

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

APPLICANT: Rita Fallon

ASSESSMENT DISTRICT: 3

CASE NUMBER: 2025-0100-V

COUNCIL DISTRICT: 3

HEARING DATE: July 22, 2025

PREPARED BY: David Russell
Planner

DR

REQUEST

The applicant is seeking a variance to allow a dwelling addition (deck) with less setbacks than required for property located at 1165 Wharf Drive in Pasadena.

LOCATION AND DESCRIPTION OF SITE

The property is approximately 5,850 square feet (Lot 135C, Parcel 77, Grid 3, Tax Map 17) within the Mount Pleasant Beach neighborhood. The property is located approximately 300 feet west of the intersection of Wharf Drive and Stoney Creek Drive and zoned R5 – Residential. It is improved with a single family dwelling, with a landing and stairs to an entrance on the west side of the home.

PROPOSAL

The applicant proposes the construction of a 12' x 12' open deck with two 4' x 4' landings and steps to grade, on the west side of the existing dwelling. The proposed deck appears to be replacing the existing landing and stairs, shown in County aerial imagery.

REQUESTED VARIANCES

§ 18-4-701 of the Anne Arundel County Code requires that additions to principal structures be at least 7 feet from the side property lines. The proposed addition will be 2 feet from the west side property line, necessitating a variance of 5 feet.

FINDINGS

The subject property is zoned R5, requiring a minimum lot size of 7,000 square feet, if served by public sewer, and lot width of 60 feet¹. The subject property is approximately 52 feet wide and 5,850 square feet in area, making it undersized for the R5 zoning district. The subject property does, however, match surrounding lot sizes in the area. The adjacent property west, 1163 Wharf Drive, is a flag lot. The dwelling on this property is located directly behind the subject property, facing the subject property's rear lot line. The portion of 1163 Wharf Drive abutting the subject property on the west, is the "pole" portion of the flag lot, only providing access to the dwelling, behind the subject property. This portion of the neighboring property is essentially just a driveway. The proposed location of the new deck, landings, and stairs is for access to an existing

¹ On July 1, 2025, the R5 zoning district minimum lot size and width was reduced to 5,000 square feet (if served by public sewer) and 50 feet, respectively. Under these new regulations the subject property is no longer undersized for the R5 district.

side door of the dwelling. The proposed location of the deck addition is adjacent to only the portion of the neighboring property that provides access. This area has little potential for structural development, outside of use as a driveway.

Agency Comments

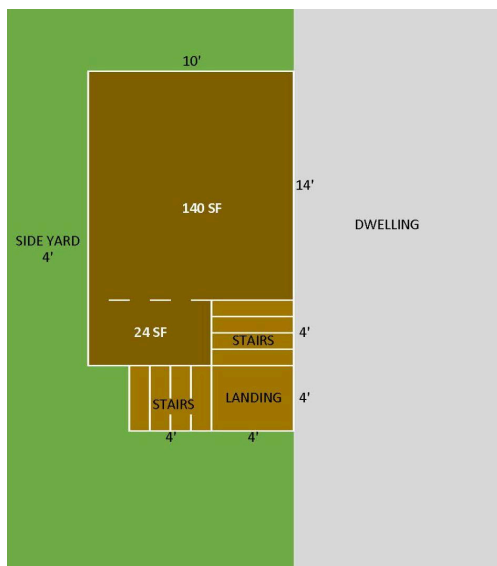
The **Health Department** has no objection to the variance request.

Variance Criteria

To be granted a variance it must be found that because of 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; or, because of exceptional circumstances other than financial considerations, the grant of a variance is necessary to avoid practical difficulties or unnecessary hardship and to enable the applicant to develop the lot.

At approximately 52 feet wide and 5,850 square feet in area, the property is undersized for the R5 zoning district. Applying typical setback requirements to undersized lots can make development challenging. Section 18-2-301(f) of the Code allows lots that do not meet the area or width requirements to utilize reduced setbacks. In this case, however, the reduced side setback for non-conforming lots is still 7 feet, matching the current R5 side setback requirement proposed for variance. The size, shape, and topography of the subject property is not unique to the neighborhood or surrounding area.

The proposed deck, stairs, and landings are all reasonably sized. The proposed deck area spans approximately 144 square feet, providing ample space for small gatherings. However, the proposed 12-foot width leaves only two feet of clearance between the west edge of the proposed deck and the existing fence along the western property line. To allow for more space between the deck and existing fence, the proposed deck width could be reduced to 10 feet. The deck could then be elongated along the western facade of the dwelling to achieve the original desired square footage. Below is a potential alternative deck configuration, allowing 4 feet of side yard width.



