

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

APPLICANTS: Gordon & Mary Wallace

ASSESSMENT DISTRICT: 2nd

CASE NUMBER: 2025-0197-V

COUNCILMANIC DISTRICT: 6th

HEARING DATE: December 4, 2025

PREPARED BY: Donnie Dyott Jr. 
Planner

REQUEST

The applicants are requesting a variance to allow an accessory structure (garage with ADU - Accessory Dwelling Unit above) with less setbacks than required on property located at 132 E. Lake Drive in Annapolis.

LOCATION AND DESCRIPTION OF SITE

The subject site consists of approximately 18,724 square feet of land and is identified as part of Lot 7 of Parcel 29 in Block 10 on Tax Map 57 in the Bay Ridge subdivision. The property is zoned R2 - Residential District and is currently improved with a single family detached dwelling and associated facilities. This is a waterfront property on Lake Ogleton located within the Chesapeake Bay Critical Area with a designation of LDA - Limited Development Area. The property is mapped within a BMA - Buffer Modification Area.

APPLICANT'S PROPOSAL

The applicants seek approval to construct a two story accessory structure with a height of 23 feet in the rear yard of the property. The structure is irregularly shaped and is approximately 35 feet wide by 24 feet deep. The proposed structure would consist of a garage on the first floor with an accessory dwelling unit on the second floor.

REQUESTED VARIANCES

§ 18-4-601 of the Anne Arundel County Zoning Code stipulates that accessory structures in an R2 - Residential District shall be set back a minimum of 20 feet from a corner side lot line. The proposed detached garage/ADU structure will be located as close as 11.5 feet from the corner side lot line (line abutting Mayo Avenue unimproved) necessitating a variance of 9 feet.

AGENCY COMMENTS

The **Health Department** commented that they do not object to the request provided a plan is submitted and approved by the Health Department.

The **Department of Inspections and Permits (Engineering Division)** did not take a position on the request but provided comments related to the site plan.

FINDINGS

The property was the subject of a previous variance under case 2022-0148-V in which the applicants were granted relief for the construction of a waterside deck and stairs. The approved site plan in that case showed a future garage with studio above in the same general location of the proposed structure in this case. Although it was on the previous plan, it was not proposed or discussed under the previous variance and no approval was granted. The proposed lot coverage after development is 6,012 square feet, which the applicant contends complies with the 10% reduction requirement. Exact lot coverage calculations will be determined at the time of permit.

The lot abuts an unimproved right of way (Mayo Avenue) which requires an increased corner side lot line setback of 20 feet. This increased setback in combination with the narrow nature of the lot in the rear makes the placement of accessory structures difficult without relief from the Code. In addition, the waterside of the lot is encumbered by the 100 foot BMA Buffer, which further restricts placement options. As such some relief is warranted to allow the applicants to avoid practical difficulties when constructing an accessory structure.

There is no evidence that the variance would alter the essential character of the neighborhood or be detrimental to the public welfare. The property across the unimproved right of way (134 E. Lake Drive) has a two story detached garage in the rear yard and the neighborhood has other examples of accessory structures in the rear yard of waterfront lots. The variance does not appear to cause any adverse impacts to neighboring properties and will not reduce forest cover in the LDA or RCA.

While some relief is warranted to allow the placement of the accessory structure, the structure as proposed is not considered the minimum necessary to afford relief by this Office. Typically OPZ does not recommend approval of detached accessory structures larger than 24' X 24' as that is the typical size of a two car garage. The proposed structure could be reduced to 24' X 24' and still provide two garage spaces on the first level and adequate floor area on the second level for the desired ADU.

RECOMMENDATION

Based upon the standards set forth in § 18-16-305 under which a variance may be granted, this Office recommends **denial** of a zoning variance to §18-4-601 to allow construction of the accessory structure as shown on the site plan. This Office would recommend **approval** of a modified variance to allow a 24' X 24' two story accessory structure in the same location.

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.

GENERAL NOTES

1. OWNER:
GORDON AND MARY WALLACE
132 EAST LAKE DRIVE
ANNAPOLIS, MD 21403
EMAIL: WALLA70@COMCAST.NET
WALLA88@COMCAST.NET

ENGINEER:
MESSICK & ASSOCIATES
7 OLD SOLOMONS ISLAND RD, STE 202
ANNAPOLIS, MD 21401
C/O FRED KENNARD
EMAIL: ENGR@MESSICKANDASSOCIATES.COM
2. THE SITE & SURROUNDING LOTS ARE LOCATED IN THE R2 RESIDENTIAL ZONING DISTRICT.
3. THE SITE ADDRESS IS: 132 EAST LAKE DRIVE, ANNAPOLIS, MD 21403.
4. TAX ACCOUNT NO: 02-047-09348105
5. EXISTING BOUNDARY SHOWN HEREON WAS TAKEN FROM DEEDS AND PLATS OF RECORD AND FIELD SURVEY, WITHOUT THE BENEFIT OF A TITLE REPORT. THE FIELD EXISTING CONDITIONS, TOPO & BOUNDARY SURVEY WAS PERFORMED BY MESSICK AND ASSOCIATES IN JUNE 2025.
6. THE SITE IS LOCATED WITHIN THE LDA (LIMITED DEVELOPMENT AREA) OF THE CHESAPEAKE BAY CRITICAL AREA. THE SITE IS NOT LOCATED WITHIN A BOG.
7. THE SITE CURRENTLY UTILIZES A PRIVATE WELL AND PUBLIC SEWER. CONTRACTOR SHALL UTILIZE THE EXISTING SEWER CONNECTION IF POSSIBLE. IF NOT POSSIBLE, CONTRACTOR IS TO INSTALL A NEW SHC PER ANNE ARUNDEL COUNTY SPECIFICATIONS AND DETAILS.
8. THE PROPERTY DESCRIBED HEREON IS LOCATED IN THE FLOOD HAZARD ZONES "AE" (AREA WITHIN THE 1% ANNUAL CHANCE FLOODPLAIN WITH BASE FLOOD ELEVATION OF 5 FEET) AND "X" (AREA OUTSIDE THE 0.2% ANNUAL CHANCE FLOODPLAIN) AS DELINEATED ON THE FIRM FLOOD INSURANCE MAP #24003C0254F DATED FEBRUARY 18, 2015 FOR ANNE ARUNDEL COUNTY AND DISTRIBUTED BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY.
9. WATER AND SEWER CATEGORIES
WATER - FUTURE PUBLIC SERVICE (W-9, BROAD CREEK)
SEWER - PUBLIC SERVICE EXISTING (S-9, ANNAPOLIS)
10. PROPOSED CLEARING OF DEVELOPED WOODLANDS: NONE
11. STEEP SLOPES WILL NOT BE DISTURBED DURING THE CONSTRUCTION OF THIS STRUCTURE.
12. TOTAL DISTURBANCE: 2,700 SQUARE FEET.
13. PRE-FILE #2025-0081-P.

LOT COVERAGE TABULATIONS

EXISTING LOT COVERAGE: 6,031 S.F.
HOUSE: 2,996 S.F.
DRIVEWAY: 2,238 S.F.
WALKWAYS: 322 S.F.
SHED: 150 S.F.
PATIO/PAD: 325 S.F.

EXISTING LOT AREA: 18,724 S.F.
ALLOWABLE LOT COVERAGE:
18,724 x .3125 = 5,851 S.F.
REQUIRED REDUCTION:
6,031 - 5851 = 180 x 0.10 = 18 S.F.
GARAGE/ADU = 786 S.F.
ADDITIONAL DRIVEWAY: 90 S.F.
TOTAL NEW LOT COVERAGE: 876 S.F.
TOTAL REQUIRED REDUCTION: 894 S.F.
PROPOSED IMPV. REDUCTION: 895 S.F.

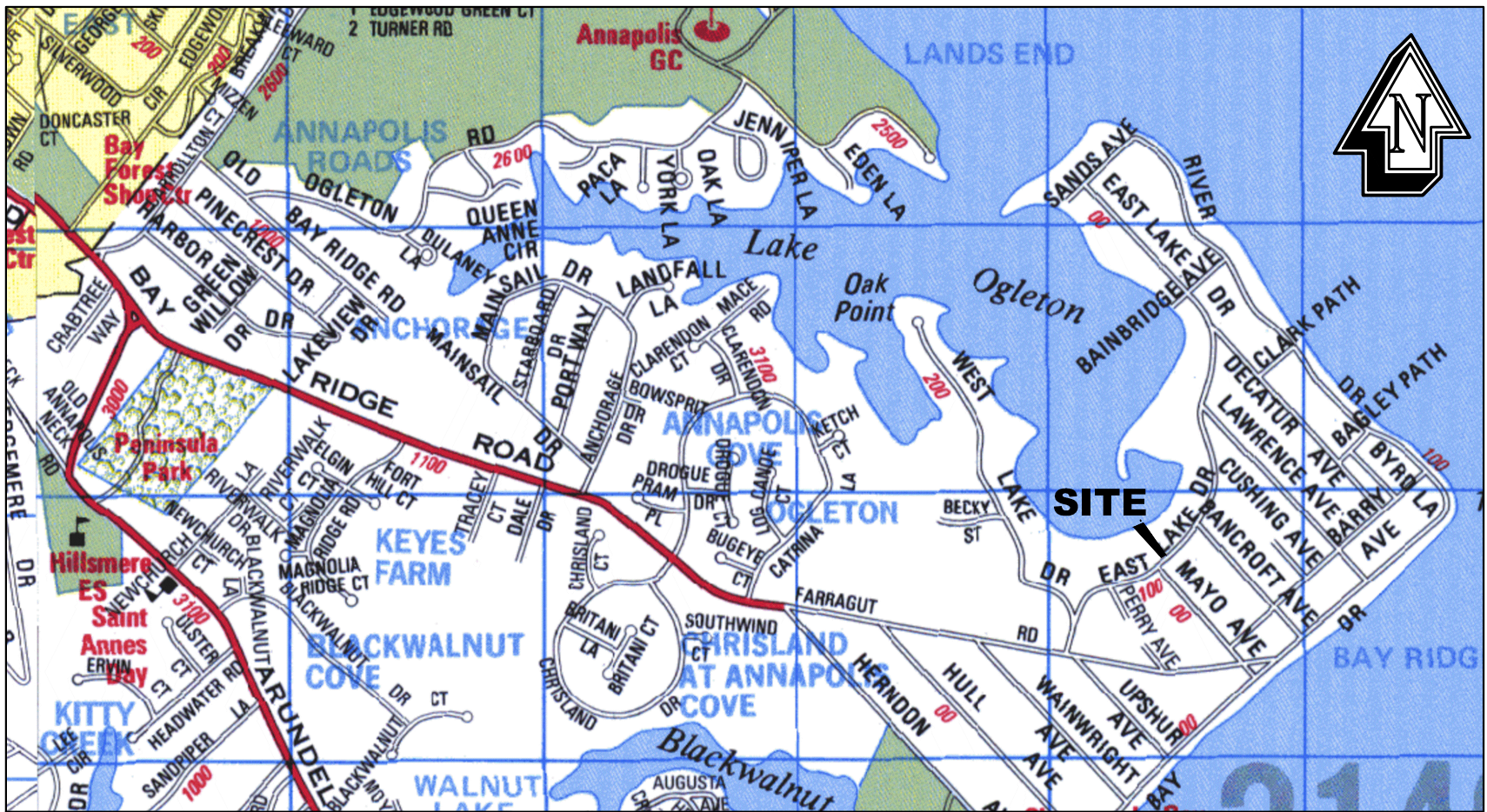
VARIANCE REQUESTED

§ 18-4-601. R2 BULK REGULATIONS:
WHICH STATE IN PART THAT A ACCESSORY STRUCTURE IN AN R2 DISTRICT SHALL HAVE A CORNER LOT SETBACK 20'.

