALS
OF ANNE ARUNDEL COUNTY

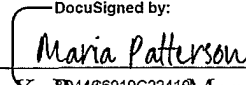
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Anthony V. Lamartina, Chair

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Scott MacMullan, Vice Chair

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Richard Forgo, Member

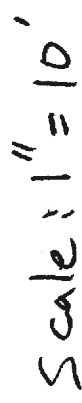
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John R. Fry, Member

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Darrin Michael Jacobs, Member

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Maria K. Patterson, Member

(Patsy Baker Blackshear, Member, did not participate in this appeal.)

Rock Creek



Owner: Lindsay Estabrook
92 Johnson Road
Pasadena, MD 21122
Fig - of -

Fig. 1-8-1

**RE: An Appeal from a Decision of the
Department of Inspections & Permits**

LINDSAY ESTABROOK

Petitioner

* **BEFORE THE**
*
* **COUNTY BOARD OF APPEALS**
*
* **OF ANNE ARUNDEL COUNTY**
*
* **CASE NO.: BA 40-18A**
* **(B02345690)**
*
* **Hearing Date: October 5, 2022**
*

MEMORANDUM OF OPINION

Summary of Pleadings

This is an appeal of a decision from the Department of Inspections and Permits for a building permit (B02345690) to install a 4-foot by 40-foot pier with two pilings with 2-foot wide by 15-foot-long extension, on property known as 92 Johnson Road, Pasadena.

Summary of Evidence

Mr. Doug Musser, an expert environmental consultant, assisted with the plans for the Petitioner's pier. He described the aerial photos that he used to analyze the area for potential pier placement, and the history of the pier length and setback proposals through the variance and building permit process. Here, there is a center point of cove that impacts the location of the subject pier. The Petitioner requested variances, which were granted, the building permit application was revised, and the building permit issued on July 12, 2018. The pier was constructed 7 feet 4 inches from the Powell's property line and 5 feet from the Behr's property line. The pier passed final inspection by the County on January 21, 2020. The Board of Appeals granted the setback variances, but denied the extension of the pier and conditioned the grant to restrict the width of the beam of any boat moored to 6 feet. Pilings are permitted to be placed on the center line of the setback distance.

Mr. Christopher Beach, the fiancé of the Petitioner, owns a 30-foot center console boat. The photos of his boat at the pier were taken in 2018. The pier was built after the notice of appeal was filed. The Powell's pier was rebuilt prior to construction of the subject pier. He has lived at the site since 2011. There is a 15-foot catwalk at the end of the pier and his boat is at the end of the pier. No navigation issues have occurred because of the use of the Estabrook pier. The Powell's live at 90 Johnson Road. The pier was inspected by the County and passed the inspection.

Ms. Lindsay Estabrook, the Petitioner, owns 92 Johnson Road and has lived there since 2011. She constructed a pier on her property to moor her boat. The boat is wider than 6 feet. Both the Petitioner's boat and Mr. Powell's boat have docked at the pier and there is no issue with navigation.

Mr. Robert Powell, the Protestant, lives at 90 Johnson Road, next door to the subject property. There is a 2-foot catwalk on the end of the Petitioner's pier. He owns a small boat that is sometimes moored to his dock. He objects to the Petitioner's pier because he is limited in the type of boat he can moor to his dock. The length of the main pier is 45 feet long, but the catwalk has not been removed. The pier is likely built of sufficient quality, but a portion must be removed to comply with the Board's variance decision.

Mr. John Dowling, an expert surveyor, testified regarding the improvements on site. He measured to the decking of the piers. The pier as built does not meet the variance. The photos of the as-built setbacks presented by the Petitioner does not match up with the property line.

Ms. Diane Windell testified that she reviewed the permit for the Office of Planning and Zoning for the subject pier. It was applied for on June 7, 2017. All relevant departments reviewed the application. The pier required variances to setbacks from side lot lines extended and length. After the Administrative Hearing Officer granted the variances, the building permit

was issued. The building permit is now closed since it was approved, issued, and inspected. The permit was granted with accurate information. If the pier does not meet the variance, then it would be subject to the enforcement process. The center point of the cove is drawn to scale. Here, the piers are in a cove off a larger cove area. The Board of Appeals did not grant the length variance to $\frac{1}{2}$ the distance to the center of cove. The Petitioner could have an additional 5 feet to the center of cove if the center of cove is longer. The existing piers were built under prior Code provisions that focused on the farther point of cove.

Mr. Christopher Beach testified on rebuttal that Petitioner's Exhibit 11 is a photo of the setback of the pier to the end of the bulkhead. The property line is 18 inches farther on both sides. The Petitioner was not permitted to connect their bulkhead to the adjoining property's bulkhead. He is not a surveyor. Mr. Beach's boat has a 7-foot, 9-inch beam. The witness is unsure whether the 15-foot extension of the pier is going to be removed or whether he is going to get a boat with a 6-foot wide beam.

All testimony was stenographically recorded and the recording is available to be used for the preparation of a written transcript of the proceedings.