To avoid a variance entirely, the deck could be added to the rear of the dwelling, and the existing stairs and landing on the west side of the dwelling could remain, be replaced, or even expanded. With this alternative, all setback requirements can be met without a variance.

Given the potential for alternative configurations or locations of the proposed deck, the request cannot be considered the minimum necessary to afford relief. However, the granting of the variance would not alter the essential character of the neighborhood or district in which the lot is located, would not substantially impair the appropriate use or development of adjacent property, nor would it be detrimental to the public welfare.

RECOMMENDATION

Based upon the standards set forth in § 18-4-701 of the Code under which a variance may be granted, this Office recommends **conditional approval** of the requested variances to § 18-4-701 to allow a dwelling addition (deck, landings, and stairs) with less setbacks than required.

Condition: The proposed addition may be no closer than 4 feet from the west side property line.

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.



ADDRESS: 1165 Wharf Dr
Pasadena, MD 21122
Scale: 1"=20'

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

This work product represents only generalized locations of features, objects or boundaries and should not be relied upon as being legally authoritative for the precise location of any feature, object or boundary.

Letter of Justification

The owner of the residence located at 1165 Wharf Drive, Pasadena Maryland 21122, received comments for permit B02435018. The permit was to construct a 12' x 12' open deck with two 4' x 4' landings and steps to grade, on the side of an existing single family dwelling. The comments on the permit application have called for a variance to allow this deck to result in a 2' setback from the side property line in lieu of the required 7' setback; thus, a 5' variance is needed.

The lot in question is peculiar in terms of its narrowness with respect to the existing dwelling placement. The existing house is positioned at 14' from the side property line now, thus it would only allow a 7' deck that would lead from the existing egress door on that side of the house. Furthermore, there is an existing stoop with steps to grade on the side of the house in the same location. The proposed deck will not impact on any adjacent property as the neighboring dwellings are a considerable distance behind the subject dwelling, as can be seen by the submitted photo.

A common residential amenity such as a deck on the side of the dwellings are typical in this neighborhood. Here the applicant wishes to use that area and only proposes an open deck, with no roof. This property is NOT in the critical area and does meet the front and rear setback requirements. The only variance needed is for the side.

The variance request is not based on conditions or circumstances that are the result of actions by the applicant, nor from any condition relating to land or building use on any neighboring property. The house was constructed well before this owner took ownership. The owner has chosen to construct the deck on the side of the house with the most room between the house and the property line. Again, this is also where a door already exists.

As has been shown, this variance request is the minimum necessary to afford relief and is actually being proposed in the most feasible location possible. The granting of the variance will not alter the essential character of the neighborhood or district in which the lot is located because decks are ubiquitous on dwellings such as this one, making it more in character with the neighborhood.

The variance will not substantially impair the appropriate use or development of adjacent property because the deck is small, and the neighbors already have similar structures. Furthermore, adjacent dwellings sit a considerable distance further back from this property.

The variance will not reduce forest cover in the limited development and resource conservation areas of the critical area as this property is not in the critical area, and no forest cover will be removed for these structures. Finally, this variance in no way would be detrimental to the public welfare as this is a residential structure on a residential lot, and will have no affect on the public in any way.

No Consideration Deed Transfer to Trust

This Deed

Anne Arundel Cty Cir Crt
IMP FD SURE \$40.00
RECORDING FEE \$20.00

TOTAL \$60.00
SAP WO
May 23, 2024 01:35 pm

Return to: The Collins Firm, PLLC
1501 Farm Credit Drive, Suite 2000
McLean, VA 22102

Tax Account No./Parcel Identifier: 03-560-90050071

Made **April 23, 2024**, by and between **Rita J. Fallon**, widowed and not since remarried, sole-surviving tenant by the entirety, Grantor, and **Rita J. Fallon, Trustee under the Rita J. Fallon Trust, dated April 23, 2024**, Grantee. **"This deed transfers interest in real property to a revocable living trust without any consideration. This transfer is exempt from recordation and transfer taxes under Section 12-108(ee) and Section 13-207(a)(23) of the Tax Property Article of the Annotated Code of Maryland."**

Witnesseth, that for estate planning purposes and for no monetary consideration, Grantor does grant and convey, with General Warranty of Title, unto Grantee in fee simple all that certain property situate, lying and being in Anne Arundel County, Maryland, and more fully described as follows:

Being known and designated as Lots 135C and 135D, revised Plat of Sect. A, Mt. Pleasant Beach and recorded among the Land Records of Anne Arundel County, Maryland in Plat Book No. 5, Folio 31. The improvements thereon being known as No. 1165 Wharf Drive.