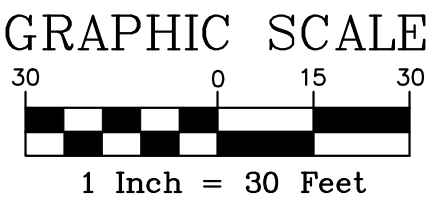
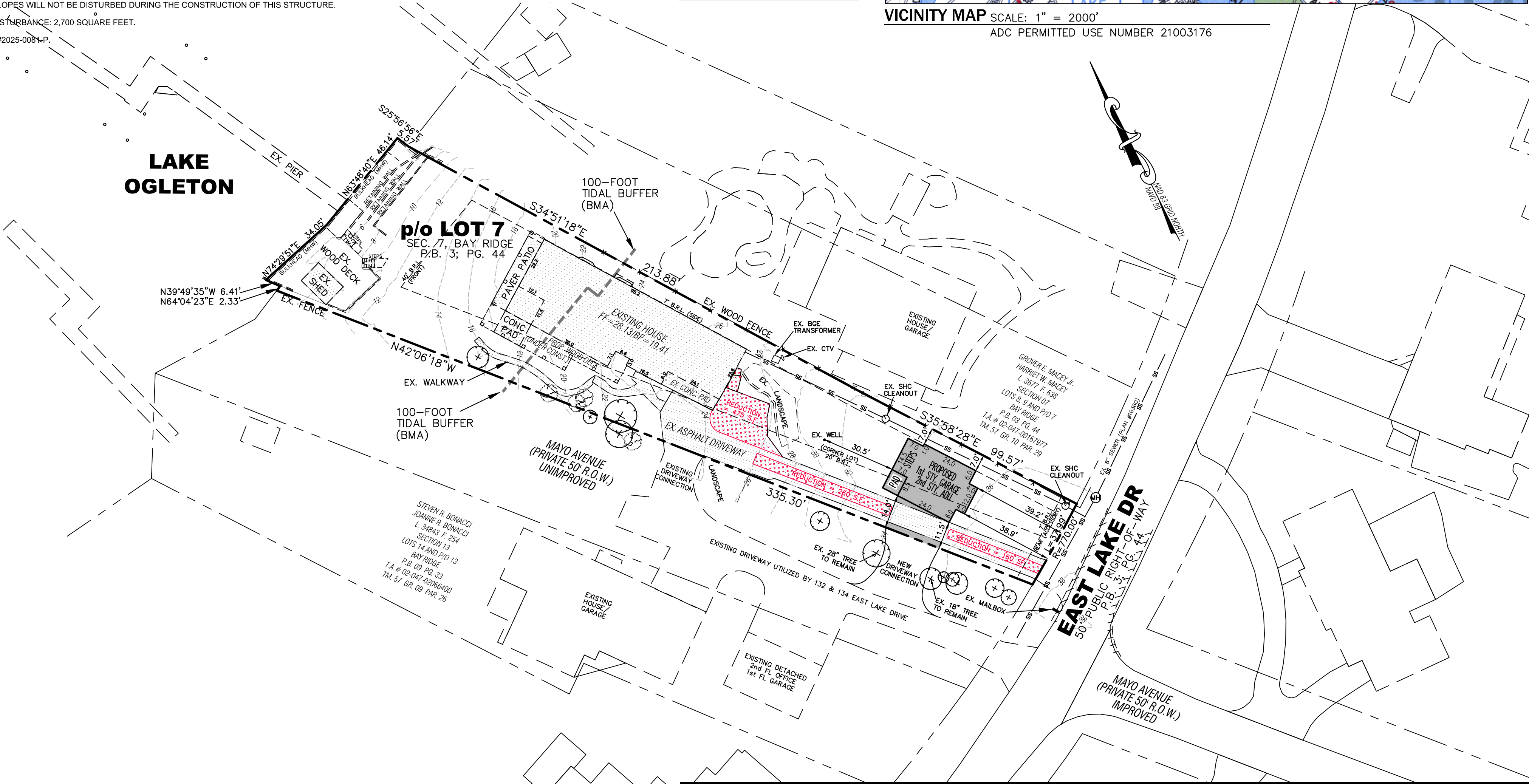
ADU TABULATIONS

ADU TOTAL S.F.: 474 S.F.
KITCHEN: 100 S.F.
FAMILY ROOM: 120 S.F.
BEDROOM: 125 S.F.
BATHROOM: 60 S.F.
MISC. CLOSETS: 17 S.F.
LANDING: 52 S.F.

STRUCTURE HEIGHT: 23.05'



VICINITY MAP SCALE: 1" = 2000'
ADC PERMITTED USE NUMBER 21003176



MESSICK & ASSOCIATES*
CONSULTING ENGINEERS,
PLANNERS AND SURVEYORS
7 OLD SOLOMONS ISLAND ROAD, SUITE 202
ANNAPOLIS, MARYLAND 21401
(410) 266-3212 * FAX (410) 266-3502
email: engr@messickandassociates.com

DENOTES:
EXISTING LOT COVERAGE
EXISTING LOT COVERAGE TO BE REMOVED
NEW LOT COVERAGE

ADMINISTRATIVE SITE PLAN
132 EAST LAKE DRIVE
SECTION 7, LOT P/O 7
BAY RIDGE
PLAT BOOK 03 PAGE 44
TAX MAP: 57 GRID: 10 PARCEL: 29
2ND TAX DISTRICT A.A. COUNTY, MD
SCALE: 1" = 30' DATE: JULY 2025 SHEET 1 OF 1



September 15, 2025

Anne Arundel County
Office of Planning & Zoning
2664 Riva Road
Annapolis, Maryland 21401

Attention: Ms. Sterling Seay

Re: Variance Application Submittal

Wallace Property - 132 East Lake Drive, Annapolis, MD 21401
Tax ID: 2047-0934-8105
(Bay Ridge Subdivision)

Dear Ms. Seay:

On behalf of the applicant & owners of the referenced property, we respectfully request a variance to R-2 Bulk Regulations which states in part that there is a minimum corner side lot line setback of 20 feet, based on Bill No. 72-24. Note that the online American Legal Publishing of the County Code Article 18-4-601, shows a corner side lot line setback as 50 feet. This is in conflict Bill 72-24, which we believe the 20 feet setback is correct. This lot is currently improved with a single-family dwelling. The property is 18,724 square feet in area. The site is served by public sewer and a private well. The site currently derives access directly from East Lake Drive and also a shared driveway within an unimproved and privately owned portion of Mayo Avenue. Mayo Avenue is a private road as shown on the plat of Bay Ridge, but is unimproved but for a driveway that accesses the home and garage at 134 East Lake Drive.

The site is considered a waterfront lot and has direct tidal discharge to the waters of the Lake Ogleton. The site is located in the Limited Development Area (LDA) of the Chesapeake Bay Critical Area. The site is located in a Buffer Modification Area and therefore not subject to the expanded buffer criteria. The site does contain some steep slopes within 15% to 24% however there is no proposed disturbance to them. The site is not in a bog area and is located within the R-2 Zoning District. The lot shape narrows from the front of the lot towards the rear. It is also slightly undersized for an R2 lot, which has a minimum lot area of 20,000 square feet per Article 18-4-601.

The applicants seeks to construct a 2-story accessory structure in the rear yard of the site. The proposed accessory structure will be 23.05 feet in height and the usage of the proposed structure is a 474 square foot accessory dwelling unit (ADU) on the 2nd floor and a 2-car garage at ground level. The proposed structure will meet the minimum rear and side yard setbacks. The front façade of the ADU/garage however, which faces the unimproved Mayo Avenue would be located 11.5 feet from the front right corner to the right-of-way and 14.0 feet from the left front corner to the right-of-way. Anne Arundel County Code, Article 18-4-601, requires accessory structures in the R2 Zoning District to maintain 20 feet from the corner side lot line. Accordingly, the applicant seeks a variance for relief to the 20 feet corner side lot line setback in the amount of 9.5 feet from the front right corner and 6.0 feet from the front left corner. The

existing driveway within the Mayo Avenue currently serves as one of the access driveways to the site. The applicant intends to create one additional access driveway from the proposed structure, to the driveway within Mayo Avenue. There will be no trees required to be removed on-site or in the right-of-way for the construction of the structure or the additional driveway.

The Mayo Avenue private right-of-way is owned by the Bay Ridge Community Association (BRCA). The applicant has notified BRCA of their intention to construct this structure, create an additional access point, and intends to work them in order to achieve the Association's support for their project.

The overall lot coverage of this site will be reduced. The subject property is 18,724 square feet in size. The allowable lot coverage for a lot this size in LDA is 31.25 percent, which comes to 5,851 square feet of allowable lot coverage. The existing lot coverage is 6,031 square feet and the proposed ADU and additional driveway on the site is 876 square feet. When adhering to the County's 10 percent rule, there would be a required lot coverage reduction of 10 percent of the coverage or, $6031 - 5851 = 180 \times .10 = 18$ square feet, plus the amount equal to the proposed lot coverage, 876 square feet, for a grand total of 894 square feet. The lot coverage reduction will be achieved as required and has been illustrated and labeled on the Variance Plan, shown in red. A review of the site plan will show that disturbance will be limited to the construction of the proposed structure and driveway, and the removal of lot coverage.

The setback variances are unavoidable due to the underlying zoning setback requirements to the unimproved private right-of-way in relation to the narrowness of the rear portion of the site. The proposed improvements could not be built elsewhere on the site to minimize impacts and/or the variance request. The location proposed matches the development scheme of the neighboring lot at 134 E. Lake Drive and places the proposed improvements as far from the water as possible, thereby meeting the intent of the code.

As the disturbance will be less than 5,000 square feet, therefore the standard grading permit process should be allowable during the building permit application process. Stormwater management will be provided via planting and/or a fee-in-lieu during the building permit process, if required.

This plan meets the intent of 18-16-305(a):

Because of narrowness in the rear yard and being the only viable location for the proposed structure, there is no reasonable possibility of developing the lot in the strict conformance with this Article.

This plan also meets the intent of 18-16-305(b) for critical area variances.

1. What is peculiar about and inherent to this lot is that it is narrowness in the rear portion of the property, in addition to its proximity to the unimproved portion of Mayo Avenue requiring a 20-foot corner setback. Denial of a variance would be a hardship for the owners as no practical accessory structure could be permitted on the site. The owners will minimize the limits of disturbance to only what is necessary to construct the improvements and remove the required lot coverage. The work proposed creates an updated improvement to the site with the minimal amount of disturbance while decreasing the amount of lot coverage on the site, thereby improving the water quality of the Bay.

2. A literal interpretation County's Zoning Setback Code ordinances would deny the owners of the site of rights commonly enjoyed by other properties in the Bay Ridge Subdivision and throughout the County, as permitted in accordance with the provisions within the critical area of the County. For example, the neighboring lot at 13 E. Lake includes very similar improvements in an area that mimics that being requested.

3. This project will not confer special privileges to the owner, as it is a right for properties to access adjacent unimproved right-of-ways for access in the Bay Ridge Subdivision. And due to many of the lots in Bay Ridge being created prior to current setback regulations, many homes located there have been granted variances for accessory structures or new dwellings with equal and in some cases, far greater impacts.

4. The variance request is not based on conditions or circumstances that are the result of actions by the applicant, including the commencement of development before an application for a variance was filed, and does not arise from any condition relating to use on any neighboring property;

5. The granting of a variance will not adversely affect water quality or adversely impact fish, wildlife, or plant habitat and will be in harmony with the general spirit and intent of the County's critical area program. The project will not require the removal of the existing developed woodlands onsite or in the right-of-way, stormwater management would be provided as required at time of permit, and an overall reduction of lot coverage will help to improve water quality of the tidal waters of Lake Ogleton and the Chesapeake Bay.

6. The proposed improvements are not located within, nor does it disturb the 100-foot Buffer Modification Area, nor is it within a bog or a bog buffer.

7. This plan overcomes the presumption in the Natural Resources article, as the denial of this variance would deny the owner's rights enjoyed by others that have similar improvements in the Bay Ridge Community and within the County. The Critical Area legislation was adopted not to stop development but to ensure proper development. This project fits within that scope.

8. The applicant has studied an alternative design. The process of determining the location of the ADU/Garage were analyzed, and it was determined the location of the ADU/Garage as shown are the least impactful to sensitive areas of the Critical Area and the tidal waters of the Chesapeake Bay.

This plan meets the requirements of 18-16-305(c), as the proposal is the minimum relief necessary. The development will not impair the use of adjoining properties, nor reduce forest cover in the LDA. The work performed will not be contrary to clearing and replacement practices and will not alter the character of the neighborhood or be detrimental to the public welfare.