Findings and Conclusion

This case has an unusual history. The Petitioner applied for a building permit to construct a pier and variances to permit the desired pier within the required 15-foot setback from property lines extended into the water and farther than the limit of no more than $\frac{1}{2}$ the distance to the point of cove. The Administrative Hearing Officer granted variances to the side lot lines and granted the Petitioner a variance to permit a 55-foot long pier. Following the grant of the variances, the Department of Inspections and Permits issued the building permit in keeping with the Administrative Hearing Officer's decision prior to the expiration of the 30-day appeal period. The Protestant subsequently appealed that variance decision to this Board (and the grant of the

building permit, which has been stayed pending the resolution of the variance case). We ultimately granted the Petitioner variances for the placement of her pier in case number BA 30-18V. The Petitioner was granted a 15-foot variance to the east extended property line, and a 9-foot variance to the west extended property line to the minimum setback of 15 feet for the construction of a 4-foot wide by 40-foot-long pier, on condition that the maximum beam of any watercraft accommodated on the west side of the pier be limited to 6 feet and that no watercraft may be docked on the east side of the pier. The Board denied the right to extend the pier farther than 40 feet and the Petitioner was required to remove the 15-foot by 2-foot catwalk at the end of the subject pier.

The Department of Inspections and Permits argues that the building permit was accurately granted based on the information available at the time of issuance. Their argument continues that if the construction does not match the variances granted by the Board of Appeals, then the County could bring an enforcement action against the property owner. We believe that this position is accurate, in part. The County has the right to bring an enforcement action. However, once the building permit was appealed, this Board has *de novo* authority over it, therefore, divesting the Office of Inspections and Permits of jurisdiction. Thus, we review the building permit application as of the date of the hearing held on October 5, 2022. It is here where the Petitioner's application fails.

The application requests a 4-foot wide by 40-foot long pier with a 2-foot wide by 15-foot long extension. The Board granted variances for the 4-foot wide by 40-foot long pier, but specifically denied the 2 by 15-foot long catwalk extension. Therefore, we deny the Petitioner's request for a building permit since it does not meet the variance condition.

We note that the Petitioner requested that the 6-foot maximum boat beam condition be ignored or dismissed as part of this appeal. No. The 6-foot maximum boat beam condition was

imposed in BA 30-18V. The Petitioner appealed the Board's decision, but then withdrew her appeal before the Circuit Court. Thus, the Board's decision became the law of the land governing this pier. If the Petitioner moors a boat with a beam greater than 6 feet at this pier, she is in violation of the issued decision and an enforcement action should ensue.

ORDER

For the reasons set forth in the foregoing Memorandum of Opinion, it is this 9th day of November, 2022, by the County Board of Appeals of Anne Arundel County, ORDERED, that the Petitioner's request for a building permit (B02345690) to construct a pier measuring 4 by 40 feet with a 2 by 15-foot extension is hereby **DENIED**.

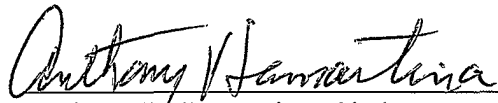
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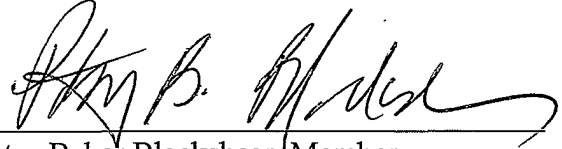
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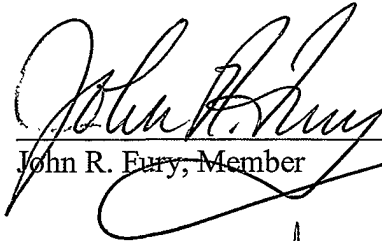
COUNTY BOARD OF APPEALS
OF ANNE ARUNDEL COUNTY



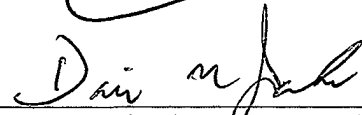
Anthony V. Lamartina, Chair



Patsy Baker Blackshear, Member



John R. Furry, Member

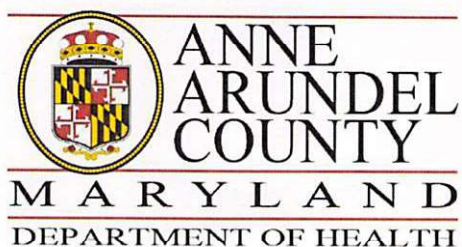


Darrin Michael Jacobs, Member

*(Scott MacMullan, Vice Chair, Richard Forgo, Member,
and Maria K. Patterson, Member, did not participate in
this appeal.)*