And being the same property conveyed to RITA J. FALLON and BRIAN J. FALLON, by Deed recorded in Liber 5356 at folio 255 among the Land Records of the aforesaid County. BRIAN J. FALLON died on August 11, 2020, leaving RITA J. FALLON as sole-surviving tenant by the entirety.

which has the address of 1165 Wharf Drive
Pasadena, Maryland 21122

Subject to covenants, easements and restrictions of record.

To Have and to Hold said land and premises above described or mentioned and hereby intended to be conveyed, together with the buildings and improvements thereupon erected, made or being, and all and every title, right, privileges, appurtenances and advantages thereunto belonging, or in anywise appertaining, unto and for the proper use only, benefit and behoof forever of Grantee in fee simple.

05/23/2024 13:16 PM LO
County Transfer Tax - Exempt

ACCT. 03-560-90050071
ALL REQUIRED LIENS ARE PAID
AS OF 05-23-2024 A.A. COUNTY
BY: LO

05/23/2024 13:16 PM LO
County Recordation Tax - Exempt

TO FURTHER HAVE AND TO HOLD the property with full power, right and authority hereby granted unto Grantee and Grantee's successors-in-trust, to sell, lease, exchange, encumber and/or convey the said property, either in whole or in part, upon such terms and conditions and for such consideration, or no consideration, as Grantee may in the discretion of Grantee deem advantageous, with the further right to subdivide and re-subdivide said property and to dedicate such portions thereof for public use as Grantee shall deem desirable, together with the right to grant licenses and easements for utility or other purposes across, over and under said property, and Grantee is hereby empowered to execute, acknowledge and deliver such deed, deeds of trust, leases and other instruments necessary to carry out the foregoing powers and there shall be no obligation or liability upon any purchaser or purchasers, lessee or lessees of said property, or any part thereof, or upon any party or parties making any loans secured by deed or deeds of trust upon said property, or any part thereof, to see to the proper application of the proceeds of such sale, lease or loan.


Any revocation of the Trust Agreement shall not be effective as to the property herein conveyed unless the Trustee executes a deed, duly recorded, evidencing such revocation and reversion of title.


Every deed, deed of trust, lease or other instrument executed by Grantee, or Grantee's successors-in-trust, on behalf of the Trust identified herein and in relation to the property described herein shall be conclusive evidence in favor of every person claiming any right, title, or interest thereunder that: (i) at the time of the delivery of such instrument the Trust was in full force and effect; (ii) that such instrument was executed in accordance with the terms and conditions of the Trust agreement establishing such Trust, as the same may be amended from time to time, and is binding upon all beneficiaries under said Trust; and (iii) if such instrument is executed by successor(s)-in-trust to Grantee that such successor(s)-in-trust have been properly appointed and are fully vested with all the title, estate, rights, powers, duties and obligations of Grantee provided such successor(s)-in-trust certify in said instrument that such successor(s)-in-trust have been properly appointed.

No Title Insurance/ No Title Examination


Rita J. Fallon

DANIEL G. KAPLAN
Notary Public - Maryland
Montgomery County
My Commission Expires
June 10, 2025


Notary Public

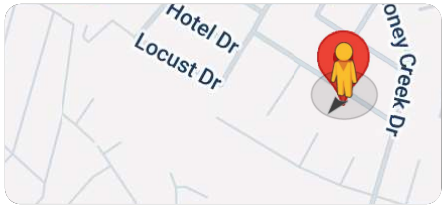

Damian O'Connor, of Counsel
The Collins Firm
1501 Farm Credit Drive, Suite 2000
McLean, Virginia 22102

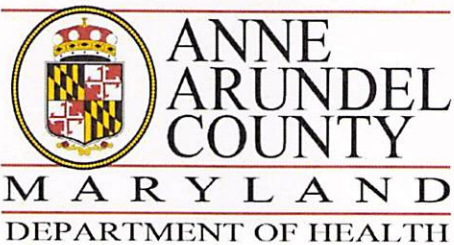
Google Maps

1162 Wharf Dr



Image capture: Sep 2022 © 2025 Google



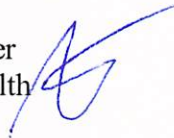


J. Howard Beard Health Services Building
3 Harry S. Truman Parkway
Annapolis, Maryland 21401
Phone: 410-222-7095 Fax: 410-222-7294
Maryland Relay (TTY): 711
www.aahealth.org