1. The variance request is the minimum to afford relief. The request is the minimum to allow for construction of the ADU/Garage on this narrow lot in Bay Ridge, adjacent to one of many unimproved right-of-ways within the Bay Ridge Subdivision.

2. i. This variance will not alter the essential character of the neighborhood. Bay Ridge is an eclectic mix of house styles and sizes, many with existing detached accessory structures today.

ii. This variance will not impair the use of adjoining properties. The proposal will not impact neighbors.

iii. No tree clearing is required and any mitigation necessary during the permit process will increase vegetative cover in the LDA.

iv. No work will be performed contrary to approved clearing practices, as a permit will be required, and this permit must meet those requirements.

v. The project will not be detrimental to the public welfare, as it is located on private property.

This plan proposes the minimum relief necessary. The development will not impair the use of adjoining properties, nor reduce forest cover in the LDA. The work performed will not be contrary to clearing and replacement practices and will not alter the character of the neighborhood or be detrimental to the public welfare.

As this proposal is for the construction of a free standing 2nd story accessory dwelling unit and ground level garage, disturbance has been minimized to include a work buffer surrounding the structure, and the areas of existing lot coverage to be removed to be re-vegetated. A grading permit should not be required if the disturbance is kept under 5,000 square feet, and stormwater management, in the form of plantings will be required to increase forest and/or woody vegetative cover during the building permit process. It appears that this request is consistent with other properties in the surrounding area. Denial of this request would not allow the owner to enjoy property rights common to other properties in the surrounding area.

The enclosed plan represents the location of the proposed work. In closing, the variances requested are the minimum necessary to afford relief and is not based on conditions or circumstances that are a result of actions by the applicant. We thank for in advance for your review and consideration to the applicants request.

If you have any questions, or if you require additional information, please feel free to contact me at 410-266-3212.

Sincerely,
Messick & Associates, Inc.

Fred Kennard

Fred Kennard,
Project Manager

Title Nation, LLC
File No. 19-0450
Tax ID # 02-047-09348105

LR - Deed (w Taxes)
Recording only ST20.00
Name: Wallace
Ref:
LR - Deed (with Taxes)
Surcharge 40.00
LR - Deed State
Transfer Tax 10,500.00
LR - NR Tax - 1kd 0.00

This Deed, made this 8th day of January, 2020, by and between **Richard B Schwitzer** and
Kristin H Schwitzer, GRANTORS, and **Gordon Scott Wallace** and **Mary E Wallace**, GRANTEES.

SubTotal: 10,560.00

Witnesseth -

Total: 10,620.00

01/16/2020 01:09

That in consideration of the sum of Two Million One Hundred Thousand and 00/100 Dollars (\$2,100,000.00), which includes the amount of any outstanding Mortgage or Deed of Trust, any, the receipt of which is hereby acknowledged, the said Grantors do hereby grant and convey to the said Grantees, as tenants by the entirety unto the survivor of them, his or her heirs and assigns, in simple, all that lot of ground situate in the County of Anne Arundel, State of Maryland and described as follows, that is to say:

BEGINNING for the same at a pipe found at the intersection formed by the northwest side of East Lake Drive with the northeast side of Mayo Avenue as shown on the plat of Bay Ridge and recorded among the Plat Records of Anne Arundel County in Plat Book No. 3, page 44; thence from the place of beginning so fixed and running with the northeast side of Mayo Road, North 34 degrees 15 minutes West 249.80 feet to a pipe set; thence continuing with said Avenue still North 34 degrees 15 minutes West 78 feet to a pipe set; thence continuing with said Avenue still North 34 degrees 15 minutes West 12 feet to the shoreline of Lake Ogleton; thence with said shoreline North 78 degrees 21 minutes 10 seconds East 81.83 feet to a pipe set; thence leaving Lake Ogleton and running for new division lines across Lot 7, Block 7, as shown on the above mentioned plat, South 27 degrees East 29.0 feet to a pipe set; thence still South 27 degrees East 55.0 feet to a pipe set; thence still South 27 degrees East 130.0 feet to a pipe set; thence South 28 degrees 07 minutes 10 seconds East 99.57 feet to a pipe set on the northwest side of East Lake Drive; thence with the northwest side of East Lake Drive, along the arc of a curve to the right, having a radius of 770 feet, a chord of South 63 degrees 10 minutes 20 seconds West 37.99 feet, for an arc length of 38.00 feet to the place of beginning, together with riparian rights appurtenant thereto. Containing 19,100 square feet, more or less, as surveyed by J.R. McCrone, Jr., Inc., Registered Professional Engineers and Land Surveyors, in May 1971 and described in October 1973. Being and intended to be all that land known as Lot 7 as shown on "RESUBDIVISION LOTS 7-8-9, Block 7, Bay Ridge" as recorded among the Land Records of Anne Arundel County, Maryland in Liber 2436, folio 181.

The improvements thereon being known as 132 East Lake Drive, Annapolis, Maryland - 21403.

BEING the fee simple property which, by Deed dated February 11, 2011, and recorded in the Land Records of the County of Anne Arundel, Maryland, in Liber 23340, Folio 448, was granted and conveyed by PETER BURNES WELCH AND TRACY D. WELCH unto RICHARD B. SCHWITZER AND KRISTIN H. SCHWITZER.

Together with the buildings and improvements thereon erected, made or being; and all and every, the rights, alleys, ways, waters, privileges, appurtenances and advantages thereto belonging, or in anywise appertaining.

To Have and To Hold the said tract of ground and premises above described and mentioned, and hereby intended to be conveyed, together with the rights, privileges, appurtenances and advantages thereto belonging or appertaining unto and to the proper use and benefit of the said Gordon Scott Wallace and Mary E Wallace, as tenants by the entirety unto the survivor of them, his or her heirs and assigns, in fee simple.

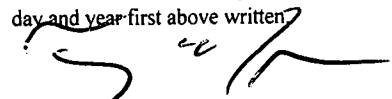
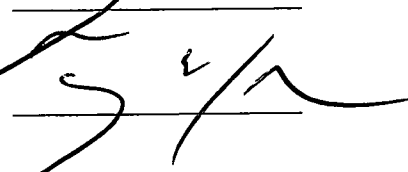
And the Grantors hereby covenant that they have not done or suffered to be done any act, matter or thing whatsoever, to encumber the property hereby conveyed; that they will warrant Specially the property hereby granted; and that they will execute such further assurances of the same as may be requisite.


ACCT: 2-047-09348105
ALL LIENS PAID AS
OF 1/16/20
BY: [Signature]

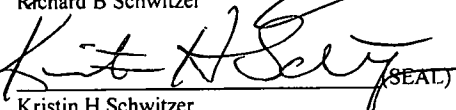
01/16/20 11:05 AM C 0002 R 0002
Val #: 0002-229080 \$21,000.00
County Transfer Tax

ANNE ARUNDEL COUNTY CIRCUIT COURT (Land Records) SAP 34085, p. 0091, MSA_CE59_34527. Date available 01/23/2020. Printed 09/11/2025
01/16/20 11:05 AM C 0002 R 0002
Val #: 0002-229080 \$21,000.00
Deed - Recordation Tax
Instrument Type: Deed

In Witness Whereof, Grantors have caused this Deed to be properly executed and sealed the day and year first above written

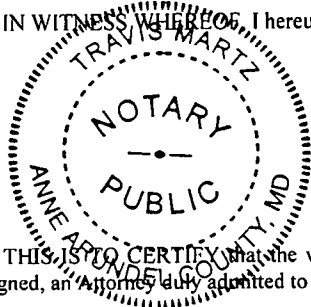
 (SEAL)
 Richard B Schwitzer

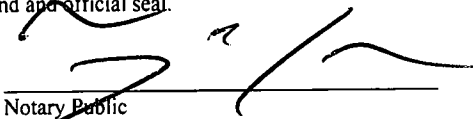
 (SEAL)
 Kristin H Schwitzer

STATE OF MARYLAND } ss
 COUNTY OF ANNE ARUNDEL

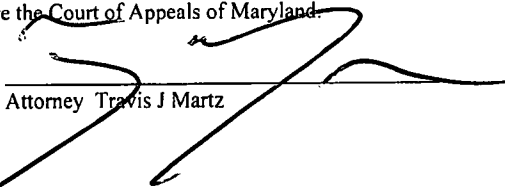
I hereby certify that on this 8th day of January, 2020, before me, the subscriber, a Notary Public of the State and County aforesaid, personally appeared Richard B Schwitzer and Kristin H Schwitzer, known to me (or satisfactorily proven) to be the persons whose names are subscribed to the within instrument, and acknowledged the same for the purposes therein contained, and further acknowledged the foregoing Deed to be their act, and in my presence signed and sealed the same, giving oath under penalties of perjury that the consideration recited herein is correct.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.




 Notary Public
 My Commission Expires: 10-18-22

THIS IS TO CERTIFY that the within Deed was prepared by, or under the supervision of the undersigned, an Attorney duly admitted to practice before the Court of Appeals of Maryland.


 Attorney Travis J Martz

AFTER RECORDING, PLEASE RETURN TO:
 Title Nation, LLC
 60 West Street #364
 Annapolis, MD 21401

MARYLAND
FORM
WH-AR

**Certification of Exemption from Withholding Upon
Disposition of Maryland Real Estate Affidavit of
Residence or Principal Residence**

2020

Based on the certification below, Transferor claims exemption from the tax withholding requirements of §10-912 of the Tax-General Article, Annotated Code of Maryland. Section 10-912 provides that certain tax payments must be withheld and paid when a deed or other instrument that effects a change

in ownership of real property is presented for recordation. The requirements of §10-912 do not apply when a transferor provides a certification of Maryland residence or certification that the transferred property is the transferor's principal residence.

1. Transferor Information

Name of Transferor Richard B Schwitzer

2. Description of Property (Street address. If no address is available, include county, district, subdistrict and lot numbers).
132 E Lake Drive

3. Reasons for Exemption

Resident Status ☒ As of the date this form is signed, I, Transferor, am a resident of the State of Maryland.

☐ Transferor is a resident entity as defined in Code of Maryland Regulations (COMAR)03.04.12.02B(11), I am an agent of Transferor, and I have authority to sign this document on Transferor's behalf.

Principal Residence ☐ Although I am no longer a resident of the State of Maryland, the Property is my principal residence as defined in IRC 121 (principal residence for 2 (two) of the last 5 (five) years) and is currently recorded as such with the State Department of Assessments and Taxation.

Under penalty of perjury, I certify that I have examined this declaration and that, to the best of my knowledge, it is true, correct, and complete.

3a. Individual Transferors

Witness

Richard B Schwitzer

01/08/2020

Name

**Date

Signature

3b. Entity Transferors

Witness/Attest

Name of Entity

By

Name

**Date

Title

** Form must be dated to be valid.

Note: Form is only valid if it was executed on the date the Property was transferred and is properly recorded with the Clerk of the Court.

To the Clerk of the Court: Only an un-altered Form WH-AR should be considered a valid certification for purposes of Section 10-912.

MARYLAND
FORM
WH-AR

**Certification of Exemption from Withholding Upon
Disposition of Maryland Real Estate Affidavit of
Residence or Principal Residence**

2020

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1. Transferor Information

Name of Transferor Kristin H Schwitzer

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132 E Lake Drive

3. Reasons for Exemption

Resident Status ☒ As of the date this form is signed, I, Transferor, am a resident of the State of Maryland.

☐ Transferor is a resident entity as defined in Code of Maryland Regulations (COMAR)03.04.12.02B(11), I am an agent of Transferor, and I have authority to sign this document on Transferor's behalf.

Principal Residence ☐ Although I am no longer a resident of the State of Maryland, the Property is my principal residence as defined in IRC 121 (principal residence for 2 (two) of the last 5 (five) years) and is currently recorded as such with the State Department of Assessments and Taxation.

Under penalty of perjury, I certify that I have examined this declaration and that, to the best of my knowledge, it is true, correct, and complete.

3a. Individual Transferors

Witness

Kristin H. Schwitzer

01/08/2020

Name

**Date

Signature

3b. Entity Transferors

Witness/Attest

Name of Entity

By

Name

**Date

Title

** Form must be dated to be valid.

Note: Form is only valid if it was executed on the date the Property was transferred and is properly recorded with the Clerk of the Court.