2025-0081-V

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<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>05/23/2025</div> <div>Assigned to</div> <div>Melanie Mathews</div> <div>Action By</div> <div>Melanie Mathews</div> <div>End Time</div>	<div>Assigned Date</div> <div>05/12/2025</div> <div>Status</div> <div>Complete w/ Comments</div> <div>Status Date</div> <div>05/27/2025</div> <div>Hours Spent</div> <div>0.0</div> <div>Comments</div> <div>The critical area section of OPZ has no objections to the requested variance(s).</div> <div>In Possession Time (hrs)</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>Workflow Calendar</div>
<div>Billable</div> <div>No</div> <div>Time Tracking Start Date</div> <div>Display E-mail Address in ACA</div> <div>No</div>	<div>Overtime</div> <div>No</div> <div>Est. Completion Date</div> <div><input type="checkbox"/> Display Comment in ACA</div>		
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<div>Task Specific Information</div>			
<div>Expiration Date</div>		<div>Review Notes</div>	<div>Reviewer Name</div> <div>Melanie Mathews</div>
<div>Reviewer Phone Number</div> <div>410-222-6136</div>		<div>Reviewer Email</div> <div>PZMATH20@aacounty.org</div>	



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

A handwritten signature in blue ink, appearing to be "BC", located to the right of the "FROM:" line.

DATE: May 13, 2025

RE: Lindsay A. Estabrook
92 Johnson Road
Pasadena, MD 21122

NUMBER: 2025-0081-V

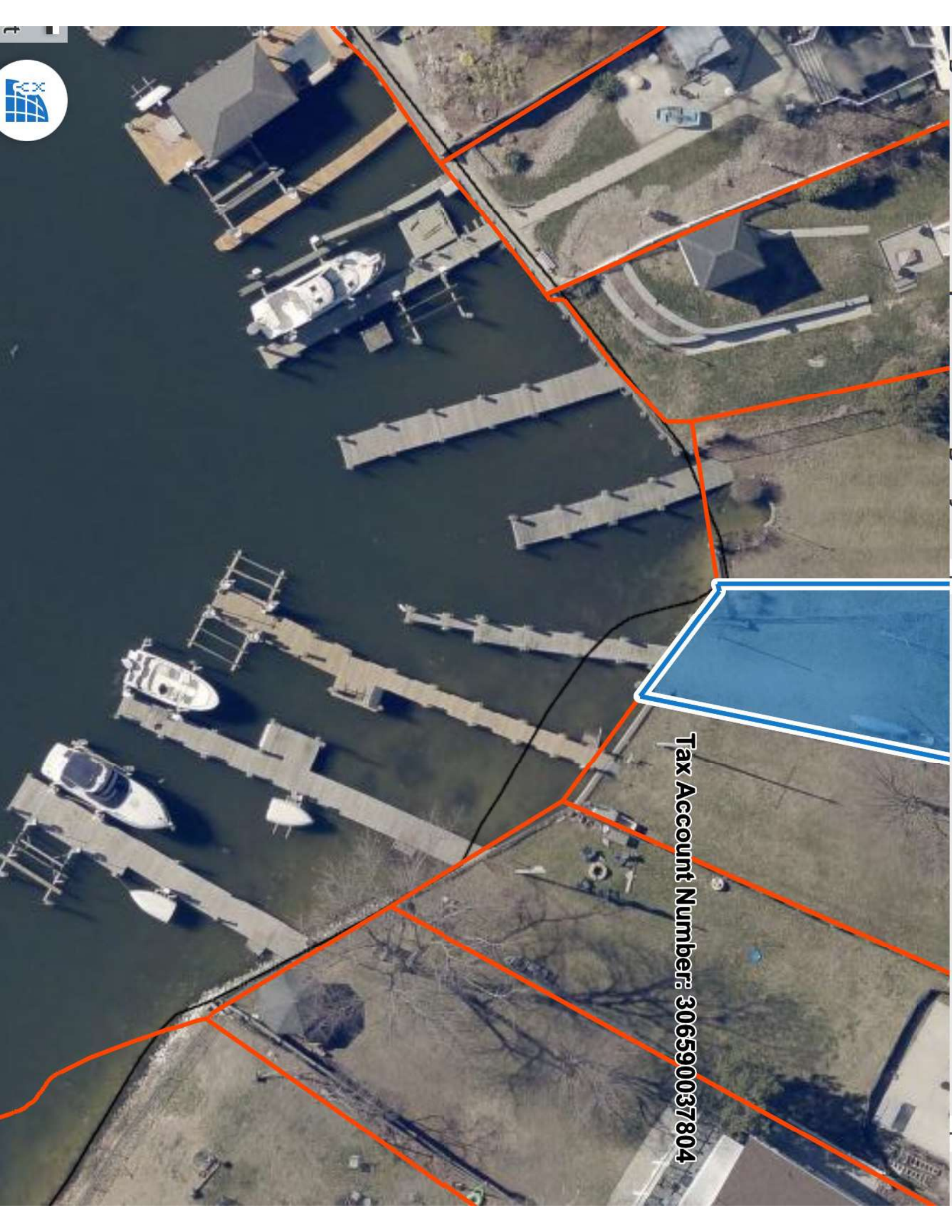
SUBJECT: Variance/Special Exception/Rezoning

The Health Department has reviewed the above referenced variance to allow a pier with less setbacks than required.

The Health Department has reviewed the above-referenced request. The property is served by public water and sewer facilities. 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



Tax Account Number: 306590037804