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: June 11, 2025

RE: Brian J. Fallon
1165 Wharf Drive
Pasadena, MD 21122

NUMBER: 2025-00100-V

SUBJECT: Variance/Special Exception/Rezoning

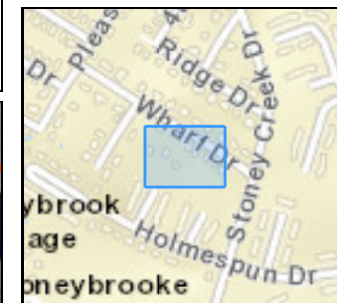
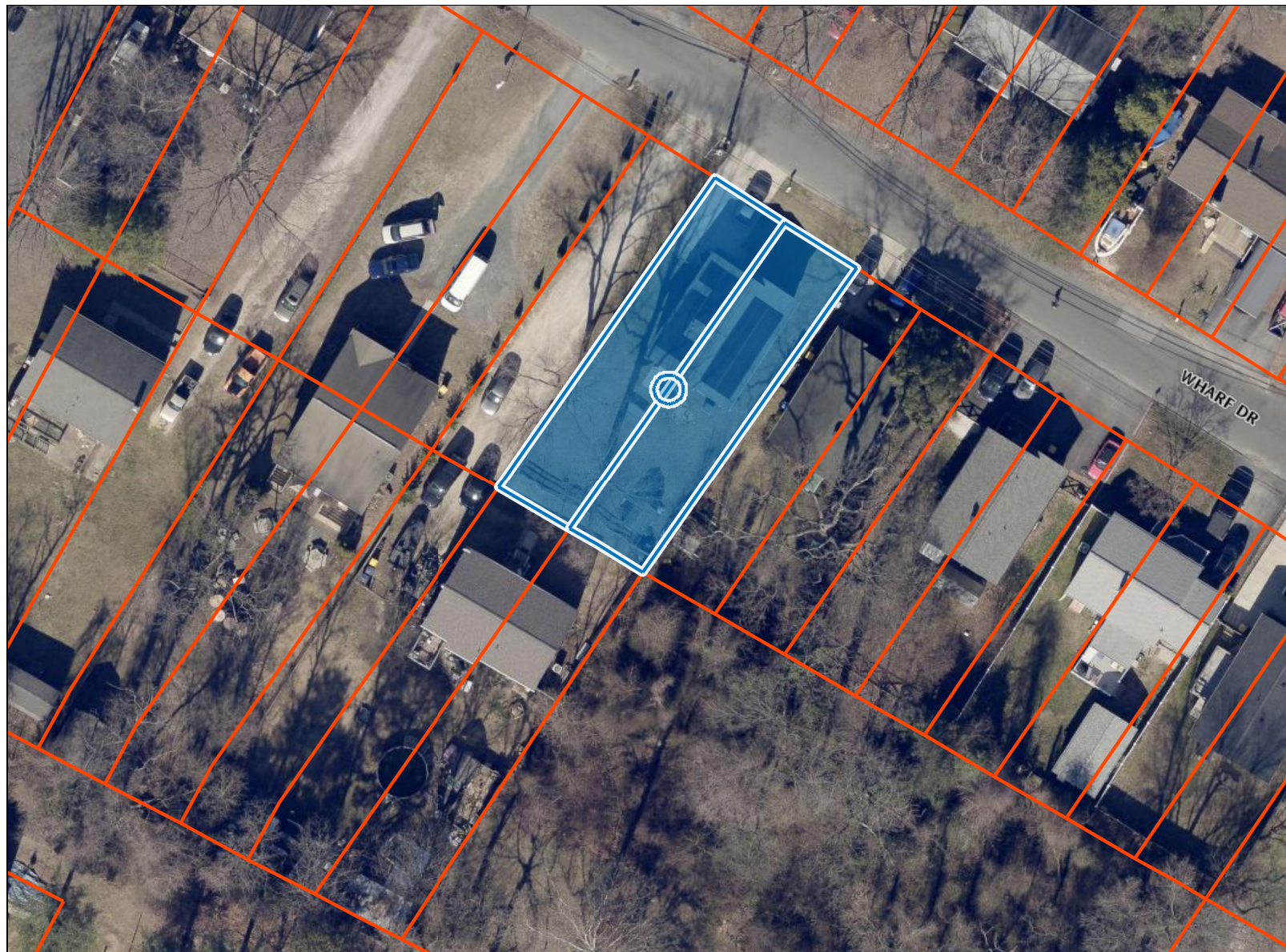
The Health Department has reviewed the above referenced variance to allow a dwelling addition (deck) with less setbacks than required.

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

1165 WHARF DRIVE



Legend

Foundation

Parcels



Parcels - Annapolis City



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.

none



0 50 100
ft



THIS MAP IS NOT TO BE
USED FOR NAVIGATION

Notes