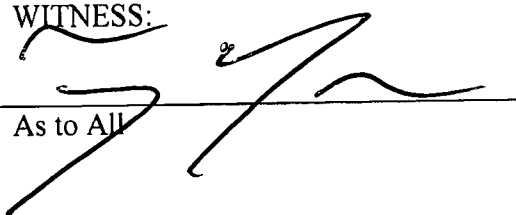
To the Clerk of the Court: Only an un-altered Form WH-AR should be considered a valid certification for purposes of Section 10-912.


File No. 19-0450

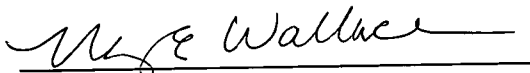
OWNER OCCUPANCY AFFIDAVIT

Gordon Scott Wallace and Mary E Wallace, the Grantees in the within Deed hereby certify under the penalties of perjury, as evidenced by the joinder herein, that the land conveyed in this Deed is residentially improved owner-occupied real property and that the residence will be occupied by us.

WITNESS:

As to All 

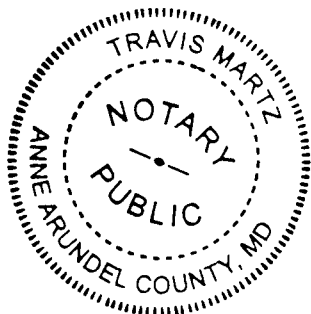
 (SEAL)
Gordon Scott Wallace

 (SEAL)
Mary E Wallace

STATE OF MARYLAND, Anne Arundel, to wit:

I HEREBY CERTIFY, that on this 8th day of January, 2020, before me, the subscriber, a Notary Public of the State and County aforesaid, personally appeared Gordon Scott Wallace and Mary E Wallace, the parties herein, known to me (or satisfactorily proven) to be the persons whose names are subscribed to the within instrument, and acknowledged the foregoing to be their act, and in my presence signed and sealed the same.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.




Notary Public

My Commission Expires: 10-18-22

ANNE ARUNDEL COUNTY CIRCUIT COURT (Land Records) SAP 34085, p. 0096, MSA_CE59_34527. Date available 01/23/2020. Printed 09/11/2025.

BOOK: 34085 PAGE: 96											
State of Maryland Land Instrument Intake Sheet											
<input type="checkbox"/> Baltimore City <input checked="" type="checkbox"/> County: Anne Arundel											
Information provided is for the use of the Clerk's Office, State Department of Assessments and Taxation, and County Finance Office Only. (Type or Print in Black Ink Only--All Copies Must Be Legible)											
1 Type(s) of Instruments		<input type="checkbox"/> Check Box if addendum Intake Form is Attached.)									
		1 Deed		Mortgage		Other		Other			
		2 Deed of Trust		Lease							
2 Conveyance Type Check Box		X Improved Sale Arms-Length [1]		Unimproved Sale Arms-Length [2]		Multiple Accounts Arms-Length [3]		Not an Arms-Length Sale [9]			
3 Tax Exemptions (if applicable)		Recordation									
Cite or Explain Authority		State Transfer First Time Maryland Homebuyer									
		County Transfer									
4 Consideration and Tax Calculations		Consideration Amount				Finance Office Use Only Transfer and Recordation Tax Consideration					
		Purchase Price/Consideration		\$ 2,100,000.00		Transfer Tax Consideration		\$			
		Any New Mortgage		\$ 1,680,000.00		X () % =		\$			
		Balance of Existing Mortgage		\$		Less Exemption Amount -		\$			
		Other:		\$		Total Transfer Tax =		\$			
		Other:		\$		Recordation Tax Consideration		\$			
		Full Cash Value:		\$		X () per \$500 =		\$			
						TOTAL DUE		\$			
5 Fees		Amount of Fees		Doc. 1		Doc. 2		Agent:			
		Recording Charge		\$ 20.00		\$ 20.00		Tax Bill:			
		Surcharge		\$ 40.00		\$ 40.00		C.B. Credit:			
		State Recordation Tax		\$ 14,700.00		\$		Ag. Tax/Other:			
		State Transfer Tax		\$ 10,500.00		\$					
		County Transfer Tax		\$ 21,000.00		\$					
		Other		\$		\$					
		Other		\$		\$					
6 Description of Property		District	Property Tax ID No. (1)		Grantor Liber/Folio		Map		Parcel No.	Var. LOG	
SDAT requires submission of all applicable information. A maximum of 40 characters will be indexed in accordance with the priority cited in Real Property Article Section 3-104(g)(3)(i).			02-047-09348105		23340/448					<input type="checkbox"/> (5)	
		Subdivision Name			Lot (3a)	Block (3b)	Sect/AR (3c)	Plat Ref.	SqFt/Acreage (4)		
								23340/448			
		Location/Address of Property Being Conveyed (2)									
		132 E Lake Drive, Annapolis, MD 21403									
		Other Property Identifiers (if applicable)							Water Meter Account No.		
		Residential <input checked="" type="checkbox"/> or Non-Residential <input type="checkbox"/>		Fee Simple <input checked="" type="checkbox"/> or Ground Rent <input type="checkbox"/>		Amount:		N/A			
		Partial Conveyance? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		Description/Amt. of SqFt/Acreage Transferred: N/A							
		If Partial Conveyance, List Improvements Conveyed: N/A									
7 Transferred From		Doc. 1 - Grantor(s) Name(s)				Doc. 2 - Grantor(s) Name(s)					
		Richard B Schwitzer				Gordon Scott Wallace					
		Kristin H Schwitzer				Mary E Wallace					
		Doc. 1 - Owner(s) of Record, if Different from Grantor(s)				Doc. 2 - Owner(s) of Record, if Different from Grantor(s)					
8 Transferred To		Doc. 1 - Grantee(s) Name(s)				Doc. 2 - Grantee(s) Name(s)					
		Gordon Scott Wallace				Bank of America, N.A.					
		Mary E Wallace									
		New Owner's (Grantee) Mailing Address									
		132 E Lake Drive, Annapolis, MD 21403									
9 Other Names to Be Indexed		Doc. 1 - Additional Names to be Indexed (Optional)				Doc. 2 - Additional Names to be Indexed (Optional)					
10 Contact/Mail Information		Instrument Submitted By or Contact Person						<input checked="" type="checkbox"/> Return to Contact Person			
		Name:						<input type="checkbox"/> Hold for Pickup			
		Firm Title Nation, LLC						<input type="checkbox"/> Return Address Provided			
		Address: PO Box 364									
		Annapolis, MD 21404 Phone: (855) 743-1448									
11		IMPORTANT: BOTH THE ORIGINAL DEED AND A PHOTCOPY MUST ACCOMPANY EACH TRANSFER									
		Assessment Information		X Yes	No	Will the property being conveyed be the grantee's principal residence?					
				Yes	X No	Does transfer include personal property? If yes, identify: _____					
				Yes	X No	Was property surveyed? If yes, attach copy of survey (if recorded, no copy required).					
		Assessment Use Only - Do Not Write Below This Line									
		Terminal Verification		Agricultural Verification		Whole		Part		Tran. Process Verification	
		Transfer Number		Date Received:		Deed Reference:		Assigned Property No.:			
		Year	20	20		Geo.	Map	Sub	Block		
		Land				Zoning	Grid	Plat	Lot		
		Buildings				Use	Parcel	Section	Occ. Cd.		
		Total				Town Cd.	Ex. St.	Ex. Cd.			
		REMARKS:									

Space Reserved for Circuit Court Clerk Recording Validation

Space Reserved for County Validation

Distribution:

☐ Clerk's Office
☐ Office of Finance

☐ SDAT
☐ Preparer

AOC-CC-300 (5/2007)

19-0450

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

PROJECT NOTIFICATION APPLICATION

GENERAL PROJECT INFORMATION

Jurisdiction: Anne Arundel County

Date: September 8, 2025

Tax Map #	Parcel #	Block #	Lot #	Section
0057	0029	0010	7	7

Tax ID: 02-047-09348105

FOR RESUBMITTAL ONLY

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

*Complete Only Page 1
General Project Information

Project Name (site name, subdivision name, or other) Bay Ridge Subdivision

Project location/Address 132 East Lake Drive

City Annapolis Zip 21403

Local case number

Applicant: Last name Wallace First name Gordon and Mary

Company N/A

Application Type (check all that apply):

Building Permit	<input checked="" type="checkbox"/>	Variance	<input checked="" type="checkbox"/>
Buffer Management Plan	<input type="checkbox"/>	Rezoning	<input type="checkbox"/>
Conditional Use	<input type="checkbox"/>	Site Plan	<input type="checkbox"/>
Consistency Report	<input type="checkbox"/>	Special Exception	<input type="checkbox"/>
Disturbance > 5,000 sq ft	<input type="checkbox"/>	Subdivision	<input type="checkbox"/>
Grading Permit	<input type="checkbox"/>	Other	<input type="checkbox"/>

Local Jurisdiction Contact Information:

Last name AACo Zoning Administration Section First name

Phone # 410-222-7437 Response from Commission Required By TBD

Fax # Hearing date TBD

SPECIFIC PROJECT INFORMATION

Describe Proposed use of project site:

Construct a two-story accessory structure with a 1st floor garage and a 2nd floor accessory dwelling unit (ADU)

Intra-Family Transfer	Yes <input type="checkbox"/>	Growth Allocation	Yes <input type="checkbox"/>
Grandfathered Lot	<input type="checkbox"/>	Buffer Exemption Area	<input checked="" type="checkbox"/>

Project Type (check all that apply)

Commercial	<input type="checkbox"/>	Recreational	<input type="checkbox"/>
Consistency Report	<input type="checkbox"/>	Redevelopment	<input type="checkbox"/>
Industrial	<input type="checkbox"/>	Residential	<input checked="" type="checkbox"/>
Institutional	<input type="checkbox"/>	Shore Erosion Control	<input type="checkbox"/>
Mixed Use	<input type="checkbox"/>	Water-Dependent Facility	<input type="checkbox"/>
Other	<input type="checkbox"/>		

SITE INVENTORY (Enter acres or square feet)

	Acres	Sq Ft	Total Disturbed Area	Acres	Sq Ft
IDA Area				0.06	2,700
LDA Area	0.43	18,724			
RCA Area					
Total Area			# of Lots Created	0	

	Acres	Sq Ft		Acres	Sq Ft
Existing Forest/Woodland/Trees	<0.01	<500	Existing Lot Coverage	0.138	6,031
Created Forest/Woodland/Trees	0	0	New Lot Coverage	0.020	876
Removed Forest/Woodland/Trees	0	0	Removed Lot Coverage	0.021	895
			Total Lot Coverage	0.137	6,012

VARIANCE INFORMATION (Check all that apply)

	Acres	Sq Ft		Acres	Sq Ft
Buffer Disturbance	0	0	Buffer Forest Clearing	0	0
Non-Buffer Disturbance	0.06	2,700	Mitigation	0	0

<u>Variance Type</u>		<u>Structure</u>	
Buffer	<input type="checkbox"/>	Acc. Structure Addition	<input checked="" type="checkbox"/>
Forest Clearing	<input type="checkbox"/>	Barn	<input type="checkbox"/>
HPA Impact	<input type="checkbox"/>	Deck	<input type="checkbox"/>
Lot Coverage	<input type="checkbox"/>	Dwelling	<input type="checkbox"/>
Expanded Buffer	<input type="checkbox"/>	Dwelling Addition	<input type="checkbox"/>
Nontidal Wetlands	<input type="checkbox"/>	Garage	<input type="checkbox"/>
Setback	<input checked="" type="checkbox"/>	Gazebo	<input type="checkbox"/>
Steep Slopes	<input type="checkbox"/>	Patio	<input type="checkbox"/>
Other	<input type="checkbox"/>	Pool	<input type="checkbox"/>
		Shed	<input type="checkbox"/>
		Other	<input type="checkbox"/>

Critical Area Narrative Statement For:
132 East Lake Drive, Annapolis, Md. 20403
Tax Map 57, Grid 10, Parcel 29; Lot 7, Sec. 7

Dated: September 8, 2025

PREPARED BY:
MESSICK AND ASSOCIATES.
7 OLD SOLOMONS ISLAND ROAD, SUITE 202
ANNAPOLIS, MARYLAND 21401
410-266-3212

PREPARED FOR:
GORDON AND MARY WALLACE
132 EAST LAKE DRIVE
ANNAPOLIS, MD 21403

In accordance with the Anne Arundel County's Critical Area Report Criteria for a variance application, attached is a description of the subject property, proposed use, description of existing vegetation, proposed development, mitigation requirements, impervious area calculation and description of the habitat protection areas on-site.

A. Project Location, Use and Relevant History:

The subject lot is 18,724 square feet or 0.43 acres of land in size and is located at the northwest corner of the intersection of East Lake Drive and Mayo Avenue. The lot is illustrated on Anne Arundel County Tax Map 57 and is identified as Parcel 29, Block 10, Lot 7, Section 77. The lot is located entirely within the R2 – Residential Zoning District. The lot is considered a waterfront lot on Lake Ogleton and lies within the Chesapeake Bay Overlay area, designated in the LDA (Limited Development Area) category. The lot is currently improved with a 2-story single-family dwelling, a driveway and other associated facilities. The applicant is proposing to construct an accessory structure consisting of a 1st story 2-car garage and a 2nd story accessory dwelling unit (ADU). The two uses will not be connected internally with both units having an exterior access point only. The proposed structure will not be attached to the existing dwelling and no woodland clearing is proposed. Portions of the existing driveway will be removed in order to offsite the increased lot coverage of the proposed accessory structure.

B. Description of Vegetative & Proposed Disturbance:

The lot consists mostly of a maintained lawn with some developed woodlands, containing less than 500 square feet of canopy area throughout the property. Soils within the limits of disturbance consist of Annapolis-Urban land complex, 0 to 5 percent slopes. This soil has a "C" rating Hydrologic Soil Group. There will be no disturbance within the buffer modification area necessary and no woodland clearing is necessary to accommodate the construction of the proposed accessory structure or the driveway coverage reduction areas.

C. Potential Impacts and Mitigation:

Since no alterations of woodlands, impacts to the buffer modification area and less than 5,000 square feet of disturbance to accommodate the proposed improvements, there are no stormwater management water quality impacts and no forest mitigation is required.

D. Site Data, Critical Area Coverage and Clearing:

The following data applies to the Critical Area Portion of the site:

<u>CBCA/Limited Conservation Area:</u>	18,724 sq.ft. (0.43 ac.)
Total CBCA Site Area:	18,724 sq.ft. (0.43 ac.)

Existing Conditions:

Total existing CBCA Coverage:	6,031 sq.ft. (0.138% of the CBCA)
Total existing CBCA Wooded Area:	<500 sq.ft. (0.010% of the CBCA)

Proposed Conditions:

Total proposed coverage:	6,012 sq.ft. (0.137% of the CBCA)
Proposed wooded area:	No Clearing Proposed

E. Description of Habitat Protection Areas:

The entire site is located within the LDA Critical Area category and is within the 100' Critical Area Buffer Modification Area. The Chesapeake Bay Critical Area Project Notification Application Form, Site Plan, Topographic map and associated supporting documents are attached. The attached narrative statement was prepared by Frederick Kennard, Project Manager, of Messick and Associates on September 8, 2025.

LAKE
OGLETON

p/o LOT 7

SEC. 7, BAY RIDGE
P.B. 3; PG. 44
L. 34085/F.91

100-FOOT
TIDAL BUFFER
(BMA)

N42°06'18"W

100-FOOT
TIDAL BUFFER
(BMA)

MAYO AVENUE
(PRIVATE 50' R.O.W.)
UNIMPROVED

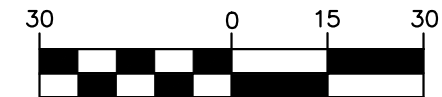
EX. ASPHALT DRIVEWAY

EXISTING DRIVEWAY UTILIZED BY 132 & 134 EAST LAKE DRIVE

EAST LAKE DR
50' PUBLIC RIGHT-OF-WAY

MAYO AVENUE
(PRIVATE 50' R.O.W.)
IMPROVED

GRAPHIC SCALE



1 Inch = 30 Feet

VARIANCE REQUESTED

§ 18-4-601, R2 BULK REGULATIONS:

WHICH STATE IN PART THAT A ACCESSORY STRUCTURE IN
AN R2 DISTRICT SHALL HAVE A CORNER LOT SETBACK 20'.

MESSICK & ASSOCIATES*

CONSULTING ENGINEERS,
PLANNERS AND SURVEYORS

7 OLD SOLOMONS ISLAND ROAD, SUITE 202
ANNAPOLIS, MARYLAND 21401
(410) 266-3212 * FAX (410) 266-3502
email: engr@messickandassociates.com



* MESSICK GROUP INC. T/A MESSICK AND ASSOCIATES

DENOTES:

- EXISTING LOT COVERAGE
- EXISTING LOT COVERAGE TO BE REMOVED
- NEW LOT COVERAGE

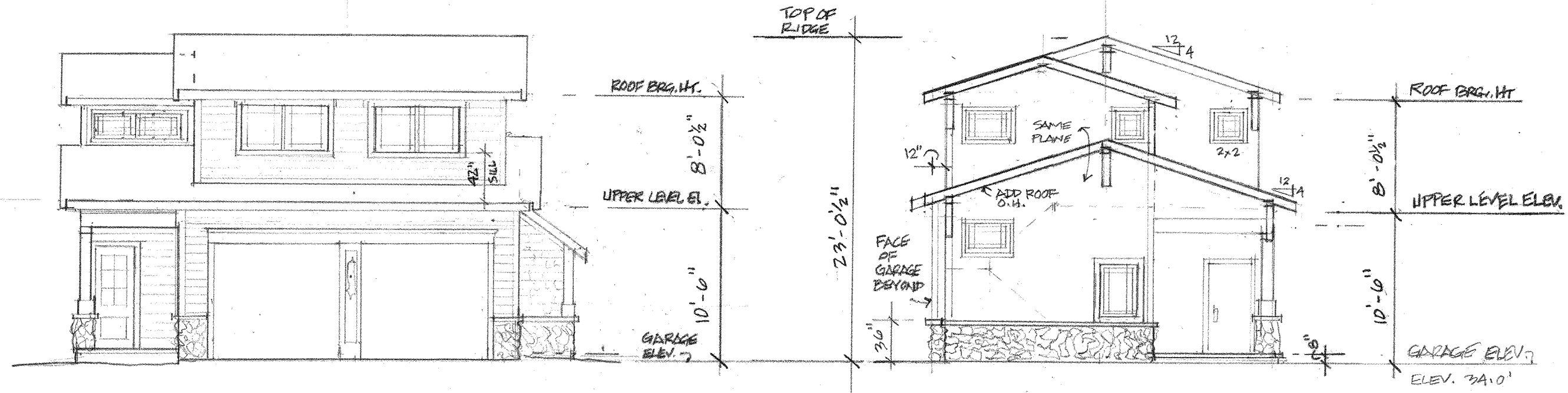
TOPOGRAPHIC MAP/CONDITIONS
132 EAST LAKE DRIVE

SECTION 7, LOT P/O 7
BAY RIDGE

PLAT BOOK 03 PAGE 44

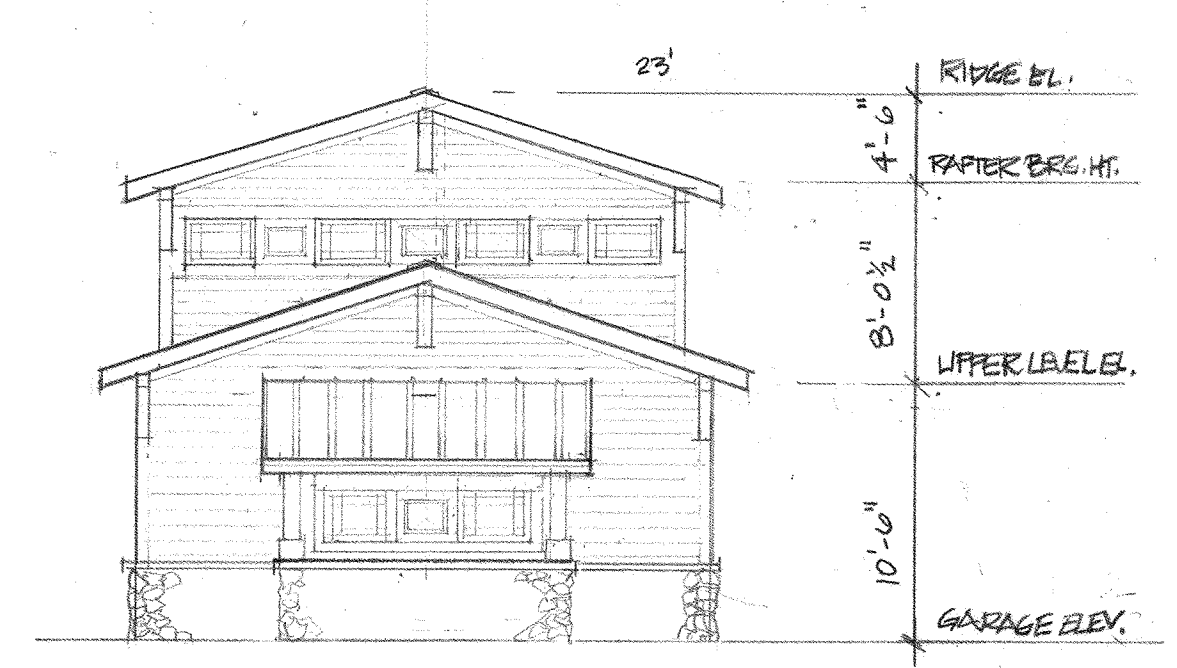
TAX MAP: 57 GRID: 10 PARCEL: 29
2ND TAX DISTRICT A.A. COUNTY, MD

SCALE: 1" = 30' DATE: SEPTEMBER 2025 SHEET 1 OF 1

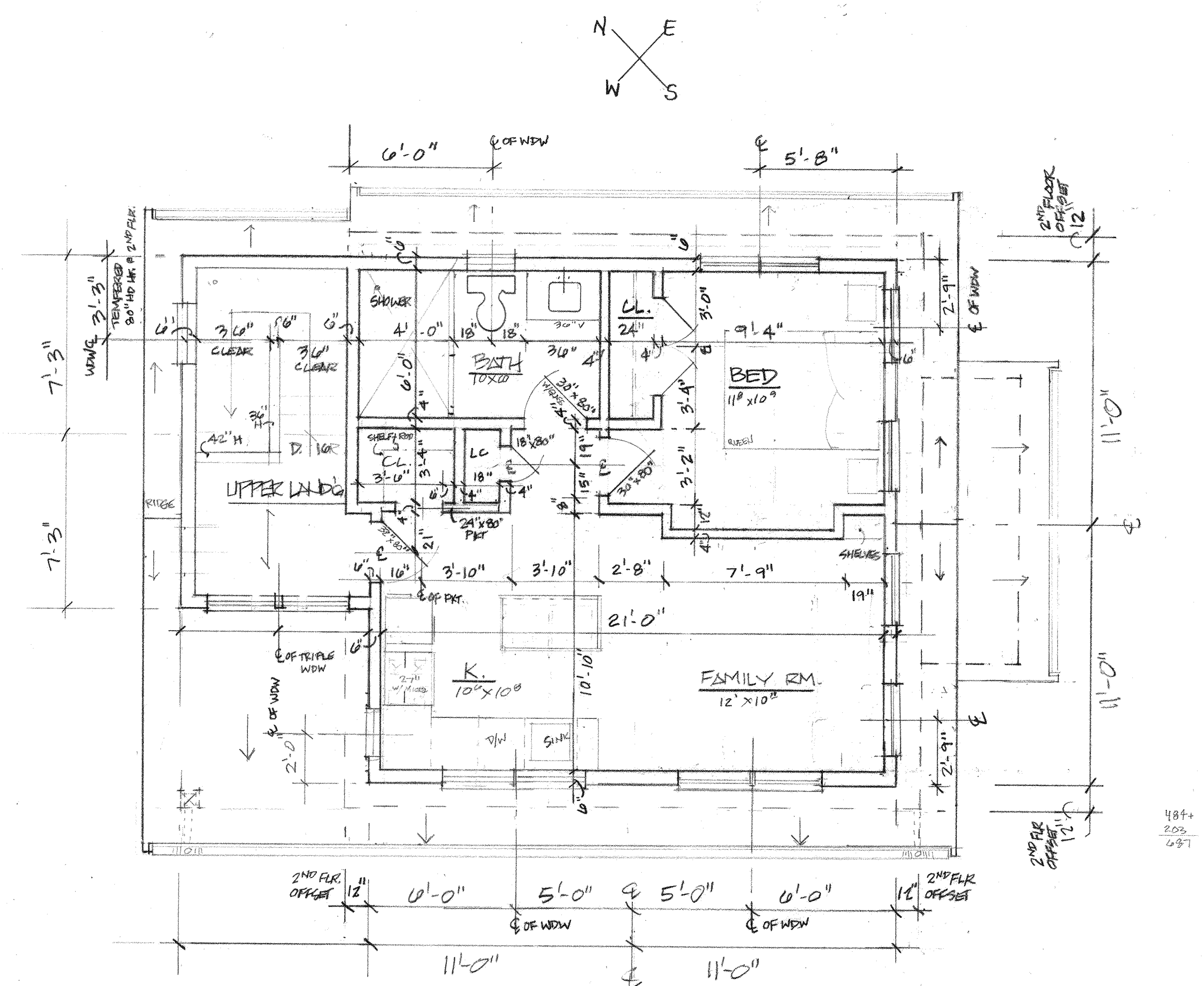


4 SOUTHWEST ELEVATION
SCALE: 1/8" = 1'-0"

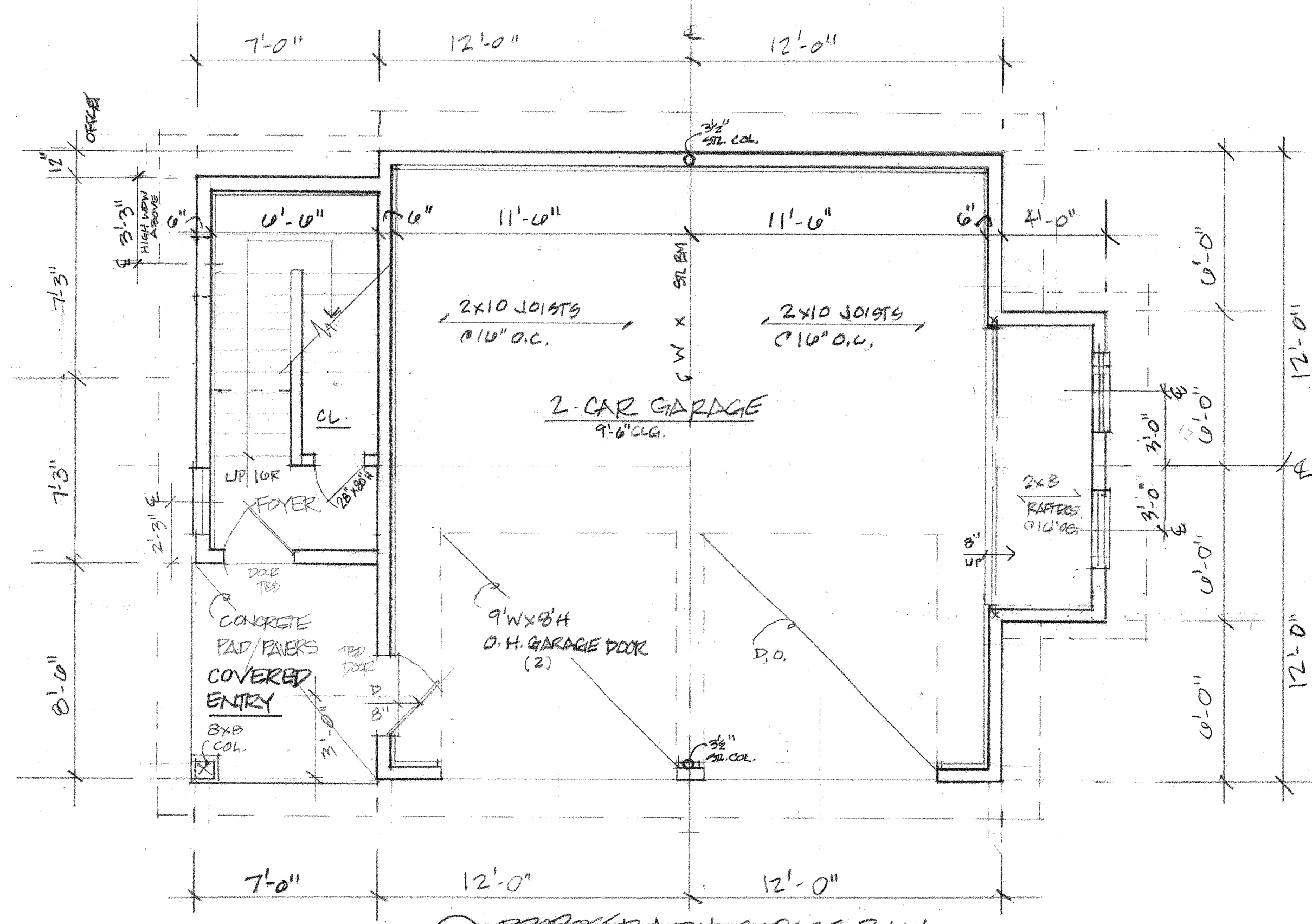
3 NORTH WEST ELEVATION
SCALE: 1/8" = 1'-0"



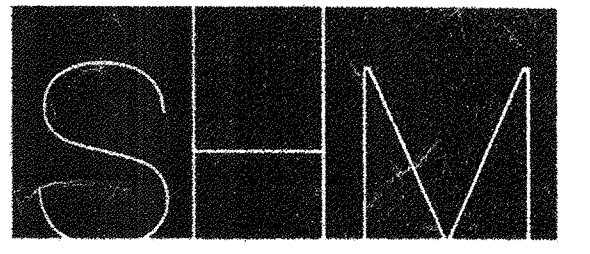
5 SOUTHEAST ELEVATION
SCALE: 1/8" = 1'-0"



2 UPPER LEVEL FLOOR PLAN - PROPOSED
SCALE: 1/4" = 1'-0"



1 PROPOSED ADULT GARAGE PLAN
SCALE: 1/4" = 1'-0"



CUSTOM DESIGN & ARCHITECTURE

DESIGN TEAM

ARCHITECT:
SHM DESIGNS
645 B & A BOULEVARD, SUITE 101
SEVERNA PARK, MD 21146

CEL: 410-533-4793

STRUCTURAL CONSULTANT:
DAVID WALLACE, P.E.
701 CHEESAPEAKE AVE.
ANNAPOLIS, MARYLAND 21403
TEL: 410-544-1225

PROJECT

Additions &
Renovations to:

WALLACE
RESIDENCE

132 EAST LAKE DRIVE
ANNAPOLIS, MARYLAND
21403

ISSUANCE

PROGRESS SET

9-5-25

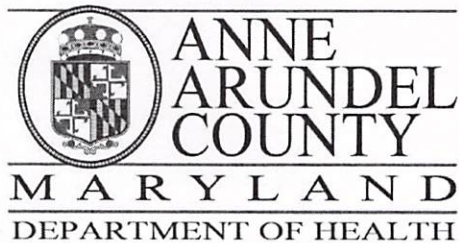
OWNERSHIP OF DOCUMENTS NOTICE

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DRAWN BY: SHM	CHECKED BY:
PROJECT NO: 2013-1132	SCALE: AS NOTED
DRAWING TITLE: ADULT GARAGE PLANS & DETAILS	

DRAWING NO:
GARAGE
ADULT 10F



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", written over the name "Brian Chew".

DATE: October 14, 2025

RE: Mary Wallace
132 Lake Drive
Annapolis, MD 21403

NUMBER: 2025-0197-V- Steep Slope Disturbance

SUBJECT: Variance/Special Exception/Rezoning

The Health Department has reviewed the above referenced variance to allow an accessory structure (garage with ADU - accessory dwelling unit above) with less setbacks than required.

The Health Department does not have an approved plan for this project. The Health Department has no objection to the above referenced variance request as long as a plan is submitted and approved by the Health Department.

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

cc: Sterling Seay

2025-0197-V

Menu Cancel Help

Task Details I and P Engineering

Assigned Date

09/30/2025

Assigned to

Natalie Norberg

Current Status

Complete w/ Comments

Action By

Natalie Norberg

Comments

- 1. Show and label all existing and proposed stormwater management (SWM) devices, if any. Provide required setbacks from wells, and structures.
- 2. Hatch the steep slopes. Show and label the slope buffer.
- 3. Show and label the LOD.
- 4. Show the sewer and well connections to the proposed building. Include the connections within the LOD.
- 5. Label the size and material of the SHC.
- 6. Note the recordation number of the deed or agreement for the 50' Mayo Avenue ROW to be owned by Bay Ridge Community Association and used by the applicant for access/ingress/egress.

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

10/17/2025

Assigned to Department

Engineering

Status Date

10/15/2025

Overtime

No

Start Time

Hours Spent

0.0

Action by Department

Engineering

Est. Completion Date

☐ Display E-mail

☒ Display Comments

Task Specific Information

Expiration Date

Review Notes

Reviewer Name

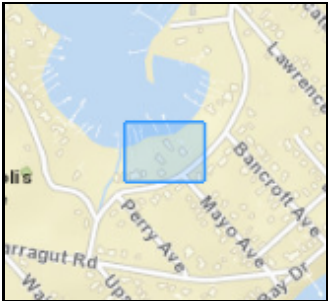
Reviewer Phone Number

Reviewer Email

ipnorb81@aacounty.org

Natalie Norberg

Map Title



Legend

Foundation

Addressing



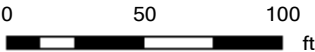
Parcels



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



THIS MAP IS NOT TO BE
USED FOR NAVIGATION

Notes

IN THE OFFICE OF ADMINISTRATIVE HEARINGS

CASE NUMBER: 2022-0148-V

GORDON SCOTT WALLACE AND MARY E. WALLACE

SECOND ASSESSMENT DISTRICT

DATE HEARD: NOVEMBER 17, 2022

ORDERED BY:

DOUGLAS CLARK HOLLMANN
ADMINISTRATIVE HEARING OFFICER

PLANNER: **DONNIE DYOTT, JR.**

DATE FILED: **DECEMBER 1, 2022**

PLEADINGS

Gordon Scott Wallace and Mary E. Wallace, the applicants, seek a variance (2022-0148-V) to allow a dwelling addition (deck) with less setbacks than required and that does not comply with the designated location of a principal structure on a waterfront lot on property with a street address of 132 East Lake Drive, Annapolis, MD 21403.

PUBLIC NOTIFICATION

The hearing notice was posted on the County's website in accordance with the County Code. The file contains the certification of mailing to community associations and interested persons. Each person designated in the application as owning land that is located within 300 feet of the subject property was notified by mail, sent to the address furnished with the application. Roy Little testified that the property was posted for more than 14 days prior to the hearing. Therefore, I find and conclude that there has been compliance with the notice requirements.

FINDINGS

A hearing was held on November 17, 2022, in which witnesses were sworn and the following evidence was presented with regard to the proposed variance requested by the applicants.

The Property

The applicants own the subject property which has 38 feet of frontage on the north side of East Lake Drive, north of Mayo Avenue, Annapolis. It is identified as part of Lot 7 of Parcel 29 in Block 10 on Tax Map 57 in the Bay

Ridge subdivision. The property comprises 18,586 square feet and is zoned R2 - Residential District. This waterfront lot on Lake Ogleton is designated in the Chesapeake Bay Critical Area as limited development area (LDA) and is mapped in a buffer modification area (BMA). The site is currently developed with a single-family dwelling and associated facilities.

The Proposed Work

The proposal calls to construct a deck measuring 8' by 33' and corner connection to the existing deck with stairs to grade on the waterside of the existing dwelling as shown on the site plan admitted into evidence at the hearing as County Exhibit 2.¹ The proposed deck addition, specifically the corner connection with stairs to grade, will be located as close as 16 feet from the corner side lot line (lot line abutting Mayo Avenue).

The Anne Arundel County Code

§ 18-2-402(1) requires that a principal structure on a waterfront lot be located at an approximate average of the location of principal structures on abutting lots, intended to keep structures relatively in line with one another.

§ 18-4-601 stipulates that principal structures in an R2 district shall be set back a minimum of 20 feet from a corner side lot line.

The Variances Requested

The proposed work will require the following zoning variances:

¹ The applicants submitted a revised site plan at the hearing which will replace County Exhibit 2.

1. A zoning variance to § 18-2-402 to allow a 33' wide by 8' deep pervious waterside deck with corner connection and stairs to grade that will not be relatively in line with the location of structures on abutting lots as shown on County Exhibit 2; and
2. A zoning variance of four (4) feet to the 20-foot corner side lot line setback requirement of § 18-4-601 to allow a 33' wide by 8' deep pervious waterside deck with corner connection and stairs to grade to be constructed 16 feet from the corner side lot line as shown on County Exhibit 2.

The Evidence Submitted At The Hearing

Findings and Recommendations of the Office of Planning and Zoning (OPZ)

Donnie Dyott, Jr., a zoning analyst with OPZ, presented the following:

- The property is narrower than the minimum 80-foot width required for a lot in the R2 district. The existing lot coverage total of 6,770 square feet is more than the 31.25% allowed. The applicants describe that the site will comply with the 10% overage reduction and exact calculations will be determined at the time of permit. The site was the subject of a previous variance approval for a waterside deck measuring 6' by 33' under Case No. 2018-0123-V. The previous approval did not include the corner connector deck with stairs to grade. The previously approved deck was never constructed and that approval has expired.
- The applicants argue that the variance request is essentially the same request as the approval under Case No. 2018-0123-V. The previous owners did not construct the deck and the new owners would like to add a waterfront deck. It

is argued that the location of the existing dwelling 50-80 feet further forward than the adjacent dwellings makes any improvement impossible on the waterside as it would not comply with the relatively in line requirements. The proposal is described as modest in size and represents the minimum necessary as it also does not increase the lot coverage of the site.

- The Health Department commented that the proposal does not adversely affect the well water supply system and has no objection to the request.
- The Development Division (Critical Area Team) comments were not available.
- While the proposal is very similar to the previous variance approved under Case No. 2018-0123-V, it is not the same. In fact, the deck is proposed to be 2 feet deeper and a connecting deck piece with stairs to grade is proposed within the corner side setback. As such, the variance for relatively in line projects further toward the water than previously approved and this proposal requires a second variance for the corner side setback.
- OPZ did and still does recognize that the narrow nature of the lot in combination with the location of the existing improvements makes improvements on the waterside difficult without relief from the code. As such some relief is warranted to prevent practical difficulties or unwarranted hardship to the applicants. Approval of the variances will not alter the essential character of the neighborhood, will not substantially impair the appropriate use or development of adjacent property and will not be detrimental to the public welfare.

- However, while some relief may be warranted, the proposal is not considered to be the minimum necessary to afford relief. As mentioned above, the proposal is larger than previously approved and requires a second variance. OPZ found that the previous deck represented the minimum necessary and would still support a variance for a deck measuring 6' by 33' but cannot support the current proposal with the expansion as shown.
- Based upon the standards set forth in § 18-16-305 under which a variance may be granted, OPZ recommends *denial* of the variances to allow the proposed dwelling addition as shown on the site plan.

Other Testimony and Exhibits

The applicants were assisted at the hearing by their engineer, Roy Little, of Terrain, Inc. The applicants agreed to reduce the depth of their proposed deck to 6 feet and submitted a site plan that showed this revision (County Exhibit 2). Such decks are common in this community. Mayo Avenue to the southwest is only partially improved to provide access to the applicants' property. Neighbors are in favor of the request.

There was no other testimony taken or exhibits received in the matter. The Hearing Officer did not visit the property.

DECISION

Requirements for Zoning Variances

§ 18-16-305 sets forth the requirements for granting a zoning variance.

Subsection (a) reads, in part, as follows: a variance may be granted if the

Administrative Hearing Officer finds that practical difficulties or unnecessary hardships prevent conformance with the strict letter of this article, provided the spirit of law is observed, public safety secured, and substantial justice done. A variance may be granted only if the Administrative Hearing Officer makes the following affirmative findings:

- (1) Because of certain unique physical conditions, such as irregularity, narrowness or shallowness of lot size and shape or exceptional topographical conditions peculiar to and inherent in the particular lot, there is no reasonable possibility of developing the lot in strict conformance with this article; or
- (2) 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.

The variance process for subsection (1) above is a two-step process. The first step requires a finding that special conditions or circumstances exist that are peculiar to the land or structure at issue which requires a finding that the property whereupon the structures are to be placed or use conducted is unique and unusual in a manner different from the nature of the surrounding properties. The second part of the test is whether the uniqueness and peculiarity of the property causes the zoning provisions to have a disproportionate impact upon the subject property causing the owner a practical difficulty or unnecessary hardship. “Uniqueness” requires that the subject property have an inherent characteristic not shared by

other properties in the area. *Trinity Assembly of God of Baltimore City, Inc. v. People's Counsel for Baltimore County*, 178 Md. App. 232, 941 A.2d 560 (2008); *Umerley v. People's Counsel for Baltimore County*, 108 Md. App. 497, 672 A.2d 173 (1996); *North v. St. Mary's County*, 99 Md. App. 502, 638 A.2d 1175 (1994), cert. denied, 336 Md. 224, 647 A.2d 444 (1994).

The variance process for subsection (2) - practical difficulties or unnecessary hardship - is simpler. A determination must be made that, 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.

Furthermore, whether a finding is made pursuant to subsection (1) or (2) above, a variance may not be granted unless the hearing officer also finds that: (1) the variance is the minimum variance necessary to afford relief; (2) the granting of the variance will not alter the essential character of the neighborhood or district in which the lot is located, (3) substantially impair the appropriate use or development of adjacent property, (4) reduce forest cover in the limited development and resource conservation areas of the critical area, (5) be contrary to acceptable clearing and replanting practices required for development in the critical area, or (6) be detrimental to the public welfare.

Findings - Zoning Variances

The same property was the subject of a variance application in Case No. 2018-0123-V in which a variance was granted to allow the then-owners to

construct a 33' wide by 6' deep pervious waterside deck in the same location as shown on County Exhibit 2 in this case. The applicants have reduced the width of their proposed deck to 6 feet. Given that the 2018 decision granted the same relief now being asked for in 2022, the variance to allow the deck to be built as proposed will be granted.

The 2018 decision did not discuss the paper road located to the southwest of the proposed deck. In 2022, it has come to life, throwing a 20-foot setback onto the applicants' property which extends 4 feet into the proposed deck, thus necessitating a corner side setback variance (in 2022).

The variance to the relatively in line requirements of § 18-2-402(1) will be granted, not only because such relief was granted in 2018 but because deciding otherwise will result in those dwellings along our shorelines that are closest to the water will not have the decks other property owners will have (the situation in this case).

The relief requested as to the corner side setback raises the question of the purpose setback limitations serve. "Setback" is defined in § 18-1-101(89) as "a minimum distance between a lot line and a structure." The distance for setbacks varies depending on the district in which the property is located.

The purpose of setbacks is not explained in the Code. It is generally understood that setbacks from lot lines and other structures are intended to prevent homes and businesses from being placed too close together. If homes were up against each other, neighbors could look into each other's houses. Closeness

would also cause a potential fire hazard, or prevent public utilities from accessing buildings. The setbacks in America before 1890 were customarily as short as five feet, and have increased as the value of land has increased, causing most people to want to distance houses from property lines to maintain the image (and value) of their homes. More recently, as part of the drive to develop cluster housing, setbacks have been reduced.

Setbacks are part of “bulk regulations,” which apply to all properties in a zoning district, regardless of the size or shape of the lot or parcel or the placement of structures on them. The variance requested here is to a corner side lot line setback, not a side or rear setback where neighbors might be impacted more. The ostensible purpose of greater setbacks at corners is to give sight distance for motorists approaching the intersection. The Code does not take these factors into account in setting the distance an improvement must be sited from a lot line. The Code does, however, provide this hearing process to weigh the individual factors that separate one lot from another. In this case, I conclude that a variance is necessary, and that the applicants have shown that because of the narrowness of their lot and the fact that Mayo Avenue, a partially improved right-of-way from East Lake Drive to the shoreline (to the left of the applicants home when looking at the water) the corner side lot line setback has no application here. Traffic on Mayo Avenue is probably limited to pedestrians, boat trolleys, bikes, and other non-motorized vehicles.

I also find, based upon the evidence, that, because of exceptional circumstances other than financial considerations, i.e., the fact that the lot was platted before the institution of zoning in 1952 and is considered a “grandfathered” lot, the grant of a variance is necessary to avoid practical difficulties or unnecessary hardship and to enable the applicants to develop the lot.

I further find that the granting of a zoning variance will not alter the essential character of the neighborhood or district in which the lot is located, substantially impair the appropriate use or development of adjacent property, reduce forest cover in the limited development area of the critical area, be contrary to acceptable clearing and replanting practices required for development in the critical area, or be detrimental to the public welfare.

ORDER

PURSUANT to the application of Gordon Scott Wallace and Mary E. Wallace, petitioning for a variance to allow a dwelling addition (deck) with less setbacks than required, and that does not comply with the designated location of a principal structure on a waterfront lot on property with a street address of 132 East Lake Drive, Annapolis;

PURSUANT to the notice, posting of the property, and public hearing and in accordance with the provisions of law, it is this **1st day of December, 2022**,

ORDERED, by the Administrative Hearing Officer of Anne Arundel County, that the applicants are **granted**:

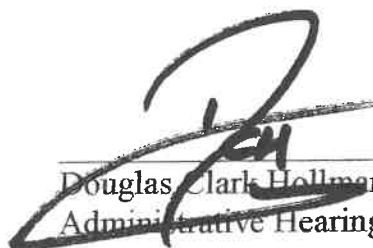
1. A *modified* zoning variance to § 18-2-402 to allow a 33' wide by 6' deep pervious waterside deck with corner connection and stairs to grade that will not be relatively in line with the location of structures on abutting lots as shown on County Exhibit 2; and
2. A *modified* zoning variance of four (4) feet to the 20-foot corner side lot line setback requirement of § 18-4-601 to allow a 33' wide by 6' deep pervious waterside deck with corner connection and stairs to grade to be constructed 16 feet from the corner side lot line as shown on County Exhibit 2.

The foregoing variances are subject to the applicants complying with any instructions and necessary approvals from the Office of Planning and Zoning and/or the Department of Inspections and Permits, the Department of Inspections and Permits, the Department of Health, and/or the Critical Area Commission.

This Order does not constitute a building permit. In order for the applicants to construct the structures permitted in this decision, they must apply for and obtain the necessary building permits, along with any other approvals required to perform the work described herein.

Furthermore, County Exhibit 2, referenced in this decision, is incorporated herein as if fully set forth and made a part of this Order. The proposed improvements shown on County Exhibit 2 shall be constructed on the subject property in the locations shown therein. The decision and order shall not prohibit the applicants from making minor changes to the facilities as presently shown on

County Exhibit 2 to adjust for changes made necessary by comments or requirements that arise during plan review or construction, provided those minor changes do not exceed the variances granted herein. The reasonableness of any such change shall be determined by the Office of Planning and Zoning and/or the Department of Inspections and Permits.



Douglas Clark Hollmann
Administrative Hearing Officer

NOTICE TO APPLICANTS

This Order does not constitute a building permit. In order for the applicants to perform the work permitted in this decision, the applicants must apply for and obtain the necessary building permits, along with any other approvals required to perform the work described herein.

Any person, firm, corporation, or governmental agency having an interest in this Decision and aggrieved thereby may file a Notice of Appeal with the County Board of Appeals within thirty (30) days from the date of this Decision. **If the variance or variances granted in this case relate to work in the critical area, a permit for the activity that was the subject of this variance application will not be issued until the appeal period has elapsed.**

Further, § 18-16-405(a) provides that a variance or special exception that is not extended or tolled **expires by operation of law** unless the applicants **within 18 months** of the granting of the variance or special exception (1) obtain a building permit or (2) files an application for subdivision. Thereafter, the variance or special exception shall not expire so long as (1) construction proceeds in accordance with the permit or (2) a record plat is recorded among the land records pursuant to the application for subdivision, the applicants obtain a building permit within one year after recordation of the plat, and construction proceeds in accordance with the permit.

If this case is not appealed, exhibits must be claimed within 60 days of the date of this Order, or they may be discarded.

**FINDINGS AND RECOMMEND
OFFICE OF PLANNING AND Z
ANNE ARUNDEL COUNTY, MAI**

CO. EXHIBIT#: 1
CASE: 2022-0148-V
DATE: 11/17/22

APPLICANTS: Gordon & Mary Wallace

ASSESSMENT DISTRICT: 2nd

CASE NUMBER: 2022-0148-V

COUNCILMANIC DISTRICT: 6th

HEARING DATE: November 17, 2022

PREPARED BY: Donnie Dyott Jr.
Planner



REQUEST

The applicants are requesting a variance to allow a dwelling addition (deck) that does not comply with the designated location of a principal structure on a waterfront lot on property located at 132 E. Lake Drive in Annapolis.

LOCATION AND DESCRIPTION OF SITE

The subject site consists of approximately 18,586 square feet of land and is located with 38 feet of frontage on the north side of E. Lake Drive, 0 feet northeast of Mayo Avenue. The subject property is identified as part of Lot 7 of Parcel 29 in Block 10 on Tax Map 57 in the Bay Ridge subdivision. The subject property is zoned R2 - Residential District as adopted by the comprehensive zoning of the Sixth Council District zoning maps effective October 7, 2011.

This is a waterfront property on Lake Ogleton which lies entirely within the Chesapeake Bay Critical Area and is designated as LDA - Limited Development Area. The site is within a mapped BMA - Buffer Modification Area and is currently improved with a single family detached dwelling and associated facilities.

APPLICANT'S PROPOSAL

The applicant seeks to construct a deck measuring 8' X 33' on the waterside of the existing dwelling. Also proposed is a corner connection to the existing deck with stairs to grade.

REQUESTED VARIANCES

§ 18-2-402(1) of the Code requires that a principal structure on a waterfront lot be located at an approximate average of the location of principal structures on abutting lots, intended to keep structures relatively in line with one another. The applicant's proposal requires a variance to allow the dwelling addition to be constructed not relatively in line with the location of principal structures on abutting lots.

§ 18-4-601 of the Anne Arundel County Zoning Code stipulates that principal structures in an R2 - Residential District shall be set back a minimum of 20 feet from a corner side lot line. The proposed deck addition, specifically the corner connection with stairs to grade, will be located as close as 16 feet from the corner side lot line (lot line abutting Mayo Avenue), necessitating a variance of 4 feet.

FINDINGS

The property is narrower than the minimum 80 foot width required for a lot in the R2 District. The existing lot coverage total of 6,770 square feet is more than the 31.25% allowed. The applicants describe that the site will comply with the 10% overage reduction and exact calculations will be determined at the time of permit. The site was the subject of a previous variance approval for a waterside deck measuring 6' X 33' under case 2018-0123-V. The previous approval did not include the corner connector deck with stairs to grade. The previously approved deck was never constructed and that approval has expired.

The applicants argue that the variance request is essentially the same request as the approval under case 2018-0123-V. The previous owners did not construct the deck and they as new owners would like to add a waterfront deck. It is argued that the location of the existing dwelling 50-80 feet further forward than the adjacent dwellings makes any improvement impossible on the waterside as it would not comply with the relatively in line requirements. The proposal is described as modest in size and represents the minimum necessary as it also does not increase the lot coverage of the site.

The **Health Department** commented that the proposal does not adversely affect the well water supply system and has no objection to the request.

The **Development Division (Critical Area Team)** comments were not available.

While the proposal is very similar to the previous variance approved under case 2018-0123-V, it is not the same. In fact, the deck is proposed to be 2 feet deeper and a connecting deck piece with stairs to grade is proposed within the corner side setback. As such, the variance for relatively in line projects further toward the water than previously approved and this proposal requires a second variance for the corner side setback.

This Office did and still does recognize that the narrow nature of the lot in combination with the location of the existing improvements makes improvements on the waterside difficult without relief from the Code. As such some relief is warranted to prevent practical difficulties or unwarranted hardship to the applicants. Approval of the variances will not alter the essential character of the neighborhood, will not substantially impair the appropriate use or development of adjacent property and will not be detrimental to the public welfare.

However, while some relief may be warranted, the proposal is not considered to be the minimum necessary to afford relief. As mentioned above, the proposal is larger than previously approved and requires a second variance. This Office found that the previous deck represented the minimum necessary and would still support a variance for a deck measuring 6' X 33' but cannot support the current proposal with the expansion as shown.

RECOMMENDATION

Based upon the standards set forth in § 18-16-305 under which a variance may be granted, this Office recommends **denial** of the variances to allow the proposed dwelling addition 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.

For Office Use Only

CASE #

2022-0148-V

FEE PAID

250.00

DATE

9/19/22



For Office Use Only

ZONE

R2

CRITICAL AREA: IDA ___ LDA ☒ RCA ___BMA: Yes ☒ No ___

NO. OF SIGNS 2

VARIANCE APPLICATION

NOTE: This form can be downloaded to your computer and filled out utilizing Adobe Reader (or similar product). It can also be printed and filled out by hand.

Applicant(s): GORDON SCOTT WALLACE & MARY E. WALLACE

(Applicant must have a financial, contractual, or proprietary interest in the property)

Property Address: 132 EAST LAKE DRIVE, ANNAPOLIS, MD 21403

Property Location: 38.00 feet of frontage on the (SOUTHWEST) side of LAKE OGELTON E Lake Dr ;
 98.50 feet (NORTHWEST) of (Nearest intersecting street) BAY DRIVE May Ave.

12-digit Tax Account Number 02-047-09348105

Tax District (2ND)

Council District 6

(5TH)

Waterfront Lot: ☒ NCorner Lot: Y ☒ N

Deed Title Reference 34085/91

Zoning District R-2

Lot # P/O 7

Tax Map 57

Block/Grid 10

Parcel 29

Area 18,586 SF. (0.4266 AC.) Subdivision Name BAY RIDGE

Description of Proposed Project and Variance Requested (Brief, detail fully in letter of explanation)

WATERFRONT PROVISIONS, REQUESTING VARIANCE TO THE PROVISION REQUIRING THAT
 STRUCTURES REMAIN RELATIVELY INLINE WITH ONE ANOTHER.

The applicant hereby certifies that he or she has a financial, contractual, or proprietary interest in the property; that he or she is authorized to make this application; that the information shown on this application is correct; and that he or she will comply with all applicable regulations of Anne Arundel County, Maryland.

Applicant's Signature *Gordon Scott Wallace*Owner's Signature *Mary E. Wallace*

GORDON SCOTT WALLACE

GORDON SCOTT WALLACE

Print Name MARY E. WALLACE

Print Name MARY E. WALLACE

Mailing Address 132 EAST LAKE DRIVE

Mailing Address 132 EAST LAKE DRIVE

City, State, Zip ANNAPOLIS, MD 21403

City, State, Zip ANNAPOLIS, MD 21403

Work Phone

Work Phone

Home Phone

Home Phone

Cell Phone

Cell Phone

Email Address WALLA88@COMCAST.NET

Email Address WALLA88@COMCAST.NET

*** Below For Office Use Only ***

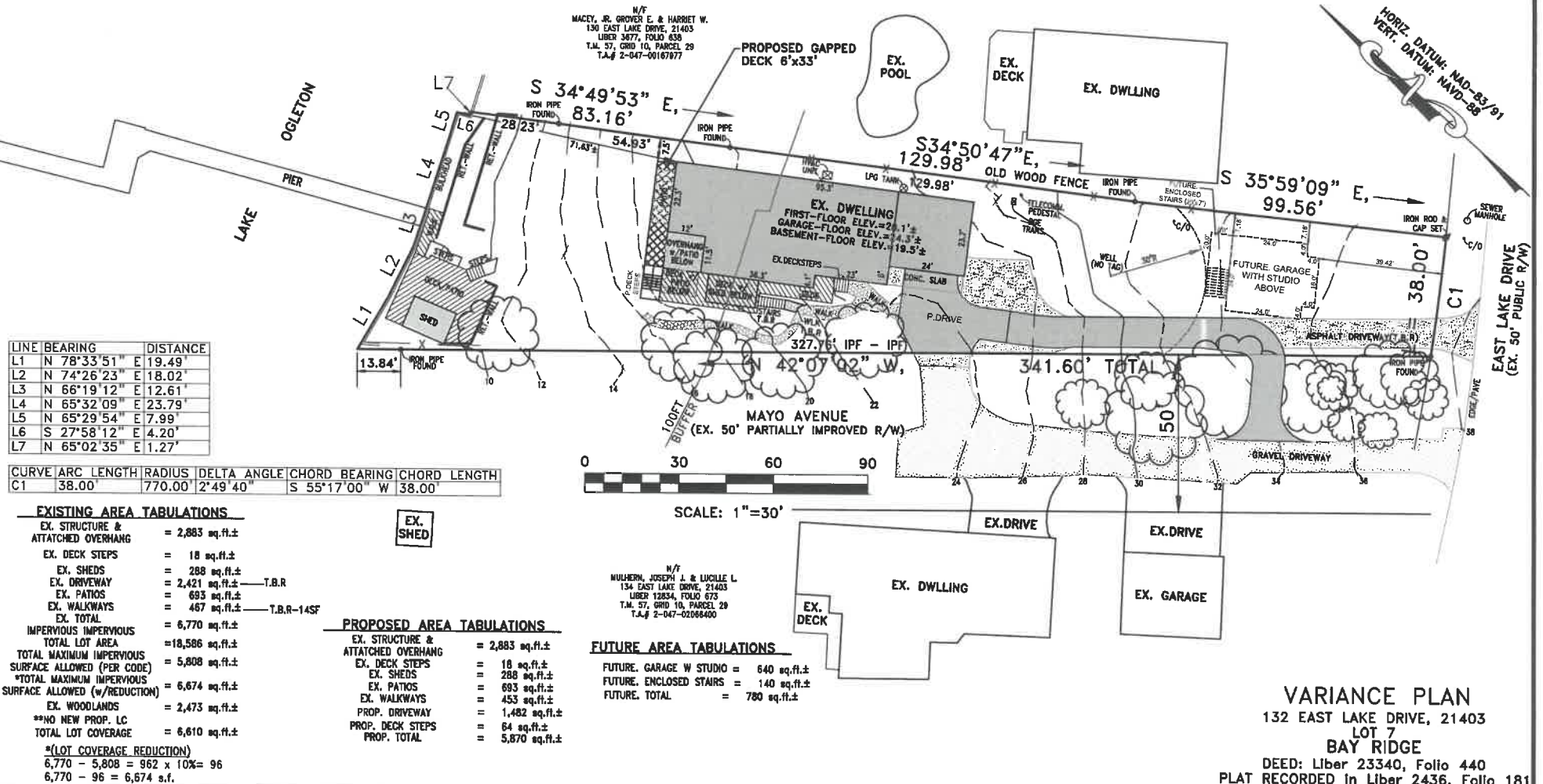
Application accepted by Anne Arundel County Office of Planning and Zoning: *DD*

Initials

Date

Variance to allow a dwelling addition (deck) that does not comply with the
 designated location of a principal structure on a waterfront lot

CO. EXHIBIT#: 2
CASE: 2022-0148-V
DATE: 11/17/22



132 EAST LAKE DRIVE, 21403

BAY RIDGE

DEED: Liber 23340, Folio 440
PLAT RECORDED in Liber 2436, Folio 181
TAX MAP 57 GRID 10 PARCEL 29
SECOND TAX DISTRICT ZONE:R2
ANNE ARUNDEL COUNTY, MARYLAND
SCALE: 1"=30' NOVEMBER 2022

SUBDIVISION PLAN 09/33
03144

DRAWN BY: D.J.B CHECKED BY: R.C.L.

JOB No. 2741-1.DWG

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TERRAIN INC.

CIVIL ENGINEERING & SURVEY COMPANY
 106 OLD SOLOMONS ISLAND ROAD PHN: (410) 266-1160
 ANNAPOLIS, MD 21401 FAX: (410) 266-6129

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